



Town of Barnstable Licensing Authority

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18 JUL 2021 PM 11:45
BARNSTABLE TOWN CLERK

Meeting Minutes

The regularly scheduled Barnstable Licensing Authority Public Meeting held remotely on **Monday May 24, 2021** and was called to order at 9:30am by Chairman Hoxie with a roll call vote.

Members Present by Remote: Chairman Martin Hoxie; David Nunheimer; Larry Decker; Nancy Karlson-Lidman (Associate); David Hirsch (Associate); John Flores (Associate).

Staff Present by Remote: Licensing Director Liz Hartsgrove; Consumer Affairs Officer Therese Gallant; Licensing Assistant Lindsay Parvin

Ms. Tina Carey requested that Chairman Hoxie hear the Cotuit Harbor Enterprises, Inc. application out of order so that she may attend an appointment.

Public Hearing

1. Change of Manager – Seasonal All Alcohol Common Victualler

Application by Cotuit Harbor Enterprises, Inc., d/b/a **Tequila Charlie's**, 577 Main Street, Hyannis for a change in manager from James N. Carey to **Christine S. Carey**.

Application represented by Christine Carey. Ms. Carey intends to take over management duties from her son, who is the current manager on record.

MOTION: To move the Licensing Authority approve the application as printed.

Motion by: David Nunheimer **Seconded by:** Larry Decker **Roll Call:** Yea 6 Nay 0

New Business

1. One Day Entertainment

Application of Nolan Roche on behalf of Hyannis Sound for a One Day Entertainment license for the Hyannis Sound Alumni Show. The event is to be held at the Village Green, 367 Main Street, Hyannis, August 7, 2021, 6 PM to 8 PM.

Director Hartsgrove stated that a One Day Entertainment License is required because the event is to take place on Town property and there is a fee for admission.

MOTION: To move the Licensing Authority approve the application as printed.

Motion by: David Nunheimer **Seconded by:** Larry Decker **Roll Call:** Yea 6 Nay 0

Public Hearings continued*

2. Alteration of Premises- Annual All Alcohol Club

Application by the **Hyannisport Club**, 2 Irving Avenue, Hyannis for an alteration of premises, to add the following area to the existing description: (add) 2,955 square foot terrace dining space to accommodate outdoor dining necessary to satisfy COVID protocols. New area includes seats for 66 plus fire pit area with seating for 10.

Application represented by Attorney Boudreau and Steve Clemens. Attorney Boudreau stated that the applicant is seeking to include the proposed outdoor patio to the licensed premises.

Director Hartsgrove noted the number of seats will remain within the allotment and the alternative plan is to be utilized on a seasonal basis.

Mr. Decker asked if the applicant intended for the patio to be a permanent fixture or used on a temporarily in response to Covid-19 protocols which Attorney Boudreau explained the request to expand outdoor seating is in response to Covid but use of the patio is intended to be permanent.

MOTION: To move the Licensing Authority approve the application as printed.

Motion by: David Nunheimer Seconded by: Larry Decker Roll Call: Yea 6 Nay 0

3. New Annual Wine & Malt General on Premise

Application by House of Hatchets, Inc., d/b/a **House of Hatchets**, 489 Bearse's Way, Hyannis, **Clifford Harris, Manager**, for a new Annual Wine & Malt General On Premise License. Daily hours of operations are from 12:00PM to 11:00PM. Description of premise as follows: **1500 Sq/ft space with 4 throwing lanes; 2 entrances/exits; 2 bathrooms; 25 seats.**

Application represented by Attorney Boudreau and Clifford Harris. Attorney Boudreau stated that the applicant is seeking to obtain an alcohol license for his existing establishment. Attorney Boudreau noted that similar establishments throughout the country are licensed for alcohol service.

Directed Hartsgrove stated that the application has received Site Plan Review approval and the proposed plan has been approved by the Building Commissioner.

Mr. Harris explained that alcohol consumption is to take place well outside of the throwing area. He plans to serve small bottles of wine as well as cans of beer.

Mr. Flores voiced safety protocols concerns, noting alcohol and ax throwing has an increased potential for accidents. Attorney Boudreau briefed the Board Mr. Harris's background as a retired Police Officer and intends to enforce safety protocols to a high standard. He noted that no safety incidents have been reported in similar establishments throughout the country.

Mr. Harris further explained that his bookings are reserved by the hour and customers who arrive intoxicated will not be allowed to throw. He noted that alcohol will not be allowed in the throwing lanes and hatchets will not be permitted in the area designated for alcohol consumption.

MOTION: To move the Licensing Authority approve the application as printed.

Motion by: David Nunheimer Seconded by: Larry Decker Roll Call: Yea 5 Nay 1 (John Flores)

4. Transfer - Retail Package Store Wine And Malt

Application by Cotuit Beer & Wine, Inc. d/b/a, **Cotuit Beer & Wine**, 737 Main Street, Cotuit for the transfer of a Wine and Malt Retail Package Store License from Cost Plus of Massachusetts, LLC, d/b/a, Cost Plus World Market, 621 Iyannough Road, Hyannis.

****Continued from May 10, 2021****

Application represented by Attorney David Lawler and Steve Gould. Atty. Lawler briefed the board on Mr. Gould's experience operating an All Alcohol Retail Package store at the location

for 20 years which he plans to operate alongside his son. Atty. Lawler stated that the lack of a package store in Cotuit demonstrates the need and convenience of such an establishment for Cotuit residents.

Chairman Hoxie asked Atty. Lawler if his client would sell the license in the event that an offer was received and a significant profit could be gained. Mr. Gould responded that if granted, his intention is to operate the business along with his son. Atty. Lawler reiterated that it is his client's intention to operate the business and noted that it would not be appropriate to speculate on his client's course of action in a hypothetical-future resale scenario.

Mr. Decker asked if the package store is to be operated as a separate storefront, each with dedicated registers and staff. Atty. Lawler confirmed that the Package Store is to be operated completely independently from the market.

Mr. Decker questioned why the application indicated that the Corporation did not have employees. Atty. Lawler stated that the application is representative of the current status of the corporation. Insurance requirements will be met prior to issuance of the license, in the event that it is approved. He noted that this practice is customary in the preliminary stages of forming a corporation.

Ms. Karlson-Lidman stated that several Cotuit residents have expressed concern about the potential for nip bottles to create a trash nuisance. Atty. Lawler confirmed that his client is seeking a Beer & Wine License and thus will not be selling nips in the event of approval.

Mr. Hirsch stated that he is opposed to the application due to the fact that the applicant sold his former retail package store license for a profit. Mr. Hirsch maintains that an alcohol license is to be issued by the Town of Barnstable at the discretion of the Licensing Authority and should not be viewed as a commodity. Atty. Lawler stated that his client was well within his rights to sell his former license and should have no bearing on the need and convenience of the business and it would be improper to penalize Cotuit residents for Mr. Gould making a profit off the sale of his former license.

Mr. Nunheimer stated that he agrees with Mr. Hirsch in that the license should not be viewed as a commodity. Although the town of Barnstable has adhered to the practice of granting transfers between parties. He finds it fundamentally inappropriate to treat the license as a vehicle for profit and does not believe it is the intention of the statute. The character of the applicant and past business practices should also be considered.

Director Hartsgrove noted that the Town of Barnstable currently does not have procedures in place to revert retail package store licenses to the town when they are not in use. The Licensing Authority would need to take steps to amend the transfer regulations.

Cotuit resident, Larry Morin voiced opposition to the application, stating there is no need for a Retail Package Store License in Cotuit. Mr. Morin questioned whether a condition of approval could be placed on the license to prevent it from being sold. Atty. Lawler responded that he would advise his client against such a condition, as no other licensee in Town is subject to such requirements.

Ms. Karlson-Lidman asked if the abutters have been properly notified, which Director Hartsgrove confirmed that the hearing was properly advertised in the Barnstable Patriot and abutters notified.

Mr. Flores asked if the existing tenants are in support of the application. Atty. Lawler confirmed that the tenants are in support of the proposal and suspects it will have a positive impact on the business because it will increase the customer base.

Mr. Decker noted it is customary for contractors to stop at the market for lunch. He asked what would prevent them from purchasing and consuming alcohol if available. Atty. Lawler stated that his client did not have any issues with customers consuming alcohol on site previously.

MOTION: To move the Licensing Authority approve the application as printed.

Motion by: David Nunheimer **Seconded by:** Larry Decker

Roll Call: Yea 3 **Commissioner, David Nunheimer**
Commissioner, Larry Decker
Associate Commissioner, John Flores

Nay 3 Associate Commissioner, Nancy Karson-Lidman
Associate Commissioner, David Hirsch
Chairman, Martin Hoxie

As the Regular Commissioners determines the final vote: application is approved by a 2-1 vote.

Show Cause Hearing

1. Lodging House

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 August 17, 2020 - February 22, 2021****

Consumer Affairs Officer, Therese Gallant stated that the Show Cause matter was placed on hold as property manager David Darling was hired to address ongoing matters. Officer Gallant reports that Mr. Darling has been doing an excellent job overseeing the property and calls for service to the property have dropped dramatically. Officer Gallant proposes to formally withdraw the Show Cause complaint and asks that documentation related to the matter remain part of the historical record.

MOTION: To move the Licensing Authority withdraw the show cause complaint with no action and to place a letter in the file stating such.

Motion by: David Nunheimer **Seconded by:** Larry Decker **Roll Call:** Yea 6 Nay 0

Discussion

1. **Blue Moon**, 431 Main Street Hyannis. Continued from February 22, 2021. Re: Licensing concerns noted in October, 2020.

Director Hartsgrove stated that the February 22, 2021 vote to suspend the license should have been address as part of a formal show cause matter which the applicant should have been granted proper notice of any potential violations. With the Licensee filing applications for a change of Manager and alteration of premise, Director Hartsgrove recommends that the license be renewed and withheld until all regulatory requirements have been met.

MOTION: To move the Licensing Authority approves the 2021 license renewal

Motion by: David Nunheimer **Seconded by:** Larry Decker **Roll Call:** Yea 6 Nay 0

Consent Agenda: Renewals

2021 Temporary Outdoor Expansion

1. *Sunnyside Restaurant*, 282 Main Street, Hyannis

Special One-Day Entertainment

1. *Castleberry Arts Festival*, Hyannis Village Green. Amplified music by live performers, 9 AM to 5 PM: June 17-18, and September 5-6, 2021.
2. *New England Rides Annual Carnival*, Cape Cod Mall, 793 Iyannough Rd. (back parking lot), Hyannis. Weekdays, 6 PM to 11 PM, Weekends, 3 PM to 11 PM: June 17-27, 2021.

MOTION: To move the Licensing Authority approve the consent agenda as printed.

Motion by: David Nunheimer **Seconded by:** Larry Decker **Roll Call:** Yea 6 Nay 0

Minutes

1. May 10, 2021

MOTION: To move the Licensing Authority approve accept the minutes of May 10, 2021 as printed.

Motion by: Larry Decker **Seconded by:** Larry Decker **Roll Call:** Yea 6 Nay 0

Licensing Updates

1. Licensing Authority
David Nunheimer proposed that the transfer of alcohol licenses be discussed at the next meeting.
2. Licensing Department
Director Hartsgrove noted that the Governor is to be releasing the state of emergency therefore, the Authority shall resume in person hearings beginning in July.
3. Police Department
Officer Gallant had no updates.

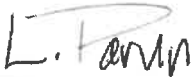
Cotuit resident, Paul Logan noted that Willow Street Tavern does not have proper handicap parking and signage as indicated by the applicant at the April 26, 2021 hearing. Director Hartsgrove stated that she has notified the building department of Mr. Logan observations.

Adjourn

MOTION: To move that the Licensing Authority adjourn the meeting at 11:00 am.

Motion by: David Nunheimer **Seconded by:** Larry Decker **Roll Call:** Yea 6 Nay 0

Respectfully submitted,



L. Parvin, Recorder
Town of Barnstable Licensing Assistant

Larry Decker

Larry Decker, Clerk
Town of Barnstable Licensing Authority