

BOARD OF ZONING APPEALS
October 26, 2021

Minutes are posted on the City Website @ www.cityofvermilion.com (meetings tab/city meeting minutes)

Roll Call: Bob Voltz, Dan Phillips, Dave Chrulski, Guy LeBlanc
Attendees: Bill DiFucci, Building Inspector
Guest: Mayor Forthofer

NOTE: OFFICIAL ACTION REQUIRES 3 AFFIRMATIVE VOTES. See COV 1264.02(b); Therefore, *Motions will be stated in the positive (e.g., To Grant... / To Waive... / To Determine...); and a member=s >Yes= vote means Agree and a >No= vote means Disagree.

Dan Phillips, Chairman called the meeting of October 26, 2021 to order.

APPROVAL OF MEETING MINUTES:

D. Chrulski MOVED, B. Voltz seconded to approve the meeting minutes of August 24, 2021. Roll Call Vote 3 YEAS, 1 ABSTENTION (LeBlanc). **MOTION CARRIED**.

CORRESPONDENCE:

D. Phillips indicated the board received a letter from Brenda and Greg Shay, which will be made a part of the official minutes.

An *Oath* of truthfulness was administered to those in attendance who planned to speak during these proceedings. *Dan Phillips* described how meetings are conducted, explained the avenue of recourse available when a variance request or appeal might be denied, and gave a reminder that it takes 3 affirmative votes for an action (motion*) to pass.

NEW BUSINESS:

(I-2) 406 Nicholson – Applicant: Linda Epperly (Allow Business Use/Sign & Zero Setback)

Applicable City code section(s) cited:

1271 (a) (1) (A) Allow Home Occupation for Insurance Office – Variance request to allow business use.

1271.02 – Name plate sign not more than 144 square inches allowed / proposed = 32 square foot business sign – Variance request to allow business sign.

1274.12 (h) (2) (A) – Free standing signs no closer than 20’ / proposed = 0’ – Variance request – zero setback.

Dana Miller of 823 Claus Road was present on behalf of Linda Epperly and explained they would like to put up a new sign for their Medicare business. The sign is 4’ x 8’ similar to the Lucy Idol sign. D. Phillips said he drove by the location and asked if the sign that is going up is laying up against the shed. D. Miller said yes. D. Phillips asked if their sign will be pretty much even with the Lucy Idol sign. D. Miller said yes

and pursuant to the drawing Linda submitted she used the fire hydrant as a reference point which is 12' setback from the fire hydrant and she believed it was 35' west of the Lucy Idol sign. D. Phillips asked the building inspector to explain the name plate sign that is not more than 144 square inches. B. DiFucci said they have a house inside of the I-2 zoning district and the house is non-conforming and it is a residential use, so they do not have a home occupation for this business, so they are going for the home occupation to operate in an I-2 zoning district. When you have a home occupation you're only allowed to add a sign that is called a name plate sign not more than 144 square inches, so because they will be considering the home occupation initially, they would be permitted to have a sign not to exceed 144 square inches, so they are asking for a 32 square foot sign in place of that sign that would be allowed to be 144 square inches. With the location of the sign the 20' setback is typical, and they are asking for zero based on the drawings that is setback from the right of way. D. Phillips asked if they would have foot traffic since the business is probably internet. D. Miller said right now they are hardly doing any in-person due to COVID and even then it is a rare appointment, and when it is it's not really walk-in. D. Phillips said they would then have very little foot traffic.

G. LeBlanc asked if the property was purely functioning as a residence now. D. Miller said Linda Epperly lives in Akron and when she comes and works out of the area she might stay the night, but it is not a permanent home address. G. LeBlanc asked the building inspector if he said it is not currently in compliance as a residence. B. DiFucci explained it is a non-compliant use; it is a residential use as it has never lost its residential use – it is a house. Therefore, it is a residential use in the I-2 zoning which makes it a non-conforming use and it maintains that use as long as there is no disruption in service or water. They are looking to use it as a business, so it needs the home occupation in order for them to operate out of this structure as a business.

D. Chrulski asked if they have appointments will they be conducted in the house or the shed building. D. Miller said the house as the shed is used for storage. D. Chrulski asked if they would raise the sign with 4' x 4' boards or something like that. D. Miller said yes, and it will be sunk in the ground and treated.

G. LeBlanc said he was having a hard time understanding and for discussion is there an issue with this being used as a residence right now. B. DiFucci said no. G. LeBlanc asked if the board received any correspondence on this issue and G. Fisher said no.

D. Phillips said he did not have a problem with allowing the home occupation use because he didn't feel there would be a lot of foot traffic and it is on a major thoroughfare with a lot of businesses in the area, so he did not see how a health insurance office would hurt, and the sign is equivalent to the Lucy Idol sign.

G. LeBlanc MOVED; D. Phillips seconded to grant the variances as submitted and outlined above in the *applicable city code section(s) cited*. Roll Call Vote 4 YEAS.
MOTION CARRIED.

[RS] 5207 South Street -Applicant: Norman Bower (Side Yard Setback)

Applicable City code section(s) cited:

1272.12 (c) – Side yard not less than 6’ / proposed = 4’ – Variance request of 2’

Norman Bower explained he would like to put a shed on the property next to the garage. G. LeBlanc asked if he had looked at the west side being a possibility as he would not need a variance. N. Bower said the west side of the garage would mean he would need to cut down trees and his driveway dead-ends into the back yard and has 11 ½’ of concrete and he has 14’ between the garage and the property line. D. Chrulski asked what the shed’s primary use would be. N. Bower said to store lawnmowers and bicycles. D. Phillips said after walking the property, he too thought about him putting the shed on the other side. N. Bower said with the 11 ½’ of concrete it would dead-end right into it as the shed is 10’ wide. G. LeBlanc confirmed there would be a concrete pad that would go up to the shed, so is this from an access point. N. Bower said yes. D. Phillips asked if he wanted to keep the shed straight in line with the driveway and N. Bower said yes. D. Phillips asked if he talked to his neighbors. N. Bower said nobody has lived on the east side of him for years and the shed is already in Vermilion at his friend’s house. B. DiFucci noted the shed is being taken from the property that they had the variances on – in the front and rear yard – the house with the Halloween decorations.

B. Voltz MOVED, D. Phillips seconded to grant the variance as requested and outlined above in the *applicable city code section(s) cited*. Roll Call Vote 3 YEAS, 1 NAY (Chrulski). **MOTION CARRIED**.

[B-3] 3619 Liberty Avenue - Applicants: John and Mikayla Hyland (Front/Rear Yard Setbacks)

Applicable City code section(s) cited:

1270.13 (13) (1) – Determination of a medical tattoo shop and body piercing business to be of the same general character as the permitted uses – Variance request – Determination of a Like Use.

Patrick Ward, Attorney for Mikayla and John Hyland read the following statements into the record:

Mikayla and John Hyland are currently under contract for the purchase of the commercial property at 3619 Liberty Avenue in Vermilion. Ms. Hyland is here with me this evening.

The property is currently owned by Thomas Riccardi through the entity Valyza Inc. Mr. Riccardi is also present tonight in support of my clients’ request for administrative review. Specifically, my clients are asking this Board to determine that their operation of a tattoo studio/body art establishment on the property would be of the same general character as the permitted uses identified in Section 1270.13(b)(1) of Vermilion Codified Ordinances. My clients’ core business would

include providing custom, cosmetic, and medical tattooing services, while also having the capability to provide body piercing services when desired by a customer.

The name of the business would be Reflection Room. And the Vermilion location would be the second location for my clients. They currently own and operate a successful first location in Avon Lake.

In the minds of some, there is a certain stigma that attaches to a tattoo parlor. But make no mistake – Reflection Room is not your stereotypical tattoo parlor. It is a sophisticated, upscale private studio which uses an appointment-only business model (no walk-ins). This model is similar to that of clinic or professional buildings where a doctor or other professional sees patients or clients on an appointment-only basis. More importantly, the theme of the Reflection Room is healing. My clients' business serves primarily individuals whose bodies have been impacted by medical conditions, illness, or physical trauma. These are the features of the Reflection Room which set it apart from other tattoo studios.

Respectfully, I suggest to the Board that there is nothing objectionable about the prospect of Reflection Room doing business in Vermilion.

Over the past year-and-a half, Reflection Room has become an integral member of the Avon Lake community, and my clients envision the same for Vermilion.

For Mikayla and John Hyland, Reflection Room is about more than making a buck. It's about caring for the community. But these aren't just words – this is a mindset backed up by my clients' actions. Look no further than Reflection Room's contribution to Avon Lake to see this. My clients have sponsored youth sports teams, participated in school fundraisers, sponsored Santa visits for under-privileged children through the Avon Lake Early Childhood PTA, participated in Toys-for-Tots through a customer donation match program, providing free services and allocating the proceeds to the Susan G. Komen Northeast Ohio breast cancer foundation, and offering continuing education courses where need-based services are provided free of-charge.

The focus at Reflection Room's Vermilion location would be permanent makeup and medical tattooing, especially given the proximity to Mercy Hospital, a valued partner of my clients who regularly refers patients to them. Reflection Room's typical customers are survivors:

- scar concealment and color matching for scars suffered in a bad accident or a fire;
- recreating eyebrows for individuals who have lost them due to chemotherapy;
- micro pigmentation to mimic hair follicles for cancer victims;
- recreation and repigmentation of the areola for breast cancer survivors

Everyone on the staff who provides permanent makeup and medical tattooing services has a degree related to the health or medical fields

Reflection Room is about using tattooing to heal. This is precisely why survivors make up the majority of Reflection Room's clients.

The unique nature of Reflection Room's business would allow it to complement the commercial surroundings near 3619 Liberty Avenue perfectly.

This community holds a special place in Ms. Hyland's heart as she spent substantial time here as a child having grown up just across the border on the west side of Lorain. She wants to again be a part of this community and help it continue to thrive. She wants to contribute to its growth and prosperity.

Mikayla Hyland said she was happy to answer any questions the board had on what they do and how they can benefit Vermilion.

D. Phillips said he knew nothing about this business, and he just thought it was a tattoo parlor, but it was explained to him on what their business offers to cancer survivors.

D. Chrulski said he sees they have four segments to their business – custom tattooing, cosmetic tattooing, medical tattooing, and piercings, and in those four categories he asked what percentage of business would be the custom and medical tattooing if they were to break it down in four sections. M. Hyland said when they have a client that comes in for a service they usually do not just get one. A lot of clients come in for areola tattooing and then they talk about realistic expectations and what their journey looks like, and how they can get their clients to the place they feel comfortable in the closure of experiencing breast cancer. For a lot of women, the tattooing they do not have a lot of information about it, so getting repigmentation or 3D areola creation may sound like a good idea at first, but once they have that initial consult they might opt for scar coverage in another manner. Most of the tattooing she does is floral work, and it is a lot of healing through body art tattooing as well as the medical. She has women she does a nipple re-creation on one side, but she has also done their brows after they have lost them due to chemotherapy. She has also done their hair to re-create density after thinning from chemo, and she may also do floral work on part of their body to cover scarring and radiation burns that they cannot get rid of with just masking. It is hard to come up with a percentage due to the number of different components. Most people are return clients. She said she is booked out for a year currently and they typically have the same clients through the year in different aspects of the tattooing, so a person's journey usually looks at a little bit of everything. For piercing, they do not intend on having this as a component of this location; at least not up front unless someone starts requesting it. She said breast cancer survivors actually have an implant piercing that mimics a nipple piercing. This is something other places do not offer, but in the future they may look at offering something like this if it becomes a demand in Vermilion, but they have no intention of having piercing at this location at this time because they can send people to their Avon Lake location since it is such a specialized thing their piercer does.

The board reviewed the permitted uses. G. LeBlanc asked what their signage would look like. M. Hyland said they have a very conservative landlord at the Avon Lake location that does not like them outwardly advertising that they are even remotely associated with tattooing, so their sign will just say 'Reflection Room', which the board can view online of their current sign. She said it will be similar and it might say 'Reflection Room Academy' as well. Part of their need for expansion is because there are a lot of doctor offices close by and the Mercy Cancer Center is close, so they have an academy within their studio, and they need more space. G. LeBlanc said this will not be a landlord/tenant situation as they will be buying the building. M. Hyland said they will not have flashing tattoo/piercing signs – this is not how their studio is because they pride themselves on being very upscale even though she is not knocking those businesses. She said they would be happy to provide pictures of their current studio to help the board make an educated decision. Most people who walk into their studio usually say it looks like a medical facility or a salon. G. LeBlanc asked if they have picked out their signage and M. Hyland said not as of yet. The board said they looked at the pictures of the Avon Lake location and it looks really good.

Mayor Forthofer asked how many people they had in and out of their facility in a day. M. Hyland said it depends on who is working, and they are appointment only, so they could have a day where there is three people or a day where there is 20 depending on the scope of the work.

Attorney Ward said to respond to the board's question about similar uses, the list in the ordinance is long and it includes florists, gas stations, bars, and taverns, but the one most applicable to this use is the category identified for clinics or professional buildings. D. Phillips said the board just reviewed those permitted uses. Attorney Ward said the Reflection Room is a private appointment only studio that does not permit walk-ins, so this makes it substantially the same as a clinic or other professional office atmospheres.

D. Phillips MOVED. D. Chrulski seconded to approve the variance request as submitted and outlined above in the *applicable city code section(s) cited*. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

[R-4] 858 Tappan Circle - Applicants: Peter and Sarah Spears (Front Yard Setback)

Applicable City code section(s) cited:

1270.05 (e) (3) (A) – Front yards not less than 30' / proposed = 8' – Variance request – 22'

D. Phillips asked if the garage would go right up to the wood fence because it will be right up to the sidewalk. N. Akers said there was no sidewalk. D. Phillips said if the sidewalk continued it would be pretty much right up to it.

D. Phillips said they received correspondence from a neighbor who is not happy with their decision to put a garage there. He said the Spears have a garage on the other side. S. Spears said they do, and they have more vehicles than what can fit in

their garage, and they prefer not to keep them on the street and block anyone's driving or access. The other reason they want to add a new garage is because they will be remodeling the basement and will add an entry point to the basement from the garage, and they will put a bathroom in the basement. Her husband does work around a lot of chemicals and right now their only shower is on the second floor of the house, so he has to go all through the house with the chemicals on him, so this would give them the means to get him down to a bathroom safely to get the chemicals washed off. They cannot do this from their other garage.

N. Akers said presently there is no secondary means of egress out of the basement, so this will give them the secondary means of egress to utilize this space. He said they will put a set of stairs from the garage going down directly into the basement, so it will give them access into that area. D. Chrulski said this neighborhood was probably built in the 90s and it has nice clear setbacks for evenness through the neighborhood, so he finds it a little disruptive for what he calls a newer neighborhood because they do not have a lot of newer neighborhoods in Vermilion with established setbacks that he thinks should be maintained in his opinion. N. Akers said where they live is at a dead-end street and it will never be continued, and they originally were going to put it toward the back of the house, but they felt it would enhance the look of the home without distracting from anyone's view driving down there; you're basically looking at the woods at that point. S. Spears noted there is a large shrub tree on the corner, so as you're approaching it with the new garage the shrub tree will pretty much obscure it from the Bryant approach, so it is really making it aesthetically appealing from the houses that are directly across from them, and again, they felt like attaching it to the house and incorporating into the house would be a better aesthetic than making it an outbuilding to accomplish what they want to do. N. Akers said he was going to either do a hip roof to allow more of the view or put a little gable roof on it, so it was not a large structure. D. Phillips noted the property goes all the way back to the woods.

The board continued to review the proposed plans. D. Phillips asked if this would be a two-car garage and P. Spears said yes. D. Phillips asked the Spears if they had room to put a one-car garage on the other side. S. Spears said not at all; they originally had talked about doing a small (inaudible), which would be smaller than a one-car garage, but it also would not solve their restroom issue that they are trying to accomplish.

D. Phillips said for him it is just sitting out so much – would they even have enough room to park a car in that driveway? N. Akers said it is just over 19' from the edge of the pavement to where the garage door will be. He said you're roughly 11' up that 30' setback and then another 8'.

S. Spears said she was surprised to hear the board received correspondence about this because she made a flyer and passed it out to all of their relevant neighbors, and she put her direct contact information on it if somebody had any questions. She also spoke to three of the neighbors and she was not able to speak to the other three, so she is guessing it is one of the other three, but nobody reached out to directly

express any concerns or to ask questions. G. LeBlanc said this is the normal part of the process.

Brenda and Greg Shay of 845 Bryant Drive said they do not have a problem with the garage, but they do not want the driveway running into Bryant. They have a big problem on Bryant Drive with people parking on the fire hydrant side and a lot of times when she has company or a party, her children can't even park by her house because there is so many people parking on the street. When they got the flyer from the Spears, they stated a lot of approximates. She said somebody told her it was going to be 22' x something, so this makes it come out farther towards Bryant Drive, which is a lot. It would be a big garage when they look out their window. She understands they don't own the parking spots in front of their house, and anyone can park there. She said parking on the fire hydrant side is illegal and she cannot get out of her driveway when that whole street section on the fire hydrant side is plugged up with people. She had to go out of her house late in the evening and direct her daughter so it would not hit one of the vehicles. D. Phillips understands what she is saying, and it seems like they are parking their extra cars right behind them, but if there is now a driveway there, then those cars will not be on the road anymore, so if they pull out of their driveway, then they should not have anything directly blocking them to get out. G. Shay said it is always a problem and the guy that has a business has a big, enclosed trailer and you take your chance getting out. B. Shay wondered if their driveway could come out on Tappan instead of Bryant. B. Voltz did not think they could have a drive any closer to an intersection than what is right there. From his view, the only option would be to have a back entrance into the garage and have the driveway further down.

B. DiFucci said if they put the driveway out, the requirement to extend the sidewalk wouldn't realistically be in place. D. Phillips asked if they would have to run the sidewalk all the way down the property line to the woods.

G. LeBlanc asked the Spears if they had considered a basement access on the north side from the existing garage or behind the existing garage. S. Spears said their basement does not go completely underneath the home, so they do not have the ability to do this. It could potentially go out on the backside of the home, but that is where the sump pump and the mechanicals are located, so that would be very complex to achieve. This was the best way to achieve it and then they thought aesthetic speaking that this was going to be the aesthetically nicest look for the corner. P. Spears said for the whole property really because you would not have an outbuilding further back behind the house. D. Phillips understands both sides, but the Spears wants to relieve some of the parking on the street. G. Shay said the neighbors have multi-cars and when the Spears moved in it was probably five cars. There are other people on the street that park their cars everywhere and winter is a big problem. D. Phillips said technically if they put a driveway in at this location and there is a fire hydrant on that side of the street, then nobody will be able to park there and if someone does, then they should call the police to have them tow the car. G. Shay said the police will not do anything. P. Spears said they know they're not allowed to park on that side of the street and when he moved in he did not know he was allowed to park on the dead end on either side. He was parking in front of their

house when he moved in because one neighbor parks his landscaping trailer there and the other neighbor has a multi-use trailer that he parks in the road as well.

D. Phillips said the board was going out of their boundaries to help come up with a solution to help the Spears. S. Spears said the parking has always been an issue and to her this helps resolve it. G. LeBlanc said currently they have a parking space for all of their vehicles between their garage and driveway. S. Spears confirmed they do and said they have to move everything when they move cars around.

G. LeBlanc said his concern is more about the potential sidewalk with the garage going right against the sidewalk, and then the setback is now gone. D. Phillips said this was his concern too and felt like he wasn't sure they could extend the sidewalk because it could hit the garage. He asked how far off the garage would be if they extended the sidewalk all the way to the woods. N. Akers said if there is a 30' setback, does the sidewalk... B. DiFucci said the sidewalk is supposed to be in the right of way and no further off their property line than 12". He said they would be 8' plus from the front of the garage to the sidewalk.

D. Phillips MOVED, G. LeBlanc seconded to approve the variance request as submitted and outlined above in the *applicable city code section(s) cited*. Roll Call Vote 1 YEA (Phillips); 2 NAYS (LeBlanc, Chrulski); 1 ABSTENTION (Voltz). **MOTION FAILED**.

N. Akers asked the board for any suggestions. D. Phillips said they can reapply and make some changes. G. LeBlanc suggested going east a little bit. D. Phillips wondered if they could loop the driveway and put it back a little bit to the corner. N. Akers asked if they were thinking they should bring the driveway through the back of the garage. The board said yes. B. Voltz said they could even take it behind the house to some degree. P. Spears said it is already a 2' setback from the front edge of the house. N. Akers said he understands on how he could change things to reduce the variance request.

[RS] 4289 Edgewater Dr. - Applicants: Andrew & Deborah Harris (Rear/Side Yard Setback)

Applicable City code section(s) cited:

1272.11 – Rear yards not less than 10' / proposed = 5' 2" – Variance request – 4' 10"

1270.09 (e) (2) (C) – Side yards not less than 7' / proposed = 1' 8" – Variance request – 5' 4"

Neil Akers of 14807 Kneisel Road said he was representing Andrew and Deborah Harris as they would like to remove their existing garage and build a new garage. They would like to use the same foundation on the rear and east side of the garage and bring it forward and expand it out a little bit. He submitted a drawing and pictures to the board for review.

G. LeBlanc asked if their expansion will not result in any decrease in setback relative to what is already there. Neil Akers replied correct. B. DiFucci said 30% of the lot is

765 square feet and they are under this. He clarified that they need to fire rate the side wall.

D. Chrulski MOVED, B. Voltz seconded to approve the variance request as submitted and outlined above in the *applicable city code section(s) cited*. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

[RS] 821 Aurora Drive - Applicants: Mr. & Mrs. Charlie Komaransky (Front/Side Yard Setbacks)

Applicable City code section(s) cited:

1270.09 (e) (2) (A) – Front yards not less than 30' / proposed = 19' – Variance request – 11'

1270.09 (e) (2) (C) – Side yards not less than 7' / proposed = 3.2' – Variance request – 3' 10"

Thomas Bodde, Architect of 1070 State Street was present to represent the Komaransky's as they have purchased this house in Bluebird Beach over the summer and they plan to make it full time. They will do a substantial remodel inside and are requesting an 8' wide open porch on the house to expand the living space since the house is only 720 square feet. He said everything in this neighborhood probably needs a variance. He said they are going to put a new deck on the back, but B. DiFucci explained that it does not require a variance.

D. Phillips asked if they are giving the variance to the side yard on the north. T. Bodde said the existing house only sits 3' off and what he understands there were lot splits and they added to theirs and somehow it ended up where the property line is. In the back there are two garages that are literally on the property lines from both sides. D. Phillips noticed on the side yard there is a fireplace. T. Bodde said a masonry fireplace can be out in the side yard setbacks per the building code, so the house line is 3' off, but the masonry fireplace even goes farther. D. Phillips said the addition will not go past what is already out there, so it will be within the fireplace.

B. Voltz MOVED, D. Chrulski seconded to approve the variance request as submitted and outlined above in the *applicable city code section(s) cited*. Discussion: T. Bodde thought he needed a variance on the other side too because it does not meet the whole 16'. B. DiFucci said they can add the variance of side yard combined (*1270.09 (e) (2) (C)*) required at 16' / proposed 15' – variance request of 1'. B. Voltz and D. Chrulski amended the motion to include this added variance. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

Adjournment:

D. Phillips adjourned the meeting after no further business was entertained.

Next Meeting: Tuesday, December 7, 2021 – 7:00 p.m. @ Vermilion Municipal Complex, 687 Decatur Street, Vermilion, Ohio.

Transcribed by Gwen Fisher, Certified Municipal Clerk