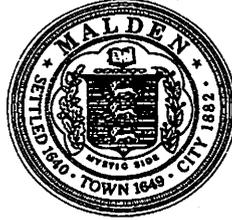


**City of Malden**  
**Massachusetts**  
**215 Pleasant Street, Suite 424**  
**Malden, MA 02148**  
**Malden Licensing Board**



Lee A. Kinnon, Chairman

Andrew Zeiberg, Member  
Frances Lin, Member

Diane M. Anthony, Clerk

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**MINUTES OF MEETING**  
**MALDEN LICENSING BOARD**  
**February 23, 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 January 26, 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.

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The next item on the Agenda is the application of Fajitas, 706 Salem Street for a Section 12 (restaurant) beer and wine license. Present and representing the applicant is Attorney Patrick MacDonald, Selvia Saravia, owner and manager, Mark Kenney.

Attorney MacDonald thanked the Board for the continuance which was requested due to physical issues regarding lack of public access to restrooms. Attorney MacDonald is happy to say that they have submitted a plan for the construction of a corridor and it has been reviewed and approved by Nelson Miller, Building Commissioner and Elsa Zhou of the Board of Health. Currently, they are seeking a 7-day beer and wine license for the restaurant Fajita's. It is a mixed theme restaurant that Ms. Saravia purchased in June 2020. It is a newly formed corporation and she is the sole shareholder. Mark Kenney is a director but he has no stock or ownership in the corporation. Selvia Saravia is the 100 percent owner. They have a 6 year lease that goes through 2026 and they expect to be a

long-term tenant at this location. Attorney MacDonald introduces Mr. Mark Kenney who is a full-time employee at the MBTA and has worked from 2016 through 2019 as a night manager at a restaurant Bruno's on Western Avenue in Lynn. Mr. Kenney will work full time at Fajita's for 40 hours per week. Fajita's will be a full-service restaurant for 20 patrons and the menu is reflective of a full-service establishment.

Attorney MacDonald states they are requesting modest closing hours of operation from Sunday through Wednesday at 11pm and Thursday through Saturday at midnight. He does state that if there is a concern from Board members that will reduce the closing hours on Thursday through Saturday. Attorney MacDonald states there are two restaurants in the Maplewood Square area that currently serve alcohol, Serena's, and Patrick's. This is a different type of establishment and feels that this would give customers another type of choice.

On a procedural note, Attorney MacDonald states he has submitted two additional floor plans to the Board. One being a technical plan and one a conventional floor plan. He understands that if approved the Board will do so subject to work completed and approved by the Building Commissioner and Board of Health. Attorney MacDonald understands from his client that the work will take about 2 days to complete. They are now in the process of hiring a contractor to complete the job.

Also, Attorney MacDonald notes that Mr. Mark Kenney's TIPS certification is up to date.

Chairman Kinnon opened the meeting to questions from Member, Andrew Zeiberg.

Mr. Zeiberg noted that the work is not done yet but the plans have been approved by the Building Commissioner and Board of Health. Attorney MacDonald said that the building permit will be applied for and he expects it to be a quick job. Mr. Zeiberg asks if it is a hallway being built. Attorney MacDonald said he is correct that a corridor will be created to allow patrons to go straight to the restroom without traversing through the kitchen area. Mr. Zeiberg asks about waiters or waitresses. Attorney MacDonald confirms with Ms. Saravia that there will be one wait person and 3 kitchen staff and Mr. Kenney as manager to serve 20 patrons. Mr. Zeiberg asked where the beer and wine would be stored. Mr. Kenney said in a cooler in the back. Mr. Zeiberg asks about the hours of operation and Attorney MacDonald confirms they are looking for Sunday through Wednesday to close at 11pm and Thursday to Saturday for a midnight closing time. That is what they are requesting currently.

Chairman Kinnon acknowledged Member, Frances Lin.

Ms. Lin asked Mr. Kenney about his full-time work at the MBTA. Mr. Kenney said he has worked for the MBTA for over 24 years on the Green Line. His schedule is 5am to 1pm with Saturdays and Sundays off. He plans to retire in the future but he can provide enough time to also work full time as the manager. He has been with the MBTA since 1996 and is accustomed to working as a manager and customer service is very important to him. Ms. Lin asked if he would be the trainer for the waiter/waitress and asked that he make sure they are aware of the 6 forms of acceptable identification. Mr. Kenney said he would and he also said he would be responsible for ordering all liquors.

Mr. Zeiberg asked if there was an office inside the restaurant. Attorney MacDonald said there is no area for an office of any kind. Mr. Zeiberg confirmed that the staff would be Mark Kenney, one waitstaff and 3 kitchen workers for a total of 5 people. He also asked by 12pm on Thursday, Friday, and Saturday. Attorney MacDonald said they believe there is a market for alcohol sales until midnight on those days but if the Board is not comfortable with midnight, they will adjust the closing hours. Ms. Saravia believes there is a market for food and alcohol sales on Thursday, Friday, and Saturday.

Chairman Kinnon asked Mr. Mark Kenney what his job responsibilities were in the Lynn restaurant. Mr. Kenney said he did inventory, checked ID's, made sure the restaurant maintained a harmonious atmosphere and patrons

and staff were safe. He managed but did not get involved in the financial aspects of the business. Mr. Kinnon asked how they ordered their alcohol. Mr. Kenney said from distributors. Mr. Kinnon asked about inventory for Fajita's since it is a small place. Mr. Kenney said they would probably order local brewery beers and red wine and chardonnay. He feels they need to see what sells first. They will probably offer 3 or 4 different varieties. He will speak to the vendors sales reps to see what sells. They don't want to order too much to start with.

Chairman Kinnon states he would be comfortable with a closing time of 11pm for all evenings. Mr. Kinnon also emphasized to the applicants that this Board is very concerned about two important matters and that is no over-serving of patrons and no service to minors. Mr. Kinnon also reminds the applicants that our Rules and Regulations require all servers to be TIPS certified. Mr. Kinnon advised Mr. Kenney that as manager of record he will be the guy the Board comes to if there are any problems and it is his responsibility to make sure his staff is trained properly. Mr. Kenney said he understands and customer service is also very important to him and he already has a copy of the Malden Rules and Regulations.

Chairman Kinnon reminded the applicants that if closing time is 11pm then last call will be 45 minutes before that with 15 minutes to serve the last drink and 30 minutes for the patron to finish it. Mr. Kenney acknowledged he was aware of that and he can achieve that requirement.

Member, Frances Lin asks if closing time will be midnight Thursday to Saturday and Chairman Kinnon states he would prefer 11pm closing. Attorney MacDonald states that reducing the closing hours to 11pm for all 7 evenings would be acceptable to his clients. Ms. Lin agrees that would also be preferable to her.

Member, Andrew Zeiberg also agrees with closing time of 11pm for all 7 evenings. Mr. Zeiberg does note that there are currently occupancy restrictions to 40% capacity due to COVID. The 40 percent does not include staff so until the Governor's Orders change, they can't have more than 8 patrons. Mr. Mark Kenney said they can achieve that and will plan to take phone numbers from patrons to wait and will also offer delivery to vehicles. Mr. Kenney also said if they were close to capacity, they will have someone at the door and will take all the necessary precautions to make sure they are compliant with the law.

Chairman Kinnon opened the meeting to anyone present to speak in favor of this application. Hearing none and seeing none and confirming with the Clerk that no participants present on the zoom webinar had comments that portion of the hearing was closed.

Chairman Kinnon opened the meeting to anyone present to speak in opposition of this application. Hearing none and seeing none and confirming with the Clerk that no participants present on the zoom webinar had comments that portion of the hearing was closed.

Motion by Andrew Zeiberg to approve the application with closing hours of 11pm for all 7 evenings and amended to include final approval from the Building Commissioner and Board of Health. 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 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 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. Based on the feedback from the Board from the last meeting they have proposed My Viet Nguyen as the proposed license manager. He is here and available to answer any questions. Attorney Truax states that Mr. Nguyen has experience selling alcohol from 2009 through 2015 as the manager for a convenience store in Everett. He was responsible to order inventory, is TIPS certified and the store had no violations while he was the manager. Attorney Truax said that Mr. Nguyen will also be participating in a virtual TIPS training class for 5 hours on March 15<sup>th</sup>. He did check and they are not offering in person classes but Attorney Truax feels this virtual training class will be good for Mr. Nguyen to attend. Attorney Truax also notes that he had provided a Plan of Action to the Board. Mr. Le who is also an owner and manager of the sister restaurant, Pho Hoa will work at the new Malden location with Mr. Nguyen and train him. Attorney Truax also notes that they have hired Mr. John Colangeli, owner of Jack's Ristorante from whom this licensing is transferred from. Mr. Colangeli will work as consultant and train Mr. Nguyen in the ordering of alcohol and service. He will stay on for the first 30 days after final approval is received. Mr. Colangeli will be both a bartender and assist and guide Mr. Nguyen with ordering from the distributors and will assist him in hiring a replacement bartender when he leaves. Mr. Colangeli will be on call after that time if he is needed. Attorney Truax also states that 2 of the waitstaff from the sister restaurant in Dorchester will come to the Malden restaurant to work. One has 7 years of experience and one has 3 years of experience. They have good experience and both are TIPS certified.

Attorney Truax states the hours for lunch and dinner and alcohol service in the restaurant will be 10:00 a.m. to 10:00 p.m. with beer and wine service only from 11:00 a.m. to 10:00 p.m.; and alcohol service at the bar seating area will be from 5:00 p.m. to 10:00 p.m.

Chairman Kinnon asked Member, Andrew Zeiberg if he has any questions.

Mr. Zeiberg asked Attorney Truax if the owner of the Dorchester restaurant Tom Le will work for 3 months at the Malden location on a full time or part time basis. Attorney Truax said he will work full time to assist Mr. Nguyen and provide his expertise along with Mr. Jack Colangeli. Mr. Le will not be involved in the ordering though as Mr. Nguyen will work with Mr. Colangelo on that. Mr. Zeiberg asked if Mr. Nguyen was TIPS certified and Attorney Truax said he is E-TIPS certified but will take the March 5<sup>th</sup> virtual class as they are not having in person classes at this time. Mr. Zeiberg asked that if one Jack Colangeli leaves what will Mr. Le be doing. Attorney Truax said he will help front checking identifications and management of the staff. Mr. Le will help with training and assisting Mr. Nguyen as both restaurants will be similarly operated.

Member, Frances Lin asked the parties to confirm the hours of operation. Attorney Truax said 5:00 p.m. to 10:00 p.m. only at the bar area and in the restaurant seating area from 11:00 a.m. to 10:00 p.m. Ms. Lin asked Attorney Truax about the names on the cover letter with his application not being consistent with the names provided within the application itself. Attorney Truax said there are 4 owners and the cover letter is incorrect in that it has 5 names listed on it.

Chairman Kinnon said that the Plan of Action provided by the applicants addresses the Board's concerns. He asked Mr. Nguyen if there were instances at the Everett convenience store where he had to turn people away. Mr. Nguyen said that yes there were. One time he had to refuse a customer who was not stable enough to walk and had red eyes. Mr. Kinnon felt comfortable with Mr. Nguyen's experience in dealing with people and selling alcohol but he wants to make sure that they identify problems before they occur. He feels is it best for the virtual TIPS training as opposed to an online TIPS course. Mr. Kinnon also noted that the Rules and Regulations require all

servers to be TIPS trained. Mr. Kinnon also stated there are two important things to this Board and they are no over-serving and no service to minors.

Mr. Zeiberg asked about cameras in the restaurant. Mr. Colangeli said there are cameras and they will remain with the new owners. Captain Marc Gatcomb asked Mr. Nguyen and Mr. Le that as a new owner the Malden Police Department appreciates cooperation and compliance if there is an incident. He said cameras work well for the owners too.

Chairman Kinnon opened the meeting to anyone present to speak in favor of this application. Hearing none and seeing none and confirming with the Clerk that no participants present on the zoom webinar had comments that portion of the hearing was closed.

Chairman Kinnon opened the meeting to anyone present to speak in opposition of this application. Hearing none and seeing none and confirming with the Clerk that no participants present on the zoom webinar had comments that portion of the hearing was closed.

Motion by Andrew Zeiberg to approve transfer of license subject to Mr. Jack Colangeli staying on for 30 days. –  
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 the continuance of the application of Malden Sky, Inc. for a transfer from Sousaka Bistro, 166 Eastern Avenue. Present and representing Malden Sky, Inc. is Attorney Ka Wong, Mr. Henderson Li and Mr. Changjing Zou, proposed manager.

Chairman Kinnon asked Attorney Wong to make his presentation. Attorney Wong said that this is currently a Japanese restaurant and there will be no change in the food style. It is approximately 2,500 square feet with a capacity to seat 68 patrons. Attorney Wong said there would be no renovations and it is a turn-key business. They may change the name of the restaurant and decorations. Attorney Wong said he is aware of the partial capacity due to the Governor's Orders right now. He thanked the Board for allowing the continuance from the last meeting. Mr. Zou is the proposed manager and there was a question by the Board about his experience level. Mr. Zou has been working with Mr. Li in his Brookline location since the beginning of February and will continue to work there until such time as approval is received from this Board and the ABCC. Mr. Henderson Li is there to assist and train Mr. Zou. He is working 40 hours per week full time there now. Mr. Zou is familiar with the 6 forms of acceptable identification and he is learning by doing the job. The Brookline location has a full bar license. Mr. Henderson Li will order inventory at the beginning until Mr. Zou learns the process.

Chairman Kinnon asked Member Andrew Zeiberg if he had any questions.

Mr. Zeiberg asked Mr. Zou if he now knows the 6 forms of acceptable identification that he did not know at the last meeting. Mr. Zou named the 6 forms of acceptable identification, Massachusetts ID; Massachusetts Driver's License; Passport; Passport card; Military ID and Massachusetts Liquor ID card. Mr. Zeiberg asked if he was TIPS trained and Mr. Zou said yes.

Chairman Kinnon asked Member, Frances Lin if she had any questions.

Ms. Lin said Mr. Zou did his homework and he is learning by doing at the restaurant. There was a question about happy hour, but Attorney Wong said there will be no happy hour at the restaurant.

Mr. Zeiberg asked Mr. Li if he will work with Mr. Zou. Mr. Li said Mr. Zou will be the manager but at the beginning Mr. Li will do the ordering. Ultimately it is their goal that Mr. Zou will take over the ordering from distributors. Mr. Zeiberg asked how long Mr. Zou will work in Brookline. Attorney Wong said he will work there if the Board approves this application until ABCC approval comes in. The earliest he sees that happening is the end of March of April sometime. Mr. Zeiberg asked Mr. Zou if he will have assistance in Malden. Mr. Li will go there on a part time basis and Mr. Hanks Lin from the Brookline restaurant will also be there. Mr. Zeiberg asked Mr. Li how many hours per week will he be there to help Mr. Zou and Mr. Li said about 30 – 40 hours per week.

Chairman Kinnon said he was comfortable with Mr. Li ordering. It is important that we have someone who knows how to do this until Mr. Zou is comfortable. Mr. Kinnon did remind Mr. Zou that if there is a problem it all falls to him as Manager of Record. He said to make sure he feels comfortable and to call the Board if they need any help from them. Mr. Kinnon said there are two very important things to this Board and they are no over-serving of patrons and no service to minors. Mr. Kinnon reiterated that if there are problems the Board will look to the Manager of Record, Mr. Zou. Mr. Kinnon said to make sure the staff is trained and they listen to Mr. Zou. Mr. Zou said he is part owner of the business so they should listen to him.

Chairman Kinnon recognized Captain Marc Gatcomb. Captain Gatcomb asked if they had cameras and the answer was yes. Captain Gatcomb said he thinks of this as a partnership with the Police Department and if they sought assistance from the restaurant with their camera surveillance it will work to everyone's advantage. Mr. Li said they would assist.

Mr. Kinnon asked about their hours of operation. Attorney Wong said they were requesting the same hours as the current licensee which is 7 days per week 11:30 a.m. to 1:00 a.m. Attorney Wong said they would be open to a change of hours if the Board was inclined.

Chairman Kinnon said that unless they have a brunch menu and approval, they can only serve alcohol on Sunday's starting at 12:00 p.m. Attorney Wong and Mr. Li said that it fine with them.

Mr. Zeiberg asked about hours of operation as Sunday from 12:00 p.m. to 12:00 a.m. and Monday through Friday from 11:30 a.m. to 1:00 a.m.

Chairman Kinnon opened the meeting to anyone present to speak in favor of this application. Hearing none and seeing none and confirming with the Clerk that no participants present on the zoom webinar had comments that portion of the hearing was closed.

Chairman Kinnon opened the meeting to anyone present to speak in opposition of this application. Hearing none and seeing none and confirming with the Clerk that no participants present on the zoom webinar had comments that portion of the hearing was closed.

Motion by Andrew Zeiberg to approve the transfer of license with operating hours of Sunday from 12:00 p.m. to 12:00 a.m. and Monday through Friday from 11:30 a.m. to 1:00 a.m. and compliance with the training schedule as proposed -Seconded by Frances Lin.

Roll Call Vote:

Andrew Zeiberg – Yea

Frances Lin – Yea

Lee Kinnon – Yea

Motion passed.

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

Submitted by:

Diane M. Anthony, Clerk

Malden Licensing Board

Minutes Approved by:

Lee A. Kinnon /s/

Frances Lin /s/

Andrew Zeiberg /s/