



Town of Barnstable
Regulatory Services
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BARNSTABLE LICENSING AUTHORITY
LICENSING HEARING MINUTES

Town Hall Building, 367 Main Street, 2nd Floor Hearing Room, Hyannis, MA – 9:30 a.m.
July 8, 2013

A regular meeting of the Barnstable Licensing Authority was held on Monday, July 8, 2013, Chairman Martin Hoxie introduced Gene Burman, Vice-Chairman, Dick Boy, Associate Commissioner; Ron Semprini, Associate Commissioner; David Nunheimer, Associate Commissioner, Thomas Geiler, Director of Regulatory Services and Licensing Agent, Richard V. Scali, Consumer Affairs Supervisor, Lt. John Murphy and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recorder. Paul Sullivan, Clerk, was absent.

Vote to accept Minutes: Vote to accept minutes of the 6/24/13 Meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the minutes of the 6/24/13 Meeting.

Hearings:

One Day Entertainment License: Application of Roseanna Warfield on behalf of Zion Union Church, 805 Attucks Lane, Hyannis for a One Day Entertainment License for live music at its 2nd Annual Ethnic Food Festival at the church on August 3, 2013 from 11 am to 6 pm.

Roseanna Warfield appeared for the application with Pastor Bernard Harris. They do not plan to have live entertainment. There will be a D.J. They have this as a fundraiser for their building fund.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Roseanna Warfield on behalf of Zion Union Church, 805 Attucks Lane, Hyannis for a One Day Entertainment License for a D.J. and music at its 2nd Annual Ethnic Food Festival at the church on August 3, 2013 from 11 am to 6 pm.

One Day Wine Only License: Application of Christine Frisbee of Christine Frisbee Fine Arts, 296 Parker Road, Osterville for a One Day Wine only license for an art show

reception to be held on August 9, 2013 from 5:00 pm to 7:00 pm in the Fireside Reading Room and the History Collection Room at Osterville Library, 43 Wianno Avenue, Osterville.

Christine Frisbee appeared for her application, for an event to now be held August 9th. It is her first art show. She has no idea if it will be an annual event yet. A donation goes to the library from each piece sold. The wine will be a giveaway for people attending. She and her husband will dispense the wine.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Christine Frisbee of Christine Frisbee Fine Arts, 296 Parker Road, Osterville for a One Day Wine only license for an art show reception to be held on August 9, 2013 from 5:00 pm to 7:00 pm in the Fireside Reading Room and the History Collection Room at Osterville Library, 43 Wianno Avenue, Osterville.

One Day All Alcohol License: Application of Jaci Barton on behalf of Barnstable Land Trust, 407 North Street, Hyannis for a One Day All Alcohol License for it's 19th annual auction and lawn party (Gifts from the Sea), to be held at 58 Putnam Avenue (Ropes Field), Cotuit, from 5:30 pm to 8:30 pm on July 21, 2013.

This is the annual fundraiser – this year held in Cotuit at Ropes Field. They have had no issues with dispensing of the alcohol. Mr. Semprini asked if there are bouse houses available; Ms. Barton advised that there are.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Jaci Barton on behalf of Barnstable Land Trust, 407 North Street, Hyannis for a One Day All Alcohol License for it's 19th annual auction and lawn party (Gifts from the Sea), to be held at 58 Putnam Avenue (Ropes Field), Cotuit, from 5:30 pm to 8:30 pm on July 21, 2013.

One Day Wine & Malt & One Day Entertainment: Application of Amanda Converse, Love Local Media, for The Current Quarterly fashion show with fashions from up to 20 local boutiques, for a One Day Wine & Malt & One Day Entertainment License at Cape Cod Maritime Museum, 135 South Street, Hyannis. Music will be played by a DJ before and during the show. The show will be held on July 28, 2013 from 5 pm to 7 pm outside at the museum, and the show will benefit the museum.

Amanda Converse appeared for her application. This is the first time the event is at the Maritime Museum, but is her 4th event. They are not planning on having a tent. The alcohol will be dispensed by professional bartenders.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Amanda Converse, Love Local Media, for The Current Quarterly fashion show with fashions from up to 20 local boutiques, for a One Day Wine & Malt & One Day Entertainment License at Cape Cod Maritime Museum, 135 South Street, Hyannis. Music will be played by a DJ before and during the show.

The show will be held on July 28, 2013 from 5 pm to 7 pm outside at the museum, and the show will benefit the museum.

One Day Entertainment: Application of J. Lachlan Youngs on behalf of The Cape Workshop Collaborative, 47 Cedar Street, Hyannis for a Community Gathering on the Town Green on July 27, 2013 from 1:00 pm to 5:00 pm with food, crafts and informational booths, a live band, Clockwise Techno and DJ's.

Mr. Youngs appeared for the application. They had a similar event in April; people enjoyed it. They expect more entertainment, more vendors, more food.

Mr. Scali asked if he received his Promoter's license yet. He stated he needed to get us a copy of this before the event and before we issue the license. Mr. Youngs said he has applied and paid, has just not received it yet.

Mr. Burman asked about the alcohol; he stated there is no alcohol at this event.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of J. Lachlan Youngs on behalf of The Cape Workshop Collaborative, 47 Cedar Street, Hyannis for a Community Gathering on the Town Green on July 27, 2013 from 1:00 pm to 5:00 pm with food, crafts and informational booths, a live band, Clockwise Techno and DJ's.

New Junk Dealer License: Application of ecoATM, Inc, San Diego, CA, David Mersten, Manager, for a New Annual Junk Dealer License, for an un-manned ATM at the Cape Cod Mall Food Court area, to recycle used cell phones. Hours of operation to be 10 am to 9 pm, Mon – Sat and 10 am to 8 pm Sunday.

Nicole Wagner appeared for this application. She advised that it is a kiosk, self-contained. It looks like a Redbox or Coinstar. The customer shows their phone; it gives them a quote, checks their ID to see if it matches the picture; takes a fingerprint then gives them cash for their phone. They are in 40 locations altogether; Cambridge, North Attleboro – 6 in MA. They have permission from the Mall manager. They will be reporting weekly to the police department.

Officer Maher asked if the value of one any of the phones ever exceeds \$50.00 – she answered that it does, and that is also the law in CT; they can change the machine they install here to be in compliance. An armored car comes around 1x/week to collect the phones and replenish funds. Officer Maher stated one of our regulations is that an item be held on premises for 20 days. She advised that they can hold the item at their facility for the remainder of the 20 days from when it is put in the kiosk. Officer Maher stated unfortunately, if approved, this opens us up for another type of kiosk for gold/silver...etc. He stated that granted, cell phones are not usually a problem, but the gold/silver may be. Lt. Murphy apologized to Ms. Wagner for not returning her call stating his hours did not coincide with her work hours. Lt. Murphy asked for the opportunity to reach out to

the other MA communities, view their licenses and see how it works in each before making a recommendation to the Board on this matter.

Mr. Hoxie asked about the photos; she advised it takes a picture of you, a thumbprint, copy of your license, serial number of phone. Nicole stated she came here from San Diego for this hearing. Mr. Hoxie advised that we will continue this hearing to July 29th so that the Police Department can do further research. He advised Ms. Wagner she needed to return at that time.

Ms. Wagner asked if they needed to appear in person again; Lt. Murphy stated he'd like the opportunity to ask any questions they might have. Mr. Scali asked if she came from New York; she stated that no, the New York people just do their licenses; she is from San Diego. She will call Lt. Murphy to advise him of the other communities in MA he can contact.

A motion was duly made by Gene Burman, seconded by Mr. Semprini and a unanimous vote taken to continue this hearing to July 29, 2013.

Change of D/B/A: Application of Beech Tree Cantina, LLC, d/b/a Beech Tree Cantina, 599 Main Street, Hyannis, William D. Pane, LLC Member, for a change of d/b/a on its Annual All Alcohol Common Victualler License to Beech Tree Cantina/Off the Hook Sushi & Raw Bar.

Steven Pizzuti appeared with Jared Pane, Manager and William Pane, who was asked to appear at the last meeting with regard to any questions about the violation at the previous hearing. Attorney Pizzuti stated that the former coffee shop has been, with the approval of the Authority, transformed into a restaurant. They would like to distinguish this room where they are serving sushi and pizza from the room where they serve Mexican food. It is simply a different name for a room with different food run by the same people. He also stated that all references to "Off the Hook" have been removed for the present until they get approval for the new name.

Deb Etzel, President of 615 Main Resident's Association appeared to speak. She said they already have a problem with noise in at least 3 units; they are opposed to any further changes which might bring even more people there.

Mr. Hoxie asked if she had spoken to the police department. She has not, as she does not live there – her tenant is bothered by it. She said the tenant has spoken to the police department. She then said that they supposedly soundproofed the apartment by adding something on the inside of the windows, which has not totally worked. She has been having complaints from her tenant about just plain noise and some music. This tenant is threatening on walking out on her lease.

Mr. Scali stated Ms. Etzel has called him on these issues which he sent to the police department; Officer Maher has been out to evaluate it. Officer Maher stated he went there on 3 occasions. The noise is from people. He has been in contact with the

owners and the condo president, as to suggestions to help the problem. He suggested we need a bit of time to resolve the noise issue. Another woman, Ann Sweeney, appeared also, stating that she lives above the Beechtree. She said it is usually voices but last night was a steady thumping. Her sister lives there full time and she lives there weekends.

Lt. Murphy stated he responded Saturday night to a complaint and went to Beech Tree. He walked into the area; stood 150 feet away; the problem is at that distance it is hard to tell if it is Beech Tree, Seaside Pub, or just Main Street itself. He does not know what the true problem is. They would like some more time to figure this out. He wonders if the thumping could be from the Seaside Pub.

Mr. Hoxie stated that the hearing today is just to change the dba. He does not feel the name change would be a detriment to the area. He stated he would like to approve the dba change as Beech Tree has expended a great deal of money on this concept. He would also like a more thorough investigation by the police department on the noise issue.

Mr. Semprini asked if the principals are the same from the Beech Tree Cantina and Off the Hook? Attorney Pizzuti stated it is the same people.

Mr. Burman complimented the Panes for “making a silk purse out of a sow’s ear.” He stated they need to be creative with respect to these noise issues or we may have to cut back on the sheer number of folks allowed on the property in future.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Beech Tree Cantina, LLC, d/b/a Beech Tree Cantina, 599 Main Street, Hyannis, William D. Pane, LLC Member, for a change of d/b/a on its Annual All Alcohol Common Victualler License to Beech Tree Cantina/Off the Hook Sushi & Raw Bar.

Modification of Non-Live Entertainment License: Application of Mitchell’s Cafe Corp., d/b/a The Dockside, Velma Mitchell, Manager, 110 School Street, Hyannis, to amend its existing Non-Live Entertainment License to add music via CD player or stereo, in the restaurant and outside on the deck from 11 am to 10 pm, at low volume, for background atmosphere.

Mrs. Roberts appeared for this application. She is here seeking to modify her entertainment license on the deck and inside. She promises it will not be loud – it is just for vacation style music. Mr. Hoxie asked what she has now – she only has radio now. She is there every night; it will stop at 10 pm. Quiet, soft music will play. The people at the bar have requested music. There are 75 seats outside.

Mr. Hoxie stated the problem is boom boom noise from a bass; that is what disturbs neighbors. He also states that she realizes why she is restricted and asked Mr. Goddard to speak.

Mr. Goddard spoke as the abutter. He stated that whether or not it is a radio or CD player, "No sound to be heard off the premises" is the key phrase on the current license. He has had no complaints thus far. He is a little concerned about moving it onto the deck. If he doesn't hear it, there is no problem – but once a problem starts it becomes a problem quickly. He is glad it will stop at 10 pm.

Mr. Hoxie asked if he would mind trying it out until the next meeting – keeping in mind he can call immediately if there is a problem.

Mr. Semprini asked what is around the deck – did there used to be plexiglas there? She stated no, it is an open deck. Where would she locate the speakers? She stated there is a corner where the speakers will be and she will try it out and see about placement and noise.

Mr. Burman wishes her success but is very skeptical because historically the harbor locations are hard. The water seems to magnify the sound. It has taken the Board a lot of time to eliminate complaints in this area. He is skeptical about the sound shooting across the harbor.

If there is a problem, Mr. Goddard asked who to call. He was told to call the neighbor, then someone at Licensing, and if it does not go away of course to call the police department.

Mr. Geiler stated the key is small speakers without too much amplification.

Mr. Roberts stated if she can't have it outside she is asking to have it inside at least.

Mr. Geiler asked how business has been; she stated ok, but no-one is there after 9:30-10:00.

Mr. Hoxie stated the motion will maybe contain the noise should remain on the deck.

A motion was duly made by Ron Semprini, seconded by Martin Hoxie and opposed by Gene Burman, to approve the application. The approval passed with a 2-1 vote.

Business Meeting:

Release of Executive Session Minutes, if any (0).

Mr. Scali stated re-election for David Nunheimer and Paul Sullivan needs to take place. Mr. Hoxie stated Licensing will contact the council and let them know what to do. Mr. Scali also stated that at the next hearing we will have election of officers.

Lt. Murphy stated there were no major issues on July 4th weekends. They are working on a plan to alleviate the homeless being intoxicated on Main Street. There is a

voluntary program between restaurants about problem people being trespassed. He is looking into a "do not serve" list. We are doing them a disservice in allowing them to become intoxicated to the point of having to go to the hospital. There will be a more formal report in the future. These people are getting it predominately from liquor stores.

And any other new business to come before the Licensing Authority.

Adjourned at 10:20 a.m.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Gene Burman, Vice Chairman
Town of Barnstable Licensing Authority