



**CITY OF DANBURY**  
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**DRAFT MINUTES**

**November 18, 2009**

**7 pm - Common Council Chambers**

Next regularly scheduled meeting December 9, 2009.

Chairman Bernard Gallo called the meeting to order at 7:03 pm. The commissioners identified themselves from right to left. Present were Gallo, William J. Mills, Craig D. Westney, Matthew Rose, Bruce R. Lees, Mark Massoud, Alt. Derek Roy. Absent was Jon Fagan. Staff present were Daniel Baroody, MPH, RS, and Patricia Lee, Secretary.

The Pledge of Allegiance was led by Rose at Chairman Gallo's 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 continues tonight. Revised plans received 10/14/09. Danzer report received 10/27/09. Wetland assessment from J. Chase received 10/27/09. Extension ltr. received 10/28/09. Revisions received 11/9/09. Cross sections received 11/17/09. Danzer comments received 11/18/09. Chairman Gallo introduced this item #846 at 7:05 pm, as Dainius Virbickas, PE, identified himself and set up the plan on the easel. At the last meeting of the Public Hearing, we had gone over the plans and how things got to be, and we also had Jodi Chase give a presentation, and I'd like to go over the requests the Chairmen made as a result of that last meeting, Virbickas said. You'll note on the plan that's on the board, the house footprint has been reduced in size by roughly 200 sq.ft. One commissioner asked that we try to make that distance greater. Now we are about 30 feet away from the brook. Similarly, we adjusted the house on the west end of it, thereby increasing our distance to the wetland; now 21 feet away from the wetland. So we have

repositioned and resized the home to get it further from the stream and the wetland. Based on a request from Dr. Danzer, we removed that rip rap and there should be no problems with that. Again, with that crossing, we've set the box culvert lower than existing grades to create a natural bottom to the intermittent watercourse. Chairman Gallo noted that Mark Massoud has arrived at 7:09 pm. Virbickas continued we modified our planting plan, changed it to white spruce, which is not as tasty to deer, and per Jodi Chase's suggestion, we put a small rubble wall in between those plantings, adding value to the wetland and the wildlife in general, for little creature burrows and homes. Then as Ms. Chase recommended, we added several trees by the driveway, which Virbickas described, and most importantly, we added a fifty foot buffer along the east property line as suggested by Chase. So those are the plan revisions, to address the comments of Commission and the City consultant. We received a memo today from Dr. Danzer who made a number of statements, but basically suggested we follow the Chase recommendations as a starting point. And that's what we did. Staff requested a cross section of our crossing, which commission members should have. We created two cross sectional views, showing the existing grade, the proposed walls on either side, and the driveway in the middle and box culvert. Second, Section B-B, runs west to east, so hopefully that helps the Commissioners understand, and those plans were submitted yesterday afternoon. Based on our plans and recommendations of our ecologist, and the wetland commissions' expert, we have put together a plan that meets or is better than other homes along the reservoir's edge. That could be approved, if the Commissioners look favorably on it, Virbickas said. Westney said there's approximately 8 feet of fill from just the driveway, he asked Virbickas? It's about six feet, Virbickas answered; it's roughly six feet of fill, held in place by the headwalls for the culvert itself. Gallo asked is there any member of the public wishing to speak for or in opposition to this proposal?

Jane Herschlag and Herb Herschlag came to the microphone and signed in. Jane Herschlag said we are very pleased, but there are some things we want to speak about, recycling items. We had cleared some trees, not on wetlands, about 40 years ago, and we have become very active members of the Land Trust, and I have here a letter from the president of the Land Trust (Montgomery). Ms. Chase misses the point, due to a disease known as white nose disease, and the proposal would damage their bat habitat, and Jane Herschlag cited the severity of the disease. Ms. Chase obviously expresses her bias, and we have our own soil expert here. If a smaller impact were made, and the two stories could be added above the garage. I want to point out that the Hankovszky previously sold two lots, and we offered to buy one, but due to the economic collapse, we are unable to buy it. I'm happy the arborvitae will be planted, and I have photos to show what is deer food, so I'm glad the plantings have changed. Herb Herschlag next said he has a letter from Michael A. Aurelia, soil scientist, of the Applied Ecology Research Institute in Greenwich CT, and Herb Herschlag read his letter into the record. Aurelia's letter was based on his site visit 11/17/09, the #846 file, topographic and quadrangle maps, CT Drainage Basins, CT DEP Bulletin 4, June 1982. He read his eight comments and recommendations (see 11/17/09 Aurelia letter). Herschlag also read her own letter dated 11/18/09. Mark Massoud verified the credentials of soil scientist Mike Aurelia for Bruce R. Lees. Lees said I have some questions for the applicant. Virbickas said in his letter dated 11/17/09, Dr. Danzer asked for a more aggressive plan; Virbickas said I would guess he's asking for more planting. I originally understood that he told us to don't touch it, but now he seems to be requesting more planting. Lees said, well, now I'm requesting stronger mitigation plans. Virbickas said I have not seen the report from Aurelia yet. Secretary Lee said I can give you a copy tomorrow, as I just have the one copy. Lees asked is there anything deed restricted since

this is on the border of a watercourse, about insecticides, etc.? Baroody said we could look into putting conditions in our permit and Mr. Aurelia mentions it too. The applicant or his engineer may be able to come up with a better mitigation plan; Aurelia called it a "sediment delta", Virbickas added, a delta right at the outfall. Again, the stream is on our property because it was pushed there. Baroody and Virbickas agreed to go over this. Lees requested also some kind of maintenance plan for the culvert, please? Virbickas replied yes, absolutely. Roy requested through the chair: Ms. Chase has four recommendations on page 4 of her report; I see there are only two arrowwood trees; if you could add two more. Virbickas said sure, I can put those back in there. Are there any other items we should look at? Lees made a motion to continue the Public Hearing. Roy seconded the motion. The motion carried unanimously at 7:30 pm. Virbickas said thank you.

**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. Extension letter received 10/15/09. Danzer report received 10/27/09. Revisions / relocation pending from Ralph Gallagher. Gallo introduced this item, and Mark Massoud recused himself. Ralph Gallagher distributed the new revisions and identified himself, and John O'Hara stood with him and the neighbor moved to the front row. Gallagher went through the list of changes at the microphone, improvements made to the home plan, what he called the eroded channel was classified as a wetland, and we have a dotted line all around showing what we plan to give up for a conservation easement. Stormwater detention is oversized now. And there's a basin to catch heavy, heavy flooded rains. We have a planting plan by Scott Williams, Gallagher said, and the blue shows his proposed plantings; it shows mixtures of southern winterberry, elderberry, fragrant sumac, and I think there was talk of putting some pines in some other places, so if the commissioners would like to stipulate additional plantings, we could certainly entertain that. Gallagher said I'd like to run through Dr. Danzer's second letter. Gallagher discussed grades, limits of clearing, proposed catch basins, tree removal and runoff, mitigation, and erosion at proposed outlet. One of the things the landscape architect said was any trees under this canopy should be removed. Item 3, Danzer says still not addressed, and maybe he did not see it, but we have addressed that, there will be no more erosion here. I talked about the tree removal and the runoff, bringing it down, splash it on the pad, you can build little dams and things, but this is too steep. If the commissioners have walked this, you see how bad the erosion is, but you can also see where the erosion stops: the splash pad, a perfect example. We have certainly a large area to work in; more plantings, cross drainage, certainly we could do that. Erosion at the outlet we talked about. I think it just abruptly ends at 7. Gallagher asked do you have any questions we should address? Gallo said probably not, as we just got this plan. John O'Hara said the lot is staked now. Gallagher reiterated when you do walk it please note the severe erosion and where that stops when the area flattens out. You're going to stop it by piping it, splashing it and spreading it. Rose made a motion to table this to next meeting. Lees seconded the motion, and the motion carried unanimously at 7:39 pm. Gallo said so

be it. We'll do a site walk. O'Hara asked Lee to call him when they do schedule the site walk.

**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 OK per Health Dept. FirstLight Power letter and CLA comments received 10/13/09. Extension ltr. received 10/28/09. Mr. Massoud is back, Gallo announced. Zack Lessard, EIT, of Civil One, Engineers, said it's my understanding that Dan Baroody has a report, and sat down. Baroody said I have issued my report, the basically the applicant has worked with FirstLight, Candlewood Lake Authority, and this Commission and staff, and he reviewed his recommendation. Lees made a motion to **approve** with 4 conditions of approval. Roy: seconded the motion. The motion carried unanimously without questions or remarks, and with Matt Rose abstaining. Lessard said thank you.

**NEW BUSINESS:**

**346 Main Street**

**Regulated Activity # 850**

**Revival Church of Danbury**

Assessor's Lot # I13030, C-CBD Zone.

Date of Receipt: 11/18/09.

Parking, drainage (old Elks Lodge).

First 65 Days: 1/22/10. Second 65 Days: 3/28/10. Artel Engineering Group, LLC. JMM Wetland assessment received 11/9/09. Gallo introduced this new business. Mark Kornhaas identified himself and his firm. My applicant is in the process of purchasing this property, basically downtown Danbury. Obviously the church wants to occupy this property and basically use it in the same manner as a club (the Elks). Mark Kornhaas discussed the history of the area, the old Danbury Mall, now BRT property. There are not any wetlands on the property. The Still River has been channelized through that area, anywhere from 10 feet to 20 feet away. But the site is within 10 to 20 feet from the Still River. The church needs extra parking, so as part of their approval, they must reorganize the parking, update the handicapped-accessible parking, reorganize about some 20 spaces, and improve the drainage with crushed stone infiltration in there. Not a big deal, I don't think, Kornhaas said. Lees had a question on the filtration from the parking lot going into the Still River. Kornhaas answered we will reorganize it with a crushed stone trench; the soil is pretty permeable in this area. Lees suggested some devices for improved runoff from a parking lot into a river; better type of infiltration, a separator, label the drains, and questioned the paved area versus the gravel. Kornhaas described the parking that exists; the handicapped-accessible spaces need a hard surface. The problem with chambers or separators is gravel, gravel, gravel. We've provided a trench that is very effective. A Vortechnic unit requires an infiltration system. Lees said I don't look at it as maintenance. I look at it as upgrading. We always are careful how we handle water going into the Still. I would rely on staff's decision; if not a Vortechnic unit, something else. Kornhaas I would be

glad to sit down with Dan Baroody to discuss something like that. Lees added, again, we want signage; labels on the wetlands behind those bushes. Thank you. Massoud said along the same lines, what would the maintenance of a gravel surface be like, snowplowing, in the winter time; what comes to my mind is maybe using some pavers of some kind, grass or gravel that could serve a couple of purposes and address some of Lees' concerns. Kornhaas replied good suggestion. The melt (Tape flipped to side B) runs into the trenches; a pretty good sized trench. Westney said regarding a refuse container; is there the potential to prevent refuse from blowing into the river; somehow move the container, locate it up front? Kornhaas said I will definitely take a look at that; parking is such an issue at this site. Westney discussed a lift truck coming in; look at an alternative. Kornhaas said we will certainly give it another look. Lees said you said 25-year storms, but they come every year now, and 50-year storms come every other year. I always ask you to look at a 50-year storm; just a suggestion, maybe a larger pipe, Lees said. Massoud you said you're sharing parking? How does that work? Kornhaas described the shared parking, off peak hours, services on Sundays; spaces to lease across the street; that parking is existing now; it's being used. It's just going to be shared. The back is just a Wild West show. Lees made a motion to **table** this until December 9<sup>th</sup>. Rose seconded the motion. The motion carried unanimously at 7:06 pm.

**17 Old Neversink Road**

**Regulated Activity # 851**

**Robert & Deedra Bakish**

Assessor's Lot # J03073, RA-20 Zone.

Date of Receipt: 11/18/10.

Residential additions.

First 65 Days: 1/22/10. Second 65 Days: 3/28/10. Brad DeMotte, Architect. CLA comments (Marsicano) received 11/10/09. FirstLight letter and revised plans received 11/17/09. Bob Bakish identified himself at the mic and his 20 year history with the property with his wife and 2 daughters. Bakish said we purchased the adjoining property, and joined the two properties, and removed the house on that old lot. It reduced the impact to the wetlands in 1999. We intended to finish the house, in 2000, in 2001, we intended to go ahead, and now we will go ahead some nine years later. Over the years, we have done a lot of improvements to the grounds, which he described, and it has become something of a bird haven. You have all the paperwork. But the work is all on the north side of the house, for aesthetic reasons; the lot looks a little funny from the lake. We did not proceed in 2001. Two small patios are proposed off that. We went to Larry Marsicano at CLA, and Brad, my architect, talked to him, and we engaged Steve Trinkaus, PE, to attain a high degree of comfort for the environment on Candlewood Lake. The old other house was roughly here. The "swim cottage" we chose to keep, but eliminated the house. Bakish went through the photos of the area, describing the vicinity features, different views; we took out all this lawn and replaced it with buffer gardens, and you have Steve's (Trinkaus) letter; he really liked this location; he thought that was a good thing. There's now no lawn, but plantings appropriate to the area. I want to stress that back in 2001 we had all the necessary approvals. Again, I welcome your comments and questions, Bakish said. He answered Lees' question, and Bakish added Steve Trinkaus would also be happy to answer any of your questions. Dan Baroody asked if Bakish could please leave the color rendering tonight. Bakish said yes. Lees made a motion to **table**. Roy seconded the motion. The motion

carried unanimously at 8:04 pm. Gallo said in the interim you'll be getting together with Dan.

**3,5,9,11 & 13-17 Capitola Road Regulated Activity # 852**

**John E. Haga**

Assessor's Lots #G071113,G07114,G07115,G07116,G07006

Date of Receipt: 11/8/09.

5-lot subdivision, RA-40 Zone. R. Gallagher, PE.

First 65 Days: 1/22/10. Second 65 Days: 3/28/10. Catherine A. Cuggino, Attorney. Again, Ralph Gallagher identified himself saying he is representing the applicant. Capitola Road is a City road; there's a seep out of the hill. At the time of the subdivision approval years ago, the wetland has not changed. There is a long driveway on Lot #5, but the rest are small driveways. It is good soil, but no septic is required since it's on City sewer. We have to put in catch basins. There is a culvert, and we have to put drainage in Capitola Road up to this point, so it would drain part of the road anyway. We'll be in Planning after this; if there are any changes, we'll come back. We are not disturbing any wetlands. Everything is going to stay the way it is and was, except for the drainage on Capitola Road. Westney asked Gallagher the distance to the wetland. Gallagher replied forty feet. Lees said I thought on issues of subdivisions it's an automatic Public Hearing? Baroody said you can take the next two weeks, and we can look into it and get back to you. Baroody said Pat Lee found there was no public hearing on the previous application (EIC #162 in 1996). This one is not near Candlewood Lake. The old Padanaram Reservoir is nearby. I looked into the watershed issue, and it's out of the sensitive watershed area around the reservoir. Rose made a motion to **table** this until December 9th. Westney seconded the motion, and the motion carried unanimously at 8:09 pm.

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

**APPLICATIONS FOR ADMINISTRATIVE APPROVAL:** NA

**ADMINISTRATIVE STAFF ACTIONS:**

The following Administrative Approvals were granted by Daniel Baroody, RS, MPH, on November 3, 2009:

133-135 & 137-139 Chambers Road, Regulated Activity # **629 R**, Richard S. Jowdy & Ethna A. Sullivan, Lots# D07066, D07067, pond outlet restoration plan.

181 Long Ridge Road, Regulated Activity # **848**, Monsour Michael, Lot # J24020, repair existing culvert under driveway.

Lincoln Avenue, Regulated Activity # **849**, City of Danbury, Farid Khouri, PE, sidewalks, drainage, roadway reconstruction.

Bernie Gallo read the above three administrative approvals that have been approved by Staff actions. Gallo asked are there any remarks?

**CORRESPONDENCE:** NA

**FOR REFERENCE ONLY:** NA

**OTHER COMMENTS:** 2010 DEIC Meeting Schedule was distributed and an updated DEIC Commission Members contact list.

**ACCEPTANCE OF MINUTES:** Motion to accept the 10/28/09 meeting minutes as complete by Mills. Second by Lees. The motion carried unanimously 8:11 pm.

**ADJOURNMENT:** Motion to adjourn by Matt Rose. Second by Derek Roy. Motion carried unanimously at 8:12 pm.