



Town of Barnstable

Regulatory Services

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Licensing Authority

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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.
September 20, 2010

A regular meeting of the Barnstable Licensing Authority was held on Monday, September 20, 2010. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Dick Boy, Associate Commissioner; Thomas Geiler, Director of Regulatory Services, Kim Connors, Licensing Agent, Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary.

Hearings:

Two One Day Beer & Wine Licenses and a One Day Entertainment License:

Application of Carole A. Kanavos on behalf of St. Michael the Archangel Orthodox Church, 62 Main Street, Cotuit, MA for two One Day Beer & Wine Licenses and a One Day Entertainment License (Saturday only) for a fundraising event with Beer & Wine and live background music, to be held on October 9, 2010 from 10 am to 8 pm and October 10, 2010, from noon to 6 pm at the Holy Ghost Society, 53 Main Street, Cotuit, MA.

Jasmine P. Andrews, co-chairman, appeared for their application. She advised that the venue has been changed to 53 Main Street, Cotuit to aid their church. Mr. Hoxie asked who will be serving the beer and wine. The two men serving have worked the St. George Festival for 15 years. Their people will help serve as well.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Carole A. Kanavos on behalf of St. Michael the Archangel Orthodox Church, 62 Main Street, Cotuit, MA for two One Day Beer & Wine Licenses and a One Day Entertainment License (Saturday only) for a fundraising event with Beer & Wine and live background music, to be held on October 9, 2010 from 10 am to 8 pm and October 10, 2010, from noon to 6 pm inside and outside at the Holy Ghost Society, 53 Main Street, Cotuit, MA.

Six One Day Beer & Wine Licenses and Six One Day Entertainment Licenses:

Application of Pamela Brimmer on behalf of the German-American Club of Cape

Cod, P.O. Box 187, Hyannis, MA for six One Day Beer & Wine Licenses and six One Day Entertainment Licenses for non-profit club events with beer and wine and a two piece band (3 on October 9) with inside amplification only and dancing by patrons to be held at the Fraternal Lodge, Route 28, Centerville from 6 pm to 10 pm on the following dates: October 9, 2010, December 11, 2010, February 12, 2011, April 9, 2011, May 14, 2011 and June 11, 2011.

No-one appeared for the application. It was continued to the October 4 meeting.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to continue the application of Pamela Brimmer on behalf of the German-American Club of Cape Cod, P.O. Box 187, Hyannis, MA for six One Day Beer & Wine Licenses and six One Day Entertainment Licenses for non-profit club events with beer and wine and a two piece band (3 on October 9) with inside amplification only and dancing by patrons to be held at the Fraternal Lodge, Route 28, Centerville from 6 pm to 10 pm on the following dates: October 9, 2010, December 11, 2010, February 12, 2011, April 9, 2011, May 14, 2011 and June 11, 2011 to October 4, 2010.

One Day Wine Only License: Application of Robert D. Stewart on behalf of the Barnstable Historical Society, Box 829, Barnstable, MA for a One Day Wine Only License for a fundraising event to be held at 3087 Main Street, Barnstable, from 1:00 pm to 3:00 pm on October 9, 2010.

Mr. Stewart appeared for this application. They have done this before. Mr. Burman asked about the date, which has been changed from the 2nd.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Robert D. Stewart on behalf of the Barnstable Historical Society, Box 829, Barnstable, MA for a One Day Wine Only License for a fundraising event to be held at 3087 Main Street, Barnstable, from 1:00 pm to 3:00 pm on October 9, 2010.

New Lodging House Licenses (3): Application of 900 Realty Trust, William Nardone, Trustee d/b/a 961, 975 and 989 Pitcher's Way, for a new Lodging House License for three locations: 961 Pitcher's Way, Hyannis, Linda J. Clark, Manager; 975 Pitcher's Way, Hyannis, Jared Chagnon, Manager; and 989 Pitcher's Way, Hyannis, Jennifer Shaw, Manager; each with a maximum of 6 lodgers.

Mr. Nardone, Trustee, appeared for this application. These are the three existing Jean Clark Lodging Houses. They have bought the properties from the Clarks. Mr. Burman asked about these licenses – the then owner; has the Zoning Board changed those licenses? He asked this of Mr. Boy. Mr. Nardone stated they have been approved? Mr. Hoxie stated Tom Perry has approved them as pre-existing non-conforming locations.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of 900 Realty Trust, William Nardone, Trustee d/b/a 961, 975 and 989 Pitcher's Way, for a new Lodging House License for three locations: 961 Pitcher's Way, Hyannis, Linda J. Clark, Manager; 975 Pitcher's Way, Hyannis, Jared Chagnon, Manager; and 989 Pitcher's Way, Hyannis, Jennifer Shaw, Manager; each with a maximum of 6 lodgers.

INCREASE IN ALCOHOL LICENSE FEES EFFECTIVE 1/1/11: The Barnstable Licensing Authority will hold a public hearing on proposed new fees for alcohol licenses as follows (last change effective 1/1/11):

	<u>Current Fee</u>	<u>Proposed Fee</u>
Club All Alcohol*	\$2,150.00	\$2,225.00
Common Victualler, All Alcohol*	\$2,950.00	\$3,050.00
Common Victualler, Wine & Malt*	\$1,900.00	\$1,950.00
General on Premises, No Food	\$3,750.00	\$3,900.00
Innholder, All Alcohol	\$3,450.00	\$3,550.00
One Day All Alcohol	\$ 90.00	No Change
One Day Beer & Wine	\$ 40.00	No Change
One Day Wine Only or Malt Only	\$ 35.00	No Change
Package Store All Alcohol	\$2,925.00	\$3,025.00
Package Store Wine & Malt	\$1,900.00	\$1,950.00
License for Pharmacist to sell alcohol	\$1,900.00	\$1,950.00

* includes the \$100.00 Common Victualler fee

This is an average fee increase of 1.68% per year.

Mr. Hoxie requested comments on this proposal. No-one from the public appeared to speak about the increases. Mr. Geiler stated we review this every year; the current Town policy is 100% recovery on fees for collective services. Last year we did not increase the fees. This year the proposal is to increase them a small amount so as not to have a larger jump next year or the year after. These increases have been advertised as required. They will cover

Mr. Burman is against any increases under the present economic conditions; does not fee it is the time to raise fees. Mr. Sullivan agreed with the proposal but not with Mr. Burman. Mr. Hoxie asked Mr. Boy for his opinion, although he does not have a vote today. He thinks the policy is correct to cover the costs of administration. Mr. Burman stated we need to live within the budget; not increase the budget to cover new budget. Mr. Geiler stated there is nothing more expensive than alcohol - the spin-offs severely tax the police department, fire department and Town offices – monitoring them and reviewing them and maintaining compliance to preserve the quality of life in neighborhoods. Even with an increase, it is not as controlled as we might like it. We still have problems – one out of five establishments served a minor in a sting. This happened. The person sent in was NOT asked for ID but was served. There should not even be one. The violation rate is atrocious. The responsibility is definitely the licensees. Monitoring this is expensive. Mr. Geiler stated he does agree with the problems people face in this economy. Here, we are

already spending the money; if we don't get it from the licensees it would have to be obtained from the taxpayers.

Mr. Hoxie stated he attended a meeting regarding the open meeting law which seems to increase the responsibility on the Licensing Recorder – minutes being released now within 10 days even if in draft form. Ms. Ade informed him that minutes are done and presented to Mr. Geiler within three to five days, just not given to the commissioners to sign until the following meeting.

A motion was duly made by Paul Sullivan, seconded by Martin Hoxie to increase the liquor license fees as follows:

Club All Alcohol*	\$2,150.00	\$2,225.00
Common Victualler, All Alcohol*	\$2,950.00	\$3,050.00
Common Victualler, Wine & Malt*	\$1,900.00	\$1,950.00
General on Premises, No Food	\$3,750.00	\$3,900.00
Innholder, All Alcohol	\$3,450.00	\$3,550.00
One Day All Alcohol	\$ 90.00	No Change
One Day Beer & Wine	\$ 40.00	No Change
One Day Wine Only or Malt Only	\$ 35.00	No Change
Package Store All Alcohol	\$2,925.00	\$3,025.00
Package Store Wine & Malt	\$1,900.00	\$1,950.00
License for Pharmacist to sell alcohol	\$1,900.00	\$1,950.00

* includes the \$100.00 Common Victualler fee

It was voted yea by Mr. Sullivan and Mr. Hoxie, and nay by Mr. Burman. The motion passed by majority vote.

Mr. Hoxie stated this does not have to go before the Town Council for approval.

New Lodging House Licenses: Application of Frederick Riley, for a new Lodging House License for 591 Main Street, Honeysuckle Hill, West Barnstable, Frederick Riley, Manager; for a maximum of 10 lodgers and 12 parking spaces.

This in has been voted best mid cape bed & breakfast inn. He was hospitalized and did not file his renewal as he was on heavy medication for his back and did not get the filing done. Mr. Sullivan questioned the Building Commissioner approval; did see it on his paperwork and withdrew his question.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Frederick Riley, for a new Lodging House License for 591 Main Street, West Barnstable, Frederick Riley, Manager; for a maximum of 10 lodgers and 12 parking spaces.

New Common Victualler License: Application of Luiz Nascimonto and Erotides Borges Filho, d/b/a Blue Dog, 41 Iyannough Road, Hyannis Erotides Borges Filho, Manager, for a new Common Victualler License, hours of operation to be 6 am to 12 pm, 27 maximum seats and 20 parking spots.

The principals for the restaurant appeared for this license. It is the former Sabino's, which had alcohol. This restaurant does not have alcohol. Gisele DaSilva appeared with them to translate. The restaurant was not up to par, so they have had to completely renovate it. They will serve basically fast breakfast and lunch foods. Erotides was in this industry for years in Brazil 35 years and Luiz 15 years. They plan to open up immediately; for the past 3 months they have been renovating. Mr. Burman asked if they will be catering to the Brazilian community; how will they conduct the business not knowing any English? The children and workers speak English; Luiz is taking English at Cape Cod Community College. Mr. Burman feels someone not speaking the language running a restaurant will be severely handicapped. His response was that he understands our concern; he is doing everything he can to get the language up to speed. This is a good opportunity for him; his family will be very involved. Mr. Burman asked how old his children are – the daughter is 28. Mr. Burman suggested the daughter maybe be put in charge until he learns the language. She IS actually the manager and works the register. Francine Borges is her name. Mr. Burman asked if he could name her as manager on the license – he can come in to change that when he is proficient. He has already told here she will be the manager. Mr. Sullivan stated the Worker's Comp Form states no employees; he said it is just the family; he did not know he had to put them down on this form – Mr. Sullivan suggested he consult a lawyer about this part of the business to add the employees or opt out. He will ask the owners of the Brazilian Grill for advice.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Luiz Nascimonto and Erotides Borges Filho, d/b/a Blue Dog, 41 Iyannough Road, Hyannis, Francine Borges, Manager, for a new Common Victualler License, hours of operation to be 6 am to 12 pm, 27 maximum seats inside, 12 outside on patio and 20 parking spots.

New Annual Common Victualler Wine & Malt License: Application of Bangkok Cuisine Hyannis Inc., d/b/a Bangkok Cuisine, 20 Independence Drive, Hyannis, Tanapon Tanasandilok, Manager, for a new Annual Common Victualler Wine & Malt License, with a total of 48 seats at tables and chairs and 5 seats at the counter/bar, operating Mon – Sat 11 am to 10 pm.

Paul Attea, attorney for the corporation, appeared for this new restaurant; it was the original location of The Naked Oyster. It is an annual license; a full service restaurant. All seating indoors. Mon-Sat 11 am to 10 pm, Sunday 4 to 9:30 pm; Summer opening on Sundays is noon. It is an extensive food service focused restaurant, complemented by the wine and malt. No independent bar business is planned. There is a bar seating location, but the alcohol is just to complement the food service. No entertainment is requested or planned. The owners operate five restaurants at present. All five have beer and wine and have unblemished reputations. These are up to five years old. They have TIPS and Serv Safe certification. All abutters have been notified. The seating is 48 plus the 5 at the counter bar.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Bangkok Cuisine Hyannis Inc., d/b/a Bangkok Cuisine, 20 Independence Drive, Hyannis, Tanapon Tanasandilok, Manager, for a new Annual Common Victualler Wine & Malt License, with a total of 48 seats at tables and chairs and 5 seats at the counter/bar, operating Mon – Sat 11 am to 10 pm and Sundays noon to 9:30 pm.

Attorney Attea stated they have no function area or second floor with this lease. Five employees; total capacity 58.

Show Cause Hearing: Show Cause Hearing for Tim Ferreira, d/b/a Ferreira's, 85 Old Yarmouth Road, Hyannis as a result of a complaint made to the Barnstable Police Department, and subsequent ride by the business location, requesting that Mr. Ferreira appear at a Show Cause Hearing on Monday, July 19, 2010 at 9:30 a.m. at the Town Hall Building, 367 Main Street, Hyannis, MA in the 2nd Floor Hearing Room for storing junk material outside in the parking lot located in close proximity to a public water supply well. Continued from 7/19/10 & 8/16/10.

Attorney Connors appeared for Tim Ferreira. Site Plan took place September 8. They have been directed to file an application for the extra containers. They are asking for a continuance to November 15, 2010.

Mr. Geiler asked what they are doing in the meantime for outdoor storage; Attorney Connors stated that Robin Anderson said he is virtually in compliance. It is their position he is in compliance; no outside storage at present.

Business Meeting:

Results of informational BPD sting – FYI only. It was requested that Officer Maher discuss this with the Licensing Authority at the next hearing as he is not present today. Mr. Geiler stated the number who failed is not acceptable; this isn't a situation of somebody trying to deceive a bartender or clerk; just someone who goes in with no ID and is served. We have problems. Mr. Burman felt we were effective in the sting last year but in the context Mr. Geiler put this, he said he has to agree.

Auto Dealer – bond cancellation. Mr. Burman suggested picking up the license and calling them in for a show cause hearing. Mr. Hoxie and Mr. Sullivan think we should have a hearing first. Mr. Geiler stated usually the problem is just that it has not been paid for; we will contact them and schedule them in.

Last Drink List – offender. Action to be taken? Mr. Geiler stated we do send letters asking for their policies to prevent this in the future. Most of the time we get a response. In some cases we don't get a response and it comes back to the L.A. Asking for a business plan is usually sufficient. They don't want to break the law. Mr. Geiler stated that understanding this statement is not taken under oath and used

as a guide, then this one having 3 instances should be looked at a little closer. It was decided to send them a letter.

Handouts (3) regarding Open Meeting Law Regulations. Mr. Hoxie pointed out more duties for the chairman; and of note, it is no longer sufficient for old and new business – it is requested that it be specified what type of old or new business. He urges all to read this.

Mr. Geiler stated the ABCC is requesting applicants fill out and file their applications electronically, stating this will be helpful in the future.

And any other new business to come before the Licensing Authority: Mr. Burman stated the ABCC is holding a hearing on Five Eighty Six Bistro and Bar on September 28th.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority