



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, 2nd Floor Hearing Room, Hyannis, MA – 9:30 a.m.
December 27, 2010

A regular meeting of the Barnstable Licensing Authority was held on Monday, December 27, 2010. 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, Lt. JoEllen Jason and Patrolman Steven Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary.

Hearings:

Non-Renewal of Alcohol License given up prior to renewal season (not reported on 12/6/10):

Sabino's Family Restaurant

Change of Manager: Application of Hyannis Property, LLC, d/b/a British Beer Company, 412 Main Street, Hyannis, for a Change of Manager on its annual Common Victualler All Alcohol License from Jacquelyn McCarthy to Michael Joseph Otto.

Mr. Otto appeared for the application. He has been working there for 5 ½ years as kitchen manager and later manager on the floor. He stated he is very familiar with the operation.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Hyannis Property, LLC, d/b/a British Beer Company, 412 Main Street, Hyannis, for a Change of Manager on its annual Common Victualler All Alcohol License from Jacquelyn McCarthy to Michael Joseph Otto.

New Location – Junk Dealer License: Application of Cape Abilities, Maggi Tyson, Manager, for a change of location of its Annual Junk Dealer License from 3284 Route 6A to 3239 Main Street, Barnstable, MA.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to continue this hearing to 1/1/11.

Change of D/B/A: Request of The Farmer's Table of Cape Cod, LLC d/b/a The Farmer's Table, 167 Sea Street, Hyannis, MA, Lori Caron, Manager, for a change of d/b/a to Salty Lou's and Friends.

Ms. Caron was present for her request.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the request of The Farmer's Table of Cape Cod, LLC d/b/a The Farmer's Table, 167 Sea Street, Hyannis, MA, Lori Caron, Manager, for a change of d/b/a to Salty Lou's and Friends.

Request to Close: Request of Karen Butler, President, Misaki restaurant, 379 West Main Street, Hyannis, MA, to close from January 2, 2011 to February 1, 2011 for repairs and renovations.

No-one from Misaki appeared, but due to the weather, the request was read anyways.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the request of Karen Butler, President, Misaki restaurant, 379 West Main Street, Hyannis, MA, to close from January 2, 2011 to February 1, 2011 for repairs and renovations.

Request to Close: Request of Danielle Siscoe, Manager, Wimpy's, 752 Main Street, Osterville, to close from January 3, 2011 to February 3, 2011 for repairs and maintenance.

Danielle Siscoe appeared for her request.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the request of Danielle Siscoe, Manager, Wimpy's, 752 Main Street, Osterville, to close from January 3, 2011 to February 3, 2011 for repairs and maintenance.

Delay Start Date of New Common Victualler Beer & Wine License: Request of Bangkok Cuisine, Inc., 20 Independence Drive, Hyannis, Tanapon Tanasandilok, Manager, for its new Common Victualler Wine & Malt License approved by the ABCC as of December 6, 2010, to be a license with a starting date of January 1, 2011.

Somsak Sangworn came in for this request; they were recently approved by the ABCC but have not begun service of alcohol in 2010. They would like to submit

They opened with just a restaurant license. Mr. Burman questioned the applicant to confirm the start date of the alcohol license to 1/1/11, asking if this was so they did not have to pay the alcohol fee for 2010 since they would only have the license a few days in 2010. Mr. Sangworn stated it was..

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the request of Bangkok Cuisine, Inc., 20 Independence Drive, Hyannis, Tanapon Tanasandilok, Manager, for its new Common Victualler Wine & Malt License approved by the ABCC as of December 6, 2010, to be a license with a starting date of January 1, 2011.

Class II Auto Dealer Request to Add Vehicles allowed to license: Application of Kamberi Motors, Inc., d/b/a Euro-Atlantic Auto Sales, Besart Kamberi, Manager, to increase the number of vehicles on its Class II Automobile Dealer's License at 741B Yarmouth Road, Hyannis, MA to 43 total vehicles.

Mr. Kamberi wishes to increase the number of vehicles on the lot; add some planters, etc. They were granted 20 vehicles; Mr. Perry approved the new plan. Mr. Geiler stated the original site plan authorized the number they are now seeking. The Board had approved him with a lower number to see what happened about the improvements requested – Mr. Kamberi said they have cleared the lot more; put flowers around, etc.; says it is a small place – no way to improve it much; now on the plan you can see they have the entire parking lot; the green planted area is causing a problem; cars are going into the area and people leaving the lot are getting gravel thrown at them. They will close this area with planters – close that wide entrance, leaving a small entrance and exit for a more organized and safer entrance and exit for cars. Mr. Burman asked if Hyannis Water District had any comment or Building; Mr. Geiler stated Mr. Perry is here and so is Hyannis Water. Mr. Kamberi stated that they had gone over everything with Mr. Perry and site plan. They want it to look really nice.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Kamberi Motors, Inc., d/b/a Euro-Atlantic Auto Sales, Besart Kamberi, Manager, to increase the number of vehicles on its Class II Automobile Dealer's License at 741B Yarmouth Road, Hyannis, MA to 43 total vehicles.

Mr. Geiler asked that when the improvements are done they notify us in writing. Mr. Kamberi stated it will start in March – they have hired a contractor, and confirmed that he will tell us when it is done.

Change Hours of Alcohol Sunday Service on Inholder All Alcohol License: Request of Catania Hospitality Group, Inc., d/b/a The Cape Codder, 1225 Iyannough Road, Hyannis, William Catania, President, for Sunday alcohol service to begin at 10:00 a.m.

Lou Massey for Catania Hospitality appeared for his application.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Catania Hospitality to change their alcohol service hours on Sunday to begin at 10 a.m.

Show Cause Hearing: Show Cause Hearing for MBM Auto Sales, 500 Yarmouth Road and 115 Iyannough Road, Hyannis, MA, holding Class II Auto dealer licenses, Dmitry and Irena Zinov, owners, due to a report to the Licensing Authority by the Barnstable Police Department that on October 22, 2010 they were in violation of Massachusetts General Laws and Town of Barnstable General Code by: 1) M.G.L. Chapter 140, Section 62 in that MBM Auto Sales (did fail) to keep a book on the licensed premises as required by the Registrar (Used Vehicle Inventory Book) by failing to keep the book current and complete; 2) Violation of the Town of Barnstable General Code (Zoning), Chapter 240-35 Groundwater Overlay Protection Districts, by repairing motor vehicles, storing chemicals and hazardous materials and storing automobile engine and transmission parts on the garage floor with no containment; such activity being prohibited by zoning at your location (500 Yarmouth Road, Hyannis, MA). Continued from 12/6/10.

Mr. Hoxie read the hearing notice above.

David Lawler, Esq. appeared to represent the Zinov's and MBM.

Officer Steve Maher presented the case for the Barnstable Police Department. He presented some photos to the Board and the attorney to look at. As a result of a complaint lodged on 10/22 Officer Maher went to MBM and spoke to Mr. Koskin; asking him for the inventory book. While he was looking for the book, Officer Maher heard banging; went into the garage area to see what was going on because there had already been repair and a show cause hearing last year on this. He found two men working on vehicles – one inside a vehicle door and the other in the engine area of another vehicle. Officer Maher asked one of the men if he was an employee and he said he was, and after questioning him he determined he was full time. His name was Dave Concalla; he had no I.D. with him to show Officer Maher, however. He said he lived at 800 Bearses Way; he has since disappeared. The other man called the manager, who told him where the inventory book was located. He then produced it – there are 3 parts to the book – there were 28 open listings. Officer Maher compared the list to the vehicles on site – there were 12 present (the other 16 missing) and 15 not listed in the book. Mr. Zinov approached Officer Maher and Officer Maher advised him he would be seeking a show cause hearing for the offenses.

Attorney Lawler asked when they were cited for the chemicals, etc. what were they? Officer Maher stated they are not allowed to store mechanical parts, engine components, etc. – there were such things on the floor of the garage. He did not look to see if they had been drained. Attorney Lawler stated that his clients have told him in this business vehicles are delivered to an offsite repair shop and then brought there. Attorney Lawler asked about what the person was doing to a door;

Officer Maher stated he was doing sheet metal work. Officer Maher asked why the manager of record was not present for such an important hearing. There was no answer given.

Deb Krau appeared for Hyannis Water Board. They continue to be concerned about the groundwater protection district, which does not allow car repair in that area – from their viewpoint any work at all on cars in this area is not in line with their regulations.

Attorney Lawler wanted to ask his client, Irene Zinov, some questions before the Board. Mr. Hoxie asked who the owner of record was on this license – Attorney Lawler said he had just been retained for this matter and had thought it was a husband and wife team; apparently the husband is the owner – he stated that was a mistake on his part in not determining that before this hearing. They do work together in that capacity (managing the business) but if the Board wants Mr. Zinov here, we can continue the hearing or go forward with Mrs. Zinov. Mr. Hoxie asked that testimony be completed.

Mrs. Zinov said she is Office Manager and Treasurer. She is at the office most times; takes care of the record book and sales. Attorney Lawler asked about the record book in October – she said it was not accurate; some of the missing cars were in another book. She agreed there were some issues with the record book – she has 2 locations and sometimes the titles are re-assigned to the other location. She stated it was just a matter of time to get the books in order. Attorney Lawler asked her about engine replacement or work in the area; she said she was aware of that issue and they had their license suspended last year for 3 days. Attorney Lawler asked her about one of the photos introduced; it clearly depicts engine blocks. He asked where they were replaced – she said they have different garages who do work for them; they have receipts. If there are engine or transmission problems they call a garage to make an appointment. The old ones have to go back to the same company; they get the engine after it has been drained. None of the engines or transmissions are repaired on site – just recycled. There is an actual requirement that they all be drained before they come to them. Her understanding was that they are not doing engine work on site or having any hazardous waste on site, so they are in compliance. He asked here what the other photos show – she said they were surface rotors. The old ones are picked up and new ones brought in. They are worked on elsewhere. They asked at the last hearing if they could work on brakes; were told no, and they have not been working on brakes. She then testified there are invoices for the work being done at a different location. Those receipts were handed to Officer Maher for his perusal and to Mr. Hoxie. Attorney Lawler asked if they have a lift or crane to lift a block? Mrs. Zinov stated they do not have one. Attorney Lawler asked her on the day in question had they removed a tire? She stated a tire was removed and taken to a tire place to fix and then returned. The bumper was removed on one vehicle because a light did not work – they were trying to just replace a bulb to put the vehicle on the lot. It was difficult to get to and that is why the bumper was removed.

Officer Maher referred again to the one with the front bumper removed – he asked Mrs. Zinov why the hood was up if just the light was being replaced. He said he has driven since 16 – changed quite a few lights and never had to take a bumper off – she stated sometimes it is a wiring problem to the light itself. The picture below Officer Maher asked about – she stated a window glass had fallen into the door – they had to open the door to get the window up. Officer Maher asked why the hood was open to fix a door? He then asked about the equipment with the Sunoco sign on it. She stated the equipment was a lift to pick up a car; many times they have to lift one to put another in the garage. In another photo there are 3 engines with a piece of equipment between them. What is that equipment? Mrs. Zinov stated she believes it is an oil pump; it had not been used for quite some time. That is used to pump oil to put into an oil burner. That heats the place. She said that other garages come to them to dump oil into this piece of equipment. Attorney Lawler asked about relevance to this current problem – as she had stated it had not been used in some time. Attorney Lawler objected to this question.

Officer Maher asked about the repair of the rotors – as she stated engines are dropped off there; taken somewhere and repaired and the old ones returned? Why isn't the old one taken from the repair shop? She said that the payment is picked up at her place and credit given to her for the core they give back. It is a cylinder head with engine components. In the photo with the rotors Officer Maher stated there are other things in that photo – why are the catalytic converters and metal there? She stated they do recycling – they go and pick up the old parts to recycle. Officer Maher asked what is on top of the battery charger – the bottles? Mrs. Zinov said she can't see that. Officer Maher asked if they were automobile fluids? She stated they do not work with fluids. Officer Maher asked about the toolboxes present if they do not do any repairs? She stated there is a space for toolboxes and that is why they are there. Officer Maher asked about the clamps, pry-bars, etc. on the walls? Why are they there if no repairs are being done? He also stated she had indicated to the Board that it has been 6 years since the record book has been checked; he testified that he had checked them more than twice himself much more recently. He then asked why there would be two books on site rather than one; by law you must fill a book and then go on to another when it is full; there should not by law be two open books - that is illegal. He stated that her testimony was that all the cars did not show up because they were in different books. Officer Maher asked if the old books had some open spaces – she said yes, if they were not sold. Officer Maher asked how long vehicles were kept there not recorded; she stated one vehicle has been there for a long time without being listed. Officer Maher stated there were 15 vehicles not listed. He asked her if that book was full – she stated it was not.

Mr. Geiler asked if Mrs. Zinov is offering any documentation as to another book? Attorney Lawler stated he does not have any books with him. Mr. Geiler asked about the hazardous materials in the photos – are they disputing that they exist? They are all prohibited. He asked if any documentation is being submitted about the hazardous materials, toolboxes and why they are there if they do not do repairs.

Attorney Lawler stated there has been no testimony as to having to have the tools removed at the last show cause hearing. Mr. Geiler asked about the engine parts that they stated were delivered? Is there any documentation on that offered today? Attorney Lawler stated no, there is no documentation being offered today. He stated there is clearly some misinformation and misunderstanding today. The issue is what would constitute repairs and storage as to the decisions made by the Board last year. His client is offering that none of the things they are doing involve hazmats or anything to jeopardize the license. She has taken all vehicles and had hard auto repair work done offsite as indicated in her testimony. She does have some invoices. Attorney Lawler stated that a lot of the money made by them is when they return the old parts for credit. When repair work is done on a vehicle the mechanic offers you the old parts – even to individuals. In large volume the scrap metal profit helps to keep the business running. There is a lot of value in recycling. He went on to say that the spirit of the zoning statute is to protect the ground water. Mrs. Zinov was under the impression she was not in violation of harming the property. Testimony was given on equipment not functional and not used. Attorney Lawler stated it appears all the items in the photos are hard metal items – according to his client's interpretation, she felt she was in compliance with the laws. She did acknowledge the fixing of the window and the light were “technically” a violation. They are asking the Board to consider this testimony as to not being hard core repair work; just trying to save a dollar or two. He advised the Board the toolboxes and other items would be removed to clearly show no ability to do work on the premises if the Board allows them to keep their license. Last year they were not represented by counsel – he does not think they clearly understood what was allowed and what was not. A change in procedures would be implemented by the dealership so they could continue to recycle but in a different way. With respect to the book, he stated it appears there is a “transitional” book – no question that there were errors; the book WAS maintained though and these people have been doing business here for 20 years. They have a good reputation. He thinks it is a question as to the interpretation of the police, the business owner and the Board.

Officer Maher stated that during testimony there was no testimony or documentation that transmissions were delivered or picked up at 500 Yarmouth Road. This is the same argument they used a year ago – in November of 2009. The photos today are almost the same as a year ago. At that time, through the Board and Mr. Geiler, it was made clear they were not to do ANY repairs at all. He questioned the lack of communication and the two record books. He was never presented a 2nd book, and said it is not here today. He takes offense to the fact that she states these are technical violations – 3 vehicles with hoods up; one with no front end on it. He questions the validity and arguments they offer to support their position.

Mr. Hoxie asked to close the hearing. Before doing so, Mr. Geiler asked that the decision of October 2009 be entered into record – it was stated that a 14 day suspension was imposed at the show cause hearing in November 2009 with 3 days to serve. Mr. Hoxie stated that what we have to focus on today is that this is a Class II Auto Dealer License – they have the authority to sell used cars. Mr. Burman

concur – he is looking at photos of parts in a barrel; said that repairs to him mean tools and working on something. It is very obvious to him that something has been removed to be repaired elsewhere – that is also repairs – they are taking things apart and putting them together again. He stated Mr. Lawler did a fine job of trying to make a silk purse out of this. Mr. Sullivan stated it is beyond his imagination that in looking at the photos that repairs are not being done at this dealership.

Mr. Hoxie asked for motions on findings on the two charges.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken for findings that at the 2 locations the books for purchase and sale have not been maintained properly. Mr. Sullivan seconded. It was unanimous.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken that on the charge of repair, etc. and lack of containment he is convinced based on the photos and lack of credibility of the owner that it is true.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken on the maintaining of the record book for a guilty finding.

A motion was duly made for guilt on the 2nd charge of violation of the Town of Barnstable General Code (Zoning), Chapter 240-35 Groundwater Overlay Protection Districts, by repairing motor vehicles, storing chemicals and hazardous materials and storing automobile engine and transmission parts on the garage floor with no containment; such activity being prohibited by zoning at your location (500 Yarmouth Road, Hyannis, MA).. It was seconded by Mr. Sullivan and a unanimous vote taken for guilt on this charge.

Mr. Hoxie asked for recommendation on penalties. Officer Maher recommended revocation of the license for 500 Yarmouth Road based on testimony and the show cause hearing one year ago that was for the same charge as the 2nd violation here.

Attorney Lawler made a statement that the revocation is not warranted; he believes his client does understand the ramifications of repair and recordkeeping; he asked for a short suspension period during which time any offensive equipment, etc. be removed if it has no reasonable purpose to be there – including toolboxes and tools. He thinks in this economy to close them with only a 2nd strike would be unfair. He believes the 20 year track record with one violation is not really grounds to revoke. He also stated no hard core repair was done and revocation would not be appropriate.

Mr. Hoxie asked when they are renewed – Christine Ade stated they are both to be renewed, or not, for 1/1/11 and that the renewal applications and checks have been received; they were held only until after this hearing took place.

Mr. Geiler stated that under the laws the onus on the owner is very clear that they must comply. In this case we had almost the exact same case a year ago. We don't have the luxury of being able to inspect every week. Under Section 59 it states that all licenses granted shall be revoked if it appears after a hearing that the licensee is not complying with Sections 57-59 and the rules of the RMV and the Town. He reminded the Board that we also spent a lot of time last year discussing the issue of water quality here. We cannot get back water quality – we depend on this. After going through this once, and having them back in here again, this is the time to take severe actions.

Mr. Hoxie asked if this license is revoked, the premises cleaned out, and an applicant came forward with a business plan, would it be appropriate to consider that? Mr. Geiler stated if a new applicant came in, this licensee's actions would not be held against the new applicant. There is also no law stating that they could not return at some later date to reapply for a license.

Mr. Lawler asked for a suspension for x amount of days pending submission of a business plan, the applicant's clearly presenting to the Board that they did have a full understanding of the regulations governing them. He stated it would help this Board with these applicants in the future – if they kept the license with the 2 strikes against them; make the premises conform and submit whatever necessary to make the Board comfortable that there will be no further violations. He stated this would be reasonable.

Mr. Hoxie stated it could happen; but he has not heard the motion yet.

Mr. Burman then duly made a motion for revocation – it was seconded by Mr. Sullivan and a unanimous vote taken to revoke the license for 500 Yarmouth Road, but allowing the renewal of the license held by these same owners at 115 Iyannough Road.

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 8/16/10 and 9/20/10 at the request of the Licensee's attorney. Continued again at the request of the Licensee's attorney, and Mr. Hoxie set it for December 27, 2010.

Mr. Ferriera appeared with Attorney James Connors.

Officer Maher presented the case against this Junk Dealer license. He referred to the photos taken. The license states nothing is allowed to be stored outside – it was suggested by the licensee that be changed. Officer Maher went and took photos on

December 25th – stating it looks a lot better on 12/25/10 than in June of this year, but there are still things outside overnight.

Mr. Sullivan asked about the discussion on one container outside...Officer Maher stated in June there were quite a few. It was suggested then that Mr. Ferreira go to Site Plan Review to get the container rule changed to allow more. He does not know the outcome of that as nothing was presented to Licensing or the Police Department about it.

Attorney Connors asked if there have been ongoing violations between June and December as there is still storage outside but not as often or as much as before. Hard metals is what was witnessed – no fluids. Officer Maher stated that vehicles were licensed to Mr. Ferreira and were o.k.; not accident vehicles stored on the property. Attorney Connors asked if any hazmats have been seen by Officer Maher? Officer Maher stated he has not seen them. Officer Maher stated there is significantly less violation in storage than in June.

Tom Perry, Building Commissioner, came forward. He stated that at Site Plan Review what was determined after questioning was if this is a junkyard or junk dealer. After every question asked, Mr. Ferreira answered in the affirmative that he was trying to run a junkyard – falling under MGL as definition of a junkyard, and it would not be allowed at this location. They never approved storage outside (contained or not). Mr. Perry stated he cannot STORE anything in containers outside. That is not what he was looking to do in any case. It is also ferrous and non-ferrous metals, which cannot be stored there. Autos may be stored there as long as not involved in an accident – only for sale. It was never determined that he could store a container there. Mr. Geiler stated at the meeting at which the license was granted there was much discussion about all of this – bobcat, trailer, etc. being o.k., but not junk cars. With respect to the metal business, it was to be 100% inside and Mr. Ferreira acknowledged that at his license hearing.

Attorney Connors asked about the meeting with Mr. Perry – was it clearly told to Mr. Ferreira that he could not use the outside containers for storage? Mr. Perry said they made that very clear. Attorney Connors asked if there was a discussion as to a container being taken somewhere else to be recycled – Mr. Perry stated that question never came up. The application made for Site Plan Review was for containers on site outside. Attorney Connors asked if Mr. Perry had been there to inspect – he said he has but not very recently; and as of today does not know the condition of the premises in his capacity as Building Commissioner. Mr. Geiler stated that regardless, Mr. Ferreira operated under a license granted by this Board with specific restrictions. Mr. Burman asked if his business is considered in violation by Site Plan – Mr. Perry stated that it is.

Attorney Connors stated it is their position there was a violation in June; discussions about storage creeping away from what would be allowed. In June he stated there was a violation which was cleaned up. Mrs. Sullivan asked if there was a container

outside today – Attorney Connors stated there is; it is being readied to be removed offsite now. There is a question as to how long it can remain there before being moved. Mr. Sullivan stated the business must be conducted within the building. Attorney Connors stated that they have applied for a variance for 10 containers; but that application has been tabled – and they maintain they are not in violation now. They use a hook to take the container off and on the truck and it is taken to Middleboro. He needs the container to load onto the truck. There must be some sort of guidelines to get the material from the building offsite. That’s what recycling means. Attorney Connors suggests the Board not allow overnight storage in a container outside. Officer Maher stated that back in June there was storage outside – there was a clear violation. The photo on 12/25 also shows outside storage – they were closed and not actually operating the recycling of that container on the date he mentioned. There was a comment about Officer Maher going to look at it on Christmas.

Mr. Burman stated we must understand that this hearing must be on what existed in June.

Deb Krau from Hyannis Water Board came forward and stated she has been following this since June. They are very discouraged when what has been a violation is now turned around to be a request to store 10 containers. They would like it withdrawn or not approved. They said Site Plan Review made a good judgment in stating everything must be stored inside. They request we support the Site Plan Review and reject the tabled request for 10 containers. Please hold to the restrictions on the license.

Attorney Connors stated the tabling is before the Board of Appeals, not Licensing, and there is nothing pending now. Mr. Hoxie asked if the Board of Appeals granted a variance for 10 containers they would still be subjected to approval by Licensing. Attorney Connors stated that they are in the process of thinking of a different approach. Attorney Connors had no questions for Ms. Krau.

The Executive Secretary in charge of the Civic Association came forward and read the minutes of the meeting in which wellheads are protected from junkyards, and confirmed that they support the restrictions as put forth in 2009 Site Plan Review.

Mr. Sullivan stated he is on that board but was not present when the vote was taken, so there should not be a conflict of interest.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken that based on testimony the finding be that Mr. Ferreira was in violation of Town and State regulations for storage outside in June 2010.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to find the defendant guilty as charged.

Mr. Sullivan stated there is a big difference between a Junk Dealer License and a Junkyard license. Mr. Hoxie asked for recommendations for penalty. Officer Maher suggested a 5 day suspension be imposed to be tabled for 6 months. Mr. Burman stated we have spent a lot of time on something which should have been resolved some time ago.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to give the licensee a 5 day suspension to be held in abeyance for a year.

Attorney Connors had a question; in the event a new business plan is brought forward; will the violation still pass along to the new license or plan he has? Mr. Hoxie stated there is certainly a possibility it would.

Renewals:

The following renewals have been submitted without any changes from the previous year for Licensing Authority approval.

Annual Daily Live Entertainment:

Barnstable Comedy Club

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Daily Live Entertainment Licenses.

Annual Daily Non-Live Entertainment:

Ryan Family Amusements – CC Mall

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Daily Non-Live Entertainment License.

Video Games:

Ryan Family Amusements – CC Mall

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Video Games License.

Sunday Entertainment:

Barnstable Comedy Club
Ryan Family Amusements – CC Mall

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Sunday Entertainment Licenses.

Class I Auto Dealers:

JMR Honda
Dick Beard Chevrolet
Buckler's
Tracy Volkswagen
Balise Ford
Balise Hyundai
Balise Nissan
BMW of Cape Cod
Coastal Trailer Sales

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Class I Auto Dealer License.

Class II Auto Dealers:

Rotary Auto Body
American Classic Dream Cars
Liberty Motors
Wheels to Work
Blackburn's Auto Sales
Huhtanen's Auto Sales
Hi-Line Auto Sales
MBM Auto Sales – 500 Yarmouth Road - revoked
MBM Auto Sales – 115 Iyannough Road - renewed
Cape Auto Sales
Argus Auto Sales
Cape Motors
All Motors Auto Sales
Prime Pre-Owned Ctr.
Hyannis Auto, Inc.
AB Auto Sales
Hyannis Auto Center
Cape & Island Motors
Mutual Motors
Trans-Atlantic Motors
G Motors
ES Auto Sales
JC Auto Sales

Willow Street Motors
Harbor Auto Sales
Euro-Atlantic Auto Sales
Auto Smart
DeVincent Auto Brokers

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Class II Auto Dealer License.

Lodging Houses:

Memories by the Sea
Ashley Manor
Green Mountain Inn
Beechwood Inn

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Lodging House License.

Common Victuallers:

The Farmer's Table
Pizza 1 and Subs 2
Wendy's
Acai Berry Juice Bar
Cape Cod Wings and Pizza

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Common Victualler License.

Cinema/Theatre:

Barnstable Comedy Club

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Cinema/Theatre License.

Business Meeting:

Advisory from the ABCC of a hearing on February 22, 2011 for Hyannis Lodge #1549 of the Benevolent Order of the Elks USA, 852 Bearses Way, Hyannis, for violation of 204 CMR 2.05(1) – Permitting Gambling (1 count): ; Ch 140 § 177A – Failure to have

automatic amusement devices in open view at all times while in operation on August 20, 2010.. This was read into record.

Mr. Burman wished everyone a happy new year.

Adjourned at 11:25 a.m.

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority