

MINUTES OF THE MEETING OF THE ZONING BOARD OF ADJUSTMENT

Tuesday, July 28, 2020 - 4:00 p.m.  
Council Chamber  
City Hall

Pursuant to notice, the Zoning Board of Adjustment of the City of St. Joseph met in the Council Chamber, City Hall, on Tuesday, July 28, 2020 at 4:00 p.m.

	<u>Name</u>	<u>Members' Term Attendance</u> (mtgs attended-mtgs absent)	<u>End of Current Term of Office</u>
<b>MEMBERS PRESENT:</b>	G. Brent Powers	(30-03)	02/22/21
	Joe Morrey	alternate member	12/21/20
	Terry Hall	(31-03)	06/22/20
	Michael Grimm	(04-00)	05/21/24
<b>MEMBERS ABSENT:</b>	Byron Myers Sr.	(16-11)	02/23/24
	Terri Lowdon	(20-03)	03/14/21
<b>STAFF PRESENT:</b>	Ted Elo, Assistant City Attorney		
	Patrick Ruiz, Assistant City Planner		
	Zack Martin, City Planner		
	Rebecca Shipp, Executive Administrative Assistant		

2020 AUG -4 AM 8:58  
CITY CLERK

Four members constitute a quorum (Four votes required to approve a request).

Powers called the meeting to order at 4:00 pm.

*(Verbatim transcript starts)*

Powers: Alright, ah, my name is G. Brent Powers and I am the chair of the Board of Zoning Adjustment. And I call this meeting to order. We do have certified copies of Chapters 11, 26 and 31 available and I hereby admit them into evidence for purposes of today's meeting. We've also been handed certified copy of the ordinance adopting the revised downtown precise plan to apply to the P-1 downtown precise plan zoning district we can also admit into evidence. Can we have a roll call please?

**Roll call: Lowdon – absent, Hall – present, Grimm – present, Myers – absent, Powers – here, Morrey- here.**

**Present-4, Absent -2.** Quorum is present

Powers: Okay, we have a quorum however it will take all four affirmative votes to affirm the requested variance and perhaps the interpretation. I want to be clear on that.

Powers: If no one has an objection I would like to move the approval of minutes to, uh, of the past meetings, to uh, to the, after the hearings we are scheduled to conduct.

Hall: So moved

Powers: Any objections?

\*No one spoke\*

Powers: Okay, we'll get that done. And, let me read the following rules of conduct. The following rules of conduct have been adopted by this Board: If you're going to speak, please give your name and complete address, no one may speak more than twice on the same item, no one may speak more than ten minutes at a time without permission from the Chairperson, no one may speak a second time on a question until everyone who wants to speak has done so. All submissions of evidence, in other words, photos, drawings, will be retained by the Board of Adjustment and will become a part of the permanent file. What that means is, if you hand it to us, we will keep it. We cannot give it back to you. It becomes a part of the record.

Powers: So, to remind all present we are a volunteer board. We are not a part of the City government. We volunteer. We are not paid a dime for doing this. So.

Powers: Item #1 is case # 2479 which is a request for an exception from Section 31-054 and any and all other sections of section Chapter 31 of the Code of Ordinances necessary to allow a sight obscuring fence within the line of visibility in the corner and crossing of the front yard on the property located at 102 S 19th Street. Does the City have a report on this?

Ruiz: Uh, yes. Um, the request is for an exception uh, to allow a sight obscuring fence in the line of visibility in the corner crossing the front yard. Uh, the fence will be in the location that is higher in grade than the two streets running parallel which is Felix Street and 19<sup>th</sup> Street which is the intersection. Um, City Staff recommends denial due to the fact that it might cause hardships to traffic that are driving by that intersection.

Powers: Any questions for the City?

Hall: No

Morrey: Yeah, I just ran by there to make sure I understood what it looks like.

Ruiz: Uh-huh

Morrey: There is an existing fence there. Is that correct?

Ruiz: I think there was an existing chain link, yes.

Hall: Well, it's not a chain link. It's, uh, wrought iron

Morrey: It's a board fence.

Hall: It's open wrought iron fence at that corner.

Morrey: Maybe I was looking at the wrong fence, sorry.

Ruiz: Well, I do know that there was a fence but

**\*\*Inaudible\*\*** several speaking at once

Morrey: What about the applicant? Are they here?

Ruiz: No, they're not here

Morrey: Is it right by the basketball court?

Ruiz: Yeah, it's kinda close to the basketball court, yes

Morrey: Right across the street?

Ruiz: Uh-huh

Morrey: There's a board fence there. It's very odd. One of them is a full-size board fence. And then

Ruiz: There are pictures on the staff report that shows the intersection. As you can see there's trees there and then with the foliage it kinda already disables the sight visibility around that area. So, if you put another fence there that's sight obscuring it would cause even more obstruction to the intersection.

Hall: You couldn't see around the corner if there was a fence there.

Powers: Is there anyone here to speak on behalf of the application? I see no one. Were required notices sent to the uh, appropriate property owners or adjacent or within the distance required by the ordinance requiring notification?

Shipp: Yes. Yes, they were.

Powers: Did we receive any objections?

Shipp: I did not.

Powers: Any discussion by the board?

Hall: Mr. Chairman I call the question.

Powers: It's been called. Second?

Grimm: Second

Powers: Okay. Go ahead and have a roll call vote.

**VOTE: Hall – deny, Grimm – denial, Powers – no, Morrey-nay  
Yes-0, No -4, Abstain-0 Request denied**

Powers: Well, that failed. Okay. Thank you. Now, moving on to our revised agenda which is Item #2. Item #2 is not a case. Appeal of administrative interpretation of zoning code regarding property located 513 Felix Street.

Powers: Does the City have a report on this?

Ruiz: Uh, yes. Based off the City Staff's interpretation of the precise plan, um, it states in Section 31-103 certificate of appropriateness uh, permit process: No building permit, whether to erect, construct, enlarge, alter, repair, move, improve, remove, excavate for, convert or demolish any building, structure or utility, shall be issued with respect to any real property located within the downtown precise plan area except in accordance with the terms and provisions of the certificate of appropriateness as approved by the downtown review board if property is located in the downtown precise plan area. So, that's what we've interpreted that they needed to go in front of the downtown review board before we could officially give them a permit to demolish the building.

Powers: Have they gone in front of the Downtown Review Board?

Ruiz: No

Hall: So, that's, that's the reason that we denied the uh, demolishing permit even after the affirmation through the court?

Ruiz: Yes

Hall: Ted were you a part of that process?

Elo: Yes, I was. I represented the City in the Circuit Court um, which resulted in an amended order being approved uh, by Honorable Kate Schaefer uh, making the determination that the, that the building was a danger to the public health, safety and welfare. That the building was dangerous, and that the building in the opinion of, and the position of the Chief, Interim Chief Building Official uh, needed to be demolished and that was incorporated by reference in the judicial findings.

Powers: Counsel, so, uh, this was kind of thrust upon us at the last minute. Was the order um, that was made in accordance with the city ordinances was, was, was the fact that, does that override the downtown?

Elo: The applicant is here if they wish to speak. The authority under which you are hearing this is 31-091 um, appeals to the board may be taken by any person aggrieved, by any officer, department, board or bureau of the municipality affected by the decision of the Chief Building Official or City Planner. Such appeal shall be taken within five days from the date of the decision of, of the official uh, by filing with the officer from whom the appeal is taken and with the board of adjustment's notice of appeal uh, specifying the grounds thereof. So, uh, the appeal was filed yesterday. By happenstance there was a meeting today. Otherwise, there may have been the necessity for a special meeting um, within the \*inaudible-coughing\* specified timeframe. So, that's the issue. Um, as I understand it, um, you know, I'll let the applicant set forth their position but that's the authority and that's what happened with the uh, dangerous building procedure.

Powers: So, we're sitting in our capacity as a quasi-, quasi-judicial interpretative body today?

Elo: Yes. You are.

Powers: Alright. I understand that. So, is there anyone here to speak on behalf of the request?

\*walking towards podium-unidentified\* yes, and would you mind if I removed my mask?

Powers: Not at all, I would prefer it.

\*from podium-unidentified\* thank you, now you know what I look like.

Edlow: My name is David Edlow. Um, I am the agent, not an attorney. I am the agent for Mr. Ramming, Mr. Bigham. Um,

Powers: Before you begin Mr. Edlow, can you state your address for us?

Edlow: Yes, 406 W 1<sup>st</sup> Street, Carrolton, Missouri 64633.

Powers: And, can I swear you in?

Edlow: You can.

Powers: Do you swear to tell the truth and nothing but the truth?

Edlow: Absolutely

Powers: Okay, please proceed.

Edlow: Thank you. Ladies and gentlemen, um, it's pretty simple um, from Mr. Bigham and Mr. Ramming's spot. They were um, asked by the City to participate, or ordered by the City to participate, in a dangerous building proceeding. They were also ticketed on several occasions for the, for the building. I don't know if you are aware the building was damaged as a result of the pioneer building fire.

Powers: Yes

Edlow: Um, so they've been fighting an uphill battle ever since that fire occurred. And so, subject to the City citations for dangerous building and then having to go through the dangerous building proceeding with the hearing and, and things um, and the expense of all that. They cooperated 100%. An order was issued to demolish the building. So, they've, they've taken steps to do that. That order actually was filed with the court because of the underlying administrative appeal. So, I heard a question a moment ago, what supersedes the other? I believe Mr. Ramming and Mr. Bigham believe that the order of the circuit court takes precedent over something else that, that might be underlying here. I also heard that possibly there's another review board that could hear this first. I believe Mr. um, Ramming was told that that would be in September. Um, and if it's a forgone conclusion that they have to comply with what the City has already ordered them to do that is a delay and as the building, Chief Building Official said or the interim, excuse me, said it is a danger to the public health and safety of the community and it needs to be demolished. They want to get it demolished. They are ready to do that.

Edlow: They've done their preliminary work for hazardous waste and don't understand why they're even having to be here today. So, um, and that's with all due respect. It is, they would like to get some finality to this so they can get the building taken care of and that downtown area isn't an eyesore and isn't unsafe anymore. Um, that's, that's the gist of this. We, um, oh, they're kind of in a dilemma too. If they don't repair it, they're going to continue to get citations. If they attempt to tear it down, they're going to continue to get the wrath of the organizations they've been in front of. They've been told by the Interim Chief Building Officer – tear it down. There were other options. And there was opportunity for everybody to be there. And I believe the representative from the review board that you had mentioned earlier was there and was an active participant at the hearings for the um, ah, to determine if the building should be torn down. Okay. So, they had an opportunity to do that an appeal everything else they needed to do at that time. So, with that, I open myself, Mr. Ramming and Mr. Bigham for questions. Thank you for your time.

Morrey: May I ask a question or two?

Powers: Joe, Mr. Morrey, could you just pull your mask down so I can hear you.

Morrey: I'm sorry. I'm sorry.

Powers: I left my hearing aids at home

Edlow: I know what he looks like. I've met him before.

Morrey: The, was there an estimate done to repair building?

Edlow: There was

Morrey: And what was it?

Edlow: \$575,000

Morrey: Did it have a value before...

Edlow: It did

Morrey: ...the fire?

Edlow: 135,000

Morrey: And the City found it to be repairable or non-repairable

Edlow: The decision was that it needed to be torn down. It was, the finding was, that it was a dangerous building. And before you forget the judgment, the order of the, of the uh, CBO, I believe. I hope you have that in front of you. It, um, it was attached to the request for this hearing. And um, I don't have a copy, but we would like to make it part of the record. I'd ask Mr. Elo if he has a copy.

Elo: It is a part of the record and um, and the, the members of the board should have that, the letter that Mr. Ramming submitted yesterday. And the judgment entry.

Powers: Yeah

Edlow: I believe out of the 11 possible findings for dangerous buildings, ten of them were found.

Morrey: I just have another question or two. This Precise Plan downtown, were these two gentlemen aware they were supposed to request or run it in front of that committee for their approval to demolish?

Edlow: I, you know, that was um, brought up I believe Monday or Tuesday. Um, it was surprising they got me involved. Very surprising because there was a court action, an, an order and the development review person, chairman, was at those hearings.

Morrey: And never mentioned it?

Edlow: Well, I don't believe they offered an objection um, to the, the finding. Um, I actually think there's uh, some communication out there somewhere that they had no dog in that fight. And, um, so to answer your question, they know now. But I think it's their position, Mr. Morrey, that they already have a court order telling them to be demolished, they already have uh, violations that are actually being heard on Friday in, in the civil court downstairs, or at the courthouse. And um, they've already been subjected to the hearing for determining whether it should be torn down or repaired. And it was ordered to be torn down.

Morrey: Okay

Edlow: And, and I guess the interpretation we're looking for Mr. Morrey is that somebody downstairs says it needs to go in front of the review board our clients don't believe, don't believe it needs to go in front of the review board. We believe that you have the authority and the court has already issued its ruling that it needs to be torn down and that's where the interpretation comes in.

Morrey: Okay

Edlow: Does that answer your question? Kind of?

Morrey: As much as you can.

Edlow: Okay. Thank you.

Morrey: Thank you. The rest is subject to legal interpretation. Can I inquire a \*inaudible\*

Powers: Absolutely you may.

Morrey: Ted, is this uh, downtown review board a quasi-governmental entity?

Elo: Yes, it is.

Morrey: And, is there any explanation for how this requirement didn't get brought up in that proceeding?

Elo: I don't know. I was at the proceeding. Um, the proceeding was actually held over the course of three or four days. It was postponed several times. Um, as to why, I don't recall the requirement ever being stated to my, I mean, I can go pull a couple hundred-page transcript and review the official record of the hearing. But to my best knowledge and recollection under oath there was never any statement made that they needed to go to the downtown review board. The Historic Preservation Planner was present at the meeting. Um, and, and made a statement about the building of which I cannot remember. Um, if you want me to go down the hall and get the transcript

Morrey: No. I think our concern here is, which I think you understand, this board is, had the judge been aware of this requirement

Elo: The judge, to my knowledge

Morrey: Would she have ruled differently or say you need to go over there first before I can overrule it.

Elo: I, I, I don't think the judge was aware of the, of the requirement that the position um, of the city is that there needs to be the downtown review board appeal. The position of the applicant is that the court's order takes priority because of the condition of the structure over uh, the zoning document. That's what uh, what they indicated to me in electronic communication. So, um, it's up to you to determine whether the City's interpretation is correct or whether the applicant, uh, Mr. Ramming and Mr. Bigham, interpretation is that uh, the Interim CBO's order determining the building to be dangerous, injurious to the public health, safety and welfare takes priority over the downtown precise plan. That's the issue that you have to decide.

Edlow: If I may, um, I might be able to shed some light on your question, Mr. Morrey.

Morrey: Uh-huh

Edlow: In the transcript of the proceedings which lasted three to four days over a period of four to five months, um, there was a colloquy between the chief building officer and um, in reference to the developmental department review that's what we're talking about. And the question was asked do I, I'm, I'm giving you the reader's digest version, do I have to seek information from the downtown development before I can make a decision? And the answer to the hearing officer I believe might have come from Mr. Elo was no. You have the say as to what happens with this building. In regard to the judge, the judge received an administrative appeal with all the records and there was a big brief file. And there was that section was brought out um, to, to the court. It ended up where what the court signed off on was a stipulated judgment between the City and Mr. Ramming and um, um, Mr. Bigham. Which again, confounds them. Why are they here? Although you're an autonomous board, why are they here in front of you when the City has already entered into that amended order and then filed it with the court to make it a judgment so that they can go it and take care of what the City has been citing them for and has ordered them to do.

Morrey: Okay, maybe you can edify for me one further step.

Edlow: Sure

Morrey: What was the controversy? If they wanted to tear the building down, the city wanted them to tear the building down, what was the sticking point?

Edlow: The cost.

Morrey: Okay.

Edlow: The, there, okay, the, uh, the, the, this order has no binding effect. But the original order was objected to because it said for, for uh Mr. Bigham and Mr. Ramming to take 575,000 to repair a building in two stages. Pay \$260,000 to bring it safe for people to walk by on the street and then the remainder of the 500,000, over \$500,000, within a year and which subjected them to criminal conduct. The process of the hearing was attacked, the remedy was attacked, the evidence that was put in front of the board was for lack of a better word attacked and after all the briefing was done which was the briefing from Mr. Bigham and, and, Ramming's attorney um, convinced the City that that order um, should not have been issued in that manner and ordered it and, and authorized it to be amended by the Chief Building Officer um, to demolish the building. The development department that was referenced earlier, was communicated with prior to that settlement agreement being entered into as if they had any objection. And the email response is basically, we don't have a dog in that fight.

Morrey: And is this period of time in months or years that you \*inaudible\* this?

Edlow: Well, actually the appeal was filed in April that it was supposed to go to trial June 2<sup>nd</sup>, and I believe it settled June 2<sup>nd</sup>.

Elo: Uh, no the uh, administrative appeal was filed in November

Edlow: November of 19

Elo: Of, of 19 and then I prepared the legal file on appeal of the transcript and the matter was ultimately I think the judgment entry was signed up on June 2<sup>nd</sup>

Edlow: June 2<sup>nd</sup>

Elo: Uh,



Morrey: When did it start?

Elo: Uh, in uh, several years ago. I, I

Morrey: That's what I was thinking. So, the building's continued to deteriorate all this time.

Elo: Yes

Edlow: Yes

Elo: And there are five criminal citations

Morrey: Okay, well I was fleshing it out a little bit. I didn't understand all this procedure.

Elo: Yeah, and there are five criminal citations

Morrey: The original thing they were suggesting was that they needed to repair it. And, and they were trying to tear it down.

Elo: No. They were the, the, the original order, the original, which was amended, the original order speci(sic), requested has, was for the building to be repaired uh, by the Interim CBO Mr. Schwartzkopf. He amended his order because the repair did not take place and the building continued to be a danger to the public's health, safety and welfare so he amended his order and ordered the building demolished.

Edlow: I have to disagree with one part of that, if I may. The statement that they didn't repair, there was never an order to repair. That was appealed and stayed by the court. I mean

Elo: That would be correct

Edlow: there was never an order to repair. So, as you can see, and that proceeding started in October of 19 and resolved itself in April of 2020. The hearings in the uh, proceeding to tear down the building.

Hall: Well, I, I just want to understand Ted, the question before us today is whether or not they have to follow this and go to the Downtown Review Board and do that process or overriding that for what the court has decided.

Elo: Or, if, if, if it's your, or if you interpret the City code that the uh, dangerous building order ordering the building demolished uh, has priority over the uh, zoning document.

Powers: And to be clear it's not a court order. The court dismissed the action.

Elo: The, the court, the, incorporated the order in its dismissal. I think.

Hall: Yeah, because if you read

Powers: It incorporates the stipulation for \*inaudible\*

Elo: The stipulation which contained uh, the demolition order.

Powers: Deems the matter moot. Okay. Well, my, my gut says enough is enough, tear it down uh, and, and, and quit doing this.

Hall: Mr. Chairman I, I, I will make a motion that the court order for the to demolish the said property outweighs the administrative review board.

Powers: That's the motion. If we vote in the affirmative, it will require all four on this also or is this a majority?

Elo: It would require all four, yes.

Powers: Okay. Everyone understand what we're voting for? If you are voting yes on this motion, but we haven't had a second yet, you'd be voting to uh, allow the demolition of the building in accordance with the court order and required administrative action without the requirement that the applicant submit the matter to the Downtown Review Board. And admittedly it's probably more of a complex legal question than we have been adequately briefed on.

Morrey: That's what I'm thinking. Its

Powers: But

Morrey: We're making a legal determination.

Powers: Yeah, it can be appealed too. But I don't think anybody's going to appeal it so. I'll tell you what I'm trying to say, sounds like the City wants it torn down. The applicant wants it torn down. I know the City is saying that, that, I'm, I'm just trying to be quasi-practical here and understand. I think we can make that uh, good faith leap without uh, having massive briefs submitted to us. So, can I get a second on that motion if we have one.

Grimm: I'll second

Morrey: Can we have discussion?

Powers: Go ahead, sure

Morrey: Okay. Could I ask the question Ted? Why, why the City's continuing to resist...

Elo: It's, it's

Morrey: ...if you want it done?

Elo: It's the City's interpretation of its code. We interpret our code one way and they interpret it a different way and, and under, under the BZA's authority you have the right to determine whose interpretation of the code is correct.

Morrey: What is the City's interpretation just so I'll know what I'm \*inaudible\*

Elo: The, the City's interpretation as Mr. Ruiz said is that they still need to get a certificate of appropriateness from the Downtown Review Board

Morrey: Has there been any precedent that we can, can draw upon?

Elo: I can tell you past practice has been that the, that the, a decision made by the Chief Building Official took superiority or priority over uh, the Landmark Commission in, in, several cases in the past. Um, as, as referencing demos that were ordered back in 2005-7- and 9. He ordered buildings in the historic districts demolished and no certificate of appropriateness was, was needed from the Landmark Commission which would be, which is the rules that the DR Downtown Review committee would, would apply. So, so that was the interpretation of the code you know 15 years ago.

Morrey: Okay. Last question. Let's say theoretically we don't vote to allow the demolition to occur because they need to go before this. And the review board says it shouldn't be destroyed it should be restored.

Elo: Then they have the right to appeal back to you again based upon the, the process that governs

Morrey: My, my question is this, can the city still destroy it?

Elo: Um,

Morrey: Order it demolished

Elo: There's still an outstanding ord (sic) by (sic)

Morrey: What trumps this is what I'm asking?

Elo: That's the question that you have to decide. You're acting in not just a quasi-judicial but in a judicial finality position in essence and, and, and in this capacity.

Powers: I'm Chief Justice Powers today

Morrey: Is the notion of waiver of objection or speaking at the hearing had adequate opportunity to voice their opinion of preserving it and waive it?

Elo: All, all I can tell you is that during the dangerous building process there were public notices given, some public was present at part of the hearing part of the time, the Historic Planner was there, at least initially he stated his position on the building um, so, I, you know, at every time the hearing was reconvened, new notice was published in the newspaper.

Morrey: And was, I think notice went out to people in that area down there for this hearing?

Elo: No. There's not a notice requirement on the appeals section as I reviewed it after receiving um, this. Um, I will tell you that I took a case up on appeal where, in front of, it was a BZA case Mr. Powers you may have been involved in this, a garage was built and then um, they came to get their variance from the rear yard setback and a local attorney named Sharon Kennedy uh, was an adjoining property owner. She did not appear at the hearing even though she was given notice and she appealed the decision uh, that granted them the variance to leave the building as it was constructed. She and, and took it up to the court of appeals and it was dismissed for her lack of standing. Uh, because she didn't, she was not an, an interested party as defined in the APA and also in the City zoning code. So, that is a case of precedence that I'm aware of where if you want to have the ability to do something regarding a property you have to be present to voice your objection um, or concern or some how be on the record in order to have standing to appeal your decision. I am your attorney. That's why I can't really tell you what to do.

Hall: Yeah, I get it

Elo: If this decision is ultimately appealed to the Circuit Court, I'd defend your decision.

Hall: Well, the Interim uh, Building Inspector wants it torn down. It is a health and safety issue and based off of the court finding uh, the one thing, there's other people. Is there anybody here to speak?

Powers: I was going to ask, would uh, like to speak again in favor or uh, against the proposal

Edlow: I'd like to add one thing if I could. Um, my clients, excuse me Mr. Ramming and Mr. Bigham as their agent um, I understand that the order that they're under right now I'm sorry. The order they're under right now it says if they don't tear it down the City, if it has the funds, will come in and tear it down and then force them to pay for it. So, if you could understand the position they're in. They're asking the City to let them tear it down, the City's ordered them to tear it down if they don't follow the order the City can come in and tear it down and charge them for it. And also put them in jail.

Powers: We good?

Morrey: We're good

Powers: Okay

Hall: I'm good unless Joe's got more questions.

Morrey: You, you just said those things but then the City won't let them tear it down you're gonna have to put that at the end.

Powers: It's kind of Kafka-esque.

Morrey: Yeah. Yes, I'm, I'm finished

Powers: Alright. Did you write down the motion?

Shipp: I did, and I'd like to read that just to make sure.

Powers: I'd like you to read it also please

Shipp: What I have written down Terry Hall made the motion that the court order to demolish the building outweighs the administrative review board's decision. Is what you stated. Is that

Hall: No, the need to go to the administrative review board because that's what the City's saying right? To get it they have to go before the board we're saying at least my motion is the court order and the Chief Building Officer's decision to tear it down supersedes that requirement.

Powers: Understand

Shipp: Got it

Powers: Alright. Roll call vote please

**VOTE: Hall – aye, Grimm – aye, Powers – aye, Morrey-aye  
Yes-4, No -0, Abstain-0** Motion approved.

Powers: Very good. Gentlemen, thank you very much. \*inaudible\*

Shipp: I need to get the spelling of the names. I'll be back.

Edlow: Thank you

Powers: I'm so glad you're here, you're \*inaudible\*

Hall: Well, I had about ten minutes more than you and Joe did to read through this stuff before you got here so, and I've been by the property several times

Powers: I did drive by it also so

Morrey: I'm just thinking what will happen when they knock it down. It's sad to see buildings go. \*Inaudible\*

Hall: The one thing that we have to remember is this isn't final until it's final because it could still be appealed by somebody else.

Elo: It's my understanding in talking to the building to the immediate west that that building is going to be restored. Um, and, but this building unfortunately will not be but um, um or not likely. Let's put it that way.

Hall: We, we, we've had issues with squatters in some of those buildings as it is. And somebody's going to end up getting seriously hurt and I can understand the desire not to have to put half a million dollars into a building that's only appraised at 100,000 so

Powers: Alright. Moving right along. Um, can, do we need a motion to approve the minutes for our last meeting which I believe was via video conference on April 28, 2020.

Hall: I think that is correct. I'll move to accept the minutes.

Powers: I can't second them. Do we have a second?

Grimm: Yes

Powers: Okay. All in favor say aye.

**\*\*All members verbally responded aye\*\***

Powers: opposed same sign

**\*\* No one verbally responded\*\***

Powers: Minutes are approved. And we do have two findings of fact we need to adopt. First is case 2477 which was a request for a variance from Section 31-023 (c)(2) and any and all other sections of Chapter 31 of the Code of Ordinances necessary to allow an 8x78' roof to be constructed over a porch on the property located at 1321 Jackson Street. And this was uh, the meeting was held in January 28, 2020 and we voted to approve it. So, I'll entertain a motion to approve the find of fact on that particular case.

Grimm: So moved

Hall: I'll second it.

Powers: All in favor say aye

**\*\*All members verbally responded aye\*\***

Powers: Opposed same sign

**\*\* No one verbally responded\*\***

Powers: That is approved. We also have findings of fact for case #2478 which is a request for a variance from Section 31-050 (e)(10) and any and all other sections of section 31 of the Code of Ordinances necessary to allow an out-building to be constructed in excess of the 14' eave height requirement on the property located at 514 Green Street and that was in our meeting of April 28, 2020. And we made those findings and we approved the variance. Do I have a motion to approve this finding of fact?

Grimm: So moved

Hall: Second

Powers: All in favor say aye

**\*\*All members verbally responded aye\*\***

Powers: Opposed same sign

**\*\* No one verbally responded\*\***

Powers: You guys are dragging this meeting out. Uh, so, that concludes the business before the board today. Is there any new business?

Hall: Motion to adjourn

Elo: I would like to introduce you to Zack Martin the new City Planner. Patrick is going on to school.

Powers: I met him the other day, he's a great guy. We look forward to working with you.

**\*\*Inaudible-speaking away from microphone\*\***

Powers: Alright. Uh,

Hall: I'll restate my motion to adjourn.

Edlow: Before you do, are we going to **\*\*inaudible\*\*** I don't know that we're walking out of here with what we came in for. We were looking for a certificate of interpretation and we got a ruling that the court order supersedes the, the, the interpretation. But I didn't hear that you are interpreting that the building can be demolished.

Powers: That's exactly what we did.

Edlow: Okay. Thank you

Hall: What we voted for was to uphold the court order over the um, uh, development committee. So

Edlow: Okay. Thank you.

Hall: You got what you were looking for.

Powers: What's the date today? 28<sup>th</sup>?

Shipp: 28<sup>th</sup>

Powers: 28<sup>th</sup>. Leave now before we change our minds.

Nic Hutchison: I'm back.

Hall: What are you back for?

Hutchison: I just wanted to ask a question. Uh, Nic Hutchison, 604 N Noyes, um, I am working with MoKan. I'm the Executive Director of MoKan Regional Council. We're working to establish a main street organization in St. Joseph. So, that's why I was here tonight um, to attend this meeting to hear the decision. Um, my question is you know the concern is the decision that was made based off of the information that was presented to you guys this evening in that short time for review and the lack of uh, participation in the meeting from Chief Building Official, Interim Chief Building Official uh, complete review of the court proceedings et cetera. Um, so I just question um, you know, moving forward in the process what type of precedence this sets as we move forward uh, of in downtown revitalization. If this is going to be something uh, that can be if the Downtown Review Board can be circumvented by going through uh, the circuit court indefinitely. I mean, what

Powers: I don't think we've set any precedence at all. We're off the record too by the way the meeting has adjourned. Um, uh, and I don't know if they were aware this action was going on. If they were, if might have been better for them to intervene in some manner just to have a presence. Um, that's just my thought knowing nothing about this. I agree we're flying blind on this.

Hutchison: Right

Powers: But it did seem to me that we were, we were beating a dead horse.

Hutchison: Sure

Powers: \*inaudible\*

Hutchison: Sure. And, I, I don't, I don't necessarily disagree with the decision that was made. It's more so with uh, you know, I think it's inevitable that that building was a complete loss. But, I think its important that, you know, that we make sure that the process is established for future situations and that the circuit court isn't necessarily a way to circumvent the process.

Hall: I agree with Brent. I don't think any precedent was set. Even thought that the acting, uh, Building Officer

was not here. We have his letter ordering it. He supported this decision in circuit court.

Hutchison: Sure

Hall: The City wants it torn down, the court order actually says if they don't do it the City will do it and bill them back.

Hutchison: Uh-huh. I guess, and you know, it's, it's trying to understand the urgency in getting the building demolished when the event of destruction occurred, what two or three years ago. Um, and that you know court proceeding.

Hall: The, the issue is public safety at least from my point of view.

Hutchison: So, it's public safety today but three years down the road

Hall: Again the, the, the structure of a building will deteriorate fastest as time goes by the farther you get away from that incident.

Hutchison: Absolutely

Hall: And the fact that that building has had other incidences in it since that fire

Hutchison: Sure

Hall: Becomes a, a greater issue so it wasn't you know, I work in that area so I see

Hutchison: Sure

Hall: That building most every day.

Hutchison: Absolutely.

Hall: Um, and I did read through the materials. Again, I was kind of um, wondering what this was so I showed up early so I could read the documents

Hutchison: Sure

Hall: Before the meeting. Because we got an agenda and I'm saying what are we being asked to do here.

Powers: \*inaudible\*

Hutchison: Right?

Hall: Um, and since

\*\*Inaudible—people speaking at once\*\*

Hutchison: ...building sitting without a roof you're always gonna run into a lot more issues and uh, the rate of deterioration is gonna occur a lot more rapidly. Um, you know it's just if it was that, if the public health component was that imminent then I would think that, that the building would have been brought down prior



than to today. So

Morrey: Let me a few questions because I appreciate you bringing this topic up. I was trying to speak to those things.

Hutchison: Sure. And I appreciate your questions as well.

Morrey: \*inaudible\* due process and something that made sense. I'm going to take this off because it doesn't work with glasses. And I actually wish you would've stood up there during the hearing. Because you could have voiced these questions for us to consider. The question I had was I thought the City started all this with the demolition notice to these people. That's what it seemed like to me. And

Hutchison: And, see I didn't want to stand because I mean I was a City employee at the time that all this took place.

Morrey: \*inaudible\* left hand really not knowing what the right hand was doing. Why would they issue a demolition notice without telling them, hey \*inaudible\* precise area? You have to go before them before anything happens. So, go there and then we'll determine whether you have to demolish it or restore it. But I don't know how it got out of sync.

Hutchison: Yeah

Morrey: We've been called upon to be the heavies because it looks to me like City Hall screwed up.

Hutchison: Well, then you know, and, and I, like I said I didn't want to stand up during the official meeting because my knowledge of the series of events isn't, uh, accurate by any means you know, it's been three years and since leaving City Hall it's like I got amnesia or something.

Hall: I know the deciding factor for me was the fact that it was public safety but the fact that they're going to continue to get citations for a building they're not being allowed to tear down.

Hutchison: Right. Yeah, I mean it's this is a constant battle it's a challenge that we are running into and we are going to continue to run into. It's always going to be a shortage of funds, um, I just, I think it places the Board at risk having not been presented fully with the information adequate amount of time in such a uh, potential um,

Hall: Haphazard manner

Hutchison: Correct. Yeah, so um, but again I appreciate and I understand you guys are volunteers and appreciate your service on this Board, um, I just was wanting to get some additional insight as we move forward with our initiative um, on the Mo-Kan side so

Hall: Well, and like I said at the end of the meeting it's not over yet because it could still be appealed.

Hutchison: Sure

Hall: I don't know that anybody will. And based on what you said since they weren't here, they may not have a standing to do an appeal so

\*Inaudible\*

Hutchison: There's just a lot of uncertainties it seems like. I mean

Elo: I would like to address Mr. Hutchison's concerns in that, that as a result of this request and these this two-pronged administrative process, not only here but in the historic district and several others have been defined there is going to be among staff a determination if we have administrative proceedings that either A-ensure that they are all exhausted or B-one administrative proceeding will have priority specifically set forth in the code over another one. What that may be, I don't know and it may vary from area to area but it will be clear um, when this, staff meets to determine are the, these you still have to run down both tracks or will um, the Landmark Commission have superior jurisdiction over the CBO and the local historic district or will the CBO have superior authority or will you have to do both uh, and the, and the court will specifically state that or the code will specifically state that to avoid putting you in this position.

Hutchison: Yeah, I mean, yeah, the code needs to stipulate the, the

Hall: Again, that's something for the City Council, City staff to decide

Powers: \*inaudible\*

Elo: Yeah and we, and, and, and we're aware of that and we'll have to go in and amend eight or ten sections of the code

Powers: A great example of why the code didn't work as intended because there was a wrinkle that no one anticipated.

Hutchison: Sure

Powers: That happens all the time with City ordinances

\*inaudible\*

Hutchison: Yeah, and I mean obviously public health and safety is the top priority. It's just uh, yeah, trying to understand the urgency behind it so

Powers: alright

Hall: Alright, thanks

*(recording ends)*

Meeting adjourned 4:40 pm

Minutes respectfully submitted

Rebecca Shipp