

BOARD OF ZONING APPEALS DIVISION II

September 9, 2025

Case Number: 2025-DV2-029

Property Address: 5907 Birchwood Avenue (approximate address)

Location: Washington Township, Council District #7

Petitioner: Drew & Taylor Gaynor, by David and Justin Kingen

Current Zoning: D-5

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a building addition with an eight-foot rear yard setback (20 feet required) and a mini-barn with a 1.5-foot north side yard setback (five feet required).

Current Land Use: Single-family residential

Staff Recommendations: Staff **recommends approval** of the eight-foot rear yard setback for the building addition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- A Registered Neighborhood Organization automatically continued this petition from the August 12, 2025 hearing to the September 9, 2025 BZA Division II hearing.

STAFF RECOMMENDATION

- Staff **recommends approval** of the 8-foot rear yard setback for the building addition

PETITION OVERVIEW

- This petition would allow for a building addition with an eight-foot rear yard setback (20 feet required).
- The petitioner has agreed to remove the shed from the request, which is reflected in the revised site plan, file-dated August 11, 2025. Therefore, the request for the reduced north side yard setback is to be removed from the petition.
- The subject site is zoned D-5 and is improved with a single-family residence. The subject site is of abnormal shape compared to typical D-5 lots, as the lot is wider than it is deep, being approximately 107 feet wide and 47 feet deep. The existing residence was constructed in approximately 1951 meaning that the setbacks for the structure are legally non-conforming. With the house being 36 feet in width, and the proposed expansion being 21 feet in width, the proposal is not eligible for the one-time expansion of a legally non-conforming setback since the proposed width is more than 50% of linear footage of the width of the existing structure.

- With the lot being wider than it is deep, Staff finds that there is a degree of practical difficulty for meeting the rear setbacks, given that most D-5 lots provide for far more depth than 47 feet. Further, with the proposed addition to match the existing rear setback of the primary residence, and with the plan showing that the south side yard setback would still be met, Staff finds the proposal to be reasonable in nature and is, therefore, unopposed to the request for the 8-foot rear yard setback.

GENERAL INFORMATION

Existing Zoning	D-5										
Existing Land Use	Single-family residential										
Comprehensive Plan	5-8 residential units per acre										
Surrounding Context	<table> <tr> <td>Zoning</td><td>Surrounding Context</td></tr> <tr> <td>North: D-5</td><td>North: Single-family residential</td></tr> <tr> <td>South: D-5</td><td>South: Single-family residential</td></tr> <tr> <td>East: D-P</td><td>East: Multi-family residential</td></tr> <tr> <td>West: D-5</td><td>West: Single-family residential</td></tr> </table>	Zoning	Surrounding Context	North: D-5	North: Single-family residential	South: D-5	South: Single-family residential	East: D-P	East: Multi-family residential	West: D-5	West: Single-family residential
Zoning	Surrounding Context										
North: D-5	North: Single-family residential										
South: D-5	South: Single-family residential										
East: D-P	East: Multi-family residential										
West: D-5	West: Single-family residential										
Thoroughfare Plan											
Birchwood Avenue	Local Street 50 feet of right-of-way existing and 48 feet proposed										
Context Area	Compact										
Floodway / Floodway Fringe	No										
Overlay	No										
Wellfield Protection Area	No										
Site Plan	7/17/25										
Site Plan (Amended)	N/A										
Elevations	N/A										
Elevations (Amended)	N/A										
Landscape Plan	N/A										
Findings of Fact	7/17/25										
Findings of Fact (Amended)	N/A										

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Envision Broad Ripple Plan (2012)
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- Not applicable for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The Envision Broad Ripple Plan recommends 5-8 residential units per acre for this site.

Infill Housing Guidelines

- With regards to building additions, the Infill Housing Guidelines recommends:
 - Consider the size of surrounding houses
 - Reinforce massing
 - Minimize significant increases in height
- With regards to accessory structures and setbacks, the Infill Housing Guidelines recommends:
 - Locate accessory structures behind primary structure
 - Meet building setbacks when possible

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- The subject site abuts the Monon Trail to the east.

ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2022DV2041; 5939 Winthrop Avenue (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage, with a three-foot south side setback (five-foot side setback required), **granted**.

2022DV2005; 1039 Kessler Boulevard East Drive (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 22.17-foot tall detached garage (accessory structures not permitted to be taller than the primary dwelling), **withdrawn**.

2013DV3006; 1030 Kessler Boulevard East Drive (south of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family dwelling, with a 16.4-foot front setback from Kessler Boulevard, a 8.5-foot front setback from Birchwood Avenue, and 59.9% open space (40 and 25-foot front setbacks required, respectively, 65% open space required), **granted**.

2009ZON027; 1030 Kessler Boulevard East Drive (south of site), (Amended) Rezoning of 0.118 acre, from the D-5 District, to the D-P classification to provide for two detached single-family dwellings at a net density of 16.9 dwelling units per acre (a gross density of 8.6 units per acre including one-half of abutting public rights-of-way), **denied**.

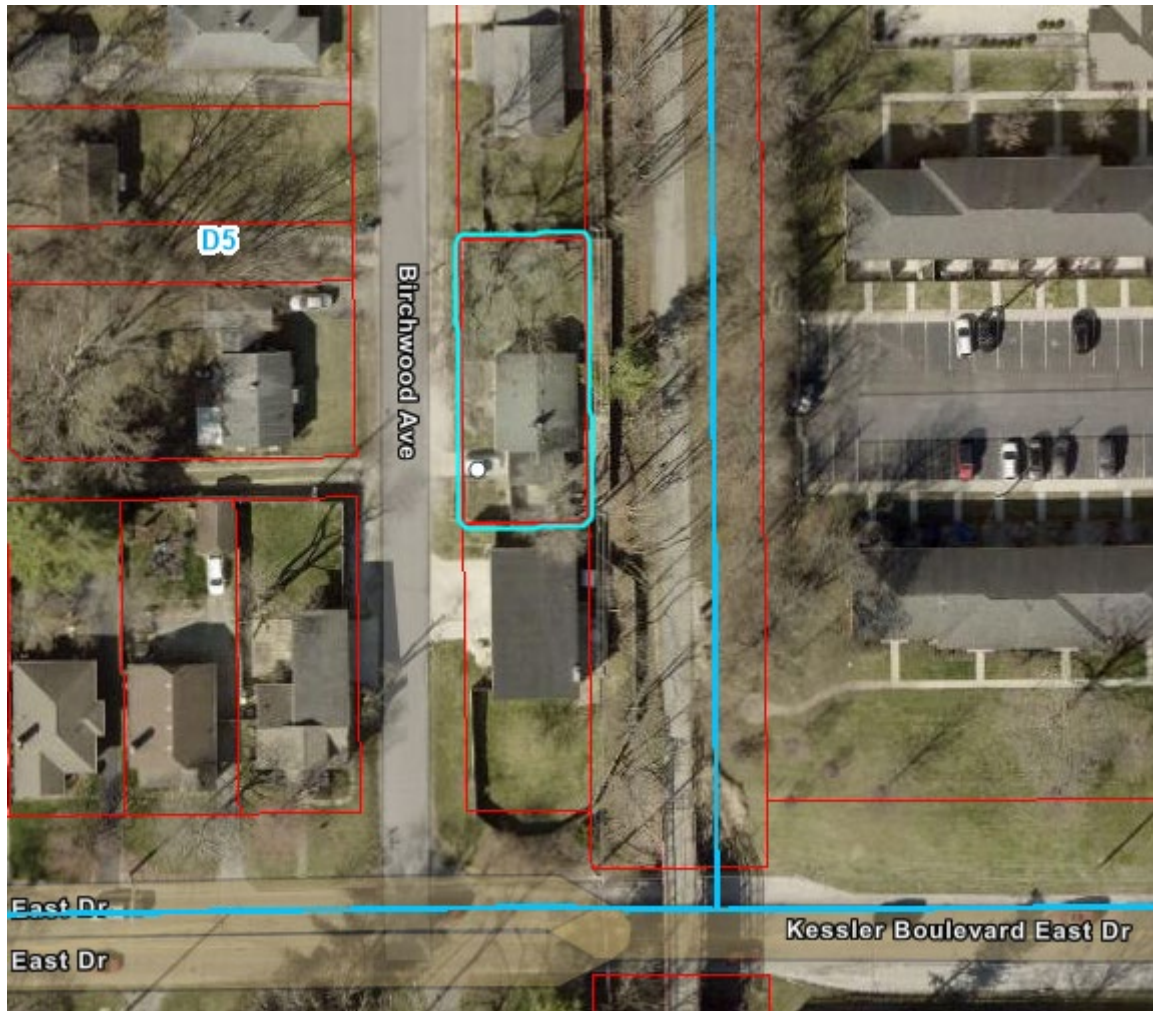
2007ZON129; 5900 Central Avenue and 1111 East 61st Street (east of site), rezoning of 13.67 acres from the D-7 and C-1 to D-7 to provide for a total of 286 apartment dwellings units and 12,450 square feet of commercial space for C-1 and C-3 uses, **approved**.

2002ZON008; 1111 East 61st Street (east of site), rezone of 13.67 acres from the C-1 and D-7, to the D-P to provide for a mixed office, retail and multi-family residential development, with 48,000 square feet of commercial/retail space and 236 multi-family residential units, or 17.26 units per acre, **denied**.

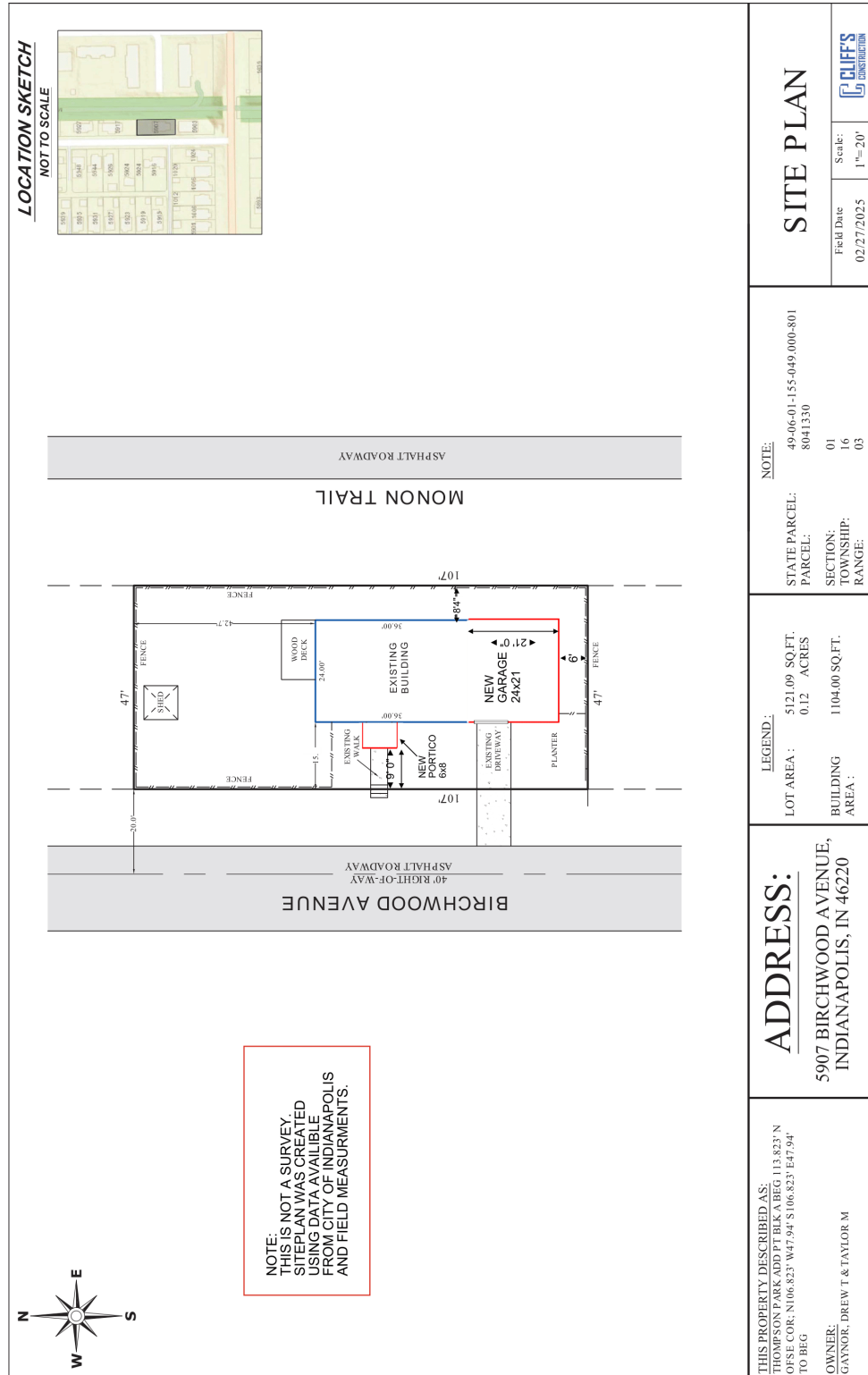
96-Z-104; 1111 East 61st Street (north of site), rezoning of 3.396 acres, being in the D-7 district to the C-1 classification, to provide for office uses in addition to the existing flower shop authorize by previous variance, **approved**.

91-UV3-24; 1111 East 61st Street (north of site), requests a variance of use of the Dwelling Districts Zoning Ordinance to provide for the storage of two refrigerated semi-trailers for storing flowers prior to the peak business period around the following holidays; Easter; Mother's Day; Valentine's Day; Thanksgiving; and Christmas, **denied**.

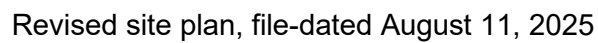
EXHIBITS



Aerial Photo



Site plan, file-dated July 17, 2025





Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

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:

The existing residential structure contains a similar rear-yard setback and the minor residential structure contains a similar side-yard setback to other existing residential properties in the Broad Ripple Village. The current residential structure would need a variance of development standards for a reduction to the required rear-yard setback, if it were built today. Therefore, granting this variance request shall not be injurious to the public health, safety, morals, and general welfare.

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 use of the property is consistent with the Marion County Land Use Plan Pattern Book and the value of the nearby residences will benefit from the renovation to the existing residential structure on the subject site, should this variance request be granted.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

This variance request for the reduction of the rear-yard & side-yard setback is necessary given the shallow depth of the subject site. It is practically difficult to construct a structure of any size given the existing lot's dimensions.

DECISION

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

Adopted this _____ day of _____, 20 ____



Subject site looking east



North side fence of the subject site



Subject site looking east



South side fence of subject site and adjacent property