



1593 Four Mile Creek Road
P.O. BOX 100, Virgil, ON L0S 1T0
905-468-3266 • FAX: 905-468-2959

www.notl.com

The Corporation of the Town of Niagara-on-the-Lake Information Report to Council

SUBJECT: 134 Victoria Street – Notice of Intent to Demolish – Rear Addition of Dwelling and Accessory Building (HER-43-2023)

DATE: 2023-11-01

REPORT #: CDS-23-240

PREPARED BY: Denise Horne, Heritage Planner

DEPARTMENT: Community & Development Services

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Municipal Heritage Committee acknowledge the Notice of Intent to Demolish, received on October 25, 2023, served on behalf of the property owner for the rear addition of the dwelling and an accessory building at 134 Victoria Street in Old Town; and
- 1.2 The Municipal Heritage Committee advise Council on any additional plans and information required to be submitted with the Notice of Intent to Demolish prior to the start of the 60-day timeline for demolition under Sections 27(9)(10) & (11) of the *Ontario Heritage Act*.

2. BACKGROUND INFORMATION

On October 25, 2023, the Town received a Notice of Intent to Demolish (**Appendix I**) the rear addition of a dwelling at 134 Victoria Street (the “subject property”), as well as a rear accessory building. The applicant has submitted a report assessing the stability of the foundation, prepared by Nassar Engineering, dated October 15, 2023 (**Appendix II**). The report concludes that the foundation for the circa 1835 portion of the dwelling is in poor shape, “making the building unsafe to be occupied” and does not recommend remedial work. The applicant would like to save the 1835 portion of the dwelling, but remove the later rear addition as highlighted in the Site Plan in **Appendix III**. The structural report does not address the accessory building. The applicant has also proposed a new rear addition as seen in **Appendix IV**, Additional site photos of the dwelling and accessory building are attached in **Appendix V**.

2.1 Site Description and Surrounding Context

The subject property is located on the east side of Victoria Street, just north of Prideaux Street (see **Figure 1**). The subject property contains the Winterbottom House, a circa 1835 colonial style cottage (**Figure 2**) that is listed on the Town’s Municipal Heritage Register of Properties of Cultural Heritage Value or Interest. The property is also a contributing property within the Niagara-on-the-Lake National Historic Site of Canada (the “National Historic District”).



Figure 1 – Location map subject property outlined in orange



Figure 2 – Façade of Winterbottom House

2.2 Ontario Heritage Act, R.S.O. 1990, c. O.18

The *Ontario Heritage Act* requires a 60-day notice of intention to demolish to be served by the property owner to Council prior to demolition of a structure on a listed, non-designated property.

Section 27 the Ontario Heritage Act states:

Restriction on demolition, etc.

(9) If a property that has not been designated under this Part has been included in the register under subsection (3), the owner of the property shall not demolish or remove a building or structure on the property or permit the demolition or removal of the building or structure unless the owner gives the council of the municipality at least 60 days notice in writing of the owner's intention to demolish or remove the building or structure or to permit the demolition or removal of the building or structure. 2019, c. 9, Sched. 11, s. 6.

Same

(10) Subsection (9) applies only if the property is included in the register under subsection (3) before any application is made for a permit under the Building Code Act, 1992 to demolish or remove a building or structure located on the property. 2019, c. 9, Sched. 11, s. 6.

Same

(11) The notice required by subsection (9) shall be accompanied by such plans and shall set out such information as the council may require. 2019, c. 9, Sched. 11, s. 6.

As noted in section 27(11), Council may require Plans and Information to accompany the Notice to Demolish.

The MHC Terms of Reference provides the following process for Notices to Demolish:

In accordance with Section 27(11) of the OHA, Council shall consider the date that notice has been provided to be the date that such notice with required plans and information has been received at a Council Meeting. Required plans and information shall include advice from the Municipal Heritage Committee in regard to whether required plans and information have been provided.

MHC will provide a recommendation to Council via Committee motion advising whether required Plans and Information have been provided or whether additional information is required. Council will consider the advice of the MHC and pass a motion advising that:

- a) The required Plans and Information have been provided with the Notice to Demolish, which starts the 60-day timeline under the *Ontario Heritage Act* for demolition;
- Or
- b) Additional Plans and Information are required with the Notice to Demolish, and must specify what additional information is required. In this case the 60-day timeline would not start until the additional information is provided to Staff.

If the MHC is not satisfied that heritage resources will be conserved, then Committee could consider moving a designation. However, this would require a formal cultural heritage evaluation of the dwelling, and the preparation of a designation by-law.

NEXT STEP / CONCLUSION

Staff are satisfied that the property owner is conserving the 1835 portion of the dwelling and that heritage resources will be conserved. Committee input is requested on the information submitted with the Notice of Intent to Demolish and whether any additional information should be required with the Notice.

ATTACHMENTS

- **Appendix I** – Notice of Intent to Demolish Letter
- **Appendix II** – Structural Engineer's Report
- **Appendix III** – Site Plan
- **Appendix IV** – Proposed Addition
- **Appendix V** – Site Photos