

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, January 29, 2013, at the Weymouth Town Hall, Chambers, 75 Middle Street

Attendance (present): Chairperson Kathleen A. Deree; Matthew Brennan, Health Inspector; Jeffrey E. Richards, Director of Municipal Licenses & Inspections; Police Chief Richard Grimes; Fire Chief Joseph Davis; Fire Prevention Officer Justin Myers; Officer Brian King; George E. Lane, Jr., Town Solicitor; and Lisa VanWinkle, Recording Secretary (absent): Daniel McCormack, Health Director

Chairperson Deree called the meeting to order at 1 PM.

APPROVALS

- Minutes: December 19, 2012

Mr. Richards made a MOTION to approve the minutes of December 19, 2012. Chief Grimes seconded. UNANIMOUSLY VOTED

- Request for Annual Poppy Drive – Ladies Auxiliary to the George R. Bean Post #79

Mr. Richards made a MOTION to approve the request for the Annual Poppy Drive of the Ladies Auxiliary to the George R. Bean Post #79 for May 23, 24, 25, & 26, 2013. Chief Grimes seconded the motion and it was UNANIMOUSLY VOTED.

APPLICATION OF **MIDDLE STREET VARIETY, INC. D/B/A MIDDLE STREET VARIETY** FOR A WINE & MALT PACKAGE STORE LICENSE TRANSFER FROM BRANDON Q. PHAM AT 174 MIDDLE ST.

Attorney Thomas Truax and Mr. Brandon Pham were present.

Mr. Richards said the Board has a copy of the application and the notice mailed to the abutters. He continued to read the departmental referrals in to the record. Mr. McCormack (Health Director) reported no objections to the transfer of the license. Officer King reported no public safety objection to the request. Mr. Richards stated the use of the premises as a retail business is permitted in the B-1 Zone in which it is located. Proposal conforms to all applicable requirements of the requirements of the Town's Zoning Ordinances and the request may be granted.

Attorney Truax stated the transfer application is merely a change of sole proprietorship to Middle Street Variety Inc. where Mr. Pham is the sole shareholder, officer, director.

Mr. Richards announced the public hearing for comment; none was made.

Mr. Richards made a MOTION to approve the transfer of the Wine & Malt Package Store license. Chief Davis seconded the motion and it was UNANIMOUSLY VOTED.

APPLICATION OF **A.N.P. ENTERPRISES, INC. D/B/A BUTTS & BETS, II** FOR A WINE & MALT PACKAGE STORE LICENSE AT 99 PLEASANT ST.

APPLICATION OF **A.N.P. ENTERPRISES, INC. D/B/A BUTTS & BETS, II** FOR A FOOD VENDOR LICENSE, 99 PLEASANT ST.

Attorney Robert Galvin and Mr. Paresch Patel, applicant, were present.

Mr. Richards read the departmental referrals in to the record. Mr. Paula MacLeod, Municipal Finance, reported no delinquency on Personal Property taxes. Mr. McCormack, Health Director, reported the establishment is currently permitted with our department for: food service, retail food, and tobacco retailer and is currently in good standing. They have no objection to the issuance of the license. Mr. Richards stated the use of the premises as a retail store (convenience store) is existing and permitted in the B-2 Zone in which it is located. The existing non-conforming parking status is not changed by the proposed additional use as a Wine & Malt Package Store. However, recommendation is not favorable based on a finding of the existing vehicular traffic of the area; the type of the business is existing as a convenience store and the public convenience and welfare are currently being served by the number of package stores in the immediate area. Officer King reported the Police Department has a public safety objection to the request. Objections are traffic, parking and the proximity of a significant number of Wine & Malt and All Alcoholic package store. We feel that the public convenience is being served by the existing stores in the area.

Mr. Richards stated the applicant of signatures of those favorable to the application submitted a petition. Mr. Richards said a letter of opposition was submitted by the Columbian Square Business Association, which read the members of the Columbian Square Building Association discussed the matter at length at their meeting of January 15, 2013. Their opinion was as follows: They felt that giving Butts & Bets a license to sell beer and wine would do nothing to enhance the community of Columbian Square. There are currently seven stores that purvey beer, wine and some with additional spirits, all within a 1.3 mile radius of the square. This does not include bars & restaurant. It is their feeling that this need is currently satisfied. They are a business group with a pro business/pro community agenda. Although it is difficult for them to address a neighbor's business, it was unanimously voted to all present, to not support the beer & wine license being given to Butts & Bets.

Attorney Galvin added he had additional pages to submit, including 688 signatures of people supporting the application. He introduced his client Mr. Paresch Patel has been an operator of the 99 Pleasant Street convenience store for 12 years. He has also operated another business for 8 years, which included selling alcohol. Mr. Patel has a family and his wife is present today. Mr. Patel has completed courses in training of alcohol. He proposed putting in a new identification system, tied in to the cash register, if the approval is granted. Mr. Patel has been supportive to the community of Columbian Square, including Christmas events. The public convenience is being supported by those that have signed to support the application.

Mr. Richards announced the public hearing for comment.

Mrs. Joanne Bailey Kelbeck, family has owned and operated Bailey's Package Store, 6 within a 1.3 mile radius showed the public demand is being met, if not saturated. During the past year businesses have had to seek help by the Town due to drug and illegal activities occurring in the Square. They are all doing their best to do what they can do to make Columbian Square a safer place to live and do business.

Mr. Richards said the hospital has called the town offices noting the problem of patients leaving the hospital seeking alcohol.

Mrs. Joanne Bailey Kelbeck confirmed such and stated they go above and beyond to do what they can to prevent that as well as underaged purchases. They turn away people all of the time. There are problems and they are trying to make the community a safer and better place to live. She is a voting member of the Columbian Square Building Association and has never seen applicant at a meeting that she could remember. She questioned the signatures, as she does not feel it is needed. This is a tough issue.

Mr. Keith Spain, Georgia Road, echoed the concerns, stating he has also been involved with the Christmas in Columbian Square during the past two years. He does not think that adding another establishment that sells alcohol will add anything to the area. Substance abuse is an issue and adding another establishment selling alcohol would not be a benefit for the area within close proximity to the church and hospital.

Mrs. Jessica Rudolph, Vice President of the Columbian Square Building Association and Mrs. Frannie Xerocostas, Secretary spoke, stating there have been many issues in Columbian Square. Mrs. Toner stated she has called the hospital to report people walking around in the Square failing off the sidewalks, which is very sad to see. They are trying to clean it up along with the needles in the parking lots. They feel they are doing the best that they can to prevent this.

Attorney Galvin stated, if granted, new signage will be applied for and the windows will be cleaned up. He noted that the father of Mrs. Rudolph had signed the petition.

Mr. Bill Kelbeck, Manager of Bailey's Package Store and the past President of the Columbian Square Building Association, spoke stating he has not been aware of Mr. Patel's participation in the Association within the past. There is nothing wrong with good honest competition but in the case of what is being asked for there are many considerations to be made. He strongly urged the Board of considering that when making their decision.

Officer King stated the petition included a considerable number of out of town signatures.

Mr. Patel replied they work in the area.

Chief Grimes said the Police Department has been working with the Columbian Square Building Association. They are policing the Square and are helping to make it a safe place. The public need has been met. Due to the location, it makes it difficult for law enforcement. The competition is abundant. The Police Department's standpoint would come out as opposed.

Mr. Brennan stated the applicant is a good operator. It is less than 500 feet from Old South Union Church. Another license may be detrimental to the Columbian Square.

Solicitor Lane stated there are standards obligated and he asked that the Board stated their reasons whether to grant or deny; the public convenience or good; testimony and signatures are noted. Please articulate reasons for the record.

Chief Grimes stated he was opposed to the application as the public need has been met and has been served. There is substantial traffic; non-sufficient parking; cars exiting or backing up in the busy area.

Mr. Richards stated due to the significant number of Wine & Malt and All Alcohol Package Stores location near Old South Union Church; considerable traffic in the area; the ability of the license holders to meet the demands of the public; with a potential of traffic concerns a MOTION has been made to deny the application. Chief Grimes seconded and it was UNANIMOUSLY VOTED

Attorney Galvin stated they would withdraw the application for a Food Vendor License.

Mr. Richards made a MOTION deny the application. Chief Grimes seconded and the motion was UNANIMOUSLY VOTED.

APPLICATION OF **MAIN STREET DELI & PIZZA, INC. D/B/A MAIN STREET DELI** FOR A COMMON VICTUALLER LICENSE, 380 WASHINGTON ST.

Mr. Michael Munichiello, applicant, was present.

The application is for 60 seats; fast food is moving across the street in to the former Caswell's location.

Mr. Richards stated the use of the premises as a restaurant is existing and permitted in the B-1 Zone in which it is located. The parking is adequate for the proposed use. Proposed hours of operation are: 10 AM – 10 PM. Approval would be subject to the issuance of a Certificate of Occupancy, Certificate of Inspection and Business Certificate by the Building Department. Common Victualler license of Caswell's Seafood would no longer be valid. He read the departmental referrals in to the record. Mrs. Paula MacLeod, Municipal Finance Department, reported Main Street Deli is in good standing. 380 Washington Street, Caswell's, has outstanding utilities. Officer King reported no public safety objection to the request.

Firefighter Justin Myers stated inspection of alarm system is required.

Mr. Munichiello stated they are applying for Building Permits for a new front to the building and signage. He met with the Health Department to be advised what is needed to be done to be up to code. He would like to be operational by May 14th. Their current location lease expires in July.

Officer King stated he did not see a problem with the requested hours of operation where they are located without residential abutters. He has had no calls or complaint in regards to the current operation.

Mr. Brennan stated a hand wash sink and salad wash sink are required to be added to the plans. He asked that Mr. Munichiello see the Health Department for updated applications.

Mr. Richards made a MOTION to approve the Common Victualler License for 380 Washington Street. Chief Davis seconded the motion and it was UNANIMOUSLY VOTED.

APPLICATION OF **THE EVERYDAY CAFÉ, INC.** FOR A COMMON VICTUALLER LICENSE, 374 BRIDGE ST.

Ms. Kerrie Doherty, applicant, was present.

Mr. Richards stated the location is a double drive through and originally was a coffee shop, drycleaner. He read the departmental referrals in to the record. Officer King reported no public safety objection to the request. Mr. McCormack stated if the license is issued, a permit to operate must also be obtained at the Health Department. You must submit the following: a completed food permit application, Workers Compensation Affidavit, Food Manager Certification, Allergen Certifications and applicable fee. The establishment must be inspected prior to the opening. Mr. Richards stated the use of the premises as a retail store is permitted in the NCD Zone in which it is located and the parking is adequate. The drive-through window is permitted by Special Permit of the Board of Zoning Appeals, approved on August 24, 1995, Case #2314. Accordingly, the proposal conforms to all other applicable requirements of the Town's Zoning and Building Ordinances and the requested license may be granted.

Ms. Kerrie Doherty, owner, stated no changes are proposed whatsoever.

Mr. Richards announced the public hearing; no comment was made.

Chief Davis asked if fried foods were on the menu.

Ms. Doherty replied no. They just updated the fire extinguishers.

Chief Davis stated an inspection is required by the Fire Department.

Mr. Brennan requested that Ms. Doherty sees the Health Department if the license is granted. A certified Food Manager is required to be onsite at all times.

Ms. Doherty stated they are attending training in February.

Mr. Richards stated an Occupancy Permit is required through the Building Department prior to opening.

Mr. Richards made a MOTION to approve the Common Victualler license. Chief Davis seconded and the motion was UNANIMOUSLY VOTED.

CHAIRMAN'S REPORT

- Meeting Schedule

Mr. Richards made a MOTION to schedule their next meeting for Tuesday, February 26, 2013 at 1 PM.

Chief Grimes seconded the motion and it was UNANIMOUSLY VOTED.

NEW/OLD BUSINESS

- Papa John's, 856 Washington St.

Mr. Richards called Mr. Bob Thomas, abutter, forward. Mr. Thomas stated he had sent correspondence to the Board in regards to ongoing issues. He said he was told at the last meeting that the matter would be distributed departmentally as they await an application from the new operator.

Mrs. Deree entertained a MOTION that Mr. Thomas's comments to be taken under advisement. Mr. Richards moved the MOTION and it was seconded by Chief Davis. The motion was UNANIMOUSLY VOTED.

ADJOURNMENT

Mr. Richards made a MOTION to adjourn at 2:52 PM. Chief Davis seconded the motion and it was UNANIMOUSLY VOTED.

Respectfully submitted,

Lisa VanWinkle,
Recording Secretary

Approved:

Date:

Jeffrey E. Richards, C.B.O., Clerk, Director of Municipal Licenses & Inspections