



# Town of Barnstable

## Regulatory Services

Thomas F. Geiler, Director

### Licensing Authority

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### BARNSTABLE LICENSING AUTHORITY LICENSING HEARING MINUTES

Town Hall Building, 367 Main Street, 2<sup>nd</sup> Floor Hearing Room, Hyannis, MA – 9:30 a.m.

February 12, 2007

A regular meeting of the Barnstable Licensing Authority was held on Monday, February 12, 2007. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Thomas Geiler, Director of Regulatory Services and Licensing Agent, Lt. JoEllen Jason and Patrolman Steve Maher, Liaison from the Barnstable Police Department, and Christine Ade, Recording Secretary.

#### Requests:

**One Day Entertainment License & Sunday Entertainment License:** Application of Carl Bergfors on behalf of Hyannis Public Library, 401 Main Street, Hyannis, MA 02601, for an Antique Show & Sale to be held at the Barnstable High School Field House, 744 West Main Street, Hyannis, MA on Saturday, February 17, 2007 from 10 am to 4 pm and Sunday, February 18, 2007 from 10 am to 4 pm. It is a benefit show with proceeds going to the general operation of the library.

Ann Louise Harries, Director, came forward for the application and requested the Town fee be waived. It is their 32<sup>nd</sup> year holding this show.

A Motion was duly made by Gene Burman and seconded by Paul Sullivan and a **Unanimous Vote taken** that the application of Carl Bergfors on behalf of Hyannis Public Library, 401 Main Street, Hyannis, MA 02601, for an Antique Show & Sale to be held at the Barnstable High School Field House, 744 West Main Street, Hyannis, MA on Saturday, February 17, 2007 from 10 am to 4 pm and Sunday, February 18, 2007 from 10 am to 4 pm as a benefit show with proceeds going to the general operation of the library be approved, and the Town fee be waived.

#### Hearings:

**Change of Location & Change of Manager:** Application of Ocean Partners, Inc., d/b/a The Island Merchant, 10 Ocean Street, Hyannis, Michael Burk, Manager for a **Change of Location** to 302 Main Street, Hyannis and a **Change of Manager** to Joseph Patrick Dunn, II. (Continued from 1/29/07) for an amended vote to include

non-harmful impact to the church within 500 square feet of the location. The Federated Church of Hyannis is located at 320 Main Street, Hyannis. Mr. Hoxie asked for discussion and a new vote. Mr. Dunn confirmed that the church was notified and had no objections. Mr. Burman recused himself from the hearing.

A Motion was duly made by Paul Sullivan and seconded by Martin Hoxie and a **Unanimous Vote taken** that the church located within 500 feet of the new Island Merchant location will not be negatively impacted by the establishment.

**Alteration of Premises and Daily Live and Sunday Entertainment:** Application of Macheras Main Street Corp., d/b/a Schooner's, 372 Main Street, Hyannis, Tracy Macheras, Manager **to alter the premises to increase the interior seating to 92 as approved by the Building Commissioner** (see new plan dated 2/7/07) **and for Daily Live and Sunday Entertainment**, maximum of 3 entertainers, with a belly dancer 1-2 nights, Sunday through Thursday 9 pm to 12:30 am, Friday and Saturday 7 pm to 12:30 am.

Attorney Mark Boudreau appeared with Tracy Macheras and Michael Macheras. He asked the Board to look at the plan; they are seeking to raise the capacity to 92; it was approved some time ago by Tom Perry, Building Commissioner and the two patios with 36 in back and 28 in front. He is now asking to have the entertainment from 7:30 each day, rather than as advertised. When he has entertainment, the capacity would be reduced to 88 to accommodate the entertainment. Mr. Burman asked if the only change is in numbers – not a physical change? Mr. Boudreau stated that is correct. Mr. Macheras also requested he be allowed to have the entertainment on the back patio – a jazz trio only; limited belly dancing. This is at the rear of the premises. Mr. Burman asked how the music would be contained so the residences and hotel at the rear are not disturbed? Mr. Macheras stated he will keep the music very very low and will not disturb anyone; he stated that on the 1<sup>st</sup> complaint, he will close it down. He will add a roof over the patio and it has quite high shrubbery. This faces North Street. Attorney Boudreau stated three sides are blocked high and one at knee level – the closest residential property is across North Street. There is also a lot of parking in back which would buffer the entertainment. Mr. Sullivan stated that since it is in back and not front, it should be fine because there is quite a distance from anything else. Mr. Burman asked if “no amplification” would be acceptable? Attorney Boudreau stated the belly dancer uses canned music and the applicant stated he is aware that it must be kept low. Mr. Macheras is asking for up to 12:30 inside and out. Mr. Hoxie stated he thinks they deserve the opportunity to have the outside entertainment and that if there is a problem it will be closed at that time. Mr. Sullivan reiterated if there are any complaints the music will be moving inside. Attorney Boudreau stated the music is secondary to a restaurant, not a nightclub.

A Motion was duly made by Gene Burman and seconded by Paul Sullivan and a **Unanimous Vote taken** that the application of Macheras Main Street Corp., d/b/a Schooner's, 372 Main Street, Hyannis, Tracy Macheras, Manager **to alter the**

**premises to increase the interior seating to 92 as approved by the Building Commissioner and for Daily Live and Sunday Entertainment**, maximum of 3 entertainers, with a belly dancer 1-2 nights, daily from 7:30 pm to 12:30 am including outside on the rear patio be approved, and that there is no negative impact to the nearby Federated Church.

**New Annual Beer & Wine Common Victualler License:** Application of Sabino C. Barroso, d/b/a **Restaurante Prato Per'Feito Padario & Pizzaria**, 41 Iyannough Road, Hyannis, Sabino C. Barroso, Manager, for a new Annual Common Victualler Wine & Malt License, the hours of operation to be 6 am to 10 pm (alcohol 11 am to 10 pm).

Attorney Mark Boudreau appeared for the applicant. Mr. Barroso has been operating as a restaurant for almost 4 years now. Mr. Hoxie asked if the applicant has any alcohol service experience; he does – with DJ's Wings. There will be no bar.

A Motion was duly made by Gene Burman and seconded by Paul Sullivan and a **Unanimous Vote taken** that the application of Sabino C. Barroso, d/b/a **Restaurante Prato Per'Feito Padario & Pizzaria**, 41 Iyannough Road, Hyannis, Sabino C. Barroso, Manager, for a new Annual Common Victualler Wine & Malt License, the hours of operation to be 6 am to 10 pm (alcohol 11 am to 10 pm) be approved.

**New Class II Auto Dealer License:** Application of Richard W. Clark, **Oceanside Classics**, Richard W. Clark, Manager, for a **New Class II Automobile Dealer's License**, 119 Thornton Drive, Hyannis, hours of operation to be daily from 8 am to 5 pm.

Richard Clark appeared for his application. It is an existing warehouse.

A Motion was duly made by Gene Burman and seconded by Paul Sullivan and a **Unanimous Vote taken** that the application of Richard W. Clark, **Oceanside Classics**, Richard W. Clark, Manager, for a **New Class II Automobile Dealer's License**, 119 Thornton Drive, Hyannis, hours of operation to be daily from 8 am to 5 pm be approved.

**New Annual All Alcohol Common Victualler License; Daily Live & Sunday Live Entertainment Licenses:** Application of Davester, LLC, d/b/a Embargo, 453 Main Street, Hyannis, MA, David Noble, Manager, for **A New Annual All Alcohol Common Victualler License and Daily Live & Sunday Live Entertainment Licenses** (maximum of 5 entertainers, DJ's/karaoke), daily, 1:00 pm to 12:30 am.

Attorney Paul Tardif appeared with David Noble. They plan to open in the old Blue Anchor property – purchased in June last year. They have submitted proof of notice to abutters and the school nearby as well as the superintendent of schools and

church. Mr. Noble has been in the industry since 1993 – has quite a bit of experience in England. Requested seating is 152 inside and 16 at patio on side of their own property. They are also requesting entertainment which was at the premises as operated previously. Mr. Burman asked what has happened since June? Mr. Noble stated it has been closed since last June. They plan to have entertainment only as background...he does not intend to have karaoke now; just acoustic jazz type music. Mr. Hoxie stated it is their obligation to contain the music. There are apartments above which will be rented out. Mr. Sullivan stated that is a sensitive issue with regard to dwellers above and the music situation. Mr. Noble stated HE will occupy the front apartment himself and put staff in the back two for that reason. He does not want amplified music outside. Joseph Eaton from Hyannis Inn two doors down appeared to speak. Has no problem with the license except the music – up to 5 entertainers. He stated he does have a problem with that because of the seating capacity and timeframe. Just the numbers (152 here and Fresh Ketch over 100) all exiting at a late hour and noise from this as well as music concern him. He stated they only have parking for 12 on their property – have a shared lot. They don't have parking even for their help. Thinks this would need police help. He wonders if his hotel guests will be disturbed – as most of his clientele are asleep by 11 pm. His patrons were disturbed by Blue Anchor music and problems in the parking lot. He is worried about the number of people leaving most of all. Mr. Burman hopes Mr. Eaton will call the police department if he has any problems if the license is issued. Mr. Eaton stated he had complained in the past to Sgt. Sweeney and to Mr. Geiler. He stated now there is going to be double what there was in the number of people. Lt. Jason stated the former owners had difficulty controlling the customers out front especially late at night and people tended to hang around late at night. Attorney Tardif hopes that if there is a problem the 1<sup>st</sup> call be made to Mr. Noble; then the police department afterwards. Mr. Eaton has no problem with that. He also stated the Licensing Authority has stressed that noise be kept on the premises, which makes him feel a little better. He asks how they will control people leaving – their “people noise” and where will they park? Cynthia Cole from BID came forward. She wants to make the Board aware that she is serving on a committee that Growth Management initiated – a sound control committee for Main Street; they are working on this very issue. Creating an objective baseline of what is acceptable and what is not in the mixed use area. She stated they are excited to get this place opened up since it has been empty for so long. It will be a lovely restaurant – hopes the Board will give him the benefit of the doubt and that the Town IS working on a way to monitor these issues. Mr. Burman asks if there is a “grandfathering” clause so that those who are already operating do not have to comply? Ms. Cole did not know; they are bringing in an expert consultant and will put this in an ordinance form to be brought before us in late Spring. It is a good committee – Town, residents, businesses all represented. Mr. Hoxie stated there would in his opinion be no grandfathering. He also stated that the restaurant must contain not only the noise but the behavior of exiting patrons as well. He agrees with Ms. Cole that the new owner should have an opportunity to open with entertainment and see where it goes from there – with the Board taking quick action should there be complaints. He asked Mr. Noble to work with the

neighbors. Mr. Sullivan heard the police department indicate previous years problems with outside – he does recognize their outside seating is above the sidewalk level. He knows we will hear right away if there are problems. He stated Mr. Noble's resume is very impressive and this restaurant should be an asset. He does see there is not enough parking. He stated perhaps his people would pull into the motel lot. Maybe that lot will have to be supervised to see who will pay for it. He brought these things up so they would be aware of them. Mr. Eaton again came forward and requested a lesser number of entertainers, stating that if he is not going after the 21-25 age group this would not matter. Mr. Noble stated he would like the option for a jazz quintet. He stated he does not want the rock and roll 5 piece band either. Mr. Geiler stated we have learned over the years that restaurants are very compatible downtown; it is the entertainment that has been problematic and the type of crowds it draws. He thinks it would be helpful to get a better picture of what type of restaurant he is going to run. He stated only 5 entrees is unusual. And he says 5 entertainers is a lot. That is not compatible with a restaurant – it will blow those folks out if they are there for just dining. He asked Mr. Noble how long food is available, how he will control the noise, etc. – Mr. Noble stated he does not want the nightmare. The restaurant will be a tapas restaurant – 50 appetizers, at least 10 entrees; shutting food off at 11 pm. He does not expect 5 entertainers at 7 pm; hopefully he will not need the 5 at all; if the restaurant succeeds on its own. They made the bar smaller than the original plan. It has 33 seats and is an open layout done by a designer from Boston – hired for the reason that he did a good job at some places in Boston Mr. Noble had investigated. He plans to serve until 11 at least. Mr. Geiler states it is hard to go backwards when we start wide open like this; Mr. Noble stated his chefs have not been hired yet and they will finalize the menu – it is a tapas menu – Spanish for appetizers. They order a few and share – it's fun. He has 14 parking spaces (on the aerial view). The lease only indicates 7 spaces. He stated he has the entire left side behind the building. Once he takes the apartments he will have the 14 spaces. Mr. Noble has taken the TIPS course and will have the Serv Safe in the next week or two. Mr. Hoxie stated if the restaurant does not do well all of a sudden the entertainment takes over – stated the Board will act quickly if the restaurant changes to a nightclub atmosphere. He hopes that perhaps they could live for a while with less than 5 entertainers. Mr. Noble wants to be open 11 am to 1 am. Mr. Geiler asked if a 12:30 serving hour would work for him? Mr. Noble stated that was what he plans to do – so people have time to be out for 1 am. Mr. Hoxie asked if the license would be 12:30 entertainment and 12:30 alcohol? Mr. Burman asked what would happen if midnight would be the end of the entertainment? His concern is that all the places end at 12:30 – if one arbitrarily dumps at 12 pm maybe that would work? Attorney Tardif stated he understands what he means – however, it is a punishment to the new business; he is not the one who caused the complaints. It also would not be fair with the competition.

Mr. Burman asked if perhaps he could come in to expand to 5 on special occasions at a meeting ahead of time.

Attorney Tardif requested the 5 entertainers be granted now? Mr. Sullivan asked about Sunday jazz – brunch and afternoon; suggesting 11 am to 5 pm? Mr. Burman reiterated he can come in any time for an application to increase for the 5 pieces.

A Motion was duly made by Gene Burman and seconded by Paul Sullivan and a **Unanimous Vote taken** that the application of Davester, LLC, d/b/a Embargo, 453 Main Street, Hyannis, MA, David Noble, Manager, for **A New Annual All Alcohol Common Victualler License**; 11 am to 1:00 am with alcohol service to cease at 12:30 and **Daily Live & Sunday Live Entertainment Licenses** (maximum of 3 entertainers, DJ's/karaoke), daily, 11:00 am to 12:30 am be approved. Unanimous vote to approve and that there would be no negative impact to the nearby church and school.

**Renewals:**

**The following renewal for a Common Victualler License has been submitted with no changes from last season for renewal:**

**Common Victualler**

Four Seas Ice Cream

A Motion was duly made by Gene Burman and seconded by Paul Sullivan and a **Unanimous Vote taken** that the above application of Four Seas Ice Cream for renewal of its common victualler license be approved.

**Video Games License**

Regal Cape Cinemas 12

A Motion was duly made by Gene Burman and seconded by Paul Sullivan and a **Unanimous Vote taken** that the above application of Regal Cape Cinemas 12 be approved for late renewal of its annual video games license (8 games).

Adjourned at 10:31 am.

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Christine P. Ade,  
Town of Barnstable Licensing Authority  
Authority

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Paul Sullivan, Clerk  
Town of Barnstable Licensing  
Authority