



Minutes

...of the Provincetown Licensing Board Public Meeting of **Tuesday, May 22, 2018** at 5:15pm in the Judge Welsh Room, Town Hall, 260 Commercial Street.

Members Present: Frank Thompson (FT), Chair; Robert F. Cameron (RC); Carol D. Santos (CS).

Staff Present: Aaron Hobart, Licensing Agent; Annie Howard (AW), Building Commissioner; Det. Richard Alves, Provincetown PD.

FT spoke of the TIPS (Training for Intervention ProcedureS) training class earlier in the day, where, according to AH, there were about 30 in attendance. FT said the next and last TIPS training class would take place on June 13th and reminded the public that anyone who serves alcohol at a licensed establishment in Town must have a TIPPS certified card, including waiters, bartenders and others in bars, restaurants, cabarets and package stores.

Meeting Agenda

Public Hearings

Special Entertainment License & Noise By-law Waiver

Petition from Lynn D'Angona, representing ***Provincetown Cares*** for ***Special Entertainment License and Noise By-law Waiver*** for an event to be held at 698 Commercial St. on May 27, 2018 from 8:30am to 12:30pm. No rain dates requested

Meliinda Ancillo representing Lynn D'Angona and Provincetown Cares presented; said she handed in an abutters list and reported that Provincetown Cares has been doing benefits for 11 years and that this is the 5th Diva Dash, raising money for mammograms through Helping Our Women and Outer Cape Health; race is to start at 10:00am and finish at 11:00am and the reception afterward with an awards ceremony to be staged at the Harbor Hotel.

No public comments or letters.

RC made a motion to approve as presented. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

Special Entertainment & Liquor Licenses & Noise By-law Waiver

Petition from Chris Rainville, representing ***GLAAD***, for a ***Special Entertainment & Liquor Licenses and a Noise By-Law Waiver*** for an event on July 28, 2018 from 4:00pm to 7:00pm at the Pilgrim

Monument, Provincetown, MA. No rain date requested.

Chris Rainville and Stephanie Lowitt of GLAAD presented. Ms. Lowitt said this is the 37th annual summer party held at the Provincetown Monument and about 500 are expected; said they've never had any problems with the event and are using Above and Beyond Catering with TIPS certified bartenders who will serve at three small bars on the property; that this is a ticketed event for folks who are mostly over 40.

CS read a letter of May 15, 2018 from residents Khristine Hopkins and Donald Beal in support of granting the Special Entertainment and Liquor License for the annual GLAAD event, which they acknowledge as worthy, but in opposition to granting a Noise By-Law Waiver as the Monument has increasingly more frequent events where the noise is, they find, intrusive to the resident population.

FT said the Noise By-Law Waiver has always been problematic and that the Licensing Board does not create this bylaw, as it is drafted by the Board of Selectmen, and the Licensing Board's function is simply to approve or not.. AH asked if police have any recourse when the Noise By-Law Waiver is abused, to which FT said not as rule as there is a lack of a standard by which to measure the level.

No public comments or letters.

Stephanie Lowitt confirmed for CS that the amplified music, which will consist of tracks from a CD and not from a live band, as low, background jazz music will be produced by MJ Audio and follow a short speaking program that goes from about 5:30pm to 6:00pm; that the music is not heard very well from about 50' away. AH remarked that the resident's letter that was read stands opposed to Monument events in general. FT said that he mentions to Monument applicants directly to keep the volume down, reminding them that the senior citizen's housing complex stands not far away.

RC asked the applicants if they would consider foregoing a request for the Noise By-Law Waiver. Stephanie Lowitt replied that her concern is that without a waiver they would not be able to have amplified sound for the speaking segment. AH said that would not be the case and felt real concern is generally for the bass, which travels out from events throughout parts of Town. Ms. Lowitt said she'd be happy to adjust the sound as needed for the Town, that there had never been any post-event complaints. AH corroborated the statement, saying this is the first letter he'd received.

CS made a motion to approve as presented. RC seconded the motion and it passed, 3-0-0; CS, RC, FT.

Noise By-law Waiver

Petition from Camille Ives-Beck, representing *Twenty Summers, Inc.* for **Noise By-Law Waiver** on June 10, 2018 from 12:00pm to 9:30pm at the Hoffman Studio at 76 Commercial St. No rain dates requested.

Camille Ives-Beck presented; said their non-profit puts on a month-long festival with the majority of events at the Hawthorne Barn, but that this year they are doing one event at the former studio of Hans Hoffman; music provided by an indie duo called The Overcoats; about 40 attendees expected with doors to open at 6:30pm and that they will monitor the event so as not to cause any disturbance.

AH referenced a caller who stated opposition when the applicant was granted its Special Entertainment License but would not go on record.

Rachel White, direct abutter, spoke, said she was confused why a Noise By-Law Waiver is required but was not speaking against the event; said their past events created no disturbance.

AH said the request comes as a general relief from the Noise By-Law, which lists as being in effect from 10:00am to midnight, and said he would clarify at a later meeting why there is a separation in license requests on this application.

Michaela Carew-Murphy spoke in support, said Twenty Summers produces wonderful productions and are always respectful of the neighborhood. Rachel White then issued her support, as well, and FT called them a class act.

RC made a motion to approve as presented. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

Special Entertainment License & Noise By-law Waiver

Petition from Bill Sykes, representing *National MS Society* for a *Special Entertainment License & Noise By-Law Waiver* on July 1, 2018 from 7:00am to 4:00pm at 3 Jerome Smith Rd. No rain date requested.

Bill Sykes presented; said the event was the 34th Annual Cape Cod Get-Away Ride that goes from Quincy to Provincetown with an over-night stay at Mass Maritime; ride will finish at Jerome Smith Skateboard Park with an after-ride lunch and shower trailers in the VFW lot.

No public comments or letters.

CS made a motion to approve as presented. RC seconded the motion and it passed, 3-0-0; CS, RC, FT.

Special Entertainment License

Petition from Allison Baldwin, representing *Women of Color* for a *Special Entertainment License* for an event to be held on June 1, 2018 from 1:00pm to 5:00pm at 210 Bradford Street. No rain date requested.

Allison Baldwin of Roux Provincetown Guest House presented; said this is the 12th year of the event as a four-day festival and that the June 1st event license request is for a barbeque including a DJ.

RC made a motion to approve as presented. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

Special Entertainment & Liquor Licenses

Petition from Heidi Bolinder, representing *Provincetown Film Society* for *Special Entertainment License* on June 16, 2018 from 6:00pm to 11:00pm and *Special Liquor Licenses* on June 16, 2018 from 6:00 pm to 11:00pm and June 17, 2018 from 11:00am to 3:00pm at 1 High Pole Hill Rd., Provincetown, MA. No rain date requested.

Heidi Bolinder, Provincetown Film Festival Co-Manager and Christine Walker, CEO of the Provincetown Film Society, presented.

Christine Walker said the private event was for the 20th anniversary of the Film Festival to be held under the tent at the Monument for about 200 people honoring several who have been instrumental in the Festival's evolution, including CEO of Cape Air, Dan Wolf, and Alix Ritchie, founder of the Provincetown Banner; said there would be some speaking and that they are not

requesting a waiver because they will keep the music down; party is a ticketed event that they would like to open up to a cash bar; a clam-bake brunch is scheduled for the next day which is the annual Evan Lawson Filmmaker's Brunch, also under the tent for about 100-150 people without music, but with a Q. & A. and presentations and where alcohol will be served and wherein all servers will be TIPS certified.

No public comments or letters.

CS made a motion to approve as presented. FT seconded the motion and it passed, 3-0-0; CS, FT, RC.

Special Entertainment License

Petition from Erica Finkelstein, representing *The Gathery/HBO* for *Special Entertainment Licenses* for events to be held in 2018 on July 8, 15, 22 & 29 and August 12 & 19 from 4:00pm to 6:00pm; July 31 and August 1, 2 & 3 from 5:00pm to 6:00pm; July 11, and August 8 & 15 from 5:00 pm to 7:00pm; August 9 from 12:00pm to 2:00pm; July 11, 25 & 27 from 8:00pm to 10:00 pm; July 7 from 6:00pm to 8:00pm; July 19 & 24 from 9:00pm to 10:00pm, and August 16 from 7:00pm to 9:00pm at 331 Commercial Street. No rain dates requested.

Erica Finkelstein, Luigi Tadini, Co-Founder of The Gathery and Cameron Leel, Dir. of Multicultural Marketing at HBO, presented.

Cameron Leel referenced HBO's long history of coming to Provincetown, including sponsoring the Film Festival for over 20 years and during Family Week; said they were utilizing a storefront on Commercial St six days a week to partner with others, such as GLAAD and Out Magazine for programming that gives back to the community and gives positive press to their partners.

Luigi Tadini confirmed to FT that they were not requesting a liquor license as they are private events. AH said there would be some liquor served but that they would have signs up indicating private events. Luigi Tadini said those invited would be issued a code for entrance to those events which are intimate gatherings of 30-40 at a time.

Christine Walker took the mic to issue her support, spoke of the Film Festival's great relationship with HBO; said HBO is one of the reasons the Festival is able to exist and cited all they do for the Town.

RC made a motion to approve as presented. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

AH made a request to the board to take New Licenses out of order to expedite those ahead of more lengthy portions of the meeting to follow.

RC made a motion to hear the New License requests out of order and next up on the day's agenda. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

Amend/Transfer License

New License

Vehicle for Hire

1. **Cape Cab:** Reg#LV76206; VIN#5TDZK3DC5ES512722; 2014 Black Toyota Sienna, Van; Reg#LV79218; VIN#4TBF1FK8ER435260; 2014 Red Toyota Camry, Sedan.

Raphael Richter presented; said it was a standard request and had nothing more to add.

RC asked if they had all been inspected and all paperwork had been done. Raphael Richter replied that he would be doing the whole fleet at once and RC said it was Mike or he who would be the contact person for that this year.

CS made a motion to accept as presented contingent on passing inspection. RC seconded the motion and it passed, 3-0-0; CS, RC, FT.

2. **Atlantic Rides:** Reg#LV80864; VIN#2C4RDGBG8JR225904; 2018 Gray Dodge Grand Caravan, Van.

Unidentified male presented; said the vehicle on the application has passed inspection and is the replacement for a vehicle that was totaled on Rt. 195 in January.

CS made a motion to approve as presented. RC seconded the motion and it passed, 3-0-0; CS, RC, FT.

Fortune Teller

1. **Susan Ahearn – 155 Commercial St.**

Susan Ahearn presented; said she a psychic medium in her 8th season working in Town and only this year realized that she needed to be licensed; said she does not live in Provincetown year-round as she cannot afford it, but lives in Town in the off-season and in Brewster during the summer where she is registered to vote.

FT said that the Town bylaw requires fortune tellers be residents for one year before they can apply for a license; suggested that, as per State law, the applicant might be better served applying for a license in Brewster.

Susan Ahearn said she had two attorneys lined-up in case this didn't go well and that this is not the first time the Town has encountered this problem, to which AH referenced an e-mail he sent out about a month ago mentioning a similar case from the 1980s. Ms. Ahearn said she contacted Secretary William Gavin's office but that people generally don't know the law even as it was re-approved in April; said she felt the current law violates her constitutional right to make a living and that everyone she speaks with refers her back to the Town; said it's time to change the law, that she hasn't been able to work since April.

AH said her only remedy would be to petition Assistant Town Manager, David Gardner, to get an opinion from Town Counsel on how that 1980s precedent affects Ms. Ahearn's ability to get a license. Susan Ahearn asked how many fortune tellers' licenses have been issued. AH responded that there are two brothers and three next to Shop Therapy, but suggested

Ms. Ahearn might have a list of others that the Town is not privy to. Ms Ahearn said she does know of several who, indeed, operate seasonally while living out of town, to which AH said he recommended they also get an opinion from Town Counsel and to consider approaching Representative Sarah Peake.

RC made a motion for a continuance of the license request. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

Public Statements

Other Business

1. Farmer's Market Liquor

Shoal Hope Ciderworks, LLC, Robert Brosofsky, mgr., d.b.a. ***Shoal Hope Ciderworks*** at the Provincetown Farmer's Market on Ryder St.

Robert Brosofsky presented; said license request is for one-ounce tastings, not sales, at the Farmer's Market. AH said it was approved last year and is an activity allowed under the current liquor license but a local license is required for an appearance at the Farmer's Market.

RC made a motion to approve as presented. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

2. Discussion regarding the licenses at Sal's Place, 99 Commercial Street

AH opened up the discussion by addressing the red-boxed area that has been zoned out on the site plan and that had gone to the Zoning Board (ZBA); said he spoke with the Ryan M. at the ABCC and learned that there are certain transactions that occur when transferring a license and that any amendments to the service area or alteration of premises must be requested at the time of transfer and which, he said, had been indicated on the paperwork and must be now conditioned out.

Alan Lipkind, attorney for Greg Connors at 101 Commercial St., presented enlarged photographs; said 99 and 101 Commercial used to be one property when Lora Papetsas owned them and have since been split up; noted square area that is designated as patio outdoor dining and area that Ms. Papetsas had indicated when applying for a wine and malt license in 2012; referenced a letter in 2015 by Ms. Papetesas seeking 22 fewer seats in the patio dining area and that he was disputing the squiggles and broken lines used to designate the licensed area; said licensing in Provincetown starts with the Zoning Board and that the ZBA never approved anything forward of the wooden deck in the schematic as Ms. Papetsas never requested it and never served anyone in that area; added that he finds it hard to believe that the previous architect of the property, Mark Weinress, would not have used exact dimension in his plans; detailed what he interpreted as the area zoned for service.

AW said, in terms of zoning, what's needed is a table seating, which is also requested by the Planning Board; said the ZBA wants to see proper egress, distance between back of seats and possible obstruction; read the bylaw pertaining to establishment service guidelines.

Michaela Carew-Murphy, speaking in opposition, gave the Red Inn as a reference in that food service is only zoned for the interior, but guests may bring their drinks out to the deck

where there is seating; said Mr. Lipkind's client has already sued the ZBA for granting Sal's their license and that today's meeting was the culmination of three years of harassment; expressed her anguish in what, she said, appears to be a case of someone buying a property, which they utilize for maybe two to three weeks out of the year, next to an establishment that has been a restaurant for 70 years and then expecting the restaurant not to operate as a restaurant; said the neighbor had ripped up the patio surface between the properties so now diners are forced to dig their chairs into the sand; that she has been to four meetings with Town boards when she isn't even applying for anything and that it seems like the Town is trying to make it more difficult for Sal's to operate a business.

AW clarified for FT that the ZBA has not approved the area in question for seating, but has also not excluded it as a service area. AH cited a discrepancy between what Lora Papesas had previously approved with the Licensing Board and what the new owner of Sal's, Siobhan Carew, presented, that table service in the front area is not currently permitted and that if the area in questioned is not to be used then it must be condition out. AW added that the seating definition has been taken out of the Zoning Bylaw and put into guidelines for the Board of Health. Alan Lipkind said he disagreed with AH and AW, that every area has to be licensed.

RC said what he was trying to get his head around was that, after a portion of the patio had been removed by Mr. Lipkind's client, there was too much of a grey area created in defining the area approved for service. AH said the issue is to determine if it is a defined service area.

Michaela Carew-Murphy referenced offering a drink and some bread to dining patrons before their table is ready. AW added that this condition was allowed when the bar on the premises was originally approved and Michaela Carew-Murphy said they have an application in to remove that bar as it is not active or wanted; that patrons are only seated at the bar area if it is raining outside. Alan Lipkind said that bringing that alcohol service outside now to an area that is not approved is what is at issue.

Licensing Board Deliberations

RC said he was fine with the plan as approved and that a diner becomes a diner when they enter the restaurant. CS agreed, said the situation was diners waiting for a table and FT said he didn't find an issue either. RC suggested continuing the decision to the next meeting to get the appropriate wording.

CS made a motion to change the posted conditions of No. 3 to read: must only serve alcohol to patrons dining or patrons waiting to dine. RC seconded the motion and it passed, 3-0-0; CS, RC, FT.

AH said there will be a demarcation of the two properties once the deck is in. AW said the site plan shows where the property line is. Alan Lipkind said his concern is the licensed area as it relates to the patio area. AH said the ABCC did a site visit to review the separation between the front liquor service area and the dining area.

RC asked if the service area could be mapped out based on the scale drawing. AW said she could map it out, but that she is not a surveyor. FT advised having architect Mark Weinress fix the discrepancy. Discussion followed pertaining to the board's jurisdiction in zoning.

RC made a motion that the Licensing Board does not have an issue with the licensed area as designated by the ABCC and to allow Sal's to operate as they have to this date. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

Renew License

Lodging

1. CBTB, LLC, David McGlothlin, mgr., d.b.a. ***Christopher's By The Bay***, 8 Johnson St., Provincetown, MA 02657

RC made a motion to approve as presented. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

Parking

RC made a motion to consider the following four parking permit applications as a group. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

1. St. Peter the Apostle Church, Hugh McCullough, mgr., d.b.a. ***St. Peter's the Apostle Church Parking Lot***, 11 Prince St., Provincetown, MA 02657
2. Gael Poltrack, mgr., d.b.a. ***Kibbe Cook House Parking Lot***, 466 Commercial St., Provincetown, MA 02657
3. Charles Silva, mgr., d.b.a. ***Silva's Parking***, 70-74 Shank Painter Rd., Provincetown, MA 02657
4. Charles Silva, mgr., d.b.a. ***Silva's Parking***, 57 Shank Painter Rd., Provincetown, MA 02657

CS made a motion to approve as previously stated. RC seconded the motion and it passed, 3-0-0; CS, RC, FT.

Art Gallery

RC made a motion to consider the following six art gallery permit applications as a group. CS seconded the motion and it passed 3-0-0; CS, RC FT.

1. HN Gallery, Inc., Catherine Shearer-Neily, mgr., d.b.a. ***Hilda Neily Gallery***, 364 Commercial St., Provincetown, MA 02657
2. Berta Walker Gallery, Inc., Berta Walker, mgr., d.b.a. ***Berta Walker Gallery***, 208 Bradford St., Provincetown, MA 02657
3. Evaul, Inc., Bill Evaul, mgr., d.b.a. ***Bill Evaul Studios & Gallery***, 347 Commercial St., Provincetown, MA 02657
4. Galeria Cubana, LLC, Michelle Wojcik, mgr., d.b.a. ***Gallery Cubana***, 357 Commercial St., Provincetown, MA 02657
5. Gallery 444 Ptown, LLC, Wendy Cressey, mgr., d.b.a. ***Gallery 444 Ptown***, 444 Commercial St., Provincetown, MA 02657

6. Michael McGuire, mgr., d.b.a. **McGuire Gallery**, 465 Commercial St., Provincetown, MA 02657

RC made a motion to approve as previously stated. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

Vehicle for Hire

1. **Cape Cab:** Reg#LV61996; VIN#5TDKK3DCXES450204; 2014 Grey Toyota Sienna, Van; Reg#LV73007; VIN#5TDKK3DCODS399102; 2013 Grey Toyota Sienna, Van; Reg#LV77723; VIN#5TDKK3DC1FS562178; 2015 Red Toyota Sienna, Van.

CS made a motion to approve as presented, pending successful inspection. RC seconded the motion and it passed, 3-0-0; CS, RC, FT.

AH mentioned he is still awaiting inspection approval by the State.

Common Carrier

1. **Mayflower Trolley:** REG#BU38788, VIN#3FCMF53G7TJA10260, 1996 Green/White Ford Molly Bus; REG #BU38786, VIN #3FCMF53G2VJA17216, 1997 Brown Ford Molly Bus; Reg #BU38786, VIN #3FCMF53G2VJA17216, 1997 Brown Ford Molly Bus.

CS made a motion to approve as presented pending receipt of inspection report. RC seconded the motion and it passed, 3-0-0; CS, RC, FT.

Correspondence

AH said correspondence was read into the record at previous meeting; nothing new to report.

Minutes

None.

Enforcement

Det. Alves said he would be on the job during Memorial Day weekend and was pretty sure the State would be, as well; wished everyone good luck with the holiday.

Code Compliance

AH said Marine Specialties got their warning and have their applications in; said that there is a new seasonal Code Compliance officer pending finalization.

Old Business

None.

New Business

None.

Licensing Board Statements

None.

Licensing Agent Statements

AH said the next TIPS instruction seminar is scheduled for June 13th, 10:00am – 3:00pm; said he had been taking the Noise By-Law regulation incorrectly in instructing applicants to get their applications in 60 days prior to the meeting, whereas it actually states it is needed 60 days before the event; that he will be amending his requirement accordingly going forward.

RC made a motion to adjourn the meeting at 7:22pm. CS seconded the motion and it passed, 3-0-0; RC, CS, FT.

Respectfully Submitted,
Jody O'Neil