



Municipality of Port Hope

Staff Report

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Report Title: Conditional Building Permit Agreement re: 6302 4th Line

Report to: Council

Date of meeting: December 17, 2024

Report Author:

David Abramczuk, Chief Building Official

Department responsible:

Development Services

Report Number: DS-31-24

Recommended Action:

1. That Report DS-31-24 be received; and
2. That Council authorize the Chief Building Official (CBO), Mayor and Clerk to execute the agreement associated with the issuance of a conditional building permit related to the relocation of a historical Cobourg dwelling to the property located at 6302 4th Line, and made in accordance with 8(3)(c) of the Building Code Act (Attachment 3); and
3. That the CBO be delegated the authority to execute conditional permits as noted in Section 8(3.1) of the Building Code Act, and this delegation of authority be included in the upcoming revisions to the Delegation of Authority By-law 75-2019.

Highlights:

- A building permit applicant has requested a conditional permit, in accordance with the Building Code Act, and the CBO is satisfied that a conditional permit may be issued given the uniqueness of the project.
- Staff have reviewed the terms of the conditional permit and have worked with the applicant to ensure that both parties are agreeable to the terms. As such, the CBO recommends issuing the conditional permit (Attachment 3).
- As this is an administrative matter, and the Building Code Act provides Council with the authority to delegate conditional permit issuance (see Attachment 2 – Section 8 (3.1), staff recommend that this authority be delegated to the CBO as part of the upcoming revisions to the Delegation of Authority By-law 75-2019.

Background:

July 17th, 2024, Building Services met with the property owners of 6302 4th Line with a proposal for the construction of a dwelling on the property. This proposal included the reconstruction of a historical dwelling that was dismantled approximately 20 years ago

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from a property located on Elgin Street West in Cobourg, and stored in sea containers since.

During this and subsequent meetings which included their designer and contractor, the permitting process, and the design and construction expectations for different portions of the proposed dwelling were discussed. This included different requirements the re-purposed portion and the portion that is to be newly constructed.

A conditional building permit request and application, for footings and foundation only, was received on November 14th (Attachment 1), and the application process was completed November 26th.

Discussion:

Most conditional permits are issued for large scale projects, where a municipality is unable to perform a complete review of permit application drawings in the time legislated by the building code. In these cases it is to the benefit of the municipality, and it is not uncommon practice to issue a conditional permit for footings and foundation only, without an agreement in place.

In the case of 6302 4th Line, the Chief Building Official felt it prudent to have a formal agreement as part of the conditional permit, as it was to the benefit of the client and at their request.

At this time, Building Services staff searched their files for a typical conditional permit agreement or a past agreement to follow. None was found.

Staff then obtained 3 typical conditional permit agreements from various municipalities to create the attached agreement (Attachment 3).

Section 8(3) of the Ontario Building Code Act states;

“Even though all requirements have not been met to obtain a permit... the chief building official may issue a conditional permit for any stage of construction if,

- (a) compliance with by-laws passed under sections 34 and 38 of the Planning Act has been achieved...;
- (b) the chief building official is of the opinion that unreasonable delays would occur if a conditional permit is not granted; and
- (c) the applicant... agrees in writing with the municipality to,
 - (i) assume all risk...,
 - (ii) obtain all necessary approvals in the time set out in the agreement...,
 - (iii) file plans and specifications of the complete building in the time set out in the agreement,
 - (iv) at the applicant's own expense, remove the building and restore the site in the manner specified in the agreement if approvals are not obtained or plans filed in the time set out in the agreement, and
 - (v) comply with such other conditions as the chief building official considers necessary, including the provision of security for compliance...”

Section 8 (3.1) of the Ontario Building Code Act goes on to state;

“A principal authority may, in writing, delegate authority to the chief building official the power to enter into agreements described in clause (3)(c) and may impose conditions or restrictions with respect to the delegation.”

As the Municipality has not entered into conditional permits of this nature before, the CBO does not have the authority to enter into an agreement to execute a conditional permit. In such situations, Council must provide the authority to the CBO to execute this type of agreement. As such, staff recommend that Council authorize the CBO, Mayor and Clerk to execute this conditional permit on behalf of the Municipality. Staff further recommend that this type of authority be provided to the CBO through revisions to the Delegation of Authority By-law, which will be presented for Council’s consideration in early 2025.

Financial Considerations:

None.

Communication and Public Engagement:

None

Conclusion:

The Chief Building Official is comfortable with the terms of the agreement and is willing to issue a conditional permit for footings and foundation to 6302 4th Line, upon Council’s consideration of this report and authorizing the CBO to do so.

Attachments:

Attachment 1 – Request for a Conditional Permit

Attachment 2 – Building Code Act Section 8

Attachment 3 – Agreement for Conditional Permit re: 6302 4th Line