



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.

February 22, 2010

A regular meeting of the Barnstable Licensing Authority was held on Monday, February 22, 2010. Gene Burman, Vice Chairman, called the meeting to order at 9:30 A.M. He introduced Paul Sullivan, Clerk; Thomas Geiler, Director of Regulatory Services, Kim Connors, Licensing Agent, Patrolman Steve Maher, Liaison Officer from the Barnstable Police Department, and Christine Ade, Recording Secretary. Chairman Martin Hoxie and Lt. JoEllen Jason, Barnstable Police Department, were absent.

Hearings:

One Day Beer & Wine License: Application of Sheila Bearse on behalf of Sturgis Library, 3090 Route 6A, Barnstable, for a One Day Beer & Wine License for a fundraising event to include family games and a picnic, on June 27, 2010 from 4 pm to 6 pm at the library outdoors.

No-one from the Library was present. This will be continued to March 15, 2010. Mr. Geiler stated if at the library outdoors, the only issue would be parking. He thinks that in the past they worked with neighbors, etc. – just ask her to be in a position to address parking.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to continue the application to March 15, 2010.

One Day Entertainment License: Application of Shelly Orvil on behalf of Seventh Day Adventist Church, P.O. Box 1711, Hyannis, MA 02601, for a One Day Entertainment License for a Variety Show with singing, dancing, rap and music, to be held on March 6, 2010 from 5 pm to 7:30 pm at The Barnstable High School Knight Auditorium.

Ms. Orvil appeared for her application. It is a charity event to benefit the victims in Haiti. The church will be taking a trip there to help and she wants to do so as well. She has been approved by the school.

A motion was duly made by Paul Sullivan, seconded by Gene Burman and a unanimous vote taken to approve the application of Shelly Orvil on behalf of Seventh Day Adventist Church, P.O. Box 1711, Hyannis, MA 02601, for a One Day Entertainment License for a Variety Show with singing, dancing, rap and music, to be held on March 6, 2010 from 5 pm to 7:30 pm at The Barnstable High School Knight Auditorium.

New Junk Dealer License: Application of Spindle City Pawnbrokers, Inc., d/b/a Spindle City Precious Gems, Cape Cod Mall Space E127, 769 Iyannough Road, Hyannis, MA, Dennis Egan, Manager, for a new Junk Dealer License, hours of operation to be Mall hours.

Mr. Egan appeared for this application; he is the Manager. They are seeking the second hand license. Mr. Burman advised it is called a Junk Dealer license even though the term is not so palatable. Mr. Egan stated it is near Victoria's Secret; used to be Ritz camera. Officer Maher asked if he is familiar with the regulations. Mr. Egan stated he has read the rules inside and out; will record everything by photo, respect the holding periods, keep everything on site here, not in the other store.

Mr. Burman said he received notice from Mr. Fine at the Mall that everything is in order. Mr. Burman asked for public comment; there was none.

A motion was duly made by Paul Sullivan, seconded by Gene Burman and a unanimous vote taken to approve the application of Spindle City Pawnbrokers, Inc., d/b/a Spindle City Precious Gems, Cape Cod Mall Space E127, 769 Iyannough Road, Hyannis, MA, Dennis Egan, Manager, for a new Junk Dealer License, hours of operation to be Mall hours.

New Annual Wine & Malt Common Victualler License: Application of Merrill Sweet, Inc., d/b/a Sweet Tomatoes Osterville, 791 Main Street, Osterville, Merrill Sweet, Manager, for a new Annual Common Victualler Wine & Malt License, with a total of 34 seats indoors and 12 seats on an outside paved and fenced patio.

Mr. Sweet appeared to advise that the ABCC wanted this application to be a NEW license so he had to return before the Board and notify abutters. The Common Victualler license will be 6 am to 8 pm. Mr. Sullivan advised that the seating total occupancy was 46 including 12 outside. Mr. Burman reiterated that the 46 is a total even if it rains and people come inside.

A motion was duly made by Paul Sullivan, seconded by Gene Burman and a unanimous vote taken to approve the application of Merrill Sweet, Inc., d/b/a Sweet Tomatoes Osterville, 791 Main Street, Osterville, Merrill Sweet, Manager, for a new Annual Common Victualler Wine & Malt License, with a total of 34 seats indoors and 12 seats on an outside paved and fenced patio.

Christine Ade advised the Board that the applicant would also like the common victualler license right away, until the alcohol is approved. That was approved by the Board.

A five minute break was called by Mr. Burman to fix some audio problems.

Transfer of Annual All Alcohol Common Victualler, Daily Live, Non-Live, Automatic Amusement and Subday Entertainment Licenses: Application of Ocarina, Inc., d/b/a Bud's Place, 959 Bearses Way, Hyannis, MA, Paul J. Reardon, Owner, to transfer its Annual All Alcohol Common Victualler, Daily Live, Non-Live, Automatic Amusement & Sunday Entertainment Licenses to House of Bud's, Inc., d/b/a House of Bud's, Candace Chambers, Manager.

Mr. and Mrs. Reardon, along with the proposed new owners, appeared for this application. The Reardons are selling the business to Ms. Chambers and Mr. Townsend. They will be staying on board through the transition period to make sure everything goes smoothly with vendors, etc. Candace Chambers has grown up with food, waitressing, catering her whole life. Tim is from the Catskills and they had a restaurant with alcohol there. She is aware of the seating being reduced because of the capacity problems at state level. She is TIPS certified and very aware of people coming in and out and if a person is unruly they are gone.

Mr. Geiler asked for her vision of the new place. She stated that the bands and karaoke are going to be up a notch – and geared for all age groups. They are changing to a deli-style food menu. Food will be more important than in the past. They may even have a roast turkey night. She then stated that the visual aspect will be an asset to the area – it will be spruced up a bit.

Mr. Geiler asked if they have any plans with the sprinkler system; she said she has to look into the price of the installation; and Mr. Geiler stated that the water source at the street he believes is adequate. He does not think the main has to be upgraded and made her aware the black cloud is over the capacity of 99 – it used to be 150. She stated they will be looking at that issue and vigilant to stay under the 99. Mr. Geiler asked how long there was a Reardon at Bud's. Mr. Reardon stated there has been a Reardon there for 30 years.

Mr. Burman asked for public comment – there was none.

A motion was duly made by Paul Sullivan, seconded by Gene Burman and a unanimous vote taken to approve the application of Ocarina, Inc., d/b/a Bud's Place, 959 Bearses Way, Hyannis, MA, Paul J. Reardon, Owner, to transfer its Annual All Alcohol Common Victualler, Daily Live, Non-Live, Automatic Amusement & Sunday Entertainment Licenses to House of Bud's, Inc., d/b/a House of Bud's, Candace Chambers, Manager.

New Annual All Alcohol Common Victualler License: Application of Macaab, Inc., d/b/a Cape Cod Pizza and Subs, 10 Seaboard Lane, Unit K, Hyannis, MA, Aaron Boutiette, Manager for a new annual All Alcohol Common Victualler License, hours of operation to be 11 am to 1 am.

Aaron and Christian Boutiette appeared for their application. The brothers are taking over the old Spiritus Pizza. They will make it more of a restaurant than takeout place. They have 40+ years experience combined. Christine Ade advised that there is a ZBA decision from way back limiting this to 20. The Boutiettes will go to ZBA in the future to see about getting more seating.

Mr. Burman stated the school and church were notified and have not responded in the negative. They attended services at the church and met the Pastor and Deacon of the Church to give them a face to go with the abutter notice. They have not heard from the school.

There will be a counter with a few seats. There will be a takeout area. To the right is about 5 seats and there are other tables and benches. There is a handicapped seating area. Both brothers will be at the restaurant. They are both cognizant of the rules and regulations. Everyone will be carded. Aaron has run security for years, all the way back to college days, citing Steamers, the Boathouse, the Courtyard in Bourne and as a part-time bartender.

Mr. Sullivan stated there will be a lot of underage people there at a pizza place. Mr. Boutiette said they are putting a mirror in the one spot that cannot be seen easily from the bar.

Officer Maher stated he is familiar with both men and has never had a problem with either one. Mr. Geiler stated the applicant has a good background in the business. Given the nature of the business and schools nearby he would suggest that alcohol be served at the tables ONLY; not by people coming up to the bar itself. That would ensure there is not an issue of who gets the alcohol. Mr. Burman stated he had the same concern with the school and kids coming in.

Gary Brown appeared in support of this application. He said he has known them for years. Has always seen professional treatment by both men.

Mr. Sullivan stated this discussion makes the board's concerns apparent for them. Mr. Boutiette said he is now 40; they all look young to him now. He is not looking for rowdy but family and is very aware of the age of the high school children who will be coming in.

Mr. Geiler asked about their vision of food – pizzas, subs, fried desserts, slices available; working man's lunches, lasagna, chicken parmesan. They have a lot of

grill and oven space and are tailoring the menu towards that. Both guys and two chefs will open the place. Once summer is in full swing they will help out. Gene Burman and Mr. Geiler asked about the name (Cape Cod Pizza and Subs) which is a name of a good restaurant in Brockton; they will go with it for now but plan to change the dba in future.

It was noted that the total seating allowed per a ZBA decision is 20. They also wish to open as a restaurant only for now until the alcohol is approved. The motion should also be made to include alcohol service at the tables only or bartender at the counter.

Mr. Geiler clarified they can order the alcohol at the counter but it must be served where they are seated. It is a little cumbersome but given the customer base it makes sense.

A motion was duly made by Paul Sullivan, seconded by Gene Burman and a unanimous vote taken to approve the application of Macaab, Inc., d/b/a Cape Cod Pizza and Subs, 10 Seaboard Lane, Unit K, Hyannis, MA, Aaron Boutiette, Manager for a new annual All Alcohol Common Victualler License, hours of operation to be 11 am to 1 am and a common Victualler license until the alcohol license is approved, with the restriction that alcohol service will be at the tables only or by waitstaff at the counter.

Business Meeting:

The following issues were held from the prior meeting:

Board vote to release to the public the following Executive Session Minutes: 4/2/07, 5/5/08, 8/11/08, 9/18/08 and historic Executive Session Minutes dated 1/31/00, 4/10/00 & 7/31/00.

A motion was duly made by Paul Sullivan, seconded by Gene Burman and a unanimous vote taken that after review, the Board voted to approve the release of the following Executive Session Minutes: 4/2/07, 5/5/08, 8/11/08, 9/18/08 and historic Executive Session Minutes dated 1/31/00, 4/10/00 & 7/31/00.

Board Vote to record in public session that historic Executive Session Minutes dated 8/24/98 and 10/5/98 cannot be located to release.

Mr. Geiler asked to amend the language in the vote on this issue to include the fact that we are not sure the historic sessions ever took place.

A motion was duly made by Paul Sullivan, seconded by Gene Burman and a unanimous vote taken that after review the Board voted to record in public session that historic Executive Session Minutes dated 8/24/98 and 10/5/98 cannot be located to release; we are not positive a session actually took place even though it may have

been posted to be safe. In searching the records we can find no evidence of Executive Sessions on those dates.

Mr. Burman thanked whomever it was who brought this to light. Mr. Geiler stated Linda Hutchenrider has been working hard to get this done for all the Boards. He stated if something is in court on appeal, it is easy to forget to release the minutes if it drags on for many years. We are now up to date and will in future report quarterly to the Board any Executive Minutes which have not been released. That will keep us from forgetting anything. Mr. Sullivan also praised the Town Clerk.

Auto dealer responses to memo regarding total number of vehicles on lots were brought up for discussion. Mr. Geiler stated we will hold it until the first meeting in March for a Board decision on what to do. He stated there are not as many responses as we would have expected – only three so far. He stated we are asking them to comment on something which does not exist yet. It will be discussed at a public hearing in conjunction with the Building Commissioner. Mr. Sullivan stated the basic gist is that the lots all have a total capacity number for the police department. Officer Maher stated one is the enforcement issue. In fairness to those who are limited, the others who don't have numbers should. He can also think of a couple with many many cars parked up against a building – this could be a safety issue. One dealer commented that the police are looking for a hard and fast number; he stated that yes, they are. That is the point of this exercise, to have everyone playing on an equal field. It is also an aesthetic issue for some. There are 72 dealers in town – so it takes a long time to do. Officer Maher advised he does it at night and it takes 3 days to do.

Adjourned at 10:20.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority