



# Town of Barnstable

## Regulatory Services

Thomas F. Geiler, Director

### Licensing Authority

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### BARNSTABLE LICENSING AUTHORITY LICENSING HEARING MINUTES

Town Hall Building, 367 Main Street, 2<sup>nd</sup> Floor Hearing Room, Hyannis, MA – 9:30 a.m.

March 15, 2010

A regular meeting of the Barnstable Licensing Authority was held on Monday, January 11, 2010. 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, Kim Connors, Licensing Agent, Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary.

#### Hearings:

**Two One Day Entertainment Licenses:** Application of Janet Gow for Friends of Sturgis Library, 3090 Main Street, Barnstable, MA, for two One Day Entertainment licenses for Friday, August 20, 2010 and Saturday, August 21, 2010 for its annual Antique Show and Sale to be held at the Barnstable/West Barnstable Elementary School, 2463 Main Street, West Barnstable from 10 am to 5 pm Friday and 10 am to 4 pm Saturday.

Janet Gow appeared for this application. She explained that it is their annual antique show with food held at the Barnstable/West Barnstable Elementary School. Admission is \$6.00. She said she has a permit from the Health Dept. They make enough in 2 days to support the children's program at the library for the year.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Janet Gow for Friends of Sturgis Library, 3090 Main Street, Barnstable, MA, for two One Day Entertainment licenses for Friday, August 20, 2010 and Saturday, August 21, 2010 for its annual Antique Show and Sale to be held at the Barnstable/West Barnstable Elementary School, 2463 Main Street, West Barnstable from 10 am to 5 pm Friday and 10 am to 4 pm Saturday.

**One Day Wine Only License:** Application of Laurie Tranchell on behalf of Baybridge Clubhouse, 278 Main Street, Hyannis, for a One Day Wine Only License for its 3<sup>rd</sup> annual fundraising event, "Dessert First, a Chocolate Soiree," on April 8, 2010 from 3:30 pm to 8 pm at the JFK Museum/Library.

Ms. Tranchell said this is their 6<sup>th</sup> annual, the 3<sup>rd</sup> at the museum. There is a program for adults with mental illness benefits from this. They serve a champagne fountain. Restaurants donate for their silent auction. Admission is \$20. Mr. Burman asked who is handling the alcohol – Ms. Tranchell is dispensing with another individual; they put a stamp on the hands of those whose id's have been checked.

Christine Ade advised we have a State Safety Certificate for the JFK.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Laurie Tranchell on behalf of Baybridge Clubhouse, 278 Main Street, Hyannis, for a One Day Wine Only License for its 3<sup>rd</sup> annual fundraising event, "Dessert First, a Chocolate Soiree," on April 8, 2010 from 3:30 pm to 8 pm at the JFK Museum/Library.

**Two One Day Entertainment Licenses:** Application of Margaret Van Sciver on behalf of Arts Foundation of Cape Cod, 3 Shootflying Hill Road, Centerville, MA 02632, for two One Day Entertainment Licenses for Boston Pops and three pre Pops performance groups for Saturday, July 31, 2010 from 5 pm to 7:30 pm and Sunday, August 1, 2010 from 1 pm to 7:30 pm on the Hyannis Village Green.

Maggie Van Sciver appeared for her application. This is the 25<sup>th</sup> anniversary event – Mr. Hoxie stated as good as ever. Mr. Burman asked something about the event – was told it is the only time the POPS comes to the Cape in the summer. Tony award winner who is in Glee, was in Rent and other shows.

Christine Ade advised we have a State Safety Certificate for Cape Cod Art Association.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Margaret Van Sciver on behalf of Arts Foundation of Cape Cod, 3 Shootflying Hill Road, Centerville, MA 02632, for two One Day Entertainment Licenses for Boston Pops and three pre Pops performance groups for Saturday, July 31, 2010 from 5 pm to 7:30 pm and Sunday, August 1, 2010 from 1 pm to 7:30 pm on the Hyannis Village Green.

**One Day All Alcohol and One Day Entertainment Licenses:** Application of Paul Covell on behalf of Barnstable County Deputy Sheriffs Office, P.O. Box 3028, Pocasset, for a One Day All Alcohol License and One Day Entertainment License (one guitar player) for a fundraiser for the Sheriff's Youth Programs to be held on March 26, 2010 at St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville, MA from 6 pm to 12 midnight.

Mr. Covell appeared for his application which has been held for a decade now without incident. Alcohol dispensed by members of the sheriff's assn. The tickets are \$100 for the event including a raffle.

Christine Ade advised we have a State Safety Certificate for the Greek Orthodox Church.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Paul Covell on behalf of Barnstable County Deputy Sheriffs Office, P.O. Box 3028, Pocasset, for a One Day All Alcohol License and One Day Entertainment License (one guitar player) for a fundraiser for the Sheriff's Youth Programs to be held on March 26, 2010 at St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville, MA from 6 pm to 12 midnight.

**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.

Mr. Prince, Trustee of the Library, appeared for the event, which is a donation event. Cape Cod Beer is donating the beer and wine. Mr. Burman asked if it is outdoors? He is concerned about neighbors...Mr. Prince stated one is the Historical Society and it is only 2 hours. St. Mary's has allowed them to use their 70 space parking lot for the event.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the 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, providing they use a licensed wholesaler.

**One Day Beer & Wine License:** Application of Olive Chase/The Casual Gourmet on behalf of Cape Cod Academy, 55 Osterville-West Barnstable Road, Osterville, MA, for a One Day Beer & Wine License for a school fundraiser to be held on March 27, 2010 from 4 pm to 9 pm.

This is a fundraiser auction and buffet dinner.

Christine Ade advised we have a State Safety Certificate for Cape Cod Academy.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Olive Chase/The Casual Gourmet on behalf of Cape Cod Academy, 55 Osterville-West Barnstable Road, Osterville, MA, for a One Day Beer & Wine License for a school fundraiser to be held on March 27, 2010 from 4 pm to 9 pm with all alcohol to be purchased from a licensed wholesale dealer.

**One Day All Alcohol License:** Application of Olive Chase/The Casual Gourmet on behalf of Duffy Health Center, 105 Park Street, Hyannis for a One Day All Alcohol

License for a fundraiser at Rectrix Aerodrome, 730 Barnstable Road, Hyannis, MA to be held on May 21, 2010 from 5 pm to 10 pm.

Olive Chase appeared for the application. This is also an auction and dinner fundraiser for Duffy and celebration of the documentary the TV has done about the Duffy Health Center.

Mr. Burman asked about issues with Rectrix; Christine Ade advised we have a State Safety Certificate for Rectrix Aerodrome.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Olive Chase/The Casual Gourmet on behalf of Duffy Health Center, 105 Park Street, Hyannis for a One Day All Alcohol License for a fundraiser at Rectrix Aerodrome, 730 Barnstable Road, Hyannis, MA to be held on May 21, 2010 from 5 pm to 10 pm with all alcohol to be purchased from a licensed wholesaler.

**One Day Entertainment License:** Application of Lois Andre on behalf of Rotary of Hyannis, P.O. Box 39, Hyannis, MA 02601, for a One Day & Sunday Entertainment License for its annual Rotary of Hyannis Home & Garden Show featuring vendors from local businesses in the home, financial, landscaping industries, etc. to be held at Barnstable High School, 744 West Main Street, Hyannis on Saturday, March 27, 2010 from 9 am to 6 pm and Sunday, March 28, 2010 from 10 am to 5 pm.

Lois Andre appeared for her application Cecelia Carey is with her and she is the Treasurer of the club. It is their major fundraiser for the good works fund. They may have some face painters and clowns.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Lois Andre on behalf of Rotary of Hyannis, P.O. Box 39, Hyannis, MA 02601, for a One Day & Sunday Entertainment License for its annual Rotary of Hyannis Home & Garden Show featuring vendors from local businesses in the home, financial, landscaping industries, etc. to be held at Barnstable High School, 744 West Main Street, Hyannis on Saturday, March 27, 2010 from 9 am to 6 pm and Sunday, March 28, 2010 from 10 am to 5 pm.

**New Common Victualler License:** Application of Patricia Mersky, d/b/a Osterville Village Café, 3 Wianno Avenue, Osterville, MA, Patricia Mersky, Manager, for a **New Common Victualer License**, the hours of operation to be 7 am to 5 pm.

Mrs. Mersky appeared for her application and requested we change the hours requested to 7 – 9 pm, to covet more ice cream business. This was the old Osterville News Stand. Mr. Burman asked if the name has been resolved and she stated it has.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Patricia Mersky, d/b/a Osterville Village Café, 3 Wianno Avenue, Osterville, MA, Patricia Mersky, Manager, for a **New Common Victualer License**, the hours of operation to be 7 am to 9 pm.

**New Class II Auto Dealer License (Change of corporate name):** Application of Nantucket Auto Sales, LLC, d/b/a Nantucket Auto Sales, Myron J. Sears, Manager, for a New Class II Automobile Dealer's License, 89 Bassett Lane, Hyannis, MA, maximum of 18 total vehicles on the property, hours of operation: 8 am to 5 pm, Monday through Saturday.

Mr. Hallett, co-owner appeared for their application. This is a corporate change only – same everything else except has changed to an LLC. Mr. Sullivan stated it used to be 15 for display, now is 18 total. Mr. Hallett said he understood.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Nantucket Auto Sales, LLC, d/b/a Nantucket Auto Sales, Myron J. Sears, Manager, for a New Class II Automobile Dealer's License, 89 Bassett Lane, Hyannis, MA, maximum of 18 total vehicles on the property, hours of operation: 8 am to 5 pm, Monday through Saturday.

**New Seasonal Common Victualer All Alcohol, Daily Live, Non-Live and Sunday Entertainment Licenses and Pledge of License:** Application of 9 Lives Corp., d/b/a Black Cat Tavern, 165 Ocean Street, Hyannis, MA, Scott Brownlee, Manager, for a New Seasonal All Alcohol Common Victualer License with total seating of 146 with 40 outside, and Daily Live, Non-Live and Sunday Entertainment Licenses, entertainment to be 11 am to 12:45 pm. They are also requesting pledge of the license to bank of Cape Cod.

Mr. Colombo, President & Treasurer and Mr. Brownlee, co-owner and proposed Manager appeared for this application with Dan Creedon, Esq.

He stated for 29 years Mr. Colombo has run The Roadhouse Café. Everyone at this location will be TIPS trained. Mr. Brownlee has 11 years in the business at Alberto's & then was Bar and Day Manager at Colombo's. They are requesting daily live, non-live and Sunday entertainment and a pledge of the license. They will be open 11 – 1 and entertainment 11 am to 12:30 am. This is a new application – 146 inside, 40 outside, 20 standees in the bar and maximum of 20 employees on the floor at any time. Board of Health has approved subject to addition of a bathroom upstairs. They will be doing that. Mr. Hoxie asked if the seating is the same as the prior license. The prior was a little less but layout etc. has been approved by Health and Tom Perry. The original plan came in without the standees but it has now been added and signed off. Tom Perry approved the plan. They plan to close the 2<sup>nd</sup> or 3<sup>rd</sup> of January. They don't want to water down attendance at their other two restaurants for the winter months (Roadhouse and Colombo's).

Peter O’Keeffe came forward representing the old Black Cat. He stated they are in favor of the Board granting these licenses. They will relinquish their right to a license if the new people are approved.

Mr. Burman asked what the total building capacity for inside will be and whether the outside people will come in if it rains. They stated they have a canvas with sides for the outdoor 40. The total inside number excludes kitchen employees. He said there is 178 in and 40 out. Mr. Burman asked Mr. Perry for his numbers. Mr. Perry said the original plan showed 146 and 40 outside; but there is a revised plan showing employee number (12) and standee number (20). Kitchen people were never in the calculation – they don’t come out on the floor. The kitchen would be 8 maximum but there is more than enough square footage in the kitchen to accommodate those employees. Officer Maher asked if the bar area is broken down by # at the bar? Mr. Perry stated 20 standees in the bar. They showed 40 seats in the lounge and 20 standees in the lounge. Officer Maher stated the kitchen is not part of the count to take into consideration. Mr. Perry is satisfied with the 146 seats and enough room for the 20 standees and 12 employees. He didn’t realize it is waitstaff but said another 8 or so in the kitchen is fine. Officer Maher stated each room’s certificate has to have it’s own number. Mr. Perry said it will. Officer Maher stated they will be looking for 178 or less. Mr. Geiler stated we can rewrite the premises description to reflect the Board’s vote.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of 9 Lives Corp., d/b/a Black Cat Tavern, 165 Ocean Street, Hyannis, MA, Scott Brownlee, Manager, for a New Seasonal All Alcohol Common Victualler License with total seating of 146 and total number 178 inside (to include 20 standees and 12 employees) plus 40 outside, and Daily Live, Non-Live and Sunday Entertainment Licenses, entertainment to be 11 am to 12:45 pm and pledge of the license to Bank of Cape Cod.

### **Business Meeting:**

Last drink letter response – Tommy Doyle’s. Mr. Geiler stated we had received a response from Tommy Doyle’s on the last drink issue, Officer Maher stated he had read it and is satisfied they understand the severity of the alleged infraction.

Auto Dealer discussion regarding finalization for public hearing for requirements for setting a total number of vehicles on auto dealer lots for those who do not have them at present.

Mr. Geiler stated we sent notice to all the auto dealers regarding the issue of possibly amending the regulations. We did receive comments from just a few dealers. Discussions have taken place with Hyannis Fire and Building and Mr. Burman to get to where we want to go for total vehicle numbers on lots. The big question is how do we get there. Before we put it on paper we need to review this today.

Mr. Geiler asked Officer Maher and Lt. Jason to address it first. Officer Maher stated that, basically what happened was as we became more and more involved with the enforcement of Class I and Class II Dealers, in going around to the different auto sales facilities, I'm sure you've seen them, many are parked in an orderly manner. It is very easy just to go in there and check if they meet the requirement it says on their license. However, there are other dealerships, perhaps because they've been in business so long or any number of other reasons, that don't have the vehicle capacity on their license. There are a few in Town that have taken advantage of that fact NS have created a situation where at some point we can't even get into their parking lot because there are so many vehicles there. A lot of the times we do these inspections at night which makes it easier to just have a total number of vehicles involved. Even if we were to do them during the day it would be very simple for us just to drive in, count the number of vehicles there and find out whether they are at capacity or not. The other thing that has come up during discussions of the changes proposed is safety and how the vehicles are parked around a building and whether it creates a fire hazard for any fire department to have to go and possibly have to work within the structure of the building when vehicles are parked around the building, and then finally we also discussed having some type of plot plan or a parking plan or diagram that would be readily available to the police department or any other agency so that if we were to go in and ask for a copy of that we could just look to see the cars and see if the vehicles are parked where they are supposed to be parked and that has come up quite a bit in the last few months in doing enforcement of some of the Class II Dealers and even Class I Dealers. There's been over the last couple of months a number of complaints, and I know that goes from one dealer to another on how cars are parked and how many and things like that, but it would be helpful if we had some type of diagram of where vehicles could be parked so there is no confusion as to where things are and where they aren't to be.

Mr. Hoxie stated the auto dealers should all have an available plan they adhere to. Mr. Burman stated he was probably the instigator in moving this forward. He stated it is Tom Perry's final decision what those numbers will be. Mr. Perry stated a lot of times it is the older dealers who have been here a long time and never went to Site Plan Review, never had a capacity set on their lots. They have done their best on all the new ones.

Officer Maher stated that part of the concern is that the perception is that we are trying to reduce the number of vehicles. Most Class I Dealers have off site storage where they keep extra vehicles like Honda, Volkswagen, Toyota, Chevy...all have off site parking. It would be very helpful, not just for me because I am so involved in it but the Lieutenant could send an officer down to make sure the vehicles are where they are supposed to be. All they have to do is walk in, get the particular plan, look at it and go out, make sure it matches and they are done. It would make things a lot easier for us and keeps everybody in Town on the same page, #1. I think if you look at Yarmouth Road and that being one of the major egresses into the Town, it would certainly create a better atmosphere for people driving into Town if things looked a lot better than they do now. To take it a step further, if you look at West Main Street and even parts of 132, where vehicles are parked up on grass and things like that, it's an aesthetic thing within the Town. And then finally, and most importantly, is the safety aspect with the fire department where if you look at some of these Class I and Class II Dealers with vehicles parked 3 deep against the building, if you ever had to get in and do something there is going to be a problem.

Mr. Burman stated that come January 1, 2011 every dealer must have a plan and number capacity from Building and Fire before we will grant the licenses. Mr. Perry stated how can we require them to change what they have been doing for years? The Building Commissioner has no authority to set the numbers OUTSIDE but in Town Ordinances there is something requiring a site plan review of NEW businesses.

Mr. Geiler stated that all the departments sit down and come up with something that meets current zoning requirements, respects neighbors and meets public safety standards and new green space requirements and traffic patterns. This is the only regulation we have currently. Many of the older businesses have nowhere to expand. Their capacities would be significantly reduced under today's requirements. That is something which must be put in place by the Licensing Authority. It will affect all in a different way as far as what they can and can't do. They will be caught because the Town will be pushing for less vehicles and manufacturer pushing for more vehicles. The Town is trying to get the vehicles in a semblance of order for aesthetics and safety. Mr. Geiler said the problem is applying today's standards to yesterday's businesses which do not have plans for parking and numbers for parking. Also, several sites have property occupied by more than one business. In those cases, delineation of business A, B and C could perhaps be implemented.

Mr. Burman wondered about renewal time for requiring them to have a plan. Mr. Perry said perhaps site plan review could be changed to include older businesses and issues like these. Officer Maher stated a lot have off site storage parking anyways. Mr. Hoxie asked if in the name of public safety that we ask ALL dealers to have this parking plan for safety? Mr. Geiler stated he does not disagree, it makes a lot of sense. But in order to get there we have in place only one mechanism – site plan review for new licenses and today's standards, which are much stricter.

Mr. Burman asked of the Lt. from Fire perhaps could shed some insight on that. Deputy Chief Frank Pulsifer, Barnstable Fire came forward. The Fire Department has jurisdiction to designate access on certain properties – low impact properties. They do have under the statute where they can designate entrances and egresses. Also they can designate fire lanes on these properties (CMR 10). Finally CMR 14 can restrict these businesses for flammable or combustible storage permits for gasoline, diesel, paints, etc. When they come in for this, the Fire Department can restrict, and they do have limited authority to make some judgment calls where vehicles are placed. Mr. Burman stated it is not the intent to restrict or cut back on numbers – just to allow us to count the numbers of vehicles against what is allowed on each property. Mr. Burman stated he goes along with the entrances, exits, traffic flow and number of vehicles on the plans we ask for. Lt. Jason asked how many do not have numbers now. She suggested perhaps we can ask them to volunteer a number themselves. Officer Maher stated there are about 20. Mr. Hoxie asked to



have a public hearing to discuss this. Mr. Sullivan stated he would like some discussion.

Mr. Geiler stated if we can give them an idea how we are going to reach the numbers it would help these dealers in question. Site Plan is fairly cut and dried as far as the numbers are concerned. He used Saturn as an example. The number is probably ½ the number of other dealerships of the same size, because it reflects all of TODAY's requirements. The dealers want to know how we are making this decision. Mr. Geiler stated there is really no provision allowing grandfathering. Deputy Chief Pulsifer stated it is done through site plan review or when a building is constructed. They have been using gentlemen's agreements with the older ones.

Mr. Geiler stated again perhaps we can ask the dealers to give us a number they can live with – then site plan would be out of the picture. That might be something the auto dealers would be willing to look at. Mr. Geiler stated he can think of at least 6 places this will kill as far as numbers alone go. There is a potential issue. He stated even the Police Department would not like to see this imposed to the detriment of these licensees.

Mr. Burman suggested a letter be sent for a meeting for discussion of vehicle numbers on lots and how the parking is laid out. Mr. Hoxie stated he thinks that should be a public hearing directed at public safety. Mr. Perry stated it is the nature of the business – the manufacturers are shoving the vehicles down their throats.

Officer Maher stated for the most part this is not just the new car dealers – several are Class II which have vehicles all hodgepodge on the lots. Ask them all to bring in a parking plan to the meeting. Mr. Hoxie stated that would have to be requested AFTER a public hearing. He stated each fire department should be involved.

Mr. Geiler stated the Hyannis Fire Inspector has had no problems that have not been corrected. He is not aware of any safety violations out there and Fire is doing a good job. He is concerned if we have a meeting, we put the people on notice of what we are looking at. He said it would be unfair to not let them know the numbers may be greatly reduced. If it is Site Plan we will require, that can cost several thousand dollars to go through the process.

Mr. Hoxie asked if Site Plan has jurisdiction over this? Mr. Geiler stated it does not at present. If the Licensing Authority came up with a ruling that all auto dealers must go through site plan they then could be utilized. Mr. Hoxie stated we should not just notify them of a public hearing but that it could affect their operation as we might have limits on the lots. May 3<sup>rd</sup> is the hearing date Mr. Hoxie proposed for this hearing.

Mr. Hoxie thanked Mr. Perry and Deputy Chief Pulsifer.

Mr. Geiler stated we received another letter from the last establishment to receive notice of a last drink reported at that location. Officer Maher stated he has read the letter and is satisfied.

The meeting was adjourned at 10:45.

Respectfully submitted,

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Christine P. Ade, Recorder  
Town of Barnstable Licensing Authority

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Paul Sullivan, Clerk  
Town of Barnstable Licensing Authority