

**Queen Anne's County Liquor Board
Minutes of Meeting**

**January 7, 2020
9:00 a.m.**

The Board of License Commissioners of Queen Anne's County met on Tuesday, January 7, 2020 at 9:00 A.M. at 110 Vincit St., Centreville, MD. The meeting was called to order by Chairman Joyce E. Jones, Esq. Those present were: Joyce E. Jones, Esq., Chairman; Thomas E. Beery, Vice Chairman; John T. McQueeney, and Timothy G. Hibbard, Members; Jeffrey E. Thompson, Esq., Attorney for the Board; Cathy Maxwell, Clerk to the Board; Vivian Swinson, Zoning Administrator. Member Maurice Dashiell was absent

The Minutes from the December 3, 2019 Liquor Board meeting were approved as written.

Ms. Jones introduced Mr. Tom Calmon as the new Liquor Inspector. He recently retired from Prince George's Co. Police Dept. after 24 years. Earlier this year he has attended the Field Enforcement Division Liquor Academy Training put on by the Comptroller's Office. A motion was made by Mr. Beery, seconded by Mr. Hibbard, to appoint Mr. Calmon to the Liquor Inspector position. All member voted in favor. Mr. Calmon will begin on February 3, 2020. Ms. Jones said the Board may have a work session to go over procedures. Also Mr. Calmon will be sworn in by the Clerk of Court.

The following Special/Temporary licenses were reviewed and approved:

Kent Island High School Baseball – Date of event – January 25

Chesapeake Bay Environmental Center – Date of Events – Jan. 23, Feb. 20, March 26, April 23

Chesapeake Bay Environmental Center - Date of Event – February 15th

Mr. Rohry Flood and Mr. Brooks McNew from Cult Classic Brewing appeared before the Board. Mr. Flood said they would like to change their license from a Class "D" to a Class "B". They were told they may be better suited to a Class "B-D" license when they appeared before this Board previously. Mr. McNew said they are changing their brewery type with the State so that they can have a kitchen and eliminate the State requirement to close at 10:00 p.m. Right now the State overrides the Liquor Bd. only in the case of Class 5 breweries. Mr. McNew said they are going to change their State license to a Class 7 brewery. Their current type of brewery has a Class "D" license and if they change to the new type of brewery, they must have a Class "B" license. When the Health Dept. gives them the occupancy certificate for the kitchen, then they can go to the State and advise them they now qualify for the new brewery license. Mr. McNew is not sure when this will become effective. At some point he will be notified by the State that his Class 5 license has been changed to a Class 7. At that time they will have an incompatible liquor license. Mr. McNew would like to apply for the Class "B" license but make it contingent on the State changing their license type. He hopes to have the kitchen ready for inspection within two weeks. Ms. Jones advised him that the new application will have to be advertised

prior to having a hearing on the February 4, 2020 agenda. The application can be advertised "at their own risk" which eliminates the need for the application to be reviewed by the Board's Attorney ahead of time. Mr. McNew was in agreement with this. Mr. Thompson told Mr. McNew to double check with the State to confirm whether he needs a Class "B" or Class "B-D" license. Mr. Thompson said the Class "B-D" license would allow them sell "beer to go" but Mr. McNew said there is a part of the State code that says Class 7 breweries can sell beer to go. Mr. Thompson suggested that Mr. McNew obtain a letter from the State to bring to the February 4 hearing so that this Board can issue the appropriate County license. Mr. Thompson said applications are not required to be reviewed a month ahead of time, the Board does that as an accommodation to the applicant so that if there are mistakes, they can be dealt with before the actual hearing. Mr. McNew said he wants to get the advertising done in time for the February 4 Agenda and he will file the application with Ms. Maxwell.

The Board held a hearing for a new Class "A" beer, wine & liquor license for April Dannenberg, for the benefit of Hutch Vapes, LLC, trading as Vape Bird, located at 356 Romancoke Rd., Suite 1, Stevensville, MD 21666. This application was denied by this Board at the December 3, 2019 meeting, based on §4-210.(b)(1)(i) of the Alcohol Code, that the granting of the application is not necessary to accommodate the public. Mr. Thompson administered the oath to all who were to testify. No one questioned the jurisdiction of this Board to hear and decide this matter. Ms. Dannenberg, along with her Attorney, Tom Fleckenstein, Esq., appeared before the Board. Mr. Thompson said the application is in order. Ms. Dannenberg is the only member of the LLC. Mr. Fleckenstein said there are a number of individuals here today in support of this application. He called Ms. Patricia Mobley, 104 Johnson Rd., Stevensville, MD as the first witness. She has lived at her current address for 22 years. She is a customer of Ms. Dannenberg's store and she signed the petition in favor of the license. She believes this license would be helpful and convenient to those living in the area so not to have to deal with the other traffic issues to go to another location. She is in favor of this license being approved.

Justin Hoyt, Esq., Stevens Palmer, LLC, Centreville, MD appeared before the Board. He is Counsel for Friendly Food Store. He had no questions for Ms. Mobley.

The next witness was Ms. Dannenberg, the applicant. The Vape Bird has been in business for approx. six years. She has lived in Bay City for three years. She sells vaporizers to get people off of cigarettes. She also sells vaporizer equipment and creams for joint pains. The store is 1,100 sq. ft. total. Approx. 300 sq. feet is for storage of her products. The sales floor is approx. 800 sq. ft. which would be used to display the alcohol. She plans to sell higher end beer, wine and liquors, based on the needs of her customers. She will not be competing with the larger liquor stores as she does not have the space. She will continue her current business, she does not intend to become just a liquor store. Her store is no comparison in size to nearby liquor stores. She is familiar with the products the liquor stores carry and she shops there and will continue to do so. She has never had any zoning or police problems in her store. She has certificates of compliance on her walls where she has been cited for doing the right thing. There are five businesses in the shopping center where she is located: Carini's Pizza, Shoreside Flooring, Computer Island, Nail Salon and herself. She does not have a parking issue. She has

discussed her application with all of them. Her landlord is in support of the application. If the license is approved, she will be open the same hours as her vape business, 10:00 a.m. to 8:00 p.m. Mr. Fleckenstein entered as Applicant's Exhibit No. 1 a petition consisting of six pages of people who signed it in support of this application. All persons who signed the application are over the age of 21. She obtained the signatures after her application was denied in December. The vast majority of the names on the petition were customers who came into the store and business owners in the shopping center. Mr. Thompson said some boards accept petitions and some do not. If it is accepted, there is not an opportunity to cross examine. Ms. Dannenberg said she has been a certified residential appraiser for 21 years. She presented a map of the Chester/Stevensville area showing the Rt. 8 corridor which was obtained from the Heritage Center. Her store location is indicated by a star highlighted in yellow. She believes that geographic area is the main portion of where the population that will serve her business comes from. She has customers from off the Rt. 8 corridor. Concerning future growth in the area, she said directly across the street from her shop is Bay Bridge Cove, currently under construction, with 273 units, with anticipated population of an additional 546 people. Also directly across the street is Ellendale single family and townhouse community, also currently under construction, with approx. 338 units with an estimated population of over 900 people. Ellendale is in the final phase and Bay Bridge Cove is at least half completed. There is also a SKI (Southern Kent Island) project there which opened up 225 vacant lots for development. 54 have already been approved for building. There is the Four Seasons development about 3 miles away, which is anticipated to be 1,079 units, on the other side of Rt. 50, close to Friendly's liquor store. There is also Gibson Grant under construction, with approx. 283 units, which is closer to Friendly's as well. Waterman's Cove is closer to the Winery and Baker's Liquors. Mr. Fleckenstein asked Ms. Dannenberg about the current traffic situation. She said the Island is gridlocked. Rt. 50 is backed up for miles. Nobody wants to leave their home and travel Rt. 50. There is a BP gas station/convenience store close to Ms. Dannenberg's store and they sell beer and wine, not liquor. There is a Sunoco station/convenience store within a mile or so and they sell beer and wine. Both of these stores sell cigarettes and Juul vape products. She does not think these two businesses affect her store negatively. Love Point Deli, who sells beer, wine & liquor, is located approx. a mile from her store. Thompson Creek Liquors is approx. a mile from her store. It is on the same side of the road as she is located. This is the only full service liquor store on the Rt. 8 corridor on her side of Rt. 50, without getting onto or crossing Rt. 50. She said there is a parking problem at Thompson Creek Liquors. Applicant's Exhibit No. 2 was a set of seven pictures taken within the last month of Thompson Creek Liquors and Food Lion. She said these show the traffic situation at Thompson Creek Liquors. Mr. Hoyt objected to all the photos except the last one. He said none of the photos show the actual parking spots being full. They show people double parking. People double parking does not show a shortage of parking, it shows people willing to break the law. The last photo is a very small portion of the large parking lot for that shopping center and shows at least one open parking space. He does not feel these photos are relevant. If there is insufficient parking, show a full parking lot, not people who aren't willing to comply with traffic laws. He did not have a problem with the last photo which shows the entire parking lot. Mr. Fleckenstein said he thinks the Board can admit the photos and determine what weight to give them. Applicant's Exhibit No. 3 was an email from Terry Ober, TIPS Instructor, in favor of this application. Ms. Dannenberg said she knows Mr.

Ober and her staff is TIPS certified. Mr. Hoyt objected to the email, saying there is no way to authenticating it and it is not signed. Ms. Jones said this was sent from Mr. Ober's email account that the Board is familiar with. Ms. Dannenberg said If the license is granted, she will have a very limited quantity of beer, wine & liquor for sale to her customers she currently serves. She does not intend to stock 50 or 60 types of vodka or whiskey, etc. She will not be competing with Thompson Creek Liquors or any other liquor store elsewhere on Kent Island. Thompson Creek Liquors is the only full scale large liquor store within a mile radius of her store.

Mr. Hoyt, representing Mr. Art Mangum, Friendly Food Store, asked Ms. Dannenberg about the number of new housing developments she mentioned and what plans, if any, does she have to expand her parking lot. She said she does not have parking problems currently. She does not own the building. She owns the parking spaces in front of her building. There is room for paving behind it and she owns six lots at the adjacent building. Thompson Creek Liquors is closer to Four Seasons than she is. Mr. Hoyt said so anyone coming from Four Seasons or Gibson's Grant would have to go past Friendly Foods, Thompson Creek Liquors, the drive-thru liquor store and Love Point Deli to get to her location. Ms. Dannenberg said, yes, but she does have current customers who come from those locations. He asked her if her products are different than some of the similar products she described at other locations and she said, yes. She has a specialty shop, a variety of vape products, juices, and this is beyond what is sold at other locations. Other stores are selling Juul products which is in direct competition with her product. She said good vape shops don't carry the Juul product but it has been a competitor to her business. Mr. Hoyt asked her how many parking spaces are in the parking lots for Food Lion, Ace Hardware, Thompson Creek Liquors, all of those stores. She said she wasn't sure but it is a large number. She has seen times when the entire parking lot is full. She did not have any photos of the parking lot completely full. Mr. Hoyt said the one photo that Ms. Dannenberg showed of the parking lot directly in front of Thompson Creek Liquors is not the only available legal parking for the liquor store and Ms. Dannenberg said that is correct. He said the one photo of a full parking lot that Ms. Dannenberg provided does not show that the entire parking lot is full and she said that is correct. She did not bring any photos showing the whole parking lot being full. Mr. Hoyt said in the event that Ms. Dannenberg's parking lot was full, would people double park in the exact same way as they do at Thompson Creek Liquors. Mr. Fleckenstein objected, saying this calls for complete speculation. Mr. Hoyt said he thinks the rules for testimony are a little more relaxed here, that there's been a lot of hearsay. Ms. Dannenberg said people cannot double park in her parking lot. Mr. Hoyt said there is another parking lot directly next to her shopping center for another business beyond the five businesses that are in her shopping center, which is a daycare center. Ms. Dannenberg said there are young children there. Mr. Hoyt said the daycare's website says they allow daycare in educational programs for children up to the age of 8. Mr. Fleckenstein objected, saying that is hearsay. Mr. Hoyt said the daycare holds itself as an educational facility, even referencing its own classrooms. Mr. Fleckenstein objected on the same basis. Ms. Dannenberg said it is a daycare. Ms. Jones asked Mr. Hoyt if he had proof. Mr. Hoyt submitted to the Board information from the daycare's website (The Kinder Garden). Mr. Hoyt then asked Ms. Dannenberg if she knows a gentleman named Keith Hutchins and she said, yes, that is her fiancé. Mr. Hutchins is the manager of the Vape Bird, he is not an owner. Mr. Hoyt said Mr.

Hutchins is not an owner but he represents himself to be an owner. Mr. Hoyt asked Ms. Dannenberg if she was familiar with Healthier Choices LLC and she said yes, that is the vape shop in Centreville, MD which is Vape Bird II. Mr. Hoyt asked her what do Vape Bird I and Vape Bird II share on the website. She said they each have individual space. Mr. Hoyt asked her if she is aware that if you follow the website link provided on Vape Bird II, that goes to Vape Bird I website. She said her son does the technical part of that. Mr. Hoyt presented to the Board a document titled, "Trade Name Approval Sheet" for Vape Bird II. He said on page 2 where it says "signature of owner (authorized title)" it is signed by Keith Hutchins, 356 Romancoke Rd., Stevensville, MD., for the Centreville location. Ms. Dannenberg said this is because they were starting Vape Bird II from Vape Bird I. Mr. Hoyt asked her if these two businesses are related and she said, yes. Mr. Hoyt said Ms. Dannenberg submitted an application which asked if any other person had a financial interest in this business and liquor license and did she disclose anyone else on the application. Ms. Dannenberg she is the only individual in the LLC and these are two separate entities. She said her fiancé will have no financial interest in this liquor license. Her application was today amended stating this application is for an LLC, not an individual, and the name is Hutch Vapes LLC. The "Trade Name Approval Sheet" was marked as Opposition Exhibit No. 1. Mr. Fleckenstein objected, saying this is a business entity that is not related to the subject application at all. Mr. Hoyt said this is a public record and Ms. Dannenberg identified the signature. The document was admitted into the record. Opposition Exhibit No. 2 was the webpage information for "The Kinder Garden" daycare center. Mr. Fleckenstein objected to Exhibit No. 2 stating it is hearsay, there is no way to determine if it is accurate. Mr. Hoyt entered as Opposition Exhibit No. 3 a newspaper article where Mr. Hutchins represents himself to be the owner of Vape Bird and Vape Bird II. Mr. Fleckenstein objected, it's a newspaper account and there's no way to prove the accuracy. Ms. Dannenberg said the newspaper also identified herself as the owner of another business that she had no part of. Ms. Jones said the Board recognizes that local newspapers are required to do due diligence and don't always get it correct. Opposition Exhibits No. 1, 2 and 3 were entered into the record.

Mr. Fleckenstein called Mr. Chakrana from Magnolia, DE as the next witness. He is the owner of the Carini's Pizza business in the shopping center and has been there for 10 years. He has had no problems with the Vape Bird business or their customers. He is in support of this application. He has a lot of customers that ask him if he sells alcohol and he believes there is a need for this license as the area is growing.

Mr. Fleckenstein called Ms. Jess Brinkley, 102 Howard Rd., Stevensville, MD as the next witness. She has lived on Rt. 8, on and off, for almost 30 years. She has currently lived there for 2.5 years. She is familiar with Ms. Dannenberg and her business. She is in support of this application. The area is growing and there is a need for this license. It will be convenient for people living in the area so they do not have to go onto Rt. 50 with the traffic problems. She occasionally shops at Thompson Creek Liquors and the parking lot is very congested.

Mr. Fleckenstein called Ms. Wendy Hutson, 322 William Way, Stevensville, MD as the next witness. She is familiar with Ms. Dannenberg and her business. She has lived on Rt. 8 for six years and is in support of the application. There is a lot of growth in the area and this license

will be convenient for people living in the area. She said there is no place to park at Thompson Creek Liquors and she has seen the parking lot completely full, with cars parked illegally. Ms. Jones said Thompson Creek Liquors parking has already been approved and that is not one of the factors for issuing this license. Mr. Fleckenstein said he is not suggesting that Thompson Creek Liquors is doing anything wrong or in violation.

Mr. Fleckenstein called Mr. Jeff Hutson, 322 William Way, Stevensville, MD as the next witness. He has lived in the area for 20 years. He is familiar with Ms. Dannenberg and her business. He said there is a need for this license and it would be convenient for people living in the area. He is in support of this license being approved.

Mr. Fleckenstein called Mr. Vincent Valentine, 627 Dominion Rd., Chester, MD as the next witness. He has lived there for 8 years and owns Shore Side Carpets in the same shopping center as Vape Bird and Carini's Pizza. He is familiar with Ms. Dannenberg and her business and has a good relationship with her. He has had no negative impact from her business or her customers. He is in favor of this license. It will be convenient with the current traffic issues. Mr. Hoyt asked Mr. Valentine if he is a customer of Vape Bird and he said he is not.

Mr. Fleckenstein called Ms. Gueler Stevens, 36F Queen Anne Way, Chester, MD as the next witness. She has lived on Kent Island for five years. She is familiar with Ms. Dannenberg and her business and is a customer. She is in support of this application for the same reasons previously stated by others. She thinks there is a need for this license to be issued, especially for those living down Rt. 8. She lives approx. four miles from Vape Bird. She shops at Thompson Creek Liquors and Friendly's and will continue to do so from time to time when it is convenient. Mr. Hoyt asked her what sort of products she would buy at other stores that are not available at Vape Bird and she said the vapes. Mr. Hoyt asked her if the alcohol products she would buy at Vape Bird are available at the other stores and she said, yes.

Mr. Fleckenstein called Ms. Kelly Eichelberger, 211 Railroad Ave., Ridgely, MD as the next witness. She previously lived at Queen Anne's Colony for two years. She is familiar with Ms. Dannenberg and her business. She is in support of this application for the convenience of people living on Rt. 8. She feels there is a need and the public will be served if the license is granted. She moved from Rt. 8 because of all the traffic and growth is increasing. Mr. Hoyt asked her where is the traffic gridlock she mentioned and she said Rt. 8, south. He asked her if people who live south of Vape Bird on Rt. 8 have to cut across that gridlock to get to Vape Bird and she said if you are heading north, yes, but if you heading home it is convenient to stop there. There are no traffic lights, turn lanes or merge lanes at the Vape Bird location. She believes the Board should approve this application.

Mr. Fleckenstein called Ms. Jennifer Kelly, 414 Calvert Rd., Stevensville, MD as the next witness. She is familiar with Ms. Dannenberg and her business. She lives 2 blocks from the store. She is not a customer of Vape Bird but is familiar with the businesses at that location. She is in support of this application. She said Thompson Creek Liquors is the only option on the south

side of Rt. 50, but it is not an option on weekends because of the gridlocked traffic. She said there is a need for this license and it will be convenient for those living in the area. She believes the Board should approve this application.

Mr. Fleckenstein called Mr. Michael Gruin, 101 Long Point Rd., Stevensville, MD as the next witness. He is familiar with Ms. Dannenberg and her business. He lives about six miles from Vape Bird and has been a customer for 3-4 years. He is in support of this application and feels it is a convenience to those living in the area. He said it is troublesome going anywhere on the Island with the traffic and construction. It would be convenient to get a pizza from Carini's and get alcohol at the same time. He said there is a need for this license and believes the Board should approve this application.

Mr. Fleckenstein called Ms. Kathryn Van Lew, 214 S. Carolina Rd., Stevensville, MD as the next witness. She has lived in Stevensville for 15 years and is familiar with Ms. Dannenberg and her business, is a customer and visits about two times a week. She is in support of this application because of the growth and traffic in the area. She also has a conversion van as she is disabled. When she goes to Thompson Creek Liquors where she most frequently shops, it is hard to get to. When she shops there she usually parks across the street against the curb like they do on the other side closer to Food Lion. If she pulls her van in the compact spots and a truck parks behind her, she is stuck. If she goes to the handicapped spots at Food Lion, then it's very hard for her to carry what she needs to carry back to her vehicle. She said there is never a parking issue at Vape Bird and the service is excellent. She does not see a problem with this license being approved. She feels there will be plenty of growth to support all the businesses selling alcohol. If Vape Bird does not carry the product she needs, she will continue to shop at the other stores. She believes the Board should approve this license and it will not hurt other businesses at all. Mr. Hoyt asked her if she parks in handicapped spaces when she goes to Thompson Creek Liquors and she said there are none. She has to park in the loading zone which is more than 20 ft. from the door of the store. Mr. Fleckenstein said this concludes the testimony of his witnesses.

Ms. Helen Bennett, 236 Dominion Rd., Chester, MD appeared as the next witness. She is not a customer of Vape Bird but she does go there frequently for nails and creams. She is a small business owner and Ms. Dannenberg is a customer of hers. She feels competition is good, she shops at all the small businesses. D'Alessio's Pizza is right next door to the middle school. Their parking is not equitable to their seating but they have a beer and wine license. She owns a pet shop and another pet shop opened less than a mile from her and they sell some of the exact same products. All the big box stores sell pet products and it's all about competition. She said she lives a quarter mile from her shop and she has to sit through four traffic lights occasionally to get there. Traffic on Rt. 8 is terrible and she feels it will only get worse. She does not think this is Ms. Dannenberg's problem, however. She is a small business owner and is trying to provide services that keep her competitive.

Ms. Jones asked Ms. Dannenberg when she was Tips trained and she said a couple months ago. She has two current employees and they were trained last week. She plans to hire a third

employee and he will also be Tips trained. Mr. McQueeney asked Ms. Dannenberg about the parking spaces at the shopping center where she is located. She said there are 22 spaces in front of the building but she was also deeded six more spaces in the other parking lot that are hers as well. Mr. McQueeney said his biggest concern is how will she get tractor trailers in there to do deliveries. She said right now there is an extra wide space in front of the building where they are coming. They also pull into the six spots in the other area. She said in the original layout plan, if there is a problem, she and the owner of the building have discussed parking in the back. This was an area the owner planned when he built the complex. She plans to have early morning deliveries in front of the six spaces to the right when there is nobody there.

Mr. Keith Hutchins, 211 McKay Rd., Stevensville, MD appeared as the next witness. He said there are two businesses that get deliveries by 18 wheelers. One is the carpet store and trucks also come in for Carini's. There has never been an issue. And there are the six spaces mentioned that can be used by 18 wheelers.

Mr. Fleckenstein asked Ms. Dannenberg if there is a portion of the property that is potentially available to the landlord to turn into more parking for the plaza, in addition to the 22 spots that are currently there, and she said, yes. Mr. Hoyt said there is an area for more parking but the ability to build new parking is not within her control, she does not own the property, and she said, no, but with the current situation and current deliveries the businesses work very well together. Mr. Hoyt asked if some of the deliveries are blocking access to current parking spots, there was a reference to six overflow spots that sometimes the delivery trucks will block in order to make deliveries. Ms. Dannenberg said these spots are essentially vacant, they are not used. He asked her about the wide strip they park in and she said the shoulder in front where UPS, Fed Ex would stop.

Mr. Beery asked Ms. Dannenberg to discuss her business plan again and the uniqueness. He asked what will set her apart from her neighbor two buildings up that also has a Class "A" license. She said she offers the vape products and would be catering to a lot of her current customers, this would be a convenience for them. She is also offering the ability to go right next door to Carini's Pizza, it is two businesses working very well together. Ms. Jones asked her if there is a certain type of alcohol that she plans to sell that is different from other local establishments. She said she plans to sell the higher end liquors, not the run of the mill products. Also she does not have enough space. She wants to sell what her customers want. Mr. Fleckenstein said she plans to be much smaller than Thompson Creek Liquors. She intends to have her products be mostly determined based on what her current customers want. She plans to carry a much smaller variety of alcohol than any other full service liquor store. This makes her store unique. Mr. Hoyt asked if the products she will sell can be purchased at other liquor stores on Kent Island and she said some possibly and some possibly not. She could carry a particular line of products that others do not sell. He said so the products she intends to sell will be tailored to her customers but not necessarily different from other products that can be purchased at similar stores. She said there will be similarities.

Ms. Jennifer DiDonato, 3091 Bennett Point Rd., Queenstown, MD appeared as the next witness. She is the licensee for The Winery. She said she is not against the applicant. She said everyone who spoke in favor, the only justification for this license was for convenience for people who live down Rt. 8. She feels that the traffic situation is going to be temporary. Her business has also been hurt by the traffic situation. She does not feel it is right to make a decision about a permanent liquor license based on a temporary construction issue. She said the Liquor Bd. has been issuing licenses to whoever asks for one and she feels too many are being granted for the amount of population on the Island. She said the delivery issue is going to be a huge safety factor. She does not see how tractor trailers are going to go in and out of that parking lot every day, several times a day. Sometimes she has three tractor trailers stacked up at a time making deliveries. These trucks are going to arrive on their schedule. Mr. Fleckenstein said Ms. DiDonato's store is approximately four miles from the Vape Bird and he asked her when she received her liquor license and she said 12 years ago. Mr. Fleckenstein asked her if she shops in the shopping center where Vape Bird is located and she said not frequently, maybe 5 of 6 times in the last year. She has never been there when a delivery was being made. She said it is difficult to get her SUV in and out there and she can't imagine how a tractor trailer could get in and out. She said the Vape Bird would not be a competitor of hers, that is not the reason for her concern. Mr. Hoyt said there used to be a vape shop next door to The Winery and did any of those individuals ever come to her store. She said she did not know for sure.

Mr. Steve Salkin, 116 S. Piney Rd., Chester, MD. appeared as the next witness. He has been the general manager at The Winery for 12 years and has been in the business for 20 years. He said you cannot tell a tractor trailer when it is coming to your store. You are on a schedule and it comes when it comes. There are also pallet trucks that make deliveries. They sell boutique wine at The Winery and you can't just call up your distributor and tell them you want a bottle of a certain high end wine, they are not going to sell you one bottle and they are not going to sell you high end wines until you have built up some sort of constant quantity that you are getting. He said the only way you can compete, especially on Kent Island because there are so many stores, is what they call "qd's", quantity discounts. If you want to compete with a boutique wine, they're going to say to you that you have a level 1 or level 2 and then you can buy five, ten or fifteen cases. On Kent Island, to compete with other people you have to buy the biggest "qd's" that you can. He does not see a need for this small store with all of the current stores we already have.

Mr. Warren Wright, Drug Free Coalition, 201 Myers Rd., Chestertown, MD appeared as the next witness. He said there's an outlet where you can buy alcohol for over a thousand people in Queen Anne's Co. He said traffic has been backed up on the Bay Bridge for 50 years. The Co. Commissioners have recently requested the State legislation to change the law so that traffic could stay on Rt. 50 if they are heading across the Bridge. He said what seems different to him about this application is that when he was driving back from Easton, he saw a sign that said "Vape Lounge", where you can purchase all the different varieties you want. Ms. Jones told Mr. Wright that whatever he testified to at a prior hearing is not part of this record so he may want to reiterate. Mr. Wright said the owners of the Vape Lounge are reputable and that we already have sufficient outlets for that. At the Vape Lounge you walk in and try the product. He said on

behalf of the Drug Free Coalition, how does liquor change that. Ms. Jones said if they wanted to change their license they would have to come in for another hearing to do so.

The Board entered as Board's Exhibit No. 1 a letter dated 1/1/20 from Thompson Creek Liquors.

In summary, Mr. Fleckenstein reviewed §4-210 of the Alcoholic Beverages Article. He said what public needs means is what is expedient, reasonably convenient and what is useful for the public. He believes Ms. Dannenberg has overwhelmingly provided the Board with evidence that there is a public need for this license. The landlord supports the application. Ms. Dannenberg is already his tenant so he is not just trying to get a vacancy filled. Several people have testified that there is a need for this license. The Board has seen the petition signed by mostly her customers that was entered as an Exhibit. Mr. Ober's email states that he is in favor of this license. Mr. Fleckenstein said the area is growing and that is a significant factor. There has been a lot of discussion about traffic and that is significant and plays into the convenience aspect. On the Rt. 8 corridor there are 273 residential units in the Bay Bridge Cove and 338 units in Ellendale. There is the SKI project which will make it easier for more residential construction. There are 283 units at Gibson's Grant. There is the Four Seasons development. It is on the other side of Rt. 50 but it is 1,079 residential units. He said Kent Island is growing in a way that not only provides a need for his client but for the Island as a whole. The population growth shows that her license is not going to be a significant impact on other license holders. He said there is a BP station close to Ms. Dannenberg that sells only beer and wine which is only a small part of their business. The Sunoco station also only sells beer and wine. So Ms. Dannenberg's liquor sales would not impact them at all. The Sunoco license was issued in September 2019 and is closer to Thompson Creek Liquors than Ms. Dannenberg. However, Thompson Creek Liquors has not indicated that that license has had any negative impact on them. Love Point Deli sells beer, wine and liquor but they are also a full service deli. No one from there has testified against this license. He said a large amount of residents on the Rt. 8 corridor are familiar with Thompson Creek Liquors and have said that parking in that plaza is very difficult and inconvenient and that is an issue for them. He believes this shows that there is a need for this license and that these businesses can co-exist. He said the Board is not being asked to approve a new full-scale liquor store, they are asked to allow an existing business to supplement their business and provide to their customers a limited, much smaller variety of beer, wine and liquor. It is 800 square feet, not the same size as a full-scale liquor store. It will not have the same hours as a full-scale liquor store. It is designed to address the needs of the local growing population. He said there are essentially four other existing license holders in the area if you count Love Point Deli. This is not going to be another huge competitive liquor store. It will be a much smaller scale. It is not Ms. Dannenberg's intention to offer 50 different varieties of vodka. It will be tailored specifically to her customers. This makes it very unique. There are no other shops like hers that have the ability to sell a small amount of beer, wine and liquor that she is asking the Board to approve. There has been no testimony that this license will have any negative impact on the health, safety and welfare of the community. The traffic situation is not the fault of Ms. Dannenberg or any other business in the plaza. Her co-business owners have a very positive impression on her. Her current business is not a problem and has

not had any violations or any criminal element. She has received commendations relative to the business. Her business could potentially alleviate some of the parking problems at Thompson Creek Liquors. Mr. Fleckenstein said when you look at all these factors, Ms. Dannenberg has met the appropriate burden. Ms. DiDonato stated that this license will not be competition for her. People who live in the area like Ms. Dannenberg and her business and they are saying there is a need for this license. No other local residents opposed this license and the testimony is overwhelming that this license is needed.

In summary, Mr. Hoyt said Ms. DiDonato and Mr. Salkin are speaking with a degree of expertise about the logistics of serving and accommodating the location in question. Their concern has to do with whether or not the location is suitable, the exact same reason this application was previously denied. He said the Board should take into consideration the rationale of two people with experience in this line of work and their concerns about flatbed trucks, 18 wheelers, etc. to deliver on the premises. The applicant is saying that when some of these delivery trucks come, they park blocking the six additional parking spots or other parking spots when they are occupied. New clients are going to take up parking spaces that are blocked by delivery trucks. There is nothing in place to accommodate future increases. The applicant does not own the premises and is not in a position to provide for those accommodations. The landlord has provided no testimony as to whether he will add parking or delivery in the rear. Regarding the impact on Thompson Creek Liquors, Mr. Hoyt said the letter submitted by them, in paragraph 4, indicates that new licenses do affect their business. He said testimony has been that there are a number of customers of Vape Bird that find this liquor license to be very convenient. There has also been a lot of testimony about other locations in the area and what they offer, as well as testimony about new housing developments. He said his line of questioning for the applicant in regards to traffic along Rt. 18 near Four Seasons and Gibson's Grant had nothing to do with traffic congestion there, it was simply to point out that if there are more convenient stores to go to, then you are probably going to go to them. The applicant is asking for a liquor license that is a 1.5 mile closer to the two closest beer, wine and liquor license holders for an enormous population of people living on the south side of Stevensville. Mr. Hoyt feels what they are arguing is consistent with what his concern is. One argument is that people want this license because there is not ample parking at Thompson Creek Liquors. There has been no testimony about Love Point Deli and whether or not there is insufficient parking there, but there was testimony that it is the exact same distance from the applicant's location as Thompson Creek Liquors. The argument that there is insufficient parking at Thompson Creek Liquors does not support the conclusion that there is a need for another liquor license. This only supports the argument that there is insufficient parking in the shopping center where Thompson Creek Liquors is located. That location was already approved for parking. The testimony by the individuals here today and their claims that there is inadequate parking is inconsistent with the owners of Thompson Creek Liquors, who point out that there is plenty of parking in the back if people prefer to use. If parking at that location is such a concern, why was there not one picture of the entire parking lot being full. Mr. Hoyt said he lives in Cloverfields and has never seen that parking lot full, but he does see people double parking which is done other places, too. People double park for convenience does not justify issuing this new liquor license. He said how is a specialty vape store that is only purchasing

inventory for the most part to accommodate the needs of its present customers going to accommodate the needs of all the other people who don't go to Vape Bird to buy alcohol who can't find parking at Thompson Creek Liquors. Either Vape Bird is going to have an inventory that is going to satisfy this overwhelming number of customers or they are only targeting their current customers. Mr. Hoyt then referred to §4-210. Regarding public need and desire, Mr. Hoyt referred to the letter submitted by Thompson Creek Liquors indicating that Queen Anne's Co. is almost triple the number per capita of liquor stores in the area. There's Bakers Liquors, The Winery, the drive-thru liquor store, there are numerous liquor stores and beer and wine stores on Kent Island. He said there is not a public need for this license. With the limited quantity of products they plan to sell, it's not going to satisfy a need. He said there is a desire and convenience of current vape product customers. He asked the Board to consider the letter submitted by Thompson Creek Liquors. Ms. Jones asked Mr. Hoyt if he is familiar with the "Kwon case" and he said yes. She said one of the things the Court said in the Kwon case was that the Board may not subvert the 'necessity' standard to use it to shield license holders from increased competition." She asked him how does the Board justify what he is asking it to do and just because it's going to be competition, doesn't mean it's not necessary. Mr. Hoyt said he is not disputing the Kwon case; but in regards to necessity he would ask the Board to take into consideration the arguments he has made in regard to the number of other license holders in the area and what the owners of Thompson Creek Liquors have asked of the Board. Regarding factor No. 5 under §4-210, impact on traffic and parking, Mr. Hoyt said one of the arguments being made by the applicant is that traffic on Rt. 18 is an issue. Now they are asking for a license that is going to draw a substantial number of people who cannot be accommodated by Thompson Creek Liquors at a location where it appears that traffic, parking and deliveries may be an issue. He said there has been nothing provided about what sort of measures have been put in place to accommodate these things, only that they're working OK right now. Deliveries are going to come when they come and they will block current parking. There may be delivery trucks parked on Rt. 8. If this business were 2-3 miles down Rt. 8, maybe there would not be this traffic problem. Mr. Hoyt referred to §27-1601 of the Alcohol Code and how close you can have a license to certain businesses. He said this will be a vaping and liquor store adjacent to a day care and educational center serving children up to the age of 8. There will be alcohol delivery trucks pulling up in front of the kindergarten. Ms. Jones asked him if he thinks a licensed day care center would fall under being conducted by a governmental agency and he said, no. Mr. Hoyt said he wanted to discuss vaping and Ms. Jones told him that this is not under this Board's purview. Referring to §4-210(b), Mr. Hoyt said just because current customers of vape products would also like to be able to buy alcohol at that location does not make it necessary to accommodate the public. And just because a liquor store at another location has parking issues does not mean that this business with a very small inventory of alcohol is going to solve the problem. Mr. Hoyt does not think the applicant has met the burden that it is necessary. Ms. Jones said the Court of Special Appeals in Kwon case states, "when accommodation is the ultimate goal, absolute physical necessity is not required. This is especially true when, as here, the accommodation at issue involves the location of a liquor store". It goes on to say, "we conclude that necessary in this instance means that the liquor license site will be convenient, useful, appropriate, suitable, proper or conducive to the public area". Mr. Hoyt said this case needs to be looked at in conjunction with the arguments made

about the location, as far as deliveries go, the amount of parking, the fact that there are 4 other businesses with their own employees and customers in this location.

Mr. Fleckenstein said the argument is that this is not a suitable location because of increased traffic. There is no testimony or evidence that this is the case. He said traffic is going to be an issue but the traffic that is an issue is not caused by his client's business nor by a liquor license being issued for this location. He said the County has already made a decision that the Ellendale residential unit, for instance, is OK to build. Also the SKI project allows for more development. So the traffic issue will not be caused by this license. It assists the people who will be moving to the area to be able to have a small establishment closer to them. There has been no testimony that this shopping center has any issues with safety and traffic as a result of the deliveries being made. He said the Board was not concerned about the new license issued to the Sunoco station a quarter of a mile from Thompson Creek Liquors. He said some who testified in favor today are Vape Bird customers and some are not, they are local residents who feel this will be convenient and there is a need for it. He said Thompson Creek Liquors was issued their license around 1992 and the population on Kent Island was a lot less then. Thompson Creek Liquors has survived and there is a market that is growing for all of these stores. He said the applicant does not sell to anyone under the age of 21 and she does not sell Juul products which goes to the character of his client. He said the day care center is private and not government sponsored. He said his client has established that this license is necessary to accommodate the public.

Ms. Jones said when this Board makes a decision for a license, it must follow §4-210 of the Alcoholic Beverages Code. If the things listed to deny a license are not found, then the Board has no choice but to approve the license. A motion was made by Ms. Jones, seconded by Mr. Beery, to approve the license. Mr. Beery said there are seven package store licenses on Kent Island currently, within a five-minute drive from this applicant's location. There are approx. 17 Class "A" licenses that sell beer and wine. Ms. Jones said she would justify the need based on the Kwon case because it is useful to the public. Unless or until this Board comes up with a population formula to approve licenses, if the factors are met and the Board acted otherwise, she said their decision could be overturned. The testimony has been that this applicant is a fit and reputable person to have the license. There has been ample testimony that this license will accommodate the public and no testimony to justify denying this application. Mr. Beery said there has been quite a bit of discussion on public safety about parking and delivery. He feels there are some issues concerning delivery. Ms. Jones said she feels the testimony was sufficient and there are already 18 wheelers making deliveries. A motion was made by Ms. Jones, seconded by Mr. Beery, to go into closed session to consult with Counsel to obtain legal advice on this matter. All members voted in favor.

The Board resumed in open session at 12:40 p.m. The Board had a closed session to obtain legal advice from Counsel. No decisions were made in that session. A motion was previously made by Ms. Jones, seconded by Mr. Beery, to approve the license. All members voted in favor. Ms. Jones thanked everyone for their comments. She said if anyone on the Board or anyone from the public wants to come up with a population formula to limit the number of

licenses, this would be considered. Mr. Thompson said with the way population is dispersed in the County, this will probably only work on Kent Island.

Mr. Warren Wright, Drug Free Coalition, appeared before the Board. He said at the meeting on January 2, 2020 with the Co. Commissioners, some legislative suggestions were made. He was pleased with the suggestion that to pour alcohol you must still be 21 years of age and Tips/Tams trained. He thanked the Board for their outstanding relationship with the Drug Free Coalition. Compliance checks are working well.

The Board discussed a future work session in February with Mr. Calmon, the new Liquor Inspector.

The Board discussed the draft Rules and Regulations Manual. There have been several work sessions to draft these and Ms. Jones thanked the Members for all their help. This publication will be dedicated to Mr. Dashiell in recognition of his over 25 years of service to this Board. Once adopted the Rules and Regulations will be placed on the County website. All licensees will have to sign a copy of these Rules saying that they received and reviewed them, will adhere by them and keep a copy on site. This manual contains the most commonly asked questions or issues that arise. The website also now contains a link to all the licenses. A motion was made by Mr. Beery, seconded by Mr. Hibbard, to approve the Rules and Regulations Manual. All members voted in favor. Mr. Thompson said there are some minor things he wants to correct that will not be substantive changes. Ms. Jones said any approval today is conditioned upon any typographical or formatting issues that will not affect the substance of the Manual.

Mrs. Jennifer DiDonato, license holder of The Winery, appeared before the Board to discuss delivery. She asked if she has someone 18 years of age employed to stock alcohol, is that person allowed to go on a delivery with a person that is 21 years of age to pick up a keg, for instance. Ms. Jones said the 18 yr. old cannot be in possession of alcohol in a vehicle by themselves but they could assist someone who is 21 years of age.

Mr. Andy Schulz, license holder of The Crab Deck, appeared before the Board. He asked if he has a corporate group at the Crab Deck during a fishing tournament and they want 20 cases of beer on the boats, is this legal. Ms. Jones said it depends if the boat slips are covered under his licensed premises. Mr. Thompson said a Class "B" license does not cover "deliveries" because off-premises is not allowed. However, Mr. Schulz has a caterer's license which would cover this situation.

The Board discussed proposed legislative changes that were submitted to the Co. Commissioners on January 2, 2020. Mr. Thompson referred to §27-1403. He said the Co. Commissioners are going to address the 15% rule at another special meeting later this month. One of the provisions that was deleted from this Board's version, concerning a corporation or club, the issue was you didn't have to be a resident of the County but you had to be a resident of the State of Md. Because of a Supreme Court case, you don't have to be a resident of the State of Md. He said a number of licenses have been issued over the years to applicants who

are not a resident of the County but are residents of the State of Md. If the Board strikes that statement that they are not required to be a County resident, it's going to fall back to the default provision which says they do have to be a resident of the County. A motion was made by Mr. Beery, seconded by Mr. McQueeney, to authorize Mr. Thompson to make this clarification. All members voted in favor.

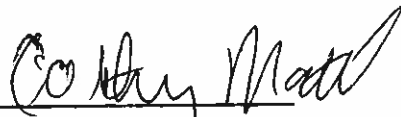
The Board discussed the complaint process. Ms. Jones said if any Board member or employee receives a complaint, it has to be reduced to writing.

The Board discussed the delivery process for Class "A" licenses. Mr. Beery said he feels there should be a nominal fee that covers the cost of following up on this. Mr. Beery made a motion, seconded by Mr. Hibbard, for a fee of \$10 a month, or \$120 a year, pro-rated. All members voted in favor. This would be an annual fee due at license renewal, pro-rated at anytime during the year at \$10 a month. This delivery permit fee will be included on the 2020 renewal application. An approval letter from the Board's Chairman will also be given to the license holder. This new delivery fee will become effective May 1, 2020 at the time of normal license renewal for license holders who currently have Board permission to deliver. Mrs. DiDonato said most of her deliveries are for weddings. She has a previous letter dated June 9, 2009 giving her permission to deliver. However, she requested that this letter be updated. Ms. Jones reviewed the new requirements for deliveries and Mrs. DiDonato said she understood these. A motion was made by Mr. Beery, seconded by Mr. McQueeney, to approve Mrs. DiDonato's request for The Winery to do deliveries. All members voted in favor. A revised approval letter will be sent to Ms. DiDonato.

The Board discussed the budget. Mr. Beery said he will follow up with John Shelton at Planning & Zoning.

There being no further business the meeting was adjourned to meet again on Tuesday, February 4, 2020.

Respectfully Submitted,


Cathy Maxwell, Clerk


Joyce E. Jones, Esq., Chairman