

**Selectboard  
June 27, 2018  
Whately Elementary School  
Open Session  
7:30 pm**

The open session of the Selectboard of the Town of Whately was called to order on June 27, 2018 at 7:34 pm by the Chair, Jonathan Edwards with Selectboard members Frederick Orloski and Joyce Palmer-Fortune present. Town Administrator Brian Domina and Town Counsel Jeff Blake were also present.

The Board approved the meeting minutes of June 13, 2018 and June 21, 2018.

There were no comments from the public in attendance.

**Public Hearing Continuance – Liquor License Transfer from Demetrios Konstantopoulos to Whately Investments, LLC & Public Hearing Continuance – Entertainment License to Whately Investments, LLC, Manager Nicholas Spagnola**

Mr. Edwards re-opened the public hearings that were continued from June 13, 2018 in relation to the transfer of the liquor license and issuance of an entertainment license as stated above.

Mr. Edwards suggested that the Board will be discussing possible conditions if the licenses are ultimately approved by the Board.

Joe Zewinski (Christian Lane) questioned whether the Board had already decided to grant the license because it was discussing conditions

Mr. Orloski stated that the Board is discussing conditions relative to the approval and what the Board might impose and then it is up to the applicant to proceed or not.

Jeff Blake (KP Law) noted to the extent the use is expanded or changed there is a process that requires the applicant to come before ZBA.

Mr. Edwards began reading a list of conditions beginning first with the conditions on the existing liquor license for the Board to discuss.

The Premises shall be open at all time to inspection by any police officer or constable of the Town, or by any state police officer.

No person or persons under the influence of intoxicating liquor or other intoxicating beverage, or having the appearance thereof, shall be granted admittance to or be permitted to remain in or upon any of the Premises described in this license.

No dialogue, gesture, song, language or conversation of any description which is directly or indirectly obscene, lascivious or suggestive, shall be permitted to be used by any person or persons while in or upon the Premises.

Gaming of any description, games at which a prize is offered, any game where money is exposed as a prize or inducement, wheels of chance and jungle boards are prohibited.

Private dining room, booths or enclosures for the accommodation of less than four persons shall not be permitted and not less than four persons shall be allowed or permitted to occupy any such room or enclosure

Rooms used for dining rooms and for dancing shall be so lighted as to render it possible to distinguish any person by every other person therein at all times.

Mr. Edwards then read off possible conditions recommended by Town Counsel for discussion.

The maximum seating capacity shall be (blank) persons.

The Board discussed the seating capacity and available parking spaces. Mr. Blake reminded the Board that parking spaces can be limited for safety reasons only and not as a means to limit seating capacity.

Mr. Lesser stated that parking issues are dealt with by the zoning bylaw and the general bylaws prohibit parking on the street so the Board should not be concerned about it.

Mr. Edwards continued reading off possible conditions for discussion.

The manager and all servers employed by the licensed establishment shall attend and successfully complete an alcohol awareness training program (e.g. TIPS) immediately upon hire and expiration of certificate.

Copies of all alcohol awareness training certifications shall be maintained by the Licensee and be reviewable upon request of the Town.

No alcoholic beverages shall be served within the Licensed Premises during the thirty (30) minutes preceding the hours stated on the license at which service of alcohol beverages must cease ("Last Call"). At Last Call no licensed establishment shall serve more than one (1) alcoholic beverage to a patron.

All tables and bars must be cleared of all glasses, bottles and containers of alcoholic beverages within one-half hour after the close of the establishment.

All customers must be off the Licensed Premises, including the parking lot, within one-half hour after the close of the establishment.

No employee or business owner in any type of management capacity shall consume alcohol on the Licensed Premises prior to going on duty or during their respective on duty hours.

No alcohol can be served or consumed by anyone on the Licensed Premises before the official opening hours or after official closing hours.

No patron shall be permitted to bring alcoholic beverages on to the Licensed Premises for the purpose of being consumed there.

Mr. Edwards stated that on his way to the elementary school he passed by the establishment and he noticed a person drinking alcohol in the parking lot of the premises so he expressed his serious concern that this not be allowed.

Consumption of alcoholic beverages are not permitted outside the building, including any area designated for smoking.

Mr. Edwards stated that the conditions just discussed are germane to the alcohol license only and that other conditions may be appropriate for both the licenses if they are to be issued by the Board and asked Town Counsel whether they could be considered simultaneously.

Mr. Blake questioned whether the Applicant had any objection to discussing the entertainment license conditions at this point along with the liquor license?

Mr. Lesser replied that he did not object.

Mr. Edwards then began reading the proposed conditions for the entertainment license.

All entertainment and performance activity shall be restricted to the stage area of the Licensed Premises, as presently existing.

The hours of operation shall be Monday through Saturday from blank to blank to be determined by the Board.

The Board noted that the Applicants requested a 2:00 AM closing time for the entertainment license.

This License is not transferrable

The Licensee shall comply with the provisions of Chapter 62 of the Whately General Bylaws, Adult Establishments

No nude dancers or other nude entertainment performers of the opposite sex may perform together at the same time.

No more than blank persons shall perform together at the same time

There shall be no presentation of pictures, films, videos or other visual depictions or simulations of any acts which are otherwise prohibited on the premises

The Licensee shall maintain on the Licensed Premises a current list of all employees, which shall be provided upon request of any Town of Whately police officer, or the Selectboard, Board of Health, Building Inspector or any of their authorized agents.

The Licensee shall not permit any disorder, prostitution, lewdness or any illegal activity on the premises.

The Licensee shall establish, maintain and enforce written policies regarding the following: no illegal drug use or activity related to illegal drugs on the Licensed Premises; prevention of sexual harassment of employees; prevention of prostitution activities between performers and customers.

Mr. Edwards asked whether the Applicant was planning to implement a policy to address these issues.

Mr. Lesser provided the Board with a copy of the Applicant's policy and reviewed it briefly. Mr. Lesser stressed to the Board that sexual harassment is illegal under state law and that appropriate action will be taken depending on the circumstances.

Mr. Spagnola stated that the Applicants intend to create a culture of responsibility

The Licensee shall notify the Selectboard within five days of receiving notice of any judicial or administrative proceedings which may affect the status of the license.

The Licensee shall coordinate with the Whately Police Department in the development of a formal security plan for the Licensed Premises and shall submit the completed plan to the Chief of Police for approval. The plan shall include at least the following elements:

A floor plan and layout of the premises

Provisions for a security check of all patrons entering the premises

Limiting customer entry so as to maintain compliance with the certificate of occupancy for the premises under the state building code

Procedures for protecting employees, patrons and neighboring residents from rowdy or disruptive conduct.

For purposes of promoting security and safety at the Licensed Premises, the Licensee shall complete the following improvements not later than:

Install a new video surveillance system for the Licensed Premises, providing the capability to view and record at least the following: all areas of the parking lot as well as the entrance/exit points for the parking lot on Christian Lane and State Road; the outside smoking/break area; all building entrances and all inside areas accessibly by the Public;

Install new and/or modified exterior lighting fixtures to increase general visibility and to increase the existing lighting of the outside smoking/break area in order to deter criminal activity.

Construct an eight-foot-high wall made of a masonry product, such as cinderblock, and including a fire exit door which shall be monitored by employees, around the perimeter of the current footprint of the outdoor smoking/break area to replace the existing chain link fence, so as to dampen the noise coming from the smoking/break area and to discourage conversations between persons in the parking lot and persons in the smoking/break area.

Install fencing between the Licensed Premises and the properties on the east side of the premises to block sound and light from disturbing neighbors.

Construct an eight-foot high stockade fence along the eastern side of the parking lot from point ten feet off the edge of the pavement of Christian Lane to the masonry wall around the smoking/break area so as to prevent persons from entering the wetland area between the premises and the property of abutters

The Board noted that the above two conditions appear to duplicative and can be combined.

Redirect the utility pole mounted spotlight away from Christian Lane and more towards the building and parking lot.

Mr. Edwards noted that this is beyond the control of the Applicants as the utility company owns the pole and light. The applicants agreed to use best efforts to address this issue.

Terminate all parking with the parking spaces along the western side of the parking lot abutting state road so as to remove the line of sight obstructions for vehicles passing through the Christian Lane and State Road intersections and improve the safety of the intersection for motorists.

The Board discussed which parking spaces when occupied block the line of sight at the intersection.

Chief Sevigne suggested that the parking areas closest to Christian Lane near the wall are most problematic. He suggested that if cars could be moved in six or seven feet they may not be a problem.

Sheila Zewinski (Christian Lane) stated that it appears that the zoning bylaws regulate parking and that the parking spaces are not even compliant. She stated that the Applicants indicated that they would comply with the zoning bylaws and that is what we are asking them to do.

Ms. Palmer-Fortune questioned what triggers someone to check whether the line of sight and parking requirements are being met?

Mr. Blake reiterated that if the use is a pre-existing non-conforming use then the Applicants have the right to use the parking lot as it exists currently.

Mr. Lesser stated that it is normal in many towns, such as Northampton where cars are parked all the way to the intersection and that you just pull out to see oncoming traffic.

Joe Zewinski (Christian Lane) stated that the Applicants are arguing over a few spaces and that if it is true that the Applicants are not looking to increase their customer base, but upscale it instead, then the loss of a few parking spaces should not be an issue. He noted that there was another head-on accident at that intersection the day before.

Nicole Lankowski (North Street) questioned what happened to any plans to complete a parking study at the premises?

Mr. Orloski commented that this goes back to his comment and the need to keep the line of sight triangle open and that based on the speed limit of 45 mph that a motorist should be able to see 200 feet up State Road from the intersection.

Chief Sevigne in response to a question about his opinion stated that he is most concerned about the parking spots located closest to the corner of Christian Lane and State Road.

Mr. Edwards stated that the exact parking space decisions will be made by the Board during its deliberations.

Mr. Edwards continued reading the proposed conditions

The Licensee shall restrict access to the outside smoking/break area so that patrons are not allowed to visit or interact with the entertainers via access from the parking lot.

The Licensee shall employ or retain trained security personnel who have crowd manager certification per the State Fire Code, 527 CMR 1.00 and who shall be on site during all hours entertainment is offered and one hour before and one hour after in order to maintain order and safety and to deter criminal activity, such as illegal drug or prostitution activities and disorderly conduct by patrons. The security personnel shall regularly walk the property to discourage loitering and discourage persons from congregating the in the parking lot.

In the event of any disturbance, fight, or other altercation between any persons at the premises, the licensee shall immediately contact the Whately Police Department.

No neon signs or internally illuminated signs shall be permitted on the premises, and the licensee shall comply with all applicable town bylaws and regulations relating to signage.

Joe Zewinski (Christian Lane) questioned the Board about the status of the police detail requirement.

Mr. Edwards stated that the Board has received a request for a variance from this section from the Applicant and that the Board may or may not consider this variance tonight.

Mr. Orloski asked about the abutters meeting and whether anyone had considered requiring maintenance of the masonry wall and stockade fence. He suggested that the words “and maintain” be added to those conditions.

Mr. Edwards questioned what would happen if the Conservation Commission would not allow the installation of the fence so close to the wetland area?

Mr. Blake stated that the Applicants would have to come back and modify the permit due to impossibility.

Nicole Lankowski (North Street) suggested that so many things still seem unknown that it may be better for more research to be done before a decision is made.

Mr. Edwards stated that some items can be resolved tonight, and some can’t be resolved but that there is a process in place to address those items that can’t be resolved.

Susan Baron (North Street) suggested that the request by the Applicants to increase operations beyond the current hours is going to result in an increase in traffic and more inconvenience to residents and more late-night disruptions.

Ronald Lavalley (Christian Lane) questioned whether the abutters meeting was even useful for the Board.

Ms. Palmer-Fortune stated that is was very useful for her thoughts about the applications.

Mr. Edwards replied that it was also useful for him, but that what came out of the abutter meeting is not the only thing the Board is going to consider.

Paul Antaya (Weber Road) questioned when the Board was going to discuss the police detail variance request.

Ms. Palmer-Fortune replied that is her understanding that the Board does not need to act on the variance request tonight.

Mr. Lesser stated that is silly for the Board to not act on the variance request at this point because he has talked with the police chief and he doesn't even want a police detail there.

Ms. Palmer-Fortune replied that she believes Mr. Lesser is misrepresenting the position of the police chief.

The Board voted to close the public hearing for the alcohol license transfer.

The Board voted to close the public hearing for the entertainment license.

Mr. Edwards suggested, at this point, that the Board review the conditions and put specifics to conditions and then vote on each of the licenses individually and if the Board so chooses it can vote on the variance request after.

Mr. Blake reminded the Board that is should be very clear on which licenses it is deliberating on.

The Board deliberated on the liquor license and approved the transfer of the liquor license subject to the following conditions by a vote of 3 to 0.

The Board voted to approve the operating hours consistent with the existing license so Monday to Saturday from 8:00 AM to 1:00 AM and on Sunday from (12:01 PM to 1:00 AM).

1. The Premises shall be open at all time to inspection by any police officer or constable of the Town, or by any state police officer.
2. No person or persons under the influence of intoxicating liquor or other intoxicating beverage, or having the appearance thereof, shall be granted admittance to or be permitted to remain in or upon any of the Premises described in this license.
3. No dialogue, gesture, song, language or conversation of any description which is directly or indirectly obscene, lascivious or suggestive, shall be permitted to be used by any person or persons while in or upon the Premises.
4. Gaming of any description, games at which a prize is offered, any game where money is exposed as a prize or inducement, wheels of chance and jungle boards are prohibited.
5. Private dining room, booths or enclosures for the accommodation of less than four persons shall not be permitted and not less than four persons shall be allowed or permitted to occupy any such room or enclosure
6. Rooms used for dining rooms and for dancing shall be so lighted as to render it possible to distinguish any person by every other person therein at all times.
7. The maximum seating capacity shall be ninety-five (95) persons.

(The Board discussed this and agreed to not alter the current capacity)

8. The manager and all servers employed by the licensed establishment shall attend and successfully complete an alcohol awareness training program (e.g. TIPS) immediately upon hire and expiration of certificate.
9. Copies of all alcohol awareness training certifications shall be maintained by the Licensee and be reviewable upon request of the Town.
10. No alcoholic beverages shall be served within the Licensed Premises during the thirty (30) minutes preceding the hours stated on the license at which service of alcohol beverages must cease ("Last Call"). At Last Call no licensed establishment shall serve more than one (1) alcoholic beverage to a patron.
11. All tables and bars must be cleared of all glasses, bottles and containers of alcoholic beverages within one-half hour after the close of the establishment.
12. All customers must be off the Licensed Premises, including the parking lot, within one-half hour after the close of the establishment.
13. No employee or business owner in any type of management capacity shall consume alcohol on the Licensed Premises prior to going on duty or during their respective on duty hours.
14. No alcohol can be served or consumed by anyone on the Licensed Premises before the official opening hours or after official closing hours.
15. No patron shall be permitted to bring alcoholic beverages on to the Licensed Premises for the purpose of being consumed there.
16. Consumption of alcoholic beverages are not permitted outside the building, including any area designated for smoking.
17. For the purpose of promoting security and safety at the Licensed Premises, the Licensee shall complete the following improvements no later than sixty (60) days after the issuance of the license:
  - a. Install a new video surveillance system for the Licensed Premises providing the capability to view and record at least the following areas:
    - i. All areas of the parking lot as well as the entrance and exit points of the parking lot on Christian Lane and State Road;
    - ii. The outside smoking/break area;
    - iii. All building entrances; and
    - iv. All inside areas, as allowed by law, which are accessible to the public.
  - b. Install new and/or modify exterior lighting fixtures to increase general visibility and to increase the existing lighting of the outside smoking/break area in order to deter criminal activity.
  - c. Construct and maintain an eight (8) foot high wall made of a masonry product, such as cinderblock, and including a fire exit door which shall be monitored by employees, around the perimeter of the existing footprint of the outdoor smoking/break area to replace the existing



chain link fence, so as to dampen the noise coming from the smoking/break area and to discourage conversations between persons in the parking lot and persons in the smoking/break area.

- d. Construct and maintain an eight (8) foot high stockade fence along the eastern side of the parking lot from a point approximately ten (10) feet off the edge of the pavement of Christian Lane to the masonry wall around the smoking/break area so as to block sound and light from disturbing neighbors and to prevent persons from entering the wetland area between the Licensed Premises and the property of abutters.
- e. To remove the four parking spaces, identified with arrows on the attached aerial photograph so as to remove the line of sight obstructions for vehicles passing through the Christian Lane and State Road intersection and improve the safety of the intersection for motorists.

(The Board discussed and added language that requires the Applicant to complete the improvements within sixty days from the issuance of the license)

- 18. In the event of any disturbance, fight or other altercation between any persons at the Licensed Premises, Licensee shall immediately contact the Whately Police Department.
- 19. No neon signs or internally illuminated signs shall be permitted on the Licensed Premises and the Licensee shall comply with all applicable town bylaws and regulations relating to signage.
- 20. The license will be suspended for non-compliance with any of the laws of the Commonwealth relating to this particular establishment and may after a hearing be revoked.
- 21. Non-compliance with the provisions of any of the above regulations will be sufficient cause for suspension, and after a hearing the license may be revoked.

The Board deliberated on the entertainment license and approved the issuance of the entertainment license subject to the following conditions by a vote of 2 to 0 with Ms. Palmer-Fortune abstaining from the vote.

- 1. All entertainment and performance activity shall be restricted to the stage area of the Licensed Premises, as presently existing.
- 2. The hours of operation shall be Monday through Saturday from 12:00 (noon) to 1:00 AM

(Ms. Palmer Fortune stated that she did not approve of extending the closing hour from 1:00 AM to 2:00 AM. The Board unanimously agreed to a closing hour of 1:00 AM)

- 3. This License is not transferrable

(In response to a question from Mr. Edwards, Mr. Blake stated that the entertainment license is restricted to the applicants and the property stated if this condition is imposed)

4. The Licensee shall comply with the provisions of Chapter 62 of the Whately General Bylaws: Adult Establishments
5. No nude dancers or other nude entertainment performers of the opposite sex may perform together at the same time.

(The Board agreed to strike the proposed condition that imposed a limit on the number of entertainers that may perform at one time)

6. There shall be no presentation of pictures, films, videos or other visual depictions or simulations of any acts which are otherwise prohibited on the Licensed Premises
7. The Licensee shall maintain on the Licensed Premises a current list of all employees, which shall be provided upon request of any Town of Whately police officer, or the Selectboard, Board of Health, Building Inspector or any of their authorized agents.
8. The Licensee shall not permit any disorder, prostitution, lewdness or any illegal activity on the Licensed Premises.
9. The Licensee shall establish, maintain and enforce written policies, as submitted by the Licensee and attached hereto, regarding the following: no illegal drug use or activity related to illegal drugs on the Licensed Premises; prevention of sexual harassment of employees; prevention of prostitution activities between performers and customers.

(The Board inserted language that incorporates the policies submitted by the Applicant to the Board)

10. The Licensee shall notify the Selectboard within five days of receiving notice of any judicial or administrative proceedings which may affect the status of this License.
11. The Licensee shall coordinate with the Whately Police Department in the development of a formal security plan for the Licensed Premises and shall submit the completed plan to the Chief of Police for approval no later than thirty (30) days after the issuance of the license. The plan shall include at least the following elements:
  - a. A floor plan and layout of the premises;
  - b. Provisions for a security check of all patrons entering the premises;
  - c. Limiting customer entry so as to maintain compliance with the certificate of occupancy for the premises under the state building code; and
  - d. Procedures for protecting employees, patrons and neighboring residents from rowdy or disruptive conduct.

(The Board discussed and added language that requires the Applicant to prepare the security plan and submit to the police chief within thirty days from the issuance of the license)

12. For the purpose of promoting security and safety at the Licensed Premises, the Licensee shall complete the following improvements no later than sixty (60) days after the issuance of the license:

- a. Install a new video surveillance system for the Licensed Premises providing the capability to view and record at least the following areas:
  - i. All areas of the parking lot as well as the entrance and exit points of the parking lot on Christian Lane and State Road;
  - ii. The outside smoking/break area;
  - iii. All building entrances; and
  - iv. All inside areas, as allowed by law, which are accessible to the public.
- b. Install new and/or modify exterior lighting fixtures to increase general visibility and to increase the existing lighting of the outside smoking/break area in order to deter criminal activity.
- c. Construct and maintain an eight (8) foot high wall made of a masonry product, such as cinderblock, and including a fire exit door which shall be monitored by employees, around the perimeter of the existing footprint of the outdoor smoking/break area to replace the existing chain link fence, so as to dampen the noise coming from the smoking/break area and to discourage conversations between persons in the parking lot and persons in the smoking/break area.
- d. Construct and maintain an eight (8) foot high stockade fence along the eastern side of the parking lot from a point approximately ten (10) feet off the edge of the pavement of Christian Lane to the masonry wall around the smoking/break area so as to block sound and light from disturbing neighbors and to prevent persons from entering the wetland area between the Licensed Premises and the property of abutters.
- e. To remove the four parking spaces, identified with arrows on the attached aerial photograph so as to remove the line of sight obstructions for vehicles passing through the Christian Lane and State Road intersection and improve the safety of the intersection for motorists.

(The Board imposed the same requirement (i.e. sixty days to complete the improvements) as in the alcohol license)

13. The Licensee shall restrict access to the outside smoking/break area so that patrons are not allowed to “visit” or “interact” with the entertainers via access from the parking lot.
14. The Licensee shall employ and retain trained security personnel who have crowd manager certification per the State Fire Code, 527 CMR 1.00 and who shall be on site during all hours entertainment is offered, and one hour before and one hour after in order to maintain order and safety and to deter criminal activity, such as illegal drug or prostitution activities and disorderly conduct by patrons. The security personnel shall regularly walk the property to discourage loitering and discourage persons from congregating the in the parking lot.
15. In the event of any disturbance, fight, or other altercation between any persons at the Licensed Premises, Licensee shall immediately contact the Whately Police Department.
16. No neon signs or internally illuminated signs shall be permitted on the Licensed Premises, and the Licensee shall comply with all applicable town bylaws and regulations relating to signage.

The Board then discussed whether to take up the variance request.

Mr. Lesser noted that he submitted the variance request twelve days ago and asked that the Board take action on it tonight.

Mr. Orloski stated that the license already requires a security plan to be submitted to the police chief for his approval, but it doesn't say who will monitor the security staff.

Ms. Palmer-Fortune stated that the biggest difference with a private police detail is that the security person reports to the police chief directly and there will be better reporting compared to an employee who reports to the owners.

Ms. Palmer-Fortune stated that she doesn't believe that Mr. Lesser is fairly representing the police chief's statement and that she and the police chief spoke the other day. She stated her understanding that the police chief believed that he would have to pay for it and that if this is a private detail paid by the owners then an issue of town resources should not be an issue. She stated her position that the default in this situation should be that the person responsible for security should report directly to the Board and maybe within a year the owners can come back in and apply again. She stated that the default position should not be that we grant a variance off the bat.

Mr. Spagnola reiterated that they have hired a former franklin county police chief as the director of security and that they take the responsibility of security very seriously.

Mr. Lesser suggested that the security director can report directly to the police chief.

Chief Sevigne responded to a question in regards to his opinion and he stated that for everyday operations he has no issue with private security, but if something else happens, such as a special event or big-name entertainer that would draw big crowds then a police detail would be desired.

Ms. Palmer-Fortune questioned whether there would be adult entertainment all 13 hours per day when the establishment is open?

Mr. Sokol replied yes

Mr. Edwards suggested that the Board could possibly grant the variance for a 90-day period and then review the history of the establishment to see whether it should be reissued.

Ms. Palmer-Fortune suggested that the Board could do the reverse and refuse to grant the variance for the 90-day period and see how it goes based on the inexperience of the new owners.

Mr. Edwards asked town counsel his opinion on how a court might rule if the variance was denied and brought to court.

Mr. Blake replied that the police chief seems to be on record that he doesn't feel that a police detail is required for everyday operations and that his concern appears to be more with special events. He stated that if the Board has concerns it could condition the grant of the variance.

Ms. Palmer-Fortune questioned what makes following the current bylaw arbitrary and capricious?

Mr. Blake replied that the Board needs to have a reason for its action.

Ms. Palmer-Fortune stated that the reason is that the owners have never operated an adult entertainment establishment before.

Mr. Edwards replied that is why he thinks a 90-day period would be appropriate.

Mr. Orloski stated that the owners said they are going to have trained security staff who are going to follow a standard for security. If the Board is concerned about acting on this it can impose conditions and tie it to the security plan requirement already imposed on the license.

Mr. Lesser suggested that the Board can't deny this and it would violate his client's First Amendment rights.

Nat Fortune - Point of Order – stated that the police chief is simply giving his opinion on the matter and that the legislative body of the Town has empowered the Board with discretion to grant a variance. He stated his position that there needs to be a reason to grant the variance and not the other way around.

Mr. Lesser stated that you must have a basis in fact to not grant the variance and suggested that the Board grant it for 90 days and then come back and revisit it.

Mr. Edwards stated that he needs time to think about this issue and that he is not prepared to take a vote on this tonight and that it could be discussed at the next meeting.

Ms. Palmer-Fortune agreed stating that she wanted to gather more input on this and that it is her understanding that it does not need to be acted upon tonight.

Mr. Lesser suggested that no court will deny the reality that this provision of the bylaw hasn't been enforced for at least the past 16 years and even longer.

Mr. Blake replied that the counter argument is that these are new owners will new people with no experience in the adult entertainment business who have stated that they intend to ramp up activity at the establishment.

Mr. Edwards stated that he needed to have discussion with people about what might happen in a court of law.

Motion to continue the hearing/discussion until July 11, 2018 at 6:00 PM for the Board to gather additional information and to speak with counsel. The Board agreed.

### **Appointments:**

Stephen Herbert (Urban Grown, Inc.) The Board reviewed the changes proposed by Mr. Herbert to the draft host community agreement. The Board and Mr. Herbert agreed on the changes to the host community agreement and the Board voted to authorize the Chairperson to sign the host community agreement once the changes have been made to the document.

### **Old Business**

Brian and Fred provided a brief update on the Town Hall project. The paving has been completed and the punch lists for the remaining work are being developed.

### **New Business**

The Board passed over the FRCOG accounting program contracts and will consider them at the next meeting.

The Board appointed the persons as listed on the document of persons to be appointed in FY19 to the positions as written. The Board passed over discussing the department liaisons and will consider them at the next meeting.

The Board elected to take no action on the Frontier proposal to spend a portion of its excess and deficiency funds for security improvements to the building.

The Board signed the vendor and payroll warrants.

### **Town Administrator Updates**

No Town Administrator updates were provided due to the length of the meeting

### **Executive Session**

The Board decided to not go into Executive Session and will discuss this matter at its next meeting.

The meeting was adjourned at 11:24 PM

Respectfully Submitted

---

Brian Domina, Town Administrator

### **Document List**

Meeting Minutes – June 13, 2018 & June 21, 2018

Application for Retail Alcoholic Beverages License from Whately Investments, LLC

All Alcohol License (2018) – Demeterios Konstantopoulos

Public Hearing Notice – Greenfield Recorder – June 25, 2018

Entertainment License Application from Whately Investments, LLC

Entertainment License (2018) - Demetrios Konstantopoulos  
Whately General Bylaws – Adult Establishments  
M.G.L. c. 140 § 183A  
Public Hearing Notice – Greenfield Record – June 25, 2018  
Draft Host Community Agreement with Urban Grown dated 06.19.18  
FRCOG Accounting Program Agreement  
FRCOG Accounting Computer Software Agreement  
Selectboard Appointments – FY19  
FRCOG Request for Appointment of Representative  
FRTA Request for Appointment of Representative  
Frontier Regional Notice of Intent to Spend E&D Funds  
Letter from Conway to Representative Kulik