

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, October 22, 2013, at the Weymouth Town Hall, Chambers, 75 Middle Street

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

Acting Chairman McCormack called the meeting to order at 1:40 PM.

APPLICATION OF **BROAD STREET GROCERY, LLC D/B/A STOP N SAVE** FOR A FOOD VENDOR LICENSE AT 69 BROAD ST.

Mr. Richards stated the applicant has requested that the application be continued to meet abutter's notification requirements.

Mr. Richards made a MOTION to continue the hearing to the November meeting. Chief Stark seconded the motion and it was UNANIMOUSLY APPROVED.

APPLICATION OF **TECHNIP STONE & WEBSTER PROCESS TECHNOLOGIES, INC.** FOR AN INCREASE IN FLAMMABLE STORAGE PERMIT AT 56 WOODROCK RD.

Mr. Richards made a MOTION to table the hearing until Firefighter Justin Myers is present. Chief Stark seconded and the motion was UNANIMOUSLY VOTED.

APPLICATION OF **SHAWTE ROMOLO D/B/A THE WISH LIST** FOR A ANTIQUE DEALER LICENSE AT 435 COLUMBIAN ST.

Ms. Shawte Romolo, applicant was present.

Mr. Richards read the departmental referrals into the record. Mr. McCormack reported no objection. Officer King reported no public safety objection to the request.

Ms. Romolo introduced herself and stated they plan on selling antiques, collectibles and toys at the location of 435 Columbian Street, which used to be occupied by Rizzo Insurance.

Mr. Richards opened the public hearing for comment. No one commented.

Mr. Richards requested that the isles remain 36" clear for safety issues.

Mr. Richards made a MOTION to approve the Antique Dealer license, as per application. Chief Stark seconded the motion and it was UNANIMOUSLY VOTED.

APPLICATION OF **SHAWTE ROMOLO D/B/A THE WISH LIST** FOR A JUNK DEALER LICENSE AT 435 COLUMBIAN ST.

Chief Stark requested that there be no storage outside of the location.

Ms. Romolo explained that the license is required for the sale of non-antique items. It happens to be called "Junk Dealer". The items for sale will be vintage and second hand items.

Mr. Richards made a MOTION to approve the Junk Dealer license, as per application. Chief Stark seconded the motion and it was UNANIMOUSLY VOTED.

APPLICATION OF LINCOLN SQUARE SERVICE, INC. D/B/A LINCOLN SQUARE MARKET FOR A WINE & MALT PACKAGE STORE LICENSE AT 185 WASHINGTON ST.

Mr. Walid Metri, President of Lincoln Square Service, Inc. was present.

Mr. Richards read the departmental referrals into the record. Mr. McCormack reported the establishment currently holds a Health Department Food Permit and a Tobacco License. They are in good standing with the Health Department. Officer King reported no public safety objection to the requested Wine & Malt Package Store License at the location.

Mr. Richards stated an application and plans have been submitted. Legal notification requirements have been met. One Wine & Malt Package Store License is available. Per the plans, the coolers will be on the left-hand side when walking into the store.

Firefighter Myers arrived at 1:45 PM.

Mr. Richards stated the GIS Department made maps showing current locations of licenses.

Mr. Richards stated the Board received letters of opposition from the following: Colleen A. Kelley, President of Homestead Civic Association; Mr. Robert McLean, Director of Library Services, Weymouth Public Libraries; as well as three letters from Mr. Ratankumar C. Lillaney, RK Mart, 141 Broad Street, Weymouth, MA. Mr. Richards stated the letters referenced concerns with there already being three licenses located without one mile of the location and that the area has reached its saturation point; public safety of the public entering and exiting the location; additional traffic to the area; safety of the school children; mixing of alcohol and gasoline at the same location; an increase of litter to the area; automobile crash statistics for 2013 show a concern; concern with deliveries made by large delivery trucks.

Chief Stark left the meeting at 1:58 PM.

Solicitor Lane asked that the meeting be held until Chief Stark arrived back.

The meeting reconvened at 2 PM.

Solicitor Lane stated the case authority and statute is very clear when voting a decision on whether to grant or deny an application. The vote should include the public need for and also that the location is appropriate. The Board should also consider the traffic, noise and the size of the location

when making the vote.

Mr. McCormack noted that there are only four members present.

Solicitor Lane stated the application may go forward or continued based on such with the request of the applicant.

Mr. Metri requested to go forward.

Mr. Metri stated they go out of their way to be a very good service to the public and the town. Their customers have asked that they offer beer and wine. This will be an extra convenience for their customers and the public.

Mr. McCormack announced the public hearing for comment.

Mr. Bob Montgomery Thomas, abutter from Thorps Hill, Washington Street, sited the Zoning Board public hearing for the proposed case, stating when the car wash was considered he thought the run off water would be an issue of freezing in the wintertime. There is a loading bay requirement for deliveries. The application was presented as a convenience store with a drive through for the Dunkin Donuts. He stated the proposal should be shown on the plans to meet the zoning requirements.

Mr. Richards stated the loading bay requirement is met by having the trucks back in over the gas tanks.

Mr. Thomas stated that is a public safety issue, backing the truck in and egressing, unless a police detail is hired. The Zoning Board overruled its own rules.

Mr. Metri stated the fuel trucks and convenience delivery trucks are doing the same.

Mr. Richards stated the Zoning Board of Appeals reviewed the case and made a decision, which was within their purview.

Mr. Metri spoke about the proposed operation, stating the computer register system they have allows them to check ids for appropriate age restrictions.

Mr. McCormack confirmed that they have such a system that is used for the sale of tobacco as well. There have been Tobacco Compliance Checks at the location and no sales to minors have been made.

Officer King questioned if the computer system may be augmented to allow the check of ids for alcohol sales.

Mr. Metri confirmed yes.

Officer King stated that Mr. Metri and his employees would be required to attend the Alcohol Awareness Training provided by the town in December. He has known Mr. Metri for over 25 years through the taxi cab licensing and he has no doubt that that Mr. Metri would be able to run the operation. There will be a separate cooler for the beer and wine, which will have locking mechanisms. Officer King stated he does not foresee the location becoming a destination point. He believes it would serve the particular area of town.

Mr. Ratankumar Lillaney, 141 Broad Street Broad & Vine Liquors, stated his objection to the application, noting he submitted letters and submitted a disk showing a video of a delivery made by a large truck at the location and the concern for public safety. The delivery trucks entering and egressing took an extended period of time. He also submitted a traffic safety study showing statistics of crashes occurring at Weymouth intersections.

Mr. Richards stated the Mr. Robert MacLean, Director of Public Libraries, had concerns about the playground and litter. Mr. Richards stated a fence has been installed per the ZBA. He stated a portion of the back was open, leaving easy access directly from the site to the Library grounds.

Mr. Metri stated the gate is no longer in operation.

Mr. Richards asked that fugitive trash be discarded, mainly Dunkin Donut cups.

Mr. McCormack stated a trash receptacle should be made available for the drive-through area. The trash receptacle should be maintained throughout the day to deter overflow.

Mr. Richards announced the public hearing for further comment.

Mr. Vin Hoyt, 21 Washington Street owner, stated parking is always an issue in the Landing. They are located 100 feet away on the Braintree side of the Landing a beer and wine store is being opened. The businesses will be hurt from this. The population has not grown to accommodate the increase of package stores within the town.

Mr. Thomas asked what the town has to gain and when does it become saturated or oversaturated?

Mr. Richards reviewed the plans and stated the area for the beer and wine within the structure will be 9'x21'.

Officer King stated the proposed would generate less traffic than that of a sandwich shop.

Mr. Richards made a MOTION to approve the application for a Wine & Malt Package Store License with the condition that the fence at the rear of the property be extended to cover the carwash area, and also, that the fugitive trash be patrolled and disposed of.

Solicitor Lane stated the public want should be included within the finding and as well as the appropriateness of the proposed location.

Mr. Richards included within his MOTION that the license would create a one-stop use.

Officer King stated in regards to traffic, he felt that item would not affect the area, as it is a densely populated area that could support the addition of the sale of beer and wine. Officer King seconded the MOTION and it was SO VOTED (Chief Stark opposed 3-1).

APPLICATION OF SALLY'S SWEETS, LTD. D/B/A SALLY'S SWEET SHOPPE FOR A FOOD VENDOR LICENSE AT 1072 WASHINGTON ST.

Ms. Sally Pelrine, President of Sally's Sweets, LTD., and Mr. Glenn Pelrine were present.

Mr. Richards read the departmental referrals into the record. Officer King reported no public safety objection. Mr. McCormack reported Sally's Sweets is currently permitted with us as a home kitchen. She has submitted a floor plan for review and has had dialog with the inspector. If the license is issued, she will need to apply for a food establishment permit.

Mr. Richards stated application, layout of interior of the store and parking plans have been submitted.

Ms. Pelrine introduced herself stating they have obtained a lease for the site of 1072 Washington Street to open a shop to sell chocolates and confectionaries. She stated they are not applying for seating. The items will be purchased to take out only.

Firefighter Myers stated where the building is new inspections are being made through the Building Permit process and a Certificate of Occupancy will be finalizing the project with final inspections.

Acting Chairman McCormack announced the public hearing for comment.

Ms. Donnamarie Dearth, 1065 Washington Street, questioned if they were proposing to sell coffee or tea as well.

Mr. Pelgrine replied that only chocolates and confectionaries would be available to purchase and take.

Ms. Dearth welcomed them to the neighborhood.

Mr. Richards made a MOTION of approval for a Food Vendor License with no seating, as per application. Chief Starke seconded the motion and it was UNANIMOUSLY VOTED.

APPLICATION OF TECHNIP STONE & WEBSTER PROCESS TECHNOLOGIES, INC. FOR AN INCREASE IN FLAMMABLE STORAGE PERMIT AT 56 WOODROCK RD.

Mr. Joseph Peters was present representing Technip Stone & Webster Process Technologies.

Mr. Richards made a MOTION to continue the application that had been tabled. Chief Stark

seconded the motion and it was UNANIMOUSLY VOTED.

Mr. Richards read the departmental referrals into the record. Officer King reported no public safety objection to the request. Mr. McCormack reported the facility has a current hazardous materials permit and is in good standing with the Health Department; therefore, there is no objection to the increase of storage. The Municipal Finance Department reported no personal property assessment history for Shaw Stone & Webster. No real estate property tax delinquency reported for Schofield Albert R, Jr., Trustee of 56 Woodrock Rd. No record of Technip.

Acting Chairman McCormack stated the proposal is to add flammable gas storage to the business plan. The character of the business has changed.

Firefighter Myers stated the request is for an increase in the existing license to increase the volume. The original license dates back to 1995. The business is required to apply for a renewal with the Town Clerk's Office. It is a suitable location for the increase. The Fire Department has no objection to the request and will put conditions on the license.

Mr. Richards stated a Certificate of Occupancy would be required. They are applying for the addition of flammable gas storage and use in the amount of 25,000 scf outside and two (2) 4,000 scf per controls inside the building, totaling

Mr. Richards made a MOTION to approve the application for an increase of flammables for a total of 33,000 scf, as per application. Chief Stark seconded the motion and it was UNANIMOUSLY VOTED.

APPLICATION OF JMP CORP D/B/A CORK & BREW FOR A WINE & MALT PACKAGE STORE LICENSE AT 587 WASHINGTON ST.

Attorney Raymond Jennings, III and Mr. James Powers, President of JMP Corp. and Mr. Thomas Powers, were present.

Attorney Jennings introduced himself and stated the newspaper advertisement did not run in a timely fashion due to a fault of the Patriot Ledger. It appeared in the newspaper six (6) days prior to the meeting. He suggested that a comparative analysis of the two applications be reviewed where there is one license available.

Solicitor Lane stated the applications were listed on the agenda and review by the Board in the order that they were received. The abutter's notices were carried out, but per M.G.L. Chapter 138, section 15A the newspaper notice must appear in a newspaper at least ten (10) days prior to the public hearing.

Attorney Jennings stated referred to a case presented in 1977 in which applicants were competing for a license and comparative hearings were held. (Barnstable Board of Selectmen vs. Alcoholic Beverages Control Commission 373 Mass. 708, 369 N.E. 2d 1011).

Mr. Richards made a MOTION to continue the hearing until the November meeting. Chief Stark seconded the motion and it was UNANIMOUSLY VOTED.

APPROVALS

- Minutes: September 24, 2013

Mr. Richards made a MOTION to table the minutes of September 24, 2013. Chief Stark seconded and the motion was UNANIMOUSLY APPROVED.

- One-Day Wine & Malt Permit: Immaculate Conception Parish (9/9/13)

Mr. Richards made a MOTION of approval. Chief Stark seconded and the motion was UNANIMOUSLY APPROVED.

CHAIRMAN'S REPORT

- Meeting Schedule

Mr. Richards made a MOTION to schedule the next meeting for Tuesday, November 26, 2013 to be held at 1:30 PM. Chief Stark seconded and the motion was UNANIMOUSLY APPROVED.

CORRESPONDENCE

None.

NEW/OLD BUSINESS

- FOIA Request of Bob Montgomery Thomas

Mr. Thomas provided a narrative on his Freedom of Information Request, stating it had not been satisfied. A response was given asking for a fee of \$14.63, to include a copy of Papa John's license and minutes of the meeting in which it was granted. He commented a narrative was not provided to answer his questions within the request. He specifically requested a written explanation from the Chairman of the Board of Zoning Appeals (BZA) on official BZA letterhead regarding zoning requirements for off-street loading and egress and that off-street loading bays were mandatory since 1976 and that such requirements were waived for the subject property by the DPW Engineering Division when the BZA approved a second floor addition for 856 Washington Street nine years ago.

Solicitor Lane stated he understood why Mr. Thomas was making the inquiries. The request is being brought through the incorrect avenue, as Freedom of Information Act does not require for the party to create an intent. It does not require the party to create a summary or document based on what you are looking for. He questioned if Mr. Thomas considered taking private action against Papa John's commissary truck company.

Mr. Richards stated the ZBA case Mr. Thomas is referring to is Case #2734, of which he was not present. The appeal would be through that case through the ZBA and not the Licensing Board.

Mr. Thomas stated he is going to contest the license of Papa John's.

ADJOURNMENT

Mr. Richards made a MOTION to adjourn at 3:20 PM. Chief Stark 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