

MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER
February 07, 2013

ESTHER HOWLAND CHAMBERS

Commission Members Present:

Karon Shea, Chairperson
Paul Mullan, Commissioner
Anthony Salvidio, Commissioner

Staff Present:

Joel Fontane, Planning & Regulator Services
Deborah Steele, Planning & Regulatory Services
Alexandra Haralambous, Law Department
Jim Foley, Inspectional Services

Call to Order –

Chair Shea called the meeting to order at

Approval of the Minutes –

January 14, 2013, January 24, 2013

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the minutes of January 14, 2013 and January 24, 2013.

Unfinished Business

1.

241 Southbridge Street - Emperor's Club

Status of conditions on license

Chair Shea stated that the Board members along with Lt. Johnson had visited the site that morning.

Levon Terzian was present and stated a few questions were raised at site view relative to camera operations and they are working on that.

Lt. Johnson suggested item be continued to another meeting as license holder has been working on complying with all conditions.

Item was postponed to an indefinite date.

2.

867 Grafton Street Fiesta Shows

Petition: Request for carnival – April 3-7, 2013

7 Neponset Street Fiesta Shows

Petition: Request for carnival – April 10-21, 2013

Ms. Steele informed the Commission that item had been postponed.

Exhibit A: Application for entertainment license received January 7, 2013 and dated January 7, 2013.

3.

258 Park Avenue Wuhan Enterprises Inc.

Petition: Request for change of manager, change of officer/director, change of stock.

Ms. Steele informed the Commission that this item had been postponed.

Exhibit A: Application for change of manager/officer/director, change of stock received on January 7, 2013 and dated January 7, 2013.

New Business

Common Victualer – Food Only

4.

580 Park Avenue Wing It Up Inc dba Hungry Coyote

Petition: Request for common victualer license

Ashraf Besada appeared on behalf of the application. He stated this would be for a restaurant.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the common victualer license for Wing it Up Inc. dba Hungry Coyote.

Exhibit A: Application for common victualer license received on January 28, 2013 and dated January 28, 2013.

5.

596 Main Street Restaurant Becca's Gourmet

Petition: Request for common victualer license

Item was postponed as no one appeared for meeting.

Exhibit A: Application for common victualer license received on January 28, 2013 and dated January 28, 2013.

6.

1280 Grafton Street Peruchas Pizza & Variety

Petition: Request for common victualer license

Evin Gabriella appeared on behalf of the application. He stated this was request for his convenience store to sell pizza.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the common victualer license for Purchas Pizza.

Exhibit A: Application for common victualer license received on January 28, 2013 and dated January 28, 2013.

Liquor Requests

7.

56 Shrewsbury Street

Victory Bar & Cigar

Petition: Request for alteration of premises

Mark Piscillo appeared on behalf of the item.

Mr. Piscillo stated he is expanding his establishment into the old Allgos restaurant space in order to build an upscale lounge which will also have outdoor cafes and open windows.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the alteration of premises for Victory Bar & Cigar.

Exhibit A: Application for alteration of premises received on January 18, 2013 and dated January 18, 2013

8.

72 Pullman Street

Price Chopper Operating Co. of Massachusetts, Inc

Petition: Request for package store malt & wine license

Attorney Howard Wayne appeared on behalf of the applicant, Price Chopper Operating Co. of Massachusetts, Inc.

Mr. Wayne stated that they had appeared before the Commission a few weeks prior for request to transfer an all alcohol license to the Price Chopper at 72 Pullman Street which was denied by the Commission but now they are just seeking a malt & wine for 2,800 square feet of the store.

Mr. Wayne stated they have petition with over 2,000 signatures of people who are in support of the Price Chopper receiving a license.

Linda Brosnan, employee of Price Chopper, stated that Price Chopper deserves a liquor license as the store is clean and well supervised and it will save customers a trip from going to another location to purchase beer & wine.

Commissioner Mullan asked if the 2,800 square feet is in the gluten free section of the store and does it include a cooler. He noted that the city memorandum presented to the Commission recommends 1,000 feet for the alcohol area.

Mr. Wayne stated that 1,000 square feet would not be enough to serve Price Chopper needs.

Attorney Jonathan Finkelstein, representing several package store owners asked where the alcohol would be located in the store.

Chair Shea stated the location is same as last time proposed but would be a smaller area.

Councilor Tony Economou appeared in opposition to the application. He stated that if a license is issued to Price Chopper it will be issued at the expensive of the existing license holders in the area. He stated he has no problem with Price Chopper operating as a grocery storey but allowing them to have malt & wine will hurt the small mom & pop operations and a precedent could be set where additional grocery stores may apply for licenses.

Representative John O'Day appeared in opposition to the application. Representative O'Day stated that he would reiterate what Councilor Economou stated that he has no problem with Price Chopper operating as a grocery store but allowing the store to have malt & wine will cause a hardship on the small package stores.

Minne McGovern of McGovern's package store stated that their store has been in business for 76 years and right down the street from the store and would be in opposition to Price Chopper receiving a license.

Attorney Jonathan Finkelstein presented a letter from Joey's Limousine in opposition to Price Chopper receiving a license.

Several other package store owners, Jim Vasiladis, Madam Donepudi, Nick Vasiladis, Konstantionos Angelis appeared in opposition to application stating that if Price Chopper receives a license it will hurt their small businesses.

Walter Shea stated he would oppose Price Chopper receiving a license as they are a big corporation who will hurt the small businesses.

Attorney Jonathan Finkelstein stated he had seen the review memorandum from Department of Planning & Regulatory Services and it cites the Ballarin case on how the License Commission should review the criteria when considering a package store license and Ballarin case does not say that local Boards cannot use competition as a factor when determining whether or not to issue a license. Attorney Finkelstein stated that Price Chopper is a large store and this location is open 24 hours a day so would be physically different from existing package stores as alcohol will not be in a segregated area and store does not have to close down at a certain hour.

Attorney Finkelstein stated there is no difference in this application then application Price Chopper presented in January and the License Commission had made a decision in January to deny application as area was well served and the same three people are voting again on the item and there has been no dramatic changes since January and area is well served.

Commissioner Mullan noted that applications are different. The application presented to the Commission in January was for a full package store and this request is only for malt & wine.

Attorney Finkelstein stated that in his opinion there were no qualitative difference in the licenses.

Commissioner Mullan noted that the law allows for all alcohol package store licenses and malt & wine package store licenses so according to law they are different. He also noted that the Commission has to take each application individually and look at need.

Chair Shea stated she had concerns about how Price Chopper would be able to handle the sale of alcohol and security measures.

Commissioner Mullan stated that he would concur with Department of Planning & Regulatory memorandum to make the square footage of the store smaller and asked if applicant would be willing to accept condition that it be limited to 2,000 square feet.

Commissioner Salvidio stated if he does vote for approval he would also would like to the square footage reduced as Price Chopper is not a liquor store.

Chair Shea stated that she did not think the square footage would make a difference on her vote and does not think it important that a grocery chain have the ability to sell alcohol.

Attorney Wayne stated that the market has changed over the past several years and no one builds a corner grocery store. They are all big supermarkets and addition of alcohol is convenience for the customers.

The Commission members discussed where the point of sale would be for the alcohol and Commissioner Mullan stated he did not think it would be convenient for customers to have to go to a separate register to ring up alcohol sales and according to Price Chopper application they have scanners, security and floor manager to prevent sales to underage.

The Commission discussed the square footage and security and came to agreement with applicant that alcohol be limited to 1,500 SF and storage 100 SF and that the retail area be in a designated area that does not include end cap displays. They also discussed the use of electronic scanner and the review of sales by front end manager.

Upon a roll call the Commission voted 2-1 to approve, Commissioner Mullan and Salvidio voting in support and Chair Shea voting against to approve a package store malt & wine license for Price Chopper Operating Company of Massachusetts with the following conditions:

- Area of sales be limited to 1,500 SF and storage 100 SF.
- That said retail sales area be located in the designated area submitted on plan and not include additional signage beyond end cap displays in alcohol retail sales area.
- Use of an electronic ID scanner for all sales.
- Sale of alcohol is subject to the responsibility and approval of the front end manager.
- Applicant to comply with the City of Worcester sign ordinance.

Exhibit A: Application for package store malt & wine license received on January 7, 2013 and dated January 7, 2013.

Exhibit B: Letter of opposition from Joey's Limousine Service received on February 7, 2013 and dated February 7, 2013.

Hearings

9.

200 Chandler Street Quinsigamond Lodge of Elks

Cessation of Business

No one appeared for item and item was postponed until the next meeting.