



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	January 21, 2022
SUBJECT/REPORT NO:	Heritage Permit Application HP2021-055, Under Part V of the <i>Ontario Heritage Act</i> , to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Chloe Richer (905) 546-2424 Ext. 7163
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Heritage Permit Application HP2021-055, to permit new cladding (Indiana Split Veneer Limestone) installed without a Heritage Permit along the front of the garage structure, for the lands located at 124 St. Clair Avenue, be **approved**.

EXECUTIVE SUMMARY

The subject property at 124 St. Clair Avenue (see Appendix "A" attached to Report PED22044) is designated under Part V of the *Ontario Heritage Act* by By-law No. 86-125 attached as Appendix "B" to Report PED22044.

The Application proposes to permit new cladding (Indiana Split Veneer Limestone) installed without a Heritage Permit along the front of the garage structure to repair damage from a fallen tree. Photographs of the garage indicating the former brick cladding and new Indiana Split Veneer Limestone cladding are included in the Heritage Permit Application report prepared by EFI Global, dated November 11, 2021, and

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) - Page 2 of 8

submitted by the Application. This report can be found attached as Appendix “C” to Report PED22044; see pages 5-9.

The *Ontario Heritage Act* requires that Council make a decision on a Heritage Permit Application within 90 days of the issuance of a Notice of Complete Application. If no decision is reached within the 90-day timeframe, Council shall be deemed to consent to the Application. The subject Application’s 90-day timeframe will be reached on March 8, 2022.

The Heritage Permit Review Subcommittee of the Hamilton Municipal Heritage Committee (HMHC) reviewed the subject Application on December 14, 2021 and January 18, 2022. At their meeting on January 18, 2022, the Subcommittee recommended denial of the Application as the new cladding is not in keeping with the character of the St. Clair Avenue Heritage Conservation District (HCD). When a Heritage Permit Application is recommended for denial by the Subcommittee, the Application is subject to Council decision.

Should the Application have been received prior to the alterations having occurred, staff would have recommended a more complimentary cladding be installed. Staff are supportive of the Application to permit the installation of the existing new cladding as there is no documentation that speaks to the garage having significant historical value other than its general contribution to the overall character of the property and the HCD, and the garage is located at the rear of the property. As such, staff recommend approval of the Heritage Permit Application.

Alternatives for Consideration – See Page 7

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: This Heritage Permit Application has been processed and considered within the context of the applicable legislation.

Section 42 (1) of the *Ontario Heritage Act* states that:

“No owner of property situated in a heritage conservation district that has been designated by a municipality under this Part shall do any of the following, unless the owner obtains a permit from the municipality to do so:

SUBJECT: Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) - Page 3 of 8

1. Alter, or permit the alteration of, any part of the property, other than the interior of any structure or building on the property; and,
2. Erect, demolish or remove any building or structure on the property or permit the erection, demolition or removal of such a building or structure. 2005, c. 6, s. 32 (1).”

Section 42 (4) of the *Ontario Heritage Act* states that:

“Within 90 days after the notice of receipt is served on the applicant under subsection (3) or within such longer period as is agreed upon by the applicant and the council, the council may give the applicant,

- (a) The permit applied for;
- (b) Notice that the council is refusing the Application for the permit; or,
- (c) The permit applied for, with terms and conditions attached. 2005, c. 6, s. 32 (3).”

With respect to the delegation of Council’s approval authority, Section 42 (16) of the *Ontario Heritage Act* states that:

“The council of a municipality may delegate by by-law its power to grant permits for the alteration of property situated in a heritage conservation district designated under this Part to an employee or official of the municipality if the council has established a municipal heritage committee and consulted with it before the delegation. 2005, c. 6, s. 32 (6).”

HISTORICAL BACKGROUND

This Heritage Permit Application (HP2021-055) was received on November 11, 2021 and the Notice of Complete Application was issued on December 8, 2021.

The Heritage Permit Review Subcommittee of the HMHC reviewed the subject Application on December 14, 2021 and deferred it.

The Heritage Permit Review Subcommittee of the HMHC reviewed the subject Application again on January 18, 2022 and recommended denial of the Application.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Urban Hamilton Official Plan

Volume 1, Section 3.4 – General Cultural Heritage Policies of the Rural Hamilton Official Plan (RHOP) states that the City shall:

- “B.3.4.2.1(a) Protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes for present and future generations;
- e) Encourage the ongoing care of individual cultural heritage resources and the properties on which they are situated together with associated features and structures by property owners and provide guidance on sound conservation practices; and,
- h) Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and cultural heritage landscapes, by encouraging those land uses, development and site alteration activities that protect, maintain and enhance these areas within the City.
- B.3.4.2.1 (i) Use all relevant provincial legislation, particularly the provisions of the *Ontario Heritage Act*, the *Planning Act* R.S.O., 1990 c. P.13, the *Environmental Assessment Act*, the *Municipal Act*, the *Niagara Escarpment Planning and Development Act*, the *Cemeteries Act*, the *Greenbelt Act*, the *Places to Grow Act* and all related plans and strategies in order to appropriately manage, conserve and protect Hamilton’s cultural heritage resources.”

These policies from the Urban Hamilton Official Plan (UHOP) demonstrate Council’s commitment to the identification, protection, and conservation of cultural heritage resources, and the recommendations of this Report meet the intent of these policies.

RELEVANT CONSULTATION

Heritage Permit Review Subcommittee

Pursuant to Sub-sections 28 (1) of the *Ontario Heritage Act* and the Council approved Heritage Permit Process (PED05096), the HMHC advises and assists Council on matters relating to Part IV and V of the *Ontario Heritage Act*.

SUBJECT: Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) - Page 5 of 8

The Heritage Permit Review Subcommittee of the HMHC reviewed the subject retroactive Application for at a meeting held on December 14, 2021. After a presentation and question and answer period with the Applicant's agent, the Subcommittee passed a motion to recommend deferral of the Application as submitted, to provide the home owner the chance to meet with staff and the opportunity to agree to installing an alternate, compatible cladding material.

"That the Heritage Permit Review Sub-committee advises that Heritage Permit Application HP2021-055 be deferred until a future meeting of the sub-committee to allow the owner to consider removal of the existing limestone veneer cladding and installation of an alternative cladding on the front façade of the garage structure that is in keeping with the character of the St. Clair Avenue Heritage Conservation District."

The Application returned to the Subcommittee on January 18, 2022. The home owner and their agent had the opportunity to meet with staff prior to the Subcommittee meeting and advised they were not in support of removing the existing cladding and installing a new and alternative cladding material.

The home owner provided further details regarding the history of the work completed without a Heritage Permit Application, which was initiated as a result of damage from a tree impact in October 2020. A third party was retained by the home owner's insurance company for the purpose of applying for applicable City of Hamilton permits. The original work was scoped to the roof of the garage structure and a Heritage Permit was not required as the replacement used in-kind materials. The Heritage Permitting approval process was not followed at the time of the alteration to the front cladding of the garage.

At its meeting on January 18, 2022, the Subcommittee recommended that the Application be denied.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The subject lands at 124 St. Clair Avenue contain a two-and-a-half storey Hipped-Roof Box style dwelling with Tudor elements and detached garage, both constructed in 1915. The detached garage is the subject of the retroactive Heritage Permit Application. The brick cladding on the garage, which was removed prior to installation of the new cladding (Indiana Split Veneer Limestone), dated to the 1990s as stated by the applicant at the January 18, 2022, Subcommittee meeting.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) - Page 6 of 8

Heritage Permit Application (HP2021-055) proposes the following alterations:

- Permit new cladding (Indiana Split Veneer Limestone) installed without a Heritage Permit along the front of the garage structure.

Staff deemed the Application comprehensive and complete on December 8, 2021.

Key factors that are considered in the evaluation of any change affecting a heritage resource are consideration of:

- **Displacement effects:** those adverse actions that result in the damage, loss, or removal of valued heritage features; and,
- **Disruption effects:** those actions that result in detrimental changes to the setting or character of the heritage feature.

In the consideration of any Heritage Permit Application, staff must assess the impact of the displacement and disruption effects on the heritage resource, particularly in relation to the objectives and policies of the St. Clair Heritage District Planning Study and District Plan.

Key objectives and policies of the St. Clair Heritage District Planning Study and District Plan include:

- 8.2.1. **Positive Design Features** “The setback and design of most of the private garage structures.”
- 10.3.4. **Building** “Restoration of the original features of the building will be encouraged.”
- 10.3.4. **Building** “Authentic materials such as brick, stone and wood, to reflect the texture of the area, will be encouraged. Original or similar materials and colours will be used.”
- 10.3.4. **Building** “Unauthentic materials such as plastics and aluminium will be discouraged.”

There will be minimal “displacement effects” to the subject property as a result of this work. The brick cladding of the garage that has been removed was not a historic cladding material; it was a popular type of brick in the 1970s and 1980s added to the structure in the 1990s, as per the engineer’s report provided by the home owner (see Appendix “C” attached to Report PED22044).

Moderate “disruption effects” are expected to the heritage context of the property. The front of the garage structure is not being restored as a best heritage conservation

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) - Page 7 of 8

practice. There will be the introduction of a new cladding material that is generally incompatible with the texture of the existing house on site, though the brick that was removed from the garage was not a heritage brick. The new cladding is a stone veneer that is more similar to the sills of the existing house than a plastic or aluminium material would be, two materials that are identified as unauthentic in the St. Clair Heritage District Planning Study and District Plan. Though its construction date appears to be in line with the construction date of the dwelling, the garage does not appear to have significant historical value other than its general contribution to the overall character of the property and the HCD. Further, it is located to the rear of the property.

Though the best heritage conservation practice would be to remove the new cladding and restore the original front of the garage structure, staff met with the home owner and their agent to encourage this option, which is not the approach the home owner wishes to take. Staff recommend an approach emphasizing public education around the Heritage Permit approval practice occur in place of denial of the Heritage Permit Application. Of special consideration is that it appears an error was made by the third party overseeing the broader City of Hamilton permitting process in not applying for a Heritage Permit prior to the alterations, and the home owner was not involved due to the nature of the insurance claim context. In addition, though further investigation would be required, it is possible that original historic building materials are preserved under the existing new cladding, and a future alteration could be the removal of the new cladding and restoration of the front façade of the garage structure. As such, staff are not in support of the recommendation of the Heritage Permit Review Subcommittee to deny the Heritage Permit Application.

Conclusions:

Staff are of the opinion that the Heritage Permit Application (HP2021-055) can be supported, though there is deviation from the best practices of the St. Clair Heritage District Planning Study and District Plan, as displacement effects are minimal. Staff acknowledge that approval would result in moderate disruption effects. As such, staff recommend that the Heritage Permit Application be approved.

ALTERNATIVES FOR CONSIDERATION

(1) Refuse the Heritage Permit Application.

HMHC may advise Council to refuse this Application. This is not being recommended.

SUBJECT: Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) - Page 8 of 8

(2) Approve the Heritage Permit with Conditions.

HMHC may advise Council to approve this Application with conditions of approval. This is not being recommended.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” - Location Map

Appendix “B” - By-law No. 86-125

Appendix “C” - Heritage Permit Application Report Prepared by EFI Global, Dated November 11, 2021

CR:sd