

ThanksCONNECTICUT RIVER GATEWAY COMMISSION

REGULAR MEETING MINUTES

April 28, 2022

Present/Absent:

Chester:	<i>Tom Brelsford, Jenny Kitsen</i>
Deep River:	Jerry Roberts , <i>(vacancy)</i>
East Haddam:	<i>Crary Brownell, (vacancy)</i>
Essex:	Claire Mathews , <i>Misha Semenov</i>
<i>Fenwick:</i>	<i>Newton Brainerd, Borough Warden</i>
Haddam:	Susan Bement, Mike Farina
Lyme:	J. Melvin Woody , <i>Wendy Hill</i>
Old Lyme:	Suzanne Thompson, Greg Futoma
Old Saybrook:	<i>Bill Webb, Diane Stober</i>
Regional Reps:	Raul Debrigard (N) , <i>Marilyn Gleeson (N), Judy Preston (S)</i>
DEEP:	Katie Perzanowski
Staff:	J H Torrance Downes
Guests:	Owen and Jeanne Gade, property owners; Denise Von Dassel, Architect; Joe Wren, P.E.;

Call to Order

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

Approval of Regular Minutes

A motion to approve the minutes as presented was made by Woody, which was seconded by Kitsen, to approve the March 24, 2022 minutes. The motion was passed unanimously.

Amendment of Agenda Order

A motion to amend the agenda to have the Gade Variance Application moved to Item #3 after Minutes approval was made by Woody and seconded by Debrigard. The motion passed unanimously.

Variance Application, 20 Fenwick Street, Old Saybrook. Property owner's representatives Joe Wren and Denise Von Dassel presented the revised plans for a two-car garage with accessory apartment over. A small entry area has been retained on the lower level. Coverage has been reduced from 19.7% to 18.9%. All impervious surface previously proposed has been rendered pervious using either gravel, permeable pavers or dry well, in the case of roof drainage. Some hardscape is necessary for the area in front of the garage for ADA purposes. The building will contain an elevator to allow ADA access to an ADA-compliant second story living area. The structure complies with all setbacks and height limitations. Representatives showed photographs of the view of the structure as seen from the South Cove Causeway and areas along the Connecticut River waterfront. The proposed structure is all by unseen from the cove or the river as its hidden by numerous covefront structures as well as the property owner's dwelling itself. Thompson noted that the project representatives were able to incorporate changes requested by Gateway. Von Dassel reported that the exterior will be a dark cedar shake and that exterior lighting will be minimal. Upon a motion by Woody, which was seconded by Debrigard, members voted to "not object" to the granting of the variance in that the structure will not be seen from the cove or the river and won't adversely impact the "natural and traditional river scene". Roberts abstained.

Subdivision Regulations, Old Lyme.

Old Lyme Planning Commission proposal regarding fire protection, water ponds water wells and sprinkler systems. Debrigard noted that Gateway has no standards that address this kind of issue. Upon a motion by Kitsen, which was seconded by Debrigard, members of the Gateway Commission unanimously voted to approve the proposed subdivision regulations pursuant to Section 25-102g CGS. The approval is preliminary but will be final if the proposed language isn't revised in any substantial way.

Prohibition of Retail Sale and Production of Cannabis with Exceptions, Old Saybrook.

The Old Saybrook Zoning Commission is proposing to prohibit the retail sale and production of cannabis, except that certain retail dispensaries approved before January 1, 2022 may operate and expand with the appropriate Special Exception approvals. This “use” has no bearing on the protection of the “natural and traditional riverway scene”. Upon a motion to approve by Woody, which was seconded by Roberts, the petition was approved unanimously. The approval is preliminary but become “final” if not substantive changes occur before local approval.

Housekeeping Regulations, including varying subject matter. Old Saybrook

Members of the Commission found that the majority of the proposed regulations had little to no impact on the “natural and traditional riverway scene”. Members requested that conditional language be included regarding sheds less than 120 square feet in area and 10 feet in height. Such sheds will not need permits, but a condition is to be applied that requires that such sheds must meet all Gateway standards, including conforming to the 100-foot structure setback on riverfront properties. Upon a motion by Woody, which was seconded by Bement, the regulations were preliminarily approved on the condition that non-permitted sheds must meet all Gateway standards. The motion passed unanimously.

Zoning Map Revision, Old Lyme.

Two lots fronting Shore Road (Route 156) at 115 and 121 Shore Road are zoned, for the most part, RU-40 Rural Residential, with the exception of the portion of the lots that front on Shore Road. The two properties extend from Shore Road west and down to the marshes of the tidal rivers of the Connecticut River behind Great Island. The road front area of the two lots is zone Commercial C-30 and is whethe property at 121 Shore Road was formerly occupied with the structure that housed the Old Lyme Seafood Market. The structures on the two lots have since been demolished. The property owner proposes to rezone the lots as RU-40, eliminating the C-30 district designation entirely. In that the zoning of those parcels is not the issue of the Gateway Commission, and in that the property at 121 Shore Road is now designated as “open space” in the records of the town, Debrigard moved to approve the rezoning of the two properties, which was seconded by Woody. Members of the Commission voted to approve the rezoning unanimously.

Correspondence/Staff Report

Staff summarized report items.

Violation at the Mouth of Chester Creek. Staff updated members on the violation of Gateway standards at the property at the mouth of Chester Creek. A Notice of Violation will be sent to the property owner shortly.

Manthous Property, Hamburg Cove. Staff and Woody informed the Commission that an attorney for the property owner, after having a dock application to the DEEP “denied” because of scenic easement language prohibiting any construction in the riparian zone off of the property (the DEEP permitting group had sought and received a confirmation of that interpretation from the CT Attorney General’s office in the past), made a request of the Gateway Commission for supporting a change to that easement language. The attorney, on behalf of the client, requested that the Gateway Commission suggest properties it would like to see protected in lieu of supporting the modification of the easement language to allow dock construction. After a short discussion, members found by consensus that they would not entertain the offer as unilaterally modifying easement language without the permission of the original donor would be inappropriate, no matter what gain might be made in return. Staff is to inform the attorney of the consensus.

Chairmans Report. Thompson reported that she had been in the Midland area of Texas and came away appreciating the beauty of the lower Connecticut River Valley even more.

Finance Committee. Matthews reported that that, since December and because of global uncertainties, the Gateway portfolio has lost up to 5% of its value. Bills in the amount of \$3,928.34 (staffing), and \$277.50/\$55.50

for legal services required payment. Upon a motion by Bement, which was seconded by Woody, the bills were unanimously approved for payment

Communications Committee.

Futoma provided an update on committee activities

- (1) Gateway is supporting the CT Land Conservation Council's 2022 workshops, which will be conducted from May 12, 2022 through May 19, 2022. The workshop will include one in-person event and four virtual events. Gateway receives four passes as a result of the sponsorship. Thompson has requested one of the passes.
- (2) Futoma has spent the past several weeks doing a "deep dive" into the website, reviewing all of the information on all of the numerous pages.
- (3) Futoma spoke to Dorene Warner about website administration, including what entity will "host" the site. A move to the servers used by Warner will be a "wash" in cost from hosting with Host Gator, the current host.
- (4) Given the skill-set of Downes and what will be lost after his retirement, Futoma spoke to Warner about entering into a contract to access Warner's skills until a replacement for Downes is found.
- (5) Members, including Marilyn Gleeson and others, and Downes are providing viewing location/access sites for review and map consideration.
- (6) Social Media posts. Downes posted information about International Dark Sky Week.
- (7) 2022 Boat Trip. Downes reserved the first two Thursdays in June with the RiverQuest, now run by the CT River Museum. After much discussion, members decided to let those two reservations go and make decisions about a September or October trip instead. Roberts asked if a better rate could be sought and suggested "co-hosting".

Rules Committee. In Webb's absence, Debrigard provide the report of the status of the effort to adopt the Gateway Standards. Roberts requested that "*and uplighting of trees*" could be added to the definition and standard for Light Pollution. By consensus, members agreed to add that language to the standards that are being presented to the eight Planning & Zoning Commissions. Debrigard reported that most members had received the standards and cover let and, within approximately two weeks, should have reviewed and become familiar with the information. After two weeks, the documents would be forwarded on to the P&Zs to start the discussion process.

Land Committee. Woody indicated that not much activity has occurred since last reported and that no "Executive Session" was necessary. Futoma reported that he had spoken to Jon Putnam, the agent who is representing the seller. Putnam told Futoma that if Gateway still has interest, a letter from Gateway should be sent to him for transfer to the seller. Debrigard reminded that Gateway has two essential roles to play (1) acquiring, or assisting in the acquisition of a protective easement on a portion of the property in question and, (2) a regulatory authority in the event there is a need for a zoning map and/or zoning regulation revision.

Grants Committee. Roberts reported that the draft grant documents were sent to members but he has only heard from Matthews.. He reported that he will send the documents to members again.

Old Business. None.

New Business. None. Bement informed members that she will not be at the May, 26,2022 meeting as she will be traveling. Debrigard reported that he will be away as well.

Adjournment

A motion was made by Bement, which was seconded by Woody, to adjourn the meeting at 8:52pm. The motion was unanimously approved.

Respectfully submitted,

J H Torrance Downes, Staff to the Gateway Commission

Staff Report
April 28, 2022

Subdivision Regulations, Town of Old Lyme. Proposal to revise Subdivision regulations concerning Fire Protection and the addition of language regarding fire sprinkler systems in residential dwellings. Where current regulations require the installation of either a fire well or fire pond, the Planning Commission has added that, "In lieu of a fire well or fire pond, the Applicant may propose, and the Commission may approve, the installation of a fire sprinkler system for each of the proposed houses." Where current regulations concerning the installation of fire ponds or wells required the approval of both the Old Lyme Fire Department AND the Old Lyme Fire Marshal's office, the requirement for the approval of the Fire Marshal's Office has been removed. No potential impact to Gateway interests.

Zoning Regulations, Town of Old Saybrook. Proposal to prohibit the sale of cannabis as defined in Section 21a-240 CGS with the exception of any existing or proposed adult use and/or medical cannabis dispensary facility that obtained an approved Certificate of Zoning Compliance (CZC) prior to 1/1/2022. Additional definitions are to be adopted into Section 9, Definitions. No potential impact to Gateway interests.

Zoning Regulations, Town of Old Saybrook. Various regulations. Old Saybrook periodically proposed the adoption of numerous corrections and modifications, something they call "housekeeping". These long proposals usually come at the beginning of the calendar year.

The numerous regulations include language regarding (1) drive-through windows for restaurants, pharmacies and financial institutions (consolidation in to one section where they are currently separated), (2) parking requirement modification for drive-through establishments and for "night clubs" and "dance clubs" to be consistent with Fire Code rather than the square footage of the public portion of the establishment, (3) definition for "shed" (if under 120 square feet in footprint and 10 feet in height, such shed doesn't need a zoning permit, but it WOULD still need to comply with setbacks on a property), (4) mixed use apartment in the B-1 Main Street District (there is no "B-1" district in the Conservation Zone, only B-2 Commercial), (5) permitting of municipal electronic signs in the B-3 Commercial District (there is no B-3 Commercial in the Conservation Zone), (6) redefining motor vehicle uses to reflect wider use of alternative fuels/electric, (7) new prohibition of detached ADUs on lots of less than 12,500 square feet (the 20 Fenwick Street variance application property is slightly less than 12,500sf – this regulation, if approved, would not impact any application that has already been submitted, like the 20 Fenwick Street application), (8) requirement for ADUs to retain an "accessory appearance" to the principal dwelling, including disallowing two driveways. Other than language requiring the limit in size of the ADUs and the requirement that entries to apartments have to be on the side, language has never explicitly said that ADUs must retain an accessory "look". This proposal will explicitly require such designs to a separate ADU will not look like a second principal dwelling on one lot.

Variance Application, 201 North Cove Road, Old Saybrook

Members of the Gateway Commission have seen this application several times previously as "preliminary" reviews. At the time of writing, it is understood that the Old Saybrook Zoning Board of Appeals has pushed the public hearing from May to June due to application incompleteness. At this point, it is unknown if the applicant is interested in coming to Gateway on April 28, 2022. Due to the rescheduling of the hearing, Gateway can push *it's* review to the May meeting.

Variance Application, 20 Fenwick Street, Owen and Jeanne Gade. The processing of this application has been delayed due to the health of the applicant's mother, who is the intended occupant of the proposed accessory apartment. Staff is seeking an update on that status and whether the team would be presenting again at the April 28, 2022 meeting.

Updates on Previous Petitions Reviewed by the Gateway Commission

- **Essex Zoning Map Amendment Proposal – Rezoning of Single Lot in Essex Village, 3 Pratt Street**
Single lot rezoning near the head of Pratt Street. Gateway "approved" the petition. The Essex P&Z approved the rezoning as well.
- **Essex Zoning Map Amendment Proposal – Rezoning of Single Lot at the Base of Main Street, 53 Main Street in Essex Village.**
Single lot rezoning that the river of Main Street, the property with the garage. Gateway sent comments informing the Essex P&Z that it would likely "disapprove" the petition if it came back for an official determination. The Essex P&Z ultimately denied the petition.
- **Essex Zoning Regulation Proposal – Split Lots**
Zoning regulation change regarding using the less-strict standards for the entire lot when a lot is split by a zoning district boundary line. Gateway tentatively "approved" the petition with a condition that this new language would not apply to any

such lot if it was located in the Conservation Zone. The Essex P&Z approved the petition, including the caveat required by the Gateway Commission.

Items of Interest

Chester Creek Property at the Confluence of Chester Creek and the Connecticut River. A letter requesting the initiation of an enforcement action was sent to the chairman of the Chester Planning & Zoning Commission. The issue found its way to the First Selectman who is described as being quite upset that an enforcement issue required such a letter from the Gateway Commission. Tom Brelsford has been quite involved in the situation and has had numerous discussions with the parties involved, including the First Selectman. The letter is included at the end of this report.

Unusual Offer, Former "Milne" Property on Hamburg Cove in Lyme.

Members may recall that there is a property on Hamburg Cove near the Connecticut River that was the subject of the first conservation easement in which Gateway was involved. The easement was established by Ken and Diana Milne. After parting ways, Diana Milne became Diana Atwood Johnson, an important conservationist who lived in Old Lyme (she has since passed away).

Back to the subject, the Milnes placed an easement that included language that has been interpreted by the Attorney General's office to preclude the construction of a private residential dock. The new property owner submitted an application to DEEP to build a dock. Because of the "established" easement language prohibiting dock construction, DEEP denied the application. The owner is now looking to have the easement language modified to allow construction of a dock. To that end, an attorney from Robinson & Cole has emailed asking if Gateway has any properties of interest that his client could secure protection for in return for Gateway informing DEEP that it supports the modification of the easement language. The request was turned over to Melvin Woody as chair of the land committee, the group that would likely look to see if there was any interest in pursuing this novel approach. What this points out is that the property owner is aware that the DEEP defers to the Gateway Commission when it comes to any scenic issues in the river valley, and in any of the numerous easements in which Gateway has been involved.

Sarner Enforcement Action, Joshuatown Road, Lyme. The Sarners had cleared the 50 foot riparian buffer area of their property on Hamburg Cove. ZEO Ross Byrne issued an order to Cease & Desist which required the replanting of the buffer. Following much negotiating, an acceptable plan was agreed to. The order required the replanting in early May. ZEO Byrne will be following up on that project and staff will keep the Gateway Commission informed on the progress.

Variance Application, 22 Main Street, Essex Village. A variance application was submitted to enlarge a Main Street dwelling. After review by staff and Essex representatives, it was determined that the project will not impact the view from Middle Cove as the work would either be within the visual "envelope" of the structure (the addition would enlarge the envelope of what's seen) and will be located on the side of the property that is blocked from view by the two lots, structures and trees that are located on the two additional lots located between the 22 Main Street property and Middle Cove. Semenov view the property via kayak from Middle Cove, confirming this conclusion.

155 River Road, Deep River. Riverfront property residential structure undergoing renovation. Staff of Gateway in touch with Deep River ZEO and applicant's representatives to guide work and make sure all appropriate reviews are conducted and permits are acquired. Point One Architects of Old Lyme involved.

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- Chairman's Report. As presented.
 - Finance Committee: Presentation of bills. Along with the bill for staffing, Halloran & Sage has submitted to invoices totaling \$333 (\$277.50 and \$55.50). The charges reflected review of standards and review of the comment letter for the 54 Main Street rezoning project in Essex Village.
 - Rules of Procedure Committee: Report on status of standards adoption effort. Six of eight regulation packages sent to respective Gateway representatives for review prior to sending packages to the P&Z Commissions.
 - Community Relations/Communications Committee: Report on status of project.
 - Land Committee: Update on Land Committee initiatives (**Executive Session**).
 - Grants Review Committee: Update on status.

April 1, 2022

Mr. Mike Sanders, Chairman
Chester Planning & Zoning Commission
Chester Town Hall
203 Middlesex Turnpike
Chester, CT 06412

SUBJECT: Possible Violation of Gateway Standards/Chester Zoning Regulations
Parcel ID: 10-187. Dock Road,
Owners: Bernie, Jacqueline and Jerry Eckhouse; Co-Owner: Marjorie E. Cross

Dear Mr. Sanders:

It has come to the attention of the Connecticut River Gateway Commission that a potential violation of Section 90.G.1, Required Vegetated Buffer of the Chester Zoning Regulations, appears to have occurred at the identified property on the north side of the mouth of Chester Creek and the Connecticut River. The site in question, designated as Planned Residential District (PRD), has been approved for use as an upland dredge spoils disposal area as a part of DEEP License #201912493-COP with the Licensee recorded as the Chester Harbor Management Commission. The potential violation of Section 90.G.1 has been witnessed by Gateway Commission member and Chester Representative Tom Brelsford and witnessed during a Gateway-sponsored boat trip on October 7, 2021. Gateway staff J. H. Torrance Downes and Chester Land Use Administrator John Guskowski have visited the site as well.

It appears that the property owner cleared vegetation on the river side of the property and within the 50-foot Required Vegetation Buffer in order to clear a view to a small Connecticut River beach, at the same time, clearing the vegetation for easier access to that beach. In that Section 90.G.1 prohibits such vegetation removal within that 50-foot area, the actions appear to be a violation of that section of the regulations, which is also a Minimum Standard of the Gateway Commission. The Gateway Commission derives its authority from Sections 25-102a through 102s of the Connecticut General Statutes.

Findings

The Gateway Commission requests that the Town of Chester institute a formal enforcement action against the property owners with the goal being the replanting of native, non-invasive vegetation that has been removed within the 50-foot Required Riparian Buffer in order to restore the area as much as possible to its previous condition. Further, the property owners should be notified that the property is under the jurisdiction of both the Chester Planning & Zoning Commission and, through the Zoning Regulations, the Connecticut River Gateway Commission. Please include the Gateway Commission in any communications with the property owner.

If there are any questions regarding the requested enforcement action, please feel free to contact me at (860) 581-8554 or tdownes@rivercog.org.

For the Commission,



J. H. Torrance Downes
Deputy Director, RiverCOG

Copies by Email: Members of the Gateway Commission