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

SUBJECT: Delegated Authority By-law 2024-022 for Heritage Permits
DATE: 2024-06-25
REPORT #: CDS-24-097
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DEPARTMENT: Community & Development Services

BACKGROUND INFORMATION

The purpose of this report is to provide information to Council on By-law 2024-022 (Delegated Authority By-law, **Appendix I**) – a by-law to delegate approval authority to the Director of Community and Development Services (“CDS”) as it relates to certain minor alterations (as outlined in the by-law) for property designated under Parts IV and V of the *Ontario Heritage Act* (“OHA”). Council updated this By-law on February 27, 2024 following consultation with the Municipal Heritage Committee (“MHC”). This by-law repeals the previous delegation By-law 4126-07 that was approved in 2007.

The Town of Niagara-on-the-Lake is rich with built heritage resources. To conserve our cultural heritage, the Town has a heritage permit system in place to ensure that proposed alterations to designated properties enhance and conserve the cultural heritage value of the property.

Properties can be designated under Parts IV or V of the OHA. Properties designated under Part IV of the OHA receive individual designation by-laws, which include a statement of significance and set of defined attributes. Properties designated under Part V of the OHA are identified as “contributing” properties to the overarching cultural heritage value or interest of a neighbourhood, defined as a Heritage Conservation District (“HCD”). If a Part IV property is also designated under Part V of the OHA, its Part IV designation by-law supersedes its Part V designation, though the policies outlined in an HCD Plan also apply when determining the acceptable alterations to heritage property.

The Delegated Authority By-law permits the Director of CDS, as the Council’s delegated authority representative, to approve specific classes of minor alterations to heritage designated properties. In removing the Council approval process and meeting cycle, delegated authority approvals allow for shorter processing time for these minor classes of alteration as set in the by-law.

Alterations Permit Application Process

The application process for proposed alterations to a designated heritage property is outlined in Subsections 33 and 42 of the OHA, which states that “an owner shall not alter or permit the alteration of the heritage property if the alteration is likely to affect the heritage attributes as set in the description of the associated designation by-law.” The application process for alterations to designate properties is managed at the municipal level.

Similar to planning applications, an applicant must provide all requested supporting documentation to deem the heritage permit application complete. The OHA includes provisions regarding requests for additional information. Once deemed complete, a decision on the application is required within 60 days.

Typically, a heritage permit application is reviewed by Staff, and a report is prepared to receive MHC input and recommendations prior to Council’s decision to approve or deny a heritage permit.

Under By-law No. 2024-022, Council has delegated the decision to the Director of CDS as it relates to the following processes.

- Approve heritage permit applications that meet the definition of Emergency Work (as defined in By-law 2024-022);
- For Part IV (individual) heritage designations - Approve heritage permit applications that follow best practice guidance for alterations and belong to the following classes of alterations (Part IV):
 - Changes or renovations to outbuildings that are not listed as heritage attributes but may affect heritage attributes;
 - Removal and planting of trees or plantings identified as a heritage attribute, where the trees are confirmed by a certified arborist to be dead, dying, or hazardous to people and property (as defined in the Town’s Private Tree By-law No. 5139-19);
 - Minor alterations that are likely to affect the heritage attributes of the property;
 - Repairs to porches and stairs with in-kind materials, dimensions, and design; and
 - Repainting in colours from the Town’s list of heritage-approved colours (Appendix IV).
- For Part V (HCD) designations - Approve heritage permit applications that follow best practice guidance for alterations and belong to the following classes of alterations:
 - Changes or renovations to outbuildings that meet the requirements of the applicable heritage conservation district (“HCD”) plan and guidelines;
 - Landscape alterations including, but not limited to tree removal, new hard or soft landscaping, new driveways and fences where the proposed alterations meet the requirements of the HCD plan and guidelines;
 - Minor exterior alterations that meet the requirements of the applicable HCD plan and guidelines;
 - Installation of rooftop mechanicals and venting systems or other mechanical equipment, including solar panels not visible from the street that meet the requirements of the applicable HCD plan and guidelines;
 - Repainting in colours from the Town’s list of heritage-approved colours (Appendix IV)
 - Building additions that do not impact the cultural heritage value of the property or district and meets the requirements of applicable HCD plan or guidelines;
 - Demolition of detached accessory structures where the demolition does not impact the cultural heritage value of the property or district and meets the

- applicable HCD plan and guidelines;
- Construction or removal of a seasonal patio that is uncovered and unenclosed and which does not impact the cultural heritage value of the property or district and meets the requirements of the applicable HCD plan and guidelines.

In exercising delegated authority for approved classes of alterations, the Director may consult with the MHC before consenting to an alteration. For alterations beyond the outlined classes in the Delegated Authority By-law, or those deferred at the discretion of the Director to Council for approval, the MHC must be consulted as part of due process prior to Council's approval.

Section 4 of the Delegated Authority By-law refers to the extent of the Director of CDS's delegated authority, as follows:

1. This delegated authority includes the authority to approve applications with conditions;
2. This delegated authority does not give the authority to refuse an application;
3. Applications for alterations that do not belong to the classes of alterations outlined in Parts 1 and 2 of this by-law will be forwarded to the MHC for consultation and Council for Decision; and
4. Applications that belong to the classes of alterations outlined in this by-law may be brought to Council for final decision at the discretion of the Director of CDS.

CONCLUSION

By-law 2024-022 delegates authority from Council to the Director of CDS to request, receive, review, and approve applications for proposed minor alterations to property designated under Parts IV and V of the OHA. In exercising delegated authority for approved classes of alterations, the Director may consult with the MHC before consenting to these alterations.-

For alterations beyond the outlined classes in the Delegated Authority By-law, or those deferred at the discretion of the Director to Council for approval, Council is the approval authority and is required to receive input from the MHC.

At the May 1 MHC meeting, Staff were requested to provide regular updates to MHC on heritage permit activity approved through delegated authority. Per the MHC terms of reference, Staff have committed to providing a summary of heritage planning activity at the end of each year. Information on all heritage permit applications, as well as any delegated authority approvals, will be contained in this report.

It is recommended that this report be provided to the MHC as a helpful resource on Delegated Authority.

ATTACHMENTS

- **Appendix I – By-law No. 2024-022**