



Town of Barnstable

Regulatory Services

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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.
April 29, 2013

A regular meeting of the Barnstable Licensing Authority was held on Monday, April 29, 2013, Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Dick Boy, Associate Commissioner, Ron Semprini, Associate Commissioner; Thomas Geiler, Director of Regulatory Services and Licensing Agent, Richard V. Scali, Consumer Affairs Supervisor, Patrolman Steve Maher, Liaison Officer from the Barnstable Police Department, and Christine Ade, Recorder. David Nunheimer, Associate Commissioner, was absent. Lt. John Murphy was absent.

Vote to accept Minutes: Vote to accept minutes of the 4/8/13 Meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the minutes of the 4/8/13 Meeting.

Hearings:

One Day Wine & Malt & 1 Day Entertainment and 2nd 1 Day Entertainment Licenses: Application of Jennifer Williams on behalf of Osterville Historical Museum, 155 West Bay Road, Osterville, for a One Day Beer & Wine License and a One Day Entertainment License for a Fundraiser for the Historical Society at the museum outside in a tent, on July 14, 2013 called Summer Sampler: Pigs & Pearls, with food samples from local chefs & vendors from Osterville Farmer's Market with soft jazz and a silent auction from 5 pm to 7 pm and a One Day Entertainment License for its 22nd Annual Antique Show outside at the Museum on August 15, 2013 from 9 am to 4 pm (rain date August 16, 2013).

Ms. Williams appeared for the applications. The summer sampler is having Cape Cod Beer and local vendors and chefs, music and in an outdoor tent. The antique show is the 22nd annual show – over 35 vendors participate. Mr. Hoxie asked about the pigs and pearls – last year's theme was bacon. Last year had oysters for pearls, barbeque, pizzas, yams, bacon, etc. This year will be similar. Mr. Hoxie stated his cholesterol is going up just thinking about it. She said it is old fashioned Cape Cod.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the applications of Jennifer Williams on behalf of Osterville Historical Museum, 155 West Bay Road, Osterville, for a One Day Beer & Wine License and a One Day Entertainment License for a Fundraiser for the Historical Society at the museum outside in a tent, on July 14, 2013 called Summer Sampler: Pigs & Pearls, with food samples from local chefs & vendors from Osterville Farmer's Market with soft jazz and a silent auction from 5 pm to 7 pm and a One Day Entertainment License for its 22nd Annual Antique Show outside at the Museum on August 15, 2013 from 9 am to 4 pm (rain date August 16, 2013).

One Day Entertainment License: Request of Suzan Felows, 70 Stetson Street, Hyannis, for a One Day Entertainment License for Brenda Cottingham of Maidstone, England for the 4th Annual Evening of Clairvoyance to be held in Warren Hall at the Unitarian Church on Main Street, Barnstable on September 13, 2013 from 7 pm to 10 pm.

Suzann Fellows appeared for this application as she does each year. Brenda is still in England. She will be here for 2 weeks. It has been a success at \$15.00 per head. Ms. Fellows said she is very good.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Suzan Fellows, 70 Stetson Street, Hyannis, for a One Day Entertainment License for Brenda Cottingham of Maidstone, England for the 4th Annual Evening of Clairvoyance to be held in Warren Hall at the Unitarian Church on Main Street, Barnstable on September 13, 2013 from 7 pm to 10 pm.

One Day All Alcohol and One Day Entertainment License: Request of Michael Brooks on behalf of Cape Cod Synagogue, 145 Winter Street, Hyannis for One Day All Alcohol and One Day Entertainment License for One Day event with alcohol, a raffle and a Jack Leyden and the Accent Band to be held at the Synagogue on May 11, 2013 from 7 pm to 11 pm.

Gene Burman stepped down as he has an interest in this application. Michael Brooks appeared for this application. It is in conjunction with a raffle and is their biggest fundraiser of the year.

A motion was duly made by Mr. Boy, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Michael Brooks on behalf of Cape Cod Synagogue, 145 Winter Street, Hyannis for One Day All Alcohol and One Day Entertainment License for One Day event with alcohol, a raffle and a Jack Leyden and the Accent Band to be held at the Synagogue on May 11, 2013 from 7 pm to 11 pm.

One Day Entertainment License: Request of Amy DeFeudis of Dance Designs, 11 Enterprise Road, #17&18, Hyannis, for a One Day Entertainment license for dance

recitals featuring 200 students to be held at Barnstable High School Performing Arts Center on June 22 and June 23, 2013 from 4 pm to 6 pm each day.

Ms. DeFeudis appeared for this application – this is her first year as Director; has been Assistant Director for 10 years.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Amy DeFeudis of Dance Designs, 11 Enterprise Road, #17&18, Hyannis, for a One Day Entertainment license for dance recitals featuring 200 students to be held at Barnstable High School Performing Arts Center on June 22 and June 23, 2013 from 4 pm to 6 pm each day.

Carnival License: Application of Carmela White, Rockwell Amusement & Promotions, Inc., 10 Red Oak Drive, Johnston, RI, for a **Special Permit for a Carnival** with 15 rides and 15 games for Monday, June 3, 2013 through Sunday, June 9, 2013, David Bertozzi, Manager, to be held at the Cape Cod Mall rear parking lot, 769 Iyannough Road, Hyannis. Set up will be on 6/03 and 6/04/2013, and the carnival will be operating from 6 pm to 10 pm Wednesday & Thursday, 6 pm – 11 pm Friday, noon to 11 pm Saturday and 1 pm to 10 pm Sunday.

Mr. Hoxie asked if they have done everything they need to do with the police, fire, etc. Harold Fera appeared for the application. Mr. Fera advised they have. Officer Maher stated they are all set.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Carmela White, Rockwell Amusement & Promotions, Inc., 10 Red Oak Drive, Johnston, RI, for a **Special Permit for a Carnival** with 15 rides and 15 games for Monday, June 3, 2013 through Sunday, June 9, 2013, David Bertozzi, Manager, to be held at the Cape Cod Mall rear parking lot, 769 Iyannough Road, Hyannis. Set up will be on 6/03 and 6/04/2013, and the carnival will be operating from 6 pm to 10 pm Wednesday & Thursday, 6 pm – 11 pm Friday, noon to 11 pm Saturday and 1 pm to 10 pm Sunday.

New Junk Dealer License: Application of Ocean 5 Enterprises, LLC, d/b/a Cottage by the Sea, 8 West Bay Road, Osterville, for a New Annual Junk Dealer License, James Boucher, Manager, for sale of household furniture and décor, maximum hours of operation to be 9 am to 9 pm.

Mr. Boucher appeared for this application – it is interior decorative items. It is right on Main Street – 771 Main Street across from Wimpy's. Mr. Hoxie asked if they have held this type of license before. They have not. Will run Tuesday to Saturday – but want the license for 7 days in case days change. Mr. Burman asked if they have been operating without the license prior to now; Mr. Boucher stated they have not. They are new and hope to be open by Memorial Day.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Ocean 5 Enterprises, LLC, d/b/a Cottage by the Sea, 8 West Bay Road, Osterville, for a New Annual Junk Dealer License, James Boucher, Manager, for sale of household furniture and décor, maximum hours of operation to be 9 am to 9 pm, 7 days per week.

New Class II Auto Dealer License (change to corporate name): Application of All Motors Auto Sales, Inc., d/b/a All Motors Auto Sales, 66 Barnstable Road, Hyannis, Luis Fernandez, Manager, for a new Class II Auto Dealer license (license is currently in name of owner/manager rather than corporate name) with a maximum of 28 total vehicles on site, hours of operation to be 9 AM to 5 PM.

Mr. Fernandez appeared to advise this is in operation now; no changes to the business. Officer Maher stated there are no problems.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of All Motors Auto Sales, Inc., d/b/a All Motors Auto Sales, 66 Barnstable Road, Hyannis, Luis Fernandez, Manager, for a new Class II Auto Dealer license (license is currently in name of owner/manager rather than corporate name) with a maximum of 28 total vehicles on site, hours of operation to be 9 AM to 5 PM.

Alteration of Premises: Application of Brasilia Foods, LLC, d/b/a FOGO Brazilian Barbeque, 39 Iyannough Road, Hyannis, Elizabeth Hurley, Manager, for a Change in License Description to read: Single story restaurant at 39 Iyannough Road, Hyannis. Dining room seating 35 with buffet area, bar area seating 28, deck seating 20. Five entrances/exits. Three restrooms including one which is handicap accessible. All as shown on plan dated 3/18/13.

Vincent D'Olimpio appeared for the application. He advised this is the home stretch – they hope to be done in a few weeks with the rebuild after the fire. The seating plan has been approved.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Brasilia Foods, LLC, d/b/a FOGO Brazilian Barbeque, 39 Iyannough Road, Hyannis, Elizabeth Hurley, Manager, for a Change in License Description to read: Single story restaurant at 39 Iyannough Road, Hyannis. Dining room seating 35 with buffet area, bar area seating 28, deck seating 20. Five entrances/exits. Three restrooms including one which is handicap accessible. All as shown on plan dated 3/18/13.

New Common Victualler License: Application of Andrew B. Milk, d/b/a Kalmus Beach Concession, 670 Ocean Street, Hyannis, MA, Andrew B. Milk, Manager, for a New Common Victualler License, with outdoor seating, hours of operation to be 9 am – 5 pm.

Mr. Milk appeared for his application. He has run these concessions in the past but not for the past year. It is for 7 days. He has had Sea Street also in the past.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Andrew B. Milk, d/b/a Kalmus Beach Concession, 670 Ocean Street, Hyannis, MA, Andrew B. Milk, Manager, for a New Common Victualler License, with outdoor seating, hours of operation to be 9 am – 5 pm.

New Annual Common Victualler Wine & Malt License: Application of Ralph Binder, d/b/a The Mad Platter, 480 Barnstable Road, Hyannis (The Airport), Ralph Binder, Manager, for a New Annual Common Victualler Wine & Malt License, hours of operation to be 6 am to 8 pm, alcohol service Mon-Sat 8 am to 8 pm and Sundays 10 am to 8 pm with seating for 34 with 6 employees and 10 standees per plan dated 3/26/13 signed by the Building Commissioner.

Robert Lawton, Esq. appeared with Ralph Binder for this application. They would like an annual beer and wine license. It is an existing café in the airport. Chef Binder and one other person in staff are TIPS trained. Alcohol stored in locked cabinets. A new wall installed by the airport to ensure it is not taken outside the café. He would like the early Sunday time if acceptable. Mr. Hoxie stated they did say they were coming back for that license in their original hearing and here they are.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Ralph Binder, d/b/a The Mad Platter, 480 Barnstable Road, Hyannis (The Airport), Ralph Binder, Manager, for a New Annual Common Victualler Wine & Malt License, hours of operation to be 6 am to 8 pm, alcohol service Mon-Sat 8 am to 11 pm and Sundays 10 am to 11 pm with seating for 34 with 6 employees and 10 standees(50 total) per plan dated 3/26/13 signed by the Building Commissioner.

New Class II Auto Dealer License: Application of Saturn of Hyannis, Inc., d/b/a 141 Stevens Street, Hyannis, Edward Leslie, Manager, for a new Class II Auto Dealer license with a maximum of 89 total vehicles on site, hours of operation to be 8 AM to 5 PM.

Mr. Leslie appeared for this application. It was a Saturn store, then KIA which he sold.

Mr. Scali stated he had a Class I and now has gone to a Class II as he does not have the new car franchise. Mr. Sullivan stated the application is for 89 and the Building Commissioner approved 85 total. Mr. Burman asked about this – he has driven by and seen nothing there. Mr. Leslie stated he just wanted the license until he gets the Class I license again, which hopefully will be soon.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Saturn of Hyannis, Inc., d/b/a 141 Stevens Street, Hyannis, Edward Leslie, Manager, for a new Class II Auto Dealer license with a maximum of 85 total vehicles on site, hours of operation to be 8 AM to 5 PM.

Transfer of Common Victualler Wine & Malt License: Application of J&S Montero, LLC, d/b/a Vista De Mare Diner, 430 Main Street, Hyannis, Sergio Montero, Manager, for a New Annual Common Victualler Wine & Malt License, hours of operation to be 7 am to 4 pm, alcohol service Mon-Sat noon to 4 pm and Sundays 10 am to 4 pm with seating for 40 inside and 24 outside on the patio (no change from current seating plans).

The applicants are both from Equador but are citizens. Sergio was head line cook at Alberto's and worked in NYC. Jorge worked at Beech Tree Cantina, enrolled in Cape Cod Community College for business management. Jorge's CORI came back and he has explanation of that – a letter of full compliance from the probation officer. Basically same menu as prior restaurant. Their attorney requested alcohol until 11 pm. Mr. Hoxie asked about alcohol service serving? The attorney advised they would be taking the TIPS training and have hired a Manager who has it. Sergio will be the manager of record. Mr. Scali asked about question 15 on the application – they answered “no” when he thinks it should be yes. He also stated that the wife Aide should be added to the application as someone who had contributed money; the attorney will provide an affidavit that she has no financial interest in the application of restaurant.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of J&S Montero, LLC, d/b/a Vista De Mare Diner, 430 Main Street, Hyannis, Sergio Montero, Manager, for a New Annual Common Victualler Wine & Malt License, hours of operation to be 7 am to 4 pm, alcohol service Mon-Sat noon to 4 pm and Sundays 10 am to 4 pm with seating for 40 inside and 24 outside on the patio (no change from current seating plans).

Transfer of Seasonal All Alcohol Common Victualler License and Non-Live Entertainment License: Application of T.J. Enterprises, Inc., d/b/a Kian n' Rylee's Pub & Patio, Tara Jean Whelehan, Manager, 561 Main Street, Hyannis to LE Concepts, Inc., d/b/a Kian n' Rylee's, Matthew D. Giglio, Manager: Wood frame bldg. with 2 entrances/exits to Main Street, 2 entrances/exits to rear of bldg. Seating for 40 inside including 10 bar seats located in front room. Dining area totaling 623 sq. ft. Kitchen approx 900 sq. ft. Outside seating area for 40 seats on patio approx 942 sq. ft. Also requested is a Non-Live Entertainment license for radio and recorded music from 8 am to 12:45 am, and 4-5 T.V.'s,

Mr. Geiler stated that in this case we did not pick up on the fact that we did not have approval of the owner to process this request. The request we have is from the buyer's attorney only; he suggested the Board deny this application. The applicant will have to reapply. “Smith” applied to transfer “Jones” application so it is faulty.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to deny the current application as it is faulty.

Alteration of Premises: Application of International Inn, Inc., 662 Main Street, Hyannis, Ravi Ahuja, Manager for an Alteration of Premises description: 1st Floor 41

rooms, 2nd Floor 42 rooms, wooden bldg. at rear 29 rooms on 1st Floor, 29 rooms on 2nd Floor, 6 storage rooms, basement storage, lobby, coffee shop, conference rooms, restaurant with 95 total seats and lounge with 45 total seats with live entertainment, 48 seats on outdoor patio with music and outdoor pool area. Plan on file dated 4/5/13.

Ravi Ahuja, Manager, appeared with the new G.M., ThesMari Mesilus. They have decreased from 126 seats to 95 seats in the restaurant. The license was approved in the past. They have had to reduce to under 100 because it is not sprinkled. Officer Maher stated one of the things brought up in police seminar last week was that a place under 100 if found to be over 100 twice in a calendar year, they have to be sprinkled within 30 days. He stated the entertainment area could somehow bring over 100 – they have to be very vigilant to keep the total number under 100. Mr. Burman asked how they can control it. Mr. Ahuja stated there are two areas that are not really used at the time of entertainment. He stated he understood the restriction.

A motion was duly made by Mr. Sullivan, seconded by Mr. Burman and a unanimous vote taken to approve the application of International Inn, Inc., 662 Main Street, Hyannis, Ravi Ahuja, Manager for an Alteration of Premises description: 1st Floor 41 rooms, 2nd Floor 42 rooms, wooden bldg. at rear 29 rooms on 1st Floor, 29 rooms on 2nd Floor, 6 storage rooms, basement storage, lobby, coffee shop, conference rooms, restaurant with 95 total seats and lounge with 45 total seats with live entertainment, 48 seats on outdoor patio with music and outdoor pool area. Plan on file dated 4/5/13.

Daily Live Entertainment License: Application of C&D Shamrock, Inc., d/b/a The Nineteenth Hole, 11 Barnstable Road, Christopher Doherty, Manager, for a Live Entertainment License for 2 pieces, 2 performers, amplified, on Fridays from 5 pm to 8 pm at an area shown on plan filed April 4, 2013 and with the condition that the back room will be blocked off during the entertainment (also as shown on plan).

Christopher Doherty appeared for his application, which he amended to include each day rather than just Fridays and up to 4 entertainers, amplified. He stated this should work out well.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of C&D Shamrock, Inc., d/b/a The Nineteenth Hole, 11 Barnstable Road, Christopher Doherty, Manager, for a Live Entertainment License for 4 pieces, amplified, daily from 8 am to 12:45 am and Sunday noon to 12:45 at an area shown on plan filed April 4, 2013 and with the condition that the back room will be blocked off during the entertainment (also as shown on plan).

New Annual Wine & Malt Retail Package Store License: Application of Food Port International Market, LLC, 338 Main Street, Hyannis, Fredy Chavez, Manager, for an Annual Wine & Malt Retail Package Store License: 338 Main Street, Hyannis. Main floor 3 rooms, 2 entrances/exits; main entrance on Main Street. 12 x 11 room for liquor display at furthest corner of store away from entrances/exits. Back room 18 x 24 used as work room including utility closet, hallway and stairs to basement of approx 2200 sq.

ft. with 2 10x6 restrooms and a large 35 x 24' storage area for food and liquor.

Fredy Chavez appeared for this application. It will be specialty international foods and imported beer and wine. More like whole foods market; not so much a convenience store. He has spoken to the previous owner, Mr. Pappas, who had this license. He mentioned that it is a good thing to have – Greek, Argentinian and other wines some of the other package stores do not have. In the summer there is a big influx of people from Eastern Europe who do look for Georgian or Greek wines. Mr. Hoxie asked where it is; he stated right next to Tommy Doyle's. He asked when they plan to open – he is hoping the end of May. Mr. Hoxie asked if it might be better to open with the food first and then the alcohol. He is from Equador and his wife is Russian. There are now a lot more Equadorians and eastern Europeans here and they all go to Providence as nothing is here. He has managed bar at Alberto's but has not had a package store.

Mr. Semprini asked about the saturation of package stores in Hyannis; he thinks this idea is unique and different but we are still saturated in Hyannis. Mr. Chavez thought it might be a concern but the percentage of alcohol is small relative to the food business and it is specialty items you can't get in a regular package store. Mr. Burman's concern is that the owner of the property tried this same type of thing and did not seem to succeed to keep himself and his two sons operating. Mr. Chavez talked to Mr. Pappas for a long time – his main business was supposed to be Internet sales; the back rooms were all computers, etc. They just needed the store for location. His business will be specialty foods and the alcohol. They do need to do more volume. A grocery store with beer and wine. On the line of Whole Foods on a smaller scale.

Mr. Hoxie stated we base our decisions on public need, and why he feels there is a public need for this unique service and asked this applicant to be very specific.

Mr. Chavez stated he thinks as long as they keep it specific on South American – Chilean, Argentinian wines at relatively low cost and these have become very popular. Also, Eastern European and Greek wines have become popular in the recent years. He thinks keeping it specific enough it will keep the clients happy. He said the others focus on volume; they aren't as interested in specialty wines from geographic areas...just the brands most often purchased like chardonnay, etc. They will import groceries and liquor.

Mr. Hoxie asked if people had approached him asking for these specific types of wines and malt liquor. He stated he likes this location to provide this service to the area and has in fact been asked about having these things. Mr. Sullivan was impressed by his experience at Alberto's and wish to enhance Main Street for access to the international items. He worked for Felis 7 years and left 2 years ago. Mr. Semprini asked about international food items for sale – a little specific. Mr. Chavez stated feta cheeses, sausages, small fish, caviar, cooking oils, herbs, all retail for now but would love to have a deli in future.

Elizabeth Wurfbein, Hyannis BID, spoke for this application. Main Street would love to

have more international food available. Being direct she does not want to see them selling wine to street people; she stated Mr. Pappas was very careful to not cross the line in products that the street people would want to buy. She would love to see this succeed.

Mr. Burman stated it will be hard as there is not parking right there and the product would be heavy to carry back to a vehicle. He worries about putting in the popular brands in this area with so many other outlets in the immediate area for those. He asked Mr. Scali again about the prior owner. Orexi turned their license in before the ABCC determination; this license is the last one available. Mr. Chavez applied after the last hearing when that license was not approved for another applicant. Mr. Chavez stated they have quite a few spots on Barnstable Road and on Main and in the rear of Tommy Doyle's are 35-40 spots. The prior owner stated there was never an issue about parking. Mr. Hoxie asked how long the lease term was. Mr. Chavez stated it is 5 years, renewable. Mr. Sullivan reiterated he does not want this to turn into an attractive nuisance. Mr. Chavez stated as working at Alberto's, and his personal taste, and people advising him – he does not want a regular convenience store/package store. He chose the corner to bring it to life – he thinks people down the street will also benefit from this being open.

Mr. Semprini asked what percentage of alcohol on shelves and what percentage is food; he showed Mr. Semprini it is only a smallish section.

Tentative hours 9 am to 10 pm; noon Sunday to 6 pm.

Mr. Hoxie stated there was a license at this location and thinks the applicant did an excellent job in his presentation. Mr. Sullivan stated he has convinced him that this is a specialty place not a convenience/regular package store. He said he would agree.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan who added the store hours 9 am to 10 pm Mon-Sat and Sun noon to 6 pm and a unanimous vote taken to approve the application of Food Port International Market, LLC, 338 Main Street, Hyannis, Fredy Chavez, Manager, for an Annual Wine & Malt Retail Package Store License: 338 Main Street, Hyannis. Main floor 3 rooms, 2 entrances/exits; main entrance on Main Street. 12 x 11 room for liquor display at furthest corner of store away from entrances/exits. Back room 18 x 24 used as work room including utility closet, hallway and stairs to basement of approx 2200 sq. ft. with 2 10x6 restrooms and a large 35 x 24' storage area for food and liquor.

Show Cause Hearing: Show Cause Hearing for Maloney Realty Trust, d/b/a The Embassy Inn, 98 High School Rd, Hyannis, holding a Lodging House license, on a complaint forwarded by the Building Commissioner for safety hazards concerning overcrowding and overcapacity of beds up to potential of 31 lodgers; use of two additional rooms and storage areas as bedrooms; lack of inspection allowed of quarters over the garage. The license is approved for 6 rooms and 12 lodgers. Also in the complaint is the use of 104 High School Rd as a lodging house, which location is not

licensed. **Request to continue filed by Attorney for April 8 or April 29, 2013 hearing.**

Attorney Brian Hopkins appeared with Mr. Maloney. Mr. Hoxie asked them to come to the table up front. He then stated we will hear first from the authorities making the complaints.

Attorney Hopkins stated that they after reviewing a number of documents, and after discussion with Mr. Maloney and Mr. Scali, are not going to contest the fact that he has used more than 6 rooms and has had more than 12 people at the lodging house. He stated some mitigation might be appropriate. He asked to give background on The Embassy Lodge. As far as 104, he reviewed some documents and found that there is annual rental registration for that location (Certificates of Registration for 104A and 104B).

Mr. Hoxie asked to hear testimony of the complainant first.

Thomas Perry, Building Commissioner, stated he was here today to testify about 98 High School Road. He stated that they have been approved for 6 lodging rooms and 12 persons for a number of years. For this year's license, upon inspection, they did a count of how many rooms and beds were actually there and came up with 31 potential people and evidence of portable beds that could be put in another location. He prepared a power point presentation which showed a front door with a phone outside as often it is locked. He called attention to the wording on the signs – signage was similar on 98 and 104 High School Road. He stated we don't know how 104 is being used; they were not given admittance. The kitchen showed is the kitchen in 98. Also shown were fire extinguishers in a storage area – all empty and expired. A photo of one room shows a bed, and bunk beds – queen on bottom and 2 up top. It shows a small refrigerator, microwave and sink. He stated the Building Department is concerned with this and were not sure of how to proceed because of the overcrowding.

Mr. Hoxie asked if 104 was licensed. Mr. Perry stated no; only 98 is licensed with 6 rooms and 12 lodgers. He stated some rooms have multiple bunk beds and even potential for 4 to a room. Mr. Hoxie confirmed that Mr. Perry wants this to be a safe environment; not overcrowded – if Mr. Maloney wants to have more people he must apply.

Attorney Hopkins brought in a photo asking if it was a typical bedroom. Mr. Perry said they are set up differently. Mr. Perry stated the photo does show what was in one or two rooms. Mr. Burman stated it did not look like the rooms on the powerpoint presentation.

Attorney Hopkins asked if Mr. Perry or the fire representative had asked Mr. Maloney to make certain improvements, etc. and Mr. Perry stated they did. Attorney Hopkins asked if he cooperated with those requests. Mr. Perry stated he did.

Mr. Hopkins asked again about 104 which Mr. Perry stated was not licensed. Mr. Perry stated it was not licensed as a Lodging House. Attorney Hopkins asked if 104 is legal. Mr. Perry stated he did not know as their department does not know how it is being used. What he did know was that they asked to inspect and were refused. They also asked to see the owner's quarters and were again refused.

Attorney Hopkins showed Mr. Perry two documents asking if he had seen them. Mr. Perry stated he had seen them. He asked if those were in Mr. Perry's files. Mr. Perry stated they are not in his files, only in the files of the Health Department, who does the rental registrations. Mr. Perry stated he does not know how 104 is being used, but thought it looked like it is being used as an extension of 98.

Mr. Hoxie asked for comments. Deputy Chief Dean Melanson from the Fire Department appeared to reiterate what Tom Perry stated; they have inspected annually and other times on complaints. They provided lists of violations – extinguishers, smoke detectors, etc. Mr. Maloney did comply. He stated in February they went out and counted 21 beds in 98 and were refused entry into 104.

Attorney Hopkins asked what Mr. Maloney stated about 104; he asked if it was an inspection of a lodging house, and he would not allow inspection of his private quarters or 104 which was being used as apartments. Mr. Melanson stated the signage was indicative of a lodging house at 104 and also indicated it might be transient rental.

Attorney Hopkins stated the signs include the police and fire department numbers for emergency. Mr. Melanson stated they wanted to disprove or prove what was going on with regard to 104 not being used as apartments, but as part of the lodging house.

Mr. Burman also stated the fire extinguishers all out of date, etc. are a clear violation. Mr. Perry stated there were a couple that were operational. Attorney Hopkins asked if Mr. Maloney has the required number of fire extinguishers. Mr. Melanson stated they do have the required ones; but these others should not be out. He agreed that they were in a secure storeroom in the basement so there was no problem with them. Mr. Burman asked if it is problem if there were a fire; Mr. Melanson stated it presents no additional problem.

Mr. Geiler asked with respect to 104, paperwork indicates it has two apartments registered at 104. Mr. Geiler asked if Mr. Maloney has documentation that those are apartments. Mr. Maloney stated he does. He stated further that he was insulted by Ms. Anderson.

Mr. Geiler stated Mr. Maloney did establish there is a rental registration, on a place which would normally be a single family residence. Attorney Hopkins stated that Mr. Maloney supplied documentation that 104A and 104B were apartments 7 years ago – they were allowed two (2) by Mr. Daluz back then. It is a two family rental. He pays for these as rental apartments. Attorney Hopkins stated they are happy to supply the records.

Mr. Perry asked about a statement allegedly made by Ms. Anderson which Mr. Maloney had mentioned about wanting to, “get him on something.” Mr. Maloney stated that he did hear her. Mr. Maloney stated he was sitting at his desk just upstairs and heard her say that, which resulted in significant expense to him to fix a pipe.

Attorney Hopkins stated that Mr. Maloney will be applying for an increase in number of rooms and occupants on his Lodging House license. He stated it is a haven for foreign students who come in and stay for 3 months and then go home. He stated Mr. Maloney treats these kids as his children. He drives them around. He insists there be no smoking, alcohol or overnight guests. A service called American Connection contacts Mr. Maloney for housing for these foreign students. He has been doing this for the past 6 years. There have been numerous inspections and Mr. Maloney believes nothing significant has changed. He did state he has had over 6 rooms and 12 lodgers, which he agrees is not by the book. This is his business, and Attorney Hopkins stated he immediately addresses any violations. He has made inquiry as to placement of some of these kids – he has over 12 kids there right now. He has made calls for placement of the overage within a week or so at the most. He will then request the Board to increase the occupancy number – both rooms and lodgers. He also stated that in mitigation, at the bottom of the rental registration it states that individuals under the age 22 are exempt from the occupancy number. All of these kids but 3 are under 22. Attorney Hopkins stated that Mr. Maloney relied on that for both residences. He believed the apartment house and lodging house were similar. There is a couple and a single older man who have been in the apartment for years. That is their home. Attorney Hopkins stated that Mr. Maloney invited Mr. Perry and the Chief to come by and reinspect, and stated he will make whatever applications are necessary to get him into compliance. He also stated some of the kids sent Mr. Maloney something very special thanking him for their stay. Mr. Maloney stays at the premises.

Mr. Geiler stated the rental registration says he lives in California. Attorney Hopkins stated his family is in California but he is here much of the time.

Asked about the rent, Mr. Maloney said it started at \$65 and has gone to \$85; he wants to stay with 2 per room so it will have to be \$100 per room. If a 3rd is allowed they will keep it to \$90 each. He stated when people leave he cleans the rooms prior to others coming in. He does not clean the rooms when they are occupied.

Mr. Perry stated that Lodging houses are licensed by number of rooms and lodgers, not by age of occupants. He said that the apartment is a different story. He stated people were going back and forth between the two buildings when they inspected. Mr. Sullivan asked if Mr. Perry asked about the number of beds, Mr. Perry stated Mr. Maloney indicated it has been the same way as it always was. Mr. Sullivan asked Mr. Perry if he checked the “register” and he stated he did not. He did make comments with regard to the number of beds.

Mr. Sullivan asked if Mr. Maloney has a register for 98. Attorney Hopkins stated that Mr. Maloney has copies of the passports of each person who has been there this year and their licenses. There are 20. Attorney Hopkins states the client specifically checks the dates of birth on each person and thought the age requirement applied to both the Lodging House individuals and the apartments. Attorney Hopkins referred to Ch 56. Mr. Sullivan stated Lodging Houses are regulated by Chapter 501 which refers to Lodging Houses. Attorney Hopkins stated he thought that 501 was just for alcohol. Mr. Sullivan stated that 501-31 states that every lodging house keeper is required to keep a register of all occupants. Mr. Sullivan also did not understand how people under 22 do not have to be counted. He said that might apply to an apartment, but certainly not a lodging house. Mr. Sullivan asked if they are questioning the number of beds on the first floor of 98, and the 2nd floor had far in excess as well. Attorney Hopkins stated he disagrees with Mr. Perry's presentation of the beds.

Mr. Hoxie stated that Attorney Hopkins has admitted Mr. Maloney has more rooms and more lodgers at present. He wants to provide adequate housing for those who need it but come into compliance with his license as it stands until he can come back to the Board to request more. He stated his client understands now what is required. Just because there are not complaints every time the numbers have to be resolved.

With regard to 104 A & B, Attorney Hopkins stated he will meet with Mr. Perry to straighten this out. Mr. Burman asked how many are occupying. There are 3 in a front apartment, in back an elderly gentleman and then another couple.

Mr. Hoxie asked if they would agree with compliance with the laws for lodging houses and apartments, keeping of a register with dates and complying with all inspections, and suggested a warning. Mr. Sullivan also requested a book like a journal be used for the register for 98.

Mr. Scali suggested compliance with the license restrictions of 6 rooms and 12 lodgers, and until we see that is being complied with, a warning without watching for further compliance might be too lenient.

Mr. Sullivan asked who is required to inspect these places. Mr. Perry said his department is for Lodging Houses, and they go out for an annual inspection with a notice. He stated the photos he took were found even after notice was given. Licensees make an appointment with his office. He stated Building doesn't care about unmade beds, etc., but the mess and overcrowding issues are their worry. Mr. Sullivan also stated they have to comply with our numbers now – 6 and 12. Mr. Perry stated that since there are rooms in excess of what the license says, we also need a floor plan showing which rooms are going to be used.

Mr. Hopkins asked if they can, without violating, keep these kids for a few days until they find placement for them. He said that seven have to go and he does not want them to be thrown out with no place to live.

Mr. Hoxie stated part of the decision of giving a warning is that they comply, allow inspections of both buildings and keep a bound register. Officer Maher suggested we impose a penalty, perhaps should suspend until a certain date.

Mr. Burman stated perhaps we should have the owner place these kids at his expense – Attorney Hopkins stated the agency, American Connection, is already working on this. Mr. Sullivan stated it should be able to be accomplished within a short time. Attorney Hopkins stated they will have to comply as soon as they can. Mr. Sullivan stated numbers should be 6 and 12 within a week's time.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken for findings that the license holder has admitted to more rooms and more people than licensed.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken for a guilty finding.

Mr. Hoxie suggests the licensee comply with the restrictions on his license, allow all inspections and maintain a proper register. Mr. Burman suggested we add a \$1,000 fine.

Mr. Sullivan proposed the motion as above, excluding the fine and Mr. Hoxie seconded the notion. The vote was 2 yay, and Mr. Burman nay.

Mr. Sullivan thanked Mr. Perry for bringing this forward.

The following renewals have been submitted without any changes from the previous year for Licensing Authority approval:

Junk Dealers:

Atomic Dimestore, 255 Main Street, Hyannis
Spinnaker Records, 596 Main Street, Hyannis
Simply Vintage, 5 Main Street, Cotuit
Silva Jewelers, 863 Main Street, Osterville
Play It Again Sports, 425 Lyannough Road, Hyannis
Kay Jewelers, Cape Cod Mall, Hyannis
Cotuit Mercantile, 45 Main Street, Cotuit

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the Junk Dealer license renewals listed above.

Business Meeting:

Release of Executive Session Minutes, if any (0).

Mr. Scali stated that the Municipal Licensing Group is holding its meeting June 5th at Plimoth Plantation from 11:45 to 3:00, a Wednesday. It will include lunch and have presentations by the ABCC and others.

Adjourned at 11:50 am.

Respectfully submitted,

Christine P. Ade, Recorder
Barnstable Licensing Authority

Paul Sullivan, Clerk
Barnstable Licensing Authority