

(clock in stamp)

(TIMESTAMP ALL 3 COPIES IN TOWN CLERK'S OFFICE –
LEAVE ONE TO FILE FOR OUR RECORDS -ONE TO POST IN
TOWN HALL - KEEP ONE COPY FOR YOUR RECORDS).

TOWN OF BARNSTABLE

NOTICE OF MEETINGS OF TOWN DEPARTMENT AND ALL TOWN BOARDS
As Required by Chapter 28 of the Acts of 2009 which amends MGL Chapter 30 A

Licensing Authority Minutes

DATE OF MEETING: October 15, 2018

Check below which one applies

The Clerk's office has this meeting date already posted X

This is a special meeting which has not been posted

TIME: 9:30 a.m.

PLACE: 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA

A meeting of the Barnstable Licensing Authority was held on Monday, October 15, 2018. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced; Ron Semprini, Vice-Chairman; David Nunheimer, Clerk; Larry Decker, Associate Commissioner; Nancy Karlson-Lidman, Associate Commissioner; Richard Scali, Licensing Director; CAO Officer Therese Gallant, Lt. John Murphy and Maggie Flynn, Recording Secretary.

Vote to accept Minutes

1. Vote to accept minutes of the 09/17/2018 meeting.

A motion was duly made by Mr. Semprini, seconded by Mr. Nunheimer and a unanimous vote taken to accept the minutes of the 9/17/18 meeting.

Public Hearings:

1. **Application for an Alteration of Premises on an All Alcohol Retail Package Goods Store License:** Application of Bilal Corporation, d/b/a Willow Package Store, 700 Yarmouth Road, Hyannis, Shakeel M. Farooq, Manager for an Alteration of Premises description of the existing premises. Alteration of premise is for additional square footage to be added to the premises.

New Description: Single story building of approximately 3481 sq. ft. with 2 entrances and 2 exits. Having approximately 2521 sq. ft. of retail space and 960 sq. ft of storage.

All changes approved by the Building Department on 9/7/18.

******Postponed until 11/05/2018******

2. **Application to Amend Annual Live Entertainment License on an All Alcohol Common Victualler License:** Application of New England Clambake Inc., d/b/a Wimpy's, 752 Main Street, Osterville, Andrew Glassman, manager, to amend their existing live entertainment license.

Amendment to existing license is to include Tuesday and Wednesdays as additional authorized days to provide indoor live entertainment. Hours will remain the same as presently licensed 6 PM to 12 AM and allow a maximum of 2 performers and 2 pieces.

Andrew Glassman appeared on behalf of this application. This application is to only add 2 days, Tuesday and Wednesday to the existing Live Entertainment license that was approved in July, 2018 with the same conditions.

John Crowe, Osterville Businesses Professional Association, requested time to speak to the Board. He stated that at the July hearing the organization raised concerns; they had just found out about the request and wanted a postponement to review further. The postponement was not granted at that time. Again, they want to postpone due to the ongoing septic issue, capacity numbers are always changing, public safety and noise. There are three condo complexes within 200 feet of the restaurant. Mr. Crowe commented that they believe that Wimpy's is trying to make itself a nightclub. It was reiterated by Mr. Crowe that the organization just became aware of this request and perhaps the Town is not properly providing notice for some reason.

Mr. Nunheimer stated that the notice was statutorily given as every other notice.

Mr. Crowe commented that he meant no insult.

Mr. Hoxie clarified that the application before us is to add to days only. Andrew Glassman added that they have always been compliant with their septic system and do not intend to become a nightclub. The septic issue is being addressed by the State and the Board of Health. He also added when asked by Mr. Hoxie is he would be meeting with the Association; yes if asked to do so.

Mr. Scali asked if the abutter notification was completed; yes it was.

A motion was duly made by Mr. Semprini, seconded by Mr. Nunheimer and a unanimous vote taken to accept the application as presented.

3. **Application for a New Class II Auto Dealer License:** Application of Beard Motors Inc. d/b/a/ Beard Automotive., for a new Class II Auto Dealer License at 92 Rosary Lane, Hyannis, for a maximum of 4 vehicles to be parked inside per approval of the Building Commissioner and Fire Chief on 08/21/18. This license is for wholesale use purposes.

Andrew Beard is representing his father on this application. Mr. Scali asked about repair services; they will be done at the old location and yes there is an office inside the building.

A motion was duly made by Mr. Semprini, seconded by Mr. Nunheimer and a unanimous vote taken to accept the application as presented.

4. **Application for a New Annual Common Victualler License:** Application of Ipanema Restaurant LLC d/b/a Ipanema Restaurant, 70 Center Street, Hyannis , Elen Camara, Manager, for a new Annual Common Victualler license. Hours of operation will be 10:00 AM to 9:00 PM; daily. There will be a maximum of 25 total occupants per the Building Commissioner on 9/25/18.

Elen Camara appeared on behalf of this application. The menu will be Brazilian food via buffet. Mr. Scali asked about her experience; worked in Brazil. They need to bring in a signed architectural plan within 6 months per the Building Commissioner.

A motion was duly made by Mr. Semprini, seconded by Mr. Nunheimer and a unanimous vote taken to accept the application as presented.

Show Cause Hearings: The Barnstable Licensing Authority will hold Show Cause Hearings for the following establishments violating the following: Section 502-I sections R & T (Violation of MGL c138 s34) of the Town of Barnstable, Massachusetts Code: Alcoholic Beverages Sales and Laws - sale or delivery of an alcoholic beverage to a person under 21 years of age on September 8, 2018.

1. **Show Cause Hearing for an Annual All Alcohol Common Victualler License:** Oceanside Restaurant Group LLC d/b/a Harborview Restaurant and Bar, Michael Gustafson, Manager, 235A Ocean St., Hyannis.

Officer Gallant reviewed the details of the annual underage compliance checks. The methods are the same as they have been used in the past. Michael Gustafson appeared as the licensed manager. Our apologies, we take this very seriously. We are geared towards the 40 plus demographic. This was

very disappointing for the management team. Our staff has been re-trained; all of our bartenders are TIP certified. This bartender was TIP certified.

Phil Wallace added public comment that he is a Town Councilor, wine wholesaler and a friend of Mr. Gustafson. He spoke in favor of all the work that has been done at this location. His target market is 35-65 years of age; based upon age and price. As a Town Councilor I have requested information from the BPD; there is no indication that this type of operation does improve the underage drinking issues. We should use these funds for education and not to entrap business owners.

Mr. Semprini agrees with the education piece but we need to go a step further.

Mr. Nunheimer stated you are asking the BPD to prove a negative. The \$4600 is well spent.

Lt. Murphy entered the hearing and heard the word entrapment and sting. The BPD does not entrap, to say the BPD is going to change the way the youth thinks; it is back to prohibition. This compliance check has been educational based.

Officer Gallant reviewed the historical sanction guidelines.

After testimony from Consumer Affairs Officer Therese Gallant, the following motions were voted by the Licensing Authority:

•FINDINGS: To move that the Licensing Authority determine violation of Section § 502-1r of the Barnstable Licensing Authority Rules and Regulations was found (3-0);

•VERDICT: To move that the Licensing Authority find Harborview Restaurant and Bar located at 235A Ocean St, Hyannis guilty in violating Section § 502-1r of the Barnstable Licensing Authority Rules and Regulations (3-0);

•ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler for 2 days: of which you will serve one day suspension on January 1, 2019 and have one day suspension held in abeyance for one year from date of this hearing (3-0)

2. **Show Cause Hearing for an Annual All Alcohol Common Victualler License:**
Aztec City LLC d/b/a Ristorante Milanese, Maria N. Calle, Manager, 302 Main Street, Hyannis ****Postponed until 11/5/2018****
3. **Show Cause Hearing for an Annual All Alcohol Common Victualler License:**
Sam Diego's Inc. d/b/a/ Sam Diego's, Robert W. Kershaw, Manager, 950 Iyannough Rd., Hyannis. ****Postponed until 11/5/2018****

4. **Show Cause Hearing for an Annual All Alcohol Common Victualler License:**
JC Camas LLC d/b/a/ Tumi Ceviche Bar Ristorante, Jose Calle, Manager, 592
Main Street, Hyannis ******Postponed until 11/5/2018******

Release of Executive Session Minutes, if any (0). And any other new business to come before the Licensing Authority.

Licensing Division Updates:

1. **Licensing Department updates: none**
2. **Police Department updates: none**

Mr. Nunheimer suggested that we notify civic associations as in relation to the earlier discussions during the Public Hearing for Wimpy's.

Mr. Gustafson commented that the association stated they have 400 members, someone should have seen the notice; this process can be unfair to the business owners. Mr. Nunheimer withdrew his comment.

- **Matters not reasonably anticipated by the Chair**

The list of matters, are those reasonably anticipated by the president/chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the sub-committee may go into executive session. For your information the section of the M.G.L. that pertains to postings of meetings is as follows: Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain: the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. Meetings of a local public body, notice shall be filed with the municipal clerk, and posted in a manner conspicuously visible to the public at all hours

The meeting was adjourned at 10:12 AM

Respectfully submitted,

Margaret D. Flynn, Recorder
Town of Barnstable Licensing Authority

David Nunheimer, Clerk
Town of Barnstable Licensing Authority