

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, October 15, 2015, in the G.A.R. Room at City Hall. Present were Chairman Henry Tartaglia; Commissioners Paul D. Sullivan, Scott H. McDuffy, Joao DeAndrade and Harold C. Marrow, Jr. Also present were License Agent Lieut. Ken LeGrice and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission meetings of August 13 and September 17, 2015.

A motion was made by Commissioner Sullivan to approve the minutes of the aforesaid meetings which motion was seconded by Commissioner Marrow. All members voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of November, 2015: Lieuts. Kenneth LeGrice and Paul Bonanca; Sgts. George Khoury, Frank Vardaro and Michael Dennehy; Dets. Thomas Hyland, Nazaire Paul, Eric Clark, Santiago Cirino, Jackie Congdon, Chris McDermott, Michael Bunker, Michael Cesarini, Patrick Donahue and Erin Cummings.

A motion was made by Commissioner McDuffy to approve the police officers as listed as license agents for the month of November, 2015 which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:

- (a) **All Alcohol** – Cardinal Spellman High School – Ellen Morrissey Rota, Manager, for an Alumni Reception to take place on Saturday, November 7, 2015, from 6:30 p.m. to 11:00 p.m.

Present was Jane Westerlund, 152 Cashman Road, who reviewed the request for a one day permit to sell all alcoholic beverages at an Alumni Event and Drama Hall of Fame.

A motion was made by Commissioner Sullivan to approve the permit which motion was seconded by Commissioner Marrow. All members voting in the affirmative, the motion carried.

- (b) **All Alcohol** – Brockton Firefighters Union Local 144 – William Hill, Manager, for a Fundraiser to be held at 80 Perkins Avenue, on Friday, October 30, 2015, from 6:00 p.m. to 12:00 midnight.

Present was Archie Gormley, 53 Rockland Drive, President of the Brockton Firefighters Local.

Mr. Gormley explained that they are looking to get their members involved in their Union Hall and have planned a Halloween Party for the families. This will be the first time holding such an event and they hope it will become an annual celebration.

A motion was made by Commissioner Sullivan to approve the permit which motion was seconded by Commissioner DeAndrade. All members voting in the affirmative, the motion carried.

4. Hearing (postponed from meeting of September 17, 2015) on the request from Naharb Corporation Inc. dba Palma Pizzeria for a Common Victualer license at 880 Main Street.

Present was Md Abu Zafar, 2170 Washington Street, East Bridgewater.

Mr. Zafar stated he owns the building at 880 Main Street and has been unsuccessful in renting out the restaurant so he would like to open the restaurant at 880 Main Street and make the business work. Hours will be from 10:00 a.m. to 9:00 p.m.

A motion was made by Commissioner Sullivan to approve the Common Victualer license pending receipt of the department inspection approvals. The motion was seconded by Commissioner Marrow. All members voting in the affirmative, the motion carried.

5. Hearing on the request from 2 Debi's Convenience/Deli LLC – MaryAnn Davis, Manager, for a Wine and Malt Package Store license at 516 Pleasant Street.

Representing the applicant was Attorney Mark Lawton, 157 Belmont Street along with his clients, Steve and MaryAnn Davis, 58 Lodge Street, Milton.

Attorney Lawton reviewed the plan submitted and indicated there are 20 parking spaces for the store. His clients purchased the property for \$240,000 and have invested \$165,000. The property was previously a gas station and was closed for five years before being purchased by the Davises. The reason they are applying for the beer and wine license is to be ensured of increasing the cash flow.

The location is 1.1 miles from Vicente's Market at Warren Avenue and Pleasant St. Shanleys is located approximately 1 ½ miles away on Belmont Street. Attorney Lawton indicated there is not a cluster of package stores within a close proximity. He reviewed that it is up to the board to decide how relevant this information is.

With regard to the layout, Attorney Lawton stated the beer and wine will be kept in the rear elbow of the store. Photographs of the building before and after renovations were submitted and reviewed by the Commission and Attorney Lawton stated that the before pictures show the state of disrepair the property had been in. There have been a great deal of improvements made to the property.

Commissioner Tartaglia asked if there was anyone present who is opposed to the request.

Tim and Denise Higgins of 15 Wheeler Avenue were present and stated they are opposed to the petition and were opposed at the Zoning Board of Appeals. Their attorney had failed to file a timely appeal to the ZBA decision. Mr. Higgins stated it is not an appropriate place to have a liquor license. There is a single family house next to the store. He indicated that the applicants have done a great job cleaning up the site, however, they do not feel it is a great location for a beer and wine store. Mrs. Higgins stated they had originally supported the Davis' proposal to have a convenience store and deli. At that time they were told that they were not interested in a liquor license. She stated the zone does not support the beer and wine. They went to the ZBA meeting and while Brockton appears to be business friendly, it does not appear to be resident friendly and this proposal did not meet any of the criteria for the variance.

Mrs. Higgins stated they are present this evening as a last opportunity to keep this residential area neighborhood friendly where it was never zoned for this use. There is also a bus stop and it is just no appropriate to have beer and wine at the location.

In response to questions from Commissioner Sullivan, Mrs. Higgins stated they did go before the ZBA and it was approved, however, the Zoning Board did not make the proper findings. Mr. Higgins stated that they did appeal but it was filed late.

Chairman Tartaglia stated he knows this went before the ZBA and they have a right to come before the License Commission.

Ms. Tucker stated that Attorney Nessralla had sent an email on September 29th indicating Attorney Sutton had confirmed that he was not pursuing the appeal of the Zoning decision.

Chairman Tartaglia then asked if there was anyone present in favor of the application and the following individuals came forward:

Mary and Steve French, 190 West Street
Eric Marchand, 43 Fern Avenue

Commissioner McDuffy reminded the applicants that there is no seating allowed on the premise and it is strictly takeout. In addition, Mrs. Davis stated there are no single cans. Mr. Davis stated he will be outside picking up in the parking lot and making sure no one is loitering. Mrs. Davis stated that they have put up a fence along the entire property line. They have installed lighting around the perimeter. It will be a very safe environment and security cameras will be installed.

Chairman Tartaglia indicated he has been by the location and there has been a lot of money invested. It is his opinion it will be well lit and properly maintained will be good for the area. He stated he is in favor.

A motion was made by Commissioner Sullivan to approve the license.

Ms. Tucker reviewed the Zoning Board stipulations which are:

1. No single cans to be sold;
2. Two employees on duty at all times; and
3. Wine display area in the first row to be secured when the hours do not permit the sale of alcohol.

The motion was then seconded by Commissioner Marrow. With all members voting in the affirmative, the motion carried.

6. Hearing on the request from Terra Nossa Inc. for a Common Victualer license at 1040 North Montello Street.

Present was Edvar Jardim, 169 Pond Street, Holbrook.

Mr. Jardim stated that they have installed a stove and updated their kitchen in an attempt to improve their business, however, they need a Common Victualer license. They have only operated with a take-out and snack bar license. There will be 15 seats. Mr. Jardim stated they are still waiting on the final inspections which won't be completed until late next week. They are hoping to re-open in 2 to 3 weeks. Ms. Tucker stated that she will need all of the signed inspection forms back before the license can be issued.

Commissioner McDuffy asked for a revised plan to show the exact number of seats.

A motion was made by Commissioner Sullivan to approve the license pending receipt of the final inspection approvals. The motion was seconded by Commissioner DeAndrade. All members voting in the affirmative, the motion carried.

7. Hearing on the request from 5 Corner Auto Sales, Inc. – Henrique A. Fernandes, Manager, holder of a Class II license to sell second hand motor vehicles at 369 Court Street, to increase the number of vehicles allowed on the lot from 20 to 24.

Present was Henrique Fernandes, 25 Rockland Avenue, Hyannis.

Mr. Fernandes stated that he has revised his plans from the originals submitted to include four additional cars. Lieut. LeGrice indicated he went to the location and observed that the spaces are 9 x 20 as required. His only question is how many employees would be there at any one time and Mr. Fernandes indicated himself and another employee. Lieut. LeGrice

suggested that the single space designated for employee parking and handicapped space does not support the two employees. Mr. Fernandes stated he owns the office building next door and he and his employees can park their vehicles over there.

Lieut. LeGrice stated the plan does not indicate any parking on the other property. He recalled that when Mr. Fernandes originally appeared before the Commission it was stipulated that no vehicles from the used car dealership were to be parked on the lot next door. It is his opinion that if there are two employees for the business, there should be two employee parking spaces shown on the plan for the business.

Lieut. LeGrice stated the lot supports the 24 spaces on the plan, however, it depends on how they want the 24 designated. Mr. Fernandes stated he only has one employee and the vehicles he uses to commute from work to home is one of his sale vehicles.

Ms. Tucker stated that the current stipulation on the license is for 20 cars with no more than 17 for sale which leaves parking spaces for 1 employee, 1 customer and 1 handicapped.

In reviewing the number of cars, Lieut LeGrice stated that it is a violation of the law if Mr. Fernandes is using a dealer plate for his own vehicle. When he went to the lot last night, he observed that there were 21 cars and every single space for sale was filled so technically he was in violation of the number of cars allowed. He indicated there was no extra space for the car Mr. Fernandes was driving. Mr. Fernandes stated that the car he drives is kept inside the garage.

After discussion, Lieut. LeGrice stated his suggestion is that there be 24 cars allowed on the lot with no more than 20 for sale, 2 employee, 1 customer and 1 handicapped space.

A motion was made by Commissioner McDuffy to approve the increase in the number of vehicles on the lot to 24 with no more than 20 for sale. The motion was seconded by Commissioner Marrow. All members voting in the affirmative, the motion carried.

8. Communications

9. Any other business to properly come before the Commission

(a) Fees for 2016 Licenses – Review Fee Survey and set license fees for 2016 licenses.

The Adm. Asst. reviewed that a copy of the Fee Survey which had been sent to each of the members and explained that they must set the fees for the 2016 licenses this month as renewals will begin in November.

A motion was made by Commissioner Sullivan that the fees remain the same for 2016 licenses as they currently are. The motion was seconded by Commissioner Marrow. All members voting in the affirmative, the motion carried.

With no further business to come before the Commission, a motion was made by Commissioner Sullivan to adjourn the meeting. The motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the meeting was adjourned.

Respectfully submitted,

Henry Tartaglia
Chairman

APPROVED:

Paul D. Sullivan, Commissioner

Scott H. McDuffy, Commissioner

Joao DeAndrade, Commissioner

Harold C. Marrow, Jr., Commissioner

Paul Merian
Alternate Commissioner