



371 Davis Drive, Suite 101
Newmarket, ON L3Y 2N8



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LEGISLATIVE SERVICES		
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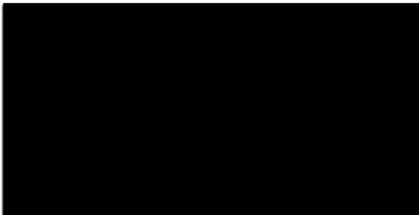
*John of Newmarket
 Town Clerk
 P.O. Box 328
 395 Mullock Drive
 Newmarket, ON L3Y 4X7*



Lack of Public Interest or Benefit:

And finally, although I agree with the designation of certain buildings as heritage homes, I feel there is little value in designating my dental office as a heritage home. There does not seem to be a single building on the North side of Davis Drive that is true to its original character. Why allow every other home to be torn down or heavily modified, and then randomly select one to be preserved. It defies logic.

Thank you for your consideration,



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LEGISLATIVE SERVICES		
INCOMING MAIL	REFD TO	COPY TO
NOV 14 2024		

November 11, 2024

To whom it may concern,

I am writing this letter to object to the designation of my property at 371 Davis Drive as a property of cultural heritage value and interest. My objections fall into three broad categories.

Condition of the Property:

At present, the front façade of the building is in poor condition. The support pillars are crumbling, the gingerbread detailing is falling apart, and the stucco façade is failing. The building functions as a dental office which I purchased 3 years ago. I have been slowly repairing the building as financial resources become available. The front of the building is the next project that needs addressing.

The building has been added on to, and renovated, many times over the years. It currently exhibits 3 styles of exterior cladding. The cladding needs replacing as one cohesive style. The original cladding is unsightly. Nor do I know if I can find someone to replicate the original exterior.

On top of the failing architectural details, the building itself has been modified on many occasions over the years. The front decks have been replaced with a picket style not true to the original. Some of the exterior façade has been updated to a more modern style. The house, in general, is in no way true to its original construction.

Impact on Use and Development:

The building currently functions as a dental office, and the office is growing. It is my intention to build out the office into the front deck space to expand the square footage available so that I might build two additional operatories. The historical designation will limit my ability to expand the scope of my practice, limiting future income generating capacity.

371 Davis Drive, Suite 101
Newmarket, ON L3Y 2N8



From: [REDACTED]
To: [Lisa Lyons](#); [Umar Mahmood](#)
Cc: [REDACTED]
Subject: 16874 Bayview Ave / Heritage Designation
Date: November 18, 2024 1:12:34 PM

CAUTION: This email originated outside of the Town of Newmarket. **DO NOT** click links or open attachments unless you recognize the sender and trusted content.

Dear Lisa Lyons (Clerk) and Umar Mahmood (Planner),

My clients [REDACTED], owners of the above noted property have received an official " Notice of Intention to Designate Property of Cultural Heritage and Value " dated Nov. 1, 2024 from the Town of Newmarket.

On behalf of my clients, I write to you both, so that there is open dialogue between the Clerks Dept. and the Committee of Adjustment and Cultural Heritage, because time is running out, and we currently have a the postal strike.

Ms. Lyons : The notice of designation we received mentions that they have 30 days to object, (Dec. 1st), so please consider this their official objection until we get more information and sort out some of the items below.

If their is a specific notice of objection form required, please forward it to us before Dec. 1st.

My clients are in objection to this potential heritage designation for not enough information is know yet about the ramifications for future renovations or additions, or the effects it will have on their property taxes or potential resale of the property, etc. Also, we would like to point out that some of the buildings characteristics the committee wants to designate are not original.

Mr. Mahmood : We have many questions and concerns that I hope you can help us with.

Questions :

- 1) Can you please send us more information, including full description of the rational for the designation ?
- 2) Can you explain on how designation effects them and and their property for future generations ?
- 3) How will designation effect their property taxes.
- 4) How will designation effect their property values and resell potential ?
- 5) How long does designation take ?
- 6) What if they disagree that their house does not meet a significant Queen Anne style that is mentioned in the notice ?
- 7) What is the significance of Joseph C. Lundy to the Town of Newmarket, when he was more involved with Whitchurch - Stouffville. Is this a Provincial Heritage Act,

administered by the Municipality, if so which level of government is driving this designation ?

8) Even if designation is opposed by owners, can designation still go ahead ?

9) If designated, what is involved in the appeal process ?

important additional info :

We are planning to rebuild of the front portico - which is not original. It is rotting and is in need of repair. This has been in the design and permit drawing stage for many months, anticipating a next spring 2025 construction timing.

10) How will designation effect our timing for obtaining a building permit and the rebuilding the front porch next spring ?

11) Will designation hold up this permit process ? Especially if designation is not finalized.

12) Will this designation allow us to use the existing height of the balcony railings being replaced, which is 11" less than the current Ontario Building Code min. height ?

13) Will this designation allow us to use the existing 6" railing clear spacings, instead of the current Ontario Building Code min. 4" clear spacings ?

My clients may be replacing all existing windows (phase 2) along with the as mentioned upper storey door. For they are not very energy efficient.

14) How will designation effect this process, especially the upper door ?

We may also be planning another future addition to the side of their home which would propose a 2nd storey rec. room over a new garage complete with mudroom and laundry facilities. With that possible (phase 3) addition.

15) How will designation effect this potential addition ?

I have cc'd [REDACTED] (owner) and trust you will reply to her as well.

Best regards and we look forward to hearing from you both.

[REDACTED], M.A.A.T.O., A.Sc.T., Associate AIA
Architectural Technologist

[REDACTED]



NEWMARKET CEMETERY CORPORATION

Est. 1867

112 MAIN ST. NORTH, NEWMARKET, ON L3Y 4A1
[REDACTED]

Date: November 20, 2024

For: Trevor Morrison, Councillor, Ward 4
cc. Mayor Taylor

Re: Council's notice that the Cemetery house should be 'designated' as having 'cultural heritage value'.

The Board of Directors request that:

Mayor Taylor and Councillor Morrison, on behalf of Town Council, instruct the Town Clerk to remove the Cemetery house located on the Cemetery property from any designation as having "cultural heritage value".

(NB: The Board of Directors will have no problem with Town Council seeking to have the actual burial grounds being designated as having "historic value as a 19th century cemetery that served the historic Village of Newmarket" similar to the 'designated' burial grounds on Eagle Street, referred to as the Pioneer Burying Ground.)

The current Board must work to make sure future Boards are not 'handicapped' financially or operationally.

Should the current house be 'designated' and future Boards are unable to alter the house to meet their then current/future operations & income needs, it could become a financial burden, with unforeseen results*.

*refer to Appendix #1, from the 2016, 'York Region Cemetery Needs Analysis and Policy Framework', which was shared with all municipalities within the Region, specifically to its Appendix #4 – Key Findings – under Central York "Newmarket has the greatest land need with less than 25 years of developed supply." Highlighted with a large asterisk indicating *NB: the Newmarket Cemetery has only 10 years of land left for "in ground" burial space available, but has up to 25+ years of land for cremations burials."

(8 years on from this report being tabled, it is still relevant and an outstanding issue affecting the Cemetery's future.)

Discussion points:

First, these will follow points, in the 'Notice' received by the Board of Directors, and Second, outline how 'designation' would be handicapping to future Board's operations and financial well being, such 'designation' of the Cemetery House would represent.

First: following some of the points detailed in the 'Notice' received by the Board of Directors.

1. **Property Description:** 112 Main Street North (Newmarket Cemetery House) is located on the 'north side of Botsford Street'? in the Town of Newmarket.

NEWMARKET CEMETERY CORPORATION

112 MAIN ST. NORTH, NEWMARKET, ON L3Y 4A1

2. 'Physical/Design Value' and 'Historical Associative Value'

112 Main Street North has physical value as an example of an 19th century cemetery which includes the caretaker's house constructed in 1873 in a Gothic Revival design.

Several points: regarding the 'Property' - as detailed in the Notice

- “oldest portion of cemetery (12 acres) dates to 1869” ... “This undersigned section includes memorials often clustered in familiar groups often with sporadically placed or oriented plots”

– had anyone bothered to come into the Cemetery office, to actually discuss the property, (or house), they would have been shown the original survey of the initial lands, by Alfred Wilson, in ‘AD 1869’ (duplicated by E. A. Bogart in, ‘AD 1885’) laying out plots (9’x12’) and vault lots (12’x 18’) measured from ‘south to north’ of the property in a well defined/orderly manner, and the Interment Rights being sold and burials conducted as such.

- “Prior to the establishment of the Newmarket Cemetery, the Town was served by a small burying ground on Eagle Street.”
All Town residents were not actually ‘served’ by this ‘burying ground’. It was and still is owned by the St. Paul’s Anglican Church, Diocese of Toronto and was established to serve this Anglican Church’s congregation, at time of need, similar to the St. John’s Cemetery which was established to service the St. John’s Roman Catholic Church’s congregation, at time of need.
- Thus, the Newmarket Cemetery (originally called Pleasantview Cemetery) was established as a Non-Denominational, Non-Profit Cemetery, operated under a volunteer Board of Directors, to serve anyone/everyone requiring interment.
It remains so today.
(note: the property was originally outside the Town’s boundaries, being in East Gwillimbury at that time.)

As recorded in the Cemetery’s Official Burial Book, the first burial on the property took place on July 5, 1869 – not 1864 as in the ‘Notice’.

The interment was for Alfred Burn, Aged 32, Born in Hamilton, Canada, Died in Newmarket, on July 3, 1869 and interred (buried) July 5, 1869.

(NB: In addition, as a point of interest, the Cemetery’s Burial Book records people who died in 1854, 1856 and 1863 being buried within the Cemetery, in 1869, having been moved from other burial sites to this Cemetery.)

- Previous and the current Board of Directors have and continue to work within its finances to ensure it is self sustaining for its Interment Rights Holders, while continuing to maintain this treed, park like setting within the centre of Newmarket open to all to visit/wander the historic grounds etc., (at no expense to Town taxpayers.)

NEWMARKET CEMETERY CORPORATION

112 MAIN ST. NORTH, NEWMARKET, ON L3Y 4A1

Several points: specific to the Cemetery House - regarding the 'Notice' received:

(these points are supported by pictures of the house 'before' (late 1800's) and 'after' (current 2024))

- “The two-story brick caretaker’s house, currently covered with parging”

The brick house is covered with stucco not 'parging' per sec, which is distinctively different. Stucco covering was needed due to the deterioration of the brick. The brick used was sourced from a then local supplier – Stickwood Brick Yard. The brick was sun dried, not kiln dried and therefore does not have the outer 'protective glaze' that kiln dried brick provides.

Subsequent pollution from local factories (Davis Leather/Dixon Pencil/Office Specialty etc.) plus coal/wood heated homes, as well as normal weathering caused deterioration to the brick, requiring the Board to go to expense of Stuccoing the building.

Sample of this brick can be seen in what would have then been the single-story kitchen, on the west side of the house, (now used as a public meeting office).

This single-story (kitchen) room subsequently had a second story added at some point. In the early 1800's pictures you can discern the separate chimney in this single-story (kitchen) room, in addition to the large chimney centered in roof of the main house.

- The 'Notice' talks of the house having a “symmetrical and balanced façade” ... “associated with Gothic Revival architecture” – the late 1800's pictures would support such a statement, however, the 2024 pictures can only reflect this is no longer true, due to the number of alterations, removing any such semblance, as (a few following points reflect);

1st looking at (1800's pictures & 2024 pictures) the house as it faces Main St. N. (east side) it is noting there are two very distinctive, period verandas.

The veranda on the south side, had to be completely removed, due to deterioration and the doorway to this veranda has been completely closed off and stuccoed over, readily visible, in the 2024 pictures.

The veranda on the north side, required extensive work and subsequently was completely reconfigured, from the veranda's original very distinctive roof, to a very 'non-descript' roof, down to the replacement of the wooden floor with a non-descript fiber fabric sheeting and wooden stairs replaced with simple, solid concrete steps.

NEWMARKET CEMETERY CORPORATION

112 MAIN ST. NORTH, NEWMARKET, ON L3Y 4A1

2nd while the 'Notice' outlines the "rectangular window opening and stone sills", most all house construction over the years, in the Town had and have similar rectangular window openings – this not really a distinctive feature, while stone sills are still sometimes used in today's construction.

The 1800's picture note very distinctive windows, that opened (vertically) and inward, all that is gone. The current windows all open horizontally (if not actually painted shut). At the time, they would have had wooden storm windows for winter use – now the windows just have (ugly) aluminum storm windows attached.

(For people living in such older houses, there was always a fall & spring ritual – cleaning windows, putting up & taking down the 'storms' – until the advent of the year- round aluminum storm windows.)

In addition, a small window (noted in the 2024 pictures) was added (north side) 2nd story level. This occurred when indoor plumbing came to the house, its noted that a stone sill was used, again confirming such a window stone sill was nothing special.

3rd the roof centered chimney is gone, with one being added attached to the north side house wall. (This chimney is no longer used/required, due to a newer heating operation.)

4th on west side of house, when built, it was a single-story room, being a kitchen – barely noticeable in the 1800's pictures is a chimney extending from its roof. This is also gone, as a 2nd story was added, (for an extra bedroom), changing this entire roof line, plus the north facing window of the kitchen was changed into a doorway entrance, used today.

5th A new room, on the south side of the structure, (not pictured in the 1800's pictures) was created by closing in the porch & house entrance to now become a washroom & back door entrance way into the office.

Given the above, with all the changes/modifications etc., it would seem to readily apparent that the Cemetery house, in the Board's opinion, lacks any 'associative value' to the original building.

Further, in the Board's opinion, they feel it would be rather embarrassing to have someone point out this Cemetery house being reflective of the Architect's work, given all the structural changes and feel it is not worthy of any 'Cultural Heritage' designation.

If designated and future Boards are unable to alter the house to meet their current/future operations & income needs, it could become a financial burden.

One such change that comes to mind, as the Cemetery grounds fill to capacity, future Boards could arrange to have cremation niche spaces added to the walls of the house, while creating other burial options on the grounds surrounding the Cemetery house.

NEWMARKET CEMETERY CORPORATION

112 MAIN ST. NORTH, NEWMARKET, ON L3Y 4A1 [REDACTED]

As noted, current Boards must try to make sure future Boards are not financially ‘handicapped’. If at some point a future Board’s operational/financial options are limited, and its financial resources expended, it may have no option, but under the,

FBCSA, (Funeral, Burial, Cremation Services Act) & O. Reg. 30/11, seek relief, as follows;

‘Abandoned Cemeteries’

(provisions – are briefly summarized below - full copy of the relevant legislation provisions attached - see Appendix 2)

Applications for declaration

101.1 (1) - person/entity applying for declaration of abandonment,

(1)(b) (reason) is unable to maintain it; resulting under ...

Maintenance

(4) When an application is made to declare a cemetery abandoned

‘the local municipality within whose geographical boundaries ... , shall be responsible for maintenance of the cemetery until ...

Order

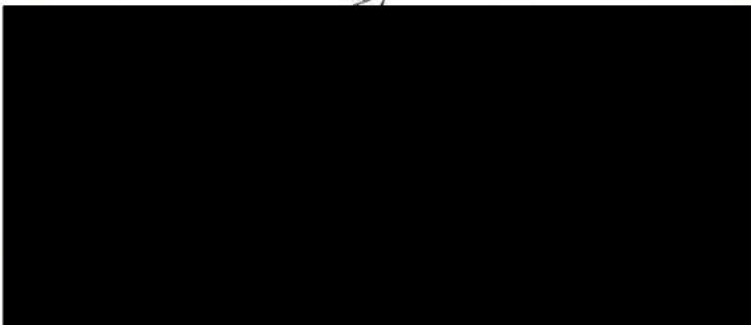
(6) Upon being satisfied ..., a judge ..., shall, by order, declare the cemetery to be abandoned.

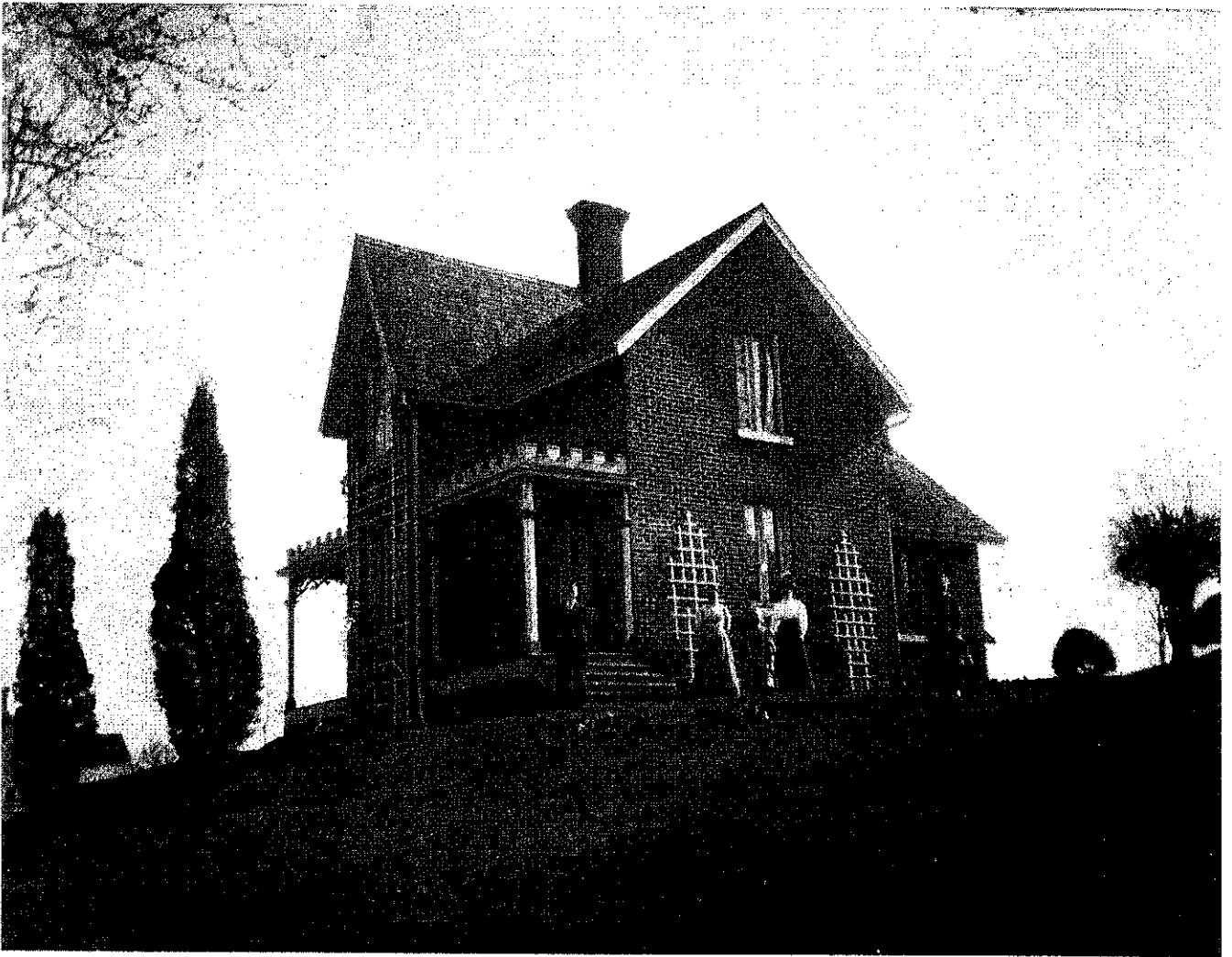
Registration of order

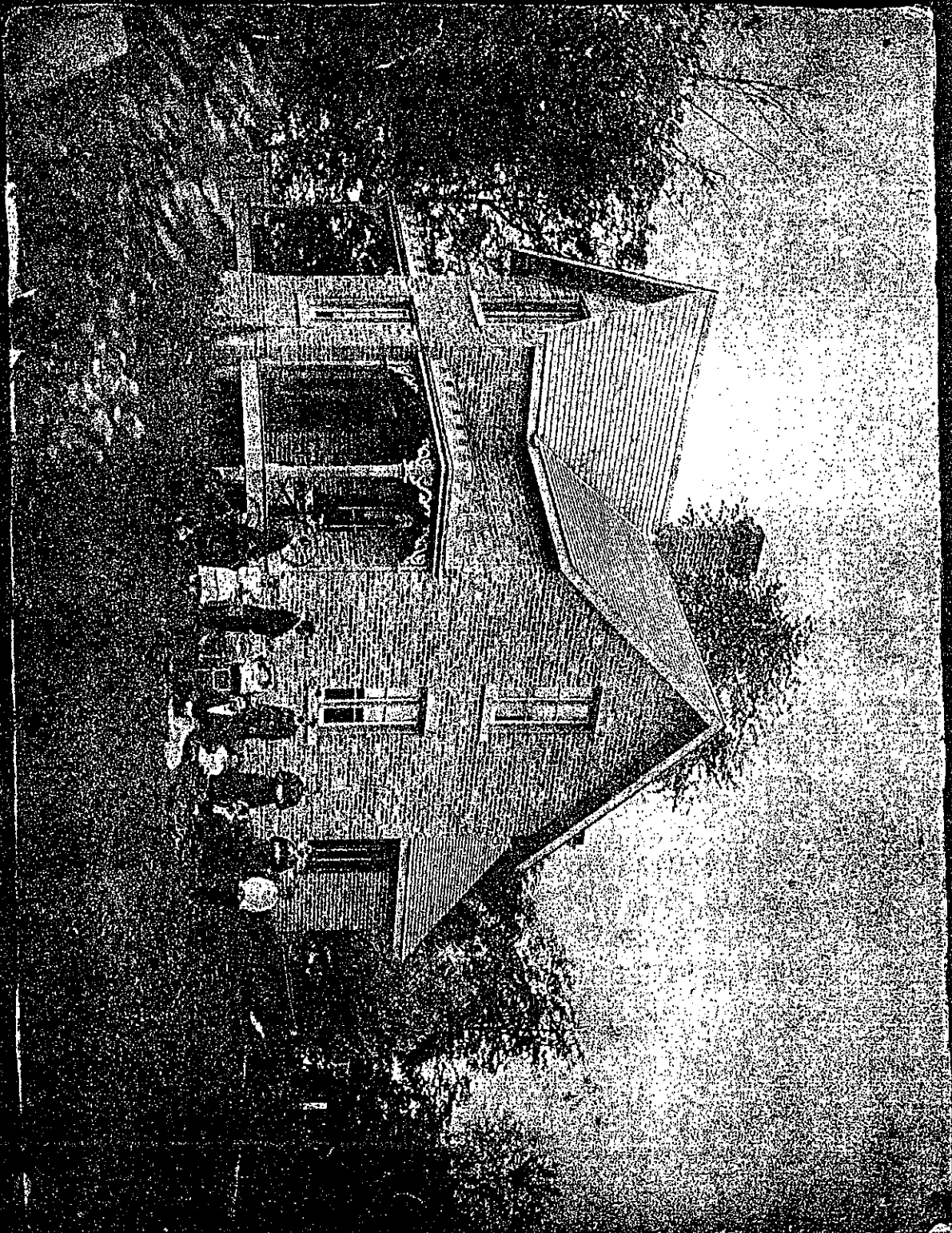
(7) ..., the local municipality ... becomes the owner of the cemetery with all rights and obligations (i.e. operations, maintenance/burials left to be undertaken etc.)

Given all the preceding information, we would formally ask you, as our Ward 4 representative and with our Mayor’s help to instruct the Town Clerk to specifically remove any reference to the Cemetery house as to any ‘designation’ of “cultural heritage value”. (We agree/support that the actual burial grounds of the Cemetery may or perhaps should be designated as having “cultural heritage value”.)

The Board would rather proceed in this more positive manner rather than having to lodge a formal ‘Notice of Objection’ with the Town Clerk and proceed down any such public adversarial path with Town Council.









Notice is Hereby Given that the Council of The Corporation of the Town of Newmarket intends to designate as a property of cultural heritage value and interest the following property in accordance with the Ontario Heritage Act, R.S.O. 1990, c. O.18:

Property Description: 432 Botsford Street (Clarkson Hughes House). 432 Botsford Street is located on the south side of Botsford Street in the Town of Newmarket. The subject property contain a two-storey Italianate residence constructed circa 1890.

Legal Description: PART LOT 55, PLAN 81, NEWMARKET

Publication Date: Nov 1, 2024

Last Date for Objection: Dec, 1, 2024

Any notice of objection to this Notice of Intention to Designate, setting out the reason for objection and all relevant facts, must be served upon the Town Clerk within 30 days of the first publication of this notice.

Statement of Cultural Heritage Value or Interest Physical/ Design Value

432 Botsford Street is a representative example of a building constructed in the Italianate architectural style. The two-storey irregular shape plan building has a multi-gable roof with prominent front gable and side gables decorated with ornamental vergeboard woodwork, wide overhanging eaves, and buff brick envelope coursed in a stretcher bond which is typical of Italianate residential buildings. The tall, narrow and in some cases paired window openings with segmental brick arches and stone sills combined with its formal entranceway openings along are also key features of the Italianate architectural style.

Historical and Associative Value

432 Botsford Street is directly associated with the historic Village of Newmarket. The lots lines, layout, and built form of the historic village of Newmarket was well established in the mid 19th century and evident in a well-established commercial core found along Main Street and the large presence of residences located along several side streets. The development of the commercial core and surrounding residential streetscapes in the mid-19th century played a significant role in the social and economic development and growth of the Village of Newmarket. It is likely that the brick used in the construction of the residence was from the Stickwood Brickyard, which produced both red and buff/yellow-coloured bricks during this time period. Local historians indicate that almost all of the brick buildings built in Newmarket between 1860 and 1910 were likely constructed with bricks that originated at the Stickwood Brickyard. The use of locally made bricks reflect the concentrated development and prosperity of the historic core. Many early residents participated in the development and growth of religious, and/or community organizations. Two of 432 Botsford Street residents were directly involved with the Society of Friends,

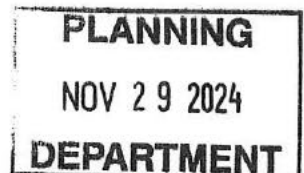
commonly called the Quakers. The property's initial owner and builder of the residence at 432 Botsford Street, Clarkson Hughes, was listed as a Quaker in the 1891 Canada Census. After Clarkson Hughes' death, the next owner of the property, Jacob Doyle, was heavily involved in the Botsford Street Meeting House, which was located across the street at 429 Botsford Street. Jacob Doyle is mentioned numerous times in the church archives for his active participation from 1896 through 1928 serving on committees, donating sums towards the operation of the building, and also served as an Elder in the congregation.

Contextual Value

432 Botsford Street is important in supporting the 19th century character of the historic Village of Newmarket. Several residential side streets, including Botsford Street, were established in the village core, near the commercial Main Street. Located off or parallel to Main Street, the buildings along the side streets are comprised of predominantly one to two-and-a-half storey residences, primarily brick construction most using bricks from Stickwood's brickyard, with modest setbacks and include a range of architectural styles from that time period. 432 Botsford Street exhibits setback, massing, style, decorative details consistent with the historic village character.

Additional information, including a full description of the rationale for designation is available upon request from Umar Mahmood, Planner, Committee of Adjustment and Cultural Heritage, Planning Services at (905) 895-5193, extension 2458, or at um Mahmood@newmarket.ca during regular business hours.

*Opposed
Heritage Designation*



November 29 2024

Dated at the Town of Newmarket this 1st day of Nov, 2024

Town Clerk | Town of Newmarket

P.O. Box 328, 395 Mulock Drive, Newmarket, ON L3Y 4X7

November 29, 2024

Town Clerk
Town of Newmarket
395 Mullock Drive
Newmarket, ON L3Y 4X7

Subject: Request for Review of Heritage Designation – 457 D'Arcy Street, Newmarket, ON L3Y 1M9

Dear Town Clerk,

We, [REDACTED], are writing to formally express our deep concern regarding the Town's decision to place our property at 457 D'Arcy Street, Newmarket, ON L3Y 1M9, on the heritage designation list. This decision will have a significant and detrimental impact on our investment, and we respectfully demand that it be reconsidered.

When we purchased this property, our intention was to secure a stable, long-term investment for its future development potential for our children. We believed this property would provide them with a solid asset that could grow and develop over time. Had we known that the property was under review for heritage designation, we would have seriously reconsidered our decision to purchase it. Unfortunately, the potential for heritage designation was not disclosed to us during the sale.

To make matters worse, we have since learned that the previous owner received official letters from the Town on March 4, 2024, and April 17, 2024, warning them about the potential for this designation. Our agreement to purchase the property was finalized on February 9, 2024, with closing on April 9, 2024. Given that these letters were sent to the previous owner during this time frame, it is clear that they were fully aware of the heritage review process and its potential implications. Unfortunately, this critical information was never disclosed to us before closing, leaving us in an unfair position. This oversight falls squarely on the previous owner and is entirely outside the Town's responsibility.

In fact, we had already initiated the process to have our property removed from the Non-Designated Heritage list, based on the understanding that it would not be subject to future heritage designation, much like our neighbor at 465 D'Arcy Street. We were shocked to learn that, rather than being removed, our property is now under consideration for designation.

While we respect the Town's desire to preserve Newmarket's heritage, the financial implications of this decision are real and severe. We have no intention of making alterations to the property's exterior. However, the restrictions on exterior alterations, the

requirement for heritage review, and the stigma associated with owning a designated property will substantially decrease its market value. These limitations will make it difficult, if not impossible, to sell the property in the future, as prospective buyers will be deterred by the additional costs and restrictions of owning a heritage-designated home.

Additionally, we have already invested significant funds into the renovation of the property, which was in a deplorable and uninhabitable condition when we purchased it. Our goal was to make the property safe and livable, and we succeeded in turning it into a home that now provides much-needed rental housing in an area where demand is high. However, the prospect of heritage designation creates uncertainty and jeopardizes the financial stability of this investment, limiting our ability to make necessary future improvements.

We fully appreciate the importance of preserving Newmarket's historical character, but we respectfully ask that you reconsider this decision. The financial and personal impacts of heritage designation on current property owners who were not informed of this matter during the purchase process cannot be overstated. Had we been aware that our property was under review for designation, we would have made a fully informed decision and would have likely chosen not to proceed with the purchase.

We are requesting, in the strongest possible terms, that the Town reconsider placing this property on the heritage designation list or, at the very least, allow for a transparent and fair process that acknowledges the significant impact on property owners like us. The financial burden, coupled with the lack of disclosure from the previous owner, has placed us in a difficult and unfair position, and we urge the Town to address this matter with the seriousness it warrants.

Thank you for your time and attention to this matter. We expect a prompt and fair response, and we would welcome the opportunity to discuss this further in person to reach a resolution that respects both the preservation of heritage and the rights of property owners.

[REDACTED]

[REDACTED]

From: [REDACTED]
To: [Umar Mahmood](#)
Subject: 471 Darcy and 491/493/495 eagle
Date: November 30, 2024 4:48:29 PM

CAUTION: This email originated outside of the Town of Newmarket. DO NOT click links or open attachments unless you recognize the sender and trusted content.

Hello Umar,

We received notice of heritage designation for the above listed properties.
However there are no insurrections on how to object. We would like to object to Darcy street becoming heritage.

Thank you

[REDACTED]

[REDACTED]

Sent from my iPhone

From: [REDACTED]
To: [Umar Mahmood](#)
Subject: Intention to designate 480 Eagle St Newmarket a property of cultural heritage value and interest
Date: November 29, 2024 3:57:45 PM

CAUTION: This email originated outside of the Town of Newmarket. DO NOT click links or open attachments unless you recognize the sender and trusted content.

As I am the owner I hereby forward a notice of objection to designate the above mentioned property as a property of cultural heritage value and interest.

As I have owned this property for almost 50 years as 10-plex rental dwelling and have maintained it as a show piece for the downtown core.

My concern is this.

Since it is a rental property and not a single family dwelling I have and had to abide by various codes and bylaws. I have no control over possible future changes that could required by a change of codes or by bylaws i. e. Fire codes. I already had to change a long staircase on the exterior of the building to comply.

Further to the pamphlet claim that insurance premiums are not affected by this designation is a false statement as I was trying to reinsure this building last year and could only get a half year policy under the assumption that this was a heritage building. I now have to look for another insurance carrier in a supposed specialty market at a much higher premium. I will certainly find out as my premium comes due at the end of January.

Stating my reasons as outlined I hereby request a non- designation for this property.

[REDACTED] Nov 29, 2024

Sent from my iPhone

NOTICE OF OBJECTION

- 1) We object to the designation of 233 Prospect Street, Newmarket as a property of cultural value pursuant to the *Ontario Heritage Act* and as set out in the Notice of Intention to Designate delivered to us by email from the Corporation of the Town of Newmarket.
- 2) Our objection to the designation is based on the following two grounds:
 - a) 233 Prospect Street does not meet two of the required criteria set out in section 27 (3) (b) of the *Ontario Heritage Act* and regulations; and
 - b) designating 233 Prospect Street infringes our constitutional right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice as set out in section 7 of the *Constitution Act*.

Criteria

- 3) Pursuant to the Notice of Intention dated November 1, 2024, the Corporation of the Town of Newmarket relies on three criteria to establish heritage designation for 233 Prospect Street. Section 29 (3) of the *Heritage Act* requires the property to meet two criteria. Only one of the required criteria has been established.

Criteria # 1

Does 233 Prospect Street have design value or physical value because it is a rare, unique, representative or early example of a style, type, expression or construction method?

- 4) We accept that 233 Prospect Street meets the criteria as a property with design value or physical value because it is rare, unique, and representative of an example of a style, type, expression, material or construction method. 233 Prospect Street was built in or about 1889 and is a two and one half storey Victorian home in the Italiante style. Features include a sloped roof, deep eaves, Juliette balcony, rounded windows, decorative voussoirs, stone sills, buff brick construction with raised decorative banding coursed in a common bond, and metal cresting.

Criteria

Does 233 Prospect Street have 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?

- 5) The criteria that 233 Prospect Street 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 has not been established.

- 6) The Corporation of the Town of Newmarket relies on two associations: the historic Village of Newmarket and James J. Pearson.

Historic Village of Newmarket

- 7) The historic village of Newmarket is not a theme, event, belief, person, activity, organization, or institution. It was a village and is now a town.
- 8) Stickwood Brickyard is not a theme, event, belief, person, activity, organization, or institution. It was a business.
- 9) Even if the historic village of Newmarket was a theme, event, belief, person, activity, organization, or institution, Prospect Street is not part of the historic village of Newmarket. The historic village of Newmarket was built in or around the period 1800 – 1820. The railway was constructed to Newmarket in 1853. Newmarket was incorporated in 1857. The Holland River, a natural barrier, resulted in the expansion of the historic village of Newmarket along Main Street, Eagle Street and Water Street and precluded the expansion eastward to Prospect Street. Decades later, in or about 1860, bridges were constructed to connect Prospect Street to the historic village of Newmarket. As stated in evaluation report completed by Archaeological Research Associates, “Prospect Street is connected to the historical village via several bridges and is predominantly residential in nature.” The Archaeological Research report states “233 Prospect Street is not physically linked to its surroundings. There is no demonstrated material connection between the property and its surroundings. 233 Prospect Street is not dependent on its surroundings. 233 Prospect Street is not visually linked to its surroundings.” Prospect Street has never been part of the historic village of Newmarket, was not built at the same time as the historic village of Newmarket, does not resemble the residences or businesses in the historic village and, therefore, does not have direct associative value with the historic village of Newmarket. Regardless, the historic village of Newmarket is not a theme, event, belief, person, activity, organization, or institution.
- 10) Even if Stickwood Brickyard met the definition of an ‘organization’, there is no evidence of any **direct** (emphasis added) association between Stickwood Brickyard and 233 Prospect. There is no direct evidence that the brick used in the construction of 233 Prospect Street was from Stickwood Brickyard. The report from the Archaeological Research Associates does not establish a direct link between 233 Prospect Street and Stickwood Brickyard. Rather, the Archaeological Research Report suggests “it is likely the brick used in the construction of the residence was from the Stickwood Brickyard”. That is insufficient to form a **direct** link. Even if a link could be established, it is not a link sufficiently substantial as required by the regulations. If the Stickwood Brickyard did produce bricks for almost all brick construction in Newmarket between 1860 and 1910, as speculated by the Town of Newmarket, this erodes the argument that there is any direct associative value with any property including 233 Prospect Street. Regardless, the Stickwood Brickyard is not a theme, event, belief, person, activity, organization, or institution.

James J. Pearson

- 11) James J. Pearson was a person. However, he is not significant to the community. James J. Pearson held an administrative position as the registrar for the town. His employ, in that capacity, commenced well after the town was constructed and well after the town's incorporation in 1857. While he may have been a Justice of the Peace for a period and a member of the Board of Health, those are insignificant achievements and insufficient to rise to the level of establishing that he is significant to the community. The community does not know who James J. Pearson is. Even if James J. Pearson was a person significant to the community, which he is not, he has no direct association with 233 Prospect Street.
- 12) The Victorian residence at 233 Prospect Street, according to Archaeological Research, was built between 1888 and 1891. At that time title to the property was registered in the name of Mary Jane Pearson. While James J. Pearson may have married the original owner, Mary Jane Pearson, he did not take title to the home until 1896. He was not the original owner of the property. He did not hold title to the property when it was built. James J. Pearson held title to 233 Prospect Street for only eight years until 1904 when title was transferred to the "Sutherlands".
- 13) 233 Prospect Street, for decades, has been referred to as "Sutherland House". This is reflected in many newspaper articles, publications for charity events and the sign proudly displayed on the home by the Corporation of the Town of Newmarket. 233 Prospect Street's only direct association is with its third owners, the Sutherlands. The Sutherlands held title to the property for 37 years from 1904 to 1941. The Sutherlands were not persons of significance to the community. They are unknown entities. They are, however, the owners that are associated with 233 Prospect Street. James J. Pearson, by contrast, has no direct associative value with 233 Prospect Street.
- 14) The onus of establishing that 233 Prospect Street 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, rests with the Corporation of the Town of Newmarket and they have failed to meet the onus. It is noteworthy that in this context any link must be substantial or important and that connection is absent here.

Criteria # 3

Does 233 Prospect Street have contextual value because it is important in defining, maintaining or supporting the character of an area?


- 15) The criteria that 233 Prospect Street has contextual value because it is important in defining, maintaining or supporting the character of an area has not been established. The Corporation of the Town of Newmarket states that 233 Prospect Street supports the 19th century character of the historic village of Newmarket.

- 16) Prospect Street is not geographically part of the original and historic village of Newmarket. The historic village of Newmarket was built in or around the period 1800 – 1820. The railway was constructed to Newmarket in 1853. Newmarket was incorporated in 1857. The Holland River, a natural barrier, resulted in the expansion of the historic village of Newmarket along Main Street, Eagle Street and Water Street and precluded the expansion eastward to Prospect Street. Decades later, in or about 1860, bridges were constructed to connect Prospect Street to the historic village of Newmarket. As stated in the Archaeological Research report, “Prospect Street is connected to the historical village via several bridges and is predominantly residential in nature.”
- 17) I agree with the Archaeological Research report that states “233 Prospect Street is not physically linked to its surroundings. There is no demonstrated material connection between the property and its surroundings. 233 Prospect Street is not dependent on its surroundings. 233 Prospect Street is not visually linked to its surroundings.” Prospect Street was not part of the historic village of Newmarket. It was built in the last decade of the 19th century unlike the historic village of Newmarket that was built in the first two decades of the 19th century. Prospect Street was connected to the historic village by bridges decades after the historic village of Newmarket was constructed. Accordingly, 233 Prospect Street does not define, maintain or support the character of the historic village of Newmarket.
- 18) The vast majority of residences in or about Prospect Street are not Victorian, not of the Italianate style and not historical in nature. Prospect Street is not part of the historic village of Newmarket and its structures do not reflect that historical connection. The vast majority of homes in or about Prospect Street are much more recent builds with the vast majority having vinyl siding. The Corporation of the Town of Newmarket includes only a tiny percentage of homes in or about Prospect Street on its proposed list of heritage designated homes and for good reason. A reasonable person walking down Prospect Street would not conclude that the setting was historical in nature or in any way related to the historic village of Newmarket.
- 19) 233 Prospect Street has setbacks significantly larger than most homes in the area. 233 Prospect Street is unique. It is unlike the balance of structures in the area. It is not linked in any way to the structures surrounding it. It is not part of any consistent character because of its uniqueness. The Notice of Intention to Designate states that there is a link because most homes in the area are comprised of one to two and a half storey homes. Most homes in the area are not two and a half storeys. Most of the homes in the area, like almost every other community across the country, are composed of one or two storey homes. 233 Prospect Street is unique in the area because it is a two and a half storey Victorian home. While it is a convenient narrative to assert that Prospect Street has a character similar to the historical village of Newmarket, it does not.
- 20) The Corporation of the Town of Newmarket has not established that 233 Prospect Street is within the historic village of Newmarket, has not established that 233 Prospect Street is in any way linked to the character of the historic village of Newmarket, and has not established that

233 Prospect Street defines, supports or maintains the character of the area.

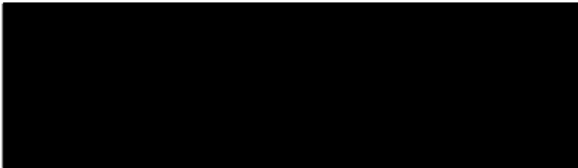
Constitution

- 21) The *Constitution Act* guarantees my right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. While property rights are not specifically entrenched in the *Constitution Act*, a property owner's enjoyment of property is a natural and necessary extension to those section 7 rights. Canada is also signatory to the *United Nations Universal Declaration of Human Rights* which includes at article 17: "Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property." Property rights are recognized in the *Canadian Bill of Rights* which affirms the right to the enjoyment of property and the right not to be deprived of it except by the due process of law.
- 22) 233 Prospect Street is a large investment. It was purchased for 1.5 million. Renovation and updating costs required an investment of \$400,000. It is noteworthy that all of the windows in the residence were replaced with historically consistent arched windows. The chimney was rebuilt with ornamental brickwork in the form of arches and stepped brick and belt course. We have maintained the integrity and appearance of the Victorian style. We have no intention of developing the property nor from departing from its historical character. However, the designation will restrict us from altering the home in any manner including restoring, renovating, repairing or disturbing the property without permission. That is broad and a direct infringement on our rights as property owners. Some of the elements on the property are not historical as they are relatively recent additions including the curved conservatory, the stone oculus gated entrance and the one storey gable roofed detached garage. The *Ontario Heritage Act* restrictions will significantly impact the value of my home and increase the cost of maintenance with no compensation provided. The broadness of the proposed restrictions and the absence of compensation for the restriction offends my right to not to be deprived of life, liberty and security of the person except in accordance with natural justice.

, owners, 233 Prospect Street, Newmarket.

November 20, 2024

NOTICE OF OBJECTION – 458-460 Timothy Street



LEGISLATIVE SERVICES		
INCOMING MAIL	REFD TO	COPY TO
NOV 18 2024		

CERTIFIED MAIL

TOWN CLERK
CORPORATION OF THE TOWN OF NEWMARKET
P.O. Box 328
395 Mulock Drive
Newmarket, ON
L3Y 4X7

Addressed to: The Town Clerk, The Council of The Corporation of the Town of Newmarket, and Umar Mahmood

RE: Notice of Intention to Designate Property of Cultural Heritage Value and Interest Dated 1-Nov-2024

This legal notice is a formal objection to your legal Notice Dated November 1, 2024 (“Notice”) regarding the intention to designate 458-460 Timothy Street (PART LOTS 65 AND 71, PLAN 81, NEWMARKET), “the Property”, as a property of cultural heritage value and interest.

We must preface the fact that the Ontario Heritage Act (the “Act”) applies to the Ontario Heritage Trust, the Minister as well as Municipalities that have been incorporated in Ontario. [REDACTED]

[REDACTED] as legal entities do not fall under any of the aforementioned definitions. The following objection is not an admission or recognition that any of the laws under the Act apply to our legal entities.

The focus of this notice is not to determine the “cultural” or “heritage value” of the Property, but rather to remind the Council as well as the Corporation of the Town of Newmarket (the “Corporation”) that their intention to designate the Property as having cultural heritage value will amend the underlying contract that the current title holders or owners of the property have with the municipality as well as affect their legal rights as title holders.

One of the ways that occurs is through requiring a “heritage review” for any exterior alterations (including demolition). This review is currently not a requirement by statute, law, or by-law on the Property (as it is and was purchased as) and as a result alters the legal rights of the Property owners. As you can imagine on your own home, if you had to approach a third party to receive approval prior to getting any work done on your property, it would impact your ability to service your property. Perhaps

more importantly, from a financial perspective, it would impact the future value on disposition to another prospective purchaser. Based on previous heritage designation cases, insurance rates have also increased causing an undue burden on owners of designated heritage properties.

In order for this designation change to occur, an alteration to an underlying contract must first occur.

As you may be aware, a contract requires all of the following components to be considered a valid legal contract:

1. Intent
2. Capacity
3. Offer
4. Acceptance
5. Consideration

In this instance, we have not received a clear offer from the Corporation of the Town of Newmarket. A generic pamphlet was sent to us along with the Notice. According to the pamphlet that was appended to the Notice, we would be eligible for an "annual heritage tax rebate amounting to 40% of the taxes for municipal and school purposes". Perhaps this is the consideration that the Corporation is offering? If so, we would require this to be explicitly stated in writing (including exact amounts, effective dates, length of term etc.) before we could consider the offer. Without specified consideration, we could not possibly determine the value of the consideration (and thus the contract would not be legal).

As we had stated before in our March 6th, 2024 e-mail correspondence (attached for ease of reference) with Umar Mahmood ("Agent") of The Corporation of the Town of Newmarket, we are not opposed to the designation. In fact, we provided a conditional offer to consent in good faith that could have been easily met by the Corporation. Unfortunately, the Corporation's legal department did not respond to our requests and the 30-day notice period that we had provided to the Corporation had lapsed. It is important to note that our legal notice was disregarded.

In addition to the aforementioned offer, if the Corporation, the Council itself and/or the Ontario Heritage Trust deem the property to be of such an important value based on their internal metrics, we are open to discuss with any of these legal entities the option of purchasing title to the Property at a mutually agreed upon value. We hope that this provides evidence of our willingness to contract in good faith.

The other concern that we have as title holders or "Owners" of the property is whether or not the Corporation or its Council has capacity to contract or make changes to property designations without the express consent of the Owners. The notice that the Corporation provided was very vague and haphazardly referred to the Ontario Heritage Act, R.S.O. 1990, C.O. 18 without highlighting its legal capacity.

According to the Ontario Heritage Act, R.S.O. 1990, C.O.18, the Powers of Trust consist of the following:

“Powers of Trust

9 The Trust may advise and make recommendations to the Minister on any matter relating to property of historical, architectural, archaeological, recreational, aesthetic, natural or scenic interest and to advise and assist the Minister in all matters to which this Act refers and in all matters as are assigned to it by or under any Act or regulation thereunder. R.S.O. 1990, c. O.18, s. 9; 2005, c. 6, ss. 1, 7.

Further powers of Trust

10 (1) The Trust may, in accordance with the policies and priorities determined by the Minister for the conservation, protection and preservation of the heritage of Ontario,

- (a) receive and acquire by purchase, donation, lease, public subscription, grant, bequest or otherwise, property of historical, architectural, archaeological, recreational, aesthetic, natural and scenic interest for the use, enjoyment and benefit of the people of Ontario;
- (b) hold, preserve, maintain, reconstruct, restore, manage and lease for a term of five years or less property described in clause (a) for the purposes described in that clause;
- (c) enter into agreements, covenants and easements with owners of real property or interests in real property for the conservation, protection and preservation of the heritage of Ontario;
- (d) borrow money for the purpose of carrying out the objects of the Trust where a guarantee is provided under section 18;
- (e) conduct and arrange exhibits or other cultural or recreational activities to inform and stimulate the interest of the public in historical, architectural and archaeological matters;
- (f) enter into agreements with prospective donors, subject to any conditions governing the use of property;
- (g) enter into agreements with persons respecting any matter within the objects of the Trust, and provide financial assistance by way of grant or loan to persons who are parties to such agreements for the purpose of,
 - (i) providing educational, research and communications programs,
 - (ii) maintaining, restoring and renovating property, and
 - (iii) providing for the management, custody and security of property;
- (h) invest its funds, and sections 26 to 30 of the *Trustee Act* apply, with necessary modifications, to the investment of those funds;
- (i) engage the services of experts and other persons;
- (j) undertake programs of research and documentation of matters relating to the heritage of Ontario and cause information to be compiled and studies to be undertaken;
- (k) with the consent of the owner of property, place markers, signs, cairns or other interpretive facilities in or on the property for the interest and guidance of the public;

- (l) provide assistance, advisory services and training programs to individuals, institutions, agencies and organizations in Ontario having similar aims and objectives as the Trust. 2009, c. 33, Sched. 11, s. 6 (1).”

Nowhere in the aforementioned sections of the statute does the law entitle the Trust or any of its Agents to make changes to a property without the consent of the Owner of the property. Provision (k) highlights the requirement of consent before even placing a simple marker or sign on the property.

Specifically, section (c) of the statute indicates that the Trust has the capacity to “enter into agreements, covenants and easements with the owners of real property”.

The Corporation of the Town of Newmarket is a distinct legal entity from the Trust and as a result, none of the powers of the Trust would apply to the Corporation.

The statute (as well as your Notice which refers specifically to the Ontario Heritage Act) does not specify the powers that the Council of the Corporation of the Town of Newmarket has. We therefore cannot ascertain whether or not the Council, or the Corporation does indeed have unilateral legal power to designate a property without the Owners express consent. **We request that you please confirm your position with specific legislative evidence and case law for greater clarity.** A reminder that referring to the Ontario Heritage Act is not sufficient evidence.

Further to the above, the Property predates the incorporation of The Corporation of the Town of Newmarket. The Property also pre-dates the Ontario Heritage Act, R.S.O. 1990 laws, statutes, and/or by-laws. We have not received any evidence from the Corporation of The Town of Newmarket or any of its Agents that anyone in the chain of title of ownership of the property had granted or consented to the laws, statutes or by-laws enacted post private ownership of the Property.

In addition to the aforementioned, upon initial purchase of the Property our due diligence had indicated that the property was in fact non-designated. This has also been confirmed via the Corporations own web-site according to the “New Heritage Wishlist Part 7 – T to Z” pdf file as at November 5, 2024.

Unfortunately, after reviewing the 2023 and 2024 Town of Newmarket Heritage Committee meeting minutes, we have not found any discussion confirming Council’s intention to designate the Property. As a result, at this point in time we cannot ascertain as to which legal entity is looking to contract with us and whether or not the Notice given is valid. The Notice had only referred to one agent “Umar Mahmood” as a contact point for questions. According to the Newmarket Website, Umar is not a Council member.

Our e-mail communications with Umar have also not led to any greater clarity on the position that the Corporation of the Town of Newmarket has taken on its claim to have the right to designate this property. We were told on March 8th, 2024 as well as March 18th, 2024 that the Corporations legal department would comment. In the 8-month period since our initial communications, we have yet to receive comment.

If you could kindly confirm Umar’s legal capacity as an Officer, Director, or Agent of the Corporation as well as legal mailing address, that would provide us with greater clarity for further communications.

Due to the above noted points, as Title Holders and/or "Owners" of 458-460 Timothy Street (PART LOTS 65 AND 71, PLAN 81, NEWMARKET), we do not consent to the designation of the Property or registration of any by-law or amendment to the Property's title at this point in time.

As we have spent a considerable amount of time responding to this Notice, we require compensation in the event of further communication. We do not perform services nor contract for free. Please refer to our Fee Schedule attached to this notice if you wish to send any further communications. Should this notice be disregarded, we will assume that all invoices should be directed to the Corporation of the Town of Newmarket as well as Umar Mahmood as a legal person.

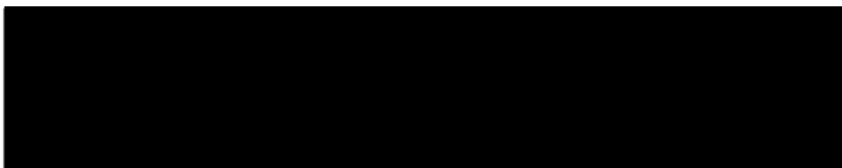
Please also refer to the legal notice that we had sent on March 6, 2024 – specifically point 4 of the e-mail.

Your legal department should be aware of the basic legal maxims of equity. The first maxim of equity is that "equity will not suffer a wrong to be without a remedy".

To reiterate:

1. Council, Umar, and/or the Corporation has expressed its intent impose a new by-law and/or modify title on the Property
2. The by-law/title modification would require a heritage review prior to an owner or title holder making exterior alterations (including demolition) to the Property
3. These modifications would have a financial impact on the current and future title holders of the Property
4. Adequate consideration has not been offered or accepted for this contractual change to occur
5. An imposition without consent would be considered a breach of contract
6. A breach of contract would lead to damages and/or legal remedy

Without prejudice,



Title Holders, 458-460 Timothy Street (PART LOTS 65 AND 71, PLAN 81, NEWMARKET)



Attachments Enclosed

Fee Schedule

Dear customer,

As you are aware, time is money and we have already spent considerable time in service responding to e-mail and mail communications that could have otherwise been spent in commercial activity.

As you were not previously aware of our fee schedule, we have gratuitously decided not to charge any of the rates below for of all previous communications up until November 5, 2024.

However, on a go-forward basis, we have outlined our fee schedule for future communications and interactions in Canadian dollars:

#	Service	Price
1	E-mail Communications	\$300.00 per e-mail
2	Mail Communications	\$1,000.00 per letter (excluding disbursements)
3	Telephone Communications	\$1,000.00 per hour (billed in minimum 10 minute increments – long distance charges may apply)
4	Appeal to Tribunal	\$25,000.00 per appeal (plus disbursements including any third party legal fees)
5	Appearance at Tribunal	\$50,000.00 per appearance (limited to 8 hour period per day)

*Rates are subject to change effective January 1, 2025

Please let us know who to furnish invoices to. Should we receive a communication from an agent of the Corporation, we will assume that the Corporation of the Town of Newmarket has engaged the Agent and therefore is liable for any associated fees incurred in responding to the agent.

Thank you!

Notice is Hereby Given that the Council of The Corporation of the Town of Newmarket intends to designate as a property of cultural heritage value and interest the following property in accordance with the Ontario Heritage Act, R.S.O. 1990, c. O.18:

Property Description: 458-460 Timothy Street (Margaret Forsyth House). 458-460 Timothy Street is located on the south side of Timothy Street in the Town of Newmarket. The two-and-a-half-storey residence built in the Italianate architectural style was constructed circa 1883.

Legal Description: PART LOTS 65 AND 71, PLAN 81, NEWMARKET

Publication Date: Nov 1, 2024

Last Date for Objection: Dec 1, 2024

Any notice of objection to this Notice of Intention to Designate, setting out the reason for objection and all relevant facts, must be served upon the Town Clerk within 30 days of the first publication of this notice.

Statement of Cultural Heritage Value or Interest Physical/ Design Value

458-460 Timothy Street is a representative example of the Italianate architectural style. The two-and-a-half storey building follows a L-shaped plan with a cross gable roof and overhanging eaves, brick construction, two-storey bay windows with decorative paired wood brackets, along the roofline, which are design elements associated with the Italianate style. Moreover, the asymmetrical façade with balanced and symmetrical elements includes segmentally arched window openings with brick voussoirs, two entryways with segmentally arched openings one of which features a transom, and open porch supported by wood post and decorative wood brackets are additional features of the Italianate architectural style.

Historical and Associative Value

458-460 Timothy Street is directly associated with the historic Village of Newmarket and the Forsyth family. The lots lines, layout, and built form of the historic village of Newmarket was well established in the mid-19th century and evident in a well-established commercial core found along Main Street and the large presence of residences located along several side streets. The development of the commercial core and surrounding residential streetscapes in the mid-19th century played a significant role in the social and economic development and growth of the Village of Newmarket. Many early merchants with stores on Main Street lived in the nearby side streets, including the Forsyth family who built and operated an inn at the corner of Main Street and Timothy Street.

James Forsyth purchased what is now the King George Hotel on the southwest corner of Timothy Street and Main Street in 1848 and constructed a new inn in the Georgian style which he called "Forsyth House". The inn is still extant today with a civic address of 232 Main Street. James married Margaret

Ross in 1850, who inherited his estate which included the lands associated with the hotel and the subject property after his death in 1858. Margaret continued to operate the hotel as the Railroad Hotel and would eventually lease it to other operators. The hotel was known by several names throughout the years, including the Pipher House, Proctor House, and the King George Hotel. Margaret Forsyth had 458-460 Timothy Street constructed as a duplex, adjacent to the hotel her husband built, on lands she inherited for herself and her daughter to live circa 1883. It is likely that the brick used for the construction was from Stickwood's brickyard which produced both red and buff/yellow-coloured bricks during this time period. Local historians indicate that almost all of the brick buildings built in Newmarket between 1860 until 1910 were likely constructed with bricks that originated at the Stickwood brickyard. The use of locally made bricks reflect the concentrated development and prosperity of the historic core. 458-460 Timothy Street stayed within the Forsyth family ownership until 1941.

Contextual Value

458-460 Timothy Street is important in supporting the 19th century character of the historic Village of Newmarket. Several residential side streets, including Timothy Street, were established in the village core, near the commercial Main Street. Located off or parallel to Main Street, the buildings along the side streets are comprised of predominantly one to two-and-a-half storey residences, primarily brick construction most using bricks from Stickwood's brickyard, with modest setbacks and include a range of architectural styles from that time period. 458-460 Timothy Street exhibits setback, massing, style, decorative details consistent with the historic village character.

Additional information, including a full description of the rationale for designation is available upon request from Umar Mahmood, Planner, Committee of Adjustment and Cultural Heritage, Planning Services at (905) 895-5193, extension 2458, or at um Mahmood@newmarket.ca during regular business hours.

Dated at the Town of Newmarket this 1st day of Nov, 2024

Town Clerk | Town of Newmarket

P.O. Box 328, 395 Mulock Drive, Newmarket, ON L3Y 4X7



458-460 Timothy Street Newmarket - Heritage Designation Consulting

10 messages

Wed, Mar 6, 2024 at 5:11 PM

To: umahmood@newmarket.ca

Cc: [Redacted]

Hello Umar,

Thank you for sending your letter dated March 4th, 2024 to [Redacted] to provide Notice of your intent to review the Heritage status of 458-460 Timothy Street Newmarket (our property).

As you can imagine and have acknowledged in the appendage to your letter, changing the status of a property can have dramatic implications for its current and future use. These changes of course would impact the underlying value of the property.

Your letter indicates that you are working with a heritage consultant - our legal advisors have indicated to us that it would be wise for us to obtain our own independent advice.

We would be open to providing our consent to your review process under the following conditions:

1. We require an initial retainer of \$10,000 to be paid via certified cheque in the name of [Redacted]. The intention of this retainer is to pay for our initial review of your proposed designation changes. Further charges may be applicable depending on the hours of work involved in our review and any additional communications that may be required. The certified cheque must be sent via registered mail to: [Redacted] on or before April 6th, 2024.
2. We also require your as well as the Corporation of the Town of Newmarket's consent and agreement to pay for our furnishing of independent legal and accounting advice as well as the advice of an independent heritage consultant. We will of course provide you with copies of any bills/invoices within 10 business days of your request. Reimbursement for any bill or invoice must be made within 30 calendar days of our provision of copies.
3. As you are well aware, ownership of this property pre-dates the British North America Act now referred to as the Canadian Constitution (1867). As a result, the laws that provide relevant authority did not exist under the Constitution when the property was privately owned. To provide us with clarity as to your jurisdictional authority on this matter (as well as claim to have the ability to designate this particular property), we require evidence via a certified unbroken Chain of Title that:
 - a) The Corporation of the Town of Newmarket has authority to make designation changes to this property; &
 - b) The original and/or subsequent owners provided their express consent to being subject to these laws.
4. Should all of the above conditions not be met, we will assume that you do not have the relevant authority to impact the designation of this property and that this matter will be permanently closed. Should this Notice be disregarded and Council attempt to claim authority (and/or attempt to modify the status of this property), we will hold you, Council and all of its members as well as the Corporation of the Town of Newmarket liable for any and all damages and associated legal fees. The minimum damages have been set to our purchase price of the property (we will furnish the executed purchase and sale agreement to you should this scenario be encountered).

Upon receipt of the initial retainer, we will provide you with our fee schedule (which is non-negotiable) as well as an estimate on the number of additional hours that may be incurred.

Please also be aware that under contract law, as an agent of the Corporation of the Town of Newmarket, you may also be liable for any fees or financial implications that this review process or proposed designation change may have on our asset.

For further clarity, this e-mail provides our Legal Notice to you as well as to The Corporation of the Town of Newmarket and any/all of its subsidiaries and agents.

Please acknowledge receipt of this Notice within 5 business days via e-mail response to [Redacted]

We look forward to working with you on this project.

Thank you,

[Redacted]

Umar Mahmood <umahmood@newmarket.ca>

Fri, Mar 8, 2024 at 3:25 PM

To: [Redacted]
Cc: [Redacted]

Good afternoon [Redacted]

I have received your email. I have engaged our Legal Department for comment. I will provide a response by next Wednesday.

Thank you.

Regards,

Umar



Umar Mahmood

Planner COA & Cultural Heritage | Planning & Building Services

905-953-5300 x2458 | umahmood@newmarket.ca

| heynewmarket.ca

Follow us on [X](#), [Facebook](#) and [Instagram](#)

Newmarket: A Community *Well* Beyond the Ordinary

Note: Our working hours may be different. Please do not feel obligated to reply outside of your scheduled working hours.

The information contained in this message is directed in confidence solely to the person(s) named above and may not be otherwise distributed, copied or disclosed. The message may contain information that is privileged, confidential and exempt from disclosure under the *Municipal Freedom of Information and Protection of Privacy Act*. If you have received this message in error, please notify the sender immediately advising of the error and delete the message without making a copy. Thank you.

From: [Redacted]
Sent: Wednesday, March 6, 2024 5:12 PM
To: Umar Mahmood <umahmood@newmarket.ca>
Cc: [Redacted]
Subject: 456-460 Timothy Street Newmarket - Heritage Designation Consulting

CAUTION: This email originated outside of the Town of Newmarket. **DO NOT** click links or open attachments unless you recognize the sender and trusted content.

[Quoted text hidden]

[Redacted]

Fri, Mar 8, 2024 at 3:26 PM

To: Umar Mahmood <umahmood@newmarket.ca>

[Redacted]

Thank you Umar,

Have a wonderful weekend!

[Redacted]



LEGISLATIVE SERVICES		
INCOMING MAIL	REFD TO	COPY TO
NOV 29 2024		
<i>Rec'd by Kiran Saini.</i>		

Date: November 29th, 2024

Clerk and Councils

Town of Newmarket
 395 Mulock Drive
 Newmarket, ON L3Y 4X7

Subject: Objection to the Proposed Designation of Property at 471 Eagle Street, Newmarket

Dear Councils and Clerk of the Town of Newmarket,

I am writing to formally object to the proposed designation of the property at 471 Eagle Street, Newmarket, as a property of cultural heritage value and interest. I have serious concerns regarding the impact this designation will have on my ability to make essential decisions regarding the property, and I believe the designation is not in the best interest of my family, particularly given the circumstances outlined below:

1. **Personal and Health Needs:** I am a wheelchair-bound individual, and I purchased this property with the intention of demolishing the existing unsafe structure to build a new, accessible home for myself and my children. The current house is not suitable for my needs, and the proposed designation would prevent me from making necessary adjustments to ensure accessibility for my family’s well-being.
2. **Emotional and Psychological Impact:** The house is a murder house which has a negative stigma associated with it, as it was the site of a tragic event. As someone who has experienced trauma and is trying to build a peaceful, safe environment for my family, living in a property with such a history is distressing. I am not in a position to live in a house with these associations.
3. **Initial Purchase Plans and Lack of Heritage Status:** I purchased the property with the intent of demolishing the existing structure and building a new home for my family. It is unfair for my plans to be hindered now, especially since there was no heritage designation, nor was the property located within a heritage district when I acquired it. When I purchased the property, I contacted the Town of Newmarket and was assured that the house was not designated as a heritage site and was not within a heritage zone. The appraisal report at the time of purchase also confirmed that the property was not considered heritage and was not within a historical district. I planned to demolish the house because of its deteriorated state and to remove the stigma associated with its history. Given the structural instability of the house, it needs to be demolished before it collapses. Had I known that I would not be allowed to demolish such a deteriorated property, I would not have purchased it.

4. **Structural Condition and Safety Concerns:** The existing house is in a severely deteriorated state, with significant water and structural damage that poses serious health and safety risks. It is unsafe to live in and requires complete demolition. Retaining the house as heritage property would not only endanger the lives of its occupants but also contradict safety standards.
5. **Unfeasibility of Renovation:** The cost of renovating the property to make it habitable would exceed the cost of building a completely new home from the ground up. Given the extent of the damage, renovation is not a viable or financially responsible option, and it would not make sense to invest in restoring a house that is beyond repair.
6. **Demolition Application:** I have already submitted an application for the demolition of the property. The proposed heritage designation interferes with the progress I have made toward creating a safe and accessible home for my family, which is essential for our well-being and future.
7. **Property Value:** I am not able to sell the property as it is falling apart and collapsing and has no value and now with this designation, no one can build a new house on the property. It will be impossible for me to sell the property and purchase a comparable one to build my home.

In light of these factors, I respectfully request that the council reconsider the proposed heritage designation and allow for the demolition of the house at 471 Eagle Street. My family's needs and deserve for accessibility, safety, and emotional well-being must take priority, and I hope the council will understand the importance of this request.

Thank you for considering my objections. I would be happy to discuss this matter further should you require additional information.

Sincerely,



From: [REDACTED]
Sent: November 28, 2024 2:36 PM
To: Clerks <clerks@newmarket.ca>
Subject: RE: Notice of Objection to Heritage Designation – 429 Botsford Street

CAUTION: This email originated outside of the Town of Newmarket. **DO NOT** click links or open attachments unless you recognize the sender and trusted content.

Dear Town of Newmarket Clerk's Office,

I am writing on behalf of my client, [REDACTED] the registered owner of the property located at 429 Botsford Street to formally submit a notice of objection to the Notice of Intention to Designate issued by the Town of Newmarket on November 1, 2024.

My client objects to this designation on the following grounds:

1. Lack of Notice at the Time of Purchase (2017)

- My client purchased the property in 2017 and, after conducting due diligence, found no indication of a pending heritage evaluation or designation in municipal records or disclosures.
- The absence of such notice led my client to reasonably assume there were no heritage constraints on the property at the time of purchase.

2. No Notice During Renovation Permits (2018)

- In 2018, my client applied for and obtained a building permit for renovations to the property. At no stage of this process was there any indication of heritage considerations, despite direct engagement with the municipality.
- Had such notice been provided, my client would have adjusted their renovation plans accordingly to align with any heritage requirements.

3. Failure to Consult Over Eight Years

- For the past eight years, the municipality has not engaged in public consultation or communicated with my client or the public about potential heritage designation for the property.
- This prolonged delay and lack of transparency contradict principles of procedural fairness under the Ontario Heritage Act and deny my client a reasonable opportunity to participate in the designation process.

4. Lack of Supporting Evidence

- The municipality has not provided detailed documentation or assessments justifying the proposed designation under the Ontario Heritage Act.
- Without clear evidence demonstrating the property's historical, architectural, or cultural significance, my client cannot reasonably respond to or accept the designation.

5. Economic Impact

- The proposed designation imposes significant financial burdens on my client by restricting their ability to use, modify, or sell the property.
- The property was purchased and renovated in good faith based on the understanding that no heritage restrictions applied. A designation at this stage is unfair and prejudicial to my client's investments and future plans.

6. Unreasonable Delay in Process

- The eight-year delay in initiating this process undermines the principles of fairness and transparency that underpin the Ontario Heritage Act.
- My client has acted in good faith during their ownership of the property, and the municipality's delay has unfairly prejudiced their rights.

7. Request for Full Documentation

- I formally request that the Town of Newmarket provide all documentation related to the heritage designation process for this property, including:
 - The evaluation report.
 - Meeting minutes or decisions leading to the designation.
 - Any correspondence regarding public consultation or engagement.

Request for Consideration

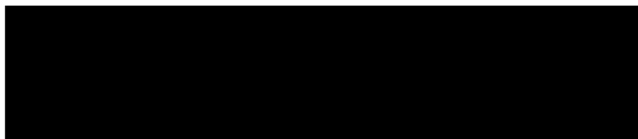
In light of the above, I respectfully request that the Town of Newmarket **revoke the proposed heritage designation** due to the lack of procedural fairness, absence of clear evidence, and the undue burden it imposes on my client.

Additionally, the Notice of Intention to Designate was issued on November 1, 2024, but my client did not receive it until November 25, 2024. This delay was caused by a postal strike as acknowledged by the Town of Newmarket. This delay was caused by a postal strike, as acknowledged by the Town of Newmarket. The late delivery left insufficient time for my client to review the notice and prepare an objection by the stated deadline. Procedural fairness requires that this objection be accepted and considered in light of these exceptional circumstances.

Please confirm receipt of this objection and advise if further information is required. My client reserves the right to supplement this objection as additional evidence and expert assessments become available.

Thank you for your understanding and consideration.

Sincerely,



 **THUSNEY**
Legal Services
Professional Corporation

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