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## NOTICE OF REFUSAL OF APPLICATION FOR ALTERATION TO A DESIGNATED HERITAGE PROPERTY

**RECEIVED**  
2024/01/09  
(YYYY/MM/DD)  
Ontario Heritage Trust

**TAKE NOTICE** the Council of the Corporation of the Town of Kingsville refused Application ZBA-2023-14 on the 23<sup>rd</sup> day of October, 2023 under Section 33 of the *Ontario Heritage Act*, R.S. O. 1990, c. O.18. The application was refused as a proposal to alter a designated heritage property, known as The Esther Jasperson Campbell House, designated by by-law 100-2021, on lands known as 183 Main Street East, CON 1 ED PT LOT 2, in the Town of Kingsville.

**EXPLANATION OF PROPOSAL:** The application was submitted in conjunction with an application for a zoning by-law amendment to permit construction of a six-storey, 42-unit multiple dwelling structure and parking area. To fit this multiple dwelling structure on the property, the applicant proposed to move the existing designated heritage structure, the Esther Jasperson Campbell House, to the north of the parcel (towards Main Street), while at the same time building new foundation.

The relocation of the existing historic single detached dwelling, with a proposed 5.5m (18 ft.) front yard setback, and proposed side yard of 2.2m (7.22 ft.), was to be completed prior to the construction of the 42-unit multiple dwelling building.

**EFFECT OF PUBLIC INPUT:** Kingsville Council considered both written comments and oral submissions related to Application ZBA-2023-14, which included alterations to the Esther Jasperson Campbell House, a designated property under Part IV of the *Ontario Heritage Act*.

- a. Council refused the application for alteration to the designated heritage property as relocation of the designated structure was not required to secure or preserve the heritage home as suggested. The designated heritage structure, including foundation, could be protected on its current location.
- b. The applicant requested relocation of the structure solely to allow for the construction of a six-storey, 42-unit multiple dwelling and parking area which Council also refused as it was inconsistent with recent Council decision (By-law 57-2023) regarding the Main Street Corridor, and previous OLT decision regarding the property. This By-law (57-2023) amended the Official Plan for the Town of Kingsville to establish policies and regulations related to land use, building height, orientation, setbacks, and urban design. By-law 57-2023 includes 183 Main Street East in "Sub-Area Two – Main Street Neighbourhoods" where 14.5 m (4 stores) was adopted as the maximum building height.
- c. OLT Order issued on August 5, 2022 (Case No. OLT-21-001696) approved the applicant's 2021 consent application, and granted severance of 183 Main St. E. to permit a 3-storey 22-unit apartment building on the severed lands. These terms were embedded in an approved Site Plan Agreement agreed to by the Town and Brotto Investments, as confirmed to OLT on September 7, 2022, and is registered. The Town extended its typical term of agreement to thirty (30) months to accommodate the Owners' development timeline. The Owner has undertaken the removal of buildings, structures and vegetation on the severed lands. No

other works have commenced. The applicants did not identify the need to relocate the designated heritage structure for the purposes of its protection or preservation during the OLT hearing. The current application varies from OLT Order in that it requires 183 Main Street to remain whole (not severed) in order to satisfy the proposed development.

- d. The Town's Heritage Committee supported the application insofar as it protects and the designated heritage structure, which could be achieved in the building's current location.
- e. Council was concerned that the risk of the heritage structure being damaged during the required re-location would be irreparable. Required architectural and engineering works to confirm relocation approach and procedures were to be described in a subsequent report. Further, that securities could not adequately cover costs of irreparable damage to the designated heritage property.

### **THE APPEAL PROCESS:**

Any person or public body who, before the by-law was passed, made oral submissions at a public meeting or made written submissions to Council may appeal to the Ontario Land Tribunal (OLT) in respect of this By-law by filing with the Municipal Clerk of the Town of Kingsville not later than 4:30 pm EST, on February 7, 2024. A Notice of Appeal must set out the reasons for the appeal using OLT Appellant Form "A1" (available on-line at <http://olt.gov.on.ca/tribunals/lpat/forms/appellant-applicant-forms/> or at the municipal office).

Such notice must be accompanied by the filing fee; visit the [Ontario Land Tribunal](https://olt.gov.on.ca/appeals-process/fee-chart/) website for the current cost and acceptable payment options (<https://olt.gov.on.ca/appeals-process/fee-chart/>) as required by the OLT. For additional fees, please see the Fee Schedule. A reduction in the fee may be requested by completing and including the form found at the following link: [https://olt.gov.on.ca/wp-content/uploads/2023/02/OLT- -Request-for-Lower-Fee-Form.html](https://olt.gov.on.ca/wp-content/uploads/2023/02/OLT--Request-for-Lower-Fee-Form.html)

Only individuals, corporations, and public bodies may appeal a by-law to the Ontario Land Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association of the group on its behalf.

If a person or public body would otherwise have an ability to appeal the decision of Council for the Town of Kingsville to the Ontario Land Tribunal, but the person or public body did not make oral submissions at a public meeting, or make written submissions to the Town of Kingsville before the by-law was passed, the person or public body is not entitled to appeal the decision.

If a person or public body did not make oral submissions at a public meeting, or make written submissions to the Town of Kingsville before the by-law was passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Land Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

**Town of Kingsville, Planning Services**

**519-733-2305 ext. 244**

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**Dated at the Town of Kingsville this 8<sup>th</sup> day of January, 2024**