

## REPORT

### Planning and Development Council

Meeting Date: September 11, 2023

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**FROM:** Planning Services Department

**DATE:** August 29, 2023

**SUBJECT:** Consideration of Objection to Notice of Intention to Designate –  
Dr. John A. Johnstone House at 3048 Trafalgar Road - By-law  
2023-122

**LOCATION:** 3048 Trafalgar Road

**WARD:** Ward 7

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#### RECOMMENDATION:

1. That the Notice of Intention to designate the Dr. John A. Johnstone House at 3048 Trafalgar Road under Section 29, Part IV of the *Ontario Heritage Act* be maintained despite the Notice of Objection received from the property owner; and,
2. That By-law 2023-122 to designate the Dr. John A. Johnstone House at 3048 Trafalgar Road as a property of cultural heritage value or interest, attached as Appendix “B”, be passed.

#### KEY FACTS:

The following are key points for consideration with respect to this report:

- Town Council resolved to issue a notice of intention to designate the Dr. John A. Johnstone House at 3048 Trafalgar Road under Part IV of the *Ontario Heritage Act* at the July 10, 2023 Planning and Development Council meeting.
- An objection to the notice of intention to designate was received by the Town within the required timeframe as set out in the *Ontario Heritage Act*.
- Staff have reviewed the reasons for objection provided, and despite the objection, remain of the opinion that the property meets the criteria for determining cultural value or interest and continues to merit heritage designation.

- It is recommended that Town Council not withdraw its Notice of Intention to Designate and pass the attached by-law to designate the property under Section 29, Part IV of the *Ontario Heritage Act*.

### **BACKGROUND:**

Town Council approved a staff recommendation to issue a Notice of Intention to Designate the Dr. John A. Johnstone House at 3048 Trafalgar Road at the July 10, 2023 Planning and Development Council meeting (Item 7.4). This staff recommendation was previously recommended to be approved on June 27, 2023 by the Heritage Oakville Advisory Committee (Heritage Oakville).

The subject property at 3048 Trafalgar Road contains a circa 1890s frame house built in the Queen Anne style that is associated with Dr. John A. Johnstone and the former village of Trafalgar.

As the basis for the recommendation to issue the Notice of Intention to Designate, staff completed a cultural heritage evaluation report on the subject property and determined that it met the criteria for determining cultural heritage value or interest prescribed in Ontario Regulation 9/06 (O.Reg 9/06), and therefore warranted designation under Section 29, Part IV of the *Ontario Heritage Act*. The property's heritage value and reasons for designation were described in a Statement of Cultural Heritage Value or Interest (SCHVI) that was included as part of the issued Notice of Intention to Designate.

A Notice of Objection outlining the reasons for objection to the proposed designation was served on town staff on August 14, 2023 on behalf of investors who have invested shares in the company that owns the property. The Objection was received within thirty days after the date of publication of the Notice of Intention to Designate as required by the *Ontario Heritage Act*. The Notice of Objection is included as Appendix "A" to this report.

Recent amendments to the *Ontario Heritage Act* updated the process for objecting to a proposed designation. In June 2019, *Bill 108, More Homes, More Choice Act, 2019* received Royal Assent and came into force on July 1, 2021. Schedule 11 to this *Act* introduced changes to the *Ontario Heritage Act* that included the requirement for any Objection to a Notice of Intention to Designate to be considered by Council, upon which Council must decide whether or not to withdraw the Notice of Intention to Designate.

### **OPTIONS:**

According to Section 29 of the *Ontario Heritage Act*, the options for Town Council to consider in response to the Notice of Objection are to either withdraw the Notice of Intention to Designate or to not withdraw the Notice of Intention and pass the by-law designating the property.

Should Town Council elect to withdraw the Notice of Intention to Designate, it would be withdrawn by serving a Notice of Withdrawal on the property owner, any person who objected and the Ontario Heritage Trust, and also by publishing the Notice of Withdrawal in the town's online News and Notices.

Should Town Council decide to not withdraw the Notice of Intention to Designate, a Designation By-law may be passed to designate the property. Any person who objects to the by-law would then have the right to appeal to the Ontario Land Tribunal within thirty days of publication of the Notice of Passage of Designation By-law.

The time period for Council to make a decision on a Notice of Objection is within 90 days after the end of the 30-day objection period to the Notice of Intention to Designate. In this case, Town Council has until November 13, 2023 to make a decision on this Notice of Objection and also to pass a Designation By-law, if it chooses to proceed with designation.

**COMMENTS:**

The reasons for objection outlined in the Notice of Objection provided for the property are that the owner disputes the significance of the property's design/physical, historical/associative and contextual value as expressed in the property's Statement of Cultural Heritage Value or Interest (SCHVI). The specific objections under each criterion are noted and addressed below. The SCHVI is attached as "Schedule B" to the proposed Designation By-law that is attached as Appendix "B" to this staff report.

In regards to the design/physical value of the property, the reasons for objection states that "The property as it appears today is in dilapidated condition and has not retained its original Design and has no value other than the value of a Dilapidated building."

Staff notes that the design/physical value criteria in O.Reg 9/06 does not include any reference to the condition of the building. It is staff's opinion that the building has indeed retained its original design and almost all of its original exterior features. While the building is in need of restoration, the historic materials remain and can be restored. These features are listed as the heritage attributes in the SCHVI and are the reason staff have concluded that the building is a representative example of a late 19<sup>th</sup> century Queen Anne style house.

In terms of the historical/associative value criteria, the reason for objection notes "The property might have been known in the past but there is nothing of significant importance that attracts people now to the location and there is no village around at present that could relate this building to the time it was supposed to be known."

It is staff's opinion that the property meets the following historical/associative value criterion in O.Reg 9/06: "The property has historical value or associative value because it has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community."

The property has a direct association with Dr. John A. Johnstone, a well-known veterinary surgeon who practiced in then Halton County for over 50 years. The property also has historical associations with the former village of Trafalgar. While Dr. Johnstone is no longer alive and the once thriving village no longer exists, this individual and this village are a significant part of the community's history and heritage. The building is one of the last physical remnants of this village that was so important to the development of Oakville and Trafalgar Township and its retention contributes to today's community by being an anchor to the past. This is supported by the town's Livable Oakville Plan that supports the conservation of cultural heritage resources so they can "enhance the Town's sense of history, sense of community, identity, sustainability, economic health and quality of life".

In regards to the contextual value of the property, the reason for objection notes that "There is nothing to add to the contextual value because the village surrounding does not exist [sic] and the building itself is highly dilapidated and may even be termed as unsafe for any human visits near it and thus it should be dropped from the notification on this ground also".

Again, O.Reg 9/06 does not include any reference to the condition of structures as a criteria for designation under the *Ontario Heritage Act*. Regarding the former village, it is staff's opinion that the property meets contextual value criteria because it is physically, visually and historically linked to its surroundings. The Dr. John A. Johnstone House has existed on this site for around 130 years and has been and continues to be a part of the built fabric of the town. In staff's opinion, because it is one of the last remaining buildings from the former village of Trafalgar, the importance of conserving it is that much greater.

### **CONCLUSION:**

Staff have re-examined the reasons for designation outlined in the SCHVI in light of the specific reasons of objection provided in the Notice of Objection and remain of the opinion, that despite these reasons of objection, the subject property's heritage value meets the three principal criteria prescribed in O.Reg 9/06 and is appropriately represented in the SCHVI. Therefore, the subject property continues to merit designation under section 29, Part IV of the *Ontario Heritage Act*.

Should Town Council decide not to withdraw its Notice of Intention to Designate the Dr. John A. Johnstone House at 3048 Trafalgar Road, staff recommend that the Designation By-law attached as Appendix "B" to this report be passed. According to

section 29(11) of the *Ontario Heritage Act*, any person who objects to the by-law may appeal to the Ontario Land Tribunal within thirty days of publication of the Notice of Passage of the Designation By-law.

**CONSIDERATIONS:**

**(A) PUBLIC**

If the Designation By-law is passed, then Notice of the Passage of the Designation By-law will be issued for the property and notice will be given in accordance with section 29, Part IV of the *Ontario Heritage Act*.

**(B) FINANCIAL**

There are no financial considerations in this report.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

The Legal Department will be consulted on the designation as necessary.

**(D) CORPORATE STRATEGIC GOALS**

This report addresses the corporate strategic goals to:

- enhance our cultural environment
- be the most livable town in Canada

**(E) CLIMATE CHANGE/ACTION**

A Climate Emergency was declared by Council in June 2019 for the purposes of strengthening the Oakville community commitment in reducing carbon footprints. The retention and conservation of the Dr. John A. Johnstone House would contribute to the town's initiatives to reduce carbon footprints.

**APPENDICES:**

Appendix A – Notice of Objection for 3048 Trafalgar Road

Appendix B – Designation By-law 2023-122

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