

APPROVAL WITH CONDITIONS

RESOLUTION OF THE TOWNSHIP OF WYSOX  
NO: 2015-10

**A RESOLUTION OF THE TOWNSHIP OF WYSOX, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA APPROVING TRANSFER OF A RESTAURANT LIQUOR LICENSE: NO. #R16834 FROM EDGEWOOD BUSINESS PROJECT II, INC. OWNED BY RANDY B. WILLIAMS CURRENTLY HELD AT PROPERTY LOCATED AT 565 ELMIRA STREET, THE BOROUGH OF TROY, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA TO THE TOWNSHIP OF WYSOX, 30023 ROUTE 6 WYSOX, COUNTY OF BRADFORD, PENNSYLVANIA DANDY MINI MART CONVENIENCE STORE ALSO KNOWN AS DANDY #74 OWNED BY RANDY B. WILLIAMS**

WHEREAS, Act 141 of 2000 (“the Act”), which amends the Commonwealth’s Liquor Code, authorizes the Pennsylvania Liquor Control Board to approve, in certain instances, the transfer of restaurant liquor licenses across municipal boundaries within the same county regardless of the quota limitations provided for in Section 461 of the Liquor Code, if sales of liquor and malt or brewed beverages are legal in the municipality receiving the license; and

WHEREAS, amendments to the Liquor Code stipulate that, prior to adoption of a resolution by the receiving municipality, at least one hearing be held for the purpose of permitting interested parties to state their concerns regarding the transfer of a liquor license into the municipality; and

WHEREAS, said hearing was advertised in the Daily Review on November 3, 2015 and November 8, 2015.

WHEREAS, an application for transfer filed under the Act must contain a copy of the Resolution adopted by the municipality approving the transfer of a restaurant liquor license into the municipality.

**NOW, THEREFORE BE IT RESOLVED THAT**, Randy B. Williams, owner of Edgewood Business Project II, Inc. is requesting the Approval of the transfer of a restaurant liquor license: No. #R16834 from Edgewood Business Project II, Inc. currently held at property located at 565 Elmira Street, the Borough of Troy, County of Bradford, Commonwealth of Pennsylvania to the Township of Wysox, 30023 Route 6 Wysox, County of Bradford, Pennsylvania, Dandy Mini Mart convenience store also known store #74 owned by Randy B. Williams. Stating that said transfer must be approved at a later dated by the Pennsylvania Liquor Control Board.

**BE IT FURTHER RESOLVED**, that the Board of Supervisors of the Township of Wysox, has held a public hearing on November 16, 2015 to receive comments on the proposed liquor license transfer and after consideration of the issues, finds that the transfer of a Liquor License into the Township of Wysox will result in job creation; preserve an historic building revenue enhancement and dining accommodations for the residents and visitors of the Township of Wysox, all of which will substantially benefit the local economy and residents, and will not adversely affect the welfare, peace and morals of the municipality or its residents provided the liquor license is subject to the conditions based on the testimony of the applicant; and

## APPROVAL WITH CONDITIONS

**BE IT FURTHER RESOLVED** that the Township of Wysox approves, by adoption of this Resolution, the proposed transfer Liquor License No. R16839, into the Township of Wysox to be located at 30023 Route 6 Wysox, Pennsylvania subject to the condition that Liquor License No. R16839, transferred hereunder shall be subject to a re-hearing before the Board of Supervisors for: (i) any change of use related to the business operated in connections with such license; (ii) any transfer within the Township to another location within the Township including, but not limited to, another building or premises; and that it will not submit an application to transfer the license to a new location within the Township, unless it is accompanied by written approval of such request from the Wysox Board of Supervisors. The Applicant to the extent allowed by the Pennsylvania Liquor Control Board (PLCB) shall enter into agreement(s) and/or alternatively conditions of approval with the PLCB reflective of the aforesaid subject to nonrenewal or as otherwise required and/or permitted by PLCB including but not limited to conditions of approval/renew/transfer. Furthermore, the Township approves the request for the transfer subject to the conditions set forth in this Resolution.

The Township makes the following Findings of Fact based on a public hearing held on November 16, 2015 on the license transfer submitted by the Applicant:

1. Duane Phillips testified that Randy Williams has owned the Liquor License at Edgewood Restaurant, Troy Borough, Pennsylvania for 15 years and closed the Restaurant and want to transfer the license to The Dandy Mini Mart at the intersection of U.S. Route 6 and State Route 187 (Parcel No. 62-087.15-006-005) location so they can open a 30 seat restaurant as part of their existing convenience store and gasoline sales.
2. Duane Phillips testified that Randy Williams intends to sell only beer and malt beverages with on-site consumption of food or take out, he also testified that there will be no sale of wine or liquor. Duane Phillips so testified that there would be no bar to dispense alcohol it would be done through a secure system where the purchaser would be required to present proof of age and identification and to subject to video surveillance.
3. Duane Phillips testified that the Dandy Mini Mart Corporation also sells beer in twenty-seven (27) New York State convenience stores. The purchasers are identified by having their driver's license scanned for their date of birth and they have a video of any person purchasing beer.
4. Duane Phillips testified that the store has a policy where the employees are tested every quarter concerning the sale of alcohol and tobacco products and that the company policy was submitted as Applicant Exhibit 1. Employees are specially trained not to sell any alcohol to anyone who is visibly intoxicated.
5. Duane Phillips testified that the current hours of operation are from 5:00 a.m. to 11:00 p.m. 7 days a week.
6. Duane Phillips testified that under the liquor license they could sell alcohol Monday through Saturday from 7:00 a.m. to 2:00 a.m. the next day and on Sunday from 11:00 a.m. to 2:00 a.m. the next day.

## APPROVAL WITH CONDITIONS

7. Duane Phillips testified that the location of Dandy Mini Mart 74 is a historic building, known as the Piollet Mansion that Mr. Williams has already replaced the cupola and plans to renovate the interior including installing a 30 seat restaurant.
8. Duane Phillips testified that the Wysox store location had to compete with other restaurants on Route 6 in Wysox including Sheetz, McDonald's, Wendy's, Subway, Original Italian Pizza, etc.
9. Duane Phillips testified that the creation of a restaurant with the sale of beer up to 192 oz. in quantity (12 packs consisting of 16 oz. cans) of takeout would provide a different destination and a unique dining experience in a historic building.
10. Duane Phillips testified that the restaurant will be separated by a 4 foot high barrier that will separate the restaurant and the beer sales from the rest of the facility including the sale of gasoline and oil.
11. Duane Phillips testified that alcohol sales will improve the economy for the store and to deny the application would create an economic hardship.
12. Duane Phillips testified that Randy B. Williams who is a resident of Wysox Township, is also a local business owner who is seeking to compete with other convenience stores and trying to position his business for the future.
13. Randy B. Williams, owner of the license and the proposed Dandy Mini Mart in Wysox, Pennsylvania testified that this is the Historic Piollet Mansion that he is going to open the center core of the building to allow the natural light in from the cupola, he plans to retain the original chestnut woodwork for the arches and doorways and restore it to its original grandeur. That the additional traffic from the sale of beer will help the support the expense of the restoration. His other option was to demolish the Historic Structure and construct a new facility like the one in North Towanda Township.
14. Randy B. Williams testified that this will be similar to the former Weigh Station Restaurant in Towanda Borough where you would order your meal at a counter, select your beverage from a cooler and seat yourself and that occasionally the staff would bring your meal to your table.
15. Randy B. Williams testified that he was in negotiations with a franchise that would be located in the facility and that they are in the process of developing their site plan which would include the additional of diesel fuel, a drive through, and additional truck parking in the rear. However, he did not have a completed site plan available for the hearing.
16. Duane Phillips testified at the hearing held on November 16, 2015, the distance from the applicant's proposed liquor establishment to a playground is more than 300 feet;
17. Duane Phillips testified at the public hearing held on November 16, 2015, the distance from the applicant's proposed liquor establishment to First Presbyterian Church, Wysox, Pennsylvania and is more than 300 feet.

## APPROVAL WITH CONDITIONS

18. Duane Phillips testified at the public hearing held on November 16, 2015, the distance from the applicant's proposed liquor establishment to a School is more than 300 feet.
19. In sworn testimony of Louis Aquilio presented at the public hearing held on November 16, 2015, indicated the distance from the Applicant's proposed liquor establishment to residential district is less than 500 feet and the distance to a another liquor establishment is less than 200 feet, Pipher's Bar. Photographs introduced by Mr. Flynn show a trailer park and residential buildings across Route 187 from the Applicant's property.
20. *Under 47 P.S. § 4-4044.* The distances meet the Liquor Control Board's recommended distances: 300 feet from a church, 300 feet from a school, and 300 feet from a public playground
21. *Under 47 P.S. § 4-4044.* The distances do not meet the Liquor Control Board's recommended distance from a residential district: 500 feet and another liquor establishment: 200 feet, if measured from the William property line, however they do meet the requirements from the location of the sale of the alcohol which is located inside Mr. William's building.
22. A letter, marked third party Exhibit 1, written by Wysox property owner, Diane Ward, who resides at Standing Stone, Wysox, Pennsylvania was accepted in to the record. The letter indicted that Diane Ward was opposed to a liquor license transfer for applicant's proposed liquor establishment because:
  - A. The Wysox First Presbyterian Church had Sunday services and other events and she alleged church members would object to the sale of alcohol at the Dandy Mini Mart because of potential intoxicated individuals at the store.
  - B. The Mini Mart is located in a PennDot designated high DUI crash zone.
  - C. The Dandy Mini Mart would be in competition with Pipher's Bar across the street on Route 6.
  - D. Mrs. Ward speculated the location of the Dandy Mini Mart near the outskirts of the commercial district would result in individuals coming in from the rural areas of the Township and purchasing beer.
23. A letter, marked third party Exhibit A, written by Wysox resident, Louis Aquilio, who resides at 22546 Route 187, Wysox, Pennsylvania was accepted in to the record. The letter indicted that Louis Aquilio was opposed to a liquor license transfer for applicant's proposed liquor establishment because:
  - E. The Dandy Mini Mart would be in competition with Pipher's Bar which is less than 200 feet from the property.
  - F. That within the 300 and 500 foot limit there are fire safety housing and equipment, amusement, recreational, agriculture, and a church.
  - G. That the approval would not contribute to economic development in the community and hinder future development opportunities.
  - H. There are liquor fuels and oils on location presently.

## APPROVAL WITH CONDITIONS

24. By sworn testimony of Deb Scovon, owner of the Original Italian Pizza testified that the sale of packaged beer would hurt her business because she sells 6 packs at her Restaurant located on Route 6.
25. By sworn testimony of Edward Flynn, owner of the Flynn's Beverage located on Route 6 testified that the sale of packaged beer would hurt his business because he is only allowed to sell 12 packs or more of beer (including cases and kegs) and is limited to 15 non-alcoholic products such as soda, chips, ice, propane, water, cups, and tobacco but could not compete with the unlimited product selections of Dandy Mini Mart. He is also not allowed to be open on Sunday's which gives the Dandy Mini Mart a competitive advantage on Sundays.
26. Edward Flynn testified that all the liquor license facilities in Wysox Township are within the 7 ¼ mile aggressive driver area designated by Pennsylvania Department of Transportation, including the proposed Applicant, Dandy Mini Mart.
27. Attorney Frank Niemiec, Attorney for Protestant Edward Flynn of Flynn Beverages, Route 6 Wysox, Pennsylvania submitted Exhibit 1, Dandy Mini Mart letter of application.
28. Attorney Frank Niemiec, Attorney for Protestant Edward Flynn of Flynn Beverages, Route 6 Wysox, Pennsylvania submitted Exhibit 2, real estate information on the ownership of the Randy Williams Properties in Wysox Township.
29. Attorney Frank Niemiec, Attorney for Protestant Edward Flynn of Flynn Beverages, Route 6 Wysox, Pennsylvania submitted Exhibit 3, the Edgewood License.
30. Attorney Frank Niemiec, Attorney for Protestant Edward Flynn of Flynn Beverages, Route 6 Wysox, Pennsylvania submitted Exhibit 8, list of liquor licenses in Wysox Township.
31. Attorney Frank Niemiec, Attorney for Protestant Edward Flynn of Flynn Beverages, Route 6 Wysox, Pennsylvania submitted Exhibit 9, photographs of the Dandy Mini Mart property and Route 187 and Route 6.
32. Attorney Frank Niemiec, Attorney for Protestant Edward Flynn of Flynn Beverages, Route 6 Wysox, Pennsylvania submitted Exhibit 10, PennDot traffic study for average daily traffic volumes on U.S. 6-9341, Route 187 North 4548 and Route 187 South 4240..
33. Attorney Frank Niemiec, Attorney for Protestant Edward Flynn of Flynn Beverages, Route 6 Wysox, Pennsylvania submitted Exhibit 7, photographs of PennDot signs on Route 6 "Aggressive Driver, High Crash Area" for next to 7 ¼ mile, and high D.U.I. crash area.
34. Attorney Frank Niemiec, Attorney for Protestant Exhibit Flynn of Flynn Beverages, Route 6, Wysox Pennsylvania submitted Exhibit 11 of other locations that the liquor license transfer is eligible in Wysox Township.

## APPROVAL WITH CONDITIONS

35. By sworn testimony of George Nesbit, owner of Pipher's-Nesbit Bar testified that transfer of liquor license would affect his sale of six (6) packs to his bar customers.
36. By sworn testimony of Ann Cowling, a Wysox resident was opposed because Randy B. Williams did not have a site plan of the business and is concerned that there would be a lack of training of employees and no advantage for the community.
37. A review of the Active licenses and club licenses indicates the following: these types of licenses total 7, with an additional license in escrow, and a Beer Distributor for a total of 8 licenses to sell alcoholic beverages. If the applicant's liquor license is approved the number will be 9. See the establishments listed below:

### **Wysox Township Active Liquor Licenses**

The Riverstone Inn, Comfort Inn, The Fairfield Hotel, O.I.P. (Original Italian Pizza), Pipher's-Nesbit Bar, The Towanda Country Club, Wysox Inn, LLC (inactive).

### **Distributors**

Flynn's Beverage

38. The population of Wysox Township as of the 2010 census is 1,727 residents. The County is allocated liquor licenses by population with one liquor license for every 3,000 residents. As of the 2010 census, the population in Bradford County was 62,622 residents, which mean it should have approximately 21 licenses available for the entire County.

**IN CONCLUSION**, the Board of Supervisors accepts the testimony of the witnesses as to the reason for their objections to the granting of the transfer. However, the Township believes that the transfer will not adversely affect the welfare, health, peace and morals of Wysox Township if the conditions set forth below are included in a Conditional Licensing Agreement between the Applicant and the Pennsylvania Liquor Control Board and the Applicant complies with the conditions requested by the Township of Wysox.

The Board accepts Randy B. Williams and Duane Phillips testimony that they will agree to the following conditions:

1. To no sale of liquor or wine.
2. No bar to dispense beer.
3. The license will be for cans or bottle beer and malt beverages not to exceed 192 ounces for takeout.

The Applicant is committed to continuing the renovation of the historic Piollet House. This will add another restaurant to the Wysox Commercial District.

The purpose is for the economic visibility of the convenience store competing with other fast food restaurants and a convenience store. The attempt to create a unique dining experience, with the controlled sale of alcohol will be an asset to the community.

APPROVAL WITH CONDITIONS

**WHEREFORE**, the Township approves the license transfer subject to the following conditions and requests the Pennsylvania Liquor Control Board include these conditions in the issuance of a conditional license:

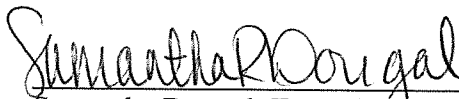
1. There will be no liquor served or sold on the premises as testified by the Applicant;
2. There will be no wine served or sold on the premises as testified by the Applicant;
3. There will be no bar installed in the restaurant for the purpose of selling any alcoholic beverages as testified by the Applicant;

**SUBMITTED** that the license transfer is subject to approval by the Pennsylvania Liquor Control Board, subject to the incorporation of the conditions requested by the Township of Wysox.

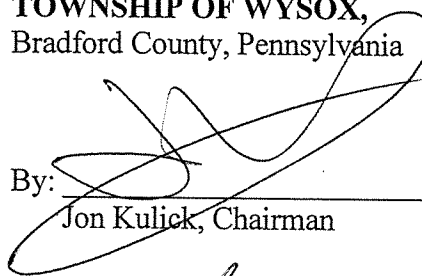
**IT IS HEREBY ACKNOWLEDGED THAT THIS RESOLUTION** was adopted by a formal action at a regularly scheduled meeting on the 3rd day of December, 2015.


Approved with the conditions contained in this Resolution this 3<sup>RD</sup> day of DECEMBER, 2015.

ATTEST:

  
 Samantha Dougal, Township Secretary

**TOWNSHIP OF WYSOX,**  
 Bradford County, Pennsylvania

By:   
 Jon Kulick, Chairman

By:   
 William Them, Vice Chairman

By: \_\_\_\_\_  
 Gary Foster, Supervisor

(SEAL)