

## REPORT

### Planning and Development Council

Meeting Date: November 13, 2023

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**FROM:** Planning Services Department

**DATE:** October 31, 2023

**SUBJECT:** Consideration of Objection to Notice of Intention to Designate – Bentley Family Farmhouse at 3444 Trafalgar Road – By-law 2023-154

**LOCATION:** 3444 Trafalgar Road

**WARD:** Ward 7

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#### RECOMMENDATION:

1. That the notice of intention to designate the Bentley Family Farmhouse at 3444 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 2023-154 to designate the Bentley Family Farmhouse at 3444 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 Bentley Family Farmhouse at 3444 Trafalgar Road under Part IV of the *Ontario Heritage Act* at the September 11, 2023 Planning and Development Council meeting.
- A notice of objection to the designation was received by the Town within the required timeframe as set out in the *Ontario Heritage Act*.
- Staff has reviewed the notice of objection provided, and despite the objection, remains 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 notice of intention to designate the Bentley Family Farmhouse at 3444 Trafalgar Road at the September 11, 2023 Planning and Development Council meeting (Item 4.6). This staff recommendation was previously recommended to be approved on August 29, 2023 by the Heritage Oakville Advisory Committee.

The subject property at 3444 Trafalgar Road contains the Bentley Family Farmhouse, a c.1840 one-and-a-half storey stucco-clad stone structure built in the Gothic Revival style of architecture.

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, 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 the town by the owner on October 13, 2023. 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 to designate 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 by Council 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 the 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 January 11, 2024 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 notice of objection notes that “the property does not possess the requisite qualities under s. 29 of the [*Ontario Heritage Act*] to justify its protection as a property of cultural heritage value or interest”. Further, it notes that a letter prepared by heritage architect Vincent J. Santamaura, Architect Inc. demonstrates that the property meets only one of the nine criteria outlined in Ontario Regulation 9/06 (O. Reg 9/06). While this letter was not submitted with the notice of objection, it was submitted to the Heritage Oakville Advisory Committee at their meeting on August 29, 2023. Staff has included it in Appendix A for Council's reference.

The notice of objection also references a second review of the building that was completed by Mr. Santamaura which indicates that the rear portion of the building is not older than the front portion of the building, as staff has suggested may be the case. However, the details from Mr. Santamaura's review of the building have not been submitted to staff and we therefore cannot provide any further comment on this information. If staff is provided this information and agrees with Mr. Santamaura's findings that the rear portion of the building is not of heritage value, staff will amend the designation by-law to remove the rear portion of the building as a heritage attribute.

The letter by Vincent J. Santamaura that was submitted to the Heritage Oakville Advisory Committee 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 included as “Schedule B” to the proposed designation by-law that is attached as Appendix “B” to this staff report.

It should be noted that staff has recommended designation based on the criteria outlined in O. Reg 9/06 which are the only criteria under which staff can recommend

that a property be designated. Some of the observations in the letter by Mr. Santamaura are outside of the scope of O. Reg 9/06.

#### Design/Physical Value

Regarding the design/physical value of the property, the letter by Mr. Santamaura notes the following:

- *The building is not an exemplary example of the Architectural Gothic Farmhouse style, as it is missing some significant elements such as a porch, and enhanced decoration;*
- *The construction technique, though uncommon, is typical for areas close to rivers where flat shale rock stones are available. The Meadowvale Village Heritage District along the Credit River has a few examples of homes built in this manner. The challenge is that viewing the construction technique does not promote good construction practice as the structure needs protection from the elements.*
- *Given the appearance of diamond mesh attached to the exterior wall under the stucco finish, the current application of the stucco finish is not original and of mid 20th century application.*
- *The property meets the first criterion of O. Reg 9/06: “The property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction method”.*

It is staff’s opinion that the building is an early and representative example of a 19<sup>th</sup> century Ontario Gothic Revival style house, despite there being no front porch. The house is especially unique because of its stone and rubble construction. There are relatively few known buildings in Oakville to have been constructed this way and only one other known remaining example in Oakville at this time. The replacement of the stucco finish on a historic house is common and does not remove its cultural heritage value. It is therefore staff’s opinion, in agreement with the heritage consultant, that the property meets the following criterion in O. Reg 9/06: “The property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction”.

#### Historical/Associative Value

Regarding the historical/associative value criteria, the letter by Mr. Santamaura notes the following:

- *Colonel Adamson did not live on the property as it was just part of the vast land holdings given to him for his service in the wars in which he participated. He lived elsewhere at Thorne Lodge;*
- *The Kenney family also lived elsewhere;*

- *This property is not the most appropriate location to commemorate the above persons and families;*
- *While the Bentley family lived and farmed a long time on the property, and were solid, hardworking citizens of the community, they did not rise to leadership or prominent roles within the community, the province or the country.*

The Cultural Heritage Evaluation Report for the property did include historical information related to Colonel Adamson, and the Kenney Family and their ownership of the property; however, these associations were not included in the notice of intention to designate and have not been included in the attached designation by-law, as staff agree that these individuals were not directly associated with the subject building.

It remains staff's opinion that the property has cultural heritage value for its direct associations with the Bentley family who owned the property for 106 years and contributed to the agricultural development of Trafalgar Township. The building also has cultural heritage value for its associations with the theme of early agricultural development in Oakville and the former Trafalgar Township. The building remains an important physical reminder of Oakville's agricultural past and the contributions of early European settlers to the 19<sup>th</sup> and 20<sup>th</sup> century development of the area. Through the rear wing of the house, that may have been constructed prior to the front portion, the property also has the potential to yield information about early European settlement and the construction of early settler homes.

It is therefore staff's opinion that the property meets the following historical / associative value criteria 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" and "The property yields, or has the potential to yield, information that contributes to an understanding of a community or culture".

#### Contextual Value

Regarding the contextual value of the property, the letter by Mr. Santamaura notes the following:

- *The building sits in solitary fashion in large open fields, as an outlier to the community;*
- *Any farm buildings which would create a localized context have long since been removed;*
- *Any on-site landscape treatment (examples – treed windbreaks or orchards) has been removed;*

- *The building lacks any visual presence in its presentation to the street either by outstanding architectural design elements or any features which would attract the eye to it or by its proximity to the street.*

The Bentley Family Farmhouse remains part of Oakville's historic rural community, which has had many large open fields for cultivation since it was developed for agricultural use. While much of the associated farm outbuildings and landscaping have been removed, the farmhouse remains as an important physical reminder of the agricultural and European settler history of Oakville. As one of only a handful of remaining historic farmhouse structures in the local area, the Bentley Family Farmhouse is an important physical connection to the past and to the former use of this land. The property's location, set relatively close to the road, has meant that it is a familiar and noticeable site along Trafalgar Road and Burnhamthorpe Road East, acting as a physical signal to the area's past.

It is staff's opinion that the property meets the following contextual criterion in O. Reg 9/06: "The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings".

#### **CONCLUSION:**

Staff has 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 meets four of the criteria prescribed in Ontario Regulation 9/06. 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 Bentley Family Farmhouse at 3444 Trafalgar Road, staff recommends that the designation by-law, By-law 2023-154 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 the by-law.

#### **CONSIDERATIONS:**

##### **(A) PUBLIC**

If the designation by-law is passed, then a notice of the by-law will be issued for the property 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) COUNCIL STRATEGIC PRIORITIES**

This report addresses Council's strategic priorities of Community Belonging, Environmental Sustainability and Accountable Government.

**(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 Bentley Family Farmhouse would contribute to the town's initiatives to reduce carbon footprints.

**APPENDICES:**

Appendix A – Notice of Objection for 3444 Trafalgar Road

Appendix B – Designation By-law 2023-154

Prepared by:

Carolyn Van Sligtenhorst, CAHP, MCIP, RPP  
Supervisor, Heritage Conservation

Recommended by:

Kirk Biggar, MCIP, RPP  
Manager, Policy Planning and Heritage

Submitted by:

Gabe Charles, MCIP, RPP  
Director, Planning Services