

From: [Bailey, Heather](#)
To: [Heiser-Ertel, Lauren](#)
Subject: FW: Agenda item #3, Legistar ID No. 73112, regarding 1135 Jenifer St
Date: Wednesday, October 12, 2022 1:50:43 PM
Attachments: [221011 LANDMARKCOMMISSION LETTER 1135JENIFER.pdf](#)

From: Alex Saloutos <asaloutos@tds.net>
Sent: Tuesday, October 11, 2022 2:22 AM
To: Bailey, Heather <Hbailey@cityofmadison.com>; PLLCApplications <landmarkscommission@cityofmadison.com>
Cc: Tishler, Bill <district11@cityofmadison.com>; davidwjmclean@gmail.com; knkaliszewski@gmail.com; Taylorm@firstweber.com; rba@stonehousedevlopment.com; Tucker, Matthew <MTucker@cityofmadison.com>; Stouder, Heather <HStouder@cityofmadison.com>; Haas, Michael R <MHaas@cityofmadison.com>
Subject: Agenda item #3, Legistar ID No. 73112, regarding 1135 Jenifer St

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Please disregard my previous email on this and see the revised letter that's attached. Based on clear and convincing evidence, including photos and the owner's statements, this is demolition by neglect and MGO 41.14 needs to be addressed by the city. –Alex

From: Alex Saloutos <asaloutos@tds.net>
Date: Monday, October 10, 2022 at 5:00 PM
To: Heather Bailey <hbailey@cityofmadison.com>, <landmarkscommission@cityofmadison.com>
Cc: Chris Schmidt <district11@cityofmadison.com>, <davidwjmclean@gmail.com>, <knkaliszewski@gmail.com>, <Taylorm@firstweber.com>, <rba@stonehousedevlopment.com>
Subject: Agenda item #3, Legistar ID No. 73112, regarding 1135 Jenifer St

Hi, Heather! Please see attached letter regarding 1135 Jenifer St. I'm sorry to submit this so close to the start of the meeting. It would be helpful if we had staff reports a week or two prior to an item appearing on an agenda to respond in a timely and thoughtful way.

Cheers,

--



Alex Saloutos

BHHS True Realty

Cell: (608) 345-9009

Email: asaloutos@tds.net

October 10, 2022
Revised October 11, 2022

Email:
landmarkscommission@cityofmadison.com

Landmarks Commission
City of Madison
Madison Municipal Building Suite 017
215 Martin Luther King Jr Blvd
Madison, WI 53703

Re: **1135 Jenifer St—Certificate of Appropriateness for demolition**
Legistar ID No. [73112](#)

Dear Commissioners:

I am writing to supplement the information in the Staff Report regarding approval of a Certificate of Appropriateness (“CofA”) to demolish the garage at 1135 Jenifer St, which is in the Third Lake Historic District.¹ To preserve our historic resources, the monitoring and compliance of MGO 41.14, regarding the maintenance of improvements in historic districts and commonly known as the demolition by neglect ordinance, must not be ignored. Considering the state of disrepair the garage is currently in, the Staff Report for this application should clearly and factually address compliance with the demolition by neglect ordinance and the commission must address compliance with it before considering a CofA for its demolition.

Relevant Standards Regarding Demolition By Neglect, MGO 41.14

Every owner of an improvement in a historic district shall: a) protect the improvement against exterior decay and deterioration, b) keep the improvement free from structural defects, and c) maintain interior portions of the improvement, the deterioration of which may cause the exterior portions of such improvement to fall into a state of disrepair.²

The Building Inspector or designee is authorized to enforce the provisions of this chapter.³

Violations of the provisions in this ordinance shall be subject to forfeiture of \$250 to \$2,000 per day for a violation of this ordinance. All fines imposed under this ordinance shall be tripled if the Court makes an additional finding that the subject property is undergoing demolition by neglect as defined by this ordinance. A finding of demolition by neglect by the Landmarks Commission shall be prima facie evidence of demolition by neglect for purposes of any civil court action.⁴

Demolition by Neglect means the process of allowing improvements in historic districts to decay, deteriorate, become structurally defective, or otherwise fall into disrepair.⁵

The owner of an improvement in a historic district may not allow the improvement to undergo demolition by neglect.⁶

¹ Arthur Hill, [Landmarks Commission Application](#), 1135 Jenifer St, August 5, 2022.

² [MGO 41.14](#).

³ [MGO 41.14](#)(2)(a).

⁴ [MGO 41.14](#)(4).

⁵ [MGO 41.02](#)

⁶ [MGO 41.15](#)

If, after a public hearing, the Landmarks Commission finds that an improvement in a historic district is undergoing demolition by neglect, it shall report its finding to the Common Council, the Building Inspector and the Office of the City Attorney. A Landmarks Commission finding of demolition by neglect is prima facie evidence of demolition by neglect for purposes of any administrative or civil court action, and also constitutes a determination that a public nuisance exists under Sec. 27.05(3), MGO.⁷

Factual Background

1. The current owner purchased the property in September 1997.⁸
2. In October 2001 the current owner listed the property for sale and included a photo of the garage showing it was intact. See Addendum 1, which is attached, for the photo. Also, the listing states there is a “1 stall garage” included in the sale.⁹
3. In February 2007 the current owner stated in a Real Estate Condition Report for the property, which they signed, that they “have lived on the property for 15 years” and they were not “aware of defects in the structure of the property. Structural defects with respect to the residence or other improvements might include, but are not limited to, movement, shifting or deterioration in walls or foundation; major cracks or flaws in interior or exterior walls, siding, partitions or foundation; wood rot; or significant problems with driveways, sidewalks, patios, decks, fences, waterfront piers or walls, windows, doors, floors, ceilings, stairways or insulation.”¹⁰
4. An aerial photo from 2016, which was downloaded from the website for the City of Madison Assessor, shows the roof of the garage. See Addendum 2 for this photo.
5. To show the current condition of the garage, the owner submitted photos of it in August 2022 with the application for a CofA to demolish it.¹¹ See Addendum 3, which is attached, for these photos.
6. On August 5, 2022, the applicant stated the garage “is now mostly fallen down.”¹²
7. The owner and occupant of 1131 Jenifer, which abuts 1135 Jenifer on the west, recently described the structure as a “dilapidated, crumbling garage without a roof.”
8. The owner and occupant of 1134 Spaight, which abuts 1135 Jenifer to the south, recently wrote, “ The garage has not been maintained for many years. We have lived next door for 29 years. The garage has been in terrible condition that entire time.” And “In that last two years the garage has caught fire at least once. The fire damage has not been repaired.”

Analysis and Conclusions

The current owner stated in 2001 the garage was functional. The photo of the garage from that time shows the garage was intact. In 2007 the owner stated they were not aware of any defects

⁷ [MGO 41.15\(3\)](#)

⁸ City of Madison Assessor, Website, [Property Information, Sales/Conveyance Details](#), (last visited October 7, 2022).

⁹ [Multiple Listing Service Information Sheet](#), number 294805, October 8, 2001.

¹⁰ Arthur Hill, [Real Estate Condition Report](#), 1135 Jenifer St, February 19, 2007

¹¹ Arthur Hill, [Landmarks Commission Application](#), 1135 Jenifer St, pages 4 to 7, August 5, 2022.

¹² Arthur Hill, [Email](#), August 4, 2022.

October 11, 2022

Page 3

in the structure of the garage. In 2016 the aerial photo of the property from the city's website shows the roof is intact and there are no evidence of holes. A neighbor states the garage caught fire in the last two years and the damage from that fire has not been repaired. Photos provided by the owner in August 2022 show the garage is now in a serious state of disrepair and falling down. The demolition by neglect ordinance clearly and unambiguously states, "The owner of [an]...improvement in a historic district, may not allow the...improvement to undergo demolition by neglect." Whether or not the structure is historically significant or contributes to the historic district isn't relevant to this determination. If the improvement is located in a historic district, the demolition by neglect ordinance applies.

Regarding the analysis of demolition by neglect in the Staff Report, it relies solely on an email from a neighbor who states they have lived there for 29 years and that "The garage has been in terrible condition that entire time." Based on this statement, the Staff Report concludes that "The garage has been in this [the current] condition for decades" and that it has been in "its ruined condition for the last 29 years."¹³

In summary, the Landmarks Commission must not turn a blind eye to a clear case of demolition by neglect. I don't understand how the applicant for a CofA to demolish a structure they've owned for 25 years that's located in a historic district can show pictures of it in such disrepair as justification for approval of the CofA and there isn't any reasonable or prudent amount of due diligence to determine if this was demolition by neglect. Finally, I don't understand how a neighbor's ambiguous statement that the garage has been in "terrible condition" for 29 years is sufficient evidence to conclude the garage has been it its current condition for decades or that it has been in "its ruined condition for the last 29 years."

It is vital the commission address the issues with this application for a CofA to maintain the integrity of our historic preservation ordinance and our historic resources. Based on clear and convincing evidence, the application fails to meet the standards for approval of a CofA to demolish the garage and the failure to comply with MGO 41.14, demolition by neglect, must be addressed by the city.

Sincerely,

A handwritten signature in black ink, appearing to read 'A' with a long horizontal stroke extending to the right.

Alex Saloutos

pc: Heather Stouder, Director, Planning Division
Matthew Tucker, Director, Building Inspection Division
Michael Haas, City Attorney

¹³ Heather Bailey, [Staff Report](#), 1135 Jenifer St, October, 10, 2022, page 3.

**1135 Jenifer St
Addendum 1**

Photo of improvements from October 2001 when current owners listed property for sale.



1135 Jenifer Street--2016, Addendum 2



10/11/2022, 1:29:11 AM

 Municipal Limits

 Parcels

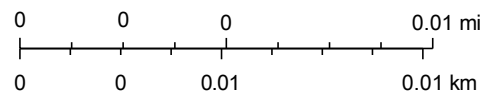
Additional Address

Situs Address

Street Names

Place Name

1:282



City of Madison IT

**1135 Jenifer St
Addendum 3**

Photos of the garage from the August 2022 Application for a Certificate of Appropriateness to demolish it.

