

## **BOARD OF APPEALS MEETING**

April 24, 2023

7:00 p.m.

**ATTENDANCE:** William Malesh, Timothy Parker, Tim Thompson, Wayne Kommalan, Amanda Paoletti, Planning Coordinator & Fred Sussman, Town Attorney

Also, in attendance: Dave Carey & Scott Dallas - Applicants

Mr. Malesh called the hearing to order at 7:00 p.m.

### **NEW BUSINESS:**

SE2018-01 – Special Exception 31 River Road – Revision to hours of operation

Mr. Dave Carey presented his proposal to the Board. He stated that there appeared to be a misunderstanding or mistake during the previous hearing that resulted in the hours of operation being until 10pm with music also ending at 10pm. He stated that it didn't make sense to close the restaurant as soon as the last note of music was played. He was willing to end music at 9pm as long as he could be open until midnight.

Mr. Bill Malesh asked if he was requesting an earlier opening time as well. Mr. Carey stated that he was requesting an opening time of 10am on Saturdays and Sundays so that they could serve brunch.

Mr. Fred Sussman asked Mr. Carey to clearly provide the requested hours. Mr. Carey stated Monday - Saturday 11am-12am, Sunday 10am-12am, and music ending by 9pm nightly. He further clarified that they would stop serving at 12am, but that patrons could stay until 2am.

Mr. Malesh indicated that he thought 12:30am would be more adequate in that case.

Ms. Amanda Paoletti presented the Staff Report to the Board and added it into record as well as all the attachments. She indicated that this request was simply for the hours of operation and that the site plan had already been approved.

Mr. Malesh opened the floor up to those who wished to speak.

Bob Taylor (Commissioner) referenced his time on the Planning Commission and how when the plan was originally approved, the hours were purposely set at 10pm. He noted this wasn't a mistake. He stated that this in a residential area and the later closing would disrupt the nearby residents.

Dianne Barrick echoed Bob Taylors sentiments. She doesn't want to be waken up as people leave at midnight. She stated that the number one concern in Port Deposit is the noise from Lee's Landing.

Michael Bailey stated that if guests have open alcohol in front of them, they could feasibly stay until 2am. As a retired police officer, he is fully aware of the possibilities that exist by mixing late night drinking and driving.

David Sibert stated that every night open until midnight seems a bit excessive. Maybe on the weekends only would be a better option. He also expressed concerns over the lack of lighting on River Road.

Mary Boehly noted that Lee's Landing has different winter hours, perhaps related to parking. She stated it would look like a parade leaving the restaurant at closing, especially if all the boats were in the parking spaces. She also suggested having sidewalks on River Road.

Mr. Carey stated that he has been in the business for 16 years. This will be his 4<sup>th</sup> restaurant, and he's in the process of building his 5<sup>th</sup> & 6<sup>th</sup> restaurants. He stated that after Lee's Landing was built that the value of the nearby condos saw appreciation for the first time in many years. He stated that he has never had a violation and has never sold alcohol to an underaged guest. He said the winter hours would be different than summer hours, noting that sometimes in the summer it doesn't even get dark until after 9:30pm. He said each of his restaurants draw a different type of patron. He emphasized that this is not a bar that sells food, but a restaurant that also sells alcohol.

Mr. Malesh asked if it was possible to shield the lights so that they weren't a nuisance to nearby neighbors.

Mr. Wayne Kommalan asked what the capacity of the restaurant was, however; Mr. Carey did not have that information on him at the time.

Brandon Rowan asked if boats would have access to the restaurant, to which Mr. Carey stated that yes, the pier was being redesigned and boats would have access to the restaurant. Mr. Rowan stated that he thought that would alleviate some of the traffic concerns as patrons wouldn't all be in cars.

Michael Bailey spoke again to dispute Mr. Carey's claims that he hasn't had a violation. He stated that during Covid Lees Landing was cited and there had been a large fight in front of Tiki Lees. Mr. Carey stated that he had never been found guilty on any charges and that the fight that happened in front of Tiki Lees as a result of the "knock-out game" in which his patrons were assaulted once they left the restaurant.

Jill Gilley noted that she had been a police officer for 26 years. She wanted to know if Mr. Carey was planning security for the restaurant, to which he confirmed he was. She then reiterated the point that restaurants don't generally need security. Bars do. Mr. Carey stated that security is precautionary and is there to protect his guests and staff. He stated that all of his employees are TIPs certified and that security monitors guests as they are leaving.

Michelle Linkey (Commissioner) asked if the music was stopping at 9pm, why was 10pm to early to close?

Mr. Carey stated that the last resolution stated 10pm. That wasn't his intent. He states the music will end at 9pm, but the kitchen will close at 11pm. Last call would be around 11:45.

Sally Frederick asked what the hours for 5<sup>th</sup> Company Brewing were. She stated that the Wellwood – which is a restaurant – closes at 9pm on weekdays and 10pm on the weekends.

Mr. Kommalan asked if the Board could approve the suggested operating hours and then re-review the case in 24 months to see if there were any problems. Mr. Timothy Parker agreed this that notion.

Mr. Malesh added that closing time be at midnight, no alcohol service after midnight, and shields for the lighting.

Michelle Linkey asked if they could reverse that and approve the originally stated hours and re-review to see if additional hours were warranted.

Ms. Paoletti asked the chairman to clarify what it was that they were suggesting.

Mr. Malesh clarified that they were suggesting closing at midnight, music to end by 9pm, opening at 10am on Saturday and Sunday and to shield the lights.

Mr. Tim Thompson made a motion to have Town Attorney Fred Sussman prepare a resolution stating the revised hours of operation to 11am-12am M-F, 10am-12am Saturday and Sunday, and music ending at 9pm.

Mr. Kommalan seconded the motion and it was unanimously approved.

**ADJOURNMENT:**

The meeting was adjourned at 8:03pm.

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Respectfully submitted,

Amanda M. Paoletti  
Planning Coordinator