



## TOWN OF MENDON

BOARD OF SELECTMEN  
Mendon Town Hall  
20 Main Street  
Mendon, Massachusetts 01756  
Telephone: (508) 473-2312 Fax: (508) 478-8241

Mike Ammendolia, Chair  
Lawney Tinio  
David Breen

### DECISION

TOWN OF MENDON  
BOARD OF SELECTMEN  
20 MAIN STREET  
MENDON, MA 01756

Re: Showtime Entertainment, LLC  
Premises: 49 Milford Street, Mendon, Massachusetts  
Hearing Date: April 5, 2010

On April 5, 2010, the Board of Selectmen conducted a hearing in accordance with M.G.L. c. 140, § 183A concerning Showtime Entertainment, LLC's (hereinafter "Applicant") adult entertainment license application. The Applicant's adult entertainment license application was accompanied by a list of nine (9) separate conditions and four (4) pages of architectural plans depicting: (a) the location of the site; (b) an existing condition plan; (c) a site plan with the proposed building; and (d) a rendering and plans of the proposed building.

Attorney Thomas B. Lesser represented the Applicant at the hearing. The Board of Selectmen heard testimony from Attorney Lesser, John M. Nenart of Guerriere & Halnon, Inc., Engineering & Land Surveying, and several residents of Mendon and Hopedale. The Board of Selectmen also considered the proposed floor and site plans, and a traffic study submitted by the Applicant, and written documents submitted by a group of Mendon residents known as "Speak Out Mendon."

Based upon the testimony and evidence, the Board of Selectmen finds the following:

### FINDINGS

1. The Applicant intends to operate an adult entertainment establishment with a restaurant and nude dancing by performers at 49 Milford Street, Mendon, Massachusetts. This establishment will consist of a one (1) story, two thousand (2,000) square foot building. There will be a seating capacity for seventy-four (74) persons and one hundred three (103) parking spaces. The establishment will open at 4:30 p.m. The Applicant's attorney stated that there would be no more than twenty (20) employees at the proposed establishment at any given time.
2. George Funari is the manager of the Applicant. The Applicant also identified Christopher Funari as its duly authorized representative. However, on the basis of the evidence presented by the Applicant, it appears that George Funari and Christopher Funari have no experience operating an adult entertainment establishment.
3. On-street parking along the adjacent and busy Route 16 in connection with the proposed establishment would be unfeasible and dangerous. The Applicant's attorney proposed a condition in which it would place "no parking" signs in the vicinity of the proposed establishment along Route 16.
4. The Applicant presented a traffic study for an engineer which indicated that the proposed establishment would not cause traffic problems. Several residents criticized the traffic study because it did not take into

account traffic generated from a nearby drive-in movie theater and it was based upon a study of an adult entertainment facility in Providence, Rhode Island.

5. The group, Speak Out Mendon, submitted uncontroverted evidence concerning the increased incidence of criminal activity stemming from establishments providing nude dancing. The group introduced studies and media reports indicating that increased criminal activity is a proven secondary effect of adult entertainment venues in other communities. Speak Out Mendon also referred to a statement from Mendon Police Chief, Ernest B. Horn, that there was only a single police officer on duty between 12:00 a.m. and 8:00 a.m., and that this officer could be unavailable if he or she was already responding to another call. The Board finds that the proposed establishment could increase the risk of criminal activity in the Town and that reasonable security measures should be implemented to protect public safety. The Applicant's attorney indicated that there would be an off duty police officer at the proposed establishment on Thursday, Friday and Saturday nights, who would monitor the parking lot and inside the building.
6. A speaker raised the question of whether the proposed establishment would have an adequate water supply. The Applicant's attorney indicated that an adequate supply of water would be available through a well which would satisfy all applicable regulations and permit requirements.
7. The Applicant's attorney stated that the Applicant would not apply for a liquor license.

8. Speak Out Mendon submitted evidence about outstanding tax liens and judgments against George Funari and Christopher Funari. The Applicant's attorney represented that the tax delinquencies are currently being repaid on a payment plan.
9. In addition, Speak Out Mendon referred to a matter pending before the Mendon Conservation Commission involving Christopher Funari and the 49 Milford Street property. The Conservation Commission has issued an enforcement order concerning the subject land which has not been resolved. The Applicant's attorney represented that Christopher Funari is currently working with the Conservation Commission on this issue and that the wetland issues would be resolved in accordance with the applicable law and regulations before the building for the adult entertainment establishment is constructed.
10. The Applicant's attorney stated that the Applicant would comply with all of the Town's Regulations Regulating Adult Entertainments and any and all applicable rules and regulations

#### DECISION

Pursuant to M.G.L. c. 140, § 183A, the Board of Selectmen voted to issue an adult entertainment license to the Applicant, contingent upon the Applicant's compliance with the following conditions:

1. The Applicant shall strictly comply with the plans accompanying its application for an adult entertainment license, submitted to the Board of

Selectmen on February 26, 2010, and received on March 1, 2010. The proposed establishment, including the building, parking areas, fencing and landscaping, shall not deviate from these plans.

2. The proposed establishment shall be limited to seventy-four (74) seats and one hundred three (103) parking spaces. Not more than twenty (20) employees or independent contractors shall work at the premises at any one time.
3. The Applicant, at its own expense, shall employ at least one (1) off duty police officer on Thursday, Friday and Saturday evenings, during the hours that patrons are on the premises. Such off duty police offer shall be in addition to security measures required under the Mendon Regulations Governing Adult Entertainment Establishments. The off duty police officer(s) shall be responsible for patrolling the parking lot and interior of the establishment, and shall not serve in the role of the security personnel assigned to check identification at the entry ways or doors of the adult entertainment premises.
4. The Applicant shall install "no parking" signage along Route 16/Milford Street, at its own expense, as approved by the Board of Selectmen and Massachusetts Department of Transportation.
5. No materials describing or relating to "sexual conduct" or "sexual excitement," as those terms are defined in M.G.L. 272, § 31, shall be displayed in the windows of or on the building of the establishment or any signs at the establishment.

6. The Applicant shall comply with all applicable federal, state and local laws, including but not limited to applicable building, fire, health, conservation, and zoning requirements, for the construction and operation of the proposed establishment. In addition, the Applicant shall obtain all necessary permits, licenses and approvals required to construct and operate the proposed establishment.
7. The Applicant shall comply with all applicable Mendon by-laws and regulations.
8. Alcoholic beverages shall not be served at the proposed adult entertainment establishment. No patrons shall consume alcoholic beverages on the premises of the proposed adult entertainment establishment.
9. Prior constructing a building for the proposed adult entertainment establishment, the Applicant must demonstrate to the Selectmen and the Mendon Building Inspector that it has an adequate supply of potable water for the licensed premises which shall fully meet the anticipated need for drinking water, kitchen use and sanitary facilities. The water supply must also be sufficient to provide fire protection to the premises. The water source must comply with any applicable statute, regulation or permit requirements.
10. Prior constructing a building for the proposed adult entertainment establishment, the Applicant must fully address all wetland issues at the premises so that they will be in full compliance with the Wetland Protection Act and any local wetland bylaws.

11. The hours of operation and entertainment shall start no earlier than 4:30 P.M. and shall conclude on or before 1:00 A.M.
12. No principal of the applicant or manager shall have been convicted of a felony or one of the offenses listed in the Mendon Regulations Governing Adult Entertainment Establishments.
13. The proposed building shall be soundproofed in a manner such that no sounds emanating from the building may be audible more than one hundred (100) feet from said building. The specifications for the materials and methods used to make the building conform to this soundproofing condition must be submitted to the Selectmen prior to construction.
14. The Applicant shall install video cameras at the front and back of the premises with the feed visible to the employee at the front entrance of the establishment.
15. For every day of the week, the Applicant shall have at least one (1) employee responsible after 8:00 p.m. for monitoring the outside parking areas in order to prevent any loitering, noise or activity that may disturb neighboring properties.
16. If the parking area becomes full, an employee of the Applicant shall instruct persons who attempt to park on the street that parking on the street is illegal and will deny admission to the premises to anyone who

parks on the street. The Mendon Police Department shall be notified of any illegal parking on the street.

17. George Funari and Christopher Funari are identified as the current principals of the Applicant. Prior to any change in the ownership, members, managers, duly authorized persons, corporate officers, or contact person for the Applicant, the Applicant shall obtain permission from the Board of Selectmen and provide the following information relating to any such person: name; residential, mailing and business address(es); home and business telephone number(s); social security number and/or taxpayer identification number; date of birth (if applicable); whether such person has previously operated an adult entertainment business in this or another municipality, county or state; whether such person was ever disciplined or sanctioned by a licensing authority or this or another municipality, county or state, to include but not be limited to license revocation or suspension and the reason(s) for such discipline or sanction and the activity or occupation subjected to such discipline or sanction; a description of the business, occupation, or employment of such persons for the five (5) years immediately preceding the date of application; and such additional information as the Board of Selectmen may request. In addition, each individual who may become an owner, member, manager, duly authorized person, corporate officer, or contact person for the Applicant shall present himself or herself personally at the Mendon Police Department and shall submit to having fingerprints and a photograph taken and recorded by the Chief of Police or his/her representative or designee.



18. The Applicant shall comply with all provisions of the Mendon Regulations Governing Adult Entertainment Establishments, a copy of which is attached hereto and incorporated herein by reference. Without limiting the generality of the foregoing, such regulations include the following:

- The premises may not open for business until the premises have been inspected and determined to be in conformance with the drawings submitted with the Applicant's application for an adult entertainment license.
- The adult entertainment license may not be assigned, transferred or conveyed to any other person.
- No employee, or person or entertainer shall be unclothed, clothed in less than opaque attire, move or remove any such attire, or allow any such attire to be moved or removed, so as to expose to view any portion of the person's anus, buttocks, or genitals or the female breast below the top of the areola except that entertainers working pursuant to these regulations may do so, provided that it occurs upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest member of the public or patron.
- No person shall be permitted to physically touch an entertainer while he or she is performing or present on the stage or in the stage area regardless of whether such touch is direct or indirect through contact utilizing a device, substance, or material to include currency.

- All gratuities for entertainment shall be placed in non-moveable receptacles located at the edge of the stage area closest to the members of the public or patrons.
- A sign with the following listed italicized verbiage shall be conspicuously displayed in the common public area of the proposed establishment and at each public and employee entryway of and to said premises. Said posting shall be with lettering that is red in color on a white background, each of said letters being no less than two (2) inches in height and two (2) inches in width.

*"THIS ADULT ENTERTAINMENT ESTABLISHMENT IS  
REGULATED BY THE TOWN OF MENDON:*

1. *No person shall engage in any type of sexual conduct;*
2. *No employee or entertainer shall be unclothed, clothed in less than opaque attire, move or remove any such attire, or allow any such attire to be moved or removed so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six (6) feet from the nearest member of the public or patron.*
3. *No person shall be permitted to physically touch an entertainer while he or she is performing or present on or in the stage area regardless of whether such touch is direct or indirect through contact utilizing a device, substance, or material to include currency. All gratuities for entertainers shall be placed in non-moveable receptacles located at the edge of the stage area closest to the members of the public or patrons.*
4. *Except as provided for in paragraph 2, above, no employee or entertainer within*

*or about the premises or when mingling with the patrons shall be unclothed or in less than opaque and complete attire, costume or clothing as would expose to view any portion of the areola of the female breast or any portion of the male and/or female pubic hair, buttocks, genitals or groin.*

5. *Except upon the stage or within the stage area as described in paragraph 2. above, no employee, entertainer or other person shall dance or provide any other type of entertainment within the licensed adult entertainment premises or any other property appurtenant thereto.*
6. *No employee or entertainer shall demand, request, collect or receive any payment or gratuity from any patron for any act prohibited by said regulations or for any entertainment, except as provided for in paragraph 3., above.*
7. *Except for that which is specifically provided for and allowed in paragraph 3 above, no entertainer shall solicit, induce, request, demand, accept or receive from or on behalf of a patron, member, or member of the public, any type of payment, gratuity, the purchase of alcoholic or non-alcoholic beverage, the purchase of any food product or other product, item or service whether it be for them personally or any other person, except when said patron or member of the public is related to the recipient by blood or marriage. No other employee shall, on behalf of an entertainer, solicit, induce, request, demand, accept or receive from or on behalf of a patron or member of the public, any type of payment, gratuity, the purchase of alcoholic or nonalcoholic beverage, the purchase of any food product or other product, item or service, except when said patron or member of the public is related to the recipient entertainer by blood or marriage.*

**CONTACT THE MENDON POLICE:**

*Emergency: Dial 9-1-1*

*Business: 508-473-2727"*

- Sufficient lighting, at a minimum, as defined in the Mendon Regulations Governing Adult Entertainment Establishments, shall be provided in and about those parts of the interior premises which are open to, used or accessible to or by patrons, members of the public, or employees.
- At least one (1) security person shall be on duty at each entry way or door of an adult entertainment premises that is open for access by the public during the adult entertainment premises hours of operation. In addition to any other responsibilities, security personnel shall have the responsibility to check identification of all persons who enter the premises to ensure that they are not minors as defined by M.G.L. c. 272, § 31.
- No owner, manager, or employee shall knowingly permit or allow any minor to be in or upon such premises. There shall be no less than two (2) security employees, excepting those assigned to entry ways and doors, on duty within the premises of the adult entertainment premises to ensure the safety of people present therein and in conformance with the Mendon Regulations Governing Adult Entertainment Establishments, the General Bylaws and regulations of the Town of Mendon, and the General Laws and laws of the Commonwealth.

The Board of Selectmen has determined that these conditions are necessary to:

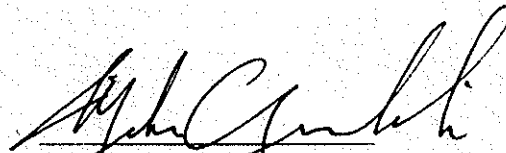
- (a) protect employees, patrons, and members of the public inside or outside the premises from disruptive conduct, from criminal activity, or from health, safety or fire hazards;
- (b) prevent an unreasonable increase in the level of noise in the area

caused by the licensed activity or caused by patrons entering or leaving the premises;  
and (c) prevent an unreasonable increase in the level of pedestrian or vehicular traffic  
in the area of the premises or an unreasonable increase in the number of vehicles to  
be parked in the area of the premises.

The adult entertainment license shall expire on December 31, 2010, unless  
sooner modified, suspended or revoked.


Mendon Board of Selectmen

May 3, 2010



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Mike Ammendolia



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Lawney Tinio