

**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 1:50:59 PM  
**Attachments:** [221007 LANDMARKCOMMISSION LETTER 1135JENIFER.pdf](#)

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**From:** Alex Saloutos <asaloutos@tds.net>  
**Sent:** Monday, October 10, 2022 5:01 PM  
**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  
**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.

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,

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A handwritten signature in black ink, appearing to be the initials 'AS' or a stylized 'A' with a horizontal stroke.

Alex Saloutos

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October 10, 2022

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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 the request for a Certificate of Appropriateness (“CofA”) to demolish the garage at 1135 Jenifer St, which is in the Third Lake Historic District.<sup>1</sup> To preserve our historic resources, the monitoring and compliance with MGO 41.14 regarding the maintenance of improvements in historic districts, commonly known as the demolition by neglect ordinance, must not be ignored. Considering the current condition of the structure, the Staff Report for this application should clearly and factually address compliance with this section of the ordinance and the commission must address compliance with this ordinance before considering a CofA for demolition of the structure.

### **Relevant Standards for Approval**

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.<sup>2</sup>

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

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.<sup>4</sup>

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

The owner of a landmark, improvement on a landmark site, or improvement in a historic district, may not allow the landmark or improvement to undergo demolition by neglect.<sup>6</sup>

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

<sup>2</sup> [MGO 41.14—Maintenance Obligation: Enforcement: Penalties](#).

<sup>3</sup> MGO 41.14(2)(a).

<sup>4</sup> MGO 41.14(4).

<sup>5</sup> MGO 41.02

<sup>6</sup> 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.<sup>7</sup>

### **Factual Background**

1. The applicant has owned the property for 25 years, having purchased it in September 1997.<sup>8</sup>
2. The current condition of the structure is documented in the photos submitted with the application for a demolition permit.<sup>9</sup>
3. The applicant stated in a recent email to staff that the garage “is now mostly fallen down.”<sup>10</sup>
4. 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.”
5. 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.” And “In that last two years the garage has caught fire at least once. The fire damage has not been repaired.”

### **Analysis and Conclusions**

This garage is currently in a serious state of disrepair. There are no facts or evidence in the record that I am aware of regarding the condition of the property when the current owner purchased it 25 years ago. Even if the garage was in a state of disrepair when it was purchased, there is evidence the current owner has not maintained this improvement based on the statements of the two neighbors. In addition, the demolition by neglect ordinance simply 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 a determination that there has been demolition by neglect. If an improvement is located in a historic district, the demolition by neglect ordinance applies.

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<sup>7</sup> 41.15(3)

<sup>8</sup> City of Madison Assessor, Website, Property Information, Sales/Conveyance Details, (last visited October 7, 2022).

<sup>9</sup> Arthur Hill, [Landmarks Commission Application](#), 1135 Jenifer St, pages 4 to 7, August 5, 2022.

<sup>10</sup> Anita Hill, Email, Date.

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In summary, given the condition of the structure, the Landmarks Commission can't turn a blind eye to whether or not this is demolition by neglect. The commission must make a determination on this before considering a CofA to demolish the structure. Conjecture or making assumptions that the property looks the same as it did 25 years ago isn't sufficient evidence to determine there hasn't been demolition by neglect. It is vital the commission address this issue and not selectively turn a blind eye to it to maintain the integrity of our historic preservation ordinance and our historic resources.

Sincerely,

A handwritten signature in black ink, appearing to be 'Alex Saloutos', written over a printed name.

Alex Saloutos