



# Town of Barnstable

## Regulatory Services

Thomas F. Geiler, Director

### Licensing Authority

200 Main Street

Hyannis, MA 02601

[www.town.barnstable.ma.us](http://www.town.barnstable.ma.us)

Telephone: (508) 862-4674

Fax: (508) 778-2412

### 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.

June 8, 2009

A regular meeting of the Barnstable Licensing Authority was held on Monday, June 8, 2009. 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.

#### Hearings:

**One Day All Alcohol License:** Application of Rebecca Richardson on behalf of Rotary Club of Osterville, P.O. Box 705, Osterville, for a **One Day All Alcohol License** outside in the Wianno Yacht Club yard at 101 Bridge Street, Osterville, from 4 pm to 10 pm on July 11, 2009 for its 15<sup>th</sup> annual Bluefish/Striped Bass Tournament.

Rebecca Richardson appeared for her application. This is their annual event. It ends at the Wianno Yacht Club. Cardoza Wine & Spirits (store used for five years – located in Wareham) will run the bar from 4 pm to 9 pm. All monies go into their good works fund.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Rebecca Richardson on behalf of Rotary Club of Osterville, P.O. Box 705, Osterville, for a **One Day All Alcohol License** outside in the Wianno Yacht Club yard at 101 Bridge Street, Osterville, from 4 pm to 10 pm on July 11, 2009 for its 15<sup>th</sup> annual Bluefish/Striped Bass Tournament with the understanding all alcohol must be purchased from a licensed alcohol dispenser.

**Two One Day All Alcohol Licenses:** Application of Olive Chase, Casual Gourmet, on behalf of Save Our Sound Alliance to Protect Nantucket Sound, 4 Barnstable Road, Hyannis, for two One Day All Alcohol Licenses, the first to be held on June 27, 2009 from 4 pm to 7 pm at Nauticus Marina, 339 West Bay Road, Osterville, MA and the second to be held on July 16, 2009 from 6 pm to 8 pm at a private home at 23 Atlantic Avenue, Hyannis Port, MA, both in a tent outdoors at each premises.

Olive Chase appeared for the applications. Both events are outside only. The first is about 150, second about 60 guests. The alcohol will be purchased from authorized distributors.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Olive Chase, Casual Gourmet, on behalf of Save Our Sound Alliance to Protect Nantucket Sound, 4 Barnstable Road, Hyannis, for two One Day All Alcohol Licenses, the first to be held on June 27, 2009 from 4 pm to 7 pm at Nauticus Marina, 339 West Bay Road, Osterville, MA and the second to be held on July 16, 2009 from 6 pm to 8 pm at a private home at 23 Atlantic Avenue, Hyannis Port, MA, both in a tent outdoors at each premises subject to the purchase of alcohol from licensed dealers.

**One Day All Alcohol and One Day Entertainment Licenses:** Application of Jim McGillen, Oysterville Yacht Club on behalf of the Cam Neely Cancer Fund for a One Day All Alcohol for July 20, 2009 6 pm to 11 pm at Oyster Harbors Marine Little Island Facility and a and One Day Entertainment License from 7:30 pm to 11 pm with 7 entertainers. Capacity to be determined by the Building Dept. and Dire Dept. Mr. McGillen requested through the Licensing Office that this hearing be continued to 6/22/09.

Mr. Hoxie announced the request from Mr. McGillen to continue the above hearing to our next regularly scheduled Licensing hearing.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to continue the application of Jim McGillen, Oysterville Yacht Club on behalf of the Cam Neely Cancer Fund for a One Day All Alcohol for July 20, 2009 6 pm to 11 pm at Oyster Harbors Marine Little Island Facility and a and One Day Entertainment License from 7:30 pm to 11 pm with 7 entertainers. Capacity to be determined by the Building Dept. and Dire Dept. to its regularly scheduled hearing on 6/22/09.

**Request for Outdoor Entertainment Thursday Nights:** Request of Smilin' Jack's Restaurant Corp., d/b/a La Paz Surf Cantina, 573B Main Street, Hyannis, John Downes, Manager, for permission to amend its Daily Live Entertainment License to allow outside entertainment on their front patio Thursday nights during the summer season from 6 pm to 10 pm, in conjunction with the Hyannis BID Thursday evening events.

Mr. Downes appeared for his request for the summer season to have music in conjunction with Hyannis BID. He was told by the BID, Scott LaJoie, that he could offer entertainment outside under THEIR permit. He is here only to request the Board's permission. Others have had entertainers outside on Thursday and next to them in a common area. They are requesting this only for the one night a week. Mr. Hoxie asked if there would be any amplification; Mr. Downes said there would be the one microphone. Mr. Burman read that their current license reads no outside entertainment. Mr. Hoxie stated they are requesting only one person outside on the Thursdays. Mr. Sullivan asked about the others doing it on Thursdays outside – Mr. Downes stated yes,

they are outside entertaining. Mr. Sullivan stated that what we do for one we need to do for others. Mr. Hoxie asked about this street permit for Thursdays for entertainment for street performers. Mr. Downes stated there are always 1-3 pieces of entertainment, a magician next to them and one diagonally across from them. Mr. Sullivan asked about the BID permit and whether we should check into that first. Mr. Hoxie stated it is quite clear the BID cannot issue licenses – it should be contacted to find out what exactly they do have. Our authority is over alcohol and food handling establishments.

Mr. Hoxie asked for comments. Jim Carey from Gringo's appeared in opposition. He stated the entertainer would be no more than 20 feet from his property. He does not think it would be fair to him.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to continue the application of Smilin' Jack's Restaurant Corp., d/b/a La Paz Surf Cantina, 573B Main Street, Hyannis, John Downes, Manager, for permission to amend its Daily Live Entertainment License to allow outside entertainment on their front patio Thursday nights during the summer season from 6 pm to 10 pm, in conjunction with the Hyannis BID Thursday evening events to 6/22/09.

**Alteration of Premises:** Application of Fazio's Trattoria, Inc., d/b/a Fazio's Trattoria, 294 Main Street, Hyannis, MA, Thomas Fazio, Manager, for a change in license description to the following: "294 Main Street, Hyannis, MA, masonry building with main entrance on Main St., one entrance on Willow Ave. at rear of building and one entrance on east side of building. Table and chair seating for 82 (including 24 seasonal outside seats), plus 8 seats at the bar. A basement storage area of 3,000 sq. ft. Kitchen area of 1,040 sq. ft."

Attorney Boucher appeared for Fazio's with Mr. and Mrs. Fazio. They are requesting seasonal seating outside. Christine Ade confirmed that the Town Manager Agreement for a sidewalk café is in her possession. Mr. Geiler stated the capacity is 94. Mr. Burman stated it is 90 and does that include employees? Mr. Geiler stated it does not. The seating plan shows the total of 92. The application and approved capacity is 90.

Officer Maher stated maximum occupancy includes employees. This is a discrepancy within the rules and regulations of the town. The police department has always enforced it including employees. Mr. Sullivan said he has heard a lot of discussion about seating capacity vs. occupancy from the future. He would like in future to have the Building Commissioner and Board to clear this up. Mr. Hoxie suggests we approve this application and move forward.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Fazio's Trattoria, Inc., d/b/a Fazio's Trattoria, 294 Main Street, Hyannis, MA, Thomas Fazio, Manager, for a change in license description to the following: "294 Main Street, Hyannis, MA, masonry building with main entrance on Main St., one entrance on Willow Ave. at rear of building and one entrance on east side of building. Table and chair seating for 82 (including 24 seasonal outside

seats), plus 8 seats at the bar. A basement storage area of 3,000 sq. ft. Kitchen area of 1,040 sq. ft.”

**New Seasonal Common Victualler License:** Application of Cape Cod Concessions, LLC, d/b/a Harborside, 159 Ocean Street, Hyannis, MA, Don Cox, Manager, for a new Seasonal Common Victualler License (May 1 to October 31 each year), hours of operation 7:30 am to 11:30 pm, with 30 seats outdoors only, maximum 3 parking spots on property.

No-one appeared for the application.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to continue the application of Cape Cod Concessions, LLC, d/b/a Harborside, 159 Ocean Street, Hyannis, MA, Don Cox, Manager, for a new Seasonal Common Victualler License (May 1 to October 31 each year), hours of operation 7:30 am to 11:30 pm, with 30 seats outdoors only, maximum 3 parking spots on property to 6/22/09 as no-one appeared for the application.

**New Class II Auto Dealer:** Application of Global Exports International Trade Group, LLC, d/b/a GX Automotive, 87 Enterprise Road, Unit A, Hyannis, Mwanyota A. Allen, Manager, for a new Class II Auto Dealer License, with a maximum of 7 parking spaces.

Mr. Allen appeared for the application. He is applying for a Class II Dealer’s License for the maximum of 7 parking spots. They export cars and car parts to Cameroon and other places. He purchases vehicles through auctions so does have experience. Monday – Friday 9-5; he is asking now for Mon – Saturday 9-5. Mr. Allen stated he is only occupying ½ of Unit A at the location so cut his parking spaces in half as well.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Global Exports International Trade Group, LLC, d/b/a GX Automotive, 87 Enterprise Road, Unit A, Hyannis, Mwanyota A. Allen, Manager, for a new Class II Auto Dealer License, with a maximum of 7 vehicles outside including employees/customer parking.

**New Common Victualler License:** Application of Zi Long, Inc., a franchise of Innovated Restaurant Group, Inc., d/b/a Ruby Thai, 793 Iyannough Road, #F104 (Mall), Hyannis, MA 02601, Xu Wei Zheng, Manager, for a new Common Victualler License, hours of operation to be 10 am to 9 pm.

Xu Wei Zheng appeared and announced it will be 12-6 Sunday and regular mall hours weekdays. Chao Cajun used to be in this location. They will be opening up tomorrow according to Mr. Zheng.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Zi Long, Inc., a franchise of Innovated

Restaurant Group, Inc., d/b/a Ruby Thai, 793 Iyannough Road, #F104 (Mall), Hyannis, MA 02601, Xu Wei Zheng, Manager, for a new Common Victualler License, hours of operation to be 10 am to 9 pm.

**New Junk Dealer License:** Application of Cape Abilities, Inc., 3284 Main Street (Rte. 6A), Barnstable, MA, Larry Thayer, Manager, for a Junk Dealer License, hours of operation to be 9 am to 5 pm.

Larry Thayer appeared for his thrift and consignment shop. This is where the cancer thrift shop was located. Mr. Hoxie asked if he is familiar with the new regulations. He said he is. They will be open as much as their success allows. Right now he believes it will probably be Monday through Saturday but asking for daily.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Cape Abilities, Inc., 3284 Main Street (Rte. 6A), Barnstable, MA, Larry Thayer, Manager, for a Junk Dealer License, hours of operation to be 9 am to 5 pm daily.

**Carnival:** Application of Harold Fera, Rockwell Amusements, Inc., 10 Red Oak Drive, Johnston, RI, for a **Special Permit for a Carnival** for Wednesday, June 17, 2009 through Sunday, June 21, 2009 to be held at the Cape Cod Mall, Iyannough Road, Hyannis at the dates and hours listed below:

6/17/09	-	5 pm to 10 pm
6/18/09	-	5 pm to 10 pm
6/19/09	-	5 pm to 11 pm
6/20/09	-	1 pm to 11 pm
6/21/09	-	1 pm to 8 pm

Mr. Fera and Mr. Flynn appeared for the carnival request. They stated upon our approval they will go to Health, Fire, Building, etc. to get their permits as well. The list of employees and rides has now been provided. Officer Maher stated the employee list is unusual in that some of them do not have dates of birth – he is questioning the list and has requested photo ID on each person for the police department. Mr. Flynn stated they have CORI reports on each and he will provide them to the BPD. Lt. Jason stated they had a list last year, and ok'd it, but then there were different people there when they checked. They assured Lt. Jason they will have ONLY the employees listed and with ID proof be there at all. The only exception would be a local kid to sell hot dogs or something. Who would be the contact for the police? They will provide that. Officer Maher asked if people staying in the trailers, etc. are others than the employees? Are there others staying with them? The carnival people stated there might be a child. Officer Maher wants an ID for anyone over the age of 12. Mr. Burman stated that Mr. Fine at the Mall has asked the L.A. to approve this.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Harold Fera, Rockwell Amusements, Inc., 10

Red Oak Drive, Johnston, RI, for a **Special Permit for a Carnival** for Wednesday, June 17, 2009 through Sunday, June 21, 2009 to be held at the Cape Cod Mall, Iyannough Road, Hyannis at the dates and hours listed below:

6/17/09 - 5 pm to 10 pm  
6/18/09 - 5 pm to 10 pm  
6/19/09 - 5 pm to 11 pm  
6/20/09 - 1 pm to 11 pm  
6/21/09 - 1 pm to 8 pm

provided that all of the police department requests are met as well as all necessary permits.

### **Renewals:**

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

### **Junk Dealer**

Blockbuster

A motion was duly made to approve the renewal of Blockbuster for its annual Junk Dealer License. The motion unanimously carried.

### **Common Victualler**

Sandy Neck Beach Concession

A motion was duly made to approve the renewal application of Sandy Neck Beach Concession for its common victualler license. The motion was unanimously approved.

### **Business Meeting:**

Licensing passed out materials from the Municipal Licensing Group Seminar on June 2. Mr. Geiler stated a non-criminal citation may now be issued for a minor purchasing alcohol. Part of the new language allows the Licensing Authority to pay a cash bonus to someone reporting any attempts to purchase by minors, if our Town Council approves such an ordinance. This would include the evidence of false ID, etc. The fines are up to \$300. Officer Maher stated the Police Departments enforce this. The PD issues the citation, collects the fee and goes to an alcohol seminar. If an ID is confiscated the PD gets \$50.00. It looks interesting but we need to look at it further. Mr. Geiler stated the ABCC and other towns are seeing a rise in underage purchases of alcohol. Mr. Sullivan asked if it primarily applies to package stores – it talks specifically about both. Mr. Hoxie asked that this matter be put on for the 6/22 meeting to discuss further.

Adjourned at 10:25 am.

Respectfully submitted,

---

Christine P. Ade, Recorder  
Town of Barnstable Licensing Authority

---

Paul Sullivan, Clerk  
Town of Barnstable Licensing Authority