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BARNSTABLE
TOWN CLERK
20 SEP 23 08:35

TOWN OF BARNSTABLE

NOTICE OF MEETINGS OF TOWN DEPARTMENT AND ALL TOWN BOARDS
As Required by Chapter 28 of the Acts of 2009 which amends MGL Chapter 30 A

Licensing Authority Minutes

The August 17, 2020 public meeting of the Licensing Authority shall be physically closed to the public to avoid group congregation.

Remote Participation Instructions

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed via the Channel 18 website at:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Real-time public comment can be addressed to the Licensing Authority utilizing the Zoom link or telephone number and access code for remote access below.

Link: <https://zoom.us/j/93490203363>

Telephone Number: 888-475-4499 US Toll-free, Meeting ID: 934 9020 3363

3. Applicants, their representatives and individuals required or entitled to appear before the Licensing Authority may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provide above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Richard.scali@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

DATE OF MEETING: August 17, 2020

Check below which one applies

The Clerk's office has this meeting date already posted X

This is a special meeting which has not been posted _____

TIME: 9:30 a.m.
PLACE: Via Zoom

A meeting of the Barnstable Licensing Authority was held on Monday, August 17, 2020. Chairman Martin Hoxie called the meeting in order at 9:30 am. He introduced Mr. Richard Scali, Director of Licensing to explain how this zoom meeting will work and introduced all the participants. Mr. Scali introduced Mr. Martin Hoxie, Chairman, Mr. David Nunheimer, Associate Commissioner, Mr. Larry Decker, Associate Commissioner, Nancy Karlson-Lidman, Associate Commissioner, and Mr. David Hirsch, Associate Commissioner. Also in attendance is Officer Therese Gallant and Licensing Assistant (temp.), Golda Hadfield. Lt. John Murphy was absent.

Vote to accept Minutes:

1. Vote to accept minutes of the July 20, 2020 hearing.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to accept the minutes of the 7/20/2020 meeting.

New Business:

1. Discussion regarding the procedure of two payments for annual liquor licenses.

A temporary change in fees was approved on July 20, 2020 hearing allowing the section 12 licensees to get a one fourth credit of their alcohol fee for the next alcohol fee renewal period due in December (annual) or March (seasonal) for 2021. With this recent change, Director Scali proposed a one billing cycle for this coming renewal period instead of two payments and from hereafter.

A unanimous vote was taken to approve the one billing payment for the liquor license.

2. **CC Entertainment, Inc. d/b/a Flashback's, 294 Main Street, Hyannis.** Request credit for 20 machines at \$100.00 each paid in December 2019 with a total of \$2000 due to inability to operate because of Covid-19 restrictions.

No representative from Flashback's. Director Scali noted that at present there are only three licensees in Town that have video games (Flashback's, Ten Pin and Cape Codder Resort. It is proposed that these licensees are pro-rated by month and be credited to next year's renewal.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to approve the offer of pro-rated by month with

for those with entertainment licenses pertaining to video games as a credit to next year's renewal.

3. Consent Agenda:

There is one outdoor expansion request and one renewal of an Auctioneer license.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Hirsch and a unanimous vote taken to accept the Consent Agenda as presented.

Public Hearings:

1. APPLICATION FOR A NEW NON LIVE ENTERTAINMENT LICENSE:

Application of House of Hatchets, Inc. d/b/a House of Hatchets, 489 Bearse's Way, Hyannis, Clifford Harris, manager, for a new non live entertainment license.

Hours of Operation are Wednesday & Thursday 3:00 PM to 11:00 PM, Friday & Saturday 12:00 PM to 11:00 PM & Sunday 12:00 PM to 5:00 PM.

Entertainment to include 2 televisions & 4 hatchet bays.

Mr. Mark Boudreau, Esq., and Clifford Harris, manager were present. Mr. Boudreau explained that the House of Hatchets is passing of hatchets for fun. This would be the eighth similar business to open in Massachusetts. There will be four throwing lanes, each in cages. These cages have chain link fencing with safety rules signage in place.

There is no food being served as of this time. In the future, they might consider applying for a beer and wine license and might serve finger foods and snacks. Insurance policy is on file with the Licensing Department.

Mr. Boudreau further explained the safety rules in place. At the entrance, you will find a "Hatchet Throwing Rules" sign and in lane one, there will be an ability to learn how to throw and there will be demonstrations done by Mr. Harris and others for customers that are not familiar with hatchet throwing. Spectators will be outside the cages behind the throwers approximately 12 feet away.

Mr. Harris is a retired police officer and knowledgeable when it comes to safety. The fee will be \$25.00 per hour per person and with COVID-19 safety measures, it advisable to book online on their website.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to approve a new non live entertainment license as presented.

2. APPLICATION FOR A CHANGE OF D/B/A ON AN ANNUAL ALL ALCOHOL GENERAL ON PREMISES LICENSE:

Application of New Sedgewick INC., d/b/a Puff the Magic, 649 Main Street, Hyannis, Anil Diwan, Manager; for a change of d/b/a from Puff the Magic to C.B. Perkins Lounge & Bar.

No representative present from New Sedgewick, Inc. Last year they have applied for a change of corporate officers and stockholders but failed to file for a change of d/b/a. Currently they are not open due the Governor's restriction on bars and will remain close for the rest of the year.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to approve the change of D/B/A application on an annual all alcohol license from Puff the Magic to C.B. Perkins Lounge & bar.

3. APPLICATION FOR A CHANGE OF MANAGER AND MANAGEMENT AGREEMENT ON A SEASONAL ALL ALCOHOL COMMON VICTUALLER LICENSE:

Application of The Harbour Club, Inc. d/b/a Trader Ed's, 11 Willow Street, Hyannis on their Seasonal All Alcohol Common Victualler License, for a Change of Manager from Paul R. Gayewski to John C. Shea and approval of an application for a management agreement with East Bay Management Inc.

Mr. Wayne Kurker and Mr. John Shea were present, and Mr. Steven Pizzuti, Esq. is representing the Harbour Club, Inc. and Hyannis Marina. Mr. Pizzuti started to discuss the qualifications of John Shea with a work experience spanning 30 years in different food and beverage establishments with an impeccable track record. Mr. Pizzuti also discussed why there is an application for a management agreement. This is because Mr. Kurker runs a strict operation in Hyannis Marina and wants to maintain control of the operation within his establishment. This management agreement is in place to ensure the safety of Hyannis Marina's guests. It is also noted that the management agreement is revocable by Mr. Wayne Kurker.

Director Scali inquired and directed the question to both Mr. Pizzuti and Mr. Kurker about how Trader Ed's is handling entertainment with regards to Covid-19 protocols. Mr. Pizzuti and Mr. Kurker both responded that they are following social distancing guidelines outside where tents are being utilized. Inside the establishment, masks are mandatory.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to approve the change of manager and management agreement applications on a seasonal all alcohol common victualler license of Harbour Club, Inc. d/b/a Trader Ed's.

4. APPLICATION FOR A NEW ANNUAL ALL ALCOHOL COMMON VICTUALLER LICENSE AND NEW LIVE AND NON-LIVE ENTERTAINMENT LICENSES

Application has been filed by The Karibbean Lounge LLC., Aniela Bodah, mgr, d/b/a The Karibbean Lounge located at 662 Main Street, Hyannis, for a new Annual All Alcohol Common Victualler, and annual Live and Non-Live Entertainment Licenses.

Description of Premise: Building consists of a full kitchen with two bars totaling 5210 sq. feet. Restrooms are located in the lobby which is beside the main restaurant entrance. One full bar has 10 stools; the second bar has 4 stools and will be used for private functions. Total seating capacity of 134; 86 inside seats, 48 outside seats, 9 employees and 20 standees.

Hours of Alcohol service are 11:00 AM to 12:45 AM; daily

Live Entertainment to include: Amplified music by up to 4 performers. Non-Live Entertainment to include: 4 televisions and radio. Hours of both Live and Non-Live Entertainment: 11:00 AM – 12:45 AM Monday-Saturday 11:00AM – 11:00PM Sunday***Placed on hold from March 17, 2020***

Aneila Bodah introduces herself as the representative of The Karibbean Lounge, Inc. Director Scali reminded the Board that this was originally heard on March 17, 2020, and was placed on hold due to non-approval of the site plan by the Building Commissioner at that time. On several discussions with regards to capacity and entertainment, the Building Commissioner made a temporary approval on food and drinks but not entertainment due to lack of sprinklers and fire safety in that building. Ms. Bodah needs to amend her application with regards to the site plan eliminating the dance floor and live entertainment.

Ms. Bodah suggested that she would like to have a pianist or a stand-up comedy in the lounge but no amplified sound system. Entertainment is for dine-in guests only. Director Scali reiterated that as per the temporary approval from the Building Commissioner that there is no entertainment of any kind is allowed. Nonlive can be permitted and restricted to TVs or piped-in music. Director Scali also noted that Ms. Bodah needs to amend her site plan to eliminate both the dance floor and standees. Ms. Bodah acknowledged that dine-in guests will be seated, with no dance floor or stage, and no standing guests.

An amended motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to approve a new annual all

alcohol common victualler license and non-live entertainment license (eliminating the live entertainment) of The Karibbean Lounge LLC d/b/a The Karibbean Lounge.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to allow the common victualler and non-live entertainment licenses to be issued before alcohol approval is complete.

5. APPLICATION FOR A NEW CLASS II AUTO DEALER LICENSE:

Application of Cape Cod Used Cars, Inc., d/b/a/ Cape Cod Used Auto Sales for a new Class II Auto Dealer License at 155 Rosary Lane, Hyannis, for a maximum of 15 total vehicles. Eight spaces inside to be used as display, 7 exterior spaces; 2 of which are employee and 2 of which are customer, the remaining 3 spaces are display.

Mr. Talles Lana, owner, Honoria Dasilva-Kilgore, and George Lough (co-counsel) were present representing Cape Cod Used Cars. Before the discussion started, Director Scali clarified that the notification of abutters has not been done. We can proceed with the application, however, this has to be re-advertised and place on the next hearing for any kind of formal vote.

Chairman Hoxie stated that the experience of the licensee and its location will be heard today and Mr. Lough interjected requesting for temporary approval. Director Scali noted that should a temporary approval be granted today, a 90-day temporary approval has also been issued from the Building Commissioner in regards to their site plan. A new engineering drawing should be submitted to the Building department within that time frame.

George Lough explained that Mr. Lana learned about the existence of a used car lot operation at 155 Rosary Lane. Mr. Lana came in contact with Mr. Alexander Prebianchi, manager of that property, and reached out to Charles White Management, Inc., landlord of the said property. Mr. Prebianchi, the manager, has been in the automobile industry since 1998. Mr. Lana wanted to enter into an automobile dealership and was able to secure a 3-year lease from Charles White Management, Inc.

Officer Gallant stated that she has dealt with the previous business that was at the same property, Cape Cod Auto Brokers in mid-June. Problems at that dealership came to Officer Gallant's attention regarding Mr. Cotino's business practices. Because of this problem, Officer Gallant opens an investigation relative to Mr. Cotino's and his business practices involving four victims and one of the victims is specifically dealing with Officer Gallant. Allegedly fraud and larceny can be involved in this on-going investigation. Officer Gallant proceeded to ask questions to the applicant with regard to his relationship with Mr. Prebianchi. Mr.

Lana replied that he knows Mr. Prebianchi through mutual business clients and found out that the owner of Cape Cod Auto Brokers is going under. Mr. Lana also stated that he knows of Mr. Cotino because in the Brazilian Community most people know everyone but aside from that no other relationship.

Officer Gallant asked if Mr. Lana is already occupied the building before the Licensing Board hearing and he said they were there to get the place ready and organize to be able to apply for a license. But upon learning of the problems of the previous owner, Mr. Lana noted that they halted all plans until all these problems have been solved.

Officer Gallant also asked if there is any exchange or transfer of money between Mr. Lana and Mr. Cotino and the answer was none. Officer Gallant made it known that Mr. Prebianchi was part of that business with Mr. Cotino and one of the victims of the on-going investigation dealt with Mr. Prebianchi himself. Officer Gallant expressed her utmost concerns regarding the victims that were taken advantage of by Mr. Cotino and Mr. Prebianchi.

Director Scali wanted to ask for clarification on why or what attracted Mr. Lana to this particular property. Mr. Lana then replied that the Brazilian community is huge on Cape Cod and focused this car dealership towards that community and he was also informed that Cape Cod cannot allow anymore car dealership.

Director Scali recommended to the Licensing Authority that a temporary approval not be granted as of this time due to Officer Gallant's concerns and on-going investigation of the previous owner, Mr. Cotino, and manager, Mr. Prebianchi. Chairman Hoxie agreed that this application should be continued to the September 14, 2020 hearing.

6. APPLICATION FOR A TRANSFER OF AN ANNUAL WINE AND MALT RETAIL PACKAGE GOODS STORE LICENSE AND CHANGE OF LOCATION:

Application has been filed to transfer the Annual Wine and Malt Retail Package Goods Store License and Change of Location from Ammar Corporation d/b/a Pepper's Pantry, Mohammad Shafique, Manager, 4120 Falmouth Road, Cotuit to MPG Corporation, d/b/a Garrett's Family Market, Benjamin Bolen, Manager, 1617 Falmouth Road, Centerville.

Description of Premise: A 4,565 square foot building on one floor with four rooms; retail floor consists of two restrooms and one storage area, one entrance and two exits.

Linear feet: shelving – 4 shelves which is 9 feet along the long side (36 feet) and 4 with 3 feet along each side (12 feet) with a total of 60 linear feet. Coolers have 31 shelves total x 28 inches with a total of 72.33 linear feet. There are 4

storage/beer cave with 4 feet shelves in each cooler = 16 x 6 with a total of 96 linear feet.

Hours of Operation: 4:00 am to 1:00 am for market; beer and wine hours-8:00 am to 11:00 pm M-Sat.; 10:00 am to 11:00 pm Sundays. ***Continued from 7/20/2020 hearing***

David Lawler, Esq. is retained by Garrett's Family Market and representing the company. Also in attendance were Mr. Peter Garrett, Mr. Ben Bolen, and Amanda Remie.

Mr. David Lawler touched on a brief history of Garrett's Family Market that is a family-owned business that started in Plymouth and has other locations on Cape Cod. They are very active in their community and are heavily involved in local charities within the communities they serve.

Mr. Lawler proceeded to explain that this is an issue upon need and convenience at present there is a need for this Beer & Wine application and the convenience of the residents of Centerville and the Town of Barnstable especially residents that travel on Route 28. Mr. Lawler presented to the Licensing Authority three documents showing demographics by villages, the Town of Barnstable map showing with the number of population for each village, and a liquor map broken down by number per village. Barnstable has 24 liquor licenses with a combination of alcohol and beer and wine. The vast majority of these licenses are concentrated in Hyannis. At present, there are only two liquor licenses in Centerville, and they are the Cape Cod Package Store and Lambert's. Mr. Lawler emphasized that Garrett's is not a liquor store; it is an upscale convenience store that sells gasoline and fast food. The beer and wine only represent 17% of Garret's in-store sales not including gasoline.

Mr. Lawler brought up the emails received from residents and businesses from the village of Centerville on their opposition for this beer and wine application. The majority of the emails indicated their support for Cape Cod Package Store. Mr. Lawler does not dispute that Cape Cod Package Store is an outstanding business and the same as Lambert's. However, these stores are different, one is a liquor store, and the other is a market that carries a wide selection of beer and wine. On the other hand, Garrett's will not be selling high-end beer and wine.

Mr. Lawler pointed out that the demographics based on population per village Centerville is underserved as compared to other villages. Mr. Lawler also pointed out that the Village of Hyannis where 50% of the liquor licenses are concentrated and is disproportionate, even counting the fact that Hyannis is an economic center. Centerville needs additional liquor licenses based on demographics that should be the standard. Mr. Lawler continued that the standard is not a competition to oppose a liquor license. In this case, the applicant has been vetted, has gone through the site plan, and handled traffic studies. The parking

lot is designed with an in and out access in keeping with the Town of Barnstable regulations.

Ms. Karlson-Lidman asked if Garrett's will be selling unique brands that you cannot get from Cape Cod Package Store. Mr. Peter Garrett replied that, as far as beer and wine, they are not selling any private labels. The wine selection will be limited to primarily boxed wine and some traditional table wine, no wine tasting in the store, unlike a liquor store. Mr. Lawler suggested that there will be differences in the actual selection of beer and wine.

Mr. Decker pointed out that based on the need, convenience, and density, liquor licenses are being moved out from the Cotuit/Marstons Mills areas instead of the other way around. Mr. Lawler respectfully disagreed with Mr. Decker's analysis based on distance and demographics, and the need and convenience in Centerville are clearly defined on the map that was presented.

Chairman Hoxie expressed his concern regarding the increase in traffic and size, and competition should not be a factor. He would like to know if there is a survey done on the number of motor vehicle accidents on Route 28 on the intersection of Phinney's Lane and Old Stage Road.

Mr. Hirsch explained at one point, Centerville lost a liquor license to Marstons Mills. Addressing the traffic situation, traveling from the west to east, there is no convenient way to get to the Cape Cod Package Store. Meanwhile, to get into Garrett's, it would be a right-hand turn and exit to the left. Mr. Hirsch further explained that regarding traffic, he does not see any conflicts with the two stores.

Mr. Nunheimer expressed his opinion that there is no need for this application and believes that there is a right turn into Cape Cod Package Store going west to east. Mr. Nunheimer believes that public licenses should not be transferred for consideration. Citing the issue or mistake with regards to the transfer of the liquor license from Cotuit to Kappy's, it does not mean the Licensing Authority should allow it again.

Public Comments:

Andrea Pendergast from Cape Cod Package Store – her main concern is about the population numbers that were presented by Mr. Lawler and the time of the year that these numbers were taken. Ms. Pendergast has mentioned that in 45 years their customer based has decreased.

Danette Atsalis from Cape Cod Package Store – since the last hearing, Ms. Atsalis had the opportunity to discuss this application with their customers and community members and come to find out that most of them are not aware of the transfer of Garrett's beer and wine application. Ms. Atsalis submitted a letter and petition to the Licensing Authority before this hearing and it's on record.

Tahir Iqbal – Mr. Iqbal is concern about the traffic that Garrett’s Family Market will draw to that area that will cause a big problem and also is concern about possible car accidents.

Mr. Lawler addressed the issues that were raised by the public. Mr. Lawler submitted a comprehensive traffic study that was approved by the site plan, where it addresses the traffic of that particular area and the proposed Garrett’s Family Market. With all the evidence presented, Mr. Lawler believes that this application should be approved.

All documents were presented by Mr. David Lawler and all emails received from the public are all part of the record of this hearing.

Chairman Hoxie explained that the evidence is also thereby the decision that the Licensing Authority can take in due account a wide range of factors including size, traffic, and disregarding the public need and convenience. The Licensing Authority has the latitude in determining what occurs in that area as far as traffic.

Director Scali suggested to the Commissioners in giving their decisions to take into consideration the requirements of the Balarin case that specifically mention the appeal of the saturation issue and lays out the standards which the ABCC uses.

A motion was duly made by Mr. Hoxie, seconded by Ms. Karlson-Lidman and a unanimous vote was taken to close the public comment.

A motion was duly made by Mr. Decker, seconded by Ms. Karlson-Lidman and a unanimous vote was taken to deny the application for a transfer of an annual wine and malt retail package goods store license and change of location of MPG Corp. d/b/a/ Garrett’s Family Market.

A motion was duly made by Mr. Decker, seconded by Ms. Karlson-Lidman and a unanimous vote was taken to deny the application based on the lack of need, lack of convenience and traffic issues.

1. SHOW CAUSE HEARING:

The Barnstable Licensing Authority will hold a Show Cause Hearing relative to the Lodging House License for the Sea Beach Inn Co. d/b/a Sea Beach Inn, 388 Sea Street, Hyannis, Catherine Darling, Manager, for the following violations of the Town of Barnstable Rules and Regulations: Section 501-9 Physical Premises (subsection b), 501-11 Environs of Licensed Premises (subsection f) and 501-14 Other Causes for Revocation, Suspension and Modification of the Town of

Barnstable Rules and Regulations (subsection b).***Continued from 5/26/2020 hearing***

Officer Gallant was in contact with Ms. Darling's attorney and their court case will not be heard until October due to Covid-19. On that note, the applicant is requesting for a continuance to be heard on November 9, 2020.

Licensing Division Updates:

1. Licensing Department updates –

***Director Scali noted that the Licensing department is still working on outdoor expansions. The Licensing Department is starting to look into renewals this September for the next calendar year. Golda Hadfield is still filling in for Lindsay Parvin as temporary licensing assistant.

2. Police Department updates

***Officer Gallant noted that there is no police updates as of this time.

The meeting was adjourned at 12:10 PM.

Respectfully submitted,

Golda Hadfield

Larry W. Decker

Golda Hadfield, Recorder
Town of Barnstable Licensing Authority

Mr. Larry Decker, Clerk
Town of Barnstable Licensing Authority

- Matters not reasonably anticipated by the Chair

The list of matters, are those reasonably anticipated by the president/ chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the sub-committee may go into executive session. For your information the section of the M.G.L. that pertains to postings of meetings is as follows: Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain: the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. Meetings of a local public body, notice shall be filed with the municipal clerk, and posted in a manner conspicuously visible to the public at all hours.

Town of Barnstable
Licensing Authority
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BARNSTABLE LICENSING AUTHORITY
CONSENT AGENDA
August 17, 2020

Renewals:

Auctioneer:

1. **Luis Gonzaga**, 16 School Street, Hyannis 02601

Outdoor Patio Expansion Requests:

1. **J & T Food Service Inc. d/b/a Five Bays Bistro**, 825 Main St., Hyannis –
expansion on private property