

CONNECTICUT RIVER GATEWAY COMMISSION

REGULAR MEETING MINUTES

July 22, 2021

Present/Absent:

Chester:	<i>Tom Brelsford , Jenny Kitsen</i>
Deep River:	Jerry Roberts, (vacancy)
East Haddam:	Crary Brownell, Joel R. Ide
Essex:	Claire Mathews, Misha Semenov
<i>Fenwick:</i>	<i>Newton Brainerd, Borough Warden</i>
Haddam:	Susan Bement, Mike Farina
Lyme:	J. Melvin Woody, Wendy Hill
Old Lyme:	Suzanne Thompson, Greg Futoma
Old Saybrook:	Bill Webb, vacancy
Regional Reps:	Raul Debrigard (N), Marilyn Gleeson (N)
DEEP:	David Blatt
Staff:	J H Torrance Downes
Guests:	Judy Preston, CT Sea Grant (prospective GW member)

Call to Order

This meeting was called to order at 7:01pm in the offices of RiverCOG located at 145 Dennison Road in Essex. This is the first “in-person” meeting held since early in 2020. Chairman Thompson introduced Ms. Preston, who then described her background and interest in re-joining the Gateway Commission. She had represented the Town of Old Saybrook on the Gateway Commission in the late 1990s and early 2000s.

Approval of Minutes

Bement moved to approve the 6/24/21 meeting minutes. The motion was seconded by Kitsen. The minutes are to be revised as follows: Remove “no motions were made” from language describing the Executive Session. In minutes reflecting the Rules of Procedure discussion, the attorney described is Mark Branse, counsel to the Gateway Commission. The minutes should reflect as such. With those corrections, the minutes were approved unanimously.

Regulation Proposal, Town of Essex. Regulations concerning Accessory Dwelling Units (Petitioner: Essex Planning & Zoning Commission). The Essex Planning & Zoning Commission proposed new zoning regulation language that adds the River Road Residential District to the list of residential districts in which accessory apartments (ADUs) are permitted. Downes pointed out that any construction that would occur to implement this new permitted use would have to comply with all Gateway standards related to structures – setbacks, coverage limits and height. A motion to approve the proposal pursuant to Section 25-102g CGS was put forth by Woody and seconded by Brownell. The motion passed unanimously.

Regulation Proposal, Town of Essex. Regulations Allowing Horses in the Village Residence District (Petitioner: Thomas Metcalf). The proposed regulation would allow the keeping of horses on properties in the Village Residence District at a rate of one horse per two acres and another horse for every one acre after that. Gateway members felt that the keeping of horses was consistent with the “natural and traditional river scene” in that undeveloped fields would be where the horses were kept. Any structures associated with the use (barns) would have to meet all Gateway standards related to structures – setbacks, coverage limits and height. A motion to approve the proposal pursuant to Section 25-102g CGS was put forth by Debrigard and seconded by Woody. The motion passed unanimously.

Correspondence/Staff Report

Downes referred to the distributed report and offered to entertain any questions. As there were none, Downes and Webb described a variance application review in which they were involved located at 310 Watrous Point Road in Old Saybrook (a letter of “no opposition” was issued). At the suggestion of Webb, the property owner indicated a willingness to construct a gravel-filled swale toward the lower portion of the maintained lawn slope which extends all the way down to the river’s edge. Little to no riparian buffer vegetation exists at the site. The intent is to have the property owner partner in the improvement of water quality as the swale would interrupt the flow of storm water that would likely include pesticides and fertilizers placed on the lawn. Blatt cautioned allowing such “unreviewed” features to be located too close to the Coastal Jurisdiction Line (the edge of the river) in that some might build such a feature in a way that would act as a structure that is regulated by the Town and the State of Connecticut and should be thoroughly reviewed and permitted prior to construction. It was concluded that moving the swale further up slope and away from the immediate edge of the river would likely be acceptable.

Chairman’s Report.

Thompson acknowledged that this was the first “in-person” meeting since March of 2020 when the COVID-19 pandemic struck. Thompson noted that several vacancies exist (both southern regional representatives and the Deep River alternate’s position) and that efforts were being made to fill those spots. Finally, Thompson referred to an article that was published in the Lyme Line about light pollution, acknowledging the ongoing effort being made by Essex alternate Misha Semenov.

Finance Committee:

Matthews clarified budgeting with respect to “operating” expenses and “special projects”, noting that the ongoing Communications/Website work is budgeted under Special Projects. Matthews then reported the need to pay several bills as follows:

- a) RiverCOG staffing bill - \$3,822.95
- b) Community Consultant, consultant to the Communications/Outreach Committee - \$5,467.50
- c) CLCC, sponsorship payment - \$1,000
- d) Middlesex Land Trust, reimbursement for appraisals in the Haddam Neck area totaling \$4,600

A motion was put forth by Woody to pay the bills. The motion was seconded by Bement and approved unanimously.

Communications and Public Outreach Committee

Futoma reported that good progress was being made with the various subcommittees working on marketing and the redesigned website. The work progress is on track with the time estimates proposed in the RFP and agreed upon by the committee and the consultants. The several work groups (sub-committees) are being compressed to resolve this issue. Gleeson offered to volunteer her GIS capabilities to construct the Gateway Conservation Zone location map that is planned for the website. Downes summarized the current arrangement with RiverCOG’s Kevin Armstrong agreeing to provide the GIS services. He estimates the project will take 25 hours, billed at his RiverCOG billing rate of \$63.11 per hour. More discussion will occur with respect to the development of the map.

Rules and Procedures Committee.

Chairman Webb reviewed several topics on which the committee is working, including

- Work on a “Do-s and Don’ts” FOI document for Commission use. The work hasn’t commenced yet, but Downes reported that he is following the FOI guidelines presented by FOI representative Tom Hennick.
- An opinion letter from Attorney Matt Willis with regard any statutory limitations to the use of Gateway Conservation Funds. The letter addresses the question of whether the Gateway Commission can spend its funds on issues *other than* land acquisition. His opinion is that the language in the Gateway statutes is

broad which allows the Commission to spend funds on issues that further the purposes of Chapter 477A, the chapter of the Gateway statutes in which Section 25-102a thru 25-102s CGS appear.

- Approval of newest Gateway standards that include the recommendations of Attorney Mark Branse, approval that did not require the convening of a Gateway public hearing. The Commission voted to approve the revised standards, so work can now begin to contact the eight Planning & Zoning Commissions.
- Regulations concerning lighting and cupolas. Work is ongoing in these areas.
- Referral of Proposed Regulations to the Rules of Procedure Committee and the Referral of Special Exception and Variance Applications to the Committee for pre-review. A lengthy discussion was held. It was concluded that such referral is not necessary and that if any proposal is warranted to need such pre-review, the Commission can request that the Rules of Procedure Committee review and report out to the Commission.

Land Committee

Upon a vote by Woody and seconded by Bement, the Commission entered Executive Session at 8:13pm. Guest Preston exited the meeting room.

A vote to exit Executive Session by Woody occurred at 8:26pm. No actions were taken during the Executive Session and no motions were made afterward.

Grants Review Committee.

Ide, chairing the Grants Review Committee, was not able to attend the meeting nor has been able to conduct much grants committee work due to personal reasons. He did report that he hasn't received a complete follow-up from CT Audubon representative Alisha Milardo, so review of the grant application from that organization continues.

Old Business. None.

New Business. None

Adjournment: Bement moved that the meeting adjourn at 8:34pm.

Staff Report
July 22, 2021

- Essex Zoning Regulation Proposal, Regulation Concerning Livestock in the Village Residential Zone (VR). Current language: Section 60.A.3, ACCESSORY USES: An accessory use or improvement (is permitted in the VR District) but not including:

Section 60A.3.E, LIVESTOCK. The keeping of livestock, poultry, or other animals except as household pets.

The proposal would add the following: and that the keeping of horses for personal, not for profit use is permitted on lots of not less than three (3) acres and limited to one (1) horse for the first two (2) acres and one (1) horse per acre thereafter.

Summarizing, first two acres a property owner can have one horse. Three acres, two horses. Four acres, three horses.

Currently, horses and other livestock and poultry are prohibited in the Village Residential District. Other residential zones allow the keeping of horses for personal use or for business use with the exception of the Essex Village District (downtown Essex Village). This amendment would allow the keeping of horses *for personal use* in the Village Residence District. All other livestock and poultry would remain prohibited.

The petitioner is interested in allowing horses on a property in Ivoryton, but the Village Residence District also exists in the Conservation Zone, hence the need for Gateway to approve this regulation.

This proposal does not conflict with any Gateway “standard” and would seem to be *consistent* with the “traditional” look of the shoreline along the river – grass meadows with a few horses IF they’re ever proposed in the Conservation Zone. The issue of whether the town wants to amend regulations to allow horses in this district seems to be a matter for the town to decide. Any structures related to the keeping of horses (barns, etc.) would still have to meet all Gateway standards.

- Essex Zoning Regulation Proposal, Regulation Concerning Accessory Dwelling Units in the River Road Residential District. Backdrop: The CT General Assembly passed a law regarding Accessory Dwelling Units (accessory apartments) which requires town to make application pathways for establishing accessory dwelling units more property owner-friendly. Approvals through special permit processes (Planning & Zoning Commission, public hearing) will now be required to be allowed through administrative means (zoning permit without Commission action – less time, less expense, less complicated). Other new requirements include allowing units in detached buildings (some towns allow this while others would require variances for apartments in detached buildings) in all towns and by-right (zoning permit only). Note that Connecticut towns will have to modify local regulations to incorporate these legislative changes. This proposal is consistent with the legislation in that one component is that ADUs are to be allowed in all residential districts.

Section 45A, DISTRICTS, allows “attached accessory dwelling units” in all of the town’s residential districts **except the River Road Residential District**. This P&Z petition states that the omission was thought to be a clerical error. As such, the River Road Residential District will be added to the list of Districts where attached accessory dwelling units can be applied for. As a result, ADUs will be permitted in all Essex residential districts, as required in new legislation.

No Gateway standards are violated as any addition to be built to accommodate an ADU would have to meet all current structure regulations (setbacks, coverage, height, etc.).

- Deep River Request
Some members will recall that, several years ago, there was an informal request for First Selectman Angus McDonald of Deep River to move the Conservation Zone boundary in southern Deep River to eliminate a number of properties from the Zone, properties that were substantially hidden from river view by topography. Nothing built in this industrially-zoned area can be seen from the river because of intervening hills (that said, depending upon circumstances, the *tops* of 40 or 50 foot buildings *might* be visible). McDonald asked GW to consider going to the legislature to request modifying the statutory boundary, and when Gateway expressed reluctance, Deep River indicated it might do it on its own. After original discussion between former GW member and Deep River representative Nancy Fischbach, the request was set aside both by GW and the Town. Within the last month, the P&Z asked Gateway to again take up this issue with the request being forwarded to the Rules of Procedure Committee for consideration. The RoP Committee will report out on

this issue.

- Variance Request, 36 Mack Lane, Essex. A couple who have recently purchased an historic structure located on Middle Cove are applying for variances to construct a dormer on the third level of the structure. By agreement with Matthews and Semenov, Downes has requested a continuation of the public hearing which was held on Tuesday, July 20, 2021. The simple project is complicated by the fact that the property and structure are located within a flood zone where requirements for “substantial improvements” (work over 50% of the value of the existing structure) prevent any work to the house through December of this year. The applicants want relief from that limitation because they are having a baby and they need that space for a nursery. Further, the couple didn’t identify the need for several other variances that would be required when expanding a nonconforming aspect of a structure. In this case, even though the dormer would be located on the roof, the structure is wholly within the 100-foot Gateway Buffer Area setback and partially within the property’s side setback. Raising of the roof to build a dormer is considered by Essex Zoning Regulations as an expansion of the nonconforming aspects of the structure. This is often referred to as “vertical” encroachment, i.e. going up with out expanding the footprint laterally.
Given the current design of the house, Gateway review concerns include the possibility that the dormer will have the third level look like an additional story rather than individual dormers, a design detail that is a good idea to avoid, if possible. Staff and Essex representatives will work with the contractor and the town to agree on a more consistent design while providing the added ceiling height desire by the property owners. This proposal does *not* include the raising of the existing roof peak.
- Variance Request, 320 Watrous Point Road, Old Saybrook. Riverfront property of Cynthia McFadden. Large, sprawling low-profile dwelling on raised property with a lawn down to the riverfront. 927 square foot addition to the north end of the structure, most of which doesn’t face the river. Administrative letter of no opposition written (with concurrence of Webb) that requests conditions to maintain trees and shrubs on the north property line that block much of the view of the north-facing (non-river) façade. The “visual impact” at the property is the existing structure. The addition adds insignificant visual bulk, especially since the main part of the addition doesn’t face the river. As a “bonus”, and as suggested by Webb, the letter requested that the property owner and ZBA consider constructing a riparian buffer “berm” near the bottom of the sloped lawn to establish a riparian buffer where there is none. Instead of a topographic “berm”, the property owner has agreed to construct a gravel-filled swale along a good stretch of the riverfront that will catch or impede storm water that flows down the slope across the lawn, stormwater that will likely contain fertilizers and pesticides. This is a suggestion that will be included more and more on riverfront property projects where little or no riparian buffers exist.
- Chairman’s Report. As presented.

Committee Reports

Committee agendas and minutes are now posted in the right column of the Gateway website (www.ctrivergateway.org) in order to fulfill requirements of the Freedom of Information Act (FIOA)

- Finance Committee: Presentation of bills:
 - Middlesex Land Trust, reimbursement of appraisal costs in Haddam Neck, \$4,600.
 - CLCC Sponsorship of Land Trust Workshops, \$1,000
 - Community Consultants, Judy Anderson. First invoice in the amount of \$5,467.50.
 - Staffing Bill, \$3,822.94
- Rules of Procedure Committee: Issues to be discussed:
 - Referral of Regulation Proposals to Committee for “pre-review”
 - Deep River Request for Conservation Zone Boundary Modification
 - Update on Gateway Standards Adoption
 - FOI “Do’s and Don’t’s”
- Community Relations/Communications Committee: Status of committee work on the marketing and website project. Update on possible fall river trip.
 - Of eleven respondents, September 2nd and October 7th were the most preferred dates (10 of 11)
 - All other dates were preferred by a count of 9 to 2.
 - For preferences, numerous individuals cited the October dates as preferred.
- Land Committee: Update on Land Committee initiatives (Executive Session).
- Grants Review Committee: Update on review of the RTPEC grant application and other committee efforts.