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March 13, 2023

Jason Bridges, Select Board Chair
Nantucket Select Board
16 Broad Street, 1st Floor
Nantucket, MA 02554
jmbridges@nantucket-ma.gov

Re: Straight Wharf Fish Market, LLC
d/b/a Straight Wharf Fish Market
4 Harbor Square, Nantucket, Ma.02554, Map 42.2.4, Parcel 1,
Application for a New Common Victualler with Wine and Malt Beverages
and Cordials Restaurant Licenses and Non -Live Entertainment License in a
proposed new 62 seat restaurant.

Dear Select Board:

Please be advised that I represent Charles and Ann Johnson, Charles and Helen Schwab and Susan Burke, whom are all owners of cottages on Old North Wharf, which as you know is one of the most original and most photographed sites on Nantucket Island. We submit that the applicant's request for a common victualler with wine and malt beverages licenses and non-live entertainment licenses for a new 62 seat restaurant with outdoor and indoor seating in a building which was formerly a retail fish market and ice cream store should be denied, This proposed new restaurant is within eighteen inches of Mr. and Mrs. Johnson's cottage "Omega" and extremely close to the Nautilus and Zena's Coffin cottages owned by Mr. and Mrs. Schawb and the Constitution and John Jay cottages owned by Susan Burke. If granted these licenses will substantially interfere with my clients' peaceful residential use of their property: a use which is guaranteed to them by Nantucket zoning laws which classify Old North Wharf as Residential Old Historic (ROH). See attached zoning map.

Please be aware that this application is in contradiction to the description of the premises on the building permit application obtained to renovate and expand the premises which stated that their use would be "retail." The applicant should not be granted licenses for a new 62 seat indoor and outdoor restaurant with wine and beer and entertainment at a site whose total renovation was completed under the false representation it would be a retail store and the renovations would be limited.

The proposed transformation would destroy the ambiance and peaceful nature of Old North Wharf and further contribute to the change in character of the Nantucket Waterfront from an historic site to a mecca for multiple rowdy bars and restaurants.

The Courts of Massachusetts have decided the criteria you must consider in determining whether a pouring and entertainment license should be granted in the case of Ballarin v. Licensing Board of Boston. The requested licenses do not meet the Ballarin criteria as follows:

1. The Appropriateness of a Liquor License at a Particular Location

The location is inappropriate for a liquor license. Charles and Ann Johnson have a residence approximately 18-inches from the proposed new restaurant which is seeking outdoor and indoor seating. Charles and Helen Schwab have residences just across from the Johnsons, Susan Burke's two residences are just behind the Schwab's. At least a dozen residences are within 200-feet of the proposed establishment. If a sit-down restaurant with 62 seats including 14 outdoor seats, and indoor and outdoor entertainment is allowed, my clients will effectively be deprived of the peaceful enjoyment of their residences by the loud noise that will surely result.

The proposed use represents a significant change of use with increased capacity from the former operation of a retail fish market and ice cream shop.

Further, the issuance of the proposed licenses will generate increased traffic, noise and overflow of patrons on to Old North Wharf that is detrimental to the abutting residential areas.

As highlighted in Attorney Alger's letter, the Applicants have not obtained the required Special Permit for a Major Commercial Development (MCD) from the Planning Board, and as such, the abutting property owners in the area have had no ability to voice these concerns from a zoning, land-use and planning perspective.

There are already five establishments within 350-feet of this location at which food, and beer and wine may be obtained, viz: Cru, Straight Wharf, The Tavern, The Gazebo & Backyard BBQ. There is absolutely no need for another licensed location on Straight Wharf. Granting of other licenses associated with a new restaurant is not in the public interest. Weighed against the detriment to the long existing residences at Old North Wharf, they should be denied.

You as select board members should consider what Nantucket town wants to be: an historic picturesque, unique, beautiful waterfront or a commercial destination focused on serving food and liquor to tourists including the many day trippers who are currently descending from the numerous daily ferries. Old North Wharf, originally built in 1723 is one of the four historic wharves in Nantucket Harbor. 200 years ago, the slips at the end of the Old North Wharf were used by Nantucket's famous whalers. Its residences have been preserved in much the same as their original condition. Residents have already been forced to hire a security guard to patrol the wharf because of the disturbance from the adjacent existing bars and restaurants on Straight Wharf. Attached are graphics for your review which depict the proximity of residences to the proposed new restaurant. This Board should not allow yet another disturbance to the residential peace of this historic site.

2. The number of existing dispensaries in Town

The application utterly fails under this criteria. Our small island already has a shocking number of 85 licenses. According to the Staff report provided to the Select Board, there are currently:

Annual On-Premise Licenses: 44

Seasonal On-Premise Licenses: 41

One more recently approved for Surfside, LLC at 2 Broad Street. 86 Licenses is more than enough to serve an island which is fourteen miles long and three and a half miles wide.

3. The views of the inhabitants of the locality in which the license is sought

The licenses are sought for a building that is only separated by 18 inches from the historic residential cooperative community of Old North Wharf who has voiced its opposition jointly through its counsel and individually through many of its residents.

4. Traffic, Noise and Size

A new 62 seat restaurant on an already overly crowded Straight Wharf will generate more traffic and noise in an already congested area. The request for outside seating and entertainment are totally inappropriate considering the proximity to the Old North residences and will interfere with the residents' use of their homes. The traffic in the area is already congested and parking impossible. The back up of cars in the area already has created a dangerous condition in light of the expanded Hy-Line service. 62 more restaurants will add to this congestion, traffic and parking problem and should not be allowed. You should consider that even the applicant cannot deny the effect of 62 more restaurant seats on traffic and parking as they submitted no traffic study or parking plan in support of their application.

5. The sort of operation that carries the license.

The applicant is seeking to change a quiet retail fish and ice cream take out store to a bustling 62 seat restaurant with 14 outdoor seats and an entertainment license. This is a significant change which will be deleterious to the adjoining residential neighborhood. If it is to be a family style restaurant as the applicant states, no bar and wine or entertainment licensees are necessary or appropriate.

6. The reputation of the applicant

Upon information and belief, the applicant has long had a lease or promised lease with Nantucket Island Resorts (NIR) to operate the premises as an indoor/outdoor 62 seat restaurant. Accordingly, the applicant was aware of the misstatements on the building permit application which was obtained under the guise that the premises would be used as retail store and that the renovations would be minimal when in fact the scope of the work constituted a total renovation of the premises. Once this

massive misrepresented reconstruction was completed, the applicant then proceeded to place this matter on for hearing, giving the statutorily required notice to abutters only days before the scheduled hearing. Mr. and Mrs. Johnson only received their required notice three business days before the hearing. Under these circumstances the applicant's character does not support the issuance of the license.

With respect to the request for an entertainment license, we submit that the issuance of such a license would unreasonably increase the area noise level and unreasonably increase the foot and vehicle traffic and parking in the area and therefore does not meet the statutory requirements of G.L. c. 140, s. 183A. We urge you not to allow the application for an entertainment license in this formerly retail store 18 inches from our client's residence.

In sum, we urge you to deny the applicant's requests for a common victualler, beer and wine and entertainment licenses so that the premises can properly be used as a retail store as it has been for years and as represented on the building permit application.

Finally, we request that any approvals you might consider giving be conditioned upon the applicant receiving the zoning and or planning relief necessary for a major commercial development (MCD) that are clearly necessary given the size and scope of NIR's commercial holdings on the wharfs.

Very truly yours,



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With Email Copy To:

C. Elizabeth Gibson, Town Manager
Erika Mooney, Operations Manager
Amy Baxter, Licensing Administrator
Sarah F. Alger
Kevin Burelson, Manager, Straight Wharf Fish Market
Gabriel Frasca, Manager, Straight Wharf Fish Market