

**CAUCUS PRIOR TO STRONGSVILLE BOARD OF ZONING &  
BUILDING CODE APPEALS  
Meeting of  
August 14, 2024**

**Board of Appeals Members Present:** Dustin Hayden, John Rusnov, Dave Houlé, Richard Baldin, Ken Evans

**Administration:** Assistant Law Director Daniel Kolick

**Assistant Building Commissioner:** Steve Molnar

**Recording Secretary:** Mitzi Anderson

The Board members discussed the following:

1) **OLHA HAYS, AGENT**

An Appeal of the Building Commissioner's decision, which denied an occupancy permit to operate a permanent makeup business as outlined in the Commissioner's non-compliant letter dated July 25, 2024, property located at 17534 Royalton Road Suite #202, PPN.396-12-004, zoned GB- General Business

Mr. Hayden – Item number one on the agenda is an appeal of the Building Commissioner's decision, denying an occupancy permit to operate a permanent makeup business as outlined in the letter dated July 25, 2024. Mr. Kolick I will defer to you.

Mr. Kolick – Understand that this is an appeal of the decision of the Building Commissioner. This is not a variance request so you would not apply the four conditions that you would for a variance. Your sole determination on this is whether or not the Building Commissioner made the correct decision. We allow tattoo establishments in Restaurant Recreational zoning districts only and not in General Business zoning districts. This property that they are requesting an occupancy permit for is located in a General Business zoning district. The issue is that they are requesting to perform permanent makeup and you will need to determine whether that fits within the definition of a tattoo, which I will read to you at the end. It looks like they are performing at least five different types of permanent makeup; microblading, scalp micropigmentation, air fill, breezy stroke and lip coloring. You may determine that one, all, or none of these fits within the definition of a tattoo as we use it in the Code. Anything that does fit within the definition then the Building Commissioners decision will be upheld; however, if something doesn't

then they will be able to perform those other types of procedures. You are not to determine whether anyone else in the City is doing it, whether it is a good or bad thing. It may be a great thing but you do not set policy, City Council sets policy and they determine if it fits the definition of a tattoo establishment, which is only permitted in the Restaurant Recreational Service zoning district. I will read you the definition of a tattoo in our Code Section 820.01(d), "Tattoo," "tattooed" or "tattooing" refers to any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin." The main thing is that it is a coloration, done by needles and it colors the skin. What you have to do is determine whether the services that they are proposing to perform fits the Codes definition. If it does, you uphold the decision of the Building Commissioner, if it doesn't you reverse the decision of the Building Commissioner. We will proceed like any other appeal where the Building Commissioner will tell you why he denied it so that they can respond properly to it, knowing the exact reason that he denied the occupancy permit. Are there are any questions from the Board Members or anything that you do not understand?

Mr. Evans – Mr. Kolick, what is the date that the Ordinance was enacted that defines tattoos?

Mr. Kolick - The Ordinance was passed on May 6, 2002.

Mr. Evans – Can you also enlighten us on the email exchanges with our City Planner and what bearing they may have on this?

Mr. Kolick – There were email exchanges with the City Planner and the applicant on whether permanent makeup would be permitted within the General Business zoning district where they requested it. His reply was, it would be but he also told them before they signed a lease they would need to apply for an occupancy permit. In his estimation it was an appropriate use but it is not the City Planners call, it is the Building Commissioners call when you file for an occupancy permit. I didn't speak to the City Planner as to how deep he went into what permanent makeup is. The question to him was is permanent makeup permitted, he could have considered it brush on paint like other makeup would be. He informed them that they needed to apply for an occupancy permit before they could do it.

Mr. Hayden - I do have a question, in your definition that you read of the word tattoo, is it a permanent inking of the skin?

Mr. Kolick – It does not say it has to be permanent, it could be any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin. That is what you have to determine, whether it is permanent, not permanent, or if it last from one, two or ten years, it does not matter. Does it meet this definition and the definition is not set by the Building Commissioner but it is set by City Council because they are the ones who sets the policies and defines what a tattoo is within the codified ordinances.

The Board members approved the minutes for July 31, 2024.

**STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS  
MINUTES OF MEETING  
August 14, 2024  
7:00 PM**

The meeting was called to order at 7:13 PM by Mr. Hayden.

Present:

Mr. Baldin  
Mr. Rusnov  
Mr. Houlé  
Mr. Hayden  
Mr. Evans

Also Present:

Mr. Kolick, Assistant Law Director  
Mr. Steve Molnar, Assistant Building Commissioner  
Mrs. Anderson, Recording Secretary

Mr. Hayden – I would like to call this August 14, 2024 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. May we have a roll call please?

ROLL CALL:	MR. BALDIN	PRESENT
	MR. HAYDEN	PRESENT
	MR. RUSNOV	PRESENT
	MR. EVANS	PRESENT
	MR. HOULÉ	PRESENT

Mr. Hayden – I hereby certify that this meeting has been posted in accordance with Chapter 208 of the Strongsville Codified Ordinances.

Mr. Hayden - Before us we also have minutes to approve from our meeting on July 31, 2024. We discussed this in caucus and there were no corrections or changes and we will file those accordingly.

Mr. Hayden - If you are here this evening and you plan on addressing the Board, I would ask that you stand and be sworn in by our Assistant Law Director, as well as our Building Department representative and Secretary.

Mr. Kolick administered the oath to those standing.

2) **OLHA HAYS, AGENT**

An Appeal of the Building Commissioner's decision, which denied an occupancy permit to operate a permanent makeup business as outlined in the Commissioner's non-compliant letter dated July 25, 2024, property located at 17534 Royalton Road Suite #202, PPN.396-12-004, zoned GB- General Business

Mr. Hayden – I will call to the podium Building Commissioner Hurst.  
Please state your name, title and address for the record.

**Ted Hurst, Building Commissioner, 16099 Foltz Parkway, Strongsville, Ohio**

Mr. Hayden –Please take us through your decision process.

Mr. Hurst – Based on the ordinance, the research of permanent makeup and what is established in the industry, I determined that permanent makeup is a tattoo operation and it is all defined the same way. The Board of Health licenses it the same way it is one license, which is a tattoo license that the obtain through the Board of Health. Everything I found list microblading as a tattoo, while it is not permanent in nature, it does last for years and can be touched up where tattoos are a little bit more permanent. It is all the same process and procedures with needles that put the ink into the dermal layer of the skin. Based on the ordinance I have denied the actual application and this was based on the ordinance alone and not my own opinion. I did have a chance to speak with the City Planner and somewhere in the past, I don't know who, what, when, where, or why it was determined that if this is a part of another added feature to a typical beauty salon where they do hair, nails, pedicures and hair coloring that they would allow this and someone made that determination. As the Building Commissioner based on the ordinance, I can't make that determination. The ordinance said no so I denied it, I don't have a problem if I am wrong, because this is not personal for me.

Mr. Kolick – Mr. Hurst, you researched the licenses that this person has from Allegria, do they call it cosmetic tattooing in their literature?

Mr. Hurst – They call it permanent makeup and they have a tattoo license.

Mr. Baldin – They have a tattoo license?

Mr. Hurst – Yes.

Mr. Baldin – It is called permanent makeup?

Mr. Hurst – The Health Department licenses it the same way because if you are a tattoo artist or a permanent makeup person then the Health Department gives you a tattoo license because it is what they consider the same function. I pulled a lot of articles to try and wiggle this thing to where I was wrong and I don't look to turn people away; however, permanent makeup refers to cosmetic tattoos that help recreate your favorite makeup looks in a semi-permanent manner, refers to cosmetic tattoos. Microblading is a fancy name for a permanent eyebrow tattoo, is probably the most popular permanent makeup treatment, which uses a fine needle. Going by what is out on the market and reading our ordinance, my interpretation of the ordinance is that permanent makeup is tattooing and I can't approve it based on that interpretation.

Mr. Kolick – Are there any questions for Mr. Hurst?

Mr. Evans – Mr. Hurst have we had other applications during the timeframe that you have been Building Commissioner for beauty salons that may do this as a part of their business?

Mr. Hurst – I've had other permanent makeup applications that I have denied.

Mr. Kolick – You have been consistent in denying any permanent makeup applications?

Mr. Hurst – Yes.

Mr. Hayden – Thank you, Mr. Hurst.

Mr. Kolick - To the applicant, you will be able to present your case but do you have any questions for Mr. Hurst?

Mr. Kolick – Please give us your name and address for the record.

**Olga Hays, 3911 Milford Avenue, Parma, Ohio 44134**

Ms. Hays – My question to Ted Hurst is, were you able to see the actual license from the Board of Health and the actual description on the license?

Mr. Hurst – I did not see a license but I spoke with the County Board of Health and they informed me that a tattoo license is the same license that they issue for permanent makeup; however, I did not request a copy of the license.

Ms. Hays – If you look at the license it says tattoo and microblading services, this gets confusing because we all have one license and the reason we have one license is we have the same disinfection protocol and I agree with that. What we do needs to be highly controlled to make sure there is no spread of viruses. If you dig a little deeper, we have one license but what I do, which is permanent makeup and it last for two years and regular tattoo artist cannot perform it. In order for them to perform what I do they need certifications and training. I submitted all of my certifications and you can see that there are a lot of them, there is one certification but we cannot perform the same services. Tattoo artist cannot perform the service of a permanent makeup artist and I cannot perform a regular tattoo and this is what gets very confusing because they put us together because of the disinfection protocol.

Mr. Kolick – Ms. Hays, your application seems to cover a number of different services. Does microblading include needles and coloration under the skin?

Ms. Hays – It does include it but the difference is the technique and the depth. A regular tattoo with the needle penetrates and goes that deep, which means it will last forever. What I do is this, I'm brushing.

Mr. Kolick – Are you going under the first two layers of the skin?

Ms. Hays – I do not, I work only on the top of the layer and that is why this is going to disappear in a year or two. If my clients did not come to see me, it would disappear. They constantly have to come and see me for a fill and that is the difference.

Mr. Kolick – Does it touch the skin and are you using needles or a pen? What do you use for the microblading?

Ms. Hays – There are different tools that look like a pen with very low voltage and it slightly deposits the skin, I would say more of an impression than depositing.

Mr. Kolick – Is there a coloration or an ink that goes in?

Ms. Hays – I wanted to mention it is not ink but a pigment, which is different from what regular tattoo artist use. Do you have the copies of the paperwork I submitted?

Mr. Kolick – We have everything.

Ms. Hays – There is a difference in the tattoo ink, which is 10 ml and it cost \$8.00 and what we use is a pigment and it is \$60.00.

Mr. Kolick – Are you saying that they are both pigments but one is more concentrated than the other?

Ms. Hays – They are two different formulas and it is separate.

Mr. Kolick – Is the microblading typically done around the eyebrows?

Ms. Hays – Around the eyebrows and lips.

Mr. Kolick – What is the scalp micropigmentation?

Ms. Hays – It is designed for both men and women but it benefits more men. It is a cosmetic procedure and some of the men when they get older or have a scar they start getting bald. What we do is put a tiny impression that replicates and gives the look of a hair follicle. No one will ever know that this is a cosmetic procedure.

Mr. Kolick – Is it a coloration with lesser pigmentation that you are putting on the scalp?

Ms. Hays – It is all the same and it is all about technique and how we deposit pigment and it also lasts about two to three years. I give people a makeup look that they look more confident and feel better about themselves. There are people who have alopecia and cancer survivors who do not have a lot of hair and I wish you could see their eyes when they come in and they are

losing everything that they have. I give them a look like makeup where they can feel good about themselves. The tears in their eyes and the satisfaction from what they get from seeing this, those people are not going to a tattoo shop, they are coming to me. I want you to understand that there is a very big difference, I do not operate as a tattoo shop and I do not perform tattoos and I was never licensed as a tattoo artist.

Mr. Kolick - What is an airfill application?

Ms. Hays – The airfill technique gives the look of pixels and air, like you see on my eyebrows, this is an airfill.

Mr. Kolick – Is the airfill technique a coloration with pigmentation?

Ms. Hays – It is a coloration with pigmentation, it is a technique I would say.

Mr. Kolick – What is the breezy strokes?

Ms. Hays – It is also a technique for the eyebrows, if you see the picture it looks like really thick hair strokes.

Mr. Kolick – Is it applying pigmentation to look like a hair stroke?

Ms. Hays – Correct, it is a different technique because you can't do one thing to the same person. You have to determine their age, what they like and how natural it looks.

Mr. Kolick – Is the lip coloring a pigmentation applied to the skin?

Ms. Hays – Correct.

Mr. Kolick – Are there any other services that you perform?

Ms. Hays – I also do a removal, everything that I do can be removed.

Mr. Kolick – When you do the pigmentation removal, is it done with needles?

Ms. Hays – Yes, because it is in your skin and it is a solution that lightens up and pulls out the pigment.

Mr. Kolick – It takes needles to put in and to remove.

Ms. Hays – We apply it on the skin but it fades and it doesn't go deep and does not cause as much trauma as regular tattoos.

Mr. Hayden – I think the similarity here is that even though there are differences in the technique, one goes into the basal layer of the skin and the other goes into the dermis but they still both go into the skin and color the skin. One could be semi-permanent and the other permanent.

Ms. Hays – Most of them are semi-permanent and it is explained that it will fade and in order to continue to have them you have to come back for a touch up.

Mr. Hayden – Based off the definition that was given for a tattoo and I understand the technique is a little different but you do have pigment or ink and a coloring of the skin going in with needles. It all seems to fall within the definition of what a semi-permanent or permanent tattoo would be based off the description that was read.

Mr. Rusnov – What you do is non-permanent and it goes away without further treatment?

Ms. Hays – Correct.

Mr. Rusnov – A tattoo last forever and that is one clarification that I was a little bit nervous about. We have a Code that was written in 2002.

Mr. Kolick – Correct.

Mr. Hayden – It is still our Code.

Mr. Rusnov – Not to be redundant but maybe we should revise the Code.

Mr. Kolick – Mr. Rusnov, let me make a comment here because I see where you are going with this. The Law Department has been talking with the City Planner and regardless of what your decision is here today, we intend on going to City Council and ask them if they want to change the definition of tattoo to exclude this type of procedure, specifically. That will not be until September because Council is on recess. We have learned from this

applicant that some of these spas are currently doing this, which was unbeknownst to us and we are not here to shut down businesses either. If it is something Council wants to consider they can do a lot of things with it, maybe they want to permit it in a General Business zoning district but right now her technique is permitted in the City in the Restaurant Recreational Service zoning district.

Mr. Baldin – That doesn't make sense.

Mr. Kolick – That is the way it is set up and that is the way it is, this Board cannot change it, only City Council can change it. We will go to City Council with what we learned from this applicant and as well as others since then. There are a lot of things that City Council can do but they are the ones who set the policy and definition, whether it was done 10, 20, or 30 years ago we are bound by it. I can see a benefit for cancer patients that lose their hair and eyebrows, it would make sense to permit that type of thing but it is not my call or this Boards call but it is City Councils call to make that determination.

Ms. Hays – The service that I perform is always performed at a spa, a med spa, and salons and there are three businesses that I know of because I have seen the City permits on their wall. All of the ladies I know because they were trained at the facility I worked at for five years. Ulikor Beauty Studio, I spoke with the lady and asked if she mentioned that she did permanent makeup and she said yes, I mentioned it and I have a permit. There is another lady at Skin Vicor Retreat and if you notice on her description permanent makeup and she received training at the facility that I was trained at and I worked there for five years. The facility that I worked at is the best in Ohio and everyone goes there to learn. There is another lady at Stub Beauty Studio, which does permanent makeup and eyebrows, she also performs at Image Studios.

Mr. Hayden – Where are those located?

Ms. Hays – They are all in Image Studios and they rent a suite because Image Studios rents suites for the beauty technicians. There is another place called Always About Me at 13477 Prospect Road, Strongsville, Ohio. Image Studios is in a General Business zoning district and Always About Me is in a Local Business zoning district.

Mr. Hayden – When they applied did they apply as a salon?

Mr. Kolick – I had the Building Commissioner check and they were issued occupancy permits as a salon and they were never issued an occupancy permit for permanent makeup. They may do permanent makeup but our application did not show them as permanent makeup it showed that they obtained occupancy permits as a salon. If they went and did permanent makeup that is not what the occupancy permit was issued for.

Ms. Hays – I wanted to mention that I also have a salon license, which is in the documents I have submitted.

Mr. Baldin – I would like to interject, from what you are saying, Legal Counsel is saying and the Building Commissioner is saying beauty salons can do what you want to do.

Ms. Hays – Yes.

Mr. Baldin – Which they all do because my wife and her girlfriends go to beauty salons and some of them have this done and it is done at the salons. So, they have all broken the law then?

Mr. Hurst – Let's not make a mistake because I am not against the business, what she does is fantastic. I have a family member that has alopecia and uses this service all of the time. If we have hair salons doing permanent makeup in the City, someone let them do that and as the Building Official in charge now this ordinance says that if you penetrate the skin with any coloring or needles, it is tattooing and I am just giving you the ordinance.

Mr. Rusnov – Your job is to interpret the ordinance only and no personal decisions. This ordinance is supposed to be under consideration for revitalization or revamping.

Mr. Hurst – Interpreting the ordinance to me it is a tattoo and I have zero personal feelings either way. I have no objections to being wrong, I could be wrong. It is not personal for me and that is why they have the ability to appeal it to this Board.

Mr. Rusnov – In other words you are an unbiased third party and your sole position is to interpret the Code as written. No personal opinions enter into this because it is strictly facts.

Mr. Hurst – Strictly facts by the ordinance placed in front of me.

**Zack Hays, 3911 Milford Avenue, Parma, Ohio 44134**

Mr. Hays – This is hers and I don't want to intervene but I am glad that you are taking the time to hear this out and asking great questions about this. I am a small business owner myself and by no means do I want to shut anyone's doors; however, these other businesses that are right down the street from her proposed business are using these procedures, without your knowledge I understand. They obtained a salon license from you guys and received a permit to go there and then broke the law and now they are able to thrive as a business in your City. Would it have been better if my wife went the same route because, she has a salon license and said she was going to do x, y and z and then did these procedures with out your knowledge and had a thriving business.

Mr. Kolick – The City, Building Department and City Council will determine what type of action we will take against these other businesses, who did not get a license for permanent makeup. I cannot tell you what will happen with that, just like I can't tell you what will happen when we talk to City Council regarding if they want to maintain this ordinance, which was passed over 20 years ago. Those are policy decisions that are made by the legislative body and we are bound by them. I can tell you that it is not unusual for us to issue permits for someone and they go in and we think they are doing one thing but they are doing five other things that are not permitted. That is what we have a Building Department for and ultimately, we determine when that comes up what type of enforcement action that needs to be taken against them. No one is against what your wife is proposing, it is just not permitted within that zoning district and if someone is doing it outside of that zoning district and if the Building Commissioners decision is upheld then they are doing it improperly, as well. The enforcement action that we will take against others will have to be up to City Council or the Administration once they look at it, or maybe they will determine to permit this as an exception to the tattooing ordinance.

Mr. Hays – My wife is trying to do this the right way by bringing it to the Boards attention and I understand that you are bound to what has been drawn up. But to Johns point, that was over 20 years ago and this is something that is very prevalent all over Cleveland and I think it would be very beneficial to bring a legit honest business owner performing these procedures to the City.

Mr. Kolick – You are making the right argument, just before the wrong Board but what you need to do is talk to City Council about this.

Mr. Rusnov – Our hands are tied because of the ordinances and his hands are tied to interpret the ordinances and he interprets them according to the law and Law Director of what can and cannot be done. He is unbiased, there is no malice of forethought or anything like that.

Mr. Hays – I appreciate and fully understand that the Board is bound and I totally get that. I just hope that you can see why we are here and doing what we are doing.

Mr. Hurst – In addressing the other salons and I mentioned this before that someone made a determination that if it was part of a hair salon that did perms, colors, haircuts, styles, pedicures and manicures that if it was another part of that business they were allowed to go into these places. I did not make that determination.

Mr. Hayden – Did they even know?

Mr. Hurst – This is my understanding from historical information that they were allowed to do that as an accessory to that business but, nowhere in the ordinance does it say that. He brings up a perfect point, if they are allowed to do that because someone else did something they were supposed to do, I can't continue to allow the wrong to go on because someone made the mistake before. I am looking to get this resolved, so this young lady can open up a business in the City and do it by ordinance so that it is not on my shoulders three years from now and someone say why did they let her go in there. Someone before me made a decision that it was okay but I can't make that decision and that is why it is here and hopefully Council makes the change.

Mr. Rusnov – In other words you have inherited this mess?

Mr. Hurst – When we are talking about the other businesses, yes but they may be there legally.

Mr. Rusnov – This was not your decision but you are interpreting this archaic ordinance that may be resolved to current standards.

Mr. Hurst – Correct.

Mr. Rusnov – Do you know how many salons are operating?

Mr. Hurst – I believe there are four in the City operating.

Mr. Evans – There are eight, I did the research and that is what I sent to you.

Mr. Hurst – Some of those were not in Strongsville but, were in Middleburg.

Mr. Evans – They were in Middleburg but there are eight in Strongsville and they are all located in a General Business zoning district.

Mr. Hurst – I thought there were four on one page and four on the other.

Mr. Baldin – Do beauty salons have to get health permits?

Mr. Hurst – Hair salons get it from the State Board of Cosmetology from the State of Ohio.

Mr. Baldin – If you do tattoo do you have to get a health permit from the County?

Mr. Hurst – Yes.

Mr. Kolick – Cosmetic tattooing needs a County permit, as well.

Ms. Hays – The certificate says tattoo or/and microblading services. It doesn't just say tattoo they differentiated them but they put them on one certificate.

Mr. Hurst – The helpful solution would be for Council to revisit this and if this does go to Council and they are receptive to changing things we can clearly define some of these things within the ordinance.

Mr. Rusnov – Would it be wise on their part to wait until after the final decision is made in September.

Mr. Hurst – I can't answer that.

Mr. Baldin – That would hold up their business for a couple of months.

Mr. Hurst – I will say this, definitions that split and define tattooing versus permanent makeup may help but that is up to Council.

Ms. Hays - I want to make this clear, when I originally came to the City and asked if I could open my business, I received permission from the City Planner as a salon with a permanent makeup application. I started working on my place and it is 75 percent ready and the only thing I need to put in are my supplies. The reason I started doing all of this is because I have people reaching out to me everyday to schedule appointments and I can't. Since it takes time for this appeal and I am literally on hold, I am asking everyone to please be patient as I go through the paperwork. That is why I am all in a rush because I literally have everything setup with the booking system, insurance and I am 100 percent ready.

Mr. Kolick – Please bring the photographs up here so that we will have them.

Mr. Hays – The reason that we moved forward with anything is because we received two emails and a voicemail from the City Planner saying that it was permitted. We would not have moved forward with anything, signing a yearlong lease or anything.

Mr. Kolick – I understand but in due deference to the City Planner he did say back on June 25<sup>th</sup> that you need to get the occupancy permit before you could move forward. I looked and you didn't sign the lease until July, so you knew prior to signing the lease and you didn't file the application for an occupancy permit until July 25<sup>th</sup>. You were on notice that you needed to get the occupancy permit before the City could sign off on this.

Ms. Hays – I applied for a City permit on July 15<sup>th</sup> and I signed my lease I believe in July.

Mr. Kolick – The application shows the date of July 25<sup>th</sup>. Is that your writing?

Ms. Hays – I signed the lease.

Mr. Kolick – The lease that you gave to the City is dated July 25<sup>th</sup>, I believe. The same day that you applied for the occupancy permit you signed the lease and that is the same day he issued the denial letter. I'm sorry, July 26<sup>th</sup> you signed the lease.

Ms. Hays – I received the denial letter in ten days.

Mr. Kolick – You received the denial letter and you had 10 days to act on it and he denied it the same day that you filed the application.

Ms. Hays – I received the denial letter ten days after I originally applied for the permit.

Mr. Kolick – He made the decision on July 25<sup>th</sup>.

Ms. Hays – I received an email after 10 days.

Mr. Kolick – If that is when it was; however, you did not get an occupancy permit before you signed the lease, I guess is all I am saying.

Mr. Hays - Do you need that type of permit prior to doing that?

Mr. Kolick – An occupancy permit is the only thing you needed, if you didn't need a building permit. I know the City Planner said back in June that you needed an occupancy permit and you gave us a copy of his email.

Mr. Hays – Were we suppose to let that unit go, what if someone else took it?

Mr. Hayden – You need to obtain an occupancy permit before you sign a lease. If you didn't have the occupancy permit then you shouldn't have signed the lease.

Ms. Hays – I needed to do it quickly; otherwise, I would have lost the space.

Mr. Kolick – I understand but that is not something we can take into account. From the date that you filed the application he has a set period of time to issue the denial or approval. The date you filed the application he actually issued the denial letter on the same date but you may have not received it for ten days but he issued it the same date. All I am saying is that legally you should have waited to sign the lease until you received the occupancy permit because that is your legal right to go into the space. We are not trying to cause a problem for you and it may still hopefully get resolved with the City Council if this Board does not vote in your favor and we are not trying to keep you from operating in the City.

Mr. Hays – That is why we operated aggressively, maybe that is ignorance on our part. As far as the occupancy, we put a lot of stock in the fact that the City Planner said that it would be permitted at that address.

Mr. Kolick – I understand and am sorry about any confusion that may have occurred but this is the gentlemen that has to issue the occupancy permit, not the City Planner.

Mr. Evans – Mr. Chairman, Ms. Hays are there regular beauty salon activities that you will do in this space or is it only permanent makeup?

Ms. Hays – I am planning to have an aesthetician, another makeup person and a nail technician.

Mr. Evans – Mr. Kolick, my question is, can they get any occupancy permit to do normal beauty salon activities?

Mr. Kolick – Sure, they just can't do permanent makeup.

Mr. Rusnov – In other words you are going to be a full-service beauty salon.

Mr. Evans – At some point.

Ms. Hays – I have a salon license but as a part of my salon there will be permanent makeup and that is why I wanted to make everyone aware and I wanted to have a green light from everyone.

Mr. Rusnov – Maybe until this is totally resolved, you can operate at 75 percent of capacity, instead of doing your other things and wait until the City makes a decision or the legal eagles decide what to do.

Mr. Kolick – We can't make that decision because if ultimately City Council does not approve it you probably do not want to go in and start a business. I don't know what City Council is going to do because that is up to them. We will certainly explain to them that the ordinance was written over 20 years ago and it appears that over time these things have changed. I am not even sure if they had permanent makeup 20 years ago, they probably didn't so I don't think the ordinance ever anticipated this type of thing and maybe it is time because as Mr. Rusnov said it is archaic, it very well maybe but this Board cannot decide that.

Mr. Evans – Mr. Kolick, I know we can't decide that but I think at this point we have made the point that there are eight businesses in this City that are currently operating, doing permanent makeup. I have documented that and there is no question that it is going on in this City and those are all in General Business zoning districts, so it is wrong. What I am suggesting is that we need to make sure that City Council understands that this needs to be a priority for them to resolve. Mr. Hurst is not going to go out and shut all of those businesses down but certainly the City has a right to do that because they are not permitted in a General Business zoning district.

Mr. Kolick – I don't disagree and that is why the Law Department will be bringing to City Council this whole problem, so to speak. I have already talked to the Law Director and he is going to bring it up as soon as Council gets back into session in September.

Mr. Baldin – That does not help her out now so I think we should continue on this and vote.

Mr. Hayden – This is a public hearing, is there anyone in the audience that wishes to speak for the granting of the variance. Is there anyone in the audience that wishes to speak against the granting of the variance. Hearing none and seeing none, I will declare the public hearing closed and entertain a motion.

Mr. Houlé – Mr. Chairman, I make a motion to grant an appeal of the Building Commissioner’s decision, which denied an occupancy permit to operate a permanent makeup business as outlined in the Commissioner’s non-compliant letter dated July 25, 2024, property located at 17534 Royalton Road Suite #202, PPN. 396-12-004, zoned GB - General Business, Olha Hays, Agent

Mr. Baldin – Second.

Mr. Hayden – Thank you, Mr. Houlé for the motion and Mr. Baldin for the second. May we have a roll call please?

ROLL CALL:

MR. RUSNOV	NO
MR. HOULÉ	NO
MR. EVANS	NO
MR. HAYDEN	NO
MR. BALDIN	YES

### **MOTION DENIED**

Mr. Hayden – At this time the appeal has been denied, the Law Director will be talking with Council but I would attend that Council Meeting and it is public so you are welcome to come to the meeting and speak on why you think that Code needs to be changed.

Mr. Kolick – Mr. Chairman, it would probably be in your best interest to send a letter addressed to the City Council President and Clerk as to why your business would be an asset to the City. You can point out that there are 4 to 8 other businesses that are doing the same thing so that they will have something in front of them besides us talking with them. I would send them all of the information that you filed with this Board to see if they are in favor of changing the law to permit this. They can do it in a couple of ways and I will talk to them about that, they can either remove it from the definition, they can permit it in general business, and there are a lot of ways they could approve your use but it is up to City Council.

Ms. Hays – When do they meet?

Mr. Kolick – City Council meets the first and third Monday of every month but they are in recess in August so it will be the first Monday in September. They can address this earlier because the Council Clerk can send out the information you submit so that they can start digesting it even before the September meeting. It will be a delay for them to change the ordinance, you are looking at a period of time, I'm not going to kid you it is not going to be overnight. We have to draft an ordinance and they have to approve it so it will take a period of time.

Mr. Hays – What would be the timeline?

Mr. Kolick – It depends on how they determine to do it, if they determine to change the definition then it will not have to go to the Planning Commission because it is in our business section and that can be done after two meetings of Council. If they change the zoning district that is different because it must be referred to the Planning Commission and there has to be a 30-day public hearing process on it so I can not tell you exactly what the timeline will be and I can't even tell you if they are going to do it. Thank you for coming in and attempting to do it correctly.

Mr. Evans – Mr. Chairman, I just want to make sure that we are correct and the applicant could resubmit as a beauty salon for services other than permanent makeup.

Mr. Hayden – Yes.

Mr. Evans – While she would not be able to do the permanent makeup at least she can begin services and establish a salon.

Mr. Hayden – Gentlemen, do we have anything else to come before the Board?

Mr. Kolick – Do you want the Findings of Fact and Conclusions of Law, as usual.

Mr. Hayden – Yes, thank you Mr. Kolick, I appreciate that.

Minutes  
Strongsville Board of Zoning and  
Building Code Appeals  
August 14, 2024  
Page 22 of 22

Mr. Hayden – If there is no further business to come before this Board, this meeting is adjourned.

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Mr. Hayden, Chairman

Mrs. Anderson, Secretary

Approval Date