



# City of Aurora

City Hall - 5th Floor

44 E. Downer Place  
Aurora, Illinois 60507

## Planning and Zoning Commission Meeting Minutes

Wednesday

June 21, 2023

7:00 PM

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### CALL TO ORDER

*Chairman Pilmer called the meeting to order at 7:02 pm.*

### ROLL CALL

*The following Commission members were present: Chairman Pilmer, Mr. Chambers, Mr. Gonzales, Mr. Kuehl, Mrs. Owusu-Safo*

*Mrs. Anderson, Mr. Choudhury, Mrs. Martinez, and Mr. Roberts were excused.*

### OTHERS PRESENT

*The following staff members were present: Mr. Sieben, Mr. Broadwell, Mr. Sodaro, Mrs. Morgan, and Ms. Burden*

*Jeremy Hoerauf/GRNE Solar (for Marmion Academy – 1000 Butterfield Rd)  
Guadalupe Garcia (for 114 Woodlawn Av)*

### APPROVAL OF MINUTES

**23-0482**

Approval of Minutes from 6/7/2023 Planning and Zoning Commission Meeting

*MOTION OF APPROVAL WAS MADE BY: Mr. Chambers*

*MOTION SECONDED BY: Mrs. Owusu-Safo*

*AYES: Chairman Pilmer, Mr. Chambers, Mr. Kuehl, Mrs. Owusu-Safo*

*NAYS: 0*

*ABSTAIN: Mr. Gonzales*

*Motion carried.*

**A motion was made by Mr. Chambers, seconded by Mrs. Owusu-Safo, that the minutes be approved and filed. The motion carried.**

### PUBLIC COMMENT

*Chairman Pilmer said if you are here for an item that does not appear on the agenda as a public hearing and you wish to speak to the Commission, we can give you 3 minutes to do so.*

*No one came forward.*

## **AGENDA**

### **23-0429**

A Major Variance to allow for a reduction of the clearance requirement from eight feet to two feet for freestanding solar energy systems for the property located at 1000 Butterfield Road. (Marmion Academy - 23-0429 / BA35/3-23.274 - V - JS - Ward 1) (PUBLIC HEARING)

*Mr. Sodaro said good evening, everybody, this is Jake Sodaro with Planning and Zoning. The subject...the Petitioner's requesting approval of a Major Variance to decrease the minimum clearance requirement for freestanding solar energy systems. The typical requirement for the City of Aurora is that the minimum clearance be 8 feet off of the grade. The Petitioner is requesting a reduction to 2 feet. Both, there are 2 solar arrays proposed, each being enclosed by a 7-foot-tall security fence. Both are in internal areas of the campus meant not to disturb the residents or any other members of the public. Those are really the only things that are being varied in this request. Did you have any questions for Staff? Otherwise, we do have members, the Petitioner's team here.*

*Chairman Pilmer said any questions of Staff?*

*Mrs. Owusu-Safo said can we share the reasons why you need this variance? Why does it have to be 2 feet as opposed to the normal?*

*Mr. Sieben said so, maybe they can just describe the project and then I can give a background of how this ordinance came to be, and kind of where we're going from here.*

*Chairman Pilmer said so, at this time I'd ask the Petitioner if they would like to come forward. And I will...anyone else is going to speak for the Petitioner?*

*Mr. Hoerauf said I don't think so.*

*Chairman Pilmer said alright, I swear you in if you'll just raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?*

*Mr. Hoerauf said yes, I do.*

*Chairman Pilmer said and then if you'll just state your name and address for the record.*

*Mr. Hoerauf said Jeremy Hoerauf, I'm here with GRNE Solar, we're out of 230 North Hicks Place, Palatine, Illinois.*

*Chairman Pilmer said go ahead, I don't know if you want to provide a brief overview of if you want to start with why the variance from 8 feet to 2 feet.*

*Mr. Hoerauf said so, I can start with why. It's not a typical residential installation of what we're going after. This is a commercial installation; 8 feet is a lot of steel in the ground. A lot of extra steel that's not needed. There's way more engineering involved with that, and the typical array that you see is large open fields full of solar. This isn't,*

*this isn't that though. This is much more compact. But the 2 foot is the typical general solar array dimension from grade height. Alright, you have maintenance involved where nobody's working off of ladders, even installation. The practice involved; the entire project is very typical at 2 feet across the entire industry. So, as far as the project goes, we're tying into 4 different points of interconnection with the, with the facilities.*

*Mr. Sieben said you might want to go over the location on the campus. I think I'm...*

*Mr. Hoerauf said sure, it's hard to see, yeah...*

*Mr. Sieben said you want me to zoom in a little bit? I believe this...*

*Mr. Hoerauf said yeah, what we're calling the quad location is the main, the main point. It's centralized to the campus. And that's where the majority of the array is. And there's a secondary outskirt project that's, we call it the Abbey project and it's a smaller, a smaller system. Both, like it stated before, will be encompassing a 7-foot chain-link fence per NEC code, so that...that will be the deterrent. Most residential projects you're not going to have a fence, you're not going to have that deterrent for safety reasons. That's one of the other probably reasons why there's an 8-foot issue to keep that, keep any electrical wiring up higher enough. Whereas this is a lower, we need a fence line. Yeah, this is the Abbey site, this first layout here. It's a simple two high fixed tilt, meaning it's not a tracker, it doesn't move, it's standing. There's 2 modules in portrait on top of each other and it's just fixed at a, I believe, like 25 or 30 degree tilt. And here is the quad layout as well right there. So, about, you know, 3 X the size of the other one.*

*Chairman Pilmer said alright, any other questions of the Petitioner?*

*Mrs. Owusu-Safo said what is the proposed surface going to be made out of? Is it grassy area, is it going to be gravel? How is maintenance of it going to look like?*

*Mr. Hoerauf said so, grass...mostly grass, some projects...honestly, I'm not quite sure on this one if it's a pollinator, local pollinator mix or not. But it's not going to be gravel. Maintenance; as GRNE is the 'owner' of the project, we are the lease holder, we own the project, and Marmion...we charge Marmion an electric bill every month. So, there's 0 dollars to Marmion for this project and we have to maintain the project as well. We're responsible for the mowing and the maintenance of the project as well. And it's usually, you know, twice a year they'll mow. What's planted after the project's over is usually a pra...what we call a prairie grass. It grows maybe a foot tall and kind of falls over. It's low, low maintenance and very minimal need to mow. But, yeah, we will mow it specifically during, close to school year when if it is for visual purposes.*

*Mr. Sieben said just to follow up with the Commissioner's question from before; so, the City of Aurora put into the Zoning Ordinance what we call "turn of energy". Some requirements about 10 years ago and there really wasn't a distinction between a residential application and a commercial. So, if it's a freestanding solar array as the ordinance states, it requires a minimum of an 8-foot clearance from the ground to the bottom of the panel, if it's on a post. And I think the reason for that was, especially if it's in residential, it's going to be high enough that people aren't going to be grabbing it and there's not going to be issues like that. Where we've seen the freestanding arrays, Marmion's one of them, we've got another one going to be coming in for Abbey Paving in the back of their property, so we're getting more and more requests for it. Those are in on a commercial property in a completely secure area with security fencing. No way anyone can get into the site, and it just doesn't make sense to have these things*

*sticking way up in the air when they can do the same job down closer to the ground and they're less obtrusive sticking up in the air as the ordinance currently requires. We're actually going to be coming before you guys in the near future with some zoning amendment changes and that's one of them. We're going to allow for some more flexibility, so just so you guys know.*

*Mrs. Owusu-Safo said so is 2 feet like the best practice height for the solar panels? Is it just specific to your type of...*

*Mr. Hoerauf said no, it's pretty general across the industry.*

*Chairman Pilmer said any other questions of the Petitioner?*

*Mrs. Owusu-Safo said just another; is there any...like I know you're putting a fence around it, is there any kind of trees or anything around it so it's not just a chain link fence?*

*Mr. Hoerauf said existing trees, I know, is mostly what's...what's...*

*Mrs. Owusu-Safo said is going to be there.*

*Mr. Hoerauf said what's going to stay there. There's no current plans for any other plants.*

*Mrs. Owusu-Safo said okay, so the existing trees are not being cleared for this.*

*Mr. Hoerauf said there will be some removal with the array area but not outside the fence line.*

*Mrs. Owusu-Safo said okay.*

*Chairman Pilmer said thank you.*

*Mr. Hoerauf said you're welcome.*

*Chairman Pilmer said at this time, this is a Public Hearing. If anyone in the audience would like to address the Commission regarding this case, they will have an opportunity to do so. Does anyone wish to speak? I see that no one has come forward. I will close the Public Hearing and ask for Staff to review the Findings of Fact.*

*Mr. Sodaro said okay, as this is a Public Hearing, I just want to mention that there were some inquiries from the public regarding the project. Everything was just more mostly requesting additional information. There was no real support, or you know, disapproval of it. They were mainly asking about the location of the proposed arrays. Once they learned that they're mostly internal, we did receive a little bit more support from the neighbors. And then in terms of the Findings of Fact, Staff did want to briefly touch on these as is required for Variance petitions:*

*1) The requested variance is based on the particular physical surroundings, shape, or topographical conditions of the property which results in a particular hardship to the owner. In order to minimize the impact on the residential neighbors and the students of the academy, the variance will be needed to lower the height of the system.*

*2) The requested variance is based on conditions unique to the property. As this is a*

*large campus and not a single-family residence, there is far more open green space to this lot than to the typical residential lot.*

*3) The requested variance is based on an alleged difficulty or hardship that is caused by the ordinance and has not been created by the interested party. The minimum clearance requirements for freestanding solar arrays are stricter than that of other communities, creating further hardships for the developer.*

*4) The requested variance in all other respects is in conformance to the applicable regulations of the district in which it is located. The only variance requested is to the minimum clearance requirements.*

*Chairman Pilmer said thank you. You've heard the Findings of Fact, is there a motion?*

*MOTION OF APPROVAL OF VARIANCE WAS MADE BY: Mrs. Owusu-Safo*

*MOTION SECONDED BY: Mr. Kuehl*

*AYES: Chairman Pilmer, Mr. Chambers, Mr. Gonzales, Mr. Kuehl, Mrs. Owusu-Safo*

*NAYS: 0*

*Motion carried.*

*Chairman Pilmer said motion carries. If Staff...is there an additional hearing on this or is this final?*

*Mr. Sodaro said no, this is the final meeting.*

*Chairman Pilmer said we did hear the Findings of Fact, is there a motion to accept as written into the record...or read into the record?*

*MOTION OF APPROVAL OF FINDINGS OF FACT WAS MADE BY: Mr. Chambers*

*MOTION SECONDED BY: Mrs. Owusu-Safo*

*AYES: Chairman Pilmer, Mr. Chambers, Mr. Gonzales, Mr. Kuehl, Mrs. Owusu-Safo*

*NAYS: 0*

*Motion carried.*

*Chairman Pilmer said motion carries. Good luck.*

**A motion was made by Mrs. Owusu-Safo, seconded by Mr. Kuehl, that this agenda item be approved. The motion carried.**

**23-0465**

**A Resolution Approving a Revision to the Final Plat for Lot 1 of West Reimers Subdivision, Located at 55 South Constitution Drive, and Establishing Lindsay Window & Door Subdivision**

*Mr. Broadwell said thank you, Mr. Chairman. Hi, it's good to see you all again. My name is Steve, I'm here with the City...Steve Broadwell, excuse me, with the City Zoning Division. So, yeah, as you just heard, this is the Final Plat Revision for Lot 1 of West Reimer Subdivision and the Petitioner is Lindsay Windows. I believe we might*

have a Petitioner here. A little bit of...as you can see on the screen up there is the proposed 2 lot subdivision. The existing 1 lot subdivision is approximately 8 and ½ acres, includes the existing building. You might know it as the current Lindsay Windows building, former Cub Foods. So, that's Lot 1. Lot 2 is the approximately 1 acre lot that fronts on South Constitution which is proposed to be...well, it's being subdivided for new, approximately, I guess for new commercial outlot, I guess. Members of the Planning Commission will probably remember we did a Plan Development Revision and a Final Plan for...with Lindsay Windows in August of 2020. The Plan Development allowed for the processing, finishing, and assembly of the (3140) use for Lindsay Windows. And then Lot 2 was just being rezoned to the B-2 Planned Development for the 10,000 square foot commercial building. We only required Lindsay Windows to the Final Plan and the Planned Development at that time and part of the deal, I guess, was that this Plat of Subdivision needed to come through, so that's I guess the implementation of that is what we're seeing right now. So, other than that there's, you can see, there's a cross access easement along the northern portion of Lot 1, I guess, really for continued access for...through Lot 1, Lot 2 of the Lindsay Windows Subdivision but then also the rest...the 2 restaurants and the gas station on Galena Boulevard. They already have existing access. So, any questions for Staff at this point?

Chairman Pilmer said I'll ask a question. The internal roads there that are shaded in dark gray, who maintains those? Is that...is there an association?

Mr. Sieben said no, that's Lindsay Windows. They're the owners.

Chairman Pilmer said it just could use some...used to be addressed. They get a lot of traffic, especially the east/west.

Mr. Sieben said yeah, that's part of Lot 1. And as Steve said, as part of the original zoning in 2020, we tried to still retain potentially some retail or office on the site which is why we have the Lot 2. I believe Lindsay already has a commercial broker that has it listed, we just had to finish going through this formal process. The reason it took a while, since you see the September '22 date is there were some utilities that had to be shown bring run to serve the property and then a security put up for the property. And we are continuing to work with Lindsay Windows. There's some...there were some supply chain issues early on. They are expanding their...on the north side of the building, they have a fenced in storage lot. That's in the process of being slightly expanded to try to get of the stuff off the parking lot. We are working with them also to remove some of the excess semi-trailers that are up front. Those are supposed to be situated further back on the property so we're continuing to work with them through an enforcement process.

Chairman Pilmer said any questions of Staff? Is there a recommendation?

Mr. Broadwell said oh, yeah...sorry...

Chairman Pilmer said does the Petitioner want to add anything? I believe someone's here, I'm sorry. Yeah, thank you.

Mr. Broadwell said sorry...do you want me to...I'll read the recommendation now. So, there are 2 conditions which I'll also read:

Staff would recommend Conditional Approval of the resolution approving a revision to the Final Plat for Lot 1 of West Reimers Subdivision, located a 55 South Constitution

*Drive, and establishing Lindsay Window and Door Subdivision, with the following conditions:*

*1) Security, in the form of a letter of credit or subdivision bond, shall be provided to the City for the construction of the offsite watermain prior to the recording of the subdivision plat.*

*2) A new City Easement should be shown as dedicated over the existing storm sewer on Lot 1.*

*Chairman Pilmer said you've heard Staff's recommendation with 2 conditions. Is there a motion?*

*MOTION OF APPROVAL WAS MADE BY: Mr. Chambers*

*MOTION SECONDED BY: Mr. Gonzales*

*AYES: Chairman Pilmer, Mr. Chambers, Mr. Gonzales, Mr. Kuehl, Mrs. Owusu-Safo*

*NAYS: 0*

*Motion carried.*

*Chairman Pilmer said motion carries. If Staff will state where this will next be heard.*

*Mr. Broadwell said this will next be heard at the Building, Zoning, Economic Development Committee, Wednesday, June 28th at 4 pm, 5th Floor City Hall Conference Room B.*

*Chairman Pilmer said good luck.*

**A motion was made by Mr. Chambers, seconded by Mr. Gonzales, that this agenda item be Forwarded to the Building, Zoning, and Economic Development Committee, on the agenda for 6/28/2023. The motion carried.**

**23-0369**

**Appeal of Zoning Administrator's Decision regarding 114 Woodlawn Avenue**

*Mr. Sieben said good evening, Ed Sieben, City of Aurora Zoning and Planning Director. Also here is Guadalupe Garcia. She's the owner of 114 Woodlawn Avenue in Aurora and she has filed an appeal to the Commission regarding whether I have correctly interpreted the loss of legal nonconforming status. Let me give you a background of what has transpired with this property, a little bit about the property, and where we're at now. In fact, we got some new information right before the meeting which is what we were talking about. So, I think...I think we've come to a certain direction. The purpose of this last case is it's an appeal by the owner of the residential building at 114 Woodlawn Avenue that the Zoning Administrator has correctly interpreted the loss of legal non-conforming status. So, a little bit of background; on January 21, 2023, a fire occurred at 114 Woodlawn Avenue resulting in significant damage. I have an aerial up here that shows the property. Unfortunately, the road names aren't on there, but that is Woodlawn Avenue in front of where the lot is highlighted. Just off to the left is Garfield starts there and the road up in the northwest or up the upper right corner is Benton Avenue, and Lake Street is down at the very bottom right. A little point of reference too; this is next to Lee Body Shop, it's the large commercial building right next to this. So, there was a fire on January 31st. A little background: 114 Woodlawn Avenue is a 2-unit residential building. It historically has legal nonconforming status because the*

zoning is M-1, Limited Manufacturing District. Let me go to the Zoning map...scroll down here. So, there's the lot in question highlighted that kind of light...light purple is all M-1 zoning which front on the east side of Woodlawn Avenue there. So, the property has always had legal nonconforming status as a 2-unit in the M-1 district. A permit, as stated in the Staff Report, was applied by the owner on March 23, 2023, to repair the fire damaged 2-unit residential structure. City Zoning Staff and Property Standards did review it and after discussion with myself as the Zoning Administrator, the property was posted by Property Standards on April 18, 2023, and subsequently, or I should say concurrently, the Zoning Administrator submitted the attached letter via email on April 21, 2023, explaining the reason for the loss of legal nonconforming status. The owner...when a property gets cited by Property Standards, they talk about you have the ability to appeal and that is what Ms. Garcia has done. The owner indicated request to appeal which was formally applied for on May 16, 2023. So, a little background on legal nonconforming properties in Aurora: the City of Aurora has many dozens of properties like this that have legal nonconforming status. I would venture there's probably hundreds. I was being conservative when I said many dozens. These may take the form of small commercial buildings that are zoned residential. Many of them are multi-unit residential properties that may be zoned single-family residential, that's fairly common. Or as in this case, residential property that are zoned nonresidential. Therefore, the Zoning Ordinance has a section which in general is 49-105.8, which is the nonconformity section that deals with any situations that may occur with a structure use or lot that is nonconforming. Probably the most common issue that arises is when a major fire occurs regarding legal nonconforming uses and the structures related there too, which is the case here. Section 49-1058D4E, as quoted in the letter of April 21st, discusses permitted changes to legal nonconforming zoning lots, structures, and uses, specifically 4E which talk...which is regarding reconstruction of a damaged or destroyed structure involving a legal nonconforming use. And I say, "see attached 4/21 letter for detail." And then here's how we do the calculation as stated in the letter; the proposed insurance claims by State Farm to repair said fire-damaged 2-unit was just a little over \$202,000. I have a copy of that. That was what was submitted with the permit in March to repair the building. The value of the building...so, how we determine fair market value of the building is, in this case, we look at the value of the building per the Aurora Township Assessor. I do have a card in there, I could go to it real quick, give me a second. So, here is the actual card. And the Aurora Township Assessor, I give the Assessor credit, has one of the best sites around, so it's a great resource. But the value of the building per the Aurora Township Assessor is listed as \$119,187. That's the fair market value and where that value comes from, if you...so everything on the Assessor's page is listed at one third of the true value. So, you can see there under building, which is \$39, 729, if you multiply that by 3, that gives you the actual...what it's actually assessed at fair market value. That's where we get the figure of just under \$120,000, okay. So, what the ordinance says is in the nonconforming section is that if you have a nonconforming use, a 50% repair allowance can be done because this 2-unit residential is in an M-1 district, which doesn't allow residential. So, that would allow for just under \$60,000 worth of repairs, that's 50% of the fair market value. And as you can see in the packet that Ms. Garcia had submitted, that insurance figure is 3.4 times higher than the allowable repair cost allowed by the Zoning Ordinance. Again, this process has historically been the fairest way to determine fair market value when evaluating a property. And I can turn it over to Ms. Garcia but let me just talk about my summary here and because she has given me some additional information. So, as Zoning Administrator, I feel that I have correctly interpreted the Zoning Ordinance. I have asked the owner going back several weeks that I would be glad to review alternate figures if they would like...if the owner would like to spend time to split out certain costs that may not be directly applicable to the cost repair. So, in the actual total of



*the \$202,000, there are certain line items in there that we could probably deduct in determining that 50% repair value. If you saw the repair estimates were this thick, so I did ask for that. My report states to this date, this was as of Friday, that has not been provided by the owner. I do state that if the Commission denies the appeal, the Zoning Administrator can still sit down with the owner and the building department and determine if the numbers submitted are accurate. That would be separate from this process here. Now, keep in mind that the request for an appeal is not a variance to these numbers; it's an interpretation of the ordinance. So, I would be still willing to sit down with Ms. Garcia to over the numbers. In addition, the owner will have an opportunity to state her case in front of the Administrative Hearing Officer on June 29th. So, this property has also been cited by Property Standards because it's a...now a fire damage building. So, what happened just before the meeting is Ms. Garcia, who is sitting behind me, did break down the cost estimates and obviously in the 2 minutes before the meeting, we haven't been able to sit down and go over those. If Ms. Garcia wouldn't mind, I do ask that the Commission affirm that I've correctly interpreted the ordinance and that I would still be willing to sit down with Ms. Garcia, which she is willing to do see if we could work out something with this. I don't know if you want to state anything. If you can speak in the mic...*

*Ms. Garcia said alright...well, I mean...I have a little bit of a list. I gave it all to you so, if we...we can.*

*Mr. Sieben said yeah, uh sure. But if you want to just, you know, agree that we would still look at the numbers, as I said at the end there, that would be fine.*

*Ms. Garcia said yeah, I do agree that I would like to look at the numbers with Ed and walk through them with him and...*

*Chairman Pilmer said I just need to have you state your name and address. We know who you are but just for the record, please.*

*Ms. Garcia said Guadalupe Garcia and my address is 7 S 211 Barnes Road, Aurora, Illinois. The address of the property is 114 Woodlawn. It is an investment property for myself and my partner, well my partner...it's a personal property for her.*

*Chairman Pilmer said and then I don't know if there's anything Ed explained...it sounds like you provided some additional information, but if there's anything else you want to discuss to the Commission tonight, we...you certainly have the opportunity to do so.*

*Ms. Garcia said yes, I do, actually. I want to just kind of...and I do appreciate that Ed is going to work with me and talk to me in regards to that estimate. As I had explained to Ed, that estimate includes quite a bit of cleaning, not real...non-repair items. Things to make me whole as an insured versus a complete repair. And it also includes some inflated prices in regards to labor because it would be considering labor to be outside of myself or my husband, in some respects. We wanted, I want to do it...go ahead and review that with him so we can discuss that and to see, because much of it...much of it is really cleaning and items of that nature. But what I wanted to also discuss here is that there are a couple of other things that I wanted to just point out, and I do appreciate that Ed, you know, gave you guys some background. But 114 Woodlawn is a M-1 zoned property, but it is...your Zoning Ordinance here does give some context that if it did not meet that 50% of applicability, if it's over 50%, than there is still an allowance, you know, to be repaired if it meets certain criteria. And that criteria is that it needs to be under 80% of the lot size, the minimum lot size. Now, that lot size...and I've asked the Zoning Department what is the minimum lot size for an M-1 zoned lot,*

*and there is no minimum lot size whatsoever. And the property itself has a footprint of about 700 feet in of land, not high but land, wide...width times its area on the first floor and it is under 80% of the lot size, minimum lot size because there is no minimum lot size. So, I would like the Commission here to consider the fact that this does still fall within the parameters of being able to be repaired within that ordinance, and I believe I mentioned that particular one and I apologize here...*

*Mr. Sieben said do you...*

*Ms. Garcia said sorry, go ahead.*

*Mr. Sieben said do you mind if I respond...*

*Ms. Garcia said yes...yes, go ahead.*

*Mr. Sieben said so...so, that's not in dispute. That's what's not being cited, even though she did mention that. As she mentions, M-1 has no minimum lot size. That's not being cited; what's being cited is the nonconforming use. The fact that it's a residential use in the M-1 zoning district. So, the 80% or the minimum lot size...that has nothing to do with anything. All we're looking at is it's a nonconforming use and the cost to repair on the initial review is over 50%. So, so that...I'm not disputing that, that's not being cited.*

*Chairman Pilmer said yeah, and I think...I think your willingness to look at some of the costs that are on is probably where the, I guess I would call it a gray area. Because I think our...our appeal tonight is really to determine if the Zoning Administrator correctly interpreted the rules and the laws of the City of Aurora as written by the Zoning Ordinance....*

*Ms. Garcia said yes, and that...*

*Chairman Pilmer said so, that's kind of the...but there's probably, I believe, a gray area based on the repair estimates that the Zoning Administrator and the Building Department are willing to look at to see if...and it sounded like there is possibly is some additional cleaning and some of those costs so that it would be reduced to work within that formula of what is in the City's Zoning Ordinance, so that's...that's the...*

*Ms. Garcia said yeah, and I am, I'm really very appreciative that Mr. Sieben would be able to do that, but I would like to just go on record with some of these things that...that either haven't really been discussed or optioned because one of the things in that letter is that the building needed to be demolished, and I want to...the reason I was building up to that, you know, with my previous conversation was the demolition and in this particular ordinance, 49-1058, there isn't any discussion about the structures being demolished if they don't meet that. There is...there is language in there about being conformed to the M-1 standard or to the zoning standard, which again, I'm not opposed to, as well. But to demolish it itself, to demolish it and not allow it to be rebuilt is part of what I've understood...and not necessarily just the rebuild part, because Ed didn't say that in his letter, but he did notate that it did need to be demolished and it did...it could not be repaired. And that is why I'm bring this forward because I want to make sure that we are...what is out there is that my...building itself, even if it doesn't go back to being a 2-unit can still be utilized in that lot. If it conforms or if it gets repaired to conform to the standard of that lot and that is M-1 zoning. The reason I bring it forward is because I had a bit of a discussion with the person who posted the ordinance violations on the door, Ruthy Harris, Property Standard, who*

*specifically said that I would have to demolish my...my building and they would...and the City would definitely not allow me to rebuild my property, even if it was to M-1 standards. And that was really very shocking, because now I have somebody telling me that there is already...it's set in place that you're not gonna be...I'm not gonna be allowed to rebuild or repair my building to the Zoning Ordinance, even if I don't use it as a 2-unit. And that is why I want to bring these things forward because I want them on record, so that we can make an informed decision. I want to ensure that whatever it is, whether I can...we can go back to a 2-unit or we have to go to an M-1 zoned property and conform to that, that my property will still have value and be useful as an investment, which I purchased it for in which it has been. And I state this because I had this issue in the past with the City as well. Previously in 2016, the City offered to purchase my property, they wanted to purchase my property, they purchased several properties down the road, and I denied that purchase and when I denied it, they sent to me, you know, to get foreclosed upon and they cited, and they did this, and they did many things. And I was in court for multiple years until they dropped those...that case and they allowed me to continue on with that. And I've had this issue in the past and again, it's coming back and with what was told to me by Ruthy Harris, is that this is little more than just 'hey, you can't rebuild, or you can't fix it because your property is more than 50% damaged.' And I don't want that to be the case. I don't believe that's with Ed. I don't believe that's something that Ed really intends and so I'm appreciate of that. Ed will work with me on that, but these are things I want to be known as we move forward.*

*Mr. Sieben said sure...thanks for responding.*

*Ms. Garcia said oh, no problem, no problem.*

*Mr. Sieben said so, Ms. Garcia is correct that the letter did state that based on the ordinance and the permit that was submitted with the dollar value, the property has experienced a lot of legal nonconforming status and the building must be removed. I say...I indicate the property has been cited as such by the Property Standards Division, so I want to be clear. I do agree with her. The Zoning Ordinance is not the ordinance that requires the demolition. It's the Property Maintenance Code that's enforced by Property Standards. As a City, we try to work together so the Zoning Division, the Property Standards Division...so, that's where that came from so she is correct. The Zoning Ordinance does not talk about the removal, it's the Property Maintenance code due to the fire damaged building. She is also correct that theoretically you could use the property as it's zoned for an M-1 use, okay. But what we have right now to look at, which the permit that was applied for was to repair as the residential use. And again, we will look at that based on the new information she had but she is correct on both those parts. We're not disputing that, okay.*

*Ms. Garcia said one more thing.*

*Mr. Sieben said sure.*

*Ms. Garcia said so when the ordinance violations did hit the mailbox and I received them, the ordinance violations don't specifically call out demolition. They do notate to conform to M-1 standards, so...and I know that was Jeff Chesnutt, who is the Property Standards Manager versus Ruthy Harris who is the Director so there may have been some disconnect but their...their ordinance violation does not state anywhere that it needs to be demolished and that might have been a miscommunication in terms of that, but I just...that was not provided to me by Property Standards and perhaps that was a discussion between you and Ruthy so...that's what I wanted to say about that. I*

*think I've kind of covered all of the things that I had here, not fully but pretty much and then you all have this, so you've read it, kind of understand where I'm coming from on that. Any questions for me?*

*Chairman Pilmer said questions of the Petitioner?*

*Mrs. Owusu-Safo said I guess I'm trying to understand is is your aim to rebuild it as residential or are you saying if it doesn't meet the non...if you can't get it to meet conformance, you are will and plan to reconstruct it to an M-1 property. So, you're biggest thing is the demolition part. You do not want to demolish it, you wanna conform.*

*Ms. Garcia said I would like it to go back to a 2-unit residential. I am not opposed to it being an M-1 because under the M-1 standard, I can have any kind of business in there and you know, the City, you know, may be willing to work with me to do some, you know, other things where I have an apartment on the top and on the bottom have a business, whatever the case is. But you are correct in the fact that my issue is the demolition of it, because then it becomes...you know, a property that is very devalued, which is back my point with the City trying to obtain that property and in the past and continuing to try to do that, although I'm not specifically saying you, Ed, so I apologize if that's...you know...I don't want that interpretation, but I want just to be clear. That is an investment property, and I will want to be able to utilize it as investment, whether it is for business or for residential. The demolition of it is...is what I am vehemently against.*

*Chairman Pilmer said yeah, and I think I'll just clarify our agenda item this evening is an appeal of the decision made by the Zoning Ordinance that...that they incorrectly...the appeal's that the incorrectly ruled on the Zoning Ordinance and that's really the agenda item this evening that we're here to vote on, whether it's M...whether, you know...what do you want to build as M-1, that would be your decision as the property owner. I think the case tonight is not that we're going to approve M-1 or we're going to approve a 2-unit. It's really to revisit the appeal was done on the decision by the Zoning Administrator.*

*Ms. Garcia said and just...and that decision included the demolition but you're saying that it really wasn't part of that....*

*Mr. Sieben said it's part of Zoning...*

*Ms. Garcia said part of...*

*Chairman Pilmer said that's not part of it...*

*Ms. Garcia said that was not part of that, okay. So, and if...*

*Chairman Pilmer said it's kind of a 2-step process. You can see where it's going but it's clearly not part of the Zoning Ordinance. That's Property Standards which is a different for long gone conclusion and...*

*Mr. Sieben said so I clarified that for the record that that's Property Maintenance.*

*Chairman Pilmer said Property Maintenance.*

*Ms. Garcia said and in that...for that record, so you know, whatever the decision is*

here today in regards to this appeal and whether that was correctly made, I would just ask if, Ed, you would revise that letter to take the demolition part out.

Mr. Sieben said I can do that.

Ms. Garcia said okay.

Mr. Sieben said okay. So, again, based on the testimony, the recommendation would be that the Commission deny the appeal by Guadalupe Garcia. Again, it's based on the information that was provided. I will go ahead and as far as the Zoning decision goes, remove or reiterate that the removal of the building is not based on the Zoning Ordinance. That may be a follow-up down the road by the...by Property Standards but we're not at that point yet. And again, I would be willing to revisit the...the repair numbers with Ms. Garcia based on the new information that she just provided as we move on.

Chairman Pilmer said you've heard Staff's recommendation. Is there a motion?

MOTION OF DENIAL OF APPEAL WAS MADE BY: Mr. Chambers

MOTION SECONDED BY: Mr. Kuehl

AYES: Chairman Pilmer, Mr. Chambers, Mr. Gonzales, Mr. Kuehl, Mrs. Owusu-Safo

NAYS: 0

Motion carried.

Chairman Pilmer said motion does carry. This will...this is a final ruling; however, Staff has agreed to meet with you again, I think maybe as quick as tomorrow. And then you'll have another hearing scheduled on the 29th as well. Good luck.

**A motion was made by Mr. Chambers, seconded by Mr. Kuehl, that this appeal be denied. The motion carried.**

## ANNOUNCEMENTS

Chairman Pilmer said any announcements for the Commission?

Mr. Sieben said oh, yes...so the next regular scheduled meeting, it would be July 5th. We are not going to have a July 5th Commission meeting. I'm not sure...(laughing)...I'm not sure...we didn't have 5 people but...so the next regular meeting will be July 19th... Wednesday, July 19th, okay. So, enjoy your holiday then.

Chairman Pilmer and Mrs. Owusu-Safo said thank you.

## ADJOURNMENT

Chairman Pilmer said is there a motion to adjourn?

MOTION OF ADJOURNMENT WAS MADE BY: Mrs. Owusu-Safo

MOTION SECONDED BY: Mr. Gonzales

*Motion carried by voice vote.*

*Chairman Pilmer adjourned the meeting at 7:43 pm*

**A motion was made by Mrs. Owusu-Safo, seconded by Mr. Gonzales, that this meeting be adjourned. The motion carried.**

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