



Project Name/Address: 719 Jenifer Street
Application Type: Demolition by Neglect
Legistar File ID # [62805](#)
Prepared By: Heather Bailey, Preservation Planner, Planning Division
Date Prepared: May 11, 2021

Background Information

Parcel Location: The subject site is located in the Third Lake Ridge historic district.

Relevant Historic Preservation Ordinance Sections:

41.02 DEFINITIONS.

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

41.14 MAINTENANCE OBLIGATION; ENFORCEMENT; PENALTIES

- (1) Maintenance obligation. Every owner of a landmark, improvement on a landmark site, or improvement in a historic district shall do all of the following:
 - (a) Protect the improvement against exterior decay and deterioration.
 - (b) Keep the improvement free from structural defects.
 - (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) Enforcement.
 - (a) The Building Inspector or designee is authorized to enforce the provisions of this chapter.
 - (b) The Building Inspector may issue an official written notice to a property owner, requiring the property owner to correct a violation of sec. 41.14(1) above by a date specified in the notice.
 - (c) The Building Inspector shall notify the Preservation Planner of all official compliance notices issued to owners of landmarks or improvements in historic districts. The Building Inspector shall further notify the Preservation Planner whenever a property owner fails to correct a violations by the compliance date specified in an official notice.
 - (d) City agencies or commissions responsible for enforcing chapters 18, 27, 29, 30 and 31 of the Madison general ordinances, or, in the absence of such city agency or commission, the Building Inspector, may grant individual variances from those chapters to facilitate historic preservation and maintenance under this chapter, provided that such variance does not endanger public health or safety or vary any provisions of this chapter.

41.15 DEMOLITION BY NEGLECT. 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.

- (1) Notice of demolition by neglect. If the Building Inspector believes that a landmark or improvement is undergoing demolition by neglect, the Building Inspector shall give written notice of that belief to the owner of the landmark or improvement. The Building Inspector shall give a copy of the notice to the Preservation Planner and the Landmarks Commission.

- (2) Public Hearing. Upon receiving a notice under sec. 41.15(1), the Landmarks Commission shall issue a hearing notice under sec. 41.06 and hold a public hearing to determine whether the landmark or improvement is undergoing demolition by neglect. The Commission shall hold the public hearing within 90 days of receiving the notice under sec. 41.15(1).
- (3) Landmarks Commission Finding. If, after a public hearing, the Landmarks Commission finds that a landmark or improvement 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) of the Madison general ordinances.
- (4) Appeal of Landmarks Commission finding.
 - (a) An appeal from a Landmarks Commission finding under sec. 41.15(3) may be taken to the Common Council by the owner of the affected landmark or improvement, the Alder of the district in which the subject property is located, or by the owners of 20% of the number of parcels of property within 200 feet of the subject property, measured according to sec. 41.03(5).
 - (b) An appeal under par. (a) shall be filed with the City Clerk within 10 days after the Landmarks Commission makes its finding. The appeal shall include the name and address of each petitioner, and shall specify the grounds for appeal. The City Clerk shall forward the petition to the Common Council.
 - (c) The Common Council shall hold a public hearing regarding any appeal it receives under par. (b).
 - (d) Following a public hearing, the Common Council may, by favorable vote of two-thirds (2/3) of its members, reverse or modify the Landmarks Commission finding, with or without conditions, or may refer the matter back to the Commission with or without instructions, if it finds that the Commission's decision is contrary to applicable standards under this subchapter.
- (5) Abatement by the City. If the Landmarks Commission finds under sec. 41.15(3) that a landmark or improvement is undergoing demolition by neglect, the Building Inspector may proceed under the non-summary abatement procedures set forth in sec. 27.05(3)(e) of the Madison general ordinances to repair the landmark or improvement to abate the nuisance. The cost of the required repairs shall be paid by the property owner, or shall be imposed as a special charge against the property and collected pursuant to the provisions of sec. 4.09(13) of the Madison general ordinances and Wis. Stat. § 66.0627.
- (6) Acquisition by City. If the Landmarks Commission finds under sec. 41.15(3) that a landmark or improvement is undergoing demolition by neglect, the Common Council may authorize the City to acquire the property under Wis. Stat. § 66.1111(2), if necessary through the initiation of condemnation proceedings under Wis. Stat. § 32.06.

Analysis and Conclusion

At its January 11, 2021, meeting the Landmarks Commission reviewed the information provided by Jose Maria Donoso from Building Inspection regarding their determination that the structure at 719 Jenifer was undergoing demolition by neglect. The applicant provided information on a timeline for them to proceed with repairs to the structure, which would address the deterioration occurring to the structure. The Landmarks Commission referred consideration of the matter to the May 17, 2021, meeting in order to evaluate progress on the approved Certificate of Appropriateness to alter and repair the exterior of the structure.

Staff has been in communication with the property owner and the contractor. Destructive investigations on the exterior determined that clapboard was the original siding in place below several layers of shingle siding, and staff

approved replacement of the siding with a clapboard of similar dimension. The applicant has secured a building permit for the exterior work on the building and is proceeding with removing the deteriorated windows and removal of siding. As construction season is now underway, the applicant has provided an updated schedule for proposed completion.

Recommendation

Staff recommends that the Landmarks Commission find that the property at 719 Jenifer Street is undergoing demolition by neglect as defined in Chapter 41. However, if based on the testimony and discussion at the public hearing, the Landmarks Commission is highly confident that the property owner will complete work from the approved Certificate of Appropriateness to make the necessary repairs in an expedited timeframe, the Landmarks Commission could refer consideration to the July 26 meeting.