

VILLAGE OF HOMEWOOD



MEMORANDUM

DATE OF MEETING: September 8, 2022

To: Planning and Zoning Commission

From: Valerie Berstene, Village Planner

Topic: Case 22-29 Variance
Case 22-30 Special Use Permit



APPLICATION INFORMATION

APPLICANT	Hannibal Payton-Bernard
ACTION REQUESTED	22-29: Variance from the requirement for 1,000' separation from a place of worship 22-30: Special use permit for a tattoo/body piercing facility
ADDRESS	18354 Governors Highway
PIN	31-01-225-004-0000

ZONING & LAND USE

SUBJECT PROPERTY	ZONING	LAND USE
CURRENT	B-3 Service Business District	Vacant, formerly retail and learning center
PROPOSED	B-3 Service Business District	Tattoo/body piercing facility
SURROUNDING	N: R-1 Single Family Residential, and PL-2 Public Land and Open Space	Detached dwellings, and Dolphin Lake Park
	E: R-2 Residential	Place of Worship
	S: R-4 Multi-Family Residential, and PL-2 Public Land and Open Space	Multi-family dwelling, and Open space/stream
	W: R-4 Multi-Family Residential	Multi-family dwellings

LEGAL NOTICE

Legal notice was published in *Daily Southtown* on August 24, 2022; letters were sent to 144 property owners, residents, and businesses within 250'.

As of September 1, Staff has not heard from any neighbors or community members with questions or concerns regarding these cases.

DOCUMENTS FOR REVIEW

Title	Pages	Prepared by	Date
Application for Special Use w/ Standards	3	Hannibal Payton-Bernard	06/06/2022
Application for Variance w/ Standards	3	Hannibal Payton-Bernard	09/01/2022
Demo Floor Plan from previous tenant	1	-	-

Title	Pages	Prepared by	Date
Landlord Letter of Authorization	1	Brent Seiler, North Park Properties	08/20/2022
Letter of Support	1	Lamont Henderson, Woodlands Community Church	08/23/2022
Staff Exhibits	2	Valerie Berstene, Village Planner	09/08/2022

BACKGROUND

The tenant space at 18354 Governors Highway was most recently occupied by Miranda Vinyl and Supplies, a retail establishment. Prior to that, the space was occupied by M.A.S.T.E.R.S Plus Tutoring Program, a Learning Center with a Special Use permit approved in 2011 (Case 11-58).

The Cherry Creek Shopping Center was established in 1967. Other current tenants in the shopping center include a variety of different uses including dental and medical offices, restaurants, retailers, and personal services establishments offering fitness, health, and beauty services.

In 2003 the Zoning Ordinance was amended to allow tattoo parlors/ body piercing facilities in the B-3 and M- Districts. The text amendment stemmed from interested business owners. Prior to that amendment, such facilities were prohibited by omission. Since the amendment was adopted, no such facilities have been established. In the 19 years since the amendment, societal norms have become more broadly accepting of self-expression through personal appearance.

DISCUSSION

SPECIAL USE PERMIT

The applicant proposes to open a tattoo studio in a vacant tenant space at 18354 Governors Highway in the Cherry Creek Shopping Center. The use is classified by the Zoning Ordinance as a “tattoo parlor/body piercing facility.” The applicant does not plan to provide any body piercing services. A tattoo/body piercing facility is a special use in the B-3 district. The special use permitting process allows for a case-by-case review to assess the suitability of the proposed use to a specific site and consider the potential impact on neighboring properties.

The applicant proposes to operate a tattoo studio in the 1,700 SF tenant space. He plans to have a reception desk, 6 workstations for tattooing, and a break room/creative work area for the artists. The current zoning ordinance does not include tattoo/body piercing facilities. The draft of the revised (new) zoning ordinance, currently under review, establishes 1 per 300 SF parking requirements for all personal services, including a tattoo/body piercing facility. This would require 6 parking spaces. The applicant anticipates, at maximum capacity, 1 reception + 6 tattoo artists + 6 customers. This would require, at maximum capacity, 13 parking spaces. The shopping center provides shared parking for all its uses and can accommodate both scenarios of parking needs. Staff recommends that, in keeping with previous special use permits for this shopping center, the motion includes the condition that “employees must park in the rear.”

The applicant’s responses to the standards for a special use are attached for consideration.

VARIANCE

The Zoning Ordinance details specific certain use-specific standards. For a tattoo parlor/body piercing facility, Section 9.2.R.3/ Municode Section 44-355.r.3 requires that *“No tattoo or body-piercing establishment shall be located within 1,000 feet of the property line of another tattoo or body piercing use, any school or any place of worship.”*

The location of the proposed establishment at 18354 Governors Highway is across Governors Highway from a place of worship, Woodland’s Community Church. The distance from the proposed establishment to the property line of Woodland’s Community Church is approximately 300’. Therefore, the applicant requests a variance from the 1,000’ separation requirement in order to operate his business at 18354 Governor’s Highway.

The applicant’s responses to the standards for a variance are attached for consideration.

In addition to the completed application, the applicant contacted the leader of the Woodland’s Community Church and has provided a letter of support.

The Village is currently in the process of updating the Zoning Ordinance, with anticipated adoption in fall 2022. The proposed revisions to the ordinance do not include this required separation between tattoo/body piercing facilities and churches or schools. The separation requirement may reflect outdated views towards personal appearance and perceived influence. The hardship of this request, therefore, is based not on a geographical or physical constraint of the site, but on outdated societal norms. The variance granted would potentially be applicable to similar zoning cases, which the draft of the new code revises.

DRAFT FINDINGS OF FACT

Staff has prepared the draft findings of fact in accordance with the standards set forth in Section 2.16/ Municode Section 44-81 of the Zoning Ordinance for the Special Use and Section 2.17/ Municode Section 44-82 for the Variance. The findings of fact, as proposed or as amended, may be entered into the record.

1. The subject property is located at 18354 Governors Highway, in the Cherry Creek Shopping Center;
2. The applicant, Hannibal Payton-Bernard, is the prospective business owner and tenant, applying with authorization by the property owner;
3. The subject property is located in the B-3 Service Business District;
4. A tattoo parlor/body piercing facility is a special use in the B-3 Service Business District;
5. The special use for a tattoo parlor/body piercing facility is subject to meeting use-specific standards, including a 1,000’ distance separation from the business to the property line of a place of worship, per Section 9.2.R.3/ Municode Section 44-355.r.3;
6. The applicant seeks a variance from the 1,000’ separation requirement to operate his tattoo studio approximately 300’ from the property line of Woodlands Community Church; and
7. The applicant has the support of the leader of the neighboring place of worship.

RECOMMENDED PLANNING & ZONING COMMISSION ACTION

If the Commission finds that the request meets the standards for a variance and standards for a special use, the Planning and Zoning Commission may consider the following motion:

Recommend approval of (1) Case 22-29 to grant a variance from Section 9.2.R.3/ Municode Section 44-355.r.3 of the Homewood Zoning Ordinance to allow a tattoo parlor/body piercing facility within 1,000' of the property line of a place of worship; and (2) Case 22-30 to grant a Special Use Permit for a Tattoo Parlor/Body Piercing Facility in the B-3 Service Business District for "Big Brothers Tattoo Studio" at 18354 Governors Highway, subject to the condition that employees must park in the rear; and

Incorporate the findings of fact into the record.