

**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  
June 22, 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 in person at 6:00 p.m.

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Motion by Andrew Zeiberg to approve the Minutes from May 25, 2021, meeting of the Malden Licensing Board

Seconded by Frances Lin

Motion passed.

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The next item on the Agenda is the application for a license for the annual St. Rocco's Feast. The dates for 2021 are August 6, 7 and 8. St. Rocco's Fraternal Association of Malden is requesting beer and wine for service at 278 Pearl Street, which is property owned by John Spadafora. The hours will be on August 6 and 7 from 7pm to 11pm and August 8 from 1pm to 9pm.

Motion by Andrew Zeiberg to approve application. Seconded by Frances Lin.

Motion passed.

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The next item on the Agenda is the continuance of 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. Also, present were other members of Mr. Newcomb's team.

Chairman Kinnon asked Attorney Upton if he would like to address the Board. Attorney Upton states that during last month's meeting there were questions about the character and fitness of Mr. Dan Newcomb as a liquor

license holder and manager. Attorney Upton stated that Mr. Newcomb has had no violations with other licenses he has been involved in and he is the best new license holder. Attorney Upton feels there is a public need for an upscale concept that focuses on good wine, craft beer. They will offer small scale deliveries and at last month's meeting Mr. Newcomb agreed that he would not sell nips. Attorney Upton goes on to say that Mr. Newcomb has met with City and Public Safety officials of the City. He has run successful liquor stores in the past including the license for the Stop and Shop liquor aisle which this Board approved. Attorney Upton states that the Board liked the concept of the liquor aisle for the Stop and Shop. Mr. Newcomb has invested time, effort, energy, and his own money on this application. If he receives a proposal to sell, he weighs his options and if it is a good investment income for him he may sell. There is no rule on selling and moving. This Board will review any transfer request. Every store is for sale at the right price. Mr. Newcomb may want to sell if a Trader Joe's were to come in. Attorney Upton said he was sorry if there was a perceived criticism of other stores in the area however, this concept is different. Will this store cut into the revenues of Vernon's or Locke Liquor? Perhaps but he states this is a different concept.

Attorney Upton asked for Mr. Daniel Newcomb to speak.

Mr. Daniel Newcomb, stated he brought his team with him. He feels this is a fine plan. He and his partner Taso had a role in the liquor aisle concept with Stop and Shop. He has owned other package stores and he is also a broker for liquor stores. He built a team to find new channels of revenue and liquor store development is one of them. There is a question if he is a flipper and whether he would stay here. He has been a manager of record at his father's restaurant. Mr. Newcomb presented the Board with a May 4, 1994 license renewal and stated licenses were issued for his father's store in 1990 and 1991. His family has owned this since 1965.

Mr. Newcomb said he was in business with Donnie Wahlberg as partners but when Donnie wanted to sell, they got out. He has been partners with Taso on the Stop and Shop Liquor Aisle and they made between \$20 and \$30K on that. They bought it for \$265K and sold it for \$350K but they had made upgrades and they did not have a big pay day on that. He also sold his Boston Stop and Shop license.

Mr. Newcomb respects the responsibility of the Board to the City. He will be the manager of record until he has an operations management team. He understands he is the manager of record and the buck stops with him.

He and his team have spent a lot of hours and talked with many people. He wants his store to be like the liquor store here across the street (Malden Center Fine Wines). He feels the location will be good. Last month he spoke with Detective Sargent Mike Powell and Sargent Mitchell from the Malden Police. They went over cameras and brand types and he talked about prevention and crime in the area. Mr. Newcomb also met with Councillor Winslow and talked about trash removal and talked about participating in plantings on the bike path and putting in a bike rack at the store. He feels it could be like Paris in Malden.

Mr. Newcomb took the additional 28 days from the last meeting to make sure his intentions are clear. He obtained more signatures and made sure they are legible and include names and addresses.

Chairman Kinnon said this is concerning to him. He is committed to the Board. He is the Republican on the Board as is required. He understands if there are reason for Mr. Newcomb to sell but Mr. Kinnon needs to see if there is a need. A few months ago, we had two groups of people in December and January who tried to sell the same concept. One was denied and one withdrew. We all know that this is a good store but is there a public need. This store is closer to Vernon's and Locke Liquor than the other two applicants. Mr. Newcomb said he has been through 5 years of minutes and he looked at Malden Fine Wines and that store has 10 licenses within a mile. Chairman Kinnon said Mr. Newcomb's store is .3 and .33. Mr. Newcomb said he has been to the Sunnyhurst which is a neighborhood store. It is a beat-up store that needs attention. Neighbors deserve something more. He understands this a coveted license and needs to be treated with respect. He has been sober for 33 years and

Glen (Lawler) knows how to build a wine program and also the liquor and whiskey. Mr. Newcomb grabbed him for his team for his knowledge. Again, Malden Fine Wines has a good store that that is what he is looking to do. He wants something special.

Board Member, Andrew Zeiberg asked Mr. Newcomb if he lives in Marshfield. Mr. Newcomb said he does and it takes about an hour and 15 minutes to get to Malden. Mr. Zeiberg asked how many hours he intends to be at the store. Mr. Newcomb said as many as required until the store is up and running. He will be the Manager of Record until he brings on a specialist on his team and they will come back to the Board when that time comes. Mr. Zeiberg asked how many staff and Mr. Newcomb said about 6-7 people. Mr. Zeiberg asked about his meeting with Councillor Steve Winslow. Mr. Newcomb said he will be a good neighbor and people will be attracted to his store.

Mr. Newcomb also said he has a team member who is his VP of Marketing and the social media support is unbelievable. He grew up in Milton and his family owned the Mug and Muffin and they were committed to Milton. His brother is still at Mug and Muffin. His mother is 87 and she is still there too.

Mr. Zeiberg asked about the agreement to not sell nips. Mr. Newcomb said he promise to the Board is that he will not sell nips.

Mr. Zeiberg noted that there is traffic at the intersection where the store is located. Mr. Newcomb said he sent a letter to DPW Director Robert Knox about an audible crosswalk but he has not heard back from him. He wrote this letter to Mr. Knox because it was a concern of the Board at the May meeting. Mr. Zeiberg asked about the exit from the store and whether the traffic will be able to turn right and left. Mr. Newcomb did not know. Mr. Zeiberg asked if the landlord would put up signage. Mr. Newcomb did not know.

Board Member Frances Lin noted that Mr. Newcomb and his team did a great job on the package they put together. It is a first-class job. Ms. Lin stated she wants all businesses to be successful. In one year, his business may be successful but the other two liquor stores may not be. There would be three stores which she thinks are too many in the same area.

Attorney Upton commented that when Mr. Newcomb sold Stop and Shop in Malden the Board has the opportunity to evaluate new owner. Every Board has that opportunity .

Ms. Lin said she is concerned for the success of all owners. This Board recently turned down one license request and the other one withdrew. Attorney Upton said their business model is different from the other stores. Competition is good.

Ms. Lin said she can't establish a need in this area. Attorney Upton said it is not the role of the Board to protect other business owners. Dan Newcomb bought and sold other stores in the past and he is willing to risk his money on this business. Dan Newcomb said he has spent time gathering signatures speaking with City officials and they have indicated to him this is something they want.

Mr. Zeiberg asked City Solicitor, Kathryn Fallon if we give them a license and they decide to sell what are our responsibilities. Attorney Fallon said the Board would be able to deny the license or transfer request. Applicants must come before the Board for any transfer. Attorney Fallon also said normally a Purchase and Sale Agreement would be contingent upon Local Licensing Board approval. If he gets the license and he decides to sell it is not like a special permit with conditions. Attorney Fallon said the analysis for this is to determine a public need.

Attorney Upton said a transfer needs the full approval of the Board and also a transfer of stock goes before the Board too.

Chairman Kinnon said there is a difference in that we generally would approve a transfer. This hearing is most critical because we have to determine a public need. One you have an established store we can't go back and say there is no public need. Here we are evaluating if we need a third store in the same area. Chairman Kinnon addresses Mr. Newcomb's comment about Malden Fine Wines and their approval of that. There are legitimate reasons why Malden Center Fine Wines was approved and one of the reasons was the density of people in that area. A transfer application is for the fitness of the owners not the public need.

Attorney Upton said our intent was to buttress and reaffirm there is a public need. His client has been knocking on doors in the area and the Ward Councillor and Councillor at Large are supportive and positive. Chairman Kinnon said that would be a public want not a public need. Mr. Newcomb said that Glen from his team did a mapping of Eastern Avenue and he believes the two locations are within a mile but in Malden Center there are 6 locations in under a mile.

Chairman Kinnon opened up the portion of the meeting to allow the public to speak in favor of this application. Mr. Kolby Vegara of 100 Bayrd Road, Malden got up to speak on behalf of this business. He feels the applicant has put time and effort in this neighborhood and business. The business concept is very different and he believes it will be a nice, open, and clean store with glass windows. There was a Papa Gino's here before. We don't have a good wine store. He would probably go to Total Wine but he is a bike rider and he would probably ride on the bike path and stop in to get some wine and IPA. They will actually have a selection to chose from and he would be greeted with good customer service. He is someone from the neighborhood and he feels it would be a positive for the Maplewood area. They need a good business in this area and maybe better ones will follow.

Attorney Fallon noted that there were multiple letters provided from residents of Malden in the package provided.

Board Member Andy Zeiberg read letters of support from Councillor David Camell and Councillor at Large Steven Winslow into the record (copies attached to these Minutes). Chairman Kinnon noted that the May email from Councillor Winslow was not supportive however, he apparently changed his mind after speaking with Mr. Newcomb. Attorney Fallon said that the most recent letter should be incorporated in this record as he obviously changed his mind.

With no further public comment in support, Chairman Kinnon opened the meeting up to anyone present to speak in opposition. Hearing and seeing no one, that portion of the meeting was closed.

Chairman Kinnon asked is the Board members if there was any further discussion or any motions.

Member, Andy Zeiberg made a motion to approve the license application of LLAWM at 888 Eastern Avenue, Malden with the stipulation that no nips are to be sold at this location. Attorney Upton had a question about the motion and he understands that they cannot include the betterments Mr. Newcomb agreed to but Attorney Upton said they are committed to doing it.

Attorney Fallon asked through the Chair about anticipated opening. Mr. Newcomb said he expects sometime in September but they cannot get in until a certificate of occupancy is issued.

Member, Andy Zeiberg restates his motion to approve with no nips to be sold and contingent on signoffs for the certificate of occupancy.

Member, Frances Lin states they have done a good job but she has concerns about public need and about our principals in that we just had two other applicants that were denied and withdrew. She did not make a second to

Mr. Zeiberg's motion.

Chairman Kinnon notes that the motion to approve fails.

Member, Frances Lin makes a motion to deny on the basis of public need for a third liquor store as we have already rejected two other applicants.

Ms. Lin recognizes Mr. Newcomb is a successful businessperson.

Attorney Upton requests and is granted a short recess. He speaks in private with Mr. Newcomb and Attorney Fallon.

After the recess, Attorney Upton is granted permission by the Chair to address the Board about public need before a vote is taken.

Attorney Upton states he understands case law and there are 8 reasons for approval/denial of a license.

1. Consider reputation- We have established Mr. Newcomb's character and reputation.
2. Operation that carries the license
3. Size
4. Noise
5. Traffic – This development has already been vetted by the city.
6. View of neighbors, inhabitants
7. Consideration of other existing dispensaries in the area – He feels there is enough distance any they are very different from the others.
8. Public need and consideration woven into that with public want.

Attorney Upton said they have talked with City officials, neighbors and people have taken time to come here to speak in support. This is the second meeting we have had. They are all in favor of this and the public has spoken. He has read prior minutes and Attorney Upton feels that prior applicants have not had the quality of presentation or 50 letters of support. The test of the public has been satisfied the only way they know how to satisfy. They talked to City officials who are in favor. The Board has said before they defer to City Councillors.

Chairman Kinnon said the Board does not defer to Councillors. Our job is beyond a Ward Councillor. This establishment is on the edge of a couple of wards. We are responsible to determine public need. We don't defer to a City Councillor; we listen to them. If they said they don't want it, we would do our best to comply. Our job is to not just listen to a Ward Councillor. They know their wards. We know the city and we are responsible to determine a public need. We listened to you, Attorney Upton and we listen to them. It is important to us that we determine the public need.

Attorney Upton said look at the lack of opposition and the overwhelming number of people who said they want this. The scales are tipped. There is no opposition of any kind.

Frances Lin said she lives 5 minutes from this location and she is sure if she went around the neighborhood stating she was going to put in a French bakery/café she could get other residents to sign. She feels there may be other residents who may prefer a bakery/café. Attorney Upton added that this cannot be a lawful position to take.

Attorney Fallon said the motion made by member, Frances Lin was a motion to deny due to the proximity to two other licensees and two other applicants one who withdrew and one that was denied.

Motion before the Board now is Member, Frances Lin's motion to deny.

Seconded by Lee Kinnon.

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

Motion to deny passed.

Attorney Upton said he was disappointed with the result. Chairman Kinnon said that he has been on the board for 20 years and this was one of the most difficult votes for him. He wrestled with this one more than any other but they have a responsibility to the community to keep from having too many establishments in close proximity to one another.

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

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Meeting adjourned at 7:45 p.m. Next regularly scheduled meeting will be held at the call of the Chair.  
Submitted by:

Diane M. Anthony, Clerk  
Malden Licensing Board  
Minutes Approved by:

  
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