

August 11, 2021

To the honorable Chair and Commissioners:

1100 S. 5th Street, Ste. 319  
Milwaukee, WI 53204  
P: 414.220.0530

The Milwaukee Preservation Alliance appreciates the challenge posed by the deteriorated condition of the Edmund Gustorf Boat House complex lighthouse. However, we suggest that HPC approval of the requested COA for demolition could set a dangerous precedent for future demolition requests utilizing the h-6 “deteriorated condition” rationale and legitimize demolition by neglect.

We appreciate the applicant’s plan to salvage the character defining imitation lens topping the lighthouse and reconstruct the remainder of the structure in kind to the exact specifications of the original, which we understand will be submitted to this body prior to the Aug. 12 meeting. Reconstruction is a valid preservation treatment, but repair of original elements must be favored when at all possible. At issue is whether the rest of the structure can be repaired. We believe that the burden of proof to show conclusively that the lighthouse is beyond repair must be met through documentation. As this body knows, virtually any structure can be saved, and the burden of proof on an applicant to demonstrate that a structure is beyond repair must be high.

More concerning is the stipulation under h-6 which requires the HPC to consider:

*Whether the structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve, restore or use it, provided that any hardship or difficulty claimed by the owner which is self-created or a result of demolition by neglect cannot qualify as a basis for the issuance of a certificate of appropriateness. (emphasis mine)*

The H-6 “deteriorated condition” clause would appear to be the only criterion under which demolition could potentially be approved in this situation. However, H-6 explicitly states that the clause cannot be used as the basis for a COA if the deteriorated condition is a result of demolition by neglect. While MPA appreciates the owner’s stewardship of the boathouse, it appears based on Staff’s report and certified mailings that the owner was aware of a deteriorating condition and HPC requirements 3 years ago and has not taken action during that time to prevent further deterioration, leading inevitably to the current emergency situation. If this is the case, this would appear to constitute a case of demolition by neglect, and thus unable to be approved based on the ordinance.

While we agree that a substantial reconstruction is better than a complete loss of this iconic structure, we fear that approval of this COA could set a precedent whereby less charitable property owners who are aware of their property’s deteriorating condition and historic status could allow their property to continue to deteriorate to the point where it is deemed irreparable and similarly request a COA for demolition because of the property’s emergency condition. We believe this would be a dangerous precedent to set.

Locally individually designated properties represent the most protected status a building can achieve in Milwaukee, and the burden of proof for HPC approval of demolitions of these properties must be extremely high. Similarly, we encourage the HPC to weigh the possibility of a precedent that could legitimize demolition COA approval because of a deteriorated condition caused by demolition by neglect. We encourage the HPC to only approve this COA if it is satisfied that the structure truly cannot be repaired and that such a decision would not set a precedent allowing future successful demolition COA requests caused by demolition by neglect.

If such a decision was made, the commission may consider invoking 320-21-11-c2, which states in part, “If the commission grants or conditionally grants a certificate of appropriateness for demolition to allow for new construction, the commission may, in its decision, stipulate that no permit for demolition shall be issued by the commissioner of city development or the commissioner of neighborhood services until the commission determines that the applicant has provided the commission with evidence, satisfactory to the commission in consultation with the comptroller and the commissioner of city development, that all debt and equity financing necessary for the new construction project has been obtained and all related conditions have been satisfied.” This would help ensure that the demolition is followed by the reconstruction as proposed.

Thank you as always for your hard work on behalf of the people and places of Milwaukee.

Respectfully,

Jeremy Ebersole  
Executive Director  
Milwaukee Preservation Alliance