

CITY OF LEWISTON
BOARD OF APPEALS MEETING
FINAL MINUTES for August 7, 2019

- I. **ROLL CALL:** The meeting was held in the City Council Chambers on the first floor of City Hall and was called to order at 6:00 p.m. Patricia Gagne' chaired the meeting.

Members in Attendance: Patricia Gagne', John Clifford IV, Leslie Dubois, Daniel Dube' and Roger Dupre

John Clifford, IV arrived at the meeting at 6:25 pm.

Members Absent: Paula Masselli and Phyllis Rand

Associate Members Absent: Steve Bannister and Jim Horn

Staff Present: David Hediger, Director of Planning & Code and Cathy Lekberg, Administrative Assistant, Planning & Code Enforcement

Guest Present: Chief Brian O'Malley and Lt. David St. Pierre

II. **NEW BUSINESS:**

An application submitted by Dennis Grenier to appeal the denial of his Lewiston City Tattoo license.

MOTION: by Leslie Dubois that the Board is in favor of hearing the appeal.
Second Roger Dupre.

VOTED: 4-0 (Passed)

Patricia Gagne' explained the procedures of the Board of Appeals to members and the public.

David read the staff comments to the Board.

The appellant, Dennis Grenier stated he lives at 384 Lisbon Street in Lisbon, ME. He said that the memo from Brann & Isaacson stated that he was denied his tattoo license because of drug trafficking convictions and he stated he has no drug related offenses on his record so he is questioning the accuracy of this document. He questioned the wording "rationally related" in the laws and thought that his crimes were not related to a tattoo license. He mentioned he got early termination of his supervised release term from his probation officer, Lara Tait and that she was pleased with his willingness to volunteer his artistic talents for charitable causes and share his experiences with other young people heading down the wrong path in life. He stated he has been working with no pay at

Altered Image for one year and is supported by the owner, co-workers and the community and his petition was signed by 126 people in the community. He believes he has become a valued member of the community and at the tattoo studio and will not let them or himself down. He feels he can prosper in the business even if they allow the appeal with stipulations.

In Favor

Eric Wing of 32 Ivanhoe Drive in Topsham, ME and the owner of Altered Image Tattoo Studio said he feels that Dennis has paid a heavy price for his crimes and these have nothing to do with his tattoo business, nothing to do with age issues because we only work on adults. He works at his business every day and he has more to risk than anyone and he supports him fully. He is our floor guy and interacts with clients and they all love him. He said Dennis has earned his trust 100%, and he hopes they will consider his appeal.

Arthur Wing of 104 Grandview Avenue in Auburn, ME said he is retired after 47 years working in a health organization and part of his job was hiring new employees. The two things he looked for is character and the person's ability to do the job and 95% of the time his first impression says volumes. He has known Dennis off and on for the last couple of years and said that Dennis' artwork is amazing and he has a good feeling about him. By seeing him at the studio, there is nothing that would change his opinion of his character. He will make a good employee for the Altered Image Studio.

Mark Gosselin of 486 Meadow Road in Topsham, ME said that I have known Dennis for one year and consider him my friend. He is a good guy and deserves this opportunity. He is one of my buddies.

Ryan Dean of 6 Maple Street in Norway, ME said that he is good to be around and he gets energy from him. He understand why these ordinances are in place but he is working at Altered Image because he loves the art and not just in it for a quick buck. Dennis would give the shirt off his back and he is working at the shop without pay. He has been there every day an hour before opening until closing and this speaks volume to his dedication.

Chad Taylor of 1384 Lisbon Street in Lewiston said that Dennis is not like he once was and is very respectful and loyal. He is a good friend and co-worker. His past offences are not related to our industry and he should be allowed a second chance to be a productive member.

Brent Cantral of 13 Winter Street of Auburn, ME said he is a great guy and very trustworthy and he totally supports giving him a second chance.

Laurie Pelletier of 50 Fairmount Street in Lewiston, ME said she completely agrees with what everyone has said. Dennis is a wonderful person and he

shows up and works for free and will help anybody. He is so friendly and his past does not reflect his character today. People change and he is not the person he was ten years ago. Eric Wing would not hire anyone he does not trust and to give him this privilege is a very powerful thing.

Adam Gauthier of 3 Boutin Boulevard, Sabattus, ME said he met Dennis about two years ago at a local boxing gym in Lewiston. He has worked with the inner city kids who are very active and hard to handle and he had a way of calming them down and getting them to focus. He said that Eric Wing is a good friend of mine and I would have not introduce Dennis if I had not trusted Dennis myself. He wants to work in the community and they would like to see him get that opportunity.

Ryan Dean of 6 Maple Street Norway, ME said he did not touch on the fact that Dennis has done his time for his crimes in the past and if they as a community can't give him an opportunity to better his life, the system is failing.

In Opposition

Lt. David St. Pierre, Lewiston Police Department – I met Dennis just a short time ago and his concern was the felonies that he had on his record and whether or not he would be able to obtain a tattoo license from the City. He said part of my job and tasks are to review these things and primarily it is for the safety of the community. We have heard discussion about the safety and why we regulate any type of business or license that we approve or disapprove of. I cannot speak personally of Dennis as I do not know him really well. In the last two or three months as we have been discussing this he has been great with me. My job is a difficult one and I am not trying to disprove someone that is trying to better himself. They are not trying to take that away from him. They have to look at felony convictions that are concerning to us. Mr. Grenier has a Class C burglary conviction and that is a felony and a criminal threatening with a dangerous weapon which is very concerning to us. That was in the year 2000 and then again in 2011 he is convicted of possessing a firearm by a felon and possessing a firearm with an obliterated serial number. This is very concerning to us in terms of safety. I'm not going to say that he has a propensity for violence right now, I hope he is rehabilitated and they as a police department are tasked with bringing this forward to protect the citizens of Lewiston.

Dennis Grenier said the burglary conviction was 19 years old. He said his crimes although they were of violent nature were many many years ago. He was convicted in 2011 for firearms but from a prior case against him in 2009 until 2011, he was still crime free. He have done his time and has tried to come into the community as a positive member. His crimes are quite old in nature and as years past, like Laurie said they wish they could change the past but they can't. He is asking that the Board see him taking ownership of these crimes and look

past them and see the person they see standing before them today and not the troubled person from the past.

John said what is before the Board tonight is not some kind of a morality play where they decide whether the appellant is a good person or bad person. What is before them is whether or not he was convicted of a Class A, B or C crime and he was and whether or not those convictions of the crimes he committed are somehow or other rationally related to the purpose of the ordinance in regulating tattoo artist. That is the question, not whether he learned his lesson or not or if he has changed. In his opinion, the fact that it happened years ago does not matter. The City Council apparently felt there was a rational connection here and the City Attorney has given us instruction as to the considerations of whether or not these are rationally related or not. His support is not the issue. The issue is whether or not this is rationally related to this business that is sought to be regulated and these are very serious felonies. That is the measure tonight, not that he learned his lesson or that it was a long time ago.

Dan said he agrees with Jack that the felonies that are on record are undisputed. When he is looking at Section 22-343 which is tattooing procedure in fact may be 342 – prerequisites to tattooing and Article 12 tattooing in general. He is looking at things such as food, alcohol and sobriety of the patron, tattooing of procedures, care of instruments, inspection of the establishment. He is finding it difficult and would like to seek some guidance for this from John and perhaps hear from Lt. St. Pierre about what is the rational relation from burglary to these particular concerns. What is the relation of criminal threatening with a dangerous weapon to these particular licensing concerns. What he has heard previously related to a general concept of safety he thinks there may be a general concern of safety regarding any individual who has a felony conviction safety in the wider community. What is unclear to him is the relationship to the license and how these pertain and an example which could be very clear. He has a conviction of erasing identification from a firearm. He does not know if any instrument involved in tattooing needs to be identified or if that kind of activity would be a concern as to a tattoo license. He is not seeing it under care of instruments. This is just an example and he is concerned about a lack of specificity in drawing this rational relationship between the set of crimes and the specific regulations that they put forth as to tattooing which he thinks embodies the City's concerns as to what needs to be regulated within tattooing.

Leslie said she would like to comment on what Dan has said as far as the rational relationship there. She keeps looking at the word terrorizing. She said she does agree anybody can overcome their past but that is not what they are looking at according to the rules and laws. She would like to go with her feelings and gut. She noted in the police report there was notification regarding recent crimes to do with drug trafficking. She asked if there could be some clarification. In the notes there was a statement from police that on a recent charge of drug trafficking.

Lt. David St. Pierre stated that this is not accurate and he looked into this today. It did not show up in his SPI (State Bureau of Identification Reports) or any triple I report. He called the District Attorney's office and Dennis does not have any drug trafficking on his record. The incident was in 2009 but the conviction was in 2011.

Roger stated that in Section 22, any conviction of a Class A, B or C crime negates the fact that he can apply for a license. Because of what has happened over the last nine years or so, should the Board be looking at some kind of leniency because they do have the possibility of affirming, modifying and denying, should a modification be put in that if they grant a license, and anything happens in a certain period of time, the license could be rescinded.

Patricia noted that in all of the information, there was a lot of duplication. She recently went to a chamber event that talked about hiring felons and the fact that if more people gave someone that one chance, a felon could turn their life around. It is difficult when there is a black mark forever, however, looking over the record, it looks like there was a pattern over the years but this was a long time ago. There is a gray area with the rational related part of this. She said it is great that the City has strict rules for tattoo parlors and they want these businesses to be upstanding and safe for the community. Not hiring a felon is very broad and there was not a certain amount of years. If someone was 18 or 19 years old with a felony, there is no break here for the person. With this City ordinance comes the fact that the authorities at hand do help make these decisions and she holds the Lt. and Chief at high regard in that they are doing the job they were called to do. She have difficulty with the rationally related because it was ten years ago. If they did afford the appellant appeal, they could put a stipulation if Dennis commits any minor or major crime, the license would be revoked permanently.

John said the hard issue is whether or not the convictions were for offences that were rationally related to the business. He said he is not sure if there is a rational relation. He likes the suggestion of putting a limitation on it. He suggested they act on this appeal to provide that any conviction of any kind the license be revoked. Leslie said if he comes next year, he would not automatically be denied because of the stipulation.

MOTION: by **John Clifford, IV** to move that the Board modify the decision of the City of Lewiston denying Mr. Grenier a tattoo license and that the license be issued subject to immediate revocation upon any further conviction of Mr. Grenier going forward and that the license be permanently revoked at that time. Second by **Daniel Dube**'.

VOTED: **5-0 (Passed)**

III. ADOPTION OF PROCEDURES & POLICIES

MOTION: by **John Clifford, IV** to accept the Procedures & Policies as presented. Second **Leslie Dubois**.

VOTED: **5-0 (Passed)**

IV. READING OF MINUTES: Draft minutes for the February 6, 2019 meeting.

MOTION: by **John Clifford, I** to accept the draft minutes from the February 6, 2019 meeting as presented. Second **Roger Dupre**.

VOTED: **4-0-1 (Passed)**
Leslie Dubois Abstained

V. ADJOURNMENT: The following motion was made to adjourn.

MOTION: by **Dan Dube'** that this meeting adjourns at 7:05 p.m. Second by **John Clifford, IV**.

VOTED: **5-0 (Passed)**.

Respectfully Submitted:

Handwritten signature of John Clifford, IV in cursive, followed by the initials 'CLL'.

John Clifford, IV, Vice Chairperson