

Re: Santini Family, Inc.  
d.b.a.: Sonny's Mobil On-the-Run  
Premises: 316 Lowell Street  
Town: Wilmington, MA 01887  
Heard: October 22, 2008

## **DECISION**

This was an appeal from the action of the Licensing Board of the Town of Wilmington in the denial of the application to transfer an all alcohol package store license and change of location.

## FACTS

The Local Board's decision dated July 24, 2008 was submitted as Exhibit 8. The decision cited lack of parking, additional delivery trucks, public safety and concern that minors would have easy access to liquor.

The attorney for the Town, Daniel R. Deutsch, mentioned that the proposed location is next to an assisted living facility that is under construction. The attorney for the licensee, Thomas V. Orlandi, stated that the licensee already owns and operates the same kind of business in New Hampshire.

Derek Santini, the licensee stated that parking was a concern for the Board. He stated that he should have 12 spaces, but in fact, he has 13 and an additional 10 spaces at the gas pumps. He has been operating the same type of business in New Hampshire where he has not received any citations. He stated that the Wilmington operation is open 7 days a week, 24 hours a day. He has one employee at the cash register at all times and another employee on the floor who stocks the shelves and mops the floors. His store is approximately 3,000 square feet, of which, 200 square feet would be designated for liquor. He stated that Dunkin Donuts provides parking for their employees. Mr. Santini stated that he hired a photographer after learning that a Selectman went to the site to determine if there was adequate parking. The photos (Exhibit 4) were taken from June 16, 2008 through July 12, 2008 during different times of the day. Mr. Santini expects that the sale of liquor will add about 5% more customers and that his liquor will be more expensive than other stores. He further stated that he is T.I.P.S. trained and that all his employees are at least 22 years of age.

James Winn, a Traffic Engineer, conducted a traffic study in 2004 and 2008 at the location of the proposed license. Currently there are about 2,300 vehicles at the intersection and expects that in 2009 the figure to be 3,344. He found that stores with beer and wine licenses have very little

difference in their traffic patterns. He stated that the crash rate before the Mobil was 1.28% and in 2003 was 1.21%, in 2004 was 1.2%, in 2005 was .4 % and in 2006 was 1.11%.

Deputy Chief Robert Richter who has worked in the town since 1985 stated that he is involved with the oversight of traffic. He had his staff compile a list of accidents between the Mobil and the phone store as requested by the Town Manager (Exhibit 13). The results indicated that in 2003, 9 accidents were reported, in 2004, 17 accidents were reported, in 2005, 15 accidents were reported, and in 2006, 27 accidents were reported. There were 23 accidents between 1/07 and 8/07 and 26 reported from 8/07 to 8/08. However, a letter from Police Chief Michael R. Begonis does not address any concern about additional traffic.

Margaret Wilson, an aid to Representative James R. Miceli who is opposed to the transfer, submitted a letter from the Representative stating why the granting of the license would be detrimental (Exhibit B).

Michael Caira, the Town Manager for the last 18 years, stated that his home is about a half-mile away from the proposed location. His concerns are the traffic from the highway to the gas station.

Counsel for the Town cited concerns that the license would add too much traffic and that the intensity of the traffic would increase, along with the adequacy of parking, minor sales and the distance of the cash register from the liquor.

Counsel for the licensee stated that the only opposition was from one individual and that the Mr. Santini produced a petition with 206 Wilmington residents in support of the transfer.

### CONCLUSION

Based on the evidence, the Alcoholic Beverages Control Commission **DISAPPROVES** the action of the Local Licensing Board of the Town of Wilmington in the denial of the application to transfer an All Alcohol Package Store License and Change of Location.

The Commission is not persuaded that there is a lack of parking or that traffic will increase. The Local Board did not present any evidence that more delivery trucks would be added with the liquor license. The Commission, further, is not persuaded that the location of the cash register will result in minor sales. Therefore, the Commission remands the matter back to the Local Board and suggests that the Board approve the transfer and change of location.

### ALCOHOLIC BEVERAGES CONTROL COMMISSION

Suzanne Iannella, Commissioner \_\_\_\_\_

Robert H. Cronin, Commissioner \_\_\_\_\_

Dated in Boston, Massachusetts this 27<sup>th</sup> day of October 2008.

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty days of receipt of this decision.

cc: Local Licensing Board  
Chief Investigator Mahony  
Thomas V. Orlandi, Esq.  
Daniel R. Deutsch, Esq.  
Tracy Williams Klay, Esq.  
File