

AGENDA # 1

City of Madison, Wisconsin

REPORT OF: LANDMARKS COMMISSION

PRESENTED: 11/11/19

TITLE: Appeal of Madison Landmarks
Commission finding of Demolition
by Neglect of a Designated
Madison Landmark in the Mansion
Hill Historical District regarding 121
Langdon Street

REFERRED:

REREFERRED:

REPORTED BACK:

AUTHOR: Heather Bailey, Preservation Planner

ADOPTED:

POF:

DATED: 11/15/19

ID NUMBER: 56588

Members present were: Anna Andrzejewski, Katie Kaliszewski, Arvina Martin, David McLean, and Maurice Taylor. Excused were Richard Arnesen and Betty Banks.

SUMMARY:

Bailey provided background information on the demolition by neglect, including a timeline of events leading up to the Commission's review today. She explained that the motion made by the Common Council on August 6, 2019 is guiding the Commission's decision, and read the motion from the Common Council with the instructions to either rescind the previous finding of demolition by neglect if the property owner is found to be in full compliance with the conditions of the December 6, 2018 Certificate of Appropriateness, or to refer the appeal back to the Common Council if the property owner continues to be in non-compliance. She explained that the work associated with the Certificate of Appropriateness included both the Building Inspection work order items related to the building itself, which are complete, and the site work, which is not complete.

She said that the zoning deadline for the site work was November 1, 2019, and during an inspection on November 5, Zoning found that the work was substantially incomplete. She said that associated with the site work, there was substantial ground disturbance that is directing water against the building foundation. She displayed images from the November 5 inspection, and said that Zoning visited the site again on November 8 to confirm that cars were no longer parked in the front yard. In terms of work to be completed, she said that the area in back is supposed to be paved and striped for parking, but is currently covered in debris; it also does not have correct ADA signage. She explained that the landscaping is a bigger concern related to the structural integrity of the building, but it has not been installed. She said that Zoning has not set a new compliance date for the site work yet, but most of the work cannot be completed in winter, so a new date would likely be set for spring or early summer. She said that the Certificate of Appropriateness is good for two years, and would need to be complied with by December 2020. She referenced the instructions from the Common Council and said that staff's recommendation is to refer the appeal back to the Common Council as the property owner is still in non-compliance with the terms of the December 6, 2018 Certificate of Appropriateness. She said that for agenda item 2, the Demolition by Neglect Report, she recommends that the Commission direct staff to update the report.

Andrzejewski asked about the related ordinance language. Bailey referenced the applicable standards in 41.15(3), and explained that the site work and building work were all approved together under the Certificate of Appropriateness; while building work which initiated concerns about demolition by neglect have been resolved, the site work is not complete. She said that she has concerns about the water that is collecting against the

foundation, which has long-term potential for deteriorating the building. McLean asked what type of material the foundation was, and Bailey said that it is soft sandstone. McLean requested confirmation that the landscaping was included as part of the Landmarks Commission's approval, and Bailey confirmed that the landscaping was part of the submission that the Commission reviewed and approved. Bailey said that when the Landmarks Commission first reviewed the appeal of the demolition by neglect on September 16, 2019, they had referred it to their November 11, 2019 meeting because the Zoning deadline for the site work was on November 1, 2019 and they had decided not to separate out the building work from the site work because it was all part of the Certificate of Appropriateness.

McLean referenced the photos asked about the large patches of mortar on the brick. Bailey said that it was pre-existing, and there had been spots of patching and parging in some areas, which she asked that they lift off if possible, but if it was attached strongly, she instructed them to leave it and let it break off naturally. On the rear stairway, McLean pointed out that the battens were placed 90 degrees to the slope rather than vertically like they would have been historically and as they are in the drawings. Bailey said that during the site inspection, they did not seem canted, and from her understanding, she thought the Commission wanted the railing on the back of the house to be new and differentiated in order to avoid creating a false sense of history. She explained that the front and side railings were being replicated from historic documentation, but there was no documentation for the back porch railings.

Taylor asked if Bailey thought the property owner would complete the landscaping work. Bailey said that the City has not had a particularly strong history of compliance with this property owner, so she does not know. She said that if the Commission determines that the intent of the Common Council's directive was compliance with the demolition by neglect-related items in the Certificate of Appropriateness and closes this tonight, they could let the Zoning process move forward with trying to get the site plan in compliance. She said that if the work is not completed by December 2020, the City could look at issuing a citation for noncompliance with the Certificate of Appropriateness and site plan, which would initiate a different process. Taylor asked where on the house the water was pooling, and Bailey said there are several areas, but primarily on the front of the house. She explained that they were excavating to address foundation issues on the east side and front of the house. On the front, they were trying to see if there was a lack of support under the front porch piers, and in the process of excavating the piers, it created trenches that filled with water. Taylor asked if there was significant erosion already. Bailey said that there might be some erosion, but the water pooling on the foundation is less than ideal because the freeze and thaw of water on the foundation can cause the sandstone to spall. Taylor asked if the problem will be fixed when the work is done. Bailey said that they are supposed to regrade as part of the site plan and landscaping, which will direct water away from the building.

McLean asked about the repercussions for the property owner if the Commission still finds that demolition by neglect is occurring. Bailey said that the finding of demolition by neglect serves as prima facie evidence for purposes of any court action the City may engage in with the property owner. Kaliszewski pointed out that the property owner did not meet the deadline to complete the site work, so it seems like court action could be a possibility, though it sounds like the City is open to extending the deadline. Bailey said that Zoning typically will extend the deadline in these circumstances, and if the work is not completed after that, they would look at issuing a citation. She said that the demolition by neglect finding could also be used if the Certificate of Appropriateness were to expire next year as a reason for the City to take action because the owner would be continuing to neglect the property.

Taylor asked if the property owner had completed the Building Inspection work orders, and Bailey said that the work orders for the building itself are complete. Kaliszewski said that it should be noted that the property owner was not moving forward with any work until the Landmarks Commission made the finding of demolition by neglect in June. Bailey confirmed that the work started in July, and the work on the building was done on August 30; however, only a little bit of site work was completed recently. Taylor asked the cost of the site work, and Bailey said that she did not know. McLean asked if the site work was initiated by a push from the City or if it had been on schedule. Bailey said that none of the site work had been initiated by the time the Landmarks Commission had their September 16 meeting, which is why they extended their determination of compliance to today's meeting. She said that the property owner had represented that the site work would be done by the

November 1 Zoning deadline. Andrzejewski said that the Landmarks Commission informed the Common Council that they thought demolition by neglect was occurring, and the Common Council referred it back to the Landmarks Commission with clear instructions that they rescind the finding or refer it back if the property owner continues to be in non-compliance, and that is all the Commission is deciding tonight.

Bailey referenced an email from Alder Heck, who stated that he was supportive of staff's recommendation to refer the appeal back to the Common Council. Andrzejewski said that this is new territory because it is the first case of demolition by neglect, and Bailey confirmed that it is the first case that has gone through the process. Taylor asked what the consequences were for the property owner. Bailey said that in this case, the finding of demolition by neglect was used to assist the City in proceeding with court actions they were pursuing related to the court-approved agreement to complete the Building Inspection work, and she pointed out that the site work was separate. As for other consequences related to the demolition by neglect, she said that the City could step in to complete the work and charge the owner for it, or could acquire the property because it is in the City's interest to preserve the landmark; however, the City is not considering those two options at this time. Taylor asked if the work was completed by the August 30 deadline. Bailey said that the original deadline had been August 1, which was not met because work did not begin until July. She pointed out that the property owner also had several years prior to that to complete the work. She said that when the Certificate of Appropriateness was issued in December 2018, the property owner had submitted a timeline for completing the work by the August 1 deadline, but the work did not begin until July, after the June finding of demolition by neglect. The City Attorney's Office then said that because substantial progress was made, they would give a month extension to complete the Building Inspection work, which was done.

A motion was made by McLean, seconded by Taylor, to refer the appeal back to the Common Council as the property owner is still in non-compliance with the terms of the December 6, 2018 Certificate of Appropriateness.

McLean said that the house has been compromised throughout the years, and while the repairs are to the exterior, they are more than superficial. He said that they do not know how much damage has occurred beyond the face of the house, which over the years compromises its integrity from the inside. He said that he understands the Landmarks Commission's purview is the exterior of the house, but eventually that catches up with the interior. He said that in light of not completing the site work and getting a positive drainage situation in place before winter, the freeze and thaw of water around the foundation will be a problem. He said that is why he does not think the Landmarks Commission should rescind the finding of demolition by neglect and should instead refer the appeal back to the Common Council. Andrzejewski said that while the exterior building work has been completed, part of the completion of that work jeopardized the site, so one can't be separated from the other. She said that even though the property owner made good on the building repairs, if their trying to stabilize the porch ended up compromising the building, it is all the more reason to get the site work done quickly. She said that while that may be expensive, deferred maintenance leads to a deferment in paying for it, and it catches up with you. Bailey said that during the August 30 site visit, she had asked about the grading, and the owner said it would be completed as part of the landscaping work.

ACTION:

A motion was made by McLean, seconded by Taylor, to refer the appeal back to the Common Council as the property owner is still in non-compliance with the terms of the December 6, 2018 Certificate of Appropriateness. The motion passed by voice vote/other.