

## Report to London Advisory Committee on Heritage

**To:** Chair and Members  
**London Advisory Committee on Heritage**

**From:** Gregg Barrett  
**Director, City Planning and City Planner**

**Subject:** Heritage Alteration Permit Application by A. Schneider at 70  
 Rogers Avenue, Blackfriars/Petersville Heritage Conservation  
 District

**Meeting on:** Wednesday August 12, 2020

## Recommendation

That, on the recommendation of the Managing Director, City Planning & City Planner, with the advice of the Heritage Planner, the application under Section 42 of the *Ontario Heritage Act* seeking retroactive approval and approval for alterations to property at 70 Rogers Avenue, within the Blackfriars/Petersville Heritage Conservation District, **BE PERMITTED** with the terms and conditions:

- a) The window replacements occur within one year of Municipal Council's decision;
- b) The sash windows feature the applied mullion detail (simulated divided light) on the exterior of the windows to replicate the fenestration pattern of the original windows; and,
- c) The Heritage Alteration Permit be displayed in a location visible from the street until the work is completed.

## Executive Summary

Alterations were undertaken to the Contributing Resource at 70 Rogers Avenue, in the Blackfriars/Petersville Heritage Conservation District, without obtaining Heritage Alteration Permit approval. A Heritage Alteration Permit application was subsequently submitted, seeking retroactive approval for some alterations undertaken and seeking approval to correct previously undertaken non-compliant alterations. The Heritage Alteration Permit application seeks to remediate the non-compliant alterations and should be approved.

## Analysis

### 1.0 Background

#### 1.1 Location

The property at 70 Rogers Avenue is located on the south side of Rogers Avenue between Wilson Avenue and Wharncliffe Road North (Appendix A). The property is near the junction of Rogers Avenue and Albion Street.

#### 1.2 Cultural Heritage Status

The property at 70 Rogers Avenue is located within the Blackfriars/Petersville Heritage Conservation District, which was designated pursuant to Part V of the *Ontario Heritage Act* in 2015. The property at 70 Rogers Avenue is identified as a Contributing Resource by the *Blackfriars/Petersville Heritage Conservation District Plan*, meaning it contributes to the cultural heritage value of the Blackfriars/Petersville Heritage Conservation District.

#### 1.3 Description

The dwelling located at 70 Rogers Avenue is a one-and-a-half storey, frame building built on a concrete foundation with an end-gable roof (Appendix B). The building is clad in siding tiles. The Contributing Resource was constructed in c.1946, and is believed to be part of the housing efforts immediately following the end of World War II, demonstrating stylistic similarities to the popular "Kernohan houses." The form and design of the dwelling is consistent with several others found within the

Blackfriars/Petersville Heritage Conservation District, including the adjacent properties at 66 Rogers Avenue and 68 Rogers Avenue.

## 2.0 Legislative/Policy Framework

### 2.1 Provincial Policy Statement

Heritage conservation is a matter of provincial interest (Section 2.d, *Planning Act*). The *Provincial Policy Statement (2020)* promotes the wise use and management of cultural heritage resources and directs that “significant built heritage resources and significant cultural heritage landscapes shall be conserved.”

### 2.2 Ontario Heritage Act

Section 42 of the *Ontario Heritage Act* requires that a property owner not alter, or permit the alteration of, the property without obtaining Heritage Alteration Permit approval. The *Ontario Heritage Act* enables Municipal Council to give the applicant of a Heritage Alteration Permit:

- 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 (Section 42(4), *Ontario Heritage Act*)

Municipal Council must make a decision on the Heritage Alteration Permit application within 90 days or the request is deemed permitted (Section 42(4), *Ontario Heritage Act*).

#### 2.2.1 Contravention of the Ontario Heritage Act

Pursuant to Section 69(1) of the *Ontario Heritage Act*, failure to comply with any order, direction, or other requirement made under the *Ontario Heritage Act* or contravention of the *Ontario Heritage Act* or its regulations, can result in the laying of charges and fines up to \$50,000.

When the amendments to the *Ontario Heritage Act* in Bill 108 are proclaimed in force and effect, the maximum fine for the demolition or removing a building, structure, or heritage attribute in contravention of Section 42 of the *Ontario Heritage Act* will be increased to \$1,000,000 for a corporation.

### 2.3 The London Plan

The policies of *The London Plan* found in the Cultural Heritage chapter support the conservation of London’s cultural heritage resources. Policy 554\_ of *The London Plan* articulates one of the primary initiatives as a municipality to “ensure that new development and public works are undertaken to enhance and be sensitive to our cultural heritage resources.” To help ensure that new development is compatible, Policy 594\_ (under appeal) of *The London Plan* provides the following direction:

1. *The character of the district shall be maintained by encouraging the retention of existing structures and landscapes that contribute to the character of the district.*
2. *The design of new development, either as infilling, redevelopment, or as additions to existing buildings, should complement the prevailing character of the area.*
3. *Regard shall be had at all times to the guidelines and intent of the heritage conservation district plan.*

Policy 13.3.6 of the *Official Plan (1989, as amended)* includes similar language and policy intent.

### 2.3 Blackfriars/Petersville Heritage Conservation District

The Blackfriars/Petersville Heritage Conservation District is recognized for its significant cultural heritage value, not just for its individual cultural heritage resources (Contributing Resources) but for the value that they have together, collectively. The goals of the designation of Blackfriars/Petersville as a Heritage Conservation District pursuant to Part V of the *Ontario Heritage Act* support the conservation of its resources. Specifically for its cultural heritage resources:

*Goal: To encourage the conservation of contributing heritage resources including buildings, landmarks, and other structures that contribute to the cultural heritage value of the district by:*

- *Encouraging that alterations, additions, and renovations to heritage resources be consistent with the identified cultural heritage value of the area;*
- *Encouraging the maintenance and retention of significant heritage landmarks identified in the district;*
- *Avoiding unnecessary demolition and inappropriate alterations of identified heritage resources that contribute to the heritage value of the district; and,*
- *Encouraging sympathetic design and appropriate alterations when new development is proposed to ensure that there is no negative impact on the heritage value of the area, with particular attention to form, scale, massing, and setback.*

To implement this goal and these objectives, the policies of Section 7.4 (Contributing Resources) and the design guidelines of Section 10.3.1 (Design Guidelines – Alterations and Additions) and applicable Architectural Conservation Guidelines of Section 11 were considered in the evaluation of a Heritage Alteration Permit application.

The Blackfriars/Petersville Heritage Conservation District Plan identifies Contributing Resources and Non-Contributing Resources. The property at 70 Rogers Avenue is identified as a Contributing Resource. Contributing Resources are defined as “a property, structure, landscape element, or other attribute of a Heritage Conservation District that supports the identified cultural heritage values, character, and/or integrity of the H CD. Contributing Resources are subject to the policies and guidelines for conservation, alteration, and demolition.”

The policies of Section 7.4.1 of the *Blackfriars/Petersville Heritage Conservation District Plan* require the conservation of a Contributing Resource and the cultural heritage value of the Blackfriars/Petersville Heritage Conservation District. In particular,

- Policy 7.4.1.e *Alterations that have the potential to impact heritage attributes of a protected heritage resource shall not be permitted.*
- Policy 7.4.1.i *Major alterations to the exterior façade of a contributing resource shall not be permitted. Such alteration should only be considered where the intent is to conserve the contributing resource.*
- Policy 7.4.1.j *Additions or alterations to contributing resources should be sympathetic, subordinate, distinguishable, and contextual in relation to the existing resource and its context, as well as the heritage attributes and cultural heritage value of the Blackfriars/Petersville Heritage Conservation District.*

The intent of the guidelines of Section 10.3.1 of the *Blackfriars/Petersville Heritage Conservation District Plan* is to support the conservation of the existing built heritage resources.

The following applicable guidelines, from Section 11.2.10 (Doors and Windows) of the *Blackfriars/Petersville Heritage Conservation District Plan*, note:

- *The preservation of original doors and windows is strongly encouraged wherever possible as the frames, glass and decorative details have unique qualities and characteristics that are very difficult to replicate.*
- *Original wood framed doors and windows in most cases can be restored or replaced with new wooden products to match if the original cannot be salvaged, but may require a custom-made product. Take particular care that exact visible details are replicated in such elements as the panel mouldings and width and layout of the muntin barns between the panes of glass.*

- *If possible, retain parts of the original doors and windows, particularly the original glass. Small differences in the interpretation of these details makes a huge difference in the overall appearance of the building.*
- *The replacement of original wood framed windows by vinyl or aluminium clad wood windows is discouraged. If this is the only reasonable option, the replacement windows should mimic the original windows with respect to style, size and proportion, with a frame that is similar in colour, or can be painted, to match other windows.*
- *Original door and window openings on the street facing façade should not be blocked up or covered as this can greatly alter the visual character of the dwelling.*

### **3.0 Heritage Alteration Permit Application**

A complaint from the community brought the unapproved alterations to the property at 70 Rogers Avenue to the attention of the City on January 25, 2019. Compliance action ensued, including consultation with the Heritage Planner.

The Heritage Alteration Permit application was submitted by an authorized agent for the property owners and received on March 3, 2020. The applicant has applied for a Heritage Alteration Permit seeking:

- Retroactive approval for removal of the side (west) door and doorway, and installation of a vinyl window and exterior siding to match existing; and,
- Alteration of the front windows, to correct non-compliant alterations, to install new vinyl windows replicating the lost details of the original wood windows (see sketch in Appendix C).

As the alterations have commenced prior to obtaining Heritage Alteration Permit approval, this Heritage Alteration Permit application has met the conditions for referral requiring consultation with the London Advisory Committee on Heritage (LACH).

Timelines legislated pursuant to the *Ontario Heritage Act* are currently suspended by Ontario Regulation 73/20 for the duration of the COVID-19 pandemic.

The property owner was also considering other alterations to the property but was advised by staff to submit this Heritage Alteration Permit application with their proposal to address the issues of non-compliance. A separate Heritage Alteration Permit application would be required for other potential alterations requiring approval, as specified in the Classes of Alterations for the *Blackfriars/Petersville Heritage Conservation District Plan*.

### **4.0 Analysis**

#### **4.1 Side Doorway Alteration**

The side (west) doorway of the Contributing Resource was altered into a window, which maintained the width of the opening and installed exterior siding, to match the existing, below. The exterior has been painted, allowing the replacement siding to blend in with the original siding. While a wood window matching the original windows of the Contributing Resource would have been preferred, the installed window matches the general style and size of the other windows. These alterations, however, have resulted in the loss of the side stoop and original side door.

Retaining original doors, stoops, and details is preferred and supported by the policies and guidelines of the *Blackfriars/Petersville Heritage Conservation District*. The existing condition of the side doorway of the property at 70 Rogers Avenue is sufficiently compatible to warrant retroactive Heritage Alteration Permit approval.

#### **4.2 Front Window Alteration**

The front window was formerly a triplet window, with a pair of hung (sash) wood windows flanking a fixed window in the middle (see Appendix B, Image 1). This window was removed and replaced by a projecting (oriel) bay window without Heritage

Alteration Permit approval. The projecting (oriel) bay window is not compatible with the cultural heritage values of the Contributing Resource. The original window has been discarded.

To correct this non-compliance, the property owner has proposed to remove the non-compliant window and install a vinyl window to replicate the details of the former window. This would generally comply with the guidelines of Section 11.2.10, which discourage the use of vinyl windows, but note that replacement windows should "...mimic the original windows with respect to style, size and proportion, with a frame that is similar in colour..." The proposed replacement vinyl window closely replicate or mimic the details of the former window (see Appendix C). The proposed replacement vinyl window has a pair of sash (hung) windows, with applied mullion detailing to replicate the detailing of the original windows, flanking a fixed centre window.

The proposed replacement window is more compatible with the cultural heritage values of this Contributing Resource than the presently-installed projecting (oriel) bay window. The sash windows must have the applied mullion detail on the exterior of the windows (simulated divided lights) to make a reasonable effort to more replicate the details of the original windows, which is noted in the Heritage Alteration Permit application submitted by the property owner's agent. The proposed replacement window should be approved with terms and conditions to ensure that the details of the replacement window are accurate and that the replacement occurs within a timely manner.

**5.0 Conclusion**

Alterations were undertaken to the Contributing Resource at 70 Rogers Avenue without Heritage Alteration Permit approval. One of the goals of the designation of the Blackfriars/Petersville Heritage Conservation District pursuant to the *Ontario Heritage Act* is to encourage alterations that are consistent with the cultural heritage values of the area; seeking remedial action to improve the compliance of unapproved alterations is difficult. In some cases, such as this, the unapproved alteration must be removed and a more compliant intervention permitted.

<b>Prepared and Submitted by:</b>	<b>Kyle Gonyou, CAHP Heritage Planner</b>
<b>Recommended by:</b>	<b>Gregg Barrett, AICP Director, City Planning and City Planner</b>
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from City Planning.	

July 28, 2020  
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- Appendix A Property Location
- Appendix B Images
- Appendix C Sketch of Proposed Replacement Window

**Appendix A – Location**

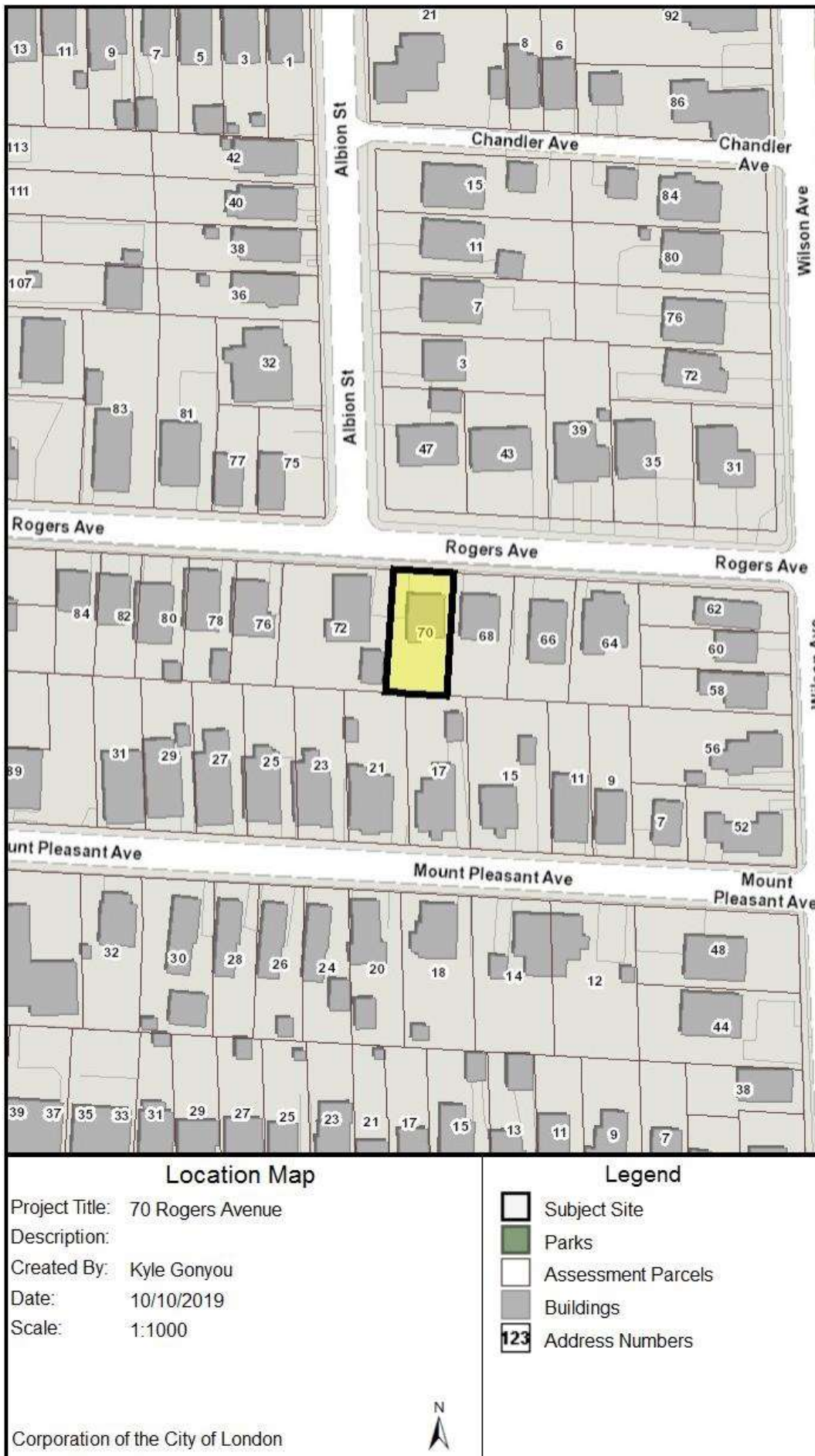


Figure 1: Location of the subject property at 70 Rogers Avenue in the Blackfriars/Petersville Heritage Conservation District.



Appendix B – Images



Image 1: View of the north (main) and west elevations of the dwelling located at 70 Rogers Avenue on July 12, 2018 (prior to alterations).



Image 2: Photograph showing the unapproved alterations to the property at 70 Rogers Avenue underway on January 25, 2019.





*Image 3: View of the north (main) and west elevations of the dwelling located at 70 Rogers Avenue on September 11, 2019 (showing the completed alterations to the west elevation and the altered front window).*



*Image 4: Photograph of the property at 70 Rogers Avenue on July 9, 2020.*



## Appendix C – Sketch of Proposed Replacement Window

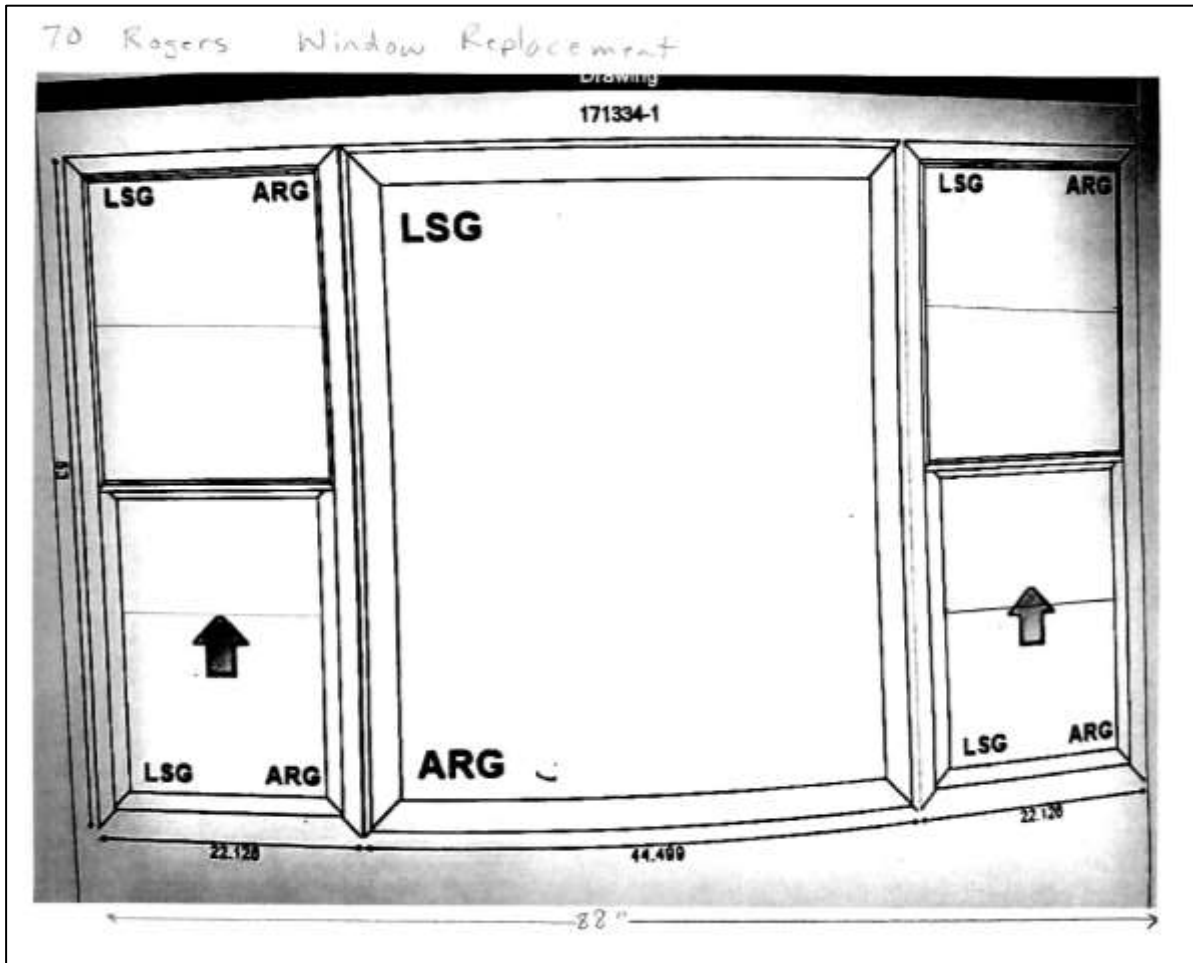


Figure 2: Sketch of proposed replacement window, submitted as part of the Heritage Alteration Permit application. The proposed window has a pair of sash (hung) windows, with applied mullions to replicate the detailing of the original window (annotated detail), which flank the centre fixed window.