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DRAFT MINUTES

October 28, 2009

7 pm

Common Council Chambers

Acting Chairman Bruce R. Lees called the meeting to order at 7:05 pm. Present were Lees, William J. Mills, Craig D. Westney, Jon Fagan, Alt. Derek Roy.

Absent were Chairman Bernard Gallo, Matthew N. Rose, Mark Massoud.

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

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Jon Fagan at Lees' request.

PUBLIC HEARING CONTINUATION:

45 Saddle Rock Road

Regulated Activity # 846

Peter Hankovszky

Assessor's Lot # E08017, RA-40 Zone.

Date of Receipt: 8/12/09

Single-family dwelling, well, septic, driveway.

First 65 Days: 10/16/09. Second 65 Days: 12/20/09. Artel Engineering Group, LLC. Site visit 9/3/09. Public Hearing to continue tonight. Revised plans rec'd. 10/14/09. Danzer report rec'd. 10/27/09. Wetland assessment from J. Chase rec'd. 10/27/09. Extension letter rec'd. 10/28/09. Lees introduced this Public Hearing continuance at 7:06 pm. Lees said we will continue this Public Hearing to our next meeting November 18, 2009, as we are waiting for more material. Lees explained the procedure of a Public Hearing to the audience. Dainius Virbickas, PE, of Artel Engineering Group, LLC, identified himself and said that at the end of the last meeting, a couple of neighbors got up and spoke their concerns. Lees noted that Derek Roy has just joined us at 7:07 pm. Again, the Public Hearing kind of trailed off, Virbickas said, and the two adjoining neighbors spoke their concerns; Mr. Rodriguez whom Jon Fagan addressed regarding the his zoning concerns, and the

Herschlags' concerns, and at that point a commissioner requested a wildlife survey or an analysis of sorts, and so we have dove tailed that into a wetland assessment, Virbickas continued. So we hired Jodie Chase (Ecologist) who went out and did her assessment, and included the wildlife in her assessment, although this is not the best time (of year) to evaluate wildlife. Jodie Chase took the mic and gave her address and said you should have received my assessment. We had a heavy rain on Saturday. I did my review on Sunday and went back out on Monday. Jodie said, to address the Steven Danzer, Ph.D., concerns, I have done an assessment. I assume most of you have seen the site but I will go through it. She described the rocky rubble channel and the deciduous mix there; the purpose of the primary watercourse is for stormwater runoff, and Chase explained the property lines, the maintained lawn; the pachysandra on the site, and the large area of exposed soils, completely covering this area. The outer limits do support a mixed deciduous forest, and Chase enumerated the types of tree there. I could not see the herb layer, in large part because of the time of year. Christmas ferns are an upland species, but Danzer did say there is a lush herb layer. Chase explained the function of the watercourse. That herb layer is temporary, so those functions are during the growing season, when there is vegetation in the herb layer. There's nothing holding the sediments there. The perennial watercourse, a small meandering watercourse, has no wildlife, but again, I'm out there in October. She described the tree species: red maple, beech, tulip tree, black and yellow birch, arrowwood, spicebush. The northern bit is maintained lawn, and she described its functions. So we have three wetland areas, and she reviewed the functions of each. Short of a box culvert, here we have a barely defined watercourse; reinforced concrete pipes are typical. A boxed culvert is the crossing, allowing the stormwater runoff to continue; also that natural area under the box culvert is to remain. The end result is a loss of wetland area here; about 1800 sq.ft. getting filled. That's the long-term. Again October is not the best time of year to do a wildlife inventory. These surveys are snapshots in time. I could stay out there 8 hours or 8 days, Chase continued. In the wetland area, that broader area, the perennial wetland acts as habitat. The forested wetland area: that wetland would provide food sources for small mammals and wetland associated wildlife. The species you are likely to see here are opossum, masked shrew, deer, eastern mole, meadow vole, raccoon, and various songbirds. After going through Virbickas' design, there are just a few things that I would add. Mature trees: two must come out and we should replant with those same species: American Beech and Tulip Tree, and she recommended their size. Chase discussed the wetland buffer plantings proposed on either side of the driveway. Any sizeable rocks removed during exaction should be intermingled with the arborvitae. She described a proposed low rubble rock wall. I do like to look at projects as a commissioner myself. This is probably the last lot on Saddle Rock Road to be built out. Many of the adjacent properties have lawn to the edge, with very few trees, particularly at the water's edge. Most of Saddle Rock Road lots fronting the reservoir are developed in virtually the same manner as is proposed in the application. I don't think this property owner should be asked to attain a standard that the neighboring properties do not meet. Chase explained why it just does not make a lot of sense. A 75 ft. to 100 ft. buffer to the reservoir or the perennial watercourse on a property this small will not have significant beneficial impact to the reservoir. The City's discharge of road sand and pollutants should be of greater concern to the quality of this reservoir; it's all going to go right in there. Even if they were to use an herbicide, we still have a 50-ft. buffer; it's a reasonable compromise. Chase discussed what is practical and reasonable on Saddle Rock Road. Chase said thank you at 7:18 pm. Westney asked Chase about the precedence of the neighboring properties. When were they built? Chase replied I have no idea. Westney you said if this were among the first to be built, but it is the last. Are you suggesting that the wetland is not a valuable wetland; only

the reservoir? Chase agreed saying I've explained to you why. Roy: in your opinion, does the wetland serve as a kind of flood control? Chase said I do mention it in my report: on page 2, the middle of the second paragraph. Derek Roy read her sentence: The wetland does not have a constricted outlet and is very small, so it does not provide flood control. Gallo asked are there any more questions for Ms. Chase? Are you available for the next meeting? I am not; I am in another town, Chase replied. But I would be happy to respond to anything in the form of a letter. Virbickas said, in response to Derek Roy's comment, I think the homes were probably developed around 1977 or 1978, when the City put in the sewer line; you could not put in a septic system close to that reservoir. Virbickas talked about Ms. Chase's visit after a rain event; there was not a drop of water in the ditch that was cut through that area. Fagan said to Lees I don't know how you as Chairman are going to move through this. Lees explained how he wished the procedure to run. Fagan asked Virbickas about Danzer's bullet point #4; where that would actually end up, and on what side of the property would it be? Some audience members moved down to the front row seats. Virbickas, using the map on the easel, the topographic survey, he explained what would happen if they followed Danzer's recommendations, with the red, yellow and blue lines, limiting the home to basically the size of a garage. Danzer also suggested maybe we could obtain a variance; the sewer line crosses, and he stated the slightly larger size of a possible residence. Fagan said Danzer is referring to the alternate that he suggested in his 9/8 commentary. I understand that reasonable and feasible alternative is an objective term, but Mr. Danzer's alternative is not, in fact, practical, and it is not practical in my opinion, so I would caution the commissions because I don't think that his alternative is reasonable or feasible. Mills discussed the side yard setback from the stream, and Virbickas corrected his perception of the side yard setback from the proposed home to the watercourse. Can you give us more of a side yard setback, Mills asked; could you go to 40 feet? Virbickas replied that would limit our building envelope to something more the size of a garage, not a home. I'm sure there's a little room, Virbickas said. Mills said if you would consider that. Virbickas discussed the measurements, and taking half the home away as Mills suggested. We can certainly look into that. Lees asked are there any other comments? Mills asked Dan Baroody what was the agreement? Virbickas said I guess you can say, when they put sewers in, there was something of a grandfather clause. Baroody said I do not know of any grandfather clause relating to sewer systems. I really don't have any accurate testimony as to where they were when the area was developed. I'd have to do further research. Mills said to Dan Baroody, if you possibly could. Lees again explained the Public Hearing purpose: to address wetland and watercourses only; not traffic, not storm drains clogged down the street. Is there anyone in the audience who wishes to speak for or in opposition to this proposal?

The Herschlags came forward and signed in; Jane and Herb, from 27 Saddle Rock Road. Jane Herschlag said we're very dedicated Land Trust members, and for selfish reasons, including our property values, and we love the animals. I brought a photo of a heron. There's the muskrat, the bats that are there. I made a copy of all the animals that live there, and she submitted their letter. There are turtles, frogs, wild turkey, cormorants on the lake for months; I'm not sure which of these use the wetlands a lot, but I don't want to bore you with a list of all the birds that are there. When this was built, environmental concerns were not as keen as they are today. Jane Herschlag told how they had to move their holding tank; so things do change, and this new awareness of the environment, it can impact that residential building. She discussed the deer food, and the wonderful plants I could recommend for a buffer. Herb Herschlag identified himself. What Jane mentioned was we had to move our sewer pond a certain distance from the well, which has a holding tank.

We could not move it far enough, 150 feet, I think; it would be too close to the stream. It's not only aesthetic reasons. He said we came from the dusty streets of Queens; our property value will also be affected. Jane does have the list of some trees that we got from the nursery, which we call deer food. Roy asked Herb Herschlag, if you were the property owner here, and the soil scientist recommended a garage-size home, what would you do? Herschlag said if I had the property, is it possible to build up? Roy said I'm not an architect. Herschlag said is it possible to build up? I don't know. Exhibit #3 is the listing of the trees, Lees said. Lees asked three times, is there anyone who wishes to speak for or against this application? The plans are available to view in the planning & zoning department. Lees asked do you have any follow-up, Dainius.

Virbickas said they stated twice that they are concerned with their property values and the aesthetics. We will have the proper separation distances from our sanitary pump. The initial subdivision was created in 1958, and in 1963 a section of it was spruced up; 1956 is the date on the map, and the property to be developed is marked in red, and this blue perennial watercourse was actually running right through the Herschlag's property. The watercourse had to have been moved at least 20 feet, and now it's creating a little bit of a challenge for us. Lees said I know there is some confusion about putting the house in the very front of the property. Virbickas said I do have that right on this map, which I did submit for the record. This box is pushed right to the property line. Westney said on that same point, was a variance investigated? Virbickas said we didn't even go forward with a variance application since it would make the house so small. Virbickas said I think a 40-foot front yard setback is required. Westney said thank you. Mills said, Mr. Chairman, we just got Jodie Chase's assessment, and I glanced through it, and the planting should be located on the south side of the drive. At the next meeting, Dainius Virbickas, can you give us additional plantings, and I believe they would be amenable. I certainly could do that, Virbickas said. Jodie Chase asked to speak again at 7:52 pm. Jodie Chase then said at the microphone I'm going to play the bad cop here: I sincerely appreciate the Herschlags' love of wildlife; however our property is not there for their benefit and enjoyment. The Herschlags do love wildlife, and Chase suggested some changes they could make on their own landscape plan. I won't be here at the next meeting, Chase continued. The wetlands happen to be close to Saddle Rock Road, and *that's* why we are here tonight. Chase clarified her buffer design, saying I do feel that what we have is adequate. Gallo said if there are any comments or questions for Jodie Chase, e-mail them to Pat. Roy made a motion to **continue this Public Hearing** to the next meeting 11/18/09. Mills seconded the motion, and the motion carried unanimously at 7:55 pm.

OLD BUSINESS:

8 Golfview Drive

Regulated Activity # 844

John O'Hara

Assessor's Lot # L08006, RA-40 Zone.

Date of Receipt: 8/12/09.

aka, Valleyview Road, SF residence, well, septic.

First 65 Days: 10/16/09. Second 65 Days: 12/20/09. R. Gallagher, PE. Wetlands flagged. Moeller's soil report received 8/12/09. Site visit 10/22/09, 3 pm. Extension letter received 10/15/09. Steve Danzer's report rec'd. 10/27/09. Lees said under Old Business, we have 8 Golfview Drive. John O'Hara took the microphone saying Ralph Gallagher, PE, could not be here tonight, and we had a field walk on the site, but I would just like to discuss the

changes we discussed at our field visit. We propose moving the house location more to the center of the lot; a four bedroom two-car colonial, downsized to a raised ranch; a smaller house. That would allow us to stay out of this area totally; no blasting and much less impact. Anything that we fill in by creating this drainage area over here, and a planting scheme in that area we also discussed. We would also have other nondisturbed areas on the area, and we would make them so they could not be turned into lawn. I'd like this to be tabled until Ralph can put this together. Lees asked O'Hara to restake the new location of the house, please. I could not make the first site visit. Lees stated to the neighbors (the Klieblers) I cannot allow you to speak under this forum, and I need some kind of letter. The photographs (you provided) are stamped in; I cannot return the photos to you. You need to speak basically in writing. But come up and just answer my questions. Chris Kliebler identified himself at the microphone. Lees reiterated this is not a Public Hearing; I need in writing what your problem is with the project; what are your concerns. A Public Hearing is the arena for your comments. Kliebler said to Lees you just answered my questions; just tell me what the process is so I can follow it. I will pass these photos around at this meeting, Lees said. Chris Kliebler asked about the drains being covered over, and the focus of this commission. Kliebler mentioned the manholes, and Lees cut him off saying so put it in a letter so we can continue this Public Hearing at the November 18th meeting. Roy asked John O'Hara why the downsize? O'Hara replied because of the neighbor's comments; a direct response to him mainly. Fagan made a motion to **table** this to 11/18/09. Mills seconded the motion. The motion carried unanimously at 8:05 pm.

67 Cedar Drive

Regulated Activity # 847

67 Cedar Drive, LLC

Assessor's Lot # K04168, RA-20 Zone.

Date of Receipt: 8/26/09.

Rebuild SF home, septic on Lake.

First 65 Days: 10/30/09. Second 65 Days: 1/3/10. Civil One, Engineers. Septic plan review okay per City Health Dept. FirstLight Power letter and CLA comments received 10/13/09. Extension ltr. rec'd. 10/28/09. Acting Chairman Lees introduced this item as Zack Lessard identified himself and signed in. I have nothing new to report since the last meeting. Is there anything else we need to do to move this forward? Lees referred his question to Baroody. Dan Baroody said FirstLight Power has come up with a new procedure; they used to give us comments, but they have a new format; so Staff needs more time to contact Brian Wood to see if they could issue a letter. Lees asked is there anything the applicant needs to do? Lessard said, for the record I've spoke to Brian Wood several times, and he's pretty much told me his recommendations, and he said he typically does not issue a letter, but I have followed Mr. Woods' comments. Lessard asked Baroody, do you have his cell phone number? Fagan made a motion to table. Mills seconded the motion, and the motion carried unanimously at 8:10 pm.

Acting Chairman Lees read through the following:

NEW BUSINESS: NA

EIC ADMINISTRATION & FUTURE AGENDA ITEMS: NA

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: NA

ADMINISTRATIVE STAFF ACTIONS: NA

CORRESPONDENCE: 32nd Annual Meeting & Conference, CACIWC, November 14, 2009, Wallingford, CT (CT Assn. of Conservation & Inland Wetlands Commissions). Derek Roy asked will the Commission pay for us to attend this? It is November 14th. Lees said I will talk to Bernie about that; maybe there is some funding. Baroody added I can check with Scott LeRoy, my boss, to see if there is funding. There is a Health Department budget. Contact Chairman Gallo if you are interested.

OTHER COMMENTS: List of Notices of Violations and Cease & Desist orders. Lees discussed this saying it is on the agenda. Fagan said I just had one comment: 128 East Liberty Street, the violation was cleaned up? Baroody replied yes; it was debris and activity there, and he cleaned it all up, and he came in with an application for a roller rink and parking. And after he cleaned up his violations, he backed off on this proposal. Baroody said the site is really looking good on it. Mills said there are two where I see no response. I guess the fifth one down. There's no response. Should we submit this to Corporation Counsel? Baroody said, through the chair, they (Schirmers) did attend one meeting. That's the ATV trail. Roy asked how many times were they contacted between April and now? Baroody said my suggestion is to give it to Corporation Counsel, and they write a 30 day letter to the violator, and see if they respond. Lees asked which ones here should have a 30 day letter, and the commissioners decided.

Fagan said I see the date of 10/14/09 was just two weeks ago, so I don't think we should send them (Orlando Coto Chang of Advocate Drive) a 30 day letter just yet. Mills asked several meetings ago, didn't an engineer contact you and say an application has not yet come in? Baroody replied yes; Zach from Civil One, Engineers, who was just here. To sum up then, for Pat, any other comments, Lees asked.

81-85 Driveway Rd. Dwayne and Rose Schirmer, ATV trail, NOV 4/30/09, appeared at an April meeting; no response; and

5 Advocate Place, Orlando Coto Chang, NOV 8/11/09; no response.

Lees said both will receive a 30 day letter from Corporation Counsel.

Derek Roy stated that I attended the last State DEP Segment 3, in Norfolk, last week (10/21/09) where we talked about environmental uses, site walks; so for the year I have gone to 1, 2 and 3, Roy said. It's a great program which I recommend to all commissioners, and I can make copies of the literature for commissioners if you wish. I will receive the certificate in January, and I will provide a copy.

ACCEPTANCE OF MINUTES: Motion to approve the minutes from the 10/14/09 meeting as presented by Fagan. Second by Mills. Motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Mills. Second by Roy. Motion carried unanimously at 8:22 pm.

Next regularly scheduled meeting is November 18, 2009.