

AGENDA # 1

City of Madison, Wisconsin

REPORT OF: LANDMARKS COMMISSION

PRESENTED: 9/17/18

TITLE: 121 Langdon St - Demolition by Neglect
of a Designated Madison Landmark
in the Mansion Hill Hist. Dist. (Suhr
House); 2nd Ald. Dist.

REFERRED:

REREFERRED:

REPORTED BACK:

AUTHOR: William Fruhling, Acting Preservation
Planner

ADOPTED:

POF:

DATED: 9/26/18

ID NUMBER: 53000

Members present were: Stuart Levitan, Anna Andrzejewski, Katie Kaliszewski, David McLean, and Marsha Rummel. Excused was Richard Arnesen.

SUMMARY:

Scott Herrick, registering in opposition and wishing to speak.

David Ferch, registering in opposition and wishing to speak.

James Rapacz, registering in opposition and not wishing to speak.

Gene Devitt, registering in support and wishing to speak.

Harold Langhammer, registering in opposition and wishing to speak.

Levitan opened the public hearing.

Fruhling explained that demolition by neglect is a rare occurrence, and was a new provision added to the ordinance when it was last updated. He said that when properties are deteriorating and not being repaired in a timely manner, the Landmarks Commission can then determine whether demolition by neglect is occurring early enough that repairs can be made and the property can be saved. He noted that there are other more severe ramifications that can occur in extreme cases, but this case has not reached that level.

Fruhling said that the demolition by neglect process began when a notice was sent by Kyle Bunnow, Housing Inspection Supervisor, stating that the Building Inspection Division believes the property is undergoing demolition by neglect. By ordinance, the Landmarks Commission then holds a public hearing to determine whether demolition by neglect is occurring.

Fruhling stated that he and other City staff have met with the property owner and his architect. The preliminary plans were included for informational purposes in order to show that progress is being made, though the applicant will need to return before the Commission and request a Certificate of Appropriateness to complete the repairs.

Herrick, the attorney representing the property owner, said that he is also representing his client for the Building Inspection prosecution in Municipal Court. Herrick stated that he failed to appear for a sentencing hearing, which was part of the reasoning why the demolition by neglect notice was issued. He handed out a copy of an email exchange with an Assistant City Attorney regarding his failure to appear and requested that his client not be blamed for his mistake.

Levitan asked about the resolution of the court case. Herrick said that the violations must be resolved by August 15, 2019. If the repairs are completed, there is a certain fine, and if they are not completed, a much higher fine will be ordered. Levitan asked what the status of the property is supposed to be in August, and Herrick said that all of the work must be completed by then. Herrick explained that the Assistant City Attorney provided them with an amount of time that should be sufficient to complete the work, and they are planning to do more work than repairing the violations.

Ferch, the architect for this project, described the preliminary plans for the building. He said that they need to complete tuckpointing, painting, repair of rotted wood, and address the three porches. He pointed out that the roof on the front porch has water damage and the crown molding needs to be replaced. He mentioned that he would also like to change the side porch so that it looks more like it did in historic photos; there is one remaining original column on the side porch that he plans to replicate and use to replace the other columns. He said that he would also like to move the side porch stairwell to the rear of that porch so that it is not visible from the street. He mentioned that he would appreciate the Commission's feedback on the design.

Levitan explained that this is not the meeting in which staff and Commissioners are prepared to provide meaningful guidance on the design, and instead they will be determining if there is substantial effort toward fixing the violations such that they could hold off on finding that demolition by neglect is occurring. Fruhling agreed and said that staff would need to look at the new plans and do some research before they can provide feedback.

Levitan asked about the level of violations that Building Inspection found and the timeframe in which they need to be addressed in order to stop deterioration of the building. Bunnow said that there is currently a slow deterioration and while nothing needs to be completed urgently, the issues do need to be addressed in a meaningful way. He pointed out that the majority of the work is exterior, and the August 2019 deadline was created to give the property owner time to get the proper approvals and line up contractors to complete the work in spring and summer. He said that there is a threat of significant penalties if the work is not completed, and extra time was built in to the deadline; they should be able to finish the work sooner, so the understanding is that when the deadline arrives, the work needs to be done.

Levitan said that based on Bunnow's statements, his impression is that nothing needs to be completed immediately, and the overall timeframe of finishing the work by next summer is adequate for the preservation of the building.

Rummel asked when the Building Inspection case for this property began. Bunnow said that it was on their radar in 2015, when they constructed a notice but did not issue it. The subsequent notice issued in November 2016 had a due date of spring 2017; the due date passed, nothing had been done to the property, and they had no contact from the property owner. Bunnow noted that the case was then referred to the City Attorney for prosecution in an attempt to compel the owner into compliance. During prosecution, hearings were set over, which delayed the process, and the defendant also failed to appear at a sentencing hearing. The Building Inspection Division had received no contact from the owner saying that he intended to complete the work, so they decided to move forward with the demolition by neglect letter. He said that the letter was successful in getting the owner's attention.

Devitt said that he has known Langhammer a long time and admires him because of his previous work with historic properties. He said that he does not like to see properties become deteriorated or neglected in Mansion Hill, and does not want to see any buildings torn down. He mentioned that while the timeframe to complete the work seems excessive, it does take a long time to order special materials and parts for historic buildings. He ended by saying that as long as the work is completed and the City is happy with it, that would be a good resolution.

Langhammer said that he does not have a good excuse for the neglect of the building, and has learned his lesson from this. He pointed out that he has owned the property for over 30 years and has never been involved in Municipal Court for any violation like this, and the fine being levied is very substantial. Because of the

potential financial burden of that penalty, he said that he does not need further encouragement to complete the work. He stated that he is not proud of how he has handled the repairs in this situation, but he is proud of the house and its history. He said that it is going to be restored and will be the jewel on Langdon when they are finished. He mentioned that they are applying for historic tax credits, and that process will take a couple of months, but they do intend to get started on the work as soon as they can.

Levitan closed the public hearing.

Fruhling summarized the three actions that the Commission could take on this item: find that demolition by neglect is occurring, find that demolition by neglect is not occurring, or refer the item to a later date to give the property owner a chance to make progress on the repairs before coming to a decision.

Levitan asked Ferch when he would have a submission ready to apply for the Certificate of Appropriateness to complete the work. Ferch said that he would need a month to complete the plans.

Levitan said that the Commission needs to determine whether demolition by neglect is underway or if it has now been arrested and the necessary work is going to be done. McLean said that the property owner has taken the correct turn to keep demolition by neglect from occurring; they just started, but have shown the direction they intend to take. Rummel said that the neglect is occurring, and while the owner has taken a turn by working with his attorney and architect, it doesn't mean that the neglect is no longer happening. She said that she hopes this provides an opportunity to stop the neglect and fix the house. She then asked what happens if they find that demolition by neglect is occurring.

Levitan read from the staff report and said that the finding would be reported to the Common Council, City Attorney's Office, and Building Inspection. Fruhling confirmed that if they were to make the finding that demolition by neglect is occurring, it must be reported to those City agencies and is then out of the Commission's hands and cannot be referred to a future meeting.

Andrzejewski stated that demolition by neglect may be occurring, but steps are being taken to halt the process. She said that if they were to refer the item to a future meeting, she would like a shorter timeline than a year to check in on the project and see that steps are being taken toward completing the plans that meet the standards.

McLean pointed out that the Commission will also review the plans for the approval of the Certificate of Appropriateness, so they will continue to be involved in the process if they refer this decision. Levitan suggested referring the item for 6-8 weeks to monitor the progress and ensure the plans are moving forward, and pointed out that the finding of demolition by neglect has a lot of ramifications. Rummel proposed referring for 60 days. Kaliszewski echoed the suggestion and McLean said he would be comfortable with that timeframe. Fruhling suggested referral to the December 3 meeting, which has a submission deadline of November 12, approximately two months away.

Rummel mentioned that Langhammer said he wanted to begin some repairs now, and asked how he could move ahead without having to wait until the December 3 meeting for a Certificate of Appropriateness. McLean suggested that he start with items that can be administratively approved by staff in the meantime, and mentioned that tuckpointing would be good to complete before winter. Bunnow agreed and said that the removal of expanded foam that was used in lieu of mortar and painting both need to be done soon as well. Levitan asked Langhammer if the tuckpointing could be done in a timely manner. Langhammer said that tuckpointing will be a significant cost, so he would like to include that in the historic tax credit application. He said that he would like to start on the less expensive repairs that don't need to be included in the tax credit application.

Bunnow stated that Building Inspection is now waiting until the August deadline to go out and check the work, unless the owner calls sooner to request the inspection. He said that at that point, they will assess the property for all items and make a determination on what is and what is not complete. He said that aside from assisting

the property owner as requested, that is the extent of their involvement at this point; they have given the orders of what needs to be done.

Rummel asked that Langhammer provide a list of all of the work to complete along with a timeline that indicates which work can be done sooner and for which items he hopes to get tax credits.

Andrzejewski encouraged Ferch to reference the Secretary of the Interior's Standards and work closely with staff to go over the relevant Historic Preservation Ordinances.

ACTION:

A motion was made by Rummel, seconded by Kaliszewski, to refer the item to a future Landmarks Commission meeting no later than December 3 with the stipulation that the applicant work closely with the Preservation Planner and other City staff to itemize work which can be done with and without tax credits and provide a timeline for addressing the work orders in a timely manner. The motion passed by voice vote.