



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD
MINUTES OF THE NOVEMBER 13, 2023 REGULAR MEETING**

Convened at 2 p.m. in the Goshen Police & Court Building, 111 East Jefferson St., Goshen, Indiana

Present: Mayor Gina Leichty, Mike Landis, Barb Swartley and Mary Nichols

Absent: Orv Myers

CALL TO ORDER: Mayor Gina Leichty called the meeting to order at 2:00 p.m.

REVIEW/APPROVE MINUTES: Mayor Leichty presented the minutes of the Oct. 30, 2023 Regular Meeting prepared by Clerk-Treasurer Aguirre. Board Member Mike Landis moved to approve the minutes as presented and the motion was seconded by Board Member Mary Nichols. Motion passed 4-0.

REVIEW/APPROVE AGENDA: Mayor Leichty presented the meeting agenda as submitted by the Clerk-Treasurer. Board member Landis moved to approve the agenda as presented and Board member Nichols seconded the motion. Motion passed 4-0.

1) Business request: Borntreger, Inc. request for four parking spaces at 126 S. Main Street on Nov.14, 2023

Derick Yeoman, owner and president of Borntreger, Inc., told the Board his company will be working on the front slate roof area of Snyder's Men's Shop, 126 South Main St., and he would like to block off four Main Street parking spots and also the sidewalk in front of the store to work on the front facade using a construction man lift.

In his written request, **Yeoman** asked to block the parking spots and sidewalk on Nov. 14, 2023 from 7 a.m. to 5 p.m. He wrote that the closure would allow his workers to change the slate tiles on the front of the building and repair the front gutter. He also wrote that his company has barricades, flags and cones to block all of these areas off, and his workers would remove them as soon as the work was finished to get the area opened back up as soon as possible. Attached to the agenda meeting packet was a map **Yeoman** provided of the parking area. He marked the area that he wanted to be blocked off.

Mayor Leichty asked **Yeoman** if he had notified his neighbors. **Yeoman** said he had done so.

Board member Landis confirmed with **Yeoman** that he would be blocking the sidewalk and the parking spaces.

Asked if there was an alternate day if the work could not be completed on Nov. 14, **Yeoman** said he would just need to rent a lift, perhaps Thursday

Landis/Nichols made a motion to approve closure of the sidewalk and parking spaces in front of 126 S. Main Street for Nov. 14, 2023 from 7 a.m. to 5 p.m. and if that is not possible, an alternate day can be used this week. Motion passed 4-0.

2) Resident request: Reliance Construction seeking approval for sidewalk closures

Robert L. Thatcher, an estimator for Reliance Construction, Inc. of Nappanee, said construction is well underway on a major redevelopment project to the Kyle and Amanda Stiffney home at 702 South 6th St.

In a written request to the Board, **Thatcher** wrote that this project has included the demolition of a major portion of three levels of above grade space, the entire garage and portions of the existing basement level. A major new addition to the home has recently commenced including the excavation and pouring the new concrete foundation walls and the installation of precast Stress-core structural concrete flooring spanning the new basement. He said the next phases include framing the new improvements, setting roof trusses, decking, and more.



Thatcher wrote that given the scope and scale of this redevelopment project and the urban environment, Reliance Construction strongly believed that the closure of the sidewalks on South 6th Street and especially East Douglas Street, was vital from a public safety perspective. Large trucks, excavators and other equipment are regularly active on this construction site. In addition, roof trusses and long span materials are staged in advance around the perimeter of this property.

As set forth in the aerial photograph provided in the agenda meeting packet, **Thatcher** wrote that Reliance was closing the sidewalks from the outer line inward, toward the project work site. The company erected wood stanchion's and attached a snow fence to define the perimeter barrier. It also attached signage giving public notice.

Thatcher also wrote that Reliance Construction and the homeowners were conscious of the impact on the neighborhood and have mitigated the impact of the closure. For instance, the sidewalks were re-opened on Halloween. Thatcher wrote that the immediate area has full public access to the streets and sidewalks adjacent to this rather small area of closure(s) providing the public with full and easy ingress/egress.

Thatcher originally requested approval to maintain these safety features through the conclusion of this project, with completion potentially in August 2024.

However, **Thatcher** said that in response to letters forwarded from the Clerk-Treasurer today by neighbors who objected to the 6th Street sidewalk closure and a communication from the City (**EXHIBIT #1**), Reliance and the homeowners agreed to reopen the sidewalk by the end of the day, but wanted to maintain the closure of the sidewalk on Douglas Street.

In response to a question from **Board member Swartley**, **Thatcher** said the applicant wanted to keep the closure of Douglas Street in place until August 2024 and potentially into September 2024.

In response to a question from **Board member Landis**, **Thatcher** said a portion of the Douglas Street sidewalk would be replaced and improved.

Board member Landis said it was clear heavy equipment was needed at the start of the project, but he wondered why such a long closure was being requested. **Thatcher** said he expected that heavier trucks would need access to the site for many months. Board member Landis said after an initial period, there should not be a need for heavier equipment to access the site.

In response to a question from **Board member Swartley**, **Thatcher** said a dumpster remains on the site. He said a primary concern of workers is public safety.

Mayor Leichty asked if Board members would be more comfortable with a shorter sidewalk closure and revisiting the issue if necessary. **Board member Landis** said he wasn't comfortable approving such a long closure. He said he would be open to a six-month closure and extending it if necessary. **Board member Swartley** said that also made sense to her.

Landis/Nichols then made a motion acknowledging that the sidewalk on 6th Street adjacent to the home renovation project will be reopened by the end of the day, Nov. 13, 2023 and to approve closure of the Douglas Street sidewalk to Memorial Day (May 27) 2024 and that it then will reopen unless there is subsequent action by the Board. Motion passed 4-0.

3) Legal Department request: Agreement with Barkes, Kolbus, Rife & Schuler, LLP for legal services
City Attorney Bodie Stegelmann told the Board that attached to the agenda meeting packet for the Board's approval and execution was an agreement with Barkes, Kolbus, Rife & Shuler, LLP for attorney services for the calendar year 2024.

Stegelmann said that for 2024, the bi-weekly salary paid to **Jim Kolbus** to act as Planning and Zoning Attorney will be increased to \$341.38, and the hourly rate paid to **Don Shuler** to act as Assistant City Attorney is \$51.97 (as provided in the City's 2024 Salary Ordinance). Shuler is expected to work twenty (20) hours per week, on average.



In memorandum to the Board, **Stegelmann** wrote that beginning in 2024, the firm will be paid \$214 per hour for all other services rendered on behalf of the City or its departments, provided such services are not covered by the compensation paid to Jim Kolbus as Planning and Zoning Attorney, or the compensation paid to Don Shuler. The firm will be compensated \$267 per hour for projects where City's legal fees are paid from a non-City funding source. **Landis/Nichols made a motion to approve and execute the agreement with Barkes, Kolbus, Rife & Shuler, LLP for 2024 attorney services. Motion passed 4-0.**

4) Legal Department request: Resolution 2023-35, *Establishing Rules for Use of the City's Public Recycle Drop-off Site*

City Attorney Bodie Stegelmann told the Board that on April 17, 2023, the Common Council adopted Ordinance 5156, restricting a person from leaving, placing, throwing, or depositing solid waste of any kind at the City's recycling drop-off site unless the person reasonably believes that the solid waste is in fact a recyclable material and the solid waste is placed in containers provided by the City. Stegelmann said Ordinance 5156 also requires persons depositing recyclable materials at a public recycling drop-off site to follow all rules for use of the public facility adopted from time to time by the City Board of Public Works and Safety.

Ordinance 5156 may be enforced in the City's Ordinance Violations Bureau or by filing a lawsuit for violation in a court of competent jurisdiction in Elkhart County. Ordinance 5156 also requires persons depositing recyclable materials at a public recycling drop-off site to follow all rules for use of the public facility adopted from time to time by the Goshen Board of Public Works and Safety.

Stegelmann said the City wants to have the Board approve the rules attached to Resolution 2023-35. It states:

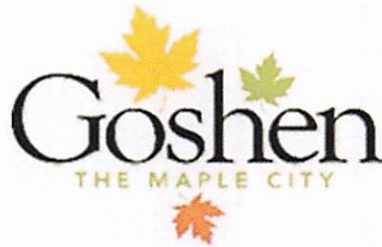
- **The City contracts for transport and management of collected recyclable material;**
- **The City's contract with the hauler identifies loads contaminated with non-recyclable material can be denied transport and become the City's disposal responsibility;**
- **The City has posted signs in English and Spanish at the City's public recycling drop-off site identifying the materials that are suitable for entry into the recycling containers;**
- **The City has posted signs in English and Spanish identifying the site is video monitored and video cameras are in place to document use of the site; and**
- **The Board of Public Works and Safety now seeks to adopt rules for the use of the City's public recycling drop off site, under the authority delegated to it by Ordinance 5156.**

Under Resolution 2023-35:

1. **The Rules for Use of Public Recycling Drop-off Site Adopted by Goshen Board of Public Works and Safety Resolution 2023-35, attached hereto and made a part hereof, are hereby adopted.**
2. **The rules adopted by this resolution shall be posted at the public recycling drop off site operated by the City in a manner that substantially communicates the rules adopted.**
3. **The City may enforce Ordinance 5156 and these rules through City staff and the use of video surveillance, as well as any other reasonable means. City staff may exercise discretion and provide a written warning to persons violating ordinance 5156 for these rules, prior to seeking enforcement through the ordinance violations Bureau action in court.**

Resolution 2023-35 would establish the following rules for the Recycling Drop-off Site:

1. **A person may leave solid waste materials at the City's public recycling drop-off site only if the person reasonably believes that the solid waste is in fact a recyclable material and the solid waste is placed into containers provided by the City, or the City's agent, for collection of recyclable materials.**
2. **Only the following Solid Waste materials shall be considered recyclable, and subject to disposal at the City's public recycling drop-off site, under ordinance 5156:**



- a. Cardboard, paperboard, newspaper, magazines/catalogs, copy paper, mail, and other paper products;
- b. Glass products (clear and colored bottles and jars);
- c. Clean plastic containers labeled as #1 through #7;
- d. Household metal containers (aluminum, steel, tin, and bi-metal).

3. The following solid waste materials may not be deposited at the City's public recycling drop-off site:

- a. Clothing;
- b. Construction materials;
- c. Auto parts;
- d. Plastic bags, chip bags, and medical items;
- e. Styrofoam, paper cartons, paper towels, napkins, and diapers;
- f. Electric cords, televisions, electronics, tarps, furniture, and light bulbs;
- g. Fluids of any type;
- h. Any solid waste that may be considered hazardous;
- i. Any solid waste identified on signs posted at a City public recycling drop-off site as not being allowed for deposit at the public recycling drop-off site;
- j. Items that contain recyclable materials, but are combined with metals, fabrics, or other non-recyclable materials.

4. No person may remove Solid Waste materials deposited at a City public recycling drop-off site without the approval of the City's Department of Environmental Resilience.

Board member Landis asked about the fines for violations. City Attorney Stegelmann said the fines will be outlined in the ordinance for the Ordinance Violations Bureau. He said enforcement will be by City staff. If there is non-compliance, Stegelmann said City staff can go to Court and seek fines of up to \$2,500 per offense. He confirmed that the fines will follow the same procedures as other City violations.

Landis/Nichols made a motion to approve Resolution 2023-35, Establishing Rules for Use of the City's Public Recycle Drop-off Site. Motion passed 4-0.

5) Legal Department request: Agreement with Peerless Midwest, Inc. for the Cleaning of Well 1A, Cleaning and Pump Overhaul of Well 14, and Pump and Motor Overhaul of High Service Pump 1.

Brandy Toms, a paralegal with the City Legal Department, said that attached to the Board's agenda packet for the Board's approval and authorization for Mayor Leichthy to execute was an agreement with Peerless Midwest, Inc. Toms said the City of Goshen Water and Sewer Department wishes to enter into this agreement with Peerless-Midwest, Inc for the cleaning of Well 1A, cleaning and pump overhaul of Well #14, and pump and motor overhaul of Pump 1. The cost of this work will be \$134,795.

Under the agreement, Peerless Midwest, Inc. would have the following duties:

1. Contractor shall perform a five (5) day conventional cleaning of Well #1A utilizing surge tank and existing pump.
2. Contractor shall clean Well #14 utilizing the "Armour Method", whereby six (6) shots will be used over the course of three (3) weeks. Following the cleaning, the pump will be pulled, and the well will be video inspected. The pump and motor will be torn down and overhauled.
3. High Service Pump #1 will be pulled, torn down and inspected by Contractor. Following the inspection, the pump and motor will be overhauled and reinstalled.
4. Contractor agrees that any pumps pulled for an overhaul will be inspected and any results of the inspection will be communicated to City and no repairs shall be made without prior approval from City.

Landis/Nichols made a motion to approve and authorize Mayor Leichthy to execute the agreement with Peerless Midwest, Inc. for the cleaning of Well 1A, cleaning and pump overhaul of Well #14, and the pump and motor overhaul of Pump 1 at a cost of \$134,795. Motion passed 4-0.



6) Legal Department request: Resolution 2023-38, Declaring Surplus and Authorizing the Disposal of Miscellaneous Furniture and Equipment

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, told the Board that the Police Department and City Court wish to dispose of personal property that is no longer needed or is unfit for the purpose for which it was intended. The estimated total value of the items is less than \$5,000, some items of which are worthless or of no market value.

Marks said Indiana Code § 5-22-22-6 authorizes selling the property at a public or private sale or transferring the property without advertising provided the estimated value of the Surplus Property is less than \$5,000; and Indiana Code § 5-22-22-8 authorizes junking property that is worthless or of no market value. Passage of Resolution 2023-38 would declare the property as surplus and authorize its disposal accordingly.

According to Resolution 2023-38, the following would be declared surplus property:

- 6 wooden frame/brown fabric guest chairs
- 24 metal frame/blue fabric stacking chairs
- 2 fabric task chairs
- 1 Copystar copy machine
- 3 wood L-shape desks with drawers
- 1 wood bookcase
- 2 metal mobile file drawer cabinets
- 1 metal stationary cabinet
- 1 wood 2-shelf cabinet
- 11 cubical wall panels

Landis/Nichols made a motion to pass Resolution 2023-38, Declaring Surplus and Authorizing the Disposal of Miscellaneous Furniture and Equipment. Motion passed 4-0.

7) Planning Department request: Acknowledge Community Development Block Grant (CDBG) Conflict of Interest Disclosure

Theresa Cummings, Community Development Specialist told the Board that **Megan Peel** (formerly known as Megan Eichorn), an elected City Council member, began employment with Lacasa on Oct. 9, 2023 as the Development and Communications Manager. Lacasa is a subrecipient and CBDO of Community Development Block Grant (CDBG) funds for Program Year 2023.

In a memorandum to the Board, **Cummings** wrote that Peel's role of employment at Lacasa is in communications, marketing and fundraising and is independent from contracts or activities related to CDBG. Her position is not in leadership or decision-making with Lacasa. Furthermore, Peel has agreed that in her role as a Council member, she will recuse herself in all matters between the City and Lacasa to avoid a perceived conflict of interest.

Cummings said a public disclosure and application to HUD for a waiver are required under the regulations which govern the CDBG program. This disclosure will be done annually, as long as Peel is serving in both capacities as Council member and as an employee of Lacasa. This annual disclosure is to cover the time period of employment, Oct. 9 through December 31, 2023. The disclosure is attached, to be acknowledged by the Board of Public Works and Safety.

Landis/Nichols made a motion to acknowledge the Conflict of Interest Disclosure. Motion passed 4-0.

8) Planning Department request: Acknowledge Community Development Block Grant (CDBG) Conflict of Interest Disclosure

Theresa Cummings, Community Development Specialist told the Board that **Brett Weddell**, an elected Common Council member, serves as Chair on Lacasa, Inc.'s Board of Directors.



Lacasa is a subrecipient and CBDO of Community Development Block Grant (CDBG) funds for Program Year 2023. **Cummings** said in the interest of full transparency, Weddell was disclosing his service relative to Lacasa, noting that it is a volunteer position. He has agreed that in his role as a Council member, he will recuse himself in all matters between the City and Lacasa to avoid a perceived conflict of interest.

Cummings said a public disclosure and application to HUD for a waiver are required under the regulations which govern the CDBG program. This disclosure will be done annually, as long as Weddell is serving in both capacities as Council member and as a board member of Lacasa. This annual disclosure is to cover this year, 2023. The disclosure is attached, to be acknowledged by the Board of Public Works and Safety.

Landis/Nichols made a motion to acknowledge the Conflict of Interest Disclosure. Motion passed 4-0.

9) Planning Department request: Acceptance of Plat for Keystone Square Fifteenth

City Planning & Zoning Administrator Rhonda Yoder said that the secondary subdivision has been submitted for Keystone Square Fifteenth (Lot 19). The subject property is generally located on the north side of Keystone Drive, west of Lincolnway East, and is zoned Commercial B-3 PUD (Planned Unit Development), part of Keystone Square commercial subdivision that was granted primary approval by the Plan Commission on July 18, 2000.

Yoder said the subdivision meets the Keystone Square PUD and Zoning and Subdivision Ordinance (SO) requirements. The subdivision drainage plan was accepted by the Board of Works on Oct. 16, 2023. No surety/performance bond is required, as all public infrastructure is existing. The plat does not include dedication of right of way, but does include a number of easements.

Yoder asked the Board to accept the Keystone Square Fifteenth plat with easements and sign the plat.

After clarifying the required action, Landis/Nichols made a motion to accept the Keystone Square Fifteenth plat with easements. The motion passed 4-0.

10) Engineering Department request: Extension of Tenth Street Road Closure and Temporary Parking Restriction (JN: 2022-0037)

City Director of Public Works & Utilities Dustin Sailor told the Board that Niblock Excavating has requested an additional extension for the closure of South 10th Street to through traffic, from East Jackson Street to East Reynolds Street, until Nov. 17, 2023.

Sailor said due to unexpected changes in crew availability, Niblock was not able to complete removal of tree stumps last week. This work is necessary to prepare for NIPSCO gas main relocation and road reconstruction. The road will only be closed when construction work is actively proceeding. On-street parking will be restricted during these times.

Landis/Nichols made a motion to approve extending the road closure of 10th Street, from Jackson Street to Reynolds Street, from Nov. 14 to Nov. 17, 2023. Motion passed 4-0.

11) Engineering Department request: Agreement Amendment for Electrical Maintenance: Traffic Signals, School Flashers, Lighting, Airport, City Buildings (JN: 2024-0005)

City Director of Public Works & Utilities Dustin Sailor told the Board that attached to the Board's meeting packet was an agreement amendment with L&M Electric for the Electrical Maintenance of Traffic Signals, School Flashers, Lighting, City Buildings and the Airport.

Sailor said the amendment would extend the agreement from Jan. 1, 2024, through Dec. 31, 2024, under the same terms and conditions as the Feb. 15, 2021 contract. He said this would be the last extension under the contract.

In response to a question from **Board member Landis**, **Sailor** said this would just cover equipment on roads maintained by the City and not on state or federal government roads.

Landis/Nichols moved to authorize the Mayor to execute the agreement amendment with L&M Electric to extend by one year, through Dec. 31, 2024, for Civil City Electrical Maintenance. Motion passed 4-0.



12) Engineering Department request: Agreement Amendment for Electrical Maintenance: Municipal Wastewater and Water Utilities (JN: 2024-0006)

City Director of Public Works & Utilities Dustin Sailor told the Board that attached to the Board's meeting packet was an agreement amendment with Middlebury Electric for the Electrical Maintenance for the Wastewater and Water Utilities.

Sailor said the amendment would extend the agreement from Jan. 1, 2024, through Dec. 31, 2024, under the same terms and conditions as the Feb. 17, 2021 contract. He said this would be the last extension for this service contract.

Landis/Nichols made a motion to authorize **Mayor Leichthy** to execute the agreement amendment with Middlebury Electric to extend by one (1) year, through Dec. 31, 2024 for Utilities Electrical Maintenance. Motion passed 4-0.

Privilege of the Floor (opportunity for public comment for matters not on the agenda):

Mayor Leichthy opened Privilege of the Floor at 2:24 p.m.

Mayor Leichthy invited comments about Wilden Avenue from **City Director of Public Works & Utilities Dustin Sailor**. He said the City has received a commitment from its contractor, Rieth-Reily Construction Co., that Wilden Avenue will be reopened, and a ribbon-cutting ceremony will be held at 9:30 a.m. on Friday, Nov. 17.

Board member Landis asked for an update on College Avenue. **Sailor** said it has been open for two weeks.

There were no further comments, so **Mayor Leichthy** closed the public comment period at 2:25 p.m.

13) Board of Public Works & Safety public hearing: Review of the Order of the City of Goshen Building Commissioner for 114 South 29th Street (Ronald E. Davidhizar, property owner)

At 2:25 p.m., **Mayor Leichthy** opened a public hearing on the Order of the City of Goshen Building Commissioner for the property at 114 South 29th Street (Ronald E. Davidhizar, property owner).

In a memorandum to the Board, **Assistant City Attorney Don Shuler** wrote that the Board of Public Works and Safety needed to conduct an unsafe building hearing for the property located at 114 South 29th Street. Attached to the Board agenda packet was the Order of the City of Goshen Building Commissioner, dated Oct. 10, 2023, concerning the property.

Shuler wrote that the Board needed to conduct a public hearing and then affirm, rescind, or modify the Building Commissioner Order and determine what action it will order concerning the property.

BACKGROUND:

On Oct. 10, 2023, through a written order, **City Building Commissioner Myron Grise** notified **Ronald E. Davidhizar**, the owner, that his property at 114 South 29th Street in Goshen was in violation of the City of Goshen Neighborhood Preservation Ordinance (City Code § 6.3.1).

Grise reported that the Goshen Building Department first inspected the subject real estate and the vacant residential structure on March 27, 2023. Violations of the Neighborhood Preservation Ordinance (Minimum Housing Ordinance) were cited. The real estate was reinspected on June 20, 2023, "which showed no significant improvement to the vacant residential structure at the real estate."

Grise wrote that the following violations of Goshen City Code Section 6, Title 3, Chapter 1 were cited by the Goshen Building Department and have not been satisfactorily repaired or remedied:



1. The residential structure has been severely damaged by fire so that it is easily accessible to persons and animals, a violation of Section 6.3.1. l(w). There are open doors and multiple broken windows allow access, and graffiti, drug paraphernalia, food products, trash, and other materials inside the residential structure demonstrate the residential structure's accessibility.
2. The fire damage to the structure has impacted the structural strength of exterior load bearing walls; interior walls have been compromised; multiple ceilings have collapsed; a floor has begun to collapse; and the roof assembly has severe fire and smoke damage and has lost its structure integrity; the roof has holes permitting weather to enter; all of which are violations of Section 6. 3 .1.1 (u).
3. The structural strength of the entire house has been compromised due to fire and is in danger of collapse, a violation of Section 6.3.1.l(p).
4. Multiple areas of the foundation have cracks and holes, a violation of Sections 6.3.1. l(b) and (j).
5. The front steps are in disrepair and in danger of collapse, a violation of Sections 6.3.1.l(e) and (j).
6. The residential structure's chimney is beginning to pull away from the house, putting it at risk of falling, a violation of Section 6.3.1.l(z).
7. Multiple windows and doors are broken are not working properly, a violation of Section 6.3.1. l(d).
8. Multiple areas of siding are damaged due to fire and weather, a violation of Section 6.3.1.l(bb).
9. The electrical system is damaged and likely needs replacement due to fire, a violation of Section 6. 3 .1.1 (a).
10. The plumbing system is damaged and likely needs replacement due to fire and lack of usage, a violation of Section 6.3.1.l(a).
11. The heating and mechanical systems at the residential structure are damaged due to fire and lack of usage, a violation of Section 6.3.1. l(a).

Grise concluded that the residential structure "is unsafe within the meaning of Indiana Code § 36-7-9-4(a)(l) through (6). The lack of structural integrity renders it in an impaired structural condition that makes it unsafe to person or property. The unsecured nature of the residential structure as evidenced by graffiti and the presence of drug paraphernalia renders it a fire hazard, a hazard to public health, and a public nuisance. The residential structure is dangerous to person or property because of violations of the Neighborhood Preservation Ordinance, particularly violations concerning its structural integrity of load bearing walls, leaking roof, chimney, and foundation cracks. The residential structural is vacant and not maintained in a manner that permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance."

Grise further wrote that "the condition of the residential structure warrants removal. In its present condition, as detailed above, the residential structure is unfit for human habitation, occupancy, or use, and conditions exist to the extent that life, health, property, and safety of the public is threatened. The residential structure is an unsafe building and the tract of real property on which the unsafe building is located shall be considered the unsafe premises."

In this formal order, Grise:

- Ordered the property owner to demolish the unsafe buildings identified in Section 2 of this Order at the property identified in Section 1 of this Order and remove all demolition remains, trash, and debris on the unsafe premises and return the site to natural grade, all of said work to be completed on or before Nov. 9, 2023.
- Notified the property owner that failure to comply with this Order may result in the City of Goshen taking action to complete demolition and bill the property owner for the costs of such work, including, the actual costs of the work performed and an amount equal to the average processing expense the City will incur in pursuing this matter. Such amounts can become a lien upon the real estate and can ultimately be enforced in the same manner as any other judgment.
- Notified the property owner that a hearing would be held before the City Board of Public Works and Safety on Nov. 13, 2023 at 2 p.m. to review the Order of the City of Goshen Building Commissioner.



- That the property owner had the right to appear at this hearing, with or without counsel, to present evidence, cross-examine opposing witnesses, and present arguments.
- That if the property owner failed to appear at the time set for the hearing, the hearing would be conducted in his absence and the Board of Public Works and Safety had the right to affirm, rescind, or modify this Order.
- Notified the property owner that the failure to comply with Section 6 of this Order could result in a judgment of liability against the property owner in accordance with Indiana Code § 36-7-9-27.

The City Legal Department certified that the Order of the City of Goshen Building Commissioner for the premises at 114 South 29th Street, was served by sending a copy by certified mail, return receipt requested and by regular first-class mail to the last known address of the property owner (Ronald E. Davidhizar) on Oct. 11, 2023:

A draft order by the City Legal Department was included in the Board's agenda packet.

NOV. 13, 2023 PUBLIC HEARING DISCUSSION AND OUTCOME:

Starting at 2:25 p.m., Mayor Leichty convened the hearing on the Order of the City of Goshen Building Commissioner for 114 South 29th Street. Ronald E. Davidhizar, property owner, who was NOT present. She swore in potential witnesses to give truthful testimony.

Assistant City Attorney Don Shuler provided an overview of the public hearing. He began by providing written evidence that the property owner of 114 South 29th Street, Ronald E. Davidhizar, was provided notice of the hearing. Shuler said the Building Commissioner's order for the property was sent to Davidhizar, via certified mail, on Oct. 11, 2023. He provided the Board with Certificate of the Issuance of the Building Commissioner's Order, a U.S. Postal Service Certified Mail Receipt, which bore Davidhizar's signature and was dated Oct. 14, 2023, and a U.S. Postal Service Tracing form indicating that the certified letter was delivered at 11:07 a.m. on Oct. 14, 2023. These three documents were provided to the Board and entered into the hearing record (**EXHIBIT #2**).

Shuler told the Board that included in the meeting agenda packet was the Order of the City of Goshen Building Commissioner and a draft enforcement order that could be used depending on the outcome of today's hearing. He said the Building Department and the Legal Department would present their case primarily through the report and testimony of City Building Inspector Travis Eash.

Eash then provided a report about 114 South 29th Street (Ronald E. Davidhizar, property owner). As the hearing began, Eash distributed to Board members a packet of documents containing the following: a one-page memorandum to the Board, dated Nov. 13, 2023, which provided an update on the status of 114 South 29th Street; the five page Order of the City of Goshen Building Commissioner, a one page Certificate of Service, a four-page letter, dated May 9, 2023 and addressed to Ron Davidhizar, that detailed the outcome of a March 27, 2023 inspection of the property at 114 South 29th Street and the code violations that needed to be corrected by June 19, 2023, and 30 pages of photocopies of 120 color photographs taken by Eash during inspections of the home on March 27, 2023 and Nov. 13, 2023. This packet was made a part of the hearing record (**EXHIBIT #3**).

Reading from his Nov. 13, 2023 memorandum to the Board, Eash said:

"This morning I inspected the property at 114 S 29th Street. Photos from that inspection are attached along with photos from a previous inspection that was conducted March 27, 2023.

"A fire occurred at the property on November 7, 2021 causing extensive damage to the structure and the structural integrity of the house. Gas service, electrical, and remodel permits were all pulled on January 7, 2022. However, the photos taken in March of this year indicate no work had taken place during that permit time period and no inspections were conducted relative to those permits.



"The owner was again issued permits for window replacement, roof and remodel on Oct. 17 just four weeks ago, only after he received the Order of the City of Goshen Building Commissioner, which was completed on Oct. 10 and he signed for on Oct. 14. The work that has been started the last couple weeks would not pass any inspections today, and some of the work being done goes beyond the scope of permits that have been pulled.

"The structure is still unsafe and unsecure, the foundation cracks and concrete steps have only worsened. Ceilings throughout property are still collapsed, the structural strength of the roof assembly is still in question. Areas of the floor have been covered with plywood but not properly repaired. The house is still not weather tight.

Eash concluded, "Due to the extent of the fire damage, and lack of structural integrity and overall unsafe condition of the property and the lack of compliance and neglect from the owner, the Building Department recommendation is to find the structure unsafe and recommend demolition."

Eash said a review of the Building Commissioner's Order shows that of the 11 listed violations, "zero have been completed." He said the interior of the property has been cleaned and graffiti and trash have been removed and some fire-damaged furnishings removed.

Eash said there have been some repairs to the roof and walls, "but the integrity of that work would not pass inspection." He said the charred tops of walls have only been covered, and not repaired, plywood has been placed over the burned and collapsing floor and ceilings remain collapsed.

Eash said the fire occurred Nov. 7, 2021, but almost no work that would pass inspection has been done since then. He said the doesn't believe the property owner intended to repair the damage until he received the Oct. 10, 2023 Order of the City of Goshen Building Commissioner.

Eash also discussed the photos of the home, first taken March 27, 2023 and repeated on Nov. 13, 2023. He said a review of the photos would show that some work has been done, but the home still remains accessible and is still subject to further damage from rain and snow.

Board member Landis asked about the quality of work done on the home so far. **Eash** said the work done so far would need to be adjusted to pass inspection and some would need to be redone. He said if the work on the home was inspected today, it would fail. He added that some electrical work has been done without permits.

Mayor Leichty asked if anyone else present wanted to speak during the hearing. **No one did.**

Noting that there didn't appear to be additional evidence to be presented, **Assistant City Attorney Shuler** asked Board members to review the draft Record of Action and Continuous Enforcement he had prepared for consideration by the Board. He said it contained the findings and enforcement actions the Building Department was recommending. He reviewed the suggested findings and motions to carry out the Building Commissioner's order.

Based on the document, and with guidance from Shuler and City Attorney Bodie Stegelmann, the Board made the following findings and took the following actions through these motions:

1. **Mayor Leichty** made a motion, that was seconded by Board member Landis, that the Board finds that property owner Ronald Davidhizar was given proper notice of the Building Commissioner's Order and the Nov. 13, 2023 hearing and it was received AND that the time to complete the demolition required by the Order has passed, AND that the 11 violations found on the property still existed. The motion passed 4-0.

2. Board member Landis then made a motion, seconded by Board member Nichols, that the Board finds that the property at 114 South 29th is unsafe because it is in an impaired structural condition that makes it unsafe to person or property, is dangerous to person or property because of a violation of a statute or ordinance concerning building condition or maintenance and is vacant or blighted and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance. The motion passed 4-0.



Before another motion was made, Mayor Leichty, Board member Landis and Assistant City Attorney Shuler discussed the possibility of making an additional finding – that the property owner “failed to demonstrate a willingness or intention to repair the unsafe building.” Ultimately, it was decided not to add that finding.

3. Board member Landis then made a motion, seconded by Board member Nichols, that the Board finds that, based on the Board’s findings, that the property is unsafe and warrants demolition because it is unfit for human habitation, occupancy, or use, and conditions exist to the extent that life, property, and safety of the public is threatened and also that the home has compromised exterior and interior walls, collapsing ceilings, floors on the verge of collapse, a roof that lacks structural integrity, a chimney pulling away from house and cracks and holes in foundation. The motion passed 4-0.

Assistant City Attorney Shuler summarized the findings made by the Board and said it could now order demolition or repairs of the property at 114 South 29th Street. He recommended that the Board order demolition. In response to questions from Mayor Leichty and Board members Landis and Swartley, Shuler and City Attorney Stegelmann outlined options to help expedite and ensure the demolition of the home on the property.

4. Board member Landis then made a motion, seconded by Board member Nichols, that the Board affirm its previous actions and affirm the Building Commissioner’s Order and order that this unsafe building and real estate is ordered demolished within 30 days. Motion passed 4-0.

At 2:59 p.m., Mayor Leichty closed the public hearing on the Order of the City of Goshen Building Commissioner for the property at 114 South 29th Street (Ronald E. Davidhizar, property owner).

Approval of Civil City and Utility Claims

As all matters before the Board of Public Works & Safety were concluded, Mayor Leichty/Board member Landis moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 4-0.

Adjournment

Mayor Leichty adjourned the Board of Works meeting at 2:59 p.m.

EXHIBIT #1: Copies of emailed letters from neighborhood residents Kelli Bowser, Chris Herr and Tamie Herr and responses from City Director of Public Works & Utilities Dustin Sailor and Robert Thatcher of Reliance Construction, Inc. regarding the proposed closure of the sidewalks on Douglas and 6th Streets during the reconstruction of the home at 702 South 6th Street. The letters, which were received by the Clerk-Treasurer on Nov. 13, 2023, were forwarded to Board of Public Works and Safety members, City staff members and Robert Thatcher. Copies of the emails also were distributed to Board members before consideration of agenda item 2) Resident request: Reliance Construction seeking approval for sidewalk closure.

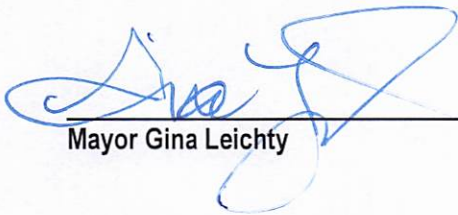
EXHIBIT #2: Three documents provided by Assistant City Attorney Don Shuler to the Board of Public Works and Safety and entered into the record during consideration of agenda item 13) Board of Public Works & Safety public hearing: Review of the Order of the City of Goshen Building Commissioner for 114 South 29th Street (Ronald E. Davidhizar, property owner).



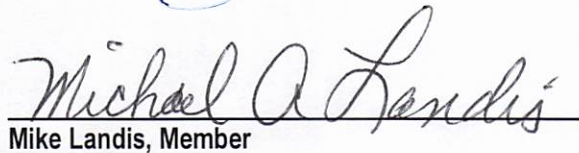
These documents provided written evidence that the property owner of 114 South 29th Street, Ronald E. Davidhizar, was provided notice of the hearing. The documents consisted of a Certificate of the Issuance of the Building Commissioner's Order, a U.S. Postal Service Certified Mail Receipt, which bore Davidhizar's signature and was dated Oct. 14, 2023, and a U.S. Postal Service Tracing form indicating that the certified letter was delivered at 11:07 a.m. on Oct. 14, 2023.

EXHIBIT #3: A packet of documents City Building Inspector Travis Eash distributed to the Board of Public Works and Safety during consideration of agenda item 13) Board of Public Works & Safety public hearing: Review of the Order of the City of Goshen Building Commissioner for 114 South 29th Street (Ronald E. Davidhizar, property owner). The packet contained the following: a one-page memorandum to the Board, dated Nov. 13, 2023, which provided an update on the status of 114 South 29th Street; the five page Order of the City of Goshen Building Commissioner; a one page Certificate of Service, a four-page letter, dated May 9, 2023 and addressed to Ron Davidhizar, that detailed the outcome of a March 27, 2023 inspection of the property at 114 South 29th Street and the code violations that needed to be corrected by June 19, 2023; and 30 pages of photocopies of 120 color photographs taken by Eash during inspections of the home on March 27, 2023 and Nov. 13, 2023. These documents were made a part of the hearing record.

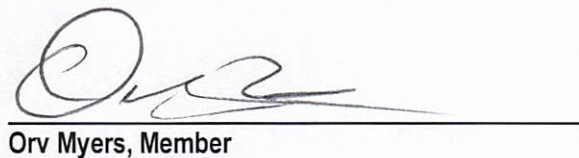
APPROVED:



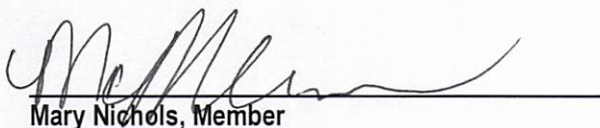
Mayor Gina Leichty



Mike Landis, Member

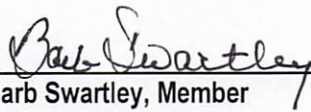


Orv Myers, Member



Mary Nichols, Member




Barb Swartley, Member

ATTEST:

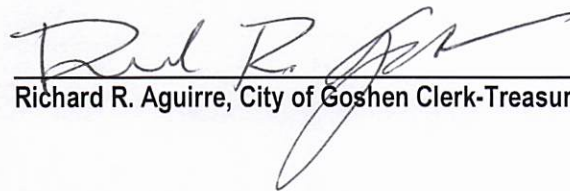

Richard R. Aguirre, City of Goshen Clerk-Treasurer

EXHIBIT #1

Aguirre, Richard

From: Kelli Bowser <kabowser@wanee.org>
Sent: Monday, November 13, 2023 8:53 AM
To: clerktreasurer@goshencity.com; Office of Mayor Gina Leichty
Subject: 6th Street Sidealk Closure

To Whom it may concern,

This morning a number of us on 6th street were made aware of a meeting today at 2 about an item with Reliance Construction that we have been very unhappy with. Most of us are not going to be able to attend this meeting to voice our opinions because it's at an inconvenient time during work hours.

None of us were ever made aware when we received a letter about this project, that the 6th street sidewalk was going to be closed for over a year. We were just told about the scope of the remodel. Many that have spoken to me said they would have never agreed to it had they known.

We understand the sidewalk or Douglas needing to be closed since it is the owners' driveway and where all of the construction is happening, but we are not happy with the 6th street closure. There has been no work on the front side of the house except for siding and windows being taken off. That should not warrant the fence to go clear to the hell strip.

Many are walking in the street to get around it, myself included and I'm in a boot for 8 weeks, as well as students walking to the bus stop, many who walk to and from the center for hope and healing, and various others. I live at 708 S 6th Street, 3 houses down. I do not want to be doing this and seeing this especially all winter long, it isn't safe for me or anyone when the fence could simply be moved back to the bush line that's clearly still at a safe distance from the house!

I know many have called the building commissioner and whoever they can to try and bring attention to this. I am not able to make the meeting today so I am writing my opinion. This is the first thing I have ever spoken up about.

Again, we understand Douglas needs to be closed, but we are asking for the 6th street fence to be moved back to the bush line just behind the sidewalk like was done for Halloween when we asked them. This is not a "big ask", it's a simple one to appease the neighborhood.

Thank you,

Kelli Bowser

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Aguirre, Richard

From: Chris Herr <ChrisH@wielanddesigns.com>
Sent: Monday, November 13, 2023 11:27 AM
To: clerktreasurer@goshencity.com
Subject: Sidewalk closure agenda item for 2:00 PM meeting

Hi,

My name is Chris Herr and I live at 705 South 6th street. I would like to express my concern with the sidewalk closure at 702 South 6th street due to construction on this home. On the 6th street side there is a natural hedge row up against the sidewalk that the fence could be moved up against, but still allow walkers to utilize the sidewalk. This will become especially even more important as winter arrives and folks have to walk out into the street what snow has been plowed and piled.

On the Douglas street side, there is a good portion of the side walk that also has a natural hedge barrier that the fence could be moved up against to allow part of the area to be walkable.

Thank you for sharing this with others as I am unable to attend the 2:00 PM meeting in person.

Chris Herr
Director of Product Development
Cell: (574) 536-7999
Desk: 574-533-2168 X1280
901 E. Madison Street
Goshen, IN 46528
www.wielanddesigns.com



CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Aguirre, Richard

From: Tamie Herr <tamieherr@gmail.com>
Sent: Monday, November 13, 2023 12:14 PM
To: clerktreasurer@goshencity.com
Subject: 6TH Street Sidewalk and Street Closure

To Whom It May Concern,

It is my understanding that the closure of the sidewalk and street near 702 S. 6TH street will be discussed at a meeting today. We live at 705 S. 6TH Street and would like to voice our concerns. We had no idea the scope of the renovation taking place at 702 S. 6TH Street nor the length of time required to complete the project (November of 2024). To close the sidewalk for that length of time is dangerous. The Historic Southside Neighborhood, is a walking neighborhood used by many residents of Goshen. I am confused as to why the fence needs to be placed on the edge of the property (to the curb), blocking the sidewalk. I do appreciate the fact that the fence was moved for Halloween allowing for safe trick or treating to occur. As winter approaches, I'm concerned about individuals walking in the streets.

Thank you in advance for reading my concerns, Tamie Herr

Sent from my iPad

Aguirre, Richard

From: Sailor, Dustin
Sent: Monday, November 13, 2023 11:23 AM
To: Aguirre, Richard; Leichty, Gina; Mike Landis; Nichols, Mary; Barbara Swartley; Orv Myers
Cc: Meade, Melissa; Gibbs, David; Sink, Danny; Miller, Jose; Yoder, Rhonda; Deegan, Rossa; Hetler, Tara
Subject: Goshen Engineering - 6th Street Sidewalk Closure
Attachments: 702 S 6th Street - Application ROW.pdf

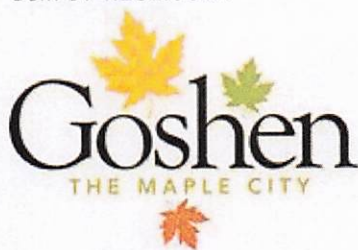
Dear Board Members:

At the time of application for a right-of-way permit, the contractor indicated they wanted to close the sidewalk for an unspecified length of time. See the attached right-of-way permit. Closure of the sidewalk is not something Goshen Engineering can grant and it was not addressed in the permit comments. I can see where the contractor may have thought their request was addressed with the permit, but it was not.

I fully agree with Kelli Bowser's assessment. With the hedge around the property, I see no reason the contractor cannot move their construction fence behind the hedge along 6th Street. Goshen Engineering would recommend allowing the contractor to keep the sidewalk closed for a "specified" period along Douglas Street, and then directing the contractor to remove the sidewalk closure along Sixth Street, unless other evidence is provided.

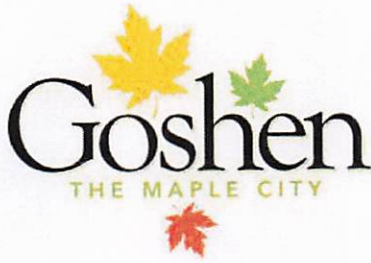
Regards,

Dustin K. Sailor, P.E.
Director of Public Works
City of Goshen
204 E. Jefferson Street
Goshen, IN 46528
Ph: 574.534.2201
Cell: 574.202.0062



From: Aguirre, Richard <richardaguirre@goshencity.com>
Sent: Monday, November 13, 2023 10:39 AM
To: Leichty, Gina <ginaleichty@goshencity.com>; Mike Landis <mlandisllc@gmail.com>; Nichols, Mary <Mary.Nichols@lakecitybank.com>; Barbara Swartley <barb@barbandchristina.com>; Orv Myers <orvmyers@yahoo.com>
Cc: Meade, Melissa <melissameade@goshencity.com>; Sailor, Dustin <dustinsailor@goshencity.com>; Gibbs, David <davidgibbs@goshencity.com>; Sink, Danny <dannysink@goshencity.com>; Miller, Jose <josemiller@goshencity.com>; Yoder, Rhonda <rhondayoder@goshencity.com>; Deegan, Rossa <rossadeegan@goshencity.com>
Subject: FW: 6th Street Sidealk Closure

Gina, Mike, Mary, & Barb:



**Engineering Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite I • Goshen, IN 46528-3405

Phone (574) 534-2201 • Fax (574) 533-8626 • TDD (574) 534-3185
 engineering@goshencity.com • www.goshenindiana.org

PERMIT APPLICATION

File number:	20231142-DRV		*Q8NXMK*
Project location:	702 S 6th St		
Applicant(s):	Reliance Construction, Inc. 201 S. Main Street Nappanee, IN 46550 (574) 773-4308 pam@reliancedbr.net	Owner(s):	kyle stiffney 702 s 6th st goshen, IN 46526 5742384326 kstiffney@gmail.com
Contractor:	Reliance Construction, Inc. 201 South Main Street Nappanee, IN 46550 574-773-4308 robert@reliancedbr.net		
Description of work:	Reliance Construction is actively planning to commence the renovation of the of the Stiffney Residence; which is fully reviewed & permitted. Given the significant scope of demolition and renovation work thereafter, Reliance Construction strongly contends that the Sidewalks (adjacent to the subject's property lines) on both South Sixth St and Douglas Streets should be closed during construction. We also seek a Curb Cut Permit related to the expanded and relocated driveway. Please and Thank you! RL Thatcher for Reliance Construction, Inc.		

Street Cut Surface

Dimensions (ft)

Quantity

x

Boring Surface

Length (ft)

Quantity

Fees:

Type	Amount
Driveway / Approach:	\$20.00
Total	\$20.00

Please make check payable to : "CITY OF GOSHEN"

- The permit fee for each right-of-way cut, including a non-pavement cut, up to 100 feet in length shall be \$20.00.
- In addition, the permit fee for each right-of-way cut exceeding 100 ft in length shall be \$15.00 per 100 ft., up to a maximum of \$500.00.
- Payment is expected before the permit is issued, unless otherwise stated.

Type Bond

Surety Bond will be waived for a person performing work that requires a right-of-way cut permit for the construction of a residential driveway. This Permit if Approved for Issuance by the City Engineer, is subject to the information submitted and the applicant hereby agrees to the permit terms listed below entitled "Right-of-Way Terms" and any special conditions as set out below:

Conditions:

1. City's notes in green on the permit drawing are made apart of the right-of-way permit approval
2. ADA compliance to be obtained within the right-of-way between the west side of the sidewalk and east side of the driveway
3. Contractor to call for form inspection and post-install inspection
4. 24-hour advance notice to be provided for inspection scheduling

Approved for Issuance:

Dustin K. Sailer
City Engineer

Amount Due: \$20.00
Amount Paid:
Payment Type:
Payment Date:

The permit must be signed & issued prior to any work starting.

Right-of-Way Permit Terms Permittee Will Agree to With Acceptance of Permit

The Permittee Shall:

1. Perform all work requiring a right-of-way cut permit, in accordance with the following permit terms and Goshen Ordinance No. 3659. Work is only permitted during the hours of 7am to 8pm. No work is to take place outside of those hours.
2. Permit must be signed and issued prior to the start of work.
3. The Street Commissioner, Engineering Department, or duly authorized representative reserves the right to stop any work at any time.
4. Any permit issued is limited in time by three months from the permit issue date, unless extended by the Engineering Department. Applicants not completing work within the three-month time limit must apply for a new permit.
5. If any road or sidewalk closure(s) or restriction(s) are needed: a traffic control plan must be submitted and is required to be approved through the Board of Public Works and Safety. For information regarding meeting dates please contact Goshen Engineering at 574-534-2201.
6. Within areas effecting vehicular and pedestrian traffic, erect and maintain all necessary and appropriate warning signs, barricades and warning lights in accordance with the manual on Uniform Traffic Control Devices for Construction and Maintenance Areas. Any disruption to traffic is required to be approved through the Board of Works Public and Safety (see No. 5). Permittee must notify 911 at any time a street is closed to emergency vehicles.
7. Move or remove any structures installed under this permit, at permit holders' own expense, should future traffic conditions or road improvements necessitate.
8. Not to interfere with any existing structure along or across a city street, without permission from the owner of the structure.
9. Bore in pavement areas unless it is impractical. If a cut in the pavement is necessary, then all cuts shall be initiated with a saw cut, a minimum of three inches deep, and the cut shall be one foot wider than the trench to excavated, each side.
10. Meet all City of Goshen specifications as to the size and quality of any pipe or conduit used in connection with the work completed in this application.
11. Backfill around the pipe or conduit and the trench of any cut by thorough tamping in four-inch layers or lifts to achieve high compaction. Backfill material under pavement shall be flowable fill above the granular pipe embedment, except when in water or otherwise authorized, then the backfill material shall be granular (no organic) and compaction checked by the City prior to pavement restoration. In other locations, the backfill material may be material removed from excavation. Temporary surface in pavement areas shall be a minimum of six Inches deep of crushed limestone and maintained in a smooth and uniform condition until final resurfacing, a maximum of four weeks.
12. Restore any pavement, driveway or sidewalk removal with the same type of material, to the same or better condition than that removed. Any sod removed shall be restored by replacement or proper seeding to its original condition.
13. Make repairs if any settling occurs within one year after completion of the work.
14. Assume all responsibility for any injury or damage to person(s) or property resulting directly or indirectly from the work contemplated in this application. Pavement restoration shall be by a paving contractor approved by the City, based on paving experience and access to proper equipment for satisfactory performance. Approved contractors will remain on the City's approved list of paving contractors as long as satisfactory work is done and in compliance with permit terms.

Aguirre, Richard

From: Robert Thatcher <robert@reliancedbr.net>
Sent: Monday, November 13, 2023 12:39 PM
To: Aguirre, Richard
Cc: kyle stiffney
Subject: Re: 6th Street Sidealk Closure

Many thanks for the various advisories, Richard.
All helpful and important.

Reliance Construction is prepared to move the barricades on 6th Street
and thus, open the sidewalk to public use.

See you at 2:00 PM.

Cordially, RLT

From: Aguirre, Richard <richardaguirre@goshencity.com>
Sent: Monday, November 13, 2023 10:40 AM
To: Robert Thatcher <robert@reliancedbr.net>
Cc: kyle stiffney <kstiffney@gmail.com>
Subject: FW: 6th Street Sidealk Closure

Mr. Thatcher & Mr. Stiffney:

Good morning. Please review the email I sent to the Board of Works and City Department heads about a 6th Street resident opposed to the duration of your sidewalk request, which will be before the Board this afternoon. All the best.

Richard. R. Aguirre
Clerk-Treasurer

(574) 533-8623
RichardAguirre@goshencity.com

City of Goshen
202 South Fifth Street, Suite 2
Goshen, IN 46528-3714



From: Aguirre, Richard

Sent: Monday, November 13, 2023 10:39 AM

To: Leichty, Gina <ginaleichty@goshencity.com>; 'Mike Landis' <mlandisllc@gmail.com>; Nichols, Mary <Mary.Nichols@lakecitybank.com>; 'Barbara Swartley' <barb@barbandchristina.com>; Orv Myers <orvmyers@yahoo.com>

Cc: Meade, Melissa <melissameade@goshencity.com>; Sailor, Dustin <dustinsailor@goshencity.com>; Gibbs, David <davidgibbs@goshencity.com>; Sink, Danny <dannysink@goshencity.com>; Miller, Jose <josemiller@goshencity.com>; Yoder, Rhonda <rhodayoder@goshencity.com>; Deegan, Rossa <rossadeegan@goshencity.com>

Subject: FW: 6th Street Sidealk Closure

Gina, Mike, Mary, & Barb:

Good morning. Please review the following email before today's Board of Works meeting. This email is from a resident opposed to the proposed sidewalk closures for work at 702 South 6th Street (agenda item #2). I've also copied City Department heads on this email.

P.S.: Orv Myers won't be able to join us today.

P.P.S.: We will have more City claims than usual today, so you may consider coming in earlier than usual to review them.

Richard. R. Aguirre
Clerk-Treasurer

(574) 533-8623
RichardAguirre@goshencity.com

City of Goshen
202 South Fifth Street, Suite 2
Goshen, IN 46528-3714



From: Kelli Bowser <kabowser@wanee.org>

Sent: Monday, November 13, 2023 8:53 AM

To: clerktreasurer@goshencity.com; Office of Mayor Gina Leichty <mayor@goshencity.com>

Subject: 6th Street Sidealk Closure

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Again, we understand Douglas needs to be closed, but we are asking for the 6th street fence to be moved back to the bush line just behind the sidewalk like was done for Halloween when we asked them. This is not a "big ask", it's a simple one to appease the neighborhood.

Thank you,

Kelli Bowser

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks for the advisory Richard

EXHIBIT #2

Certificate of Issuance of Building Commissioner Order

RE: Premises at 114 South 29th Street, Goshen, Indiana

The undersigned hereby certifies that the Order of the City of Goshen Building Commissioner dated October 10, 2023 for the above-referenced premises were issued to the following parties via Certified Mail on October 11, 2023, with the tracking and return showing signature and service of said Order as indicated:

Ronald E. Davidhizar
203 Middlebury Street
Goshen, Indiana 46528
Certified Mail # 7019 0160 0000 5623 6673
Delivered: October 14, 2023



Donald R. Shuler, #26587-71
Assistant City Attorney
City of Goshen Legal Department
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

7019 0160 0000 5623 6673

Goshen, IN 46528	
Certified Mail Fee	\$4.35
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.90
Total Postage and Fees	\$5.25
Sent To	
Ronald E. Davidhizar	
Street and Apt. No., or PO Box No.	
203 Middlebury Street	
City, State, ZIP+4®	
Goshen, IN 46528	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Ronald E. Davidhizar
 203 Middlebury Street
 Goshen, IN 46528



9590 9402 4989 9063 1433 83

2. Article Number (Transfer from service label)
 7019 0160 0000 5623 6673

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Ronald E. Davidhizar Addressee

B. Received by (Printed Name) C. Date of Delivery

RONALD

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Insured Mail	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	

USPS Tracking®

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70190160000056236673

[Copy](#)

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**Building Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite 5 • Goshen, IN 46528-3405

Phone (574) 534-1811 • Fax (574) 533-8626 • TDD (574) 534-3185
building@goshencity.com • www.goshenindiana.org

EXHIBIT #3

MEMORANDUM

TO: BOARD OF PUBLIC WORKS

From: GOSHEN BUILDING DEPARTMENT (TRAVIS EASH)

Date: NOVEMBER 13, 2023

Subject: 114 S 29TH ST

This morning I inspected the property at 114 S 29th Street. Photos from that inspection are attached along with photos from a previous inspection that was conducted March 27, 2023.

A fire occurred at the property on November 7, 2021 causing extensive damage to the structure and the structural integrity of the house. Gas service, electrical, and remodel permits were all pulled on January 7, 2022. However, the photos taken in March of this year indicate no work had taken place during that permit time period and no inspections were conducted relative to those permits.

He again was issued permits for window replacement, roof and remodel on October 17, 2023 just four weeks ago, only after he received the Order of the City of Goshen Building Commissioner which was completed on October 10, 2023 and he signed for on October 14, 2023.

The work that has been started the last couple weeks would not pass inspections, and some work being done that permits haven't even been applied for.

The structure is still unsafe and unsecure, the foundation cracks and concrete steps have only worsened. Ceilings throughout property are still collapsed, the structural strength of the roof assembly is still in a compromised state. Areas of the floor have been covered with plywood but not properly repaired. The house is not weather tight.

Due to the extent of the fire damage, and lack of structural integrity and overall unsafe condition of the property and lack of compliance and neglect from the owner the Building Department recommendation is to find the structure unsafe and demolished.

ORDER OF THE CITY OF GOSHEN BUILDING COMMISSIONER

October 10, 2023

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To: Ronald E. Davidhizar
203 Middlebury Street
Goshen, Indiana 46528

Section 1.

You are hereby notified that you are in violation of the City of Goshen Neighborhood Preservation Ordinance, codified at Goshen City Code § 6.3.1. The violations exist at property owned by you, as evidenced by the tax records of the Elkhart County Auditor, property tax code number 20-11-11-176-009.000-015; commonly known as 114 South 29th Street, Goshen, Indiana 46528, and more particularly described as follows:

Part of the West Half (1/2) of the West Half (1/2) of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Section 11, Township 36 North, Range 6 East, situate in Elkhart Township, Elkhart County, State of Indiana, and being more particularly described as follows:

Beginning at an iron stake on the West line of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Said Section 11, said iron stake being 770 feet North of the Southwest corner of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of said Section 11; thence North along the West line of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of said Section 11 a distance of 175 feet to a railroad spike in the pavement; thence Eastwardly with a deflection angle of 89 degrees 26 minutes to the right a distance of 168.84 feet to an iron stake, said iron stake being 170 feet West (measured at right angles) of the East line of the West Half (W1/2) of the West Half (W1/2) of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Said Section 11; thence Southwardly with a deflection angle of 90 degrees 16 minutes to the right and parallel with the East line of the West Half (W1/2) of the West Half (W1/2) of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of said Section 11 a distance of 100 feet to an iron stake; thence Eastwardly with a deflection angle of 90 degrees 16 minutes to the left a distance of 0.63 of a foot to an iron stake, said iron stake being 170 feet East (measured at right angles) of the West line of the Southeast Quarter (SE1/4) of the Northwest Quarter (1/4) of said Section 11; thence Southwardly with a deflection angle of 90 degrees 34 minutes to the right and parallel with the West line of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of said Section 11 a distance of 75 feet to an iron stake thence Westwardly with a deflection angle of 89 degrees 26 minutes to the right a distance of 170 feet. to the place of beginning. Containing 0.68 acre of Land.

Section 2.

The Goshen Building Department first inspected the subject real estate and the vacant residential structure located thereon on March 27, 2023. Violations of the Neighborhood Preservation Ordinance (Minimum Housing Ordinance) were cited. The real estate was re-

inspected on June 20, 2023, which showed no significant improvement to the vacant residential structure at the real estate.

The following violations of Goshen City Code Section 6, Title 3, Chapter 1 were cited by the Goshen Building Department and have not been satisfactorily repaired or remedied:

1. The residential structure has been severely damaged by fire so that it is easily accessible to persons and animals, a violation of Section 6.3.1.1(w). There are open doors and multiple broken windows allow access, and graffiti, drug paraphernalia, food products, trash, and other materials inside the residential structure demonstrate the residential structure's accessibility.
2. The fire damage to the structure has impacted the structural strength of exterior load bearing walls; interior walls have been compromised; multiple ceilings have collapsed; a floor has begun to collapse; and the roof assembly has severe fire and smoke damage and has lost its structure integrity; the roof has holes permitting weather to enter; all of which are violations of Section 6.3.1.1(u).
3. The structural strength of the entire house has been compromised due to fire and is in danger of collapse, a violation of Section 6.3.1.1(p).
4. Multiple areas of the foundation have cracks and holes, a violation of Sections 6.3.1.1(b) and (j).
5. The front steps are in disrepair and in danger of collapse, a violation of Sections 6.3.1.1(e) and (j).
6. The residential structure's chimney is beginning to pull away from the house, putting it at risk of falling, a violation of Section 6.3.1.1(z).
7. Multiple windows and doors are broken are not working properly, a violation of Section 6.3.1.1(d).
8. Multiple areas of siding are damaged due to fire and weather, a violation of Section 6.3.1.1(bb).
9. The electrical system is damaged and likely needs replacement due to fire, a violation of Section 6.3.1.1(a).
10. The plumbing system is damaged and likely needs replacement due to fire and lack of usage, a violation of Section 6.3.1.1(a).
11. The heating and mechanical systems at the residential structure are damaged due to fire and lack of usage, a violation of Section 6.3.1.1(a).

The residential structure located on the real estate is unsafe within the meaning of Indiana Code § 36-7-9-4(a)(1) through (6). The lack of structural integrity renders it in an impaired structural condition that makes it unsafe to person or property. The unsecured nature of the residential structure as evidenced by graffiti and the presence of drug paraphernalia renders it a fire hazard, a hazard to public health, and a public nuisance. The residential structure is dangerous to person or property because of violations of the Neighborhood Preservation Ordinance, particularly violations concerning its structural integrity of load bearing walls, leaking roof, chimney, and foundation cracks. The residential structural is vacant and not maintained in manner that permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance.

The condition of the residential structure warrants removal. In its present condition, as detailed above, the residential structure is unfit for human habitation, occupancy, or use, and conditions exist to the extent that life, health, property, and safety of the public is threatened. The residential structure is an unsafe building and the tract of real property on which the unsafe building is located shall be considered the unsafe premises.

Section 3.

You are hereby **ORDERED** to demolish the unsafe buildings identified in Section 2 of this Order at the property identified in Section 1 of this Order and remove all demolition remains, trash, and debris on the unsafe premises and return the site to natural grade, all of said work to be completed on or before November 9, 2023.

Section 4.

You are hereby notified that failure to comply with this Order may result in the City of Goshen taking action to complete demolition and bill you for the costs of such work, including, the actual costs of the work performed and an amount equal to the average processing expense the City will incur in pursuing this matter. Such amounts can become a lien upon the real estate and can ultimately be enforced in the same manner as any other judgment.

Section 5.

You are further notified that a hearing will be held before the Goshen Board of Public Works and Safety on **Monday, November 13, 2023 at 2:00 p.m. (local time)**, or soon thereafter, for the purpose of reviewing the Order of the City of Goshen Building Commissioner. This hearing will be held in the Court Room / Council Chambers at 111 East Jefferson Street, Goshen, Indiana.

You have the right to appear at this hearing with or without counsel, to present evidence, cross-examine opposing witnesses, and present arguments. Should you fail to appear at the time set for the hearing, the hearing will be conducted in your absence. The Goshen Board of Public Works and Safety will have the right to affirm, rescind, or modify this Order.

Section 6.

You are hereby notified that as a result of this Order being issued you may not transfer or agree to transfer any property interest in the parcel described in Section 1 of this Order, unless you have complied with all requirements of Indiana Code § 36-7-9-27, which are as follows:

1. You must supply full information regarding this Order to the person or persons taking or agreeing to take any interest in the parcel described in Section 1 of this Order.

2. You must supply in writing to the City of Goshen Building Department, within five (5) days of any actions to transfer the interest, the following:
 - a. The full name, address, and telephone number of the person or persons taking interest in the property described in Section 1 of this Order; and
 - b. A copy of the legal instrument under which the transfer of the interest is accomplished.

Section 7.

You are hereby notified that failure to comply with Section 6 of this Order may result in a judgment of liability against you in accordance with Indiana Code § 36-7-9-27.

Section 8.

This Order is issued by the City of Goshen Building Commissioner, Myron Grise, in accordance with the Indiana Unsafe Building Law and the City of Goshen Neighborhood Preservation Ordinance. The address of the Building Commissioner is 204 E. Jefferson Street, Suite 5, Goshen, Indiana 46528, and the telephone number is 574-534-1811.

This Order of the City of Goshen Building Commissioner is issued on October 10, 2023.

City of Goshen Building Department



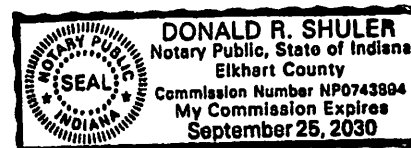
 Myron Grise, Building Commissioner

STATE OF INDIANA)
) SS:
 COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said county and State, this 10th day of October, 2023, personally appeared Myron Grise, Building Commissioner for the City of Goshen, Indiana, who acknowledged execution of the foregoing Order for and on behalf of the City of Goshen, Indiana Building Department, as his voluntary act for the purposes stated therein, and who, having been duly sworn, stated that the representations contained therein are true.



 Notary Public



Certificate of Service

The undersigned hereby certifies that the foregoing Order of the City of Goshen Building Commissioner for the premises at 114 South 29th Street, Goshen, Indiana was served by sending a copy by certified mail, return receipt requested and by regular first-class mail to the last known address of the following persons to be notified on October 11, 2023:

Ronald E. Davidhizar
203 Middlebury Street
Goshen, Indiana 46526



Donald R. Shuler, #26587-71
Assistant City Attorney
City of Goshen Legal Department
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528

I affirm under the penalties for perjury that I have taken reasonable care to redact each social security number in this document, unless required by law (Donald R. Shuler).

This document prepared by Donald R. Shuler, Assistant City Attorney, City of Goshen Legal Department, 204 E. Jefferson Street, Suite 2, Goshen, IN 46526; Ph: 574.537.3855.



Building Department

City of Goshen

204 E Jefferson St • Goshen, Indiana 46528

Phone: 574-534-1811 • Fax:

building@goshencity.com • www.goshenindiana.org/building-department

explain

May 8, 2023

Ron Davidhizar
203 Middlebury St
Goshen, IN 46528

RE: Unsafe Vacant Property at 114 S 29th St

Dear Ron Davidhizar:

The City of Goshen inspected the vacant property at 114 S 29th St on 3/27/2023. As a result of the inspection, the building has been determined to be unsafe because it is not maintained in a manner that allows human habitation. The inspection identified numerous code violations that must be corrected to bring the property into compliance with the Goshen Neighborhood Preservation Ordinance.

The following repairs need to be completed by 6/19/2023.

6.3.1.1(w)

Unsafe Structure(s) - Dilapidated/Deteriorated/Free Access

NPO

The building or structure shall not be so damaged by fire, wind, earthquake or flood that it has become so dilapidated and deteriorated as it becomes freely accessible to persons.

The structure has been severely damaged by fire that it is easily accessible to persons and animals.

Multiple broken windows and open doors to enter structure.

Graffiti, drug paraphernalia, food products, trash and other materials are evidence that this structure is accessible and people have entered.

6.3.1.1(u)

Unsafe Structure(s) - Less Than 66%

NPO

The building or structure shall not have less than sixty-six percent (66%) of the strength, fire resisting qualities or characteristics, or weather resisting qualities or characteristics required by law in the case of newly constructed building of like area, height or occupancy in the same location.

Due to the extensive damage from a fire, the structural strength of many of the exterior load bearing walls and some interior walls have been compromised.

Multiple ceilings have collapsed do the fire.

A floor has begun to collapse due to Fire and Water damage.

The roof assembly has severe fire and smoke damage and has lost its structural integrity.

The roof has holes that is allowing weather to enter.

The structure has lost its fire resisting and weather resisting qualities due to fire.

The entire structure has suffered significant fire and/or smoke damage. All said damaged materials would need to be replaced.

6.3.1.1(p)

Unsafe Structure(s) - Interior

NPO

Any portion, member or appurtenance of a building shall not be likely to fail, to become detached, dislodged or to collapse and thereby injure persons or damage property.

The structural strength of the entire house has been compromised due to fire and is in danger of collapse.

It is the recommendation of the Building Department that the structure be demolished due to the extent of fire and smoke damage caused to the structure. The cost of repair far exceeds the cost of demolition.

If demolishing the property, a demolition permit needs to be pulled.

6.3.1.1(j)

Concrete - Hazard

NPO

All concrete on the real estate shall be free of significant fractures, fissures, and exposed reinforcement that create a hazardous condition.

Multiple areas around foundation have cracks and holes that could weaken the support and strength of the foundation.

Front steps are in disrepair and in danger of collapse.

6.3.1.1(z)

Chimneys, Cooling Towers, and Smoke Stacks

NPO

Chimneys, cooling towers, smoke stacks and similar appurtenances must be structurally sound, properly anchored, support all nominal loads, and properly resist all load effects.

The structure's chimney is beginning to pull away from the house and is likely to fail.

6.3.1.1(d)

Windows and Doors

NPO

Every window, exterior door, and basement hatchway shall be reasonably weather tight and rodent proof, and shall be kept in sound working condition and good repair. All glazing materials shall be maintained free from cracks and holes.

Multiple windows and doors are broken or are not working properly.

6.3.1.6(b)(1)

Clean and Sanitary Dwelling Unit

NPO

Every occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he or she occupies and controls.

All fire damaged and smoke damaged materials, appliances and trash need to be removed.

The exterior of the property needs to be removed.

6.3.1.1(bb)**Siding/Masonry Joints**

NPO

All siding and masonry joints, including the perimeter of all windows, doors and skylights must be in good repair and weathertight.

Areas where siding is fire damaged would need to be replaced.

Areas where siding is weather damaged would need to be replaced.

6.3.1.4(g)**Properly and Safely Installed Electrical Equipment**

NPO

All electrical equipment, wiring and appliances shall be properly and safely installed in accordance with the provisions of any applicable Building, Plumbing or Electric Code adopted by the City of Goshen or the State of Indiana and thereafter properly maintained.

Due to the extent of the fire and the damaged it's caused to the electrical wiring and the current condition of the electrical panel; the entire electrical system needs to be assessed by a licensed electrician. All electrical permits need to be pulled by a licensed electrician and coordinating inspections completed.

6.3.1.7(a)**Plumbing**

NPO

At least one flush toilet, bathroom sink, and bathtub or shower properly connected to the water and sewer systems of the City and in good working condition shall be supplied for every eight (8) persons, or fractions thereof, residing within a hotel or rooming house, including members of the operator's family whenever they share the use of such facilities; provided, that in a hotel or rooming house where rooms are let to males, flush urinals may be substituted for not more than one-half the required number of toilets. All other facilities shall be so located within the building as to be reasonably accessible from the common hall or passageway to all persons sharing such facilities. Every bathroom sink, and bathtub or shower shall be supplied with hot water at all times.

Entire plumbing system needs to be assessed and repaired by a licensed plumber, due to the current condition and lack of usage.

6.3.1.3(e)**Heat Supply**

NPO

Every dwelling shall have heating facilities which are properly installed, maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and rooms in every dwelling unit located therein to a temperature of at least sixty-five (65) degrees Fahrenheit, and whenever the outside winter conditions are at least zero (0) degrees Fahrenheit. Unvented fuel burning space heaters shall not be used to provide primary heating.

Due to the extent of the fire, current condition of the furnace and duct work and lack of usage, the furnace and duct work need to be assessed and repaired by a licensed mechanical contractor.

6.1.1.7(a)**Building Permit Required**

GCCO

A permit shall be obtained before a person begins to construct, alter, remodel, rehabilitate, or add to any building or structure, or the placement of a mobile home. A permit shall be obtained before a person begins work on new or altered electrical, mechanical or plumbing systems. The required permits and fees are set forth in the current Building Department Fee Ordinance.

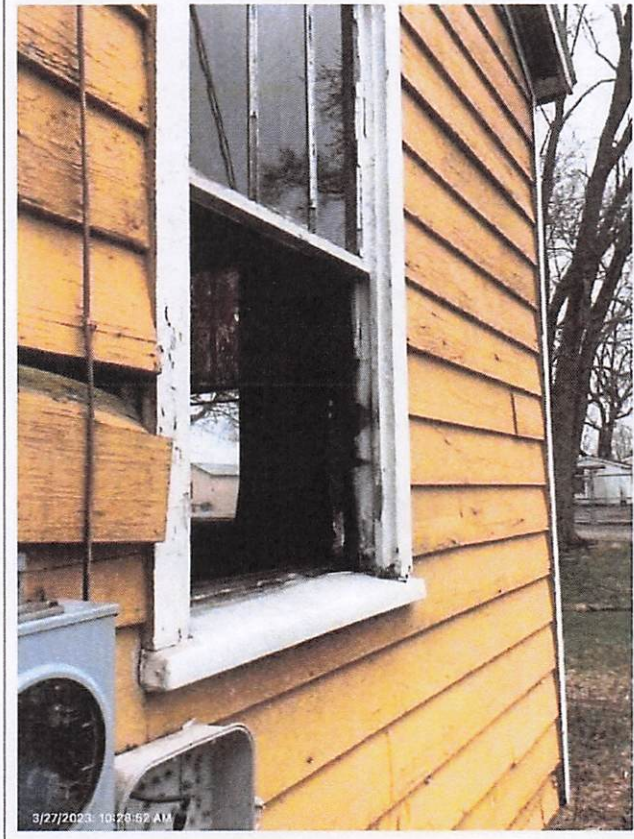
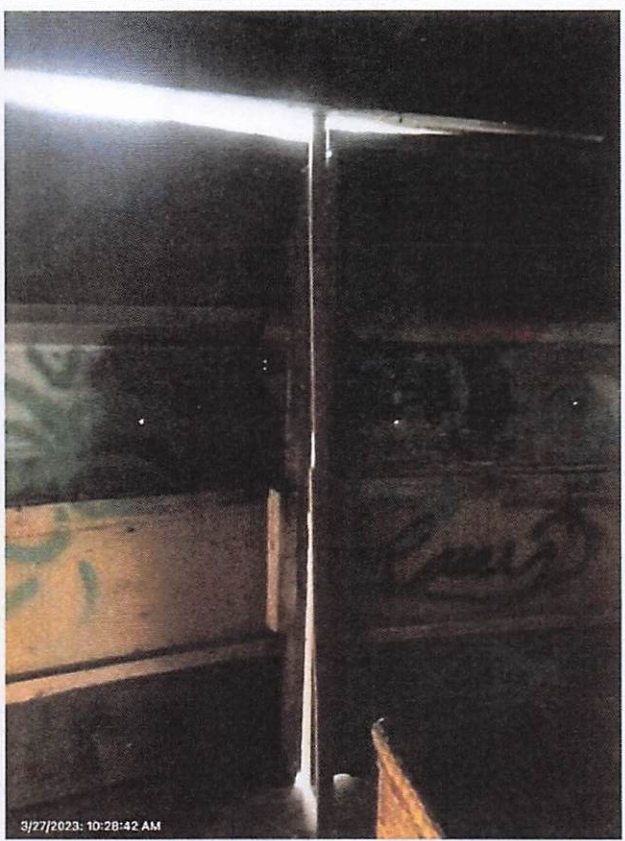
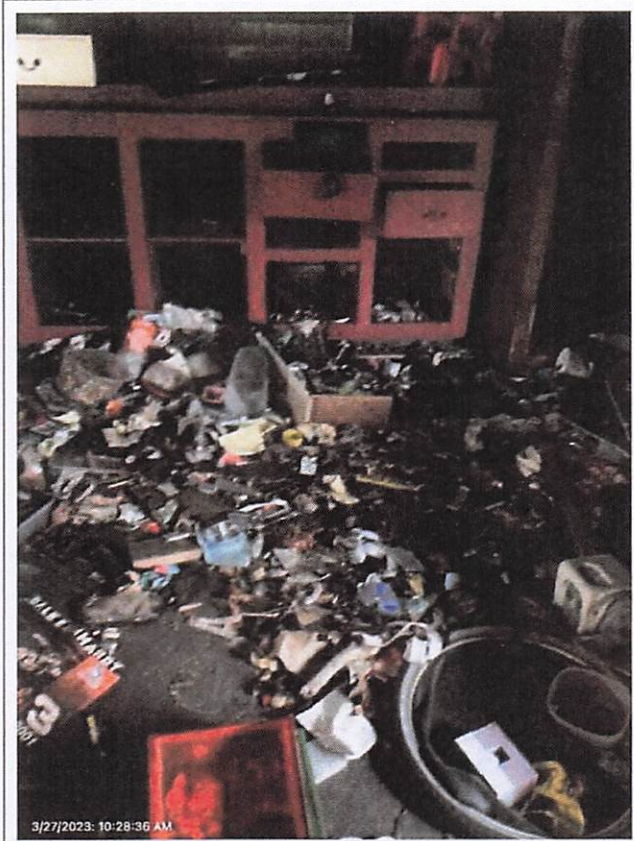
Any and all permits need to be pulled prior to any work being done. These permits include but not limited to demolition, remodel, plumbing, electric, mechanical.

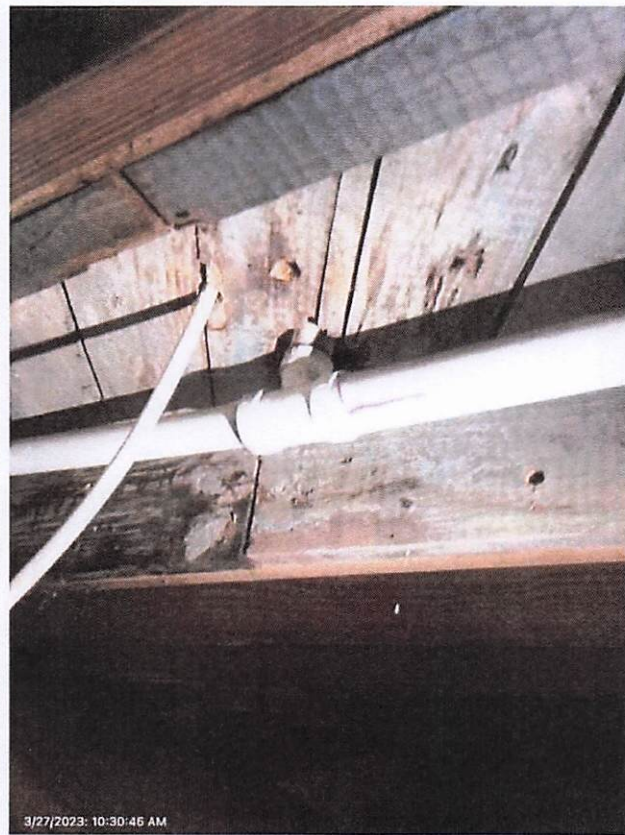
If addition, if the property is intended to be used as a rental, it will require registration with the Building Department.

Thank you for your cooperation in allowing the City of Goshen to conduct this inspection.

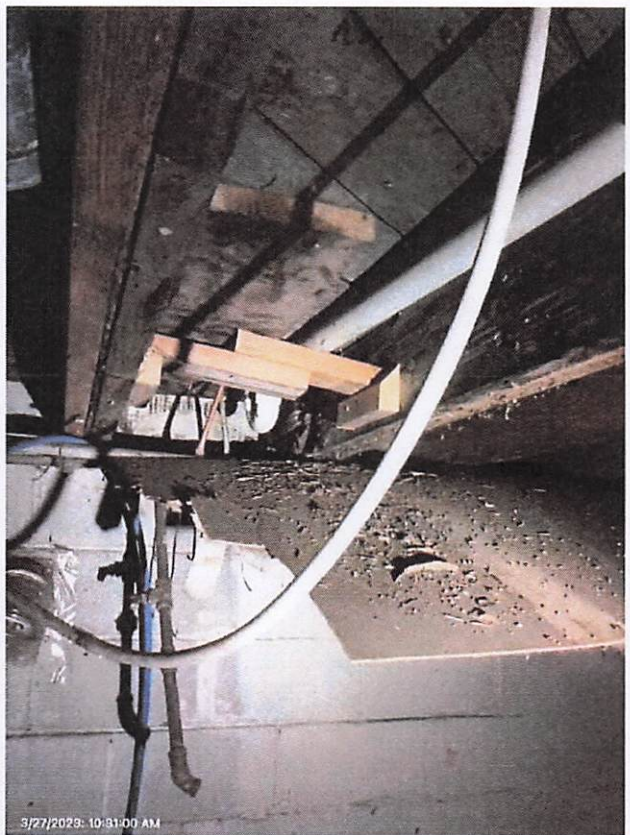
Respectfully.

Travis Eash
Code Compliance Officer





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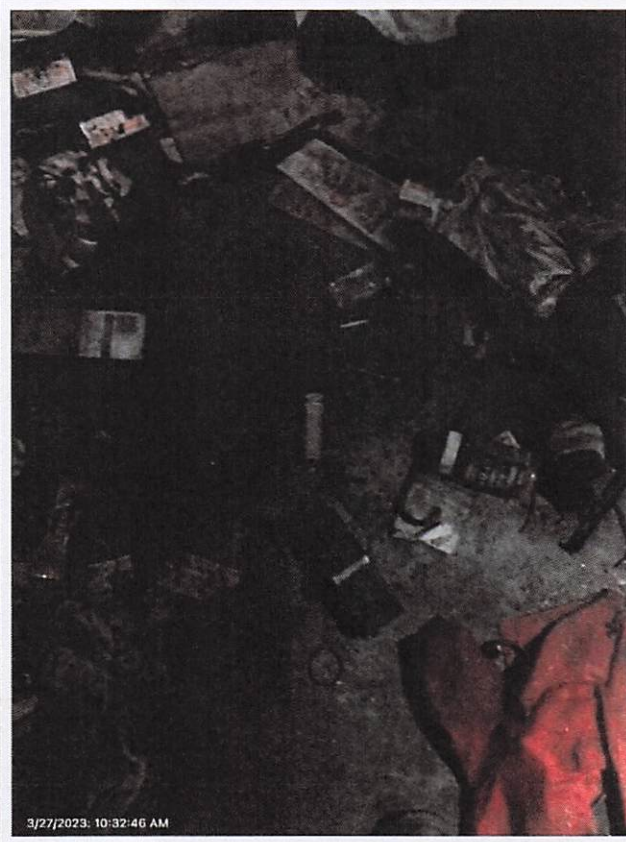
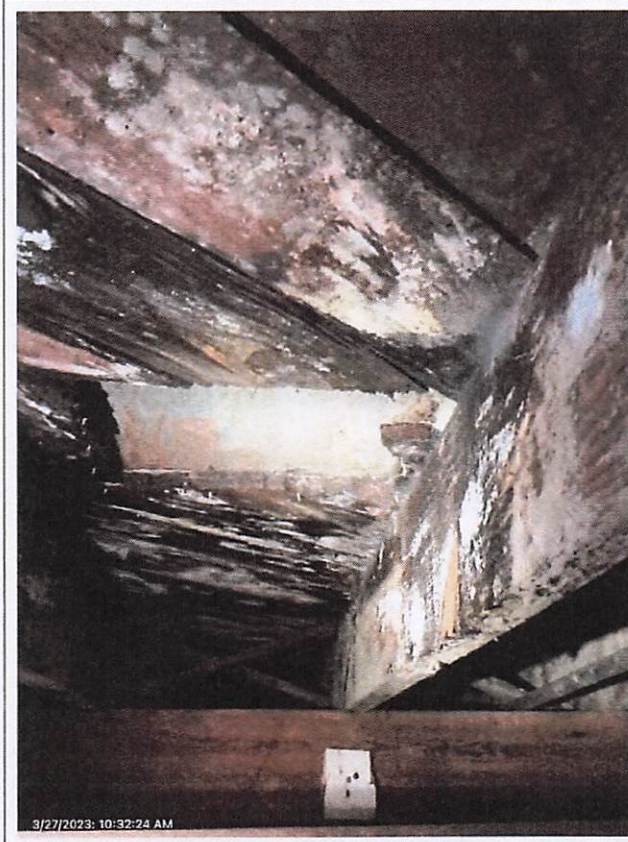
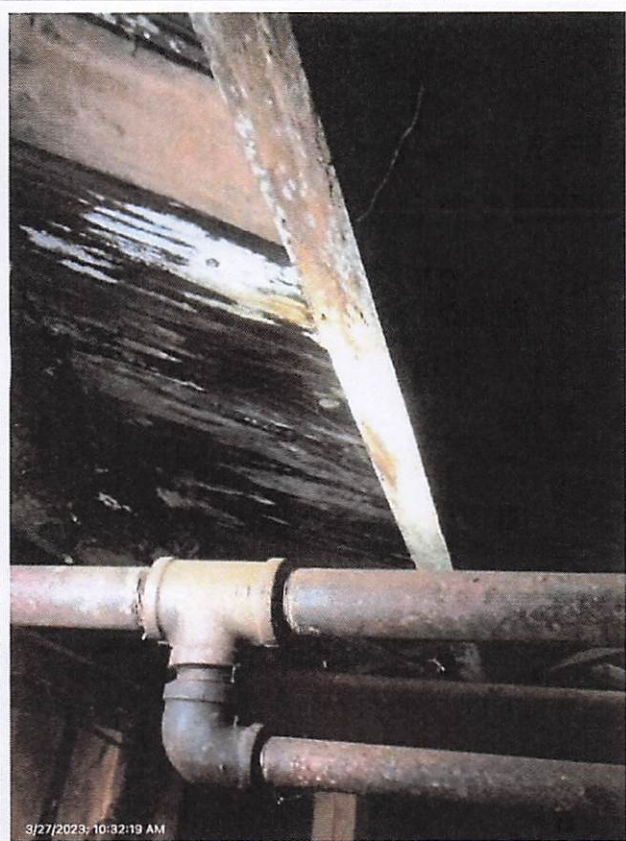
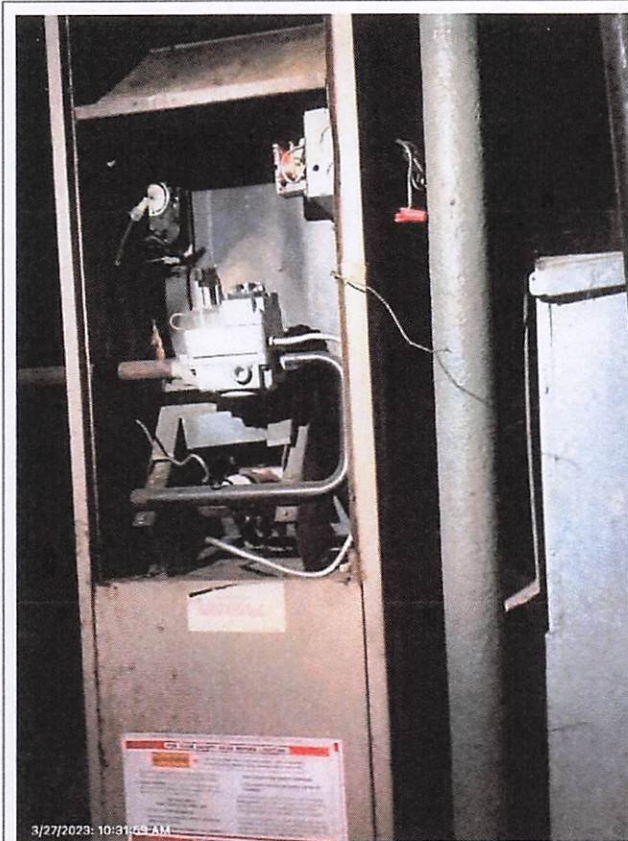
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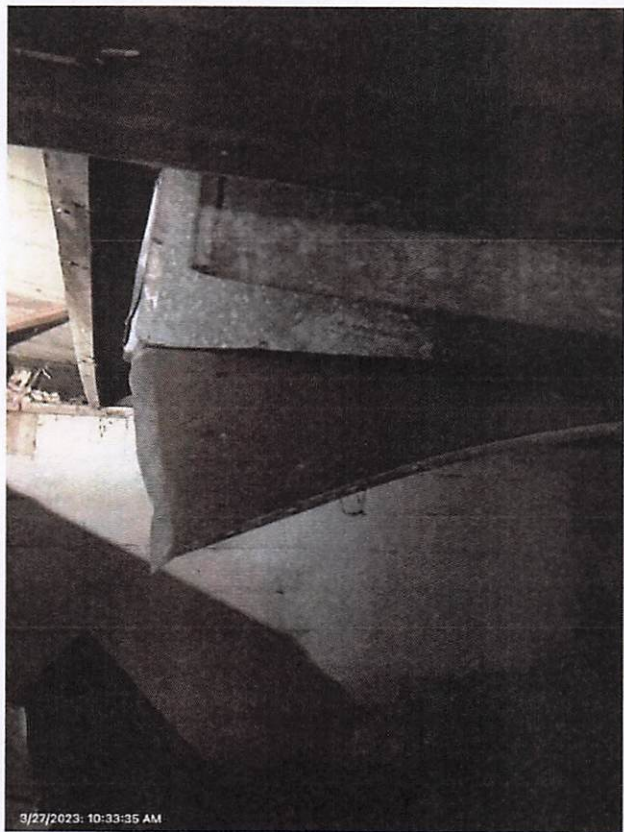


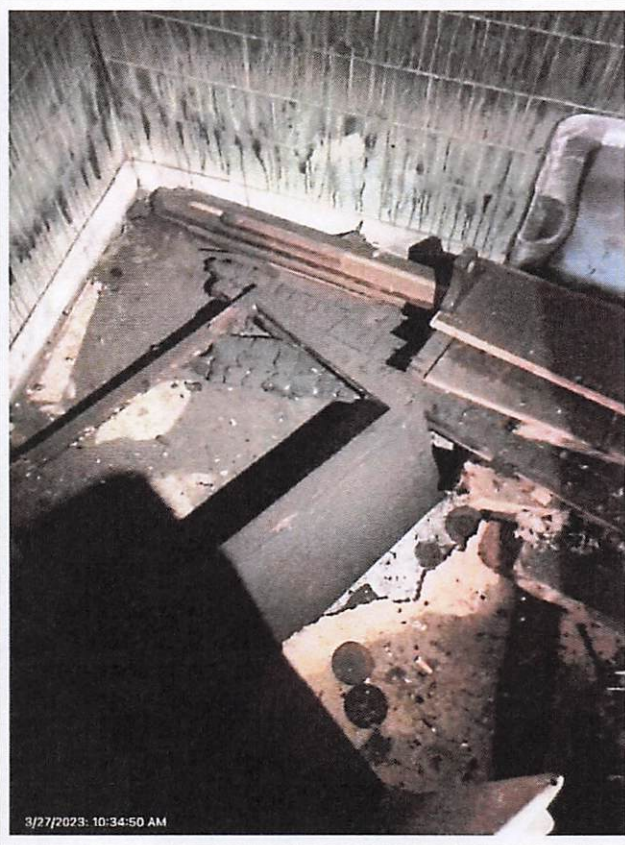
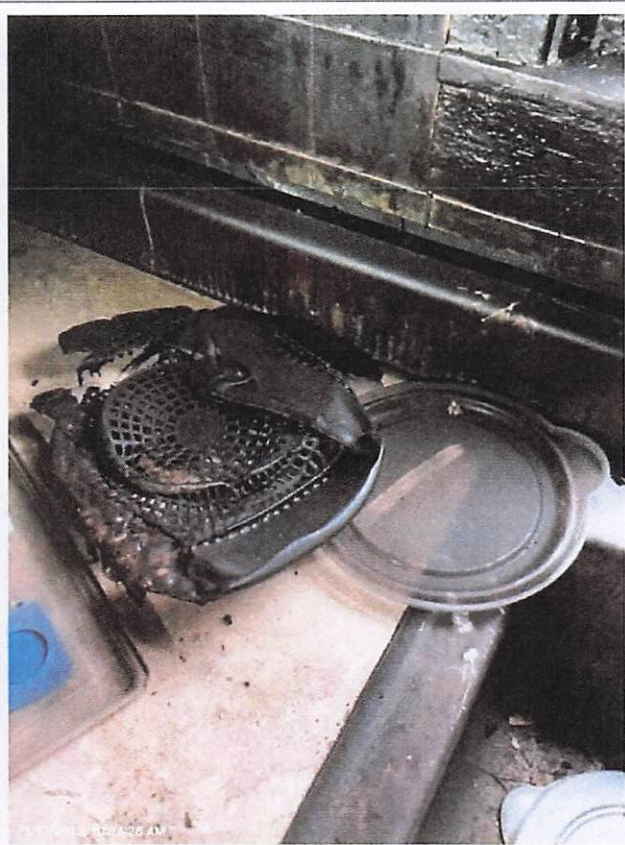
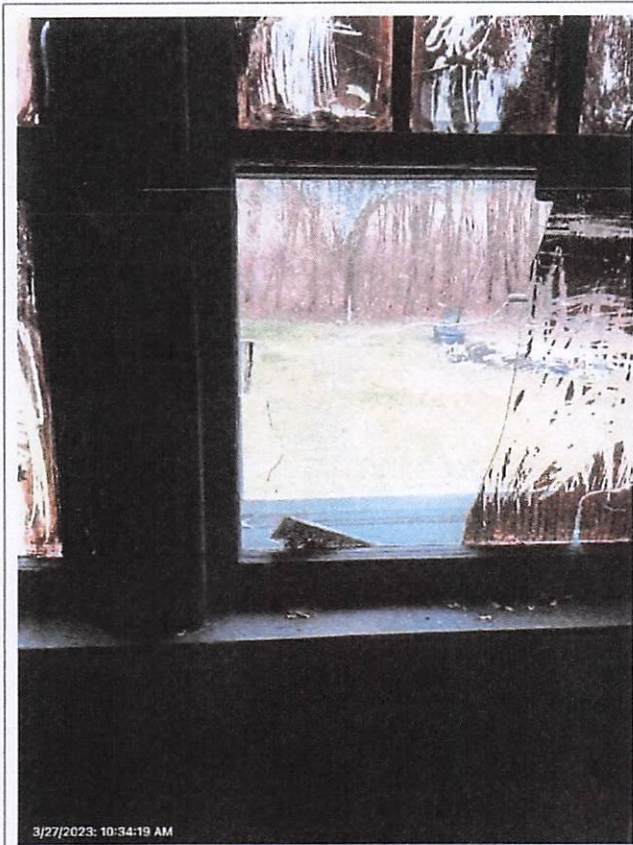
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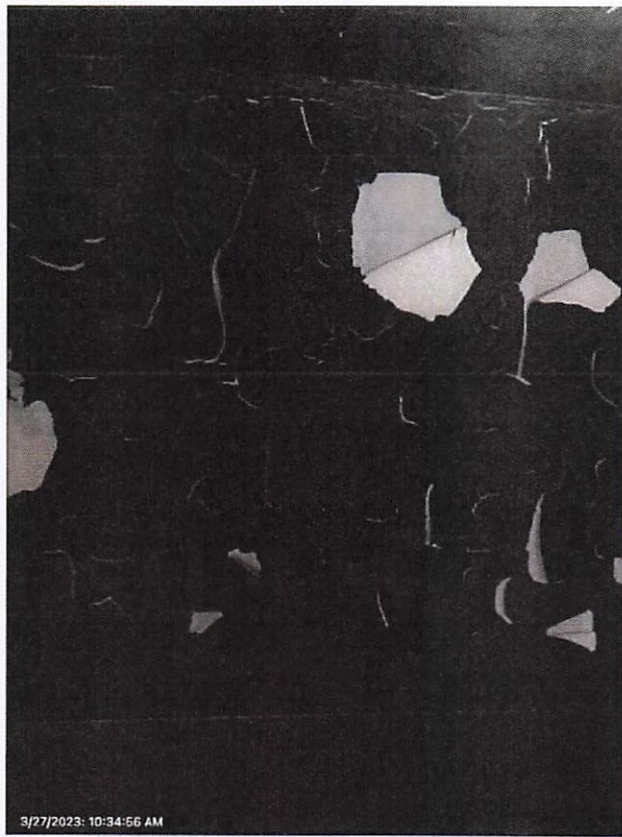


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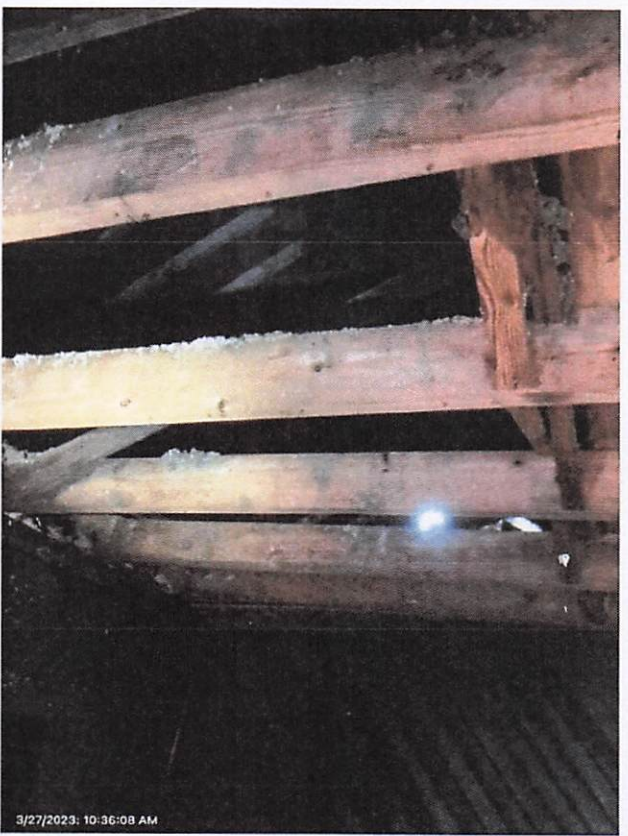
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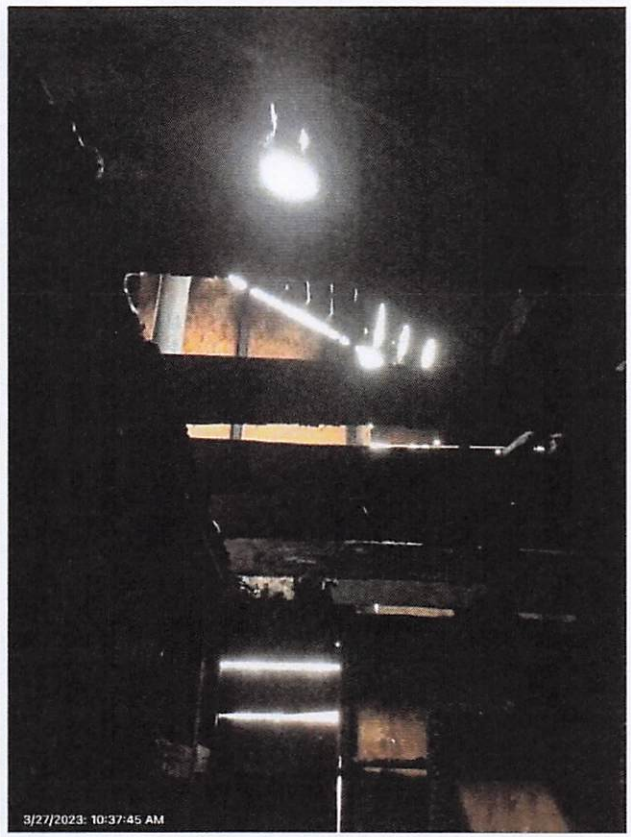
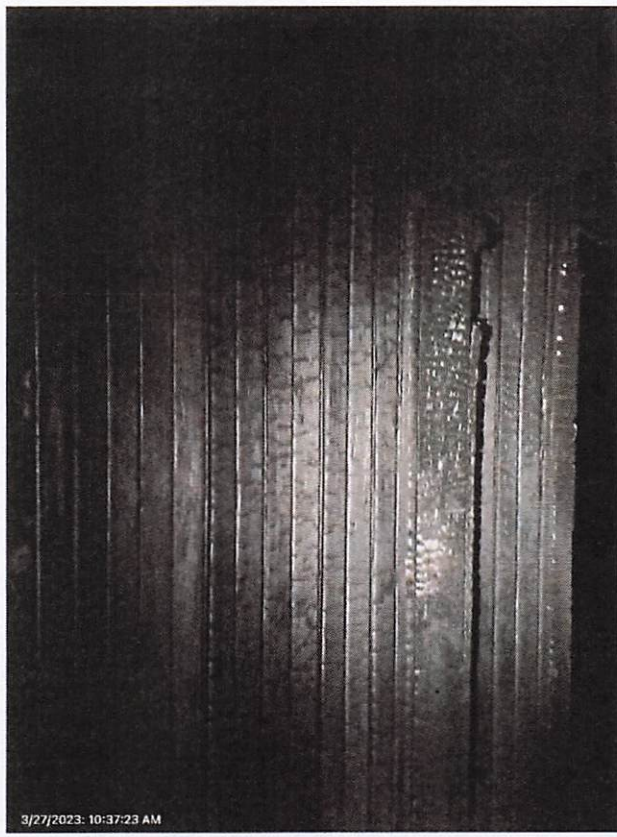
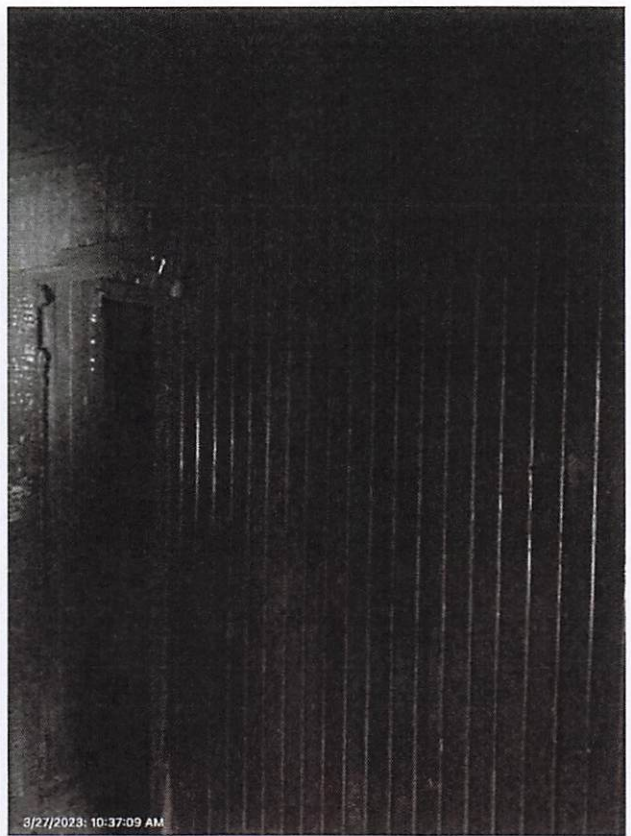
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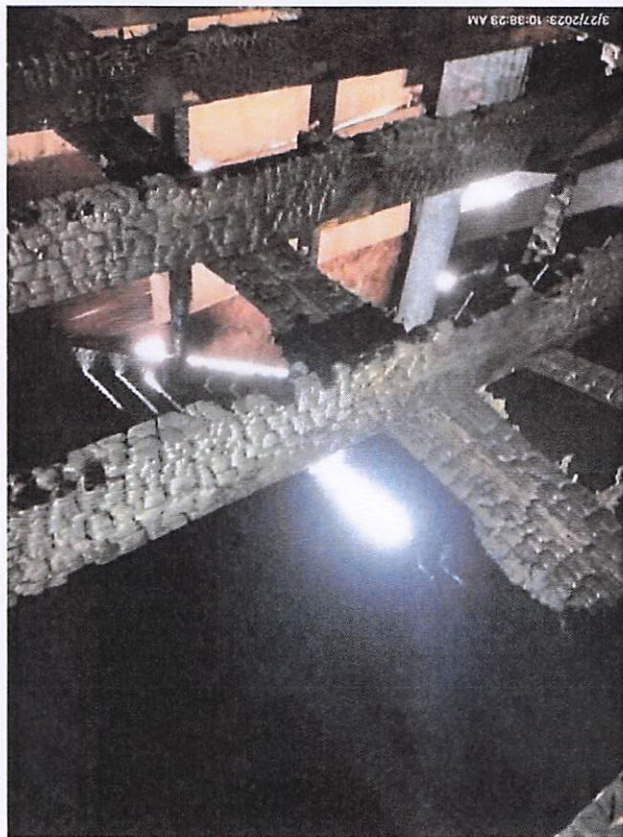
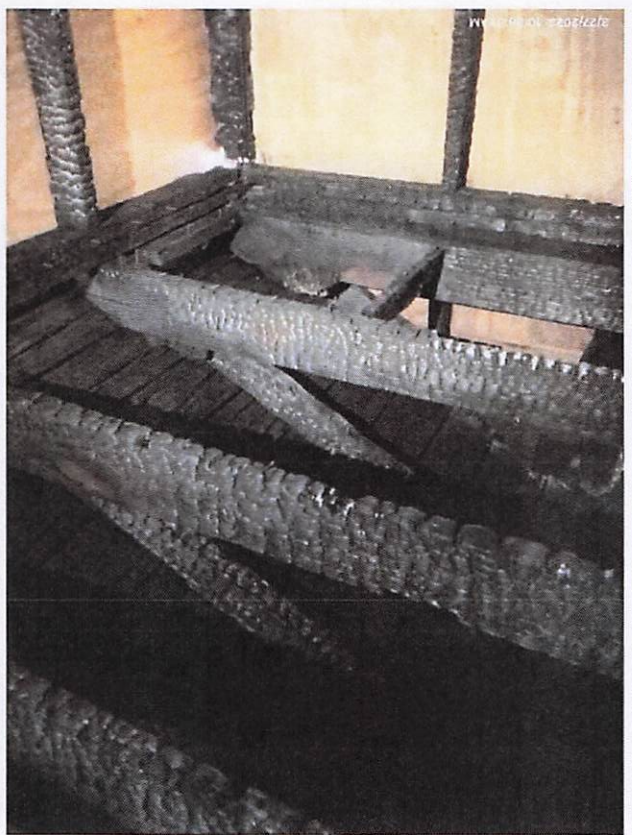
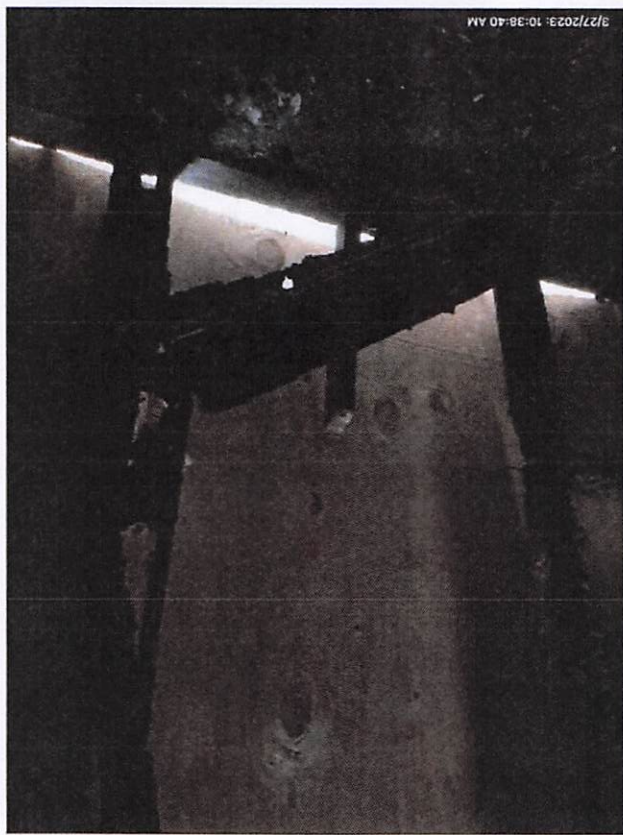


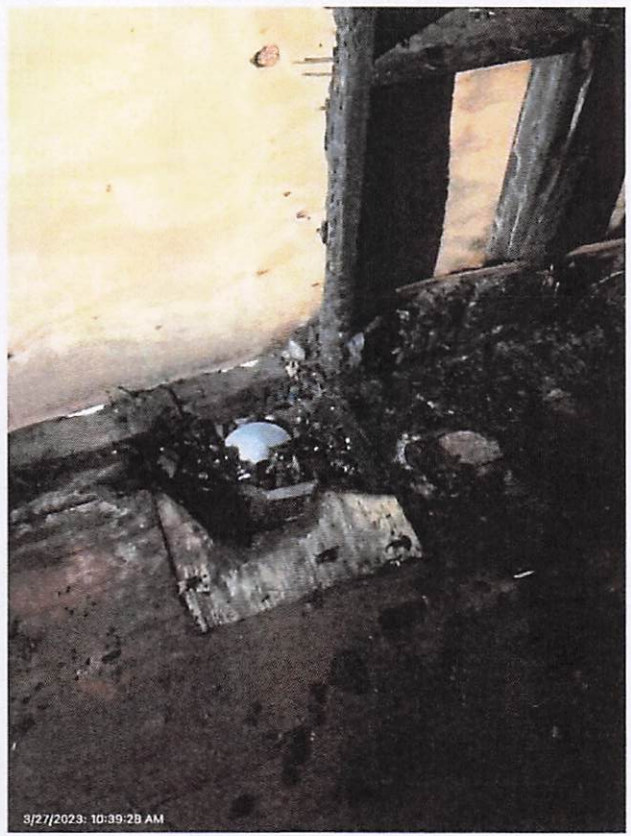
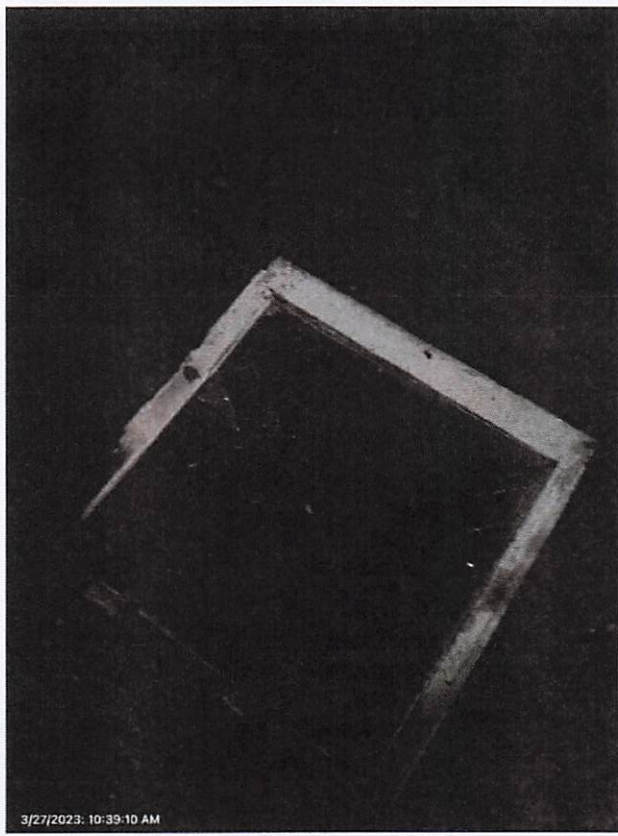
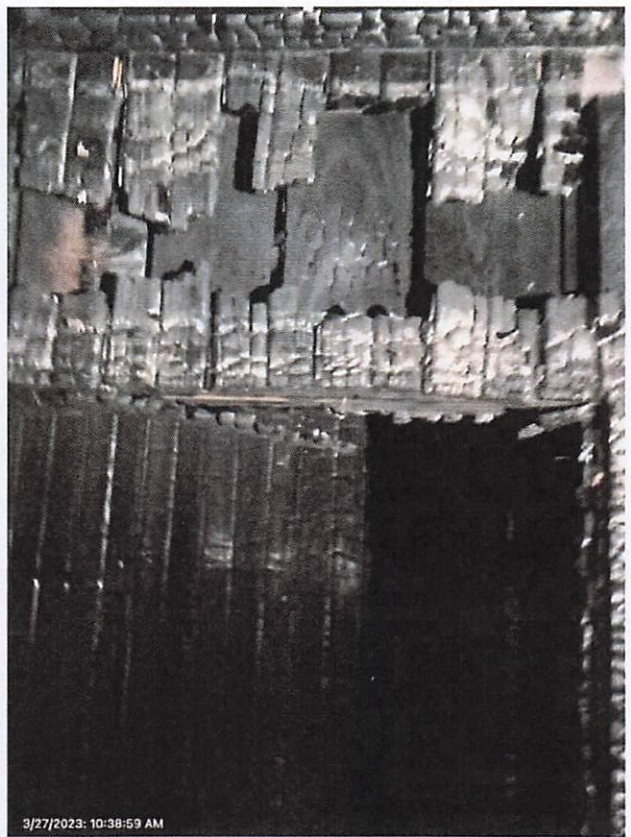
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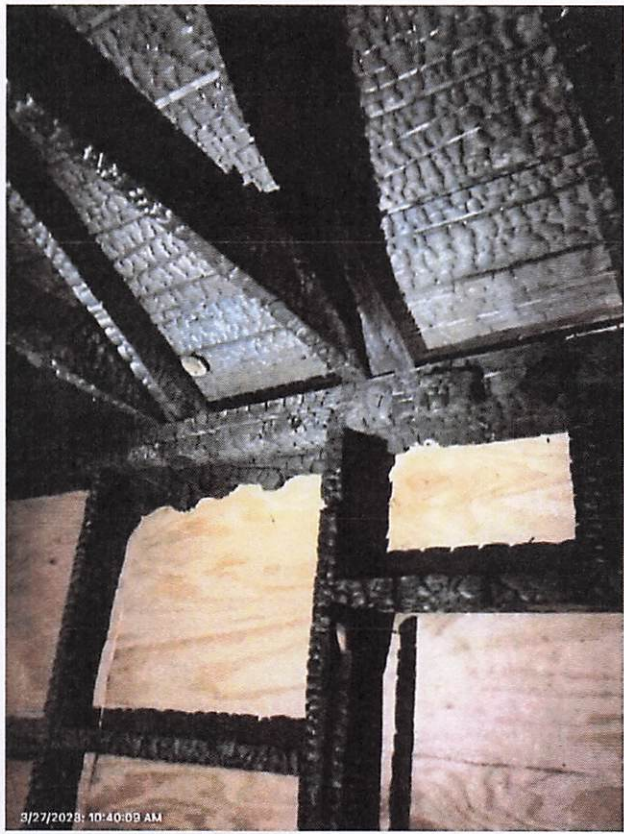
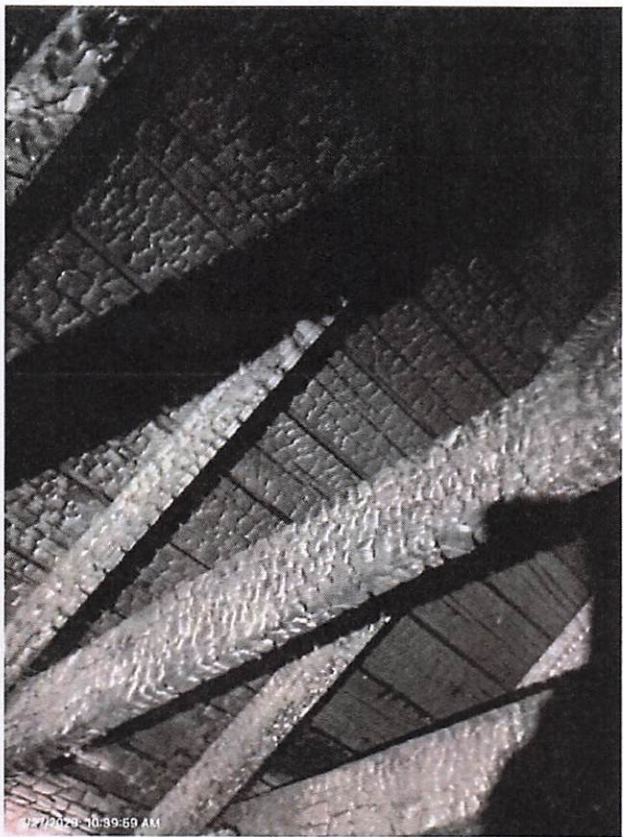
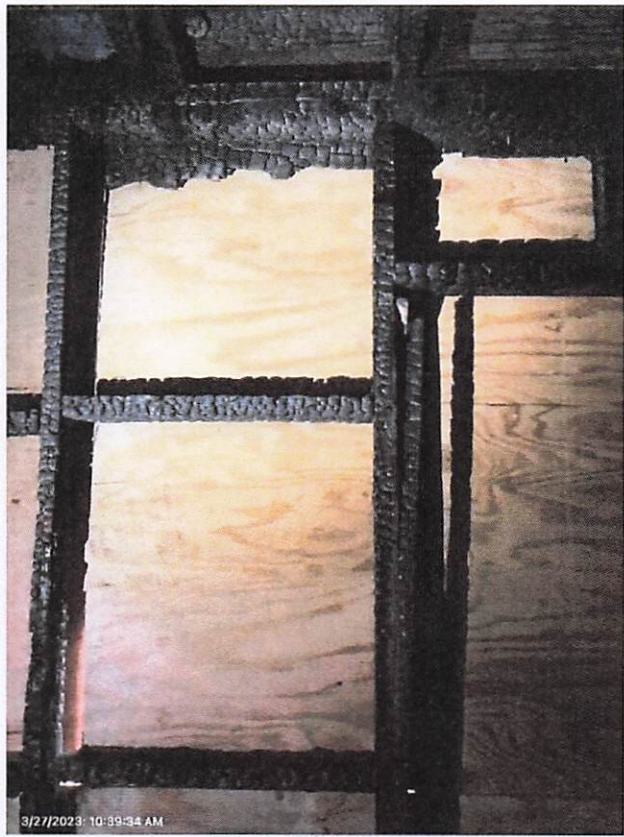


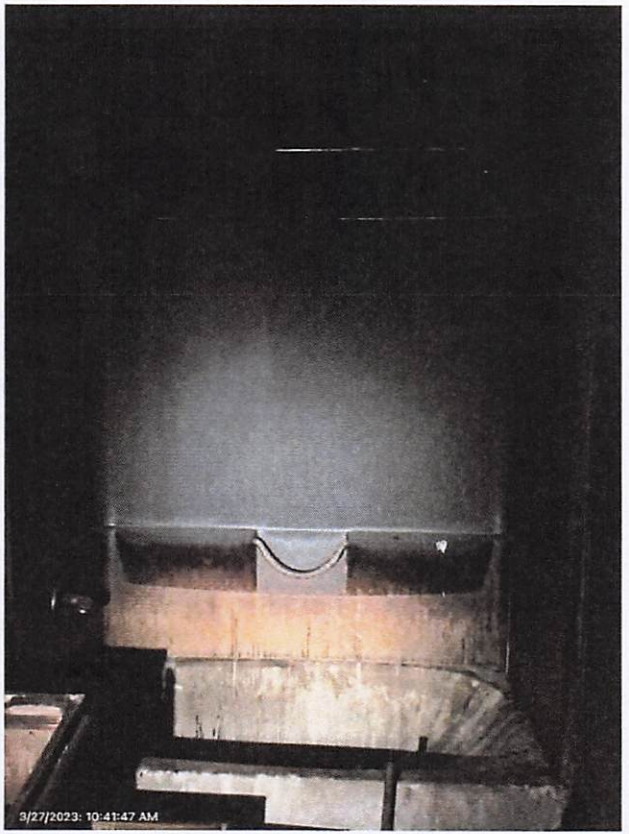
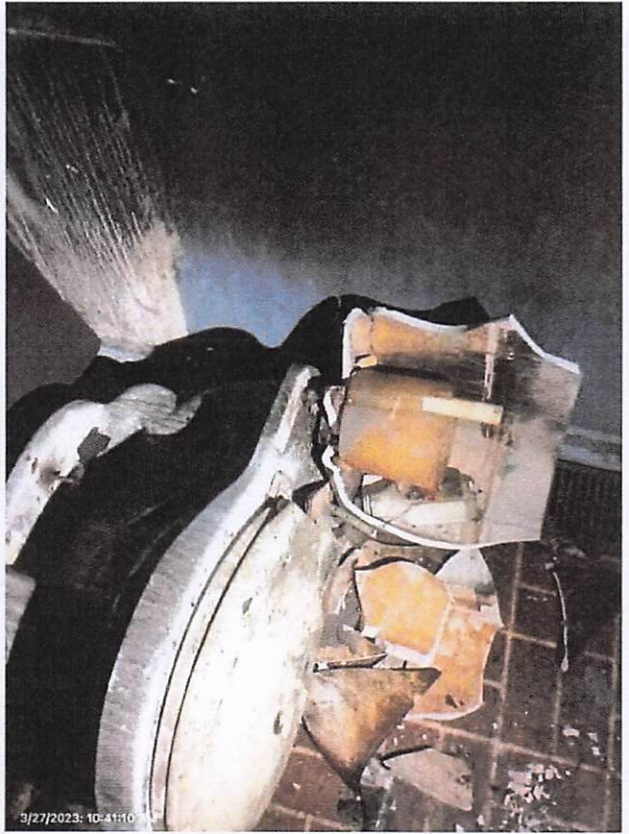
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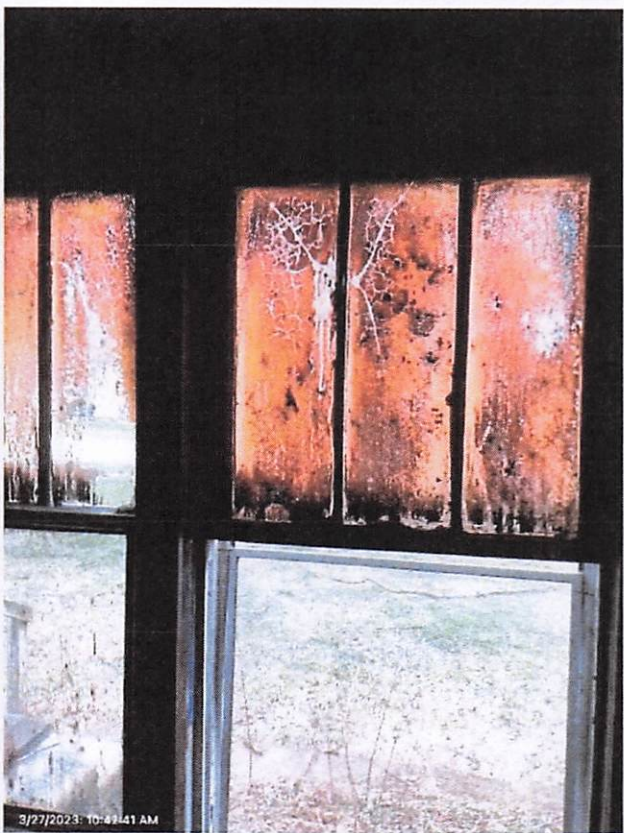
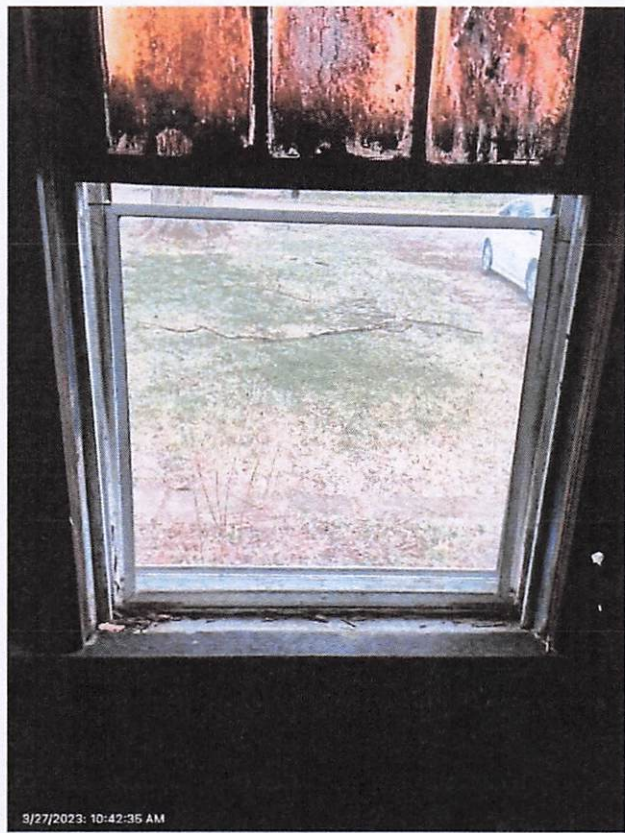
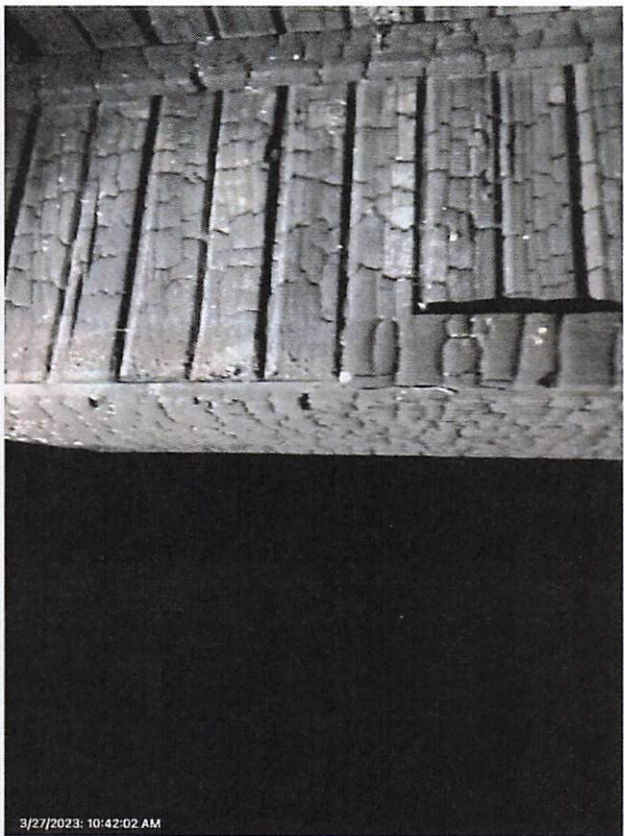


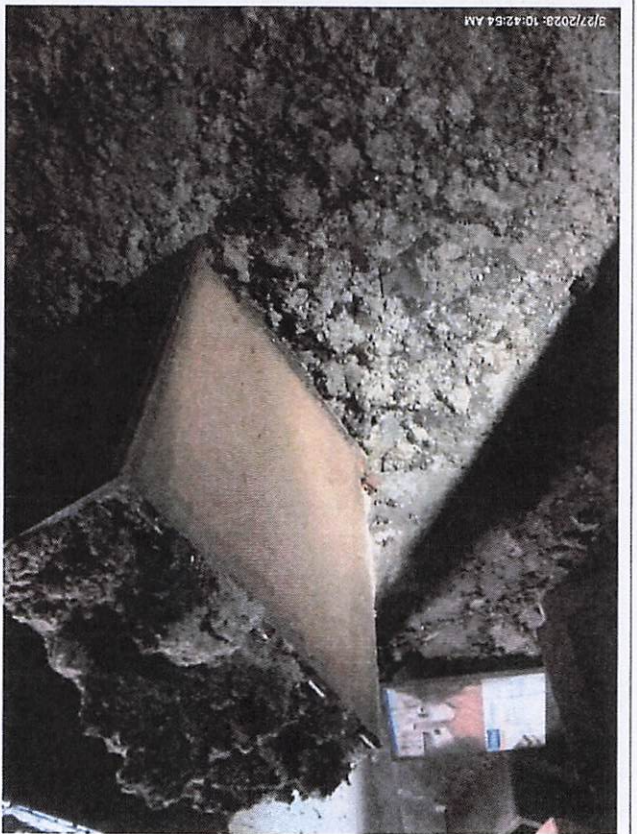


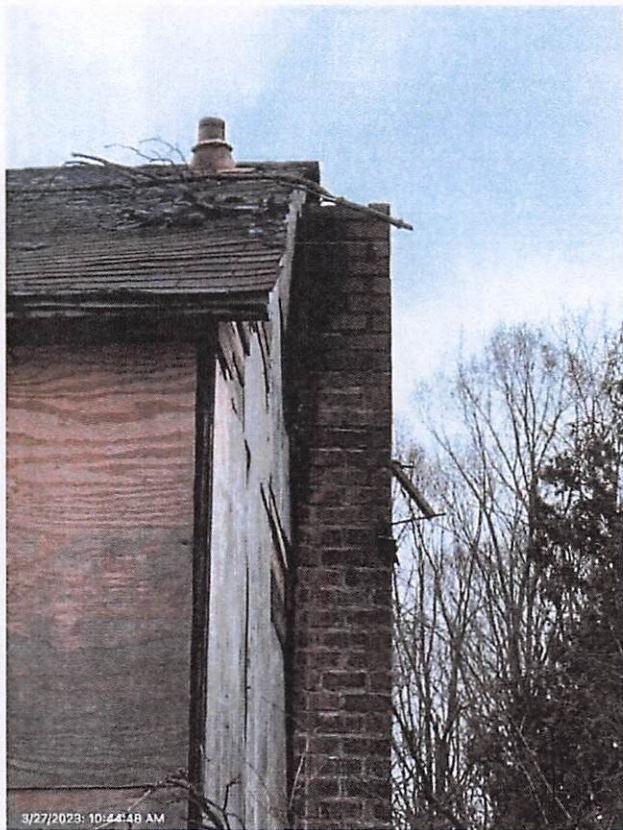
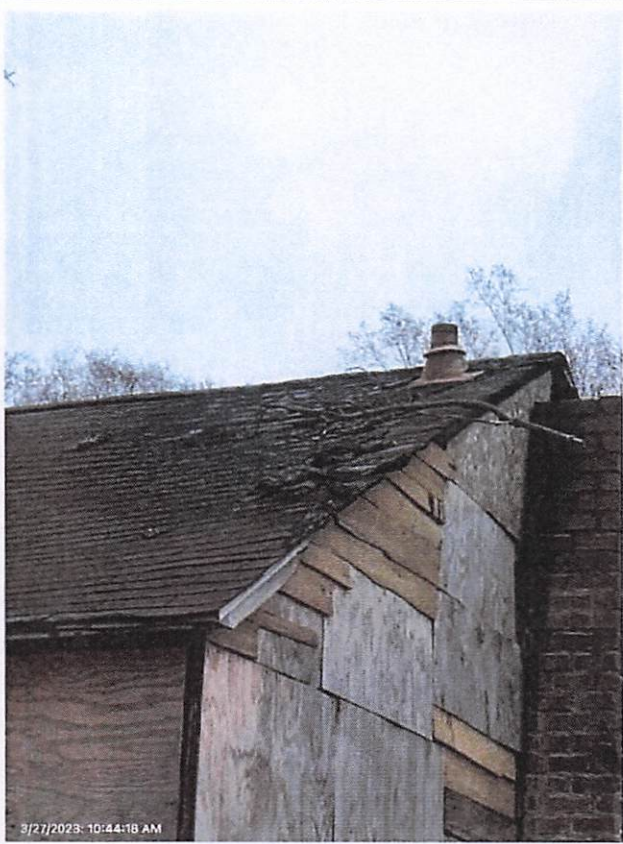


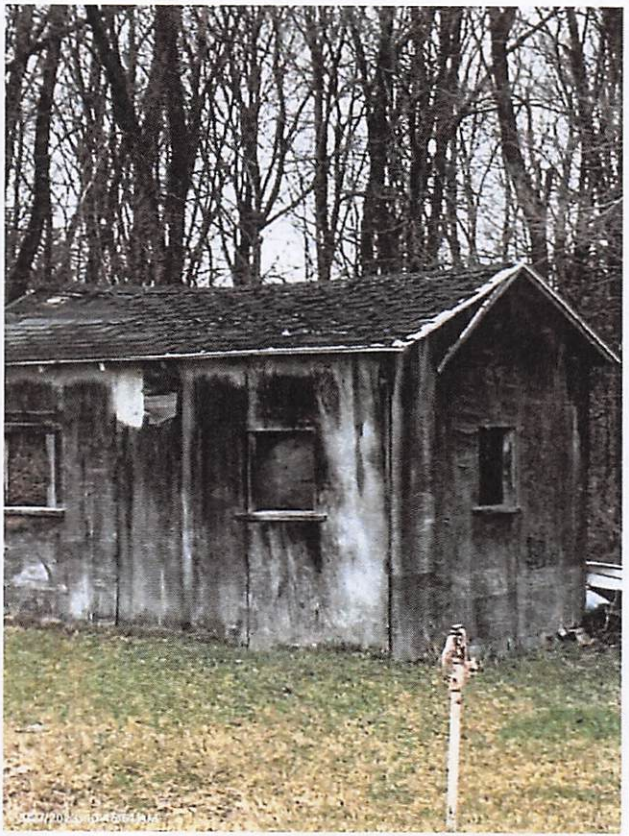
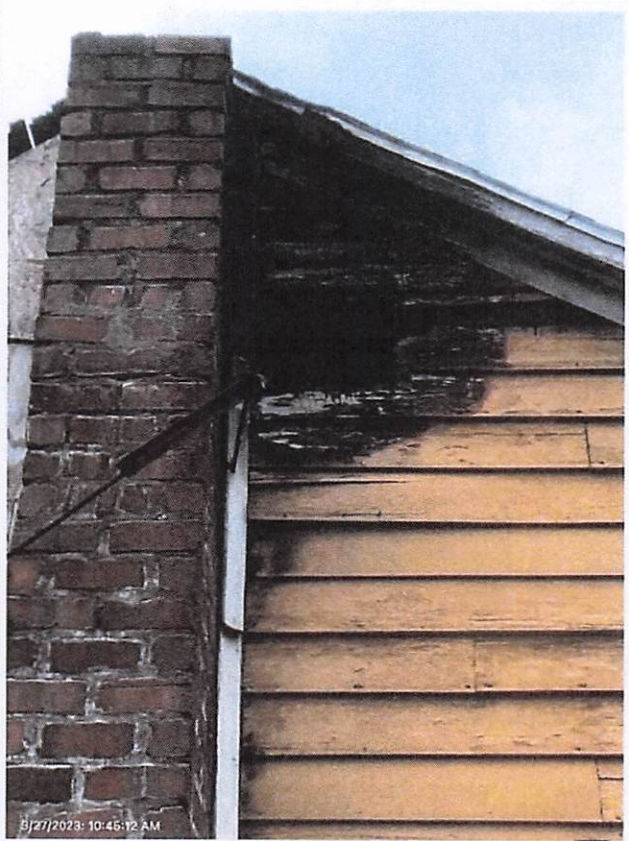














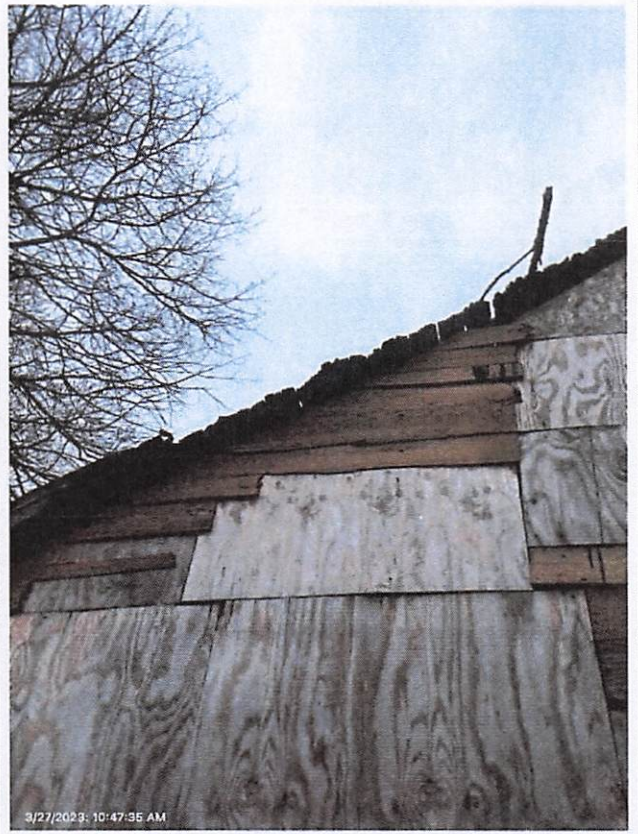
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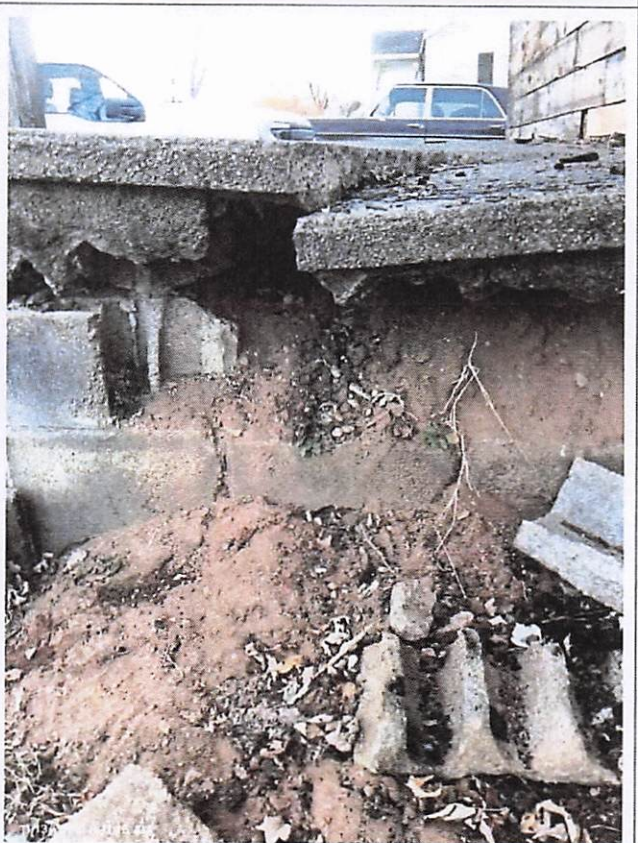
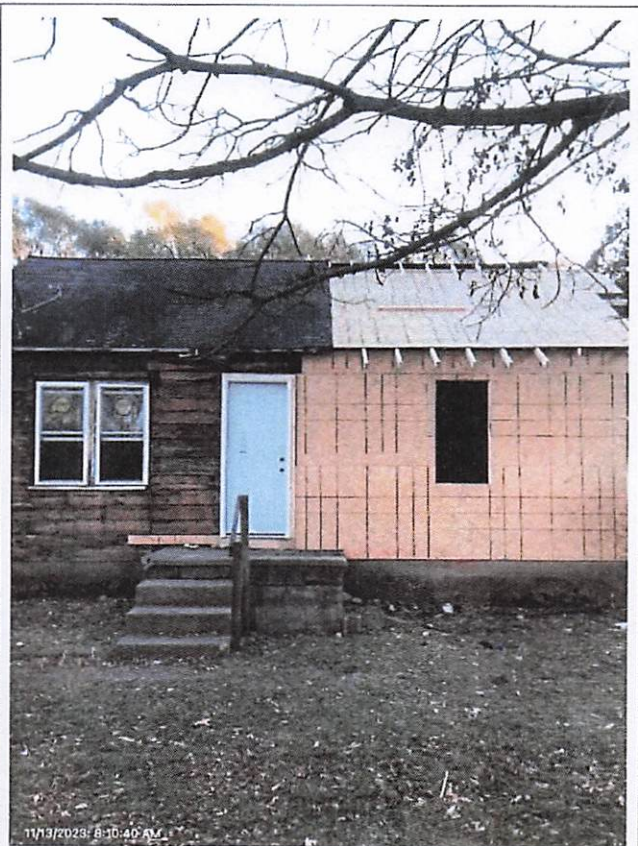
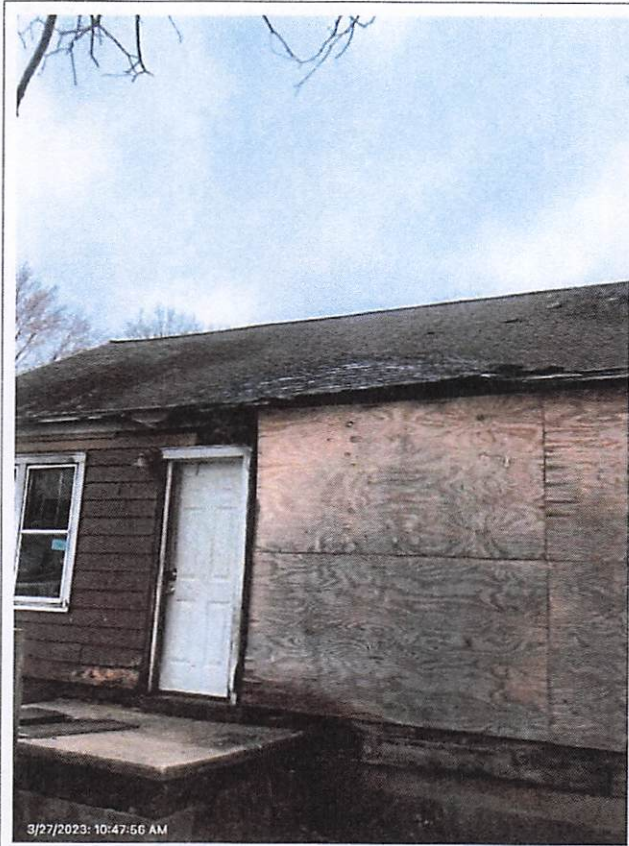
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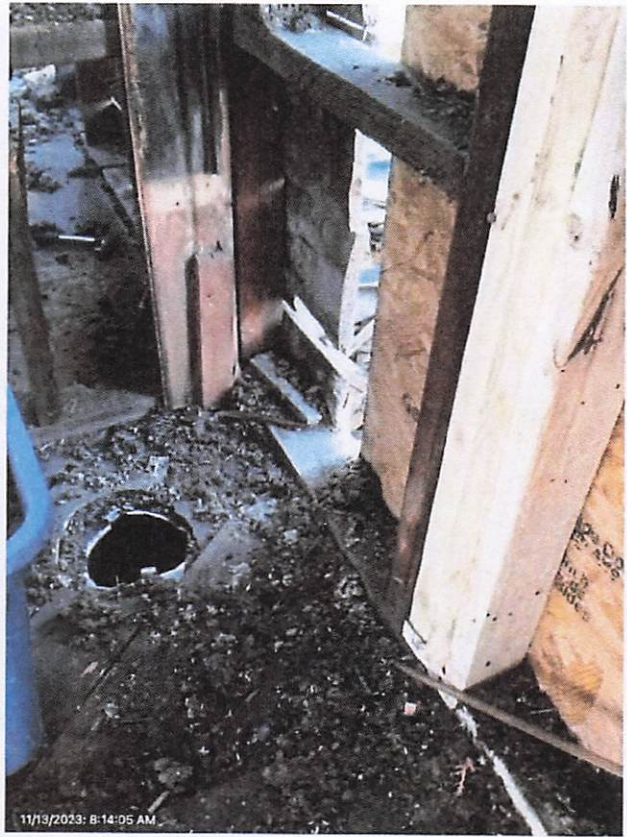
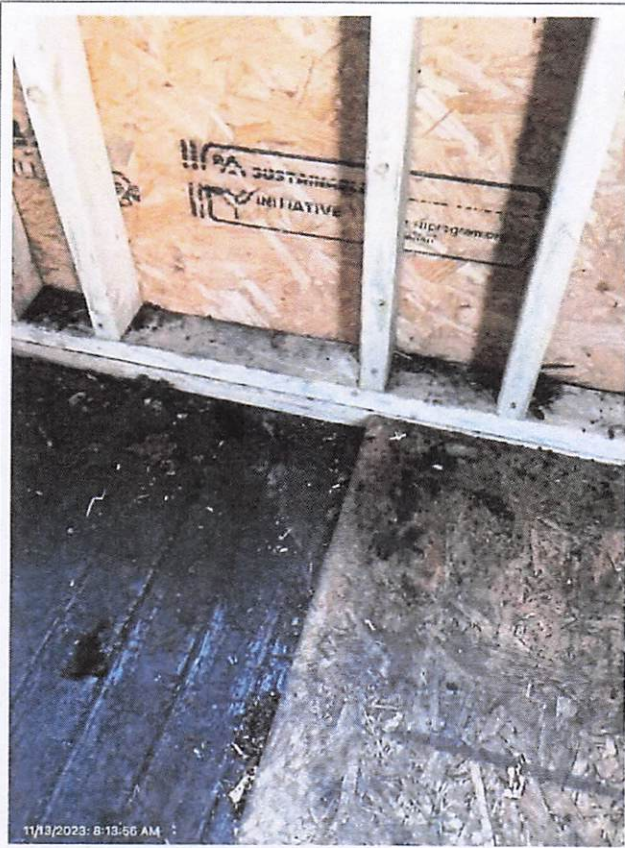
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3/27/2023 10:47:35 AM

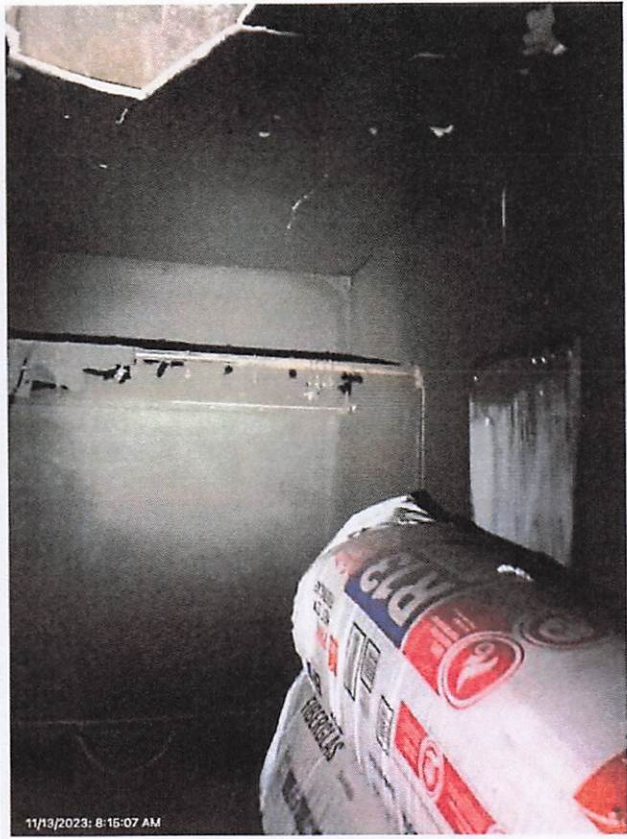




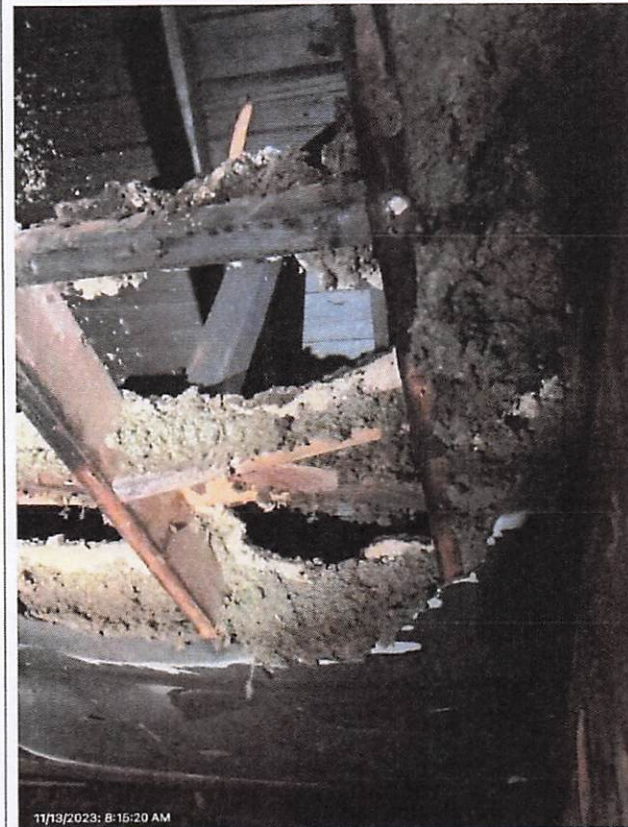




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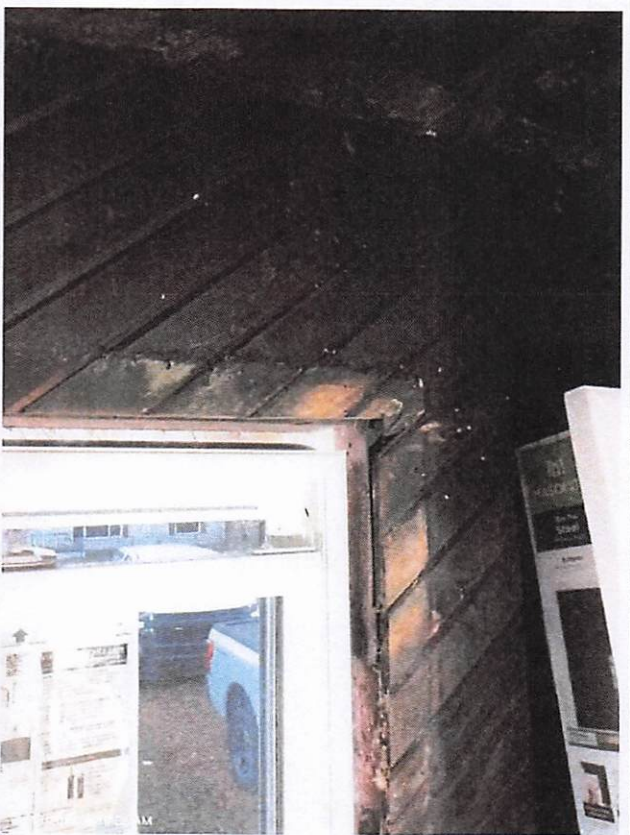
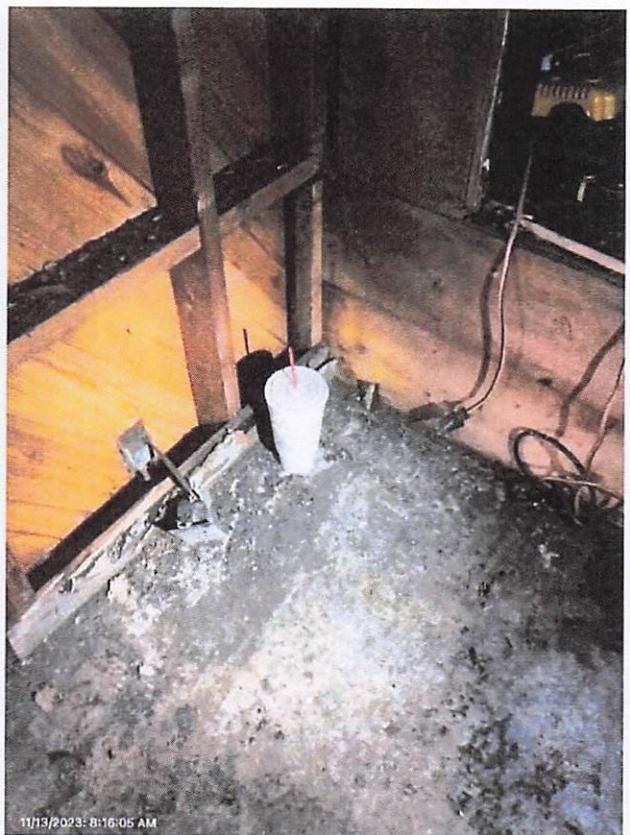
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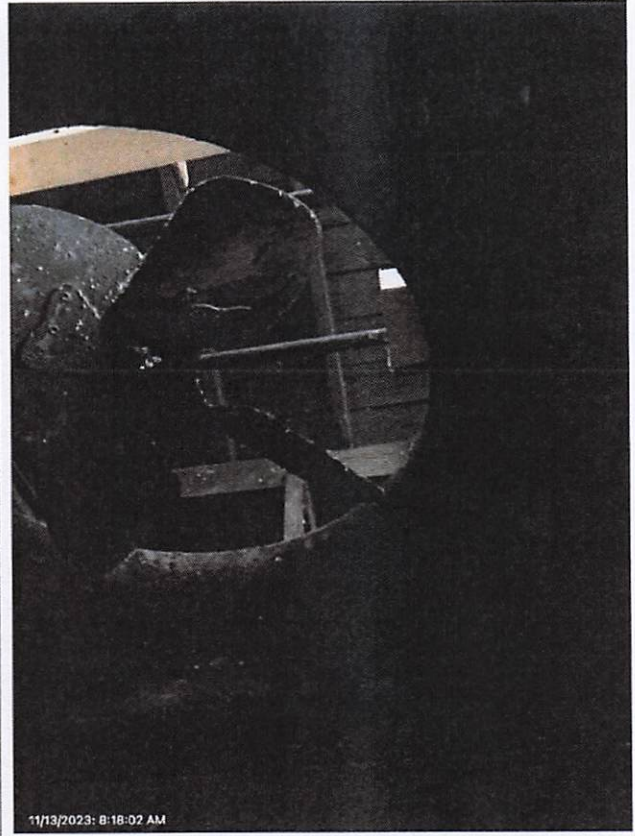


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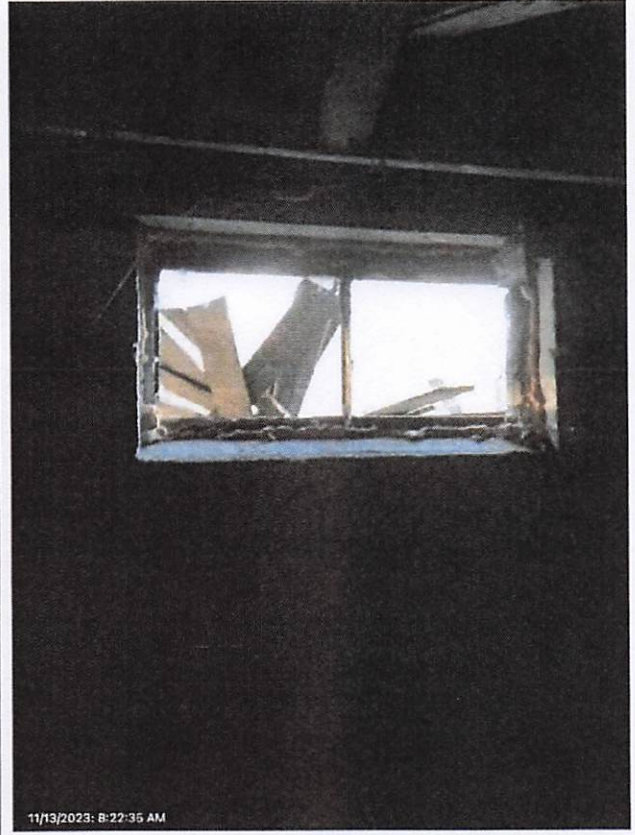








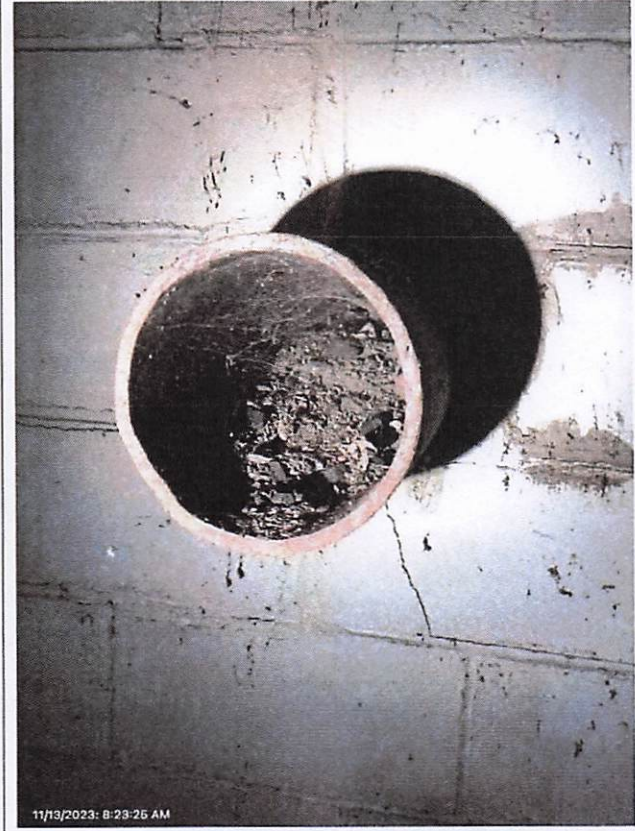
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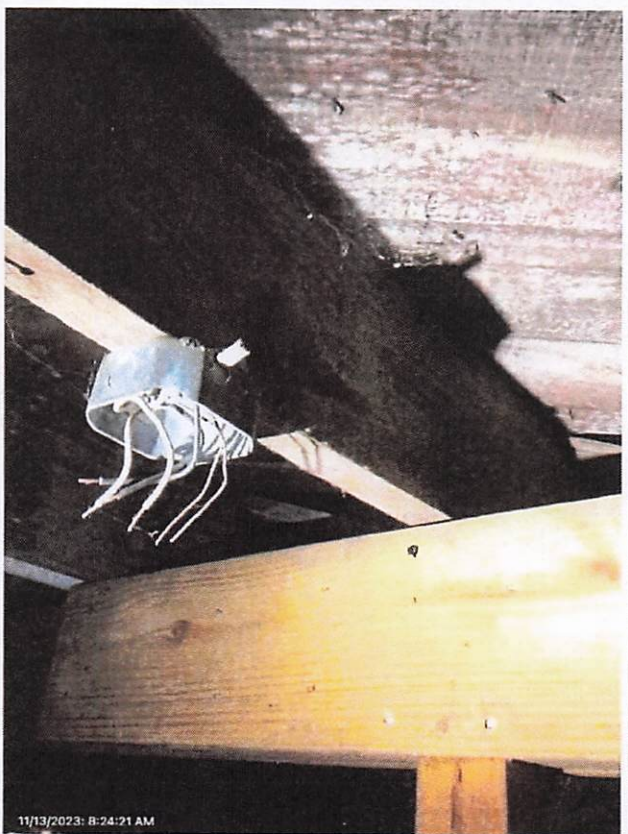
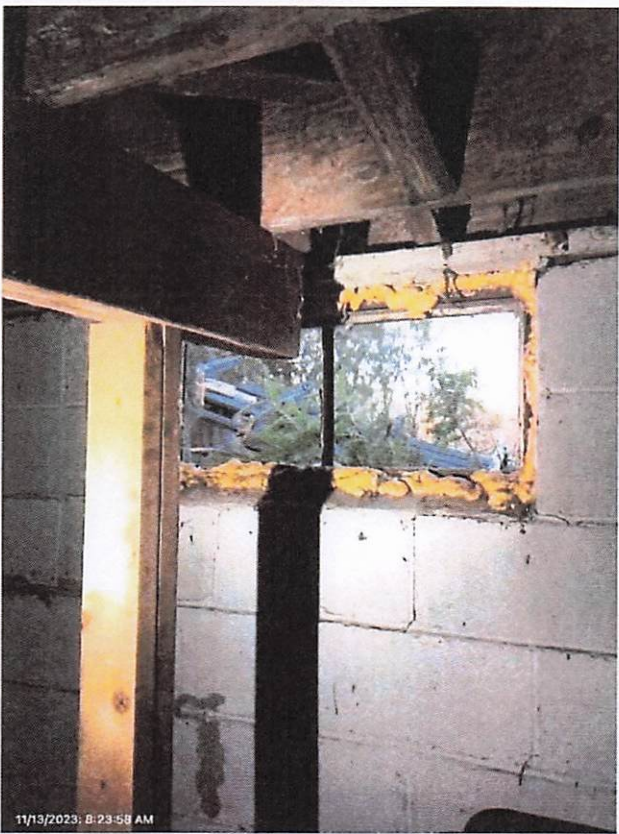
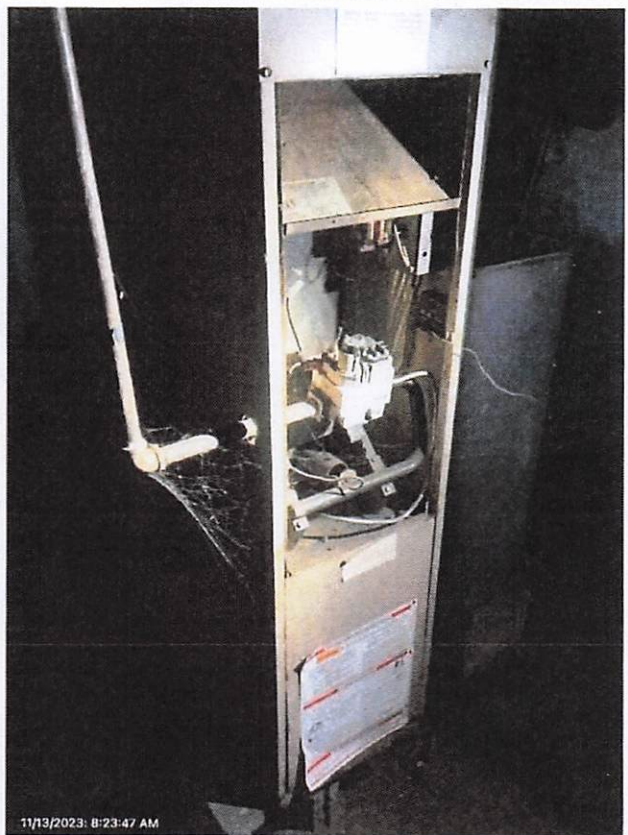
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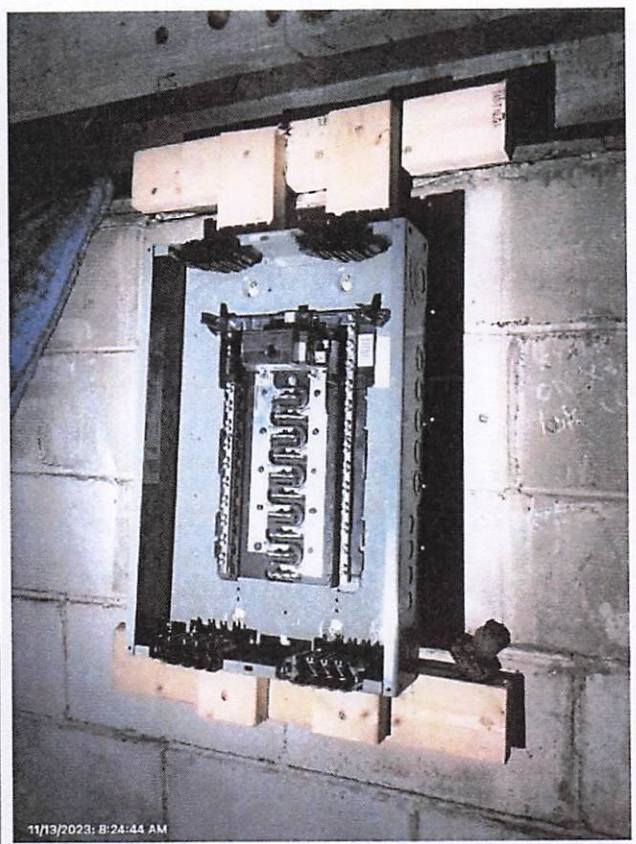


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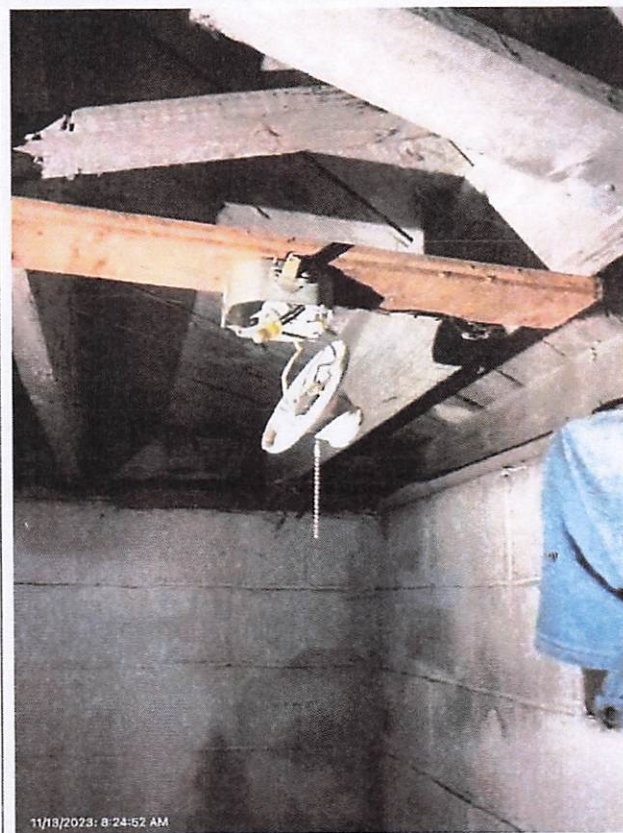




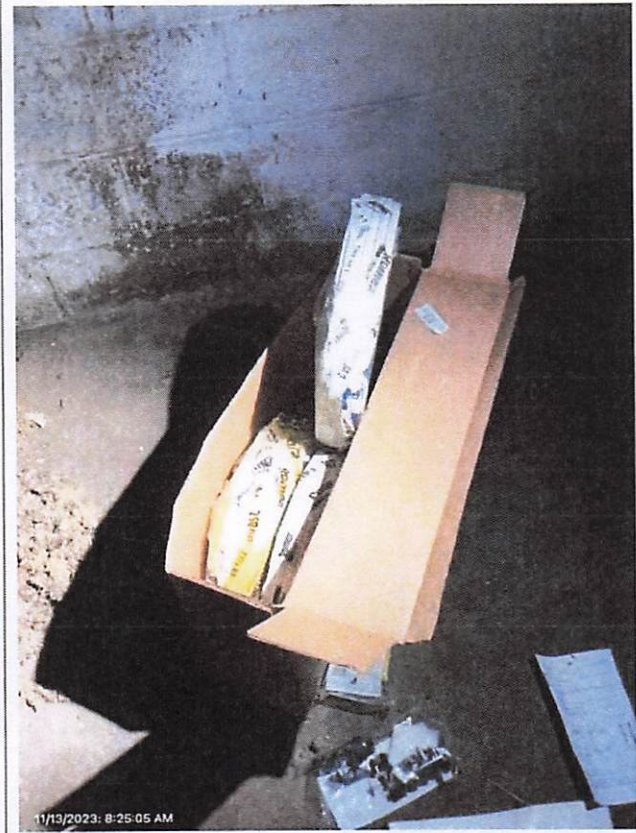
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11/13/2023: 8:24:44 AM



11/13/2023: 8:24:52 AM



11/13/2023: 8:25:05 AM

