

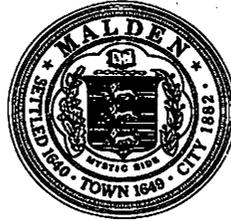
**City of Malden
Massachusetts
215 Pleasant Street, Suite 424
Malden, MA 02148
Malden Licensing Board**

DRAFT

Lee A. Kinnon, Chairman

Andrew Zeiberg, Member
Frances Lin, Member

Diane M. Anthony, Clerk



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**MINUTES OF MEETING
MALDEN LICENSING BOARD
May 25, 2021**

Lee A. Kinnon, Chairman
Andrew Zeiberg, Board Member
Frances Lin, Member
Kathryn M. Fallon, City Solicitor
Diane M. Anthony, Clerk
Captain Marc Gatcomb, Police Liaison

The Meeting was called to order by Chairman Lee Kinnon via telephone/zoom conference call at 6:00 p.m.

Motion by Andrew Zeiberg to approve the Minutes from April 27, 2021 meeting of the Malden Licensing Board

Seconded by Frances Lin

Roll Call Vote:

Andrew Zeiberg – Yea
Frances Lin – Yea
Lee Kinnon – Yea

Motion passed.

The next item on the Agenda is the application of Luxury Box Mixx 360, 665 Broadway for outdoor entertainment. Present and representing the applicant was owner and manager, Anthony DeCotis.

Chairman Kinnon asked Mr. DeCotis if he wanted to make a presentation. Mr. DeCotis said that last year he applied for and received approval from this Board for outdoor/patio service under the COVID 19 temporary order by the ABCC. He said that it was a positive experience for them and helped during the pandemic. He realized that people still want outdoor service and he feels it is a good format. At this time, he is requesting outdoor entertainment for the summer and he will come back to the Board in the future to apply for permanent outdoor patio service. The outdoor area is on their own property and has a blocked, fenced in area with an entrance and egress. He is cognizant of the neighbors. He is requesting acoustic live entertainment Sunday through Thursday until 10pm and Friday and Saturday until 11pm. After that he will have background music outdoors. Anthony believes it is a good business format.

Chairman Kinnon asked if Member Zeiberg had any questions. Mr. Zeiberg said he believes they were approved for the patio service last June. Mr. DeCotis said that was correct. Anthony DeCotis said they took a page from Kowloon's outdoor service. People liked it and typically he found that June, July, and August people preferred to be outside.

Mr. Zeiberg asked about the residences behind Luxury Box Mixx 360, namely the mobile park residents. Mr. DeCotis said he has a good relationship with his neighbors and he has no complaints from them from last year. Although, Mr. DeCotis said he did have one complaint last year when he had live entertainment outdoors. The complaint came from a neighbor up the hill and the bass of the band was disturbing her. He rectified that situation and said he is not and will not request live entertainment for outdoors. Moving forward he will not have live entertainment outdoors. He wants to work with a team with the City. Mr. Zeiberg asked Captain Gatcomb if he has had any noise complaints over the last year. Captain Gatcomb said no.

Member, Frances Lin, commended Mr. DeCotis for handling the neighbor complaint. She asked about the abutter's notification for this application. Mr. DeCotis said three of the abutters are his relations and he has not heard from them. He has also not heard anything from any of the other abutters about his notice. Mr. Zeiberg asked if the mobile park neighbors were notified. The Clerk said the abutters list is provided in accordance with the requirements for liquor licenses from the assessor's office. Mr. DeCotis said he thought there may have been one person from the mobile park on the list.

Mr. Zeiberg asked about a piece of paper that was included in the packet sent to the members from the Clerk. The Clerk indicated it was included in error and profusely apologized for the error to Mr. Zeiberg. For the record it was a notice from the Planning Board that was copied and included in error.

Mr. Zeiberg asked Mr. DeCotis what is closing hours are. Mr. DeCotis said they held a 2am license but since COVID they have been closing at 1am.

Chairman Kinnon said we have not allowed anyone to have outdoor entertainment after 12 midnight. Mr. Kinnon said he would like the outdoor entertainment to stop at 11pm.

Chairman Kinnon stated that since this is not a permanent patio/entertainment license and is part of the COVID allowance there is no public comment.

Motion by Mr. Zeiberg to allow entertainment with acoustic outside Sunday to Thursday until 9:30 pm and Friday and Saturday until 11pm. – Seconded by Frances Lin

Roll Call Vote:

Andrew Zeiberg – Yea

Frances Lin – Yea

Lee Kinnon – Yea

Motion passed. Chairman Kinnon noted to Mr. DeCotis that as of now the outdoor patio service approved under the COVID allowance ends 60 days after the lifting of Governor Baker's order. Attorney Fallon also noted that the date is August 15th. Governor Baker filed legislation today and would allow outdoor service through November 29th but that has not yet been approved.

Mr. DeCotis thanked the Board. He said he had two additional items to discuss. One was an incident that happened in the parking lot between two people where punches were thrown. He wanted the Board to know that there was no over-serving in this situation. He also spoke about a patron that came from the Yard House and

was refused entry and service by Mr. DeCotis' employees and was escorted out.

Chairman Kinnon said he was aware of the first incident with punches thrown but believed it is still under investigation by the Malden Police. He asked Captain Gatcomb if he had anything additional to add.

Captain Gatcomb said the first incident occurred in April after 12am and the police were called. The initial investigation shows the staff was fully cooperative and the next morning provided the police with the video. Anthony was very cooperative but the matter is still under investigation. They could see that the person involved clearly walked from the scene. The staff was very upfront and cooperative and there was clearly nothing the staff could have done to prevent it. It occurred outside the establishment and the police were called right away and assisted one of the people involved. In the second incident, it was about 10:20 pm and the staff saw someone intoxicated attempting to enter the establishment. The staff spent several minutes trying to de-escalate the situation but ultimately, they had to call the police. That individual is now facing criminal charges. Again, they did the right thing. Both officers from both incidents said the staff was cooperative and helpful.

Ms. Lin said she appreciates that Mr. DeCotis came forward with the information and she has no further questions.

Mr. Zeiberg said he had no questions.

The next item on the Agenda is the application of Idle Hands for their annual Oktoberfest day. Chris Tkach, owner, and manager is present representing Idle Hands. It has been held for the past 4 years. They rope off the outdoor space and have food, games, and music. They have also had a dunk tank for charity. It will run from noon to 10pm. It is a ticketed event and they will be serving beer and food. Malden Police Department has been notified and there have been no issues over the past 4 years. It is also their 10-year anniversary in business.

Ms. Lin noted that they will be providing wristbands for 21 years or over. She asked if that entitles to free drinks. Chris said it entitles the patron to one drink with the wristband. After that the regular charge for drinks applies.

Motion by Andrew Zeiberg to approve for September 18th. Mr. Tkach said they have asked for a change in date to September 11th. The Clerk noted an email was sent to the Board members with the change in date. Mr. Zeiberg noted he did receive that. Motion by Andrew Zeiberg to approve for September 11th date for annual Oktoberfest – Seconded by Frances Lin

Roll Call Vote:

Andrew Zeiberg – Yea

Frances Lin – Yea

Lee Kinnon – Yea

Motion passed.

The next item on the Agenda is the application of LLAWM-Malden, Inc. of 888 Eastern Avenue for an all alcohol package store license. Present and representing the applicant was Attorney Andrew Upton, Daniel Newcomb, owner and manager, and Glen Lawler, consultant.

Chairman Kinnon asked Attorney Upton if he would like to make a presentation. Attorney Upton said he was

there along with Daniel Newcomb and Glen Lawler a consultant. He is there to say the character and fitness of this applicant and his experience and clean record are exceptional. He has run successful businesses including the operation of the Stop and Shop here in Malden. He sees there is a public need for an upscale good wine store. A store that will sell wine, craft beer and specialty coffee product not 30 packs of Bud Lite Lime. Other liquor stores in the area carry more familiar brands.

Attorney Upton turned the floor over to Mr. Dan Newcomb of 125 Standard Street in Marshfield. He grew up in a family business called Mug and Muffin with several locations. He ultimately ran that family business for several years. He also worked for many years at Howard Johnson, Au Bon Pain and is a licensed real estate agent and auctioneer. Mr. Newcomb states he has never had a violation in any of his businesses. His first liquor store was the Stop and Shop in Malden. He has also consulted in the Reading Stop and Shop with his business partner. He has a letter from Stop and Shop. Mr. Newcomb says he is a competent manager, everyone will be carded and he has a zero-tolerance policy. He has met with the building owner Mr. Tsitos and walked up and down Maple Street. He stated he had a positive response from the neighbors and has submitted the letters to the Board.

Mr. Newcomb explained it will be a wine and market concept. It will be an adult beverage store similar to a Starbucks but with liquor. Customers looking for a safe environment and variety will come here. He has researched and the Malden population of 53% women will feel safe in his store. He spoke to Deb Burke of the Malden Redevelopment Authority and Kevin Duffy of the Mayor's Office and received positive feedback from them. He has also talked with the Ward Councillor, David Camell. He said Councillor Camell has sent a letter of support.

Mr. Newcomb introduced Mr. Glen Lawler of Horizon Beverage and they have worked at Encore, TD Garden, Fenway, and Gillette Stadium. Mr. Lawler was with Horizon for 28 years and he has extensive knowledge about imported wines and development. Mr. Lawler is Level 3 WSAT certified. He understands wine. Mr. Newcomb says they envision a friendly store that is safe and clean with knowledge and information about the products they will sell. They will have a broad range and diverse selection that will appeal to female buyer. Mr. Newcomb said they will not be a lottery liquor store. He sees it more like a Starbucks type liquor store.

Chairman Kinnon asked Mr. Zeiberg if he had any questions. Mr. Zeiberg said that it appears that the building is now a shell and he asks about construction and opening dates. Mr. Newcomb said the building construction will start in September and they will not be able to get in until an occupancy permit has been issued by the City. Mr. Newcomb states he has already the refrigerator equipment in storage in anticipation of approval. He said with COVID many companies are backlogged on ordering. He already has his equipment for either this store or another liquor store they are working on in Lexington however that space won't be ready for a few years.

Mr. Zeiberg asked how this store will be different from Vernon's and Sav-Mor which are very close to Mr. Newcomb's location at 888 Eastern Avenue. Mr. Zeiberg also points out that there are also two other locations close by that sell beer and wine. Mr. Newcomb said it is obvious that his store will be different. He has looked at the Yelp reviews from other stores. It is a brand-new building and most important he will have an upscale selection. His rent is very expensive and he plans his operation to be first class. Mr. Newcomb said they don't feel on top of Vernon's or Sav-Mor just that his store will be unique. He will not have signs all over the windows. He will have a level of expertise and first-class customer service. Ladies looking for a wine-tasting will feel safe in his store. He also feels that Mr. Glen Lawler as his consultant and with his expertise will make his store different.

Mr. Zeiberg asked about coffee they talk about selling. Will they be selling cups of coffee? Mr. Newcomb said not like that. Most people love fresh roasted coffee and he himself is one of those people. He buys his coffee at Rooster Bros in Ellsworth, ME and will be selling that coffee in his store. He feels that coffee is like a craft beer and his will be unique and upscale.

Mr. Zeiberg confirmed with Mr. Newcomb there will be no lottery or keno. Mr. Zeiberg also asked about nips sales. Mr. Newcomb said he is open to a conversation about that. Mr. Zeiberg feels that nips can cause litter. He does not want to see that. Mr. Newcomb said if it pleases the Board, he will refrain from selling miniatures but the Board should be aware that people tend to think that its homeless people who buy but that it is not the case. Many millennials like to buy miniatures to try different things.

Mr. Zeiberg asked about the name including Market. Will they sell food? Mr. Newcomb said they will sell gift baskets, coffee, wine, and craft beer. The name could change however they don't want it to sound like just a liquor store. They will also have party bags for wine. They see it similar to the liquor store in downtown Malden. They do an excellent job there and Mr. Newcomb feels they will also do an excellent job if they are approved.

Mr. Zeiberg asked if they would sell milk or candy. Mr. Newcomb said only over 21 adult beverages and perhaps gourmet water. Their target market is greater Malden and neighbors who live in the area. Mr. Zeiberg asked about the scanner for identifications. Mr. Newcomb said there will be a clerk at the front door and everyone will be carded. He will work with the Malden Police and meet with Captain Gatcomb to make sure their compliance program meets their approval.

Mr. Zeiberg asked about hours for Mr. Newcomb. He said about 30 hours and Mr. Zeiberg asked how many employees they will have. Mr. Newcomb said about 7 or 8. He would rather be over-staffed than under-staffed and they will provide friendly helpful service. Mr. Zeiberg commented about the walking trail behind his location and where the deliveries will take place. Mr. Newcomb said deliveries will be in front of the store in the early morning hours. The rear door will be an emergency exit only. Mr. Zeiberg asked about trash disposal and Mr. Newcomb said they have not made arrangements for that yet.

Chairman Kinnon stated that the additional materials provided by Attorney Upton were sent yesterday at 2:30 pm. Mr. Kinnon reviewed the letters of support and there are 21 signed documents. 3 are from out of town, 14 are businesses and there is only one real signature that can be read. The signatures on the others are illegible. It is Mr. Kinnon's opinion that these letters don't count. Mr. Kinnon does not feel these are a representation of the neighborhood.

Chairman Kinnon also states that he takes this job very seriously and by flooding the Board with paperwork at the last minute they have not had the time to vet this. The power point sent has no substance. Also, the Yelp reviews provided clearly have Vernon's and Sav-Mor at the top. The reviews provided for Sav-Mor would seem to be negative. One is from a person who provided a negative review because they would serve him with an out of state license. Chairman Kinnon said they should be commended because an out of state license is not one of the 6 forms of acceptable identification. The other review said they could not pay with the EBT card. Mr. Kinnon said that was the correct thing to do. EBT cards cannot be used to purchase alcohol. He also looked at the Vernon's Yelp reviews. One was favorable and one said they scammed \$20 from someone. Mr. Kinnon does not frequent Vernon's but this Board has not received any complaints about them.

Chairman Kinnon said the concept of this store is beautiful. He asks Mr. Newcomb how long he owned the liquor aisle at the Stop and Shop in Malden. Mr. Kinnon said he did not need to answer because he knows it was only 7 months. He wants to see someone committed to Malden not someone who will sell out and leave. Also, as a housekeeping item, there needs to be an answer provided to the question on the application about ever been convicted of a crime. That answer is blank. Attorney Upton will correct that.

Chairman Kinnon asked about 30 hours per week for Mr. Newcomb as manager. To him that seems a little light just starting up a new business. Also, Mr. Kinnon commented on the fact Mr. Newcomb is a licensed broker. Mr. Kinnon asked if he has ever been a manager of record for a liquor license before. Mr. Newcomb said he has been approved by the ABCC for partnership interests. Mr. Newcomb said he spent two and ½ hours walking up and

down Maplewood Street and to Salem Street. He didn't knock on doors because he would not want his mother to be afraid of a stranger at the door. He provided the letters of support and yes, he went to the neighboring businesses. He also talked to a lady walking a dog and she said she approved and even signed the letter while trying to hold the leash on her dog. As to the 3 people from out of town, they were from Everett and Revere but they worked in Malden. His efforts were the best way to get a gauge. He talked to a lot of people. As for the Yelp reviews, Mr. Newcomb wanted to put it out there and he doesn't do things half ass. Stop and Shop never had any violations and yes, he has a broker business and sells liquor stores and houses. He is a successful businessman.

Chairman Kinnon asked how long Mr. Newcomb owned each Stop and Shop liquor location. Mr. Newcomb replied 3 years in Back Bay, he sold Walpole. He can't say he won't leave or sell this Malden location. Chairman Kinnon said this track record says it all. Mr. Newcomb said he owned his Mug and Muffin business from 1965 – 1986 with his family. They also had Newcomb Farms and just recently sold a Wollaston location.

Chairman Kinnon noted that he requested information from Attorney Upton for the addresses of former businesses. Although Mr. Newcomb replied to Attorney Upton with the information it took Attorney Upton 13 days to provide the information to us. Mr. Kinnon had to research the information himself. Mr. Kinnon takes pride in the job he is tasked to do and review applications for this Board. Mr. Kinnon notes that the Blue Hills Grill was bought and sold in 3 years. Mr. Kinnon is trying to make a point that our job is to make sure this is a good fit for Malden. Also, it is this Board's responsibility to make sure there is a public need.

Chairman Kinnon addresses the 30 hours Mr. Newcomb intends to be at the store. Mr. Newcomb said he is a 24/7 guy and does things first class. He has integrity and he won't fail.

Member, Frances Lin asked Mr. Newcomb about the comparison to Starbucks. She said there is seating in Starbucks. Will there be seating in Mr. Newcomb's store. Mr. Newcomb said there will be no seating. His comments about Starbucks means it will be an upscale shop. It will be an off-premises retail store. Ms. Lin asked if while walking the streets did he encounter anyone who was opposed to this. Mr. Newcomb said no one they approached had anything negative to say. Most mentioned they did not like Budweiser advertised in the windows. He said they wanted a clean neat store not paper up in the windows.

Ms. Lin asked if he was a liquor store broker and what he did. Mr. Newcomb said he pays attention to cities and towns and recognizes an opportunity when a license is available. He been in the business for over 20 years and he has sold restaurants and licenses for years and years. He has integrity and he makes things happen. He was able to make is successfully through COVID. He is a good businessman.

Mr. Zeiberg asks if based on everything being said perhaps the Board may want more time to review the emails and letters. Mr. Zeiberg states he has received an email from Councillor Stephen Winslow. The clerk and other Board members were not aware of it. Mr. Zeiberg said he will forward it. Mr. Zeiberg requests to continue this until the June meeting so they can review the materials submitted further.

Chairman Kinnon resents the fact that it took two weeks to get back to him with the addresses requested. We need time to do our job and he does not expect them to be submitting documents the same day as the meeting. The Clerk asked Chairman Kinnon about the letters submitted by Councillors. Mr. Kinnon said they will be tabled for the June meeting if the Board votes to continue until that time.

Attorney Upton asked if the meeting is continued until June will public participation be permitted then. Chairman Kinnon said it would.

Motion by Andrew Zeiberg to continue this application to the June meeting – Seconded by Frances Lin

Roll Call Vote:

Andrew Zeiberg – Yea

Frances Lin – Yea

Lee Kinnon – Yea

Motion passed.

Chairman Kinnon asked Captain Gatcomb if he had anything to report. Captain Gatcomb said all is quiet.

Meeting adjourned at 7:40 p.m. Next regularly scheduled meeting will be held on June 22, 2021 at 6:00 p.m.

Submitted by:

Diane M. Anthony, Clerk

Malden Licensing Board

Minutes Approved by:
