



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.
January 30, 2011**

A regular meeting of the Barnstable Licensing Authority was held on Monday, January 30, 2012. 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 and Licensing Agent, Richard Scali, Consumer Affairs Supervisor, and Ptl. Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary.

Hearings:

Transfer of Common Victualler Wine & Malt License and Alteration of

Premises Description: Application of Palio Pizzeria, Inc., d/b/a Palio Pizzeria, 435 Main Street, Hyannis, Paul Mazzeo, Manager, for Transfer of its Annual Common Victualler Wine & Malt License to Palio, Inc., d/b/a Palio Pizzeria, Samuel Mazzeo, Manager with an alteration of premises description to: Three (3) doors at the pizzeria restaurant, 1 for private use in the back kitchen, 2 for public use. One door in the front of the pizzeria and the 2nd door on one side. 32 seats at indoor booths and 18 seats at tables in the center of the restaurant. Additionally, there are 6 “to go” stools in the restaurant. Total seating is 82 for service, 6 to go stools and an additional 32 outdoor seats inside a barrier.

Paul and Sam Mazzeo appeared for this application. This winter they received a variance from the Board of Health which allows them to do make the changes to the restaurant seating. Sam Mazzeo will take over the management – he has been managing since Spring of 2011.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Palio Pizzeria, Inc., d/b/a Palio Pizzeria, 435 Main Street, Hyannis, Paul Mazzeo, Manager, for Transfer of its Annual Common Victualler Wine & Malt License to Palio, Inc., d/b/a Palio Pizzeria, Samuel Mazzeo, Manager with an alteration of premises description to: Three (3) doors at the pizzeria restaurant, 1 for private use in the back kitchen, 2 for public use. One door in the front of the pizzeria and the 2nd door on one side. 32 seats at

indoor booths and 18 seats at tables in the center of the restaurant. Additionally, there are 6 “to go” stools in the restaurant. Total seating is 82 for service, 6 to go stools and an additional 32 outdoor seats inside a barrier.

New Class I Auto Dealer License: Application of 1056 Enterprises, Inc., d/b/a Kia of Cape Cod, 1020 Iyannough Road (Admin. Offices), 1040 Iyannough Road (Customer Service & parking for 11 vehicles outside and 10 inside) & 1056 Iyannough Road (39 display and 9 customer vehicles), and 756 Bearse’s Way, Hyannis (vehicle storage), Jack G. Carter, Jr., Manager, for a Class I Auto Dealer License. Hours of operation will be Monday through Thursday, 7 am to 8 pm, Friday 7 am to 6 pm, and Sat. 7 am to 5 pm.

Brian Scapolini and Donna Bird appeared for the license for KIA of Cape Cod. Mr. Hoxie asked if there were any questions and there were none.

A motion was duly made by Paul Sullivan, seconded by Gene Burman with the understanding that it is not necessarily just KIA vehicles but all other makes can be stored there and a unanimous vote taken to approve the application of 1056 Enterprises, Inc., d/b/a Kia of Cape Cod, 1020 Iyannough Road (Admin. Offices), 1040 Iyannough Road (Customer Service & parking for 11 vehicles outside and 10 inside) & 1056 Iyannough Road (39 display and 9 customer vehicles), and 756 Bearse’s Way, Hyannis (vehicle storage), Jack G. Carter, Jr., Manager, for a Class I Auto Dealer License. Hours of operation will be Monday through Thursday, 7 am to 8 pm, Friday 7 am to 6 pm, and Sat. 7 am to 5 pm.

New Annual All Alcohol Common Victualler License, Daily Live, Non-Live & Sunday Entertainment Licenses: Application of The Mill Street Tavern, Inc., d/b/a Duck Inn Pub, 447 Main Street, Hyannis, MA, John N. Greene, Manager, for a New Annual All Alcohol Common Victualler License with indoor seating for 50, patio seating for 44, total seating 94 (17 at bar, 28 at tables, 5 in casual area, 44 on patio). Restaurant open 8 am to 12:45 am. Also requesting live entertainment for up to 5 entertainers, dancing for patrons, non-live entertainment including karaoke and a jukebox, all from 1 pm to 12:45 am daily.

Attorney Peter O’Keeffe appeared for Duck Inn Pub. He appeared with John Greene who is the proposed Manager and the other principal, Joe Sauro, and advised they have entered into a long term lease for the restaurant, which had been run as an Innholder license in the past. They reduced the seating for which they originally applied, taking out a loveseat and a table with 4 seats – so the employees could be accounted for on the occupancy permit. Their seating was originally at 55 and now is 50 in the interior. The manager has worked in many town restaurants, most recently manager of Hyannis Angler’s and Oceans. Parking is adequate. They are asking for entertainment – have asked for 5 entertainers but probably will not use that many on a regular basis. All entertainment will be confined inside and there will be no speakers on the patio.

Mr. Hoxie stated the outside speakers on the patio were the problem in the past – and it is important to contain noise in the premises. Officer Maher stated 5 entertainers seems excessive. He also added that it then brings down the capacity to 45 for seating. Even with a single entertainer they had problems in the past. He is cautioning them not to leave the patio doors open, as the noise travels outside the building. He said the entertainment area is shown by the couch – will that change when the 5 entertainers come in to perform? Attorney O’Keeffe said that the couches can easily be pushed against the wall and one has been eliminated – the one closest to the office. That would leave plenty of room. Officer Maher stated there should then be a change in capacity when there is entertainment. Mr. Burman stated there has been a sanction in the past on this location – asked if it had been served? Mr. Scali believes it has. Mr. Hoxie stated we need to check on this.

Mr. Hoxie said he is reluctant to grant 5 entertainers as it is so small there; he believes 3 would be more appropriate. Mr. Greene said he has lived with 3, but a few jazz groups and musicians ask if they can bring in a bass player – they want the flexibility for that type of entertainment. It will not be a regular thing. They need this to give them the flexibility to change with the type of group. Mr. Hoxie stated we did have a problem – it will be difficult in the summer to keep the noise from that patio. Mr. Greene stated no speakers will be on the patio. The premises are air conditioned, and the doors will be closed when there is entertainment. Mr. Burman stated 3 entertainers even is stretching it, because of the size of the space. He stated he can’t hear when the noise is so loud in a small space. Unless they will be insulating the building, the noise from live entertainment would be too much with 5. Mr. Sullivan stated he has observed the same things as the others – and if there are 5 entertainers granted here, then other establishments in the area will want the same thing. He thinks the Board is trying to help him by limiting them to 3 entertainers. Mr. Greene said he can live with 3. Mr. Sullivan stated that in itself is a little troublesome. Mr. Hoxie asked if they move the couch does that change – the 2nd couch is removed permanently stated Mr. Scali; that one is eliminated and it has to stay as shown on the approved plan. Mr. Geiler stated he is not concerned about the 5 but back to basics – understand the rule book and what their responsibility is there. There are several neighbors who have made complaints in the past so be aware. You need to know what the limits are. If there is a violation there is no justification for it. You have every chance to walk outside and see if your noise level is too high. It isn’t a big structure, but certainly can contain noise for a small music group. He stated the owner of the hotel is doing a lot of work on it and is sure the Duck Inn Pub will also be upgraded and that is a good thing. Their experience is such that they know what Hyannis is about. The Achilles heel is the entertainment – you must ensure it is not a noise problem so if the business is built on having the entertainment and it went away they would be in trouble. Joe Sauro was asked about his involvement in the restaurant. He said he has known his partner John 25 years. He also owns a restaurant in Wareham. His role is strictly to do what John needs him to do. He does not plan to spend a whole lot of time there, but will be in when needed and will be financially supporting it.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of The Mill Street Tavern, Inc., d/b/a Duck Inn Pub, 447 Main Street, Hyannis, MA, John N. Greene, Manager, for a New Annual All Alcohol Common Victualler License with indoor seating for 50, 5 employees, patio seating for 44, total seating 94 (17 at bar, 28 at tables, 5 in casual area, 44 on patio), hours of 8 am to 12:45 am., an annual live entertainment license for up to 3 entertainers, dancing for patrons, a non-live entertainment license for a jukebox, and a karaoke license, all from 1 pm to 12:45 am daily.

New Pool Table License: Application of House of Bud's, Inc., 959 Bearnse's Way, Hyannis, Candace Chambers, Manager, for an annual Pool Table License (1 pool table) and Sunday Entertainment License, hours of use to be 11:30 am – 12:45 am M-Sat; noon to 12:45 am Sun. Continued from January 9, 2012 hearing.

Mr. Hoxie confirmed they have notified abutters. Candace Chambers and Timothy Townsend appeared for their application for a pool table. There were no objections from the Board or police liaison officers.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of House of Bud's, Inc., 959 Bearnse's Way, Hyannis, Candace Chambers, Manager, for an annual Pool Table License (1 pool table) and Sunday Entertainment License, hours of use to be 11:30 am – 12:45 am M-Sat; noon to 12:45 am Sun.

New Annual Retail Beer & Wine Package Store License: Application of ML Fruit & Produce, Inc., d/b/a Lambert's Rainbow Fruit, 1000 West Main Street, Centerville, Matthew W. Lambert, Manager, for a new Annual Wine & Malt Retail Package Store license. Hours of alcohol sales to be Mon-Sat 8 am to 7 pm, Sun noon to 7 pm. Continued from January 9, 2012 hearing. Mr. Hoxie stated the purpose of the continuation was so that the ABCC could confirm our Barnstable quota.

Attorney Ted Schilling appeared for ML Fruit & Produce, Inc.

Mr. Scali advised the Board that we had faxed the pertinent information to Ralph Sacramone as he had offered to expedite the process for us, but we have not heard definitively back from Ralph or Bill Kelly at the ABCC on the number of available Package Store Wine & Malt Licenses that Barnstable actually has currently. We show two and they show one, but advised they have not processed our 2012 renewal package in which we lost 2 licenses. They asked if we did not have it by Monday would it cause a problem; Mr. Scali said yes it would as we have another application. They said they have not gotten to it yet. We are confident that there is a license available but have not received the information.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to again continue the application of ML Fruit & Produce, Inc., d/b/a Lambert's Rainbow Fruit, 1000 West Main Street, Centerville, Matthew W.

Lambert, Manager, for a new Annual Wine & Malt Retail Package Store license. Hours of alcohol sales to be Mon-Sat 8 am to 7 pm, Sun noon to 7 pm to the February 13, 2012 hearing so it can be determined whether or not there is an available Package Store Wine & Malt License in Barnstable and if the license is still not confirmed as available, Licensing will continue it to the 3/12/12 hearing and call the applicant attorney so they do not have to attend on 2/13/12.

Mr. Geiler stated we are not accepting any more applications for Package Store Wine and Malt licenses so we do not have a problem of going over our quota. Gene Burman stated we MUST take in applications, even though we do not have an open license confirmed – he said he learned this from Ralph Sacramone at the recent seminar. Mr. Geiler stated doing that comes with a big penalty – if someone files and the license is denied as there are none available, they are prohibited from applying again for a year.

Show Cause Hearing: Show Cause Hearing for Cape Cod Precious Gems & Coins, 48 Iyannough Road, Hyannis, MA, Carl Marchetti, Manager, for revocation of its Junk Dealer License as a result of information presented to the Licensing Authority by Detective Sgt. John Murphy of the Barnstable Police Department at the December 7, 2009 Licensing Authority Hearing for failure to comply with the Town of Barnstable Rules and Regulations under Chapter 502 regarding non-reporting of items purchased for sale, that it purchased items which appear on a list of stolen property, and a determination that Mr. Marchetti is an improper person to hold a Junk Dealer License, to show cause why its Junk Dealer License should not be permanently revoked. Continued from 8/10/11, 2/14/11, 6/20/11, 9/19/11. Along with this hearing, the renewal/non-renewal of the Junk Dealer License for 2011-2012 will be determined. Attorney Atwood's Office advised they were still in Court for 9/24/11 but the matter should be wrapped up for the 10/24/11 hearing. Request was made to continue this hearing to 10/24/11 and it was then continued to January 30, 2012 as the prior Licensee was still in Court. Mr. Hoxie confirmed that this hearing would be continued at the request of Licensee's attorney to March 26, 2012.

Business Meeting:

Tom Holmes came forward as a representative of the Hyannis Water Board, requesting we look into the license of Ferreira's to determine whether we should have a Show Cause Hearing to be modified, suspended or revoked. Mr. Sullivan stated he got a call from Deb Krau about this; and Town Attorney, Health people and Licensing are all looking into this issue. Mr. Geiler asked if this relates to the recent incident – Mr. Holmes stated it does. Mr. Geiler stated the Town will work cooperatively with the Fire Department, etc. to make an appropriate recommendation to the Licensing Authority. He said that this Board looks highly on the water issues, as it has in the past. The information will not get to the Licensing Authority until authorities investigate and bring it to the Licensing Board. He said he is talking weeks, not months.

The meeting was adjourned at 10:10 am.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority