

BOARD OF ZONING APPEALS DIVISION I

February 3, 2026

Case Number: 2025-DV1-059
Address: 5217 Broadway Street (approximate address)
Location: Washington Township, Council District #7
Zoning: D-5 (TOD) (W-5)
Petitioner: John Rising-Moore
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the addition to a single-family dwelling with a four-foot north side setback and a 3.5-foot south side setback (five-foot side setbacks required).

Current Land Use: Single-Family Dwelling

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was previously automatically continued at the request of a Registered Neighborhood Organization, from the January 6, 2026, hearing, to the February 3, 2026, hearing.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would also provide for an addition to an existing single-family dwelling, with a four-foot north side setback and a 3.5-foot south side setback.
- ◇ The petitioner was granted a permit (ILP25-01021) on September 11, 2025, from the Department of Business and Neighborhood Services (DBNS), to allow for a rear and second story addition to the primary dwelling with the proposed side setbacks being a one-time 12-foot expansion of the existing legally nonconforming side setbacks.
- ◇ Per 744-202-E.1, in the D-S, D-1, D-2, D-3, D-4, D-5, D-5II, and D-8 zoning districts, the minimum side and rear yard setback requirements for a lot containing a single-family detached dwelling or a two-family dwelling shall be subject to the following:
 - a. The primary building may be enlarged or extended along a legally established nonconforming side yard between the established front setback line and the established rear yard setback line of the primary building provided that the linear footage of such enlargement or extension:*
 - 1. Does not exceed 50% of the linear footage of the primary building along that side yard setback line, and*
 - 2. Is a one-time only expansion along the legally established setback line.*

- ◇ On November 11, 2025, revised site plans, indicating a revision to the rear addition and expansion were submitted to DBNA for an updated ILP permit (ILP25-3006). Those plans were not zoning compliant as they now exceeded the one-time 50% expansion rule. Therefore, that ILP permit was placed on hold as the applicant was informed by DBNS on November 12, 2025, that they would now need a zoning variance for the deficient side setbacks.
- ◇ On December 1, 2025, this petition for a Variance of Development Standards was submitted.
- ◇ On December 12, 2025, a Stop Work order (VIO25-011117) was issued due to apparent ongoing work, and the failure to amend the existing structural permit prior to the construction of a covered deck at the back of a new addition.
- ◇ By all appearances, work continued on the revised non-permitted addition after notification was given, and after the variance petition was filed. This resulted in the Stop Work order issued on December 12, 2025.
- ◇ The proposed two story 26-foot addition with reduced side setbacks would be too intense for the subject site, would block additional sunlight and cast shadows on the adjacent residential structure to the north. The larger addition area with reduced side setback, would also make it difficult for public safety emergency responders to access between the adjacent dwellings.
- ◇ The need for the reduction in the required side setbacks beyond the onetime 50% expansion is a self-imposed hardship and not a result of the Ordinance requirements. Staff believes that the lot is deep enough to accommodate any further rear expansion and therefore meeting the 20-foot rear setback. Any existing work completed with that non-compliant expansion is believed to be non-permitted, per DBNS.

GENERAL INFORMATION

Existing Zoning	D-5		
Existing Land Use	Single-Family Dwelling		
Comprehensive Plan	Traditional Neighborhood		
Overlay	TOD, W-5		
Surrounding Context	Zoning		Surrounding Context
	North:	D-5	Single-family dwelling
	South:	D-5	Single-family dwelling
	East:	D-5	Commercial accessory parking lot
	West:	D-4	Single-family dwelling
Thoroughfare Plan			
	Broadway Street	Local Street	50-foot existing and proposed right-of-way.
Context Area	Compact		
Floodway / Floodway Fringe	N/A		
Wellfield Protection Area	5-year		
Site Plan	December 1, 2025		
Elevations	N/A		
Plan of Operation	N/A		

Commitments	N/A
Landscape Plan	N/A
Findings of Fact	December 10, 2025

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan has recommended Traditional Neighborhood uses for this site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Traditional Neighborhood typology, which includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Red Line Transit-Oriented Development Strategic Plan (2021)
 - The subject site is located approximately 775 feet from the 52nd and College Red Line transit station.
 - The 52nd and College transit station has been categorized as the walkable neighborhood typology, which is characterized as primarily residential, but may have a commercial node of one to two city blocks, with a Mix of uses at station with stabilized residential beyond, and off-street parking is discouraged and should be limited to garages.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

2022-DV2-034; 5210 Broadway Avenue (west of site), requested a Variance of Development Standards to provide for the construction of a detached garage and secondary dwelling with a height of 23.75 feet, which is taller than the primary dwelling, **granted**.

2015-DV2-033; 5140 Broadway Street (south of site), requested a Variance of Development Standards to legally establish a two-story dwelling with a 3.8-foot north side setback, to provide for a 576-square foot detached garage with a three-foot north side setback, and a 3.6-foot rear setback, and to provide for a 1,260-square foot, two-story building addition with a five-foot south side setback resulting in an eight-foot aggregate side setback, **granted**.

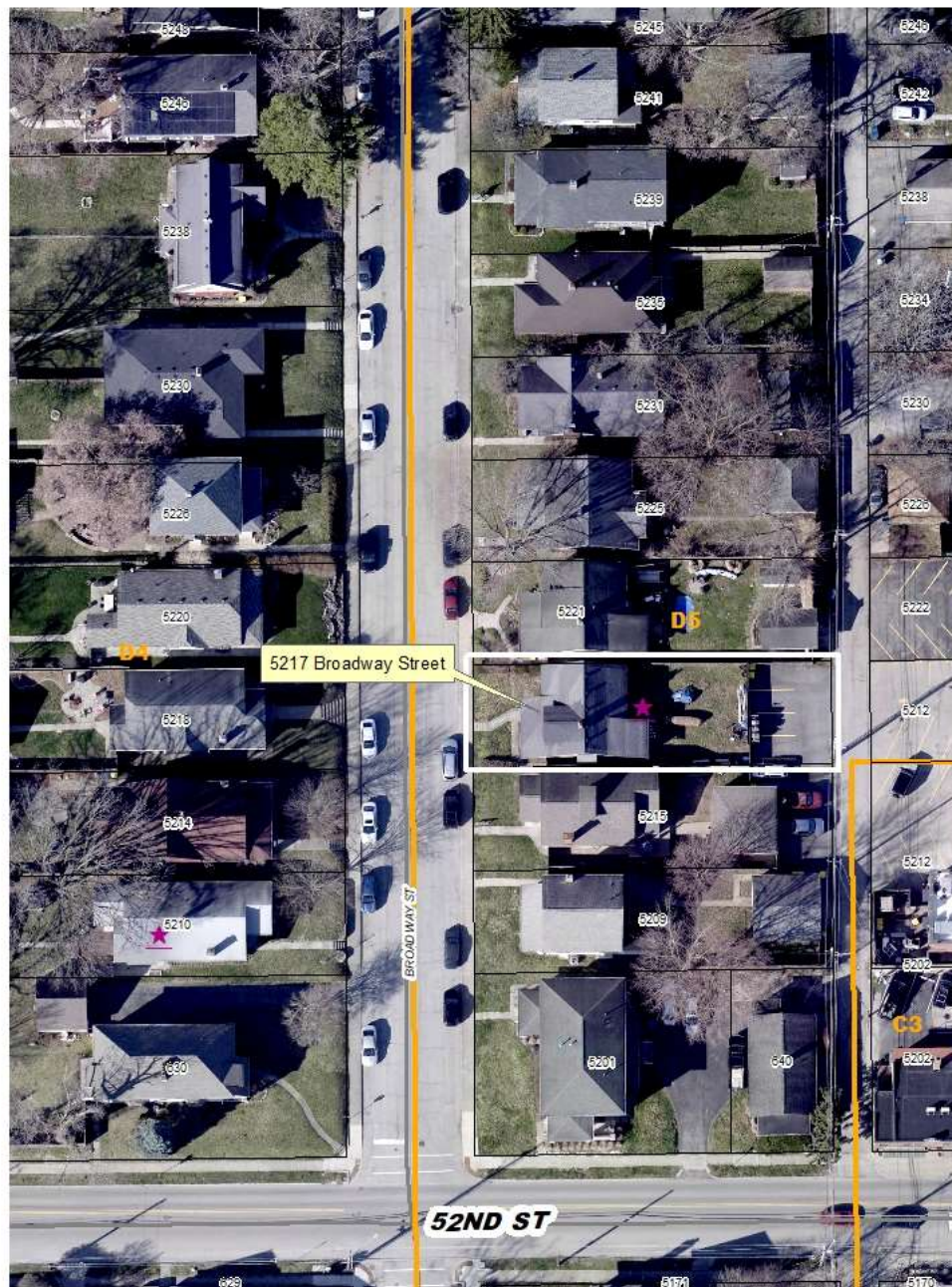
2012-HOV-035; 5108 Broadway Street (south of site), requested a Variance of Use and Development Standards of the Dwelling Districts Zoning Ordinance to legally establish a two-family dwelling on a 9,314.75-square foot lot, with 53 feet of lot width, **granted**.

2001-HOV-049; 614 East 52nd Street (west of site), requested a Variance of Development Standards to provide for the construction of an 18.5 by 18-foot attached garage on an existing foundation with a rear setback of 2 feet, **granted**.

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EXHIBITS

Location Map



[illegible]



Findings of Fact

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 grant will allow for the extension of an approved addition for private residential use.

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 proposed addition will be consistent with development in the area and adjacent area.

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

existing residence was built prior to building code and extending along the existing side is not allowed past 50% resulting in a need for a reduction of required north side setback to 4' and south side setback to 3.5'.

Photographs



Subject site front, looking east from Broadway Street.



Subject site rear, looking west from adjacent rear alley.



Subject site proposed north side setback under construction, looking west.



Subject site proposed south side setback under construction, looking west.



Adjacent dwellings to the north, looking northeast



Adjacent dwellings to the south, looking southeast