

MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER
SEPTEMBER 25, 2014

LEVI LINCOLN CHAMBERS

Commission Members Present: Karon Shea, Chairperson
Anthony Salvidio, Commissioner
Walter Shea, Commissioner

Commission Members Absent: None

Staff Present: Stephen Rolle, Planning & Regulatory Services
Deborah Steele, Planning & Regulatory Services
Alexandra Haralambous, Law Department
Lt. James Johnson, Worcester Police Department
Jim Foley, Inspectional Services

Chair Shea welcomed new Commission member Walter Shea.

Approval of the Minutes

Upon a motion the Commission approved the September 4, 2014 minutes.

NEW BUSINESS

One Day Liquor & Entertainment Requests:

1. Petition: Request for one day liquor license
 - November 8, 2014, 2014 – 6:00 p.m. – 11:00 p.m.

Petitioner: Chartwells, 100 Institute Road

Kristi Dicerso appeared on behalf of the application. She stated that this is for a gala for the inaugural ball of the president of the college and they expect 1,000 people.

Upon a motion the Commission voted 3-0 to approve the one day liquor license.

Exhibit A: Application for one day liquor license received September 22, 2014 and dated September 22, 2014

2. Petition: Request for one day liquor license
- October 4, 2014 – 5:00 p.m. – 8:00 p.m.

Petitioner: Children’s Smile Coalition, Inc, 65 Tainter Street

Mary Ellen Wessel appeared on behalf of the application and stated that this is for a fundraiser which will raise money for the art program and they expect about 100 people.

Upon a motion the Commission voted 3-0 to approve the one day liquor license.

Exhibit A: Application for one day liquor license received September 8, 2014 and dated September 8, 2014.

3. Petition: Request for 25 one day permits
- October 10, 17, 18, 31, 2014
 - November 19, 25, 30, 2014
 - December 10, 30, 31, 2014
 - January 2, 3, 10, 14, 21, 23, 24, 30, 31, 2015
 - February 4, 7, 13, 14, 21, 25, 2015
6:00 p.m. – 10:00 p.m.

Petitioner: Kevin O’Loughlin, College of Holy Cross, 1 College Street

Kevin O’Loughlin and Art Kardonis appeared on behalf of the applications. Mr. O’Loughlin stated that these events are for basketball and hockey games at the college and either before the game or at half time they will have food/alcohol available in a small room in Hart Center.

Commissioner Salvidio asked if all the servers were server trained. Mr. O’Loughlin stated that they were.

Upon a motion the Commission voted 3-0 to approve the 25 one day liquor permits.

Exhibit A: Application for 25 one day liquor licenses received September 3, 2014 and dated September 3, 2014.

4. Petition: Request for one day liquor license
- October 2, 2014 – 6:00 p.m. – 11:00 p.m.

Petitioner: Worcester Historical Museum, 30 Elm Street

Derek Lundstrom from Struck Catering appeared on behalf of the applicant. He stated that this is for the 50th Anniversary of the Harvey Ball and they expect 300 to 325 people and there will be a bar on the first and second floor.

Upon a motion the Commission voted 3-0 to approve the one day liquor license.

Exhibit A: Application for one day liquor permit received September 22, 2014 and dated September 24, 2014.

Common Victualer – Food Only:

5. Petition: Request for common victualer license

Petitioner: Subway, 280 Providence Street

Matt Melikina appeared on behalf of the application. He stated that he is taking over an existing Subway franchise.

Upon a motion the Commission voted 3-0 to approve the common victualer license.

Exhibit A: Application for common victualer license received September 15, 2014 and dated September 24, 2014.

6. Petition: Request for common victualer license

Petitioner: Boston Café, LLC, 414 Chandler Street

Ardit Islamji along with his attorney appeared on behalf of the application. Mr. Islamji stated that they needed to amend the name. Commissioner Salvidio stated that the applicant would need to go to the office and change the paperwork to have the name changed.

Upon a motion the Commission voted 3-0 to approve the common victualer license with the condition that the name change be amended on the paperwork.

Exhibit A: Application for common victualer license received September 10, 2014 and dated September 10, 2014.

Lodging House

7. Petition: Request for lodging house license

Petitioner: Bradford Wyatt, 18 Grafton Street

Dan Benoit along with Rick Shaefer appeared on behalf of the application.

Mr. Benoit stated that the applicant had gone before the Zoning Board of Appeals for approval of the use of this location as a lodging house and there will be staff on site during construction to monitor the property.

Chair Shea asked if this property would be rented only to students. Mr. Benoit stated that it would be rented to either graduate or undergraduate students.

Commissioner Salvidio asked how the property owner will ensure that they rent only to students. Mr. Shaefer stated that no one who isn't a student can lease at the property and they will have a student life programs at property that caters to the college community.

Commissioner Shea asked about parking availability as it is very limited in that area. Mr. Shaefer stated that the zoning district does not require parking but they are meeting with the city manager today to look at leasing 100 spaces from the Union Station parking garage nearby as well as working with Massachusetts DOT for parking under the I-290 highway (across the building).

Chair Shea asked if any tax credits will be used for the project. Mr. Benoit stated that the project has been approved for \$1.3 million in state tax credits since this will be a historic rehabilitation project.

Commissioner Salvidio asked what the cost of the project would be. Mr. Shaeffer stated \$20-\$22 million dollars upon completion.

Commissioner Salvidio asked if the bar on the main floor would remain. Mr. Benoit stated that the building will be all residential. The bar is no longer operating and there are a few commercial tenants that are in the process of relocating.

Commissioner Shea asked about sidewalk in front. Mr. Benoit stated that there will be a new entrance on the Franklin Street side of building.

Commissioner Salvidio asked about the security of the building. Mr. Schaeffer stated that the students will get security key fobs and they have cameras that monitor the people coming and going from the building and that cameras will be also in used during the construction phase of project.

Commissioner Shea asked when construction would start. Mr. Shaeffer stated that hopefully in the next few weeks.

Upon a motion the Commission voted 3-0 to approve the lodging house license with the condition that the lodging be purpose-built student housing only.

Exhibit A: Application for lodging house license received September 8, 2014 and dated September 8, 2014.

Alcohol & Entertainment Permit Applications:

8. Petition: Request for change of officer/director

Petitioner: Ruby Tuesday, 537 Lincoln Street

Ms. Steele stated this was reverse approval and the state Alcoholic Beverage Control Commission had already approved it and the Commission just needs to vote for local approval.

Upon a motion the Commission voted 3-0 to approve the change of officer/director.

Exhibit A: Application for change of officer & director received September 8, 2014 and dated September 8, 2014.

9. Petition: Request for change of manager to Angel Barbosa

Petitioner: Perfect Game, 64 Water Street

Lt. Johnson asked that this item be postponed for a few weeks.

Exhibit A: Application for change of manager received September 15, 2014 and dated September 15, 2014.

10. Petition: Request for entertainment license for live music, amplification system, karaoke

Petitioner: Makao Restaurant, 181 Millbury Street

Claribel Ramos Santos appeared on behalf of the application and stated that this request was to expand the entertainment but she would also like to expand her hours to close at 4:00 a.m.

Commissioner Salvidio explained that the Commission could review the entertainment application but the change of hours would be a separate application that would need to come before the Commission.

Upon a motion the Commission voted 3-0 to approve the request to amend the entertainment license for items submitted.

Exhibit A: Application for entertainment license received September 8, 2014 and September 8, 2014.

11. Petition: Request for package store malt & wine license

Petitioner: Shaw's Supermarkets, Inc., 14 West Boylston Street

Attorney Nicholas Zoulas, Kevin Carlwey, store director, and Tom Vesey, the proposed manager, appeared on behalf of the petition.

Mr. Zoulas stated that Shaw's is a responsible operator and has been at the West Boylston Street location for over 9 years. He stated that the Shaw's Corporation has other licenses in the state and they are requesting a package store malt & wine for this location, which will consist of 1800 SF total which is roughly 2.75% of the store. Mr. Zoulas stated that they are not trying to turn the location into a package store and the alcohol will be contained in the aisles and will be locked during hours when store cannot sell. Mr. Zoulas stated that there is staff to monitor the sales and that Shaw's does have self-serve checkout counters which will be removed if location is approved for the package store license.

Mr. Zoulas stated that this request is for an amenity for their customers and stated that he had provided a petition with a 1,000 signatures of Shaw's customers who would like to see Shaw's sell beer and wine.

Mr. Zoulas stated that he had reached out to Worcester City Councilors and Representative O'Day regarding Shaw's petition but did not hear back from them. He also stated that he had contacted the Chamber of Commerce and the Indian Lake Watershed Association who stated they don't support these types of applications.

Representative O'Day appeared in opposition to the application. He stated that the community is already well served by the full alcohol and beer and wine licenses in the area. Austin Liquors is in close proximity to this location and there are numerous ones on West Boylston Street; he does not see a need for another license in the area and urged the Commission not to approve the application.

Councilor Economou stated that he was the District 1 Councilor and he echoed what Representative O'Day had stated and that there is no need in the area for another license.

Ed Breault from the Worcester Neighborhood Association stated that he supports the local business in the area but there is no need for another license as several yards away there is a liquor store as well as many other licenses on West Boylston Street.

Attorney John Shea from Lian, Zarrow & Shea appeared on behalf of O'Hara's Liquors, McGovern's Liquors and Lincoln Discount Liquors opposing the application.

Mr. Shea stated that according to Massachusetts General Laws Chapter 138, Section 23 it is up to the local board to decide whether there is a public need in a particular area for another license and in this area there is no public need. You have four licenses within 1.5 miles and Austin Liquors in less than .2 miles away. Also, in the last year the area has changed significantly in the Greendale area with KJ Baarron's liquor license moving from Summer Street to West Boylston Street. The approval of three new package store beer and wine licenses, Burncoat Market, Extra Mark and Price Chopper but there has been no change in the demographic makeup of the area.

Mr. Shea stated that with regard to traffic noise and parking there is no issue as location is an existing grocery store and does have a large parking lot.

Mr. Shea stated that a big concern is security and the fact that most of the cashiers are either high school or college age kids, who can fall prey to peer pressure and obtain alcohol for their underage friends.

Mr. Shea stated that an item had been presented to the Worcester City Council regarding a petition to preserve small business in City of Worcester and that has been sent to Division of Planning for a report.

Mr. Shea stated that if you look at trends in 1967 the trend was towards urban malls and a mall was built in downtown Worcester which failed twice and many of the downtown businesses closed once the mall was built.

Mr. Shea stated that a decision was rendered by the Alcoholic Beverages Control Commission on request for a transfer of a package store license to a large supermarket and it was denied as the town of Harwich wanted to keep the small business model for their town and the Alcoholic Beverages Control Commission upheld the Harwich decision.

Mr. Shea stated that he had read the application and the backup documentation provided by Mr. Zoulas and the google map provided by Mr. Zoulas was missing almost eight other licenses in the area including McGovern's, Price Chopper, Brattle Market as well as others.

Commissioner Salvidio stated that the Commission is aware of what licenses are in the area and realized the map provided was not complete.

Mr. Shea stated that part of Mr. Zoulas's application talked about the need for Shaw's to have the package store license due the development of City Square, Burncoat Gardens, Arboretum Village and a development at 100 Wall Street. Mr. Shea stated that the only development in the area that would most likely serve Shaw's customers is Burncoat Gardens.

Mr. Shea requested that based on facts presented that the Commission deny the license.

Mr. Salvidio stated that the Commission cannot look at competition as a factor in rendering their decision.

William Kirsti, Renaissance Wines, 345 Grafton Street, stated that malt and wine needs to be treated the same as all alcohol as manufacturers are putting higher alcohol in wine and designing containers to look more like beer.

Mr. Kirsti stated that it gets harder to monitor all the time and how many of these large stores monitor their parking lots to make sure a 22 year old isn't buying alcohol for someone under 21; that is very difficult to control.

Mr. Kirsti stated that his store is smaller and has control but with more licenses issued it gets harder for the police. He stated that last Sunday at 11:00 o'clock he went to Price Chopper on Pullman Street and the beer/wine area was fully exposed so he picked up two bottles and brought them to the counter expecting them to refuse to sell to him since it was prior to legal hour to sell. However, the cashier rang up the bottles and gave him a receipt. Mr. Kirsti showed the bottles and the receipt to the Commission.

Commissioner Salvidio requested that after the meeting Mr. Kirsti speak with Lt. Johnson and give him the bottles and receipt in order for the police to investigate the violation.

Jim Vasiliadis, O'Hara's Liquors, stated that he is opposed to the application as there is no advantage for the consumer as you don't get the same type of service at the big box stores and how are they going to regulate hours, theft, and underage drinking.

William Talcott, McGovern's Liquors, stated that once a small business is gone it doesn't come back and that has happened on West Boylston Street and many places have been left vacant.

Nick Vasiladis, Lincoln Discount Liquors, stated that he is in opposition to the application and the majority of package store business is alcohol while for Shaw's this would only be a small percentage of their business.

Mr. Zoulas stated that to the Commission that the people speaking in opposition were all competitors and wanted to note that the google map that they provided they were aware that it did

not represent all the licenses in the area but they just wanted to provide a representation of ones in the area.

Mr. Zoulas stated that Shaw's has other licenses which are all alcohol and have had only one violation in eight years and with regards to security their cash registers lock out during times when you aren't allowed to sell so cashier could not ring up the sale.

Commissioner Salvidio asked about the security system for the store.

Mr. Zoulas stated that they have security cameras in the store to monitor the entire store.

Commissioner Salvidio asked if they had security cameras in parking lot. Mr. Zoulas stated that they do. Commissioner Salvidio asked follow up question as to whether those cameras were monitored at all times. Mr. Zoulas stated they are not monitored 24/7 but they were digital.

Commissioner Salvidio asked Mr. Zoulas to go through the point of sale.

Mr. Zoulas stated that cashiers under 18 years of age cannot sell alcohol and have to call a manager who would have to ring up the sale and that all Shaw's employees have to go through training when they are hired and are informed upon hiring that Shaw's has a zero tolerance policy for sales of alcohol or tobacco to underage.

Commissioner Salvidio asked if self-scanned would be taken out. Mr. Zoulas stated that they would be removed if approved for the license and that Shaw's is willing to make agreement that they would not apply for a full liquor license.

Mr. Zoulas stated that with regard to public need that the City of Worcester is allowed to issue 37 malt & wine license and only 19 have been issued so there is evidence that there still a need not being met as not all licenses have been issued.

Commissioner Salvidio stated that in order to make a decision the Commission has to look at the Ballarin factors and on the Price Chopper application it was located in a more desolate area and Shaw's is located right next door to Austin Liquor, which is a large full liquor retailer, and there is a school right down the street.

Mr. Zoulas stated that Shaw's is different from Austin Liquors as they will not be selling legs or nips and Austin Liquor doesn't sell groceries.

Commissioner Salvidio stated that Austin Liquor is a large liquor store and if you look at public need does the proximity of that store serve the public need.

Commissioner Salvidio stated he would like the Commission to first go through the Ballarin factors

1. Public need – Area is well served by existing stores in the area.
2. Appropriateness – Large stores that having all alcohol have more difficult with security and the Commonwealth differentiates between malt & wine and all alcohol.
3. Traffic- Store is already existing and this would not be a factor.

4. Reputation – Commission would agree that Shaw’s has excellent reputation and is an excellent store.
5. Want – Petition presented by customers does carry some weight but the area is more than adequately served by the stores right down the street.

Commissioner Salvidio stated that the applicants had done an excellent presentation but does not feel the applicant has demonstrated a need for a new package store malt & wine license in the area.

Thomas Vesey, store manager, stated that Shaw’s does 18,000 transactions per week and they have been asked by customers if they sell beer & wine as it be more convenient for the customers.

Commissioner Salvidio stated that there is a difference between need and convenience.

Commissioner Shea stated that the proposal was well done but agrees with Commissioner Salvidio that area is well served already.

Chair Shea stated that she knows that trends are important but does not see the need for another license when there is already a license 700 feet away and the area is well served.

Upon a roll call the Commission voted 3-0 to deny the package store malt & wine license.

Exhibit A: Application for package store malt & wine license received August 6, 2014 and dated August 6, 2014.

ADJOURNMENT

Upon a motion the Commission adjourned the meeting at 11:35 a.m.