

SWATARA TOWNSHIP
BOARD OF COMMISSIONERS

PUBLIC HEARING-LIQUOR LICENSE

SEPTEMBER 7, 2016

The Swatara Township Board of Commissioners held a Public Hearing on a Request to Transfer a State Liquor License on Wednesday, September 7, 2016, at 7:10 PM at the Swatara Township Administration Building, 599 Eisenhower Blvd., Harrisburg, PA 17111.

Members of the Board present were: Commissioners Boudier, Chiavetta, Connolly, Milakovic, Moyer, and Troxell. Commissioner Varner was absent. Also present: Manager LeBlanc, Assistant Manager Kaufman, Solicitor Wyland, Chief Umberger, and Secretary Rubinic.

Troxell:

This is the Public Hearing on Rutter's request to transfer a liquor license to 8210 Derry Street.

If you have a presentation for us, you're welcome to use the podium.

Heim: My name is Larry Heim and I'm a lawyer from York representing Rutter Brothers, DCS271921, Dauphin County Store #27, a wholly-owned subsidiary of PHR Corp, which is a wholly-owned subsidiary of Rutter's Holdings Inc., which you know as Rutter's Farm Stores. We are here seeking municipal approval to transfer the license that's in safekeeping originally, Harrisburg, Hampden Township, and transfer it to our Store at 8210 Derry Street. Your approval this evening does not mean it occurs--it simply gives us the right to make application for the transfer. What we are doing is we are modifying existing stores, that a section of the store will be the premises licensed by the LCB. We're originally only intending to sell beer, even though this license would allow liquor. Now since Act 39 recently passed, that also allows wine to be sold and we will probably would like to do that as well. All the employees will be RAMP certified, which is the Responsible Alcohol Management Program run by the LCB. It is required that all Managers be RAMP certified, but we are extending that to all employees as well so that the store may be certified. The operation of the licensed part of the premises will be from Monday through Saturday from 7 AM to 2 AM the next day, and Sundays from 9 AM til 2 AM on Monday. Rutter's stores are 24/7, so outside of those hours, we have "beer caves", specially custom-made refrigerated units, which will be locked down during the hours when alcohol is not allowed to be sold. Takeout would be sold at the legal limit of 192 fluid ounces, which is 2 six-packs of 16 ounces or 6 quarts in any transaction. Single bottles and cans can be purchased and consumed on the premises, but we are limiting it to one drink. The reason for that is there was a Sheetz case a number of years ago, the issue went to the Supreme Court, where Sheetz didn't want to allow any in-store

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consumption, and the Supreme Court said no when you're not a retail dispenser. So we intend to satisfy that by allowing one beer to be consumed on the premises--you won't be allowed to buy a six-pack and sit down. We feel comfortable with that because Liquor Control enforcement says impairment starts with the first drink.

We will be offering a full menu--as a restaurant liquor license we have to have food and seating for 30.

[Attorney Heim presented a copy of a proposed menu and a flyer about the RAMP training to the Board]

[Attorney Heim also presented a sample floor plan showing changes made within the Store]

We take the existing footprint and demark an area which will have the counterspace and a register which can only ring up alcohol. So if the alcohol was taken to any other registers it wouldn't come up. So everything's controlled in here. The seating is here. The area, if you've been in any of the Giant's or Wegman's, you'll see these bollards--we don't have to put walls up--the LCB regulations allow separation of no more than 10 feet and bollards 4 feet high. It will be a clearly demarked area. [Indicating the plan] This is the beer cave I was talking about, and a walk-in for storage; and these are just cases--only beer, there won't be any milk products or anything like that sold--just alcohol. And the wine is just brand new--that would have to be a separate area and there's whole bunch of regulations on wine sales.

Troxell:

So you don't really see yourselves doing wine and beer right off the bat?

Heim: We've put in two applications so far, but they're just sitting there. We have to come up with a plan that meets all the regulations. But wine can't be consumed--that's take-out only. And there are a bunch of regulations attached to that as well. And with that I'd be happy to answer any of your questions.

Troxell:

Any questions from the Board?

Chiavetta: It's amazing how easy they're making this now after pushing all this to not drink and drive. Back when I was 21, years ago, you had to wait and go in a bar or a beer distributor. And now you look at the places at the beach in other states. The Chief brings it up every meeting how many DUI's there are; and here it's being so easy to get now. Nothing against you--I'm just giving a piece of my mind.

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Heim: Well, they won't be getting a DUI from drinking at Rutter's.

Chiavetta:

No I understand that; it's just the principle.

Heim: Yes, Act 39's the biggest revision to the Liquor Code since Prohibition...
[Comment not picked up by microphone]

Chiavetta:

Well, they did it for years--trying to do away with the Liquor Board, aren't they.

Heim:

Yes, they still are.

Troxell:

Any other members have a question or comment?

Connolly:

On the interior seating and the beer cave case, I assume you have to be 21 to go in there. Can somebody go in there with their children?

Heim: The same as a bar. You have to be accompanied by someone, if it's not your parent, it has to be someone 25 years or older.

Connolly:

So that's going to be asked or there's a person there that's going to.....?

Heim: Oh yes. As a matter of fact we're required now, with a wine permit, we're required to have a scanner to scan the licenses. That's required now and they have to scan anyone that looks under 35.

Connolly:

Do you have this type of operation in any other state that allows this?

Heim: Rutter's is only in Pennsylvania. We have 4 approved now--Mercersburg is a new store that just opened last week--but we had it on prior approval now we

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have to get the agent back to inspect the premises. So we don't have any that are operating yet.

Connolly:

Yesterday I was coming back from Maryland and I stopped at the Sheetz before Mt. Saint Mary's and it has this similar setup. I don't drink alcohol so I don't really know, but the place was packed and they actually had a refrigerated section that was alcohol only.

Heim: Yes, it's the same thing on the diagram; it's just that we call it the beer cave. Interestingly, in my area I have probably five minutes from my house a Giant and a Weis, both with these areas. I'm there all the time and I have never seen anyone sitting at those tables and drinking ever.

Connolly:

Yes I saw people getting hot dogs and fountain sodas--it didn't seem separate there.

Heim: If you'd look, you'd find bollards every 10 feet, 4 feet high. That's the standard.

Connolly:

And you're doing the seating just to meet the requirement; you're not expecting people to be there that long.

Heim: Yes, it's the same qualification for any restaurant or eating place licensing. You have to have seating for 30 and food for at least 30, that's the minimum. And because of that one Sheetz case, you have to allow consumption on premises. Our plan is tailored to meet those requirements.

Troxell:

Any other questions? I do have a few questions.
Do you anticipate this taking more personnel or creating more jobs for people?

Heim: Yes, I think it will because we'll need people just to be on that side of the store. It's basically another store within the store. You can't take a six-pack and go to another register. One, we wouldn't let you and two, they couldn't ring it up.

Troxell:

And one last question for the Police Chief--what's your read on this--knowing

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the location of the facility? It's a pretty unique area as far as where you can get alcohol.

Chief: As an apolitical person... My initial thought would be it's all very new here in Pennsylvania. I don't really have any experience as a law enforcement officer with alcohol being sold in stores, like is going to start to happen. I would imagine there will be people that will take advantage of that, but like the gentleman said you can't consume any more than one drink on the premises. Do I think that people may walk to that establishment and walk out and drink on the way, on the road, which would be illegal--possibly. Will they get into their vehicles and start drinking--possibly. That would be my best guess on human behavior. And that would hold true for any establishment.

Heim: I'm not sure--do you have an open container law?

Chief: We do--you cannot drink alcohol...

Heim: Because I've heard that in some meetings--21-year-olds would come in get a six-pack and sit in the parking lot. So first of all we won't allow this on our property and second, it's a violation of your ordinance. If they disregard our rule, we call the police because we don't want that.

Connolly:

I
'm going to look at it as a positive that these people take alcohol home and drink it rather than sit in a bar or restaurant and have too much to drink. Do you have any studies on that or no since it's so new in Pennsylvania.

Heim: It's pretty much everywhere but Pennsylvania. It's really Sheetz and Giant that were the pioneers of this--those early cases paved the way for the rest. It was fought very vigorously by the Malt Beverage Dealers Association who took every case as far up the ladder as they could--they lost every one. They recently were granted [????] on their last challenge, but Act 39 booted it; it was just dismissed.

Wyland:

I
want to note for the minutes that this was advertised twice as per the requirements. It's also advertised as a Public Hearing; we're supposed to allow for any residents who have any comment the opportunity to comment on this before we take a vote.

Troxell:

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Thank you. Are there any residents who have a comment--feel free to come up. Just give us your name and where you live.

Petronio: My name is Jill Petronio and I live on Chambers Hill Road. My concern is, I live up the hill from that Rutter's and the underpass from the railroad tracks on Milroy. My question is how are they going to--say you have a 21-year old serving a 35-year old who has been drinking. How are they going to be certified or know that they should not serve alcohol to people who are already intoxicated? My fear is that when they are and they come up my road, there go my taxpayer dollars going out for all the accidents. What kind of training are they going to do?

Heim: RAMP stands for Responsible Alcohol Management Program. It is put on by the LCB and is a special course for owners and managers. All our people have gone through it already. We have hired our own certified trainer to go through it with every employee of the licensee. Part of that training is recognizing signs of visible intoxication. In Pennsylvania it's not legal intoxication; it's visible intoxication. Unless you give a breathalyzer you're not going to know what their legal intoxication is, but there are certain signs--staggered gait, slurring speech, blurry eyes, boisterous language. There's a whole program that our people have gone through or are going through it now.

Troxell:

Any other questions?

Heim: Another thing I should mention too--the under 21 issue. One of the things we will have is that scanning device and one person in charge of that and they are required to scan. What happens is that in Pennsylvania now they have a very active sting program going on in patrol enforcement. Usually it's a very attractive, nicely dressed and made-up 19 or 20-year old who comes in and if they ask for ID she hands a card that says I'm not 21. Behind her is an agent and if she is served, that's it. They do that a lot--it's very actively policed.

Troxell: Thank you. We will have discussion on this under Item 19 on the agenda. We will now return to the Regular Meeting. The Public Hearing was closed at 7:25 PM.



Dolores M. Rubinic, Township Secretary