

**ENVIRONMENTAL IMPACT COMMISSION
City of Danbury**

DRAFT MINUTES

April 9, 2014

7:00 PM

City Council Chambers

Chairman Bernard Gallo called the meeting to order at 7:06 pm. Present were Gallo, William Mills, Michael Esposito, Matthew Rose.

Absent were Craig Westney, Mark Massoud, Alt. Will Nicol, Bruce Lees, Alt. Derek B. Roy, Alt. Josh Reilly.

Staff present were Daniel Baroody, RS, MPH, Secretary Patricia Lee.

All stood for the Pledge of Allegiance.

EXECUTIVE SESSION: NA

PUBLIC HEARING: NA

SHOW CAUSE HEARINGS FOR NOTICE OF VIOLATION:

8 Mountainville Road, Domenico Chiera, Lot #J17005, RA-20 Zone, Filling of wetlands, Notice of Violation mailed 4/3/14. Gregg Brauneisen, Attorney at Law, Collins & Hannafin, came forward and stated I am here for 8 Mountainville Road. Dom Chiera, my client, is here tonight as well. I have not had chance to speak to Mr. Baroody. This was purchased in foreclosure, Brauneisen said. Herbert Morgan was in court with the City; it was a junkyard, and in court; a pre-existing nonconforming use. Brauneisen said Morgan was ordered to clean it up. He did not clean it up. Brauneisen said I have been working with Shawn Stillman to clean it up. We were not allowed on the property for probably 7 years. There are still some things there, but we have cleaned up much of it. There were 9 trailers, many cars; it abuts Rogers Park; a swampland. Brauneisen looked at the pictures attached to the Notice of Violation. There was a massive pile of stuff, a merry-go-round. We are not doing any work or construction. Mr. Baroody did not see the property in its prior condition, Brauneisen continued. We are not putting any fill anywhere; no construction, Brauneisen added. In back, we don't want to do much. Dan Baroody said we received the complaint from the UNIT (Office of Neighborhood Assistance); they took the photos; Shawn Stillman (UNIT Coordinator). Gallo said you still have to deal with us. Any idea when the clean up will be completed? Chiera said we had the worst winter. We have literally moved 4 tractor trailers full. I've been here 44 years, and never had to come before a commission. I don't think it's right, Chiera said. We are in the process of clean-up. They will rake it, put down wood chips, wildflowers; no excavating; the large tractor trailers tires need to be pulled out; no fill. I just would not do it, Chiera said. In a couple months, you should see flowers there. The plow is pushing the wood chips, to allow the grass to bind. You say you are finished; we still have to inspect it. Gallo said you have to come up with a plan. Have you spoken to Dan? I have not met the gentleman, Chiera said. It will be a plan from my client, Brauneisen said. Rose asked what types of flowers, for example? As Shawn Stillman knows, it's 90 per cent cleaned up, Brauneisen said. I just want you to understand: there's no construction, no filling. Chiera said he also owns the Octagon House (Spring Street), and we are cleaning that up. Chiera said Larry Miguel knew me. Baroody said I advise that we close the show cause hearing, but the Notice of Violation remains in effect. So motioned by Rose, keeping the notice of violation in effect. Mills seconded the motion. Motion carried unanimously at 7:19 pm. Motion carries, Gallo said. Brauneisen said I will schedule a meeting with Dan Baroody.

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2014 APR 24 P 12:42

BY: 

OLD BUSINESS:

**147-153 Middle River Road
William Lavelle**

Regulated Activity # 973
Assessor's Lot # C10052, RA-40 Zone.

Date of Receipt: 2/12/14. Six lot residential subdivision, driveways.
First 65 Days: 4/18/14. Wells, septic systems, two wetland corridors.
Second 65 Days: 6/22/14. Site visit 3/25/14. Copy to Danzer
2/27/14. Danzer report received 4/8/14. Gallo introduced this item at 7:19 pm, and Nancy Levesque, of CCA, LLC, and Attorney Neil Marcus came forward, placing plans on the easel. John Neumuller and Nancy Levesque adjusted the easel for the camera. Marcus introduced himself and his firm, and said Nancy Levesque, PE, is here also this evening. The only items we need to discuss are some of the comments by Steven Danzer, Ph.D. The stream crossing: we seem to have an agreement on the crossing; an arched pipe; there is no dispute or concern from the applicant. The only real issue here is that there is a request that there be an additional conservation easement, Marcus said. On page two of three, Marcus said, Danzer is talking about a conservation easement along the eastern side of the wetland corridor, along lots 3,4,5,6; relatively large lots. The open space here does preserve the wetland corridor. The applicant proposed no construction from the 100 foot open space, and no incursions into the wetland. Danzer says we need a 200 foot setback. That makes no sense to me, Marcus said. If someone wants to put a tennis court or a pool in, this limits that possibility. You'd have to move the septic. But just normal use of the backyard presents no reason to support the request, Marcus said. In the middle of page 2 on Danzer's report, it says "such a conservation easement would allow the EIC to make a finding under Section 9.2(d) of the Regulations that the balance of minimization (the pre cast arch) and mitigation (a conservation easement) will outweigh any potential substantial impacts due to the crossing. This finding would remove a major reason to recommend the application proceed to public hearing". Marcus said I don't make the connection between this crossing and the conservation easement. It is an unreasonable request; I cannot figure out the connectivity; I'm just not sure. Marcus then addressed the subject of conservation easements, and the bar cannot find anything in the Inland Wetlands and Watercourses Act that allows a conservation easement, and Marcus discussed what the ZBA can attach. The Inland Wetlands and Watercourses Act speaks of reasonable conditions of approval; there is no inherent right to ask for a conservation easement by EIC. Planning does, Marcus said. There is no reason to set it aside, and there is no law saying it must be set aside. I've done many conservation easements in my practice. These four lots really have no wetland impact, and nothing is cited in the Danzer report. Marcus discussed the septic systems locations, saying there is nothing proposed in that area. We have a problem with that, a future restriction on the homeowners. I met with Bill Lavelle. It just does not seem to have any support in this report. Marcus read about the wooded area from the report. This is just somebody's back yard; a play area. We arrived at the exact opposite conclusion, in fact. If you can tell me why it really needs to be preserved; but at the moment we can't see it. Mills said I am referring to pages 3 and 4, and he read "significant level of disturbance on the slopes"; "The slopes above the wetland corridor are relatively steep, creating a potential erosion hazard to the wetland resources below". This goes to the West Lake Reservoir, so it is causing a great disturbance. So that's why Mr. Danzer asked for what he asked for, Mills said. Doing a site walk on the property, we realized how steep it is. The problem is that water flows into the West Lake Reservoir. Levesque said the closest septic is about 200 feet away from the wetland. Mills asked are you doing any cuts? Levesque said we are actually building the systems up; there's more fill involved; we are trying to work with the actual topography, about 14-1/2 acres; we have less than an acre of

impervious surface. Mills asked regarding the land clearing, how much grading is proposed on the Eastern Wetland Corridor. Using the plan on the easel, Levesque said we are 100 feet away. Marcus took the mic. It's the person down the road, 5 or 10 years from now that may want to do something, Marcus said; they ought to be concerned about erosion. That's a different request, and I would support that request, Marcus said. Mills discussed the flow into the East Lake Reservoir, the steep part; creating erosion doing away with trees; the reservoir is a big concern. Marcus said a restriction, not a conservation easement. Mills asked would you put that in the verbiage. Marcus said I could do that; that's a pretty good idea. I don't want to inflate your ego. Dan Baroody said I want to make one point about the stream crossing and the wetland protection. I think Dr. Danzer was trying to say that there is no protection. We are going to meet with the planning staff and go over that, Baroody said. Marcus said thank you. Mills made a motion to **table** to April 23rd. Rose seconded the motion. Motion carried unanimously at 7:40 pm.

**50-56 Payne Road
A & J Construction**

Date of Receipt: 2/12/14.
First 65 Days: 4/18/14.
Second 65 Days: 6/22/14.

Regulated Activity # 974

Assessor's Lot # M12009, IG-80 Zone.
Construction materials storage area.
N. Levesque, PE, CCA, LLC
Tabled till site visit. Copy to Danzer

2/17/14. Request to table received 3/26/14. Site visit 4/2/14. A&J Letter to neighbor Turner received 3/25/14. Danzer comments received 4/3/14 and 4/8/14. Gallo introduced this item. Report on 973 from Mills and Gallo's is different. Gallo and Baroody discussed this. Again, I am Neil Marcus on behalf of A & J Construction, at 7:41 pm. This review was awaiting a site walk, which I think you guys have done, and a review by Dr. Danzer which we also have. We have a couple of problems with some of his comments, Marcus said. Correct any prior violations on the site. Danzer says on page 2 of 4, he does not know what the purpose of the site will be. Levesque, using the plan on the easel, said all the uses for the site are listed on the plan. Marcus said it should be clear. This is an existing contractor's yard, and the proposal is to expand the yard to allow for sales of the materials, which is allowed in this zone. A lot of the work is to clean up and improve the existing contractor's yard. We've outlined what we propose to do, which Marcus discussed, as we've shown to the Planning Commission. Depending on how many jobs he has, Marcus said, that will determine how quickly he gets to the back of the site. Gallo asked what else will be out there. There is a list on the plan, which Levesque read from the upper left hand side of the plan; screening for other projects. There will be no crushing on the site, and no water on the materials; no processing, just screening. Marcus said regarding Danzer's comment number three; Levesque said we have no comment since we agree. Marcus said comment number four: dust, vibrations, noise, odor, traffic; that is really for the Planning Commission. Manufacturers of the screens have data on the dust, noise, odor. Dust was blowing around during the site visit, it was mentioned. They try to control it with water. Some days it gets a little dusty out there, Marcus said. Planning suggested we pave a portion of the driveway, and we will come back with a plan for that. We thought we gave you a planting plan. Levesque said a planting plan was submitted, and we believe it is sufficient. (see page 3 of 4 of Danzer's report: four planting items and irrigation he suggests additionally). It was our understanding; we were trying to supplement a canopy for the wetlands. The slope is being planted with the appropriate seed mix and some shrubs. Danzer says all plantings should be native, Levesque said. We have made some modifications to the plan, to include native species. We will bulk up some of the plantings along the roadway to catch some of the salt. There is no need that these be native, and landscape arch. Thought these would work well. Levesque said there's no plan now to install an irrigation system, but the plantings must survive for three years. Marcus said I agree with Dr. Danzer that we need more details for the

design of the swale. We got rid of the swale. Levesque discussed the requirement that will cause a lot less disturbance; lower impact; cleaner water out-letting. There is no riprap apron needed, Levesque. Marcus said it's agreeable that we are not going to disturb that now. Regarding maintenance, Levesque said it will be in the package that we submit, and a copy of the maintenance done will be submitted every year. Marcus said there is a breach in silt fence. Levesque said at the western slope, concrete blocks will be used along a good portion of the site; 2' by 2' by 4' concrete blocks. The applicant agreed, so that will be on the revised plan. Levesque discussed the concrete curb. The applicant will install concrete blocks, resulting in decreased maintenance on the pond by the applicant. We hope you will accept the planting plan as submitted. Gallo asked for an upgraded planting plan. Levesque discussed the sugar maple and the spreading yew, which has been changed back to a vibernum. Concerning quantities: the last two should be 36 and 31; that will be on the new plan. Marcus said what we would like to accomplish tonight: we don't see any real controversies with the review. Mills said on page 2 or 3, I will try to convey one more time: the lower lot on which you will be using the machine; what will contain the materials on the lower lot, 40 feet below Payne Road. Levesque said the intent is to keep and maintain 2-foot high concrete blocks. Mills asked could they have them shaped like an L? Levesque said I don't want to block that basin. They discussed the maintenance, filter fabric, regular clean-outs, and four foot sumps to catch any additional sediment, with an oil / grit separator, for 87% removal. Mills added, and a maintenance agreement. Levesque said the agreement will be upgraded as well. Mills discussed the silt fence; 2' x 2' x 4' is proposed. Baroody said they need both (silt fence and blocks). Gallo asked Dan Baroody about item 6, the off-site swale. The swale is omitted, Baroody said. Dan Baroody said for the record we received a letter from the neighbor of A & J, a Mr. Skip (Read) Turner; it's in your packet, and it becomes part of the record. Esposito made a motion to **table**, with the correction to the Payne Road address, application #974. Mills seconded the motion. Motion carried unanimously at 8:02 pm.

75 Beaver Brook Road

Joseph III & Francine LoStocco

Regulated Activity # 975

Assessor's Lot # K11141, IG-80 Zone.

Date of Receipt: 2/26/14.

Excavation, fill restoration, mitigation.

First 65 Days: 5/2/14.

B. V. Doto, III, PE.

Second 65 Days: 6/29/14. C & D reissued 75 & 85 Beaver Brook Rd. 4/8/14.

Baroody said we want to report that we reissued the Cease & Desist order with the correct address. Motion to **table** by Rose. Second by Esposito. Motion carried unanimously at 8:04 pm.

8 Pocono Point Road

William Joyce

Regulated Activity # 976

Assessor's Lot # K02008, RA-20 Zone.

Date of Receipt: 2/26/14.

SF dwelling, septic, driveway, utilities, dock.

First 65 Days: 5/2/14.

S. Sullivan, PE, CCA, LLC

Second 65 Days: 6/29/14.

Site visit 4/2/14. Baroody report 4/9/14.

FirstLight's recommended revisions received 4/9/14. Nancy Levesque, PE, with CCA, LLC, came back to the mic. We are in receipt of staff's comments, and we have no issues with the stipulations as stated, Levesque said. Baroody said I want to put my report in to the record; this is in the upland review area of Candlewood Lake, and staff recommends a summary ruling to approve with the four conditions listed on page 4. Gallo asked are there any questions? We did an on-site, Chairman Gallo said. Mills made a motion to **approve** with the 5 conditions. Esposito seconded the motion. Motion carried unanimously at 8:05 pm. Thank you, Nancy, Gallo said. Levesque said thank you.

NEW BUSINESS: NA

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: NA

VIOLATIONS: **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 communication to Army Corps of Engineers from Neil R. Marcus, Attorney at Law, received 2/28/14. Shall file modifications 3/17/14. They are still working on the plans, Gallo said, and they will get back to us.

ADMINISTRATIVE STAFF ACTIONS: NA

ACCEPTANCE OF MINUTES: March 26, 2014, Meeting. Motion to accept these meeting minutes as presented by Rose. Second by Mills. Motion carried unanimously at 8:06 pm.

EIC ADMINISTRATION & FUTURE AGENDA ITEMS: NA

CORRESPONDENCE: NA

ADJOURNMENT: Motion to adjourn by Esposito. Second by Rose. Motion carried unanimously at 8:06 pm.

Respectfully submitted,

Patricia Lee, Secretary