

Minutes of the Board of License Commissioners for their meeting held on Tuesday, March 9, 2004, at the Weymouth Town Hall, Chambers

Attendance: Chairman Franklin Fryer, Town Clerk; Clerk Jeffrey Richards, Director of Municipal Licenses & Inspections; Fire Chief Robert Leary; Daniel McCormack, Chemicals Specialist; Police Chief James Thomas; Town Solicitor George E. Lane, Jr.; Licensing Officer Brian King and Lisa VanWinkle, Secretary

Chairman Fryer called the meeting to order at 2 PM.

APPLICATION OF PAPA GINO'S, INC. D/B/A PAPA GINO'S FOR A COIN-OPERATED DEVICE LICENSE, 770 WASHINGTON ST.

Mr. Rich Tilton, General Manager, was present.

Chief Leary, Acting Clerk, read the departmental reports into the record. The Municipal Finance Department reported taxes as current. The Health Department reported no objections. Licensing Officer King, Police Department, reported no public safety objection. Mr. Richards, Building Inspector, reported no objection to the license request.

Mr. Tilton stated they have had the machine at the location and were told that they needed to apply for a license. Therefore, they are applying for a Coin-Operated Device License for one crane device.

Officer King noted while inspecting the location prior to renewals he reported that they were without a license.

Chairman Fryer stated he wasn't in favor of voting for the license as he has seen kids using the machine and it seems as though they never win a prize. The game company is profiting at the expense of children.

Mr. Tilton reassured Mr. Fryer that the machine was a candy machine and that the machine dispenses candy every time the machine is used.

Chairman Fryer retracted his comments, stating they had applied for a plush crane device.

Chief Leary made a motion to grant a Coin-Operated Device license for one device to Papa Gino's Inc. d/b/a Papa Gino's. Chief Thomas seconded the motion. UNANIMOUSLY VOTED.

APPLICATION OF PAPA GINO'S, INC. D/B/A PAPA GINO'S FOR A SUNDAY ENTERTAINMENT LICENSE, 770 WASHINGTON ST.

Mr. Tilton stated the machine will be in use on Sundays as well; therefore, they are applying to add a separate category of a coin-operated device onto their current Sunday Entertainment license. They are currently licensed for a juke box.

Chief Leary made a motion to grant the addition of a coin-operated device on their Sunday Entertainment license. Chief Thomas seconded. UNANIMOUSLY VOTED.

APPLICATION OF DOREEN MAHONEY D/B/A STETSON PLACE CAFÉ FOR A COMMON VICTUALLER LICENSE, 541 MAIN ST.

Mr. Robert Mahoney and Mrs. Doreen Mahoney, Proprietor/Manager, were present.

Chief Leary read the department referrals into the record. The Municipal Finance Department reported personal property taxes as current. The Health Department reported no objections; they were informed of the specific health requirements. Licensing Officer King, Police Department, reported no public safety objection. Mr. Richards, Inspector of Buildings, reported the use of the premises as a retail/take-out establishment is permitted in the B-1 Zone in which it is located. The eight seat designation is permitted at the location as an accessory use and therefore, the existing parking is adequate per 120-69 of the Town's Code. Accordingly, the license request conforms to all applicable requirements of the Town's Zoning and Building Regulations and may be granted. Note: A building permit and a certificate of occupancy must be filed with the Building Department prior to this change.

Chairman Fryer stated there use to be a push cart at the location previously. He asked where they propose to locate the café within the Stetson building.

Mrs. Mahoney replied within the lobby with a few tables and chairs. They will be serving coffee, bagels, donuts, soda, spring water and sandwiches.

Mr. McCormack stated he spoke with Mr. David Kaplan, Health Inspector, who informed him that the sink within the plan will be required to be updated to a three-bay sink per the health code; a refrigerator is required as well.

Mrs. Mahoney replied there will be a small under the counter refrigerator. In regards to the three-bay sink, they were told the sink had to be deep enough to be able to clean their biggest utensil, which will be their coffee maker.

Mr. McCormack stated the plans should be up-to-date with the current requirements in case they decide to upgrade the café in the future. A hand wash sink is required.

Chief Leary made a motion to grant the Common Victualler license with 8 seats to Doreen Mahoney d/b/a Stetson Place Café, 541 Main Street. Chief Thomas seconded. UNANIMOUSLY VOTED.

APPLICATION OF S&E AUTO SERVICE & SALES, INC. D/B/A S&E AUTO, FOR AN INCREASE IN THE NUMBER OF VEHICLES ON THEIR CLASS II AUTO DEALER LICENSE, 1255 WASHINGTON ST.

Mr. Edward Coolbrith, Vice President/Partner and Mr. Steven Lameiras, President/Partner, were

present.

Chief Leary read the public comments and departmental referrals into the record. Mr. George Alexander, 1262 Washington Street, had called to voice his non-objection to the increase. He stated he is a neighbor living across the street from S&E Auto Sales. The Municipal Finance Department reported taxes current. The Health Department reported no objection; the facility is in good standing. Lt. Gerald Borellini, Fire Department, reported no objections; they run very clean operation. Licensing Officer King, Police Department, reported opposition to the granting of the increase due to a constant disregard of their current license, having additional vehicles on the lot than what they were licensed for at several inspections. He suggested that the request is tabled for 120 days in order to further inspect the location for compliance with the current license which allows for the display of thirty vehicles. Mr. Richards, Inspector of Buildings, reported the use of the premises as a Class II Dealer is permitted by Special Permit #2432 and the reconfigured parking is in compliance with the current ZBA case and Zoning Ordinance. Accordingly, the provided parking plan may be granted for the additional fifteen vehicles. Note: The original plan called for fifty vehicles and reconfiguration made forty-five vehicles acceptable to the zoning ordinance.

Mr. Lameiras stated since Mr. Richards was not present they were considering tabling the application.

Chairman Fryer stated he was not in favor of the application.

Chief Thomas informed Mr. Lameiras they were looking at least a two-to-two vote. It would be repetitive to go forward today if they would like to withdraw their application.

Mr. Lameiras stated they have been in business since 1985. They want to comply with their license, but with the nature of the business and the turn around of vehicles, often times there are additional vehicles on the lot. If the customer signs for a new vehicle, it is no longer in their ownership. He stated they are trying to work with Officer King and they do want to comply with their license. The Massachusetts Independent Auto Dealer Association voted S&E Auto Sales the best used car dealership in the South Shore area.

Officer King informed Mr. Lameiras he is not questioning their business ethics, but them complying with their license. On several occasions while inspecting the location, they had additional vehicles in excess of their license.

Solicitor Lane stated there is no question that they have a high quality business. They are speaking to Officer King's report. With the high turn around of vehicles maybe an agreement could be worked out with the Licensing Officer.

Mr. Lamerias stated they hired an engineer to draft the plans who determined the lot had sufficient space for fifty vehicles. Mr. Richards determined that forty-five vehicles would be suitable.

Councilor Joseph Connolly, Councilor at Large, stated he was present on behalf of the applicant. He stated he understands S&E Auto Sales has had additional vehicles on their lot. He said they are

a thriving business and due to their high volume of business, it is clear that they need more spaces to continue their business. It is a clean operation and they stand behind their product. Forty-five vehicles should be allowed and they will not be found in violation with the increase. If so, punishment is deserved by reprimand or fine. The owners have always donated to the Town/non-profit organizations. They are a good neighbor to the community and he would like to keep the business in Town as they are an asset.

Mr. Richards arrived to the meeting at 2:35 PM. He reviewed the application and plans.

Solicitor Lane asked Mr. Richards if he was aware of Officer King's report.

Mr. Richards replied yes. He stated the plan for the new building went before the Zoning Board of Appeals previously. At such time there was no proposal for an increase to the number of vehicles on the lot. Based on the reconfiguration of the building they were informed they could apply before the Licensing Board to increase the number of vehicles on their license. They never applied nor came before this Board.

Mr. Coolbrith replied it was never in question. They never intended to be in violation of their license.

Mr. Richards stated subsequently Officer King went to the site and found additional vehicles on the lot. Mr. Lameiras came to him asking how they could resolve the issue and he suggested that they have the lot surveyed. The engineer determined the lot would accommodate fifty vehicles. He then determined an additional fifteen vehicles would be acceptable. Officer King subsequently went back and there were still additional vehicles on the lot. Two months after S&E Auto Sales received approval from the Zoning Board of Appeals they filed an application with the Licensing Board for approval.

Chairman Fryer stated he drives by the location everyday and he could not see where any additional vehicles could fit on the lot. He stands by his previous decision. He believes the application should be tabled for 120 days to iron out the situation. They are a good business and he wouldn't want the Town to lose them.

Mr. Richards stated he believes a motion should be made to approve the application. The plan works for an additional fifteen vehicles; the standard parking space measures at 5' x 9'.

Chief Thomas noted in order to iron out the situation; he believed there should be a trial period if the application is granted to make sure the new plan works. He stated the license should be granted on a level playing field. There are rules and regulations to comply with and the license holder needs to comply with them.

Mr. Coolbirth replied he obtained a list of all of the Class II Auto Dealers within Town and he reviewed the restrictions of each license. He found that there were three other licensees that were not in compliance, but said that isn't why they were before the Board.

Mr. Richards made a motion to grant the increase of fifteen vehicles on the Class II Auto Dealer license of S&E Auto Sales and call them back in sixty (60) days for review.

Chairman Fryer stated he believed the application should be tabled.

Mr. McCormack asked if there were any public health or safety issues regarding the proposed increase. He sees that the plans work and agrees with Mr. Richards's comments that the application should be approved with a trial period. If at the end of the trial period compliance issues remain, the Board may take away the license.

Chairman Fryer stated he was not in favor of the increase at this time and he is backing up the Licensing Officer.

Chief Thomas agreed that the waters needed to be tested and there was no way of knowing whether it would work if they didn't allow a trial period.

Mr. Richards made a motion to approve the application for the increase of vehicles to a total of forty-five (45) vehicles with a sixty (60) day probation period. The licensee and Officer King would report back to the Board at that point. If a compliance issue remains, the licensee will be called back for a hearing. Chief Leary seconded the motion.

Chief Leary stated he has seen the improvements the site has made to the area and the licensee is a very good business. He agrees with Chief Thomas and Officer King that there are standard guidelines to follow. If there is an issue, it will need to be followed up on. The Licensing Officer represents the Board; he made his inspections and the licensee was not within their limits. He also agrees with the motion that the application needs to be approved on a trial basis to test the waters.

Chairman Fryer stated there is a motion before the body; all in favor. SO VOTED (Chairman Fryer and Chief Thomas opposed).

APPLICATION OF TWINS PHOENIX, INC. D/B/A FORTUNE COOKIE RESTAURANT FOR A COMMON VICTUALLER LICENSE, 1025 MAIN ST.

Mr. Richards read a memorandum into the record, stating the applicant failed to notify the abutters and that they wished to withdraw their application to be scheduled for a future meeting.

Mr. Richards made a motion to allow the applicant to withdraw their application without prejudice. Chief Leary seconded the motion. UNANIMOUSLY VOTED.

APPROVALS

- Minutes: February 10, 2004

Mr. Richards made a motion of approval. Chief Leary seconded. UNANIMOUSLY VOTED.

- One-Day Wine & Malt Permit: Immaculate Conception Church

Mr. Richards made a motion of approval for a function on March 13, 2004 from 5:30 PM – 9 PM. Chief Leary seconded. UNANIMOUSLY VOTED.

- One-Day Liquor Permits: St. Jerome Parish

Mr. Richards made a motion of approval for two dates: March 20, 2004 and April 3, 2004 from 7 PM – 11 PM. Chief Leary seconded. UNANIMOUSLY VOTED.

- One-Day Entertainment Permit: Thomas Doris, Inc. d/b/a Red Rose Café, 800 Broad St.

Mr. John McKenzie, President/Manager, was present. He stated he would like to be able to have a one-man band/singer on St. Patrick's Day, March 17, 2004 from 3 PM – 9 PM.

Mr. Richards made a motion of approval. Chief Leary seconded. UNANIMOUSLY VOTED.

CHAIRMAN'S REPORT

- Meeting schedule

The next meeting date was set for Tuesday, March 30, 2004 at 2 PM to be held in the Chambers.

CORRESPONDENCE

- Alleged violation of Quick 6, Inc. d/b/a Discount Liquors, 321 Bridge St.

Chief Thomas recommended where the incident happened over two and a half years ago and the fact that the case had already been adjudicated, that the matter is placed on file.

Mr. Richards made a motion to take no action on the report. Chief Leary seconded. UNANIMOUSLY VOTED.

- Criminal Offender Record Information (C.O.R.I.) access certification(s)

The Board received a copy of Mrs. VanWinkle's recertification.

Mrs. VanWinkle informed the Board that the certification application was included with the information if anyone wished to become certified to view applicant CORI's.

Solicitor Lane noted that it would not be required to have anyone else certified as Officer King has access as well.

ADJOURNMENT

Chief Thomas made a motion to adjourn the meeting at 3:15 PM. Mr. Richards seconded.
UNANIMOUSLY VOTED.

Respectfully submitted,

Lisa VanWinkle,
Recording Secretary

Approved by

Date