Heritage Conservation Owners' Responsibilities & Benefits in Context



Penetanguishene May 8, 2023



CHO - PCO Community Herítage Ontario Patrimoine communautaire de l'Ontario

Introductions & Thanks

- Penetang
 - Owen Taylor
 - Museum
- CHO
 - Association of municipal heritage committees (MHCs)
 - Promote good heritage conservation practice among MHCs
 - We are volunteers
 - Annual conference London June 16 18
 - Encourage you to attend
 - Learn from others
 - Effect of OHA amendments
 - Please renew your membership



Presenter – Wayne Morgan

- 40 years experience in heritage conservation
 - Chair, MHC for 20 years
 - Owner designated property
 - Community Planner, Toronto
 - Senior Co-ordinator Heritage Preservation Services, Toronto
 - Consultant
 - Retired:
 - Registered Professional Planner
 - Member, Canadian Association of Heritage Professionals
 - President, CHO

Newmarket – Robert Simpson House









You can interrupt me

- Questions are welcome
 - I will not spear you
- You will get a copy of the presentation following the workshop



To inform:

- Heritage Property Owners
 - Responsibilities
 - Benefits
- All, including municipal heritage committee members
 - Of the various ways of conserving heritage properties
 - Of recent Ontario Heritage Act (OHA) changes

Scope of Session: (including recent changes)

- Background
- Heritage defined
- Listing a Property in the Register
- Parts IV & V Individual Property & District Designation
 - Designation
 - Alteration & Demolition
 - Heritage property standards
- Heritage Grants
- Tax incentives
- Community Improvement Plan Grants

- Welcome to heritage conservation
- It began in the late 1700s when many people lost their heads.



- In Canada began in the 1870s
- Governor General, Lord Dufferin, and a proposal to demolish Quebec City defense structures



• In Ontario began in 1975 with the <u>Ontario</u> <u>Heritage Act (OHA)</u>

- Legislation for a few municipalities before 1975
- Major changes to the OHA in 2005
 - Architecture 븆 cultural heritage value
 - Listing
 - Heritage Attributes
 - Constraints on demolition
- Further changes to OHA 2021 & 2022
 - Limitations on listing
 - Process objections/appeals
 - Final decision municipal
 LPAT



- Heritage protection using the **Ontario Heritage Act (OHA)**
- Listing (but not designation) in the Register
- Individual property designation (Part IV)
- District designation (Part V)
- Heritage Easement Agreements
- Heritage Property standards
 - Applies to designated properties only

What is heritage?

What Heritage does the OHA deal with?

- ONLY PROPERTIES -
 - Everything on and fixed to properties including:
 - Structures:
 - Main buildings such as houses, factories, stores, institutions
 - Exteriors and interiors
 - Accessory structures such as garages, sheds, gazebos
 - Monuments, bridges, ruins
 - Position of those structures on the property
 - Ornamental features & fixtures secured to the structures
 - Landscape features created by humans including:
 - Plantings, including planting beds, trees, bushes, grassed areas
 - Hard surfaces, e.g., roads, sidewalks, pathways
 - Design or inter-relationship of those features





Heritage Criteria – Design or Physical Value

1. Is a rare, unique, representative or early example of a style, type, expression or construction method

Representative example of style:



Caledon - Vernacular interpretation of Gothic Revival



Heritage Criteria – Design or Physical Value

2. Displays a high degree of craftsmanship or artistic merit.





Peterborough Lift Lock – Technical achievement engineering

3. Demonstrates a high degree of technical or scientific achievement.

Heritage Criteria –

Historical or Associative Value

4. Direct association with a theme, event, belief, person, activity, organization or institution significant to community:



5. Yields, or has the potential to yield, information that contributes to an understanding of a community or culture.

Heritage Criteria –

Historical or Associative Value

6. Demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community

Architect:



Charles Band, Penetanguishene – 24 Simcoe Street – Carnegie Public Library, 1908

Heritage Criteria – Contextual Value

- 7. Is important in defining, maintaining or supporting the character of an area
- 8. Is physically, functionally, visually or historically linked to surroundings

Newmarket 209 Main St S supports area character & is linked to surroundings



1890





Heritage Criteria – Contextual Value

9. Is a landmark





Toronto & Cobourg Prince Edward (Bloor Street) Viaduct; Cobourg City Hall -<u>Point of reference</u>; large, contextual <u>visual contrast</u>



Properties Listed in the Register

Protection – 60 day demolition delay – opportunity to decide if worth designating

- Legislation OHA Section 27
 - Clerk keeps the Heritage Register (may delegate to others)
 - Register <u>shall include</u> all DESIGNATED properties
 - Register <u>may include</u> property not designated but <u>Council</u> "believes to be of cultural heritage value or interest" – LISTED

	Tay Township- Heritage Register – current as of March xx, 2023					ſ
Example of Heritage Register that	Street Address	Legal Description	Owner & address as per 2022 assessment roll	By-law number if designated, or date Council added property to Register if listed	Statement of Cultural Heritage Value & List of Heritage Attributes	Registry <u>must</u> be published on the municipal
meets legal requirements	22 Main Steet	Part Lot 21, Plan 50	Joe Smith 22 Main Street	Designated - By-law 22-053	Refer to By-law	website
	23 Main Steet	Part Lot 22, Plan 50		Listed – Jan 21, 2022		

New

- Information contained on listed properties OHA Section 27
 - Section 27 (30) ... a description of the property that is sufficient to readily ascertain the property – e.g., street address
 - From 2021 onwards a statement of the cultural heritage value or interest of the property.
 - Municipality may have additional information on file e.g., Ajax





• New

- To be listed, property must meet one of the 9 criteria
- Listing expires after two years
- Cannot be relisted for 5 years, but can be designated at any time

• Suggestions

- Recommend designation of priority listed properties within the next 2 years
 - Council must express its intent to designate within the 2 year period
 - Priority significance to community; possible threat of demolition
- For properties for which listing expires and are not designated
 - Include in a Council recognized Heritage Inventory referenced in municipal official plan
 - Does not protect against demolition

• *EFFECT* of a property LISTED in Register

- Delay in demolition 60 days notice to Council of a municipality
 - 27 (9) the owner of the property shall not demolish or remove a building or structure on the property or permit the demolition or removal of the building or structure unless the owner giver the council of the municipality at least 60 days notice in writing ...
 - OHA refers to any building or structure on the property
 - 60 days starts from Council receiving notice
- Flag to municipality & other agencies that property may have heritage value

Listed Property – Owner Responsibility

- Owner wants to demolish <u>any</u> building or structure on the property:
 - Submit two applications for demolition under:
 - Building Code Act &
 - The Ontario Heritage Act
- *Suggestion* pre-application meeting with municipal staff
 - Determine whether the building/structure to be demolished has heritage value
 - If no heritage value application can be expedited.

Listed Property – Example – Possible Demolition

• 131 Main Street, Penetang – *listed 2012*



Listed Property – Benefit to owner

 Satisfaction that owner is conserving part of the community's cultural heritage

Designated Properties – OHA Part IV

Protection – Council can manage change to property's heritage attributes

Designated Properties - Part IV

• Legislation – OHA Sections 29, 30 & 33:

- Prior to 2005 architectural &/or historical value no criteria
- 2005 2022 property must meet at least one criteria Regulation 9/06
- 2003+ property must meet at least two criteria Reg 9/06 as amended

• Designation By-law

- Prior to 2005 statement about property's architectural &/or historical value
- 2005 2022 statement of cultural heritage value & list of heritage attributes
- 2023+ :
 - Identify area of property that has cultural heritage value by site plan, drawing or description
 - Identify which 9/06 criteria are met
 - Description of heritage attributes and how each contributes to cultural heritage value

Example - Designated Property - Part IV



Carnegie Free Library 240 Garafraxa Road North, Durham, Municipality of West Grey





Example - Designation Statement – pre 2005

- The property at 240 Garafraxa Street North is worthy of designation under Part IV, Section 29 of the Ontario Heritage Act for its architectural and historical values. The Durham Carnegie Free Library was built between 1911 and 1912 to the plans of Guelph architect William Austin Mahoney and the requirements of the Carnegie Foundation. It is an example of the Beaux-Arts Classical Revival style and retains most of its original features on both the exterior and interior.
- Note No mention of heritage attributes; attributes are implied

Example – Designation Statement – post 2022

SCHEDULE B TO

THE BY-LAW

Durham Carnegie Free Library – Reasons for Designation (Statement of Significance)

6 of 9 Criteria met 🧩

& general location

Design values →

Associative values

Contextual values

Heritage Attributes Description The property at 240 Garafraxa Street North is worthy of designation under Part IV, Section 29 of the Ontario Heritage Act for its cultural heritage value, and meets six of the nine heritage value criteria for municipal designation prescribed by the Province of Ontario under the three groupings of design, association and contextual as described in the Statement of Cultural Heritage Value below. Located on the west side of Garafraxa Street North, north of George Street West immediately north of the Knox United Church in the community of Durham, the Durham Carnegie Free Library, built 1911 to 1912, is a 1 storey institutional building constructed as an area library and meeting room.

Statement of Cultural Heritage Value

Design Values: The Durham Carnegie Free Library (the Building) meets the <u>1st criteria</u> as a well preserved, representative example of a stone and brick, Beaux-Arts Classical Revival style, institutional building in the community of Durham. The Building meets the <u>2nd criteria</u> as it exhibit a high degree of craftsmanship in the exterior and interior detailing.

Associative Values: The Building meets the 4th criteria through its association with an international organization significant to the community. It was constructed for the Town of Durham in response to a \$8,000 grant from the Carnegie Foundation for the construction of a free, public library. The Foundation, founded in 1905, is a philanthropic organization established by the American industrialist, Andrew Carnegie, which, in the early twentieth century, provided grants to municipalities in the English-speaking world for the construction of free public libraries to further Carnegie's belief of a society governed by meritocracy through self-education. The Building was used as the community library from its opening until 2017. The Building, in its original location facing east, retains the architectural features required by the Carnegie Foundation and in particular, James Bertram, Carnegie's secretary.

The Building meets the <u>6th criteria</u> as it was designed by the Guelph Architect William Austin Mahoney (1871 – 1952), a provincially and locally significant architect. It was constructed by builders who were significant to the community - Hugh McDonald (masonry) and George Kress (carpentry) on land that had been donated to the Town by a mayor, David Jackson Jr.

Contextual Values: The Building, located immediately north of the Knox United (originally Presbyterian) Church, meets the <u>7th and 8th criteria</u> through its historic contribution to, and strong visual presence on, the streetscape of this predominantly residential area just north of the commercial core of Durham.

Heritage Attributes

Each exterior heritage attribute of the property 240 Garafraxa Street North listed below is indicative of the 1^{st} , 2^{nd} , 4^{th} and 6^{th} criteria (design and associative values) as they are part of the original building design while the third heritage attributes also relates to 7^{th} and 8^{th} criteria (contextual values) :

- The 1-storey institutional Building on a raised basement
- The scale, form, height and massing of this square Building on a rectangular-shaped lot
- The setback of the building from the street
- The broken coursed, cut limestone basement and the red brick clad first floor; the latter with banding on the principal (east) elevation
- The low pitched, black asphalt shingled, hip roof with its projecting, plain wood clad eaves on the main Building and on the portico
- The symmetrical arrangement of the principal (east) elevation with the central entrance, positioned mid-way between the basement and the first floor, flanked on either side by pairs of window openings on the first floor and the basement
- The central portico on the principal (east) elevation, which shelters the front entrance, with arched openings with stepped concrete voussoirs on the three sides, lonic columns and pilasters on red brick piers supporting the portico and key-stone cartouche in the east opening
- The straight staircase and plain concrete balustrade leading to the portico and the front entrance
- The first floor large rectangular window openings with one over one wooden sash and transom above and concrete lug sills on all elevations
- The concrete lintels over all window openings except those on the first floor of the principal elevation where there are large stepped voussoirs over the semi-circular window openings
- The shorter window openings on the basement with one over one wood sash
- The wide front entrance opening with its semi-circular head, door leafed door and semi-circular transom

Each interior heritage attribute listed below is indicative of the 1^{st} , 2^{nd} , 4^{th} and 6^{th} criteria as they are associated with the designs of the architect W. A. Mahoney and the requirements of the Carnegie Foundation:

On the fist floor:

- The high ceilings
- On all windows wood casings and sills
- Around all door openings wood casings
- The wood framed, glass paneled swinging doors from the vestibule to the first floor
- All baseboards and chair rails
- The pair of tapered, square, paneled wood columns immediately west of the entrance vestibule
 The moulded wood casing at the base of the arched and straight openings, that latter supported
- The moulded wood casing at the base of the arched and straight openings, that latter supported by the pair of square columns,
- The paneled doors to the office and to the basement staircase

In the basement:

- The staircase leading from the first floor to the basement, including newel posts, balusters, hand
 rail, string course, treads and risers
- The door and wall of the basement entrance vestibule
- On all remaining windows wood casings and sills

Heritage Attributes

Owner's Responsibility - Maintenance

- Owner should maintain the property in a state of good repair
- OHA 35.3 (1)
 - permits a municipality to pass a by-law prescribing minimum standards of the maintenance of the heritage attributes and
 - requires the repair and maintenance of any property that does not comply with the minimum standards

Owner's Responsibility - Maintenance

• Penetang Property Standards By-law 36.0 HERITAGE PROPERTIES

36.1 In addition, to all other standards prescribed by this By-law, an owner of a Heritage Property shall:

(a) protect, maintain and stabilize a heritage attribute so as to preserve the existing materials;

(b) in the conduct of a repair use only materials that match the form and detailing of the original elements of the heritage attribute; and

(c) be repaired using only recognized conservation methods

The By-law authorizes the municipality to issue orders to comply and to take action if the owner fails to comply

Effect of Designating a Property - Part IV

- *Legislation* OHA 33 & 34:
- Starting from Council's notice of intent to designate
 - Prior permits permitting alterations or demolition are void
 - No owner of a designated property may:
 - alter or permit the **alteration** a designated property if the alteration is likely to affect the property's heritage attributes as set out in the designation by-law without Council's written approval (Sec 33 (1))
 - **demolish** or remove or permit the removal of a building or structure without Coucil's written approval (Sec 34 (1))

Owner's Responsibility – Alter or Demolish

Suggestion

- Pre-application meeting:
 - Before an application is made to alter or demolish meet with municipal staff and the heritage committee to better understand:
 - What you as an owner are proposing
 - Why you require the work
 - What heritage attributes are being affected by the proposal?
 - This is important for pre 2005 designations
 - Are there options that meet your requirements but better preserve the heritage attributes?
 - Is any or all of the work exempt from a permit application?
 - Does the structure on the designated property have heritage value?
Owner's Responsibility – Alter or Demolish

 Example – Designated property – demolition of structure likely not of heritage value - garage

- Structure not of heritage value on designated property \searrow







1 Water Street – Designated – By-law 1990-09

Expedited permit application

Owner's Responsibility – Alter or Demolish

Possible Exemptions from permit application:

- Re-roofing in the same materials
- Replacement with similar eaves troughing and downspouts
- Painting, except of brick, stone and concrete
- Replacement of existing deteriorating materials with the same or similar dimensions, texture and colour (bricks and mortar for repointing)

Owner's Responsibility – Alter or Demolish

• Legislation – OHA Section 33 & 34:

- Application for a Heritage Permit to alter or demolish
 - with plans as required by Council and as prescribed by regulation (385-21) *NEW*:
 - Applicant name, address & contact info
 - Municipality
 - Description of the property subject to the application
 - Photographs showing existing condition
 - Site plan showing location of alteration
 - Drawings of the proposed alteration
 - Reasons for the alteration
 - All relevant technical studies
 - Any additional information required by municipal by-law

Designation – Municipal Response – Application to Alter or Demolish

- Municipality can:
 - Approve the application with conditions
 - Approve part of the application with conditions
 - Refuse the application
- Owner, in response to the municipal decision can appeal the decision to the Ontario Land Tribunal (OLT). OLT:
 - Holds a hearing
 - Issue a decision:
 - Refuses the appeal
 - Approves the appeal in part
 - Approves the appeal in its entirety
 - OLT decision is final

Designation – Example of an Alteration -Georgina





Proposal – Rear Addition on a designated farm property

Designation – Example of an Alteration -Georgina

- Conditions of Approval
 - Heritage Easement Agreement
 - Amend designation by-law to include landscape features
 - Resolve condition issues on heritage building
 - Maintain views of house from main road landscaping
 - Financial guarantees



Heritage Easement Agreements

- Legislation OHA Section 37:
 - Council may pass by-laws for heritage easements
 - Enter into with the consent of the owner usually in connection with:
 - A planning application
 - A grant
 - Property tax relief
 - Sale of surplus municipal heritage property
 - Placed on title
 - Runs in perpetuity
 - Municipal enforcement
 - Decision of council final; no appeal
 - Municipality must consult with its MHC

Heritage Easement Agreements

• Content:

- Reasons for identification
- Photographs
- Required maintenance & repair by owner
 - Maintain in a state of good repair
- Permitted alterations
- Property be insured
 - Municipality a named party
 - Proceeds used to restore/reconstruct
- Municipality may reconstruct if owner fails; charge to owner
- Control signage
- Allow Possible heritage plaque on property

Designation – Owner Benefit – Municipal Grant

Legislation

- Ontario Heritage Act, Sections 39 and 45:
 - Municipality may make grant to a designated (Parts IV & V) property owner for the whole or part of cost of alteration of property
 - Municipality may prescribe terms and conditions
 - Generally on a cost share basis for restoration work subject to municipal budget constraints and a maximum limit per grant
 - Penetang does not have such a grant program although elements are incorporated in the property tax rebate program

Designation – Owner Benefit - Property Tax Rebate

Legislation

- Municipal Act:
 - Property tax reductions
 - Council may reduce property taxes by 10% – 40% on heritage properties
 - Council may specify eligibility criteria
 - Province shares the cost of the education tax



Designation – Owner Benefit - Property Tax Rebate – Penetang

- Up to 40% on municipal and education portion (excludes County), subject to municipal budget allocation, for maintenance & restoration work on heritage attributes Eligibility:
 - Property designated under Part IV or Part V of the OHA
 - May be subject to a Heritage Easement Agreement
 - Property taxes not in arrears nor subject to any by-law contraventions
 - Annual application showing estimated cost of work
 - Cannot be combined with any other municipal grant program

Designation – Owner Benefit - Property Tax Rebate – Penetang

- Possible work subject to rebate if property designated (*currently listed*):
 - Reconstruction of:
 - veranda porch posts, roof and flooring, if in need of replacement
 - chimneys above roof line based on documentary evidence
 - Repair of retaining walls if landscape identified as a heritage attribute
 - Replacement of modern siding with period siding



50 Robert Street West Listed April 25, 2012

Designation – Owner Benefit – Community Improvement Grant – Penetang

 Grants to properties within the Community Improvement Plan Area including all properties within the Area that are designated under the OHA:

3.3	Building Façade Improvement Program
3.4	Signage Improvement Program12
3.5	Building Improvement and Renovation Program14
3.6	Affordable Housing Program16
3.7	Landscaping and Property Improvement Program
3.8	Tax Increment Program
3.9	Planning and Building Fee Rebate Program23



Key Map

Designation – Owner Benefit – Community Improvement Grant – Penetang

Example - Façade Improvement for OHA designated properties

- Grant up to \$12,500 for 50% of eligible costs
- Loan up to \$50,000 for 25% of eligible costs
- Eligible Costs
 - 1. Repair, replacement or restoration of façade materials
 - 2. Repair, replacement or new installation of awnings or canopies
 - 3. Repair, replacement or new installation of exterior lighting
 - 4. Painting, cleaning or other similar treatments to improve façade materials
 - 5. Window or door replacements that are part of a larger project
 - 6. Accessibility or barrier-free access improvement to the building exterior
 - 7. Services or an architect, engineer or heritage professional to advise on the project

Designation – Owner Benefit – Community Improvement Grant – Example - Newmarket



c1880

Designation – Owner Benefit –

 Satisfaction that owner is conserving part of the community's cultural heritage

Thank You

for your continued efforts to conserve heritage in your community



CHO - PCO Community Heritage Ontario Patrimoine communautaire de l'Ontario