

Heritage Vaughan Committee Report

DATE: Wednesday, March 27, 2024

WARD: 1

**TITLE: SITUATION REPORT STEMMING FROM THE UNLAWFUL
IRREVERSIBLE ALTERATIONS CAUSED WITHOUT PERMIT AT
51 NAPIER STREET, IN THE KLEINBURG-NASHVILLE
HERITAGE CONSERVATION DISTRICT**

FROM:

Haiqing Xu, Deputy City Manager, Planning and Growth Management

ACTION: FOR INFORMATION

Purpose

To provide Heritage Vaughan Committee with the requested chronological event timeline and current status of the illegal demolition of the 'contributing' structure at 51 Napier Street, located in the Kleinburg-Nashville Heritage Conservation District and designated under Part V of the *Ontario Heritage Act* (as shown on Attachment 1).

Report Highlights

- Heritage Vaughan Committee requested a status report from staff.
- An application was presented in May 2022 in support of the proposed demolition of the existing detached garage and restoration consisting of raising of the upper floor ceiling height (and new roof) and the construction of a new attached garage.
- The owner demolished all heritage resources and removed all built and natural material from the property in June 2023.
- The demolition occurred without permits or review and contravenes the KNHCD Plan and the OHA.
- The owner is presently applying for Heritage Permit for new construction.

Recommendation

THAT this report be received.

Background

The subject property at 51 Napier Street had a 'contributing' 19th century Victorian style residence with an adjacent 20th century detached garage. The proposal presented in May 2022 asked for permission for the demolition of the existing garage at the rear of the property, and the restoration of the existing building including a raising of the clear height of the upper floor (and subsequent construction of a roof identical to existing), and the construction of a new attached garage. Design for the additions was presented to have similar roof pitches compatible with existing-to-remain Victorian style heritage house. Staff issued a Heritage Permit (HP.2022.011.00) on August 4, 2022.

Previous Reports/Authority

[Heritage Vaughan Committee agenda for May 18, 2022.](#)

[Committee of the Whole transmittal on June 7, 2022.](#)

Analysis and Options

At the request of the Heritage Vaughan Committee issued at the February 27, 2024 meeting, staff provides the following chronological and factual account of the situation that developed at the subject property at 51 Napier Street, Kleinburg:

1. the applicant submitted documentation and a request for site alterations at the subject property in April 2022
2. staff reviewed the submitted documentation and presented a supporting report to Heritage Vaughan Committee at the May 18, 2022 meeting
3. Heritage Vaughan Committee forwarded the supporting recommendation to Committee of the Whole on June 7, 2022
4. Cultural Heritage staff issued the Heritage Permit (HP.2022.011.00) on August 4, 2022 for works proposed and described in good faith in the staff report, and as reviewed and recommended by Heritage Vaughan Committee (see Attachment 2)

Following the above timeline, no additional information was provided regarding this project until a series of emails were received in 2023 by Cultural Heritage staff on May 1, May 2, and June 15 respectively – from separate individuals – asking about the status and the issued permits for the subject property. Staff responded to the individuals with a copy of the Heritage Vaughan report and the link to the Minutes and informed them that the construction work at the subject property does indeed have a Heritage Permit.

However, on June 18, 2023 staff received a phone call from a local resident expressing grave concern at the sudden total demolition of the building, observed by the caller. The next morning, on June 19, the project's architect reached out to staff to also confirm the building's demolition, adding that "the structure was disassembled and retained on site

for reconstruction”. The immediate site visit by staff, at noon on that day, confirmed the full removal of all built material as well as plant material (see Attachment 3) from site, and the discovery of a deep foundation hole that extended almost to the perimeter edges of the property. Later that afternoon, Building Inspections also confirmed to Cultural Heritage staff that they had conducted a site visit on June 15 and had also noted the absence of the building and landscape at that time.

An in-person meeting was held on June 20, 2023, with the property owner and the project architect, and city staff, to discuss the reasoning and the process behind the unlawful removal of the building and landscape from the property. Minutes of this meeting were filed that afternoon (see Attachment 4).

A number of internal meetings involving staff from By-law Enforcement, Legal, Inspections, and Development Planning were held over the subsequent months. These meetings and notes culminated in the preparation of prosecutorial documentation to be submitted to the Provincial Court, to take legal action against the property owner. These documents did not include submissions from Building Inspections as well as from By-law Enforcement, as they were deemed to be satisfied with the issued orders – and retained only the sworn affidavit from Cultural Heritage (see Attachment 5). The documents were submitted for action with the Province on December 13, 2023, with an attached note that the legal limitation period to submit for action expires on January 13, 2024.

This was followed by a concluding email from the Legal Department, sent on January 15, 2024, informing staff that – due to holiday closures and staff shortages – the deadline was missed by the Province and the matter has been dropped. No further action or repercussions are available against the offending parties (see Attachment 6).

Cultural Heritage staff is presently reviewing the updated proposal for new construction at the subject property. The staff report and applicant's submission will be presented to Heritage Vaughan Committee on April 11, 2024.

Financial Impact

N/A

Operational Impact

The illegal demolition triggered responses from Building Inspections (who issued several Stop Orders), the Legal Department (who prepared and submitted prosecution documentation to the Provincial Courts), By-law Enforcement (who conducted site visits and prepared documentation for legal review), the Urban Design and Cultural Heritage

section (who conducted several site visits, participated in interviews, and provided sworn affidavits to the events described) and the Building Department (who received working drawings issued for permit, and who is now reviewing new working drawings to be issued for permit).

Broader Regional Impacts/Considerations

The immediate impact of this demolition resulted in subsequent applications for full demolition of 'contributing' heritage resources in the immediate surroundings of the subject property, with supporting CHIA reports that challenge the value of "existing contributing" versus the "proposed contributing".

Conclusion

The built heritage resource and all its surrounding landscape at 51 Napier Street have been fully removed and the damage is complete and irreversible. The chain reaction caused by this unlawful action now shows repercussions in the immediate surroundings, with additional applications for full demolition of 'contributing' heritage resources on Napier Street having been made and presented.

There are no follow-up punitive actions to be taken against this subject property.

For more information, please contact: Nick Borcescu, Senior Heritage Planner, ext. 8191.

Attachments

- Attachment 1 - 51Napier-SITUATION_Location Map
- Attachment 2 - 51Napier-SITUATION_HP.2022.011.00
- Attachment 3 - 51Napier-SITUATION_site photos
- Attachment 4 - 51Napier-SITUATION_meeting minutes
- Attachment 5 - 51Napier-SITUATION_WILL SAY STATEMENT
- Attachment 6 - 51Napier-SITUATION_case dropped

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