



BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD
MINUTES OF THE APRIL 11, 2024 REGULAR MEETING
Convened in the Goshen Police & Court Building, 111 East Jefferson St., Goshen, Indiana

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

CALL TO ORDER: Acting Chair Mike Landis called the meeting to order at 4:00 p.m.

REVIEW/APPROVE MINUTES: Acting Chair Landis presented the minutes of the March 28, 2024, Regular Meeting as prepared by Clerk-Treasurer Aguirre. Board member Mary Nichols moved to approve the minutes as presented and the motion was seconded by Board member Orv Myers. The motion passed 4-0.

REVIEW/APPROVE AGENDA: Acting Chair Landis presented the agenda as prepared by the Clerk-Treasurer. Board member Nichols moved to accept the agenda as presented. Board member Myers seconded the motion. The motion passed 4-0.

1) Opening of sealed quotes on behalf of the Fire Department: Purchase of hydraulic extrication tools

On behalf of the City Fire Department, the Board of Public Works & Safety was tasked with opening sealed proposals submitted to the City for the purchase of hydraulic extrication tools.

All quotes were due to be submitted to the Clerk-Treasurer's Office by 3:45 p.m. on April 4, 2024.

Acting Chair Landis announced that one company submitted the following bid:

- Impact Rescue LLC of Indianapolis, Indiana: 1. Cutters (1) \$14,542 ; 2. Spreaders (1) \$14,996; 3. Combi tool (1) \$15,303; 4. Telescopic Ram (2) \$24,666; 5. Battery each \$976; 6. Charger AC (1) \$647; 7. Charger DC (1) \$548; 8. Main Power Connector (1) \$1,954; 9. On-tool Charging Cord (1) \$116; 10. Tool diagnostics cord (1) \$165. TOTAL BID: \$73,913.

Landis/Nichols made a motion that the bids be referred to the City Legal Department for review. Motion passed 4-0.

2) Opening of sealed quotes on behalf of the Water & Sewer Department: Purchase and installation of one diesel generator set and an automatic transfer switch

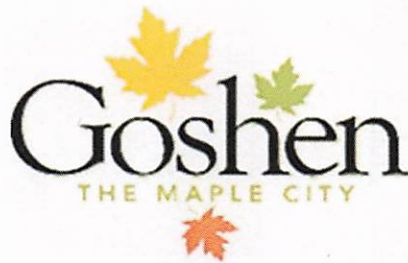
On behalf of the City Water and Sewer Department, the Board of Public Works & Safety was tasked with opening bids submitted for the purchase and installation of a diesel generator set and an automatic transfer switch.

All quotes were due to be submitted to the Clerk-Treasurer's Office by 3:45 p.m. on April 11, 2024.

Acting Chair Landis announced that offers from two companies were received as follows:

- Buckeye Power Sales of Canal Winchester, Ohio, a total bid of \$52,947.
- Elevated Power, LLC of Mishawaka, Indiana, a total bid of \$132,859.91.

Nichols/Myers made a motion that the bids be referred to the City Legal Department for review. Motion passed 4-0.



3) Opening of sealed quotes for the 2024 Asphalt Milling Package

On behalf of the City Engineering Department, the Board of Public Works & Safety was tasked with opening sealed proposals submitted to the City for the **2024 Asphalt Milling Package**.

All quotes were due to be submitted to the Clerk-Treasurer's Office by 3:45 p.m. on April 11, 2024.

Acting Chair Landis announced that an offer was received from one company:

- Specialties Company, LLC of Indianapolis, Indiana, a total bid of \$27,523.55.

Nichols/Myers made a motion that the bids be referred to the City Legal Department for further review.

Motion passed 4-0.

4) Police Department request: Approve a temporary road closure for the 100 block of East Jefferson Street on May 15, 2024, from 1-5 p.m., for a ceremony in observance of National Police Week

City Assistant Police Chief Shawn Turner asked the Board to approve a temporary road closure for the 100 block of East Jefferson Street on May 15, 2024, from 1 p.m. until 5 p.m., so the Goshen Police Department can conduct a ceremony in front of the Police Department in observance of National Police Week.

Chief Turner requested barricades and no parking signs for the 100 block of East Jefferson between the hours of 1 p.m. and 5 p.m. The ceremony will begin at 2:30 p.m. and the public is invited to attend.

Nichols/Myers made a motion to approve a temporary road closure for the 100 block of East Jefferson Street on May 15, 2024, from 1 p.m. until 5 p.m. Motion passed 4-0.

5) Leopoldo Mendoza request: Approve gravel driveway for 208 Queen Street

Through a translator, Leopoldo Mendoza asked the Board to approve a gravel driveway for his home, at 208 Queen Street, for which he is seeking a remodeling permit. To acquire it, he first needs to obtain a driveway permit.

In an email to the Board, Mendoza wrote that the home has a garage door in the basement in the back that lacks a driveway and he would like to connect to the back alley with a new driveway. Mendoza wrote that the City design standard and specifications for parking and driveway surfaces requires a "durable, hard surface," but he wanted a variance to use gravel (slag) as is the case for other driveways in his neighborhood. He said his plan is to remove the topsoil, add 2-inch diameter gravel, then top with ½ inches of gravel (slag).

In response to Board member Landis, Mendoza affirmed that he was seeking a 72-foot driveway. He said the side of the driveway would be about four feet from the alley, without a buffer.

City Assistant Planning & Zoning Administrator Rossa Deegan said the City is close to being able to approve a zoning clearance for the remodeling of the property, but one ongoing issue has been that about a decade ago the foundation of the home was elevated, creating a garage space in the basement. However, the home never had a driveway, so part of the approval process will be ensuring the installation of a driveway.

Deegan said the surface material of a driveway usually isn't an issue, but this one would be very long. He said if a concrete driveway of this length was requested, the Planning Department could approve it administratively. But, he said, the length was a concern.

So, Deegan said the Planning Department's preference would be that the driveway connect to the north-south alley, which is closer to the home's garage, than to the east-west driveway to reduce the amount of gravel on the property. As currently proposed, the property could also end up providing a parking area for many vehicles.

In response to a question from Board member Landis, Deegan said his understanding was that Mendoza would provide a grass buffer between the driveway and the alley. He said in this case, the Planning Department would require that an approved driveway maintain a minimum five-foot setback from the alley, and that it would be grass.



In response to further questions from **Board members Swartley and Landis**, **Deegan** clarified the location of the proposed driveway and the issue of concrete versus gravel driveways. He said gravel was "less ideal" surface type. He said the Planning Department would prefer a shorter driveway.

Board member Landis said there were many gravel driveways in the neighborhood, so that wasn't the issue. He said the issue was the length of the proposed driveway. He said it would allow parking spaces for eight vehicles.

City Director of Public Works & Utilities Dustin Sailor told the Board that the Engineering Department didn't have a recommendation because it didn't appear the driveway would intrude on the right of way. He said the City would prefer there not be too many access points to the alley and for there to be stormwater drainage by alleys.

Board member Landis asked if there was a way to ensure the driveway didn't intrude in the right of way. **Deegan** said this was an issue when gravel driveways are allowed. He said at times, the City has required landscape timbers be placed to clearly delineate the location of driveways.

City Attorney Bodie Stegelmann said the standards approved by the Board allow for the use of gravel, instead of a hard surface, but don't specify how that should be done. He said what could be done is to require that driveways be consistent with all other standards, including that setbacks be maintained.

Board members Swartley and Landis briefly discussed the size of the lot and proposed driveway dimensions.

Board member Swartley asked why **Mendoza** didn't want to create a driveway connecting to the north-south alley, pointing out that it would result in a shorter driveway. **Mendoza** said it would be more difficult to turn off the alley to the driveway because of an adjacent house, but that this could be done and it would save him money.

Board member Landis said he didn't have a concern about using gravel, but worried that a 72-foot driveway could become a long parking area. **Mendoza** said he was willing to use the north-south alley option if required.

Board member Swartley asked if the Board could require bushes be planted. **Stegelmann** said the Board can approve gravel driveway surfaces, but it would be beyond its authority to require anything else.

In response to a question from **Board member Landis**, **Stegelmann** said the Board could approve a gravel driveway and condition the approval on the applicant meeting the Planning Department's requirements. **Deegan** said he could work with the applicant. **Mendoza** also said he would work with the Planning Department.

Landis/Nichols then made a motion to approve a gravel driveway at 208 Queen Street on the condition that the Planning Department approve its location. Motion passed 4-0.

6) Dyksen & Sons Builders request: Approve partial closure of sidewalk at 206 North Main Street, the week of April 22 and/or April 29, for the removal of an awning and to change out two second-story windows

Bruce Dyksen, president and owner of **Dyksen & Sons Builder of Warsaw**, asked the Board to approve the partial closure of the sidewalk at 206 North Main Street, for a day during the week of April 22 and/or April 29, for the installation of a new awning and to change out of two second-story windows at the Democrat Building.

Dyksen indicated that his company will be using a rolling scaffolding for the work. The sidewalk will remain partially open as the work will be done against the building. He added that he will have cones and caution tape out around the scaffolding to prevent anyone from walking by it and that the work will be done during the day, from 8 a.m. to 5 p.m., and the scaffolding will be removed overnight.

In response to questions, **Dyksen** confirmed he will use rolling scaffolding and would block off the area and place cones and caution tape during the work.

Nichols/Myers made a motion to approve the partial closure of the sidewalk in front of 206 North Main Street, the week of April 22 and/or April 29, for the removal of an awning. Motion passed 4-0.

7) Legal Department request: Accept Deed of Dedication from LAG REALTY, LLC for 40 feet of public right-of-way at 2717 Peddler's Village Road, between Elkhart and Reliance roads



City Attorney Bodie Stegelmann recommended that the Board accept the Deed of Dedication included in the agenda packet from LAG REALTY, LLC for 40 feet of public right-of-way at 2717 Peddler's Village Road, between Elkhart Road and Reliance Road.

Nichols/Myers made a motion to accept the Deed of Dedication for public right-of-way from LAG REALTY, LLC, and authorize the Mayor to execute the Acceptance. Motion passed 4-0.

8) Engineering Department request: Award bids to Niblock Excavating for the Steury Avenue and Lincoln Avenue reconstruction and drainage improvements project

City Director of Public Works & Utilities Dustin Sailor told the Board that on March 28, 2024 three bids were received for the Steury Avenue and Lincoln Avenue reconstruction and drainage improvements project:

Contractor	Base bid	Bid alternate	Bid total
Niblock Excavating	\$8,829,875.50	\$267,882.50	\$9,097,758.00
HRP Construction	\$10,327,000.00	\$197,059.00	\$10,524,059.00
Rieth-Riley Construction	\$11,742,856.80	\$257,137.50	\$11,999,994.30

Sailor said based on the bids submitted, Niblock Excavating was found to be the lowest responsive and responsible bidder with a base bid of \$8,829,875.50, a bid alternate of \$267,882.50, and a total bid amount of \$9,097,758.50. Within the bid package, a bid alternate was included to reconstruct Goshen Die Cutting's (GDC) trailer parking area impacted by the smoothing of the S-curves on Steury Avenue. Although Niblock's bid for this alternate was the highest of the three bids, Niblock's overall bid remains the lowest.

Sailor said the Goshen Redevelopment Commission budgeted \$8 million to construct this project, including American Rescue Plan dollars. Within the bid, allowances were added for unforeseen construction conflicts and issues. These undistributed quantities are:

- Line Item 7C, B-borrow, valued at \$180,000,
- Line Item 70, No. 2 Stone, valued at \$345,000, and
- Line Item No. 38, Construction Allowance, valued at \$700,000
- Subtotal value of \$1,225,000

These allowances may or may not be used during construction.

Sailor said with the need to utilize the allotted ARP funding before its expiration, and with the need to complete the identified improvements, and having received three competitive bids, Goshen Engineering recommends awarding the base bid and the bid alternate to Niblock Excavating.

Nichols/Myers made a motion to award the base bid and the bid alternate to Niblock Excavating. Motion passed 4-0.

9) Engineering Department request: Approve the lane restrictions on Reliance Road and Peddler's Village Road for utility relocation from April 11 thru May 3, 2024

City Director of Public Works & Utilities Dustin Sailor told the Board that in the first phase of the County Court Consolidation Roadway Improvement Project, NIPSCO will be performing work to relocate its utilities (gas & electric) to the new locations throughout the corridor of the project.

Sailor said NIPSCO's work will require lane restrictions as needed at each location. The limits of the project are Reliance Road from U.S. 33 to Peddler's Village Road, and on Peddler's Village Road from C.R. 17 to Reliance Road. **Sailor** said this work will start Thursday, April 11, and go through Friday, May 3. NIPSCO will maintain access to residents, businesses, and the fire station.

Nichols/Myers made a motion to approve the lane restrictions on Reliance Road and Peddler's Village Road for utility relocation from April 11 through May 3, 2024. Motion passed 4-0.



10) Engineering Department request: Approve the supplemental approval and acceptance of the stormwater infrastructure for Phase I of The Crossing Subdivision

City Director of Public Works & Utilities Dustin Sailor told the Board that on Nov. 29, 2010, the Board approved and accepted the completion of the installation of infrastructure (water main, sanitary sewer, curb and asphalt) for The Crossing subdivision.

Sailor said the three-year maintenance bond for the water main, sanitary sewer, curb, and asphalt expired on Nov. 23, 2013, and was not renewed. However, the storm sewer infrastructure was excluded from approval and acceptance due to the development's stormwater retention/detention system needing to be re-designed, reviewed, and constructed.

Sailor said since 2010, the original developer, GRC Investments, LLC, went bankrupt and was unable to participate in addressing the outstanding stormwater issues. Thus, in 2020, he said the City undertook the redesign of the existing drainage infrastructure and in 2022, undertook the reconstruction of the stormwater drainage system for The Crossing Subdivision. This project corrected the outstanding storm sewer infrastructure issues and will allow the development of subsequent phases by the Barak Group, LLC to move forward.

Nichols/Myers made a motion to approve the supplemental approval and acceptance of the stormwater infrastructure for Phase 1 of The Crossing Subdivision. Motion passed 4-0.

11) Engineering Department request: Approve and authorize the Board to execute the Agreement with T&T Automotive project at 1795 Reliance Road

City Stormwater Coordinator Jason Kauffman requested the approval of an Agreement for the Completion of Construction for the T &T Automotive Service project located at 1795 Reliance Road.

Kauffman said the building has passed its final building inspection and the project is substantially complete except for: replacing two of the four deciduous shade trees with species other than maple; installing a fence as required by the Board of Zoning Appeals; resolving the matter involving the shed required by Board of Zoning Appeals to be removed from the property; the installation of an erosion control blanket in the southern swale between parking area and tree line; the placement of topcoat for driveway and parking areas for the property; asphalt striping per the approved site plan dated Oct. 26, 023; and the installation of a hard surface driveway entrance for the site.

Kauffman said these final requirements cannot be completed at this time due to weather conditions and a delay in roadwork that was to take place last year.

Kauffman said the property owner T &T Real Property agrees to complete landscaping, address the shed issue, replace two deciduous trees, and install the erosion control blanket by June 15, 2024. The property owner T &T Real Property also agrees to complete placement of the topcoat for driveway and parking area, asphalt striping, and installation of a hard surface driveway by Oct. 31, 2024.

Board member Landis asked that without a bond being filed with the City to ensure the remaining work is done, was there anything to guarantee completion. **City Attorney Stegelmann** said T&T would still need to meet City standards. He added that the work could not be completed due to ongoing roadwork related to the new Courthouse.

Nichols/Myers made a motion to approve and authorize Deputy Mayor Mark Brinson to execute the Agreement with T &T Real Property for the completion of the T &T Automotive project at 1795 Reliance Road. Motion passed 4-0.

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

Acting Chair Landis opened Privilege of the Floor at 4:37 p.m. There were no comments.



At 4:37 p.m., Acting Chair Landis recessed the Board of Public Works and Safety meeting and convened a meeting of the City Stormwater Board.

CITY OF GOSHEN STORMWATER BOARD

4:00 p.m., April 11, 2024

Members: Mike Landis, Mary Nichols and Mayor Leichty (absent)

12) Accept the post-construction stormwater management plan for T & T Auto Services as it has been found to meet the requirements of City Ordinance 4329

City Stormwater Coordinator Jason Kauffman told the Board that the developer of the T & T Auto Services project, affecting one (1) or more acres of land and located at 1795 Reliance Road, has submitted a sufficient post-construction plan that is compliant with Ordinance 4329, "Uniform Requirements for Post-Construction Stormwater Management."

The Stormwater Department requested the Stormwater Board's acceptance of the plan.

Nichols/Landis made a motion to accept the post-construction stormwater management plan for T & T Auto Services as it has been found to meet the requirements of City Ordinance 4329. Motion passed 2-0.

13) Accept the post-construction stormwater management plan for Kropf Building Addition for Storage as it has been found to meet the requirements of City Ordinance 4329

City Stormwater Coordinator Jason Kauffman told the Board that the developer of the Kropf Building Addition for Storage (also known as Kropf Family Real Estate LLC) project, affecting one (1) or more acres of land and located at 2411 East Kercher Road, has submitted a sufficient post-construction plan that is compliant with Ordinance 4329, "Uniform Requirements for Post-Construction Stormwater Management."

The Stormwater Department requested the Stormwater Board's acceptance of the plan.

Nichols/Landis made a motion to accept the post-construction stormwater management plan for Kropf Building Addition for Storage, as it has been found to meet the requirements of City Ordinance 4329. Motion passed 2-0.

At 4:39 p.m., Acting Chair Landis resumed the meeting of the Board of Public Works and Safety. He then opened a public hearing to consider an Order of the City of Goshen Building Commissioner for a property at 205/207 Middlebury Street in Goshen.



CITY BOARD OF PUBLIC WORKS & SAFETY PUBLIC HEARING:
4:00 p.m., April 11, 2024

Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana
Members: Mike Landis, Orv Myers, Barb Swartley, Mary Nichols and Mayor Leichthy (absent)

14) Review of the Order of the City of Goshen Building Commissioner for 205/207 Middlebury Street (Ronald E. Davidhizar, property owner)

At 4:39 p.m., Acting Chair Landis convened a hearing to review the Order of the City of Goshen Building Commissioner for 205/207 Middlebury Street (Ronald E. Davidhizar, property owner)

BACKGROUND:

In an April 8, 2024 memorandum to the Board, **Assistant City Attorney Don Shuler** wrote that an unsafe building review hearing was scheduled for the property located at 205/207 Middlebury Street, Goshen, Indiana. Attached to Shuler's memo was the Order of the City of Goshen Building Commissioner and the Certificate of Service establishing service of the Order to the property owner (Ronald Davidhizar) and notice of a scheduled hearing. **Shuler wrote that the Board of Works needed to conduct the hearing by receiving evidence and arguments from the Building Department, the property owner, and any other individual who wished to speak to the property. After receiving the evidence, he wrote that the Board had to determine if it would affirm, rescind, or modify the demolition Order of the Building Commissioner, both as to the finding of code violations that make the building unsafe, and as to the required action to take.**

Shuler wrote that the Board should make two (2) motions during its hearing, if it wished to affirm the Order of the Building Commissioner requiring demolition.

First, the Board should move to adopt the findings in the Building Commissioner's Order as the Board's findings as to the condition of the building at the real estate and the appropriateness of demolition. **Second**, the Board should move, based on those findings, to affirm the Building Commissioner's Order and order demolition.

Shuler concluded that a form of the Record of Action and Continuous Enforcement Order that the Board will issue following the hearing was also attached to his memo and could be used as a guide in conducting the hearing. The form enclosed also provided options should the Board desire to modify the Building Commissioner's Order.

In an attached Unsafe Building Hearing Authority Record of Action and Continuous Enforcement Order, Shuler provided the background of the case, the legal authority for the City's action, the specific violations alleged by the City and the actions and options before the Board of Public Works and Safety.

Also attached to Shuler's memo was the **Order of City of Goshen Building Commissioner Myron Grise, dated March 7, 2024, for 205/207 Middlebury Street.**

In this document, **Grise** informed property owner Ronald Davidhizar that his property was in violation of the City of Goshen Neighborhood Preservation Ordinance, codified at Goshen City Code § 6.3.1. **He wrote that the property, consisting of a vacant residential structure and accessory building/garage, were in violation as follows:**

1. The foundation of the structure has not been kept in good repair and has deteriorated to make the structure likely to partially or completely collapse, a violation of Section 6.3.1. l(b) and (r). Multiple areas around the foundation have significant cracks and holes that compromise the structural integrity of the foundation. Cinder blocks in block walls have been removed or have collapsed. There are multiple gaps in the foundation that permit small animals or rodents to enter the structure.



2. The ceilings inside the structure have not been kept in good repair, are collapsing or in danger of collapsing, a violation of Sections 6.3.1.1 (b), (p), and (r). Multiple ceilings inside the structure have collapsed. Multiple areas throughout the structure have walls and ceilings that have detached from each other, a sign of disrepair and structural failure.

3. The floors inside the structure have not been kept in good repair, are collapsing or in danger of collapsing or failing, a violation of Section 6.3.1.1(b), (p), and (r). Multiple floors throughout the structure have partially collapsed or are in danger of collapse due to dilapidation. Floor coverings are torn throughout the structure. Multiple areas throughout the structure have floors and walls that have detached from each other, a sign of disrepair and structural failure.

4. The walls inside the structure have not been kept in good repair, a violation of Section 6.3.1.1(b). There are multiple areas in the structure where the walls have detached from the ceilings and/or floors, indicating structural failure and deterioration.

5. The windows and doors of the structure have not been kept in good repair, a violation of Section 6.3.1.1(d). There are multiple broken windows and doors at the structure.

6. There is no operable plumbing system at the structure, a violation of Section 6.3.1.1(a). All plumbing fixtures have not been maintained and are not properly connected.

7. There is no working electrical system at the structure, a violation of Section 6.3.1.1(a). The electrical system does not work and there are loose, hanging, and exposed electrical wires throughout the structure.

8. There is no operable heating system at the structure, a violation of Section 6.3.1.1(a). The furnace does not work. The gas line is rusted out and cut. There is no duct system installed. There is no working water heater.

9. The structure is vacant and not secured, a violation of Section 6.3.1.1(ff). The property is easily accessible to people and animals. **The structure is not maintained in a manner that would permit human habitation, occupancy, or use** as it is full of trash, debris, and animal feces.

Grise also wrote that the accessory building/ garage was in violation as follows:

10. The garage roof has a large hole permitting weather and animals to enter the garage causing water damage, a violation of Section 6.3.1.1(c) and (r). The garage is full of squirrels and other small animals. The garage is full of animal feces, trash, and debris.

11. The garage foundation has not been kept in good repair, a violation of Section 6.3.1.1(b) and (r). Multiple areas around the garage where bricks in the walls are crumbling and showing signs of decay. There are areas where there is no mortar between the bricks or it has crumbled due to dilapidation.

Grise wrote that these conditions rendered the vacant residential structure as unsafe within the meaning of I.C. §36-7-9-4(a)(l), (2), (5), and (6), adding, "The deterioration to the foundation, the collapsing walls, floors, and ceilings, the detaching of walls from the ceilings and floors, is all evidence that the structure is in an impaired structural condition that makes it unsafe to person or property. The loose, hanging, exposed electrical wires throughout the structure, coupled with its unsecured nature and accumulated trash and materials inside, render it a **fire hazard. The structure is dangerous to person or property** because of violations of the Neighborhood Preservation Ordinance, particularly violations concerning damage and deterioration to the foundation, falling or missing cinder blocks, collapsing floors, ceilings, and walls, and its unsecured nature. **The structure is vacant and not maintained in a manner that permits human habitation, occupancy, or use** under the Neighborhood Preservation Ordinance."

In addition, he wrote that the **garage's condition makes it "an unsafe building** within the meaning of I.C. § 36-7-9-4(a)(l) and (5). The garage is in an **impaired structural condition and dangerous to person or property** due to its violations of the Neighborhood Preservation Ordinance. In particular, the **garage's foundation is demonstrated to be failing** due to crumbling bricks and lack of mortar due to dilapidation.



The **unsecured** nature of the garage, as shown by the presence of animals and animal feces inside, coupled with the likelihood of continued deterioration due to the hole in the roof, makes the **property unsafe.**"

Grise wrote that based on these findings concerning the condition of both the residential structure and the garage on the real estate, demolition of both was warranted.

As a result, **Grise ordered Davidhizar to demolish the unsafe buildings (residential structure and garage) 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 April 30, 2024.**

Grise notified the property owner that failure to comply with this Order could result in the City of Goshen taking action to complete the required demolition and to bill him for the costs of the work, including, the actual costs of the work and an amount equal to the average processing expense the City would incur in pursuing this matter. Such amounts could become a lien upon the real estate and ultimately be enforced in the same manner as any other judgment.

Grise further notified Davidhizar that a hearing would be held before the Board of Public Works and Safety on April 11, 2024 for the purpose of reviewing the Order of the City of Goshen Building Commissioner.

Davidhizar was advised he had the right to appear at this hearing with or without counsel, to present evidence, cross examine opposing witnesses, and present arguments. Should he fail to appear at the hearing, the hearing would be conducted in his absence. And the Board would have the right to affirm, rescind, or modify this Order.

Grise also notified Davidhizar that failure to comply with Section 6 of this Order could result in a judgment of liability against him in accordance with Indiana Code§ 36-7-9-27.

The agenda packet contained written evidence that Davidhizar was served a copy of the Order and related documents on March 16, 2024.

DISCUSSION AND OUTCOME OF BOARD OF PUBLIC WORKS & SAFETY HEARING ON APRIL 11, 2024:

Acting Chair Landis opened the hearing to review the Order of the City of Goshen Building Commissioner for 205/207 Middlebury Street (Ronald E. Davidhizar, property owner).

Present for the hearing were: Board members Landis, Myers, Nichols and Swartley; City Attorney Bodie Stegelmann; Assistant City Attorney Don Shuler; City Building Inspector Travis Eash; City Building Commissioner Myron Grise; Ronald Davidhizar (property owner); John William "Bill" Davis, an attorney representing Davidhizar; and Kevin M. Finn, a structural engineer retained by Davidhizar.

Assistant City Attorney Don Shuler explained the reason for the hearing, the process of receiving evidence and the options before the Board at the conclusion of the hearing. Shuler said the Board could chose to affirm, rescind or modify the Order of the Building Commissioner. Shuler suggested evidence be given by a representative of the City Building Department followed by the property owner and his representatives.

Acting Chair Landis swore in the following to give lawful and truthful testimony: City Building Inspector Travis Eash, Ronald Davidhizar (property owner) and Kevin M. Finn, a structural engineer retained by Davidhizar.

Acting Chair Landis invited a presentation from City Building Inspector Eash, who distributed a packet of information about 205/207 Middlebury Street (CITY EXHIBIT #1). The packet included a two-page memo from Eash to the Board (dated April 11, 2024), Eash's Feb. 13, 2024 property inspection report and 39 pages of photographs. Eash, said he conducted his initial inspection of the property at 205/207 Middlebury Street on Feb. 9, 2024. While conducting the inspection, Eash said he documented several violations of the house and the garage, many of which he considered significant and made the property "uninhabitable and unsafe."



Reading from his report, **Eash** said, "The more severe violations of the house include multiple areas around the foundation where there are large cracks and holes, and other areas where blocks are missing in a block wall in the basement, so much so that the structure's foundation has been compromised. Walls are detaching from the ceilings and floors which is another sign of structural failure. Also, there are multiple ceilings and floors throughout (the) property that have partially collapsed or are in danger of collapse."

Eash continued, "Other significant violations of the house are there is no working heating system or installed duct work, no working plumbing system and no working electrical system. Also, there is no water heater. The house is accessible to small animals and is not weather tight and has multiple broken windows and doors throughout.

"The more severe violations to the garage are that there is a large hole in the roof that has allowed weather to enter causing more damage, and the garage has become easily accessible to squirrels and other small animals and is full of feces. Also, there is evidence of exterior bricks deteriorating and crumbling and falling. Other areas where there is missing mortar throughout those bricks. Other violations on the garage are that the exterior of the garage has (an) accumulation of materials and outside storage that is not permitted. The shed on the property has a large hole in the roof and is in disrepair."

Eash also said, "There have not been any permits pulled for this property for at least 20 years. There has been no water usage at this property since at least 2007, which is how far back the utilities office could actually go. This property has never been registered as a rental property within the City of Goshen and no rental inspections were ever conducted."

Eash concluded his summary of his report by saying, "Due to the multiple violations, the current unsafe condition of the structures on the property and the lack of motivation or initiative from the owner for at least the past 20 years to do anything with this property to bring it into a habitable condition, the Building Department's recommendation is that all structures on the property, including the house, the garage and the shed, be determined to be unsafe, and all structures on the property, including the house, the garage and the shed, be demolished."

Eash said that in 2014 there was a City order for repair of the property that never took place, adding, "There was not any initiative from the owner for at least those 10 years. I would go longer. It's been orders that have been ignored."

Acting Chair Landis asked **Eash** if there were conditions placed on that repair order, including a time frame. **Eash** responded that he didn't have that information with him. He said he believed there were similar violations.

There were no further questions or comments from Board members for Eash. Acting Chair Landis asked City Attorney Stegelmann how to proceed. Stegelmann suggested Davidhizar's representative be given the opportunity to cross-examine Eash.

John William "Bill" Davis, an attorney representing Davidhizar, said he wasn't going to cross-examine Eash but wanted to question City Building Commissioner Myron Grise.

Acting Chair Landis swore in Grise to give truthful testimony.

Under questioning by Davis, Grise testified:

- About his qualifications, work experience and how he became the City's Building Commissioner.
- About his post-secondary education, which includes an associate degree in mechanical trades;
- Concerning his training about structures and structural engineering, including training sessions certified by the International Code Council;
- About accompanying City Inspector Eash on the Feb. 13, 2024 property inspection of 205/207 Middlebury Street;
- That he has recommended that the structures at 205/207 Middlebury Street be demolished;



- Rocks and cinder blocks that were part of the foundation are missing, the structure is partially or likely to collapse if it stays in that condition and the foundation could collapse;
- Ceilings have been removed and are missing;
- Floors have separated in the home and could be repaired if done properly and that is the same for some ceilings;
- The damage to the foundation could be repaired;
- There is exposed electrical wiring and at the moment it doesn't pose a fire hazard because the power is off;
- A back wall of the garage foundation is in bad shape and the building could collapse;
- It is not the City Building Department's only solution to demolish buildings when it has a few violations, but only in cases when there have been many and multiple violations, especially ones that have gone for 20 years and gotten worse and worse and haven't had other work done;
- There can be alternatives to demolition and those are under the control of the Building Commissioner;
- State statutes allow for alternatives to demolition, which he said he has reviewed;
- He is familiar with some of those alternatives.

Davis provided Grise and Board members with a printed copy of Indiana State Statute I.C. § 36-7-9 – Chapter 9, Unsafe Building Law, and continued his questioning. Grise further said:

- He understood there was an option to hire a contractor to repair a structure;
- He understood some of the other options for dealing with a building deemed unsafe;
- Before he was the City Building Commissioner, about 2016, he went through the property with a private contractor who estimated that it would cost more than \$100,000 to fix 205/207 Middlebury Street;
- A performance bond to repair the property would need to be much more than that now (Board members **Landis and Swartley** interjected that it would likely be twice as much as \$100,000 for repairs);
- He considered repair and alternatives to demolition, but nothing was done in the past to address the problems;
- Records may exist documenting past attempts to order repairs at the property;
- That for a while there was a delay in addressing unsafe properties in Goshen, but there is now more attention being given to address the situation and to bring properties up to at least a minimum of code;
- And that this push wasn't in response to politics, but partly because of a change in society and at the insistence of neighbors who sometimes complain daily about nearby rundown properties.

Acting Chair Landis gave Assistant City Attorney Shuler the opportunity to cross-examine Grise.

During cross-examination by Shuler, Grise said:

- There was nothing in his Order or stemming from his examination by **Davis** that would change the conclusions of his Order for 205/207 Middlebury Street from March 2024;
- He believes the building is unsafe under Indiana law;
- The property's condition warrants demolition;
- He based that opinion in part on the fact that the property has been vacant for 20 years and there has been an unwillingness to make any repairs on the property.

Given the opportunity to further question Grise, Davis said that any Order of demolition by the Board could not be based on the property being vacant for 20 years since that was not mentioned in Grise's demolition Order. **Shuler** objected that **Davis** had made an argument and had not posed a question.

Davis then asked Grise if there was anything about the house being vacant in his order. **Grise** said there was not.



Attorney Davis then said he wanted to question Ronald Davidhizar, the property owner.

Under questioning by Davis, Davidhizar testified:

- He has owned the property at 205/207 Middlebury Street about 50 years and it has been used as a rental;
- The home is more than 100 years old.
- A black and white photo Davis showed him was of the home in question (**RESPONDENT'S EXHIBIT #1**);
- This home is next door to his own home, at 203 Middlebury Street;
- Another black and white photo that Davis showed him was a workshop/storage area on the property and is behind 205/207 Middlebury Street and faces 5th Street (**RESPONDENT'S EXHIBIT #2**);
- He was told that this structure previously was a fire station serving the northside of town and later rented to people who lived next door and used the building for storage of straw, hay and animal feed;
- He has made improvements to the structure, including sturdily rebuilding the second story after the roof sustained weather-related damage and the second story came down.

Under questioning by Attorney Davis, Davidhizar further testified:

- He wants to repair the first-story concrete floor and use it as a workshop and have storage upstairs and for the home, he would like to repair the entire structure and use it as a duplex with three bedrooms at 205 Middlebury Street and least two bedrooms at 207 Middlebury Street, as well as add laundry facilities;
- He doesn't intend to add on to the buildings, will keep them the same size and only refurbish/remodel them;
- There is electric service to the workshop and there are two electric meters for the house, but a tree limb fell on electric lines and knocked out power to the home, so electric service needs to be restored;
- The house has plumbing, including water pipes and drain pipes, but lacks some of the fixtures, such as sinks and it needs new toilets;
- In terms of heating, 205 Middlebury Street has a new but unused furnace;
- The electricity at 205 Middlebury Street was redone and the wiring is safe and he plans to install a 200-amp entrance and then have that divided into 100 amps for each side of the duplex;
- He recalls previous repair orders for the house and in response painted it and replaced some broken windows (a few of which have been broken since) and he also keeps the property's grass mowed and the shrubs trimmed;
- Both buildings "are solid and tearing them down would be unfortunate and not necessary."

Assistant City Attorney Shuler was then given the opportunity to cross-examine Davidhizar. During cross-examination by Shuler, Davidhizar testified:

- The property was last used as a rental 10 or 15 years ago or "maybe a little longer";
- The City's contention that there has been no water usage at the property since 2007 "could be true";
- It "was possible" that – as City staff asserted – the property has not had a rental inspection or rental permits for the last 20 years;
- About three years ago a tree limb fell and ended electrical service to the home and he said he has done no electrical work on the home since then;
- The furnace at 205 Middlebury Street was installed "about six years ago, maybe a little longer";
- In terms of repairs in the last year, he has made sure the property was mowed, been kept up, he replaced and boarded up some windows and trimmed shrubbery;
- There have been no repairs to the house, but the roof at the home will need to be repaired or replaced and he is inclined to replace it;



- In the past two or possibly three years, there was some basement work, including installation of an egress window, so there could be a basement bedroom;
- He recalls the property being the subject of a previous enforcement action, adding "that was when it was turned over to a contractor to patch and paint, but he wasn't really very excited about doing it, so we did";
- The contractor was someone from 534-Rent and he confirmed that action was part of an order of a court that established a receivership for the property;
- He doesn't remember if that action was the result of a court trial, but said that may have been the case;
- He doesn't believe it would take \$100,000 to repair the property as a contractor has stated;
- He doesn't remember there being subsequent agreements as a result of the court action except when the contractor didn't want to complete the repairs, so there was agreement that he would do more work;
- As part of that agreement, he completed the patching and painting, added more insulation, repaired some broken windows, and put in the furnace;
- He disputed there were missing or damaged cinder blocks in the foundation and said that the basement cinder block wall is not part of the foundation and is just a partition and is not weight bearing.
- He repaired cracks in the foundation and they may have been the ones documented by **Grise and Eash**;
- He didn't address the walls and ceilings that are separating, as documented by **Grise and Eash**, and said his consulting structural engineer would address this issue.
- The repairs he has made have included repairing cracked or broken windows and installing a furnace,
- And he believes he got a permit to install the furnace.

Assistant City Attorney Shuler asked Davidhizar what he was asking the Board of Public Works and Safety to do. Attorney Davis objected to the question, and it was not answered.

Attorney Davis then called as a witness Kevin M. Finn, P.E., a structural engineer retained by Davidhizar.

Finn said the P.E. after his name signified that he is a "public engineer."

Davis showed Finn a resume titled "Professional Resume, Kevin M. Finn, P.E." Finn confirmed that the two-page document was his resume and it was introduced as an exhibit (RESPONDENT'S EXHIBIT #3).

Responding to Davis' questions, Finn discussed his qualifications in civil engineering, including his post-secondary degree in engineering, his post-graduate classes in structural engineering and his licensure in 47 states. Finn said he inspected the property at 205/207 Middlebury Street on March 28, 2024 and again on April 2, 2024, after rainfall;

Finn confirmed that he then prepared a report about the condition of the home that was dated April 10, 2024 and addressed to City Attorney Bodie Stegelmann. The nine-page report, which included color photographs and floor joist and floor girder calculations, was introduced as an exhibit (RESPONDENT'S EXHIBIT #4).

Under questioning by Davis, Finn testified:

- He performed a structural analysis of the home and garage "based on the codes and loading conditions" for residential homes in Indiana and the City of Goshen;
- He concluded that the roof has holes, but it would meet the code requirements of being able to support 30 pounds per square foot of snow load which compares to a flat roof load of 23.1 pounds per square foot;
- The floor live load, which was part of his evaluation, is 40 pounds per square foot for the first floor and the second floor, since the second floor was being used as an apartment;
- The wind speed standard is 115 miles per hour Vult (ultimate design wind speed), and both the home and garage would be able to withstand that wind speed;



- He concluded that neither building is likely to collapse even if applying the load, wind speed and seismic condition requirements and are in “very solid structural shape for supporting” the structures;
- There are holes in the roof and the foundation wall, which are typical for structures this old, and they should be repaired;
- If the debris was removed, he would be able to inspect areas that were not seen, but he would not expect to see anything different in terms of the structural condition of the home;
- He inspected the open second floor joists and concluded they were capable of supporting the required load;
- The cracks in the walls need to be addressed by removing the loose plaster and either installing new plaster in a craftsmanship manner or replacing the plaster with gypsum drywall;
- The attic needs a thorough inspection, but the attic access was nailed shut so he could not get through to check it, but a visual inspection from the outside showed that there was no structural failure of the structural members despite the holes in the roof;
- He documented the condition of the roof;
- Entering through a back door, there was a loose panel that he didn't see and he fell through into the crawl space (but wasn't hurt) and that should be repaired;
- There are holes in the floor, but there is solid lumber underneath and the flooring should be fixed;
- The foundation inspection showed that the cinder block wall is a non-structural partition and it can be removed;
- Ceiling plaster has fallen because it got wet and the ceiling needs to be reassessed and later repaired with new plaster or gypsum drywall;
- He noted other boarded up windows that have been damaged and could allow access by either people or animals;
- He documented water damage caused by water draining from the roof down the wall into the basement, and said this also needs to be repaired, which could easily be done by a contractor;
- Based on his two inspections, he believes the home and garage could be repaired contingent on the re-inspection of areas cleared of debris;
- Despite the **City Building Inspector's** recommendation that the structures be demolished, he believes the home and garage can and should be repaired and afterward will be in “fine shape.”

Assistant City Attorney Shuler was then given the opportunity to cross-examine Finn. During cross-examination by Shuler, Finn testified:

- The home doesn't need to be demolished because it can be repaired;
- The home would need a “fair amount” of work requiring more than a few days;
- He didn't know how much it could cost to have the property repaired;
- For most homes he has prepared reports for, repairs have been made but not in all cases;
- It would be hard to say how quickly the load bearing capacity of the home could deteriorate;
- If water continues to come into the building, it could affect the home's condition;
- People and animals may continue to access the structure and their presence could affect the condition of the property;
- He noticed damage to ceilings, including some caused by water leaking through the roof, that could worsen and that damage should be repaired;
- The roof decking could be affected by the holes in in the roof, especially if not repaired;
- And his knowledge of the home is limited to his two inspections on March 28, 2024 and April 2, 2024.



Attorney Davis said he rested his case.

City Attorney Stegelmann asked Clerk-Treasurer Aguirre if he had copies of the respondent's exhibits. Aguirre said he did not. Davis submitted the four exhibits to the Clerk-Treasurer. Aguirre also confirmed he had a copy of the City Building Inspector's report (CITY EXHIBIT #1)

Assistant City Attorney Shuler was then given the opportunity to question City Building Inspector Eash for a brief rebuttal.

Eash affirmed that he had listened to Davidhizar's testimony about remodeling work, including the installation of a furnace, at the home over the past five or six years. Eash responded that such work would require permits. However, Eash said "no permits of any type have been pulled for this property for the past 20 years."

Acting Chair Landis then asked City Attorney Stegelmann about the state unsafe building law. He noted that one of the six provisions of I.C. § 36-7-9-4 defined an unsafe building as a "public nuisance." He asked if that provision alone was enough to determine a structure to be unsafe.

City Attorney Stegelmann responded that any of those six conditions could be applied to find a property to be unsafe. He said a structure could be found to be unsafe if it was in any of the six conditions – an impaired structural condition affecting a person or property, a fire hazard, a hazard to the public health, a public nuisance, dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance, or if it was 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. He said any of the six could be used to find a property unsafe.

Acting Chair Landis asked if the unsafe finding could then be used to order demolition as specified in the next state code section. Stegelmann said that is how he would read those two code sections.

Attorney Davis asked if he could make a final statement. Acting Chair Landis said "not at this time."

Acting Chair Landis said the property has no record of ever being legally rented, so for the 50 years that Davidhizar has owned it, he cannot show that it was ever an inhabited house. He said Davidhizar can say that it was, but that doesn't mean it was. Similarly, just because the City Building Department doesn't have records from 40 years ago, Acting Chair Landis said, doesn't mean the orders aren't enforceable.

Acting Chair Landis said the reason this matter was before the Board now wasn't because the home could never be repaired, and in fact, it could be repaired. He said he renovates properties. However, Acting Chair Landis said "sometimes the costs outweigh the reality of whether that makes any sense or not. So, we're here to try to determine whether the history of no action being taken on this property is enough to say that it's a public nuisance."

Acting Chair Landis said when the City's last order was issued in 2014 or 2015, when \$100,000 in repairs were deemed necessary and Davidhizar responded "with just spit and polish, is all that was required – that's not \$100,000. So, there's an incongruity there on what that order was of that receivership. So, we've got 14 years here of nothing happening, so I'm not sure why I'm being asked to give more time when nothing has happened and no permits have been pulled."

Acting Chair Landis said that if it's true that the two cited statutes mean that a home can be declared a public nuisance and be ordered to be removed, "I'm inclined to say that's my position." He asked to hear from other Board members.

Board member Nichols responded, "I would say, very well said. That's exactly where my thought process was."



Attorney Davis asked if he would be allowed to give a final statement.

Acting Chair Landis responded that Davis would be allowed to do so, "but not at this point."

Davis said it appeared the Board was entering into deliberations and "usually the final statement precedes deliberations."

Acting Chair Landis requested a clarification from **City Attorney Stegelmann**, adding that **Davis** brought the statute for Board members to review. He said he wasn't deliberating, but making sure he understood the statute before listening to final arguments.

Stegelmann responded that this was an administrative proceeding and not a court of law, so there was some informality. He said the **Acting Chair's** question was appropriate and it would also be appropriate for both sides to give final statements, starting with the **Assistant City Attorney**.

Board member Swartley asked if she would still have the opportunity to question **Davidhizar**. **Stegelmann** said that would have been more appropriate to do when Davidhizar was testifying.

Davis said he had no objection to allowing **Davidhizar** to be questioned further. So, that occurred.

Board member Swartley asked **Davidhizar** his intent for the property. **Davidhizar** said his intent was to have "two attractive, energy efficient apartments on the northside of town right across the street from the grade school. I think people who rent apartments as large as these or duplexes as large as these will most likely have children. And there are parks in the area, several in fact. There's a large yard. It's right next to a medical facility. The grade school is right across the street."

Davidhizar said he has been told that it's easier to find small, one-bedroom apartments, but it's difficult to find three- or four-bedroom apartments, adding, "This is at least a small part of the answer to that problem."

Board member Swartley said there was no evidence the home has been rented or had water service for nearly 20 years. She asked why the Board should believe repairs will be made to a property that has been empty most of the time **Davidhizar** has owned it.

Davidhizar responded that he sought a City permit to restore electricity to the home so he could make repairs after a fallen tree limb knocked out the power, but it was refused. He said he would be happy to pay for a permit and to pay for someone to restore the electricity but could not get a permit. In response to a question from **Board member Swartley**, **Davidhizar** said he tried to get the permit about two years ago.

Acting Chair Landis asked if the lack of the electrical permit was the only thing that prevented **Davidhizar** from working on the property. **Davidhizar** said it was because he doesn't have a lot of battery-operated equipment, such as table saws or joiners. He said electricity is needed to do that kind of repair work.

Acting Chair Landis said generators are available and some were on sale during a recent "Black Friday."

Davidhizar said he would have been happy to hear about that. **Acting Chair Landis** said that it just sounded like an excuse. **Davidhizar** said he lacked a permit.

Acting Chair Landis said no permit is needed to use a generator to do construction work at a job site. **Davidhizar** said he finds it a lot more convenient to have working electrical outlets in every room, so he can more easily do work. **Acting Chair Landis** said that wasn't what **Davidhizar** previous said – that he said that because he couldn't get electricity to the property, he couldn't do the repairs. **Davidhizar** responded, "I could get the electricity. I couldn't get the permit."

In response to a question from **Board member Swartley**, **Davidhizar** said he tried three times to get the electrical permit before giving up. And he said he has not sought a permit since then. He added that some of the electrical equipment he needed was unavailable for a time.



Davidhizar said the equipment is now available, and if there is an agreement that he can get the permit, he would be able to do the work to restore the electricity. He said he wants both apartments to have separate electrical systems, adding that makes people more conscientious about paying for electricity.

Board member Nichols said she had no questions.

Board member Myers asked **Davidhizar** about his time frame for making repairs, noting that the property has been idle for years. He asked if the repairs would happen "in our lifetime because it's been going on for 50 years and nothing has happened."

Davidhizar said that wasn't true. He said a new roof was installed during that time and it needs to be replaced again. He said many repairs were made. He said a new bathroom and a new kitchen were installed. **Davidhizar** also said the home was not empty for 50 years; people were living there.

Board member Myers said he knew that because he lived in the neighborhood for a number of years, but other Board members don't know that.

Davidhizar said it was occupied most of those years, but it's "possible" that the home was unoccupied for the past 20 years. Still, he said the yard and roof were still maintained, and more repairs are needed now, including a new roof. As for how much more time before the home could be completely repaired, **Davidhizar** said, "I would say if I have six or eight months, we should have a very good-looking duplex there."

Acting Chair Landis invited a closing argument from **Assistant City Attorney Shuler**, who said:

- **City Building Inspector Eash** has recommended demolition based on the **City Building Commissioner's** Order and his findings and the evidence presented today supports that recommendation;
- Eash's report outlined the violations that exist at the property;
- Although testimony was presented that the home is not likely to collapse based on its current condition, that doesn't take into account the list of 10 to 11 building code violations that make the property unsafe, including issues of the foundation;
- There was also evidence that animals and individuals can access the property;
- There is a hole in the roof notwithstanding the replacement of the roof in the past 50 years;
- Obviously, something has happened recently to allow holes in the roof and water damage to continue;
- The property continues to sit there and will continue to deteriorate and that warrants demolition;
- It is significant that the evidence supports the fact that the property has been vacant for at least 17 years, in a best case scenario, and there has been no water usage since 2007;
- **Davidhizar** testified that while he went to get a permit for electrical, but when he first testified, he said that when a tree limb fell, he repaired the electrical system, so either he is confused about when he did that work or when that tree limb happened or when he went to get the permit;
- **Davidhizar** talked about all the work he has done on the home, but he might be confused about when that happened because there have been no permits pulled for the property within the past 20 years;
- Despite **Davidhizar** stating that he has done work at the home, there have been no evidence that he obtained permits for any work or remodeling he did at the home;
- The property was the subject of a previous enforcement action by the **Board of Public Works and Safety** in 2014, so this is the second time this property has come back;
- The **Board** can find that the property is unsafe for a lot of reasons, including being a public nuisance;
- The property is vacant and has not been maintained in a manner that would allow human habitation or occupancy under the City's codes and Neighborhood Preservation Ordinance, which makes it unsafe;



- The property's present condition makes it unfit for human habitation and because it continues to be vacant and that well known and has been for 17 years, it attracts vagrants and squatters to come onto the property and attracts rodents and other animals, which makes it a candidate for demolition because of its condition;
- Seven years ago, it was estimated that it would cost \$100,000 to repair the property and today it would cost much more because of inflation, which suggests the property cannot be repaired cost effectively and that further justifies demolition
- The **Board** should adopt the **Building Commissioner's** Order as the Board's findings and find that the property warrants demolition because it cannot be repaired cost effectively and order the property to be demolished;
- City staff would oppose any extension of time or any type of repair order for **Davidhizar** "because we believe very strongly that the repairs will not be made and cannot be made by him";
- However, if the **Board** were to consider that, the **Board** should assess a civil penalty that would be suspended upon his completion of his completing the repair order;
- Again, **City staff** would recommend against that;
- But if **Board** members believe the property should be repaired, he would recommend court action for receivership "because we firmly believe that as long as **Mr. Davidhizar** is in charge of the property it will not be repaired."

Given an opportunity to give a closing argument, Attorney Davis said:

- It's the job of **Board members** to serve as judges and the complaint in this case is the **Building Commissioner's** order, which is here for review;
- When the hearing began, **Assistant City Attorney Shuler** said there were three options for the **Board** – approve the **Building Commissioner's** Order, rescind it or modify it;
- The **Building Commissioner's** Order asks for demolition for one reason only – and that is that the condition of the property is such that it needs to be demolished and not because it has been vacant for 20 years and not because of any previous citations or anything of that sort;
- If that was part of the rationale for this Order, it should have been in the Order but it was not;
- The Order said the condition of the building was such that it should be demolished;
- In the past, for a home owned by **Mr. Davidhizar** at 214 East Clinton Street, the **Board** wanted to have a civil engineer come in and talk about what needed to be done with the building;
- That is what **Mr. Davidhizar** tried to do today – present evidence contrary to the **Building Commissioner's** conclusions based upon his guess as to whether the building is going to collapse or be a danger;
- **Board member Landis** has rightfully pointed out to the **Board** that the unsafe building statute is very broad and gives the **Board** a lot of authority to find things to be unsafe if it's a nuisance;
- For example, a building can be a nuisance but not necessarily unsafe;
- What's involved is a question of judgment for **Board** members "about what is the appropriate thing to do; what is going to serve the community the most";
- The **Board** "can, on the basis of what's in the statute, find it to be unsafe; there's no question about that" because a building could be found to be unsafe if someone was building a new house and there was a pause and there was no heating, it would be by definition an unsafe building;
- But the **Board** would not order a new building demolished because it didn't have a heating plant in it yet;
- That also would be true for any house going through the process of rehabilitation;
- So, what's being asked of the **Board** on behalf of the citizens of Goshen "is to think about what makes the most sense in these circumstances where there is significant value involved both ways";



Continuing, Attorney Davis also said:

- The repairs will be significant and costly and the demolition costs are also likely to be significant, perhaps as much or more than \$21,000;
- The property also has value; it's an old building made of brick and "it has some charm to it" based on views of its exterior;
- **Mr. Davidhizar** would like six or seven months to repair the home and it's not the **Board's** job to determine that time;
- If the **Board** rescinds the **Building Commissioner's** Order, and sends it back to the **Building Department**, the department can do any of the things discussed today in terms of enforcement;
- The **Board** "is not squeezed" and in a position that if the Board doesn't do something now it's never going to happen;
- If the **Board** rescinds the Order and sends it back to the **Building Department** with a recommendation that further enforcement actions be instituted, such as those discussed by **Assistant City Attorney Shuler**, then the **Board** is not pressed to approve the demolition Order;
- The **Board** can also modify the Order and a provision of the statute allows affirming the Order and then imposing a penalty and then holding it in abeyance while work is being done;
- The time limits under the statute are "extraordinary" for the kind of conditions that can exist that need to be resolved;
- The statute specifies a minimum of 10 days for a repair order and that's what happened in this case – there was a repair order issued in February, which was not reasonable because the **Building Department** wanted to recommend demolition, and that has happened;
- The statute also specifies that the repair period should not be longer than 60 days, but that also is not practical in many circumstances;
- So, in these cases there are the statutes as well as the necessity for judges to exercise discretion and judgment, and **Board** members are the judges of this case;
- **Board** members are "limited to what's in the complaint";
- So, the idea of discussing what has happened in the past with this house is not part of what the **Building Commissioner** brought to the **Board**;
- The **Building Commissioner** brought that information in testimony, but it is not in his demolition Order;
- If the **Board** approves the **Building Commissioner's** Order, it will be approving the demolition based on its present condition, which is the issue before the **Board**;
- **Mr. Davidhizar** has shown that the present condition of this building is that it can be repaired and reasonably;
- He would ask that the **Board** "rescind the Order of the **Building Commissioner** and send it back to the **Building Department** for whatever enforcement action seems to be appropriate in this case and it can be taken care of in a whole multitude of other ways besides demolition."

In response to **Davis'** closing argument, **City Attorney Stegelmann** pointed out that **Davis** referred to the **Building Commissioner's** Order as the "complaint" in this case and stated that it essentially failed to state a claim. But under the statute, **Stegelmann** said, there are six conditions that would make a property unsafe and he could identify at least two of those that are explained in the **Building Commissioner's** Order.

So, **Stegelmann** said the Order complies with the statute "and provides information sufficient to establish at least one of those six conditions that would make the property subject to enforcement and demolition."



Acting Chair Landis asked **City Attorney Stegelmann** if the Board would be subject to further legal arguments if it affirmed the Order as stated and some of those unsafe findings were contested. He asked if it would be better to modify the order by removing some of the findings and narrow it to include findings that were clearly established.

Stegelmann responded that the Building Commissioner's Order stated that the property was vacant and it listed 11 paragraphs of violations that the Board could find that the home is not maintained in a manner that would allow human habitation, occupancy or use under state statutes and local ordinances. He said the Order also contained a statement that the property is dangerous to person or property because of violations of the Neighborhood Preservation Ordinance, particularly violations concerning damage and deterioration to the foundation, falling or missing cinder blocks, collapsing floors, ceilings and walls and its unsecured nature. He said that just one of the six categories under the statute could make the property unsafe.

Acting Chair Landis asked if the Board could affirm the Order as written. **Stegelmann** said the Board could do so if it found that those conditions existed at the property.

Acting Chair Landis said since there is latitude in the Order in that it states some ceilings are collapsing and not all and states there are some holes in the roof, it seems like the Order is accurate. He said **Davidhizar's** engineer testified that the whole house isn't about to collapse into the basement, but that doesn't negate the Building Commissioner's report about the poor condition of the home.

Stegelmann said one of the six conditions that if found by the Board could establish that the property was unsafe was that the house was in an "impaired structural condition that makes it unsafe to person or property." He said the state statute doesn't require the finding of all six conditions – just one of those six conditions.

Acting Chair Landis said in the past the Board approved orders for demolition in which the houses were later sold and the buyer knew the property was under a demolition order. He said the buyer gambled that if the property was repaired, the Building Commissioner would rescind the order. He asked if there was anything that would prevent that scenario from happening here. **Stegelmann** said nothing could prohibit that from happening on this property.

Acting Chair Landis asked if the Board ordered demolition in four months, but requested a status report every 30 days to ensure work was being done, wasn't that what happened in those other cases. **Stegelmann** said in the other cases, demolition was ordered in a set period of time, there was movement to sell the properties and the new owners came before the Board and asked for additional time to make repairs.

Acting Chair Landis said in this case, if **Davidhizar** didn't want to sell and the Board scheduled demolition in four months, **Davidhizar** could appear before the Board every 30 days and report on work at the house in hopes that after four months the Board might adjust the demolition order. **Stegelmann** said that could happen.

Board member Swartley asked if it was possible to ask why the electrical permits were not granted by the City.

Stegelmann said he believed the Board was past the point of taking evidence.

Acting Chair Landis asked to hear from Board members

Board member Nichols said the Building Commissioner's order was clearly justifiable.

Board member Myers asked if **Board member Landis** was suggesting providing a four-month window for dealing with the property.

Acting Chair Landis said he was only asking the question because in the past the Board has been advised by counsel to make decisions not based on history, but only on the most recent inspection report. He said he was on the Board about 10 years ago when it ordered the receivership for the property and nothing came of that. He added that "no one can say that there wasn't an awareness that something was supposed to happen to that property."

Board member Nichols said the Board is allowed to use the testimony presented today in its findings. She said the Board was told that nothing has happened at that property for at least 17 years, so that testimony shows that the Building Commissioner's order is valid.



Acting Chair Landis said Board members are being asked to be good judges, but members are judging more than if the floor joists are structurally sound. He said that's really not Board members' job. He said Board members "are here for the community and we're looking at a house that is an eyesore. It's a public nuisance and that's part of what the state statute allows us to make decisions on.

"Now, if we want to have some grace and say 'OK, we'll ignore all the history of all the houses that the City has dealt with from Mr. Davidhizar and we're going to give you one shot to prove, finally, that you're not who everybody thinks you are,' then I think there have to be conditions on that. We can't just say, 'Yeah, we'll give you eight months' and then we go through the same circus again eight months from now."

Acting Chair Landis said he agrees it would be a lovely house if it was renovated, "but sometimes people need a fire lit underneath them with consequences in order for that to happen. And I'm not sure there's anything that gives us or gives the Commissioner the ability to do that. I mean, with all of **Mr. Davidhizar's** assets, a fine? Are you kidding me?" **Acting Chair Landis** said **Davidhizar** hired **Mr. Davis** and imposing a fine would be "meaningless," adding, "So, if the only thing that has meaning is if the house disappears, then maybe that's enough to get some action to occur."

Board member Swartley said, "It seems like it took this Order to get **Mr. Davidhizar** here to say, 'Oh, I'm going to do this and I'm going to do that.' So, I agree it's difficult to separate historical data that we have. I mean, it's a lovely house. I would hate to have that house torn down, but there's nothing in my experience with Mr. Davidhizar that indicates to me (that) eight months is going to make any kind of difference in this home."

Board member Nichols responded that based on what the Board heard today, it is a beautiful and historical home. "And it's been beautiful for the 50 years you've owned it. And there's been a school across the street for whenever that school was built. All those things that you said about why you wanted to rehab it have been true for decades and it should have been done decades ago and it wasn't. So, if we're strictly taking **Mr. Davidhizar's** plea, to make this house habitable, it could have happened years ago at least to some degree. I'm not saying it could have been the Taj Mahal, but it could have looked a heckuva lot better than this."

Acting Chair Landis asked **City Attorney Stegelmann** if the Board needed to affirm the order of the Building Commissioner and set a date for demolishing the buildings. He also asked if the Board needed to modify the demolition deadline if it wanted a later date. **Stegelmann** said the Order calls for home to be demolished and for the house and garage to be demolished on or before April 30, 2024. So, he said if the Board was inclined to give four months, the order could be modified to a give a date four months later.

Acting Chair Landis asked if the Order could be modified to require that the Board get feedback as to how the demolition is proceeding. He said he didn't want to specify how **Davidhizar's** rehab plans are proceeding, but perhaps he could return and say he has found a buyer for the property and wants to sell it. **Stegelmann** said in that case, the Board could set a demolition deadline based on affirming the Building Commissioner's Order but then allowing **Davidhizar** to request to come before Board if has other plans or options for the property.

Acting Chair Landis said under that's scenario he would not give four months. He said if **Davidhizar** chooses to come back to the Board with something different than demolition, it should be by the end of May.

Based on Board member Nichols inquiry, Acting Chair Landis said he would make a motion.

Acting Chair Landis then made a motion to affirm the Order of the Building Commissioner that the property at 205/207 Middlebury Street in Goshen, due to the things listed in his order, that the property is demolished by May 31, 2024 and that Mr. Davidhizar has the option of appearing back before this Board prior to that if he has a plan in place that would have the Board and the Building Commissioner changing that demolition order, but there needs to be a plan and not just an idea. **Board member Nichols** seconded the motion. The motion passed on a 4-0 vote.



At 6:33 p.m., Acting Chair Landis closed the public hearing to review the Order of the City of Goshen Building Commissioner for 205/207 Middlebury 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, Acting Chair Landis/Board member Nichols moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 4-0.

Adjournment

Acting Chair Landis adjourned the Board of Works meeting at 6:34 p.m.

CITY EXHIBIT #1: *An April 11, 2024 memorandum written by City Building Inspector Travis Eash and a packet of information distributed to Board members about the property at 205/207 Middlebury Street. Besides the memo, the packet included Eash's Feb. 13, 2024 property inspection report and 39 pages of color photographs of the property. This information was submitted during and for consideration of agenda item #14) Review of the Order of the City of Goshen Building Commissioner for 205/207 Middlebury Street (Ronald E. Davidhizar, property owner).*

RESPONDENT'S EXHIBIT #1: *A black and white photograph of the home at 205/207 Middlebury Street submitted by John William "Bill" Davis, an attorney representing Ronald Davidhizar. It was submitted during and for consideration of agenda item #14) Review of the Order of the City of Goshen Building Commissioner for 205/207 Middlebury Street (Ronald E. Davidhizar, property owner).*

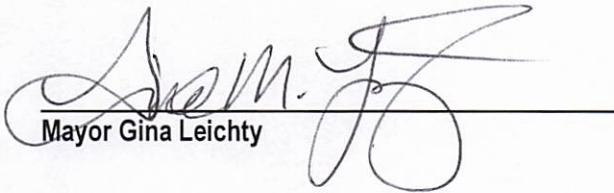
RESPONDENT'S EXHIBIT #2: *A black and white photograph of the garage behind 205/207 Middlebury Street submitted by John William "Bill" Davis, an attorney representing Ronald Davidhizar. It was submitted during and for consideration of agenda item #14) Review of the Order of the City of Goshen Building Commissioner for 205/207 Middlebury Street (Ronald E. Davidhizar, property owner).*

RESPONDENT'S EXHIBIT #3: *A two-page professional resume of Kevin M. Finn, P.E., a consulting engineer from Elkhart retained by Ronald Davidhizar. The resume was submitted during and for consideration of agenda item #14) Review of the Order of the City of Goshen Building Commissioner for 205/207 Middlebury Street (Ronald E. Davidhizar, property owner).*

RESPONDENT'S EXHIBIT #4: *A Structural Inspection report, dated April 10, by Kevin M. Finn, P.E. The 10-page report, which included detailed findings and color photographs, was submitted during and for consideration of agenda item #14) Review of the Order of the City of Goshen Building Commissioner for 205/207 Middlebury Street (Ronald E. Davidhizar, property owner).*




APPROVED:



Mayor Gina Leichy

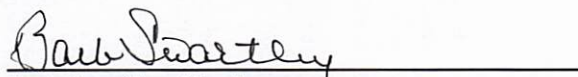
Mike Landis, Member



Orv Myers, Member

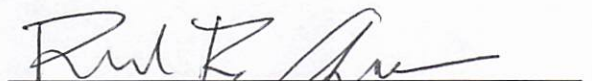


Mary Nichols, Member



Barb Swartley, Member

ATTEST:



Richard R. Aguirre, City of Goshen Clerk-Treasurer



**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

MEMORANDUM

TO: BOARD OF PUBLIC WORKS

From: GOSHEN BUILDING DEPARTMENT (TRAVIS EASH)

Date: APRIL 11, 2024

Subject: 205 MIDDLEBURY STREET

My initial inspection of the property at 205 Middlebury Street was conducted on February 9, 2024. The photos from that inspection are attached in this packet. While conducting the inspection I documented several violations of the house and the garage. Many of which are significant and make the property uninhabitable and unsafe.

The more severe violations of the house include multiple areas around the foundation where there are large cracks and holes, and other areas where blocks are missing in a block wall, so much so that the structures foundation has been compromised. Walls are detaching from the ceilings and floors which is another sign of structural failure. Also, there are multiple ceilings and floors throughout property that have partially collapsed or are in danger of collapse.

Other significant violations of the house are there is no working heating system or installed duct work, no working plumbing system and no working electrical system and no working water heater. The house is accessible to small animals and is not weather tight and has multiple broken windows and doors throughout.

The more severe violations for the garage, are that there is a large hole in the roof that has allowed weather to enter causing more damage, and the garage has become easily accessible to squirrels and other small animals and is full of feces. Also, there is evidence of exterior bricks deteriorating and crumbling and falling. Other areas where there is missing mortar, which is signs of failure. Other violations on the garage are that the exterior of the garage has accumulation of materials and outside storage that is not permitted. The shed on the property has a large hole in the roof and is in disrepair.

There have not been any permits pulled for this property for at least 20 years, there has been no water usage at this property since at least 2007 (which is how far back the utilities office could check). This property has never been registered as a rental property with the City of Goshen and no rental inspections were ever conducted.

City EXHIBIT #1



**Building Department
CITY OF GOSHEN**

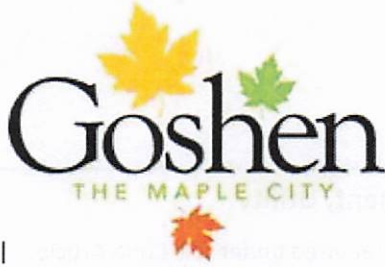
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building@goshencity.com • www.goshenindiana.org

Due to the multiple violations, the current unsafe condition of the structures on the property and lack of motivation or initiative from the owner for at least the past 20 years to do anything with this property to bring it into a habitable condition, the Building Departments recommendation is that all structures on the property, the house, garage and shed be determined unsafe, and all structures on the property, the house, garage and shed be demolished.

Thank you,

Travis Eash



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

February 13, 2024

Ron Davidhizar
203 Middlebury St
Goshen, IN 46528

RE: Unsafe Vacant Property at 205 Middlebury St

Dear Ron Davidhizar:

The City of Goshen inspected the vacant property at 205 Middlebury St on 2/9/2024. 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 **February 23, 2024**.

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.

Property is full of trash, animal feces and other accumulated items.

Garage is full of trash, animal feces and unusable items. The garage is unsafe to walk.

6.3.1.3(g)

Duct Systems

NPO

Duct systems shall be maintained free of obstruction and shall properly function.

No duct system installed.

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.

No working furnaces.

No working heating system.

Gas line is rusted out and cut.

6.3.1.1(a)

Safe and Satisfactory Condition of Facility, Equipment, Utility

NPO

Every supplied facility, piece of equipment, or utility which is required under this Code Article shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition. All electrical systems, fuel connections, mechanical systems or plumbing systems must be in property working order and maintained in a manner that the systems will work safely.

No working plumbing system.

All plumbing fixtures have not been maintained and are not properly connected.

No working electrical system.

Loose hanging, exposed wires throughout the property.

6.3.1.1(b)

Privacy, Weather Tight, Good Repair - Exterior

NPO

Every foundation, floor, wall, ceiling, and roof shall be reasonably weather tight and rodent proof; shall be capable of affording privacy, and shall be kept in good repair. All foundation systems must be firmly supported and free from open cracks and breaks. All foundation systems must be capable of supporting all nominal loads and capable of resisting all load effects.

Multiple areas around foundation where severe cracks and holes have formed compromising the foundations structural integrity.

Multiple areas where cinder blocks from a block wall have been removed or have collapsed, not allowing adequate support to the structure.

Multiple areas of entry to the house for small animals and rodents to enter structure.

The garage roof has a large hole and has become an attraction for squirrels and other animals.

Multiple ceilings have collapsed throughout house.

Multiple floors in the house have partially collapsed or are in danger of collapse due to dilapidation.

Floor covering are torn throughout property.

Multiple areas where ceilings and walls are detaching, which is a sign of structural failure.

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.

Broken doors and windows throughout house.

Property is not secured and easily accessible to people and animals.

6.3.1.2(f)**Water Heater**

NPO

Every dwelling shall have supplied water-heating facilities which are properly installed, maintained in a safe and good working condition, properly connected with the hot water lines required under Subsection (e) and are capable of heating water to such temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, bathroom sink, bathtub or shower at a temperature of not less than one hundred (100) degrees Fahrenheit. Such supplied water heating facilities shall be capable of meeting the requirements of this Subsection when the dwelling unit heating facilities required under Code Section 6.3.1.3(f) are not in operation.

No working water heater.

6.3.1.1(r)**Unsafe Structure(s)**

NPO

The building or structure shall not be in such a condition that it is likely to partially or completely collapse due to:

- (1) dilapidation, deterioration, or decay;
- (2) faulty construction;
- (3) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; or
- (4) the deterioration, decay or inadequacy of its foundation.

Multiple areas around foundation where significant cracks and holes have formed which compromises the structural integrity of the foundation and its purpose.

Cinder blocks have been removed or have failed in a supporting wall.

Multiple ceilings have collapsed throughout house.

Multiple floors have partially collapsed or are in danger of collapse.

Multiple areas around garage where the bricks in the walls are crumbling and showing signs of decay. Certain areas where there is no mortar between the bricks or it crumbled due to dilapidation.

The garage roof has a large hole allowing weather and animals to enter structure causing water damage, and the garage is full of squirrels and other small animals and full of animal feces.

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.

Multiple areas where walls have detached from the ceilings, floors have detached from the walls, showing signs of structural failure.

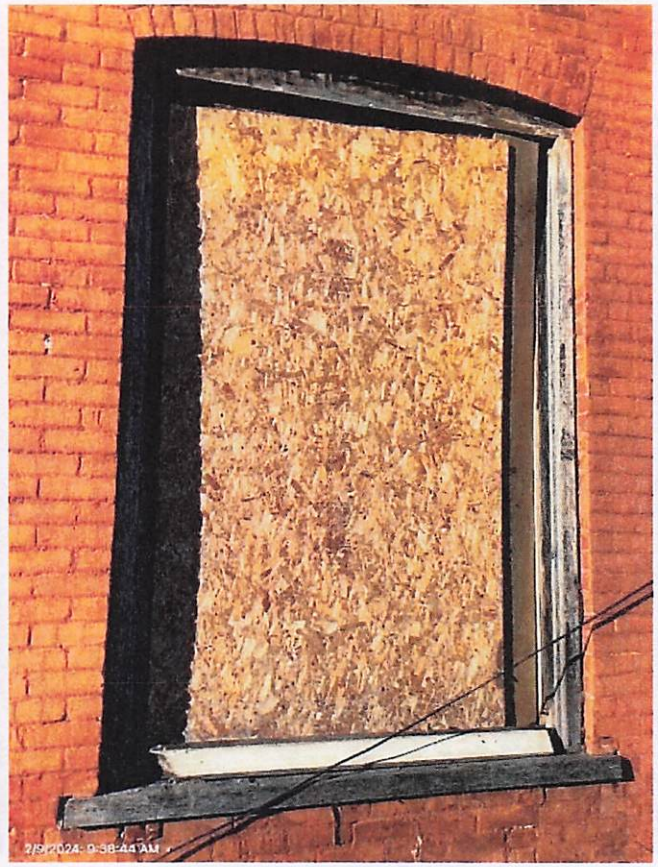
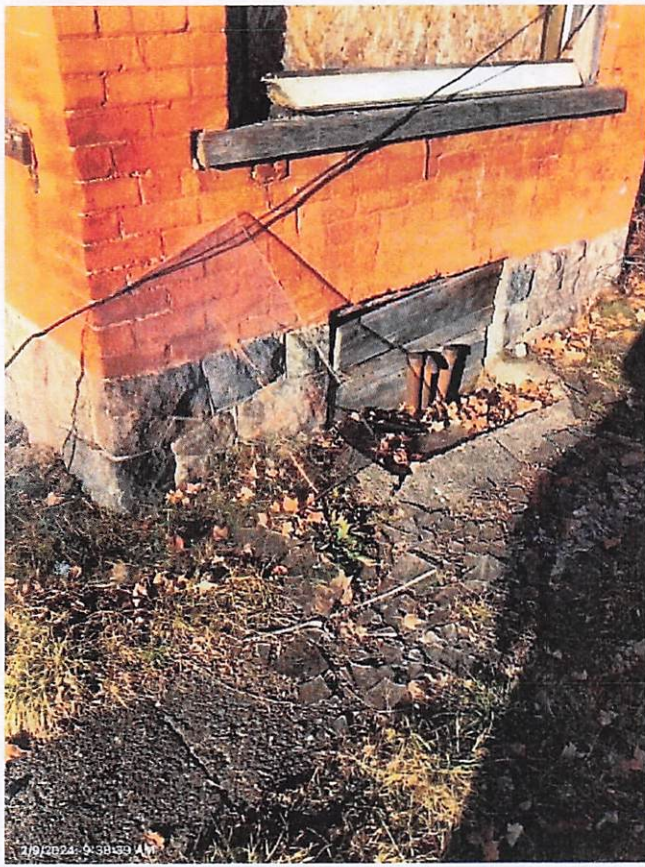
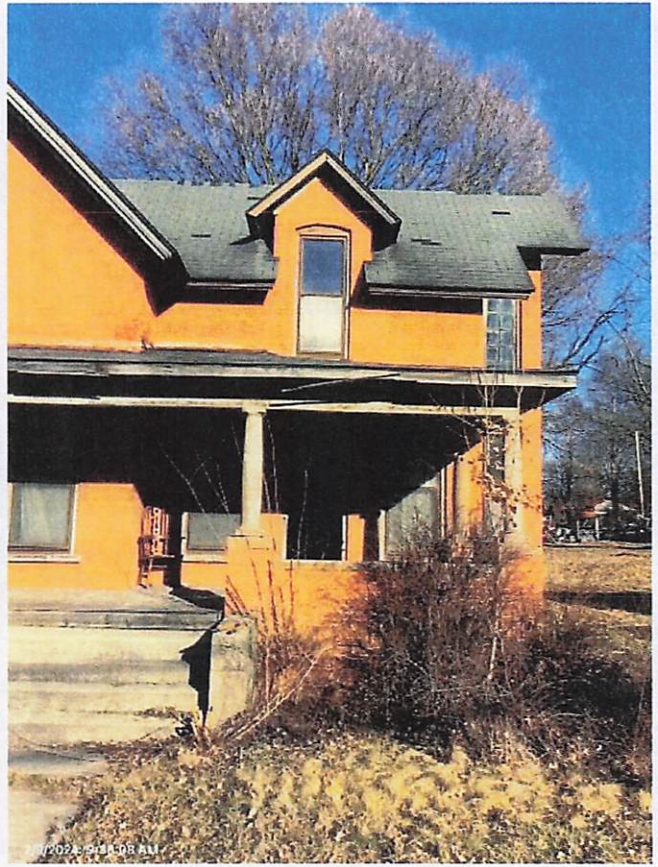
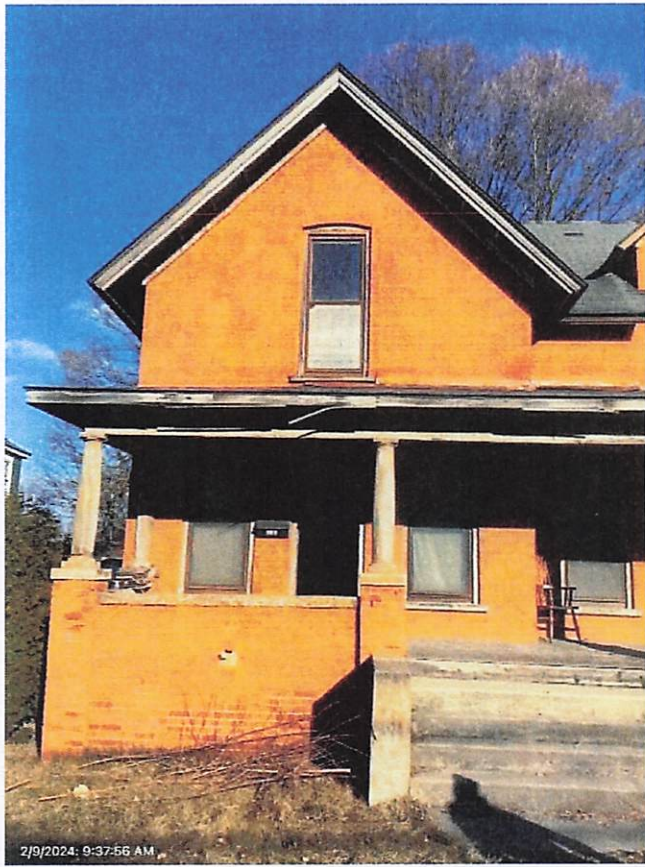
Multiple collapsed ceilings and partially collapsed floors.

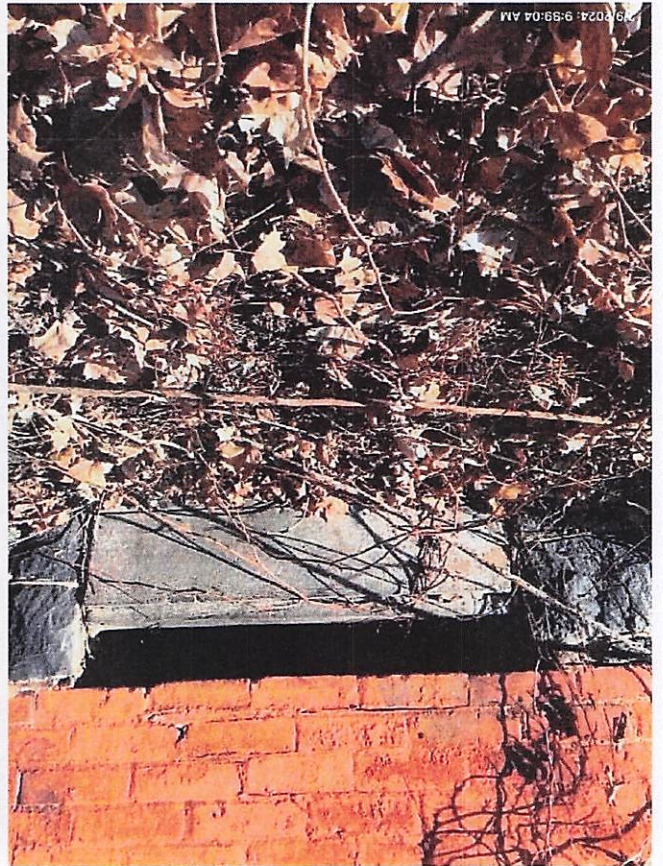
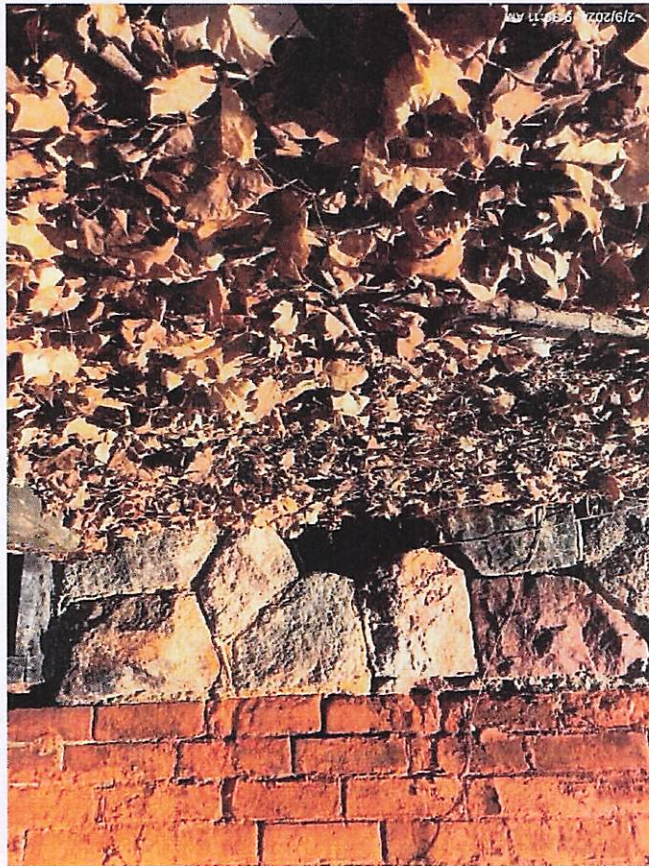
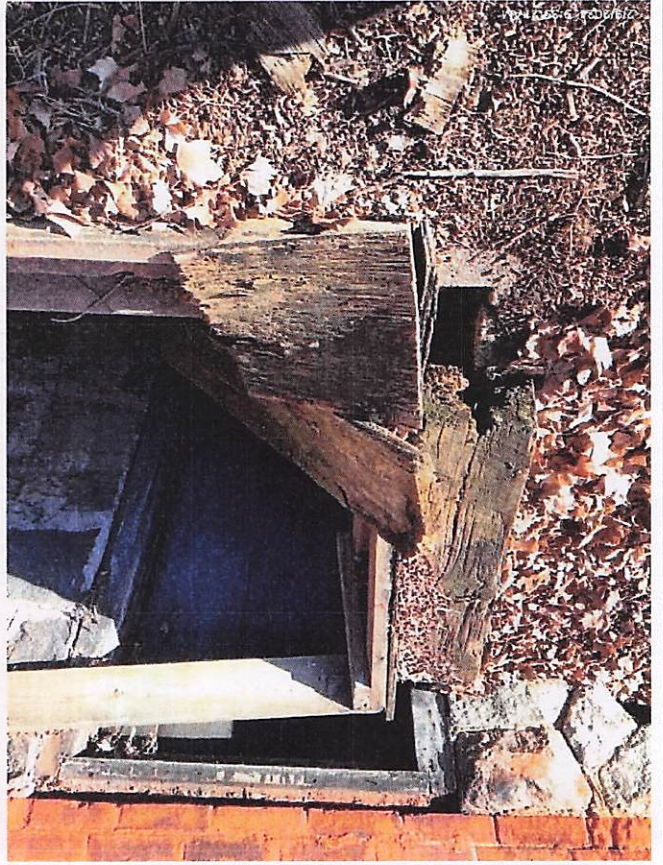
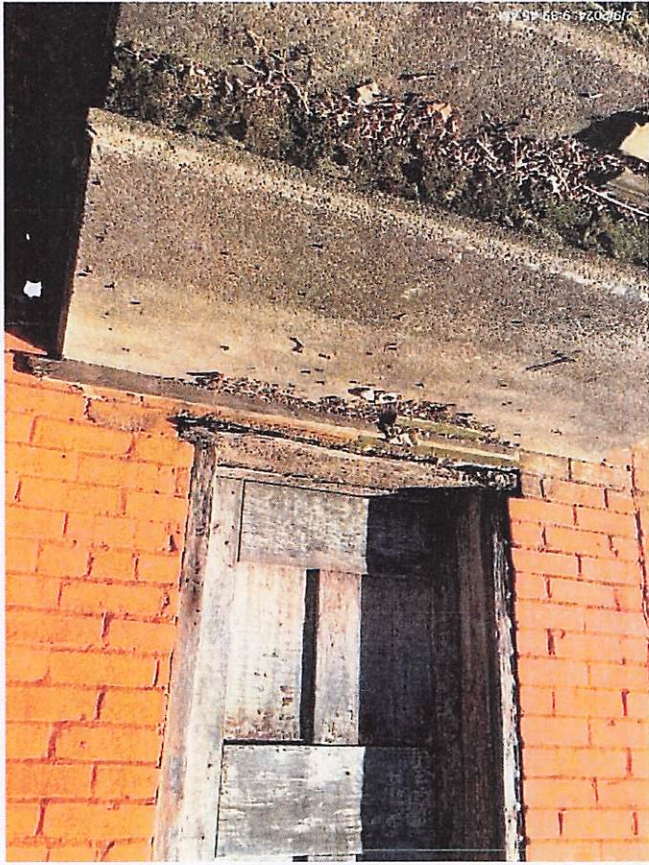
If addition, if the property is intended to be used as a rental, it will require registration with the Building Department.

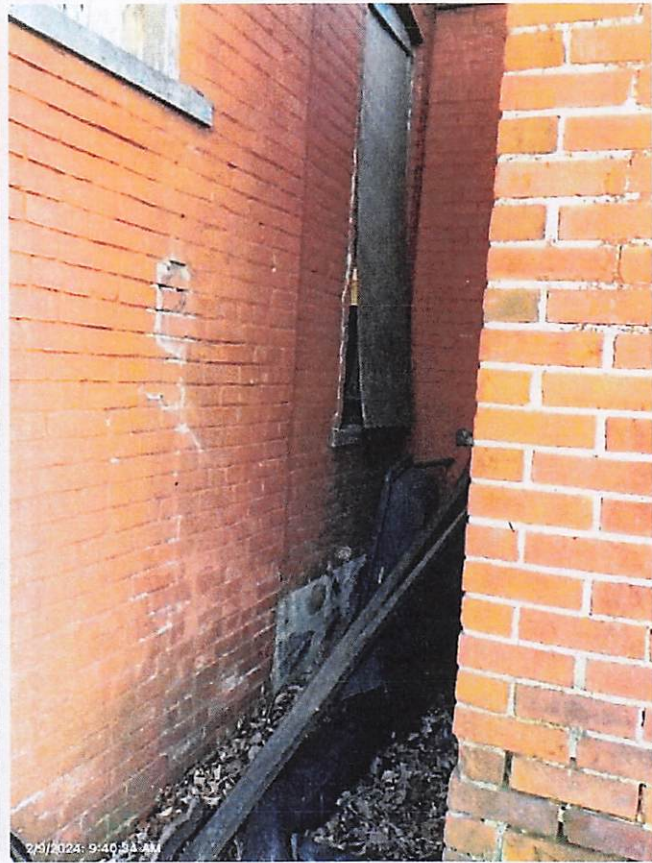
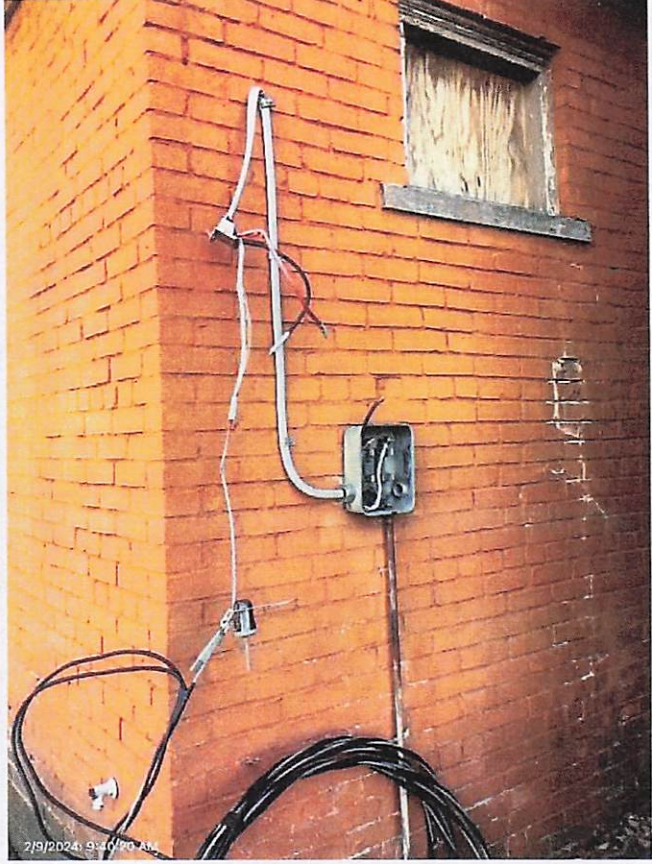
Thank you for your cooperation in allowing the City of Goshen to conduct this inspection.

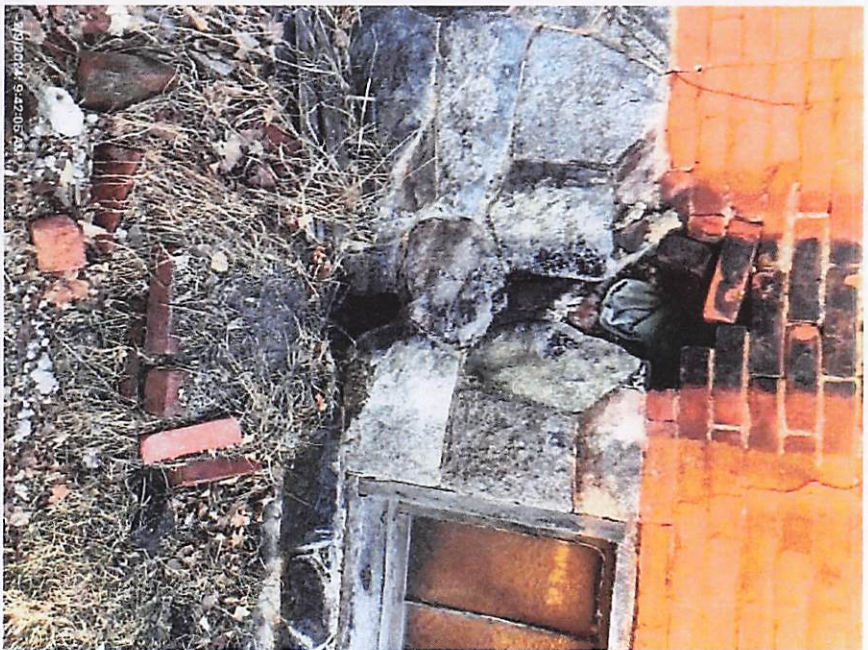
Respectfully,

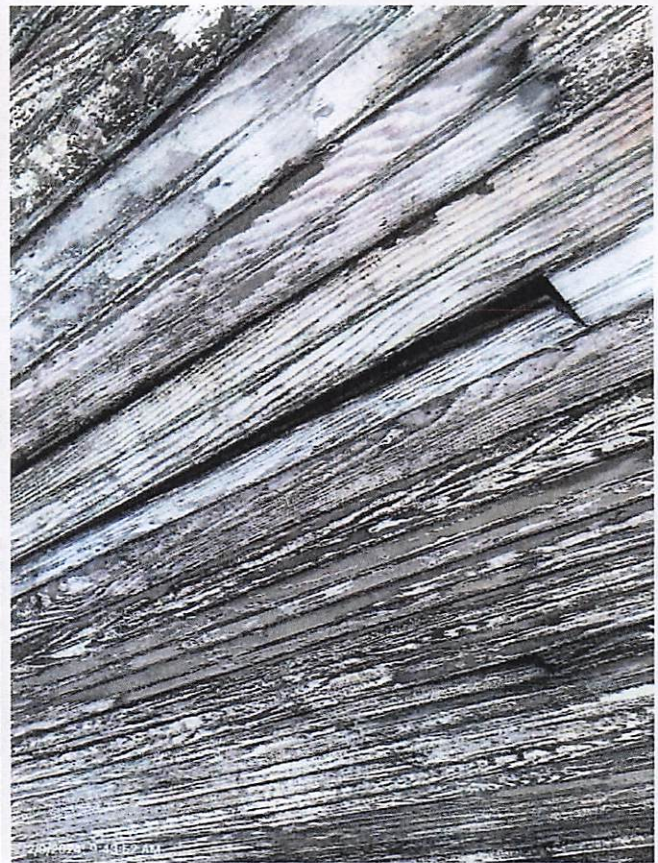
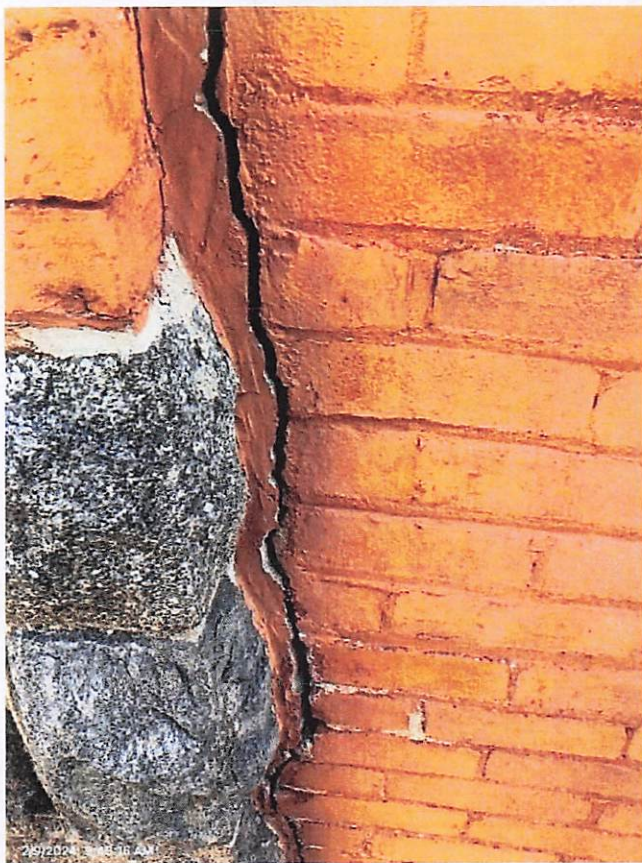
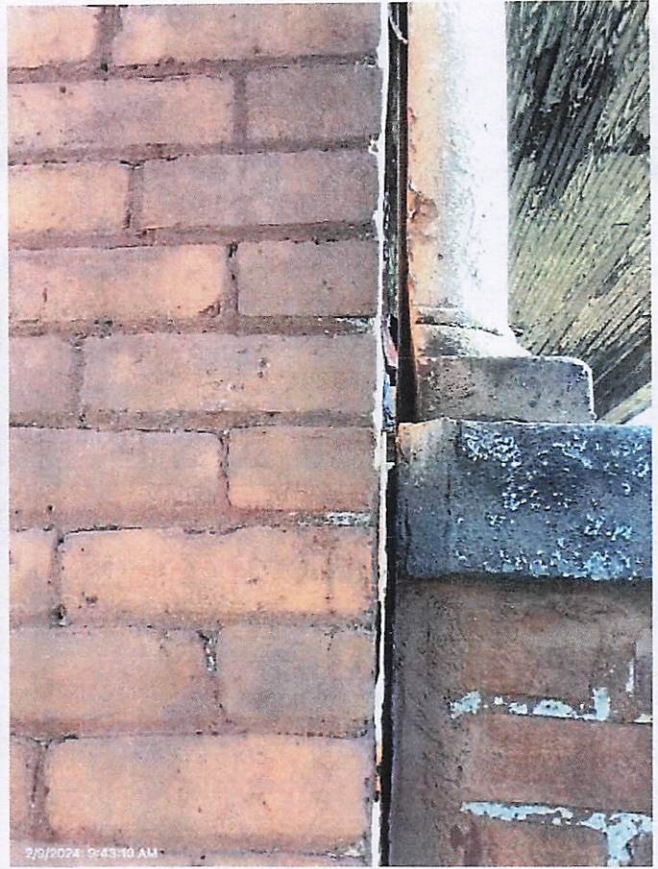

Travis East
Code Compliance Officer

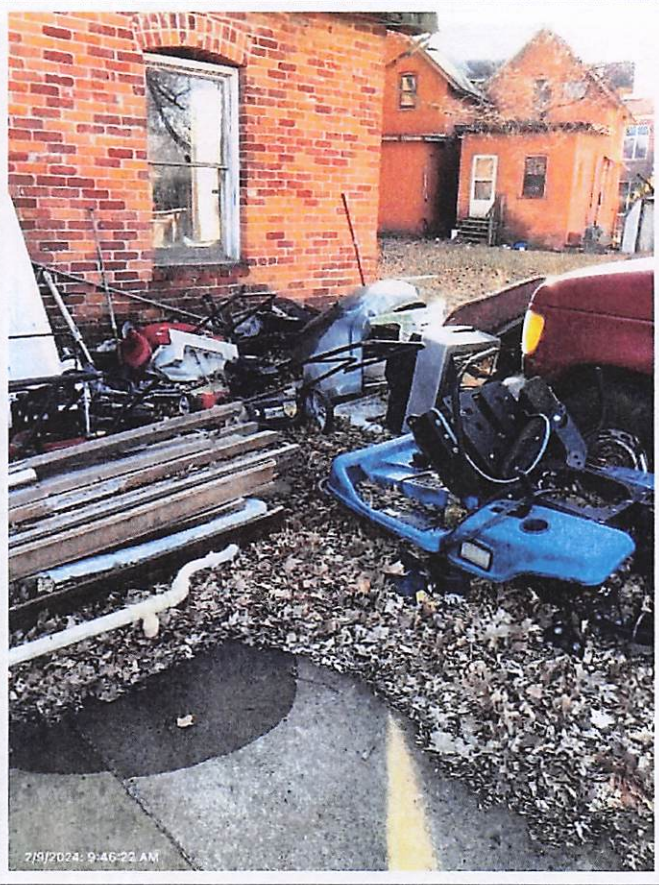
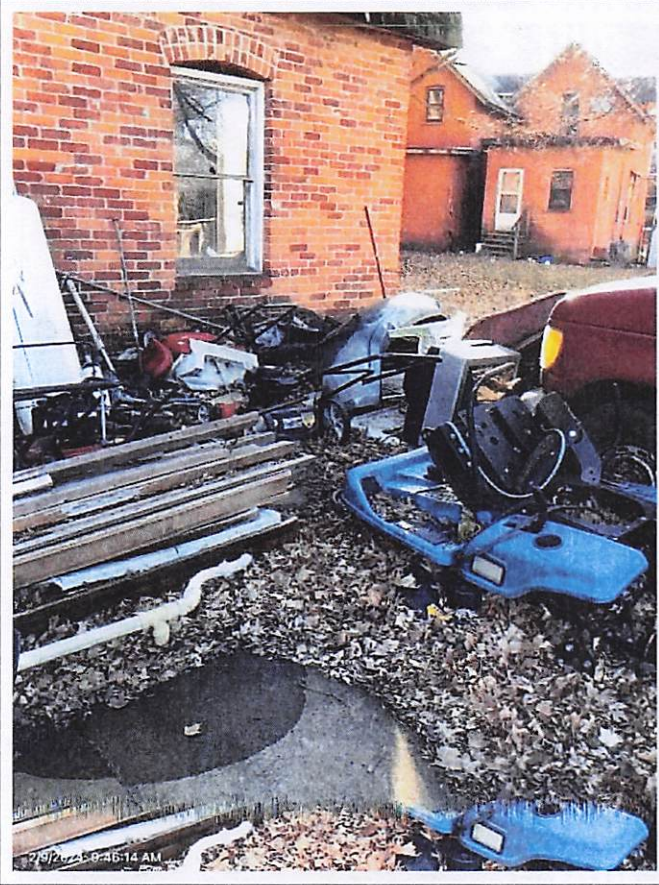
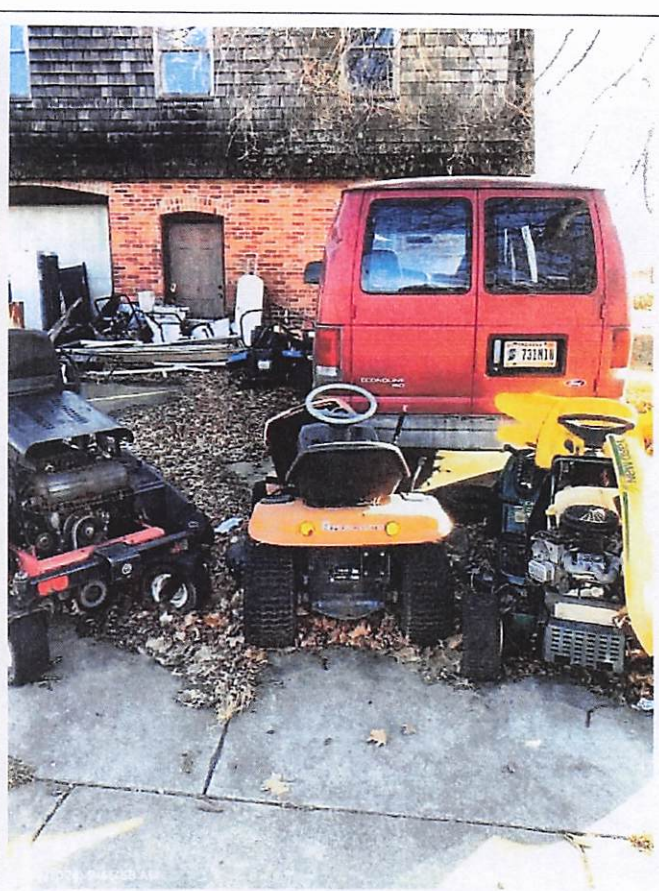
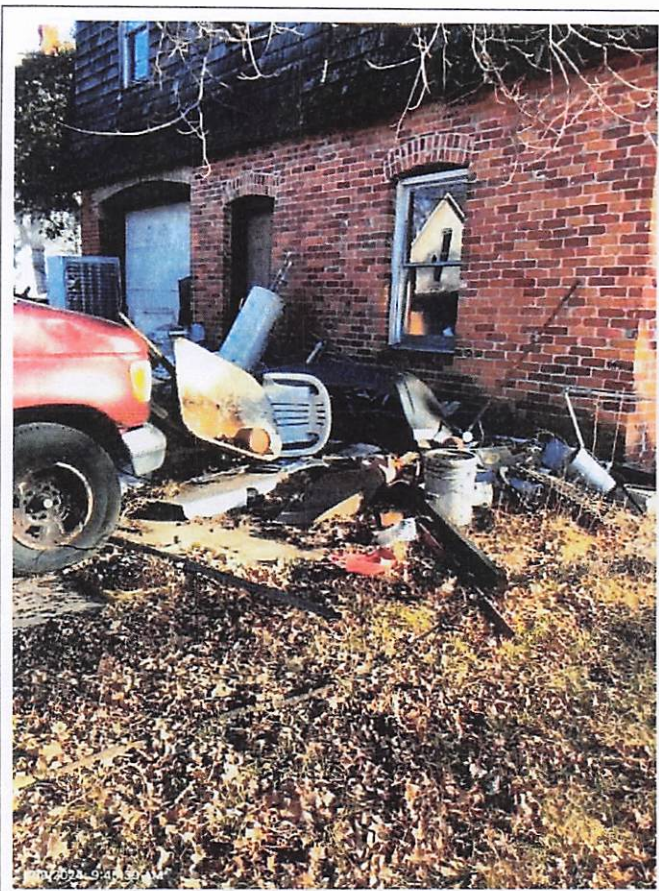


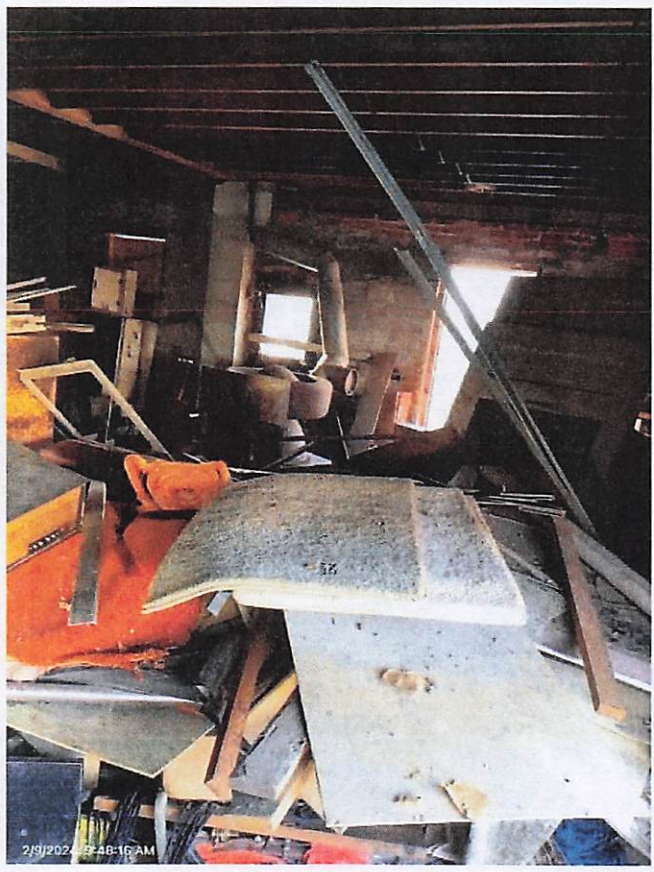
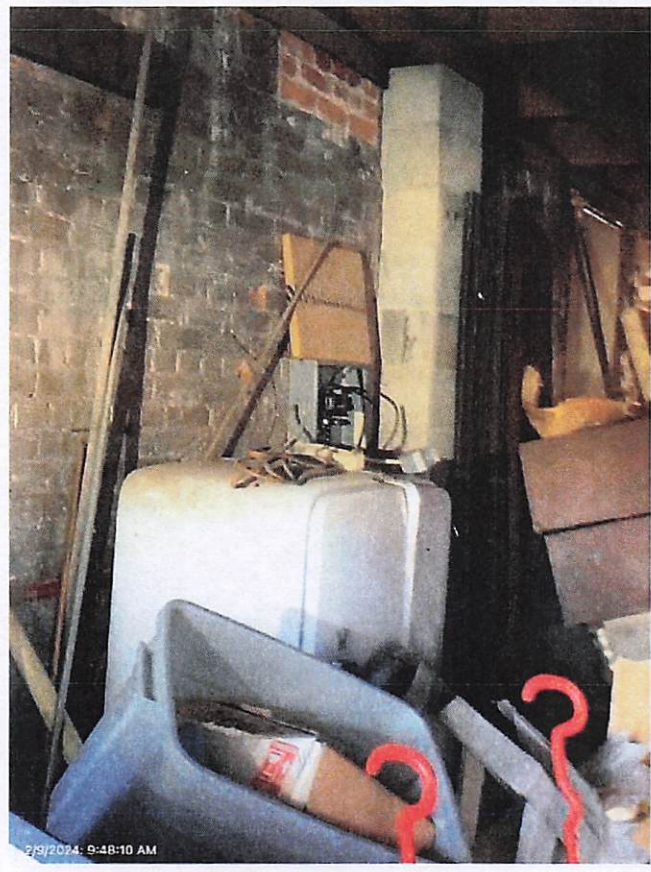


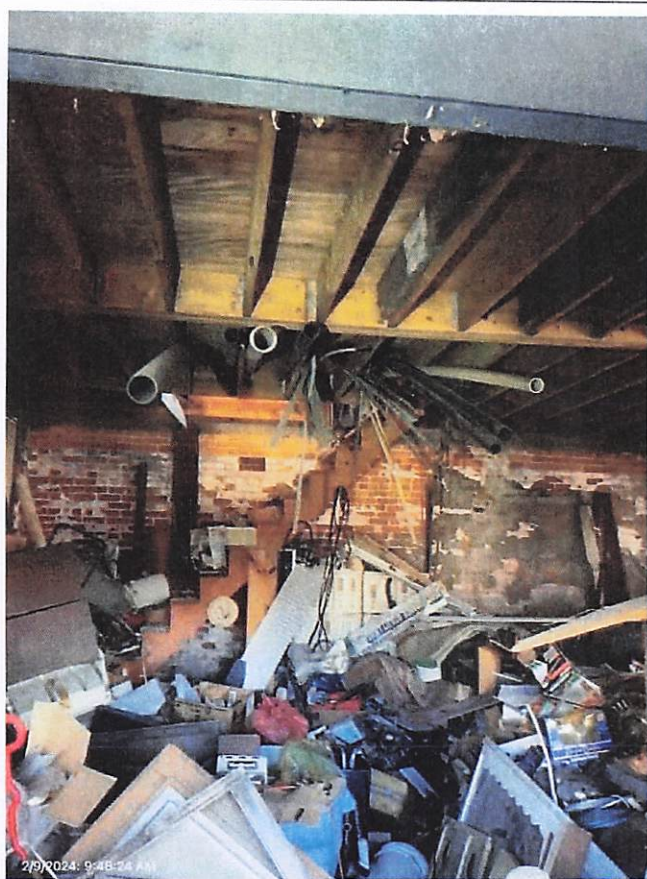


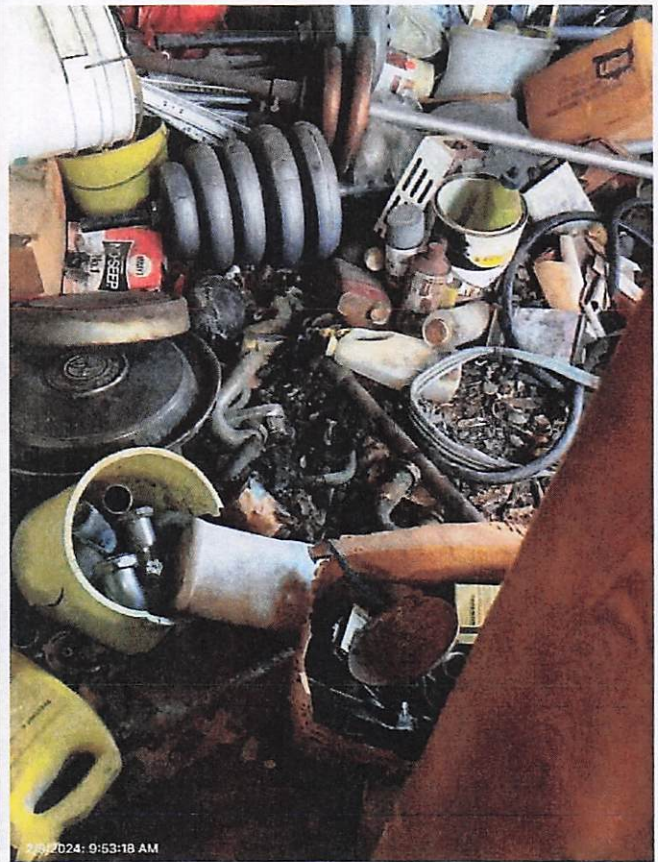
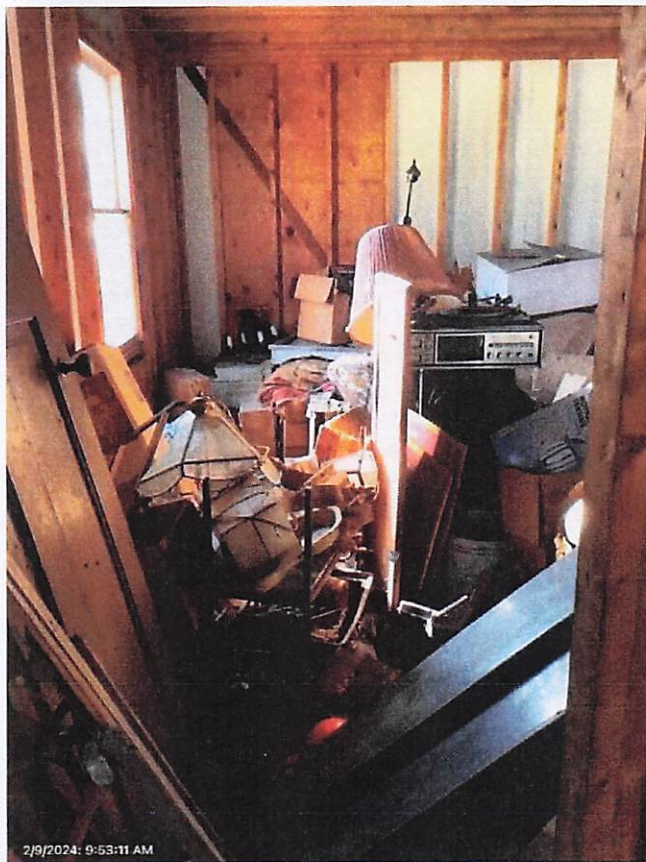
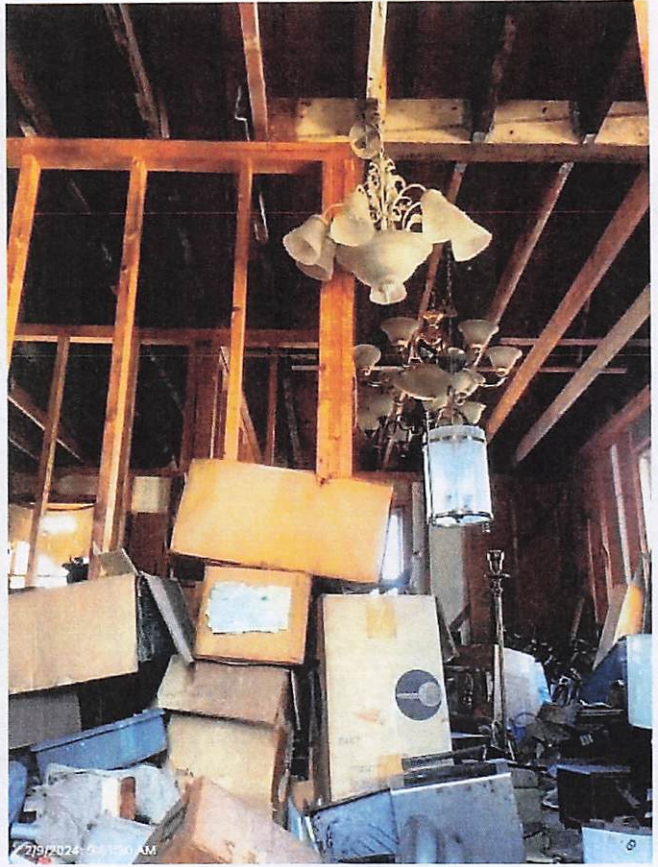
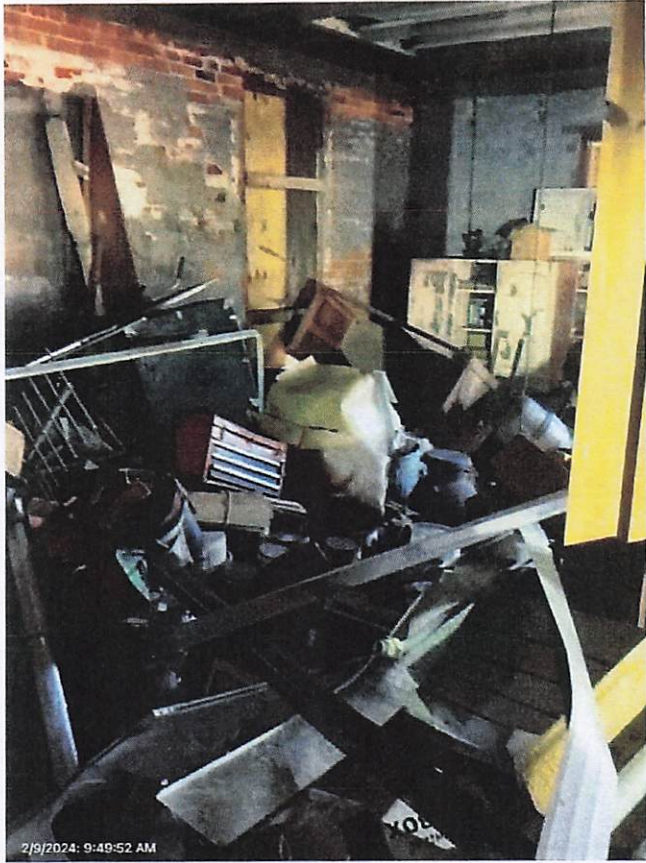


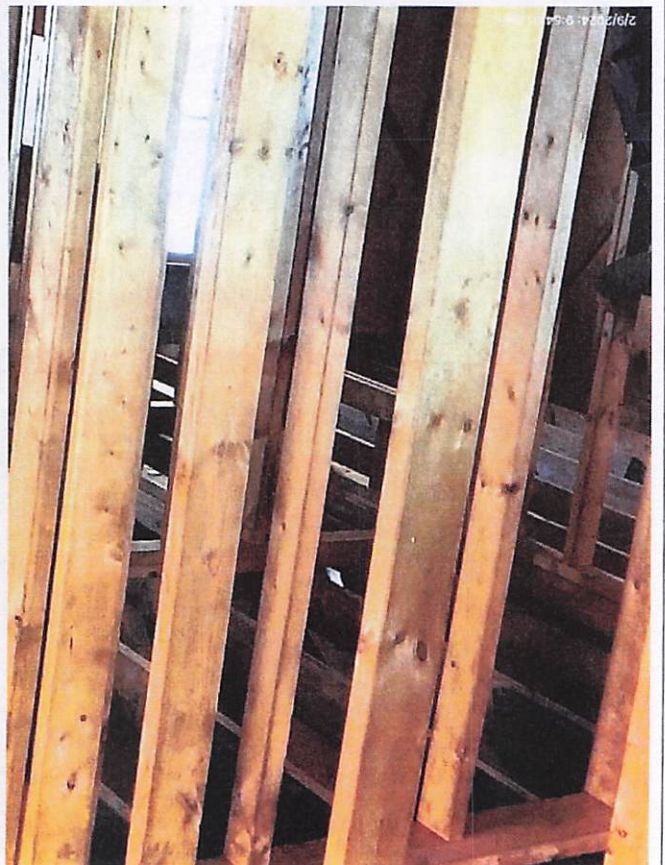
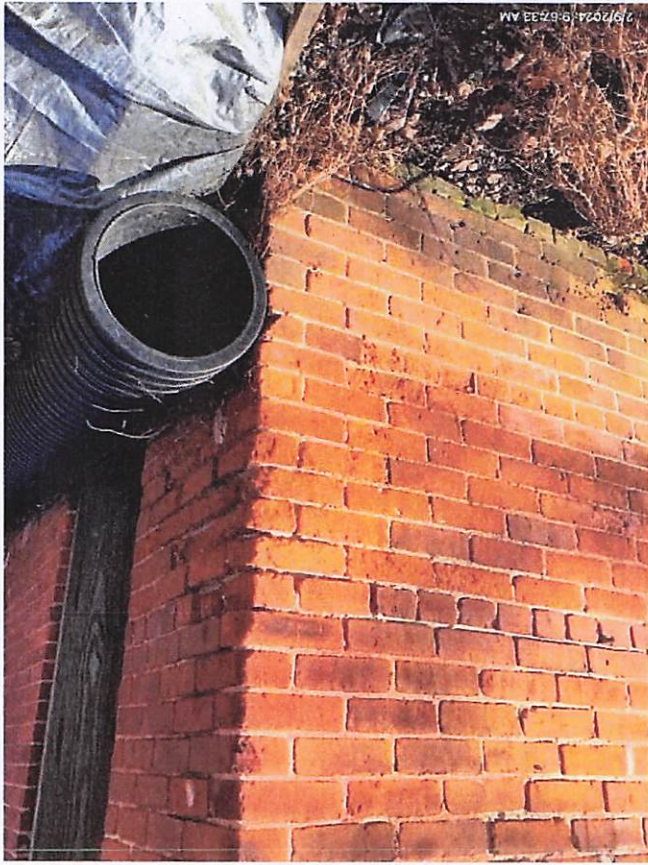


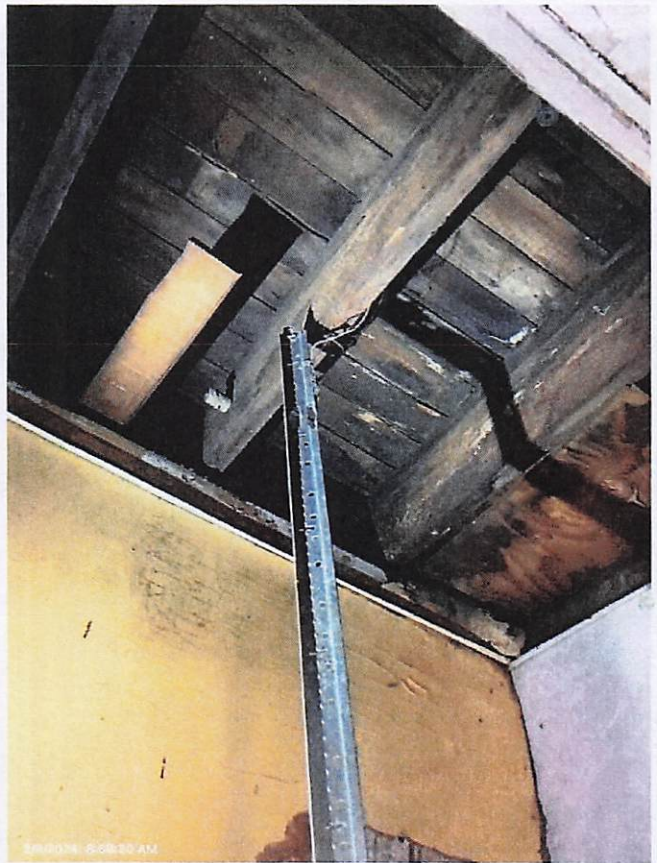
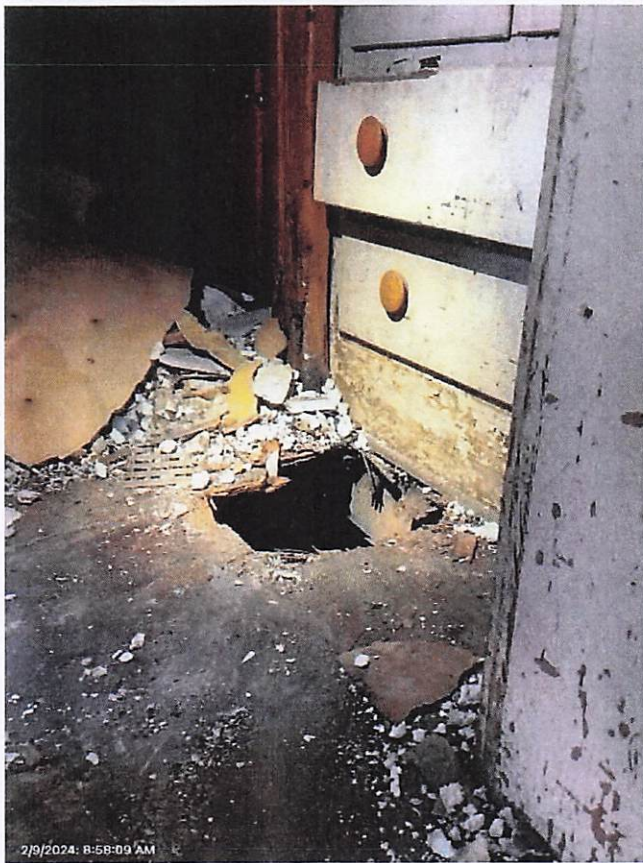
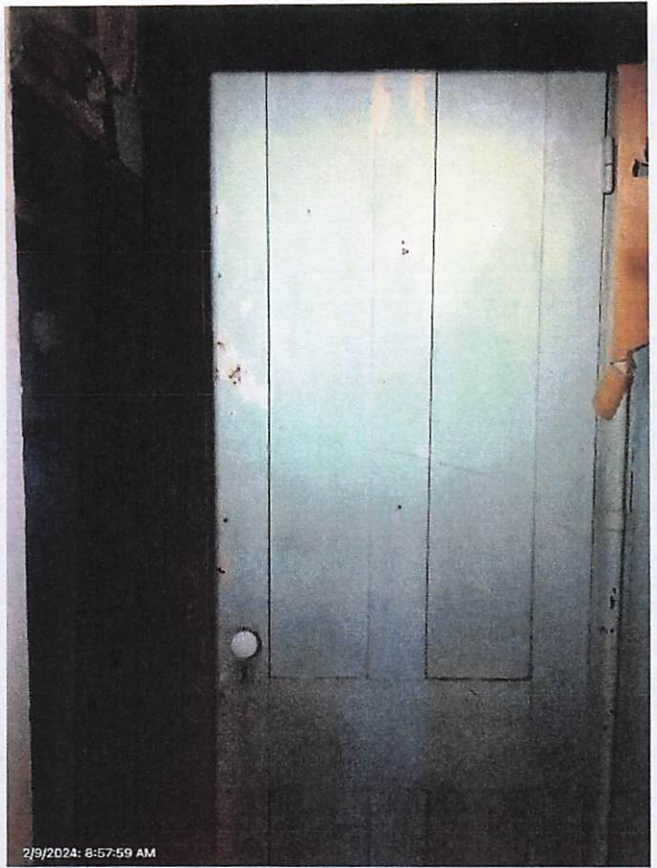


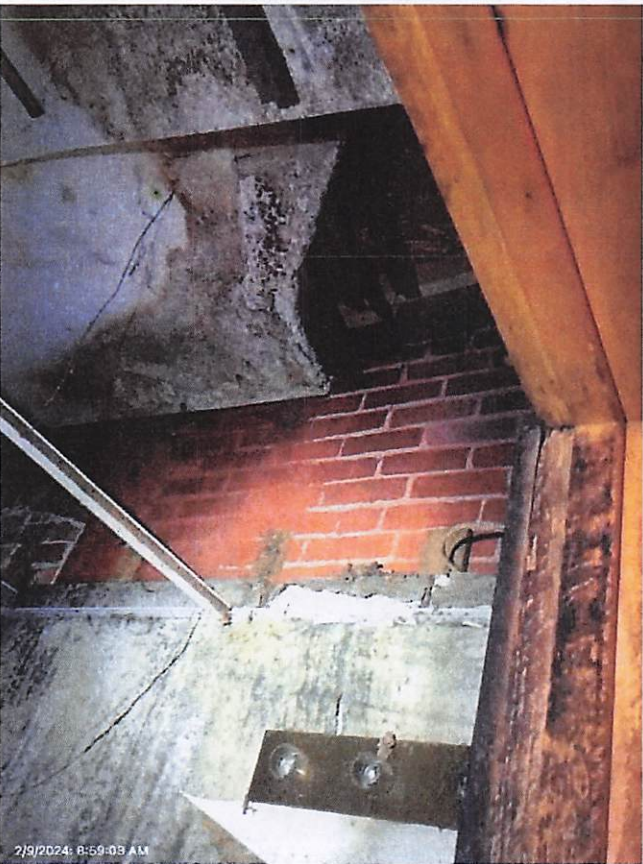
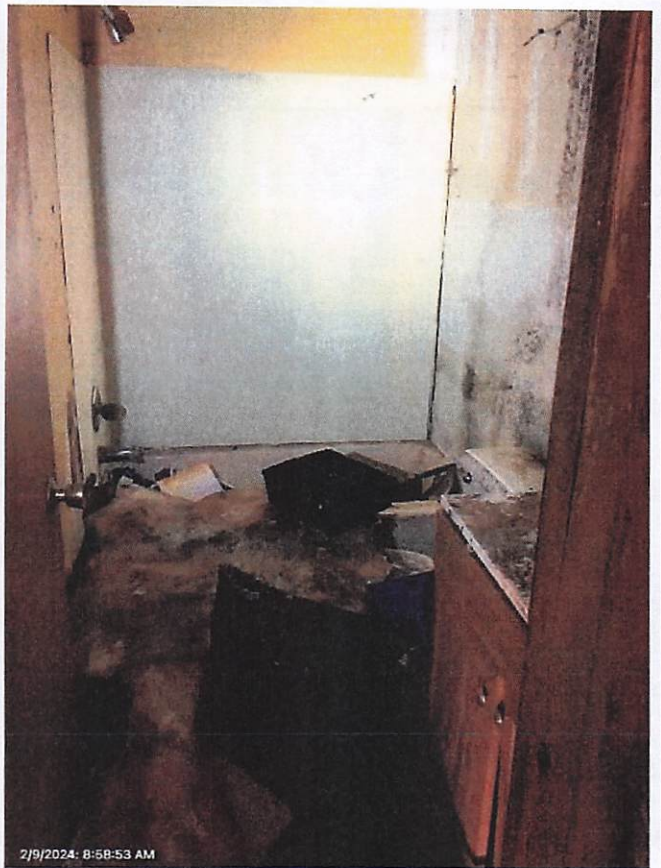


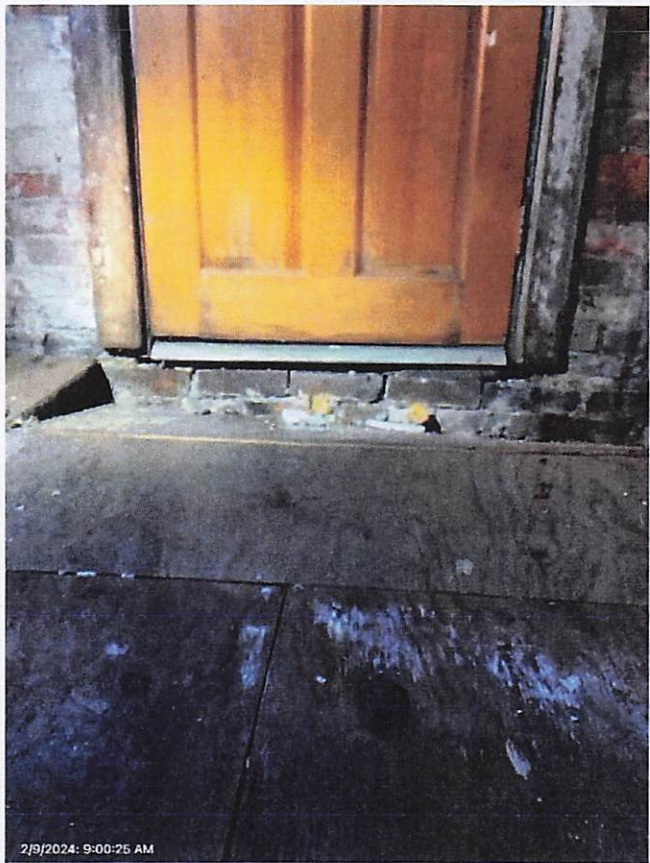
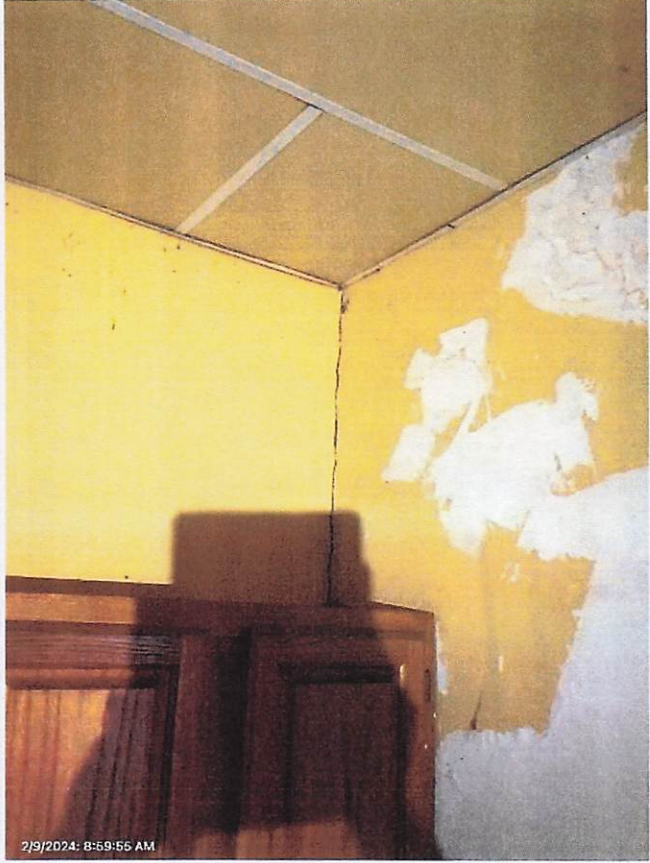
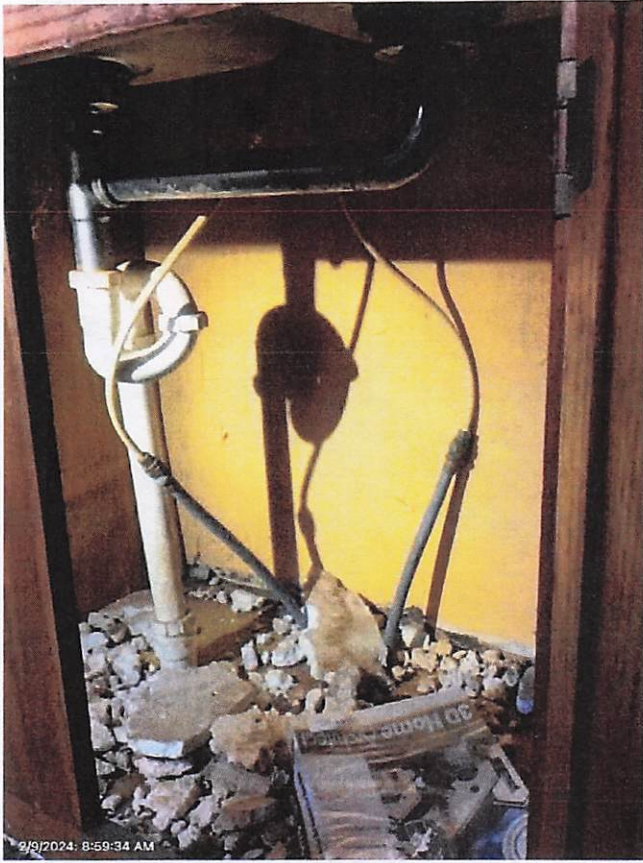


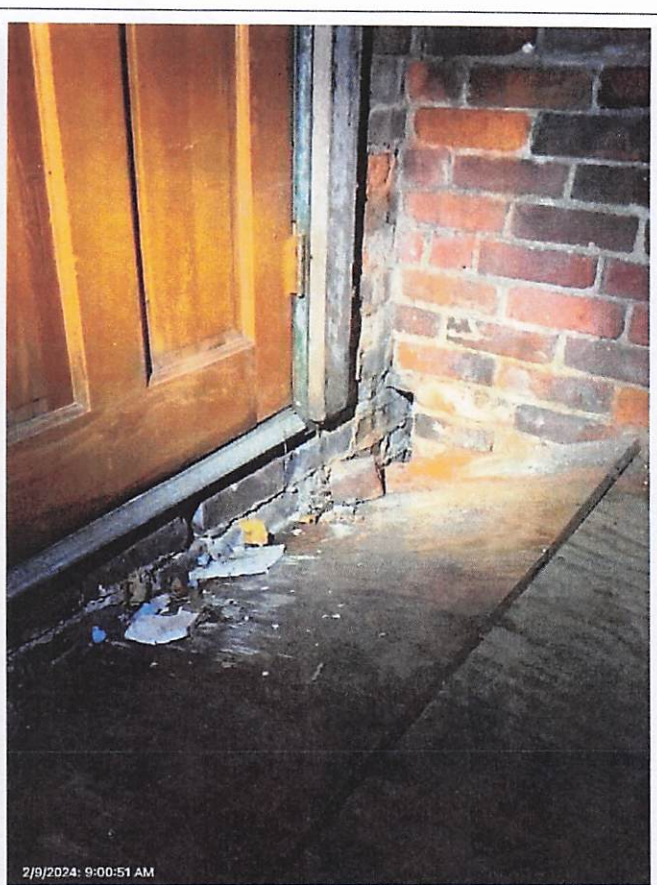
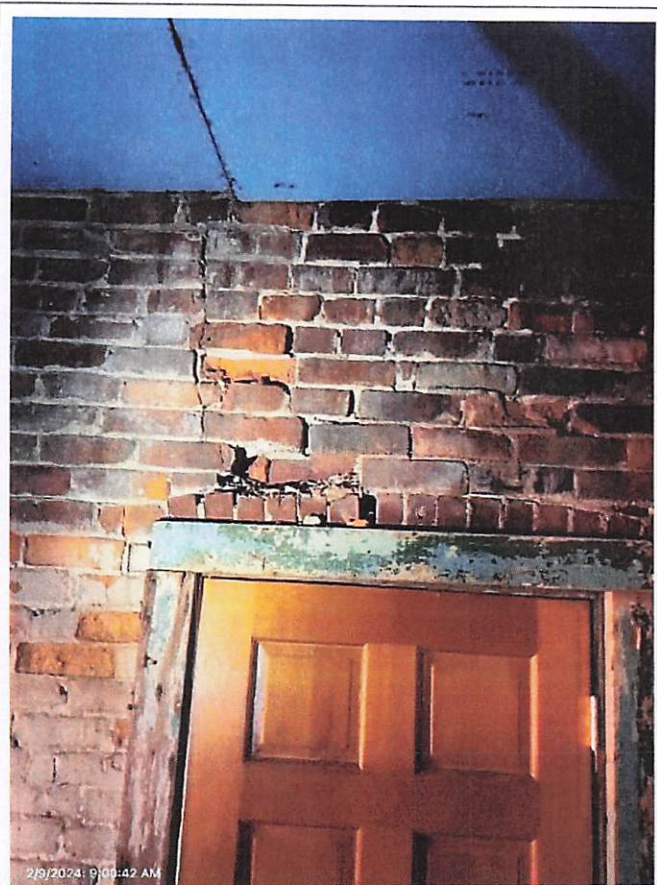


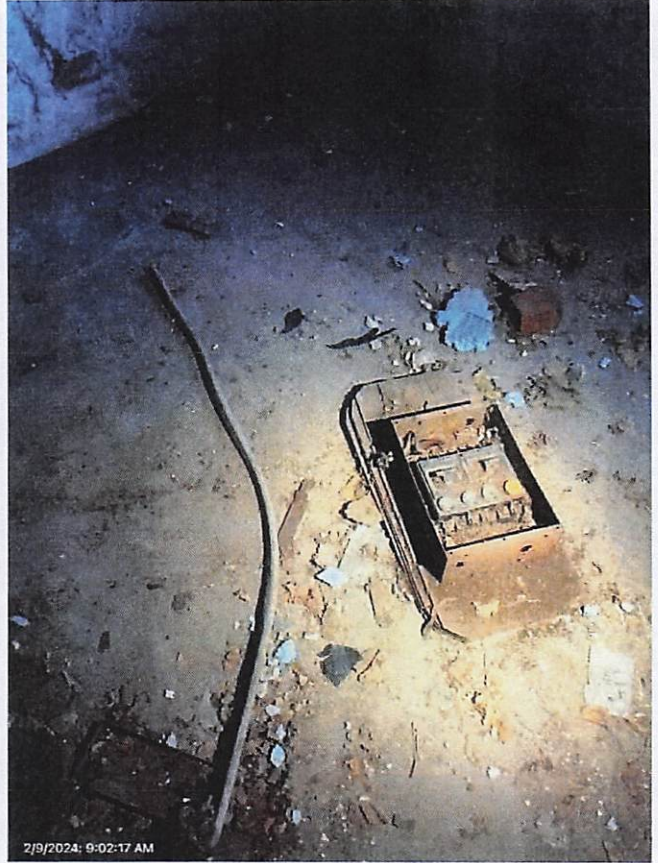


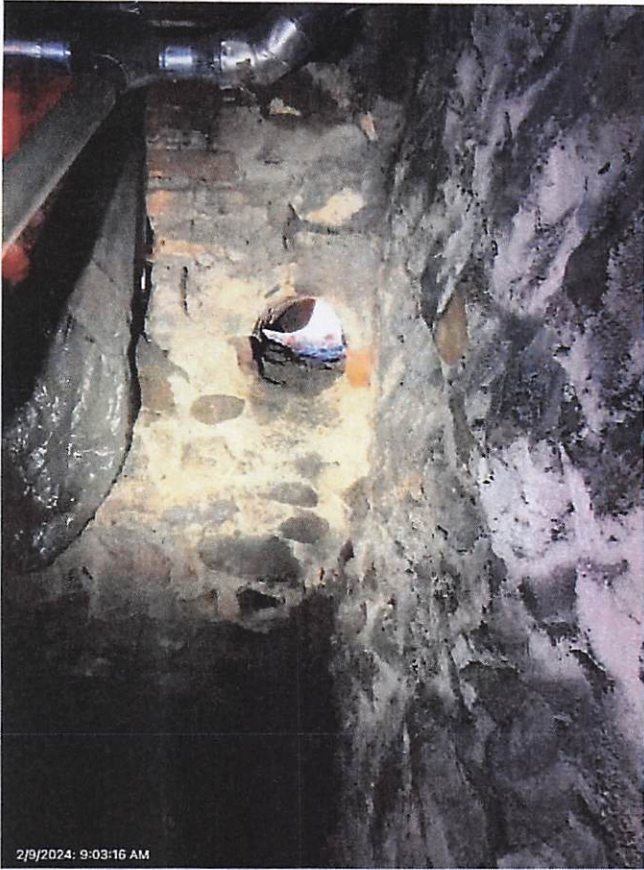




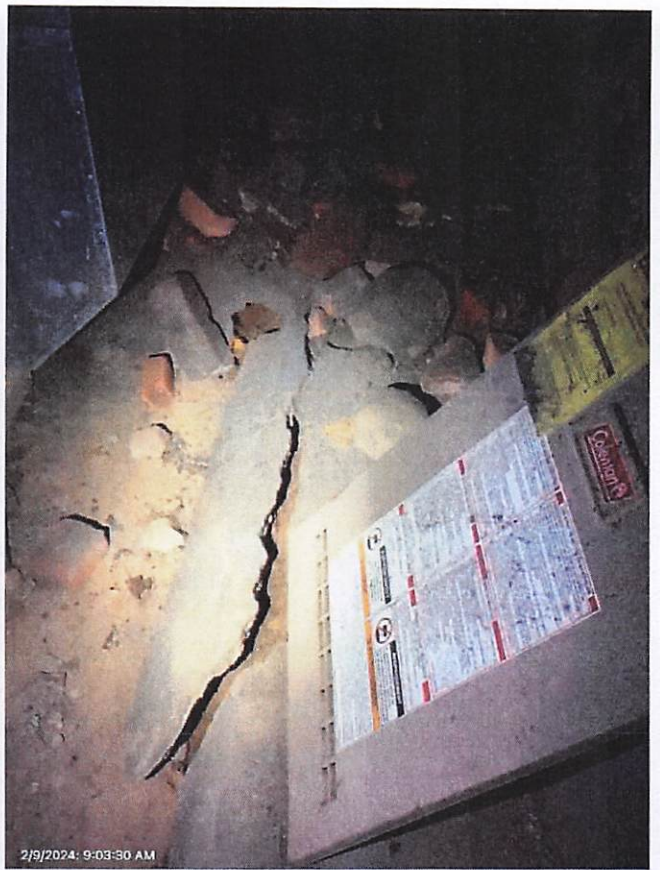




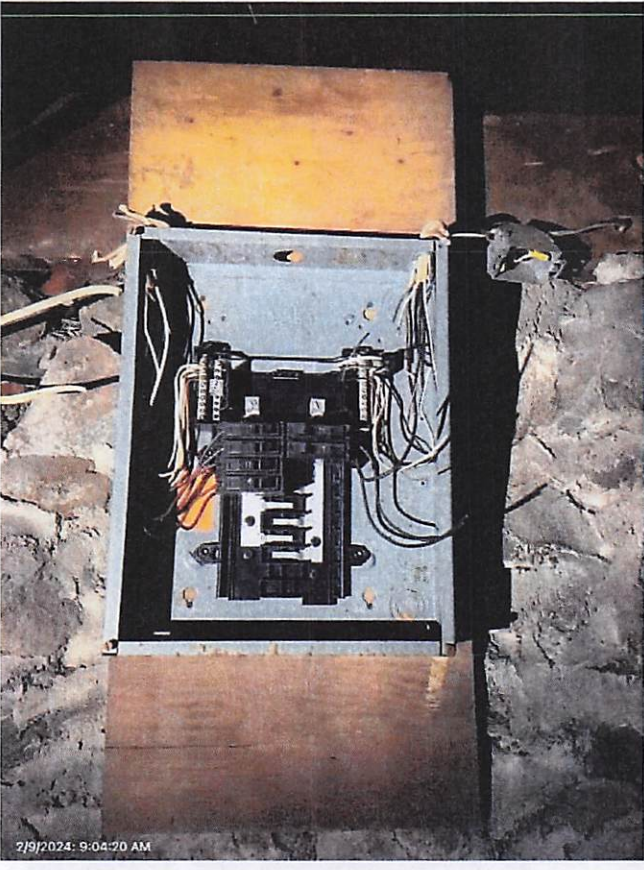




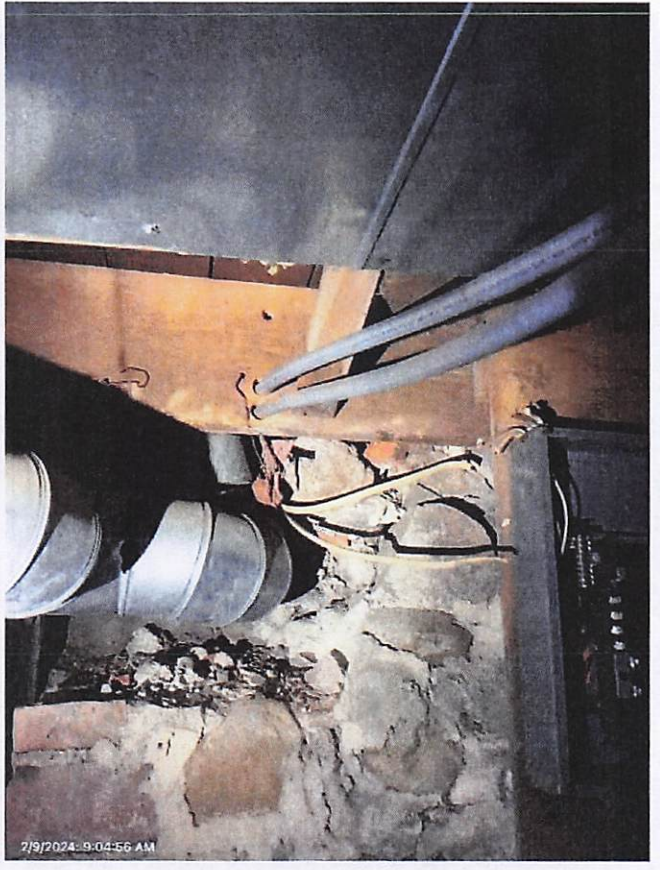
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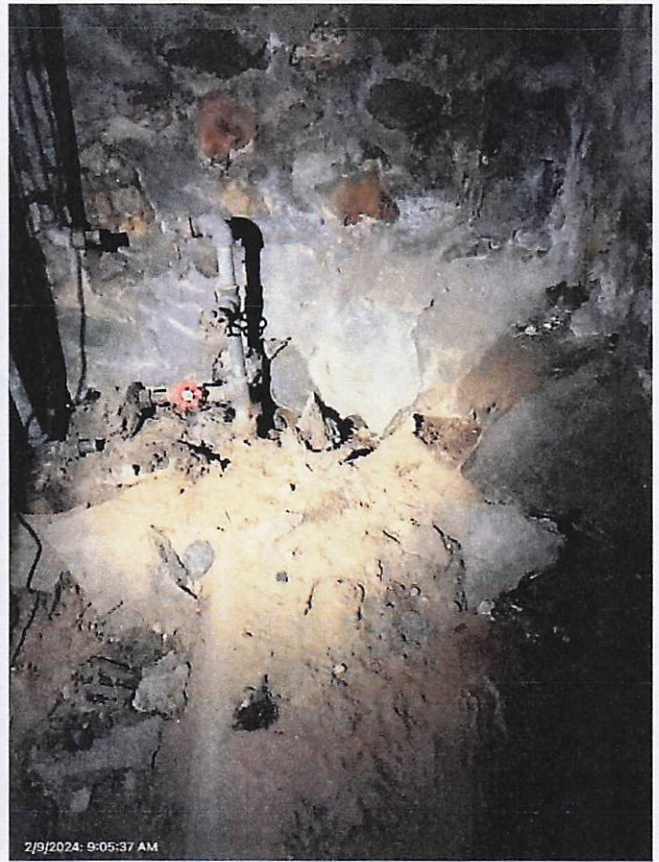
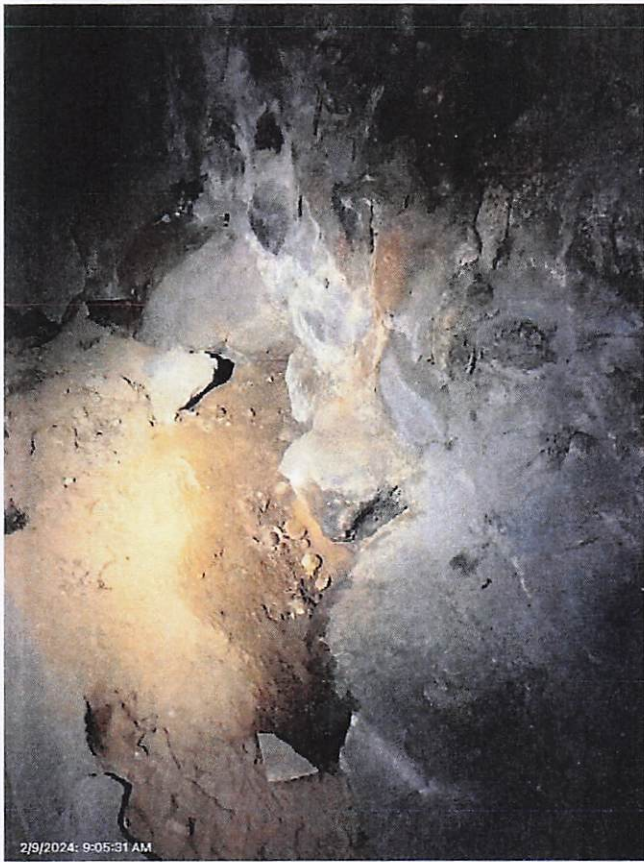
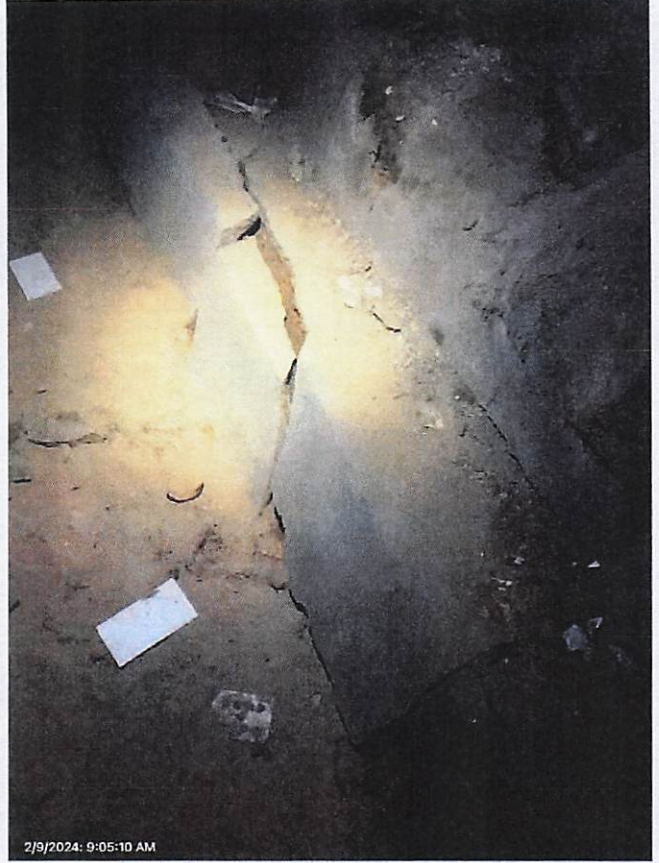
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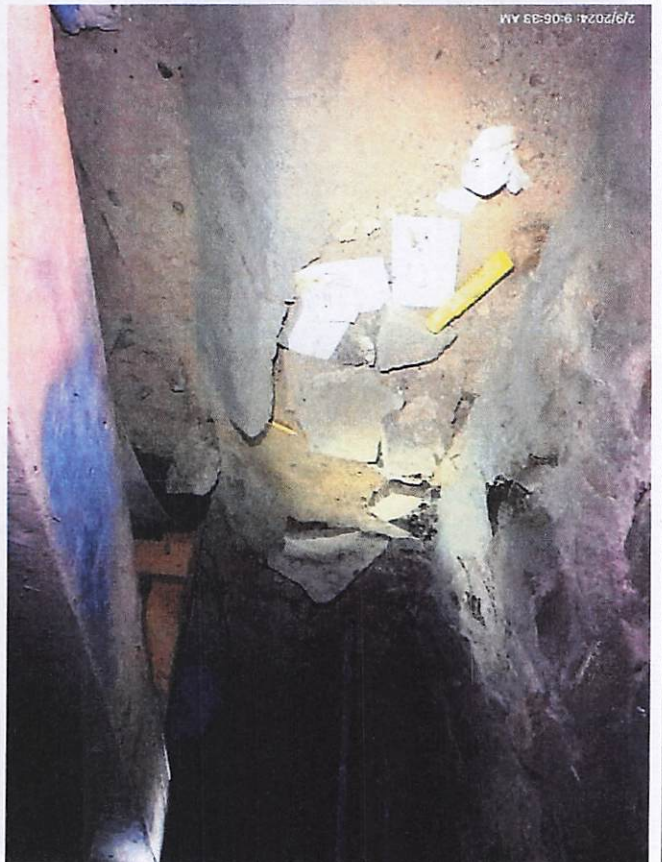
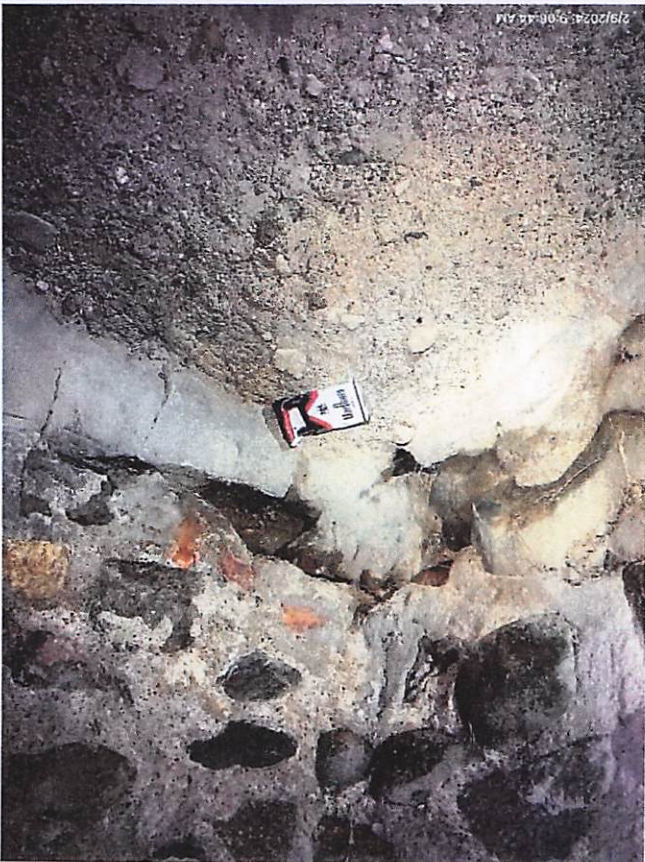
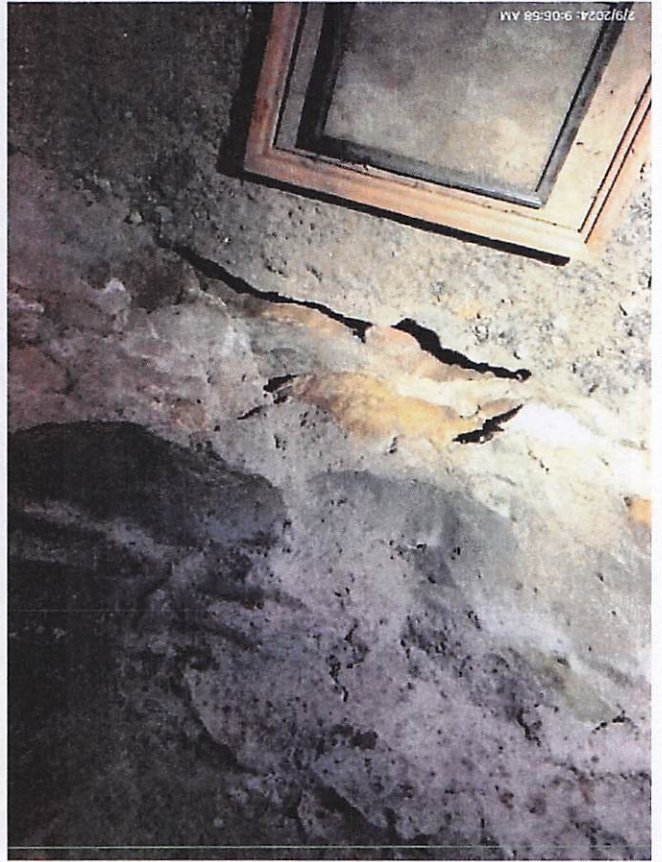
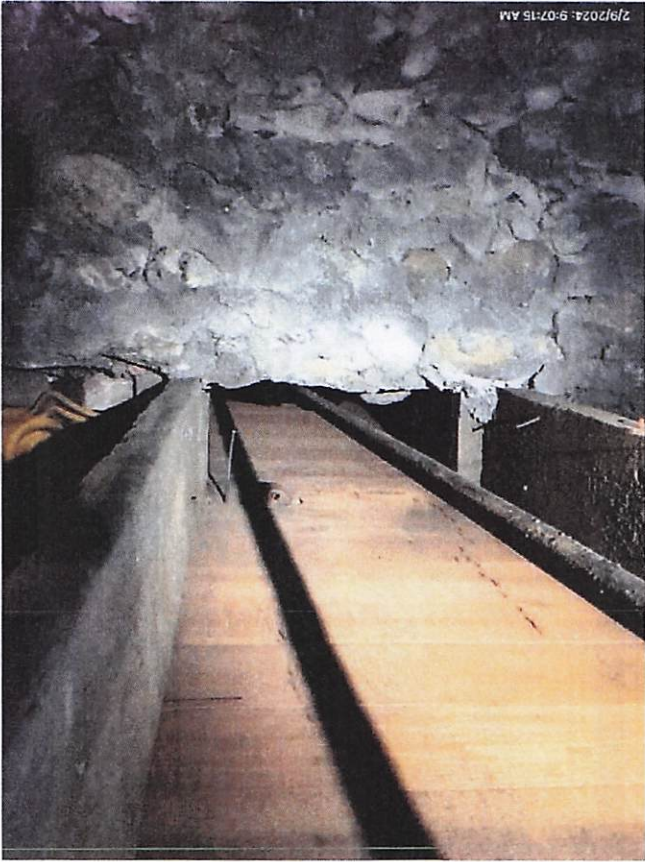


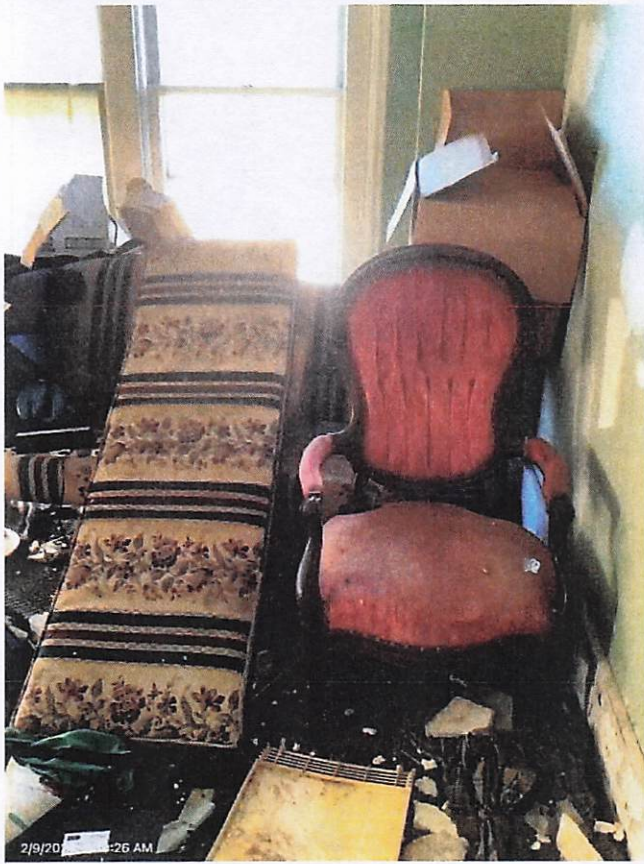
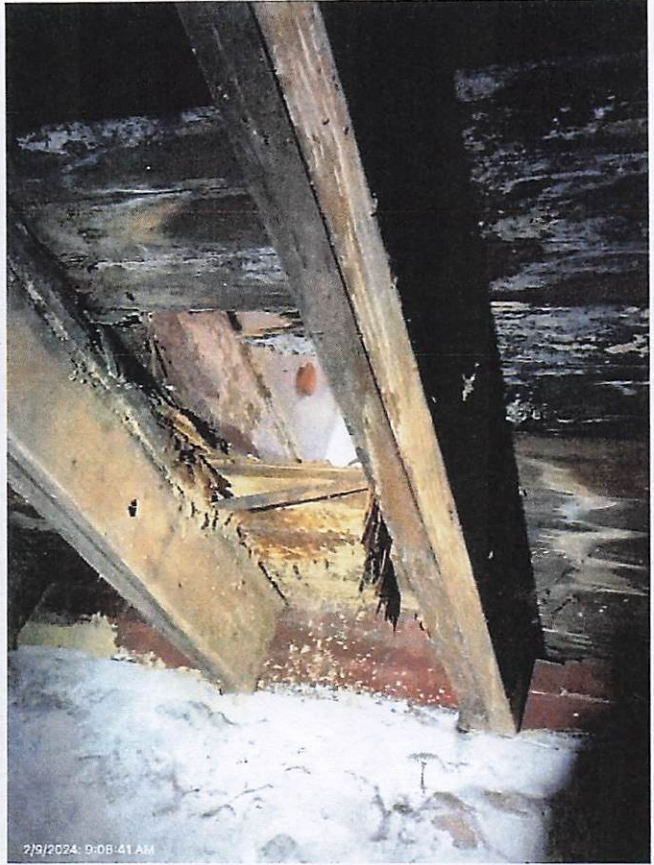
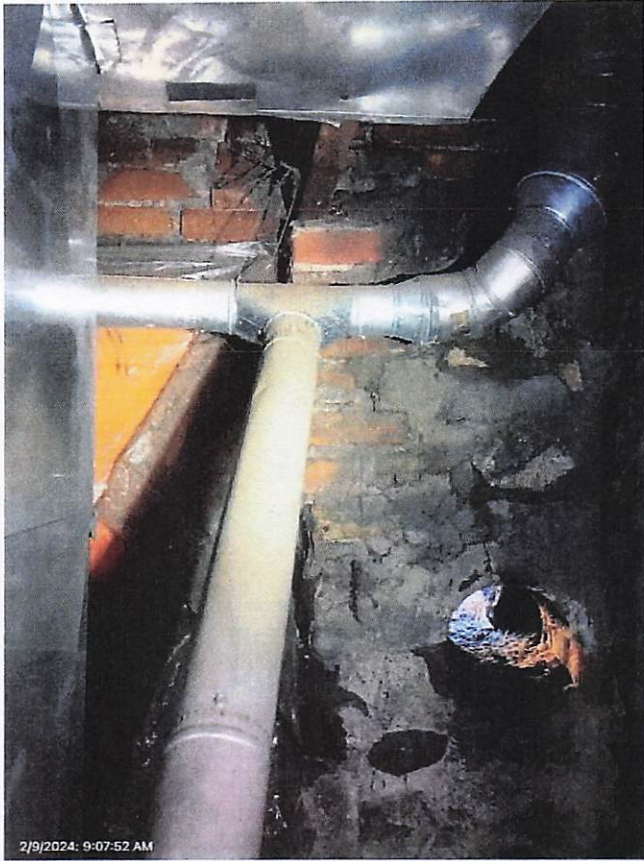
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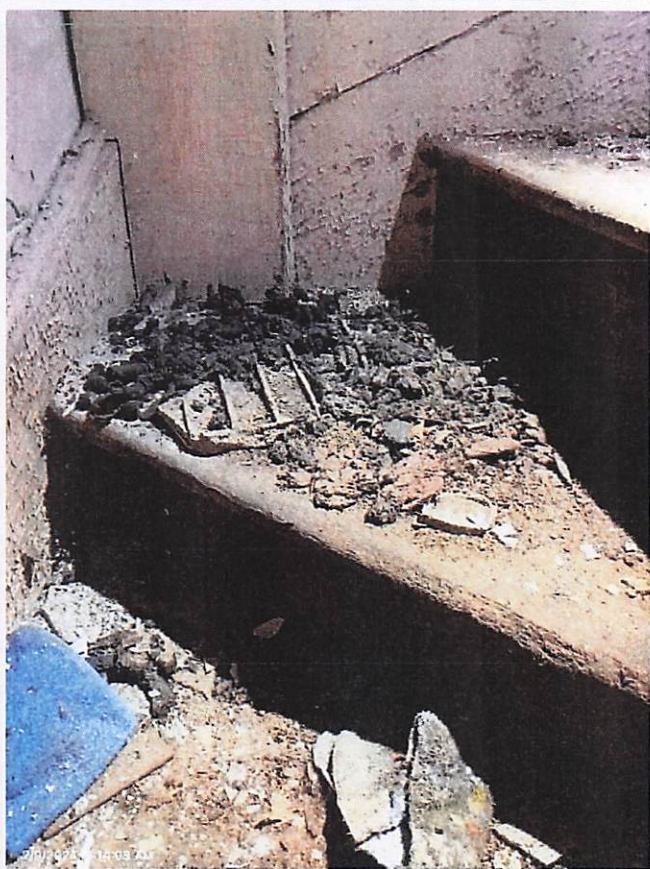
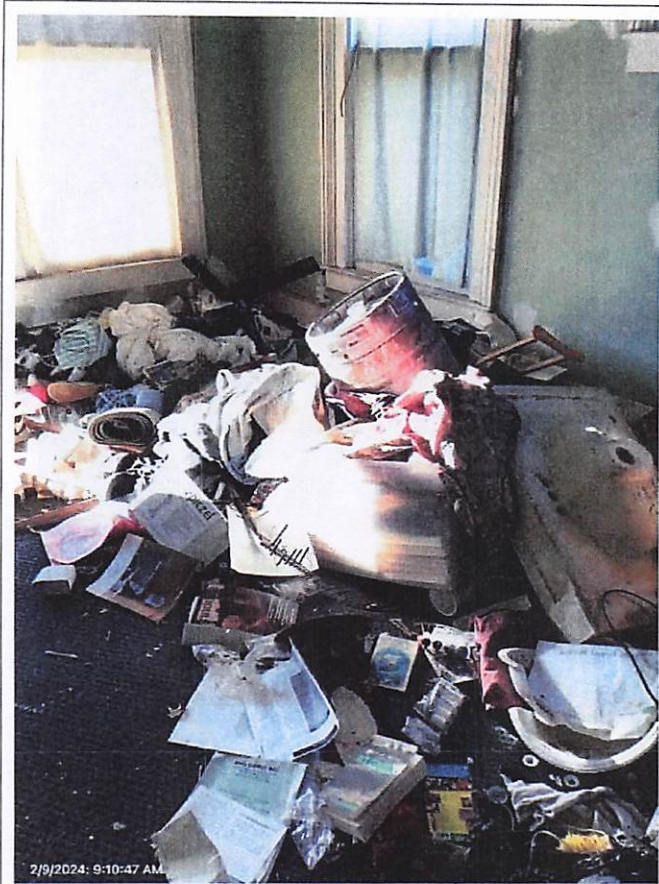


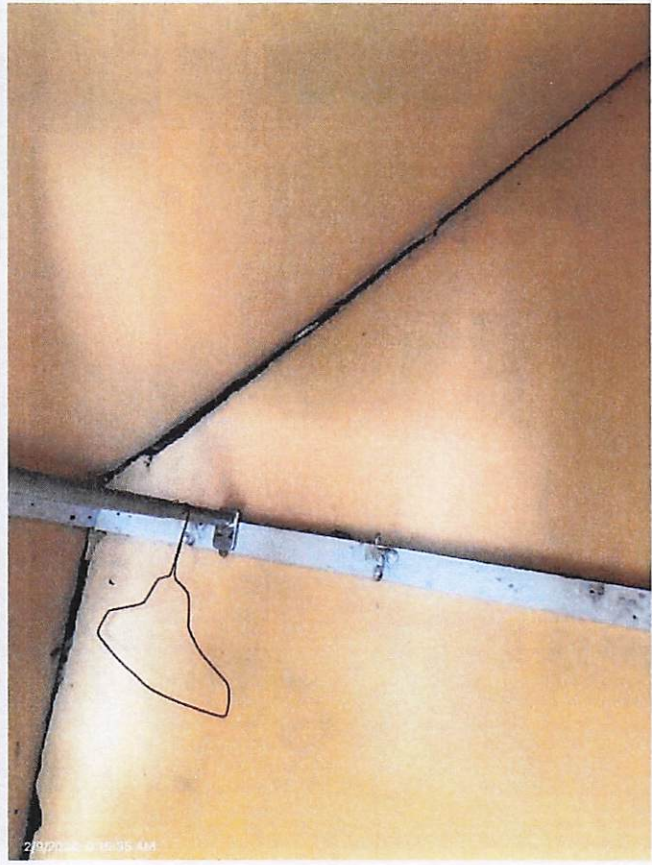
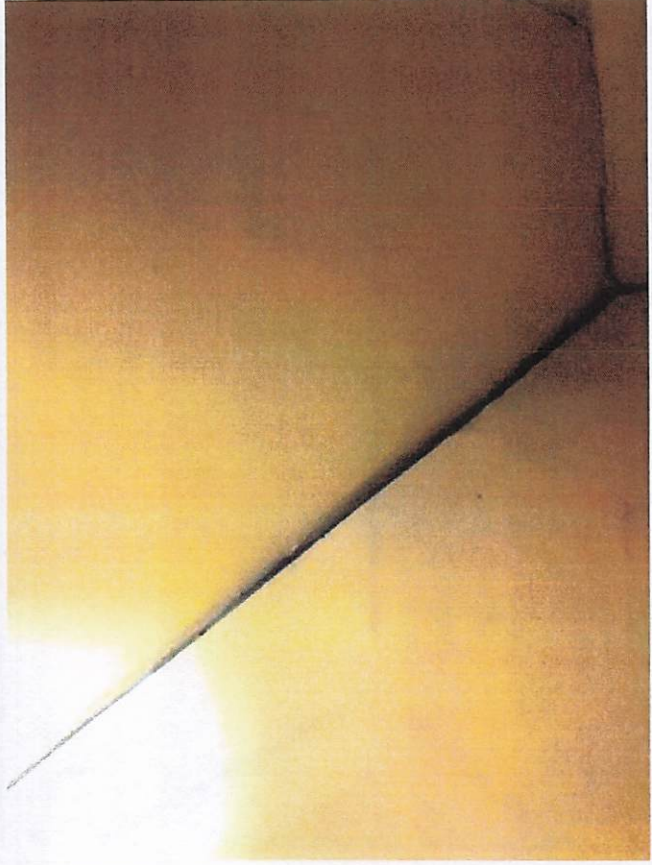
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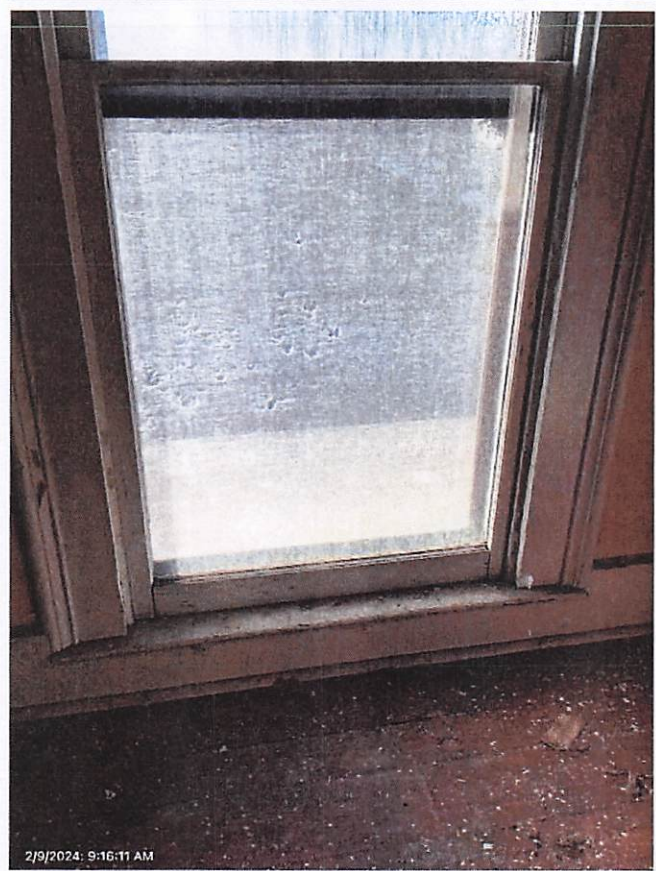
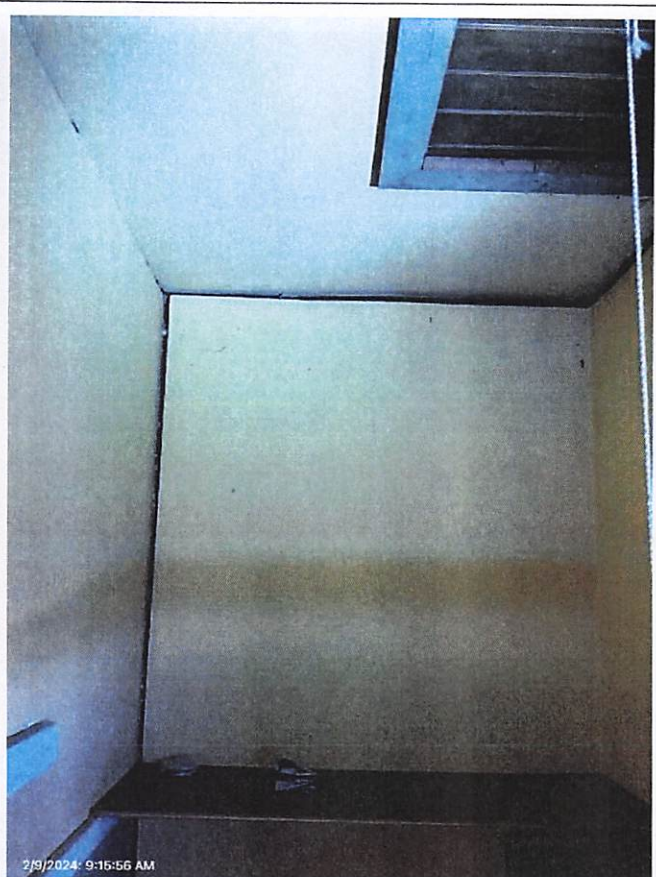
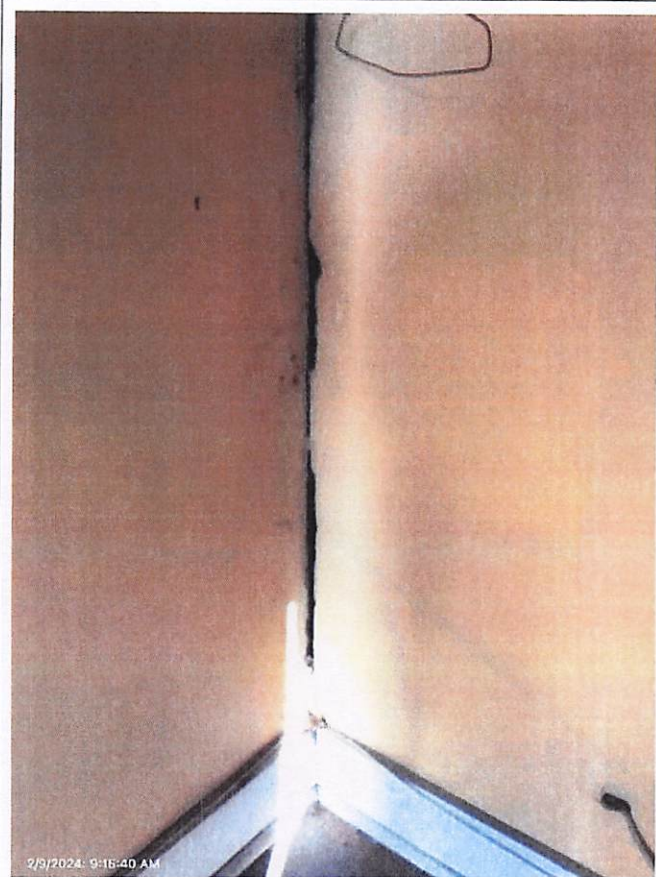


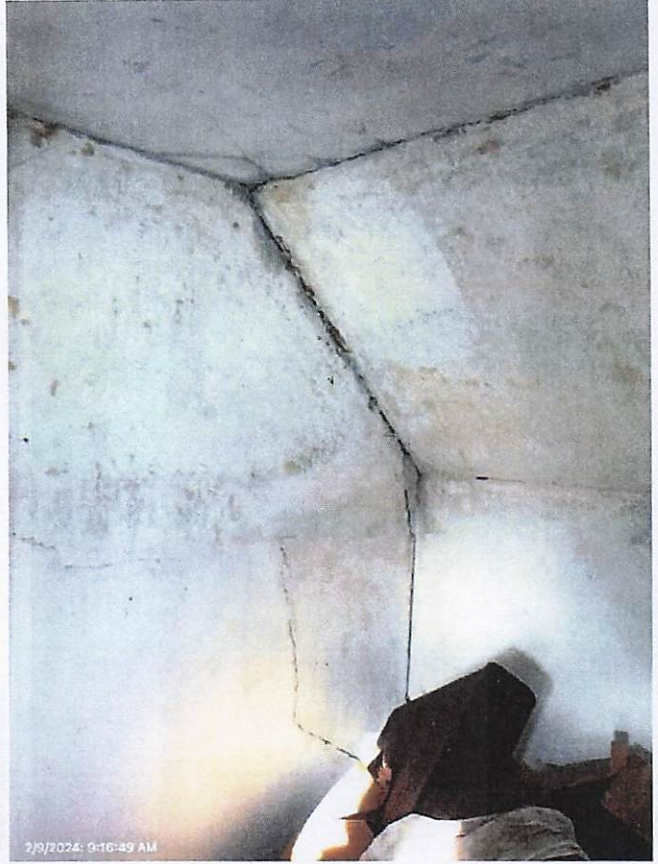
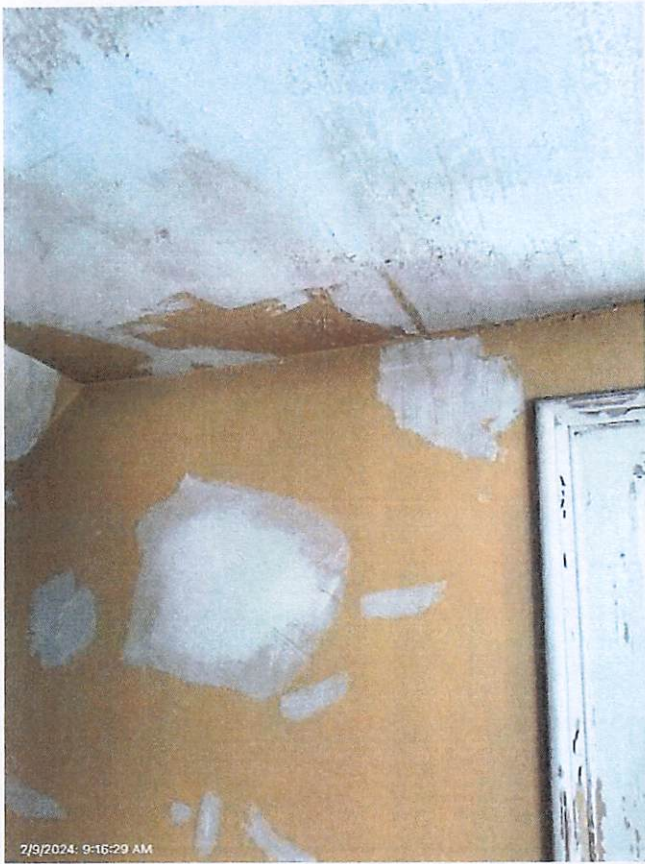




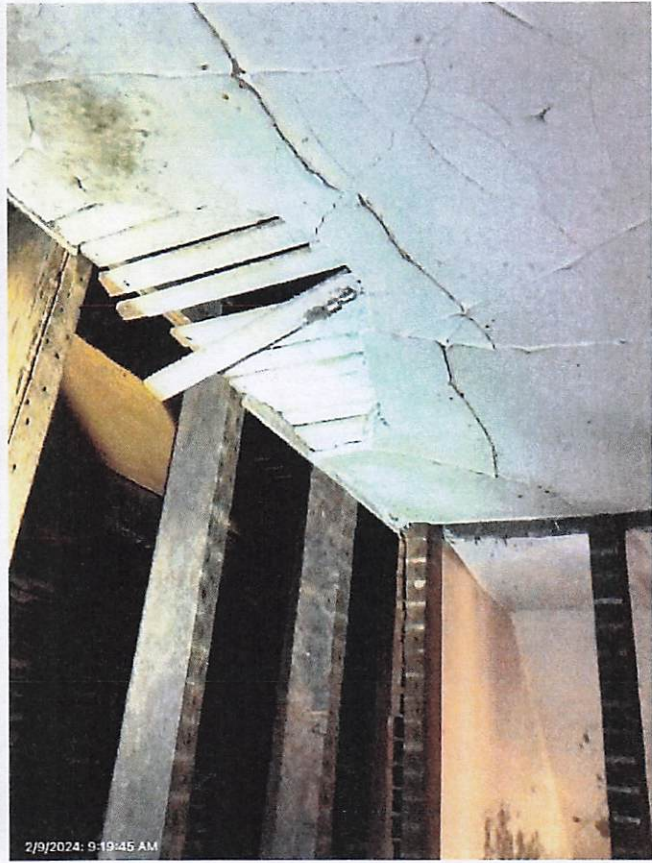
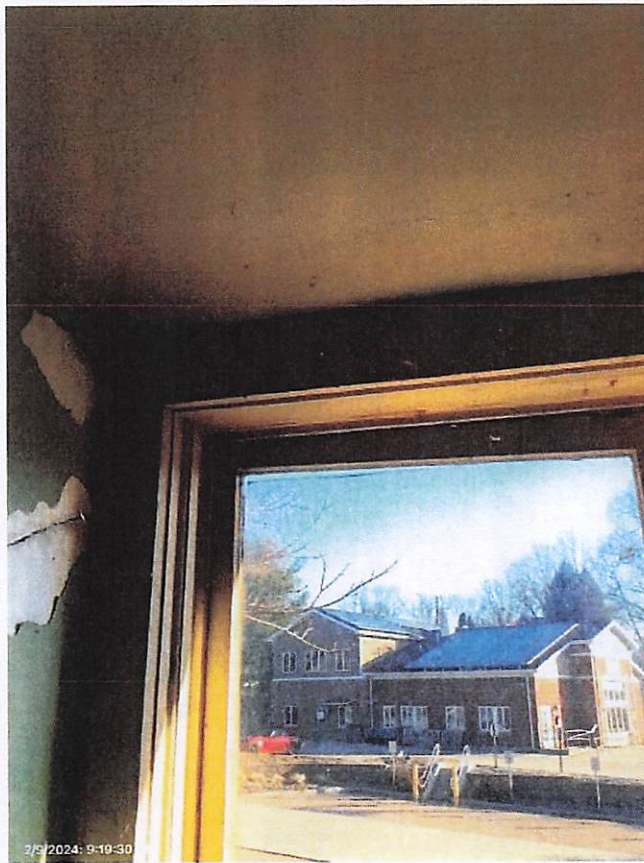
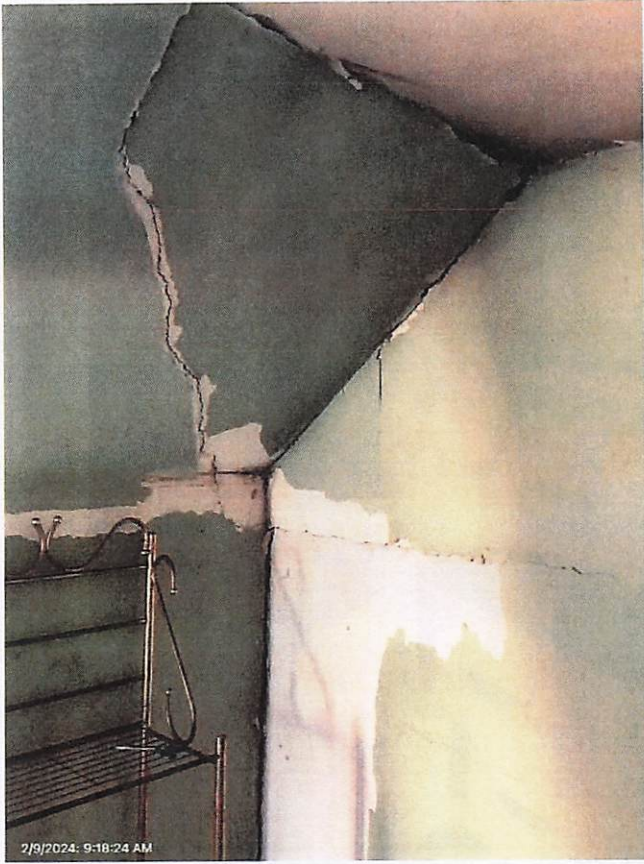


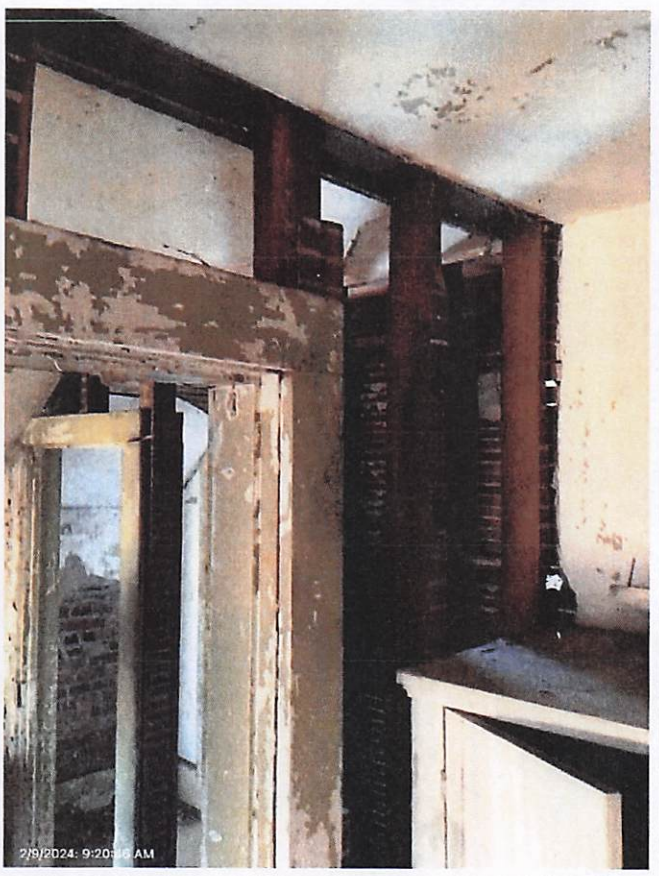
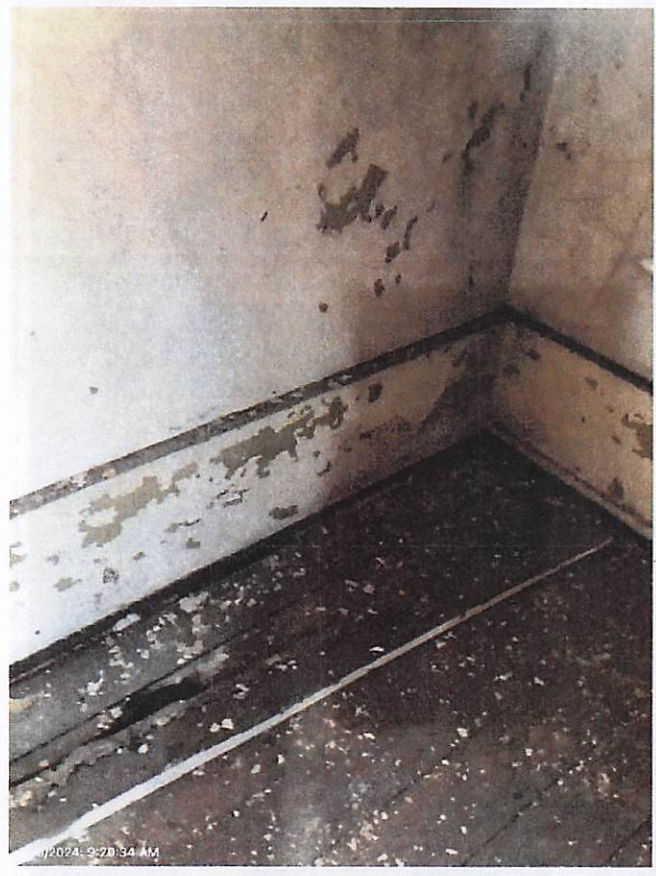
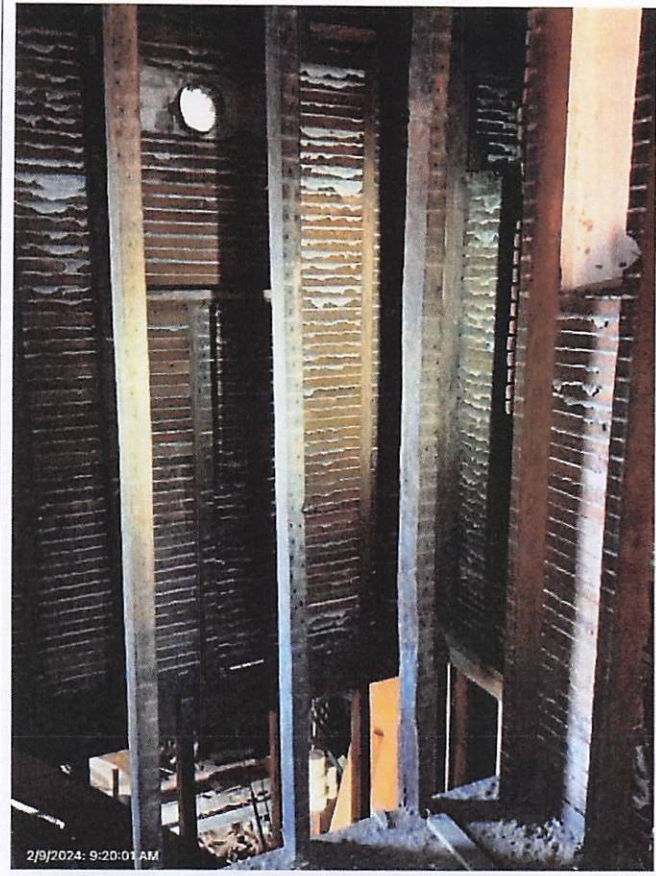


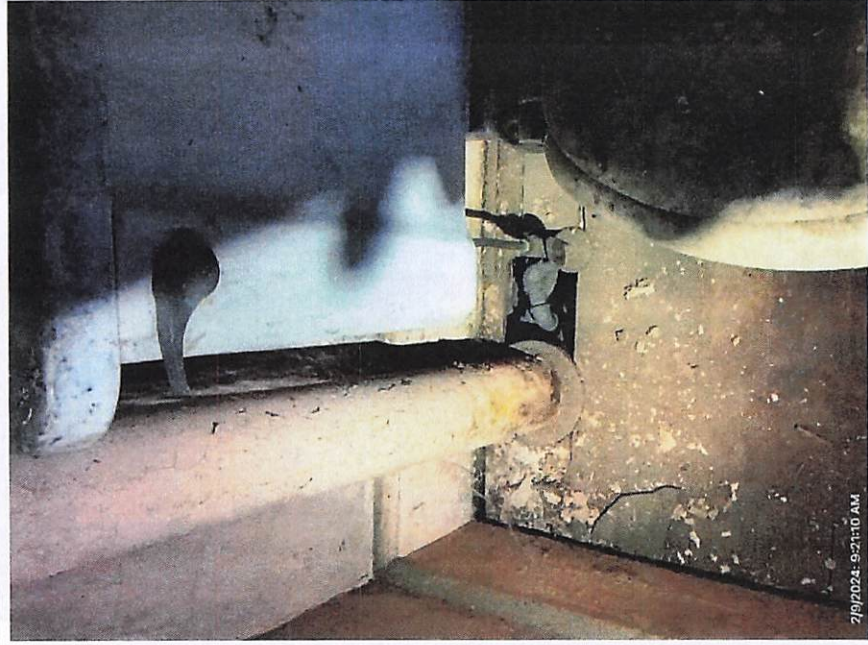


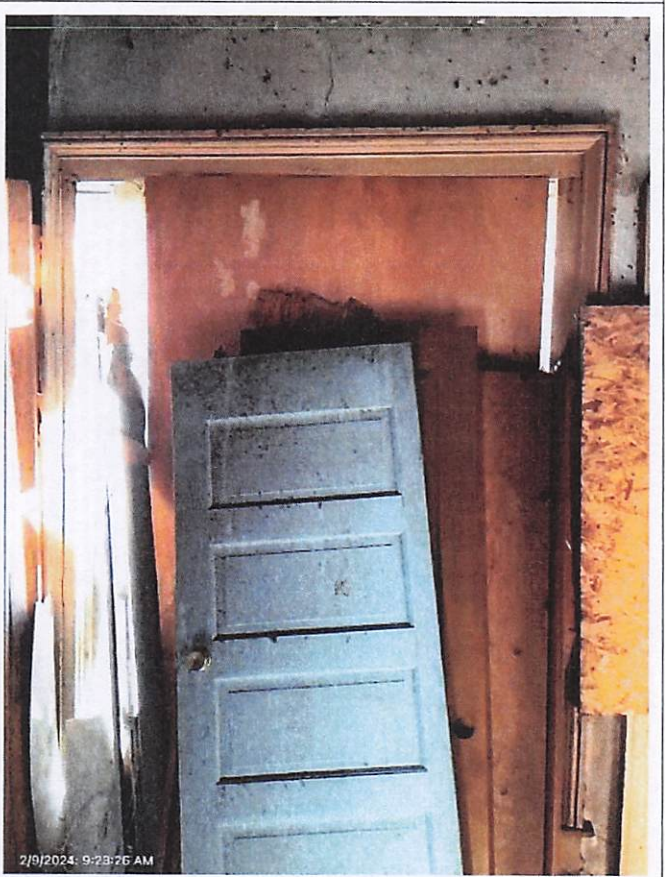
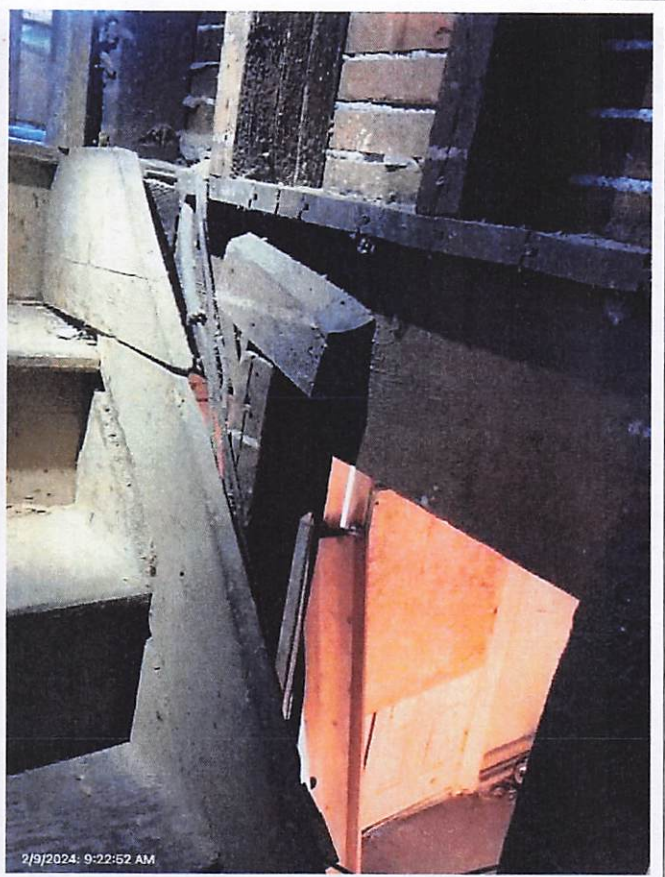
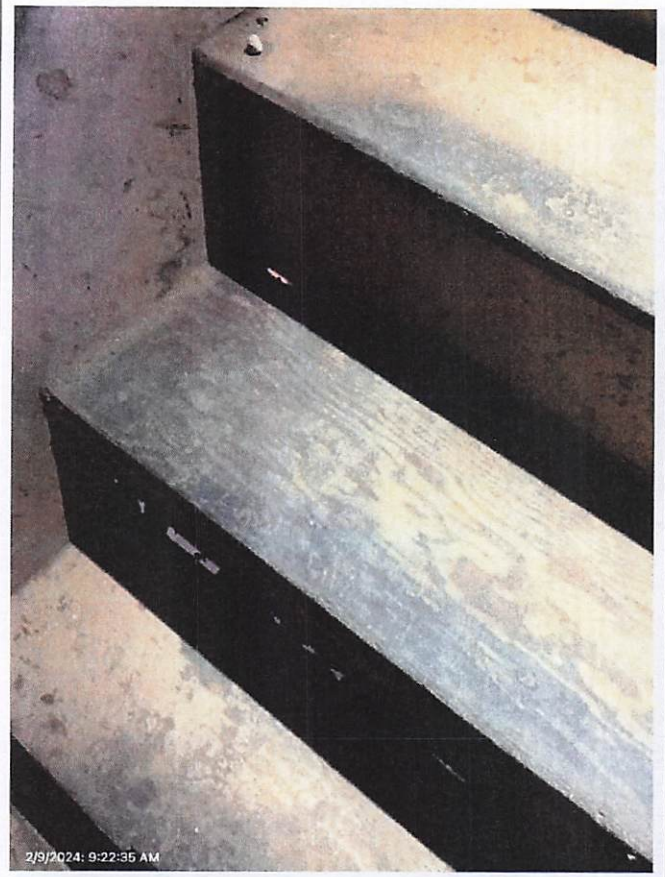


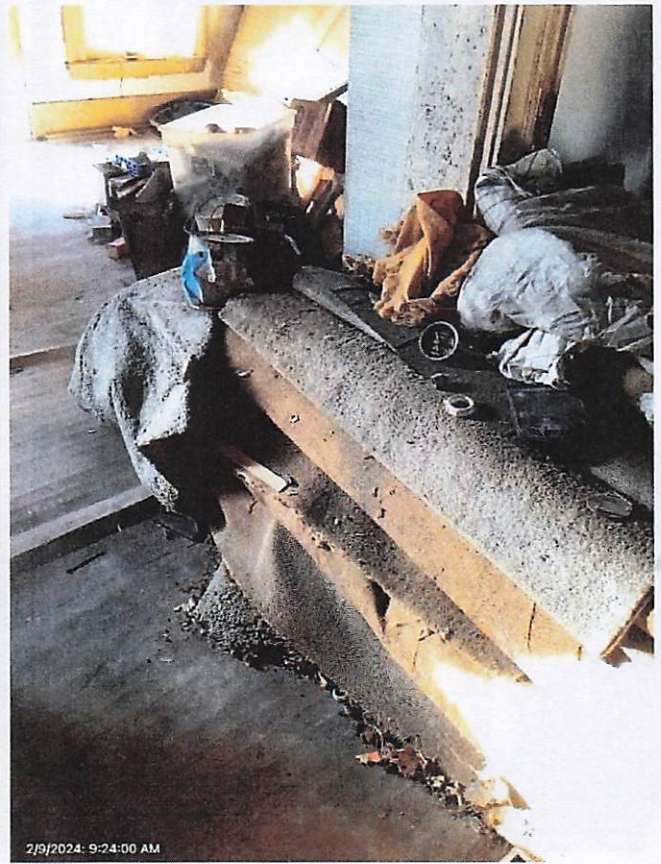
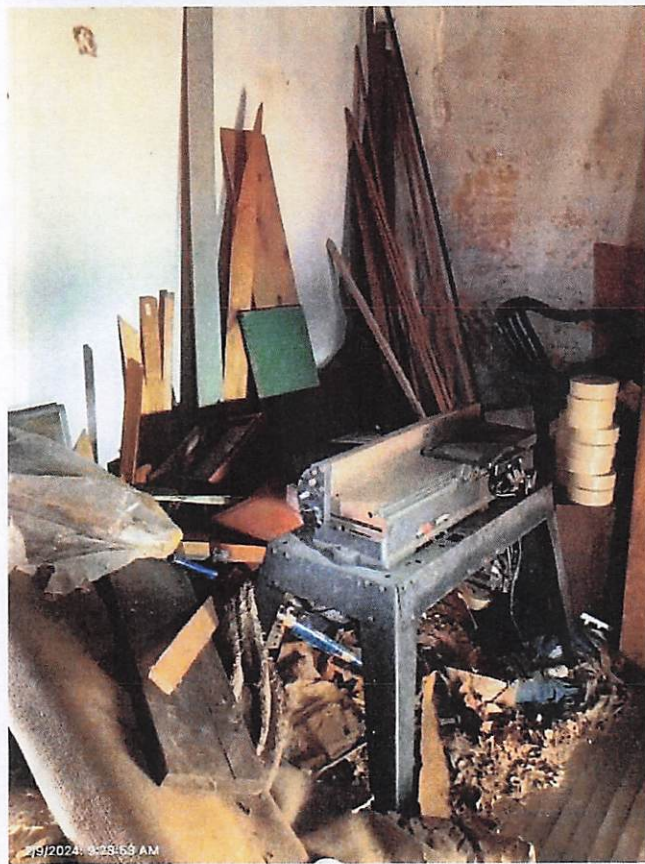
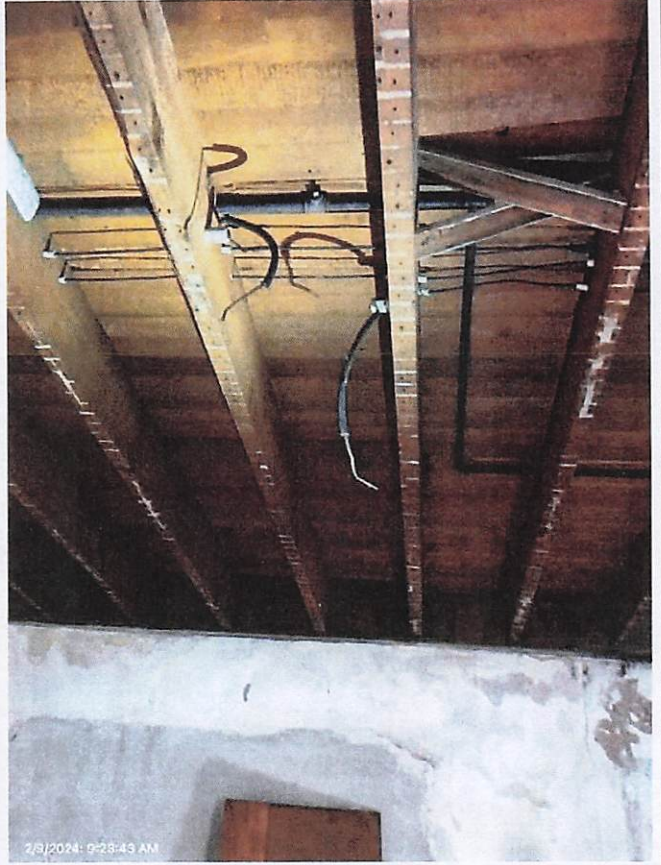
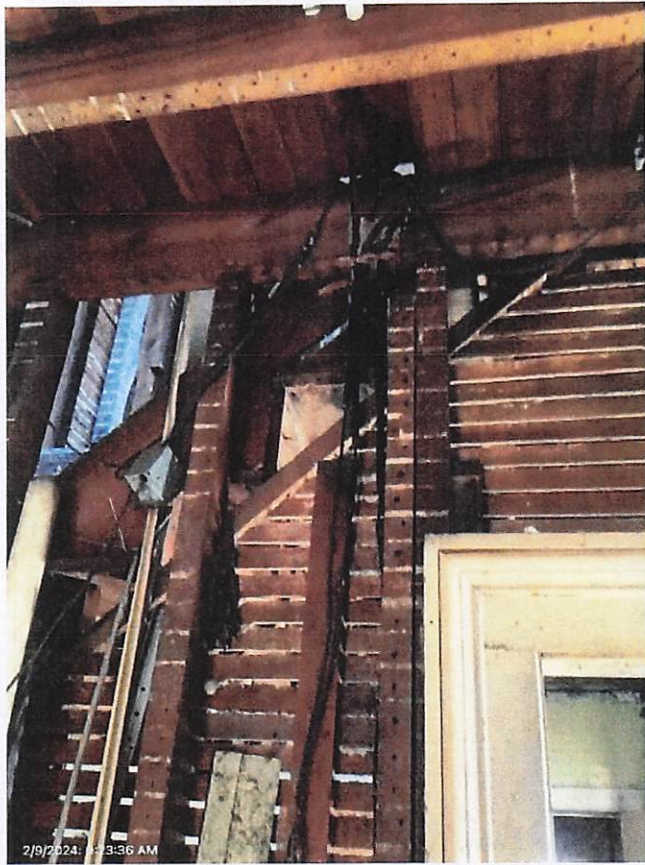


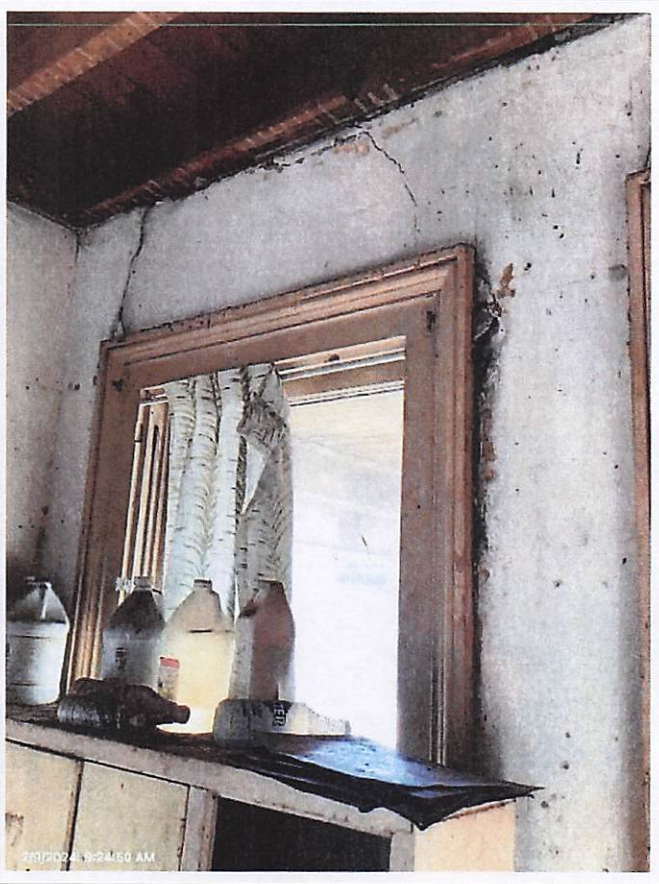
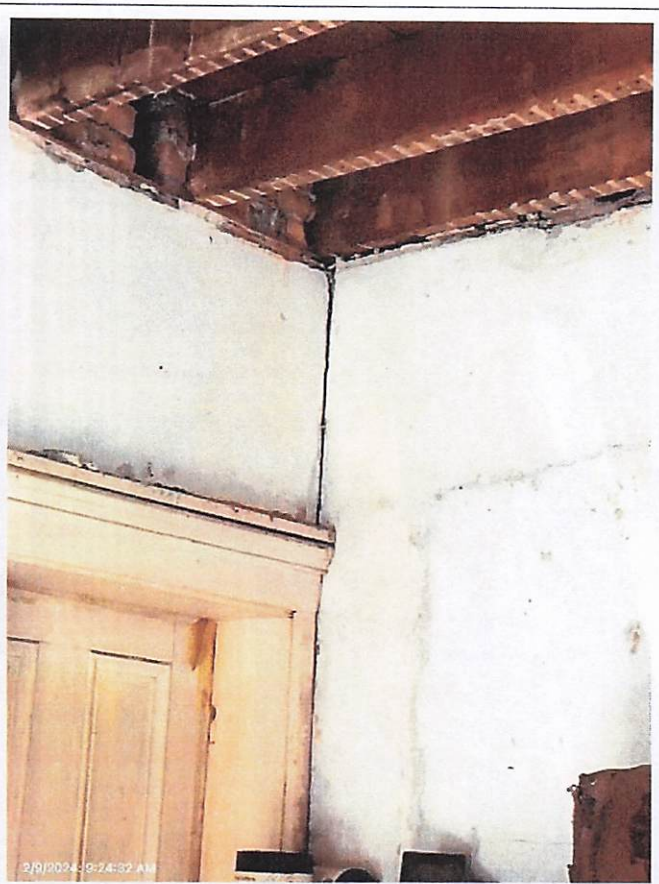
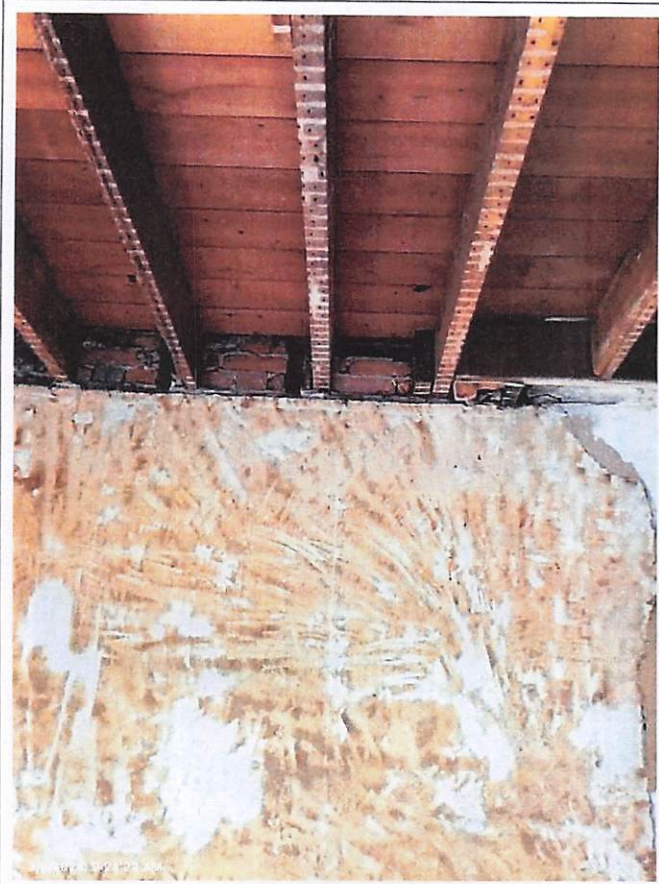


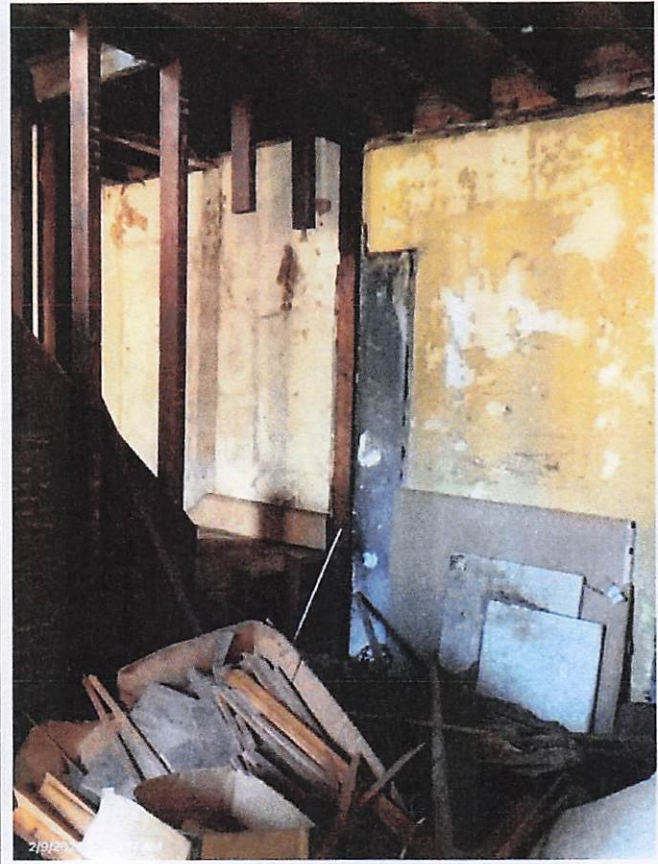
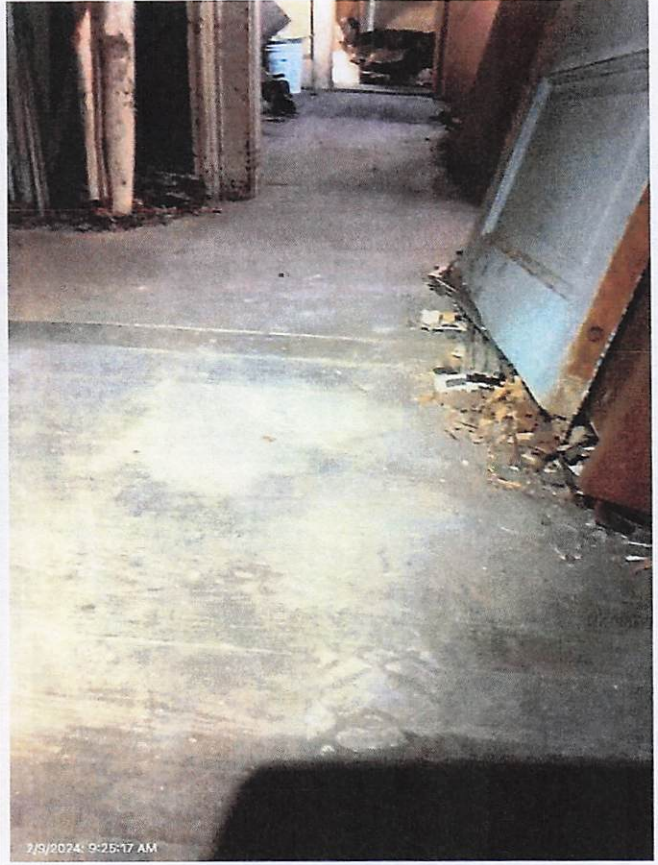


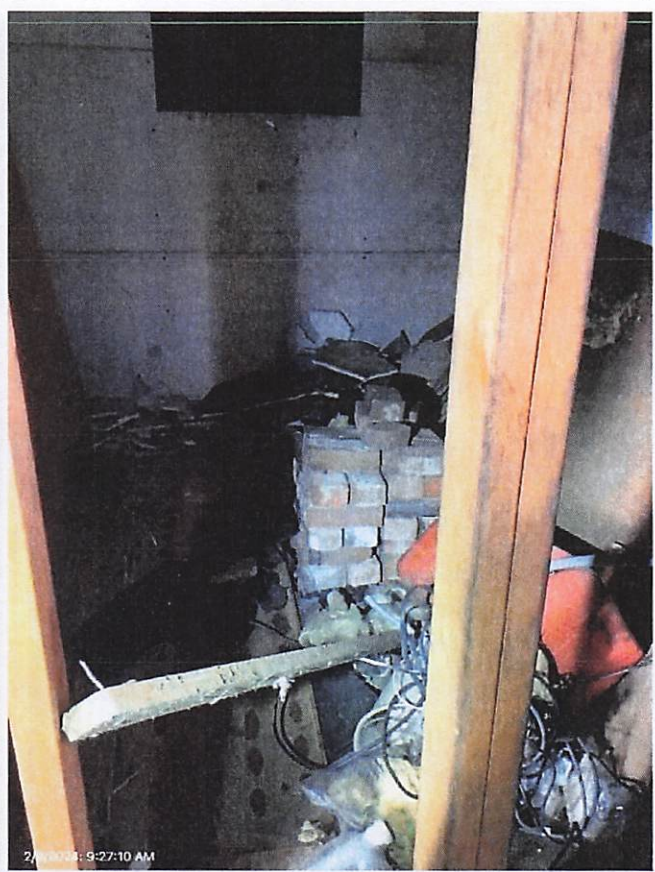
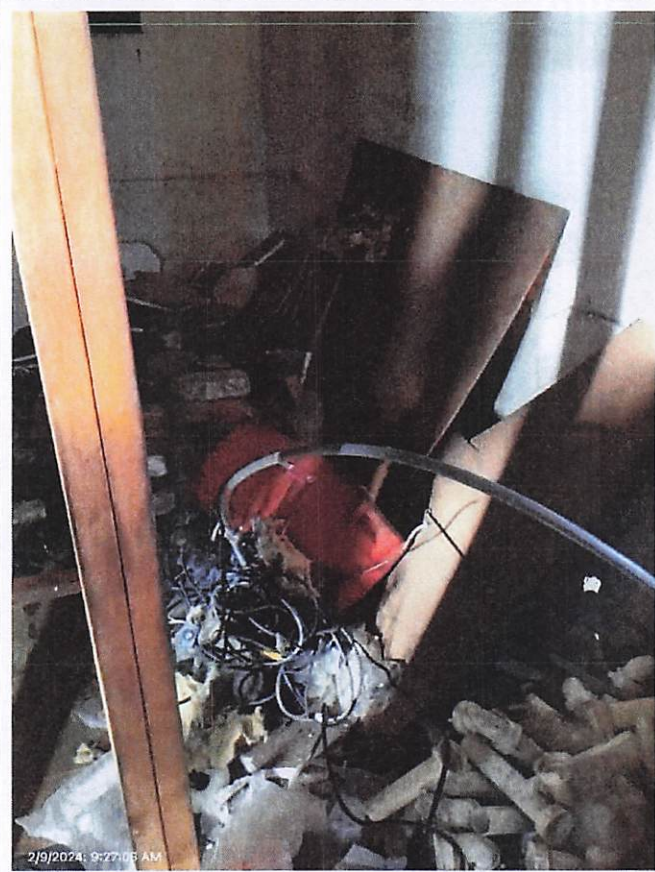


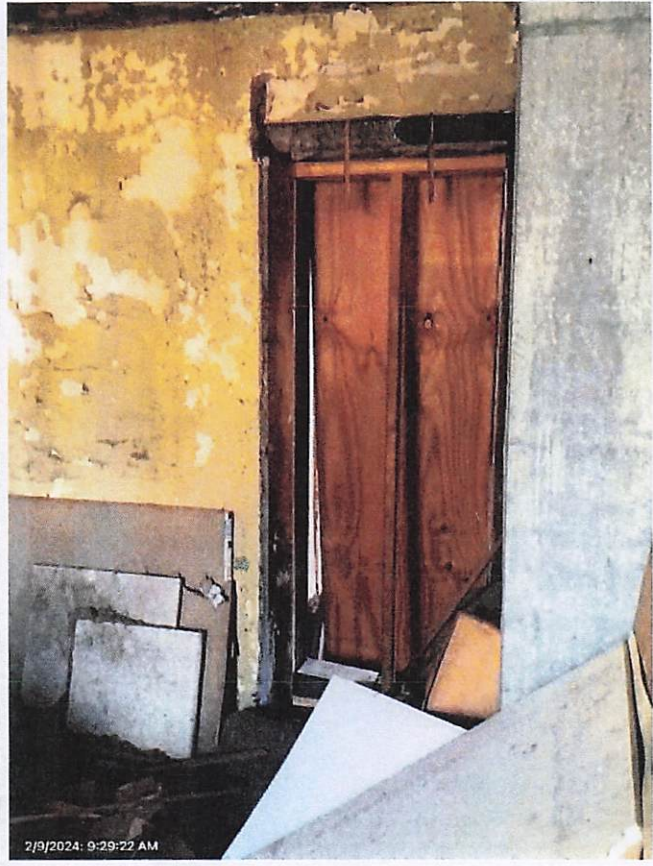
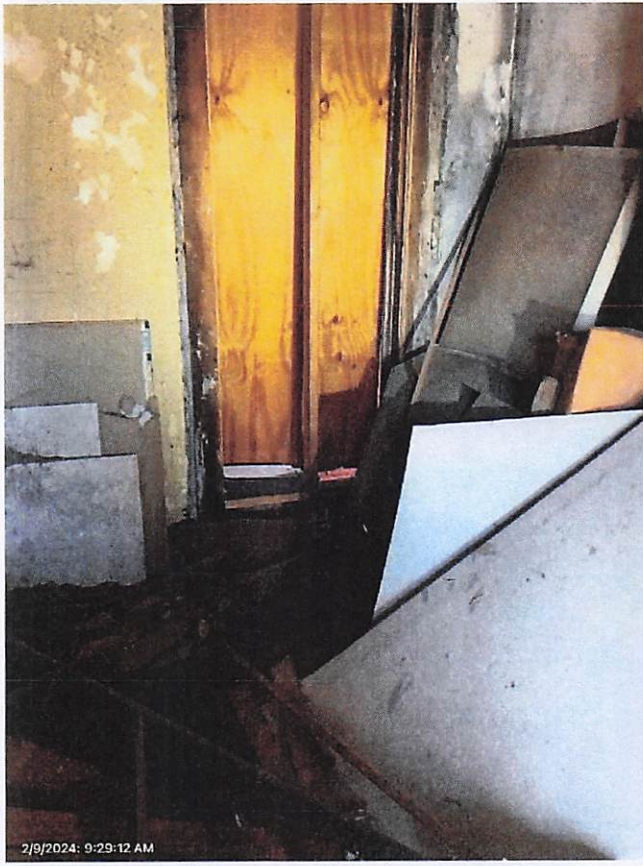
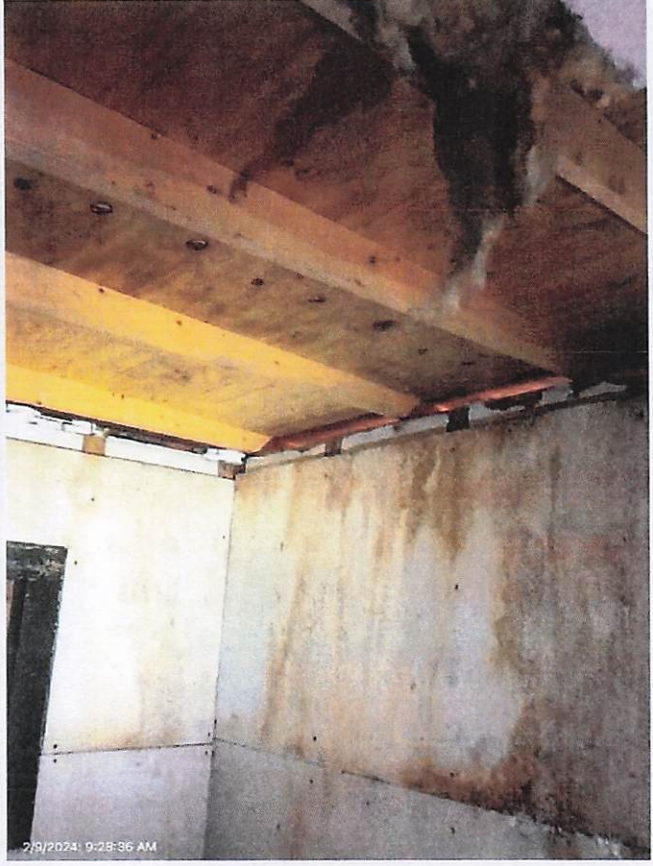


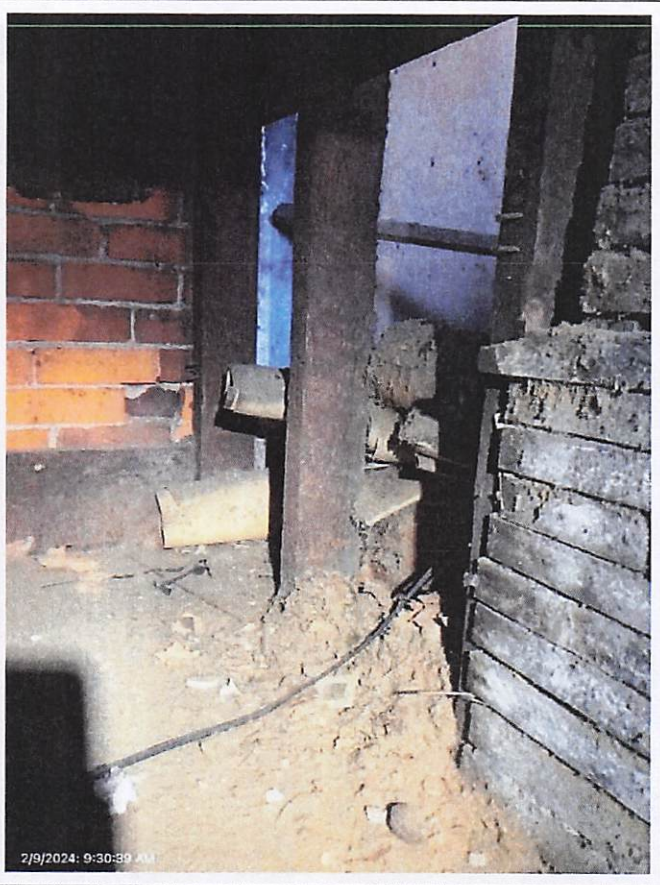
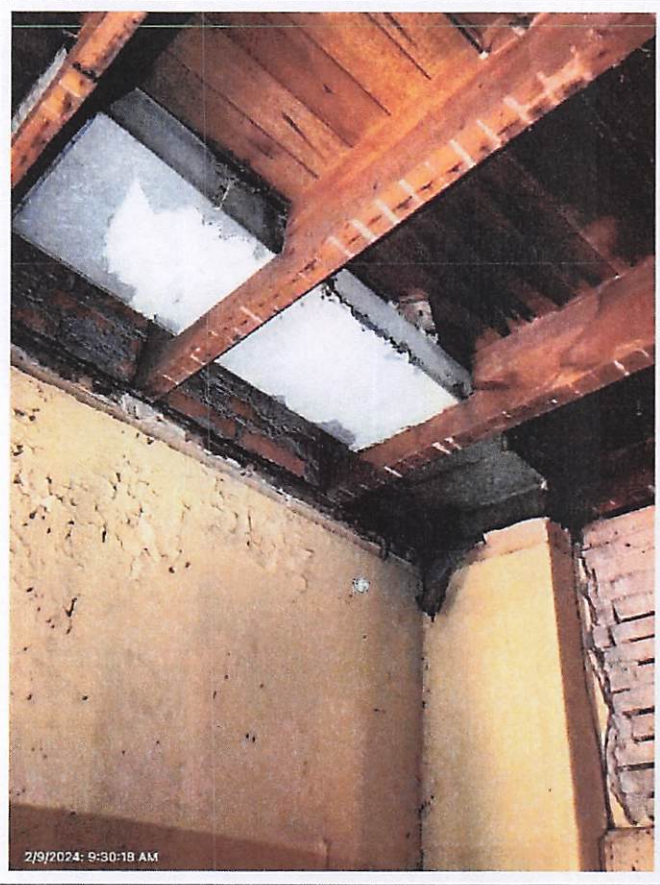
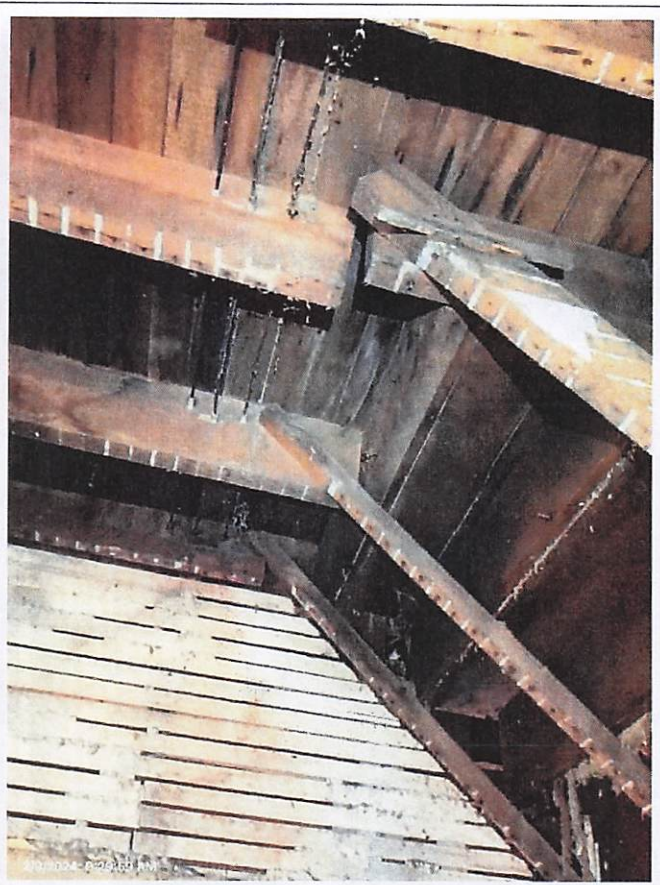
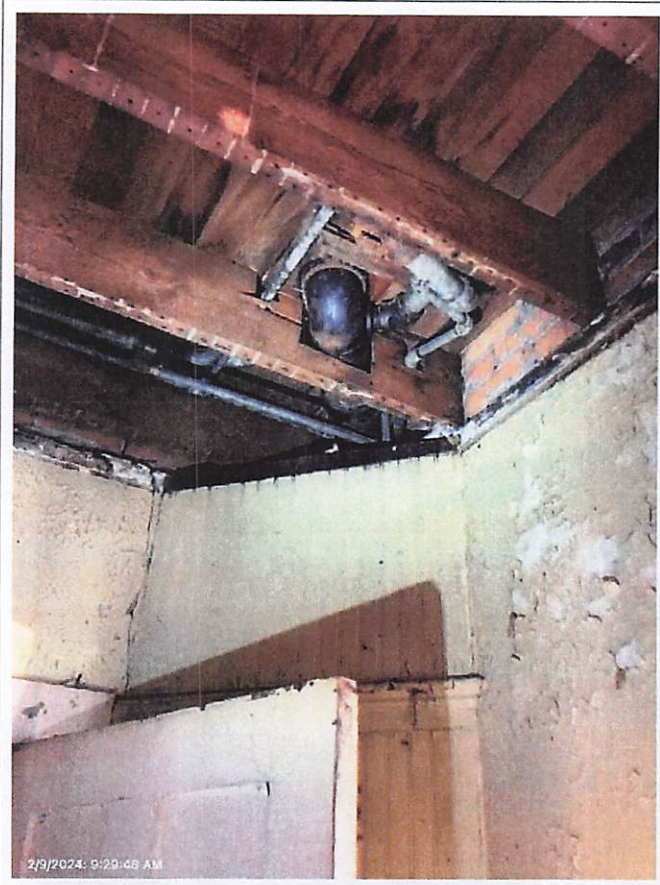


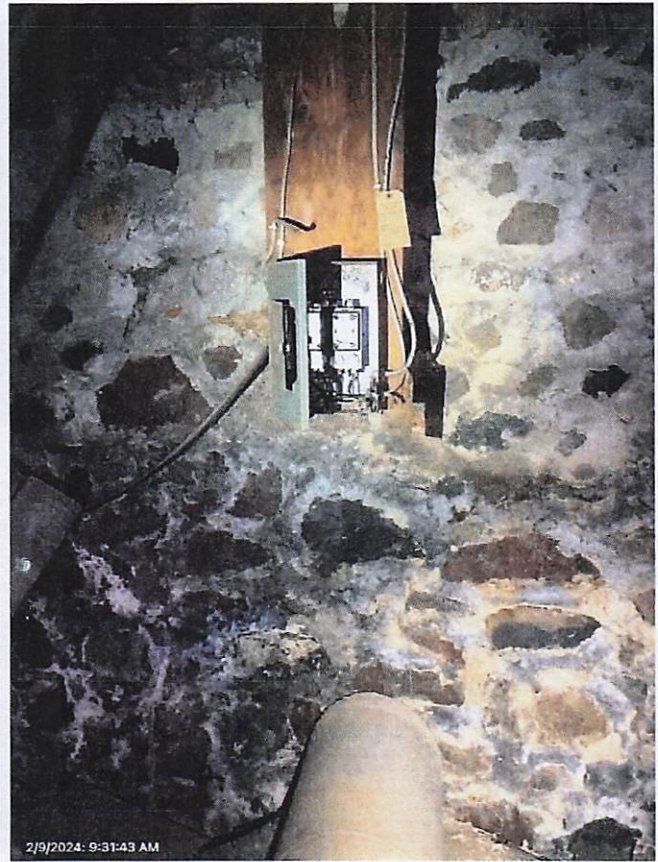


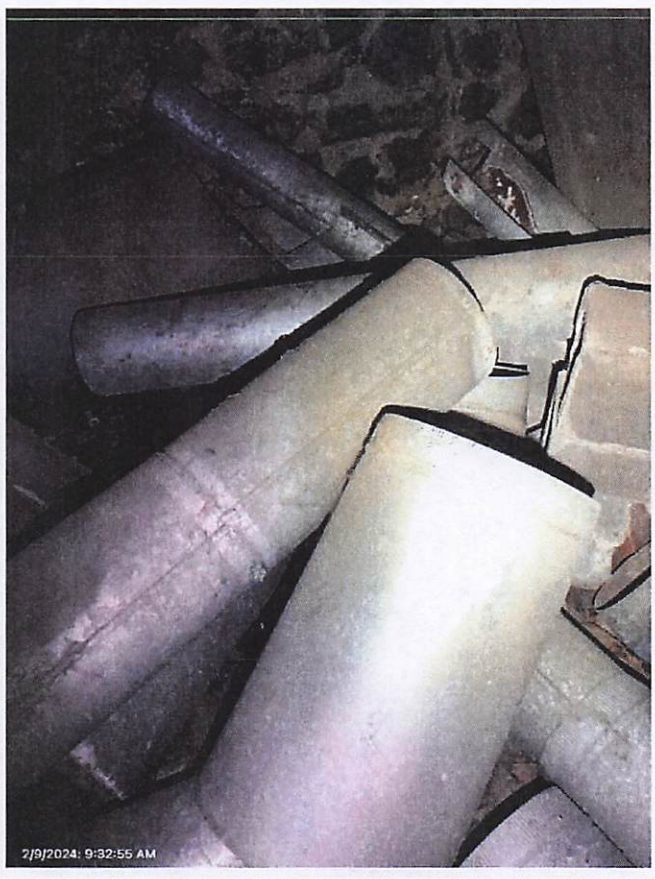
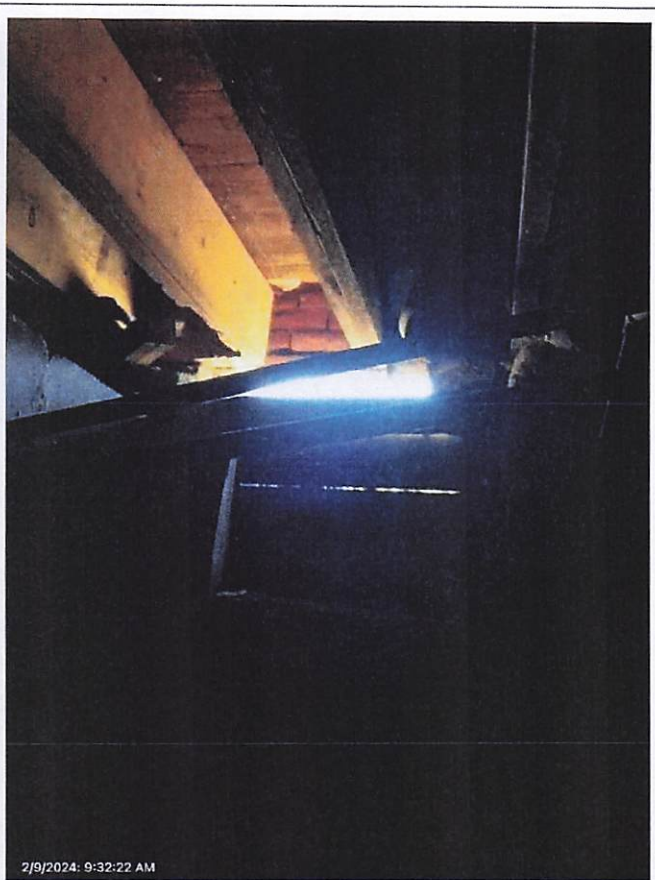


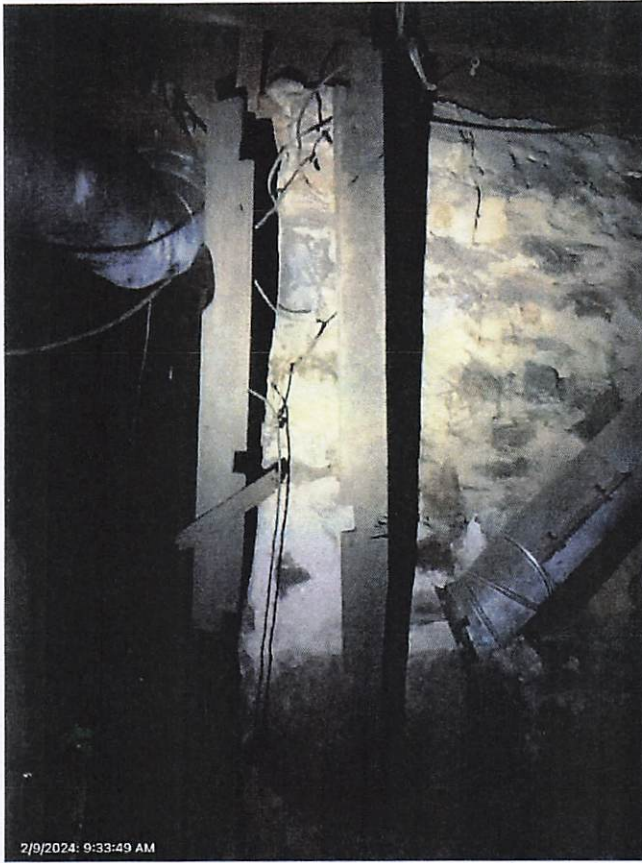




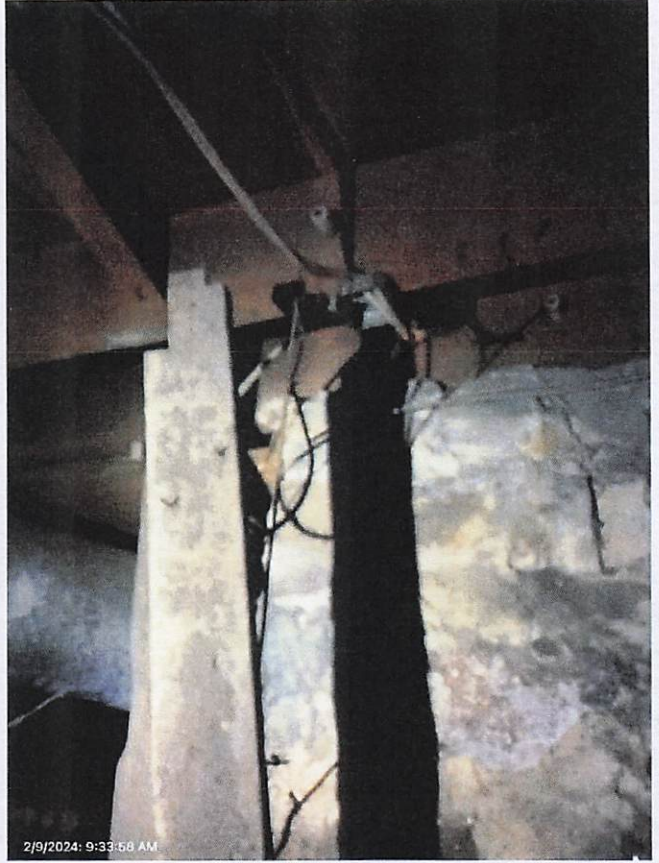








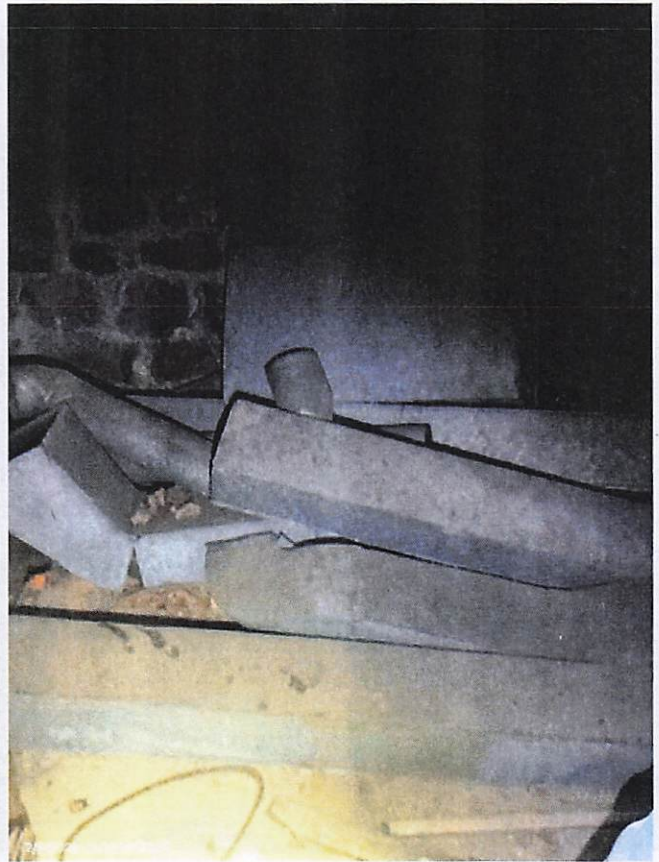
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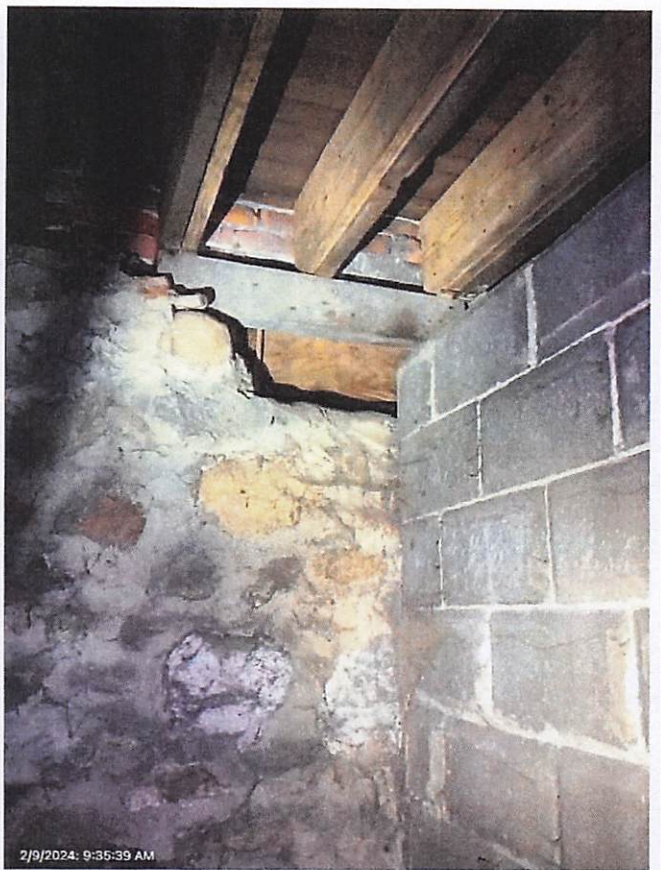


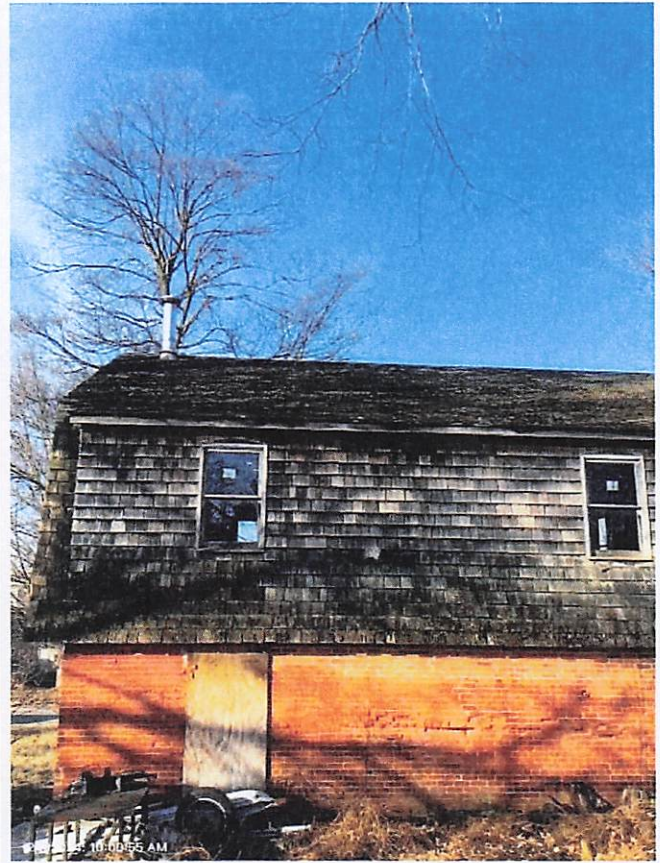
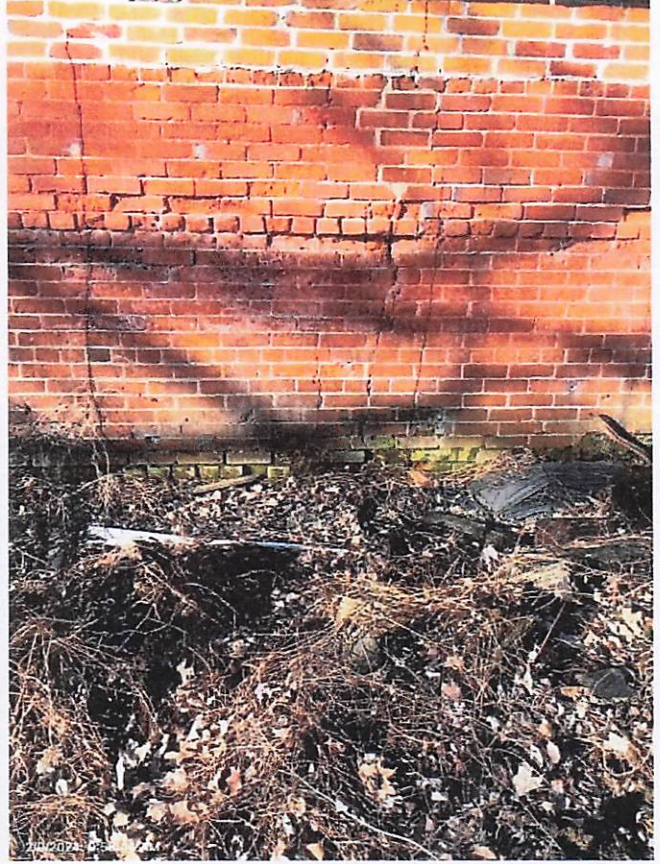
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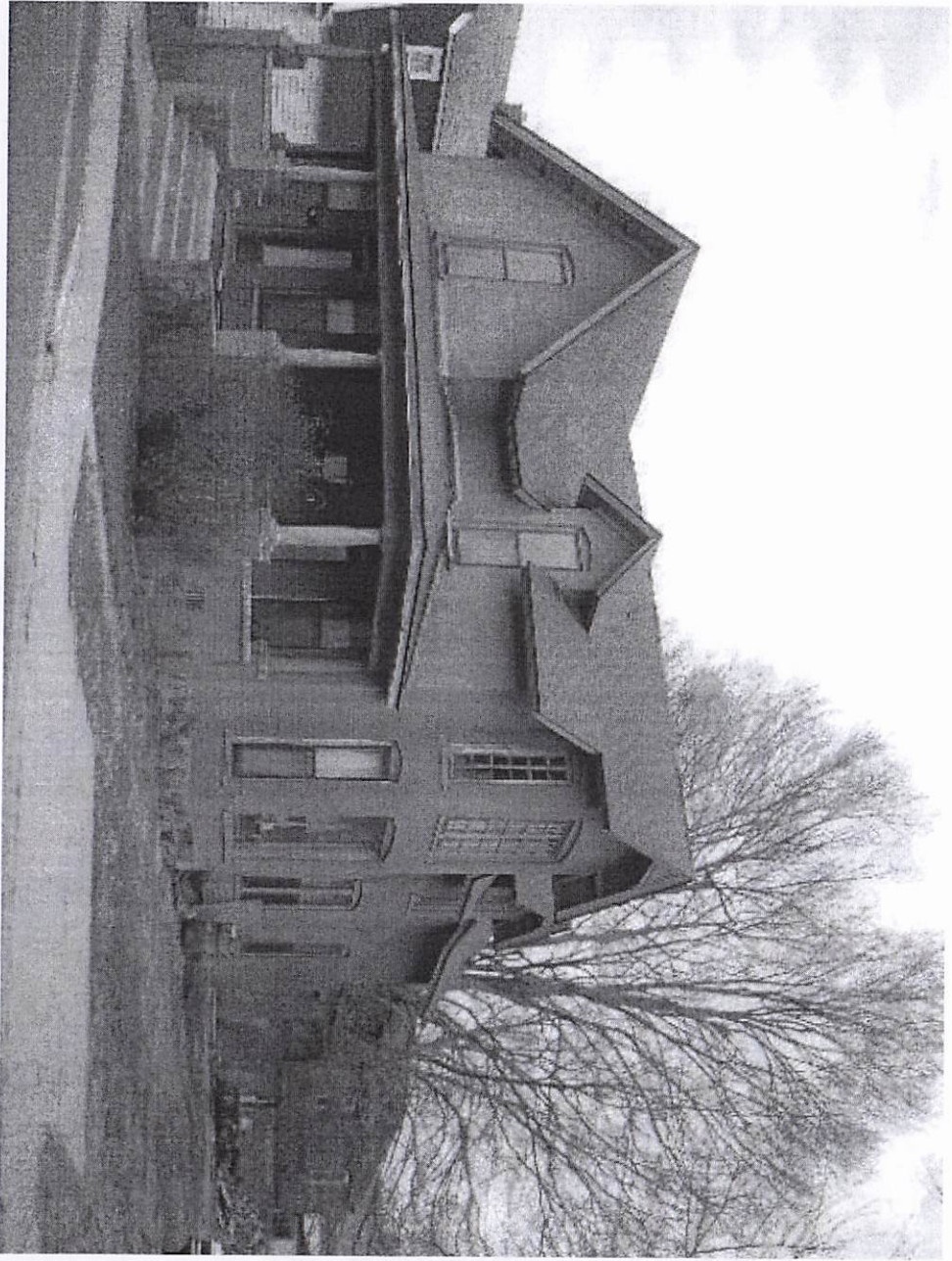


2/9/2024: 9:34:06 AM









PENGAD 800-631-6989

RESPONDENT'S
EXHIBIT
1



PENGAD 800-631-6989

RESPONDENT'S
EXHIBIT

2

Professional Resume

KEVIN M. FINN, P.E.

815 Waterbury Park Drive
Elkhart, IN 46517
(574) 537-1300
e-mail – kevin@kmfeng.com

Marital Status: Married

Birth Date: 9-24-57

PROFESSIONAL EXPERIENCE

Consulting Engineer – Kevin M. Finn, P.E., Inc.

June 2003 to Present

Design Certification of all aspects of modular construction including structural for approximately 60 manufacturers and design companies. Professional engineering certification for system and builder's permit packages. Work with manufacturers to produce small utility buildings to large modular complexes. Also, consult with local contractors on site installed buildings, as well as complete analysis on small golf cart bridges and short utility bridges that carry mid-size truck loads. Also, steel framing design and small stadium bleachers.

List of Clients -

All American Building Sys
Axis Construction Corp.
C & B Custom Modular
Chief Custom Homes
D & L Metal
DuPont Building, Inc.
Glenco
Hydro Extrusion
Lake City Manufacturing
Metropolitan Title
Modular Genius
New Era Building Systems
Palm Harbor Homes
Porta King
Rochester Homes
Simplex Industries, Inc.
Sustainable Modular
USA Modular
Whitson Builders

Architectural Group III
Black Creek Construction
Carlin Manufacturing
Clayton Homes
Dant Clayton
Fleetwood Homes
Holly Park
Integrity Homes
Little Buildings
Mobile Mini, Inc.
Module X Solutions
North American Buildings
Penn Fire
Pyramid 1, Inc.
S-B Design Group
Solarcraft
Triumph Modular
Vesta Modular
Wilkins' Mobile Builders

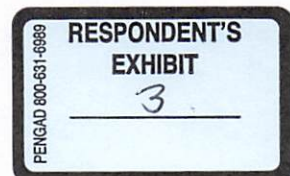
Amtex Corp.
Britco
Champion Homes
Commercial Structures
DFS Enterprises
Gilliana Pools
Hunter Knepshield
JLB Drafting
Meridian Title
ModSpace
MPA Systems, Inc.
Pac-Van
Picco Engineering
Ritz-Craft Homes
Simpad, LLC
Stephens Barrios
United Concrete
Whitley Manufacturing
Willscot, Inc.

The Commodore Corp.

May 1999 to June 2003

Goshen, IN

Managing Engineer – Same position as before with Commodore. With Commodore's permission, provided professional engineering consulting services for 15 commercial modular manufacturers separate from Commodore. Professional consulting practice more than doubled in this four year time period.



NTA, Inc.

September 1995 to May 1999

Nappanee, IN

Engineering Manager – Modular Building Services

Managing technical aspects of modular staff which designs and/or approves construction based on one or more of the three model building codes as applied by particular states as selected by client (modular building mfr). Areas of design or approval consist of structural, electrical, mechanical, thermal, fire safety, and plumbing. Staff includes two engineers, five plan reviewers and two CAD operators. Also, monitor testing div. conducting structural tests for manufactured homes (HUD units). Accomplishments include 100% increase in size of modular program. Also, involvement in litigation cases and acting as an expert witness.

The Commodore Corp.

July 1991 to September 1995

Goshen, IN

Managing Engineer – Develop engineering designs for modular & manufactured homes.

This included technical supervision of one product designer and a CAD staff of 7 operators which developed the floor plan, electrical, mechanical, and mechanical designs. As Commodore's engineering manager, it was my responsibility to develop structural designs for the homes factory built in Commodore's six plants. Additional responsibility included all technical aspects of assuring that all of Commodore's construction complied with the applicable building code via technical supervision of the quality control staff and production staff. Also, I responded to construction portions of all litigation cases against Commodore.

RADCO, Inc.

May 1989 to July 1991

Goshen, IN

Senior Consultant – Review structural, mechanical, electrical, plumbing and thermal engineering designs for modular & manufactured home manufacturers. A total of 7 mfr's design packages that handled out of the Goshen office with myself as the only DAPIA engineer. For separate mfrs, structural design systems were developed for residential or commercial modular application. One particular structural design system was for an MRI unit in a semi-trailer. All aspects of structural and fire separation were handled in this project.

Underwriters Laboratories, Inc.

May 1981 to May 1989

Northbrook, IL

Engineer to Senior Project Engineer – Initial assignment as an engineer was structural testing of air ducts and mobile home trusses. Responsibilities included coordination of test setup. Additional experience in flammability testing of various materials.

Professional Registration –

Registered Professional Engineer in 47 States – AL, AR, AZ, CO, CT, DL, FL, GA, ID, IA, IL, IN, KS, KY, LA, ME, MA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, & WY

Formerly BOCA Plans Examiner (Building, Mechanical, Electrical, Plumbing, and Fire Protection) – Allowed Certifications to lapse after leaving third party agencies.

Education

Bradley University – 1976 – 1981 Peoria, IL - BSCE Chicago, IL
University of Illinois @ Chicago 1988 to 1989 - Graduate Classes

KEVIN M. FINN, P.E., INC.

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Elkhart, IN 46517
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e-mail – kevin@kmfeng.com

April 10, 2024

Bodie Stegelmann
Board Attorney
City of Goshen Board of Public Works
204 East Jefferson, Suite 2
Goshen, IN 46528

Re: Structural Inspection – 205 Middlebury, Goshen, IN
Conducted March 28, 2024 and April 2, 2024

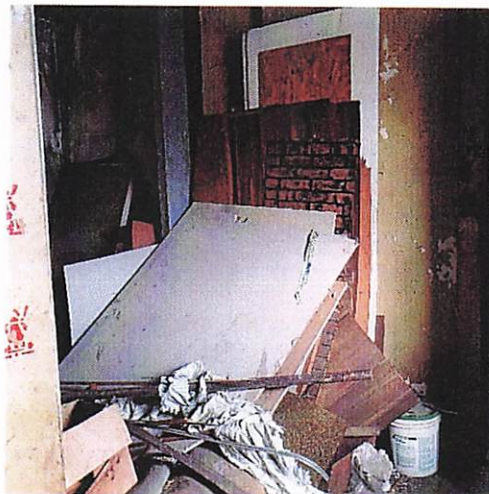
Dear Mr. Stegelmann:

Per Ron Davidhizar's request the above home was inspected for the current structural stability vs. the codes / loads as follows:

- 2020 Indiana Residential Code (2018 International Residential Code)
- Roof – 30 psf Ground Snow Load / 23.1 psf Flat Roof Load
- Floor Live Load – 40 psf
- Wind – 115 mph Vult, Exp. C
- Seismic Design Category – B

In general a lot of work needs to be completed to bring the home up to a reasonable standard. This report is addressing the items that are ok and also areas that need to be corrected.

There was a considerable amount of debris thru out the home.



A reinspection of the home maybe necessary to inspect areas that couldn't be seen.

KEVIN M. FINN, P.E., INC.

815 Waterbury Park Drive

Elkhart, IN 46517

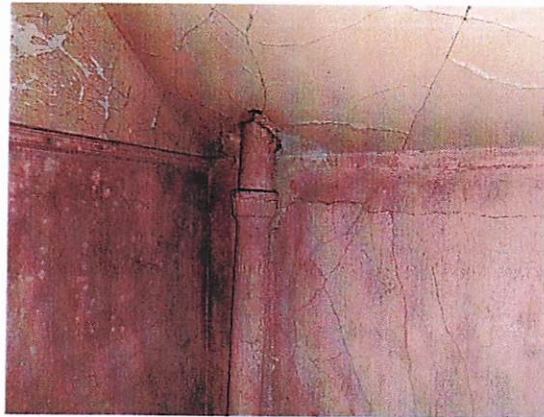
(574) 537-1300

e-mail – kevin@kmfeng.com

The floor joist supporting the 2nd floor is beyond the charts in the building code and analyzed in the attached calculation. This justified per the analysis for the 183” clear span. The photo below is showing the floor joist in good condition.



The cracks in the walls need to be addressed by removing the loose plaster and reinstalling the plaster in a craftsmanship like manner. An acceptable alternate design would be to remove the plaster and install gypsum drywall.



The attic access was nailed shut; if a reinspection is to be conducted, I will open this up to check the inside of the attic. The exterior of the roof (picture below) did not show any failing structural issues. The flat part of the roof was walked without any indication of structural soft spots or failing structural members. Reshingling of the sloped roof is necessary to develop the future longevity of the home.

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This area of the roof to wall transition needs to be addressed by removing the wall – ceiling plaster, cleaning any mold / dirt and reframing to solid lumber / brick load bearing wall. Picture below is of the decaying wall framing due moisture and other organic material continually getting wet.



The following crawlspace access was found the hard way. The section of floor decking at the bottom of the crawlspace was the access panel. It should be secured via a ledger or trimmer on all four sides and screwed down. Stepping on it and falling in was luck; not getting hurt. Needs to be remedied immediately to avoid future accidents.

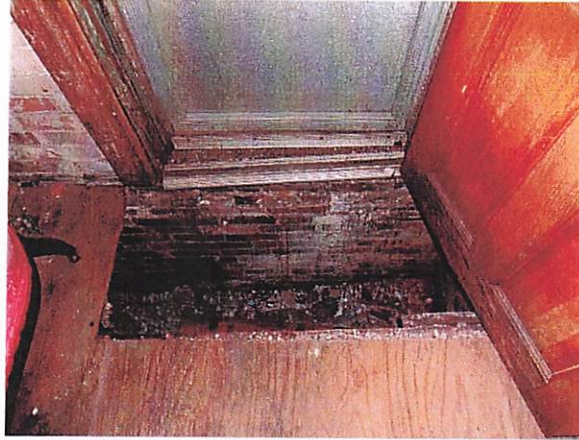
KEVIN M. FINN, P.E., INC.

815 Waterbury Park Drive

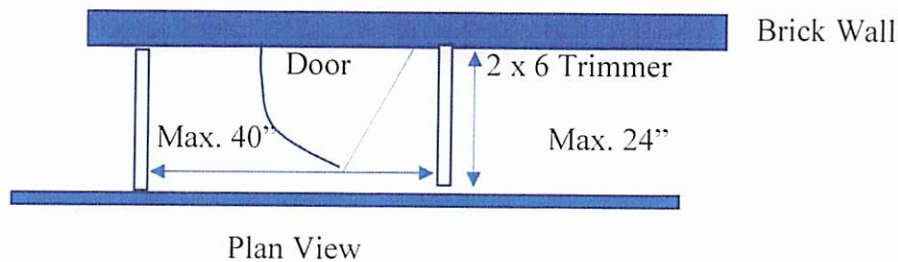
Elkhart, IN 46517

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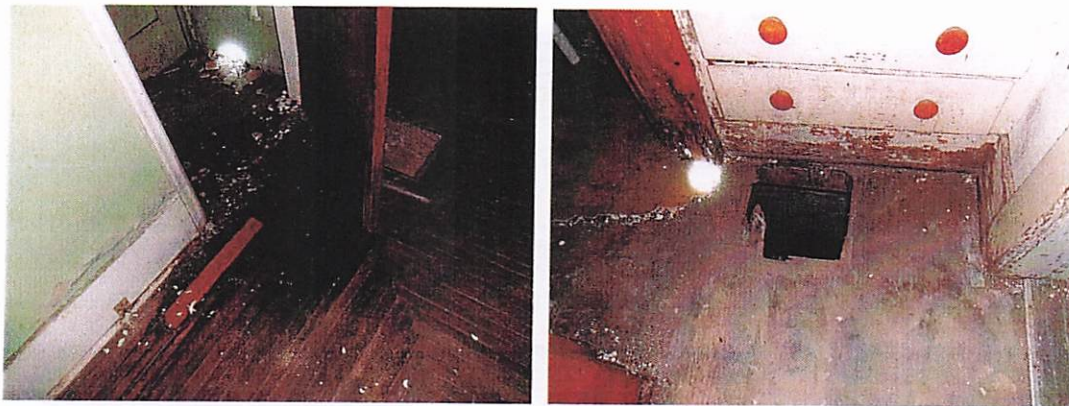


The recommended fix for the above panel just inside the door is to frame out utilizing the brick foundation wall and floor joist framing:



This a crawlspace and an 18 x 24\" access is required per the building code. In this application, it could not be found except this large hole would suffice until a permanent access is installed.

The pictures below are examples of areas to remove decking to solid limber, scab new lumber, and redeck.



The foundation inspection showed the foundation walls to be in solid shape, including based on the age of the home. Typical pictures below:

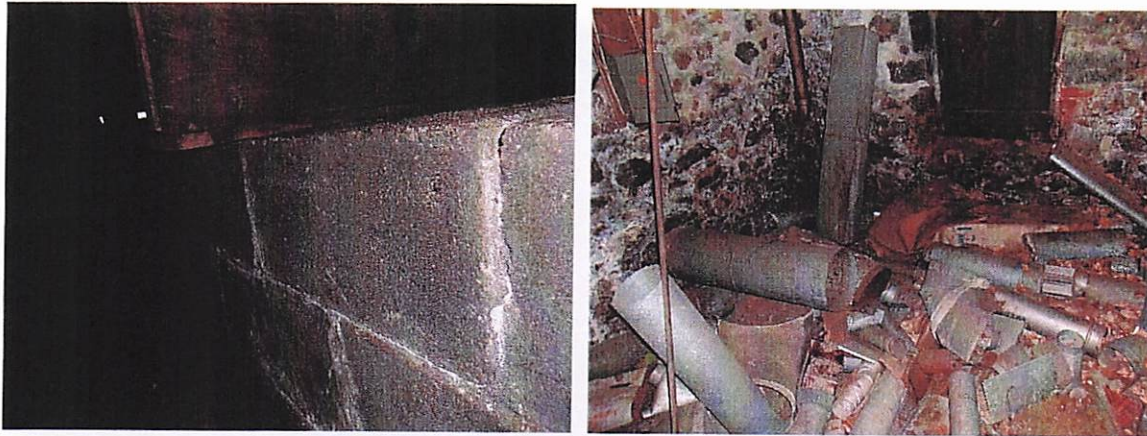
KEVIN M. FINN, P.E., INC.

815 Waterbury Park Drive

Elkhart, IN 46517

(574) 537-1300

e-mail – kevin@kmfeng.com



From 4-1-24 – it had been raining fairly steadily, so while completing the garage inspection, I returned to the home to look for water intrusion and any wet water spots.

Picture of the ceiling where there is a leak above causing deterioration in the wood lath. This must be torn out and connected to solid joist. Cut back on plaster – lath until 3 ft of solid lumber is found.



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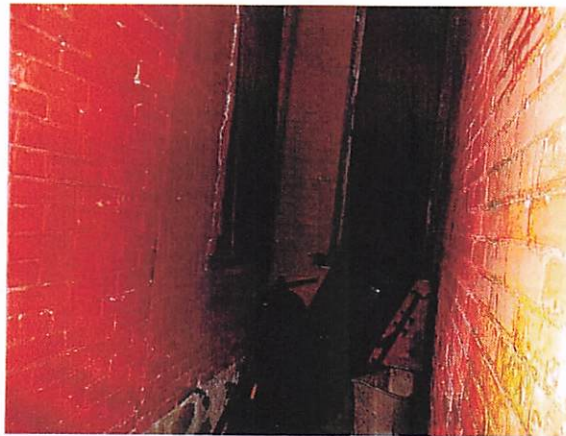
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The home has multiple exterior envelope openings which allows rain thru the exterior walls and roof. This causes deterioration which is not always seen through observation. As this has been open for years, it is clear that the structural demise is beyond what is reported here, hence the need for a reinspection.

The boarded up windows have been accessed again by either people or raccoons.



The picture below is of the water draining from the roof, down the wall into the basement. This needs to be corrected as it is allowing rain to infiltrate into the home and this hole is large enough for rats – raccoons.



Garage Roof – Item 10 – Roof covering to be replaced and this would resolve the hole in the garage roof.

Foundation Wall – Structurally, the foundation of the home is sufficient to support the home based on the above codes / loads. The penetrations thru the foundation wall need to be plugged and sealed for varmints and rain.

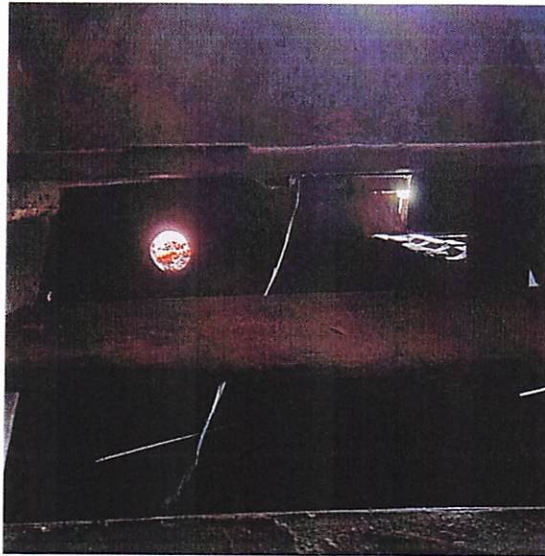
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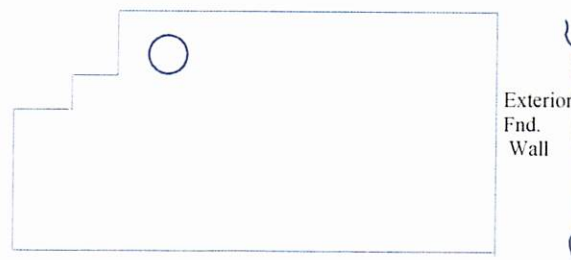


From the observations of the 3-28-24 and 4-2-24 inspections, this home and garage can be repaired contingent on the inspection of the cleared areas as suggested above.

This report addresses the concerns of :

Section 2

Item 1 – Foundation has cracks and holes that need to be filled and the foundation wall sealed. The interior cinder blocks are not part of the original foundation and as the CMU block wall currently stand are functioning as intended when the were installed many years after the original installation. This includes holes that have been placed in the



Item 2 – Ceilings are not the horizontal diaphragm of the structure. They are only there to cover the attic. They do need to be repaired. Reparation now will prevent potential further decay.

Item 3 – There were not any catastrophic failures. Many areas have rotted due to water intrusion. Repair as suggested in this report to bring the home into compliance.

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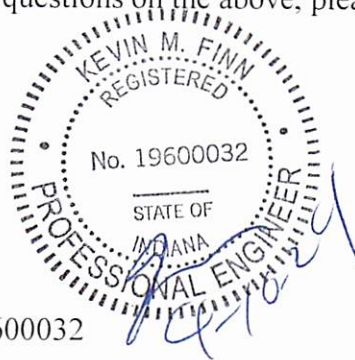
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Item 4 – The wall highlighted above is critical aspect of the entire home's structural repair, but after remediation will be as originally intended.

Section 3 – I did not see any portion of the garage is beyond repair. Remove debris, then reassess including 2nd floor girder.

Should you have any questions on the above, please do not hesitate to contact the undersigned at the above address.

Sincerely,



Kevin M. Finn, P.E.

IN P.E. License # 19600032

THIS CALCULATION IS AN ANALYSIS/DESIGN OF A FLOOR JOIST. ALL PARAMETERS OF THE DESIGN ARE INDICATED AS SUCH. PROGRAM DETERMINES THE MAXIMUM CLEAR SPAN (L).
205 MIDDLEBURY, GOSHEN, IN
EFFECTIVELY 2 X 7.5" WOOD FLOOR JOIST

SITE CONDITIONS -

FOR FLOOR JOIST IDENTIFIED
UNIFORM LOAD = (LIVE + DEAD) x FLOOR JOIST SPC = W = 73 plf = 6 pli
LL ONLY W' = 5 pli
TOTAL TRIBUTARY WIDTH = 17.5" OF FLOOR FEEDS JOIST

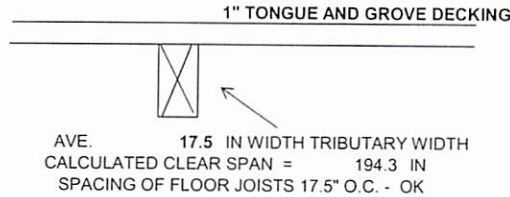
FLOOR LIVE LOAD = 40 PSF
FLOOR DEAD LOAD = 10 PSF
17.5 IN

MATERIAL & PHYSICAL PROPERTIES -

2 X 7-1/2" SPF
WOOD JOIST #2 GRADE

ON EDGE

t (in) = 2.00 in
d (in) = 7.50 in
I_o (in⁴) = 119.53
S_x (in³) = 31.88
b (in) = 1.5
A (in²) = 15.0
A_c (in²) = 3.0
E (psi) = 1.4E+6
F_b (psi) = 875
F_v (psi) = 135
F_{cp} (psi) = 425
CD = 1
CF = 1
Cr = 1.15



AVE. 17.5 IN WIDTH TRIBUTARY WIDTH
CALCULATED CLEAR SPAN = 194.3 IN
SPACING OF FLOOR JOISTS 17.5" O.C. - OK

ALLOWABLE SPAN BASED ON BENDING

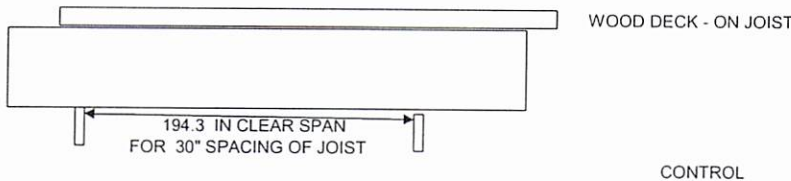
F_b' = F_b x CD x Cr x CF
f_b = WL² / (8 x (S_x))
L = [8 x (S_x) x F_b' / W]^{0.5}

ALLOWABLE SPAN BASED ON SHEAR

F_v' = F_v x CD
f_v = 1.5W(L - 2d) / (2 x A)
L = F_v' x (2 x A) / (1.5W) + 2d

ALLOWABLE SPAN BASED ON DEFLECTION

LL deflection = 5W²L⁴ / 384EI L / 240
L = [384EI / 1200W²]^{0.333}



CONTROL

	<u>BENDING</u>	<u>SHEAR</u>	<u>LL DEFLECTION</u>	<u>DL DEFLECTION</u>	
2" X 7.5" WOOD FLOOR JOIST #2 GRADE SPF	205.5	459.343	194.27	205.5E+0	194.3 IN - OK - 183" AS MEASURED
	COMPOSITE 1" EQUIVALENT DECKING TO JOIST				

REACTION OF JOIST ON 10 FT OPENING
REACTION = 364.6 LBS CONTACT AREA OF JOIST ON GIRDER = 2.25 IN²
f_c = 162.0 PSI VS. ALLOWABLE = 425 PSI

GARAGE
205 MIDDLEBRUY
GOSHEN, IN

SUBJECT: FLOOR JOIST GIRDER CALCS
Date: 4/10/2024
2012 NDS

Engineer: Kevin M. Finn, P.E., Inc.
815 WATERBURY PARK DRIVE
ELKHART, IN 46517
IN PE LIC. NO. 19600032

THIS CALCULATION IS AN ANALYSIS/DESIGN OF A RIM JOIST AS A FLOOR GIRDER. ALL PARAMETERS OF THE DESIGN ARE INDICATED AS SUCH. PROGRAM DETERMINES THE

ORIGINAL TRIPLE 2 X 10 WOOD GIRDER

THIS ANALYSIS IS BASED ON STANDING AT THE DOORWAY LOOKING IN AND ALSO LOOKING THRU WINDOWS. FURTHER CONFIRMATION WHEN DEBRIS IS CLEARED OUT.

MAXIMUM CLEAR SPAN (L).

SITE CONDITIONS - FLOOR - 40 PSF FLOOR / 23.1 PSF FLAT ROOF LOAD FROM 30 PSF GROUND SNOW LOAD
ROOF AND FLOOR LIVE LOADS = 63.1 PSF TOTAL TRIBUTARY WIDTH = 180 IN
TOTAL DEAD LOAD = 30 PSF (ROOF, WALL AND 2ND FLOOR)

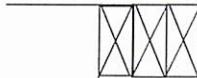
UNIFORM LOAD = (LIVE + DEAD) x UNIT WIDTH = W = 1396.5 PLF = 116 pli
LL ONLY W' = 78.9 pli

MATERIAL & PHYSICAL PROPERTIES -

WOOD GIRDER
TRIPLE 2 X 10
ON EDGE
t (in) = 4.50 in OF TRIPLE MBR
d (in) = 9.25 in
I_o (in⁴) = 296.79
S_x (in³) = 64.17
b (in) = 7
A (in²) = 41.6
A_c (in²) = 31.5
E (psi) = 1.4E+6
F_b (psi) = 875
F_v (psi) = 175
F_{cper} (psi) = 425
CD = 1.15
CF = 1.1
C_r = 1.15



180 IN - AVE. WIDTH OF ADJACENT FLOOR JOIST WIDTH



CURRENT REQUIRED CLEAR SPAN AS EXISTING
= 172 IN (14.33 FT)

4-1/2 X 9-1/4"
CALCULATED CLEAR SPAN = 74.9 IN
REQUIRED 172" CLEAR SPAN

BUT TRIPLE 2 X 10 GIRDER NOT ALLOWED TO EXCEED 74.9 IN < THEREFORE, FAILS

ALLOWABLE SPAN BASED ON BENDING

F_b' = F_b x CD x C_r x CF
f_b = WL² / (10 x S_x)
L = [10 x (S_x) x F_b' / W]^{0.5}

ALLOWABLE SPAN BASED ON SHEAR

F_v' = F_v x CD
f_v = 1.5W(L - 2d) / (2 x A)
L = F_v' x (2 x A) / (1.5W) + 2d

ALLOWABLE SPAN BASED ON DEFLECTION

LL deflection = 5WL⁴ / 384EI L / 360
L = [384EI / 1800W]^{0.333}
SIMPLE SPAN ANALYSIS FOR DEFLECTION
CONSERVATIVE - OK

ALLOWABLE SPAN BASED ON COMPRESSION

C_b = (b + 0.375) / b = 1.054
f_{cper} = WL / (2 x A_c)
L = F_c x C_b x A_c x 2 / W

	L (in.)	L (in.)	LL ONLY
WOOD GIRDER	74.9	114.477	103.92
4.5 X 9-1/4"			
OF TOTAL 4.5" WIDTH			

CONTROL

74.9 IN - NOT ADEQUATE
80.9 IN - INSUFFICIENT
ALLOWABLE TOTAL SPACING
REQUIRED CLEAR SPAN = 172 IN < 74.9 IN
THEREFORE FAILS BY 229%

