



**CITY OF GARDNER**  
 OFFICE OF THE  
**BOARD OF LICENSE COMMISSION**  
 ROOM 29, CITY HALL  
 GARDNER, MASSACHUSETTS 01440



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Michael Fitzsimmons, Chairman

Kenneth Arsenault, Member

Nancy Binder, Member

**Meeting Minutes**  
Regular Meeting

05/08/18

Location: Council Chambers

**Present:** Mike Fitzsimmons Chairperson  
 Kenneth Arsenault  
 Nancy Binder  
 Eileen O'Shea- Annunciation Parish  
 Dennis Commee Gardner Fish and Gun  
 Bill Shea Gardner Fish and Gun  
 Erik Storm Gardner Fish and Gun  
 Southside Grill Eileen Cocci  
 Southside Grill Wade Cocci  
 South Gardner Hotel dba Bob Martin's Bar

**In Attendance:** Jennifer Daigle

Call to order: 4:30

1. One Day License for Annunciation Parish –Holy Family Academy Art Show Auction, 5/25/18, 6-8pm Eileen O'Shea representing. Girardi Distributors will serve alcohol, Tips certified only will be serving. Chair asks any questions concerns or comments. Member Arsenault asks if the function will be limited to two hours and floor plan is in main hallway. Mrs. O'Shea replies yes. Lt. Braks asks Mrs. O'Shea if the servers will be using a stamp to indicate those drinking that have been carded. Mrs. O'Shea replies yes. Lt. Braks asks if there will be visible staff and will the license will be posted visibly. Mrs. O'Shea replies that all attending will have to be buzzed into the area of consumption and that ids will be checked in that area. Atty. Binder makes motion to approve license as listed, Member Arsenault seconds the motion. Motion carried, one day license approved for above. Chair reminds Mrs. O'Shea to have license posted near bar area so that all can see.
2. Gardner Fish and Gun Club informative meeting to outline the boundaries of their outdoor liquor license. Chair advised the members attending that this is an informative meeting only to outline the boundaries of the outdoor liquor license. Chair asks member how the current license works and if the parameters of the outside areas are licenses to drink with open containers on the property because most of the other licensed clubs have the outdoor liquor area licensed separately under a seasonal license to cover the boundaries or areas that are outdoors for liquor consumption. Mr. Shea answers that the area of consumption was itemized on the license. Chair questioned if there are separate distributors for the alcohol served inside and out as the other clubs do. Mr. Shea advised that he believes that the club has unique grounds and it is fenced in and that the other clubs have to walk

across parking areas and such. Chair asked when you come into the parking lot there is a gated area is that correct. Mr. Shea advised that he is correct. Chair asked if the entire area is gated. The members agree that the entire area running the perimeter is fenced with a lock that has been made available to the police for emergency purposes. Chair asks what typically happens is the members obtain their liquor from the bar area and then they are able to walk freely from the inside area to the pavilion or bandstand or concrete area. Mr. Comee stated that they have a serving shack outside that is used for functions if the party wants it, possibly two or three times a year. Chair advised that although they are not crossing parking areas this is the area of concern that the ABCC defines that your club should be your primary license and that the outside areas should be licensed separately as a seasonal license and notes that PACC and Beagle Club in Gardner all have areas outside that are licensed as seasonal areas. Moving forward if alcohol is going to be enjoyed outside the club itself to maintain consistency between all clubs the license for inside consumption and outside consumption should be obtained separately. Chair uses Beagle Club and PACC as examples for entities that have to obtain one day licenses for outside events that are considered separate from their indoor yearly license. Mr. Comee asks if the Chair is stating that the license is no good. Chair states that the current license has been signed so it is binding and has been written like this forever since before the Chair was part of the Licensing board. Another member speaks for the Gardner Fish and Gun club to state the outdoor modification of the license only happened a few years ago and was added on at that point. The member stated that the club didn't always have that but they then applied for it and it was granted. The Chair then reads the details of the license "180ft x180ft area. The members then correct that the area that the Chair read was considered the whole outside area to the pavilion area, bandstand and serving shack. Chair asks other members of the board and Lt. Braks if they have any additional questions. Atty. Binder asks to see the copy of the license. Lt. Braks states that he is familiar with the way they hold events however he did not realize that the provision of the license was stated the way that it was, and he does know that you are supposed to have two separate licenses. He goes further to state that obtaining One Day licenses is a pretty easily obtainable through the Alcohol Commission and states that it did not come from his department. Chair interjects that where the information came from was the discussion involving an outside event such as a firemen's muster. Erik stated that when he called the Board of Health to ask about the Fireman's Muster then they started asking about the liquor license. He goes further to state that he does not understand why this is suddenly an issue and they have had the license for a long time and why has been pointed out suddenly. Chair clarifies that it had been pointed out because it's not a major issue however every club who has functions outside has to obtain separate one day licenses no matter what if it is out of the original establishment their licensed establishment. Mr. Erik Storm asks why it would change we have done our due diligence, we went through the process and we have gotten the license. Why would it have to change? Chair interjects, "that is just the regulation!" Mr. Erik Storm interjects the regulations stated that we could get the permit, that's how we got the license. Chair stated that the license was signed a while back and was signed without due diligence on the part of the license commission. Mr. Erik Storm apologizes and Chair corrects to advise that it was a miss from our perspective. Mr. Erik Storm stated that the license people did their due diligence didn't they. Chair questions which license people. Mr. Erik directs toward that Chair that he is questioning why it was done, was signed and he is curious why the Chair is wondering why the current license commission is questioning how the previous license commission did it. The Chair clarifies that we want to have consistency throughout the city and throughout all the clubs because if this happens or we allow this to continue to happen then all the clubs can say I can just freely roam on my property, for example the Beagle club can say I can put 180x180 on my license and that can get me on the edge of my horseshoe pit with my shack that I serve and then everyone will want to do it. As the regulations in town, everyone follows the seasonal licenses and the one day licenses. Chair asks how many events they do a year. Mr. Erik Storm replies maybe a half a dozen a year it could be more that's why we have the grounds and wants to know why this became an issue. Chair replies because it came to the Board of Health and the Board of Health brought it to the attention of the Gardner Licensing Board because they want to make sure there are no liability issues and for safety issues. Chair goes further to advise with other clubs that are licensed for outdoor use they have to obtain a one day permit and they have to have a separate distributor and keep alcohol license separate and goes further to state that all the private clubs do it this way and he believes that this is why it threw up a red flag for the Board

of Health. Mr. Erik Storm brings forth that the grounds are used to rent for events and gives typical scenarios to use for the community. Mr. Erik Storm goes further to advise that the outside functions are used for the community and used as fundraisers for the club to offset costs. Mr. Erik Storm advised that currently the club has lost the ability to fundraise via rental of the hall because they are currently working with fire department on an update to their sprinkler system. The clubs concern is that if there is a change coming down that will change the outdoor license it will affect the ability for the club to fundraise and create income. Chair relays that clubs are able to obtain several One Day licenses throughout the season and no decision will be made at this time but going forward the Board will look at the license during yearly renewal time to work with the club to define it more clearly. Mr. Erik Storm asks if the club has been non-compliant or if there have been any complaints. The Chair assures him there has not and asks the club to give the board the heads up in the future if there will be large events on the grounds to work with all departments so that all the agencies know and can give advice as to what additional services will be needed for these events based on the size and time frame of events. The Chair and member Arsenault go further to list the particulars of what may be needed, police details, staff clearly marked at all entrances of the service of alcohol to watch and card. Mr. Erik Storm states that the club has been in operation for years and has always adhered to the rules. Chair wants the club officials to know that the board is just requesting consistency between all clubs in the City. Member Arsenault and Atty. Binder go further to make the club aware that there are no accusations or no information of wrongdoing just that there are inconsistencies throughout the licensing of the clubs and we need to address these issues and can't have different rules for different clubs. Mr. Erik Storm asks what the one day licenses cost and was given information by Coordinator Daigle. Mr. Erik Storm also asked if separate distributor will be needed. Chair advised same distributor can be utilized but needs to be separate delivery to fall under section 14 guidelines. Lt. Braks interjects that he believes that the fees incurred with obtaining one day licenses shouldn't be anything that would hurt the club. Mr. Erik Storm states the club is strapped for cash already. Lt. Braks stated that is not meant to hurt anyone it is just that all the clubs have to be treated equally and it was an oversight on our part. Mr. Comee asks if the other clubs are complaining about this issue. Coordinator Daigle states that she receives the calls and can tell the club that this is not why this issue was brought forth. Chair reminds the club officers that if there are large fundraisers that the club would let Lt. Braks and the Commission know beforehand. Atty. Binder comments that it is important to know that we have to be consistent to everyone. Chair advises in closure to reach out to the Coordinator with any questions or direct any concerns that come up to him directly.

3. Southside Grill liquor violation hearing requested by Gardner P.D., Lt. Richard Braks, representing Southside, Eileen and Wade Cocci. Chair advises Southside that they are being brought before the board in regards to a violation on 4/11/18 by Officer Coates who was responding to an erratic operator operating on the opposite side of the street. Chair reads the arrest report to the Board, (submitted to file). Chair asks Mrs. Cocci if they remember serving this person. Mrs. Cocci states that she does not and that Southside Representatives tried to obtain police report and were not able to obtain same, told they would have to do so through the court, tried to backtrack to the camera system but were unable to do so without a description of the patron. Chair asks if they received police report Southside stated that they did not. Chair asks Lt. Braks if he had anything to add. Lt. Braks stated that during the course of the violation the officer has conversation with the individual and they usually state where the last drink occurred and Southside was listed in this incident. Mrs. Cocci stated that she understands how it works but they are not sure if the individual was even at their establishment because they were not provided with a description. Mrs. Cocci goes further to tell the board that within the past several weeks they have refused service to several individuals and once officers were called to prevent someone from getting in their car. Chair asks if there were any other issues related to South Side. Lt. Braks states that he did a site analysis and there has been no other alcohol related incidents. Chair asks Board if there are any other questions or concerns. Atty. Binder asks if they believe if they had information they would have been able to identify. Mrs. Cocci relays that the camera only goes back about 16 days so it is time sensitive. Chair confers with the board about the issue. Atty Binder states that she realizes the seriousness of this but she also knows that people say things when they are not under oath or that they say things because they are mad at a particular bar who don't serve them there is just no way to verify that. Atty Binder defers to Lt. Braks

and Lt. Braks comments that if we were going to go on that level of assurity then we would have to be at the bar. Chair advised the Board and addresses Southside representatives that they have not had any incidents in quite some time and then asks Lt. Braks if he has any recommendations regarding this issue. Lt. Braks asks what the first level violation is. Chair replies that we can give a warning and then if anything further comes in at that time we can revisit. Atty Binder states that she feels that she doesn't want to do any more than that at this point. Atty Binder addresses representatives of South Side noting that at this point they have been made aware of it and know that this happened. Atty Binder moves that they resolve this issue by notification to the establishment in the form of a warning. Member Arsenault seconds the motion. Chair motion carried and noted as warning.

4. Bob Martin's Bar d/b/a South Gardner Hotel liquor violation hearing requested by the Gardner P.D. representative Lt. Richard Braks, Paul Johnson representative for Soho – Lt. Braks notes that he had brought forth the April 2nd violation at the last meeting and since the board was not entirely represented he was asked to do a site analysis for incidents and Lt. Braks advised that he noted all alcohol related incidents and noted 5 disturbances that were documented and there were others unfounded when the police arrived. Chair reviews documents entered by Lt. Braks and reiterates for the board that there were 26 incidents from January 1<sup>st</sup> through May 8<sup>th</sup> and asks Lt. Braks if this is correct. Lt. Braks corrected that he originally stated 22 at the last meeting but there has been an addition of 4 additional incidents since the last meeting. Chair asks owner Mr. Johnson if he has had a chance to review the incidents logged. Mr. Johnson states he has not and Chair forwards the reports to Mr. Johnson for his review. Lt. Braks speaks in regards to the incidents listed was the number of calls and the frequency of calls to the South Gardner Hotel as well as the high level of intoxication of the individuals that they were coming in contact with were supporting the problem at this establishment. Chair asks if most of the incidents since the last meeting were OUI's. Lt. Braks advised there were 3 OUI's since the last meeting. Mr. Johnson questioned, "3 OUIs" Lt. Braks advised that he wrote two letters on April 16<sup>th</sup> to the board, and one on May 4<sup>th</sup>. Chair reiterates for the Board the police report relating to the OUI's were brought to the board from incidents on April 13, 15, 27<sup>th</sup>. Chair directs boards attention to the certified letter sent to South Gardner Hotel which outlines the dates and times of the violations. Chair reminds Mr. Johnson what was agreed upon at prior meeting was last call 12:45 am last beer served at 1:00 am then the establishment could stay open till 2am. That was the agreement for the month to see if that alleviated any issues. Chair went further to say within the first week there was an OUI violation. Mr. Johnson stated that had issue with one of the arrests because the police stopped patron within 500 feet of the bar. Lt. Braks stated that the operator was stopped because they didn't have their lights on. Mr. Johnson states it seems that people are fishing in a barrel. He understands if they don't have their headlights on, but he finds it strange to have them stopped leaving the parking lot and towed within 500 ft of the bar. Lt. Braks states that he was at the booking of that party and had extensive conversation with him about taking the breath test and the driver refused and stated he would rather face loss of license for 6 months. Mr. Johnson states that he had worked with Police in the past and has recently added two bouncers which include a female to monitor the woman bathroom. Chair asks Mr. Johnson if during the month of the license agreement modification if he noticed the same rif raf as before including people from Fitchburg. Mr. Johnson stated he has implemented zero tolerance, made a point of stating that they will confiscate alcohol. Mr. Johnson gives an example of a patron who walked up to the bar with a pint in his pocket and ordered a drink and attempted to pour from the pint into his drink. The bouncer then proceeded to throw him out. Another example was given of 4 or 5 girls in the bathroom, with the addition of the female bouncer who monitors the bathroom the bouncer crushes trash after every patron leaves the restroom and if there are any nips in the trash observed the last party to leave the restroom is escorted off the property. Recently about 10 females at different times have been thrown off the property. Another example given by Mr. Johnson, is a male who frequents the SOHO who will order one beer and then go outside to smoke a pack of cigarettes who will drink shots from his person outside. The bouncers have tried to catch them and have not been successful to this point. Mr. Johnson stated that these issues are all new and have been challenging. Chair asked if Mr. Johnson recently implemented or tried cover charges. Mr. Johnson stated no since the Board rolled back last call. The Chair and Lt. Braks review the times of the recent OUI's of after 2:00 am and locations of

East Broadway and Waterford Street. Lt. Braks states that he takes exception to the inference that Gardner PD is targeting anyone. Chair asks Lt. Braks what their recommendation would be. Lt. Braks states that regarding the multiple violations and because Mr. Johnson has told the Board that he is a last call bar and he is getting these individuals in there that he does not desire and as a result it is causing bad things to happen within the bar. Lt. Braks goes further to state that closing him is going to hurt him in the wallet and fining him is going to impact him but if we want to resolve an issue that is occurring we want to roll back the time so that he is not experiencing the issues as a last call bar. Mr. Johnson argues that he has been adamant about keeping an eye on all the stuff and getting rid of it. Chair advises that the violations stick out as many within a small period of time. Mr. Johnson argues that these incidents of OUI are after 2:30 am, and far after the time he is closing. Mr. Johnson advised that he is hearing they are heading to "The Turtle" who now has a later last call. Mr. Johnson argues that 2:30 am is long after he is finished serving. Chair addresses the board and asks what the board thinks in regards to the issue at hand. Chair offers that he doesn't think that a fine or closure is in effect. Chair goes further to set closing at 1:00am. Member Arsenault asks Mr. Johnson if moving closing up and hour would devastate his business. Mr. Johnson replies that he has been feeling it. Member Arsenault offers that if he is closed perminately the publicity would kill his business. Mr. Johnson offers that the regulars and the bartenders were happy with the rolling back of last call because they were dealing with "too much shit". Lt. Braks suggests that the Board rule for a 1am close of the establishment. Member Arsenault concurs. Lt. Braks goes further to say that having it rolled back an hour would resolve the individuals and the issues. Mr. Johnson interjects, "that is going to hurt". Member Arsenault questions to clarify what is going to hurt. Mr. Johnson states that having the bar empty at 1am and having last call at 12:30 am will hurt his business. Discussion regarding other liquor establishments' closing time. Lt. Braks interjects that we are sitting on 4 violations at this time. Chair states if were to not take any action we would keep getting violations and then we run into suspensions. Mr. Johnson offers before last call was 1:30am, bar was empty at 2:00am. So now if we stop serving at 1:00am and have bar empty by 1:30am. Chair states that last call was 12:45am with stop of service at 1:00am. Chair reiterates that he would go with the recommendation of the Gardner Police Dept. to close out at 1:00am due to the volume of the violations within a three week span, further citing the 26 violations from Jan-now as an example. Chair asks Mr. Johnson if he had the opportunity to review the calls for service log from Gardner PD. Mr. Johnson answers that he had and goes on to list several incidents that were not alcohol related but rather calls for service related to medical issues. Chair advised that there were 3 OUIs within 2.5 weeks with one outside the bar area. Mr. Johnson interjects that the other two OUI's were 2 hours after the Hotel was done serving. Chair relays to Mr. Johnson that the Licensing Board has to go on the recommendation of the Gardner Police Dept. Mr. Johnson continues to argue the time period between bar closure and the OUI arrests. Chair maintains that there has been an increase in offenses since Jan 2018. Mr. Johnson states that he has had no issues in 5 or 10 years and maintains that it will hurt his business. Chair asks Mr. Johnson that earlier he stated that his staff was happy with the new hours? Mr. Johnson states that they were happy to stop serving at 1am but now the Board is asking him to do what, to close at 12:30am. Mr. Johnson states that you should just basically take the license and throw it in the trash because that is basically what you are doing. Chair interjects that the Board has to take action based on the amount of violation accrued. Mr. Johnson does not see how all of these calls for service have come from the South Gardner Hotel. Mr. Johnson questions Lt. Braks in regards to the calls listed on the document submitted to the Board. Lt. Braks relayed that he highlighted the incidents directly related to the South Gardner Hotel. There is back and forth conversation between Mr. Johnson and the members of the Board in relation to the content of calls and the amount of calls. Mr. Johnson advised that the early shut down of his establishment will be detrimental to empty the bar at 1:00am, will make a difference. There were many times when last call would save the day. The bar has been emptying itself out when we were done service by 1:30 when they were done serving at 1:00am. Lt. Braks argues that the last hour of making the day would equate to a higher frequency of pouring. Mr. Johnson objects to that comment and states that there was more people coming in. Atty Binder advises the Chair that she is going to step back from any motions or votes related to this issue at this point. Lt. Braks states that he believes that the bar would get back some of the good clientele by having by having the bar roll back their hours. Mr. Johnson advised that last call people were coming until 1am with stoppage of service at 1:30am. Now with

last call at 12:45am and stop serving at 1:00am that alleviated a lot of the problems and it has made the bartenders and regular customers happy. Mr. Johnson maintains the 12:45am -1:00am scenario has been working. Lt. Braks interjects that since the last meeting there were 3 more OUI's. Mr. Johnson maintains that he doesn't believe that there was additional drinking after the bar closed, OUI's were not stopped by the police until an hour after the bar closed. Member Arsenault asks if patrons can continue to drink until 2:00am. Mr. Johnson advised that they can nurse the drink between the time of last call and bar closing. Mr. Johnson maintains that the bar has been empty at 1:30am and the bartenders have everything cleaned and are ready to go by 1:30 am. Mr. Johnson goes further to say that as soon as the alcohol stops flowing the people are leaving. Member Arsenault asks to entertain the thought of stoppage of service at 1:00am with doors locked at 1:30am. Lt. Braks maintains that this is what the bar was given as a resolution before and it wasn't working and that the bar was closing at 2:00am and they weren't supposed to. Mr. Johnson interjects that no one said anything about closing at 1:30am. Chair interjects that the bar could be open until 2:00am they just couldn't continue to drink. Lt. Braks interjects that this is obviously is the remaining problem. Mr. Johnson interjects why not the bar empty have by 1:30am and let them finish their drink and be on their way. Mr. Johnson states that he understands that there is a fine line with drinking he understands all that, but people have alcohol in their cars people are drinking. Member Arsenault interjects that people can do that anywhere and anytime, but the problem is there are sitting there at your place and they get pulled over and they say that their last drink was at the South Gardner Hotel, that's the problem. Lt. Braks adds that when he reviewed the reports none of them indicated that there were any open containers in the vehicle at the time of arrest. Chair advised that he double checked that as well, in addition he checked to see that the operators indicated in their report that they were coming from the South Gardner Hotel. Chair asks again that Lt. Braks is pretty firm on suggestions that South Gardner Hotel close at 1am. Lt. Braks affirms that is his recommendation. Lt. Braks further advises that the problem lies in being a last call bar and if they roll back their hours, that they would be doing a service to the city, and to alleviate these types of situations and possibly bring back the clientele that he lost as a result of having riff raff in there late at night. Chair asks Mr. Johnson before ruling does he have anything further to add. Mr. Johnson states that if he has to close at 1:00am it is going to hurt and that he has already noticed the bottom line. Chair interjects that Mr. Johnson stated that his staff was happy with the earlier closing. Mr. Johnson stated because they were done serving by 1:00am. Member Arsenault asks Mr. Johnson how many people he believes he has in the bar between 1:00am -2:00am. Mr. Johnson states by 1:15am there are 5 or 6 people left in the bar. Member Arsenault asks how many people they have there for last call. Mr. Johnson says it is always pretty full for last call around 75 -100 people. Mr. Johnson advised that there are younger kids coming in that don't have any respect, that there are signs that drinking at the Hotel is a privilege not a right, the bouncers refer to the that sign before escorting people off the property. That there are signs that no alcohol is allowed outside and recently there were a girl and guy that went outside, I took the girl's beer away and I told her "you're done", they walked back in to get another beer and they sent them on their way. Mr. Johnson goes further to say, the sign said don't take the beer outside. Chair states the only thing he can think of is to go with Lt. Braks recommendations and go with that for 6 months and see what happens if it drastically doesn't change then we have a clear case with something going on with the bar or people are being overserved. Mr. Johnson interjects that the girls are pretty adamant about the overserving because it is their job. Chair acknowledges that he understands that and the middle ground that he can see is if we do this until liquor renewal process would be the middle ground that he can see. Lt. Braks concurs with Chair and states that if we see a change during the renewal period that the new license could revert because there would be a change in personality down there. Chair advised that his suggestion would be as stated and he understands that Mr. Johnson will probably take a hit for a little while but he would like Mr. Johnson to understand the position that the Board is in as well. Chair asks the Board what they think and turns to Atty. Binder to ask if she is abstaining. Atty. Binder affirms that she is going to take a step back from this. Chair clarifies the motion to be made by Member Arsenault and asks Lt. Braks if he would agree with going down this avenue. Chair goes further to say that he is going on record to state that this measure is a last resort and would like an update every meeting from Gardner PD because if this continues to happen then the ruling would be etched in stone and the last call hour of 2:00 am would be eliminated completely. Member Arsenault clarifies the motion with the Chair before reiterating

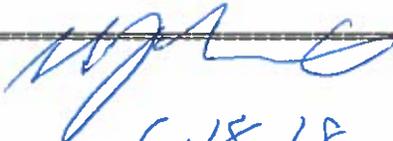
for the record that the bar would be closed at 1:00am and that it would be this way for 6 months. Chair asks Lt. Braks to keep the Coordinator updated monthly for reports. Lt. Braks interjects that he is tracking the frequency of calls for this purpose. Chair clarifies what last call would be 12:30am, doors closed at 1:00am. Chair makes motion last call at 12:30am bar closed at 1:00am for the next six months, monthly updates by the Gardner PD to be entered to the Coordinator. Member Arsenault seconds the motion. Motion carried.

Signatures:

1. Date of Next Meeting: 06/12/18
2. Adjournment: Moved to adjourn from, Atty. Binder, Seconded Member Arsenault, meeting adjourned at 6:00pm.

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Approved by:  
Date Approved:

  
6.18.18

Secretary: