

# Preserving a 'Last Generation Church'

*The Friends of the Penniac Baptist Church and Cemetery, Inc.*



June Wade  
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<sup>1</sup> With the assistance of the Directors of the *Friends of the Penniac Baptist Church and Cemetery, Inc.*: (Blair Ferris, President; Reg Dingley, Vice-President; June Wade, Secretary; Donna Amos, Treasurer; and Mary Ferris; Chris Isnor, John Leroux & Tom Morrison)

## **Introduction**

The preservation of the Penniac Baptist Church and Cemetery in Penniac, York County, N.B.<sup>2</sup> is one model for built heritage preservation. The steps followed by the Penniac community provides a template for religious entities and communities that wish to preserve a religious structure that is a cherished component of the community's and religious organization's heritage, but which no longer serves the needs and/or fulfills the objectives of the faith group.

The leadership for this task is collaborative and includes a) a strong Penniac community desirous of preserving the structure, including persons who were members of the former religious community; b) a religious denomination (in this case, the Canadian Baptists of Atlantic Canada) prepared to dispose of a faith-built structure that no longer meets its purposes, so long as the dignity of its church building and cemetery are maintained; c) professional architectural, engineering and legal expertise; and d) the New Brunswick Government, providing financial support and eventually heritage designation to support preservation.

## **The Penniac Baptist Church and Cemetery-History and Community**

The Penniac Baptist Church building has been sitting unused for church services for twenty-five years. Over that period of time, it has been gradually deteriorating. In 2016, a group of concerned Penniac residents (past and present) felt that it would be a great loss to the community if the building was allowed to fall into ruin and they set about investigating opportunities to

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<sup>2</sup> Penniac is a vibrant community. There is an active Recreation Centre in the community. Activities hosted here include community breakfasts and suppers, darts, exercise groups, fundraisers and children's events. "Wikipedia, The Free Encyclopedia" 'last modified April 9, 2018, visited April 9, 2018. [https://en.wikipedia.org/wiki/Penniac,\\_New\\_Brunswick](https://en.wikipedia.org/wiki/Penniac,_New_Brunswick)

restore the building to a usable state. During their initial fact gathering, it emerged that the church has considerable historical significance. Built over 150 years ago, its original location was on the west side of the Nashwaak River. Due to the difficulty for parishioners travelling across the river in early spring and late fall, it was decided to move the building. This they did by dismantling the church and transporting it across the frozen river and along woods roads by horses to its present site, a parcel of land gifted by Benjamin Goodspeed.

This knowledge galvanized the community: “If the residents of Penniac were able to move a building more than ten Kilometres in 1864, surely present day residents could ensure that its existence would continue well into the 21<sup>st</sup> century!”

The community has a vision for the future uses of the site. The restored church will retain its historical name but will be non-denominational. It will be available for a variety of activities including weddings, christenings, funerals, workshops, lectures, and concerts. The possibilities are endless. As well, the cemetery, with over 200 sites, some dating back to 1848, provides a wealth of genealogical information on the families that are connected with the area.

The Penniac Recreation Council supports this community initiative and makes its facilities available to assist in the preservation process.

### **Preservation Process**

The community group – the Friends of the Penniac Baptist Church (“Friends”) –achieved its objective with the support of 1) The Canadian Baptists of Atlantic Canada; 2) specialized historic architectural and engineering advice; 3) legal services and 4) the New Brunswick Provincial Government

#### **1) The Canadian Baptists of Atlantic Canada**

Mr. Darrell Mackenzie, of the Canadian Baptists of Atlantic Canada, met with the community group and readily agreed to delay indefinitely the proposed demolition of the church. He shared that there often is no local group to engage in a conversation about the future of a redundant church building. He affirmed the Canadian Baptists of Atlantic Canada’s requirement that the integrity of the cemetery be preserved and a hope that the church would be used only for purposes respectful of its traditions. The Canadian

Baptists of Atlantic Canada's focus on community support and mission underlaid its support for this undertaking.

## 2) **Specialized historic architectural and engineering advice.**

Architect John Leroux,<sup>3</sup> and engineer Tom Morrison<sup>4</sup> provided the Friends with expert architectural and engineering advice. They visited the site and discussed its future with the Friends, including the dedicated individuals who maintain the church building and cemetery. They advised that the property was of significant historic and architectural interest, and it appeared to be structurally sound.

Leroux had advised the Friends that the Penniac Baptist Church is a 'perfect example' of the 19<sup>th</sup> century churches along the Nashwaak Valley, and that it contained some unique features including the interior carved columns, the ram down stove, the unique brickwork of the chimney and the near perfect alignment of the roof and walls.

On February 20, 2018, Leroux advised that:

... I would like to make known my support of, and acknowledgement of the architectural importance of, the Penniac Baptist Church on River Road, Penniac, NB. While on the outside it may appear typical of many rural protestant churches throughout the province, its remarkable interior structure and very good condition make it a unique and notable instance of religious architecture in the capital region. It has great potential to be a keystone of heritage for the area. I have given my full personal and professional support to the "Friends of the Penniac Baptist Church".

Tom Morrison visited the site with John Leroux, met with the Friends and was engaged to prepare an engineering report and recommendations on the church building. His January 26, 2018 Report recommended repairs or replacement of twelve items. He concluded that:

The Old Penniac Baptist Church is a unique building able to provide a focal point for the local community. The building requires repairs to the floor system, new roofing and new paint, as well as several

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smaller repairs as outlined in the Recommendations. The light wood structure has a forgiving design with considerable redundancy and could be economically conserved for continued use. For a small building there are many unique features and many of these oddities or perceived inconveniences are what give the building the special sense of place that cannot be replicated.

### 3) **Legal Services**

Dr. Kelly VanBuskirk, Q.C., and Chris Isnor of the law firm of Lawson and Creamer<sup>5</sup> provided legal advice and completed the incorporation of The Friends of the Penniac Baptist Church and Cemetery, Inc. under the New Brunswick Companies Act and Cemetery Companies Act. They also executed and registered (under the Registry Act) the deed of the church and cemetery property from the Canadian Baptists of Atlantic Canada to the new company. This included the drafting of the company by-laws and instructions on corporate elections and the adoption and implementation of key by-laws (elections, banking, etc...)

Chris Isnor provided the new company the following advice on May 18, 2017:

The Act requires anyone who applies to hold a cemetery in New Brunswick to incorporate a company under either the Business Corporations Act (New Brunswick) or the Companies Act (New Brunswick) (the "BCA"). There are certain requirements for each type of incorporation. The requirements are listed separately below for each of the acts.

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The Companies Act should be used if the group wants to incorporate as a Non-profit Organization.

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Requirements under the Cemetery Companies Act:

- Cannot pay dividends or profits to shareholders – Section 22(3)

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<sup>5</sup>Lawson & Creamer, Lawyers, 133 Prince William St., Suite 801, Saint John, N.B., E2L 2S5, (506) 633-3737  
www.lawsoncreamer.com

- Proceeds from sale of burial sites must go to:
  1. Paying off any loan to purchase cemetery land; or
  2. Preserve, improve, or embellish cemetery land – Section 23
- Any person can give money or a lot to the company in exchange for the preservation, maintenance, and care of a particular lot in the cemetery. This money must be used in the same manner as any other money of the company – Section 24(1).
- The company can enter into agreements to preserve and maintain a particular lot.
- When the company sells a lot of the cemetery and no interment has happened for forty (40) years, and there is no agreement for perpetual care of that lot, and less than half of the grave sites in that lot have been used, the company may sell the unused graves sites. Requirements for notice are laid out in Section 24(6).
- Everyone who owns a lot of nine (9) square meters or larger is a shareholder or member of the Company. The lot they own represents their share or membership in the Company.
- The company can pass a resolution (2/3 required) for an assessment of lot holders. Assessments are paid annually for \$0.11 per square meter of each lot. The Company can sue for this money, if necessary. Money returned to company must be used for up-keep and care of the cemetery in general. A detailed account of spending must be laid out at each annual meeting – Section 25.
- The company can borrow money to make and maintain roads over the cemetery. Cannot pay an interest rate of more than 6% per year. Company can give mortgage for money borrowed, but mortgagee must abide by the Act – Section 27.
- May pass by-laws for: laying out, selling, managing lots in the cemetery; removal of bodies; regulating burials; erection or removal of tombs; planting trees or plants; general rules of the use of grounds by shareholders; empowering officers to execute conveyance of lots; and prohibiting entry after certain hours.

- Minute book must be made available to the public. Everyone will have access to the book for searching and making copies without payment of fees.
- There are some additional requirements if the cemetery also operates a crematorium.

On Mr. Isnor's advice, the Friends incorporated under the Cemetery Companies Act as a as a Non-Profit Organization (Companies Act). The Canadian Baptists of Atlantic Canada subsequently deeded the Penniac church building and cemetery to the new company, The Friends of the Penniac Baptist Church and Cemetery, Inc.

#### 4) **The New Brunswick Government - Department of Tourism, Heritage and Culture, Heritage Branch; Built Heritage Program**

Mr. Bill Hicks and Mr. Patrick Foran of the Province of New Brunswick assisted the Company in identifying their department's heritage programs that provide financial assistance to the Friends. These included:

- a) The Built Heritage Program: The program is directed at preservation-related aspects for heritage buildings and heritage landscapes. The program has 2 components,
  - i) Component "A" contributes up to 75%, to a maximum of \$ 5,000 for design, engineering and/or conservation expertise. The Component addressed the engineering assessment expense.
  - ii) Component "B" contributes up to 50%, to a maximum of \$30,000 for capital projects. Note: The Friends is now applying for 50% of the cost to carry out the work identified in Tom Morrison's report.
- b) Community Cultural Places Program; Administered by the Cultural Division (Heritage Branch) of the NB Department of Tourism, Heritage and Culture The program is directed towards community based initiatives that re-purpose, restore or renovate significant heritage places such as deconsecrated religious buildings to become cultural infrastructure projects that will enhance community identity, pride, wellness, economic activity and/or cultural tourism. The program will contribute 75% up to a maximum of \$ 75,000. Proponents need to illustrate the positive impact of proposed

projects from a social, economic development and/or tourism perspective. Note: The Friends may access this program after activities and repurposing of the church building have been established/implemented and we have established a track record.

- c) The Heritage Branch of the NB Government Department of Tourism, Heritage and Culture is developing a new policy for the designation of Provincial Heritage Sites. The Friends will submit an application for designation of the church property as a Provincial Heritage Site as soon as the new policy is available.

These programs, other than the Heritage Site designation are not available to religious organizations; e.g., active Christian church communities.

### **Status of The Friends of the Penniac Baptist Church and Cemetery, Inc.**

To date, The Friends of the Penniac Baptist Church & Cemetery Inc. has a) been incorporated as a cemetery company; b) secured ownership of the property from the Canadian Baptists of Atlantic Canada; c) conducted an architectural and engineering appraisal; d) applied for and/or been approved for government funding under the Built Heritage Program (Component A& B); e) insured the property; f) requested quotes for the remedial work; g) applied to the Canada Revenue Agency for charitable status; and h) commenced fundraising for the undertaking.

A religious denomination may wish to consider this course of action with regard to the disposition of 'last generation' or 'post-last generation' church properties – in particular, church properties that include a cemetery<sup>6</sup> – if it believes the church property is historically significant, is no longer required to fulfill the Church's purpose/mission, and has identifiable community support for its preservation.

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<sup>6</sup>This is referred to as a 'churchyard' by some Christian denominations and is defined as "an enclosed area surrounding a church, especially as used for burials". (Oxford Dictionaries. <https://en.oxforddictionaries.com/definition/churchyard>).