

Minutes of the Board of License Commissioners for their meeting held on Tuesday, July 19, 2005, at Weymouth Town Hall in the Chambers

Attendance: Chairman Franklin Fryer, Town Clerk; Clerk Jeffrey Richards, Director of Municipal Licenses & Inspections; Fire Chief Robert Leary; Police Chief James Thomas; Town Solicitor George E. Lane, Jr., Dan McCormack, Chemical Inspector and Lisa VanWinkle, Secretary

Chairman Fryer called the meeting to order at 2 PM.

PURSUANT TO M.G.L. CHAPTER 138, SECTION 23 & 64, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC PACKAGE STORE LICENSE OF T & J FUNDING INC. D/B/A TOWERS LIQUOR MART, 825 MIDDLE ST.

Mr. John Murray, President of T&J Funding Inc. was present.

Solicitor Lane swore in all testifying parties. He also stated the licensee is willing to accept the violation for a one-day suspension. There was one prior incident over ten years ago. He submitted for the record a copy of the police report and the notice of the hearing. He called Lieutenant George Greenwood forward to define the scope of the operation and read the police report in to the record.

Lt. Greenwood stated he is the Lieutenant of the Police Detective Unit. On the evening of May 9, 2005 he supervised a compliance operation within the Town of all package stores. The under-aged operative was a nineteen year old female who was briefed on the rules of conduct. She was told to enter the establishment with no identification, obtain a six pack of Bud Lite and attempt to purchase; if she was asked for an id, she was to state no, and if they told her they could not sell to her she was to leave the store. If they sold to her she was advised to make the purchase, leave and then turn the alcohol over to the officer.

Lt. Greenwood read the police report which stated at 1700 hours they left the station to begin the operation. Prior to the operation, the under-aged operative gave all her personal belongings to the officer to be held. She was given \$50.00 to make the purchases. At 1810 hours the female entered Towers Liquor Mart at 825 Middle Street. At 1812 hours she exited the building holding a brown paper bag. Upon her return to the vehicle she turned over to me the bag which I found to contain a six pack of Bud Lite bottles. She stated that she purchased it from an elderly white male for \$5.85 and that he asked her for no identification. At the completion of the operation, they returned to the establishment and identified the individual as James Fallon, an employee of Towers Liquor. Mr. Fallon was advised of the incident and was courteous and cooperative when asked for identification and the liquor license. Mr. Fallon stated to us that he thought he had seen the woman in the store previously and that is why he did not ask for identification.

Solicitor Lane asked for a motion of a finding.

Mr. Richards made a motion that there was a sale of alcohol to a minor on the date in question. Chief Thomas seconded. UNANIMOUSLY VOTED

Mr. Murray admitted to the incident and apologized for the unfortunate circumstance.

Mr. Richards asked Mr. Murray if they have a scanner to verify ids.

Mr. Murray replied no; usually they have the same customers.

Solicitor Lane asked Mr. Murray if the employee who served the minor was new.

Mr. Murray replied no, he has been with him for five years and is a loyal employee. He noted that the employee acknowledged it happened.

Mr. Richards made a motion to suspend the All Alcoholic Package Store license for one day on August 4, 2005. Chief Thomas seconded. UNANIMOUSLY VOTED

APPLICATION OF WEYMOUTH LODGE OF ELKS FOR A CHANGE OF MANAGER ON THEIR ALL ALCOHOLIC CLUB LICENSE, 1197 WASHINGTON ST.

Mr. Fred Zumbalen, Assistant Manager, and Mr. Ralph Campbell, Chairman, were present.

Mr. Richards read the departmental referrals into the record. The Municipal Finance Department reported a current balance. The Health Department reported no objection. Officer King reported no public safety objection. Officer White reported management has been notified by Fire Department that the facility will require a comprehensive fire protection inspection to determine what is needed for compliance with Chapter 304, MGL c148, s266 ½. Complete cooperation has been assured; the Fire Department has no objection to the manager change. Mr. Richards reported no objection to the change of manager.

Mr. Campbell stated Mr. Zumbalen has been the Assistant Manager. They are in the process of interviewing for a new manager. They will submit an application for the next meeting.

Mr. Richards made a motion to continue the hearing until the next meeting. Chief Leary seconded. UNANIMOUSLY VOTED

APPLICATION OF G & V SUBWAY, INC. D/B/A SUBWAY FOR A COMMON VICTUALLER LICENSE, 740 MIDDLE ST. (WITHIN WALMART)

Mr. Mitesh Patel, President/Manager, was present.

Mr. Richards read the departmental referrals into the record. The Municipal Finance Department reported taxes up to date. The Health Department reported no objections; will require Health Department application, fee, food handler certification, set of plans and final inspection. Officer White reported deficiencies found in the sprinkler system and recommended that a survey be conducted by a fire protection engineer to ensure public fire and life safety and compliance with building and fire codes. Officer King reported no public safety objection. He also noted a discrepancy in the seating request between the application and plans. Mr. Richards reported the use

of the premises as a restaurant is permitted in the B-1 Zone in which is it located. Accordingly, the proposal conforms to all applicable requirements of the Town of Weymouth Zoning Ordinances and the requested license may be granted.

Mr. Patel stated the Subway shop will be located within Walmart where the current food concessions are sold. There will be alterations to the premises to accommodate the new shop. They propose to sell sandwiches, salads, slush and possibly coffee. He used to operate the Quikava on Winter Street.

Chairman Fryer announced the public hearing and asked for public comments. No one spoke.

Mr. Richards informed the applicant he will need to speak with the Building Department regarding the plans. Building permits will be required.

Mr. Richards made a motion to approve the issuance of a Common Victualler license to G & V Subway Inc. to be located within Walmart, 740 Middle Street. Chief Leary seconded.

UNANIMOUSLY VOTED

APPLICATION OF THE OLDE DEPOT GENERAL STORE, INC. D/B/A THE OLDE DEPOT GENERAL STORE FOR A WINE & MALT PACKAGE STORE LICENSE, 85 POND ST.

Attorney Phillip Barthel and Mrs. Deborah Galvin, President/Manager was present.

Mr. Richards read the departmental referrals into the record. The Municipal Finance Department reported a current balance as of July 12, 2005. The Health Department reported a retail food license necessary for Health Department; restrooms, mop sink, etc. Prospective owner must contact inspector for Health Department requirements, fees and licensure (and inspections), plans, etc. Acting Fire Protection Officer Charles White reported the fire alarm would need to be up to code. Licensing Officer King reported no public safety objection to the request. Mr. Richards reported the use of the premises as a retail store is permitted in the Zone in which it is located. Accordingly, the proposal conforms to all applicable requirements of the Town of Weymouth Zoning Ordinances and the requested license may be granted.

Mr. Richards stated floor and parking plans were submitted with the application; abutters were notified. He read letters of recommendation into the record from Councilor Michael Smart, Councilor Mike Molisse and residents.

Mrs. Galvin introduced herself to the Board and gave a Power Point presentation.

Chairman Fryer opened the public hearing for comments.

Mrs. Amy Belger stated she submitted a letter of recommendation to the Board. She noted that the Galvin's are community minded people and their business will be an asset to the Town.

Mr. Richard Deluca stated he is the property owner of the abutting apartment building. He informed the Board there is an easement which runs through the two properties which would give them access to the parking lot. This is an area for concern. He has not reached an agreement with the property owner of the lot where the proposed business would be located. The hours of operation are also an area of concern.

Mr. Richards stated the zoning is business zoned and the parking has no bearing on the application. The submitted plan was approved by the Town.

Chief Thomas questioned where the deliveries would be made.

Mrs. Galvin replied at the overhang on the left-hand side of the building.

Chief Thomas asked if the employees would be T.I.P.S. trained for the sale of beer and wine.

Mrs. Galvin replied absolutely. Their software also has scanning capabilities.

Chief Leary asked if the concrete slab in the parking lot was where the dumpster would be located.

Mrs. Galvin replied yes.

Chief Leary informed Mrs. Galvin that there have been issues with other licensees regarding the cleanliness of the exterior premises and the condition of the dumpster. He suggested that the area be kept clean and the lid of the dumpster remains closed. He stated he is in favor of the application and is happy about the preservation of the heritage of the building and that it will no longer be vacant.

Mr. John Iredale, owner of the subject property, stated he is aware of the easement between the railroad property and the apartments. The easement will need to be used to enter and exit the parking lot. They are working on reaching an agreement.

Mr. Richards made a motion to approve the issuance of a Wine & Malt Package Store license to The Olde Depot General Store Inc. at 85 Pond Street. Chief Leary seconded the motion.
UNANIMOUSLY VOTED

APPLICATION OF THE OLDE DEPOT GENERAL STORE, INC. D/B/A THE OLDE DEPOT GENERAL STORE FOR A FOOD VENDOR LICENSE, 85 POND ST.

Mrs. Galvin stated they plan to sell fresh brewed Green Mountain Coffee (self-serve), pre-made sandwiches and grocery items. They also plan to sell edible items from local vendors, i.e. homemade jams and jellies.

Mr. McCormack informed Mrs. Galvin that the vendors would be required to comply with all Board of Health regulations. They would be required to contact their office to file necessary paperwork as well.

Mr. Richards made a motion to approve a Food Vendor license to The Olde Depot General Store, Inc. d/b/a The Olde Depot General Store at 85 Pond Street. Chief Leary seconded.

UNANIMOUSLY VOTED

APPROVALS

- Minutes: 6/21/05

Mr. Richards made a motion to approve the June 21, 2005 meeting minutes as submitted. Chief Thomas seconded. UNANIMOUSLY VOTED

CHAIRMAN'S REPORT

- Meeting schedule

Mr. Richards made a motion to set the following meeting dates: August 16, 2005 and September 13, 2005 to be held at 2 PM. Chief Leary seconded. UNANIMOUSLY VOTED

NEW/OLD BUSINESS

- Status of Applications spreadsheet
- Summary of Municipal Licensing Group meeting

Mr. Richards stated informational materials from the meeting were within their packets for their perusal.

- Status of Precious Metals Ordinance amendments

Mr. Richards stated the Mayor submitted a measure to the Town Council for action.

Chief Thomas asked Solicitor Lane for the status of the Applebee's case.

Solicitor Lane replied that there was a sixty day appeal period. He will report back to the Board at the next meeting.

ADJOURNMENT

Mr. Richards made a motion to adjourn the meeting at 2:55 PM. Chief Leary seconded.
UNANIMOUSLY VOTED

Respectfully submitted by Lisa VanWinkle, Recording Secretary