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4 CITY OF MEDINA BOARD OF ZONING APPEALS

5 CASE NO. Z22-05

6 APPEAL OF THE DENIAL OF H20-16

7 BUILDING DEMOLITION AT 133 NORTH COURT STREET

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11 Transcript of Proceedings held on Thursday,
12 the 24th day of February, 2022, before the
13 City of Medina Board of Zoning Appeals,
14 commencing at approximately 6:00 p.m., as taken by
15 Makenzie J. Sabo, RPR, Notary Public within and for
16 the State of Ohio, and held in Medina City Hall,
17 132 North Elmwood Avenue, Medina, Ohio 44256.

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1 APPEARANCES:

2 Bert Humpal, Chairman,
3 Mark Williams, Member,
3 Brandilyn Fry, Member,
4 Paul Roszak, Member,
4 Rob Henwood, Member.

5
6 City of Medina Planning and Community
Development Department,
7 Andrew Dutton, Community Development Director,
Sarah Tome, Administrative Assistant.

8
9 Gregory A. Huber, City of Medina Law Director,
on behalf of the City of Medina.

10
11 Walter Haverfield, Attorneys at Law,
by R. Todd Hunt, Esq.
12 on behalf of the City of Medina Board of Zoning
Appeals.

13
14 Witschey, Witschey & Firestine Co., LPA,
by Frank J. Witschey, Esq.
15 on behalf of the Applicant.

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1 PROCEEDINGS

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3 CHAIRMAN: We can begin.

4 The first thing I'm going to do -- maybe
5 the second. First, we have no minutes. We'll
6 defer on any minutes to our next regular
7 meeting which is the second Thursday of March.

8 The first thing we do, though, is ask the
9 court reporter to swear in any and everyone
10 wishing to give testimony tonight in either
11 case.

12 So that be it, will you please stand and be
13 sworn in by the court reporter.

17 CHAIRMAN: Our appeal board
18 is represented by legal counsel tonight -
19 Attorney Todd Hunt - so I will ask him first if
20 he wishes to make any comments or address the
21 board.

22 MR. HUNT: sure, I do.

23 And I guess for the benefit of the
24 audience, I was engaged by the City to give
25 legal advice to the Board of Zoning Appeals

1 because their normal counsel, by ordinance and
2 by charter, is the law director, and the law
3 director is taking a position on these issues
4 in terms of defending the actions of the
5 Historic Preservation Board.

6 So these proceedings tonight, both of them
7 are appeals from those decisions of the
8 Historic Preservation Board, and I've advised
9 this Board that there should be no additional
10 evidence put on other than what was put on in
11 front of the Historic Preservation Board, that
12 this is an appellate hearing, and that the
13 facts are already in the record. All of these
14 members have those facts, have the documents,
15 and so that this is really like an appellate
16 court hearing where the representative of each
17 party will have an opportunity to make an oral
18 argument, refer to the evidence in the record,
19 and try to persuade this body one way or
20 another. And so that's what I've advised them
21 to do.

22 I know they had a previous, a year ago
23 actually on the same case, involving 133 North
24 Court Street and that was how that proceeding
25 went forward then, so --

1 CHAIRMAN: Thank you,
2 counsel.

3 MR. HUNT: You're welcome.

4 CHAIRMAN: I think we can
5 then begin. Our first case tonight is Z22-05
6 at 133 North Court Street, Twin Pines.

7 Andrew, anything you want to present first?

8 MR. DUTTON: I don't have
9 anything to add. You have a lot of information
10 in your packet including a memo from me
11 outlining kind of the history of this
12 application, the items reviewed by the
13 Historic Preservation Board at their last
14 meeting on January 13th and November 10th, and
15 then their previous packet which had
16 information from the BZA and their previous
17 review.

18 So there's a lot of information there. I
19 really just wanted to kind of give you a
20 history in the memo of where we're at now which
21 is, of course, an appeal process.

22 CHAIRMAN: Okay. Thank you.

23 Counsel, do you wish to make a presentation
24 then?

25 MR. WITSCHEY: Yes.

1 Good evening. My name is Frank Witschey.
2 I represent Twin Pines, LLC and Dr. Loren
3 Raymond who is the sole owner of that entity,
4 which is the owner of 133 North Court Street.
5 By way of introducing this, just a brief
6 procedural history.

7 As we know, Twin Pines made an application
8 for a certificate of appropriateness for the
9 demolition of the home at 133 North Court
10 Street. There was a hearing before the
11 Historic Preservation Board on October 8th,
12 2020. There was some evidence that was taken.
13 That evidence is by way of minutes of the
14 meeting and that would be in the packet.

15 It was continued, a decision had not been
16 made, they ran out of time, and so that
17 evidentiary hearing was then continued to
18 November 12th, 2020.

19 At that point in time there was a decision
20 rendered and that's what led to the appeal --
21 the first appeal, and that was under the
22 Code Section 145.06(f). An appeal was filed,
23 and then we were here about a year ago -
24 March 4th - and we had -- we made a
25 presentation, and then ultimately this Board

1 wanted to remand the case back down to the
2 Preservation Board -- Historic Preservation
3 Board to take evidence on three issues.

4 Those three issues were, the first one
5 specifically, whether the subject property -
6 that being 133 North Court Street - has some
7 historic significance to the City of Medina.
8 The second issue was whether the reasonable
9 estimated minimum cost to repair the existing
10 structure to a safe and usable condition within
11 the C-2 zoning code permitted uses outweighs
12 the fair market value of the property. And
13 then the third issue for remand was whether
14 there is an economical use of the property
15 without regard to the future use of the
16 property if demolition is not approved.

17 The November 10th, 2021 remand hearing in
18 front of the Historic Preservation Board was
19 then continued, and that -- I'll get into those
20 hearings a little bit and talk about the
21 evidences Mr. Hunt had said, but that was where
22 the ultimate decision was rendered -- or where
23 the evidence was presented, and then they went
24 into executive session, did not render a
25 decision - it was getting late - and then we

1 went to the January 13th hearing and that's
2 where they made the decision and denied it and
3 then later issued findings, which were also a
4 part of the package. So that is then what we
5 filed the appeal on, it was that decision, and
6 that's what brings us here tonight.

7 So what we need to decide -- or what you
8 need to decide as a Board of Zoning Appeals, is
9 to look at the evidence, to look at what was
10 presented and make a decision should this
11 certificate of appropriateness have been
12 granted under the objective criteria that was
13 presented, under the evidence that was
14 presented, and as we will see, that the
15 evidence in this particular case was
16 uncontested -- it was overwhelming and
17 uncontested, and we'll get into that.

18 So going back to those three issues and
19 taking them one by one, the first issue is
20 specifically whether the subject property has
21 some historic significance to the City of
22 Medina. Section 145.07 is the code section
23 that governs the demolition of a structure in
24 the Historic District.

25 Prior to the November 2021 re-hearing,

1 counsel for the Board advised the Board that
2 this dealt with finding whether -- that finding
3 whether there was some historic significance
4 was meant to comport to the actual language of
5 145.07, and that actual language does not use
6 the word "some" historical significance, and
7 that caused me a little bit of concern. I
8 wanted to make sure that the actual language is
9 what is -- what we are dealing with, and that
10 is that the goal is "saving and adaptive re-use
11 of buildings that are significant to the
12 character of the Historic Districts and the
13 City."

14 And then that is followed with allowing
15 demolition - this is from the code section - of
16 a structure which would not be a significant
17 loss to the district to make way for new
18 development that would enhance the district.

19 So it boils down to, you know, is this
20 building historically significant? Is
21 133 North Court significant to the character of
22 the Historic District and the city? Would it
23 be a significant loss to the district if this
24 building were demolished to make way for new
25 development that actually enhances the

1 | district?

2 So the October 8th, 2020 and the
3 November 12th, 2020 process, those were the --
4 that also is evidence in this case, not just
5 what happened last November, so it's the
6 entirety of all of those things.

7 And the National Register provides
8 objective criteria from which you can assess is
9 something really historically significant, and
10 Ian Jones, who is the architect that the
11 Applicant had engaged for this matter, said
12 that over, you know, one hundred years of this
13 property's existence, there's been many changes
14 to the property. The windows have been
15 replaced. The window openings were reframed to
16 change the original structure. He said that
17 the property is caught somewhere between a
18 Victorian property and a Craftsman-style
19 property and it really embodies neither. It
20 kind of has an identity crisis not being tied
21 to any real specific era.

22 And he says there's no ornate details which
23 were Victorian. There's no asymmetrical corner
24 turrets. There is no significant Craftsman
25 elements to the home.

1 He also provided evidence that his review
2 showed that it was built from premanufactured
3 component parts just like homes that are built
4 today.

5 And this was even echoed then in the
6 November hearing by Kevin Robinette.

7 Kevin Robinette was the City's expert witness,
8 their expert architect, and he said in his
9 testimony, on Page 65 of the transcript -
10 this would be the November 2021 transcript -
11 "... if you go into a typical subdivision and
12 look at the form of the home that's built
13 today, I think it's more in keeping with that
14 than it is with anything that has a period
15 style to it." So the City's expert agreed with
16 Mr. Ian Jones on that particular point.

17 This deals with integrity. That's what --
18 the governing bodies that make decisions about
19 whether something is historical use this phrase
20 "integrity." You know, has the building been
21 preserved to its original style or has it
22 changed? And Mr. Jones testified "no," that it
23 had -- you know, there's other things.
24 Different siding; the siding to the structure
25 had changed. The size of the windows, as I

1 mentioned. There's a porch enclosure. There
2 is an addition to the porch. And there's just
3 an overwhelming masking of the details of this
4 particular property which happened over the
5 course of many years.

6 The expert from the City - again,
7 Mr. Robinette - he was even more stark and
8 brutally honest. He said the historic
9 significance is very limited. He said, "I
10 really don't believe --" this is on Page 64 "--
11 there's anything distinctive about it from a
12 historical standpoint." He said, "It's got a
13 traditional form and traditional roof lines.
14 That porch has been bastardized." He said it's
15 enclosed. "In my opinion," he said, "there
16 just isn't that much that contributes
17 historically. If you look at some of the homes
18 in Medina that are really nice and really have
19 a period presence to them, in my opinion, when
20 you see it, you know it. When I look at this
21 house, personally I just don't see it."

22 That was the City of Medina's expert
23 witness. It's more in keeping, he said, with
24 the form of a home that is built today.

25 He ended with this statement. "As I was

1 sitting here listening to the conversation, the
2 thing that comes into my mind, it would make a
3 good frat house."

4 Now, the findings of the Historic
5 Preservation Board, they basically threw in the
6 towel on that issue. If you look at their
7 report, they conceded that there really wasn't
8 any architectural historical significance to
9 any style or period of time. What they did is
10 they came up with their own category of why
11 this should be historical. They fabricated a
12 category that has never really -- that's never
13 been used before by any governing body. They
14 said, "It has a truly unique and evolutionary
15 architectural style of its own. There are few,
16 if any, other homes in the area that have a
17 similar style to them."

18 Really this is just a more pleasant way of
19 saying what Mr. Robinette said. It's
20 bastardized. They tried to glamorize this
21 home, which is really just a hodgepodge
22 framework of a building that has been changed
23 so many times over the years.

24 So then the next question that could add
25 some historical significance is what is the

1 relation of this building to the other actual
2 historical landmarks or elements of the city?

3 Well, we knew that there was, in 1975, an
4 application to the National Register where the
5 City wanted to have the downtown area, the
6 Square, to be considered a historical place,
7 and so they filed this application, and in the
8 application the City admitted that the
9 properties in this area, the properties
10 surrounding -- not immediately on the Square,
11 but to the back and surrounding the Square
12 depart -- erratically depart from the
13 assemblage of architecture embodied in the
14 Downtown Square. So even when it was built
15 and even before it was bastardized, it had
16 little to contribute to the Square's
17 Historic District.

18 The Historic Preservation Board surrendered
19 here as well. They said in their report it is
20 historic because the house is in proximity to
21 the Square and there are few residences that
22 were built this close to the Square. That's
23 not -- again, that is just not a category or
24 objective criteria with which to say that
25 something is historic just because it is close

1 to the downtown area.

2 And Mr. Robinette had a comment that goes
3 to that issue as well. He says contributing to
4 the lack of historical significance is the fact
5 that it is also a residential structure within
6 an area that has evolved into a commercial
7 district with multilevel storefronts. As a
8 standalone structure, he said, its historic
9 significance is very limited.

10 This property is standing on its own. It's
11 in what the City has already dedicated to a
12 commercial corridor and it just doesn't fit in,
13 it doesn't add to the area, it doesn't add to
14 the downtown area.

15 Ian Jones concurred. He said any hope left
16 for this building to contribute to the historic
17 fabric of the city left when everything around
18 it developed into the commercial corridor.

19 Everyone agrees. All the evidence -- everybody
20 that was a witness at the hearing all said that
21 the property did not have historical
22 significance.

23 Now, another category. Is it, itself, a
24 historical landmark? In other words, did
25 something ever happen at that particular

1 location that adds some historical significance
2 to the city? The answer there is no. It was
3 owned -- and was it owned or built by somebody
4 of historical significance?

5 Well, at the first hearing back -- it would
6 have been back in 2020, the October hearing,
7 the -- it would have been the second hearing,
8 there was a board member that brought up the
9 name of Adner Wagner as being the person who
10 built the home in 2009 (sic) and who lived
11 there for a few years in retirement before
12 dying in year 2014 (sic).

13 The board member said Mr. Wagner was a
14 prominent blacksmith who repurposed a nearby
15 church into a carriage-making business. He had
16 a patent and had a carriage displayed at a
17 world fair in Chicago. The problem is, this
18 gentleman wasn't named Adner Wagner. His name
19 was Abner Bishop.

20 So Mr. Jones had found this out. He did
21 some research as well and he came into the
22 next hearing saying that this person was
23 Abner Bishop, and I know -- I don't think in
24 the community it's a very well-known name, but
25 nonetheless, I suppose, you know, the mistake

1 on the name was forgivable, but the point is,
2 it's not a person that has a large significance
3 or a name that resounds that heavily in the
4 city.

5 Now, I'm sure he was a good and successful
6 businessman. There are plenty of those
7 businessmen and women in the City of Medina,
8 I'm sure, so we need to look at that more
9 carefully. How is it -- just by being a good
10 businessman, having a successful
11 carriage-building business, what does that do
12 to lend historical significance to a home that
13 you lived in for three or four -- four or five
14 years?

15 Mr. Jones commented on this. He said is
16 this property tertiary to this gentleman's
17 life; in other words, was it an important part
18 of his life? First thing to look at, how long
19 did he live there? Well, he lived there four
20 to five years. That's it. That's not very
21 long. It's not like it was his home for a long
22 time.

23 Does the home exhibit his achievements?
24 Does the home exhibit the fact that he was a
25 successful carriage-maker back in the day? And

1 the answer to that is no. It's simply a home.
2 There's nothing that ties it to his
3 carriage-making achievements.

4 His business flourished in the 1870s, so
5 this was more of a retirement home for him.
6 Maybe there could be some significance if he
7 lived there during the productive years of his
8 life, but that wasn't the case either. He
9 lived there in retirement. He didn't build the
10 carriages there. As we mentioned and as the
11 evidence showed, he repurposed a church
12 somewhere else in the community and that's
13 where the carriages were built.

14 So to the extent that was a significant --
15 historically significant business for the
16 community, maybe the church would be a landmark
17 but certainly not this home where he spent a
18 few years in his retirement. There's nothing
19 about this property that is historically
20 significant. It does not contribute to the
21 Historic Square District or any other historic
22 districts, and there was really no evidence
23 contrary to that. All the City's witnesses as
24 well as the Applicant's witnesses all agree.

25 Second question, whether the reasonable

1 estimated minimum cost to repair the existing
2 structure to a safe and usable condition within
3 the C-2 zoning code permitted uses outweighs
4 the fair market value of the property. Well,
5 that question is, what amount of money will it
6 take to get that building up to code so that it
7 is safe and capable of some sort of occupancy
8 under the C-2 code? That is what was
9 investigated and that's what the evidence was
10 that was presented at the November hearing.

11 The Historical Preservation Board
12 criticized the Applicant for not presenting
13 evidence of several of the permitted and
14 conditionally permitted zoning uses of the
15 property and for not seeking a variance from
16 the C-2 mixed use to a single-family-home
17 zoning. In other words, they -- and you would
18 see in their findings they listed two -- almost
19 two full pages of all the various types of uses
20 that they said were not presented, and what
21 that showed is that they really didn't grasp
22 the question, because the question was not
23 about the uses, it was about how much does it
24 cost to get this to a habitable structure so
25 that taking off from there, one of these other

1 types of uses could go -- could go forward at
2 additional costs.

3 So we didn't get into the additional costs,
4 because when we put on the evidence, when the
5 City put on the evidence, when -- the combined
6 evidence showed that the cost was in excess of
7 the fair market value without even getting into
8 all those secondary costs of turning it into a
9 medical office or a restaurant or a bar or
10 something like that.

11 Mr. Kendel -- Daniel Kendel from
12 D&D Builders was engaged by the Applicant.
13 He's a construction -- a gentleman involved in
14 construction for several years, and he provided
15 an estimate. That estimate was given in the
16 2020 hearings. He came in at \$287,400 just to
17 get the building into code compliance so that
18 it could be occupied in some fashion.

19 Mr. Robinette also did an examination and
20 came in with a number of what it would cost to
21 get the building up to code. He came in at
22 thirteen hundred dollars more than Mr. Kendel.
23 His number was \$288,700.

24 Both of these numbers were unadjusted for
25 inflation. Daniel Kendel said you could

1 probably add about twenty percent to that. His
2 estimate was given a year-and-a-half, two years
3 ago, and now, you know, as he said, obviously
4 with inflation, things are more.

5 And then there's -- so twenty percent of
6 that number, you're, you know, coming to
7 another almost fifty thousand dollars, so now
8 you're at \$340,000 in today's dollars.

9 In addition, there was a question of
10 Mr. Jones, can the reconstruction or can a
11 construction project like this be done without
12 some professional services - an architect, an
13 engineer? And, in fact, we would also need to
14 add to that cost another approximate eighteen
15 to twenty thousand dollars for professional
16 fees. That brings us up to about three hundred
17 and sixty thousand dollars just to get that
18 building code-compliant. Everybody agreed to
19 that. The City's expert and the Applicant's
20 expert were so close together in their
21 estimates, thirteen hundred dollars apart.

22 The City engaged Michael Marquard to
23 provide testimony related to economics of the
24 property. As to the fair market value of the
25 building, after brought up to code, he

1 indicated that it would be much less than what
2 the Applicant - Dr. Raymond - paid for it
3 several years ago. That price was two hundred
4 and fifteen thousand, and Marquard didn't
5 believe it was worth that. He said it would be
6 worth probably a hundred and seventy-five
7 thousand dollars.

8 The HPB - the Historic Preservation Board -
9 criticized his valuation as not having been
10 done with a market analysis. Well, here around
11 the community, you know, there is a person that
12 has a name that is very well-known and that is
13 Mike Marquard. He is a market analysis in and
14 of himself. He's worked his whole entire
15 career here in the City of Medina, he's one of
16 the most-educated agents in the City of Medina
17 about the City of Medina. He works in these
18 kinds of transactions daily. He gave examples
19 of recent comparable purchases and gave the
20 valuation which the City accepted in the
21 testimony.

22 Other valiators do not have the
23 understanding of the market and have to analyze
24 it from afar. They have to do studies and do
25 their comparables whereas Mr. Marquard is

1 working on comparables, you know, at the time
2 that he was testifying.

3 So the question that you have to -- or the
4 question that you have to come to is whether
5 you believe Mr. Marquard's estimate to be a
6 reliable estimation of the fair market value
7 being under three hundred and sixty thousand
8 dollars. That's all. And three hundred and
9 sixty thousand is several hundred thousand
10 above what his estimate is. The cost far
11 exceeds.

12 The Historic Preservation Board desired for
13 an analysis of each of those listed C-2 uses,
14 but both Mr. Marquard and Mr. Robinette had
15 repeatedly reminded the Preservation Board that
16 the building was nonfunctional and that just
17 getting it up to code was -- did not make it
18 rentable or desirable. There had to be work
19 done.

20 What is it that you want to use it for?
21 Is it going to be mixed use? Do we have to
22 have -- for that area, that would be
23 residential, we have to put in kitchen
24 adoptions, bathroom adoptions, all those
25 different types of things. If you wanted it to

1 be a bar, you'd have to put in plumbing.
2 Doctors' offices -- you know, so there's all
3 this extra cost. We didn't even need to get
4 into that because the very basics is three
5 hundred and sixty thousand -- three hundred and
6 forty to three hundred and sixty thousand
7 dollars just to get it code-compliant.

8 Specifically as to those questions, there
9 was a question that was posed to Mr. Robinette
10 as follows, and this was by the City's
11 attorney. The City's attorney says, "So we
12 essentially asked you to look at this as
13 objectively as you can in terms of 'Here's
14 where we are at. We have a demolition
15 request.' In your opinion, does it make sense
16 for a property owner to put two hundred and
17 eighty-eight thousand dollars into this
18 building to make it functional as a commercial
19 building?"

20 Mr. Robinette's response, "I am not a real
21 estate guy. I can't imagine how it could be."

22 The attorney then says, "I think we are
23 getting down to the truth of this case."

24 And I think they were -- both the attorney
25 and Mr. Robinette were extremely honest and

1 they did, you know, a good job at conveying
2 that message.

3 Two hundred and eighty-eight thousand,
4 though, he says, that didn't even account for
5 the inflation adjustment. And he said that
6 we're still, you know, in a situation where it
7 doesn't make economic sense.

8 So the long and the short of it is that
9 just with the cost of the construction to get
10 to code compliance, not even adjusted by
11 inflation, this property is under water, and it
12 makes no sense for its owner to engage in that
13 expense from an economic standpoint.

14 Considering all the extra costs of all the
15 available C-2 uses and single-family, doing
16 that only makes matters worse, and yet that's
17 what the Board wanted us to do, and we didn't
18 need to go that far to answer the question.

19 This Board knew what it wanted to see and
20 that's what was presented here.

21 So the third and the final remand issue is
22 this: Where this is an economically viable use
23 of the property without -- I'm sorry. Whether
24 there is an economically viable use of the
25 property without regard to future use of the

1 property, if demolition is not approved. The
2 analysis restricts the property to its present
3 available use, not some permitted future use.

4 So we're back down to just, you know, what
5 is the building today, what could go in there
6 today if it's brought up to code, and it then
7 asks is there any economic viability there.

8 And the analysis here is, again, the cost which
9 would be needed to gain code compliance for
10 occupancy, that number - two hundred and
11 eighty-eight thousand, inflation adjusted, more
12 than that - over three hundred thousand. And
13 with the functionality issues that Mr. Marquard
14 and Mr. Robinette repeatedly talked about -
15 what kind of rent, what is the reasonable rent,
16 what is the return that this property could get
17 just getting it up to code and using it for the
18 same thing that it is currently capable of
19 being used for - and all of the experts, all of
20 them had a comment on the conclusion.

21 The question to Mr. Kendel was, "With your
22 education and experience involving
23 construction, would you have an opinion on
24 whether it would be worth putting three hundred
25 thousand into this building?"

1 Answer, "No. That would be -- no. There
2 would have been -- that would have been up to
3 code and then you have your tenant build-outs,
4 which depends on whether it's commercial or
5 residential or a mixed use, and then you have
6 to add your additional costs on to that, and
7 that would not be feasible, not economically
8 feasible at all."

9 Mr. Marquard testified, "This building is
10 not functional to make it worthwhile for the
11 dollars you have to put in to get a return on
12 your investment. It's always a shame, but it's
13 the way it is."

14 He testified and he had a report that's
15 also a part of the record that if the property
16 could be brought up to code, the best you could
17 get would be eight to ten dollars a square foot
18 if you got it up to code and you had it
19 functionally improved. Mr. Marquard testified
20 that the annual rental revenue would be
21 approximately fourteen thousand dollars for
22 this building, but he further testified that
23 the expenses would have to come out of these
24 revenues.

25 So at about eleven hundred dollars a

1 month -- and he said "yes," it would be about
2 eleven hundred dollars a month, but that "Just
3 about covers the taxes and water, sewer, you
4 know, for the rental costs there, but it
5 doesn't cover anything else."

6 Mr. Marquard didn't even mention insurance.
7 When you throw that in, you're talking about a
8 rental situation also that's under water to
9 spend that kind of money, over three hundred
10 thousand dollars, only get fourteen thousand,
11 that you have to pay insurance, taxes, and all
12 those things. We don't have a property that
13 makes economic sense even to dedicate it to
14 what it could be used for if it was brought up
15 to code, which is that mixed-use rental.

16 Mr. Robinette further testified, "The
17 charge that I had was essentially to evaluate
18 the existing building, its envelope, its
19 systems, and what it would cost to bring it
20 back to a point where it could be reasonably
21 used going forward into the future, meeting
22 current code standards."

23 After -- then after making a long statement
24 on nonfunctionality, he concluded with the
25 statement that -- he says, "I cannot imagine

1 how it could make sense to put two hundred and
2 eighty-eight thousand into this building."

3 One of the things that was brought up -- so
4 that handles all those three issues. There was
5 something else that had been floating around at
6 the very beginning of this, and that was that
7 there was some folks from the gallery at the
8 first hearing that brought up this concept of
9 demolition by neglect. That issue is now off
10 the table. There was no evidence in the
11 hearing as to any neglect.

12 The evidence between the first hearing and
13 the second hearing was that Dr. Raymond first
14 investigated reuse of this building. He didn't
15 buy the building to demolish it. That wasn't
16 the intent. According to the City's expert
17 report - and this is again Mr. Robinette's
18 report - he said Dr. Raymond has kept it dry,
19 warm, and safe and has maintained the integrity
20 of the structural frame, exterior envelope, and
21 interior space.

22 Now, while there were those at the first
23 hearing that accused him of this, that was
24 contrary to the evidence and the -- and
25 ultimately the HPB did not find that there was

1 demolition by neglect.

We provided -- one of the other things is
on this whole concept of if a building being
demolished does not cause a significant blow, I
guess is kind of a way to say it, to the
historic districts, if it doesn't detract, then
it can make way for, and it's okay for the
Board, it says, to find -- to assess another
use that could add to the community, could add
to the historic districts, et cetera. And as
we saw, not a significant -- historically
significant building; its demolition would not
cause a significant blow to the community.

14 So what is it then that we would -- that
15 the Applicant proposed, and in -- this is the
16 November transcript of 2021, Pages 19 to 22,
17 there was a description of this, which is
18 elevations that the Board was allowed to take a
19 look at, and Mr. Jones presented it as a mixed
20 use that would be some residential as well as
21 storefront on the bottom, and that is something
22 that would be very similar to what's next door
23 at 139 North Court Street, which has been a
24 very good contributor economically,
25 aesthetically, et cetera, to the downtown area.

1 So I'm not going to rehash. I've gone
2 through everything for my conclusion here, but
3 I do want to mention that the Applicant has
4 provided overwhelming - and I have to add -
5 uncontradicted evidence to support the answers
6 to those remand questions. The City's
7 witnesses - Mr. Robinette, Mr. Marquard - they
8 all concur on each of these three remand
9 issues.

10 It's difficult to understand the
11 Preservation Board's decision in the face of
12 this overwhelming and uncontradicted evidence.
13 You know, historic preservation is important.
14 As somewhat of a history buff myself, I
15 understand the passion for preservation, but to
16 maintain credibility, the Board has to act
17 objectively and decide these cases based on
18 objective criteria. Fabrication of criteria
19 such as "this house has a unique evolutionary
20 style of its own and that makes it historical,"
21 that doesn't add to the credibility of the
22 process but rather almost identifies the Board
23 as an advocate versus that objective third
24 party that we're looking for in government to
25 make these kind of decisions.

1 So with the evidence that is there, we
2 would ask and request that this Board
3 reverse and overturn the decision of the
4 Preservation Board and grant the certificate
5 of appropriateness for demolition of
6 133 North Court Street.

7 Thank you.

8 CHAIRMAN: Thank you.

9 MR. WITSCHNEY: Any questions?

10 CHAIRMAN: Let me first go
11 to the law director and give him a chance to
12 make any presentation he wishes.

13 MR. HUBER: Well, this
14 Board sent this matter back to the
15 Historic Preservation Board with the questions
16 that Attorney Witschey outlined, and due to the
17 historical significance, the reasonableness of
18 repairs compared to fair market value and the
19 question of economical use, we essentially have
20 attempted to be diligent in getting a good -- I
21 consider Mr. Robinette to be a good architect
22 with these kinds of issues. We hired him, and
23 Attorney Witschey's correct in that regard.

24 I also consider the real estate broker -
25 Mike Marquard - to be reliable. I've used him

1 many times for valuation issues. He knows
2 buildings in the City of Medina and in the
3 county very well, and so we asked those
4 gentlemen to evaluate this, and their testimony
5 should be given fair weight. We asked them to
6 do the work; they did the work.

7 It's been time-consuming. It's a pleasure
8 to work with Mr. Witschey. He's always very
9 accommodating. Also, Dr. Raymond was
10 accommodating by letting our experts in the
11 building to look through it, and so the
12 presentation of information he gathered, I
13 think, was done fairly.

14 I'm now twenty years the law director, and
15 I have a lot of faith in the citizens who come
16 to this Board and to the Historic Preservation
17 Board to apply good common sense. The
18 decisions that you make, I think, are
19 well-grounded and thoughtful.

20 The Preservation Board is a preservation
21 board. This building, in terms of historical
22 significance, stands on its own. You each have
23 seen this house. It's an attractive house and
24 would certainly be an attractive building if
25 the porches were repaired to what they used to

1 be. It doesn't take a whole lot of imagination
2 to see that this could be seen as an
3 architectural style of its own that's
4 attractive, and it's located very close to
5 downtown, and in terms of historical
6 significance, the Board found that, given the
7 fact it was constructed by Mr. Bishop, they
8 determined it does have the kind of
9 significance that is worth investment of repair
10 costs and investment in money to keep it up.

11 I don't think that that finding is without
12 basis. I think that, given just the way I look
13 at the building or any person would reasonably
14 with common sense look at the building, you
15 could easily come to the conclusion that this
16 is a building worth saving. It's not an
17 unattractive building and it was owned by a
18 businessman who has a couple of streets in the
19 city named after him, and he obviously was a
20 man of prominence at the turn of the century.

21 The real issue in this case comes down to,
22 I think, the cost to repair compared to its
23 value. Fundamentally on that question,
24 Mr. Marquard testified that this building
25 should earn in the area of fourteen thousand

1 dollars a year. I think the Board calculates
2 that over a period of time, or over a period of
3 years, those monies reasonably would be put
4 toward the cost of repair and it's not so
5 completely upside down that they couldn't see
6 their way clear to requiring this property
7 owner to fix the property. That's what they
8 did.

I think they were a little -- I think the
Board in the first -- very first hearing was
surprised to learn some of the history as to
how Dr. Raymond came to have this building.
This building was rented for a long period of
time by Gary Hetrick, who some of you might
know - I know him, I've known him for years -
and he sublet to other tenants for the entirety
of the time he owned the building, which is
quite a while.

When Dr. Raymond began the building of the
new development he has directly to the north,
which is the large, very attractive commercial
building that replaced the --

23 CHAIRMAN: Chamber...

24 MR. HUBER: -- Chamber of
25 Commerce buildings, he had problems with

1 Gary Hetrick on that street that runs in
2 between the two and problems with what's
3 traffic going to do, problems with parking, and
4 I know that because I became involved in some
5 of that dispute. Mr. Raymond solved that
6 problem by simply buying the building. That
7 took care of the dispute. He bought the
8 property from Gary and now it was his.

9 And when Mr. Raymond testified originally,
10 he advised he really hadn't looked at the --
11 what it was going to take to fix the house that
12 he bought. He didn't know its condition. He
13 bought it -- I think, well, he bought it at the
14 price he paid to solve the parking and street
15 problem he had, because that's what he did.

16 I think the Historic Preservation Board
17 felt that, "Well, if you're going to buy a
18 property like that and you're confronted with a
19 three hundred thousand dollar repair cost, how
20 can you be surprised?"

21 The City Council created a Historic
22 District to preserve the style -- the building
23 style that's there, either residential or
24 commercial. The idea is that in this small
25 area of Downtown Medina, we're going to put an

1 emphasis on keeping what's there, and
2 ultimately the Historic Preservation Board felt
3 that the expense of repair is not unreasonable
4 given the fact that this property has been
5 leased for a long period of time previous,
6 Dr. Raymond hasn't done anything to put a hot
7 water heater or do anything to make it
8 rentable, but it is rentable, and in answer to
9 the question about economical use, there is a
10 viable economic use.

11 I think your decision really comes down to
12 balancing the question of the cost to repair to
13 its value, and fundamentally this is a question
14 of common sense. You're going to have to look
15 at the record.

16 I think the City of Medina did its job in
17 trying to give you a record. You're going to
18 have to examine what information was presented
19 by each person who testified and collectively
20 arrive at your own common sense on this issue,
21 and I can't ask for you to do any more. The
22 facts have been presented as best we can, and
23 beyond that I can't say too much more.

24 CHAIRMAN: Thank you, Greg.
25 Counsel --

1 MR. HUNT: Response?
2 CHAIRMAN: Yeah, I'll do
3 that. But what I was going to suggest is -- or
4 say to the group, you provided a memorandum to
5 the Board members privately and you outlined
6 four or five points that we should consider. I
7 think it's appropriate that you recite those
8 for the Board first, and then we'll go to
9 questions.

10 MR. HUNT: And I took these
11 right from the codified ordinances which is
12 145.07, Subpart C, and I think that
13 Mr. Witschey was fair in presenting what is in
14 that section or that subpart, and I broke that
15 down into really four things.

16 One is whether the subject structure has
17 some historic significance to the City of
18 Medina. I admit the word "some" is not in the
19 ordinance, but it doesn't also say it has to be
20 a substantial historic significance or some
21 other thing, so that's why I used the word
22 "some."

23 The second one is whether the demolition
24 will have an overall negative impact on the
25 adjacent historic landmarks, historic districts

1 in the community.

2 The third one is whether the minimum
3 necessary to renovate the existing structure to
4 a safe condition for a productive use outweighs
5 the value of the property and whether there is
6 an economically viable productive use of the
7 property when the renovations are made. I
8 think that's a fair interpretation of what's in
9 the ordinance.

10 And fourth is whether the impact of
11 the demolition and the Applicant's or
12 Appellant's proposed use of the site in the
13 Historic District is not a significant loss to
14 the Historic District so as to allow the
15 construction of the new development which
16 enhances the Historic District.

17 And so all of those, I believe, were
18 touched upon by Mr. Witschey and that's there
19 (indicating).

20 So those are the four things that I derived
21 from that Subpart C.

22 CHAIRMAN: Thanks.

23 MR. HUNT: It might be
24 appropriate to ask Mr. Witschey if he has any
25 response to --

1 CHAIRMAN: I was going to go
2 back and just say, does either counsel have any
3 comment as to what you've just outlined or need
4 to add anything to that comment?

5 MR. WITSCHEY: No. I do think
6 that I touched on it. I think the record, you
7 know, would reveal answers to those questions
8 in the manner that I presented.

9 CHAIRMAN: Okay. I think
10 we're ready for Board discussion then.

11 MR. HUNT: Well, there are
12 questions you might have of the attorneys also.

13 CHAIRMAN: Yes. Well, I was
14 going to begin discussion with a question that
15 I thought -- and I'll address the question to
16 both counsels, I guess.

17 Having to do with economic value, if the
18 request is denied and the building continues,
19 somehow I've been indoctrinated or taught over
20 a number of years that economically a rental
21 property is sort of valued at ten times annual
22 rents, or if you reverse that process, I
23 suppose annual rents ought to be ten times the
24 economic or market value, and I've similarly
25 seen, just in the last couple days by

1 happenstance, an article that said at least on
2 a residence, that monthly rents ought to be, or
3 need to be, approximately one percent per month
4 of the value of the property, and I wonder if
5 any counsel has heard of such standards before
6 or wish to comment. That could be turned into
7 a calculation of value and helpful to our Board
8 in measuring the economics.

9 MR. WITSCHEY: Well, without
10 getting into the mathematics, just in a general
11 sense, I would say that, you know, this
12 building is at a point now where it does need
13 repairs. It does need the three hundred and
14 some odd thousand dollars to make it code-ready
15 for occupancy.

16 And then on top of that, if you look at the
17 record, the two gentlemen that had the most
18 knowledge on, you know, building code and
19 rental said it's not functional. So in order
20 to get that fourteen thousand dollars a month,
21 that three hundred and forty thousand dollars
22 is going to have to be spent.

23 So we're far away from those numbers --
24 proportionate numbers that you talked about,
25 and I think that just provides further evidence

1 that there's just no economic viability to this
2 property as a rental, and that's what
3 Mr. Marquard said and what Mr. Robinette
4 said.

5 CHAIRMAN: Thanks .

6 Board, other questions? Thoughts?

7 Observations?

I personally am not troubled to say that
I -- based on the economic numbers that I just
mentioned, that my own mental calculation says
that the values don't come close to justifying
retention. If -- for example, between the
original purchase cost and rehab, there's close
to a half million dollars, or five hundred
thousand, in total reconstruction. Ten percent
of that is fifty thousand a year in rent to
justify that investment, and I don't know that
that makes sense. Or one percent a month of
five hundred thousand, five-thousand-a-month
rent, sixty thousand a year economically
doesn't make sense, but you folks do the math.

22 MS. FRY: Well, to that
23 point, with the new building, what is the
24 estimated monthly income that's going to be
25 generated by rent? I would assume that's been

1 looked at since we have a building, we have
2 square footages.

3 MR. WITSCHEY: Yeah. So I
4 think -- I'm not prepared to answer that.

5 But, Loren, are you able to?

6 MR. RAYMOND: I haven't run any
7 numbers on the new building yet.

8 MR. WITSCHEY: Well, what --
9 like next door, can you do a comparable to the
10 rents you're getting next door?

11 MR. RAYMOND: By removing the
12 old building and putting up the new, we will
13 make some money. Yeah, I -- I don't know what
14 we're putting in the new building. I don't
15 know how many apartments. I don't know. This
16 is all -- will be hopefully in the planning
17 stages. Once we get square footage and what type
18 of building we're going to do, what type
19 of commercial, so on, so on, and so on, I can
20 give a projection of the rental income.

21 But right now I don't even know what the
22 cost of the new building would be with the
23 inflation that's going on now. We're in a gray
24 area, and probably, if you allow us to demolish
25 the building, in six months or so I can give

1 you some good solid numbers, but I'm sorry,
2 everything I'd give you would be speculation.

3 CHAIRMAN: Other thoughts or
4 questions, Board?

5 MR. ROSZAK: What's the income
6 from your current building next door even
7 though it's not the same size, if I can ask
8 that?

9 MR. RAYMOND: I seem stupid.

10 MR. WITSCHEY: Do you know --
11 MS. FRY: Just order of
12 magnitude.

13 MR. RAYMOND: Yeah. It rents
14 at about fifteen or sixteen dollars a square
15 foot, and there's approximately six thousand
16 commercial square feet. And then there's five
17 apartments above that rented about fourteen
18 hundred and fifty to fifteen hundred dollars a
19 month.

20 MR. WITSCHEY: Each of them?

21 MR. RAYMOND: I'm sorry?

22 MR. WITSCHEY: Each of them,
23 fourteen to fifteen hundred?

24 MR. RAYMOND: Yes.

25 MR. WITSCHEY: Yeah.

1 MR. WILLIAMS: With great
2 respect to the law director and the
3 Historic Preservation Board, just because
4 something is old does not make it valuable or
5 historic. Certainly I've been around the city
6 for decades and I'm familiar with the building.
7 I've actually been inside of it. I'm not
8 sure -- I respect the builder's opinion, but
9 knowing the inflation of costs and things like
10 that, I think maybe those renovation numbers
11 are maybe a little lower than I would have
12 expected them to be.

13 The economics, as you said, Bert, I just
14 don't see it playing out knowing what rents are
15 and knowing what the costs would be. And I
16 didn't see the significant -- even with the
17 presentation, I didn't see a significant
18 historical value to retention, especially
19 when you look at the totality of the
20 Historic Preservation area of the city and
21 the Square area.

22 CHAIRMAN: Thanks. Anyone
23 else?

24 MR. HENWOOD: We've heard
25 testimony that the property is not viable

1 as -- currently and the repairs don't justify
2 the costs -- or the potential future use
3 doesn't justify the costs, and I don't think
4 we've heard testimony to the contrary of
5 that.

6 CHAIRMAN: Agree. I don't
7 think we have.

8 Brandi, any thought?

9 MS. FRY: Well, my only
10 thought is, you know, something only has value
11 of what you want to pay for it so, you know, we
12 may sit here and say it's only worth two
13 hundred and fifteen thousand dollars, but
14 that's --

15 CHAIRMAN: Right.

16 MS. FRY: -- you know, what
17 somebody -- you know, I may come in and say,
18 "No, I think it's six hundred thousand because
19 that's what I'm willing to pay and that's the
20 value it is to me."

21 So I struggle with the value concept,
22 especially since the building hasn't changed
23 since Mr. Raymond took over. There -- you
24 know, I could understand if there was some
25 impact to it, but it hasn't changed, so --

1 CHAIRMAN: Are we close to a
2 motion, Board?

3 MR. ROSZAK: So I have a
4 question.

5 CHAIRMAN: Go ahead.

6 MR. ROSZAK: So if you are
7 given permission to demolish the building,
8 what is your time frame for new
9 construction?

10 MR. WITSCHEY: Sure. I'll defer
11 that time frame.

12 MR. RAYMOND: You know, I'm not
13 sworn in. Do you want to swear me in?
14 (Whereupon, Loren Raymond was then
15 placed under oath by the Notary.)

16 CHAIRMAN: Give us your name
17 and address for the record, please.

18 MR. RAYMOND: Loren Raymond;
19 Bath, Ohio.

20 CHAIRMAN: Okay, go ahead.

21 MR. RAYMOND: Now I'm
22 comfortable talking.
23 Go ahead.

24 CHAIRMAN: Go ahead. Well,
25 you wanted to comment.

1 MR. WITSCHEY: Yeah, your time
2 frame.

3 MR. RAYMOND: Oh, time frame.

4 MR. WITSCHEY: Yeah. If it's
5 demolished, how soon for demolition, how soon
6 to get something going like we've presented
7 here?

8 MR. RAYMOND: Well, the last
9 building that I built on the corner where the
10 Chamber of Commerce was, we demolished the
11 three buildings that were there, and we
12 probably started construction about eight
13 months later. I have to see this young man
14 (indicating) and spend some time with him to
15 get our plans all laid out and I have to get
16 financing, of course. I don't think there will
17 be any problem with either one of them, but it
18 is time-consuming. So that's what I think
19 would be --

20 And I probably -- although this is not hard
21 in stone, I probably would not take the
22 building down before we were ready to start
23 construction on the new one.

24 CHAIRMAN: Okay. I presume
25 that the building is still unoccupied and it's

1 just secured, locked.

2 MR. RAYMOND: It is. I'm a
3 little concerned about vagrants getting in
4 there and doing damage, but so far we have had
5 nothing to that effect.

6 CHAIRMAN: Good. Okay,
7 thank you.

8 MR. ROSZAK: I guess I was
9 just asking to Mr. Hunt's memo. I don't mean
10 whether the demolition will have an overall
11 negative impact on adjacent historical
12 landmarks, historic districts in the
13 community. My point there was that if it's
14 torn down for an extended period of time,
15 it is going to be a vacant tooth in that
16 corridor.

17 MR. RAYMOND: I'm sorry, I
18 can't hear what you're saying.

19 MR. ROSZAK: I said that if
20 there is a time-lapse between the demolition
21 and new construction, there will be a
22 noticeable missing tooth along the corridor
23 adjacent to the Historic District.

24 MR. RAYMOND: Well, the
25 property is -- and this is -- the City requires

1 this. It will have to be smoothed, leveled,
2 and grassed.

3 MR. ROSZAK: Right. But my
4 point is, it's still going to be a vacant site,
5 a missing tooth along the corridor until
6 something new is built, so that was my concern,
7 that there's not a lapse in time between
8 demolition and construction.

9 MR. RAYMOND: Well, again, I
10 plan on leaving the building up until such time
11 as we demolish it.

12 CHAIRMAN: Let me ask staff
13 or Greg to answer that question.

14 Is there a time period within the City Code
15 once the permit to tear down is approved? Is
16 there a one-year time limit in the code that it
17 must be down?

18 MR. HUBER: I don't think we
19 have any provision for that.

20 CHAIRMAN: Okay.

21 MS. FRY: There would be
22 for the building permit, you know, but not the
23 demolition.

24 MR. DUTTON: There may be an
25 expiration on the demolition permit, but it's

1 not that involved of a permit, and if it
2 expired, they would just have to resubmit for
3 another demolition permit.

4 CHAIRMAN: It would not have
5 to come back to the Historic Preservation, or
6 would it? Just for what it's worth.

7 MR. DUTTON: I believe
8 theirs is one year. I'm not really sure with
9 this appeals process, what the timeline is
10 there.

11 CHAIRMAN: Okay.

12 MR. DUTTON: Generally if the
13 Historic Preservation Board takes an action,
14 the project has to commence within one year.
15 This process, with this appeal, I'm not sure if
16 that's still the one year or what that time
17 frame would be.

18 CHAIRMAN: I understand.

19 But it might be a fair guideline to the
20 Applicant to avoid having to start all over
21 again if that's how we end up here today.

22 MR. RAYMOND: Thank you.

23 CHAIRMAN: Other questions,
24 comments, Board?

25 MR. WILLIAMS: Actually, I have

1 one for Mr. Hunt.

2 CHAIRMAN: Yes.

3 MR. WILLIAMS: Of the four
4 criteria that we're considering when we
5 have a typical Board of Zoning Appeals case,
6 we cite multiple. What is the standard for
7 this?

8 MR. HUNT: These are really
9 factors that you need to look at, so you don't
10 have to hit each one of them, but those factors
11 need to be weighed, all four of them.

12 In some circumstances one may outweigh the
13 other. Obviously if there's great historic
14 significance, that might outweigh the economic
15 piece of it and vice versa.

16 MR. WILLIAMS: Thank you.

17 CHAIRMAN: So if you're
18 going to be brave enough to craft a motion,
19 touch on each of those points in your motion.
20 We'll help you get there if that's where we're
21 at.

22 MR. HUNT: Your other option
23 is, if you don't feel comfortable having
24 conclusions of fact to support your motion, you
25 can make your motion and you can ask me to

1 draft up conclusions of fact that support your
2 motion and your decision that I can submit to
3 you to look at, at your next meeting and review
4 and either tear up or adopt or --

5 CHAIRMAN: Or it would
6 become final at that time.

7 MR. HUNT: Correct.

8 CHAIRMAN: What's your
9 comfort level? Would you rather have his help
10 if you do a basic motion?

13 CHAIRMAN: All right.

14 MR. WILLIAMS: I would make a
15 motion that we find in favor of the appeal and
16 overturn the decision of the Historic
17 Preservation Board, while Item A in the
18 relevant evidence, it does have some historic
19 significance to the City of Medina and that
20 demolition will have a negative impact in some
21 way on adjacent historic landmarks, even to
22 Mr. Roszak's point, it's only in the temporary
23 nature; Item C that speaks to economic
24 viability, outweighs these factors; and that
25 the impact of the demolition that is proposed

1 on the site would not be significant to the
2 Historic District in the long-term.

3 And then I would ask for facts to back that
4 up.

5 CHAIRMAN: Is there a
6 second?

7 MR. ROSZAK: Second.

8 CHAIRMAN: It's been moved
9 and seconded.

10 You may call the roll, please.

11 MS. TOME: Fry?

12 MS. FRY: No.

13 MS. TOME: Henwood?

14 MR. HENWOOD: Yes.

15 MS. TOME: Humpal?

16 CHAIRMAN: Yes.

17 MS. TOME: Roszak?

18 MR. ROSZAK: No.

19 MS. TOME: Williams?

20 MR. WILLIAMS: Yes.

21 MS. TOME: Motion approved.

22 CHAIRMAN: Motion carries
23 three-to-two.

24 Counsel will prepare then a fact sheet and
25 we have to, at the next meeting, have a motion

1 on that point to accept the facts.

2 MR. HUNT: Yes.

3 CHAIRMAN: All right. So at
4 that point it will become effective.

5 MR. HUNT: Correct.

6 MR. DUTTON: Our next
7 meeting is March 10th, so I'm not sure if
8 that's feasible by the 10th or the following
9 meeting.

10 MR. HUNT: It should be
11 feasible.

12 MR. WILLIAMS: Procedural
13 question on that, Mr. Hunt. If the Board
14 should come back and not support the facts,
15 we don't accept that, does that remove the
16 motion?

17 MR. HUNT: No. You can
18 revise whatever I draft any way you wish, but
19 you've made your decision and you know
20 better -- maybe better -- hopefully better
21 than I what the facts were that were
22 presented to the Historic Preservation Board
23 and where you are today as to supporting that
24 decision.

25 CHAIRMAN: Thank you.

1 MR. HUNT: You're welcome.
2 CHAIRMAN: Case concluded.
3 MR. WITSHEY: Thank you.
4 CHAIRMAN: Thank you all
5 very much.
6 MR. RAYMOND: Thank you,
7 Board.
8 (Case concluded.)
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1 STATE OF OHIO)
2 COUNTY OF MEDINA.) ss:
3

CERTIFICATE

4 I, Makenzie J. Sabo, RPR, Notary Public within
5 and for the State of Ohio, duly commissioned and
6 qualified, hereby certify that before the giving of
7 their testimony, all persons were first duly sworn
8 to testify to the truth, the whole truth, and
9 nothing but the truth in this case aforesaid and
10 that the testimony was taken by me by means of
11 stenotype in the presence of said persons.

12 I further certify that this is a full and
13 complete transcription of the above-entitled cause.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 and affixed my seal of office at Medina, Ohio this
16 11th day of March, 2022.

17
18 _____
19 Makenzie J. Sabo, RPR
20 and Notary Public within and for
21 the State of Ohio.
22 My commission expires 09/19/23.
23
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