

BOARD OF ZONING APPEALS DIVISION II

December 9, 2025

Case Number: 2025-SE2-005

Property Address: 5167 North College Avenue (approximate address)

Location: Washington Township, Council District #7

Petitioner: 52 College LLC, by Samuel Lewis

Current Zoning: C-3 (TOD) (W-5)
Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a tattoo parlor (Special Exception required).

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a tattoo parlor within 40 feet of a protected district (500 feet required).

Current Land Use: Commercial

Staff Recommendations: Staff recommends **approval** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

11/18: A timely automatic continuance request was filed by a registered neighborhood organization.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- 5167 North College Avenue is a commercial parcel located at the southeastern corner of the intersection of College and 52nd Street. It is improved with a multitenant commercial building and is bordered by residential uses to the south and other neighborhood commercial uses clustered around the intersection. Additional tenants within the subject building include a fitness studio and a metaphysical supply store, and the previous use at the subject site was the office of a professional cleaning service which appears to have closed around 2019.
- The enforcement case VIO24-004302 was opened in 2024 at the property, and cited the use of a tattoo parlor as well as the placement of an unpermitted wall sign and an unenclosed dumpster. Violations related to the sign and dumpster have been addressed, and approval of this petition would allow for legal operation of a tattoo parlor both within the C-3 zoning district (requires a Special Exception petition) and within 500 feet of a Protected District (requires a Use Variance).

- The Plan of Operation provided by the applicant indicates that the business would employ nine (9) employees in total, who would utilize on-site parking when taking appointments (the parcel has adequate on-site parking for the proposed use and square footage). The business would operate Tuesday through Saturday from 11 am to 9 pm and on Sunday from 12 pm to 6 pm. Additional information about waste and disposal of hazardous materials is within the Exhibits, and the business would be required to comply with all applicable State and local laws for licensure.
- The property is currently zoned C-3 to provide for an extensive range of retail sales and personal and professional services required to meet the demands of a fully developed neighborhood. It is also within both the Transit-Oriented Development Secondary Zoning District (designed for coordination of compact and walkable development patterns near existing or proposed IndyGo Bus Rapid Transit) and a Wellhead Protection Area (designed to protect groundwater quality).
- Additionally, the Meridian-Kessler Neighborhood Plan recommends it to the Urban Mixed-Use typology to allow for dense, pedestrian-oriented, mixed-use (primarily commercial) development and places it within Critical Area 104 to allow for a variety of neighborhood-serving commercial uses near residences and with an emphasis on preservation of historic buildings and character. The Red Line TOD Strategic Plan recommends it to the Walkable Neighborhood typology which encourages a mix of uses near BRT stations with residential uses beyond.
- Since at least the late 1990s, the City has had spacing requirements for certain uses, namely as a tool to separate them from residences, schools and parks. Although licensing requirements for tattoo parlors to not allow service to patrons under 18 years of age, tattoo parlors are not considered an adult use. Although the requested deviation from the Ordinance standards in this case is extreme, staff would note that the Ordinance separation requirements for tattoo parlors are quite restrictive when compared with separation requirements for other uses that only serve adults: nightclubs, liquor stores and bars/taverns would only require a separation of 100 feet.
- Additionally, the scope of the business presented within the Plan of Operation does not indicate a level of service that would cause major disruption to surrounding properties. Relevant requirements from both state law (410 IAC 1-5, Sanitary Operation of Tattoo Parlors) and the local health department (19-701 to 19-712 of the Marion County Health and Hospital Code) would require licensure and minimum standards of cleanliness which would also limit negative externalities for residents living near the proposed use.
- Finally, staff feels that the proposed use would not conflict with the Urban Mixed Use recommendation from the Comprehensive Plan since it would allow for multiple neighborhood-serving businesses within the same horizontal space at a walkable level and would not be out of place within the existing context of the corner commercial node where a mix of neighborhood commercial and residential uses are encouraged. Staff would recommend approval of the Development Standards Variance and Special Exception requests.

GENERAL INFORMATION

Existing Zoning	C-3 (TOD) (W-5)	
Existing Land Use	Commercial	
Comprehensive Plan	Urban Mixed Use	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	C-3	North: Commercial
South:	D-5	South: Residential
East:	C-3	East: Commercial
West:	C-3	West: Commercial
Thoroughfare Plan		
College Avenue	Primary Arterial	80-foot existing right-of-way and 78-foot proposed right-of-way
52 nd Street	Primary Collector	50-foot existing right-of-way and 56-foot proposed right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	Yes	
Site Plan	10/16/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	09/26/2024	
Findings of Fact (Amended)	11/03/2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Red Line Transit-Oriented Development Strategic Plan
- Meridian Kessler Neighborhood Plan (2016)

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Meridian Kessler Neighborhood Plan below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The Walkable Neighborhood typology is designed for walkable areas that primarily residential but may have a commercial node of one to two city blocks with mixed-use encouraged near stations.

Neighborhood / Area Specific Plan

- The Urban Mixed-Use typology is intended to provide for dense, pedestrian-oriented, mixed-use (primarily commercial) development within either the historic central city and first-generation suburban areas of Indianapolis or in areas around transit hubs intended to replicate that older style of development. Development patterns can vary but typically include multi-story buildings located at or near right-of-way lines, side- or rear-loaded parking, and retail/service uses on the first floors.
- The MKNA Plan also places the site within Critical Area 104 (College/52nd) to allow a variety of commercial uses that primarily serve the surrounding neighborhood with an emphasis on integrating commercial and residential uses and preserving the historic building and character of the intersection.

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

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2020DV1056 ; 5162 N College Avenue (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 47-foot tall wood and metal poles for small cell wireless communications facilities, with associated equipment and antennas within the right-of-way (underground utilities only permitted after January 1, 1973), **denied**.

2015DV3024 ; 5212 N College Avenue (northwest of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a second level, 646-square foot outdoor seating and dining area (not permitted), **approved**.

2011DV1026 ; 5170 N College Avenue (west of site), Variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a 28-seat, 288.02-square foot outdoor seating area (not permitted), with a zero-foot front setback (minimum ten-foot front setback required) located 7.17 feet within the right-of-way of East 52nd Street (not permitted), with zero off-street parking spaces (off-street parking spaces required) and to legally establish a dumpster enclosure and provide for outdoor seating within the ten-foot west transitional yard (not permitted) within the clear-sight triangle (not permitted), **approved**.

2010CZN802 ; 5212 N College Avenue (north of site), Rezoning of 0.13 acre, from the D-5 (W-5) District, to the C-3 (W-5) classification to legally establish an accessory parking lot, **withdrawn**.

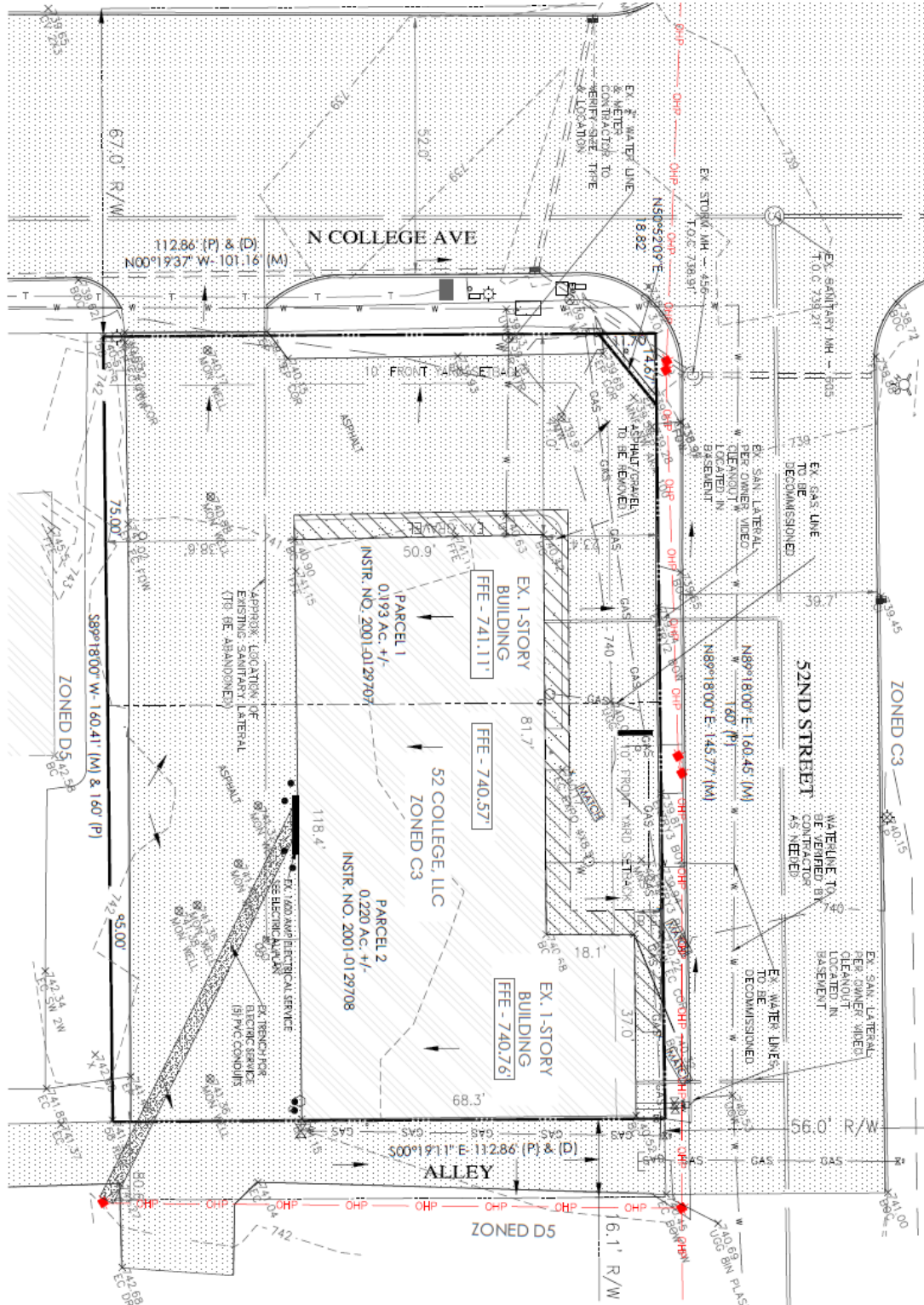
2010DV3030 ; 5215 N College Avenue (north of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a restaurant (a) with 21 parking spaces (56 parking spaces required); (b) with a 3.5-foot south side and rear transitional setback (20-foot side and rear transitional setback required); (c) with a zero-foot north side transitional yard (20-foot side transitional yard required); (d) with a zero-foot front yard, without landscaping, being approximately 40 feet from the centerline (70-foot setback from the centerline required); and (e) with an outdoor seating area, with 32 seats (not permitted), **approved**.

EXHIBITS

2025SE2005 ; Aerial Map



2025SE2005 ; Site Plan



2025SE2005 ; Plan of Operation

Workforce

-There will be about 9 employees on site daily. Employees are responsible for transportation to and from work. There is a parking lot available for use onsite. There are security cameras inside and outside 24/7.

Clients & Customers

- Clients are as young as 5 up to 85. Clients from ages 5 to 17 need a parent to accompany them where they need a school or state ID for the child, a birth certificate and the parent needs an ID. Clients aged 18 and up need a ID or State to fill out the consent for desired service. Sunday 12-6, closed Mondays, Tuesday thru Saturday 11-9. Our service is piercing and tattooing

Materials Used.

Materials used: cleaning supplies and disinfectant these materials will be used for sanitizing and disinfecting bathrooms, floors, tables and common areas. These cleaning products will be stored in a closed-door storage cabinet.

Drawing tables, chairs, couches, tv stand, coffee table, jewelry cabinet, front desk, tattoo chairs, 6 drawer cabinet, gloves, needles, tattoo ointment, plastic wrap, distilled water, disposable razors, non-scented antibacterial soap, ring lights, tattoo chairs, arm rests, stools, tables, ink, ink caps, paper towels, tattoo machine, cavalcade, body jewelry

Hazardous Materials

Every employee has a sharps container for used needles and there is a hazard box located near the side exit for disposal. There is a contract with Med Monkey that picks up our sharps containers twice a year.

No Shipping

Supplies deliveries

Cleaning Supplies are brought to the company in owners' vehicle. All employees are responsible for supplying supplies minus paper towels. Materials should be brought before or during business hours. Stocking of materials happen every other week.

Waste

Type of waste: food trash, paper, plastic wrap- trash generated by employees and clients. With the restroom there are 8 trash barrels with lids and bags on site. Trash is removed from barrels every day.

2025SE2005 : Findings of Fact (Special Exception)

1. The proposed use meets the definition of that use in Chapter 740, Article II because

The proposed special exception for Big Lew's Tattoos will not be detrimental to the community's public health, safety, morals, or general welfare. The business will adhere to all local health regulations and safety standards, including proper sterilization procedures and the use of professional equipment. Additionally, the presence of a reputable tattoo establishment can contribute positively to the community by providing a safe and regulated environment for body art.

2. The proposed use will not injure or adversely affect the adjacent area or property values in that area because

The special exception will not diminish the value, use, or enjoyment of nearby properties. The site is located within a mixed-use area where similar businesses operate without negatively impacting adjacent properties. The establishment of a tattoo parlor will enhance the diversity of services available in the area, potentially attracting more visitors and customers, which may benefit local businesses.

3. The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property because

The special exception will not impede the development of surrounding properties. The area is already characterized by various commercial enterprises, and the introduction of Big Lew's Tattoos aligns with the existing commercial landscape. The business will complement other local establishment and contribute to the vibrancy of the neighborhood.

4. The proposed use will be compatible with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County because

Adequate utilities, access roads, and drainage are available for the proposed business. The site is serviced by existing infrastructure, including electricity, water, sewage, and internet services. Access to the location is convenient, with sufficient parking available for customers, thus supporting the operational needs of the business.

5. The proposed use conforms to the development standards in Chapter 744 applicable to the zoning district in which it is located because

Measures are in place to minimize traffic congestion. The location has ample parking and is situated on a major thoroughfare that can accommodate traffic flow without causing significant delays. Business hours will be designed to avoid peak traffic times, further mitigating potential congestion.

6. The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located because

The construction and development of Big Lew's Tattoos conform to the zoning district's standards. The site is located in a zoning district that permits commercial use, and the proposed business complies with all applicable zoning regulations and requirements.

7. The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use because

The special exception is in the proper zone district. The property is designated for commercial use, which includes service-oriented businesses like tattoo parlors. This aligns with the city's zoning regulations and development goals for the area. The special exception will serve a public need by providing high-quality tattoo services in a professional environment. There is a growing demand for body art services in the community, and Big Lew's Tattoos aims to fill this need while promoting safe practices and responsible artistry.

2025SE2005 ; Findings of Fact (Variance of Use)

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

Big Lew's Tattoos will adhere to all applicable health department regulations and industry safety standards, including single use needles, hospital grade sterilization, surface sanitation, and proper sharps disposal. Procedures are conducted by trained professionals using professional equipment. Providing a regulated, reputable studio improves community welfare by ensuring body art services occur in a safe, code compliant setting rather than in unregulated environments.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE

The site is within an established mixed use/commercial corridor with similar personal service tenants. Tattoo studios are quiet, appointment based uses that generate modest, steady patronage without unusual noise, odor, or outdoor activity. By diversifying services and attracting foot traffic that also patronizes nearby shops and restaurants, the use supports rather than diminishes the value and enjoyment of adjacent properties.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

The existing building and floor plan were built out for small format personal service tenants, including private rooms, hand wash sinks, and code compliant sanitation areas, making the space uniquely suited to a professional tattoo studio. The property fronts a major thoroughfare with on site/adjacent parking and transit access, features that align with an appointment based studio. These physical characteristics of the premises—not general neighborhood conditions—create the need to recognize this compatible personal service use at this location.

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

Without a variance, the property could not reasonably accommodate this lawful, low impact personal service use despite the building's long standing commercial configuration and the corridor's established pattern of comparable services. Strict application would either force vacancy or require extensive, impractical alterations to convert the space to a less suitable use, imposing a hardship tied to the property's existing layout and improvements rather than to the owner's actions.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

The proposal advances Comprehensive Plan objectives to strengthen neighborhood serving commercial nodes along mixed use corridors, encourage adaptive reuse of existing storefronts, and support small businesses that provide services locally. As a regulated, appointment based personal service use in an existing commercial building, the studio is compatible with the character, intensity, and pedestrian oriented goals envisioned for this corridor.

2025SE2005 ; Notice of Violation (VIO24-004302)

Section 740 -1005.A.1. Civil Zoning Violation

Specific Violation: The location, erection, or maintenance of any sign not specifically permitted by the Zoning Ordinance; (744-903.B. - Failure to obtain a sign permit for the display of a wall sign..."Big Lew's Tattoos").

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-3 district; (744-508.B.1.a. - Failure to enclose dumpster with a solid wall at least the height of the service area on 3 sides with the 4th side having a solid gate).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-3 district; (743-305.L.L.2. - A tattoo parlor located in a C-3 shall not be located within 500 feet of a dwelling district).

Section 740 -1005.A.9. Civil Zoning Violation

Specific Violation: The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant; (Tattoo parlor is not a permitted use in a C-3 zoning District without the grant of a Special Exception...contact Current Planning, 18th Floor of the City/County Building, 200 E Washington St...317-327-5155).

2025SE2005 ; Photographs



Photo 1: Subject Site Viewed from Northwest



Photo 2: Subject Site Viewed from West

2025SE2005 ; Photographs (continued)



Photo 3: Subject Site Viewed from Southwest



Photo 4: 52nd Frontage and Adjacent Property to East

2025SE2005 ; Photographs (continued)



Photo 5: Adjacent Property to North



Photo 6: Adjacent Property to Northwest

2025SE2005 ; Photographs (continued)



Photo 7: Adjacent Property to West



Photo 8: Adjacent Property to South