

Attorney Lester A. Pines  
lpines@pinesbach.com

March 6, 2024

Ms. Ledell Zellers  
Chair  
City of Madison Plan Commission  
210 Martin Luther King Jr. Blvd.  
Madison, WI 53703

Re: Re: Proposed Certified Survey Map for Land Division  
at 1908 Arlington Place, Madison

Dear Ms. Zellers:

I and my wife, Roberta Gassman, reside at 1915 Arlington Place in Madison, which is directly across the street from 1908 Arlington Place. We have lived there for 35 years.

Before the Plan Commission on its agenda for its March 11, 2024, meeting is the consideration of a certified survey map based on a certificate of appropriateness for a land division at 1908 Arlington Place that was approved on February 12, 2024, by the Landmarks Commission. As allowed by Madison General Ordinance ("MGO") 41.20 et seq, the required number of property owners within 200 feet of the proposed land division, timely appealed the Landmarks Commission's decision to the Common Council. A copy of the Petition for Appeal ("the Petition") is attached hereto.

The appeal is not about a general dissatisfaction with the Landmarks Commission decision. It asserts that the Landmarks Commission made serious legal errors in its interpretation of MGO 41.18(4) which strictly governs land divisions in historic districts. The appeal is scheduled to be considered by the Common Council at its meeting on March 19, 2024.

On behalf of the signatories on the Petition, I respectfully request that the Plan Commission postpone any action on the proposed certified survey map until our appeal of the Landmarks Commission decision has been heard and decided by the Common Council, and any court that may review that decision, whether a lawsuit is initiated by

the petitioners or 1908 Arlington Place LLC (“the LLC”), the current owner of the property.

The reason for this request is simple: if the Plan Commission approves the certified survey map, the LLC could immediately record it with the Register of Deeds and transfer the newly created lot to another LLC or third-party, thereby negating the ability of the Common Council to reverse the Landmarks Commission’s certificate of appropriateness or to remand the matter to the Landmarks Commission for a new hearing.

The house at 1908 Arlington Place and its lot have existed in their current form since at least 1903, one hundred and twenty-one years ago. There is no need, much less an urgent one, to alter the configuration of the historic lot by approving a certified survey map on March 11.

The other petitioners and I will be attending the March 11, 2024, Plan Commission meeting by Zoom and will speak if allowed. In any case, we will be available to answer any questions you may have.

Very truly yours,

PINES BACH LLP



LAP:lkp

Enclosure: Petition for Appeal

cc: All Plan Commission members  
All Petition Signatories  
Assistant City Attorney Kate Smith  
Heather Baily, Ph.D.  
Mayor Satya Rhodes-Conway

COPY

BEFORE THE CITY OF MADISON COMMON COUNCIL

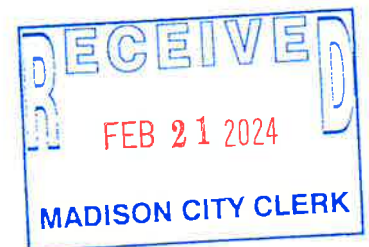
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**Petition of Appeal of the Decision of the City of Madison Landmarks Commission Approving on February 12, 2024 a Certificate of Appropriateness to 1908 Arlington Place LLC for a Land Division at 1908 Arlington Place in the University Heights Historic District**

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Petitioners, Lester A. Pines (“Pines”) and Roberta Anne Gassman (“Gassman”), are the owners of the property located at 1915 Arlington Place, Madison, Wisconsin which is within 200 feet of the boundaries of 1908 Arlington Place, Madison, Wisconsin. They have signed this Petition below and are joined in this Petition by additional owners of property within 200 feet of the boundaries of 1908 Arlington Place who have signed the attached signature pages, which are incorporated herein by reference, and who in combination with Pines & Gassman are hereinafter referred to as “the Petitioners”.

Pursuant to Chapter 41.20, *et seq* of the Madison General Ordinances (MGO) the Petitioners hereby appeal to the City of Madison Common Council (“the Common Council”) the February 12, 2024 decision by the City of Madison Landmarks Commission approving a certificate of appropriateness for a land division at 1908 Arlington Place, Madison. As grounds for this appeal, the Petitioners respectfully state as follows:



### **The Petitioners Qualification to Appeal**

1. There are twenty-nine properties that are within two hundred (200) feet of the boundaries of the subject property, 1908 Arlington Pl., Madison, Wisconsin, as verified by a copy of an Excel spreadsheet that was provided to Pines by email on February 15, 2024 by Heather L. Bailey, Ph.D, the City of Madison's Preservation Planner in the Neighborhood Planning, Preservation & Design Section of the Department of Planning, Community, & Economic Development, Planning Division, a copy of which is attached hereto and incorporated herein by reference as Exhibit A.
2. Pursuant to MGO 41.20(1), the Petitioners are qualified to file this Petition because they comprise a group of owners consisting of at least twenty percent (20%) of the number of parcels of property within two hundred (200) feet of the boundaries of 1908 Arlington Place as shown on Exhibit A.

### **The Petitioners Grounds for Appeal**

3. On February 12, 2024, the Madison Landmarks Commission ("the Commission") approved a certificate of appropriateness for a land division at 1908 Arlington Place which is within the University Heights Historic District.
4. When considering a certificate of approval for land division the Commission must follow the requirements of MGO 41.18(4) which states:

Land Divisions and Combinations . The commission shall approve a certificate of appropriateness for land divisions, combinations, and subdivision plats of landmark sites and properties in historic districts, unless it finds that the proposed lot sizes adversely impact the historic character or significance of a landmark, are incompatible with adjacent lot sizes, or fail to maintain the general lot size pattern of the historic district.

5. The Commission, on February 12, 2024, when considering the request for a certificate of appropriateness for a proposed land division at 1908 Arlington

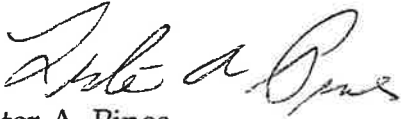
Place did not comply with MGO 41.18(4) because it:

- a. Failed to determine before the hearing the general pattern of lot sizes in the University Heights Historic District to determine if the proposed lot deviated from that general pattern.
- b. Then, during the hearing, relied on a cursory review of a map of lots in University Heights which did not contain any numerical dimensions or other information regarding the size of the lots on the map, while ignoring other more relevant maps provided in advance in a written communication from a neighbor of the property.
- c. Defined the word “adjacent” in the MGO41.18(4) as meaning only “adjoining,” a truncated and incorrect interpretation of the ordinance because “adjacent” also means “nearby.”
- d. Used the truncated definition of the word “adjacent” to exclude any consideration of whether the proposed land division was incompatible with the non-adjoining lots on the west, east and south sides of Arlington Place.
- e. Relied on the orientation of a home at the corner of Chamberlain Ave. and Forest Street, as the basis, in part, for its determination that the proposed two small lots for 1908 Arlington Place were compatible with the larger lots that surround it on its west, east and south sides.
- f. Improperly compared the new proposed lot sizes for 1908 Arlington Place only to lots located on Kendall Ave., which are below and, therefore, not on the same plane as those on Arlington Place.

### **Conclusion and Request for Relief**

The Petitioners respectfully request that the Common Council reverse the February 12, 2024 decision of the Madison Landmarks Commission to approve a certificate of appropriateness for the proposed land division at 1908 Arlington Place, Madison and to deny a certificate of appropriate for that proposal.

Respectfully submitted,



Lester A. Pines



Roberta Anne Gassman

and those property owners whose signatures are found on the attached signature pages.

<b>Owner_1</b>	<b>Owner_2</b>	<b>Address</b>	<b>City</b>	<b>St</b>	<b>Zip</b>
REAM, EDWARD K	& REBECCA REED	166 N PROSPECT AVE	MADISON	WI	53726
CHANDLER, JEFFREY C		1902 ARLINGTON PL	MADISON	WI	53726
VERNON, MARY K		1900 ARLINGTON PL	MADISON	WI	53726
PASSMORE, BEN HILL	SUSAN RACINE PASSMORE	2002 CHAMBERLAIN AVE	MADISON	WI	53726
REDFORD, JOSIAH T	SARA E REDFORD	1914 KENDALL AVE	MADISON	WI	53726
PANCZENKO, RUSSEL & PAULA		160 N PROSPECT AVE	MADISON	WI	53726
KARRAS PROPERTY	MANAGEMENT LLC	BOX 333	ELKART LAKE	WI	53020
FOREST, CARY BRETT	KATRINA THOMPSON FOREST	115 ELY PL	MADISON	WI	53726
DELISLE, KENNETH W	& JILL M DELISLE	1924 KENDALL AVE	MADISON	WI	53726
MCBAIN, MARTIN OILIBHER	CATHERINE ARABELLA MCBAIN	1920 ARLINGTON PLACE	MADISON	WI	53726
KIEFFER REV LIV TRUST,	BRUCE D & MONICA M	1914 ARLINGTON PL	MADISON	WI	53726
DIBO, ALAYNA	& MICHAEL P MARTOCCIO	1913 KENDALL AVE	MADISON	WI	53726
COTTINGHAM, DAVID JOHN	JEAN MARIE HALFERTY	629 HARVARD ST	WILMETTE	IL	60091
PARKS LIVING TRUST		302 CHAMBERLAIN AVE	MADISON	WI	53726
1908 ARLINGTON PLACE LLC		1908 ARLINGTON PL	MADISON	WI	53726
NEUJAHN, HILDEGARD		168 N PROSPECT AVE	MADISON	WI	53726
ZAHED, SOFIA REFETOFF		1918 KENDALL AVE	MADISON	WI	53726
SHOHET, J LEON & AMY L		1937 ARLINGTON PL	MADISON	WI	53726
WALLER REV LIV TR, W & L		222 PRINCETON AVE	MADISON	WI	53726
KAHN, BRUCE W	PATRICIA M PATTERSON	1911 KENDALL AVE	MADISON	WI	53726
PONDROM, LEE G & CYRENA N		210 PRINCETON AVE	MADISON	WI	53705
GIFFEY, JESSICA	& JOSHUA E GIFFEY	163 N PROSPECT AVE	MADISON	WI	53726
STTELEY LIVING TRUST		1921 KENDALL AVE	MADISON	WI	53726
GINES, LESTER A	& ROBERTA A GASSMAN	1915 ARLINGTON PL	MADISON	WI	53726
JACOBSON, ERIK		1925 KENDALL AVE	MADISON	WI	53726
IVEY, MICHAEL E		526 W LAKESIDE ST	MADISON	WI	53715
THOMAS, CHRISTOPHER M		1915 KENDALL AVE	MADISON	WI	53726
LIVORNI, ERNESTO	& MONICA L MESSINA	1917 KENDALL AVE	MADISON	WI	53726
ALD REGINA VIDAVER		2314 CHAMBERLAIN AVE	MADISON	WI	53726

Exhibit A

BEFORE THE CITY OF MADISON COMMON COUNCIL

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**Petition of Appeal of the Decision of the City of Madison Landmarks Commission  
Approving on February 12, 2024 a Certificate of Appropriateness to 1908 Arlington  
Place LLC for a Land Division at 1908 Arlington Place in the University Heights  
Historic District**

---

I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

May K Vernon  
Name

1900 Arlington Place, Madison WI 53726  
Address

May K  
Signature



BEFORE THE CITY OF MADISON COMMON COUNCIL

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Jeffrey Chandler

Name

1902 Arlington Place

Address

Jeffrey Chandler

Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

MARTIN REED - McBRID  
Name

1920 ARLINGTON PL, MADISON, WI 53726  
Address

  
Signature

BEFORE THE CITY OF MADISON COMMON COUNCIL

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

CATHERINE REED - MCBAIN  
Name

1920 ARLINGTON PLACE, MADISON, WI, 53726  
Address

  
Signature

BEFORE THE CITY OF MADISON COMMON COUNCIL

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Jean M. Parks

Name

302 Chamberlain Ave, Madison WI 53726

Address



Signature

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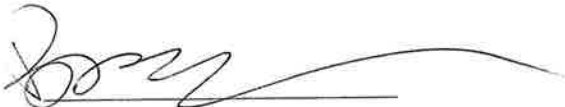
I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Brian M. Parks

Name

302 Chamberlain Ave. Mad, WI 53706

Address



Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Jean Halferty  
Name

1919 Arlington Place, Madison, WI 53724  
Address

Jean M. Halferty  
Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

David J. Cottingham

Name

1919 Arlington Place, Madison, WI 53726

Address



Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Edward K. Rean

Name

166 N. Prospect Ave

Address

E. K. Rean

Signature



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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Rebecca Reed

Name

766 N Prospect Ave

Address

Madison, WI

Rebecca Reed

Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

MONICA L. MESSINA

Name

1917 KENDALL AVE, MADISON, WI 53726

Address

Monica Messina

Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

ERNESTO LIVORNI

Name

1917 KENDALL AVE, MADISON WI 53726

Address

Ernesto Livorni

Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

LOUISA JONES WALLER

Name

Address

Signature

222 Princeton Ave, Madison WI 53726



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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Will Walker

Name

222 Princeton Ave

Address

Will Walker

Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Ben Passmore

Name

2002 Chamberlain Ave, Madison 53726

Address



Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

KENNETH DELISLE

Name

1924 KENDALL AVE

Address



Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Christopher Thomas

Name

1915 Kendall Ave

Address



Signature



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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Katrina Forest  
Name

115 Ely Place, Madison WI 53726  
Address

Katrina J. Forest 2/19/24  
Signature

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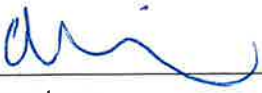
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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Alayna Dibo  
Name

1913 Kendall Ave.  
Address

  
Signature

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I HEREBY JOIN AS A PETITIONER IN THE ABOVE-ENTITLED PETITION OF  
APPEAL:

Michael Martoccio

Name

1913 Kendall Ave

Address



Signature