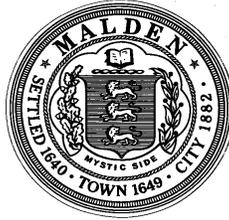


**City of Malden  
Massachusetts  
215 Pleasant Street, Suite 424  
Malden, MA 02148  
Malden Licensing Board**



**Lee A. Kinnon, Chairman**

**Andrew Zeiberg, Member  
Frances Lin, Member**

**Diane M. Anthony, Clerk**

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**MINUTES OF MEETING  
MALDEN LICENSING BOARD  
January 26, 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.

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Motion by Andrew Zeiberg to approve the Minutes from December 8, 2020 meeting of the Malden Licensing Board

Seconded by Frances Lin

Roll Call Vote:

Andrew Zeiberg – Yea

Frances Lin – Yea

Lee Kinnon – Yea

Motion passed.

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The next item on the agenda is an application from American Legion, 75 Meridian Street for a change of manager. Present and representing American Legion is George Sahady, Finance Officer; Barry Donovan, Bar Manager; and Pat Barkhouse, Acting Commander.

Chairman Kinnon acknowledged the parties present via zoom. Member Andrew Zeiberg asked Mr. Donovan about his experience in establishments serving alcohol. Mr. Donovan said he worked from 1982 through 1986 in a warehouse business and from 1986 until the present at the U.S. Post Office. Mr. Zeiberg asked about experience serving alcohol. Mr. Donovan said he is TIPS trained and got that certificate about 2 months ago. Mr. Zeiberg asked if he has any experience other than the TIPS training with serving alcohol.

Member Frances Lin had no questions at this time.

Chairman Kinnon asked Barry to help us out. He understands that things are different in the clubs, but they expect someone to have some type of experience serving alcohol, even as a bartender at the club.

Finance Officer of the American Legion, George Sahady asked to be heard. He stated that they hired Barry for his management experience. Mr. Zeiberg said he understands but they also need to have experience serving and ordering alcohol. Mr. Sahady said Barry has been a member of the club for 21 years and they want someone with managerial skills. They have bartenders that can pour a drink or a beer. Mr. Zeiberg said he understands but we need someone with experience with alcohol more than just TIPS training. Mr. Donovan said he has been working as the temporary manager since October and he is learning and feels he has done well.

Mr. Kinnon asked Mr. Donovan to help us out here. He asked Mr. Donovan if they have bartenders there that are serving the alcohol and are trained. Mr. Kinnon asked Mr. Donovan to understand that this Board has two things that are very important, and they are no over-serving of patrons and no service to minors.

Commander of the club, Patrick Barkhouse asked to speak. Mr. Barkhouse has worked at a club in Everett and he has experience. Things at the Legion were in disarray and since October, Mr. Donovan has brought the club in better order.

up morale. They have one bartender who used to be the manager of record for the club. He feels Mr. Donovan is doing a good job. He states we now have a common goal. Mr. Barkhouse said a new rule from Barry being manager is that if a member is shut off by the bartender, they are suspended for 30 days. They have also hired a bartender that also runs a bartending school. They have experienced bartenders working the bar and Barry is learning that, but they want his managerial experience too.

Mr. Zeiberg said when he asked the question Mr. Donovan didn't answer the questions fully. Mr. Zeiberg asked Mr. Donovan where they order their alcohol from. Mr. Donovan said Anheuser Bush and Martignetti's.

Chairman Kinnon said he now feels better about it. It sounded like he was given a job with no help. Now that we know he has help and has a decent group of people working together he is more comfortable. Mr. Kinnon is happy that they are taking control of their guests.

Mr. Zeiberg asked what hours they are open, and Mr. Donovan said 1:00pm to 9:30pm until recently and now with restrictions removed 1:00 pm to 11:00 pm. Mr. Zeiberg asked if he still worked at the post office and Mr. Donovan said he recently retired. Mr. Zeiberg asked how many hours he would be working at the club and Mr. Donovan said 20 hours and maybe more with the later closing hours.

Motion by Andrew Zeiberg to approve the Change of Manager to Barry Donovan

Member Frances Lin asked that the TIPS certificate be provided to the Board. Chairman Kinnon also suggested that since it is a Rule of this Board that all servers must be TIPS certified he should keep the certificates of all servers in a file he keeps. That way if the Board were to come in and asked to see them, they would be in one location.

Motion by Andrew Zeiberg to approve the Change of Manager to Barry Donovan and a copy of all TIPS certifications for servers must be provided to the Board within 30 days. – Seconded by Frances Lin

MOTION PASSED.

Roll Call Vote:

Andrew Zeiberg – Yea

The next item on the agenda is the application of Nguyen and Le, Inc. for a transfer of license from Jack's Ristorante, 655 Eastern Avenue and a Pledge of License to Rockland Trust Company. Presenting and representing the applicant are Attorney Thomas Truax of Salem, Mass with My Viet Nguyen and Duong D. Le

Attorney Truax spoke to the Board and told them that they were requesting a transfer from Jack's an Italian restaurant to Pho Hoa which will be a Vietnamese restaurant. They are putting up \$50,000 which will be for new equipment. Mr. Duong Le will be the proposed manager. Attorney Truax said that Mr. Duong Le has 17 years of experience and will assume the position of manager. A proposed menu was provided to the Board.

Chairman Kinnon asked for a point of clarification. He looked up the license for the Pho Hoa in Dorchester where Mr. Le said he is manager, however, the manager of record in that restaurant is Thanh D. Le and they serve beer and wine. Mr. Kinnon asked if Mr. Le is the same Mr. Le for the Dorchester location. Mr. Duong Le said that his brother is the owner of the Dorchester location. Mr. Kinnon asked who is the manager on the liquor license and Mr. Le said that it is his brother Thanh D. Le. For clarification purposes, Mr. Kinnon asked on the record that the applicant for manager of the Malden Pho Hoa is not the same manager on the ABCC license as the Dorchester location.

Member Andrew Zeiberg asked Mr. Le what type of experience he has for serving alcohol. Mr. Le said he has over 10 years' experience with beer and wine and he has a TIPS certificate. Mr. Zeiberg asked when he got that and Mr. Le said January 17, 2021. Mr. Zeiberg asked what his experience is with serving alcohol. Mr. Le said he knows everything.

At this time Attorney Truax indicated there may be a language problem. Attorney Truax and the Board agreed to go on the next item on the agenda and have the applicants' re-group and rejoin the meeting

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The License says Changjing Zhou as do all the documents, even though he was signed in as Changsheng Zhou  
The next item on the agenda is the application of Malden Sky, Inc. for a transfer of license and change of manager from Sousaka Bistro, 166 Eastern Avenue. Present and representing Malden Sky, Inc. is Attorney Ka Wong, Henderson Li, President and Changsheng Zou, proposed manager.

The zoom attendees showed Changsheng Zhou and Attorney Ka Wong. Chairman Kinnon asked Attorney Wong if he wanted to make his presentation with no response. Mr. Zou then stated that he had two partners in this restaurant, and he was going to be the manager. He said he has been a part time manager for 4 years but no alcohol sales.

Member Frances Lin asked if he has experience and if he is TIPS certified.

At this time, it was determined that there was another Attorney Ka Wong zoom link in the waiting room of the webinar. Attorney Ka Wong was then admitted to the webinar where he spoke to the Board. Attorney Wong said Mr. Changsheng Zou was the proposed manager and other gentleman with the Ka Wong name in the zoom link was Henderson Li. Mr. Zhou has worked as a sushi chef in a Natick restaurant since 2013 and from 2017 to now he works as a sushi chef at New Sushi in Boston. Attorney Wong said he has plenty of experience serving alcohol to customers and this is a turn-key transaction. They will be adding decorations to the restaurant.

Chairman Kinnon asked Attorney Wong about New Sushi and Olgas. When he researched these restaurants there was no listing of alcohol being served in either location. Mr. Zhou said a sushi chef also serves alcohol to the customers. Mr. Zhou said he was also a waiter before and served customers. Chairman Kinnon asked if the locations had a liquor license. Mr. Zhou said Olgas has a beer and wine liquor license. Chairman Kinnon addressed Attorney Wong and said that this is different information that what is on the application.

Member Andrew Zeiberg asked if Olgas has a beer and wine license and where was he waiter that served alcohol. Attorney Wong said that alcohol sales in this business are incidental. Food service is the main business.

Chairman Kinnon said the applicants are looking for an all alcohol license for their business.

Mr. Zeiberg also said that any manager must have experience serving alcohol. Attorney Wong said that Henderson Li, one of the owners already has two restaurants with full bar service and he has been training Mr. Zhou as manager assistant for a few years. Mr. Zeiberg asked who purchases the alcohol and Mr. Li said he does. Mr. Zeiberg asked Mr. Li if he would work with Mr. Zhou and will Mr. Li assist him with training. Mr. Zeiberg then asked Mr. Zhou what the 6 forms of acceptable identification are. Mr. Zhou said drivers license and passport. After a short time, he also said State ID. Chairman Kinnon said that was 3 out of 6. Member Frances Lin asked Mr. Zhou if he has worked in 2 restaurants, he should know the 6 forms of identification. This Board provides a notice that lists the 6 forms of acceptable identification and requires it to be posted in a visible place. Ms. Lin said the experience and knowledge is very important.

Attorney Ka Wong said that Mr. Henderson Li owns 2 restaurants and have a policy that anyone who orders a drink must have identification checked. There is no discretion by the serving staff in this policy. They are very serious about checking ids.

Chairman Kinnon stated if they don't know the 6 forms of acceptable identification it is at their own peril. They are responsible for the license. This Board provides a list to our licensees and we ask it to be posted so all can see. This is important and we are missing significant experience. What are they going to do to get Mr. Zhou up to speed? They need to bring someone with experience to train him. He needs to be trained with alcohol sales.

Mr. Henderson Li said he has 2 restaurants and he will assist Mr. Zhou. Chairman Kinnon asked Mr. Henderson Li what direct training he would be able to give Mr. Zhou since he is a manager of record on his restaurants and will he work with Mr. Zhou for the next 3 months. It must be a firm commitment before we can move forward. Mr. Henderson Li said he will arrange that. Attorney Wong said someone from another restaurant can help. He can arrange the times.

Chairman Kinnon asked the Board Attorney, Kathryn Fallon for guidance on this. Attorney Fallon said that past practices of this Board have the guidance and training of manager to a set number of hours per week and normally set up full time training for 3 months. This Board could also deny the license. Since Mr. Henderson Li has other obligations, they must propose a training plan. The Board could also grant the license upon the condition they chose to set. Chairman Kinnon asked if we vote to deny they cannot come back for one year. Attorney Fallon confirmed that. Mr. Kinnon then stated we could give them time to submit a plan to us. Attorney Fallon said we should hear from Attorney Wong. The Board could approve, deny, approve the application contingent upon a plan for training or grant a continuance. If a continuance is granted, she recommends that Attorney Wong file a written request and ask to return to the next meeting with a training plan. It must be a request of the applicant.

Attorney Wong said that he would request a continuance and will send in the request.

Attorney Fallon said that it should include "based on the request of the applicant to continue this hearing in order

to allow the applicant to provide a training plan, the time for action is continued until the next meeting date”.

Motion by Andrew Zeiberg to continue until the next meeting to allow the applicant to provide a training plan for Mr. Zhou or another manager before the next meeting date and a written request must be provided to acknowledge that the applicants agree the time extension until the next meeting date.

Seconded by Frances Lin

Roll Call Vote:

Andrew Zeiberg – Yea

Frances Lin – Yea

Lee Kinnon – Yea

Chairman Kinnon wished them luck to put a plan together that would allow the Board to feel confident.

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Chairman Kinnon recalled Attorney Tom Truax and his clients for the transfer application of Jack's Ristorante to Nguyen & Le, Inc. At this time, they again requested more time.

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The next item on the agenda is the application of Avani Corp., 671 Salem Street for a Section 15 (package store) all alcohol license. Present and representing the applicant was Attorney Jordan Shapiro introduced his client, Pritam Basnet who was in Attorney Shapiro's office together with Mr. Basnet's two brothers, one who owns a convenience store in Everett that sells beer and wine and one who owns a smoke shop in Middleton and they also have a store in Haverhill.

Chairman Kinnon asked Attorney Shapiro to make his presentation at which time Attorney Shapiro stated that his client, Pritam Basnet has worked for one year in his brother's store in Everett and is working full-time in the store and is familiar with purchase and sale of alcohol. The store space for this applicant will be as an alcohol package store. The store is about 18' wide and will accommodate 2-3 customers at a time. It is an important distinction that they will only be selling high grade-high priced craft beer. There will be no Budweiser or Coors for sale. They are looking for a different clientele than Sunnyhurst. They do not intend to compete with them. Attorney Shapiro stated the inside of the store will have 7 doors about 20' long with a walk in cooler and shelves. He understands that parking is a problem with the Dunkin Donuts being very busy from 7am to 10am. His client is amenable to opening his package store at 11am. Attorney Shapiro expects 1-2 cars per hour as there is limited space inside the store. There will be no parking allowed in the Dunkin Donuts parking lot. Attorney Shapiro provided an email from a neighbor as noted below:

**From:** [svenskarin@gmail.com](mailto:svenskarin@gmail.com)

**To:** [jslawma@aol.com](mailto:jslawma@aol.com)

**Sent:** 1/26/2021 10:36:55 AM Eastern Standard Time

**Subject:** Liquor License for 661 Salem St, Malden, MA

**TO:** Malden, MA Liquor License Board

**RE:** Application for package store liquor license at 661 Salem Street, Malden, MA

I am in favor of having a package store selling liquor and fine craft beers at 661 Salem Street in Malden, MA. I have been a resident at 630 Salem St, Malden, MA since 2013.

**I realize that walking to the Sunnyhurst store on Lebanon Street can be done, but crossing the busy intersection is extremely dangerous for anyone (especially since many cars do NOT pay attention to the intersection lights and will run a red light often.) Also, it would be very nice to bring back some classy stores to Maplewood Square in Malden.**

**For a new (up-scale) package store to be located directly across the street from 630 Salem St, it would be safer because of the flashing lights and the raised sidewalk to remind vehicles to slow down. For a resident who does not have a motor vehicle in order to purchase beer or wine, it would be a terrific convenience, closer to our building, for residents who drink reasonably.**

**Therefore, please accept this letter as a favorable vote for granting the application.**

**Sincerely,  
Karin H. Nystrom  
630 Salem Street**

Attorney Shapiro went on to state that although there are two alcohol package stores in the area, Vernon's and Locke Liquors, they are not within walking distance of 630 Salem Street. He stated that it is 3,500 feet to walk to Locke Liquors and 2,000 feet to Vernon's.

Attorney Shapiro's client has secured a Lease for 2 years with 6 extensions. His client is from Nepal. Attorney Shapiro feels this will be a unique liquor store and will offer beer that no other store in Malden will have. No one under 21 years is allowed and they will not have lottery or candy sales. The only purpose for someone to be in the store will be to purchase alcohol.

Chairman Kinnon stated that he looked up a 10-year study and notes pedestrian accidents happen more often during rush hour and evening hours. He does not believe that it is "safer" to cross in a raised crosswalk at 630 Salem Street than to cross at an intersection with traffic lights and is also operable for the hearing impaired at Lebanon Street. Mr. Kinnon feels that this may put the elderly residents at 630 Salem Street at risk. As to craft beer being unique, Mr. Kinnon believes most all package stores now sell craft beer. Most of them have a section dedicated to craft beer. He would also like to see more than one person from 630 Salem Street elderly housing in support of this petition. Mr. Kinnon also notes that you cannot control the amount of people in the store to just 1-2 per hour. If they want a good business, they should have more than 1-2 customers per hour. Mr. Kinnon also notes that the smoke shop in Middleton and the store in Haverhill do not sell alcohol. Only the Ferry Street store in Everett sells beer and wine.

Member Andrew Zeiberg expressed concern about lack of parking as the Dunkin Donut lot is not for the applicant's store. Attorney Shapiro said they did not consider that their customers would be parking in the Dunkin Donut lot and his client would put up a sign at his store saying no parking is allowed in the Dunkin Donut lot. There is on street parking available.

Member Frances Lin asked how they could expect to make a profit on a business with only 1-2 customers per hour. She also expressed her concern about lack of parking. Ms. Lin also noted that a large number of residents at 630 Salem Street are low income elderly residents who would not have the income for expensive craft beer. Attorney Shapiro stated that their expectation was that customers would buy a 1-2 week supply. Ms. Lin also noted that Ward 6 Councillor, David Camell objected to this application. His email to the Board dated January 26, 2020 at 4:07 pm was read into the record by Ms. Lin as noted below:

**To the members of the Liquor Board,**

**I am writing to oppose the proposed liquor store at 661 Salem St. Several residents have expressed the feeling that this is not the direction we want to see for businesses in Maplewood Square. I have not heard any comments directly in support.**

**While it is always a difficult decision to limit private business, we have to balance the quality of life for residents.**

**I do recognize that this is a different situation than the previous application, this being a strictly 21+ store (no children will be in the store, as opposed to the previous convenience store) and does not directly conflict with the existing Sunnyhurst business. If the board DOES deem this license worthy of being granted, I would ask that it is conditional on the opening hours only starting at 11 am to avoid traffic, parking, and pedestrian issues while school and work commutes, as well as Dunkin Donuts associated traffic, are at their peak.**

**Sincerely,**

**Councillor David Camell**

**Malden City Council, Ward Six**

**781-870-7029 | [dcamell@cityofmalden.org](mailto:dcamell@cityofmalden.org)**

Member, Andrew Zeiberg also noted that one month ago this Board had a similar application for beer and wine sales and they had an established store and parking and that application was denied. He asks again at this meeting what is the need when there is already a licensee within a few hundred feet selling beer and wine. That business is also within walking distance of 630 Salem Street. He is of the opinion that there are at least 30-40 craft beers and does not think this would be unique.

Chairman Kinnon said the Everett store is the only store the brothers own that have liquor sales. He also feels that by stating that they will only sell expensive craft beer and not Budweiser or Miller and if people want that they will have to go to Sunnyhurst anyway. He is also concerned that this Board only grants liquor licenses. Although Attorney Shapiro has stated they will not have lottery or Keno this is no way this Board can control that. Attorney Shapiro said they will set reasonable conditions. Attorney for the Board, Kathryn Fallon said the Board's job is to entertain a liquor license. You do not have jurisdiction to entertain stipulations.

Chairman Kinnon notes his concerns about the lack of experience for Mr. Basnet.

Member, Andrew Zeiberg also notes the proximity of this business to at least two schools and traffic concerns with a package store in the area. This may bring more traffic.

Attorney Jordan Shapiro stated that based on the questions of the Board, he and his clients agree that it will not fit and they would request to withdraw their application.

Chairman Kinnon asked Attorney Kathryn Fallon if it should be a withdrawal with prejudice and if it pertains to the location or the applicant. Mr. Kinnon asked for clarification on what the difference is with a denial or allowing the petitioner to withdraw. Attorney Fallon said the typical practice of this Board is to allow the petitioner to withdraw. If the Board were to deny an application that also grants appeal rights. The Vote is on the application and it puts a stop on this location.

Attorney Shapiro stated that the request to withdraw is on the record.

Motion of Andrew Zeiberg to allow the applicant to withdraw based on the request of Attorney Shapiro with his clients present in his office. – Seconded by Frances Lin

Roll Call Vote:

Andrew Zeiberg – Yea

Frances Lin – Yea

Lee Kinnon – Yea

Motion passed

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Chairman Kinnon again went back to the application for transfer for Jack’s Ristorante to Nguyen & Le, Inc.

Attorney Tom Truax noted that one of the applicants has COVID-19 and he is requesting to continue this application until the next meeting.

Attorney Kathryn Fallon noted that as in the prior application, Attorney Truax will need to follow-up with a written letter requesting the continuance due to technical difficulty and illness. And a motion to accept is request and continue to the next meeting must be made.

Motion of Andrew Zeiberg to accept request of continuance until next hearing due to technical difficulties and illness with letter from Attorney Truax to confirm. – Seconded by Frances Lin

Roll Call Vote:

Andrew Zeiberg – Yea

Frances Lin – Yea

Lee Kinnon – Yea

Motion passed

Chairman Kinnon mentions to the applicants and Attorney Truax that they need a plan for experience and this Board needs to be able to communicate with managers. They need to know that there is a plan in place that will ensure that any manager will have experience so he requests that they please provide the Board with a plan in place.

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Chairman Kinnon asked Captain Gatcomb if there were any problems with licensees that he was aware and Captain Gatcomb said all was quiet. Mr. Kinnon noted that with the removal of the restriction to close at 9:30 pm hopefully it will stay quiet.

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Meeting adjourned at 7:45 p.m. Next regularly scheduled meeting will be held on February 23, 2021 at 6:00 p.m.  
Submitted by:

Diane M. Anthony, Clerk

Malden Licensing Board  
Minutes Approved by:

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