

COA # 2011-COA-007(FP) 2011-VHP-002	INDIANAPOLIS HISTORIC PRESERVATION COMMISSION STAFF REPORT	Hearing Date MAR. 2, 2011
608 Lexington Ave Fletcher Place		Continued from: Feb. 2, 2011
Applicant: DAVID KINGEN WITH NDZA, INC FOR RAYMOND BLAILE Mailing 608 Lexington Ave Address: Indianapolis, IN 46203		Center Township Council District: 9 Jackie Nytes
Owner: Same		
COMBINED CASE		
IHPC COA:	2011-COA-007 (FP)	Variances of Use and Development Standards
REZONING:	2011-VHP-002	<ul style="list-style-type: none"> • <u>Variance of Use</u> of the D-8 Zoning Ordinance to allow a two-unit structure and a one-unit structure on the same site. • <u>Variance of Development Standards</u> of the D-8 Zoning Ordinance to allow zero (0) on-site parking spaces when a total of six (6) on-site parking spaces are required.
STAFF RECOMMENDATION: Approval, if applicant agrees with staff recommendation.		
STAFF COMMENTS		

Update

This case was continued from the February 2, 2011 IHPC hearing due to cancellation of the IHPC hearing. After reading the February staff report recommending denial, the applicant met with staff, submitted additional documentation and revised the Findings of Fact. Therefore, the staff report has been modified to include:

1. New information, and
2. A different staff recommendation.

Background of the Property

The house was built c. 1872. The house was used as a single-family residence until 1915 at which time it was converted into a boarding house. The house was later converted into a double (time unclear). Sometime after 1956, a garage structure was built at the rear of the property. Around 1991, the garage was converted into one dwelling unit.

Background of the Case

Mr. Raymond Blaile, the present owner is selling this property and the buyers' title company discovered that a variance was needed for the lack of parking on the site. When inquiries were made of staff, it was discovered that a variance of use was never granted for the separate dwelling unit in the garage either. He is now seeking the variances needed to make the garage apartment and the lack of parking legal.

How the Garage Apartment Came to Be

In 1991, a previous owner applied alter to the exterior of this structure, including the conversion of the garage door opening into a three-part pedestrian door. He was granted a COA, but because the Hearing Officer noticed that the floor plans showed the creation of an apartment, she added stipulations that:

1. The garage door could not be removed until the new use was approved, and
2. A parking plan must be submitted to accommodate required parking.

Written notes in the record make it clear that the then-owner was cautioned at the hearing that a variance of use was needed to convert the garage to a dwelling unit and that parking would need to be accommodated. There is no record that the then-owner ever submitted a parking plan, requested a variance, or communicated again with staff. It appears that the then-owner chose to proceed with the conversion “on the sly.” Not only did he fail to get the variance he was told was needed, but he also appears to have undertaken the construction without structural permits. Had he applied for permits, they would have been denied until he got a variance.

In 1998, the house was sold. In 2008, it was sold again to the current owner, Mr. Blaile.

The Garage Apartment Today

Besides the fact that the garage door was not supposed to be removed until a variance was granted, the garage exterior generally conforms with what was approved in 1991, although there are unexplained differences, including:

- The door that replaced the garage door is a standard sliding door rather than a wider, three-part French-style door.
- There is wood deck rather than a brick patio.
- No on-site parking was provided.

Staff has seen the interior and it consists of a studio living space with a small kitchen and bathroom. Since permits were not obtained, there is no way to determine whether or not the construction ever met building codes. In response to concerns raised in the February staff report, the applicant submitted a copy of an inspection report generated by the buyers’ home inspector and noting repairs that needed to be made (report attached). The applicant submitted a response to the inspector’s report (email response attached.)

Variances Requested

In order to legalize the situation that exists today, the applicant is requesting two variances.

1. **Variance of Use:** The D-8 zoning ordinance does permit multi-family dwellings, but only if the units are in the same building. The multiple dwelling units may not be in separate buildings. Therefore, the applicant must obtain a variance of use to allow a two-unit structure and a one-unit structure on the same site. This regulation exists to control density, safety, and quality of life issues.
2. **Variance of Development Standards:** The D-8 zoning ordinance requires six off-street parking spaces (two per unit.) It does not appear possible to provide six spaces, although there appears to be room on site to provide some parking. However, the applicant prefers to keep the situation as it is today, with no parking, so he is requesting a variance to permit no parking to be provided.

Staff Recommendation – Approval with Conditions

In the February staff report, staff recommended denial. After talking with the property owner, revisiting the site, and reconsidering the circumstances, staff believes there is justification for approving variances to permit this garage apartment to continue to exist. Specifically, staff believes that the owner can, and should provide at least 3 on-site parking spaces. If he is willing to do so, staff believes it is reasonable to grant the variances. Reasons include:

1. While two parking spaces per unit is required by the zoning ordinance, it is probably generous given the size of the units.
2. If the owner builds an enclosed connection between the garage and apartment (something he is considering), only 3 parking spaces are required.
3. Given the size of the dwelling units, one space per unit is not unreasonable.

4. The applicant has documented ample on-street parking available and it appears to be accurate, although that should be used to accommodate excess parking and not basic parking

After meeting with the applicant and the property owner, staff has been told that only one parking space can be provided (see applicant's site plan.) However, after receiving the applicant's site plan, staff visited the site again and found the site plan inaccurate. Based on measurements taken on-site, staff has offered two options for providing at least three parking spaces on-site (see attached staff site plan options).

Staff Recommendation – Denial (if owner does not agree to 3 parking spaces.)

- First Although the present owner did not create the illegal situation, that fact does not change the fact that an illegal situation exists and should be mitigated, if possible.
- Second Staff believes that it is relatively easy to provide at least one parking space per unit. If that is done, then parking for this property will be addressed in a similar manner to the way it is addressed for multi-family properties and properties where small carriage house apartments are added.
- Third Staff knows of no precedent for granting a variance from minimum, reasonable parking needs when those needs can be so easily satisfied.

STAFF RECOMMENDED MOTION

OPTION #1:

2011-COA-007 (FP):

To approve a Certificate of Appropriateness for variances of use and development standards to legally establish a separate dwelling unit and to provide fewer off-street parking spaces than required, subject to the following stipulations:

1. At least three on-site, off-street parking spaces must be created and retained on this property.
2. An accurately scaled site plan must be approved by IHPC staff showing the site with three on-site parking spaces. Approved _____ Date _____

VARIANCE 2011-VHP-002:

To approve the following variances:

1. Variance of Use of the D-8 Zoning Ordinance to allow a two-unit structure and a one-unit structure on the same site.
2. Variance of Development Standards of the D-8 Zoning Ordinance to allow three on-site parking spaces when a total of six on-site parking spaces are required.

OPTION #2:

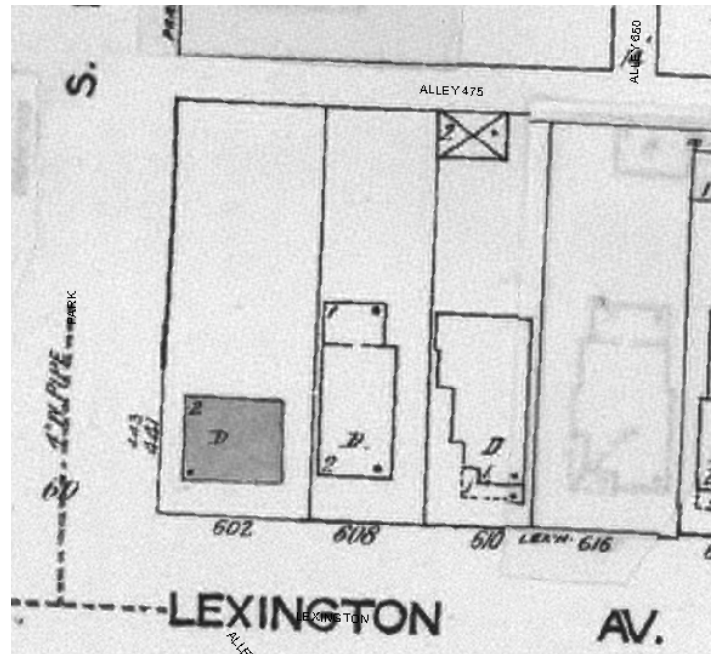
2011-COA-007 (FP):

To deny a Certificate of Appropriateness for variances of use and development standards to legally establish a separate dwelling unit and to provide no off-street parking for any dwelling units on the property.

VARIANCE 2011-VHP-002:

Acknowledge dismissal of variance requests, due to denial of 2011-COA-007 (FP).

Staff Reviewer: Meg Purnsley



Above: 608 Lexington Ave (1956 Sanborn Map)
Below: 2010 Aerial View of site





**Above: Two-story house on the property with two dwelling units.
Below: One-story former garage structure on the property with one dwelling unit.**





Above and Below: Rear of property showing layout of the two structures on the site.



METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

There exists ample on street parking both on Lexington and on So. Park Street one lot to the west of the subject property and thus the variance to reduce the required parking will not constitute and public safety issues for the community.. If the detached dwelling was connected to the primary dwelling the requirement for on site parking would be reduced to three spaces. Many surrounding residential properties do not have garages or on site parking; yet there remains ample on street parking.

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

Even with no on site parking for this parcel over the past fifteen years, homes have continued to be renovated and proepty values have continued to climb, thus the use or value of the area adjacent has not been affected in an adverse manner.

3. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE WILL RESULT IN PRACTICAL DIFFICULTIES IN THE USE OF THE PROPERTY BECAUSE:

Three or more units would be permitted on the subject property. With the amount of available on street parking, the dominance of residential properties without garages or on site parking; the strict application of the terms of the Dwelling District Zoning Ordinance to require six on site parking spaces would create a practical difficulty for the owner.

DECISION

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

Adopted this _____ Day of _____, 20 ____

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INDIANAPOLIS HISTORIC
PRESERVATION COMMISSION

608 Lexington

Petition Number _____

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 property is zoned D-8 which permits more than three units on this parcel, yet the fact that the units are detached requires the variance. All three of the units were remodeled using the best business practices per a recent home inspection report conducted by a professional home inspector. The fact that the parcel permits multiple units the legal establishment of the three units, with one unit detached, will not be injurious to the general welfare of the community.

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 three units are permitted within the D-8 Dwelling District, it is merely the fact that all three units are not attached brings forth the need for the variance. The three units have existed for many years and thus the use or value of the area adjacent has not been affected in an adverse manner. One abutting neighbor did not even realize that the detached dwelling unit was being used for residential purposes. Even with the mixture of single family and multi family residences throughout the neighborhood, home values continue to climb further documents that the use of value of the area adjacent has not been affected in an adverse manner.

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 need for the variances arises merely because the three units are not attached. If the three units were attached no variance would be required or needed. The density on this lot is no greater than many other nearby properties, yet the variance is needed because one unit is detached from the other two units.

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:
There exists numerous other parcels in the neighborhood with multiple units and thus the strict application of the terms of the Dwelling District zoning ordinance would require the owner to attach the three units with no known benefit to the owner, tenants or neighborhood. The unnecessary requirement to attach the three units into one building certainly does not further the historic preservation efforts of the neighborhood and would constitute an unusual and unnecessary hardship for the owner.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE:
The property will remain zoned D-8, which permits multiple units on a parcel and thus the legal establishment of the three units still conforms to the Comprehensive Plan of Center Township.

DECISION

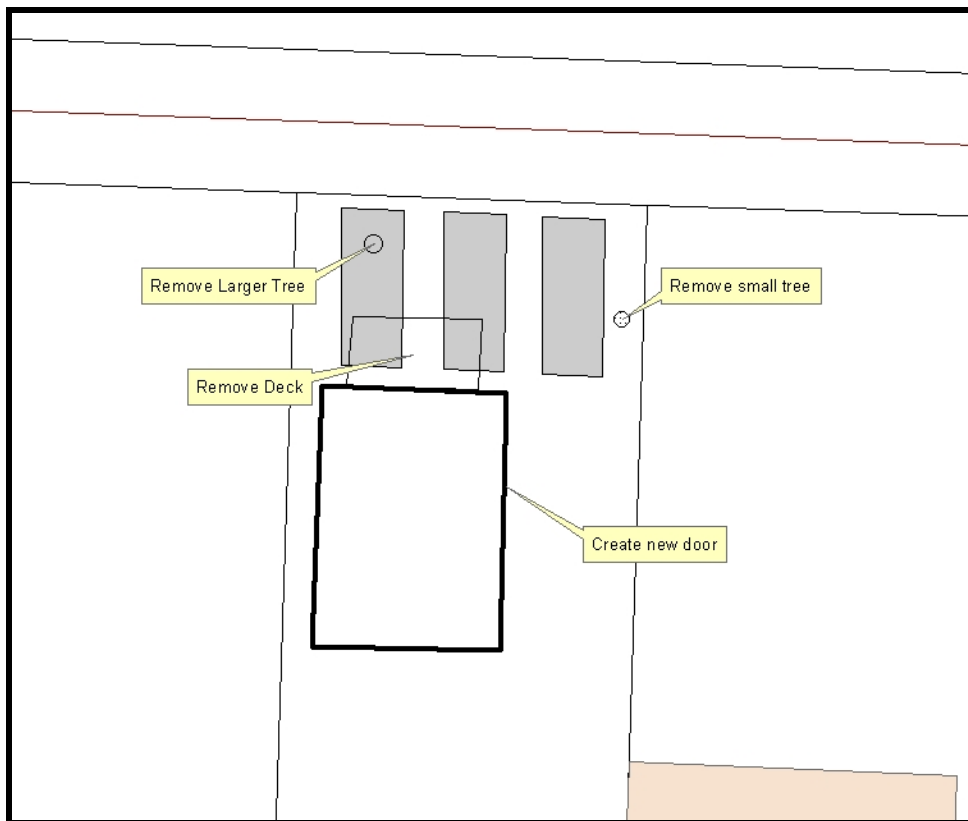
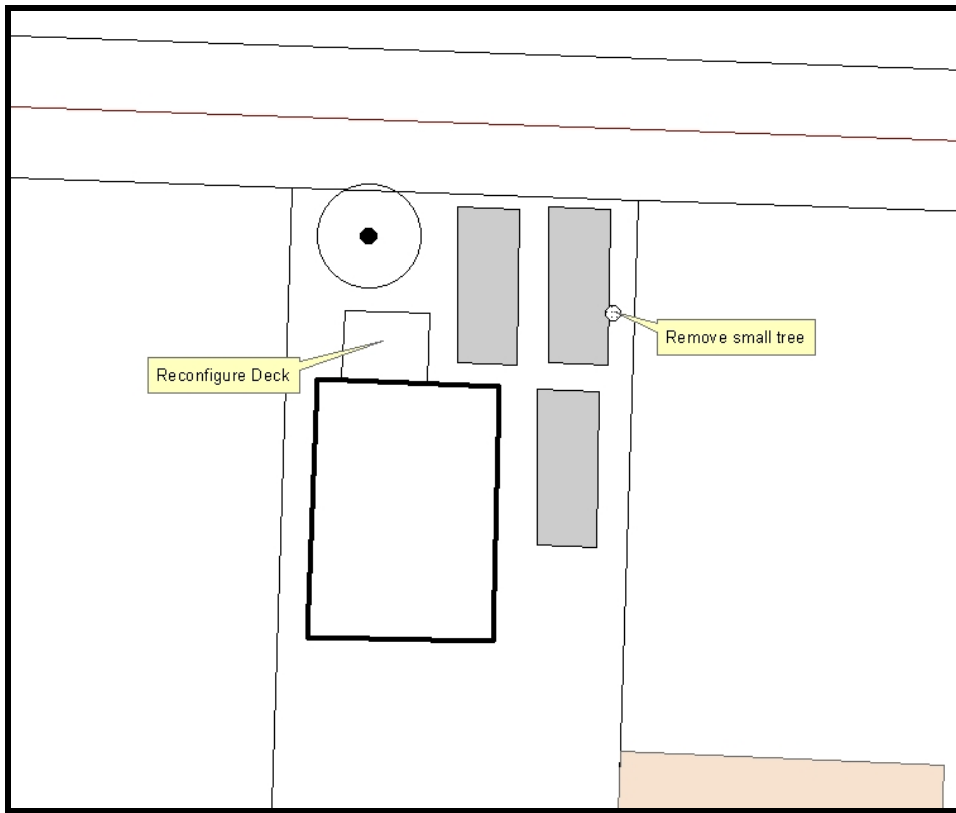
IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.
Adopted this _____ Day of _____, 20 ____

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FEB 24 2011

INDIANAPOLIS HISTORIC PRESERVATION COMMISSION

Two possible site plan options prepared by IHPC Staff



Site Plan Submitted by Applicant

