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CONSERVATION REVIEW BOARD

RE: THE TOWN OF GANANOQUE, ONTARIO – INTENTION TO DESIGNATE THE PROPERTY KNOWN MUNICIPALLY AS 161 KING STREET EAST, ALSO KNOWN AS THE ROGERS HOUSE, LOT 46 PLAN 86 EAST OF THE GANANOQUE RIVER.

Peter Zakarow, Chair
Terence Moynihan, Member
Richard McDonald, Member

August 18, 2005

This hearing was convened under section 29(8) of the Ontario Heritage Act R.S.O. 1990 C.0.18 (as amended), for the purpose of reporting to the Council of the Town of Gananoque (the “Town”) whether, in the opinion of this Conservation Review Board (the “Board”), on the basis of the evidence it heard, the property known municipally as 161 King Street East, the Rogers House in Gananoque, Ontario, should be designated by by-law under the Act.

A notice of the hearing was given under the Act and published in the Gananoque Reporter on August 10, 2005 by the Board. An affidavit by a member of the Board’s staff with respect to this notice was filed as Exhibit #1.

The Board, in accordance with its customary practice, had the opportunity to inspect the exterior of the site and view the surrounding area prior to the hearing. It should be noted that the Board’s request to view the interior of the property was denied by the Objector.

The hearing commenced at 10 am in the main boardroom of the Emergency Services Building, 340 Herbert Street in Gananoque.

Participants:

Larry L. Steacy, Solicitor for the Objector, Mr. Giannakouras
Anthony Ball, Solicitor for the Town
André Scheinman, Heritage Preservation Consultant for the Town
John McDonald, Planning Approvals Coordinator for the Town
Jim Garrah, Mayor of the Town

The Chair outlined the mandate of the Board and gave a description of how the hearing would be conducted including the order and method in which presentations would be made. The Chair also made special mention of the Board's practice of reminding each party to keep their arguments to issues that fall within the direct mandate of the Board.

Members of the public were invited to make statements to the Board provided they identified themselves at the beginning of the hearing. There were five members of the public present.

Introduction

Mr. Ball presented the Board with:

- A letter dated April 13, 2005 to the Board outlining the objection to the designation of the Rogers House.
- A certified copy of the Resolution of Intention to Designate.
- Confirmation that Notice of Objection were received before the deadline indicated in the Notice of Intention to Designate.
- Names and addresses of all parties involved in the hearing and the address of the newspaper in which the notice was published.

This information is filed as Exhibit # 2.

Request for adjournment

Mr. Steacy, representing the Objector, presented the Board with a copy of his letter of January 27, 2005 to the Town informing the Town of the intention of his client Mr. Nick Giannakouras to object to the proposed designation of the Rogers House. A copy of this letter is included in Exhibit # 2. He then requested that the hearing be adjourned to a later date.

Mr. Steacy's reasons for requesting the adjournment were:

- His client was not in attendance to assist him.
- He had not had sufficient time to meet with his client and prepare a case.
- He felt that if they had time to meet with the Town he and his client could work something out regarding the proposed designation.

Mr. Steacy requested an adjournment until October or November 2005. This would provide him and his client sufficient time to work with the Town and failing these negotiations to prepare his case for objecting to the designation. He felt his request was fair in order to balance people's rights, since the Town is well prepared and he and his client are not.

The Board refused to grant the request for an adjournment on the following basis:

- The Notice of Hearing was given in good time. Everyone had an equal opportunity to prepare his or her arguments.

- The present hearing date was actually provided by and agreed to by the Objector's counsel when the Board granted the Objector a previous adjournment.
- Neither the objector nor his counsel made an effort to contact the Board's staff to reschedule the hearing.
- The Board also noted that the objector is represented by professional counsel and that everyone else who has an interest in the hearing made an effort to be present.
- The Board further stated that its role is to hear arguments and render an opinion as to whether or not the Rogers House has sufficient cultural heritage merit to justify its designation. The Board is not a final decision-making body. It cannot comment on the use of the property or the commercial aspects of its designation. There are other avenues to which such concerns could be presented, such as the Ontario Municipal Board, Town Council or the Divisional Court.

Case for the Town

The Town presented the Board with a copy of the Transfer/Deed of Land for the property, which was filed as Exhibit # 3.

The Board requested that the Town provide it with the applicable zoning regulations affecting the Rogers House. The Town agreed to provide this at a later date (filed as Exhibit # 7).

Mr. Ball outlined the history of the Rogers House including the following points:

- The property was the site of the first Roman Catholic Church in Gananoque.
- The church acquired the property in 1842.
- A church building was built in 1846/47 and in 1853 a rectory was built on a lot to the east, adjacent to the church.
- In 1890/91 a new Catholic Church was built on the site of the current church on Stone Street.
- In 1895 the church sold the site to Mr. David Rogers for a consideration of \$2500.
- The church was demolished and much of the materials were saved and used by Rogers to construct the building that is now the subject of this proposed designation.
- Rogers was a medical doctor and he built the Rogers House to provide a location for his medical practice, some commercial activities he was involved with and as home for his family.

Mr. Ball next called as his only witness, Mr. André Scheinman, who is a Heritage Preservation Consultant. A copy of Mr. Scheinman's CV was filed as Exhibit # 4.

Mr. Scheinman told the Board that the Rogers House was a fine example of a Queen Anne Style residence that was typical of its time as a home for the upper middle class.

This style incorporates unique roof structures, complex gabling and a harmonious variety of window designs and treatments. The brickwork is of the red gauged brick available at the time. A narrow pigmented mortared stone from the demolished church was used as the foundation. Cut Kingston limestone was used on the lintels, windowsills and string courses. Other special features included the brickwork around the windows and the chimney. The front porch has paired columns and a gabled combination roof form that is very appropriate to the Queen Anne style.

The building is in remarkably good condition and remains today in much the same form as when it was first built. Even some of the original window frames and window panels are original. A summary of Mr. Scheinman's report to the Town, entitled 161 King Street East (Rogers House) Gananoque Heritage Designation Background Report, was filed as Exhibit # 5.

During his presentation Mr. Scheinman made reference to some sketches from an architectural publication that detailed the architectural features of a typical Queen Anne style residence and he showed that the Rogers House contained almost all of the typical features of this particular style. The Town's counsel undertook to provide the bibliographic reference as well as copies of the pages referenced to the Board at the conclusion of the hearing. These are filed as Exhibit #6.

Mr. Scheinman recommended that the building be designated under the Ontario Heritage Act for the following reasons:

- It is a fine example of the Queen Anne style of residential architecture and the only one remaining in the commercial core of Gananoque.
- It is identified historically with the Rogers family who were an influential family in the Town.
- It contains materials salvaged from the original Roman Catholic Church, which existed for 50 years prior to its construction.
- The exterior has survived in remarkable condition.

Mr. Steacy's cross-examination of Mr. Scheinman

Mr. Steacy asked Mr. Scheinman if this building was the only building of the Queen Anne style in Gananoque. Mr. Scheinman told him that there were two other buildings on the edge of town, but they were not in as good condition and did not have the same significance to the history of the town as the Rogers House. This is because of the link to the original Catholic Church construction and the fact that the Rogers family was a prominent and well-known family in the town for many years.

Mr. Steacy asked why the Town chose to single out the Rogers House in preference to one of the other locations with the same architectural style. It was pointed out that the other buildings were not in the business core of the city. In fact the Rogers House is the only one of its kind still left in the core.

Mr. Steacy asked why he had not been provided with a copy of Mr. Scheinman's report. He was advised that the report had been a public document since December of 2004. The Board then pointed out that the onus is on the party objecting to the designation to obtain the necessary documents to prepare its case.

Mr. Steacy again stated that the Town and his client should be able to work out their differences over the matter of the designation. He stated that his client had no plans to demolish the building and further stated that it was only when the Town heard that his client was planning to demolish it that they initiated the process to designate it. Mr. Steacy further asserted that the Town had been unwilling to meet with either himself or his client. The Board asked Mr. Steacy to specify the prior occasions when his client had attempted to meet with the Town. Mr. Steacy was unable to do so. The Board then reiterated the importance of having the two sides come together to open a dialogue in an attempt to resolve the issues at hand. Both sides agreed that no such efforts had been made.

Summation

Each side summed up their arguments. There was considerable attention given to getting the two sides to meet to discuss their respective positions. The Board offered its assistance to help broker such discussions, possibly through a telephone conference call. The Board communicated its general dissatisfaction with the lack of effort on both sides to try to resolve the issue, or better understand each other's position, before resorting to the formal review process of the Ontario Heritage Act.

The Board also questioned the Town on its approach to local heritage resources, including questions regarding both the staff used and the policies/procedures followed by the Town in preserving heritage, as a function of the local planning office.

Following on this, the Board asked if the Town had a list of heritage sites that could potentially be designated, as was the practice in a large number of Ontario municipalities. At this point a member of the audience, who had been in attendance for the entire hearing, identified himself as the Mayor of Gananoque, and responded that the Town did not have such a list but was working on it and realized that it was a priority.

The Board made the point that a town such as Gananoque with deep roots in Canadian history should be using the preservation and maintenance of heritage sites as part of its tourism attraction strategy. The mayor stated that the Town is now placing more priority on this and is discussing the development of a plan with emphasis on heritage districts, lands and buildings.

The Board then asked if anyone else wished to address the board. Since there were none, the hearing was adjourned.

FINDINGS AND RECOMMENDATIONS OF THE BOARD

The Board heard arguments from both sides concerning the heritage significance of the Rogers House. The Board understands that the Objector is concerned that designation could stymie his future plans for either demolishing or selling the property. Indeed, the Board understood that the Objector's case was not based on rejecting the heritage significance of the building. His argument was simply to question why his building was being considered for designation, and not someone else's. This "not in my backyard" perspective was further fuelled by the realization that the apparent trigger for commencing the designation was a "rumour" raised by members of the community that the Objector "may" be thinking about demolishing the building in order to provide more parking for the restaurant he operates out of neighbouring property. While the Board could understand the concerns that this process was started by a simply a "rumour", the Board does not take the "triggering event" into consideration in determining whether a property is worthy of designation or not. Once the process has been started by the Town and an objection made, the legislation allows the Board to make recommendations to the Town on the merits of the designation.

The Board saw little in the Objector's case that would rebut the Town's arguments that the property possesses the significant heritage value required for designation. However, the Board also believes that there had been insufficient communication between the two parties on this issue.

The Board recommends that 161 King Street, the Rogers House in Gananoque, Ontario, be designated by By-Law under Part IV of the Ontario Heritage Act. It is a worthy building, and the Board considers it fully in the spirit of heritage conservation to give the property recognition in this way.

The Board recommended in the course of the hearing that the Objector and Town come together to discuss the merits of each other's position, in an attempt to reach a common understanding. This undertaking was accepted by both sides, as well as by the Mayor, who was attending on behalf of the Town as an audience member. While clearly the Objector was confused by the designation process and the reasons for the Town's desire to designate his property, instead of other properties in the area, the Board finds that the Objector did not do enough to try to resolve the issue with the Town.

Similarly, the Board finds that the Town's process for designation was ad-hoc and confusing to the Objector, and potentially other members of the community. The Board acknowledges the wonderful wealth of heritage resources in Gananoque and commends the Town for its interest in heritage preservation. However, the Board questions why the Town does not have a strategic plan to not only protect their heritage properties but to further leverage them as part of their tourism agenda. Based on commentary from the Mayor, the Board believes that the Town is starting to move in the right direction, but it has been a slow process. The Board therefore recommends that the Town of Gananoque develop a comprehensive program to facilitate the management and designation of heritage sites and take a more proactive stance toward the preservation and protection of heritage buildings and the promotion of the history of the area.

(original signed) by :

Peter Zakarow, Chair

Terence Moynihan, Member

Richard McDonald, Member

October 21, 2005