



CAMBRIDGE LICENSE COMMISSION

831 Massachusetts Avenue, First Floor, Cambridge, Massachusetts 02139

MEETING MINUTES

License Commission Hearing of
Wednesday, July 25, 2018 at 3:00 PM
Michael J. Lombardi Building
831 Massachusetts Avenue
Carmelia M. Vicente Conference Room (Basement Level)
Cambridge, Massachusetts

Meeting Started at 3:04 p.m.

Board of License Commissioners Board Members: Nicole Murati Ferrer (present), Gerard E. Mahoney (present), and Branville G. Bard (absent).

Staff Member Present: Elizabeth Y. Lint, Executive Director.

Note: All votes, unless otherwise indicated, were 2-0.

Public Testimony Matters:

Matters may have been called in a different order than that listed on the agenda. In addition, some matters may have required a second call.

1) Disciplinary Rivertech Associates II, LLC Holder of Garage License with Flammables #14318, 840 Memorial Drive, for Failure to Renew Garage with Flammables License and Operating Without a License, in violation of M. G. L. c. 148, § 1, et. seq. and Cambridge Municipal Code 8.08.

Present: Licensing Investigator Tyler Bubenik; and Peter Goodman, Facilities Manager, for the licensee.

Documents Considered: Hearing notice and documents attached thereto.

Summary: Mr. Bubenik investigated on May 21, 2018 and observed that the garage was operational, but their license had not been renewed. They have been in business since 1988. Mr. Goodman stated that the renewal had fallen through the cracks. They renewed late in 2017 as well.

Decision: Board found violation and issued a one-day license suspension to be held in abeyance for one year.

2) Disciplinary Four Point Investments, LLC, Holder of Garage License with Flammables #14342, 90 Fawcett Street, for Failure to Renew Garage with Flammables License and Operating Without a License, in violation of M. G. L. c. 148, § 1, et. seq. and Cambridge Municipal Code 8.08.

Present: No one appeared for the licensee. Second call was at 5:08 p.m.

Documents Considered: Hearing notice and documents attached thereto.

Summary: Licensee did not complete the renewal in a timely manner. The licensee was late renewing last year as well.

Decision: Board found a violation and issued a one-day suspension (in consideration of the record and licensee's failure to show up at the hearing). Prior to sending out the vote, the License Commission will confirm that notice of the hearing went to the proper party.

3) Disciplinary Belmont Landscaping, holder of leaf blower permit #10721, for alleged violation of Cambridge Municipal Ordinance 8.16.081.2(f)- more than one employee using a leaf blower within a 10,000-square foot area, on April 30, 2018 at Sancta Maria Hospital, 799 Concord Avenue.

Present: Licensing Investigator Andrea Boyer; John Arbeely for the licensee; and Ed Abrams, complainant.

Documents Considered: Hearing notice and documents attached thereto.

Summary: Mr. Abrams observed three leaf blowers being simultaneously operated within 5-10 feet of each other on April 30, 2018 at approximately 10:30 a.m. at Sancta Maria Hospital. Mr. Arbeely was not present at the scene. He first stated that the leaf blowers were operated simultaneously but on the low volume. Then Mr. Arbeely changed his story to say that the employees were within ten feet of each other, but the leaf blowers were not being used simultaneously.

Decision: Board found a violation and issued a \$300.00 fine.

4) Disciplinary Crystal George d/b/a Porter Square Psychic Studio Holder of Fortune Teller License #14081, 1925 Massachusetts Avenue, for Failure to Renew Fortune Teller License and Operating Without a License, in violation of M. G. L. c. 140 § 185L.

Present: Second call at 5:10 p.m. no one appeared.

Documents Considered: Hearing notice and documents attached thereto.

Summary: Ms. George did not renew her license in a timely fashion in 2016, 2017 or 2018.

Decision: Board found a violation and issued a two-day license suspension.

5) Disciplinary Goden Street, LLC d/b/a The Rising, Holder of Common Victualler All Alcohol and Entertainment License #11554, 1172 Cambridge Street, due to alleged violation of using amplification without a valid license on May 19, 2018, in violation of, but not limited to, M. G. L. c. 140, § 183A; Rules and Regulations of the City of Cambridge Board of License Commissioners Rules 2.1-2.6 and 10.1.

Present: Licensing Investigator Tyler Bubenik; Kevin Treanor, owner; and Ian Doody, employee.

Documents Considered: Hearing notice and documents attached thereto.

Summary: Mr. Bubenik investigated The Rising after receiving noise complaints. He observed that the instruments were amplified. In addition, he could hear the music outside. The Rising is licensed for live music without amplification. Mr. Treanor testified that he thought they could use microphones for the singers. He stated that he was not present on the day in question but that if the instruments were amplified that was a mistake. When this license was granted in 2016 there was a substantial amount of discussion regarding the zoning restrictions for live and non-amplified music. The entertainment was granted as an accessory use for live music with no amplification. The licensee has no disciplinary record.

Decision: Board found a violation and issued a 1-day suspension to be held in abeyance for 6 months.

6) Application Goden Street, LLC d/b/a The Rising, Holder of Common Victualler All Alcohol and Entertainment License #11554, 1172 Cambridge Street, has applied to amend their existing live entertainment license to allow for amplified sound.

Present: Kevin Treanor, owner; and Ian Doody, employee.

Documents Considered: Application and documents attached thereto.

Summary: Mr. Treanor stated that they are trying to enhance their business with having the singers amplified; he would not allow or seek to amplify the instruments of the band. There is no outdoor seating at the location and the windows are closed at all times. This is not an allowed use per zoning regulations and therefore, if allowed, it is considered an accessory use.

Decision: Board Granted pending a definitive answer from zoning regarding the terms of conditional accessory use. If no contradiction from zoning, the Board grants approval for 2-person music no more than twice per week with amplification as to singer only and not instruments. If this is contradictory to what zoning says, it will be brought back at the next hearing.

7) Application DeLeo Auto Body, Inc. d/b/a DeLeo's Auto Body, has applied for a Garage License with Additional Flammables at 75 Hamilton Street for 15 vehicles, 150 gallons of gasoline in the tanks of autos only, 70 gallons of Class 3A-3B, and 80 cubic feet of flammable gases (acetylene).

Present: Leo DeLeo, applicant.

Documents Considered: Application, documents attached thereto, and lease presented at the hearing.

Summary: Mr. DeLeo has been in the auto body business since 1978 but was unaware they needed a garage license. He has obtained the necessary Flammable Materials Permit. Some vehicles are parked overnight if they are being worked on.

Decision: Granted.

8) Application PHY Investment, Inc. d/b/a Takemura, holder of Common Victualler License #13288, 18 Eliot Street, Basement, with approved hours of 8:00 a.m. to 1:00 a.m. Monday through Saturday, and 12:00 p.m. to 1:00 a.m. Sunday, seating for 59 and an occupancy of 75, has applied to add Wine & Malt Beverages to said license. James Huang as Proposed Manager of Record of a premise described as: Approximately 2,350 square feet in basement level with four rooms, one entrance and two exits.

Present: Ka-Yung Wong, attorney; and James Huang, proposed manager.

Documents Considered: Application, documents attached thereto, and TIPS certification presented at hearing.

Summary: Since opening at the beginning of the year, patrons have been asking for wine and malt beverages at the establishment. There would not be any other changes to the establishment, and it would continue to operate as a Japanese and Korean food establishment. Although currently approved for an opening hour of 8:00 a.m. they operate seven days a week from 11:30 a.m. until 10:00 p.m., and if the license is granted, those would be the hours of operation.

Decision: Granted with amended hours of operation from 11:30 a.m. to 10:00 p.m.

9) Application BP Cambridge Center Residential, LLC has applied for a Flammables License at 88 Ames Street for 660 gallons of Class 2 diesel fuel in an AST.

Present: Michael O'Hearn, on behalf of the applicant.

Documents Considered: Application and documents attached thereto.

Summary: The building is comprised of residential rental units. The application is for an emergency generator.

Decision: Granted.

10) Application Rehearing from June 6, 2018. 1071 Cambridge Street, LLC d/b/a Angel's Share, holder of a Common Victualler Wine & Malt License #11495, 1071 Cambridge Street, has applied for a Change of License Category to All Alcohol, Change of d/b/a to Bisq, and a Change of Beneficial Interests.

Present: Andrew Upton, attorney; and Keith Pooler, beneficial interest holder.

Documents Considered: Application and documents attached thereto.

Summary: This matter was originally heard on June 6, 2018. However, the applicant failed to notify abutters of the hearing in accordance with the law. Therefore, the matter was placed on the agenda as a rehearing. The Board incorporated by reference and made a part of the hearing the information and testimony presented at the June 6, 2018 hearing. The applicant made all the corrections necessary to the application, submitted additional paperwork in support of the financial contributions and the settlement agreement, and properly noticed abutters.

Decision: Granted.

11) Application 88 Cambridge Park Limited Partnership has applied for a Garage License at 80 Cambridgepark Drive for 109 parking spaces and 1,090 gallons of gasoline in the tanks of autos only.

Present: Joseph Robichaud, on behalf of the applicant.

Documents Considered: Application and documents attached thereto.

Summary: This is part of the reclassification of addresses at Cambridgepark Drive. These are "for fee" spaces.

Decision: Granted.

12) Application Sheng Lin, Inc. d/b/a Poke City, has applied for a new Common Victualler License at 1722 Massachusetts Avenue with a seating capacity of 14. The proposed hours are 10:30 a.m. to 11:00 p.m. all days. Yisheng Wang as proposed manager of record of a premise described as: Approximately 1,029 square feet with dining room and food service bar on the left side. Emergency egress in rear.

Present: Chris Coleman, attorney; and Yisheng Wang, proposed manager of record.

Documents Considered: Application and documents attached hereto.

Summary: This is not related to the other Poke City restaurant in the City. Mr. Wang has been involved in other restaurants in the state of Massachusetts. This is mostly sushi style and poke bowls. There are 8 table seats and 6 counter seats.

Decision: Granted.

13) Disciplinary Rehearing from February 28, 2018. Royal Punjab Enterprises, Inc. d/b/a Royal Punjab, holder of a Common Victualler License #12238, 251 Cambridge Street, due to allegedly operating without a valid license and altering their license in violation of but not limited to: M. G. L. c. 140 §§ 2, 9, and 20.

Present: Brian McMahon, Inspectional Services Department Inspector; Dennis Benzan, attorney; Madan Singh, owner; and Arunjeet Singh, employee.

Documents Considered: Hearing notice and documents attached thereto.

Summary: Mr. McMahon testified that he was there to check the number of seats, as it was noted during renewals that there was a discrepancy between the number of seats ISD and the License Commission each had. He then observed the date on the Common Victualler license had been manually altered from 2017 to 2018. Madan Singh stated that he had done the renewal paperwork, paid the fee and left for India as his mother was ill. Arunjeet Singh, who is 20 years old, was left in charge. Mr. Madan Singh stated that Arunjeet Singh changed the date on the license. At the prior hearing he stated he did not know who had done it.

The attorney argued that 20 days suspension would put the establishment out of business. The attorney suggested imposing a \$50 fine per day the business operated without a license.

Decision: Board affirmed violation and 20-day license suspension. However, Board amended the suspension to 15 days to be served and 5 days to be held in abeyance for 1 year.

14) Disciplinary Winding Road, LLC d/b/a Abigail's, holder of Common Victualler All Alcohol License #11437, 291 Third Street, for alleged transfer of interest of said license without proper approvals, in violation of, but not limited to, M. G. L. c. 138, § 23; Rules and Regulations of the City of Cambridge Board of License Commissioners Rules 2.3, 2.5, and 5.5. In addition, discussion of Licensed Premise Inspection Form inspection #628 of June 29, 2018.

Present: Licensing Investigator Tyler Bubenik; James Ludwig, owner; and Mark Ratte', employee.

Documents Considered: Hearing notice and documents attached thereto; file; and correspondence with the licensee.

Summary: In the fall of 2017, the License Commission received information that there had been a change of ownership of the restaurant. On October 25, 2017, the licensee was given 30 days to file an application for a change of beneficial interest. The licensee received a reminder on December 1, 2017. To date, the licensee has not submitted the paperwork.

In addition, based on a recent inspection, Investigator Bubenik observed blocked egresses, non-compliance of the hood sticker, that the number of chairs on the patio exceeded the licensed capacity, and that a sign which he had asked to be taken down was still posted.

Mr. Ludwig explained they had issues with the ABCC online system which is why he had not submitted the application. Mr. Ratte' explained that he has requested the application documents from the License Commission and not received it. The evidence and email documentation to both Mr. Ludwig and Mr. Ratte' establishes otherwise. Mr. Ratte' admitted that taking a sign off the wall is not something difficult. Reference was also made to the fact that during the 2018 renewals, there were multiple issues with the licensee.

Decision: Board found a violation and issued a five-day license suspension. There will be a rehearing for an indefinite suspension on August 15, 2018 unless a completed application is submitted before that date.

Administrative Matters

All the matters listed below are considered and voted upon by the Board without public testimony. Unless otherwise indicated, all the matters are decided upon by the individual review of the papers/applications before the Board members and each member votes upon the matter. The summary of what is considered by the Board, unless otherwise indicated, is the identifying information of the matter as listed on the agenda.

15) Application Coffee Co., LLC d/b/a Intrepid Café, holder of a Common Victualler License at 150 First Street with approved hours of 7:00 a.m. to 10:00 p.m. Monday through Friday, seating for 12 and an occupancy of 60, has applied to add a General On Premise Wine & Malt License at said address with hours of 8:00 a.m. to 10:00 p.m. Monday through Friday. Mae Deluca as Proposed Manager of Record of a premise described as: Approximately 900 sq. ft. on one room on the first floor with one entrance/exit on First Street.

Decision: Matter deferred to 8/15/18 agenda; an updated corporate vote and other documentation must be submitted before the application can be advanced to the ABCC.

16) Cancellation Uno Restaurants, LLC, holder of a Common Victualler All Alcohol License #11698 linked to 22 JFK Street for Non-Use pursuant to G. L. c. 138, § 77.

Documents considered by the Board: Hearing notice; file; court filings; and follow up correspondence from Uno's attorney.

Summary: The matter was heard on May 23, 2018. At that time the attorney for Uno's mentioned that the Summary Process action filed in Court against Uno's was dismissed. The Board asked for the court filings as well as a written update from the attorney. The attorney disclosed that the settlement negotiations have been at a standstill since the first quarter of calendar year 2017. To date, no evidence has been presented to the Board that the landlord, or a prospective tenant, is being prejudiced by the continued link of the Uno's license to the current location.

Decision: The Board granted Uno's additional time to transfer the license, specifically until the renewal period in November 2018. If Uno's decides to file a renewal in November 2018, the Board will hold a hearing for the consideration of the renewal, G. L. c. 138, § 16A, and/or a cancellation hearing for non-use, G. L. c. 138, § 77.

17) Jeff Parenti, on behalf of The Massachusetts Department of Conservation and recreation, has applied for a special noise variance from August 4, 2018 through October 28, 2018 from 6:00 a.m. to 6:00 p.m. at Mt. Auburn Street, Fresh Pond Parkway and Gerry's Landing, excavators, concrete trucks, paving machines and line painting machines.

Decision: Granted (the variance hours are only 6:00 a.m. – 9:00 a.m.).

18) Jamie Giordano, holder of one day alcohol and entertainment licenses on August 23, 2018 at 1 Kendall Sq., is requesting to amend the date to August 22, due to scheduling conflicts.

Decision: Granted.

19) Brendan Regan, on behalf of New England Power Line Contractors, has applied for a special noise variance from July 31 through August 21, 2018 from 6:00PM until 12:00AM at the intersection of Amherst and Wadsworth Streets for a diesel truck.

Summary: There have been multiple complaints about the noise and construction activity in this area by the abutting residents. Based on those and no apparent reason to grant the variance, the Department of Public Works recommended the denial of the variance.

Decision: Denied.

20) Ben Lavery, on behalf of Mitimco, has requested a one-day extension to their approved special noise variance, to add August 11, 2018 from 7:00 a.m. until 10:00 p.m. at 25 Hayward Street, due to weather.

Decision: Granted.

21) Charlie Moore, on behalf of Turner Construction, has applied for a special noise variance from August 1 through October 1, 2018 from 6:00 a.m. to 7:00 a.m. and 6:00 p.m. until 11:00 p.m., weekdays only, at 145 Broadway for trucks doing soil removal and deliveries.

Decision: Granted.

22) Charlie Moore, on behalf of Turner Construction, has applied for a special noise variance from July 31 through October 31, 2018 from 7:00 a.m. to 9:00 a.m., weekdays and 7:00 a.m. until 6:00 p.m., weekends, at 145 Broadway for trucking and excavation equipment.

Decision: Granted, with the condition that the applicant must obtain a Sunday work permit from Cambridge Police Department.

23) Gerry Finerty, on behalf of Shaughnessy & Ahern, has applied for a special noise variance on August 4, 2018 from 7:00 a.m. until 9:00 a.m. at various locations around 215 First Street, for cranes and trucks.

Decision: Granted.

24) Jerry Hammersley, on behalf of JC Higgins/Marr, has applied for a special noise variance on July 28, 2018 from 7:00 a.m. until 9:00 a.m. at 485 Broadway for a crane and tractor trailer.

Summary: After the application was submitted and the agenda was posted, the applicant requested a date change to August 4, 2018, with the same proposed hours.

Decision: Granted, as amended.

25) John Ciancio, Facilities Manager, has notified the License Commission that they ceased operations on June 29, 2018 and will not be reopening.

Decision: Board acknowledged, license cancelled, file closed.

26) Attorney William Kelley, on behalf of La Fabrica Central, has submitted a request to have the license suspension imposed by the Board on July 11, 2018, held in abeyance until there is a final decision issued by the ABCC regarding their appeal.

Summary: When this request was received, the Board's Statement of Reasons and suspension dates had not yet been issued or sent to the attorney or the licensee. The decision and suspension dates went out on July 25 and are after the next Board meeting. If the attorney renews his request to have the suspension stayed while it is appealed, the Board will consider at that time.

Decision: No action.

One Day License Applications

These applications are also considered administratively and there is no public testimony taken or requested. Unless otherwise indicated, all the matters are decided upon by the individual review of the papers/applications before the Board members and each member votes upon the matter. The summary of what is considered by the Board, unless otherwise indicated, is the identifying information of the matter as listed on the agenda. In addition, the documents considered by the Board are the one-day application submitted by the applicant and any other supporting document attached thereto. Police detail is required on some based on the recommendation of the signing-off police department.

27) Nick Emmons, on behalf of the Cambridge Common Restaurant, has applied for a malt and wine license to be exercised at Cambridge Common, 1667 Massachusetts Avenue, on 7/25/18 from 4:00 p.m. – 10:00 p.m. for a private party, buyout of restaurant. Expected attendance – 100 people. Applicant # 17586

Summary & Decision: No action – matter was previously approved.

28) Kalina Schloneger, on behalf of MIT, has applied for an entertainment license to be exercised at Kresge, 84 Massachusetts Avenue, on 10/7/18 from 2:00 p.m. – 11:00 p.m. for a concert with live music. Expected attendance – 500 people. Applicant # 17491

Summary & Decision: No MIT police sign-off, matter deferred until 8/15/18.

29) Julia Hallman, on behalf of Formaggio Kitchen, has applied for a malt and wine with entertainment license to be exercised at Huron Avenue, on 9/23/18 from 12:30 p.m. – 4:00 p.m. for a party and fundraiser with live music. Expected attendance – 1000 people. [Approved by Special Events Committee] Applicant # 17458.

Summary & Decision: Need permits, and plan as to where the event is going to take place, matter deferred until 8/15/18.

30) John Schall, on behalf of El Jefe Restaurant, has applied for a malt and wine license to be exercised at Brattle Plaza- (beer garden), on 7/27/18 from 7:00 p.m. – 10:00 p.m. for a salsa squared event. Expected attendance – 150 people. Applicant # 17401

Decision: Granted with hours of operation from 6:00 p.m. – 9:00 p.m., per park permit.

31) Jovan Toussaint, has applied for an entertainment license to be exercised at Cambridge Masonic Hall, 1950 Massachusetts Avenue, on 9:00 p.m. – 2:00 a.m. for a dance social with patrons dancing and dj. Expected attendance – 75 people. Applicant # 17374

Decision: Granted.

32) Ben Engle, on behalf of ALS Therapy Development Institute, has applied for a malt with entertainment license to be exercised at courtyard 300 Technology Square, on 8/12/18 from 9:00 a.m. – 2:00 p.m. for a 5k and awareness walk with recorded/live music and amplification system. Expected attendance – 400 people. Applicant # 17347

Decision: Granted as applied, subject to receiving further documentation that any profits go to the non-profit applicant, and with the condition that there is a limit of three (3) drinks per person. Otherwise, license is granted with the condition that alcohol must be purchased pursuant to G. L. c. 138, § 14, and there is a limit of three (3) drinks per person.

33) Andrique Fleurimond, has applied for an entertainment license to be exercised at Cambridge Masonic Hall, 1950 Massachusetts Avenue, on 8/17/18 from 8:00 p.m. – 11:45 p.m. for a birthday party with performers/entertainers dancing, dj, amplification system and light show. Expected attendance – 150 people. Applicant # 17313

Summary & Decision: Letter of permission and application have very different hours of operation and expected number of people. Therefore, matter deferred to 8/15/18 to obtain clarification.

34) Nancy Donohue, on behalf of the Cambridge Chamber of Commerce, has applied for an all alcohol with entertainment license to be exercised at University Park at MIT, Sidney Street, on 8/1/18 with rain date 8/2/18 from 3:00 p.m. – 9:00 p.m. for a food festival with recorded music, DJ and amplification system. Expected attendance – 250 people. Applicant # 17287

Decision: Granted.

35) Weilu Shen, has applied for a malt and wine with entertainment license to be exercised at Dudley House, Lehman Hall, Harvard University, on 8/31/18 from 7:00 p.m. – 1:00 a.m. for a welcome party for new graduate students with patrons dancing, recorded music and amplification system. Expected attendance – 200 people. Applicant # 17637

Decision: Granted.

36) Larry Ward, has applied for an entertainment license to be exercised at Danehy Park, 99 Sherman Street, on 7/29/18 from 12:00 p.m. – 7:00 p.m. for a jazz festival with performers/entertainers dancing, recorded music, live music and amplification system. Expected attendance – 5000 people. Applicant # 17651

Decision: Granted with hours of 8:00 a.m. – 8:00 p.m. per park permit, and a condition that there must be police details from 11:00 a.m. – 8:00 p.m. The license will not issue until the applicant applies and pays for the police details.

37) **[Late Submission/Added to Agenda After Posting]** Renee Meehan for National Night Out Against Crime, has applied for an entertainment license from 3-8pm on August 2, 2018 at Riverside Press Park. #17618

Decision: Granted 8:00 a.m. – 8:00 p.m., per park permit.

38) **[Late Submission/Added to Agenda After Posting]** Lisette Castillo on behalf of Community Schools, has applied for an entertainment license on August 2, 2018 for Family Day at the Park. #17813

Decision: Granted 5:00 p.m. – 8:00 p.m., per park permit. No fee as the event is hosted by a City Department.

39) **[Late Submission/Added to Agenda After Posting]** Marsh Post has applied for one day alcohol and entertainment licenses on 8/11, 9/8 & 9/22, 2018 for the outdoor patio.

Decision: Granted subject to submitting proof of 501(c)(3) status and State Police signoff.

40) **[Late Submission/Added to Agenda After Posting]** Deborah Avant has applied for a Hawker/Peddler License for the Jazz Festival on July 29, 2018.

Decision: Granted subject to providing list of vendors and a completed application.

41) **[Late Submission/Added to Agenda After Posting]** Leo Tumwine has applied for an entertainment license. #17848

Summary: It is unclear whether the applicant owns the location, if the event is at a house or a business. In addition, there is no information as to an end time for the event.

Decision: No action, more information is needed from applicant.

Board's Approval of Minutes:

NMF _____

GEM _____

BGB _____

Date Minutes Approved: _____

SEP 12 2018

Date Approved Minutes Were Posted: _____