

Conservation Review Board
Commission des biens culturels



ISSUE DATE: October 06, 2017

CASE NO.: CRB1713

PROCEEDING COMMENCED UNDER subsection 32(14) of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended

Objectors: David Benson, Patricia Pook, Susan Simpson, John Taylor
Owner: Helen Campbell
Subject: Notice of Intention to Repeal Designation By-law No. 130-2012
Property Address: 90 Park Street (Haddington Villa)
Legal Description: Part of Park Lot 1, Plan Old Survey as IN 549913; Together With 549913 Save and Except Easement Therein Re: 438820
Municipality: Municipality of Chatham-Kent
CRB Case No.: CRB1713
CRB Case Name: Benson v. Chatham-Kent (Municipality)

Heard: July 27, 2017 by telephone conference call and in writing

APPEARANCES:

Parties

Counsel*/Representative

Helen Campbell

Kathy Cowper

Municipality of Chatham-Kent

David Taylor*

David Benson

Self-represented

Patricia Pook

David Benson

Susan Simpson

David Benson

John Taylor

David Benson

ORDER OF THE BOARD DELIVERED BY LAURIE SMITH AND DANIEL NELSON

Background

[1] This is a procedural order of the Conservation Review Board (“Review Board”) in respect of objections by David Benson, Patricia Pook, John Taylor, and Susan Simpson (“Objectors”) to a Notice of Intention to Repeal the Designation By-law for the property at 90 Park Street in the Municipality of Chatham-Kent, Ontario (the “Property”).

[2] The Property was designated by the Municipality of Chatham-Kent (“Municipality”) by By-law No. 130-2012 on June 25, 2012. At that time, the owner, Helen Campbell (“Owner”), was in support of the heritage designation.

[3] On August 21, 2015, the Owner made a request to repeal the designation by-law under s. 32(1) of the *Ontario Heritage Act* (“Act”). The Municipality refused the request for repeal on October 26, 2015. The matter was referred to the Review Board for a hearing and was heard as file number CRB1510. The Review Board held a hearing in writing on January 3, 2017. In a report issued on January 31, 2017, the Review Board recommended that the By-law should not be repealed.

[4] The Municipality considered the Review Board’s report and, at a meeting on March 20, 2017, decided that the By-law should be repealed. The Objectors filed objections under s. 32(14) and the matter was referred to the Review Board for a hearing. A Pre-Hearing Conference (PHC) was conducted by the Review Board on July 27, 2017 with all parties in attendance. At that time, the parties agreed to move directly to a hearing, as settlement was not likely. The parties requested that the hearing be conducted in writing, as permitted under s. 32(6) of the Act and Rule 4 of the Review Board’s *Rules of Practice and Procedure* (“Rule(s”).

[5] The Owner is represented by Kathy Cowper, who has supplied a Form 1 (Representative's Form) to the Review Board.

[6] At the PHC, the Objectors Patricia Pook, Susan Simpson, and John Taylor indicated their intent to have the Objector David Benson act as their representative. The PHC continued in writing, with additional procedural matters being resolved via correspondence.

[7] On August 10, 2017, the parties filed an Agreed Statement of Facts and Agreed Issues List.

Organization/Conduct of the Hearing

[8] This Order is issued under the authority of s. 67.1(3) of the Act, s. 5.4 of the *Statutory Powers Procedure Act* ("SPPA") and corresponding Rules.

[9] This Order will serve as Notice of Hearing to parties in accordance with the SPPA and as prescribed in Rule 24. Notice of Hearing to the Public in accordance with the SPPA and as prescribed in Rule 25 was issued on August 25, 2017.

[10] The deadline for the addition of parties or participants was September 8, 2017. No further submissions regarding same were received by the Review Board.

[11] The hearing will be held by exchange of written documents. If a party does not exchange and submit the required material as follows, the Review Board may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding.

[12] The Review Board, in order to facilitate the written hearing, orders that:

1. Each of the Objectors has completed and submitted a Form 1 (Representative's Form) to the Review Board appointing David Benson as

his or her representative. Consequently, the Objectors have a common representative in this proceeding and service of materials by any other party is satisfied by serving the same upon David Benson.

2. By November 6, 2017, the parties will exchange their written evidence and arguments with each other and will file the same with the Review Board. The written evidence and argument shall include:
 - a. Witness statements for all witnesses, in the form of affidavits, together with copies of all other documentary and other evidence, which clearly indicate the source of the same, attached as exhibits thereto.
 - b. Expert reports, and all documents relied upon in the expert report, together with the name, address, and qualifications of each expert and a signed Acknowledgement of Expert's Duty form.
3. By December 6, 2017, the parties will provide a reply of further written argument or evidence, if any, to the evidence of every other party and will file the same with the Review Board.
4. By December 21, 2017, the parties will provide any responses to such reply evidence and argument, if any, and file the same with the Review Board. They shall serve final submissions on each other, and the Review Board, by January 2, 2018. No further submissions from the parties will be received by the Review Board after this date without the consent of the Review Board.
5. The date of the hearing in writing is amended to January 8, 2018.

6. No revisions to the schedule set forth above with respect to the conduct of the hearing in writing will be granted except in accordance with the Rules on adjournments.
7. The materials are to be exchanged between all parties and two paper copies are to be provided to the Review Board, as well as an electronic copy. Paper copies should be paginated, with tab markers, and colour images, where appropriate.

[13] The Review Board will consider the submissions of the parties and provide a written recommendation to the Council of the Municipality and shall send a copy of the report to every other party in accordance with the Act.

[14] The Review Board may vary or add to this Order at any time, either on request of the parties or as it sees fit, and may do so by an oral ruling or in writing.

“Laurie Smith”

LAURIE SMITH
VICE-CHAIR

“Daniel Nelson”

DANIEL NELSON
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Conservation Review Board

A constituent tribunal of Environment and Land Tribunals Ontario
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