



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.
April 8, 2013

A regular meeting of the Barnstable Licensing Authority was held on Monday, April 8, 2013, Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Ron Semprini, 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, Recording Secretary. Dick Boy was absent as well as David Nunheimer, Associate Commissioner.

Vote to accept Minutes: Vote to accept minutes of the 3/25/13 Meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the minutes of the 3/25/13 Licensing Authority Meeting.

Hearings:

One Day Entertainment License: Application of Fred Jones on behalf Cape Cod Classics Car Club, PO Box 165, Dennis, MA for a One Day Entertainment License for a fundraising event with a car and cycle show, music, a raffle, contests and food to be held at the Rear Parking Lot #7 at the Simon Mall, 769 Iyannough Road, Hyannis on July 13, 2013 from 7:00 am to 4:00 pm.

Mr. Jones appeared for his application. He is the President of the Cape Cod Classic Car Club. They usually hold it at Patriot's Square. It has been held here years ago. Mr. Hoxie verified he has permission from the Mall. Mr. Jones stated he has his insurance agent ready to add additional for that day. He also called the Fire Dept. and Health Dept. – Fire needs nothing; Health will be permitting Hall Breakaway who will be cooking.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Fred Jones on behalf Cape Cod Classics Car Club, PO Box 165, Dennis, MA for a One Day Entertainment License for a fundraising event with a car and cycle show, music, a raffle, contests and food to be held at the

Rear Parking Lot #7 at the Simon Mall, 769 Iyannough Road, Hyannis on July 13, 2013 from 7:00 am to 4:00 pm.

One Day Entertainment License: Application of Ken Ryan on behalf of Fellowship Health Resources, 61 Rose Morin Lane, Falmouth, for a One Day Entertainment License for a fundraising basketball game to be held at Barnstable Intermediate School, 744 West Main Street, Hyannis on April 26, 2013 from 6:00 pm to 9:00 pm.

Mr. Ryan appeared for this application. They work with individuals with mental illness. Proceeds help those 18-24 who live within the community and have issues. The fundraiser will help these organizations. Several professional players will be available.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Ken Ryan on behalf of Fellowship Health Resources, 61 Rose Morin Lane, Falmouth, for a One Day Entertainment License for a fundraising basketball game to be held at Barnstable Intermediate School, on April 26, 2013 from 6:00 pm to 9:00 pm.

One Day Entertainment License: Application of Elaine Grace on behalf of Whelden Library, Meetinghouse Way, West Barnstable, for a One Day Entertainment License for its spring antique show fundraiser to be held at Barnstable West Barnstable Elementary School, 2463 Route 6A, West Barnstable on April 13, 2013 from 10:00 am to 4:00 pm.

Elaine Grace appeared for this application. Mr. Scali mentioned that there is a dealer list with resale numbers provided; she stated those are their license numbers. Mr. Scali mentioned they need to have their own State Licenses or a State Promoters license. Mr. Hoxie stated they do not have time now but next time they need one or the other.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Elaine Grace on behalf of Whelden Library, Meetinghouse Way, West Barnstable, for a One Day Entertainment License for its spring antique show fundraiser to be held at Barnstable West Barnstable Elementary School, 2463 Route 6A, West Barnstable on April 13, 2013 from 10:00 am to 4:00 pm.

One Day Wine Only License: Application of Denise Johnson on behalf of St. Mary's Episcopal Church, Main Street, Barnstable, for a One Day Wine License, for a its annual "Daffodil Tea" The event will be held on April 20, 2013 from noon to 4:00 pm in the church recreational hall.

Ms. Johnson appeared for this event. Her husband and another man are responsible for pouring. Mr. Hoxie asked if there would be problems with young people – she stated it is average age 65 and some granddaughters under 10. It is a "high tea" with admission \$24-30 per ticket.

The tea is noon to 4:30.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Denise Johnson on behalf of St. Mary's Episcopal Church, Main Street, Barnstable, for a One Day Wine License, for a its annual "Daffodil Tea" The event will be held on April 20, 2013 from noon to 4:00 pm in the church recreational hall.

Two One Day Wine & Malt Licenses and Two One Day Entertainment Licenses:

Application of Beatrice White on behalf of Holy Ghost Society of Santuit Cotuit, 53 Main Street, Cotuit, for Two One Day Wine & Malt Licenses and Two One Day Entertainment License, for its 122nd annual Portuguese Feast. The event will be held on June 15th, 2013 from 5 pm to 11 pm and June 16th, 2013 from noon to 6 pm, all outside on the grounds of the Society at 43 Main Street, Cotuit.

Ms. White appeared and advised this is the same event they have each year.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Beatrice White on behalf of Holy Ghost Society of Santuit Cotuit, 53 Main Street, Cotuit, for Two One Day Wine & Malt Licenses and Two One Day Entertainment License, for its 122nd annual Portuguese Feast. The event will be held on June 15th, 2013 from 5 pm to 11 pm and June 16th, 2013 from noon to 6 pm, all outside on the grounds of the Society at 43 Main Street, Cotuit.

One Day All Alcohol and One Day Entertainment Licenses: Application of Lee Ann Amend on behalf of Osterville Village Library, 43 Wianno Avenue, Osterville, for a One Day All Alcohol License and a One Day Entertainment License, for "Night at the Library" Great Gatsby night. The event will be held on August 3, 2013 from 7:30 pm to 10:30 pm at the Library.

Cindy Schuman appeared for this request. They will use a professional bar service. It is \$75.00 per ticket.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Lee Ann Amend on behalf of Osterville Village Library, 43 Wianno Avenue, Osterville, for a One Day All Alcohol License and a One Day Entertainment License, for "Night at the Library" Great Gatsby night. The event will be held on August 3, 2013 from 7:30 pm to 10:30 pm at the Library.

One Day Entertainment License: Application filed 4/5/13 at 12:45 pm (no time to post a legal notice) by J. Lachlan Youngs for The Cape Workshop Collaborative and Baybridge Clubhouse, 47 Cedar Street, Hyannis, for a One Day Entertainment License for a Craft Event with live and recorded music to be held on the Town Green on April 13, 2013 from 1 pm to 5 pm.

Mr. Youngs appeared for the application. It will be on the 13th. They will have information on local charities. It will be a positive event. This is the first year. There will be music and one or two electronic solo acts and a couple musicians. There will be

crafts too. Mr. Scali stated this item was not posted ahead of the meeting as it was only received Friday. Mr. Geiler stated before they vote on this he wants them to know it has not been posted and we really need two days to post – we could post today for Thursday. Mr. Burman stated he is willing to take the chance to approve this now. Mr. Hoxie stated he'd rather have the special meeting – he is sure the applicant would be happy to come to a special meeting at the request of the Authority. The meeting will be late Thursday morning – 11 am asked Mr. Hoxie...Mr. Sullivan will also attend so we have a quorum. Mr. Youngs stated he will attend that meeting.

Alteration of Premises: Application of Beech Tree Cantina, 599 Main Street, Hyannis, Jared Pane, Manager for Alteration of Premises to improve operational efficiency: One and a half story wood frame building located at 599 Main Street, Hyannis. Basement and second floor for storage. Ten exits and entrances. Two outdoor serving areas, one restaurant, one bistro, seating at tables for 309 patrons and bar seating for 80 patrons. Plan on file 3/8/13.

Attorney Pizzuti appeared with Jared Pane for the original alteration of premises request and addition of Plan B to the request to improve operational efficiency as follows: One and one-half story wood frame bldg. located at 599 Main Street, Hyannis. Basement and second floor for storage. Ten entrances/exits. Two kitchens and restrooms. Two outdoor serving areas, one restaurant, one bistro, seating at tables for 309 patrons and bar seating for 80 patrons. All as presented on a plan on file in the Licensing Office dated 3/18/13, and a Plan B for use during special events only after ten (10) days written notice provided by the Licensee to the Licensing Authority laying out the details of the event. Plan B walkway area from Main Street heading south 140 feet to the entrance of the Beech Tree outdoor patio as laid out on plan dated 4/4/13. Attorney Pizzuti thanked everyone and advised it has been a full year for Beech Tree Cantina. He stated they are very pleased and proud of Jared Pane and his accomplishments. He then stated that Mr. Geiler has been very cooperative in amending the original advertised request to include the walkway for the Long Table event this season and in the future. He stated that Mr. Pane and Mr. Miller have brought vitality to the west end of Main Street and it has been successful. They have now put in soundproof windows. He said it has not all been perfect; the coffee shop was not successful – a bit far to walk – not an in and out place. They want to add a service bar with 4 stools away from the main bar in the rear to disperse the patrons in back more evenly. It was hard to service the outdoor seating as it was set up.

They will be doing a sushi bar in the new Bistro which area will service outside. This will improve efficiency. The ideas were painstakingly thought out and Fire, Mr. Geiler and the Building and Police Department were helpful in figuring this out. They will widen the area to allow people to mingle away from the bar area. It will be called the Bistro. Total number of seats remains the same. 15 seats removed from the old coffee shop and put around the sushi bar. There will also be a raw bar. It will bring a new dimension to allow the continued success of this restaurant. They have done well over the winter – kept their heads above water.

Mr. Semprini asked about the area upstairs. He was advised it was always a waiting area and restrooms. He asked if there was an increase in standing room. Attorney Pizzuti stated that Building has determined the number of standees; the plan now says 35 which were approved at the last meeting. Mr. Sullivan stated that in the license agreement they talked about Fire Department issues – it should be Hyannis Fire. There are 2 exits to the rear of the property; one on their own property and one through a Law Office property. Mr. Burman stated he understands there are no changes to the total project.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Beech Tree Cantina, 599 Main Street, Hyannis, Jared Pane, Manager for Alteration of Premises to improve operational efficiency with the new description brought forward at the hearing: One and one-half story wood frame bldg. located at 599 Main Street, Hyannis. Basement and second floor for storage. Ten entrances/exits. Two kitchens and restrooms. Two outdoor serving areas, one restaurant, one bistro, seating at tables for 309 patrons and bar seating for 80 patrons. All as presented on a plan on file in the Licensing Office dated 3/18/13, and a Plan B for use during special events only after ten (10) days written notice provided by the Licensee to the Licensing Authority laying out the details of the event. Plan B walkway area from Main Street heading south 140 feet to the entrance of the Beech Tree outdoor patio as laid out on plan dated 4/4/13.

New Annual Beer & Wine Common Victualler License: Application of Crisp Flatbread, Inc., 791 Main Street, Osterville, James Suprenant, Manager, for a New Annual Wine & Malt Common Victualler License, hours of operation to be 11 am to midnight, with 35 total seats, all indoors (amended from ad which was for 34 seats indoors and 14 outdoors).

Attorney Ted Schilling, James Suprenant and James Supka appeared for the application. Attorney Schilling advised they have a wood burning pizza oven. This used to be Sweet Tomatoes and before that was Breaking Grounds. They will have 35 seats indoors; hopefully will work out the issue with the Health Department regarding outside seating at the Health Department meeting April 9, 2013. If so they will request the outside seats originally requested in the advertisement. He advised that Mr. Supka is experienced, Mr. Suprenant is TIPS trained and Mr. Supka is taking it soon. Mr. Burman asked if everyone interested in the license should be listed on the paperwork as he noticed a loan from Frank Ward. Attorney Schilling advised that he had provided a letter stating the money was loaned but not secured by the corporation of the license. There is no pledge of the license. Mr. Scali stated he has discussed this with Attorney Schilling and the loan is to the corporation. He has no interest in the license and the license was not pledged to secure the loan.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Crisp Flatbread, Inc., 791 Main Street, Osterville, James Suprenant, Manager, for a New Annual Wine & Malt Common

Victualler License, hours of operation to be 11 am to midnight, with 35 total seats, all indoors.

Mr. Geiler advised that there is an issue with seating outdoors not with our Board but with the Health Department which has restricted the total seating to 35. Attorney Schilling stated all prior restaurants at this location has 46 seats. Mr. Scali stated he hopes they have researched the prior owner's debt such as tax issues, liquor bills owing, etc. as others recently have had problems once the application goes to the ABCC with the DOR and DUA.

New Annual Package Store Wine & Malt License: Application of Omharsh Corp., d/b/a AM PM Convenience Store, 489 Bearses Way, Hyannis, Chetankum Patel, Manager, for a new Annual Retail Wine & Malt Package Store License, to be operated from 8 am to 11 pm Mon-Sat and noon to 1 am Sun. **Continued from 2/11/13. Continued again to 3/25/13 for ZBA Hearing results on 3/13/13. Rescheduled to 4/8/13.**

Attorney Jeremy Carter appeared for AM PM Convenience Store. Paul Sullivan stepped down for this hearing and Ron Semprini sat in his place.

Attorney Carter advised that he was not clear if there are 2 wine and malt package store licenses available or one. Mr. Hoxie advised there is only one left. Mr. Hoxie then commented that the Board was waiting to decide on this application until after the applicant had ZBA approval. Attorney Carter asked if the Board was inclined to deny the application on other reasons than the ZBA approval. He stated if not, they would go back to the ZBA but had withdrawn that request at present. Mr. Hoxie asked for testimony. Attorney Carter presented the Board a letter suggesting need and a petition provided in support of the request. He stated the nearest liquor store is 1/2 mile away. They are not requesting any alterations to the store; only shelving for the wine and beer. Mr. Hoxie asked Lt. Murphy about the ZBA concern on expanded use at this location. He said that the police department has no issues with the applicant but are concerned with saturation of liquor stores in this questionable area. The police department issue is not with the inability of management but that Hyannis is saturated. Mr. Hoxie stated there are two problems: the ZBA would deny if they had not withdrawn for expansion of use in the neighborhood. The second issue is that there is no public need – Hyannis is saturated already. Gene Burman agreed with Mr. Hoxie about the4 saturation, as did Mr. Semprini, that Hyannis is saturated.

Mr. Scali stated that he wanted it to be clear that it be appropriate to make a decision as the ZBA has not voted yay or nay. He stated that Attorney Carter should be given the option to withdraw the request before the Licensing Authority as denial would not allow them to reapply for one year. After deliberation with client, Attorney Carter came back to the Board and asked to withdraw the application at this time. Mr. Hoxie granted that permission.

New Annual Junk Dealer License: Application of Life's A Beach, LLC d/b/a Cape Cod Recycles, 244 North Street #9, Hyannis, for a New Annual Junk Dealer License, Joshua Wyman, Manager, for sale of household goods, furniture, etc., hours of operation to be 10 am to 7 pm.

Josh Wyman appeared for this application. He is here to apply for a Junk Dealer's license. He is going to try for 7 days per week – he will have to eventually have to get help. Right now his office is in his apartment. Officer Maher stated this is actually going to be operated at 142 Corporation Street. JCM Metals is behind him; Portuguese Church to left. He is on the right. It will be from estate or business cleanouts and he buys those. It is not consignment. He bases his fee on when the truck is full. As a courtesy he gives 30% back. If not sold in 30 days it is discarded responsibly. He realizes there is a problem with stolen goods but that is not the type of things he is taking away. Mr., Sullivan asked about the other place – 2 Good to be New was just granted; that is more antiques, etc. Mr. Wyman stated he is very lucky to have so much support from his family.

It was clarified that the North Street address is Mr. Wyman's home address; the business is at 142 Corporation Street.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Life's A Beach, LLC d/b/a Cape Cod Recycles, 142 Corporation Street, Hyannis, for a New Annual Junk Dealer License, Joshua Wyman, Manager, for sale of household goods, furniture, etc., hours of operation to be 10 am to 7 pm.

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

Junk Dealers:

JCM Metals, 142 Corporation Street, Hyannis
Historical Military Antiques, Holiday Inn, Rte. 132, Hyannis
Edythe & Co., 805 Main Street, Osterville
Cape Cod Jewelers, 366 Main Street, Hyannis
Carabelle's, 86 Cotuit Road A-1, Marstons Mills
New England Jewelry, 342 Main Street, Hyannis
Diamond Perfections, 422 Main Street, Hyannis
Best for Less American Treasurers, 207 Iyannough Road, Hyannis
Cash Point, 640 Main Street, Hyannis
Spindle City Precious Metals, Cape Cod Mall, Hyannis
Ferreira's Recycling, Inc., 85 Old Yarmouth Road, Hyannis
Newbury Comics, CC Mall, Hyannis
Hannoush Jewelers, CC Mall, Hyannis
A.J. Marks Jewelers, 1140 Iyannough Road, Hyannis
Gamestop, Inc., Cape Cod Mall, Hyannis

The Teen Exchange, 1667 Falmouth Road, Centerville
2 Good To Be New, 142 Corporation Street, Hyannis
Jewelcraft, 585 Main Street, Hyannis
Sweet Pea's Nest, 4083 Main Street, Cummaquid

Mr. Burman questioned whether there were still issues with the Ferreira license; he was advised by Lt. Murphy that the reporting issue was resolved.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the Junk Dealer License renewals listed above.

Common Victualler All Alcohol:

Eclectic Cafe, 606 Main Street, Hyannis
The Islander, 330 West Bay Road, Osterville

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the Common Victualler All Alcohol License renewals listed above.

Daily Live Entertainment:

Eclectic Cafe, 606 Main Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the Daily Live Entertainment License listed above.

Daily Non-Live Entertainment:

Eclectic Cafe, 606 Main Street, Hyannis
Courtyard Marketplace, 541 Main Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the Daily Non-Live Entertainment Licenses listed above.

Automatic Amusement/Video Games:

Courtyard Marketplace, 541 Main Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the Automatic Amusement/Video Games Licenses listed above.

Carousel:

Courtyard Marketplace, 541 Main Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the Carousel License listed above.

Business Meeting:

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

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

Discussion relative to Attorney General's Office OUI Last Drink Notices and what the Board wishes to do with regard to the establishments named.

Mr. Geiler stated these had stopped coming to the office for a while and we recently received 20-30 of them. He stated there is no requirement we do anything but that the Board may want to look over the list and if some establishments have numerous notices we can request they provide explanation of what they will do in the future to stop this from happening again. If the Board sees one they wish to talk about they can approach them. Mr. Burman stated he thinks this may not be valid in any case as the people they are asking could say anyplace they felt like. Mr. Sullivan expressed concern for those having 3-5 notices. He stated this should have impact on their thought processes about it. Mr. Sullivan suggested a letter. Lt. Murphy suggested it be addressed at renewal time.

Mr. Hoxie brought to the Board's attention that there was a car dealer who allegedly did not have a license and provided an inspection sticker to Mr. Andres. Mr. Andres had his vehicle inspected in January. This is the location of the dealership Jack Carter owned. The vehicle did not pass inspection in March. He referenced a newspaper article which came out stating that after 2/2 this dealer did not have a license to operate and asked how they could inspect on 3/13. Mr. Geiler explained that Hyannis Toyota sold the business. The corporation stayed the same but the principals changed. State law requires that they have to apply for their own license. Staff did not realize that. Everything else was done but the paperwork. There is no evidence they intended not to be licensed. He said he talked to DOT and they were not concerned; paperwork was filed immediately when brought to their attention. The Registry considers the inspections to be valid and the dealership was not given any penalty. Mr. Geiler and Mr. Burman stated there is no need for a Show Cause Hearing. Mr. Geiler stated that Mr. Andres was disgruntled with the results of the inspection. We would be unable to prove that the inspection was fraudulent or unscrupulous. Mr. Hoxie stated the issuing agency has no problem so a Show Cause Hearing is not warranted. Mr. Andres stated the article in the paper was when they re-inspected and had no license at that time. Mr. Geiler reiterated that this is an issue for DOT, not this Board. We don't have the authority over inspections. Lt. Murphy stated BPD will check with DOT to verify the dealer is licensed and whether it was licensed on 3/12/13 and ask them again if they plan to do anything about it.

Lt. Murphy advised BPD had gotten a grant for stings and said he and Ptl. Maher have meetings on April 24th and 25th for licensees. Officer Maher stated that they will be doing reverse stings this year.

The meeting was adjourned at 10:58 am.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority