



Town of Barnstable

Regulatory Services

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BARNSTABLE LICENSING AUTHORITY LICENSING SPECIAL HEARING MINUTES

Town Hall, 367 Main Street, 2nd Floor Selectmen's Conference Room, Hyannis, MA – 9:30 a.m.

October 8, 2009

A special meeting of the Barnstable Licensing Authority was held on Monday, October 5, 2009. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. Mr. Hoxie introduced Gene Burman, Vice-Chairman; Paul Sullivan, Clerk; Dick Boy, Associate Commissioner; Thomas Geiler, Director of Regulatory Services and Licensing Agent, Patrolman Steve Maher, Liaison Officer from the Barnstable Police Department, and Christine Ade, Recording Secretary were present. Lt. JoEllen Jason was absent. All items on the agenda for today were continued from October 5, 2009 as there was not a quorum present that day.

New Class II Auto Dealer License: Application of First Class Automotive, Inc., d/b/a Argus Auto Sales, 119B Thornton Drive, Hyannis, Roberto Gustavo Rios, Manager, for its Class II Auto Dealer License, with a maximum of 12 total vehicles.

Mr. Rios appeared to change his license to add two more names to the business – they formed a corporation. There are now 3 owners. This is the only change.

Officer Maher said that the Police Dept. received a complaint that vehicles for sale were at a Mobil Station on 132. The two new owners work at that place – they did not know they could not use that place. Officer Maher reiterated they can only sell cars where they are licensed.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of First Class Automotive, Inc., d/b/a Argus Auto Sales, 119B Thornton Drive, Hyannis, Roberto Gustavo Rios, Manager, for its Class II Auto Dealer License, with a maximum of 12 total vehicles.

Change in Premises Description and Daily Live and Sunday Entertainment

Licenses: Application of R & Y Enterprises, Inc., d/b/a Ying's Sushi Bar & Lounge, 59 Center Street, Hyannis, MA, Tanida Suriyawong, Manager, for a change in license description to the following: "59 Center Street, Hyannis with 2 entrances/exits to parking lot and 1 entrance/exit at rear from kitchen. First room seating 38. Bar seating for 9. Second Room seating 32. Sushi bar seating for 6. Maximum interior seating 85.

Exterior patio seating 26.” They are additionally applying for a Daily Live and Sunday Entertainment License for a maximum of 3 entertainers from 5 pm to 12:45 each day.

No-one from Ying’s was present.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to continue the application of R & Y Enterprises, Inc., d/b/a Ying’s Sushi Bar & Lounge, 59 Center Street, Hyannis, MA, Tanida Suriyawong, Manager, for a change in license description to the following: “59 Center Street, Hyannis with 2 entrances/exits to parking lot and 1 entrance/exit at rear from kitchen. First room seating 38. Bar seating for 9. Second Room seating 32. Sushi bar seating for 6. Maximum interior seating 85. Exterior patio seating 26” to October 26, 2009.

A second motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to continue the application of R & Y Enterprises, Inc., d/b/a Ying’s Sushi Bar & Lounge , 59 Center Street, Hyannis, MA, Tanida Suriyawong, Manager, for Daily Live and Sunday Entertainment License for a maximum of 3 entertainers from 5 pm to 12:45 each day to October 26, 2009.

New Annual All Alcohol Common Victualler, Daily Non-Live and Sunday Entertainment Licenses: Application of New Barolo, Inc., d/b/a Barolo, 297 North Street #2, Hyannis, MA, Thomas J. Lapsley, Manager, for a New Annual All Alcohol Common Victualler, Daily Non-Live and Sunday Entertainment Licenses. Continued from 8/17/09, 9/21/09 and 10/5/09.

Attorney Ron Jansson and his client, Thomas J. Lapsley, Manager appeared for this application. The corporation is New Barolo, Inc. The property is at 297 North Street. There are several offices and businesses at this property. Restaurant use is allowed as a matter of right. He referred to the sign-off from the Building Commissioner for a restaurant (has been one since 1994). The prior owner was seriously ill and they were forced to close down. The Bornstein family owns the building in a partnership First floor unit and basement prep area. The floor plan is similar to that in the past. It has 146 seats inside and 25 outside (seasonal only). No proposed increase in seating. Planters enclose the outside dining area – for full service restaurant use. There will also be signage outside that indicates they must stay in the area with their drinks and food. Bar inside has 15 seats. This is not intended to be a sports bar but an upscale bistro, restaurant. Hours submitted were 8 to 1 but they propose opening at 4 pm to 1 and Sundays 4 pm to midnight. Appetizers \$8-\$15, entrees \$40 average. Waitstaff white shirt and tie. Esthetic renovations ongoing. Target date to open was 10/15. Would appreciate the Board expediting this if it can. They will have a full security system with remote monitoring and digital recording for 30 days. Cameras will observe patrons and employees. Approximately ½ the employees will be TIPS certified; executive chef has considerable experience. Property is leased and includes all the equipment above and beyond the lease rent. The client has paid significant funds to the landlord and is guaranteed personally by Mr. Lapsley. The original lease was guaranteed by Robert Bradley; Mr. Lapsley has disassociated with Mr. Bradley, who will now not be

associated at all – the Bornstein's have released Mr, Bradley as well. The initial application was misleading although not intended to be. The application was amended questions 14c – f. Interest in prior licenses – NSF Entertainment. License granted for Asa Bearse; Mr. Lapsley resigned BEFORE the license went into effect. He was not involved when the license issued. The revised application shows this. He additionally ran a bar and grill in New Mexico some years ago – Tommy's Bar & Grill. He was not the owner – he leased the license (which is allowed in NM). The license was seized by the IRS due to withholding taxes due. The IRS resolved the issue and all taxes have been paid in full. Mr. Lapsley will be the manager on the new license and sole owner, director and officer. New Barolo, Inc. is a Mass. Corp. He is also a citizen. The business name will continue to be called Barolo. Business Certificate filed at Clerk's Office. This site seems to be suitable as a restaurant site and the applicant, sole owner, is a proper person to obtain the license.

Mr. Hoxie stated that the resume indicates experience since 1984 by Mr. Lapsley. Mr. Hoxie asked again if anyone else has direct or indirect financial interest. Mr. Lapsley stated he is now the SOLE stockholder, owner. He had thought to bring Mr. Bradley in with him as a friend but has changed his mind as Mr. Bradley could not come up with any monies. Mr. Bradley has helped him out to get up and operating and has been paid to do that. The lease is for 5 years with 2 more 5 year options.

Mr. Burman stated Attorney Jansson gave a superb presentation. He asked what a state of the art security system was; Attorney Jansson said it is a digital system to allow monitoring anywhere on a laptop by the manager or others. It also allows for the storage of data up to 40 days. It can be looked at later if need be. Mr. Burman asked about the music speakers are all inside; there are apartments in the area. Attorney Jansson advised the speakers are in the ceiling and the same ones as have been there – none outside. Mr. Lapsley has entertained the option to have 2 small speakers outside. Mr. Burman stated that this could present a problem. Mr. Burman asked who will be the onsite manager? Mr. Lapsley stated he will be with the Executive Chef and bar manager, Christine. Mr. Burman has grave concerns because of Mr. Bradley and violations in Mr. Lapsley's past license. He stated the site is no problem or concern. Mr. Lapsley stated the service to minor was in 1993 – it turned out minors were not allowed there after 11 pm. Also a bartender or waitress had a drink after hours. Mr. Lapsley stated he was unaware of the 11 pm timeframe. Mr. Burman asked what he has done since 2000? He stated his son was born 2000; wife traveling for work – Mr. Lapsley was a stay at home Dad; attended law school at night.

Mr. Burman asked about the outdoor area. Attorney Jansson stated the planters enclose the patio for the outdoor seating. It has in the past been used for the same purpose. Mr. Sullivan stated it needs to be supervised well so that there is no problem. Mr. Lapsley stated the only people who will be seated there are diners seated by a hostess. Mr. Sullivan asked about the Town Rules and Regulations and whether he has read it and is familiar with it. Mr. Lapsley stated he has it and has reviewed it thoroughly.

Mr. Burman again referred to the courtyard area and in the lease it says 400 square feet – which they believe is not the patio. The prior tenants used it. Ed McKay is here for Mr. Bornstein this morning. For the past 7 months they have looked for somebody of quality to run this operation. It is difficult to get people to invest in this economy. After meeting with several applicants they determined Mr. Lapsley has the background and finances to take this on. The outside operation is included if the Licensing Board approves it. It is in a commercial location and no residences in that courtyard. Most all of it is vacated at 5 pm. An occasional lawyer works at night. The applicant has hired an excellent chef and they are offering a top quality product to the Cape. The menu shows it to be upscale as you can see by the prices. It will not attract youth. He recommends we grant this license. Mr. Sullivan had one further inquiry – Attorney Jansson asked about the experience of the bartender – Christina Greene. She was bar manager at Embargo and recently the place 2 doors from the Black Cat. Mr. Hoxie asked how many locals will be hired – to date Mr. Lapsley stated 6 locals and all of the waitstaff (12) all from the Cape. The only off Cape people are Mr. Lapsley and the chef. Mr. Burman asked about barriers on outdoor area? Mr. Lapsley stated there are planters which will be increased in number to create more of a barrier. This area by time of opening will have security. Officer Maher only noticed that the lease does not cover the patio area. Mr. Burman stated that at a quick glance section 102 does cover a wide area. Mr. Bornstein's representative stated they would amend the lease if need be to name this area in an amendment from the Lessor. Attorney Jansson thinks 102 does give him permission although not specified directly. Christine Ade brought up the fact that the applications go to the ABCC within 3 days and if they do decide to ask for an amended lease it would be needed at Licensing asap.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of New Barolo, Inc., d/b/a Barolo, 297 North Street #2, Hyannis, MA, Thomas J. Lapsley, Manager, for a New Annual All Alcohol Common Victualler License hours of operation 11 am to 1 am; Daily Non-Live and Sunday entertainment from 4 pm to 12:45 am, 146 seating indoors and 25 additional seats outside.

Change of D/B/A & Street Number on License: Request of Sabino C. Barroso, d/b/a Restaurante Prato Per Feito Padaria & Pizzaria, 41 Iyannough Road, Hyannis, Sabino C. Barroso Manager, for a change of d/b/a to Sabino's Restaurant & Family Pizzaria and change of the street number on the license to 55 Iyannough Road from 41 (Town Engineering Dept. now lists it as 55).

Sabino Barroso appeared for his application. He has been open for seven years. All he wants is to change the restaurant name and street number address as the Engineering Dept. has changed it to 55 Iyannough Road, Hyannis.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Sabino C. Barroso, d/b/a Restaurante Prato Per Feito Padaria & Pizzaria, 41 Iyannough Road, Hyannis, Sabino C. Barroso Manager, for a change of d/b/a to Sabino's Restaurant & Family Pizzaria

and change of the street number on the license to 55 Iyannough Road from 41 (Town Engineering Dept. now lists it as 55).

Mr. Hoxie asked again if anyone was present for Ying's; Mr. Hoxie continued the hearing to 10/26/09.

The hearing was adjourned at 10:19 a.m.

Mr. Geiler stated that any questions on the ABCC Seminar handout can be addressed at the next meeting.

Christine P. Ade, Recorder
Barnstable Licensing Authority

Paul Sullivan, Clerk
Barnstable Licensing Authority