

Attachment-5 Conservation Review Board Decision

Conservation Review Board

655 Bay Street
suite 1500
Toronto ON M5G 1E5
Telephone: (416) 326-3594
Fax: (416) 326-6209
Web Site: www.crb.gov.on.ca

Commission des biens culturels

655 rue Bay
bureau 1500
Toronto ON M5G 1E5
Téléphone: (416) 326-3594
Télécopieur: (416) 326-6209
Site Web: www.crb.gov.on.ca



CRB 0816

CONSERVATION REVIEW BOARD

RE: THE CORPORATION OF THE CITY OF GUELPH – INTENTION TO DESIGNATE THE PROPERTY KNOWN AS 47 ALICE STREET IN THE CITY OF GUELPH, ONTARIO

Su Murdoch, Chair
Karen Haslam, Member

This hearing was convened under s.29(8) of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18, amended to 2006 ("Act"), for the purpose of reporting to the Council of the City of Guelph, Ontario ("City"), whether, in the opinion of the Conservation Review Board, on the basis of the evidence it heard, the property known as 47 Alice Street should be protected by bylaw under s.29 of the Act.

This property has a confirmed address of 47 Alice Street, with a courtesy address of 49 Alice Street assigned to an auxiliary building on the parcel of land. The area is traditionally known as St. Patrick's Ward and is now within Ward 1. The current legal description is Lot 40 and Part Lot 39, Plan 244, City of Guelph. The 2008 (current) owner is Mr. Blair Cleveland.

The Board held one pre-hearing conference on this matter on October 3, 2008. There was no agreed statement of fact at the start of the hearing.

Notice of this hearing was served by the Review Board on the Parties and was published in the *Guelph Mercury* of November 21, 2008, in the manner required under the Act. A statement of service by the Board's Case Coordinator with respect to Notice was filed as Exhibit 1.

The hearing day of December 3, 2008, commenced at 8:30 a.m. with a site visit of the subject property, and the hearing convened the same day at 10 a.m. at Provincial Offences Court Room 2, Ontario Court of Justice, 55 Wyndham Street, Suite 215, City of Guelph.

The hearing ended at about 4:15 p.m. on the same day.

Counsel in Order of Appearance

Mr. Matthew Rae, Associate Solicitor, Legal Services, Corporate Services, City of Guelph
Mr. Gordon Maxwell, MaxwellLaw, as an objector and as the Representative of the property owner/objector, Mr. Blair Cleveland

Witnesses in Order of Appearance

Mr. Stephen Robinson
Mr. Ian Panabaker
Mr. Blair Cleveland

Members of the Public in Order of Appearance

None

Jurisdiction of the Board

All parties were reminded that the jurisdiction of the Board is to hear evidence within the framework of Ontario Heritage Act Regulation 9/06 Criteria for Determining Cultural Heritage Value or Interest.

The Board does not address issues of demolition or selective demolition, as these are the jurisdiction of Council and, on appeal, the Ontario Municipal Board.

The Board does not address issues of the costs of physical maintenance or repairs, as these are outside the evaluation of cultural heritage value or interest.

The Board does not address any planning permit applications or issues that are under the jurisdiction of the Planning Act. These are between the applicant and the municipality. In this case, the Board was informed that the property owner had applied to the City to convert the auxiliary building to a garage, and that the permit was denied.

Evidence on any of these topics will only be heard if they give context to the discussion of cultural heritage value or interest and any heritage attributes that may support that value or interest.

As is the custom of the Board at the start of the hearing, members of the public in attendance were asked if they intended to participate by making a statement later in the proceedings. There were no requests.

Property Description

This property contains a dwelling and a detached auxiliary building, both fronting on the south side of Alice Street. The dwelling is a one-storey, small scale, brick structure erected in 1924 by local builder Ralph Macri for the family of Vincent Valeriote. The Valerioties were an Italian immigrant family. The auxiliary building is a one-storey, single room, brick structure erected about the same date or shortly after for use as the V. Valeriote Shoe Repairing Shop. The shop is slightly east and north of the front (north) facade of the dwelling and is closest to Alice Street.

Based on the site visit and on the evidence heard, the Alice Street streetscape is predominantly one to two storey, small scale, frame and brick dwellings. Some have modest additions/extensions designed for commercial use.

Procedural Matter

Mr. Maxwell, as an objector, had maintained that his case would be separate from that of Mr. Cleveland (property owner/objector). At the start of the hearing, Mr. Cleveland stated that Mr. Maxwell would be his Representative and provided the Review Board with a completed Form 1 Conservation Review Board Representative of a Party – Commencement of Authorization, dated December 3, 2008. The City and the Review Board accepted that Mr. Maxwell would be combining and conducting both his and Mr. Cleveland's cases.

Mr. Rae had written to the Review Board on November 28, 2008, with a concern about what he perceived to be less than full disclosure of evidence and witnesses to be presented by Messrs.

Maxwell and Cleveland at the hearing. At the start of the hearing, Messrs. Maxwell and Rae stated that they had settled the issues between them in this regard. Mr. Rae requested, and the Review Board and Mr. Maxwell agreed, that one City witness would be added to the proceedings, that being Mr. Ian Panabaker; and that one City witness, Guelph City Engineer Mr. Julius Bodai, would be permitted should there be a need to provide reply evidence relating to engineering matters. The Review Board and Mr. Maxwell agreed to this arrangement.

Case for the City of Guelph

Mr. Rae began by explaining that the position of the City is that the subject property meets the criteria for municipal designation in all categories of Ontario Regulation 9/06, specifically (2)1.(i) Design or Physical; (2)2.(ii) Historical or Associative; and (2)3.(i) Contextual. The City's proposal is to protect the property and aspects of its two principal heritage attributes, the dwelling and the auxiliary building (shop), as described in the Notice of Intention to Designate.

Witness – Stephen Robinson

Mr. Robinson was sworn as an expert witness in the field of cultural heritage property evaluation and conservation. His Witness Statement (Exhibit 3, Tab 1), contains Appendix B - Curriculum Vitae. The Review Board reminded Mr. Robinson that as an expert witness, the expectation is that his evidence will be based on his professional experience and knowledge, and be presented without bias.

Mr. Robinson was retained by the City on August 29, 2008, to review the background materials regarding the subject property, to undertake a site visit of the property and the Alice Street neighbourhood, and to give his independent opinion of the content of the Notice of Intention to Designate.

Based on his review of the City's materials and on his own investigation, Mr. Robinson is of the opinion that Council's proposal for the protection of the property under s.29 of the Act is "thorough and compelling" and that the property meets three of the criteria of Regulation 9/06. He also agrees with the content and recommendation of the Community Development and Environmental Services Committee report 08-57 of May 9, 2008, regarding the "Valeriotte House and Shoe Repairing Shop."

Design or Physical Value

Mr. Robinson cited Regulation 9/06, (2)1.(i): "is a rare, unique, representative or early example of a style, type, expression, material or construction method." He considers the configuration of the property with a family-occupied dwelling detached from a family-operated shop to be unique. No other dwelling/shop combination in the part of St. Patrick's Ward examined by Mr. Robinson (as plotted on Exhibit 12) has this "detached" arrangement. The Review Board was directed to the images in Exhibit 3, Tab 1, of other examples of dwelling/shop combinations. The structures on the subject property incorporate 1920s period materials and construction techniques that survive with good historic integrity.

Historical or Associative Value

Mr. Robinson cited Regulation 9/06, (2)2.(ii): "yields, or has the potential to yield, information that contributes to an understanding of a community or culture." He contends that the subject property is representative of an important period in the history of St. Patrick's Ward and in the development of Guelph. The dwelling/shop combination contains "information that contributes to an understanding" of that interwar period of immigration to Guelph, notably of the Italian population. Based on his research, Mr. Robinson concluded this dwelling/shop combination is the only "original example to survive in St. Patrick's Ward."

Contextual Value

Mr. Robinson explained that the dwelling and shop retain their original configuration and orientation to each other and to Alice Street. The shop continues as a long-standing "anomaly" on the streetscape, and is visually distinct as the closest structure to the street. The property represents the diversity of the building design in the area and low-rise composition of the street. In his opinion, it meets the criteria of Regulation 9/06 (2)3.(i): "is important in defining, maintaining or supporting the character of an area."

Description of Heritage Attributes

The Notice of Intention to Designate contains a section, What is to be Protected by Designation, which reads:

- front elevation of the one storey residence including window and door openings and hip roof line;
- front elevation of the one storey accessory building including window and door openings and open gable roof line;
- window opening on the west side of the accessory building; and
- setback/location of the buildings relative to Alice St.

Mr. Robinson explained that "window and door openings" means the placement of these openings, but not any existing sashes or doors. He believes the sashes and part of the door of the shop to be original; the sashes in the dwelling are replacements. In his opinion, designation would not preclude alterations to those aspects of the property described under "What is to be Protected by Designation." The plotting or physical location of the buildings, however, is important to the cultural heritage value of the property. The orientation and proximity of the dwelling to the shop and proximity of both structures to the street must be preserved.

The witness reiterated his testimony by reading section 8. Conclusion of his Witness Statement (Exhibit 3, Tab 1, p.8).

Heritage Conservation Policy

Regarding whether the City's proposal for designation is in keeping with provincial policy, Mr. Robinson referenced the Planning Act, s.3.(1), (5), and (6) (Exhibit 3, Tab 3) and Policy 2.6 Cultural Heritage and Archaeology, 2.6.1 of the Provincial Policy Statement (2005) (Exhibit 3, Tab 4). It is his opinion that the cultural heritage policies of the City of Guelph Official Plan (Exhibit 3, Tab 6) are in keeping with provincial policy and that the protection of the subject property under s.29 of the Act is supported by the policies of the Official Plan.

Comment on Objections

In reference to the Notice of Objection of July 7, 2008, submitted by Mr. Cleveland (Exhibit 6), Mr. Robinson noted the statement in (1) that the shop has been "in an unused state for 38 years, and is in a state of disrepair." The witness contends that it is this vacancy that has resulted in the shop maintaining a high level of historic integrity. He added that the dwelling is nearly as-built, apart from a south addition (and replacement window sashes).

In reference to Mr. Cleveland's statement in (3) regarding "the negative impacts of poorly maintained properties," Mr. Robinson does not consider the subject property to be "poorly maintained." Regarding the *St. Patrick's Ward Land Use Strategy May 2003 City of Guelph Planning and Building Services* document cited by Mr. Cleveland (extracts, Exhibit 3, Tab 7; Exhibit 10), the witness noted that goals 8 and 9 of section 1.3 Community Reinvestment Goals,

are intended to "Protect and conserve the heritage resources and the historic fabric and character of the neighbourhood" and "Encourage community improvements that respect and strengthen the historic neighbourhood character."

Regarding Mr. Cleveland's statement in (6) that "there are many buildings on Alice Street that pre-date (late 1800s) the 1924 construction date of 47 Alice, yet none of these buildings have been designated historic," the witness commented that age is not the only factor in proposing a property for protection under the Act.

Mr. Robinson referenced the Notice of Objection of July 7, 2008, submitted by Mr. Maxwell (Exhibit 7), specifically the paragraph 2 statement: "To look at the structure, one has no further understanding of this community. Far better and far less intrusive would be to somehow make public the photographs that have been filed in support of the application for designation." The witness responded that to look at the structure and not understand its significance would only hold true if the onlooker had no knowledge of the historical background. Simply making photographs public is not in keeping with provincial and municipal heritage conservation policies which are "directed to protect a physical heritage resource."

Validity of Couling Inventory

Exhibit 9 contains extracts of the "Couling Building Inventory, Guelph, Ontario, 1827-1927." This is an inventory of historic buildings compiled in the mid 1970s by "the late Gordon R. Couling, artist and architectural expert." Mr. Robinson stated that although researchers, Heritage Guelph, and City staff use the Inventory as a core document, few give credence to the "Significance" ratings provided by Couling. That category is stroked out the City's in-house copy of the Inventory.

Couling rates 47 Alice Street (dwelling) and 49 Alice Street (shop) as "Significance: None." The fact that this category has not been stroked out on Mr. Cleveland's copy suggests it was acquired from the public library (this was later confirmed). It was noted that Couling also rated the nearby Sacred Heart Church as having "no architectural significance; limited historic significance for the parish." Mr. Robinson disputes these ratings.

Overall, Mr. Robinson concluded that the property and its buildings are in good condition and should be allowed to continue to contribute to the character of the community. In comparison to other examples of mixed residential/commercial use in the neighbourhood, none are detached or maintain the high level of historic integrity exhibited in the subject property. This is a situation where one of the important "smaller elements" of the city is to be preserved.

Cross-examination of the Witness

Mr. Maxwell began his cross-examination by querying how this property meets Regulation 9/06, (2)1.(i) for being "rare or unique." Mr. Robinson agreed that, when built in the 1920s, the dwelling/shop combination was not unique or rare. Today, he could not find another example of this *detached* configuration of a dwelling and shop on one property. It has become a "unique" example. He agrees that historic integrity is not a criterion under the Regulation but stated that integrity (or surviving original condition) is an important factor in evaluating a property for cultural heritage reasons.

In reference to Regulation 9/06, (2)2.(i), the witness was asked to explain the "theme" of this property. He responded that St. Patrick's Ward has been the destination of many Italian immigrant families, particularly in the interwar period (1919-1939), and that it was a cultural practice to establish a place of business near to their place of residence. Alice Street is a good physical representation of this practice. Mr. Robinson concurred with Mr. Maxwell's suggestion that this was not unique to Italian families and that other cultures also did this in the 1920s. He maintains that Alice Street today has largely the same residential and "smaller scale industry"

built form that it did in its initial period of development. He agrees that the subject property is not the only one that “speaks to that period and diversity of the neighbourhood.”

Regarding Regulation 9/06, (2)3.(i) (Contextual), Mr. Robinson noted that the unevenness of the streetscape reflects that no fixed (regulated) setback existed when Alice Street was first developed. The close proximity of the shop to the street gives it visual prominence, making it important to the character of the streetscape.

When asked about the “None” rating by Couling for the heritage significance of the subject property, Mr. Robinson explained that Couling did not define the meaning or context of “no significance” as he did for other levels of significance. He noted that the inclusion of the subject property in the 1990s Frank Burcher and Peter Stokes Inventory of Heritage Structures in Guelph (cited in Exhibit 3, Tab 1, p.4) means that to Burcher and Stokes, it has significance. Since 2006, “significance” has been defined using Regulation 9/06. For this property, the key factors are that the dwelling and shop are detached and that they form the “only original example” of this residential/commercial configuration in the neighbourhood as examined by Mr. Robinson.

Mr. Maxwell confirmed that it was Gayle Valeriote who provided information for the April 2008 *Background Information for Proposed Designation of Site* report prepared by Heritage Guelph (Exhibit 11, Attachment 2) and that she is not known to be a heritage expert.

Mr. Robinson confirmed that he only focused his evaluation and research in that part of Ward 1 marked by him on Exhibit 12.

Re-examination of the Witness

On inquiry by Mr. Rae, Mr. Robinson explained that the area he examined has a concentration of smaller sized lots and he was looking for “sameness to the subject property neighbourhood.” He added that keeping the buildings within their historic context is important to maintaining cultural heritage value. Maintaining the existing setbacks preserves the original character of Alice Street. It also preserves the original intent of the shop building to be near but apart from the family residence, and visible to the street and potential customers.

Mr. Rae inquired if other than being “detached,” did the subject buildings differ from other combined residential/commercial examples in the area. The witness responded that the other examples examined and depicted in Exhibit 3, Tab 1, lack the high level of physical (historic) integrity held by the subject property.

Witness – Ian Panabaker

Mr. Panabaker was sworn. Although his Curriculum Vitae (Exhibit 13) outline professional credentials and expertise in heritage planning and urban design, the Review Board concluded that his role in these proceedings was as the City of Guelph Urban Design Program Manager. As such, he was not sworn as an expert witness in heritage planning and urban design.

Mr. Panabaker confirmed that he was a City staff member when the Alice Street property designation proposal was initiated. He is not a voting member of Heritage Guelph (municipal heritage committee) but attends the meetings. He has communicated on occasion with Mr. Cleveland as the property owner. He confirmed that Exhibit 3, Tab 8, is a valid outline of the chronology of events.

Regarding the accusation in the November 18, 2008 letter of Mr. Maxwell to the Review Board (Exhibit 8) that Mr. Panabaker “recommended that the demolition permit be granted as the building was not architecturally significant, or of significant historical value,” Mr. Panabaker

confirmed that he did not make this statement. A similar statement can be attributed in the recommendation to Heritage Guelph by Mr. Doug Haines, Chair, Designation Subcommittee (Exhibit 9, p.5). The Haines recommendation that there are no cultural heritage reasons for not allowing the demolition permit application from Mr. Cleveland was defeated by Heritage Guelph.

The witness concurred with Mr. Maxwell's letter that at the Community Development and Environmental Services Committee meeting of May 9, 2008, the recommendation to protect the property under s.29 of the Act resulted in a tie vote, but, as required, the matter was commuted to Council. He added that he sees designation as a "political process" and knew that the "small scale and plainness" of the subject buildings would make cultural heritage value hard to demonstrate.

Mr. Panabaker explained that Heritage Guelph typically undertakes research starting with the Couling Inventory, conducts a site visit, and evaluates the cultural heritage value of the property by applying the criteria of Regulation 9/06. As a staff member with heritage conservation expertise, he supports this approach. He added that the Couling Inventory was compiled for Guelph's centennial in 1926 and theorized that Couling's known expertise in 19th century architecture may have resulted in his downgrading the significance of early 20th century structures. Heritage Guelph disregards all of Couling's heritage significance ratings.

It was explained to the Review Board that Ward 1, as shown on Exhibit 12, should not be confused by what is traditionally known as St. Patrick's Ward. The latter relates to the 19th century plan of the city and is, in part, encompassed by the modern Ward 1.

Mr. Panabaker concurs that the property meets the criteria of Regulation 9/06 under the three categories identified by Mr. Robinson. He considers the property "unique" on Alice Street and representative of the self-employment based industry characteristic of the traditional St. Patrick's Ward. He finds the prominence of the shop on the street to be "striking." It holds historical value in being part of the immigrant experience and practice of self-employment industry. He finds the property to be contextually a "pronounced anomaly with landmark status" on Alice Street.

Mr. Rae queried the witness on the fact that area residents, as demonstrated by the petition (Exhibit 9, pp.20-24), support the demolition of the shop. He replied that cultural heritage value is not always understood by the public and that this is why there is a municipal heritage committee to advise Council.

This concluded the case for the City.

Case for the Objector(s)

Witness – Blair Cleveland

Mr. Cleveland was sworn.

Mr. Cleveland explained that he is the property owner and that his application to convert the auxiliary building (shop) to a garage for personal use was refused by the Guelph Environment & Transportation Group for reasons outlined in Exhibit 9, p.4. He then retained Pretium Engineering Ltd. "to determine the general condition of the structure and to provide a budget estimate to restore the structure to habitable conditions" (Exhibit 9, pp.6-9).

The witness explained that the October 22, 2007 meeting of Heritage Guelph was the fifth meeting to discuss the cultural heritage value of his property and that he was invited and did attend all/most of these meetings.

Mr. Cleveland expressed to the Review Board his general frustration with what he considers to be a lack of transparency in the heritage designation process. He had at first understood that the proposal was only for the protection of the shop, not the shop and dwelling. He is also concerned that the primary information used by Heritage Guelph came from Gayle Valeriotte, who should be considered a lay person in heritage conservation and biased as a family member. Since the issue received media coverage, Mr. Cleveland was being approached by others stating their opposition to the designation proposal.

In compiling information about the history and possible significance of his property, Mr. Cleveland consulted the copy of the Couling Inventory held by the public library. Couling's credentials are as a professor, Guelph historian, and conservationist. He was an early member of the Local Architectural Conservation Advisory Committee (now municipal heritage committee). Couling concluded that the subject dwelling, shop, and nearby church had no heritage significance.

Mr. Cleveland explained that he gave a full disclosure of the circumstances as he circulated a petition (Exhibit 9, pp. 20-24) to households between Arthur and Huron streets along Alice Street. Of the 33 households (34 individuals) canvassed or polled, 29 supported the statement:

I am a resident who lives on Alice Street and I do not agree that the buildings at 47 Alice Street, specifically the old shop building, are of historical or cultural heritage value. I have read the criteria written below and have placed my signature here to indicate that I am in support of the property owner of 47 Alice Street and that this property should not be designated historic because I don't believe it adds contextual, or historical value to the neighbourhood.

There were 2 undecided, 2 neutral, and 1 in support of heritage conservation as a principle.

The witness then referenced the *St. Patrick's Ward Land Use Strategy May 2003 City of Guelph Planning and Building Services* (Exhibit 10), in particular statement 4.2 "improving the quality of life in St. Patrick's Ward." It is Mr. Cleveland's position that designation negatively affects his quality of life by preventing him from having a garage and/or driveway.

Cross-examination of the Witness

The Review Board inquired at what date Mr. Cleveland became aware that his dwelling was included in the designation proposal. He first confirmed this at the Community Development and Environmental Services Committee meeting of May 9, 2008.

This concluded the case for the Objectors

Procedural Matter

Mr. Rae concluded there was no need to have Mr. Bodai appear as a witness.

Summation of the Case for the Objectors

Mr. Maxwell stated that although there may be some "connection" of the subject property to the criteria of Regulation 9/06, the significance is insufficient to warrant protection under s.29 of the Act. There are several examples of dwelling/shop combinations in the Ward and being detached does not make the subject property example "rare" or "unique." Regarding contextual, many buildings along Alice Street are close to the roadway. As evident by the signatures to Mr. Cleveland's petition, the neighbourhood does not have a problem with the demolition of the shop. The Review Board should also consider the element of "practicality." In conclusion, this

property is not significant enough to be protected under the Act and there are more effective ways to present the message about the history of St. Patrick's Ward to the public.

Summation of the Case for the City

Mr. Rae stated that if public opinion on cultural heritage value always ruled, there would be no need for the Review Board. He noted that the only expert evidence provided was that of an independent heritage consultant, Mr. Robinson, and that his evidence was supported by City staff member Mr. Panabaker. Two reports support the notion that the subject property meets the criteria under three categories of Regulation 9/06. Mr. Cleveland's assessment of cultural heritage value is based on the Couling Inventory and Couling's ratings for heritage significance are typically disregarded. The Review Board should consider that the buildings have high historic integrity; the detached relationship between the two structures is significant; the property has a connection to an important period in Guelph's history; and the shop gives a unique character to the streetscape and neighbourhood.

Findings and Recommendations of the Board

Based on the evidence heard, the Review Board is of the opinion that this property meets the test of Ontario Regulation 9/06 Criteria for Determining Cultural Heritage Value or Interest in the manner outlined by the City and its witness Mr. Robinson.

It is recommended that the wording of the designation bylaw be more explanatory and accurate than that of the Notice of Intention to Designate ("Notice") provided to the Review Board. The following are recommendations in that regard:

1. There was conflicting evidence presented on the date of construction of the auxiliary building (shop). It was suggested that the dwelling was constructed in 1924 and the shop shortly after, not both in 1924 as stated in the Notice. This should be confirmed through research, or the wording for the auxiliary building changed to "about 1924, following construction of the dwelling," if this is more accurate.
2. Evidence was given that the construction of the dwelling (and possibly the auxiliary building) has been attributed to a local builder, Ralph Macri. If this is confirmed and of merit, it is suggested that this information be added to the bylaw.
3. It should be made clear that the municipal address of the property is 47 Alice Street and that 49 Alice Street is a courtesy address only for the auxiliary building.
4. Knowledge that the long term occupancy of the property was by the Valeriotte family and that the auxiliary building was built for and used by Vincent Valeriotte as a shoe repair business until the 1970s is not identified in the Notice. If this is confirmed, it is suggested that this information be added to the bylaw.
5. As noted by Mr. Robinson (Exhibit 3, Tab 1, p.4, endnote) the use of the term "early" in the context of Guelph's development is better confined to the founding (early 19th century) period of Guelph's history. It is misleading to use "early" when describing the chronology of the subject buildings in the context of the larger community.
6. The addition of some date parameters for the "important period of Italian immigration to Canada and the development of Guelph's Italian community in St. Patrick's Ward" would be more explanatory.
7. The protection of this property is being proposed under s.29 of Part 4 of the Ontario Heritage

Act. Since amendments to the Act in 2005, Part 4 includes municipal and provincial protection, making it necessary to distinguish municipal protection as s.29. The reference to "Part 4" alone is no longer valid.

8. The Notice is worded "warrant their consideration for historic designation." "Consideration" will become redundant if a decision is made to protect the property under the Act. This phrase should not appear in the designation bylaw.

9. For clarity, the heritage attributes that support the cultural heritage value or interest of the property are the one storey, brick dwelling, constructed in 1924, and the one-storey, brick auxiliary building formerly used as a shoe repair shop. The "What is to be Protected by Designation" is actually a description of aspects of these structures as the heritage attributes.

10. The "What is to be Protected by Designation" wording would benefit from increased clarity in the descriptions. The purpose of this section (description of heritage attributes) is as a guide for review in the event of an application for alteration under s.33 of the Act. The following is suggested wording only and subject to verification and approval by Council:

The heritage attributes that support the cultural heritage value or interest of this property are the one storey, brick dwelling, constructed in 1924, and the one-storey, brick auxiliary building formerly used as a shoe repair shop. Only the following aspects of these heritage attributes are protected:

- All window and door openings and the hip roof line as seen from Alice Street, of the front (north) elevation of the one-storey, 1924 dwelling;
- All window and door openings and open gable roof line as seen from Alice Street of the front (north) elevation of the one-storey auxiliary building formerly used as a shoe repair shop;
- The window opening on the west side of the auxiliary building;
- The setback of the dwelling and auxiliary building relative to Alice Street; and
- The placement of the dwelling and auxiliary building within the parcel of land and relative to each other.

Other Matters

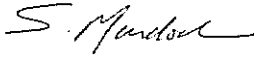
1. If possible, it is suggested that the copies of the Couling Inventory readily available to the public be given a written preamble stating that the practice of Heritage Guelph is to disregard the significance ratings assigned by Couling to each property. It was evident to the Review Board that these ratings by Couling may have misled Mr. Cleveland, and may give other property owners a false impression of the heritage significance of their property.

Recommendation

Based on the evidence heard, it is the recommendation of the Conservation Review Board that the property known municipally as 47 Alice Street and described as Lot 40 and Part Lot 39, Plan 244, in the City of Guelph, be protected under s.29 of the Ontario Heritage Act, R.S.O. 1990, Chapter O18, as amended to 2006.

The Review Board recognizes that the final decision in this matter rests with the Council of the City of Guelph.

The Review Board appreciated the efforts of all participants in these proceedings.



Su Murdoch, Vice-Chair
December 16, 2008



Karen Haslam, Member
December 16, 2008

Schedule 1

Exhibits List

Exhibit 1: Statement of Service, submitted by the Review Board

Exhibit 2: Affidavit of Service, submitted by the City

Exhibits 3: Document Book of the City of Guelph

Exhibit 4: Parcel Register, submitted by the City

Exhibit 5: Notice of Intention to Designate, from Review Board case file and verified by all Parties

Exhibit 6: Notice of Objection of Blair Cleveland dated July 7, 2008, from Review Board case file and verified by all Parties

Exhibit 7: Notice of Objection of Gordon P. Maxwell dated July 7, 2008, from Review Board case file and verified by all Parties

Exhibit 8: Letter of November 18, 2008, from Gordon P. Maxwell to Conservation Review Board, from Review Board case file and verified by all Parties

Exhibit 9: Hearing Evidence package, 32 pages, submitted by Blair Cleveland

Exhibit 10: Extract of *St. Patrick's Ward Land Use Strategy May 2003 City of Guelph Planning and Building Services*, 4.0 New Land Use Strategy, submitted by the City

Exhibit 11: Committee Report 08-57, Community Development and Environmental Services Committee, May 09, 2008, from Review Board file and verified by all Parties

Exhibit 12: Ward Map, submitted by the City

Exhibit 13: Curriculum Vitae of Ian Panabaker, submitted by the City

Exhibit 14: Community Development and Environmental Services Committee, May 9, 2008, Council minutes

Schedule 2

Notice of Intention to Designate (Minus Preamble and Location)

Why the Property is being Designated:

Built in 1924, the pair of red brick structures at 47-49 Alice St. provides an excellent example of a residence and small scale workshop being constructed side-by-side as a convenient employment source for an Italian immigrant family in the 1920s. The development of the property reveals an important period of Italian immigration to Canada and the development of Guelph's Italian community in St. Patrick's Ward. The buildings' historic connection with the City's early growth and their contextual value in defining, maintaining and supporting the character of St. Patrick's Ward; warrant their consideration for historic designation under Part IV of the *Ontario Heritage Act*.

What is to be Protected by Designation:

- front elevation of the one storey residence including window and door openings and hip roof line;
- front elevation of the one storey accessory building including window and door openings and open gable roof line;
- window opening on the west side of the accessory building; and
- setback/location of the buildings relative to Alice St.

Schedule 3

ONTARIO HERITAGE ACT REGULATION 9/06 *No Amendments* CRITERIA FOR DETERMINING CULTURAL HERITAGE VALUE OR INTEREST

Criteria

1. (1) The criteria set out in subsection (2) are prescribed for the purposes of clause 29 (1) (a) of the Act. O. Reg. 9/06, s. 1 (1).

(2) A property may be designated under section 29 of the Act if it meets one or more of the following criteria for determining whether it is of cultural heritage value or interest:

1. The property has design value or physical value because it,
 - i. is a rare, unique, representative or early example of a style, type, expression, material or construction method,
 - ii. displays a high degree of craftsmanship or artistic merit, or
 - iii. demonstrates a high degree of technical or scientific achievement.

2. The property has historical value or associative value because it,
 - i. has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,
 - ii. yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or
 - iii. demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.

3. The property has contextual value because it,
 - i. is important in defining, maintaining or supporting the character of an area,
 - ii. is physically, functionally, visually or historically linked to its surroundings, or
 - iii. is a landmark. O. Reg. 9/06, s. 1 (2).

Transition

2. This Regulation does not apply in respect of a property if notice of intention to designate it was given under subsection 29 (1.1) of the Act on or before January 24, 2006. O. Reg. 9/06, s. 2.