

Minutes

The Provincetown Licensing Board Joint Meeting with the Board of Health of **Tuesday, June 9, 2020** at 4:00pm in the Judge Welsh Room, Town Hall, 260 Commercial Street.

Meeting Agenda

NOTE: THIS IS A REMOTE PARTICIPATION MEETING

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Provincetown Licensing Board will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Provincetown website, at <https://www.provincetown-ma.gov/>.

For this meeting, members of the public who wish to watch/listen and participate in the meeting may do so in the following manner:

1. Watch on PTV GOV Channel 18, as well as an online livestream of PTV GOV at <http://www.provincetowntv.org/watch.html>
2. To listen and participate in this meeting, dial **(833) 579-7589** When prompted, enter the following conference number: **401 454 672#** When prompted, state your name, then press #. Please do not speak until the chair or the meeting moderator asks for public comments or questions. If possible, please mute your phone until you are called upon to speak.

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Provincetown website an audio or video recording or other comprehensive record of proceedings as soon as possible after the meeting.

Licensing Board members present by remote: Robert F. Cameron (RC), Chair; Shawn Byrne (SB) Vice-Chair; Carol D. Santos (CS), Clerk; Bernice Steisel (BS); Russell L. Dutra (RD), Alternate; Julie Knapp, Alternate.

Excused Absence: Donald R. German.

Staff: Morgan Clark, Director of Health & Environment; Lezli Rowell, Health Agent; Linda Fiorella (LF), Licensing Agent.

Board of Health (BOH) members present by remote: Steve Katsurinis, Chair; Elise Cozzi; Susan Troyan; Kalliope Chute; Janet Whelan; Chris Hartley, Alt.; Irv Morgan, Alt.

1. Public Comments

David Burbank spoke; asked that the BOH and LB try to follow the Governor's Guide on entertainment per smaller venues in Phase III and to enable some leniency on outdoor venues, as well.

Greg Daniels spoke; suggested a definition of what constitutes moderate theater or shows would be meaningful.

Jill Botwin (sp) spoke; referenced N.J. Gov. Phil Murphy's announcement today that audiences of 100 or less for entertainment indoor and outdoor are permissible immediately.

2. Discussion of Bars and Restaurants during COVID (Votes may be taken)

Ms. Clark referenced the current online flow chart available on the Town's website in order to identify the nature of local businesses as per appropriate permitting; said a lot of guidance has been received from the State and that alcohol served at restaurants must be ancillary to the provision of table food service with a common victualer license required; disposable plates and cutlery necessary for establishments with 20 gallons or less; no ordering from a bartender or mingling is permitted in Phase II.

Ms. Rowell indicated a variety of eating and alcohol establishments as expressed on the flow chart offering a broad spectrum of operations based on available services and limitations.

RC fielded questions from the LB; stated his one concern as with seating plans and a change in locations for alcohol service, asked if this would be monitored by self-certification, or strictly so. LF said seating plans are reviewed and approved by several entities and guidelines would be mandated. Ms. Rowell said Community Development has been reviewing new seating plans for outdoor relocations and site inspections are ongoing to ensure that Phase II businesses are in compliance. Ms. Clark added that self-certifications are required for all businesses, including Town Hall and that inspections can be conducted as scheduled or unplanned at any time; added that seating is a matter for Zoning bylaws with the Assistant Town Manager and the Building Commissioner reviewing every new outdoor seating plan.

Mr. Katsurinis fielded the BOH for questions or comments. Mr. Morgan reminded those present, and the community, that the Town is trying to keep everyone safe while maintaining economic viability.

Mr. Katsurinis asked per the application process. Ms. Rowell explained the online guidance developed to help inform business owners of what is or will be the nature of their operations in Phase II and per which applicable column, to which Ms. Clark said the staff is on hand to help the businesses community adapt to these specific changes.

Mr. Katsurinis asked per the process for guest houses to become restaurants. Ms. Clark said lodging and restaurants are distinct businesses and that only the bar at a guest house is affected by the new guidelines.

SB asked if food is necessary to be ordered at a restaurant if one only wants alcohol, to which Ms. Clark said there isn't complete clarity from the State or County on this item, and that perhaps the LB can help to make that determination; guest houses with food permits are allowed to make food. Mr. Katsurinis said he didn't feel a bar should try and make itself a restaurant in order to open for business in Phase II and hours of service should be discussed.

LF stated her understanding that guest houses can only serve alcohol to their guests, or guests of guests, but not the general public; said inn-holders have a different license than guest houses which automatically enables them to serve food.

RC agreed with Mr. Katsurinis that a definition for guest house or inn establishments permitted to serve alcohol is needed; recalled that the guest house across from the Boatslip had been found to be serving the public last year. LF replied to Dr. Cozzi that alcohol can be sold to those who purchase a take-out food order, but not for the alcohol only.

Mr. Katsurinis offered to encapsulate the proposal within the limited time left for the meeting. Discussion continued on the interpretation of the State's guidance in lieu of alcohol to be served or not after food service is discontinued at 10pm. RC and RD spoke in agreement of alcohol being offered only in the company of a meal being served. Mr. Morgan spoke on behalf of his own guest lodging business and the need to service his guests in compliance with the permitting he holds – to the end that alcohol service is a part of regular operations.

Dr. Troyan said she agreed with Ms. Clark's interpretation and cautioned a restaurant that after 10pm might then turn into a bar, which is currently not permitted. RC concurred, as did RD, who said he didn't think loopholes or caveats should be in place to permit alcohol service. Mr. Morgan said there are many restaurants in Town that will serve alcohol after the kitchen has closed and expressed the need for owners to pay their workers and survive. Mr. Hartley suggested the amount of food being ordered could be hard to control.

Mr. Katsurinis concluded that most are in agreement that food must be served along with alcohol for the duration of operating hours.

3. Discussion of Phase 2 and Phase 3 Establishments Allowed to Open during COVID (Votes may be taken)

4. Discussion of Entertainment During COVID (Votes may be taken)

Ms. Clark referenced public conversations around Town relating to performances; quoted the Phase III ruling in permitting moderate-capacity performances as to be defined by the State; Phase IV to include bars, nightclubs and large-capacity venues such as theaters.

Mr. Katsurinis cited indoor performances, particularly involving singing, as being capable of spreading virus, although he said he understands the benefits of performance on mental health and added that outdoor entertainment also has impacts that need to be addressed; fielded the BOH for comments.

Dr. Troyan noted that some of the biggest virus spreaders have been at indoor gatherings, such as choir practices. Dr. Whelan said she felt that protocols can be set up for outdoor entertainment, but not indoors. Dr. Cozzi agreed, as long as the venue managers are regulating for social distancing. Mr. Hartley said the Governor's Orders should be followed and the Town not implement any additional restrictions. Mr. Katsurinis said he felt indoor is problematic while outdoors is not, cautioned a thriving bar service at a live performance as being conducive to spreading droplets of virus and endangering people's health.

RC said his biggest concern with outdoor entertainment is alcohol and seating control. LF suggested the LB discuss hours of operations for outdoor entertainment in advance of getting guidance from the State. SB said he thought the times for entertainment moved from indoor to outdoor should be changed according to the location. LF noted that while there are no outstanding event licenses for upcoming seasonal performances, current indoor licensees which permit operations until 1:00am could request to change their permitting to outdoor.

RC suggested the LB having more meetings in the near future to facilitate all the changes coming down from the State. Mr. Katsurinis thanked the LB for its work and appreciated the Board taking into consideration the Town's need for entertainment.

5. Board of Health Request from staff to administratively grant variances to the Food Code at 105 CMR 590 or Title 5 at 310 CMR 15 under COVID seating expansion plans for the duration of the joint emergency orders.

Ms. Rowell explained the proposal and the need for variances to allow some establishments to operate with modified conditions, such as grease traps, nature of menus and expansion requests, in order that these businesses can open prior to Phase IV.

Mr. Katsurinis made a motion to approve the Board of Health administrative variance as presented. Dr. Troyan seconded the motion and it passed, 6-0-0; SK, ST, JW, EC, KC, CH.

Dr. Whelan made a motion to adjourn the meeting at 5:19pm. Dr. Troyan seconded the motion and it passed by unanimous vote.

The Licensing Board motioned to adjourn the joint meeting by unanimous vote.

Respectfully Submitted,
Jody O'Neil