



LIQUOR & TOBACCO ADVISORY BOARD
Tuesday, September 18th, 2018
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Kim Johnsen
Alicia Neubauer
Maurice Redd
Dan Roszkowski
Craig Sockwell
Jennifer Smith

Absent: Tom Fabiano

Staff: Scott Capovilla – Zoning and Land Use Administrator
Lafakeria Vaughn – Assistant City Attorney
Matthew Flores – Assistant City Attorney
Sandra Hawthorne - Administrative Assistant
Jeremy Carter – Public Works
Wester Wuori – Mayor’s Chief of Staff

Others: Alderman Tuffy Quinonez
Kathy Berg - Court Stenographer
Applicants and Interested Parties

Sandra Hawthorne explained the format of the meeting will follow the Board’s Rules of Procedure generally outlined as:

- The Chairman will call the address of the application.
- The Applicant or Representative will come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name to the Liquor & Tobacco Advisory Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.

- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, August 27, 2018, at 5:30 PM in City Council Chambers in this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact the Zoning Office for any further information and the phone number was listed on the top of the agenda, which was made available to all those in attendance. This information was also presented in written form attached to the agendas and included with letters to Adjacent Property owners.

The meeting was called to order at 6:55 PM A **MOTION** was made by Craig Sockwell to **APPROVE** the minutes from the August 2018 meeting as written. The Motion was **SECONDED** by Maurice Redd and **CARRIED** by a vote of 4-0 with Dan Roszkowski and Kim Johnsen abstaining and Tom Fabiano absent.

018-LTAB-021

Applicant
Ward 03

1422 North Main Street

Rachael Shuff / MMLN Eats & Drinks Inc. dba Bedda’s Bites & B.A.R. (Bar Alla Rotando)

Sale of liquor by the drink in conjunction with a restaurant, bar/tavern, gaming facility, roof deck and outdoor seating area in a C-2, Limited Commercial Zoning District

Laid Over from June, July and August Meeting

Prior to the meeting, the Applicant’s Attorney requested this item be Laid Over to the October meeting. The Attorney was unable to represent the Applicant due to having to travel out of State to attend the funeral of a close relative. Under the circumstances, Legal was agreeable to his request for Lay Over.

A **MOTION** was made by Alicia Neubauer to **LAY OVER** the request for the sale of liquor by the drink in conjunction with a restaurant, bar/tavern, gaming facility, roof deck and outdoor seating area in the name of Rachael Shuff / MMLN Eats & Drinks Inc. dba Bedda’s Bites & B.A.R. (Bar Alla Rotando) in a C-2, Limited Commercial Zoning District at 1422 North Main Street. The Motion was **SECONDED** by Jennifer Smith and **CARRIED** by a vote of 6-0.

018-LTAB-033

Applicant
Ward 11

425 15th Avenue

Samer Alzubi dba A & M Market Inc.

Sale of tobacco products in conjunction with a grocery store in a C-2, Limited Commercial Zoning District.

The subject property is located on the south side of 15th Avenue, 152 feet east of the 15th Avenue and Keefe Street intersection. Samer Alzubi, Applicant, reviewed his request for the sale of tobacco products. Mr. Alzubi is in the processing of purchasing the business from the current owner and will be leasing the property. It is their intent to redo the parking lot and install landscaping.

Legal verified the hours of operation and Condition (4) was amended to 8:00 AM to 11:00 PM.

Mr. Alzubi had issues with several of Staff's conditions. Regarding condition (5), he stated he is not certain he can meet the deadline of July 1, 2019 to develop the property. Alicia Neubauer asked the Applicant what date would work for him and he did not offer a date in response. Per the Board's suggestion, he agreed that the property be developed by October 1, 2019. Regarding condition (11), Mr. Alzubi stated he is not changing the sign as he is keeping the same business name. Mr. Capovilla stated the condition could remain in the event he changes the sign in the future. Mr. Alzubi also stated he did not agree with condition (16) which states he cannot have bars on the windows. The Board told Mr. Alzubi that he would have to remove the bars as a condition of approval. Mr. Alzubi stated this was really the decision of the owner as he was only leasing the building.

Staff Recommendation is for Approval with 19 conditions. No Objectors or Interested Parties were present.

There was discussion regarding Laying Over the item to allow the Applicant time to check with the owner of the property about removing the bars, but the Board felt they should be consistent with other decisions to not allow bars on the windows.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the sale of tobacco products in conjunction with a grocery store in the name of Samer Azubi dba A & M Market Inc. in a C-2 Limited Commercial Zoning District at 425 15th Avenue with revisions to Condition 4 and 5. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Compliance with all City of Rockford Tobacco Codes.
3. The sale of tobacco products shall be limited to the interior site plan that was submitted Exhibit E.
4. The sale of tobacco products will be from 8:00 A.M. to 11:00 P.M., Monday through Sunday.
5. That the property be developed per approved plan Exhibit E by October 1, 2019.
6. Submittal of a Parking Lot Permit and Storm Water Management Application for Staff review and approval.
7. Submittal of a Fence Permit with fence detail and rendering for Staff's review and approval.
8. Submittal of a Dumpster Enclosure Permit with dumpster detail and rendering for staff's review and approval.
9. Submittal of a Winnebago County Real Estate Combination Request Form for Staff review and approval.
10. Submittal of a photometric plan with fixture details and fixture specifications for staff's review and approval.
11. Must obtain separate permits for signage and sign must be constructed to match building design and in accordance with plans approved by staff.
12. The sale of rose tubes, airplane-sized bottles and any other products that can be deemed to be easily manufactured into drug paraphernalia is prohibited.
13. The sale of water pipes and "huka" or "hookah" pipes are prohibited.
14. Window display signage is limited to 20% of window area.
15. There shall not be temporary exterior signage.
16. The windows shall not be covered with bars or other devices that block the windows.
17. Any pending general ordinance case(s) must be resolved prior to issuance of the license.
18. All outstanding general ordinance fines must be paid prior to the issuance of the license.
19. All conditions must be met prior to establishment of use.

018-LTAB-034

Applicant
Ward 01

1620, 1626, 1616 North Bell School Road

Rose Mary Provenzano aka Rosemary Leggio dba Cucina Di Rosa
Modification of an existing liquor license to allow the sale of beer and wine by the drink in conjunction with an Italian Caffè and video gaming facility in a C-1, Limited Office Zoning District

The subject property is located on the west side of North Bell School Road within a shopping center. Rose Mary Leggio and Robert A. Calgaro, Attorney were present. Ms. Leggio stated she has legally changed her name to Rose Mary Leggio and will be referred to as such in these minutes. Attorney Calgaro reviewed the request of the Applicant. The Applicant was approved for the sale of beer and wine by the drink at this location in April of 2017 with (9) conditions of Approval. Condition number (8) stated: "The premises shall not have a video gaming license." Ms. Leggio is now asking for a Modification of her license to remove this condition. Attorney Calgaro explained that under the rules of the Gaming Board, the liquor hours are the gaming hours so the machines cannot operate after 10:00 PM any day. He further stated that at the 2017 meeting, she reserved the right to apply for gaming in the future. He expressed that other establishment have gaming and Ms. Leggio would like the opportunity to offer this service as well. He emphasized that the purpose of selling beer and wine is to allow clients to have beer and wine with their dinner. The establishment is not a bar. The average age of the customer is 60 years old. Attorney Calgaro further stated that it is a proven fact that most gamblers in the U.S. are women over the age of 55. The Applicant has fully complied with all conditions of the original request and does not feel there is any reason why her establishment should be treated any differently than other facility.

Attorney Vaughn asked the Applicant to confirm hours of alcohol services. There was a conflict of information with the business plan and the hours of operation presented. Attorney Calgaro stated this was an error and the actual hours of operation are 9:00 AM to 10:00 PM.

Maurice Redd asked what the reaction was to the letters of objection from the Association. In reference to a shooting occurrence in August, Attorney Calgaro stated the shooting occurred over 2 hours after the establishment closed. It had nothing to do with the Applicant nor the operation of her business. He further rebutted that Ms. Leggio never promised to not seek a gaming license in the future. The safety of children has not been an issue in the last year and a half and he does not see how middle aged women who go to a place like the Applicants instead of a sports bar, and are sitting at a gaming machine is harmful to children.

Staff Recommendation is for Denial. Objectors and Interested parties were present. Letters of Objection were received and included in the Planning & Zoning Report.

George Pleshkewych was present as an Objector and stated he was representing members of his subdivision. Mr. Pleshkewych reviewed the history of the property going back to 2003. He also distributed a packet of information which included a photo taken from his back yard showing the relationship to the Applicant's establishment and his property. He stated he is not here anti-Applicant, or anti-small businesses. He stated the subdivision is not in objection of the Applicant or her business, but rather the location of the business in relationship to their neighborhood. Mr. Pleshkewych's written presentation is available on file.

Kim Johnsen asked if he ever saw people walking along Bell School Road. Mr. Pleshkewych stated he runs along that road all the time and usually does not see people walking. She asked if children played in that field and he stated they do.

Thaddeus Denthriff II, was present as an objector. He reiterated that he is not against small businesses nor the Applicant herself. He distributed photos of homes around the plaza in which the Applicant's business is located and stated every one of them have children. The ones that are not circled are still under construction. He stated his family owned laundry mats, and also bars. He stated people do not sit outside for an hour and a half in a restaurant parking lot; however, people do stand outside a bar having discussions with their friends. He understands that the shooting incident is not the Applicant's fault, but nonetheless, six shots were fired and there is an open attempted murder being investigated. His objection is not personal to Ms. Leggio.

During rebuttal, Attorney Calgaro stated Mr. Pleshkewych presented an interesting piece the of history of this parcel, but it had nothing to do with the Application before the Board/ He stated it was irrational to think 5 gambling machines are going to add crime and danger to this property. During the actual shooting, there was a police officer parked in the lot. This establishment has no appeal to children which is probably why children do not attend with their families. The Applicant also stated she owned the Cannoli Café previously, and she is still the same person. Many of the people who signed papers in objection last year come over on Fridays to have gelato or a glass of wine. All she is extending are the days from (5) days a week to (7). The hours will remain the same.

Craig Sockwell stated every time this application has come through he has voted no, but he does not see that adding gaming machines increases crime. He feels crime tends to stem from establishments with bars or music. With the volume of food sold at this establishment, this is definitely not considered a bar, but rather a restaurant.

Jennifer Smith requested Scott Capovilla to speak about the Year 2020 Plan. Mr. Capovilla spoke briefly on the 2020 Plan, explaining uses in C1, C2, and C3 allowances. Liquor is not necessarily limited to any zoning district and there have been instances where liquor sales is allowed in residential districts. This Board was created to look at specific locations and individuals applying for liquor licenses to be able to have more control over establishments serving alcohol.

Jennifer Smith stated the subject corridor is going to continue to develop in the future. She agreed with Mr. Sockwell that there is not a direct correlation with gaming in restaurants leading to crime. Kim Johnsen also expressed her opinion that she did not believe gambling at the subject location would impact the neighborhood; she was, however, concerned with the number of concerns from neighbors and City Council's statement of holding the Applicants accountable. Maurice Redd stated he was leaning towards a vote of denial.

A **MOTION** was made by Maurice Redd to **DENY** the modification of an existing liquor license to allow the sale of beer and wine by the drink in conjunction with an Italian Caffe and video gaming facility in the name of Rose Mary Provenzano aka Rose Mary Leggio dba Cucina Di Rosa in a C-1, Limited Office Zoning District at 1620, 1626, 1616 North Bell School Road. The Motion was **SECONDED** by Alicia Neubauer and **FAILED TO CARRY** by a vote of 3 to 3 with Dan Roszkowski, Jennifer Smith and Craig Sockwell voting Nay. This item will move forward to the Codes & Regulations Committee with **NO RECOMMENDATION**.

018-LTAB-035

Applicant
Ward 11

1909 11th Street

Mobin Ahmad DBA Star Group Petroleum Co.

- (A) Sale of packaged liquor** in conjunction with a gas station and convenience store
- (B) Sale of tobacco products** in conjunction with a gas station and convenience store in an I-1, Light Industrial Zoning District

The subject property is located on the southwest corner of 18th Avenue and 11th Street. Mobin Ahmad reviewed his request for the sale of packaged liquor and tobacco products. Mr. Ahmad stated he did not have an opportunity to review Staff’s conditions before the meeting. He later stated he did receive an e-mail the week before with Staff Report but did not read it. Conditions of Approval were provided to him at this meeting. Attorney Vaughn asked if he was agreeable to all conditions to which Mr. Ahmad stated he was; however, he questioned condition 10 regarding the installation of landscaping. Attorney Vaughn asked Mr. Ahmad if he wanted time to meet with the Landlord on this requirement. Mr. Ahmad stated he would not be leasing the property if he was not granted a liquor and tobacco license.

After discussion with the Board, the Applicant felt that it would be to his benefit to Lay Over the item to October 16th.

A **MOTION** was made by Jennifer Smith to **LAY OVER** the (A) sale of packaged liquor in conjunction with a gas station and convenience store, and the (B) sale of tobacco products in conjunction with a gas station and convenience store in the name of Mobin Ahmad dba Star Group Petroleum Co. in an I-1, Light Industrial Zoning District at 1909 11th Street. The Motion was **SECONDED** by Maurice Redd and **CARRIED** by a vote of 6-0.

018-LTAB-036

Applicant
Ward 14

2432, 2420 South Alpine Road

Robert H. Kaltenbach III dba Resistance Vapor

- Sale of tobacco products** in conjunction with a retail store in a C-3, General Commercial Zoning District

The subject property is located on the northeast corner of Harrison Avenue and South Alpine Road within the Aline Village Shopping Center. Robert Kaltenbach III, and Steve Allen, Applicants, were present. Mr. Kaltenbach stated he has been operating this business since 2016. He further stated this application is due to the new City code that now requires vapor sales establishments to be approved by City Council.

Staff Recommendation is for Approval with (10) conditions. Objectors or Interested Parties were present.

Mr. Kaltenbach stated he had read Staff conditions and was agreeable to all, but did ask if he could work with Staff on condition (3) requiring him to remove the existing covering on the windows.

Steve Allen said he was also an investor in this project, and explained the need to maintain the 50/50 perforation covering. He explained that at certain times of the day, the sun is so blinding that his customer’s complain. Their staff cannot see the computer, their customers cannot see what they are buying, and the 20% coverage will not help. He further stated he gets severe migraines that can be brought on by bright sunlight. Mr. Capovilla stated this is an issue that is constant with all applications. This rule is in place for public safety. He gave an example of a crime being in progress . The perpetrator could easily see the police coming in but the police cannot see through the mesh and could very easily be shot. Mr. Allen stated they are willing to abide by all of Staff’s recommend conditions.

A **MOTION** was made by Jennifer Smith to **APPROVE** the sale of tobacco products in conjunction with a retail store in the name of Robert H. Kaltenbach III dba Resistance Vapor in a C-3, General Commercial Zoning District at 2432, 2420 South Alpine Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Must meet all applicable Building, Fire and Tobacco Cods.
2. Window display signage is limited to 20% of window area.
3. That the windows shall not be covered with bars or other devices that block the windows.
4. The sale of tobacco products shall be limited to the tenant space show as Exhibit E.
5. Hours of operation per the submitted business plan, Exhibit G, Monday through Saturday 11:00 AM to 8:00 PM and Sunday 12:00 PM to 5:00 PM.
6. The sale of rose tubes, airplane-sized bottles and any other products that can be deemed to be easily manufactured into drug paraphernalia is prohibited.
7. The sale of water pipes and "huka" or "hookah" pipes are prohibited.
8. Any pending general ordinance case(s) must be resolved prior to issuance of the license.
9. All outstanding general ordinance fines must be paid prior to issuance of the license.
10. Must meet all conditions prior to establishment of use.

With no further business to report, the meeting was adjourned at 9:06

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Liquor & Tobacco Advisory Board