

COA # 2010-COA-407 (FS) 2010-VHP-15	INDIANAPOLIS HISTORIC PRESERVATION COMMISSION STAFF REPORT	Hearing Date NOV. 3, 2010
		<i>Continued from:</i> <i>October 6, 2010</i>
1150 E. PROSPECT FOUNTAIN SQUARE		
Applicant TRACY AND WILLIAM FRYE, BY DAVID mailing address: RETFERFORD, ATTORNEY 3660 Pleasant Lake Dr Indianapolis, IN 46227	Owner: Same as above	
COMBINED CASES		
IHPC COA: 2010-COA-407 (FS) • Variances		
BZA Variance: 2010-VHP-015 • Variance of Use and Development Standards of the C-3 Zoning Ordinance to permit the operation of an open air used car sales lot, the indoor repair of automobiles and light trucks; and the outdoor display and storage of vehicles		
STAFF RECOMMENDATION: Approval of temporary variances for 7 years		
STAFF COMMENTS		

Update

Since the October hearing, IHPC staff has considered both the Commissions and remonstrators comments from the October hearing and has modified the recommendation to approve a temporary variance in lieu of the permanent variance requested by the applicant. Staff believes that a 7-year temporary variance would be a perfectly appropriate timeframe for the proposed variances. The applicant is aware of staff recommendation change. Staff has also included the omitted language for the variance of development standards that the applicant discussed at the October hearing.

Background

According to Sanborn Map research, the filling station building on this site was built between 1941 and 1954. Prior to that, it was the site of several houses. City Directories reveal it was a filling station until 1973. It appears to have been converted to used car sales about 1974 and has remained so since then. The current owner of the property purchased it five years ago from Ramsey Auto Sales, Inc. The site consists of an outdoor autos sales business building with two repair bays and associated vehicles for sale, an AT and T easement, and leased parking area at rear of building for adjacent Fire Department employees.

Zoning History

- 1974 Board of Zoning Appeals granted a three-year variance for a used car sales use subject to conditions.
- 1979 Board of Zoning Appeals granted an additional five-year temporary variance subject to conditions.
- 1984 Fountain Square is designated by the IHPC.
- 1984 Request to IHPC for permanent variance of use. Staff recommended denial. IHPC approved a 5-year temporary variance in a Certificate of Authorization with many site improvements as stipulations.

- 1990 Request to IHPC for a permanent variance of use. Staff first recommended denial. After negotiations with the owner, staff recommended approval of a Certificate of Authorization for a temporary 3-year variance of use. The IHPC approved a Certificate of Authorization for a temporary 5-year variance with conditions. All stipulated improvements were subsequently completed.
- 1995 Request to IHPC for a permanent variance of use. Staff recommended a 5-year temporary variance. IHPC approved it.
- 2000 Request to IHPC for a permanent variance of use. Staff recommended denial of a permanent variance and as an alternative, approval of a 5-year temporary variance with stipulations (00-V-016H). IHPC approved a 10-year variance, but stressed at the IHPC hearing that rezoning of the property from I-3-U to C-3, was strongly recommended since it was consistent with the intent of the plan.
- 2001 Request to rezone the property from I-3-U to C-3 was granted (00-ZON-069). The variance is still needed since C-3 prohibits outdoor auto sales. The 2001 staff report states that the C-3 zoning classification has been determined to better accomplish the objectives for the Plan that the C-4 zoning recommended in the plan when the Fountain Square Plan was adopted.

Past Conditions and Stipulations

1984

Completed:

- Repaint building appropriate color
- Smaller, appropriate signage
- Removal of semi-trailer
- Construction of storage shed west of building
Not done. Landscaping done in lieu.
- Construction of 2-foot high brick wall as buffer around lot.

1990:

Completed:

- Remove driveway on Prospect and replace with landscape strip
- Install landscape material along entire Prospect and Olive St. frontages
- All improvements must be maintained.

1995:

Appears to be substantially in compliance:

- No expansion of outdoor display area of autos
- No outdoor storage other than display of operable autos
- Only two signs at the south east corner of the building
- No major servicing or body repairs allowed

2000:

Appears to be in compliance:

- This variance shall be limited to five (5) years starting with the date of this certificate
- No expansion of the open-air display area of automobiles shall be permitted.
- No outdoor storage other than the display of operable automobiles shall be permitted.
- Signs shall be limited to the three signs presently on the building. No expansion in size or number of signs shall be permitted.
- The variance is limited to the site development approved in the September 6, 1995 certificate of authorization.
- Major servicing of motor or body repair such as, but not limited to, body or fender work, major motor overhaul, major transmission repair, auto glass work, tire recapping, muffler repair or installation, auto body painting, trim shops, dismantling or wrecking of any vehicles, or the storage of inoperable, damaged or wrecked vehicles shall not be permitted.

Fountain Square Plan

The Fountain Square Plan classifies this property as an "intrusion." It states:

"structures so designated do not at all relate to the scale and texture of the district. These structures detract from the historic and architectural character of the district."
(pp. A-5,19).

Past Staff Comments

In 1984 and 1990, staff comments noted the following reasons for denial of a permanent variance:

- Non-compliance with the Fountain Square Preservation Area Plan's recommendations noted above.
- Non-compliance with the City's Fountain Square/Southeastern Subarea Plan's recommendation of commercial/office use for the subject property.
- Non-compliance with all the stipulations and conditions placed on previous variances.
- Lack of economic hardship, since denial would not deprive the owner of all reasonable use of this property. It was noted the property's proximity to Fountain Square, with its years of economic and physical revival, provides opportunities to develop the property in other ways more compatible with surrounding land uses.

In 1995, staff noted the following in recommending approval of a 5-year temporary variance:

- The owner had complied with previous conditions to improve the property.
- The existing building was designed for auto-related uses, making continued use of the building for the sale of used autos consistent with the building's original intent.
- However, a temporary variance was still recommended to allow a future evaluation of the development in the Fountain Square area to determine if the use has become an intrusion to the district.

In 2000, the 10-year Variance was granted with the following stipulations and conditions:

Approval of a Certificate of Authorization for a temporary ten-year variance of use to continue the operation of an open air used car sales lot in an I-3-U industrial zoning district per submitted documentation and subject to the following stipulations:

1. This variance shall be limited to ten (10) years starting with the date of the issuance of this certificate.
2. No expansion of the open air display area of automobiles shall be permitted.
3. No outdoor storage other than the display of operable automobiles shall be permitted.
4. Signs shall be limited to the three signs presently on the building. No expansion in size or number of signs shall be permitted.
5. The variance is limited to the site development approved in the September 6, 1995 certificate of authorization.
6. Major servicing of motor or body repair such as, but not limited to, body or fender work, major motor overhaul, major transmission repair, auto glass work, tire recapping, muffler repair or installation, auto body painting, trim shops, dismantling or wrecking of any vehicles, or the storage of inoperable, damaged or wrecked vehicles shall not be permitted.

The variance letter of grant read:

The Indianapolis Historic Preservation Commission (IHPC), at its regular meeting on October 4, 2000, heard your petition and acting as the Board of Zoning Appeals (BZA) approved petition #00-V-16H for a temporary ten-year variance of use to continue the operation of an open air used car sales lot in an I-3-U industrial zoning district.

Staff Comments in 2000

Nothing has changed in the area to alter the staff's concern over permanently allowing outdoor auto sales at this site. The area continues to improve, as anticipated in past staff comments. Several important buildings in the historic district have undergone major restoration in recent years, including the Fountain Square Theater Building, the Fountain Block Apartment/Public Library Building and the G.C. Murphy Building (now

Murphy Art Center). Commercial vacancy appears to be low. The surrounding non-IHPC protected historic neighborhood (both residential and commercial) has seen improvement and investment in the last five years.

Staff believes that the current owner has complied with previous conditions to improve the lot so that the use has minimum impact on the historic integrity of Fountain Square. However, as the surrounding area improves, it is important to maintain the ability to reassess both the impact this use has on its surroundings and the level of compliance with conditions that the owner maintains. Therefore, staff supports another five-year temporary variance of use with very specific conditions to limit the use to only that which exists.

2010 Staff Analysis and Conclusion

Staff believes that 36 years is enough time to evaluate the impact this use has had on this site. The only one difference in the request from the past variance approvals is the addition of light auto repair and the clarification of the pre-existing outdoor display and storage. The building has always contained a small two-bay repair area, however, the ability to use it has never been legally established. The applicant's attorney included this into this variance to make the variance clean and truthful. Staff is not aware of any complaints about the property and believes compliance of the stipulations and conditions have been largely met. Staff also believes that the down-zoning of the site has eliminated much of the potential negative impacts that uses on this site could have.

STAFF RECOMMENDED MOTION

2010-COA-407 (FS):

Approval of a Certificate of Appropriateness for a temporary Variance of Use and Development Standards of the C-3 Zoning Ordinance to permit the operation of an open air used car sales lot, the indoor repair of automobiles and light trucks; and the outdoor display and storage of vehicles for a period of seven (7) years per submitted documentation and subject to the following stipulations:

- 1. No expansion of the open air display area of automobiles shall be permitted.**
- 2. No outdoor storage other than the display of operable automobiles shall be permitted.**
- 3. Signs shall be limited to the three signs presently on the building. No expansion in size or number of signs shall be permitted.**
- 4. The variance is limited to the site development plan included in this report.**
- 5. Only indoor light auto repair is permitted. Major servicing of motor or body repair such as, but not limited to, body or fender work, major motor overhaul, major transmission repair, auto glass work, tire recapping, muffler repair or installation, auto body painting, trim shops, dismantling or wrecking of any vehicles, or the storage of inoperable, damaged or wrecked vehicles shall not be permitted.**
- 6. Variance 2010-VHP-015 shall expire November 3, 2017.**

VARIANCE PETITION #2010-VHP-015:

To Approve a temporary Variance of Use and Development Standards of the C-3 Zoning Ordinance to permit the operation of an open air used car sales lot, the indoor repair of automobiles and light trucks; and the outdoor display and storage of vehicles for a period of seven (7) years subject to the following conditions:

- 1. No expansion of the open air display area of automobiles shall be permitted.**
- 2. No outdoor storage other than the display of operable automobiles shall be permitted.**
- 3. Signs shall be limited to the three signs presently on the building. No expansion in size or number of signs shall be permitted.**
- 4. The variance is limited to the site development plan included in this report.**
- 5. Only indoor light auto repair is permitted. Major servicing of motor or body repair such as, but not limited to, body or fender work, major motor overhaul, major transmission repair, auto**

glass work, tire recapping, muffler repair or installation, auto body painting, trim shops, dismantling or wrecking of any vehicles, or the storage of inoperable, damaged or wrecked vehicles shall not be permitted.

6. Variances shall expire November 3, 2017.

Staff Reviewer: Meg Purnsley



Above: Aerial Map of the Subject Site

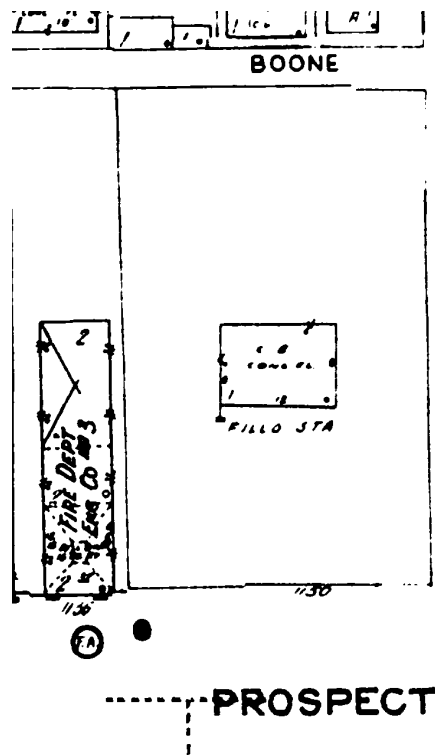


Above: Aerial view of site (looking north)

Below: Aerial view of site (looking west)



Below: 1956 Sanborn Map

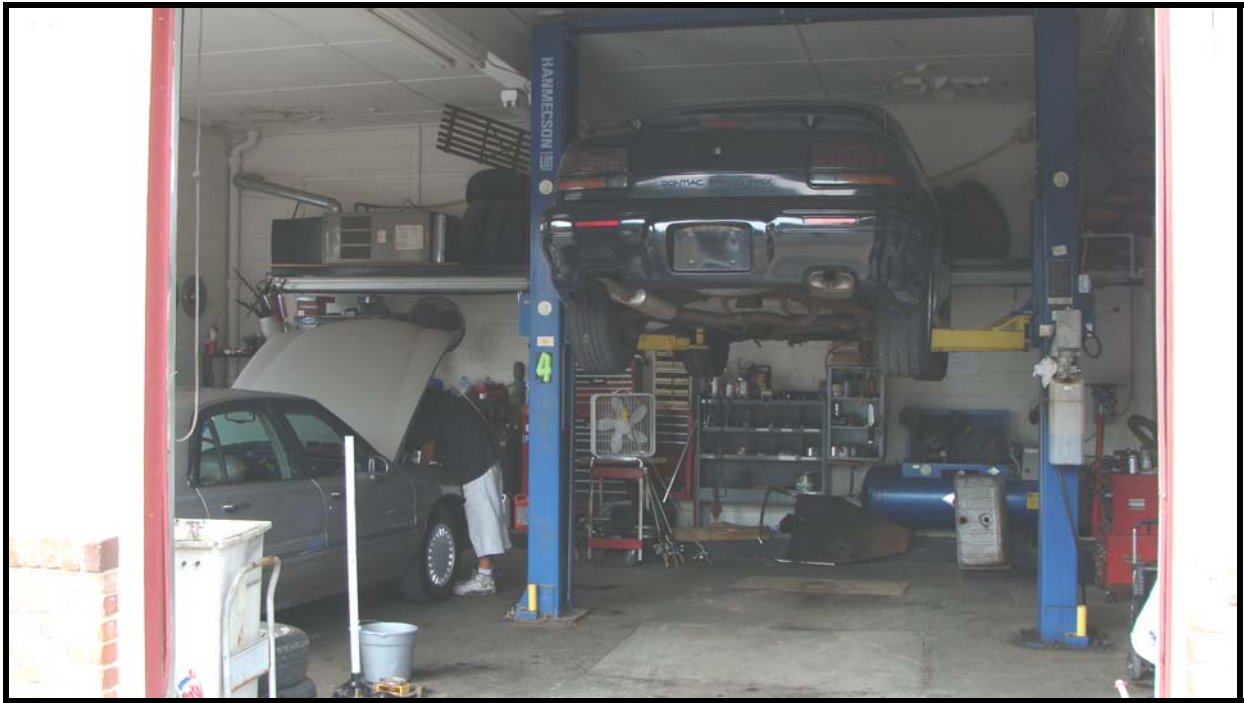




Above: View of front of building



Above: View of back of building



Above: View of repair bays inside building



Above: AT and T easement at rear of site



Above: View from rear alley



Above: Leased parking on site for adjacent Fire Dept (permitted use).



Above: Cars for sale at front of site (Prospect St at left of photo)

Below: View of site next to Olive Street (east side of building)



METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
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 use which is legally established by this variance has existed for over 36 years without causing any such injury. The Petitioner is willing to continue to comply with the performance conditions from the existing variance which have been effective in preventing any such injury.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: The property to the West is zoned I-3-U and contains a Fire Station that also uses most of the North portion of the subject property as its parking area. To the East across Olive Street, and to the South across Prospect is developed property zoned C-4 which is being used for a variety of uses. To the North is zoned C-3-C. The subject site does not appear to have negatively impacted the abutting properties during its previous decades of use. The property is well landscaped and the landscaping is being well maintained. The building and grounds are in good condition, and variance conditions are adequate to reasonably insure that such care will continue.

3. The need for the variance arises from some condition peculiar to the property involved and the condition is not due to the general condition of the neighborhood because: The existing building contains two bays for car service, and an office. The site has only one street access, and the agreements to give up access to the alley and to lease the parking area to the North to the Fire Department were based on the opinion that the car lot use could continue until the market showed a need for the site to be redeveloped consistent with the Fountain Square Plan.

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 building and grounds have been used for this same use for over 36 years, and the redevelopment which has occurred on some properties in the general area has not created a market for this property which would justify it being vacant until the market can absorb it. The use of this site for a car lot has not proven to be a detriment, and its continued use until the market justifies its conversion is preferable to forcing the owner to basically shut down a use which has worked and will likely continue to work on this site for the foreseeable future. As indicated by the 2000 rezoning to C-3, continuing this use via variance is preferable to rezoning to the C-5 category. Denying the variance would unnecessarily force the petitioner to stop utilizing this unique location, and the improvements which were designed and installed for this exact use, likely resulting in a hardship to the property, to the petitioner, and to the tax revenue collected by the City from the business operated on this site.

5. The grant does not interfere substantially with the Comprehensive Plan because: While the Fountain Square Plan proposes neighborhood commercial uses consistent with the existing C-3 zoning on this site, the use authorized hereby simply continues to legally permit the same use of this site that has occurred thereupon for at least the past 36 years. No new construction, is proposed to be installed on the site, and granting this variance does not decrease the likelihood that this site will someday still be sold and redeveloped for neighborhood commercial uses when and if the market is ready to do so. This grant allows this well established interim use to continue until that future time when redevelopment is appropriate.

RECEIVED

SEP 09 2010

Photos from the IHPC October 4, 2000 Staff Report



Ramsey Auto Sales from Corner of Prospect St. and Olive St.



Ramsey Auto Sales as seen from Prospect St.