



**CITY OF DANBURY**  
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Danbury, CT 06810

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*Environmental Impact Commission*  
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**DRAFT MINUTES**  
November 13, 2013  
City Council Chambers

**ROLL CALL:** Chairman Bernard Gallo called the meeting to order at 7:06 pm, and the commissioners identified themselves Present were Barnard Gallo, William Mills, Matthew Rose, Craig Westney, Michael Esposito.  
Absent were Mark Massoud, Alternates Josh Reilly, William Nicol, Derek B. Roy.  
Staff present were Daniel Baroody, Secretary Patricia Lee.

**PLEDGE OF ALLEGIANCE:** Led by William Mills.

**EXECUTIVE SESSION:** NA

**PUBLIC HEARING:** NA

**SHOW CAUSE HEARING FOR CEASE & DESIST ORDERS:**

**155 Long Ridge Road**, Edward Bramson, Lots #I24011, I23012, I23011, I23015, I24003, RA-80 Zone, Cease & Desist Order sent 11/4/13 to NYC. Copy of letter from Army Corps of Engineers to Bramson rec'd. 10/24/13. Gallo asked has everyone read the letter from the Army Corps of Engineers? Read it right now, Gallo said, after introducing this item. At 7:11 pm, Gallo asked is everyone up to speed? Neil Marcus, Attorney, identified himself at the microphone and said I was out there with Dan after a tip off from, I think, the DEP. My clients have recently purchased the property in question. They placed the material they had dredged and put it on the back and seeded it. The DEP said it's a local issue or an Army Corps of Engineers issue. I knew the prior owners and have been there many times, Marcus continued. The Cease & Desist Order is very similar to the Army Corps of Engineers letter. We have engaged Paul Jaehnig, a soil scientist of Ridgefield, Paul Fagan, LS, to place on a survey the delineation of the wetlands, and Robert Sherwood of Brookfield. The only difference between the two orders is the acreage. DEIC says it's three acres, which I'm not sure is involved in the activity, Marcus continued. The area adjacent to the stream is an area that has been cleared and has recently been reseeded. When the soil scientist finishes his work, we'll have a better idea. I'm not sure we are at that point until we get the reports from the experts, Marcus said. The C & D Order said the work had been stopped a week or so before the inspection. The provision of the wetlands delineation is the same. Marcus said it calls for the removal of the unauthorized material. I'm not sure, Marcus said, until we hear from the experts. The Army Corps of Engineers wants to see the plan; they want to have a plan, but they don't prejudice it. I would ask you to consider their plan, as well as your plan. Leave some of the fill in place, Marcus said; we took muck, a soil type, but we will wait for the qualified reports. We're not sure that they want us to do a reclamation. If the wetland habitat can be maintained without creating a lot of work, we may be better off,

and I'd ask you to be open to that, Marcus said. So (1) the size of the plan and (2) a mandatory removal of fill. The lady from the Army Corps of Engineers, and her associate; we were out there for about two hours. Along the stream itself, they wanted to recreate the natural flow, in fact in the Army letter they refer to 4B, a restoration plan, again the same language, and they want us to establish stream sinuosity. Marcus said we all know what that sinuosity is? It is just the natural curvature of the stream; they want to reestablish the streams wandering again. Rip rap created a straight line. Bramson's thought they were doing a good thing, but they really should have gotten the permits first. We will come up with a plan once we know where the wetlands are today. The Army has agreed to a date of 12/15/13. You ask for 11/30/13, but I ask you to have that same flexibility, Marcus said. Gallo asked Dan Baroody to comment. Baroody said Marcus is accurate in his description of the site walk. We need to get back out there with our soil scientist after the report. We have reports from downstream neighbors that the stream is not running at all, Baroody said. An audience member asked can the neighbors speak in the show cause hearing? Gallo addressed the audience. A lady from the audience came forward, signed in; Anita Monteith from 189 Long Ridge Road in Danbury. I did not lodge a complaint originally. I walk out there with my dog, Monteith said. I asked a work man if they had a permit. He said of course with a job this size he had a permit. I'm someone who loves nature and the terrain, and for the 25 years I have lived there, Monteith continued. I felt if there was a permit it would have been shown somewhere. I did not report them. Monique Miguel on Long Ridge Road owns a lot of property there. There was so much silt in the stream; it looked like gray clay in the water, Monteith continued. The workman said it would go away. It did go away. But now there is significantly less water in the stream. I wanted to hear what had been determined by the Army Corps of Engineers. I'm concerned, as someone who cares very much about the wetlands and the creatures, and I know they have that balance. So I am delighted to hear that our neighbors are willing to undo what they had done, and they had no knowledge that what they were doing needed permits. But the stream is not back to where it was. It is little puddles, Monteith said. Gallo said I'm surprised that contractor did not know he needed a permit. The worker was very dismissive and said why don't you go speak to the owners. I did not speak to the owner, Monteith continued. There was no indication to me that it was a farm. I was more concerned about the stream. I don't know who the contractor is, and I'm disappointed, and I'm glad it was stopped and I'm glad you're doing something about it. Marcus said I thought it was just a gardener. Gallo said he should have known, the property manager, that he needed a permit. Marcus discussed the issue of the water flow being a product of the climate. Noel Roy and his wife previously owned the property, Marcus said. He (Roy) said lots of times that stream does not really even flow. When it rains, it flows, Marcus said. The only area that is really running clean is the area that was dredged. I understand that this is a somewhat intermittent stream, Marcus continued. If you do a site walk, you will see in the 1920's, Rachel Crothers (author, playwright) was a long time occupant of that house. They created a stone manmade swimming pool, which then runs back out of the pool into the area of the stream. Moving to where we are concerned, the brook was dredged, and we must make sure that this did not damage the wetlands where it cannot be remediated. I get no push back. Gallo said that's the good news. I ask you to continue this. I'll keep Dan in the loop, Marcus concluded. Gallo said get me a pass. That's all I can report, Marcus said. Westney said I agree that we must get the soil scientist out there and get a good assessment of the wetlands and the acreage, but I do think the Army Corps of Engineers is clear that the plan should include the removal of the material put in the brook. Westney said I don't think there was a discrepancy between the Cease & Desist Notice and the Army Corps of Engineers letter. I need a motion to table this, Gallo said. Westney made a motion to **table** this hearing until the 12/11/13 meeting. Mills seconded the motion. Motion carried unanimously at 7:36 pm. Motion carries.

**OLD BUSINESS:**

**50-58 Payne Road  
A & J Construction**

**Regulated Activity # 959**  
Assessor's Lot # M12009, IG-80 Zone.

Date of Receipt: 8/28/13.  
First 65 Days: 11/1/13.

CCA, LLC.  
Construction materials storage area.

Second 65 Days: 1/5/14. Site visit 9/11/13. Reviewed by City Corporation Counsel. S. Danzer report rec'd. 10/29/13. Gallo introduced this Old Business. Nancy Levesque, PE, with CCA, LLC, in Brookfield, came forward. We headed out from the site walk, and waited for information from Corporation Counsel, and then it went to Danzer. It's mainly regarding the quantity, not the type of material, Levesque said. Gallo said I know there was a restriction way back when. Levesque said the restriction was processed stone, field stone, trap rock, blue stone, and asphalt milling and recycled processed material. Ray Boa spoke from the audience. Gallo said we need to see something in writing. Baroody said we need a description of the material, more plantings on the slopes for slope stabilization; the dust, vibrations, noise, odor and traffic need to be addressed. Baroody continued we need more details about the off-site swale, the species planted in the detention basins, maintenance of the oil/water separators, and maintenance of the silt fencing. Levesque said we had added an additional erosion control on the southern portion of the site, which does not always lend itself to more planting, and we had plantings in accordance with the guidelines for sediment and erosion control. Baroody requested slope stabilization plantings, to make up for the loss of mature trees; we would like to see that on the plan. You don't have to, Baroody added, but it may not get approved without it. And we need it on December twelfth, next month, Gallo said. Baroody said according to the City legal department, what was given to us was a stipulation with the Town of Bethel, that is enforced by the court, not the DEIC. Gallo described what we need from you. Nancy said the vegetated buffer. Gallo said we are asking for more. Mills said what bothers me is mostly number #9 on Danzer's report; I would hope that that silt fence breach was fixed that Danzer mentions. At same time, I ask you to address Danzer recommendations #4 through #8. I would ask you to address those things, but now most importantly the breach in silt fence, Mills reiterated. Right now the piles are surrounded by concrete blocks, Levesque said. It was there from the original construction. Nancy Levesque and Mills discussed a remedy. Neil Marcus said I am working with A and J Construction, even though I had not been before you before, on items #4 through #8. Mr. Boa thinks it's probably been fixed. That's easy, Marcus said. We will look at these other items, Marcus said; that's all I have to add. Gallo said okay. Motion to **table** by Mills. Second by Rose. Motion carried unanimously at 7:46 pm.

**13 Cedar Drive  
Alan N. Potter**

**Regulated Activity # 964**  
Assessor's Lot #J03129, RA-20 Zone.

Date of Receipt: 9/11/13.  
First 65 Days: 11/15/13.  
Second 65 Days: 1/19/14.

Single-family dwelling replacement.  
Surveying Associates, PC  
CLA's comments rec'd. 10/9/13. Gallo introduced the next item, and Secretary Lee gave Don Reisert a copy of Baroody's report. Gallo said there are five conditions on the back page. Gallo said he's not even near the water. Lee said to Reisert I sent a copy to Paul Fagan thinking he'd be here. Reisert asked Baroody a permitting question. Gallo said are you guys all set? Any questions on this, Gallo asked. Rose motioned to **approve #964** with the five conditions listed on page 4 of Baroody's report. Esposito seconded the motion. Motion carried unanimously with no

questions or remarks at 7:50 pm. (See also ZBA 13-31).

**NEW BUSINESS:** NA

**APPLICATIONS FOR ADMINISTRATIVE APPROVAL:** NA

**VIOLATIONS:** NA

**ADMINISTRATIVE STAFF ACTIONS:** NA

**ACCEPTANCE OF MINUTES:** October 23, 2013, Meeting. Motion to approve the minutes by Esposito. Second by Rose. Motion carried unanimously at 7:41 pm.

**EIC ADMINISTRATION & FUTURE AGENDA ITEMS:** NA

**CORRESPONDENCE:** Letter from Christopher Majewski, CSS, LRS, re: EIC #963, approved with conditions on 10/9/13, United Rentals, 32 Federal Road, secondary containment requirement for above-ground fuel tank. Gallo introduced this issue. Apparently we weren't clear: we wanted him to do a secondary tank containment, and Gallo read the clause into the record: *All spill containment best management practices including but not limited to the secondary containment structure designed and submitted by Christopher Majewski, CSS, LRS, received 10/8/2013 shall be constructed under the direct supervision of the environmental consultant.* We need to add that as condition #5, Gallo said; I need a motion to amend the original permit. Rose motioned to amend the original permit #963. Mills seconded the motion. Motion carried unanimously to amend #963 to add condition #5 which I just read into the record. Esposito asked was the applicant advised? Gallo said yes.

**ADJOURNMENT:** Motion to adjourn by Rose. Second by Westney. Motion carried unanimously at 7:52 pm.

Next regularly scheduled meeting date **December 12, 2013**, at 7 PM.