

ENVIRONMENTAL IMPACT COMMISSION
City of Danbury
DRAFT MINUTES
May 28, 2014
7:00 PM
City Council Chambers

ROLL CALL: Chairman Bernard Gallo called the meeting to order at 7:04 pm. Present were Gallo, Michael Esposito, Mark Massoud, Matthew Rose, Alt. William Nicol. Alt. Derek B. Roy arrived later and did not participate in the discussions and voting.

Absent were Bruce Lees, Craig D. Westney, Alt. Josh Reilly, William Mills. Staff present were Daniel Baroody, RS, MPH, Secretary Patricia Lee.

PLEDGE OF ALLEGIANCE: All stood for the recitation of the Pledge of Allegiance.

EXECUTIVE SESSION: NA

PUBLIC HEARING: NA

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 S. Danzer, Ph.D., 2/27/14. Danzer reports rec'd. 4/8/14 and **5/20/14**. Extension ltr. rec'd. 4/23/14. Restrictive Covenant sample rec'd. 4/23/14. Middle River Hills. Gallo introduced this item as Attorney Neil Marcus came forward and said this application is pretty much complete. We have a report from Dr. Danzer. He's still looking for an easement, which I don't think is warranted for this plan. Marcus, using the plan on the table, discussed the wooded area, the grade; it should not be cut or developed without an impact in the wetlands. So we came up with the language that would go with the deed, so future owners would have to come back to this commission if they were to do anything on the back of the four lots, Marcus said. We said the negative easement that we propose; the future owners would have to come back to the commission. Mark Massoud said they have to do that anyway. Marcus responded only within 100 feet. Over here, I don't need a review. We would restrict that area so that there would not be the right to just go out there without first notifying this commission, Marcus continued. Regarding deeds for lots 3,4,5,and 6, Marcus read his proposal: "Prior to any land disturbance in the 100' strip running parallel to and easterly of the westerly lot line the Grantee shall file its plan with the Danbury Environmental Impact Commission demonstrating that such land disturbance will have no adverse environmental impacts on the adjacent wetlands". Marcus said that was sort of a compromise. In Danzer's initial review he also wanted a setback: his April 7th memo, page 3, paragraph 3; prior to that he talked about lot 2, if I can find it in here, Marcus continued. Maybe he didn't; okay, Marcus said. On page 2, "A conservation easement over this area would afford a stronger level of future protection than is currently proposed". I thought he was looking for a conservation easement. Matt Rose said in the memo dated 5/20/14 on page 2, "...It is recommended that the applicant propose a conservation easement along the wetland corridor to provide a mechanism to prevent future incremental land clearing, to mitigate against potential erosion, and to preserve and protect water quality."

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functions of the wooded buffer to the brook, which ultimately outlets into a reservoir". Marcus continued speaking about the area that can't be disturbed without first notifying the EIC. And then he sent a follow up memo, Marcus said; if I can find it. The May 20th letter, page 2, Esposito said, number 2. Marcus said look at page 2, paragraph 2 and 3, and Marcus listed the lots in question. And the reason it was not even discussed is that the topography over in that corner is very flat. There is no grade on the western side of lot 2. We actually don't think it's appropriate, Marcus said. If we restrict the area, we also get rid of the access to the open space, which is pretty skimpy to begin with. The proposal that we have made we think is about as far as we have to go to protect this and future development down the road. Marcus said Danzer may be "switching over to practice law". My suggestion is for Corporation Counsel to review the deed. I'm not sure what else we would have to do to solve that concern. It has to go out to the future. I stand with the restrictive covenant that's proposed, Marcus said. Three meetings ago, it was suggested that the applicant go with the proposal that was discussed. So there seemed to be some sense that the wetland crossing should be the way it was designed. I told Nancy Levesque that, Marcus said. Marcus and Bill Lavelle spoke quietly to each other. Bill reminded me that all of the lots back up to open space; 2,3,4,5,6 lots. It would impede access to the open space. Gallo said staff has asked that we table this. Rose made a motion to **table**. Nicol seconded the motion. Motion carried unanimously at 7:21 pm with 5 commissioners voting.

**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.

4/2/14. A & J Letter to neighbor Turner rec'd. 3/25/14. Danzer comments rec'd. 4/3/14, 4/8/14 and 5/8/14. CCA revisions, responses rec'd. 4/23/14, copy to Danzer. Extension letter rec'd. 4/23/14. Alternate plan rec'd. 4/13/14. Gallo introduced this application at 7:22 pm, and Marcus again identified himself. Nancy Levesque is not with us this evening, but at the last meeting she gave her response, and she has supplemented her response with the 5/28 letter, with attached the size of the Stormceptor sizing. The entire Stormceptor unit report, the added trees, the existing and proposed water quality systems, they are under review by the Engineering Department, Marcus said. For dust control, we have a maintenance plan that will be kept on the site, and we will water the site when it gets dry. The site has been re engineered. And maintenance reports will be filed annually or as requested. The silt fence, we have noted, needs to be repaired. Again, Marcus continued, this site is not a virgin site, and this plan has its origins about the screening; we have to upgrade the entire site, and we came to the conclusion that this is a vast improvement. Any questions, Marcus and Gallo asked. There is a new report from CCA, which Dan Baroody has to review, Gallo said. Nicol made a motion to **table**. Esposito seconded the motion. Motion carried unanimously at 7:26 pm.

Regulated Activity # 974

Assessor's Lot # M12009, IG-80 Zone.
Construction materials storage area.
N. Levesque, PE, CCA, LLC
Copy to Danzer 2/17/14. Site visit

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, rec'd. 2/28/14. Shall file modifications 3/17/14. EIC # **982** application rec'd. 5/28/14. Gallo said it is recommended that this stay in force. Marcus said the Bramson's have been working with the Army Corps of Engineers, since the violation occurred. He put the new plan on the easel. Based on the work done by Paul Jaehning, the soil scientist, we are dealing with a very small piece of the 52 acres; the removal of sand and silt from the stream. The gardening staff began cleaning out the stream without a permit. By the time the issue of the work had come to the fore, there was a horrendous rain storm on the evening that the work was completed. The stream itself normalized its own flow after a while. The Army Corps of Engineers saw that there had been a lot of alterations to the stream. The stream now had a sort of unnatural flow; more curvature. The dredged materials were all placed on the east side of the stream, which resulted in filling a wetland, and at the same time work was done on the far side of the site, so about 450 feet going to the north. They took a machine, scarified the soil, and planted grass. The proposal that you will see is to remove some of the fill from two areas, and use some of that material to reshape the shore, and restore the site with some wetland plantings. Page two of the plan is the restoration. If you look at the report, you will see a wetland and soils map prepared by Jaehning and Sherwood, and Danzer complemented Jaehning on the detail of his work. He has designated the soil types; he did the entire site, the stone bridge, the Sherwood plan, the area seeded. So once Jaehning did his work, his earlier plan was rejected by the Corps. We have signed an agreement with the Army Corps of Engineers that we have to do this plan and monitor it for a couple of years. You have overlapping jurisdiction with the Army Corps of Engineers. We filed a formal application with you, Marcus continued. I don't want to go into the possibility that the Army Corps of Engineers wants it one way, and DEIC wants it another way. It is likely that it would be acted on favorably, since the planting season is right now. I think they meant by August 15, 2015, but they'd prefer we do it this year. If you need access to the property, I will arrange that. The Army Corps of Engineers has been out there with us. You're going to find that the work by Jaehning and Sherwood is pretty good. Gallo said we are going to want to look at it again. Marcus said we understand that. Gallo said we have not seen that application. They will have to schedule a date. They have a caretaker to let us in. Mayor Mark Boughton entered the Chambers and spoke to Esposito, and distributed some paperwork at 7:40 pm. The Mayor thanked the Chairman.

8 Mountainville Road, Domenico Chiera, Lot #J17005, RA-20 Zone, Filling of wetlands, Notice of Violation mailed 4/3/14. We will leave this in force unless there is an objection, Chairman Gallo said.

ADMINISTRATIVE STAFF ACTIONS:

Administrative Approvals by D. Baroody 5/21/14 and 5/22/14, introduced by Chairman Gallo:

75-79 Kenosia Avenue, City of Danbury Municipal Airport, EIC #**981**, (G18001-3) IL-40 Zone, Underground cables into existing pipes.

45 Cedar Drive, Cedar Heights Association, EIC # **551RR**, (K04157) RA-20 Zone, Retaining wall repair, dock, catwalk.

55 Backus Avenue, Miller-Stephenson Chemical Company, EIC # **978** (E18004, E18009) IL-40 Zone, Water service & sanitary sewer lateral.

ACCEPTANCE OF MINUTES: May 14, 2014, Meeting. Motion to accept these meeting minutes as presented by Esposito. Second by Nicol and Rose. Motion carried unanimously at 7:40 pm.

EIC ADMINISTRATION & FUTURE AGENDA ITEMS: NA

CORRESPONDENCE: NA

ADJOURNMENT: Motion to adjourn by Rose. Second by Esposito. Motion carried unanimously at 7:41 pm. Alt. Derek Roy was in audience.

Next regularly scheduled meeting date June 11, 2014.