

Meeting Minutes
Board of License Commissioners
Caroline County, Maryland

DATE: Wednesday, May 23, 2018

PLACE: Health & Public Services Building
403 S. 7th Street, 1st Floor, Room 110
Denton, Maryland 21629

BOARD MEMBERS: Greg Eigenbrode, Chairman
Nick Loukides, Vice-Chairman
Glen Plutschak, Member
Michael Mann, Alternate

OTHERS PRESENT: Crystal Dadds, Assistant Director of Codes
Heather Price, Board Attorney
Phillip Moore, Alcoholic Beverage Inspector
Melanie Smith, Administrative Assistant to the Boards

Chairman Eigenbrode called the meeting of the Caroline County Board of License Commissioners to order at 9:30 a.m.

SHOW/CAUSE AND INQUIRY HEARINGS

404 TAPHOUSE – 42 Denton Plaza, Denton, MD

Ms. Dadds read the summons for Michelle A. Jackson, John J. Mullins, Sr., and Deborah L. Mullins to appear before the Board to discuss the alleged violations discovered during a routine inspection on April 14, 2018.

Charge No. 1 – Alleged violation of the Caroline County Board of License Commissioners Rule and Regulation No. 2.50, specifically, storage of alcoholic beverages in a separate outside cooler that is not part of the licensed premises and does not have an individual storage permit from the State of Maryland Comptroller's Office in accordance with Section 2-113 of the Alcoholic Beverages Article.

Ms. Dadds read the exhibits into the record:

Exhibit 1: April 14, 2018 Incident Report (5 pages)
Exhibit 2: Summonses for Michell Jackson, John and Deborah Mullins (9 pages)
Exhibit 3: MD Annotated Code Article AB §2-113 – Individual Storage Permit

Deputy Brummell was unable to serve Michelle Jackson at the address the Board had on file at 12 North Central Ave., Ridgely, MD and was informed that she no longer lived there. Mr. Mullins Jr. told Ms. Dadds that Ms. Jackson now lives with him at 1507 Cattail Commons Way, Denton, MD.

Chairman Eigenbrode swore in:

Michelle Jackson, 1507 Cattail Commons Way, Denton, MD
Deborah Mullins, 25770 Burrsville Road, Denton, MD
John Mullins, Sr., 25770 Burrsville Road, Denton, MD
John Mullins, Jr., 1507 Cattail Commons Way, Denton, MD

Inspector Moore read the incident report (Exhibit 1) into the record which included photographs of the beer stored inside the cooler and the January Liquor Board minutes.

Mr. Mullins, Jr. explained that both the location and the cooler is included in his rental contract. He stated that he must have misunderstood the Comptroller's requirement to have a permit to use the cooler outside for alcohol. He stated that he talked to the Comptroller's Office, the landlord and Ms. Dadds and he has no problem complying with the requirement. He asked what he needed to do? He suggested adding the cooler to the premise area because it is only 10 feet from the back door of the bar.

Ms. Dadds read the section of the minutes in Exhibit 1 where Mr. Mullins, Jr. assured the Board that all alcohol would be housed within the building. Mr. Mullins, Jr. stated that he owns the mistake and wants to know how he can become compliant in such a way that his landlord will not charge him rent for two premises.

Ms. Dadds recalled for the Board that the Comptroller had brought a violation to the County License Board when Snappy's was storing alcohol in the same cooler they were referring to today. The charge was for having alcohol stored in an unlicensed storage container. They did not have the required permit from the State Comptroller's Office to use the cooler.

Mr. Mullins stated that the Comptroller's Office told him that he was not required to have a permit. Ms. Dadds spoke to David Golinski, Investigator for the Field Enforcement Department of the Maryland State Comptroller's Office. Mr. Golinski suggested that Mr. Mullins may have talked to someone in the Tax Department of the Comptroller's Office but he assured her a permit is required.

Ms. Dadds added that it is also an area that was not included in the Board's approval for their licensed premises. Obtaining a permit would be the first step in resolving this violation.

Mr. Mullins, Jr.'s understanding was that it was only required if the alcohol was shipped from a different address and the cooler is included in his rental agreement. He thought it was interesting that during the time that Mike Brown owned the establishment this was not an issue.

The Board responded that the Comptroller's Office was who brought the original charge about the cooler to them during Snappy's ownership. Mr. Brown was fortunate to not have been discovered using the cooler to store alcohol. Ms. Dadds explained that the points that were made when she spoke to Mr. Golinski that morning was that the establishment was in a strip mall with numerous other units rented by individual tenants; the cooler was unattached to the building and because they must walk out of the bar to enter the cooler it is considered a separate storage container. If it was attached to the building and could be entered from within the premise it would comply.

Ms. Dadds explained that the application is on line and very simple to fill out. Mr. Golinski's Office is expecting it to be applied for and the fee is \$50 per year. Mr. Mann suggested Mr. Mullins, Jr. contact Ms. Dadds after today's hearing to get Mr. Golinski's information and file for a permit.

Mr. Mullins, Jr. read a portion out of the State Code that implied that if the Board approved the area as part of the premise they would not be required to apply for a state permit. Ms. Price explained that the section that he read from would require him to pay for a permit to have individual storage (storage in an area not attached to the establishment). Any alcohol that was stored there, and purchased by him, must be delivered to the address of the established business. She added that she is inclined to believe the Investigator for the Comptroller's Office is aware of what is required by the State. State law is clear that a permit is required and that it pertains to his specific conditions.

Mr. Mullins, Jr. then stated that he was afraid the landlord would charge him an additional \$200 rent. Ms. Price explained that while the minutes for today's meeting is public information the Board would not send a letter to his landlord addressing any of the proceedings. She added that although she cannot offer him legal advice, she would have to believe that if he signed a contract for the location and cooler in his current agreement, it would not change.

Mr. Mullins argued again that if it is under the same address why would he need a permit. Chairman Eigenbrode explained again that the cooler is not under the same roof as the premise. Mr. Plutschak asked Mr. Mullins where he was storing the alcohol while he is working all of this out. Mr. Mullins answered that it was still being stored within the cooler. Mr. Mullins stated that he has no place within the building to store it. Mr. Mullins added that the cooler is under lock and key at night, he thinks. He was sure there was a key because he had to chase it down.

Mr. Plutschak asked if the Board would consider allowing Mr. Mullins time to obtain the required permit before hearing the case. Ms. Price advised the Board that they may postpone the hearing until June 27, 2018 at 9:30 a.m. on the condition that the cooler remained locked and under surveillance until then. It was noted that a new site plan would also need to be approved at that meeting to include the cooler in the approved premise.

Mr. Mullins added that they also store their food in the cooler. Mr. Mann stated that the other establishments in the County are not permitted to store their alcohol and food in the same cooler. Mr. Mullins and Ms. Jackson stated that Ashley Baxter from Environmental Health regularly inspected the cooler and has had no problem with the arrangement.

Chairman Eigenbrode informed Mr. Mullins that he would need to bring an updated site plan for approval at the June hearing. Mr. Mullins said that he would also be requesting the front sidewalk be added to their premise at that time. Ms. Dadds reminded him that he would require approval from the Town of Denton for both areas before the Board could approve his request.

Motion: Mr. Loukides made a motion to postpone the 404 Taphouse show/cause hearing until June 27, 2018 to allow the licensees time to obtain a permit for the outdoor cooler on the condition that the cooler always remained locked. And to submit an updated site plan with the Town of Denton's written approval for an expanded area.

Second: Mr. Plutschak seconded the motion.

In Favor: The motion was unanimously approved (3-0).

Ms. Dadds suggested they inform the Board about Ms. Jackson's address change as she had recently moved. Ms. Dadds explained that she will need to bring her MVA change of address or a bill in her name that shows her current address. Mr. Mullins asked if they could bring those documents to the June meeting. Ms. Dadds suggested they bring it in as early as possible.

PUBLIC COMMENT

MARY'S COUNTRY STORE – 6244 Harmony Road, Preston, MD

Ms. Dadds explained to the Board that the day after Ms. Vonville failed to appear for a Show/Cause hearing she submitted a letter of apology. Ms. Vonville had called Ms. Dadds the afternoon of last month's hearing to explain that she had realized too late that she penciled in the date of the hearing incorrectly on her calendar. She was very apologetic and asked for the opportunity to speak to the Board directly and to ask for a reconsideration of their decision.

The Board gave Ms. Vonville the floor. Ms. Vonville explained that she had been in business for 23 years. She is the sole owner of her business and had never had a problem. Lately, because of health issues, she has had to call on her family and friends for help.

Ms. Vonville explained that she had not believed Inspector Moore was a legitimate Inspector for the County because she had never had an evening inspection. She said that her records were always on site. She took full responsibility for the violations against her but explained that it was not committed intentionally and she has since corrected all the violations.

Ms. Vonville determined that she had too much to lose. She is trying to sell her business and potential buyers appreciated that there was an existing liquor license. Ms. Dadds asked for her to give the Board an explanation of why she did not appear at the Show Cause hearing despite being summonsed.

She stated that she recognized, while getting her paperwork together for the meeting, that she had added it to her calendar on the wrong date. She immediately called Crystal to explain the mishap and met with her the next day.

- Motion:** Mr. Plutschak made a motion to reconsider the April decision of the Board to revoke the alcoholic beverage license of Mary's Country Store according to her appeal to them today.
- Second:** Mr. Loukides seconded the motion.
- In Favor:** The motion was unanimously approved (3-0).

RECONSIDERATION OF A DECISION

MARY'S COUNTRY STORE – 6244 Harmony Road, Preston, MD

Ms. Dadds read the summons into the record.

CHARGE NO. 1

Alleged violation of §4-505(e) of the Annotated Code of Maryland and Caroline County Board of License Commissioners Rule and Regulations No. 2.01, specifically, failure to have a licensee or an employee on-site that has completed training in an approved alcohol awareness program.

CHARGE NO. 2

Alleged violation of §4-505(f)(1)(iii) of the Annotated Code of Maryland and Caroline County Board of License Commissioners Rule and Regulations No. 2.01, specifically, failure to present a valid alcohol awareness program certificate to the Alcoholic Beverage Inspector upon request.

CHARGE NO. 3

Alleged violation of §15-1902(a)(1) of the Annotated Code of Maryland and Caroline County Board of License Commissioners Rule and Regulations No. 2.01(b), specifically, the individual certified by an approved alcohol awareness program may be absent from the licensed premises for an emergency if the absence lasts for no more than two (2) hours.

CHARGE NO. 4

Alleged violation of §15-902(a)(2) of the Annotated Code of Maryland and Caroline County Board of License Commissioners Rule and Regulations No. 2.01(c), specifically, the license holder did not have a log book on the licensed premises that documents each temporary absence, the length of time of the absence, and the reason for the absence, in the form required by the Board.

CHARGE NO. 5

Alleged violation of the Caroline County Board of License Commissioners Rule and Regulations No. 2.17(b), specifically, failure to maintain records of all employees on the premises.

CHARGE NO. 6

Alleged violation of the Caroline County Board of License Commissioners Rule and Regulations No. 2.36, specifically, failure to maintain and keep accurate records of all alcoholic beverage transactions on the premises where alcoholic beverages are sold for at least two (2) years.

CHARGE NO. 7

Alleged violation of the Caroline County Board of License Commissioners Rule and Regulations No. 2.46(b), specifically, failure to post signage upon the outside of the entrance to the establishment stating, "no alcoholic beverage sales to persons under 21 years of age: in large bold type.

CHARGE NO. 8

Alleged violation of the Caroline County Board of License Commissioners Rule and Regulation No. 2.22, specifically, all licensees for a license must be present during any hearing or conference scheduled by the Board.

Ms. Dadds read the exhibits from the April hearing into the record:

Exhibit 1: Summons for Mary Vonville to appear at 9:30 a.m. on April 24, 2018.

Exhibit 2: January 4, 2018 Incident Report for Mary's Country Store.

Exhibit 3: April 2018 Liquor Board Minutes

Chairman Eigenbrode swore in:

Mary L. Vonville, 313 South 3rd Street, Denton, MD

Ms. Dadds asked Ms. Vonville why her address is different than what is on her renewal application. Ms. Vonville stated that her old address is on her renewal application and agreed to correct that after the hearing.

Inspector Moore read the incident report into the record.

Mr. Plutschak asked if Ms. Vonville has had her employees certified since the incident. Inspector Moore stated that she did. Inspector Moore explained that he inspected the premises prior to today's hearing and all the violations had been corrected. This was the inspectors first visit to Mary's Country Store since being hired by Caroline County. He informed the Board that he did attempt to buy alcohol from them while her license was suspended and they denied him the purchase.

Mr. Plutschak explained to Ms. Vonville that the Inspector was doing his job and he is charged with ensuring her establishment complies with the State/County Liquor Laws. She understood, adding that she has since made amends with the Inspector.

Ms. Vonville has never had an incident in the past and assured the Board that she is serious about her business and will comply in the future.

Motion: Mr. Plutschak made a motion to find Ms. Vonville in violation of the eight charges by her own admission; to charge her a \$100 fine for each of the eight violations; and to return Mary Country Store's alcoholic beverage license once the fines have been paid.

Second: Mr. Loukides seconded the motion.

In Favor: The motion was unanimously approved (3-0).

OTHER BUSINESS

Chairman Eigenbrode amended the agenda to hear Sheldon's special event request. Ms. Smith read the request and noted that the Board would be hearing a proposed amendment today to make §2.49 Special Use of Licensed Premise less restrictive.

SHELDON'S 313 - – Special Event Request

Jay Sheldon submitted a written request for the Board to approve game nights at Sheldon's 313. They are planning to play Bingo, Trivia and Survey Says. This would be free to the customers and prizes would not include free alcohol. They are further interested in having Paint, Craft and Dance nights. She had written that they have had such events in the past with some success.

Mr. Plutschak explained that the amendment they will be considering will define a special event, that would require written approval from the Board, as being held outside of the building and/or an event held inside the building that causes an interruption to normal business activities.

Paint, Craft and Dance nights might interrupt normal business activities. Ms. Sheldon explained that they were activities designed to enhance business rather than obstruct it and does not foresee a problem. She asked if she may have "Cornhole" tournaments in the rear yard. Mr. Mann asked if it is legal for them to charge \$5 or \$10 to enter the tournament if the money received were used as first, second and third prizes. Inspector Moore assured him that it was.

Inspector Moore warned Ms. Sheldon that there are games of chance and skill that may be considered gambling and if she had any questions to call him before scheduling such an event. He noted for the record that Ms. Sheldon has been warned not to engage in drinking games. She stated that she had been before the Board in the past for that charge. She assured them that they would not use alcohol in what they now call "Pong". She added that it would be like the "Cornhole" tournament where they pay to participate and win for first, second and third place. Inspector Moore advised that such a game would still be construed as a drinking game if the players make their own rule to chug a beer. He noted for the record that she has been informed that she could be charged in such a case.

Ms. Sheldon was advised to call Ms. Dadds later in the day to verify if the amendment was approved. Ms. Sheldon asked about fundraising events. She was advised to ask for approval for such events. Ms. Price advised Ms. Sheldon to contact Ms. Dadds before scheduling any outside tournament.

Motion: Mr. Loukides made a motion to approve the special event request.
Second: Mr. Plutschak seconded the motion.
In Favor: The motion was unanimously approved (3-0).

NEW ALCOHOLIC BEVERAGE LICENSE APPLICATION

NICH'S LLC – 5 North 3rd Street, Denton, MD

Ms. Dadds read the notice of public hearing into the record for a request by Melanie Lynne Koski for the use of Nich's, LLC located in the town of Denton for a New Class D – Beer & Light Wine (Up to 22%), 6-Day on/off premise sales alcoholic beverage license.

Included in the package was the application and petition that included ten valid signatures of land owners who are registered voters in the 3rd Election District.

Chairman Eigenbrode swore in:

Melanie Koski, 111 Fisher Ave, Federalsburg, MD

Chairman Eigenbrode asked what they intended to do with this new license. Ms. Koski explained that she would like to be able to serve light beer and light wine from 7 to 11 p.m. on Saturdays, when they have paint night or open mike night. Ms. Dadds explained that the license has a cut off time of midnight.

Ms. Dadds added that the Class "D" license allows people under 21 years of age into the establishment and they are required to sell small plates or fruit and bakery items while serving alcohol. Ms. Koski listed the pastries she would purchase from Turnbridge Point to sell at her store.

Ms. Koski was alcohol awareness certified. She intended on buying just what was needed for an event and store it warm. She would put the alcohol in a metal tub filled with ice for purchase during the evening event.

Ms. Koski was told by Kelley Distributors that there is no minimum order required. At first, she stated that she did not anticipate storing alcohol in the cooler. But later stated that if there was alcohol left over from an event she would store it in the cooler. Prior to an event it will be stored in the office warm.

Inspector Moore did a pre-inspection of the premises earlier in the week. Ms. Koski's son was tending the store at the time. Two refrigerators were in a locked area of the store. He found cases and loose beer in one of the refrigerators. Ms. Koski told Inspector Moore that a man rents a room in the back of the store as an art studio and the beer belonged to him. When he inspected the business this morning the beer was gone.

Inspector Moore was concerned that the artist may walk through the business, with his own alcohol into the back, making Ms. Koski vulnerable to be charged a violation. The Board would

approve the main area and office containing the cooler and refrigerator as the premise but not the hallway and artist studio in the back.

Ms. Koski stated she will be the only one serving the alcohol and if she were unable to be there it would not be served.

Motion: Mr. Plutschak made a motion to approve the application for a new class D license for Nich's LLC on the condition that she submitted the remaining required paperwork.

Second: Mr. Loukides seconded the motion.

In Favor: The motion was unanimously approved (3-0).

TEMPORARY ALCOHOLIC BEVERAGE LICENSE APPLICATION

CHESAPEAKE CULINARY CENTER- Teacher Retirement Party – June 14, 2018

Ms. Dadds explained that the Culinary Center applied for a temporary license to serve alcohol at a retirement party they were to cater for the Board of Education. The event was to be held at the Olde Sale Barn in Denton.

When Ms. Dadds saw the event was to take place at the Olde Sale Barn she was reminded that the Codes Enforcement Officer had an active violation on the building. She informed the Board that the establishment is in violation of being an event venue without having obtained the required approvals from Planning and Zoning or the Fire Marshall. The Liquor Board, in accordance with their requirements, cannot issue a license before this is corrected.

Beth Brewster explained that she would offer the Board of Education the Culinary Center for the event. Ms. Dadds suggested they could approve the application with the knowledge that the venue will be changed and Ms. Dadds will be notified of the new location in advance.

Motion: Mr. Loukides made a motion to amend the venue on the application to take place at the Culinary Center on Franklin Street.

Second: Mr. Plutschak seconded the motion.

In Favor: The motion was unanimously approved (3-0).

Motion: Mr. Plutschak made a motion to approve the application for a temporary license on June 14th for the Board of Education's retirement party.

Second: Mr. Loukides seconded the motion.

In Favor: The motion was unanimously approved (3-0).

OTHER BUSINESS, Continued

AMENDMENTS TO THE RULES AND REGULATIONS

§2.49 Special Use of Licensed Premises - This amendment will make the regulation less restrictive. The new language will read: Any event or activity held outside or an event held inside that causes an interruption of normal business activities will require written approval of the Caroline County License Board.

Ms. Dadds explained that the Board should consider that the amendments they approve today will affect all the various establishments in the County. So, if they are to require Board approval to hold outdoor events, they must require the same approval for the establishments with an outside premise. The Board agreed.

§2.22 Hearings and Conferences – This amendment will allow the License Board to set a fee of \$50 to cover the administrative costs associated when an establishment requests a postponement of a scheduled hearing or is found in violation after a Show/Cause hearing.

Motion: Mr. Plutschak made a motion to approve both Amendments as discussed with an effective date of June 1, 2018.

Second: Mr. Loukides seconded the motion.

In Favor: The motion was unanimously approved (3-0).

SUSPECTED NOTARY MISCONDUCT

Ms. Smith informed the Board that Brent Dinterman, an investigator for the Maryland Secretary of State's Office is investigating multiple complaints regarding the notary seal on documents prior to being signed, for obtaining an alcoholic beverage license. Ms. Dadds was aware that License Boards in other counties in Maryland have made similar reports.

Ms. Smith added that those documents notarized by an out of state notary are not valid. Staff will be more cognizant of this in the future.

MATRIX PROJECT ASSIGNMENT

The Board and staff, in view of being consistent, have been discussing a guideline for fines and penalties relating to Liquor Board violations. Ms. Dadds suggested they accomplish this task in steps.

Ms. Dadds explained that a list of the paper and non-paper County Rule and Regulations were distributed for the members to take home. She asked them to determine how to define them as either a major or minor violation or one that could be either major or minor.

The next step would be to define a standard charge for first and second offenses of major and minor violations collectively. The third step would be to define mitigating factors that should be discussed while deliberating a case.

Ms. Smith advised that a few violations were only found in the State Code and those were not included on the list. For instance, nudity and perjury violations.

Ms. Price would provide violations that have a mandatory fine or penalty already incorporated within the State code. She would also look for violations that are not specified in the County Rule and Regulations.

Mr. Plutschak informed the Board that he attended the Liquor Board workshop and found it to be very informative and helpful. He suggested the members rotate attending. Mr. Loukides volunteered to attend June's workshop, Mr. Mann will attend in July and Chairman Eigenbrode will attend the August workshop.

CONSENT ITEMS

The Board discussed amending the decision for Mary's Country Store to reflect today's hearing and was therefore removed from the consent items.

Motion: Mr. Loukides made a motion to approve the remaining consent items.

Second: Mr. Plutschak seconded the motion.

In Favor: The motion was unanimously approved (3-0).

INSPECTOR'S REPORT

Inspector Moore attended the MALA (Maryland Alcohol Licensing Association) Conference in Ocean City. He provided startling statistics about alcohol abuse, deaths and costs in Maryland and Caroline County. Particularly that Caroline County exceeds the national average for alcohol related deaths annually and is one of the top four Counties for alcohol impaired driving.

Ms. Dadds, who also attended the conference, added that the federal agency TTB (Alcohol and Tobacco Tax and Trade Bureau) has a limited number of inspectors nationwide, therefore, many of the establishments are neglected and consumers cannot be confident that what they are drinking is safe. The growing trend for small operation wineries, breweries and distilleries has created new concerns for enforcement.

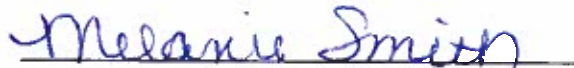
Ms. Dadds also recognized that when such operations hold events, because they are federally monitored, the Caroline County License Board is unaware of them. Mr. Plutschak asked what oversight the county has on such events. They must notify the Comptroller's Office of any events and the events are displayed on a published website.

She noted that there are 134 wineries in Maryland that are permitted to have 32 events a year and unlimited events at farmer markets. There are 123 Breweries in Maryland that are permitted seven events and 44 Distilleries that are permitted six events annually.

Inspector Moore stated that a few grants were mentioned at the conference that he will explore. And that he learned what signs to look for to determine if a person is overly intoxicated.

There being nothing further to discuss Chairman Eigenbrode adjourned the meeting at 11:55 a.m.

BOARD OF LICENSE COMMISSIONERS
Greg Eigenbrode, Chairman


Minutes prepared by: Melanie Smith