

CONNECTICUT RIVER GATEWAY COMMISSION

REGULAR MEETING MINUTES

March 24, 2022

Present/Absent:

Chester:	Tom Brelsford, Jenny Kitsen
Deep River:	Jerry Roberts, (vacancy)
East Haddam:	Crary Brownell, (vacancy)
Essex:	Claire Mathews, Misha Semenov
Fenwick:	Newton Brainerd, Borough Warden
Haddam:	Susan Bement, Mike Farina
Lyme:	J. Melvin Woody, Wendy Hill
Old Lyme:	Suzanne Thompson, Greg Futoma
Old Saybrook:	Bill Webb, Diane Stober
Regional Reps:	Raul Debrigard (N), Marilyn Gleeson (N), Judy Preston (S)
DEEP:	Katie Perzanowski
Staff:	J H Torrance Downes
Guests:	Douglas Chan, Denise Von Dassel, Ed Cassella, Brooke Girty, Joe Bergin, Rich Riccucci, Jeanne and Owen Gade

Call to Order

This meeting was called to order by Vice Chairman Woody on the virtual meeting platform Zoom at 7:03pm.

Approval of Regular Minutes

A motion was made by Kitsen to approve the February 24, 2022 minutes. The motion was seconded by Preston and approved unanimously. Matthews reported that she is looking for an update of three Essex petitions that were reviewed by the Gateway Commission at its February 24, 2022 meeting.

Variance Application, 20 Fenwick Street, Old Saybrook. Gateway staff indicated that, as a neighbor of the applicant, he has supported the approval of the requested variance and has informed the Old Saybrook ZBA of that support with the submission of a letter. He reported that he will take notes and answer questions if asked but not participate in the discussion otherwise.

Attorney Ed Cassella introduced the application, which requests a variance of the 15% ground coverage limit as the property owner is requesting coverage totaling 19.7%. No other variances are needed. The property owners propose the construction of a two-bay detached garage with an office on the ground level and an accessory apartment intended for aging parents on a second floor at the northeast corner of the lot. The proposed height is approximately 27 feet, 8 feet less than the Gateway height maximum. The second floor will be accessed by an elevator. Architect Denise Von Dassel used aerial photos and ground level photos to show that the proposed structure will only be seen from South Cove and the South Cove Causeway to a limited extent as numerous residential structures, and the principal dwelling of the property owner substantially block its view. A question of whether approvals like the one proposed would create a legal "precedent". Attorney Cassella reported, by nature of the site-specific nature of a variance application, no "precedent" is ever set in such applications. Webb pointed out that view from the "river" includes views from "tributaries" like South Cove, which the applicant acknowledged as being understood. After much discussion and the general expression of concern over the proposed structure exceeding the 15% Gateway coverage limit, a motion to "oppose" the granting of the variance was put forth by Roberts and seconded by Gleeson. Following further discussion, several members commented that, perhaps, the applicant could revise the plan to reduce the proposed coverage and thereby reduce any visual impact the structure might cause. The initial motion and second were withdrawn. A second motion was put forth by Roberts and seconded by Brownell saying that the Gateway Commission would support the variance request if the coverage reduced to 15%, thereby not needing a variance or support by the Gateway Commission. After a comment by property owner Jeanne Gade, members

then discussed how the proposed structure could be reduced in size so that Gateway could support the application. Members finally decided that they will “table” the discussion so that the property owner can consult with their design team to reduce the size of the structure to a point that they would feel comfortable supporting the variance request.

Variance Application, Douglas Chan, 11 Clark Lane, Essex. Architect Brooke Girty explained the application to demolish an existing residential structure and replacing it with a new structure located approximately 40 feet landward of the existing footprint. The new location, although further from Falls River Cove, has not been completely moved outside of the 100-foot Gateway structure setback, although it will be moved out of the 50 foot Required Vegetation Buffer. Matthews and Roberts described how this site and adjacent properties are located on some of the most historic land in Essex, land where shipbuilding took place and the schooner “Osage” was burned to the waterline by the English in 1814. Member questions included why the new structure couldn’t be moved completely outside of the setback. Girty explained that the health code separations for the new septic system and well to be located on the landward side of the structure and the odd shape of the lot prohibit the structure from being moved any further out of the setback than proposed. She also acknowledged that moving the structure further away from the cove would greatly diminish the property owner to have a view up the cove, part of the reason the property was purchased. Photos were displayed showing the view of the property from the cove, demonstrating that the sloping hillside is fairly densely vegetated, enough so that new planting along the slope didn’t seem necessary. After additional discussion, a motion was made by Debrigard and seconded by Brelsford to support the application with the following statement:

Although the members of the Gateway Commission are disappointed that the new structure isn’t proposed to be located entirely outside of the 100-foot Gateway structure setback, they will not object to the approval of the required variances as long as conditions are applied to paint the structure a muted, dark color similar to the color of the existing structure. In addition, an approval should be conditioned to limit the amount of exterior lighting of the structure to minimize the amount of unnecessary light spilling out to the cove and to properties across the cove.

Staff is to prepare the letter and send to members. As a result, the motion was unanimously approved.

Variance Application, Preliminary Review, 201 North Cove Road, Old Saybrook. Architect Joe Bergin presented for the applicant and recognized that he had been before Gateway on numerous occasions on proposals for this property. Bergin showed drawings and plans showing a dramatically smaller detached garage and what appeared to be the same dwelling enlargement. This application will include an in-ground pool. Bergin reported that he had “faithfully” brought previous Gateway comments and concerns to his client and the result is the current iteration of the proposal. If Gateway continues to object to the garage (which is still proposed for location entirely within the 100 foot Gateway setback and Required Riparian Buffer), Bergin said that it will be removed from the proposal. Webb reported he will not support an application that includes the garage as proposed. Debrigard states that he favors smaller encroachments into the Gateway setbacks. Other members agreed with Debrigard’s assessment. As for the pool, Debrigard commented that an in-ground pool poses little in the way of visual intrusion, depending on whether or not a substantial retaining wall would be required. The Gateway Commission will next review what they anticipate to be an amended proposal at its April 28, 2022 meeting.

Rules Committee Discussion

Webb discusses that the Minimum Standards are the “core” of the Gateway mission and requests that the members endorse the inclusion of the new light pollution definition and review standard in the proposed revisions to be sent to the eight member towns. Debrigard reminds that this discussion does not constitute the “adoption” required by Section 25-102g CGS. In addition to reducing light pollution and its impacts on night

skies and birdlife, Preston reminds that excessive lighting can disrupt life under the waters of the valley and requests additional language to have local Commissions and the Gateway Commission consider those impacts as well. A consensus members resulted in language to minimize light pollution shing “...into the sky, onto land and into the water column of the Connecticut River and its tributaries...”. The light pollution definition to be forwarded to towns will include this new language. Further, the language should clarify that the light pollution definition and additional review standard include “indoor lighting” as well as “site lighting”, which includes “up-lighting” of trees. Upon a motion by Webb, which was seconded by Debrigard, the proposed changes were unanimously approved.

Petition to Adopt Opt-Out of Provisions of Public Act 21-29, Town of Old Lyme. Following a discussion of the proposal, and upon a motion by Webb with a second by Brelsford, the Commission unanimously approved the proposed regulation as it would have no impact on the “natural and traditional riverway scene”.

Correspondence/Staff Report

Staff summarized report items.

Chester Riverfront Property Apparent Violation. Downes informed the Commission that after the site meeting at Chester Point Marina, he and Chester Land Use Administrator John Guskowski traveled over to the parcel adjacent to the Connecticut River and the Chester Creek that has been the subject of recent violation and enforcement discussions. That site was approved by the DEEP for the upland disposal of dredge spoils from Chester Creek but no local application had been submitted or reviewed for that upland use. Further, it was recognized by Chester alternate representative Brelsford and confirmed on the October 2021 Gateway boat trip that some tree removal had apparently occurred in the 50-foot Riparian Vegetation Buffer along the river shore without approval. Finally, an embankment of gravel that appeared to have been placed below the Coastal Jurisdiction Line (CJL) may have occurred without benefit of a required Structures and Dredging Permit from the DEEP.

Chairmans Report. Thompson reported that she attended a Preserve (Old Saybrook, Westbrook, Essex) Management public meeting.

Finance Committee. Matthews reported that the only action to be taken is the payment of the RiverCOG bill which includes \$1642.55 for Downes, \$50.08 for Fernald and \$2,137.28 for “overhead” charged by RiverCOG and the provision of donations to the Lyme Land Conservation Trust and the CT Land Conservation Council. The staffing bill totals \$3,829.91. In addition, the Commission approved donations in the amount of \$500 to the Lyme Land Conservation Trust for the “Tour de Lyme”, and \$1,000 for the annual CT Land Conservation Council land trust workshop. The bills together total \$5,329.91. A motion was made by Debrigard, which was seconded by Brelsford, to approve the payment of the RiverCOG bill and the two donations. The motion passed unanimously.

Communications Committee. Following the payment of the two donations, Futoma let members know that the Communications Committee had recommended that the Commission provide these two donations, matching similar donations provided to the two organizations in past years. The CLCC workshop will be held outdoors and virtually during the third week in May, 2022 with the purposed of enlisting a new generation of conservationists. The committee met with consultants Judy Anderson and Dorene Warner and agreed that all content for the website should be provided by committee members by May 1, 2022. The intent will be to have the new website go “public” on or around June 1, 2022.

Rules of Procedure Committee. No further report.

Land Committee. Thompson reported for the Land Committee in the absence of chair Melvin Woody. The Commission went into Executive Session at 9:37pm on a motion by Thompson to discuss potential land acquisition opportunities in the lower Connecticut River Valley. The Commission came out of Executive Session

at 9:38pm with no decisions or motions being made.

Grants Committee. No report as chair Roberts had left the meeting.

Old Business. On the topic of the potential violation on the property at the mouth of Chester Creek, Brelsford said that he felt stronger action should be taken as a bulldozer was said to be used to clear vegetation by the river beach within the 50 foot Required Riparian Buffer. Upon a motion by Brelsford, which was seconded by Matthews, staff was asked to send a letter requesting the initiation of an enforcement action to the Chester P&Z Commission. The motion was passed unanimously.

New Business. Downes announced that he will be retiring as of October of 2022. Six months notice has been provided in order to provide the Gateway Commission sufficient time to find a successor to Downes, who has staffed the Commission for the past eighteen years.

Adjournment

A motion was made by Brelsford, seconded by Preston, to adjourn the meeting at 9:45pm. The motion was unanimously approved.

Respectfully submitted,
J H Torrance Downes, Staff to the Gateway Commission

Staff Report
March 24, 2022

Variance Application, 20 Fenwick Street, Old Saybrook

Construction of a detached garage with Accessory Apartment Over. This proposal takes advantage of the recent changes to local Zoning Regulations as required in Public Act 21-29, an Act concerning ADUs.

The proposed detached structure meets all setbacks and other related dimensional standards with the exception of the 15% Gateway coverage limit. The project proposes coverage of 19.7%. The views of this new structure are limited to those driving north over the South Cove Causeway where the site has limited view due to intervening residential structures including the primary dwelling on the site in question. Although the 19.7% exceeds Gateway coverage limits, it is still below the non-Conservation Zone limit of 20% for this Residential "A" District property.

Variance Application, 11 Clark Lane, Essex

Demolition of an existing single-family dwelling and replacement with a new single-family dwelling. The new structure is larger and has been moved back from the edge of Falls River Cove by approximately 25 feet. The new structure will continue to encroach within the 100-foot structure setback by approximately 25 feet at its greatest point. A large open deck that previously encroached within the 50-foot Required Vegetation Buffer will be eliminated. A height variance is required because the property owner wishes to rebuild a walkout basement door that the existing house has, given its location on a steep slope down to the cove. A new garage is proposed that is turned at an angle to the cove front due to the lot configuration, diminishing the façade "presentation" seen from the cove.

Variance Application, 201 North Cove Road, Old Saybrook

Members of the Gateway Commission have seen this application several times previously as "preliminary" reviews. In the previous design, the applicant was seeking advice on the enlargement of the existing residential dwelling and on the new proposal for a large, detached garage with office space over. The garage was to be located entirely within the 100-foot structure setback and 100-foot Required Vegetation Buffer (a maintained lawn, in this case) and was located within a flood zone, requiring the elevation of the second story which produced a significant peak height of approximately 30 to 32 feet. The new proposal is for the same expansion of the existing dwelling, but a smaller, one-story, two-bay garage. New components of the proposal include the construction of an in-ground pool that extends approximately 15 feet into the 100-foot setbacks and is stabilized on the river side by a modest retaining wall. A pergola located close to the rear of the existing dwelling and located entirely within the 100-foot setbacks is proposed as well. This review is "preliminary" in that the local hearing won't commence until May 15, 2022. The change in the proposal warranted the additional "preliminary" review.

Zoning Regulation Revision, Opt-Out of ADU Requirements PA 21-29, Old Lyme

Members will recall that at their January and February meetings, similar proposals were review and approved for the Town of Saybrook and the Borough of Fenwick. "Opting out" is a legal tactic which allows a local commission to retain revision control over their regulations concerning Accessory Dwelling Units. If a town doesn't "opt-out", it can no longer revise those regulations after a January 1, 2023, the deadline set by P 21-29. This is purely a revision governing zoning regulation revision and adoption process.

Updates on Previous Petitions Reviewed by the Gateway Commission

Essex Zoning Map Amendment Proposal – Rezoning of Single Lot in Essex Village, 3 Pratt Street

After review at its February 24, 2022 meeting, the Gateway Commission sent an advisory letter that stated it would likely "approve" this proposal as the property is all but unseen from the river and from North Cove. The Essex Planning & Zoning Commission convened and closed the local public hearing, making no decision.

Essex Zoning Map Amendment Proposal – Rezoning of Single Lot at the Base of Main Street, 53 Main Street in Essex Village.

After discussion of the proposal at the February 24, 2022 meeting, the Gateway Commission sent an advisory letter stating that it would likely "disapprove" this rezoning because the existing zoning district designation (Waterfront District) is more consistent with protection of the "natural and traditional river scene". Like the rezoning of 3 Pratt Street, the local hearing was convened and closed with no decision being made.

Essex Zoning Regulation Proposal – Split Lots

At its meeting on February 24, 2022, the Gateway Commission wrote an advisory letter stating that it likely "approve" this proposal on the condition that the allowances of the new regulation regarding lots split by two zoning districts would not apply to lots located in the Gateway Conservation Zone. The proposed language would allow the standards of the less-restrictive zone to apply to the other zone as well, which for Gateway purposes, could lead to slightly increased development density. The local

hearing for this petition was convened but remains open so additional testimony can be presented during the hearing prior to it's closing.

Items of Interest

Chester Creek Property at the Confluence of Chester Creek and the Connecticut River. Staff visited the site with Town Staff John Guskowski. The property is currently used by the property owner to park an RV during the summer months. At the time of the visit, no RVs were present nor were there any other improvements on the site. There *does* appear to be a riverfront beach that is utilized for recreational purposes. A BBQ grill is located there. It is thought that some vegetation was taken down along the inner edge of the "beach" and within the 50 foot "required Vegetation Buffer" at some point last year.

As a part of a recently approved DEEP application to dredge portions of Chester Creek, the property owner permitted the dredger to deposit dredge spoils on this property. At the time of the review and approval of the state permit, a turnover in local staff resulted in no municipal review of the disposal activity by the Town. Under the Gateway standards, there are limits for the "excavation" of soils on properties in the Gateway Conservation Zone. The recently adopted language regarding limits to "addition" of soils on Conservation Zone properties was added in August, 2018, but those new standards have only been adopted by the Town of Essex. As a result, there is no standard that prohibited the depositing of the spoils on this property. At present, no action has been requested in terms of replacement of vegetation.

Review Criteria for Special Permit and Site Plan Applications

Section II - Definitions:

Light Pollution: Excessive, misdirected, or obtrusive light from artificial sources at a site, including site and architectural lighting, which may result in brightening of the night sky, inhibiting the observation of stars and planets; light trespass onto neighboring properties; visual glare and discomfort; or significant disruptions to wildlife and ecological cycles. [Note that this definition was modified by a vote of the Commission at the March 24, 2022 meeting.]

Section II, J(3) Review Criteria for Special Permit and Site Plan Applications

- a) Proposed site development shall maintain the essential natural characteristics of the site, such as major landforms, natural vegetative and wildlife communities, hydrologic features, scenic qualities and open space that contributes to a sense of place.
- b) Structures shall be adapted to the existing terrain, rather than altering the earth form to create a platformed development site.
- c) Structures located above the crest of hillsides facing the River shall be held back from the crest of the hill to maintain a clear sense of the hillside brow in its natural condition.
- d) Vertical architecture elements shall not be over emphasized in a manner which disrupts the natural silhouette of the hillside. Structures shall be designed so that the slope angle of the roof pitch is generally at or below the angle of the natural hillside or manufactured slope.
- e) Building forms shall be scaled to the particular environmental setting to avoid excessively massive forms that fail to enhance the hillside character. Massing of structural elements such as large roof areas shall be broken up to approximate natural slopes.
- f) Roof lines shall relate to the slope and topography. Rooftop treatment shall be designed to avoid monotony of materials, forms and colors. Dark colored roof treatments, which reduce visual impact of the structure on the landscape, are preferred.
- g) Site design shall preserve the existing natural landscape where possible and include new landscaping which is compatible with existing natural vegetation, the scenic character of the area, and increases visual buffering between the building and the River or its tributaries within the Gateway Conservation Zone.
- h) Development shall be located so as to minimize disturbance of sensitive areas. The smallest practical area of land should be exposed at any one time during development and the length of exposure should be kept to the shortest practical time. Disturbed areas shall be replanted with trees, shrubs and ground cover which are compatible with existing vegetation.
- i) Site grading shall avoid straight and unnatural slope faces. Cut and fill slopes shall have curved configurations to reflect as closely as possible the forms and shapes of surrounding topography. At intersections of manufactured and natural slopes, abrupt angular intersections should be avoided and contours should be curved to blend with the natural slope.
- j) **Within the Gateway Conservation Zone, lighting of properties, including site lighting and the illumination of building facades and other architectural features, shall be the minimum necessary for health and safety. The purpose of this standard is to minimize the amount of artificial lighting emanating from Conservation Zone properties in a way that may contribute to light pollution.**