



**STAFF REPORT  
ACTION REQUIRED**

**Alterations to a Designated Heritage Property and  
Authority to Enter Into a Heritage Easement Agreement  
– 262 Bessborough Drive**

<b>Date:</b>	January 5, 2015
<b>To:</b>	Toronto Preservation Board North York Community Council
<b>From:</b>	Director, Urban Design, City Planning Division
<b>Wards:</b>	Ward 26 – Don Valley West
<b>Reference Number:</b>	P:\2015\Cluster B\PLN\NYCC\NY15006

**SUMMARY**

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The property at 262 Bessborough Drive contains a building historically known as the Thomas G. Elgie House and is located in the Leaside community of North York. On November 29, 2013, City Council stated its Intention to Designate 262 Bessborough Drive under Part IV, Section 29 of the Ontario Heritage Act and By-law 282-2014 was enacted and passed on April 3, 2014.

A proposal for consent and severance refused by the Committee of Adjustment in January, 2014 was appealed by the owner to the Ontario Municipal Board (OMB), along with an appeal of a demolition application under the Ontario Heritage Act. An OMB hearing was held in the summer of 2014 and a mediated settlement was reached. The settlement includes the proposed alterations that are the subject of this report.

This report recommends that City Council approve the proposed alterations to a heritage property and authorize entering into a Heritage Easement Agreement with the owner. As per the OMB Memorandum of Understanding, Council is required to issue a decision on these alterations by February 27, 2015, or the applicant may pursue its heritage demolition appeals at the OMB.

## RECOMMENDATIONS

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### The City Planning Division recommends that:

1. City Council approve the proposed alterations, substantially in accordance with the Conservation Management Plan prepared by ERA Architects Inc. dated December 16, 2014 subject to the following conditions:
  - a. That prior to the issuance of any heritage permit the owner shall:
    - i. Provide full building permit drawings, including notes and specifications for the conservation and protective measures keyed to the Conservation Management Plan dated December 16, 2014 to the satisfaction of the Manager, Heritage Preservation Services;
    - ii. Provide a Letter of Credit, indexed annually, in a form and amount satisfactory to the Manager, Heritage Preservation Services to secure all work included in the December 16, 2014 Conservation Management Plan; and
  - b. That prior to the issuance of a heritage permit for the alterations as set out in this report, the owner shall have an executed and registered on title a Heritage Easement Agreement with the City for the property at 262 Bessborough Drive prior to severance; and
  - c. That prior to the release of the Letter of Credit, the owner shall provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the conservation work has been completed in accordance with the December 16, 2014 Conservation Management Plan and has maintained an appropriate standard of conservation, to the satisfaction of the Manager, Heritage Preservation Services.
2. City Council grant authority for the execution of a Heritage Easement Agreement under Section 37 of the Ontario Heritage Act with the owner of the property at 262 Bessborough Drive.
3. City Council authorize the City Solicitor to introduce the necessary bill in Council authorizing the entering into of a Heritage Easement Agreement for the property at 262 Bessborough Drive.

### Financial Impact

There are no financial implications resulting from the adoption of this report.

### DECISION HISTORY

Council stated its Intention to Designate this property under Part IV, Section 29 of the Ontario Heritage Act on November 13, 2013. There were no appeals to the designation

and By-law 282-2014 was enacted and passed on April 3, 2014. The Council decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.NY27.4>

At its meeting of March 20, 2014, Council authorized the City Solicitor and appropriate staff to attend the Ontario Municipal Board Hearing of the appeals from Committee of Adjustment Files B39/13NY, A471/13NY, A472/13NY and A473/13NY in order to uphold the Committee of Adjustment's refusal of the applications. The Council decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.NY30.33>

At its meeting of May 6, 2014, Council refused the proposed demolition of the designated heritage property at 262 Bessborough Drive, under section 34 of the Ontario Heritage Act and authorized the City Solicitor and appropriate City staff to attend any hearing held by the Ontario Municipal Board in support of Council's position opposing such an appeal. The Council decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.NY31.8>

## **BACKGROUND**

The property at 262 Bessborough Drive contains a heritage building known as the Thomas G. Elgie House. As one of the original farmhouses that survived the overlay of the Leaside subdivision in the 1930s, the size of the property is atypical as it is almost three times the width of a typical lot in the subdivision. The property is located on the west side of Bessborough Drive, north of Parkhurst Drive and the east elevation of the house is viewed across a landscaped setting from Bessborough Drive (Attachment No.1).

## **Pre-application Discussions**

When the owner first met with city staff in 2013, the property was listed on the City's Inventory of Heritage Properties. While the original house was constructed in the early 1880s, the size of the house has been increased with the construction of additions over time.

The owner retained ERA Architects Inc. to prepare a Heritage Impact Assessment for a proposal that included retention of the original portion of the farmhouse on the middle lot, removal of two later additions to the Thomas G. Elgie House to facilitate severance of the property into three lots, and the original portion of the farmhouse moved eastward to allow for a new rear addition to be constructed. Further, the proposal included restoring an existing porch on the east side of the house and replicating an extension to this architectural feature so that it wrapped from the east to the south side of the house, based on the original design and orientation of the farmhouse.

Staff supported severance of the property into two rather than three lots and considered options that could increase the gross floor area of the house with minimal impact on the

heritage attributes while keeping the original portion of the house in situ. Also, as the existing site plan showed that there was not enough area behind the house to construct a rear addition, staff recommended that any proposed addition be considered on the north side of the building. The owner considered staff recommendations but decided to proceed to Committee of Adjustment with a proposal to sever the property into three lots, with a house on each lot and the farmhouse moved to the east.

## **Formal Applications**

### **Committee of Adjustment Application**

In 2013 an application was made by the owner to the Committee of Adjustment to obtain consent to sever the property at 262 Bessborough Drive into three residential lots. Lot 2, to be centrally located, would contain a portion of the existing heritage building to be moved eastward on the site with proposed renovations and additions. Lot 1 and 3, on either side of Lot 2 would be redeveloped with a new two-storey dwelling on each lot.

When the application was originally submitted to the Committee in the summer of 2013, Planning staff requested a deferral of the hearing to allow time for City Council to evaluate the property for designation under the Ontario Heritage Act. Following the deferral, City Council stated its Intention to Designate the subject property under Part IV, Section 29 of the *Ontario Heritage Act* at its meeting of November 13, 2013. The owner did not appeal the designation. The designation of the property allows City Council to manage alterations to the site, to enforce heritage property standards and maintenance, and to refuse demolition or inappropriate alterations. As such, staff advised that the proposed alterations to the property, including moving the house to the east and severing the parcel into three lots, would be subject to review and approval by City Council under the Ontario Heritage Act as an alteration under Section 33.

On December 5, 2013, a meeting was held between the applicant and City Planning staff. Staff reviewed the variances and discussed the Reasons for Designation approved by City Council. Of concern by staff was the impact of the proposed severance on the following heritage attribute: "the specific location, setback and orientation of the building on the west side of Bessborough Drive, north of Parkhurst, where the east side elevation of the house faces the street and is viewed across a landscaped setting from Bessborough".

The applicant subsequently submitted revised options that reduced the distance the farmhouse was moved from the original site and provided a revised application to the Committee of Adjustment. Staff considered these options and advised the applicant in advance of the Committee of Adjustment hearing that the relocation of the farmhouse on the designated property did not have necessary regard for the Reasons for Designation, and staff could not support it. The Committee of Adjustment refused applications for consent and variances at its meeting of January 8, 2014 and the owner appealed this decision to the Ontario Municipal Board.

## **Demolition Application**

Following the Committee of Adjustment decision, the owner submitted an application to the City, to "demolish or remove a designated structure under Part IV of the Ontario Heritage Act". The application was accompanied by a letter from E.R.A. Architects Inc. which stated that "we are proposing the demolition of additions constructed in the 1970's and 1990's and propose to retain the original portion of the heritage house. The heritage house is proposed to be relocated on its property, east of its current location and lost features restored."

Staff advised, that as per the definitions set out in Official Plan Amendment No.199 (By-law No. 468-2013) as approved by City Council with respect to the Public Realm and Heritage Policies, the application was for an "alteration" of a designated property and not a "demolition". Staff offered to process the existing application as an alteration of a designated property under Section 33 of the Ontario Heritage Act and the owner refused, disputing that the proposal met the definition of "demolition".

On January 27, 2014 the owner's legal counsel advised staff that they had instructions to "...pursue whatever means my client may be legally entitled to in order to proceed with their proposed development without further delay; this could include revising their current plan by proposing full demolition."

The owner subsequently revised their application and proposed to demolish the entire house on the designated property, sever the property into three lots and construct a new house on each lot.

The owner submitted an application to demolish the existing heritage building on the property, the Thomas G. Elgie House and this application was submitted to the City at the same time that the application to Committee of Adjustment was being considered.

Council refused the demolition and the applicant also appealed this decision to the Ontario Municipal Board.

## **Appeals to the Ontario Municipal Board**

City staff and the applicant attended the OMB where all parties agreed to participate in OMB-assisted mediation. The mediation process took place over a three-day period in July, 2014 and during mediation a settlement was reached in principle. All parties reconvened at the OMB on August 15, 2014 and the settlement was presented to the Board for approval on consent of the parties. The settlement included the following: alterations to the designated heritage property to retain and restore the original central section of the Thomas Elgie House; moving the house eastward on the property 7.5m such that the house remains at the top of a gentle slope on the property and the relationship between grade and the entrance to the heritage building will not be changed once re-located; and construction of a new rear addition to the house. In accordance with the mediated settlement, the property at 262 Bessborough Drive will be severed into three

lots, with the Thomas Elgie House on a wider central lot (Lot 2), with one new lot to the north (Lot 1) and one new lot to the south (Lot 3), although the property as a whole will be landscaped cohesively and all lands will be subject to a Heritage Easement Agreement.

## **Policy Framework**

### **Planning Act and Provincial Policy Statement**

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Planning Act and associated Provincial Policy Statement guide development in the Province and they include provincial interests regarding heritage resources as described in the Provincial Policy Statement issued under the authority of Section 3 of the Planning Act. The Planning Act requires that all decisions affecting land use planning matters "shall be consistent with" the Provincial Policy Statement. The Provincial Policy Statement (PPS) provides direction on matters of provincial interest related to land use planning and development, and promotes the provincial policy-led planning system.

Provincial Policy Statement 2.6.1 states that "Significant built heritage resources and cultural heritage landscapes shall be conserved". Properties designated under Part IV of the Act or included on the City's Inventory of Heritage Properties comprise "significant built heritage resources".

In the PPS 2014, "conserved" is defined as "identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained under the Ontario Heritage Act". This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment. Mitigative measures and/or alternative development approaches can be included in these plans and assessments.

## **Official Plan**

Section 3.1.5 of the City of Toronto Official Plan (2005), states that significant heritage resources will be conserved. The interpretation policies of the Plan provided that use of the term "will" is prescriptive, to be interpreted as equivalent to "shall".

The heritage policies of the Official Plan were revised and approved by Council (OPA 199, By-law No. 468-2013) at its meeting of April 3, 2013, followed by approval from the Minister of Municipal Affairs and Housing. These policies give additional direction and clarity and include a definition for "alteration" as follows:

Alteration: is any change to a property on the Heritage Register, in any manner including its restoration, renovation, repair or disturbance, or a change, demolition or removal of an adjacent property that may result in any change to a property on the Heritage Register.

## **Standards and Guidelines for the Conservation of Historic Places in Canada**

In 2008 Toronto City Council adopted the Parks Canada document *Standards and Guidelines for the Conservation of Historic Places in Canada* as the official document guiding planning, stewardship and conservation approach for all listed and designated heritage resources within the City of Toronto.

Of the nine standards that the Parks Canada *Standards and Guidelines* encourages for rehabilitation projects, the following standards offer relevant guidance for heritage conservation, rehabilitation and restoration in this instance:

- Conserve the *heritage value* of a historic place. Do not remove, replace, or substantially alter its intact or repairable *character-defining elements*. Do not move a part of a *historic place* if its current location is a *character-defining element*.
- Conserve heritage value by adopting an approach calling for minimal intervention
- Find a use for an historic place that requires minimal or no change to its character-defining elements.
- Evaluate the existing condition of *character-defining elements* to determine the appropriate *intervention* needed. Use the gentlest means possible for any intervention. Respect *heritage value* when undertaking an intervention.
- Maintain *character-defining elements* on an ongoing basis. Repair character-defining elements by reinforcing their materials using recognized conservation methods. Replace in kind any extensively deteriorated or missing parts of character-defining elements, where there are surviving *prototypes*.
- Make any *intervention* needed to preserve *character-defining elements* physically and visually compatible with the *historic place* and identifiable on close inspection. Document any intervention for future reference.

### **Additional Standards Relating to Rehabilitation**

- Repair rather than replace *character-defining elements*. Where character-defining elements are too severely deteriorated to repair, and where sufficient physical evidence exists, replace them with new elements that match the forms, materials and detailing of sound versions of the same elements. Where there is insufficient physical evidence, make the form, material and detailing of the new elements compatible with the character of the *historic place*.
- Conserve the *heritage value* and *character-defining elements* when creating any new additions to an *historic place* or any related new construction. Make the new work physically and visually compatible with, subordinate to and distinguishable from the historic place.
- Create any new additions or related new construction so that the essential form and integrity of an *historic place* will not be impaired if the new work is removed in the future.

## **Additional Standards Relating to Restoration**

- Repair rather than replace *character-defining elements* from the *restoration* period. Where character-defining elements are too severely deteriorated to repair and where sufficient physical evidence exists, replace them with new elements that match the forms, materials and detailing of sound versions of the same elements.
- Replace missing features from the *restoration* period with new features whose forms, materials and detailing are based on sufficient physical, documentary and/or oral evidence.

## **COMMENTS**

The Thomas G. Elgie House, constructed circa 1883, is valued as a rare example of a farmhouse that is the oldest of only three residential buildings extant in Leaside predating its incorporation as a town in 1913. All three residential buildings have survived in their original location even with the overlay of the Leaside Subdivision Plan in the 1930s.

While the Thomas G. Elgie house was altered through a series of additions made in the 20<sup>th</sup> century, the original section of the building is an important example of the design of farmhouses from the late 1800s with the L-shaped plan, red brick walls and 19<sup>th</sup> century detailing.

As a 19<sup>th</sup> century farmhouse within Leaside, the Thomas G. Elgie house has stood in place as the community grew up around it, and its atypical presence has long contributed to the distinction and beauty of the neighbourhood. Since the overlay of the Leaside Subdivision Plan, approximately 80 years ago, the east elevation of the Elgie House has functioned as the street façade that is viewed from Bessborough Drive.

The heritage attributes of the property at 262 Bessborough Drive are:

- The building known historically as the Thomas G. Elgie House
- The original centre section of the two-storey house form building with its scale, form and massing
- The specific location, setback and orientation of the building on the west side of Bessborough Drive, north of Parkhurst, where the east side elevation of the house faces the street and is viewed across a landscaped setting from Bessborough
- The original red brick cladding and trim on the exposed elevations of the original main body of the house
- On the east façade that forms the street elevation on Bessborough Drive, the gable roof and trim, brick chimney and original fenestration
- The original window opening on the rear (west) wall containing a wood window

The north and south additions that date to the 20<sup>th</sup> century are not identified in the Reasons for Designation.



## **Memorandum of Understanding Settlement of Consent and Minor Variance Appeals**

As per the Ontario Municipal Board (OMB) mediation settlement discussed earlier in this report, the property at 262 Bessborough Drive (Attachment No. 1) will be severed into three lots. While city staff preferred to retain the Thomas G. Elgie house in its original location, a compromise was reached through the OMB mediation and it was agreed that the existing central portion of the Thomas G. Elgie house could be moved 7.5m eastward on the central lot (Lot 2) so long as the relocation conserves the elevation and visual prominence of the house. Also, the new foundation for the heritage structure once relocated, will not change the existing relationship between grade and the entrance to the heritage building (Attachment No.2).

A new addition will then be constructed at the rear of this building with a roof that is subordinate to the heritage building. Lot 1 and 3, on either side of Lot 2 will be redeveloped with a new two-storey dwelling on each lot with front yard setbacks similar to other houses in the Leaside subdivision.

A comprehensive landscape plan for the entire property that forms part of the Conservation Management Plan will retain the existing and proposed grades across the property and will reflect the quality and character of the existing open space of the heritage building while conserving the existing topography of the site to protect and support the visual prominence of the relocated heritage dwelling on the property (Attachment No. 4). To ensure legibility and compatibility, the design and materials of the two new dwellings and the new rear addition to the heritage building will differentiate the new construction from the heritage building.

As per the Memorandum of Understanding, a Heritage Easement Agreement will be registered on title for the entire property and will secure the Conservation Management Plan dated December 16, 2014 along with a Letter of Credit for the stabilization, relocation and restoration of the heritage building.

### **Adjournment and Withdrawal of Demolition Appeal**

As per the Memorandum of Understanding, the Parties agreed to jointly request that the Board adjourn the hearing of the Ontario Heritage Act Section 34 Demolition Appeal, subject to approval of two applications for alterations to the property located at 262 Bessborough Drive. One application does not require Council consideration, as it is for the removal of the north and south additions that are not identified in the Reasons for Designation.

The subject of this report is the second application that includes the relocation of the heritage building and is considered to be an application for the alteration of a designated heritage property under Section 33 of the Ontario Heritage Act.

Provided that the application for alteration of 262 Bessborough Drive has been filed with the City and, that final approval with conditions are acceptable to the owner, the owner has agreed to notify the Board in writing of the withdrawal of the Demolition Appeal.

However, the owner shall have the right to request that the OMB proceed to schedule a hearing of the Demolition appeal, if any of the following events occur: if the City refuses the alteration application; if the City approves the alteration application with conditions that are not acceptable to the owner; and, if the City does not make a decision on one or both of the alteration application by no later than February 27, 2015.

## **CONCLUSION**

Heritage Preservation Services recommends that City Council approve the proposed alterations to the property located at 262 Bessborough Drive, and associated conditions, as outlined in this report. The conservation strategy retains the heritage attributes of the Thomas G. Elgie House and maintains its prominent position with a landscaped context. The Leaside landmark and both flanking lots will be protected by a Heritage Easement Agreement.

## **CONTACT**

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## **SIGNATURE**

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Harold Madi  
Director, Urban Design  
City Planning Division

## **ATTACHMENTS**

- Attachment 1: Location Map and Photo– 262 Bessborough Drive
- Attachment 2: Site Plan and Grading Plan – 262 Bessborough Drive
- Attachment 3: Streetscape Elevation and Site Section North South from (Lot 1 to Lot 3)-  
262 Bessborough Drive
- Attachment 4: Landscape Plan- 262 Bessborough Drive