



# 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.  
December 28, 2009

A regular meeting of the Barnstable Licensing Authority was held on Monday, December 28, 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 Beer & Wine & One Day Entertainment License:** Application of AHEPA Cape Cod #483, PO Box 1036, Centerville for a One Day Beer & Wine and One Day Entertainment License for its New Year's Eve Celebration at St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville from 6:30 pm to 12:00 midnight.

Anthony Zombas appeared for his application; it is for December 31<sup>st</sup>. He assumes that the people, being older, will be gone by 12:30. Change license to read 12:30 am 1/1/10.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the request of AHEPA Cape Cod #483, PO Box 1036, Centerville for a One Day Beer & Wine and One Day Entertainment License for its New Year's Eve Celebration at St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville from 6:30 pm to 12:30 on 1/1/10. He stated the entertainment would have to stop prior to that time.

**Change of Manager:** Application of Not Your Average Joe's, Inc., d/b/a Not Your Average Joe's, 793 Iyannough Road, Hyannis, MA, John Armstrong, Manager for a **Change of Manager** on its All Alcohol Common Victualler License to Bruce Randon.

Mr. Randon appeared for the application. His experience has been 23 years with several different establishments – bartender, bar manager and general manager, at NYA Joe's for 2 years and here for about 2 months.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the request of Not Your Average Joe's, Inc., d/b/a Not Your Average Joe's, 793 Iyannough Road, Hyannis, MA, John Armstrong, Manager for a **Change of Manager** on its All Alcohol Common Victualler License to Bruce Randon.

**Class I Auto Dealer:** Application of Saturn of Hyannis, Inc., d/b/a Cape Cod KIA, 115 Bassett Lane, Hyannis, MA, Edward Leslie, Manager, for a new Class I Auto Dealer License, with 89 total vehicles on the property.

Ron Siegel, Controller, came to request the change of name on their license – same number of vehicles, no other changes. Mr. Geiler asked if the other license is being turned in – he stated no, it is a change in d/b/a.

Mr. Sullivan asked that the Building Commissioner signature be on the plan; Mr. Geiler stated since it went through Site Plan Review, the Saturn existing there is more restrictive than the older plans. This is the same plan as approved 2 years ago. Mr. Burman asked if the parking in the rear is shared with Balise; Mr. Siegel stated it is NOT. Their parking is totally separate.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the request of Saturn of Hyannis, Inc., d/b/a Cape Cod KIA, 115 Bassett Lane, Hyannis, MA, Edward Leslie, Manager, for a new Class I Auto Dealer License, with 89 total vehicles on the property – customers, employees, sale vehicles, all vehicles.

**Class II Auto Dealer:** Application of Kamberi Motors, Inc., d/b/a Euro-Atlantic Auto Sales, 741 Yarmouth Road, Hyannis, Besart Kamberi, Manager, for a new Class II Auto Dealer License with a total of 22 vehicles allowed on the property.

Mr. Kamberi appeared for the application. They will be selling used cars. This location was Action Auto Sales fort almost 20 years. They are applying for the license in their name for 1/1/2010. Mr. Kamberi stated he has worked with Auto Smart, Hi-Line Auto Sales; has auto experience, owned the BP Station on Barnstable Road which he has fixed up a lot, has repaired cars since he was a kid. Mr. Geiler asked about the type of vehicles that will be on the lot – range, price, a vision of what it will look like. Mr. Kamberi stated all the cars will be European cars, they will have warranties for at least six months. Price range will be approximately \$4,000 - \$6,000. They want to sell reliable cars. Mr. Sullivan wanted to verify the number of vehicles – customers only on the plan are not noted; display cars are 22. Mr. Kamberi stated they share 6 spaces with JMR Honda. Mr. Hoxie asked how many total cars on the lot; Mr. Kamberi stated 25 total vehicles on the property. Mr. Sullivan asked if it is an issue that there are 6 spaces on the plan for customers. Officer Steve Maher suggested a barrier or rope between the 6 vehicles. Mr. Kamberi suggested 19 cars for sale and 3 for customers, with a total of 22 to save any problems. Mr. Hoxie stated we should give him the 25 vehicles. Mr. Burman wants it delineated where the property ends – he stated form the

line of the sign going back. Mr. Kamberi stated they will add a white line around their property. Officer Maher stated if there was a white line it would help the police department, or a simple rope. Mr. Burman stated we are being careful about this as we are trying to develop some way to help the police department.

Mr. Geiler stated this had been probably the worst looking lot in town; he asked the Board to approve 20 total vehicles for 6 months and that the licensee could come back and grow it after that time. Mr. Kamberi asked for 22 total as long as they have 18 for sale and 3 spots they will mark for customers he will be happy. Mr. Geiler expressed a concern in the lease – non-exclusive use with others of this property. This concerns him (page 4 of the lease). He certainly does not want to suggest what Mr. Kamberi is representing is not true; Mr. Kamberi has stated he is planning to improve the lot in future as long as the business picks up. Mr. Geiler asked where his repairs are done – and was told they will be done at the new BP station he owns on Barnstable Road. Mr. Burman asked if there is any other Class II license he is sharing; Mr. Kamberi stated not for now. Mr. Burman stated he will propose 20 vehicles on the lot, then we could go up after 6 months if he has shown his intent to improve the property. Mr. Kamberi has been told he cannot expand the shed/office in size. He will put a new sealcoat on the pavement and add some lights. Mr. Geiler stated he thinks Mr. Kamberi knows what he is talking about. He also stated within 6 months he should go to Engineering to get the number pinned down – not just continue to use #741 B.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the request of Kamberi Motors, Inc., d/b/a Euro-Atlantic Auto Sales, 741 Yarmouth Road, Hyannis, Besart Kamberi, Manager, for a new Class II Auto Dealer License with a total of 20 vehicles allowed on the property at present.

**New Junk Dealer License:** Application of Tim Ferreira, d/b/a Ferreira's, 85 Old Yarmouth Road, Hyannis, MA, Tim Ferreira, Manager, for a new Junk Dealer License, hours of operation to be 7 am to 5 pm.

Tim Ferreira appeared for a new Junk Dealer license at a new location he has found. Mr. Hoxie asked what the location was – Mr. Ferreira stated it was the Old Plymouth Beef. Building. Mr. Hoxie asked how many days he will be open – he asked for 7, from 7 am to 5 pm. Mr. Hoxie asked him if he has decided not to retire? Mr. Ferreira stated he still has a lot left. Mr. Geiler stated that the Site Plan conditions imposed must be followed – with storage inside. There is a fenced area, he will not tow trucks and have lots of vehicles there. Mr. Ferreira stated it is his opinion that the towed cars are fine as long as there are no wrecks. Mr. Ferreira stated the cars they will have there are cars not involved in accidents.

Mr. Hoxie asked how soon he will be ready to be operational? He was told tomorrow! He said he has worked with Officer Maher and wants to cooperate with the town and do this right. Mr. Burman stated he has a long period of history with the town – he operated for a long time without a license; his question is that now does he intend to operate under the rules and regulations of the town? Mr. Ferreira stated that his family

has always had a junk license – his Dad was always licensed. Mr. Burman stated that was not a satisfactory answer; because he himself has had a long history of problems – he will be under close scrutiny. It will be his role to comply with ALL of the rules and regulations. Mr. Ferreira stated that due process is important; he is fully aware of the town ordinances. He is waiting to work with Officer Maher. Mr. Geiler stated this is a much better site than the other one – and indicated that Mr. Ferreira has worked with Building and Site Plan to get this far for this site. Because of the machinery he owns, he plans to have no more than 10 other cars there – nothing else except his equipment, bobcat, trailers. Mr. Burman asked someone else to make the motion as he is felt “torn” about his decision.

A motion was duly made by Paul Sullivan, seconded by Mr. Hoxie and then a unanimous vote was taken to approve the request of Tim Ferreira, d/b/a Ferreira’s, 85 Old Yarmouth Road, Hyannis, MA, Tim Ferreira, Manager, for a new Junk Dealer License, hours of operation to be 7 am to 5 pm, 7 days a week, according to Site Plan regulations on a letter dated 12/4/09 from Site Plan Review. This license is issued to 4/30/10.

**Transfer of Annual All Alcohol Common Victualler License:** Application of Bagley-Heath, LLC, d/b/a Sweet Tomatoes Osterville, 791 Main Street, Osterville, Darren Bagley-Heath, Manager, to Merrill Sweet, Inc., d/b/a Sweet Tomatoes Pizza, Merrill Sweet, Manager.

Mr. Sweet appeared for the application – he is buying back the business he sold to his ex-wife. He has other locations in Yarmouth and Chatham. His Chatham license is seasonal beer & wine. Mr. Sullivan asked about the seating capacity of 49. Mr. Burman stated it is 46 and Mr. Sweet agreed. Mr. Geiler stated there was a Health Department request a few years ago – he would like Mr. Sweet to abide by this. Mr. Burman asked for the inside total to remain if there is rain – the outside people cannot come in if it increases the number 34 inside.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the request of Bagley-Heath, LLC, d/b/a Sweet Tomatoes Osterville, 791 Main Street, Osterville, Darren Bagley-Heath, Manager, to Merrill Sweet, Inc., d/b/a Sweet Tomatoes Pizza, Merrill Sweet, Manager, with 34 total inside and 12 outside on a the patio..

**New Common Victualler License:** Application of LBK, LLC., d/b/a Burger King, 184 North Street, Hyannis, MA, Rob Smith, District Manager, for a new Common Victualler License.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to continue the request of LBK, LLC., d/b/a Burger King, 184 North Street, Hyannis, MA, Rob Smith, District Manager, for a new Common Victualler License to 1/11/10 as the applicant did not appear.

**New Common Victualler License:** Application of LBK, LLC., d/b/a Burger King, 2145 Iyannough Road, Hyannis, MA, Rob Smith, District Manager, for a new Common Victualler License.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to continue the request of LBK, LLC., d/b/a Burger King, 2145 Iyannough Road, Hyannis, MA, Rob Smith, District Manager, for a new Common Victualler License to 1/11/10 as the applicant did not appear.

**Show Cause Hearing:** Show Cause Hearing for Cape Cod Precious Gems & Coins, 48 Iyannough Road, Hyannis, MA, Carl Marchetti, Manager, for revocation of its Junk Dealer License as a result of information presented to the Licensing Authority by Detective Sgt. John Murphy of the Barnstable Police Department at the December 7, 2009 Licensing Authority Hearing for failure to comply with the Town of Barnstable Rules and Regulations under Chapter 502 regarding non-reporting of items purchased for sale, that it purchased items which appear on a list of stolen property, and a determination that Mr. Marchetti is an improper person to hold a Junk Dealer License, to show cause why your Junk Dealer License should not be permanently revoked.

It was read into record by Mr. Hoxie that the attorney for the Licensee, Jack Atwood, requested a continuation of this hearing to the next hearing on January 11, 2010 in order to properly prepare. He requested that Mr. Burman entertain a motion to continue the suspension of the license until that date.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to retain the suspension already imposed until the next hearing date of January 11, 2010 when the Board will have a Show Cause Hearing on this license.

**Renewals:**

**The following have applied for renewal of their licenses from 2009 with no changes:**

**Daily Non-Live Entertainment:**

Ryan Family Amusements

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the above licensee for renewal of its Daily Non-Live Entertainment license.

**Automatic Amusements/Video Games:**

Ryan Family Amusements

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the above licensee for its Automatic Amusement/video games license.

**Sunday Entertainment:**

Ryan Family Amusements

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the above licensee for its Sunday Entertainment license.

**Class I Auto Dealers:**

Buckler's  
Tracey Volkswagen/Audi  
Coastal Trailer Sales  
Balise Hyundai  
Balise Nissan  
Ford of Hyannis (Tom Geiler asked that this be skipped and come back to it)

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the above licensees for renewal of their Class I Auto Dealer Licenses.

**Class II Auto Dealers:**

Hyannis Auto Sales  
Wheels to Work  
West Main Auto  
Robert's Auto Wholesale  
Huhtanen's Auto Sales  
AB Auto Sales  
Brico Autoworks  
Argus Auto Sales  
Willow Street Motors  
Harbor Auto Sales  
Route 66 Auto Sales  
Cars for Kindness  
Hyannis Auto, Inc.  
DeVincent Auto Brokers  
Rotary Collision Ctr.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the above licensees for renewal of their Class II Auto Dealer Licenses.

### **Lodging Houses:**

Saltwinds B&B  
Beechwood Inn  
Memories by the Sea

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the above licensees for renewal of their Lodging House licenses.

### **Common Victuallers:**

Wendy's  
Quizno's  
Great House of Zou  
La Petite France

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the above licensees for renewal of their Common Victualler licenses.

Mr. Geiler asked about Ford of Hyannis – he stated it appears they have changed their d/b/a. Ms. Ade stated they have filed their renewal so as not to be confusing for us – and will be filing the change within a week or two.

Mr. Geiler stated we have to limit this time period and ask that they file the new paperwork within 30 days. Mr. Sullivan suggested February 1<sup>st</sup>. A motion was duly made by Mr. Hoxie and seconded by Mr. Sullivan to approve the renewal of Ford of Hyannis until 2/1/10 and that they must file to change it to Balise Ford within that timeframe.

### **Business Meeting:**

Last drink" information was passed out for the Board from the Clerk's Office. Mr. Geiler stated it might be appropriate to send them notices to get some response on these 3 establishments. Mr. Geiler states we have not been given lists in the past but believes we are now going to see them with the new regime. He thinks bringing them in is shaky, but ignoring it is not a good thing either. It might be productive to ask them what they have done to ensure it will not happen again. Mr. Hoxie states it would be impossible to prosecute as a result of third party info at this point but would be good to let them know the Board knows about it. Mr. Geiler stated the new administration seems to be focused on process and putting in place things which they should have been doing right along. In the distant past we used to be notified and send a letter to the offenders on the list. It is thought to be important, especially with the severity of the issue. Ask them what steps that they have put in place. Mr. Sullivan stated he thinks they are just asking for the correct address and it is up to us to do what we feel is right. Lt. Jason stated she believes they deserve to know their name is on this list. Mr. Hoxie stated we

can notify them by letter. If a pattern develops with notification of repeat offenders it may be looked into; and Lt. Jason stated especially if there is a 3<sup>rd</sup> offence we should bring them in. The Board members discussed it. Ptl. Maher stated that he has spoken with an ABCC representative who told him this was a new policy – and they would be notifying us. Lt. Jason stated in the last 2 weeks she booked people more than once for being over-served. Mr. Geiler stated over-serving is putting the person, the public and town employees at risk. This is not acceptable. If we can keep even one drunk off the street it is advisable. Mr. Hoxie stated he would like to see this information from BPD so we can move on it, especially if a place is lax on serving people who are already intoxicated. Mr. Sullivan thinks we should put the licensees on alert.

There was further discussion on status on numbers assigned to Auto Dealer lots from the last hearing. Mr. Burman stated he, Tom Perry, Mr. Geiler and Ptl. Maher had a meeting on 12/17; Mr. Perry had to leave because of a prior meeting – they will meet again right after the start of the new year to get this pinned down. Mr. Geiler stated everyone knows what we want to do; the question is how to do it now. We have to come up with a process. It impacts the older places much more significantly than the newer places which are regulated. He does not think it should be voluntary.

Mr. Burman moved that the rate of compensation of the Board be doubled.

Mr. Hoxie adjourned until next year at 10:28.

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