

Conservation Review Board
Commission des biens culturels



ISSUE DATE: February 5, 2015

CASE NO(S): CRB1309

PROCEEDING COMMENCED UNDER subsection 29(5) of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended.

Owner/Objector: 1816499 Ontario Inc.
Subject: Notice of Intention to Designate
Property Address: 10312 Yonge Street (Matthew McNair House)
Legal Description: Part of Lot 5, Plan 647
Municipality: Town of Richmond Hill
CRB Case No: CRB1309

Heard: November 24, 2014 at the Town of Richmond Hill, Ontario

APPEARANCES:

Parties

Counsel

1816499 Ontario Inc.

Joel Farber

Town of Richmond Hill

Alexis Alyea

REPORT OF THE BOARD DELIVERED BY STUART W. HENDERSON, LAURIE J. SMITH AND ROBERT V. WRIGHT

OVERVIEW

[1] The Town of Richmond Hill (the “Town”) seeks to designate 10312 Yonge Street in the Town of Richmond Hill (the “Property”) as a property of cultural heritage value or interest under s. 29 of the *Ontario Heritage Act* (the “Act”) and Ontario Regulation 9/06: Criteria for Determining Cultural Heritage Value or Interest (“O. Reg. 9/06”). The Property contains a single resource: the “Matthew McNair house”.

[2] 1675230 Ontario Limited, the previous owner of the Property, objects to the Notice of Intention to Designate (the “Notice”) because the Town has not satisfied the test under O. Reg. 9/06 for protection under s. 29 of the Act, the designation does not strike the right balance between heritage conservation and private enjoyment, and there is no public interest in designating the Property.

[3] During the course of the proceedings, the Property was sold by 1675230 Ontario Limited (the “Previous Owner”) to 1816499 Ontario Inc. (the “Owner”). The Owner assumed carriage of the Notice of Objection and retained the same counsel as its predecessor. The Town did not object.

[4] A hearing was convened under s. 29(8) of the Act to report to the Council of the Town, whether, in the opinion of the Conservation Review Board (the “Review Board”), the Property should be designated by by-law under s. 29 of the Act to be of cultural heritage value or interest.

[5] For the reasons set out below, the Review Board recommends that the Property be designated by by-law under s. 29 of the Act to be of cultural heritage value or interest.

BACKGROUND

[6] The Property is a rectangular parcel of land on the west side of Yonge Street, slightly north of Wright Street. It contains a single built resource: a one-and-a-half-storey, wood-frame, house with brick cladding, known as the Matthew McNair house. The house was built *circa* 1870 on lands belonging to Matthew McNair, a Richmond Hill builder. The Property has been listed on the Town’s Inventory of Buildings of Architectural and Historical Importance since at least 1992.

[7] On May 23, 2013, the Previous Owner of the Property submitted notice of its intention to demolish, under s. 27(3) of the Act, to the Town. A Heritage Impact Assessment was prepared by architect Joan Burt and submitted to the Town.

[8] The Town proceeded to issue a Notice of Intention to Designate the Property under s. 29 of the Act, based on the recommendations of staff and Heritage Richmond Hill.

[9] The Previous Owner objected to the Notice of Intention to Designate, and the matter was referred to the Review Board.

[10] Pre-hearing teleconferences were held on November 18, 2013; January 10, 2014; July 22, 2014; September 29, 2014; and October 31, 2014. These were attended by counsel for the parties, the Heritage Planner for the Town and a Review Board panel of Mr. Henderson and Mr. Wright. Ms. Smith joined the Review Board panel in September of 2014.

[11] Notice of the hearing was served on the Parties by the Review Board and published in the *Richmond Hill Liberal* on November 13, 2014.

[12] The hearing took place on November 24, 2014 at the Town's municipal office at 225 East Beaver Creek Road, Richmond Hill. On the morning of the hearing, the Review Board panel members, Town representatives, representatives of the Owner, and witnesses for both the Town and the Owner conducted a site visit of the Property and walked northward along Yonge Street for a short distance.

[13] At the hearing, the Town and the Owner called one witness each. No other members of the public attended. A list of the exhibits filed at the hearing is found at Schedule 1.

[14] An “Agreed Statement of Facts”, found at Schedule 2, was prepared by the parties and filed at the hearing as an exhibit.

[15] Regarding the background and physical description of the Property, the Agreed Statement of Facts provides:

- The Matthew McNair house was constructed “in approximately 1870, designed in the Ontario farmhouse style”. “The one-and-a-half storey Ontario farmhouse design is regarded as the most common architectural typology in the province.”
- The Matthew McNair house is “a one and a half [storey] wood framed brick-clad, L-shaped, gable roof residence, with a one storey more recently constructed concrete block commercial renovation/addition to the front façade facing Yonge Street.”
- The “original primary entrance” to the Matthew McNair house “is contained under a south facing entry porch with a roof supported by square tapered Doric column[s] and a wood lintel beam with foot mouldings and a top dentil band. The porch leads to the entrance door which is a four-panel wooden door with an arched glass transom.”
- The Matthew McNair house “is clad in buff and red brick which is laid in a common bond. The corners of the brick walls are defined by projecting buff brick quoins. Originally, the red brick walls were coloured with a wash and then detailed with white tuck pointing to create the illusion of a uniform brick colour that is completed with thin, clean, regular mortar line between the individual bricks. Similarly, the buff bricks located on the quoining and voussoir[s] are tuck pointed in a brown mortar.”

- The roof of the Matthew McNair house “is steeply pitched at approximately 45 degrees and is clad with asphalt shingles”. The soffits and fascia “are currently covered in metal.”
- The windows of the Matthew McNair house “have all been replaced with new one-over-one windows. On the north elevation of the second floor a small dormer containing a window has been added. Some window openings on the first floor have been filled in over the years, but the openings are clearly visible and the brick voussoirs remain in place. On the south elevation, the windows are placed asymmetrically.”

[16] Regarding Matthew McNair, the Agreed Statement of Facts provides:

- “The house was constructed on lands belonging to Matthew McNair who was a builder within Richmond Hill.”
- “Matthew McNair was born near Glasgow, Scotland on March 27, 1832. He was trained as a mason in Scotland before immigrating to Canada and taking up employment as a building contractor in Richmond Hill.”
- “During his life, Matthew McNair was also on the local Board of Health and acted as a School Trustee for several years. He was a member of the local branch of the Masonic Order.”

RELEVANT LEGISLATION AND REGULATION

[17] *Ontario Heritage Act*, Designation of Properties by Municipalities

Definitions

1. In this Act, “heritage attributes” means, in relation to real property, and to the buildings and structures on the real property, the attributes of the

property, buildings and structures that contribute to their cultural heritage value or interest:

Designation by municipal by-law

29. (1) The council of a municipality may, by by-law, designate a property within the municipality to be of cultural heritage value or interest if,

(a) where criteria for determining whether property is of cultural heritage value or interest have been prescribed by regulation, the property meets the prescribed criteria; and

(b) the designation is made in accordance with the process set out in this section.

29.(14) After considering the [Review Board] report under subsection (12), the council, without a further hearing,

(a) shall,

(i) pass a by-law designating the property,

(ii) cause a copy of the by-law, together with a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property,

(A) to be served on the owner of the property and on the Trust, and

(B) to be registered against the property affected in the proper land registry office, and

(iii) publish notice of the by-law in a newspaper having general circulation in the municipality; or

(b) shall withdraw the notice of intention to designate the property by causing a notice of withdrawal,

(i) to be served on the owner of the property and on the Trust, and

(ii) to be published in a newspaper having general circulation in the municipality.

O. Reg. 9/06: 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.

ISSUES

[18] Issue No. 1: Whether the Property should be designated to be of cultural heritage value or interest under s. 29 of the Act because it has design or physical value under criteria 1(2)1.i and ii of O. Reg. 9/06.

Issue No. 2: Whether the Property should be designated to be of cultural heritage value or interest under s. 29 of the Act because it has historical or associative value under criteria 1(2)2.i and iii.

Issue No. 3: Whether the Property should be designated to be of cultural heritage value or interest under s. 29 of the Act because it has contextual value under criterion 1(2)3.ii of O. Reg. 9/06.

Issue No. 4: Whether the heritage attributes described in the Notice of Intention to Designate contribute to the cultural heritage value or interest of the property.

CASE FOR THE MUNICIPALITY

[19] The only witness for the Town was Matthew Somerville. Mr. Somerville has been the Heritage and Urban Design Planner for the Town since 2011 and is a full member of

the Ontario Professional Planners Institute and the Canadian Institute of Planners. He has seven years of professional heritage conservation and urban design/architectural experience, including his work at the Town and several years as Manager, Heritage Planning, for an architectural firm. The Review Board found that Mr. Somerville is qualified as an expert in heritage planning advice.

[20] In his role as Heritage Planner for the Town, Mr. Somerville prepared the staff report recommending designation. He reviewed the Town's staff reports and heritage planning files related to the Property, including the Heritage Impact Assessment prepared by Joan Burt, reviewed the relevant legislation, regulations and guidance material, and conducted a site visit to the Property. He undertook additional investigations regarding the possible design value and contextual value of the property, including historical research.

[21] In his testimony, Mr. Somerville reviewed his witness statement and referenced the supporting documentation.

Criterion 1(2)1 – Design or Physical Value

[22] It is Mr. Somerville's opinion that the Matthew McNair house has design or physical value under criterion 1(2)1.i of O. Reg. 9/06 because it is "a rare and unique example of a vernacular Ontario farmhouse design" due to the asymmetrically placed windows on the south elevation. Mr. Somerville described the vernacular Ontario farmhouse as a symmetrical, T- or L-shaped structure, a modification of drawings and a description published in the *Ontario Farmer* in 1864. He described the Ontario farmhouse as "ubiquitous in Ontario". Mr. Somerville testified that the asymmetrical placement of windows on the south elevation of the Matthew McNair house is not typical for an Ontario farmhouse because symmetry was important in the Ontario farmhouse design. Mr. Somerville has not found any other examples of asymmetrical window placement in an Ontario farmhouse in the community of Richmond Hill or elsewhere. He believes that the placement of the windows was related to the location of the interior

staircase and the desire for natural light in that part of the house. Mr. Somerville testified that the interior staircase has been altered by changing the orientation of the bottom three risers.

[23] With respect to criterion 1(2)1.i, the Town submits that the Matthew McNair house follows the Ontario farmhouse style and symmetrical windows are part of that style. The Town submits that the Matthew McNair house is unique because the window placement is not symmetrical, and there is no other such placement on an Ontario farmhouse in Richmond Hill. The Town submits that the window placement was linked to the Mr. McNair's desire to provide light for the interior staircase. The Town submits that the asymmetrical windows are, therefore, a unique expression of the style.

[24] It is Mr. Somerville's opinion that the Matthew McNair house also has design or physical value under criteria 1(2)1.i and ii of O. Reg. 9/06 because it is a rare example of tuck pointing in the village core of Richmond Hill. He testified that tuck pointing is evident on all major elevations of the Matthew McNair house, in areas which are protected from the elements. He is not aware of any other examples in the village of Richmond Hill. Mr. Somerville acquired his knowledge about tuck pointing through reading material written by Dr. Gerard Lynch and attending a workshop given by Dr. Lynch. He testified that tuck pointing involves dyeing the bricks with an ochre wash, adding a mortar cover of the same colour as the brick wash, and then applying a pencil-thin line in a contrasting colour (tuck point) to imitate a crisp mortar line. Mr. Somerville testified that it is a laborious process that requires a high degree of skill and craftsmanship. He read an excerpt from material produced by Dr. Lynch and filed as an exhibit that described tuck pointing as "a highly-skilled and refined method". Mr. Somerville believes that tuck pointing would not typically be employed on a house of this type, but may have been applied by Mr. McNair because of his experience as a builder.

[25] With respect to criteria 1(2)1.i and ii, the Town submits that tuck pointing is evident on all four elevations of the Matthew McNair house on both red and buff bricks.

The Town submits that tuck pointing is “unusual in a rural home”, is a “highly skilled technique” and “displays a high level of craftsmanship”.

Criterion 1(2)2 – Historical or Associative Value

[26] It is Mr. Somerville’s opinion that the Matthew McNair house has historical or associative value under criteria 1(2)2.i and iii of O. Reg. 9/06 because it is directly associated with Matthew McNair as its owner and builder. Mr. Somerville believes that Mr. McNair was a significant person to the early community of Richmond Hill because of his roles on the Board of Health and as school trustee, and because he was responsible for construction of the Masonic Hall, a key building in the social life of the community. Mr. Somerville believes that the Matthew McNair house yields information about Mr. McNair as its owner and builder because its design attributes are not common.

[27] In cross-examination, Mr. Somerville agreed that Mr. McNair was a builder, but not necessarily a brick-mason. He also agreed that it could have been someone other than Mr. McNair who built the house, but he believes that he would have built his own house as he was a builder. He confirmed that Mr. McNair owned the Property from 1869 to 1886 and that the house was built shortly after he acquired the Property.

[28] In re-examination, Mr. Somerville testified that there is no evidence that Mr. McNair owned any other property at the time he owned the Property.

[29] In summary, the town’s position is that with respect to criteria 1(2)2.i and iii, Mr. McNair was an important builder in the community because he built the Masonic Lodge and served as Lodge Master. The Town submits that the asymmetrical window placement and the tuck pointing on the Matthew McNair house indicate Mr. McNair’s involvement in its design construction, and speak to the direct association between the house and Mr. McNair. The Owner’s contention that Mr. McNair was not a mason should be disregarded because his training as a mason is referred to in the Agreed Statement of Facts and in the witness statement of Mark Hall, and there was no

advance notice given to the Town that this was an issue. Further, the Owner's contention that there was no evidence that Mr. McNair resided in the house fundamentally misunderstands the nature of historical research. The evidence that he was a builder, that he owned the house and that it is known as "McNair's House" is sufficient to indicate Mr. McNair's direct association with the house.

Criterion 1(2)3 – Contextual Value

[30] Mr. Somerville gave evidence that the Matthew McNair house has contextual value under criterion 1(2)3.ii of O. Reg. 9/06 because it is historically and visually linked to its surroundings. It is one of three remaining houses that demarcate the northern extent of the original village, and is the oldest house in that section of the town. Mr. Somerville's evidence was that development at the north end of the village slowed down and the bulk of development activity moved to the south end. The other two properties to which Mr. Somerville referred are: the Andrew Newton House, 10350 Yonge Street, Richmond Hill, built circa 1895; and the Austin Maffey House, 10329 Yonge Street, Richmond Hill, built circa 1912. Mr. Somerville referred to an 1878 map of the village and a photograph of the northern part of the village taken between 1911 and 1916.

[31] With respect to criterion 1(2)3.ii, the Town submits that the Matthew McNair house is one of a grouping of three remaining houses that marked the northern edge of the village. The Town submits that although there are only three surviving houses of this nature, they provide the original village context.

[32] With respect to the key heritage attributes that contribute to the cultural heritage value or interest of the Property, the Town submits that the scale and massing of the house communicate its residential nature and contribute to the historical or associative value and the contextual value of the Property. The materials (wood and brick), side porch entry door, window trim, stairs and interior doors of the house contribute to the physical value or design value of the Property.

[33] The Town therefore submits that the Property has cultural heritage value or interest under criteria 1(2)1.i and ii, 1(2)2.i and iii, and 1(2)3.ii of Regulation 9/06, and that designation of the Property represents good heritage planning.

CASE FOR THE OWNER

[34] The only witness for the Owner was Mark Hall. Mr. Hall has been a licensed architect for over 50 years. He is a Registered Professional Planner in Ontario, a member of the Canadian Institute of Planners, a member of the Ontario Association of Architects and a member of the Canadian Association of Heritage Professionals. He has worked in the heritage sector and in Ontario since 1988, designing projects which combine historic preservation and adaptive reuse. The Review Board found that Mr. Hall is qualified as an expert architect with specific expertise in heritage preservation and planning.

[35] In preparing his witness statement, Mr. Hall said that he reviewed: the Heritage Impact Assessment prepared by Joan Burt; the Town's Official Plan and Heritage Conservation District Plan; the Agreed Statement of Facts; and Regulation 9/06. He added that he conducted internet research regarding the history of the Richmond Hill Masonic Temple and he viewed the exterior of the building on the Property.

[36] It is Mr. Hall's opinion that the Property does not meet the criteria for designation set out in O. Reg. 9/06.

Criterion 1(2)1 – Design or Physical Value

[37] In his testimony regarding criterion 1(2)1.i of O. Reg. 9/06, Mr. Hall described the "Ontario farmhouse" as a storey-and-a-half house often built from stone. He said that it is "a straightforward, square house with a centre door, windows flanking and a gable roof". He testified that the Matthew McNair house is "a variation of the Ontario farmhouse" with "some elements of the Ontario farmhouse". In Mr. Hall's opinion, the asymmetrical placement of windows is not indicative of any style, is not an example of a

style or expression and “does not exhibit anything of artistic merit”. He added that asymmetrical window placement “is not typical in every farmhouse but it is certainly not unique”.

[38] In cross-examination, Mr. Hall acknowledged that the opinion on window placement that he gave in his oral testimony was not included in his witness statement.

[39] In questioning by the Review Board, Mr. Hall responded that although the gabled end gives the house a presence to the street, the L-shape is not unusual or unique.

[40] The Owner submits that in order to meet criterion 1(2)1.i, a property must be “a unique example of a style”, and the asymmetrical windows of the house are not enough to make the Property a unique example of a style.

[41] Regarding criterion 1(2)1.i and ii of O. Reg. 9/06, Mr. Hall’s opinion is that tuck pointing is not significant enough to merit designation. He testified that examples of tuck pointing are not “super uncommon”. He said that it takes a little more skill than other techniques and shows “good” craftsmanship but is not unusual and does not demonstrate a high level of craftsmanship. He is aware of another example in Aurora, Ontario.

[42] In cross-examination, Mr. Hall acknowledged that tuck pointing exists on all four elevations of the building. He admitted that criterion 1(2)1.ii does not speak to being “unusual”. He agreed that tuck pointing is skilled work but said that it is not highly skilled work, requiring no more skill than any other brickwork. He stated that tuck pointing is typically done on all elevations, not just the façade. Mr. Hall confirmed that he considers Mr. McNair to have been the contractor/builder, but not the mason, for the Matthew McNair house. He admitted that as owner, Mr. McNair would have made the decision to have tuck pointing done and would have supervised the work. Mr. Hall agreed that Joan Burt’s Heritage Impact Assessment refers to the brickwork as being “of high quality workmanship”.

[43] The Owner submits with respect to the tuck pointing, that in order to meet criterion 1(2)1.ii, “the craftsmanship must be beyond a certain standard”. The Owner submits that not “every construction method that is highly skilled is worthy of designation”.

Criterion 1(2)2 – Historical and Associative Value

[44] Regarding criteria 1(2)2.i and iii, Mr. Hall’s opinion is that, “there is nothing that ties Mr. McNair to the Property other than as the builder he was, and the owner”; Mr. McNair was a “Mason with a capital M but not a mason; he was a general contractor”. In Mr. Hall’s opinion, “there is no way of knowing if he was a person of significance. He was not the mayor, or a founder, and his obituary does not say anything other than that he was a nice fellow in a small community, and a builder”.

[45] In cross-examination, Mr. Hall agreed that the Agreed Statement of Facts states that Mr. McNair “was trained as a mason in Scotland before immigrating to Canada and taking up employment as a building contractor in Richmond Hill”. Mr. Hall also agreed that in the “Heritage Impact Summary Chart” attached to his witness statement he referred to Mr. McNair as a “local mason who was apparently responsible for masonry work on one or more other buildings in Richmond Hill Mr. McNair was trained as a mason but may not have worked as a mason.

[46] In cross-examination, Mr. Hall agreed that Mr. McNair lived at the Matthew McNair house, but qualified his answer by saying that it was not for very long. Mr. Hall agreed that Joan Burt’s Heritage Impact Assessment concludes that the Matthew McNair house was built by Mr. McNair as his residence. Mr. Hall was shown a copy of a photo excerpted from Robert M. Stamp, *Early Days in Richmond Hill: A History of the Community to 1930* (published 1991), that refers to “McNair’s patterned brick houses”. Mr. Hall agreed that the Property is directly associated with Mr. McNair.

[47] Mr. Hall agreed that the former Masonic Hall housed the first public library in the village and that the public library was significant to the community. Mr. Hall admitted that in his internet research, Mr. McNair was the only one credited with building the Masonic Hall. Mr. Hall acknowledged that McNair did work in the Richmond Hill community, but felt that his work does not reach the level of significance required to meet the criterion.

[48] With respect to criteria 1(2)2.i and iii, the Owner submits that all that is known about Mr. McNair, is that he was a contractor, trained as a mason in Scotland, was a Freemason, built a building, and served on the Board of Health and as a school trustee. The Owner submits that this is not enough to meet the cultural heritage value or interest test of criterion 1(2)2.

Criterion 1(2)3 – Contextual Value

[49] Regarding criterion 1(2)3.ii of O. Reg. 9/06 and the two other buildings in this area referred to by Mr. Somerville, Mr. Hall testified that the presence of one building on the west side of Yonge Street built 25 years after the Matthew McNair house and one building on the opposite side of Yonge Street built 35 years later is not “context”. Mr. Hall believes that “context” relates to a conservation district or a grouping of buildings and he said that neither of those situations exists here.

[50] In cross-examination, Mr. Hall said that “it is a stretch to say it [the Matthew McNair house] marks the northern edge of the village core. It is in its original location, and was agricultural before being built upon, but all else has been demolished” in its surroundings. He conceded that the house “may have” marked the northern edge of the village when constructed, but “was not a significant building”.

[51] With respect to criterion 1(2)3.ii, the Owner submits that there is no evidence that the Property is visually or historically linked to the other two properties identified by the

Town, because the three properties are too disparate in their dates of construction. The Owner also submits that if there was once a linkage, it no longer exists.

[52] The Owner submits that the Property does not meet the test of Regulation 9/06 for designation under s. 29 of the Act; that the designation does not strike the right balance between heritage conservation and private enjoyment; and that there is no public interest in designating the Property.

ANALYSIS

Issue No. 1: Whether the Property should be designated to be of cultural heritage value or interest under s. 29 of the Act because it has design or physical value under criteria 1(2)1.i and ii of O. Reg. 9/06.

[53] With respect to criterion 1(2)1.i of O. Reg. 9/06, the parties agree that the windows on the south elevation of the Matthew McNair house are asymmetrically placed. The issue is whether this feature is sufficient to meet criterion 1(2)1.i as a “rare, unique, representative or early example” of a “style, type, expression, material or construction method”.

[54] Criterion 1(2)1.i requires that a property must be an example. The rarity, uniqueness, representativeness or earliness of a property can only be considered within the parameters of the identified style, type, expression, material or construction method. Whether the property functions as an example will depend on the extent to which it possesses features which are typical or defining of the style or type.

[55] The Town relies on the asymmetrical window placement as the sole reason for submitting that the Property is a “unique” example of the Ontario farmhouse style or type. The parties agree that the Matthew McNair house is within the “Ontario farmhouse” style or type and that symmetry is a key feature of that style or type. The parties agree that asymmetry is not a typical feature of the style or type. Mr. Somerville is not aware of any other examples of asymmetrical window placement in an Ontario

farmhouse in Richmond Hill and therefore believes the Matthew McNair house to be unique in this feature. Mr. Hall is aware of other examples elsewhere, but agrees that it is not typical of an Ontario farmhouse.

[56] In this case, the asymmetrical window placement is not a typical or defining feature of an Ontario farmhouse and therefore is not enough to make the Property an example of an *Ontario farmhouse*. Although asymmetrical window placement is an unusual and interesting feature, no evidence was introduced to suggest that it constitutes a recognized style or type in its own right. The Review Board finds that the Property does not meet design value or physical value criterion 1(2)1.i.

[57] With respect to criteria 1(2)1.i and ii, the parties agree that there is evidence of tuck pointing on all major elevations of the Matthew McNair house. The issue is whether the evidence of this technique is sufficient to meet criterion 1(2)1.ii because it “displays a high degree of craftsmanship”. O. Reg. 9/06 does not suggest how to measure what constitutes a high degree, but there is no requirement that the craftsmanship be unusual or unique. If the test for criterion 1(2)1.ii is not met, then the issue is whether the evidence of tuck pointing is a “rare, unique, representative or early example” of a construction method.

[58] With the exception of Mr. Hall, the expert testimony and documentary evidence consistently described tuck pointing as requiring a high degree of skill and craftsmanship. Joan Burt’s Heritage Impact Statement, prepared for the Previous Owner, referred to the brickwork on the Matthew McNair house as being “of high quality workmanship”. Mr. Somerville testified that tuck pointing is a laborious process that requires a high degree of skill and craftsmanship and would not normally be employed on a house of this type. Material authored by specialist Dr. Gerard Lynch and introduced in evidence by Mr. Somerville describes tuck pointing as “a highly skilled and refined method”. Even Mr. Hall, who testified that tuck pointing shows “good” craftsmanship but is not unusual and does not demonstrate a high level of craftsmanship, conceded that tuck pointing “takes a little more skill than other techniques”.

[59] The Review Board finds Mr. Somerville's assessment of the degree of craftsmanship involved in this case to be reliable, based on his personal research, the workshop he attended with Dr. Gerard Lynch, and his own inspection of the Matthew McNair house. Mr. Somerville's opinion is supported by the documents created by Ms. Burt and Dr. Lynch. The Review Board finds that the tuck pointing evident on the Matthew McNair house satisfies criterion 1(2)1.ii because it "displays a high degree of craftsmanship". Given that the test for criterion 1(2)1.ii has been met, it is not necessary to consider whether the test for 1(2)1.i has been met in respect of this feature.

[60] The Review Board therefore finds that the Property has design or physical value under criterion 1(2)1.ii.

Issue No. 2: Whether the Property should be designated to be of cultural heritage value or interest under s. 29 of the Act because it has historical or associative value under criteria 1(2)2.i or iii of O. Reg. 9/06.

[61] The parties agree that the Matthew McNair house was built *circa* 1870 on land belonging to Matthew McNair. They agree that Mr. McNair was a builder and building contractor in Richmond Hill and was also on the local Board of Health, acted as a school trustee and was a Master in the local Masonic Order.

[62] With respect to criterion 1(2)2.i, the sub-issues are: (1) whether Mr. McNair's connection to the property is a "direct association"; and (2) whether Mr. McNair is significant to the community of Richmond Hill.

[63] With respect to criterion 1(2)2.iii, the sub-issues are: (1) whether Mr. McNair was the builder of the Matthew McNair house and it reflects his work or ideas; and (2) whether Mr. McNair is significant to the community of Richmond Hill. This section will consider the sub-issues for criterion 1(2)2.i first, followed by those for criterion 1(2)2.iii.

[64] When considering what constitutes a direct association between a property and a person for the purposes of criterion 1(2)2.i, all relevant factors should be weighed and

no one factor is determinative. Relevant factors might include: whether the person lived and/or worked on the subject property; whether the person achieved significance before, during or after the period that they lived or worked on the property; and the length of time the person lived or worked on the property. The Review Board must consider all of the evidence and make its recommendations based on its findings.

[65] The Town argues that there is a direct association between the Property and Matthew McNair because: he owned and lived on the Property for 17 years; the Property was vacant when he bought it and built his house on it; the tuck pointing reflects McNair's skills as a mason; the unusual window placement demonstrates his skills and creativity as a builder, and the house on the Property has been known as McNair's house since at least 1991, when it was referred to as such in Robert M. Stamp's book, *Early Days in Richmond Hill: A History of the Community to 1930*. The Review Board accepts the Town's evidence and submissions on these points. The Review Board finds in this case, the combination of all of these factors supports a finding of direct association between the Property and Mr. McNair.

[66] The Review Board disagrees with the Owner's submissions that the evidence did not show that Mr. McNair built the house himself, lived in the house, or worked as a mason in Richmond Hill. The Review Board acknowledges the difficulties of working with historical evidence, and recognizes the importance of expert witnesses in interpreting historical evidence.

[67] The Review Board agrees with Mr. Somerville's opinion that it was Mr. McNair who built the Matthew McNair house because: he owned the Property at the time; was trained as a mason; he was recognized as a builder in Richmond Hill; he built the Masonic Lodge in brick in the same year; and the house includes features that reflect the skills of a trained mason and builder. Mr. Somerville's opinion was supported by Joan Burt's Heritage Impact Assessment.

[68] The Review Board agrees with the Town's submission that Mr. McNair lived in the Matthew McNair house because: he owned it for 17 years; there is no evidence he lived anywhere else; and the house is referred to as McNair's house in Robert M. Stamp's 1991 local history book.

[69] The Review Board agrees with Mr. Somerville's opinion that Mr. McNair worked as a mason in Richmond Hill because: Mr. McNair was trained as a mason in Scotland; he was recognized as a builder in Richmond Hill; and he is credited as the builder of the Masonic Hall, a brick structure.

[70] With respect to whether Mr. McNair was significant to the community of Richmond Hill, the parties agree on Mr. McNair's roles in the community, but disagree on their level of significance. The Town submits that Mr. McNair's participation on the Board of Health and as a school trustee, and his construction of the Masonic Hall, a community building that housed the first location of the Richmond Hill Public Library, qualifies him as significant. The Owner submits that these roles are not enough to support a finding of cultural heritage value or interest.

[71] When considering whether a person is significant to a community for the purposes of criterion 1(2)2.i, all relevant factors must be taken into account and no one factor is determinative. Significance should be measured within the context of the particular community and contributions that might be significant in one community may not be considered to be so, within another.

[72] In this case, the Review Board finds that Mr. McNair is significant to the community of Richmond Hill, because of his participation in key local bodies such as the Board of Health and the School Board at an early period in the community's development, and because he was responsible for building the Masonic Hall, a key structure in the social and geographical history of the community for almost 90 years.

[73] With respect to criterion 1(2)2.iii, the sub-issues overlap with those for criterion 1(2)2.i, the latter being: (1) whether Mr. McNair was the builder of the Matthew McNair house and it reflects his work or ideas; and (2) whether Mr. McNair is significant, as a builder, to the community of Richmond Hill. The Review Board's findings with respect to criterion 1(2)2.i, and the reasons for those findings, can usefully be applied to the relevant questions for criterion 1(2)2.iii.

[74] The Review Board agrees with Mr. Somerville's opinion that it was Mr. McNair who built the Matthew McNair house because: he owned the Property at the time; was trained as a mason; he was recognized as a builder in Richmond Hill; he built the Masonic Lodge in brick in the same year; and the house includes features that reflect the skills of a trained mason and builder. Mr. Somerville's opinion was supported by Joan Burt's Heritage Impact Assessment. In this case, the presence of tuck pointing and the unusual placement of the windows reflect the work or ideas of the builder. The Board therefore finds that Mr. McNair was the builder of the Matthew McNair house and it reflects his work or ideas.

[75] When considering whether a person is significant to a community for the purposes of criterion 1(2)2.iii, as with criterion 1(2)2.i, all relevant factors must be taken into account and no one factor is determinative. Significance should be measured within the context of the particular community and contributions that might be significant in one community may not be considered to be so, within another. The Review Board must consider all of the evidence and make its recommendations based on its findings.

[76] The Review Board finds, as detailed above with respect to significance in relation to criterion 1(2)2.i, that Mr. McNair is significant to the community of Richmond Hill, primarily because of his construction of the Masonic Hall, a key structure in the geographical and social history of the community for almost 90 years.

[77] The Review Board therefore finds that the Property has historical and associative value under criteria 1(2)2.i and iii of O. Reg. 9/06.

Issue No. 3: Whether the Property should be designated to be of cultural heritage value or interest under s. 29 of the Act because it has contextual value under criterion 1(2)3.ii of O. Reg. 9/06.

[78] In order to meet the test of criterion 1(2)3.ii, the Property must be “physically, functionally, visually or historically linked to its surroundings”. The Town submits that the Property is “visually or historically linked to its surroundings” because the Matthew McNair house is one of three houses that mark the original northern edge of the village and provide the “original village context”.

[79] In order for there to be a visual link between a property and its surroundings, the Review Board considers that there must be a currently existing, visual component to the link. In other words, the link must be clearly visible today. The property and its surroundings could be part of the same viewscape, or there might be important views from one to another, or some other visual partnership might be demonstrated. In this case, the Review Board is not satisfied that any visual link currently exists between the Property and the other two properties, in the evidence presented by the Town. The three properties are physically separated by other properties and do not form part of an identified viewscape. The evidence did not show any clear views between the Property and the other two properties. The Review Board finds that no visual link has been established within the meaning of criterion 1(2)3.ii.

[80] In order for an historical link to exist between a property and its surroundings, the Review Board finds that the two must share some sort of historical theme or connection; they must have something in common in their histories. They might have been built at the same time or by the same builder; they might have been owned or occupied by the same person or institution; they might have served complementary functions within the same bureaucracy, etc.

[81] In this case, the Review Board is not persuaded by the Town’s evidence and submissions that being located at the “northern edge of the village”, as described by the Town, constitutes an historical link. The Review Board agrees with the Owner’s

submission that the fact that the Matthew McNair house and the houses on the other two properties were built up to 35 years apart, makes it difficult to establish any historical link. In addition, the Review Board notes that no other historical information was provided on the other two properties to support a historical link.

[82] The Review Board agrees with the Owner's submission that the two properties identified by the Town as forming a visual and historical link with the Property, are too distant from the Property to be considered as its "surroundings". Both properties are separated from the Property by other buildings; one of the properties is on the opposite side of Yonge Street.

[83] The Review Board finds that the Town has not established a visual or historical link between the Property and its surroundings within the meaning of criterion 1(2)3.ii.

Issue No. 4: Whether the heritage attributes described in the Notice of Intention to Designate contribute to the cultural heritage value or interest of the property.

[84] Section 29 of the Act requires that the Notice of Intention to Designate include "a description of the heritage attributes of the property". The Act defines "heritage attributes" as "the attributes of the property, buildings and structures that contribute to their cultural heritage value or interest". The description of heritage attributes defines, in part, the protection given to a property under the Act. If a property proceeds to designation, the description of heritage attributes will be included in the designation bylaw. An owner must obtain the consent of municipal council, if proposed alterations to a property are likely to alter the heritage attributes listed in the description.

[85] In this case, the Review Board finds that some of the heritage attributes listed in the Notice of Intention to Designate do not contribute to the cultural heritage value or interest of the property as determined by the Review Board. "The building scale, massing and form" does not distinguish between the scale, massing and form of the building constructed *circa* 1870 by Mr. McNair and the later concrete addition. "The materials, with brick and wood" does not distinguish between material dating to Mr.

McNair's occupancy (1870-1886) and later additions. The description of the roof includes relatively recent replacement materials ("asphalt shingles") as well as materials that are not extant ("cedar shake").

[86] The Town's evidence and submissions are that certain interior features ("The original newel post, pickets and railings on the upper portion of the staircase" and the "two original six paneled doors and surrounding trim on the second floor.") relate to the asymmetrical placement of windows and therefore contribute to the physical or design value of the Property under criterion 1(2)1.i. As noted in paragraph 61 above, the Review Board finds that the Property does not meet criterion 1(2)1.i. Therefore, the Review Board recommends that the interior features should not be listed as heritage attributes. The asymmetrical placement of windows contributes to the historical and associative value of the Property in relation to Mr. McNair, and the Review Board finds that this feature could be included in the description of heritage attributes.

SUMMARY AND RECOMMENDATIONS

[87] The Review Board finds that the Property has cultural heritage value or interest because it meets the prescribed criteria of O. Reg. 9/06 for design or physical value (criterion 1(2)1.ii) and historical or associative value (criteria 1(2)2.i and iii). The Review Board finds that the Property does not meet the criterion for contextual value (criterion 1(2)3.ii).

[88] The Review Board finds that the evidence of both expert witnesses and the submissions of counsel were of a high calibre and aided in the preparation of this report.

[89] The Review Board recommends that the Statement of Cultural Heritage Value or Interest in the Notice of Intention to Designate be reviewed and revised to eliminate the references to physical or design value in relation to criterion 1(2)1.i and to contextual value in relation to criterion 1(2)3.ii).

[90] The Review Board recommends that the Description of Heritage Attributes in the Reasons for Designation be reviewed and revised to take into account the comments noted above.

[91] Following this review, it is recommended that the Town proceed with designation of the Property, Part Lot 5, Plan 647, known municipally as 10312 Yonge Street under the provisions of s. 29(14) of the Act.

“Stuart W. Henderson”

STUART W. HENDERSON
MEMBER

“Laurie J. Smith”

LAURIE J. SMITH
MEMBER

“Robert V. Wright”

ROBERT V. WRIGHT
VICE-CHAIR

Schedule 1 – Exhibit List

Schedule 2 – Agreed Statement of Facts

Conservation Review Board

A constituent tribunal of Environment and Land Tribunals Ontario

Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

SCHEDULE 1**EXHIBIT LIST**

- Exhibit 1: Declaration of service of notice of hearing on the parties and publication.
- Exhibit 2: Document Book prepared by the Town, November 2014.
- Exhibit 3: Affidavit of service of the witness statement and curriculum vitae of Mark Hall.
- Exhibit 4: Photo looking north from the Methodist Church, dated in or about 1911 to 1916.
- Exhibit 5: "A History of Richmond Lodge."
- Exhibit 6: Obituary of Matthew McNair, *Richmond Hill Liberal*, 17 September 1914.
- Exhibit 7: Diagram, page 4-11, Richmond Hill Official Plan.
- Exhibit 8: Curriculum vitae of Mark Hall.
- Exhibit 9: Witness statement of Mark Hall and "Heritage Impact Summary Chart".
- Exhibit 10: Agreed Statement of Facts.
- Exhibit 11: "History of the Richmond Hill Public Library", excerpt from the Richmond Hill Public Library website.

SCHEDULE 2

Agreed Statement of Facts

Submitted by the Town of Richmond Hill and 1816499 Ontario Inc.

Conservation Review Board Hearing No. CRB1309

Notice of Intent to Designate 10312 Yonge Street

Property Background

1. The property at 10312 Yonge Street (the "Property") is located on the West side of Yonge Street slightly north of Wright Street.
2. The historical development of the property began with the construction of the one-and-a-half storey wood frame house with brick cladding in approximately 1870, designed in the Ontario farmhouse style. The one-and-a-half storey Ontario farmhouse design is regarded as the most common architectural typology in the province.

Physical Description

3. Presently, the Property is a one-and-a-half wood framed, brick clad, L-shaped, gable roof residence, with a one storey more recently constructed concrete block commercial renovation/addition to the front façade facing Yonge Street.
4. The original primary entrance to the Property is contained under a south facing entry porch with a roof supported by square tapered Doric column and a wood lintel beam with foot mouldings and a top dentil band. The porch leads to the entrance door which is a four-panel wooden door with an arched glass transom.
5. The house is clad in buff and red brick which is laid in a common bond. The corners of the brick walls are defined by projecting buff brick quoins. Originally, the red brick walls were coloured with a wash and then detailed with white tuckpointing to create the illusion of a uniform brick colour that is completed with thin, clean, regular mortar line between the individual bricks. Similarly, the buff bricks located on the quoining and voussoir are tuckpointed in a brown mortar.
6. The roof of the Property is steeply pitched at approximately 45 degrees and is clad with asphalt shingles. Originally, the soffits and fascia were wood with classical detailing, but are currently covered in metal. The soffit and fascia detailing continued on the returns of the gable ends.
7. The windows of the Property have all been replaced with new one-over-one windows. On the north elevation of the second floor a small dormer containing a window has been added. Some window openings on the first floor have been filled in over the years, but the openings are clearly visible and the brick voussoirs remain in place. On the south elevation, the windows are placed asymmetrically

Matthew McNair

8. The house was constructed on lands belonging to Matthew McNair who was a builder within Richmond Hill.
9. Matthew McNair was born near Glasgow Scotland on March 27, 1832. He was trained as a mason in Scotland before immigrating to Canada and taking up employment as a building contractor in Richmond Hill.
10. During his life, Matthew McNair was also on the local Board of Health and acted as a School Trustee for several years. He was a member of a local branch of the Masonic Order.

History of Listing and Notice

11. The Property is listed on the Town of Richmond Hill's Inventory of Buildings of Architectural and Historical Importance since at least 1992. A series of documenting photographs of the property were taken in 1983.
12. On May 23, 2013, the property owner at the time submitted a Notice of Intent to Demolish the subject property, and a Heritage Impact Assessment was completed by Joan Burt, Architect.
13. Town staff attended a site visit with the property owner at the time on Monday June 17th, 2013.
14. As part of the Notice of Intent to Demolish process, on June 26th, 2013, Town staff presented staff report SRPRS.13.140 to Heritage Richmond Hill.
15. The report recommended that the Notice of Intent to Demolish be denied and that a Notice of Intent to Designate be issued based on design, associative and contextual heritage attributes.
16. Heritage Richmond Hill supported Town staff's recommendations and it was forwarded onto Council for further consideration.
17. Council approved Town staff's recommendations at its meeting on Monday July 8th, 2013.

18. Within 30 days of the Notice of Intent to Designate being posted by the Town's Clerk, the property owner at the time appealed the designation to the Conservation Review Board.