



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

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ZONING COMMISSION  
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MINUTES  
MARCH 27, 2012

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The meeting was called to order by Chairman Robert Melillo at 7:30 PM.

Present were Sally Estefan, Theodore Haddad Jr., Walter Hoo Jr., Richard P. Jowdy, James Kelly, Alan Kovacs, Marina Loyola, Robert Melillo, Terry Tierney and Alternates Kevin Haas and Robert Oravetz. The secretary explained that Mr. Elpern was called to another meeting so he would not be present.

Absent was Alternate Elmer Palma.

Mr. Haddad led the Commission in the Pledge of Allegiance.

Mrs. Estefan made a motion to accept the February 28, 2012 & March 13, 2012 minutes. Mr. Hoo seconded the motion and it was passed with an 8-0 vote with one abstention from Mr. Haddad, who said he had not read them yet so did not feel he should vote to accept them.

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PUBLIC HEARING:

7:30 PM -- Application for a Certificate of Location RE-Approval for a Motor Vehicle General Repairer's License as required under the provisions of Sec. 14-54 of the CT General Statutes, as amended for Gary Ginsberg, 41 South St. (#K15009).

Mrs. Estefan read the legal notice. Gary Ginsberg spoke in favor of this application. He said he has owned this parcel since the 1970's and for many of those years; it was used as an automotive repair facility. It had a State license for most of these years, but he let it expire when his tenant did not need it. He added that he did not realize if he did not renew it, he would have to get re-approved. That is why he is here tonight. This area is in the back of the building and cannot be seen from the street.

Chairman Melillo asked if there was anyone to speak in opposition to this petition and there was no one.

Mr. Haddad made a motion to close the public hearing. Mr. Jowdy seconded the motion and it was passed unanimously. Mr. Haddad then made a motion to move this matter to item number one under the Old Business on tonight's agenda. Mr. Kovacs seconded the motion and it was passed unanimously.

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CONTINUATION OF PUBLIC HEARING:

Petition of Xpect Discount, 100 Newtown Rd. (#M11002) for a Special Permit for the Sale of Grocery Beer.

Attorney Michael Pease introduced James Hocking from Xpect Stores. Attorney Pease said he had provided the secretary with copies of Xpect's cashier training and beer sales policies. He added that Xpect takes this responsibility very seriously and Mr. Hocking is here to answer the Commission's questions.

Mr. Haddad said the Commission appreciated receiving these documents and since Xpect takes training so seriously, he is sure they follow it up with a strict enforcement policy. Attorney Pease said they have zero tolerance on violations of their policies. Mr. Kelly asked if the cash register programming is State required. Attorney Pease said it is not. Chairman Melillo said they could require them to have it as a condition of approval.

Attorney Pease then said although the State does allow sales of single bottles, they do not want to get involved with that. They plan only to sell six or twelve packs or full cases. They will sell the brands of beer that their customer base demands, which will probably be a mixture of imported and American beers.

Mr. Haddad asked Attorney Pease how many years they have left on the lease. Attorney Pease said they have a couple of more years with an option for another 25 years.

Chairman Melillo asked if there was anyone to speak in opposition to this petition and there was no one.

Mr. Hoo made a motion to close the public hearing. Mrs. Estefan seconded the motion and it was passed unanimously. Mr. Haddad then made a motion to move this matter to item number two under the Old Business on tonight's agenda. Mr. Hoo seconded the motion and it was passed unanimously.

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OLD BUSINESS:

Application for a Certificate of Location RE-Approval for a Motor Vehicle General Repairer's License as required under the provisions of Sec. 14-54 of the CT General Statutes, as amended for Gary Ginsberg, 41 South St. (#K15009).

Mr. Hoo made a motion to approve this application for the following reason:

- The use of this property for a motor vehicle repair business is consistent with the historic usage of this area.

Mrs. Estefan seconded the motion and it was passed unanimously

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Petition of Xpect Discount, 100 Newtown Rd. (#M11002) for a Special Permit for the Sale of Grocery Beer.

Mrs. Loyola said she was not eligible to vote on this, as she was not present at the public hearing. Chairman Melillo asked Mr. Oravetz to take Mrs. Loyola's place for the discussion and vote on this matter.

Mr. Hoo made a motion to approve this for the following reasons:

- Due diligence has been met and they have demonstrated that they will take the necessary steps to monitor and control beer sales. Also, it will not be detrimental to the immediate neighborhood.

Mrs. Estefan seconded the motion. Mr. Haddad asked that the motion be amended to state that this is for Grocery Beer only, no single bottles will be sold, and that all current and future tenants be required to abide by the beer policies submitted by Xpect. He added that means using the technology as described in this paperwork. Mr. Hoo and Mrs. Estefan both agreed to the amending of their motion. Mr. Kelly asked how we would continue to use this language. Chairman Melillo said it would be up to the staff at the Planning & Zoning Office to be sure it is carried to the next permittee.

Chairman Melillo reiterated that the motion is to approve the sale of Grocery Beer *with the following conditions: no single bottles of beer are to be sold and all current and*

*future tenants must abide by the Beer policies submitted by Xpect as part of this application*

Mr. Tierney asked what the logic is in the no single sales restriction. Mr. Haddad said other approvals have been granted with this condition. Mr. Tierney said he believes this is over-regulating. Mr. Hoo said he believes the attorney said they do not expect to sell single bottles. Chairman Melillo explained that this approval goes with the property not the applicant. The idea behind not selling single bottles is that we do not want to see someone sitting in the parking lot drinking. If you buy one bottle of anything, it is usually for immediate consumption.

Mr. Tierney said he does not agree with that idea and does not like this restriction. Mr. Kovacs said it sounds like the Commission is saying that grocery stores cannot sell singles, but package stores can. He added that it does not make sense. Chairman Melillo said they had done this with the former Duchess site on White St. He added that the Commission cannot vote on this with the restriction because if it is denied the entire petition is denied, so they need to amend the motion.

Mr. Tierney reiterated his feelings that they should not take away their right to sell individual bottles of beer. Mr. Jowdy said the applicant stated that it is not their intent to sell singles. Mr. Oravetz said he doubts they will allow people to take one beer out of a six-pack and then be left with the five loose beers. Chairman Melillo said if they have a problem with this, they could come back and ask to have it removed. Mr. Tierney then said he had something to say. Chairman Melillo said this would be his last time speaking unless he has something new to add. Mr. Tierney said he would not speak then.

Chairman Melillo took a roll call vote and the motion to approve with conditions was passed unanimously.



Chairman Melillo said there was nothing under New Business and asked if anyone had anything to discuss under Other Matters and there was nothing. He then quickly read the Cease & Desist Orders listed under Correspondence. He said under For Reference Only there was one public hearing listed which is scheduled for April 10, 2012.

At 8:14 PM, Mrs. Estefan made a motion to adjourn. Mr. Kovacs seconded the motion and it was passed unanimously.