

LICENSE HEARING MINUTES
Carbone's Pizza, 1698 Randolph Avenue
Monday, June 25, 2018, 10:00 a.m.
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:00 a.m.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI)

Licensee: Linda and John Newman, Applicant/Owner

License Application: Liquor Outdoor Service Area (Sidewalk)

Legislative Hearing Officer Nhia Vang gave the following information about the hearing: This is an informal legislative hearing for a license application. This license application required a Class N notification to inform neighbors and the District Council about the application and provide them with an opportunity to submit comments. The City received a letter of concern/objection, which triggered this hearing.

The hearing will proceed as follows: DSI staff will explain their review of the application, and state their recommendation. The applicant will be asked to discuss their business plan. Members of the community will be invited to testify as to whether they object to or support the license application. At the end of the hearing, Ms. Vang will develop a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda at the City Council meeting.

There are three possible results from this hearing: 1) a recommendation that the City Council issue this license without any conditions; 2) a recommendation that the City Council issue this license with agreed upon conditions; or 3) a recommendation that the City Council not issue this license but refer it to the city attorney to take an adverse action on the application, which could involve review by an administrative law judge. The City Council is the final authority on whether the license is approved or denied.

Jeff Fischbach, Department of Safety and Inspections (DSI) gave a staff report. He reviewed existing conditions 1 through 5, and said Condition 5 was recently added because they had expanded into an adjoining space and had to agree to close by midnight to comply with off-street parking requirements. He said the additional conditions recommended by DSI were all standard for a liquor outdoor service area sidewalk license.

He said the Highland District Council submitted a letter of support. He said for Building, the applicant needed a SAC determination and any fee owed; he said they were holding off because the Met Council was revising the way they made SAC calculations for outdoor seating. Ms. Vang said they couldn't operate the patio until the SAC fee was paid.

Mr. Fischbach said he had given them the option of placing tables out without liquor service, since that didn't require public notice, but they had opted not to. He said Licensing and Zoning approved with conditions, and DSI recommended approval with conditions as follows:

Existing License Conditions

1. Per City of Saint Paul Legislative Code 409.15(a)(2), On-sale wine license shall mean a license authorizing the sale of wine not exceeding fourteen (14) percent alcohol by volume, for consumption on the licensed premises only in conjunction with the sale and service of food (menu item only). The sale of Malt (Strong) will also take place only in conjunction with the sale and service of food.
2. Per City of Saint Paul Legislative Code 409.15(e), licensee must be able to show that gross receipts are at least sixty (60) percent attributable to the sale of food.
3. Licensee will submit to the Department of Safety and Inspections (DSI) annual gross receipts for food and liquor for each year the license is renewed.
4. Entertainment (Karaoke, DJ music, live band, dancing, contests, etc.) is not permitted at this establishment. An Entertainment License is required to conduct this activity.
5. Licensee agrees to close the establishment at 12:00 a.m. midnight each day of the week. All patron/customers shall vacate the premises by 12:30 a.m. each day of the week as per City Zoning Code (parking requirement).

Recommended Additional License Conditions

6. Licensee agrees to limit the placement of table(s)/chair(s) on the public sidewalk to the area and number shown on the approved sidewalk seating plan on file with the Department of Safety and Inspections (DSI) and Public Works. Licensee shall take appropriate action to ensure table(s)/chair(s) are contained to this approved area.
7. Each year prior to the placement of table(s) and/or chair(s) in the public right-of-way (i.e., sidewalk), the licensee agrees to obtain a new Obstruction Permit from the Department of Public Works. Licensee agrees to maintain the sidewalk café in accordance with the conditions placed on an approved Obstruction Permit, acknowledges that an Obstruction Permit is effective on April 1 and expires on October 31 of each year, that table(s) and/or chair(s) may not be placed in the public right-of-way before or after the effective/expiration dates, and that a failure to comply with this condition will result in adverse action being taken against all of their licenses.
8. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the defined area as per the approved sidewalk seating plan on file with DSI.

Ms. Vang noted that St. Paul Academy and Summit School was in the notification area; she asked whether the licensee obtained a waiver. Mr. Fischbach said wine and beer didn't require a waiver. Ms. Vang asked whether there was a petition of support from residents for the outdoor service area and what percentage was received. Applicant Linda Newman said they had received 32 plus a couple more in the mail. Mr. Fischbach said of a possible 49 signatures, they obtained 28, for 57% support.

Ms. Vang said Condition 6 required adherence to the site plan; she asked whether the site plan submitted was the approved site plan. Mr. Fischbach said Public Works had approved the location of the seating as indicated but were behind in getting plans drawn up. He said the applicant would need to have Public Works back out to confirm once the seats were out.

Ms. Newman said Public Works had the seating about 7 ½ feet from the front, but everywhere else they went, the seating was right against the building. Mr. Fischbach said the ordinance always said that placement should be towards curb, but most sidewalk café seating were done prior to Public Works sending an inspector, and DSI was reviewing and having seating against the building. He said for safety and consistency they were now having new ones towards the curb. Ms. Vang asked to receive a copy of the site plan when it was approved. Mr. Fischbach said it might not get done until after this process was complete.

Ms. Vang asked Ms. Newman to talk about why the license was being added and to respond to concerns expressed in the letters received.

Ms. Newman said she'd owned the business with her husband for over 30 years. She said they remodeled in January to address ADA issues, and customers requested patio seating. She said starting May 1 she mailed 50 petitions to neighbors, and had received 25 in return by May 15. She said a few more had straggled in, but they didn't get any responses from owners that live elsewhere. She said at the district council meeting there were three people in support and one in opposition, and she hadn't had a chance to follow up with the person in opposition. She said the biggest concerns of neighbors were parking and traffic. She said the renovation at St. Paul Academy had taken all the parking away on Davern; she said they were close to finishing and had gotten some parking back. She said there was a considerable amount of traffic just after they re-opened, and it was winter which made parking hard, but they had settled back to a new normal. Ms. Vang asked whether they would be displacing any parking spaces. Ms. Newman said they wouldn't. Ms. Newman said neighbors were concerned about noise, and they had decided to close at 10:00 every night, and they would not allow smoking on the patio. She said another concern was the crosswalk and basic traffic on the corner, but they didn't really have any control over that. She said the busiest patio hours would probably be between 5:00 and 8:00 or 9:00, and there wasn't much pedestrian traffic that late. Ms. Vang asked whether the patio was enclosed. Ms. Newman said they would have some planter boxes, and having the patio at the curb side would provide direct access to the crosswalks. Ms. Vang asked whether patrons would have to come inside to be seated on the patio. Ms. Newman said they would. Mr. Newman said part of the traffic problem was students being picked up after school, and that quit after the school day was over. Ms. Vang asked whether the patio area was visible to staff. Ms. Newman said it was, and they would have staff designated for the patio. She said it was not the kind of place where people came to hang out and consume alcohol. She said it was a family establishment, and they wanted to maintain that vibe.

Ms. Vang asked about lighting. Ms. Newman said there were overhead lights that shined down on our awning and they lit that space. Mr. Newman said there was City lighting there too. Ms. Vang asked whether lights would stay on after the patio closed. Mr. Newman said the lights stayed on.

Ms. Vang asked how many servers there were. Ms. Newman said there were 18, and they would probably be hiring a couple more. Ms. Vang asked the hours of operation. Ms. Newman said summer hours were from 11:00 a.m. to 11:00 p.m., Monday through Thursday; she said they closed at 10:00 in the fall and winter. Friday and Saturday hours were 11:00 a.m. to midnight. She said on Sunday they currently opened at 4:00. She said they closed at 10:00 in the fall but currently closed at 11:00. She said patio hours would be similar.

Ms. Vang asked whether staff had annual alcohol awareness training. Ms. Newman said they did, and when the patio was approved she would have them out to re-train the entire staff.

Ms. Vang asked Ms. Newman whether she managed the day-to-day business. Ms. Newman said they had a manager but either she or her husband were there every day.

Ms. Vang asked about any problems encountered at the business and how Ms. Newman and the staff had responded. Ms. Newman said they hadn't had any. She said they started serving liquor about 14 years ago and hadn't had any issues. Mr. Newman said there had been a burglary.

Ms. Vang asked about the patio clean-up procedure. Ms. Newman said she would add it to the nightly clean-up routine. Ms. Vang asked whether they would be using dishes. Ms. Newman said they currently used glass plates and hadn't decided what they'd be using on the patio. Ms. Vang said she had asked because of trash. Ms. Newman said everything would be bussed inside. Mr. Newman said a cleaning service came in every morning.

Ms. Vang asked when deliveries were scheduled. Mr. Newman said there were no deliveries; he said they picked everything up.

Ms. Vang reviewed the correspondence received, and noted the Highland District Council support. She said Ms. Newman had spoken about the concerns expressed. Ms. Newman said one of the people who had written with concerns was at the district council meeting and they had talked. She said the person had submitted a letter of opposition to the Highland Villager, and later asked that the letter be pulled. Ms. Newman said they had talked about all the areas of concern, and she had emails stating the objections were withdrawn. Ms. Vang asked for copies of the email. Ms. Vang reviewed the correspondence of support.

Ms. Vang asked whether there were additional comments. Mr. Newman noted that some of the people who had expressed concerns about noise didn't live nearby. He said they had thousands of customers and received a lot of positive feedback about the business.

Ms. Newman referred to one of the letters of objection which stated they were adjacent to a high school and had little control of usage outside. She said they hadn't had outdoor service before, and had never had a complaint about alcohol usage inside. She said concerns about Carbone's inability to maintain sidewalk in the winter was unrelated to a patio in the summertime. Ms. Vang said the site plan with placement of tables along the curb, answered some of his concerns about accessibility.

Ms. Vang asked about the business model in terms of maintaining control of alcohol consumption. Ms. Newman said they'd had meeting with staff to talk about potential issues, and staff were well-trained. She said she was always there on weekends. She said Carbone's wasn't a place where people consumed food more so that alcohol, and there was always a manager on duty to address problems. Ms. Vang noted that Condition 1 required that food be served. Mr. Newman said they were a restaurant and didn't want to be a bar.

Ms. Vang asked whether there was an additional parking requirement for outdoor seating. Mr. Fischbach said there wasn't.

Ms. Vang asked how many servers would be on the patio. Ms. Newman said six tables of four were allowed, and they were thinking five tables of four, with two servers.

Ms. Vang asked how staff commuted. Ms. Newman said some were in the neighborhood, a couple biked or bussed, and a few lived in the apartments upstairs. She said the staff parking stipulation was park on the north side of Davern and Randolph, and there were two spaces in back for the manager and assistant manager.

Ms. Vang asked whether it was a multi-use building. Ms. Newman said there were four apartments upstairs. Mr. Newman said there was off-street parking for the apartments.

Ms. Vang said she had no additional questions and was satisfied that they had been running the business successfully for many years. She noted that there were no enforcement actions in the history, and given the large staff and additional training, she didn't have any concerns, or see a need for additional conditions. She asked Ms. Newman whether she understood and agreed to the recommended conditions. Ms. Newman said she did.

The hearing was adjourned at 10:31 a.m.

The Conditions Affidavit was signed and submitted on May 12, 2018.