

SAFETY SERVICES AND LICENSES COMMITTEE

A special meeting of the Safety Services and Licenses Committee was held on Wednesday, January 24, 2007 in the Council Chambers, City Hall, Cranston, Rhode Island.

The meeting was called to order at 7:10 P.M. by the Chair.

Present: Councilman John E. Lanni, Jr., Chair
Council Member Maria A. Bucci, Vice-Chair
Councilman Terence Livingston
Councilman Emilio L. Navarro
Councilman Jeffrey P. Barone
Council President Aram G. Garabedian

Also Present: Council Vice-President Paula B. McFarland
Councilman Richard D. Santamaria, Jr.
Councilman Anthony J. Lupino
Major Ronald Blackmar, Police Department
Chief Richard Delgado, Fire Department
Deputy Chief Fire Marshall Thomas Dettore, Fire Department
Vito Sciolto, City Solicitor
Charles Garganese, Jr., Assistant City Solicitor
David Ferguson, Traffic Engineer
Kerry Anderson, Building Inspector
Sharon Cavalloro, Code Compliance Officer
Maria Medeiros Wall, City Clerk
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

CLASS B VICTUALLING LICENSE – NEW

Starz Bar & Grill (Previously approved Nov. 13, 2006)

1458 Park Ave.

John DiBona, Esq., appeared to represent the applicant. He stated that this Committee granted a license to the applicant in November and when he applied for this license, the property was zoned C-5 and Zoning Certificate and liquor was allowed. Prior to that, the property was zone C-2. This made it a use that was not permitted requiring his client to request a variance. On January 10, 2007, the Zoning Board of Review granted a variance. Attorney DiBona stated that the hours of operation would be 11:30 AM to 12:00 AM during the week and 11:30 AM to 1:00 AM on weekends.

CLASS B VICTUALLING LICENSE – NEW (Cont.)

Starz Bar & Grill (Previously approved Nov. 13, 2006) (Cont.) 1458 Park Ave.

No one appeared to oppose.

On motion by Council Member Bucci, seconded by Councilman Barone, it was voted to approve this liquor license. Motion passed unanimously.

SHOW CAUSE HEARING

Jimmy D's Restaurant

1785 Cranston St.

Kerry Anderson, Building Inspector, appeared to speak and addressed the violations listed by his department and in response to questions asked Ms. Cavalloro, the Zoning Code Compliance officer in his office, to respond as she had gone out to visit the site.

Sharon Cavalloro, stated that applicant had not applied for a permit for the following: free standing signs, temporary signs and new canopy on the side door.

Councilman Barone inquired regarding capacity. Chief Delgado stated that above 150 sprinklers and a municipal fire alarm are required.

Deputy Chief Dettore addressed the violations from the Fire Department. He stated that under the present owner, there have not been any problems. In the past, there have been complaints of lack of access down Bolten St.

Council President Garabedian asked what is the distinction that makes a place a nightclub. Deputy Chief Dettore stated the definition is in the fire code.

1) Public access with entertainment live or recorded; 2) primary source of revenue is the sale of beverages and/or cover charges; 3) food is secondary; and 4) occupancy load minimum of 100 patrons. Restaurants normally don't have entertainment. Also a capacity of 330 or more requires a sprinkler system. Local fire alarm system is required and sound shut down. With its current use, this establishment is considered a nightclub. He also indicated that an establishment with 100 or more people, is required to have a fire detail present. They are now required to have a fire detail for every Friday night. The applicant has been notifying the Fire Department since Friday, if they need fire detail, and they have not had a problem. The Fire Department has also maintained contact with the applicant and the Deputy Fire Chief has driven by the establishment to check this establishment. This is before the Board of Appeals Review and at that time, the issue of whether sprinklers are required will be addressed. Either way, the owner has told him that they are going forward with the municipal fire alarm system.

SHOW CAUSE HEARING

Jimmy D's Restaurant

1785 Cranston St.

Councilman Navarro asked when this location was classified as a nightclub. Deputy Chief Dettore stated it was on October 31, 2006.

Councilman Livingston asked if the applicant has been cited for overcrowding. Deputy Chief Dettore stated that this has not been an issue because there have been people spot checking this establishment. Councilman Livingston asked Deputy Chief Dettore how the Fire Department found out or how the issue of nightclub versus restaurant came about. Deputy Chief Dettore stated that the Fire Department started questioning whether this establishment was being used as a nightclub or restaurant once the department was made aware that there was entertainment going on at the establishment. Councilman Livingston asked if there is an issue with fire retardant materials in the establishment. Deputy Chief Dettore stated, no, the curtains have been treated. Councilman Barone asked if the Fire Department was comfortable with the situation at this location. Deputy Chief Dettore state no not until they have a fire detail in there.

Councilman Barone stated that in the report presented by Deputy Chief Dettore, incidents go back to 2005. This applicant did not take over the business until October, 2006. Deputy Chief Dettore stated that the first letter was sent December 8, 2005 to the present owner. On March 2, 2005, a letter was hand-delivered to the property owner.

Councilman Lanni asked when the fire detail started. Deputy Chief Dettore stated Saturday night. The Code does not allow the Fire Department to enforce the presence of fire detail. There was a reduction made. Councilman Lanni asked how the reduction in amount of people in the building is enforced without checking on the business every day and how will this be enforced going forward until they are in compliance. Deputy Chief Dettore stated that the owners are required to have a clicker to count the people coming into the facility. Chief Delgado stated that once there is a reduction made in the amount of people in the establishment, it is the owner's responsibility not to go over that count. The Fire Department will also do spot check to do a count, but there has to be responsibility on the owner's side. When there will be entertainment, it is the owner's responsibility to notify the Fire Department and ask for detail.

SHOW CAUSE HEARING (Cont.)

Jimmy D's Restaurant (Cont.)

1785 Cranston St.

Councilman Lanni asked how long it would take to install the sprinkler system. Chief Delgado stated that the Fire Department has asked the Board of Appeals for an expedited hearing, which would take approximately four to six weeks, without that, it would take three to four months. The Board may place a timeframe for applicant to comply, if they need to install the sprinkler system. He can assure that, in the meantime, his department will have detail every time they have entertainment, if they are notified prior to the event.

Councilman Santamaria asked if their capacity would increase to 197 once their complaint is addressed. Deputy Chief Dettore stated it would.

Council President Garabedian asked whose jurisdiction it is, Fire or Police, as to capacity in an establishment. Chief Delgado stated that this is the Fire Department's jurisdiction. Council President Garabedian stated that it would seem more logical that it would be the Police Department. Chief Delgado stated that under State Law the Fire Department is authorized to establish capacity and they work with the Police Department.

Councilman Barone asked if the owner would be willing to provide a list of events to the Fire Department, when they have events, similar to the way Rhodes does monthly, in order to determine if detail is needed. Councilman Lanni agreed that a procedure similar to Rhodes should be implemented in the meantime.

Councilman Lupino asked if Fire Department was notified in the past of all phases of all the expansions made to the building. Chief Delgado stated that normally, when a building permit is applied for or zoning is applied for, this is when the Fire Department is made aware of any expansions.

Councilman Lupino asked if capacity takes into consideration employees and band members. Deputy Chief Dettore stated they did.

Councilman Barone addressed the letter dated December 8, 2005 from Fire Captain Lateck that was sent to the property owner, which states that inspection was done and system in the kitchen needed improvement. He asked if this is in compliance at this time. Deputy Chief Dettore stated that this was recently inspected and is in compliance. This inspection is done on a yearly basis.

Councilman Navarro asked if there is a way that this establishment can be limited to the days it could operate as a nightclub. Deputy Chief Dettore stated that the Fire Department does try to come to an agreement with the owner as long as it is safe. Councilman Navarro stated that he would like to restrict it to be a nightclub for Thursday, Friday and Saturday and all systems be in place to protect the patrons.

SHOW CAUSE HEARING (Cont.)

Jimmy D's Restaurant (Cont.)

1785 Cranston St.

Deputy Chief Dettore stated that the capacity set is based on capacity of 15 sq. ft. per person.

Councilman Lanni addressed the letter dated January 8, 2007 from Sharon Cavalloro regarding off-street parking. He stated that in the letter, using 138 patrons, they would need approximately 46 parking spaces, currently, they have 28 off-street parking spaces and 1 handicapped. He also addressed a second bar being added and asked if a permit was issued for this second bar. Mr. Anderson stated that in 2001, there was a permit issued for interior renovations, which shows the second bar.

Major Blackmar appeared to speak and clarified that the Police Department do normally check businesses and if they feel they are over the capacity, they will contact the Fire Department. He also stated that there has been an increase in calls to the Police Department regarding this location since October and also from residents regarding parking problems on Bolten St. In 2006, there were a total of 26 calls, a good portion being about parking on Bolten St, 13 were received from mid October thru December 31st. There have been numbers calls from the surrounding areas. Last night there were eight cars tagged for parking violations. The applicant has been cooperative when officers go to the establishment.

Mr. Ferguson appeared to speak and stated that back in May of 2004, he was asked by this Committee to check this site for specific issues such as on-street and off-street parking and found that the parking facility was delineated for a total of 32 spaces. Of the 32 spaces, only 2 are in compliance with the City Code. There were some handicapped issues that he pointed out. If the spaces were to be coded compliant, it would decrease the capacity. Councilman Santamaria stated that the owner has told him that he uses the parking lot of Joe's Place, down the street, to park. He asked Mr. Ferguson if he has checked into this. Mr. Ferguson stated that he did check into this and found there are 23 spaces at Joe's Place, of which they all meet the Code requirements.

Councilman Santamaria addressed the parking signage on Bolten St. Mr. Ferguson stated that signs on Bolten St. have been upgraded and some signs should have been placed there, but there is no evidence of them ever being placed there and he will have them installed as soon as possible.

Councilman Barone questioned what constitutes a non-compliant parking space. Mr. Ferguson stated that he uses the City Code, the RI Building Code and several other sources.

SHOW CAUSE HEARING (Cont.)

Jimmy D's Restaurant (Cont.)

1785 Cranston St.

Council Vice-President McFarland addressed the report presented by Mr. Ferguson and a letter from him dated June, 2004, indicating that parking spaces were not in compliance at that time. She questioned why this was not followed up on. Mr. Ferguson stated that this new owner's application did not come to him for Traffic Engineer's review and by Code, his office does not have authority to govern every business or location in the City, unless it is brought before him for approval. He did the review in 2004 at the request of this Committee.

Councilman Livingston stated that the information stated by Mr. Ferguson regarding 30 of the 32 spaces that are illegal is useless information to him. He asked how many parking spaces are legally available and whose responsibility it is to come up with that number. Mr. Ferguson stated that we, as a City, can't make that determination. The owner would have to hire an engineer or an architect to submit a plan for his office to review.

Councilman Santamaria asked what would be the plan of action if there is a parking problem. Mr. Ferguson stated that now that there is a change of use, as acknowledged by the City and the owner, a traffic plan would have to be submitted to him for review and approval per the City Code. Councilman Lanni asked Mr. Ferguson if he would be in favor of the applicant using Joe's Place's parking spaces. Mr. Ferguson stated that as long as there is a lease, he is not opposed. Councilman Lanni stated that the applicant could be required to submit a copy of the lease at the time that the liquor license is renewed.

Mr. Anderson stated that the number of parking spaces required is a function of the design, which is approved by the Fire Department, and use. The building was built in 1979 and by looking at this, he believes this building never met parking requirement, similar to other buildings throughout the City built during this time.

Councilman Lanni asked who enforces the Code when someone does not comply with the parking requirement. Mr. Anderson stated that this would be enforced by his department.

Council President Garabedian asked Mr. Anderson to address the grandfather rights issue. Mr. Anderson stated that if there was a business for a period of time and a new person took over as same business, grandfather rights would continue.

SHOW CAUSE HEARING (Cont.)

Jimmy D's Restaurant (Cont.)

1785 Cranston St.

John Lombardi, Esq., appeared to represent the applicant and stated that his client was asked when he applied for a transfer, if there was going to be a change in the operation of the business and he stated at that time, no, with the exception of Sunday food. His clients have indicated that they want to be pro-active. He asked that the Committee review the packet of documents he provided. He assured the Committee that his clients will notify the Police and Fire Departments beforehand when there will be entertainment. He stated that when his clients purchased the business, they assumed that they would be operating a business that was in compliance. They will be placing soundproofing on the windows. Councilman Lupino questioned whether this is considered a structural change and would need approval by the Building Inspector.

Alfred Carion, one of the business owners, appeared to speak and stated that the soundproofing product has no more structural strength than glass. It is two very very thin layers of aluminum and believes it does not need a permit. Councilman Lupino asked if these materials need approval from the Building Inspector indicating that it meets Code requirement. Mr. Carion stated that he did not make requests from the Building Inspector or Fire Department for approval for this. He will follow through in getting this material to the Fire Department for their approval. Councilman Lanni asked Mr. Carion how he knows that a permit is not needed for this material to be installed. Mr. Carion stated that he owns an insurance restoration company and he was told a permit is not needed.

Council Member Bucci asked representatives from the Fire Department if they are familiar with this product. Chief Delgado stated that this is the first time he is hearing about this product and would appreciate any information on this material.

Mr. Carion stated that he has hired a company to install this material. The product is called Panel 15 and he was told he did not need a permit to install it. Councilman Lanni stated that before the applicant proceeds to install this product, the Fire Department needs to check this material to make sure it meets their requirements. He also asked that Mr. Carion check to see if a permit is needed from the Building Inspector. Mr. Anderson stated that a permit is needed.

Attorney Lombardi stated that with regards to the Police calls, his clients purchased the business on October 26, 2006. He noted that some of the calls were for the previous owner. With regards to the parking spaces, his clients have contracted with Joe's Place to provide spaces and will continue to do that. He guaranteed that there will be a continuous lease with Joe's Place with regards to the parking.

SHOW CAUSE HEARING (Cont.)

Jimmy D's Restaurant (Cont.)

1785 Cranston St.

Councilman Santamaria asked if the soundproofing is guaranteed. Residents have told him that Sunday they did their own testing and they could hear the noise from their home. Attorney Lombardi stated that his client conducted a test and it read -0- approximately 30' from the premises. Mr. Clarion stated that the actual reading was 18 from his car. Major Blackmar stated that the Police Department can do a decimal level testing, but you will never get total soundproofing.

City Solicitor Sciolto referred to the City Code and stated that decibel readings are not in fact required for amplified music.

James DeAngelus, one of the business owners, appeared to speak and stated that Joe's Place has 36 spaces and he has 30.

Councilman Lupino asked who is going to determine what is considered entertainment. Deputy Chief Dettore stated that the concern is when the number reached 100 with entertainment that is considered a nightclub. The description of entertainment, basically, stated that if it reached sound by amplified system above normal aspect of the sound.

Attorney Lombardi asked that the issue of the fictitious corporation be disposed of, since it is addressed in the packet he presented. Councilman Lanni stated that this packet was received this evening prior to the meeting and the Committee has not had time to review it.

On motion by Council Member Bucci, seconded by Councilman Livingston, it was voted to continue this item until the next meeting.

Under Discussion:

Councilman Lanni stated that the Review Board of Appeals will not have a decision regarding the fire code issues by the next meeting.

Motion and second were withdrawn.

On motion by Council Member Bucci, seconded by Councilman Livingston, it was voted to continue this item to the March meeting.

Under Discussion:

Chair asked that the public be heard on this issue, since they are present this evening.

SHOW CAUSE HEARING (Cont.)

Jimmy D's Restaurant (Cont.)

1785 Cranston St.

Louis Capirchio, 50 Bolten St., appeared to speak and addressed problems with the parking. He stated that even though this business has valet parking, the valet cars block the street. There are times when he is just waiting just to get into his street. It seems the cars are still parking on the side of the street where there are signs for no parking. This is a residential area. This is not a place for a nightclub.

Patricia Capirchio, 50 Bolten St., appeared to speak and stated that access to the street is awful. Parking is a big problem. A nightclub does not belong in this area. She has been complaining about parking in this area for years.

Fred Bianchi, owner of 14 Clarion St., appeared to speak and stated that his tenants have been complaining to him regarding parking. A nightclub does not belong in this area. There is no buffer zone. Soundproofing is not going to help. The patrons area going to open the doors to go out and smoke.

Joe Mantia, owner of property on Bolten St., appeared to speak and stated that noise and music in the backyard is very loud, even when windows are closed. His home is approximately 50-75' away from the new entrance on Bolten St. Even though this is a business, it is very close to residential properties. He asked that this Committee try everything they can to try to restore this area to what it was years ago.

Eileen Rothme appeared to speak and stated that she has been a patron of this establishment for the past five or six years. There is nothing that goes on at this establishment that has not been going on there since she has been going there. The majority of patrons that attend this establishment are adults who are either widows or widowers.

Maryann Mantia, owner of property on Bolten St., appeared to speak and stated that this facility is not a joy for taxpayers that live in this area. She also stated that she submitted a petition to Councilman Santamaria. She stated that the valet is a problem. Attorney Lombardi asked for a copy of this petition.

SHOW CAUSE HEARING (Cont.)

Jimmy D's Restaurant (Cont.)

1785 Cranston St.

On motion by Councilman Livingston, seconded by Councilman Barone, it was voted to move the question. Motion passed unanimously.

Roll call was taken on motion to continue to March meeting and motion passed unanimously.

The meeting adjourned at 10:00 P.M.

Respectfully submitted,

Rosalba Zanni
Assistant City Clerk/Clerk of Committee