



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.

July 7, 2008

A regular meeting of the Barnstable Licensing Authority was held on Monday, July 7, 2008. 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, Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary.

Requests:

Car Sale Permit: Application for a Special 4 Day Permit for **Saturn of Hyannis**, 115 Bassett Lane, Hyannis, MA 02601, for an off-site fundraiser Car Sale at Barnstable High School, 744 West Main Street, Hyannis from August 14, 2008 to August 17, 2008 \$100.00 per vehicle sold will be donated to the school to be used at its discretion.

HOLD to 7/28/08.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to continue this hearing to 7/28/08.

One Day Entertainment License and Sunday Entertainment License: Application of Cats on the Beach Cat Club, from Melissa Alexander, 24 Residential Lane, Blackstone, MA, for **two One Day Entertainment Licenses** for a cat show to be held at the Horace Mann Charter School, Marstons Mills, MA on Saturday September 13, 2008 and Sunday, September 19, 2008 from 7 am to 6 pm (including set up and break down time). They will be setting up only on September 12, 2008 after 2:30 pm.

Melissa Alexander appeared for the application. This is a yearly show they have held at the school; they hope to have people from the local humane societies there to adopt some of the cats. There are judges in 6 rings. Each judge sees every cat. It is a good show.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Cats on the Beach Cat Club, from

Melissa Alexander, 24 Residential Lane, Blackstone, MA, for **two One Day Entertainment Licenses** for a cat show to be held at the Horace Mann Charter School, Marstons Mills, MA on Saturday September 13, 2008 and Sunday, September 14, 2008 from 7 am to 6 pm (including set up and break down time). They will be setting up only on September 12, 2008 after 2:30 pm.

One Day All Alcohol and One Day Entertainment License: Application of Polly Tobin Goddard on behalf of Barnstable Land Trust, P.O. Box 224, Cotuit for a **One Day All Alcohol License and One Day Entertainment License** for a string band, for its "Gifts by the Sea" annual event , to be held on August 16, 2008 from 5:30 pm to 8:30 pm at 270 Commerce Road, Barnstable, MA.

Polly Goddard appeared – it is the 14th year of the event at a new location. Now will be 5:00 to 8:30. Same format as in the past. They do charge admission of \$85.00.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Polly Tobin Goddard on behalf of Barnstable Land Trust, P.O. Box 224, Cotuit for a **One Day All Alcohol License and One Day Entertainment License** for a string band, for its "Gifts by the Sea" annual event to be held on August 16, 2008 from 5:00 to 8:30 p.m. at

4 One Day Beer & Wine Licenses: Application of Louis Cataldo on behalf of Cotuit Center for the Arts, 4404 Route 28, Cotuit for **4 One Day Beer & Wine Licenses** for 1) a Benefit with Roydon Nash on July 13, 2008 from 2:30 pm to 6:30 p.m., 2) a musical event with Barrence Whitfield on July 17, 2008 from 7 pm to 11:30 pm, 3) a special benefit with comedian Jimmy Tingle on July 19, 2008 from 7 pm to 11 pm and 4) an art exhibit opening on August 2, 2008 from 4:30 pm to 7:30 pm at the center.

Chris Doran, Executive Director of the center appeared for the 4 applications. Mr. Burman commented she did not look like Mr. Cataldo.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the applications of Louis Cataldo on behalf of Cotuit Center for the Arts, 4404 Route 28, Cotuit for **4 One Day Beer & Wine Licenses** for 1) a Benefit with Roydon Nash on July 13, 2008 from 2:30 pm to 6:30 p.m., 2) a musical event with Barrence Whitfield on July 17, 2008 from 7 pm to 11:30 pm, 3) a special benefit with comedian Jimmy Tingle on July 19, 2008 from 7 pm to 11 pm and 4) an art exhibit opening on August 2, 2008 from 4:30 pm to 7:30 pm at the center.

Hearings:

New Common Victualler License: Application of Hyannis Donuts, Inc., d/b/a Honey Dew Donuts of Hyannis, 313 Iyannough Road, Hyannis, MA, Tony Gionfriddo, Manager, for a **New Common Victualer License**, the hours of operation to be 5 am to 11:00 pm.

Mr. Gionfriddo appeared for the existing Donut World which will be remodeled and relandscaped. It is shut down now. His brother Jim runs the Honey Dew Donuts in Dennisport and is part of this corporation. They plan to open late August or by Labor Day at the latest.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of of Hyannis Donuts, Inc., d/b/a Honey Dew Donuts of Hyannis, 313 Iyannough Road, Hyannis, MA, Tony Gionfriddo, Manager, for a **New Common Victualer License**, the hours of operation to be 5 am to 11:00 pm.

New Common Victualler License: Application of Mark Harvey, d/b/a Souled Out Restaurant, 167 Sea Street, Hyannis, MA, Mark Harvey, Manager, for a **New Common Victualer License**, the hours of operation to be 6:00 am to 3:00 pm.

Mr. Harvey, owner and Manager, appeared for his application. It used to be World Banquet. He has spent the last couple months on cleanup, etc. Mr. Hoxie commented it was the old clam shack. Mr. Hoxie asked about parking; there is room for 13 and 2 handicapped spots. He has spoken with all the neighbors and has fenced in the dumpster. Mr. Burman asked about the status of the apartment – once it is done they will be in and out of there, using it as an office. Mr. Sullivan asked about pick up time at the dumpster – he has arranged it for 3-4 PM to avoid any of the situations which took place in the past.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Mark Harvey, d/b/a Souled Out Restaurant, 167 Sea Street, Hyannis, MA, Mark Harvey, Manager, for a **New Common Victualer License**, the hours of operation to be 6:00 am to 3:00 pm.

****Change of License Type:** Application of R&Y Enterprises, Inc., d/b/a Ying's, 59 Center Street, Hyannis, Sunun Chaloeicheep, Manager, for a **Change of License Type from Common Victualler Wine & Malt to Common Victualler All Alcohol AND Alteration of Premises** to add outside dining at 4 tables with 16 seats and **Change of D/B/A** to Ying's Café.

Sunun Chaloeicheep, Manager, appeared for the applications. They have been before Site Plan Review; the plan we have is the revised plan. Mr. Hoxie asked her how long she has been in operation, it is ten years now. Sunun stated they hope to make more income with the all alcohol - Mr. Hoxie asked her if people have asked for it – that would show a need for the all alcohol request; she stated they do want it. Mr. Burman asked if it was agreed to by her landlord (the outside seating). She stated they did send the abutter mailing (Landlord included) and had no responses. The hours of operation are 11 am until midnight.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of R&Y Enterprises, Inc., d/b/a Ying's,

59 Center Street, Hyannis, Sunun Chaloeicheep, Manager, for a **Change of License Type from Common Victualler Wine & Malt to Common Victualler All Alcohol AND Alteration of Premises** to add outside dining at 4 tables with 16 seats and **Change of D/B/A** to Ying's Café from 11 am to midnight.

New Common Victualler License: Application of Dean Walton, d/b/a The Little Sandwich Shop, 223 Stevens Street, Hyannis, MA, Dean Walton, Manager, for a **New Common Victualer License**, the hours of operation to be 6:00 am to 10:00 pm.

Mr. Walton has been in the business 20+ years. It is in the Village Marketplace. He has been running Persey's. It was Quickie Mart prior to this restaurant. They will do breakfast and lunch as well as fresh baked goods. His variance hearing for a grease trap is this week – there is an existing one but it is not transferable so they had to apply.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Dean Walton, d/b/a The Little Sandwich Shop, 223 Stevens Street, Hyannis, MA, Dean Walton, Manager, for a **New Common Victualer License**, the hours of operation to be 6:00 am to 10:00 pm. provided the Board of Health variance is approved.

New Annual All Alcohol Common Victualler License: Application of Costa Galatas, d/b/a Pizza Market, 12 Thornton Drive, Hyannis, Costa Galantas, Manager for a New Annual All Alcohol Common Victualler License, the hours of operation to be 6:00 am to 1 am. There was a request received from the owner to please continue this to 7/28/08.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to continue the application of Costa Galatas, d/b/a Pizza Market, 12 Thornton Drive, Hyannis, Costa Galantas, Manager for a New Annual All Alcohol Common Victualler License, the hours of operation to be 6:00 am to 1 am. To 7/28/08.

New Junk Dealer License: Application of Tim Ferreira, d/b/a **Mid Cape Metal Recycling**, 31 Thornton Drive, Hyannis, Tim Ferreira, Manager for a **New Junk Dealer's License**, hours of operation to be 7 am to 4 pm.

Attorney Connors and Tim Ferreira appeared for the application. Attorney Connors represented that he had tried to reach David Houghton as the Board requested – they spoke just this morning, as Attorney Houghton had been on vacation. They are setting up a meeting with him and suggested this be continued to the next hearing. It was postponed to 7/28/08. Attorney Connors stated nothing has changed with his applications. Mr. Geiler stated that he is operating; and that the dumpsters are out front where they are not supposed to be; the trucks are on the street where they are not supposed to be. Mr. Hoxie stated they are also on for renewal for 30D. Both have been continued now until 7/28/08.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to continue the application of Tim Ferreira, d/b/a **Mid Cape Metal**

Recycling, 31 Thornton Drive, Hyannis, Tim Ferreira, Manager for a **New Junk Dealer's License**, hours of operation to be 7 am to 4 pm to 7/28/08 as well as the renewal application for 30D.

New Annual Common Victualler License: Application of The Coffee Table Café, LLC d/b/a Coffee Table Cafe, 230 Ocean Street, Unit A, Hyannis, MA, Peter Scalata, Manager, for a **New Common Victualer License**, the hours of operation to be 6 am to 10:30 pm.

Peter Scalata appeared and advised they have opened without tables and chairs at present (with a retail food service permit) – the response has been very positive. It is the new HyLine building next to the Raw Bar. Mr. Sullivan stated this was before us last hearing and inadvertently missed it. Mr. Scalata stated they are 100% takeout at present – the tables and chairs are in a warehouse. Mr. Geiler asked if this was seasonal; they would like to go year around. They bake right there. He would be happy to stay open as long as there is demand.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of The Coffee Table Café, LLC d/b/a Coffee Table Cafe, 230 Ocean Street, Unit A, Hyannis, MA, Peter Scalata, Manager, for a **New Common Victualer License**, the hours of operation to be 6 am to 10:30 pm.

New Junk Dealer License: Application of Jeffrey Niedbala, d/b/a Spindle City Precious Metals, 1475 South Main Street, Fall River, Ma, for a Junk Dealer License for purchasing only for 3 events to be held on July 18, 19 and 20, 2008 at the Cape Cod Mall outside Macy's.

Aaron Tetreault and Mr. Niedbala came forward for this application. They are planning to purchase precious metals. They will be open mall hours. It will be advertised on the radio and in the papers. They have five locations in the Commonwealth and one in Rhode Island. They have been in business five years. They are buying for the value of the metals.

Mr. Burman stated he is uncomfortable – with “fly by nighters” buying at a price they say is legal when it isn't. Mr. Tetreault stated the prices are posted in the paper. They have been growing consistently and go by the rate as of the advertising. They have been at their locations for a while and have had no problems. Officer Maher asked a question about recording of purchases; Mr. Tetreault stated they go by the law – customers will fill out a form with the proper information and they will ask for picture ID. They do not buy from anyone under 18. Mr. Geiler asked about how long they have to hold the items as we have a minimum requirement. Mr. Tetreault stated that they hold everything 30 days; our rules are 7 days. Officer Maher asked for a copy of the purchased metals when they have it. Mr. Geiler also asked if their scale is sealed. They advised that it is.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Jeffrey Niedbala, d/b/a Spindle City Precious Metals, 1475 South Main Street, Fall River, Ma, for a Junk Dealer License for purchasing only for 3 events to be held on July 18, 19 and 20, 2008 at the Cape Cod Mall outside Macy's with the hours being the same as the mall and that they will comply with all the rules and regulations of the Town of Barnstable.

Show Cause Hearing: Show Cause on Up the Creek Again, 36 Old Colony Road, Hyannis, John M. Evans, Manager, for complaints received from neighbor with regard to smoking patio. Continued to 7/7/08; if no complaints, hearing will not take place.

Mr. Hoxie stated that the Hearing is called off as no complaints have been received by Licensing or the Police Department.

Other Business:

Revocation of Class II Auto Dealer License of Auto Smart, Inc., 61 Falmouth Road, Hyannis, for failure to maintain its surety bond in accordance with MGL Ch 140, Section 58 (7).

Mr. Danielyan appeared for Auto Smart to advise that the bond had been reinstated per our request; and that it was supposed to have been taken care of. When he received our notice he contacted the bonding company, but the woman who had helped him was on vacation. He has now provided proof of reinstatement with no lapse in coverage. They were enticed to have an out of state agency look at all their insurances; that was supposed to be less expensive but turned out not to be. They were lax in the diligence of paying the 1st bond but is has been reinstated in full.

Mr. Hoxie stated the Board was satisfied the bond is reinstated.

Mr. Geiler stated we have received many letters in support of the restaurant application of Nirvana, Barnstable Village. They are not zoned for restaurant use but have filed with the Board of Appeals for a permit to allow the restaurant operation. It is Mr. Geiler's position it would then come back to us for a review. He stated that without compliance with the zoning requirements we are limited as to what we can do. If they do receive zoning relief that application could go forward.

Mr. Geiler stated that we should put into place by adopting the guidelines for sting operations by the Board. He stated that the Police Department suggests that the ABCC guidelines be adopted by the Town. The courts have basically upheld stings where there is a comprehensive plan for stings in place. One of the ABCC inspectors has suggested this be adopted by the council; Mr. Geiler suggested the Licensing Authority adopt them so the police department can act on them as "our" guidelines. Mr. Geiler stated he will check with the Legal Department as to how it should be done if the Board wishes. Mr. Hoxie asked that it be confirmed by Legal. Mr. Burman agreed as well and JoEllen Jason also recommended we adopt them.

Adjourned at 10:09 a.m.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority