



Town of Dennis

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766 Route 6A U-3

ZBA SPECIAL PERMIT OUTDOOR DINING STAFF REVIEW – June 15, 2025

APPLICANT:	Paul W Sullivan Trustee C/O Adam Dunn of Baleine Wine Bar
PROJECT ADDRESS:	766 ROUTE 6A, Unit U-3, DENNIS, MA 02638
MAP AND LOT NUMBER:	351-7-3
APPLICANT ADDRESS:	905 Main Street, Dennis, MA 02638
CASE NUMBER:	ZBAS-25-18
ZONING:	The project is in the Limited Business District and Old King’s Highway Historic District. The rear of Dennis Commons in the R-40 abutting the Cape Playhouse Campus.
HEARING DATE:	June 23, 2025

1. Project Summary;
2. Actions Requiring Findings
3. § 1.4.2.1 Special Permit Granting Authority – Criteria and Proposal
4. Town Department Comments
5. Proposed Conditions

OVERVIEW	<ul style="list-style-type: none"> • As of April 1, 2024, all outdoor dining installations that were allowed by the State during the COVID Pandemic must seek and receive a Special Permit from the ZBA for the continued use of this outdoor dining. Per the Massachusetts ABCC 2nd Advisory on the expansion of Patio Service (March 30, 2023) “Licensees that seek to continue patio/outdoor service after April 1, 2024, are encouraged to apply in the ordinary course for an alteration of premises with their local licensing authorities. Otherwise, these amended licenses automatically revert to the status prior to the approval of the expansion of outdoor service as of April 1, 2024.” • Harvest Gallery previously occupied the space that is now Baleine Wine Bar. Harvest created the outdoor dining during the Covid 19 pandemic but did not procure the ZBA Special Permit last year when the law changed. • The current owners of the space are looking to get all necessary permits. • The Licensing Board approved the indoor alcohol and entertainment license from 10:00 am to 1:00 pm but added “<i>Baleine is scheduled to return to the Select Board on August 12, 2025 for approval of an outdoor entertainment license, pending the issuance of a Special Permit allowing for outdoor dining and outdoor entertainment by the Zoning Board of Appeals</i>”. This is different than outdoor permits last year.
PROPOSAL	Request to provide outdoor dining for up to 24 seats outside on an existing patio.
PROJECT SUMMARY	<ul style="list-style-type: none"> • The restaurant has a seating capacity of 48 guests. • The request is to transfer up to 24 seats (6 tables) outside to an existing patio. • With the extension of outdoor dining there shall be no change to the existing capacity to allow seating outside for table service on days with nice weather.

	<ul style="list-style-type: none"> • The owners of Baleine have decided to discontinue hosting live bands as part of their regular programming. The Applicant describes what they want to create as a <i>“welcoming and relaxed atmosphere with low-volume, ambient music on our patio. For example, we have a reggae vinyl DJ scheduled on Sundays from 5–9PM, with music currently playing only inside the space. We’d like the flexibility to allow that music to extend softly onto the patio so guests seated outdoors can enjoy the same experience — nothing amplified to disruptive levels, no subwoofers, and no intent to create a party-like environment”</i>. • Applicant intends to comply fully with the town’s existing noise ordinance, which allows outdoor sound until 10PM. • The Town of Dennis has a Noise bylaw § 134 that makes it <i>“unlawful for any person or persons... to cause or suffer or allow any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument or reproducing device or instrument or in the playing of any band, orchestra, musician or group of musicians or in the use of any device to amplify the aforesaid or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise, where the noise is plainly audible at a distance of one hundred fifty (150) feet from the building, structure, vehicle or premises in which or from which it is produced</i> • However, it does not apply to establishments licensed under MGL Chapter 138 regulating the manufacture and sale of alcoholic beverages. • Massachusetts Department of Environmental Protection (MassDEP) has a noise policy (310 CMR 7.10) that considers a violation to be a source increasing the ambient sound level by more than 10 dB(A) above background noise...
REQUEST	Special Permit for expansion of a restaurant in the Resort Residential District per 2.2.2.5.d (Use Regulations Schedule – Commercial Uses – Restaurant) prior to processing the licensing request.
PLOT PLAN	No site plan provided
BUILDING PLANS	Floor plans (not stamped) show 6 tables with four seats each on an outdoor terrace.

§ 1.4.2.1 To hear and decide applications for special permits upon which the Board is empowered to act under this By-Law pursuant to M.G.L. ch. 40A. Special permits may be granted only upon a finding by the Board that the proposed use will not create a nuisance, hazard or congestion, or other significant harm to the neighborhood, nor cause derogation from the general purpose and intent of the By-Law, the stated district intent or applicable use criteria. It shall be the responsibility of the applicant for any special permit to show, to the satisfaction of the Special Permit granting authority, that the following criteria are met:

- a. The use is allowed by special permit in the district in which proposed, pursuant to §2.2.2 - Use Regulations Schedule; **The site is a restaurant and will continue to be used as such.**
- b. Suitability of the site for the proposed use in light of the applicable district intent, as provided in §2.1.5; **Restaurant uses are allowed within this district by Special Permit. Use exists and outdoor seating was allowed by Covid rules which have expired. Restaurant wished to continue outdoor dining.**
- c. Adequacy of management of traffic flow within the site as well as in relation to adjoining streets and properties, so as to minimize unsafe or harmful impacts of the use; **Proposed alterations are not supposed to increase capacity and therefore will not increase traffic to the site.**

- d. Compatibility of the proposed use with surrounding land uses, so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values; **Site is zoned commercial but is in the Village of Dennis and should be operated such that it respects the nearby residences.**
- e. Adequacy of provision of utilities and other necessary or desirable public services; **The addition should not increase the need for utilities or other public services.**
- f. Adequacy of control of artificial light, noise, litter, odor or other sources of nuisance or inconvenience to adjoining properties, public ways and neighborhoods; **The establishment has a few residential neighbors nearby and the primary indoor use has existed for many years. The outdoor dining should be conditioned to not create a nuisance with the possibility of a revocation of the Special Permit if it is found to generate light, noise, litter, odor or other sources of nuisance.**
- g. Adequacy of protection from degradation and alteration of the natural environment, including but not limited to slopes and other topographical features, vegetation, wetlands, groundwater and water bodies and wildlife habitat. **The patio is in an established developed complex in the village and should not degrade the natural environment. Nearby neighbors have expressed concern with noise at night.**

TOWN DEPARTMENTS COMMENTS:

- **PLANNING:**
 - Outdoor seating was in place during the COVID emergency, the proposal would be to allow the continued use of outdoor seating when weather allows. There will be no additional seating as a part of the application, just the ability to move seats outside.
 - Per Section 2.4.1.2 F there are no modifications to the site that require a finding of substantially more detrimental.
 - The Applicant might consider placing speakers for the *relaxed, low-volume, ambient music on the patio* on the perimeter of the patio facing the building to reduce sound from spilling off the property.
- **ENGINEERING:** As long as separation to parking is deemed safe and area meets accessibility requirements, Engineering has no comment.
- **NATURAL RESOURCES:** Not in Conservation jurisdiction.
- **HEALTH:** Establishment licensed for a total of 48 seats total - indoor and outdoor.

PROPOSED CONDITIONS	<ol style="list-style-type: none"> 1. The lot owners shall apply for all required permits and will comply with the intent of the Dennis Stormwater By-law, all requirements of the Dennis Conservation Commission and Board of Health and any other permits that are required. 2. The outdoor dining shall not generate new light, noise, litter, odor or other sources of nuisance. Any new lighting shall be restricted to downward-shielded motion sensitive security lighting that is “Dark-Sky” compliant. 3. Failure to comply with all conditions in the Board of Health permit and the nuisance condition above shall be deemed cause to revoke the ZBA Special Permit. 4. The patio and its access must be ADA/ABA accessible. 5. There shall be no outdoor dining service or music or other noise audible off the premises after 10 pm. 6. Every effort should be made to ensure the entertainment and dining in the outdoor dining area is not audible off of the Dennis Commons property during service hours. 7. There shall be no increase in restaurant seating as a result of the addition of outdoor seating area.
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