

CITY OF LEWISTON
BOARD OF APPEALS MEETING
FINAL MINUTES for September 4, 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, Paula Masselli, Phyllis Rand, Leslie Dubois and Daniel Dube'

Members Absent: Roger Dupre

Associate Members Present: Jim Horn

Associate Member Absent: Steve Bannister

Staff Present: David Hediger, Director of Planning & Code, Nicholas Richard, Code Enforcement Officer and Linda Tripp, Administrative Assistant, Planning & Code Enforcement

Guest Present: Mica Adler

Patricia Gagne' appointed Jim Horn as full voting members for this meeting.

II. **NEW BUSINESS:**

An administrative appeal of a Notice of Violation issued by the City of Lewiston Department of Planning and Code Enforcement to Mica Adler, owner of the property located at 44 Birch Street, requiring the property be maintained free from weeds or plant growth in excess of 12".

Patricia Gagne' explained the appeal and David Hediger read staff comments to the Board.

Mica Adler of 36 Weld Street, Dixfield, ME said she is here because it is her religious belief that nature has more intelligence than humans and she believes that it is not appropriate to hinder life and that we should only act in a manner that encourages life. To conform to this code would hinder life and not encourage it in any way.

Public Comment

John Clifford asked if there was weeds and plant growth in excess of 12". Mica said there is plant growth in excess of 12" but she does not consider it weeds but a natural garden. Leslie asked what the intent of purchasing the property was

and Mica said she was eventually considering developing it but also open to potentially using it as a community garden or potentially selling it at a later date.

Phyllis asked if she was willing to working with the City in cultivating that to a different species of plant life and Mica said yes she had someone interested in renting it next year and identifying all the plants there and removing anything that would be consider invasive and replacing with cultivated flowers.

Jim asked when she purchased it, did you understand or know the terms of the growth that was allowed on that lot and Mica said no, and there were no issues at that time. Jim asked if there was plant growth on it when she purchased it and Mica said yes. Leslie said in the complaint there was also trash and rubbish in the weeds and Mica said she has picked that up and will go monthly to do this but said adjacent properties were dumping it in her lot. Patti asked why wait a year for somebody to determine whether the plants are invasive or flowers. Mica said the person wanting to rent thinks it would be easier to wait for the snow cover to let everything die down and start from a cleaner slate than now and the flowers he plans on planting would be easier in the Spring.

Public Comments Closed

John said that it is important for the Board to recognize and remember that by decision of the State Supreme Court they have no authority whatsoever to make any decisions related to constitutionality to the Lewiston ordinance. They can only look at whether or not what is going on out there is violating the ordinance as presented to them. Based upon what Ms. Adler has said, it is in excess of 12" on the property. That is enough to satisfy the ordinance and the City decided to take action. Leslie agreed and stated that cutting the grass or weeds is not killing it, it is helping it thrive. It would still remain alive if cut. Mica said there were bees on the property and Leslie said that would propose a risk to the neighborhood. Daniel said it is not only over in excess 12" but meets the definition of weeds on the property as the City ordinance has set it up.

MOTION: by **John Clifford IV** pursuant to Article VIII, Section 4(10) and Article IX, Section 3 of the Zoning and Land Use Code to deny the appeal of Mica Adler and find that the Code Enforcement Official based upon Ms. Adler's testimony did not err in his interpretation of the application of the code (i.e. Chapter 18, Article III, Chapter 3, Section 302.4 of the Code of Ordinances of the City of Lewiston) to the particular circumstances of this case and find as a fact that there is weed growth on the property in excess of 12" and is in apparent violation of the ordinance. Second by **Paula Masselli**.

VOTED: 7-0 (Passed)

III. READING OF MINUTES: Draft minutes for the August 7, 2019 meeting.

The August 7, 2019 draft minutes will be approved at the next meeting.

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

MOTION: by **John Clifford IV** that this meeting adjourns at 6:28 p.m.
Second by **Phyllis Rand**.

VOTED: 7-0 (Passed).

Respectfully Submitted:



Paula Masselli, Secretary *CLL*