

<b>COA # 2010-COA-297 (HMP) 2010-VHP-014</b>	<b>INDIANAPOLIS HISTORIC PRESERVATION COMMISSION STAFF REPORT</b>	<b>Hearing Date AUG. 4, 2010</b>
<b>1606 N. Delaware Street HERRON MORTON PLACE</b>		NEW CASE
<b>Applicant &amp; mailing address:</b>	<b>JACOB R. COX D/B/A COX LAW OFFICE</b> 47 S. Meridian St, Suite 400 Indianapolis, IN 46204	Center Township Council District: 15 Doris Minton-McNeill
<b>Owner:</b>	Eltex Investment Corporation 2711 Centerville Rd Suite 400 Wilmington, DE 19808	
<b>COMBINED CASE</b>		
<b>IHPC COA:</b>	<b>2010-COA-297 (HMP)</b>	For signage, site improvements, masonry repair, gutter/soffit repair, new HVAC and for approval of a Variance of Use.
<b>BZA Variances:</b>	<b>2010-VHP-014</b>	Variances of Use to allow professional office space (multi-tenant) in a D-8 district.
<b>Staff Recommendation: Approval of a Certificate of Appropriateness</b>		

<b>STAFF COMMENTS</b>
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**Background of the Property**

The house was built in 1897 and was attached to a similar structure to the south. The southern building was demolished in the widening of Delaware and 16<sup>th</sup> Streets in the 1920's (before 1927). The building was refaced after the removal of its attached neighbor. Dr. William N. Wishard lived in this home in the early 1900's.

Prior to 1969, a variance was granted to permit a relatively small, public service billboard on the southern face of the house.

In September 1969, the then-owner of the property obtained a variance, permitting a large advertising billboard on the southern face of the house. The variance allows the billboard to remain in perpetuity, provided it does not change from the specifications in the 1969 variance.

The seller is a subsidiary of Clear Channel Communications, Inc. and will not sell the property without a signed easement agreement allowing the seller to maintain ownership of the billboard and the rights to use it. The applicant has agreed to the terms of the easement agreement and currently has a pending accepted offer on the property.

**Conversion from House to Professional Offices**

The house is currently vacant, but has been used as a rental in previous years (city records show it contains two units). The interior of the building does not seem to have been divided, but it is staff's understanding that the house was used as a rental, renting bedrooms, not apartments. The applicant owns a small law firm, currently a sole proprietorship with no employees. He wishes to practice from the subject property, but not reside there. He wishes to allow other professionals or non-profits to rent 200-1600 square feet of space within the property as office space until the applicant has need for the entire space.

**Need for a Variance of Use**

Professional offices, other than a home occupation, are not permitted in a D-8 residential zoning district. Therefore rezoning or a variance of use is required to allow the proposed use. No variances of development

standards are needed. The Herron-Morton Place Preservation Plan recommends a variance instead of a rezoning in order to retain the residential zoning so the potential of future residential use is not diminished. Staff suggested to the applicant, and he agreed, that the types of office space should be limited. Staff has added a commitment to limit the type of professional office space permitted to those allowed under the home occupation ordinance.

**Parking**

This property already has a small parking area in the rear accessible from a driveway on 16<sup>th</sup> Street, but not enough to support employees and visitors. The applicant has obtained approval from the church across the street (Joy of All Who Sorrow) to share their underutilized parking lot directly behind the church building and has submitted a letter included in this report.

The D-8 zoning ordinance does not provide parking standards for office use, so the IHPC must determine adequate parking in granting the variance. Some commercial zoning ordinances require one parking space for every 800 sf of adjusted net floor area, which suggests approximately 5 spaces are adequate for this property (house is approximately 4000 sf including the basement). The nature of the offices will not generate large numbers of clients. It should also be noted that on-street parking is available on Delaware Street.

**Commitments to the Variance**

Although staff is in support of the proposed variance, staff is suggesting the following commitments be added to the variance if approved:

<b>Staff's Recommended Commitments</b>
Occupations that may be practiced shall be limited to the following professional services: professional office uses including medicine, dentistry, architecture, engineering, accounting, real estate brokerage, tutoring, writing, painting, music instruction, photography and such services as are provided by clergyman, insurance agents, notaries public and manufacturer's agents and non-profit professional office use.
The total number of persons working in the building shall not exceed 8 people. If persons other than the petitioner are to use the building for office space, no more than 1600 sf of the total square footage shall be dedicated for the additional business persons and their staff.
At least 8 off-street parking spaces shall be provided on-site and/or on nearby off-street parking areas within 400 feet of the property at all times.

**Signage**

The applicant has indicated a final sign design will be presented to staff for final review. The applicant plans to have a small wall sign on the building and is currently working on a design. Staff has included a stipulation that the final sign design be submitted for final approval by IHPC staff.

**Retaining Wall/Driveway Alteration**

Due to the small entry to the existing parking area on the site, the applicant plans to widen the entry to make the parking area more usable (as shown on the proposed plans). The applicant is also requesting to modify the existing retaining wall by changing its location slightly and extending it along the south edge of the property (see site plan). The applicant will provide an elevation drawing of the retaining available to staff for final review. The wall will be stone (authentic or synthetic) and will have a similar appearance to the existing limestone wall that exists. The wall will not extend higher than the grading of the site and will be used to create a more aesthetically pleasing view of the yard from the street.

## **General Repairs**

The applicant is also proposing to make repairs to the property in addition to the site improvements and signage proposed. These repairs include:

- Repair Gutters/Soffits
- Tuckpointing
- Repair walkway at rear of house
- Install new HVAC system

Staff has no concerns with the proposed work. Staff has included general stipulations included in the staff recommendation.

## **Staff Analysis**

IHPC staff and the HMP Neighborhood Association have consistently encouraged the retention of residential uses and have taken extreme care in introducing non-residential uses. However, staff believes that this proposal is not unreasonable and that granting it is not inconsistent with the HMP Plan

- This house can accommodate the proposed use with no alteration to its exterior and little effect on its historic plan.
- The proposed use does not preclude future conversion to its original residential use since it is not a permanent zoning change.
- Parking can be provided to serve the use proposed.
- Surrounding land uses are both residential and non-residential along Delaware Street and 16<sup>th</sup> Street. Properties abutting 16<sup>th</sup> Street specifically are largely commercial.
- Many large historic houses on Delaware St. in the ONS have been converted to non-residential uses. This house is not in the ONS, however, it does abut the district and is within close enough proximity of those properties that their relationship should be considered.
- The likelihood that this house will ever be used as a single-family house is very small. The fact that the house contains the billboard and pending easement agreement to maintain the billboard, has had a large amount of its original property area removed and is the location of many traffic crashes into its south wall due to the curve in the northbound lanes of Delaware Street make this particular property peculiar and an unlikely candidate for single-family housing again.

## **STAFF RECOMMENDED MOTIONS**

### **1) COA #2010-COA-297 (HMP):**

#### **To approve a Certificate of Appropriateness to:**

- **Repair Gutters/Soffits**
- **Repair walkway at rear of house**
- **Install new HVAC system**
- **Signage**
- **Tuckpointing**
- **widening of driveway**
- **new retaining wall**
- **and for approval of a Variance of Use**

**all per submitted documentation and subject to the following stipulations:**

- 1. Final signage shall be approved by IHPC staff prior to installation. *Approved*\_\_\_\_\_ *Date*\_\_\_\_**
- 2. Final site plan/elevations for driveway and retaining wall shall be approved by IHPC staff prior to installation. *Approved*\_\_\_\_\_ *Date*\_\_\_\_\_**
- 3. All built-in gutters must be maintained without alterations. All repairs to gutters and soffits must be done using materials to match the existing in dimension, location and design of the existing gutters and soffits.**

4. A test patch of the tuckpointing must be approved by IHPC staff prior to commencement of work. *Approved* \_\_\_\_\_ *Date* \_\_\_\_\_
5. All tuckpointing must be done using the same mortar type, color and joint profile as the original mortar.
6. NO sandblasting or other abrasive cleaning method is permitted. Any cleaning of brick or other masonry must be done using a light pressure water wash or light chemical cleaner.
7. Walkway repair must be done without changes to the design, shape, location, color or material of the sidewalk.
8. Any unforeseen repairs must be approved by IHPC staff prior to commencement of work.
9. A parking agreement showing the required number of parking spaces (8) is available must be submitted to IHPC staff prior to occupying the building. *Approved* \_\_\_\_\_ *Date* \_\_\_\_\_

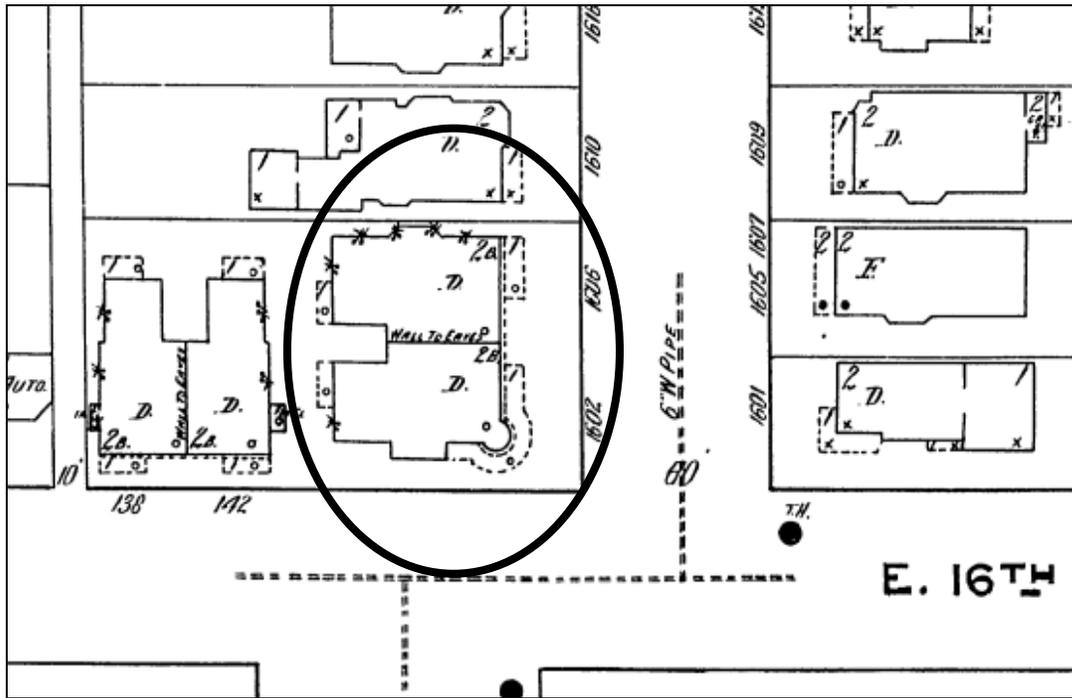
**2) VARIANCE PETITION #2010-VHP-014:**

**To approve a Variance of Use to allow multi-tenant professional office space in a D-8 district subject to the following commitments:**

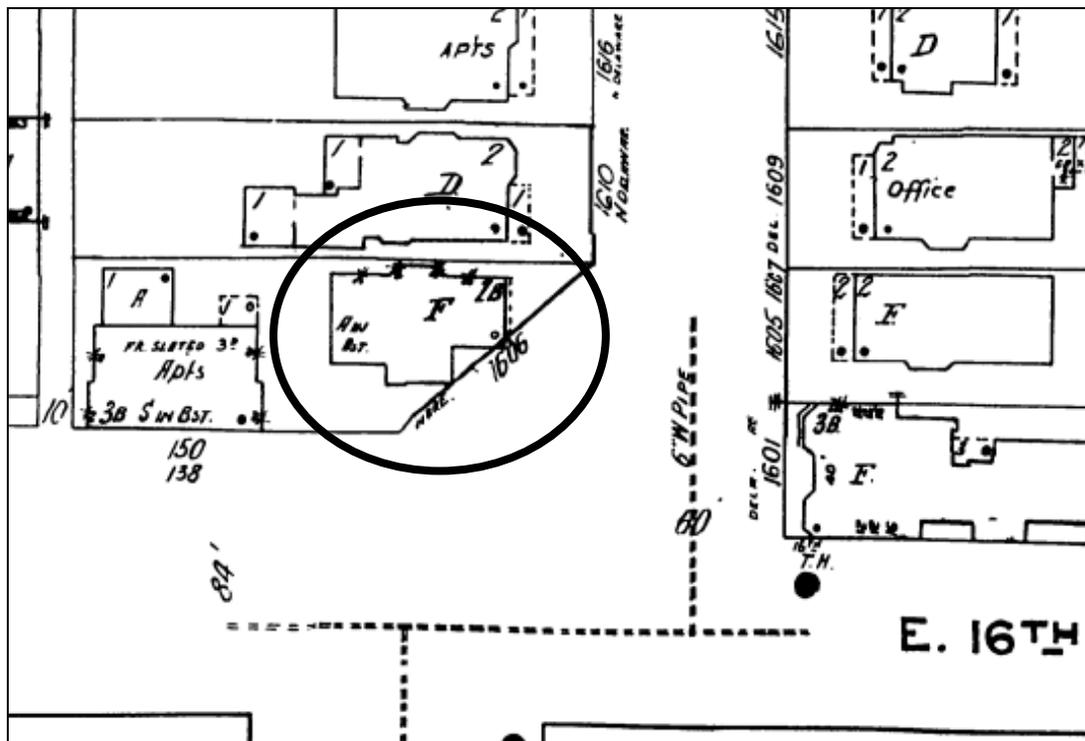
1. Occupations that may be practiced shall be limited to the following professional services: professional office uses including medicine, dentistry, architecture, engineering, accounting, real estate brokerage, tutoring, writing, painting, music instruction, photography and such services as are provided by clergyman, insurance agents, notaries public and manufacturer's agents and non-profit professional office-use.
2. The total number of persons working in the building shall not exceed 8 people. If persons other than the petitioner are to use the building for office space, no more than 1600 sf of the total square footage shall be dedicated for the additional business persons and their staff.
3. At least 8 off-street parking spaces shall be provided on-site and/or on nearby off-street parking areas within 400 feet of the property at all times.

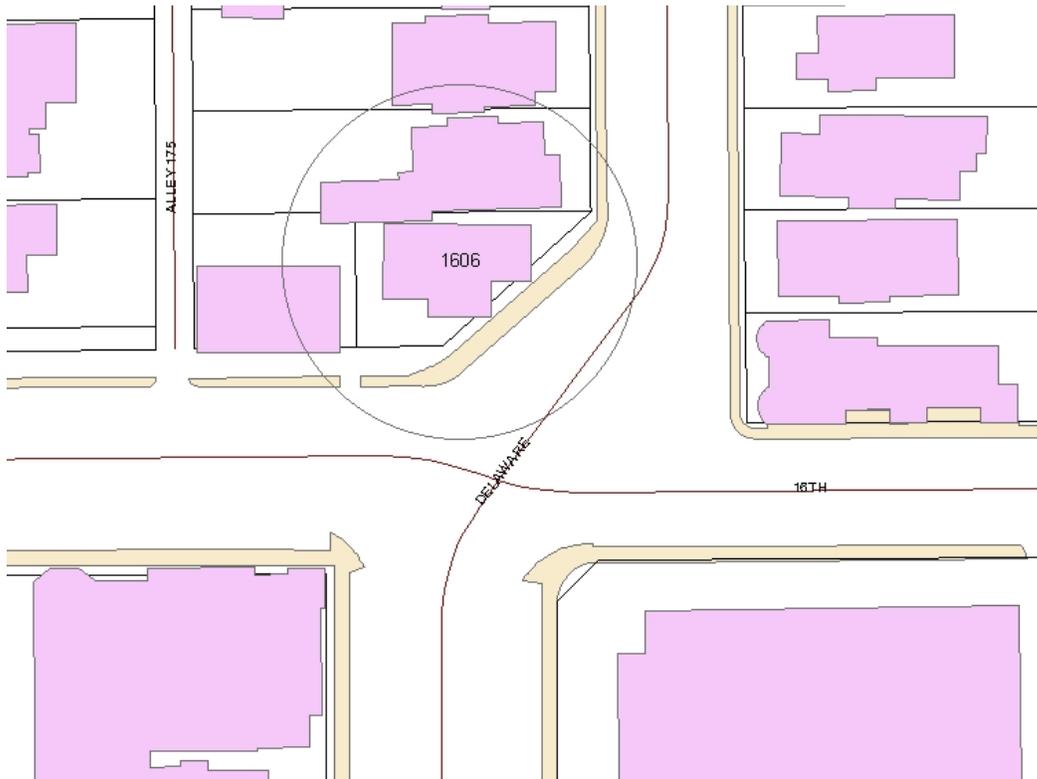
**Staff Reviewer:** Meg Purnsley





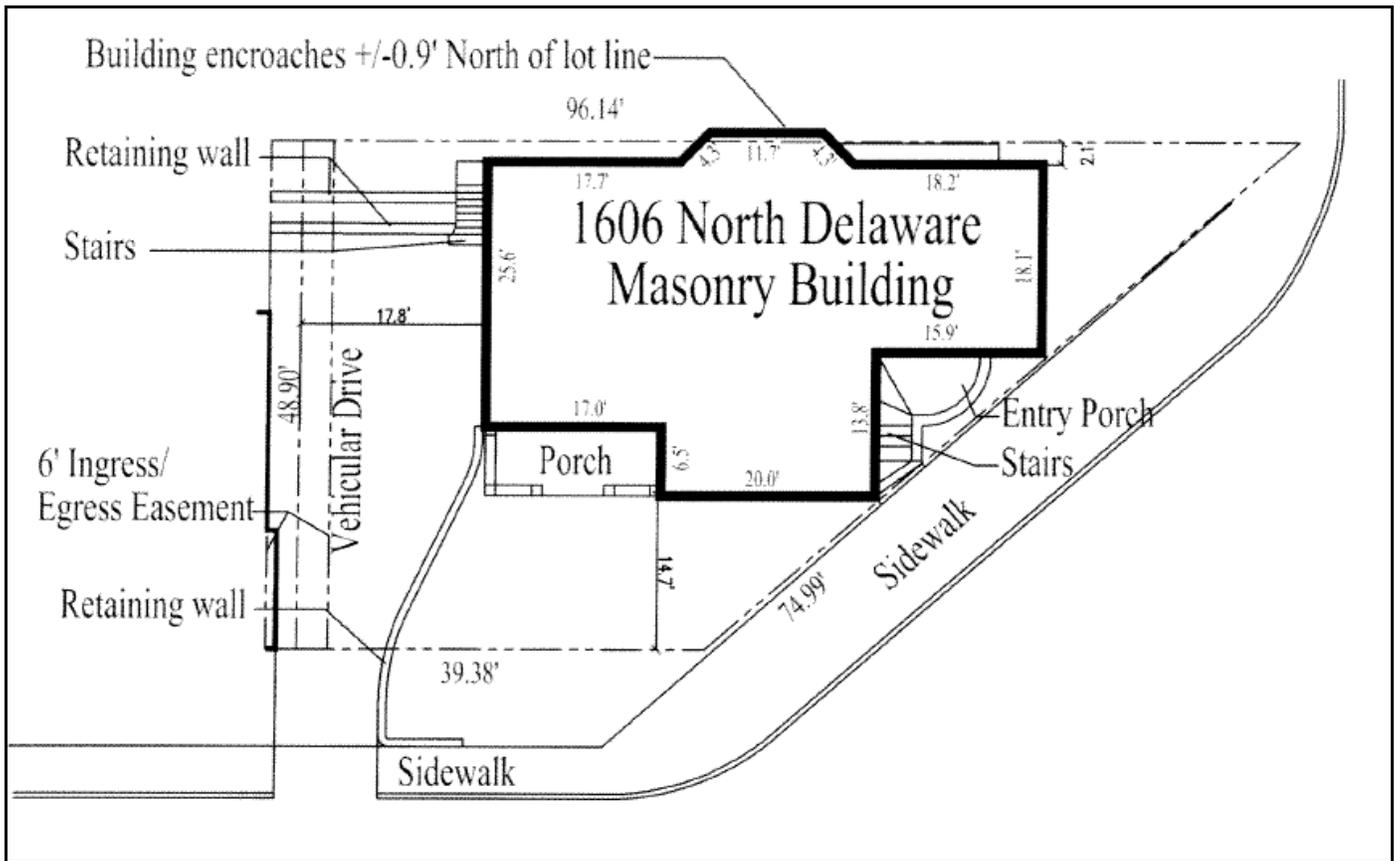
Above: Sanborn Map of site in 1915 (16<sup>th</sup> St is 53 ft wide and Delaware is 60 ft wide)  
 Below: Sanborn Map of site in 1930's (16<sup>th</sup> St is now 84 ft wide and Delaware St 60 ft wide, but portion of subject site was "clipped" for street modifications)





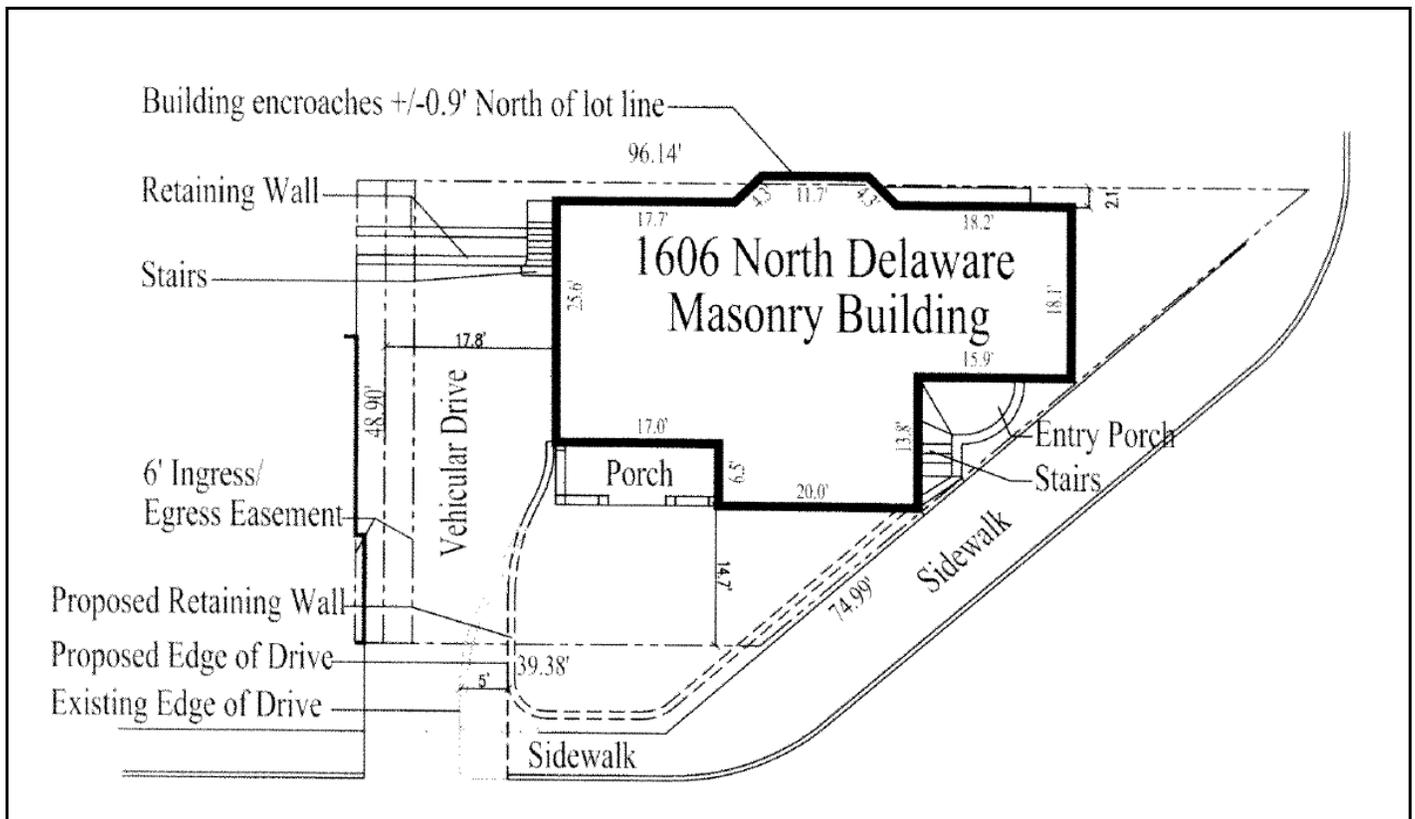
**Above: Aerial map of the site**  
**Below: Aerial photo of the site**





**Above: Existing layout of Site**

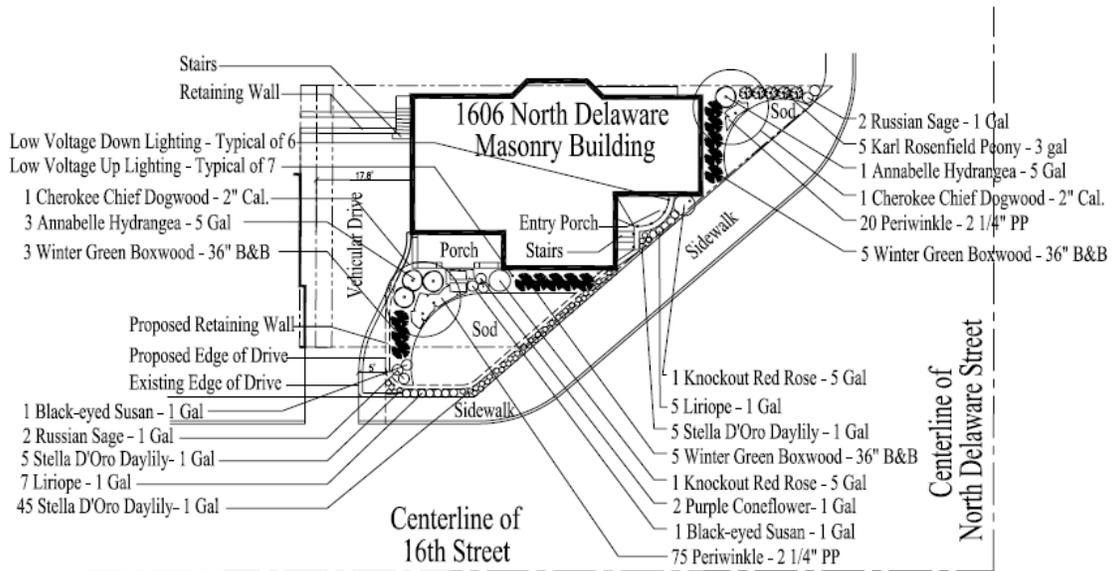
**Below: Proposed changes to site (includes widening of driveway and extension of retaining wall around south side of site)**



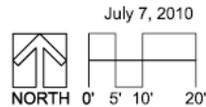


Proposed South Landscape Elevation  
 1606 North Delaware  
 Indianapolis, Indiana 46202

July 8, 2010  
 Scale: 1 1/2" = 1'-0"



Proposed Landscape Plan  
 1606 North Delaware  
 Indianapolis, Indiana 46202





**Above: East elevation of house prior to south unit being demolished**

**Below: South Elevation as seen from Delaware St prior to south unit being demolished**





Photo of what is behind the existing billboard on the south elevation (this photo was taken when the billboard was replaced with another billboard that has since been removed).





Above: View of driveway and one-car garage. Below: Listing photo of interior of house.



METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEAL, Division 1HPC  
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The property at issue was originally zoned and used as a residential property before several factors existed that made the property unappealing as a residence, foremost of which was the placement of a large billboard on the exterior of the building that the current owner is unwilling to sell the rights to or remove from the building. Additionally, the property is on a corner lot at the intersection of 16<sup>th</sup> and Delaware, two multi-lane roads that are extremely busy both in vehicular and pedestrian traffic. Due to the high traffic and general "commercial" feel given to the building by the billboard and number of other non-residential properties along 16<sup>th</sup> Street, residential buyers have avoided the property. Although the property has been for sale for years, no one has purchased it, and the building is deteriorating, both externally and internally, and in drastic need of an owner who will occupy, repair, and maintain the property. Granting the requested variance of use will allow such an owner to purchase the property.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE

The current owner of the property is only interested in the building and land in their role as a sign-holder for the billboard mounted on the property, and as such has allowed the building to stand vacant for years. The proposed use of the property will not adversely affect the adjacent properties because the building, which already has a "commercial" feel to it due to the billboard on its southern face, will be occupied by an owner who will maintain the exterior and interior of the building. This will allow the property grounds and exterior to act as an attractive asset to the neighborhood, as opposed to its current status as a vacant building deteriorating before the neighborhoods' eyes. Additionally, the church across the street has agreed to allow the property to use up to five spaces in its parking lot (to the extent the two spots on the property are not adequate), and the property will be used for professional activities generally operating during business hours; thus, there will generally be no need for parking or commercial activity at the property in the evening when residents are home in the residential properties to the north.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

The Property is unlikely to be used for residential use due to the billboard, current poor condition of the property, and proximity of the busy streets on which the property sits. In fact, the property has sat vacant for years and will likely continue to do so if the variance of use is not granted. However, these factors will not detract from the Property's use as office space, and such use will allow the property to be properly repaired and maintained, thus contributing to the property values and aesthetics of the neighborhood.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

The property has sat vacant for years, and is deteriorating both externally and internally due to the factors listed above in Paragraphs 1-3, which make it unappealing for purchase or use as a residential property. In order to ensure the building is properly repaired, maintained, and not a detriment to the neighborhood, a variance of use should be granted; otherwise, it is likely that the Property will continue to sit vacant and deteriorate (both externally and internally), and thus become becoming an even greater detriment to the property values and aesthetics of the properties and neighborhoods around it.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE 16<sup>th</sup> Street is a busy street on the border of the Herron Morton neighborhood that is used for commercial and non-residential purposes both east and west of the property, and thus using the property for office space will not interfere with this plan. Additionally, Petitioner will repair and maintain the building and its landscaping, thus making the Property an aesthetic asset to the community as opposed to its current status as a vacant, deteriorating "eye-sore."

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## *The Joy of All Who Sorrow Orthodox Christian Church*

*A Mission of the Bulgarian Eastern Orthodox Diocese  
of the USA, Canada and Australia*

July 27, 2010

Jacob R. Cox  
Cox Law Office  
47 S. Meridian Street  
Suite 400  
Indianapolis, Indiana 46204

Dear Mr. Cox:

I understand that you have filed a petition for variance of use and wish to purchase and use the property located at 1606 N. Delaware Street as office space, including office space for your law office. Despite the importance of retaining the residential character of the Herron Morton neighborhood, I believe your proposed use for this particular property is appropriate. In support of this use, the Joy of All who Sorrow Orthodox Church will grant you permission to use, on weekdays (Monday-Friday) during business hours, up to 6 parking spots in its parking lot (located west of the church building) if you are successful in obtaining the variance and utilizing 1606 N. Delaware as office space.

Sincerely,

V. Rev. Fr. Stevan Bauman, Rector

*1516 N. Delaware Avenue Indianapolis IN 46202 (317) 637-1897*