

# CONNECTICUT RIVER GATEWAY COMMISSION

## REGULAR MEETING MINUTES

May 26, 2022

### Present/Absent:

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

### Call to Order

This meeting was called to order by Vice Chair Woody on the virtual meeting platform Zoom at 7:01pm.

### Approval of Regular Minutes

A motion was made by Preston to approve the April 28, 2022 minutes. The motion was seconded by Woody and approved unanimously. Webb and Gleeson abstained.

Regulation Petitions permitted the Sale and Cultivation of Adult-Use Cannabis, Towns of East Haddam and Deep River. Gateway staff introduced the two similar petitions, noting that proposals are for “uses” that are not governed by Gateway standards. The buildings in which such uses would occur, it was reported, would still have to be compliant with all Gateway regulations regarding building height, setbacks and coverage. It was further noted that the uses are proposed for commercial and industrial districts, few properties zoned as such existing in the Conservation Zone of those towns. Upon a motion by Gleeson, which was seconded by Futoma, members unanimously voted to approve the two petitions pursuant to Section 25-102g CGS. With no substantive changes to the approved petitions, the approvals allow the petitions to become “effective” when approved by the local P&Zs.

Determination of Consistency with Scenic Easement Governing Structure Restoration at 100-5B Joshuatown Road, Lyme. Owners of the property, Kim and Kevin Hecht, have developed plans to restore/rebuild an historic residential structure located on this Hamburg Cove property. In 1975, then-owners Dennis and Diana Milne established a scenic easement limited what work could be done on the property, and easement that came into being through the Gateway Commission and ultimately now overseen by the State of Connecticut. The Hechts submitted restoration plans to the State of Connecticut Land Division who, in turn, sought advice from the Gateway Commission regarding whether the plans were consistent with the easement language. Upon review, the Commission agreed with the Hechts and found that the plans are consistent with what is permitted by Subsection 6 of the easement. Members asked questions including whether any excessive exterior lighting – including façade lighting – would be used to which the Hechts responded “no”. Webb, noting that all aesthetic details were still a matter of some discussion, asked if Gateway and State “approval” were premature. In that the easement language discusses external form and the external form is set, members agreed that the review and approval was appropriate. Members authorized staff to send a letter to the CT DEEP stating concurrence that the plans appear to be consistent with what was permitted by the Milnes in the 1975 easement. The motion to authorize such a letter was put forth by Roberts and seconded by Webb. The motion and second were approved unanimously.

Variance Application, 201 North Cove Road, LLC. Downes explained that because the application before the Old Saybrook Zoning Board of Appeals was withdrawn on the previous night, there was no need to review the application. It is understood that the application for a residential dwelling expansion and installation of an in-ground pool and patio pergola will again be submitted to the ZBA and a referral of the application will be forwarded to the Gateway Commission for further consideration. It is noted that a small, two-bay, one-story garage is included on this plan, one that the Gateway Commission understood from the architect would not be proposed. Members had expressed significant concern over the proposal of such a garage in three different preliminary discussions with the project architect.

#### Correspondence/Staff Report

Staff briefly summarized report items including Chester waterfront property and Hamburg Covefront violation enforcement statuses.

#### Chairman's Report None presented.

Finance Committee. Downes presented the bills for payment on behalf of Treasurer Matthews. Two checks are required. For staff duties of Downes and Fernald, a check in the amount of \$3,397.40 is required. For work associated with the Communications Committee performed by Kevin Armstrong, a check in the amount of \$126.94 is required. Upon a motion by Webb which was seconded by Woody, the Commission unanimously voted to pay the two bills.

#### Communications Committee

Futoma briefed on the Annual Boat Trip and the 10/13/22 date that has been chosen which members found acceptable. The cost is \$1,200 of which a \$250 deposit is required. Upon a motion by Webb, which was seconded by Kitsen, the Commission authorized payment of \$1,200 for the boat trip, instructing staff to send the \$250 deposit with final payment of the balance of \$950 to be paid following the trip. Futoma reported that the Museum (new owner of Riverquest) won't hold a rain date spot by will work to make one work in the event of a 10/13/22 rainout. Futoma solicited ideas for trip route.

Futoma reported Downes' coordination with consultants on the addition of the Deep River Land Trust purchase of 7.2 acres above Pratt and Post Cove to the land brochure. Gateway provided \$30,000 in matching funds for a DEEP open space application. It was reported that the GW website will be transferred from HostGator to "Flywheel", a hosting site used by Dorene Warner. Kevin Armstrong of RiverCOG concurred that Flywheel will be a good host for the GW site. Gleeson continues to work with Armstrong on additional website maps showing viewing locations and access points.

Land Committee. Most activities on "hold" at this point in time. Not much has happened of late and new appraisals may be necessary due to the time between the last appraisals and now.

Rules Committee. Downes updated the Commission on the status of the sending of regulation documents and cover letters to individual Gateway members. He said that some concerns have been raised and expressed the need for guidance on how to proceed by Webb and Debrigard. As for possible additions to the standards (tree cutting rules, for instance), Webb and Debrigard stated their preference was to move forward with these standards as most address those adopted by Gateway in 2018 with the only "new" language being the light pollution language. Semenov expressed some concern over how the Light Pollution definition and review standard have been written and will provide a corrected version to Downes to replace in the various documents. The changes aren't substantive and don't need another Rules Committee review and approval to correct. Woody reported that he, Downes and Hill had presented the changes to the Lyme P&Z, who commented that the P&Z expressed surprise that the lighting language did not address how to manage window reflection of sunlight. Debrigard indicated that that subject had been discussed, but no reasonable solution or standard was developed, but he will revisit the idea. Webb said that a Rules Committee meeting will be called in June, but in the meantime, the Commission should proceed with distribution of the documents to the towns

and discussion with town staff. Webb stated that he will review to make sure the documents include approved language prior to distribution.

Rules Committee. Roberts stated that two draft grants application documents have been distributed that should be reviewed by members in anticipation of discussion at the June 23, 2022 Gateway meeting.

Old Business. None raised.

New Business. Some members expressed a desire to start meeting in person again, but in a larger room than the RiverCOG conference room. Ideas for appropriate venues that have adequate technical resources are sought.

Adjournment

A motion was made by Webb to adjourn, which was seconded by Preston. 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.**