

CONNECTICUT RIVER GATEWAY COMMISSION

REGULAR MEETING MINUTES

August 26, 2021

Present/Absent:

Chester:	<i>Tom Brelsford , Jenny Kitsen</i>
Deep River:	Jerry Roberts, (vacancy)
East Haddam:	Crary Brownell, (vacancy)
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:	<i>David Blatt</i>
Staff:	J H Torrance Downes
Guests:	Judy Preston, CT Sea Grant (prospective GW member), Architect Joe Bergin

Call to Order

This meeting was called to order on the virtual meeting platform Zoom at 7:06pm.

Approval of Minutes

Bement moved to approve the 7/22/21 meeting minutes. The motion was seconded by Debrigard. Woody advised that he had several minor revisions that are to be forwarded to staff. With those corrections, the minutes were approved unanimously.

Regulation Proposal, Town of Essex. Regulations concerning Building Heights as it relates to Cupolas. The regulations have been proposed to bring standards regarding the size of roof-top cupolas into compliance with the Gateway minimum standard. The current Essex regulation limits cupolas that exceed 35 feet in height to a footprint of ten square feet. The proposal will allow such cupolas to occupy up to 10% of the roof area upon which they are constructed, the minimum standard of the Gateway Commission. A motion to approve the proposal pursuant to Section 25-102g CGS was put forth by Woody and seconded by Bement. The motion passed unanimously. Members of the Commission asked staff to include comments indicating that efforts are underway to update standards regarding cupolas to limit their size when proposed for dwellings with large roof areas. Such standards may call for a maximum area not to be exceeded. Further, comments should be provided informing the Planning & Zoning Commission that the Gateway Commission is considering standards that will limit or prohibit exterior or interior lighting of cupolas in an effort to cut down on unnecessary light pollution.

Regulation Proposal, Town of Essex. Regulations Allowing Horses in the Village Residence District (Petitioner: Thomas Metcalf). Revised regulations were submitted to the Gateway Commission for approval. The revisions included additional standards designed to further protect neighbors of properties where horses are to be kept. The standards were included to address concerns expressed during the local public hearing. Upon a motion by Matthews, which was seconded by Woody, the revised regulations were approved unanimously.

Regulation Proposal, Town of Old Saybrook. Application to Adopt Regulations that would Establish a Planned Development District at 91 Sheffield Street off North Cove. Members discussed what is a three-step proposal (establish regulations, apply the regulations to a particular property, seek approval of the development application). The petition represents just the first step, the establishment of the regulations. Members of the Commission expressed concerns including their unwillingness to adopt PDD regulations that exceeded Gateway minimum standards, concern over not knowing what the development density was as it relates to the 15%

maximum coverage allowed in the Conservation Zone, lack of language regarding limiting vegetation removal, Special Exception approval versus Site Plan Approval of the development plan, and a question regarding whether any other Conservation Zone property would meet the criteria of the proposed regulations and be eligible for a similar development. Members elected to send a letter with the expressed concerns to the Zoning Commission for discussion and not to decide on whether to approve or disapprove the proposed regulations in this preliminary discussion. Gateway members expressed that a decision will be made according to the requirements of Section 25-102g CGS *following* the completion of the local approval process.

Regulation Proposal, Town of Old Lyme. Regulations concerning setbacks for mechanical equipment, issuance of building permits and offsite construction storage and staging. After determining that the proposed regulations have little if any impact on Gateway interests in the Conservation Zone, a motion was made by Kitsen, which was seconded by Roberts, to approve the proposals pursuant to Section 25-102g CGS. The motion was unanimously approved.

Preliminary Discussion, Addition and Detached Garage at 201 North Cove Road Old Saybrook

Architect Joe Bergin was on the call to discuss the proposal on behalf of the property owner. Members asked questions of Mr. Bergin regarding the proposal. Comments were made regarding the minimal encroachment of the existing dwelling and proposed addition into the 100-foot structure setback (Section 58.6) and riparian buffer setback (Section 58.2). The discussion concentrated on the proposed two-story garage with office/living space over that is to be located on the eastern end of the site. The roof peak of the garage was described to be 27 feet. Several members commented that, since the proposed garage is to be located entirely within the two setback areas, the “visual bulk” and mass of that structure should be minimized to the greatest extent possible. Mr. Bergin was told that if he had any questions or needed any further explanations, he could continue discussions with Gateway staff.

Correspondence/Staff Report

Downes referred to the distributed report and offered to entertain any questions. Questions were asked regarding a boat house proposed at 105 Elys Ferry Road in Lyme and an addition proposed for property at 320 Watrous Point Road in Old Saybrook. A question was asked with respect to a dormer addition proposed for property at 36 Mack Lane in Essex. Two of the three applications (Lyme and Essex) were handled administratively with the input of the town representatives from the two towns. Finally, Downes updated the Commission on efforts to bring a property owner who had cleared a hillside of vegetation on Hamburg Cove, Lyme into compliance.

Chairman’s Report.

Thompson reported that she will be a docent at Old Saybrook Historical Society’s Home and Garden Tour to be held on Saturday, August 28th. The Eight Mile River Fest will be held on October 16, 2021. Gateway always has a table as Woody attends annually. Ide has resigned from the Commission. In addition to the East Haddam vacancy, alternate vacancies exist in Deep River and Old Saybrook. Regional vacancy exists for the Regional “South” position.

Finance Committee:

Matthews reports that a staffing bill in the amount of \$4,053.48 needs to be paid and recommends that any charges coming forward for RiverCOG work on the website map be charged separately to “special projects” and not to operations. A motion was made by Woody to pay the bills. The motion was seconded by Roberts and approved unanimously.

Communications and Public Outreach Committee

Thompson summarized the written committee report on behalf of Futoma. Thanks to the many members who’ve provided input to the communications and website effort. Completed draft of internal communications and marketing document is being finalized, a document that will be a guide for current and future

communications messages. Welcome to Marilyn Gleeson and Judy Preston who have offered their time to the Communications and Outreach Committee.

Downes informs that invitations for the October 7th boat trip have gone out and many have indicated that they'll attend. The list as it exists will be distributed. Bement and Gleeson offer to oversee acquisition (and baking) of food for the trip. Downes checking with RiverQuest on status of serving food.

Debrigard reminds that the annual Haddam Neck Fair is scheduled for Labor Day Weekend and Gateway will, as usual, share table space with the Haddam Spirit and other conservation organizations. Members should attend if available.

Rules of Procedure Committee

Webb reports that the loss of Ide is a very a big deal and asks for more volunteers for this committee. He then reported on the July 28, 2021 meeting between the Rules Committee and two representatives of the Deep River Planning & Zoning Commission. When informed how Gateway decisions and processes are conducted, the representatives decided that the existing process was satisfactory. John Guskowski, the Deep River ZEO, indicated that the request can be "dropped". This episode points to the need for Gateway members to visit their town Planning & Zoning Commissions.

Debrigard will head up having the Branse-approved standards language adopted in the eight towns. Work on the new standards concerning lighting and cupola size can't be carried forward until the recently revised standards have been adopted into the regulations of each member town. Debrigard then describes the deferral of administrative duties concerning variance applications as a step that has greatly influenced efficiency in such procedures, this because of an earlier questions posed by Gleeson. Finally, Gleeson volunteered for membership on the Rules of Procedure Committee.

Land Committee

Woody votes to go into Executive Session at 9:12pm. Roberts seconds. The motion was approved unanimously to discuss possible land acquisitions in the Conservation Zone. Woody votes to come out of Executive Session at 9:17pm. No actions were taken, no motions were made, the recording was paused and restarted following the Executive Session.

Grants

Roberts reports on the need to reorganize the committee as a result of the departure of Ide and briefs on status of the CT Audubon grant, which is still in process.

General discussion occurred with respect to the effort to rid the river of invasive plant species including water chestnut (Trapa) and Hydrilla. It is concluded that those working on these issues seem to be siloed more than they should be which makes progress on this problem more difficult to achieve. Woody reported that information discussed at a recent Friends of Whalebone Cove meeting included the successful use of chemicals in the Carolinas and in Oregon. This has been recently discussed in other forums as well and seems promising.

New Business.

Bement informs of road building down to the river in Haddam Neck off Injun Hollow Road. Lots of tree clearing and bulldozing of a large house site. Downes reminds that the cutting prohibition within riparian buffer areas is limited to the 50 feet next to the river and not outside of that area. Downes reports that he'll look into it and talk to Haddam Town Planner Bill Warner.

Adjournment

Bement moves to adjourn at 9:28pm. Woody seconded the motion which was passed unanimously.

Staff Report
August 26, 2021

Proposed Regulations (four in total)

- Essex Zoning Regulation Proposal, Regulation Concerning Building Height. Gateway standards allow heights of structures to exceed 35 feet maximum for rooftop structures (cupolas) that exceed the 35-foot height but that are not used for habitation and are 10% or less of the surface area of the roof upon which they are constructed. The Essex regulation states that such rooftop structures can only be “ten square feet”. As a result, the P&Z would like to correct that regulation to allow rooftop structures consistent with the Gateway standard, upping the ten square feet maximum to the 10% of the roof area. Such rooftop structures can be approved through a Special Exception process rather than through a variance process.

The proposal, if approved, is consistent with the adopted Gateway standard concerning rooftop structures.

- Essex Zoning Regulation Proposal Concerning Horses in the Village Residence District (a resubmission). Last month, Gateway members reviewed and approved a proposed regulation that would allow the keeping of horses on properties in this zoning district. The proposal was aimed at property in the Ivoryton area of town (not in the Conservation Zone). Since there are also properties within that zoning district located within the Conservation Zone, Gateway was required to approve the proposal, which it did. As a result of comments heard during the local public hearing, the applicant has revised the proposal to include additional standards intended to address many of the resident’s concerns.

Those additional standards include (1) horses are for personal use, not for profit, (2) property not less than four acres, (3) horses limited to one for the first two acres and one per acre thereafter (this standard was in previous proposal). Total number allowed, five horses (new), (4) setbacks for any building for housing horses to be 50% larger than the existing setback requirement, (5) such buildings shall be 100 feet minimum from any residential dwelling, (6) owner-occupied dwelling shall be on the property, (7) a zoning permit is required to allow horses on the property.

These standards provide protection to neighbors and do not impact Gateway standard requirements in any way.

- Old Saybrook Zoning Regulation Proposal Concerning Planned Residential Development. Planned Development District, a three-step application to adopt regulations allowing residential development of a property zoned as Marine Industrial. Proposal would allow development of four single family dwellings on a lot that has been the subject of an 18-unit multi-family development review by Gateway within the last two years. The three-step proposal would allow the lot in question to be developed with four residential structures where a four-lot subdivision wouldn’t be possible. The property is big enough to accommodate the four dwellings (one dwelling per acre) but the shape wouldn’t allow it (lot width, lot frontage, setbacks).

Step 1 is the adoption of regulations that set the “rules” for the residential development. Step 2 would be the “landing” of the approved regulations on a particular parcel (approving the property where the approved regulations are permitted to apply). Step 3 would be the submission of the Special Permit application that proposes the specifics of the development (dwelling locations, driveways, parking areas, landscaping, etc). These type of applications, sometimes called “floating zones”, are often submitted in two steps with the regulation proposal and the “landing” of the regulations on a specific property being the first step, and the Special Permit application being the second step. This proposal is only for Step 1, the approval of the regulations that will apply to the intended property.

The project appears generally acceptable with respect to adverse visual impacts as the adjacent Saltaire Drive neighborhood directly on North Cove, and the trees between those properties and this proposed development will block the view of the four dwellings from the river. The dwellings *will* be visible from the northern, interior areas of North Cove, however.

Proposed regulations are, for the most part, consistent with Gateway standards and will likely lead to a development that is visually acceptable. Two specific regulations are of concern:

1. The building heights are required to be 35 feet to the peak of the structure. In that the property is within the Conservation Zone, the height is measured from “existing natural grade”, although the proposed regulation doesn’t specify as such. **It is recommended that the proposed language regarding structure height be revised to specifically state that height is measured from “existing natural grade” for clarification’s sake.**
2. A provision of the regulations addresses cupolas and other rooftop structures that exceed the 35 foot height maximum. Gateway standards *do* allow such rooftop structures by Special Permit as long as they are not inhabited and as long as they don’t exceed 10% of the roof area upon which the structure sits. The submitted regulations propose to allow such structures to be up to 25% of the roof area, exceeding the Gateway standard by 15%. **It is recommended that this regulation be revised to match the Gateway standard (10% limit) AND require that such structures not be illuminated, either externally or internally.**

- Old Lyme Regulation Proposals Regarding Mechanicals in Setbacks, Issuance of Building Permits, and Offsite Construction Storage and Staging.

- Mechanicals (A/C condensers, generators and propane tanks). Proposed regulations will allow these “equipment” features to adhere to lesser setback requirements, similar to accessory sheds. The regulation will apply to mechanicals in the smaller lot districts where lot area is at a premium. As these are small features, no impact to the scene of the river will be occur. The regulation will now be compatible with the minimum Gateway standard.
- Issuance of Building Permits. The language is being revised to remove the requirement for zoning permits for some classes of building permits (electrical permits and other similar equipment usually internal to a structure). This change does not impact Gateway standards.
- Offsite Construction Storage and Staging. New regulations that will require a special permit for this type of activity, carrying the requirement for a public hearing that will allow neighbors to present concerns and to allow the Zoning Commission to condition the activity accordingly. This regulation change does not impact Gateway standards.

Other Items of Interest

- Deep River Request for Consideration in Moving the Conservation Zone Boundary
The Chairman of the Deep River Planning & Zoning Commission and the Deep River Zoning Enforcement Officer met with the Rules of Procedure Committee on July 28, 2021 and explained the reason they would like to move the Conservation Zone Boundary so as not to include certain Industrially-zone properties from Gateway oversight (or develop some other method of achieving the same short of moving the statutorily defined boundary). Following an in-depth description of how the Gateway Commission and staff process development applications, including a description of the discretion allowed staff by the Commission, the Town has said that, for now, they are satisfied with the existing regulations and process and are no longer requesting accommodations for the unseen properties.
- Essex, Variance Request, 36 Mack Lane (Middle Cove). Request to build a dormer on the third level of an historic structure located on Middle Cove. The dormer, although not expanding the footprint of the structure, expands the nonconforming aspect of the building as the dormer will be constructed within the 100-foot Gateway structure setback. The hearing was continued at the request of the Gateway Commission while the design was negotiated.

The initial design of the dormer resulted in the appearance of adding a third story to the structure, something that was deemed uncharacteristic and contrary to the “natural and traditional river scene”. As a result of Gateway involvement, an architect was brought on that designed a narrower dormer that succeeded in minimizing the third-story look of the dormer. The design is described as more in keeping with the historic character of the structure. As a result, after much back-and-forth communication and negotiating, staff was instructed to report in a letter that the Commission would likely not oppose the granting of the required variances as the dormer design was appropriate to the structure with the dormer being redesigned to minimize the three-story appearance of the initial design proposal. Representatives Matthews and Semenov concurred with the conclusion.

- Old Saybrook, Special Permit Request, 320 Watrous Point Road (CT River). It had been reported that staff had written a letter of “no opposition” to variances that were required to build an addition on this riverfront property. Following approval of the variances, the project is required to now go through an approval process for a Special Exception permit in that the structure is over 3,500 square feet in total area, including the addition (the original structure was already over the 3,500 square feet). The Special Exception review and report is being provided to the Zoning Commission as a courtesy as there is no requirement for the Special Exception application to be referred to the Gateway Commission for comment. The review letter will further support the conclusions reached in the variance review and will recount discussions regarding the construction of a gravel-filled swale designed to intercept storm water runoff that will likely include pesticides and fertilizers. Comments by David Blatt regarding the location of that swale will be taken into account and provided in the review letter to be written.
- Old Saybrook, 201 North Cove Road (CT River), Preliminary Discussion. A preliminary plan has been presented which proposes the **construction of a large addition to an existing single family dwelling and a detached, two-story garage structure** on a riverfront property within the VE special hazard flood zone. The proposed home addition and garage will require variances of the Gateway 100-foot structure setback and the Gateway 100-foot required vegetative buffer setback. The home addition encroaches a minimal distance into the two setbacks whereas the detached garage is entirely within the two setbacks. The addition and garage will meet the 15% coverage limit for development on a Conservation Zone property. The home addition will match the peak height of the existing house (approximately 42 feet) but is a legally-existing nonconformity. The existing structure height exceeds the 35-foot maximum because the street side of the property is elevated substantially above the lower portion of the lot, leading to a “walk-out basement” effect and a low grade elevation for the existing structure on the river side. The property is occupied by manicured lawn all the way from the street down to the area just short of the river embankment. A two-foot high earthen berm protects the river from any stormwater flow from the lawn. Old Saybrook Representative Webb was provided a copy of the plans for review and met at the site with the project architect and Gateway staff.
- Lyme, 105 Elys Ferry Road (Hamburg Cove). A property owner who owns two side-by-side properties on the cove (one improved with his single-family dwelling and a barn, the other vacant) is proposing to build a **14 foot by 18 foot, 15 foot tall boat house** on the vacant
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- property to be located within the 100 foot Gateway structure setback and the 50 foot required vegetative buffer. Gateway standards have, since 1973, permitted marine-related structures like boat houses that are not used for habitation to be approved by a P&Z through a special permit process with no variances being required. Other than requests to have the structure be muted in color, this rather non-substantial project seems to have little in the way of adverse impacts to the scene of the river. The plans have been forwarded to Lyme representatives Woody and Hill for comment.
- Lyme, 100-1 Joshuatown Road, Peter and MyLan Sarner. Hamburg Cove site of municipal and state violations. Jurisdictions appear to involve zoning (Gateway required vegetative buffer), inland wetlands and DEEP. Summarizing, the hillside was cleared of natural vegetation and replaced by a lawn which extends almost to the edge of the cove. Gravel/pea stone was placed near the Coastal Jurisdiction Line (high tide line), materials that could be interpreted to act as a “flood and erosion control structure”, something that needs a specific municipal authorization and is one of the few municipal permits that *must* be referred to the DEEP for action. Neither has occurred. A dock that was approved and built in 2010 by a previous property owner was extended in a way that requires reauthorization from the DEEP, authorization that wasn’t sought or approved.

On Monday, August 9, 2021, Gateway staff communicated with the DEEP analyst who is responsible for the enforcement action and was apprised of the circumstances surrounding that action. That analyst expressed concern that more isn’t happening at the town level to address the violation (town staff was under the impression that the state violation had to be remedied first, which is not the case; the actions can happen simultaneously).

Staff has already been in touch with the Lyme ZEO and has received several updates. The property owner is apparently out of the country until September, making pursuit of compliance difficult. Further, the town has not issued an order to Cease & Desist, which is the action that carries the legal requirements to correct and remediate the violations. Without that action, the property owner can drag their feet as long as they want.

On Monday, August 9, 2021, staff contacted the Lyme P&Z chair to suggest that he – Downes – can work with the ZEO to institute the legal action (this is delicate communication as Gateway staff seldom wants to “go over the head” of the town staff – Downes preferred in this case to alert the chair as to the path he recommends and to get consent from the chair). The chair (former ZEO Bernie Gigliotti) informed Downes that he supported the Gateway assistance to bring the property into conformance with the Zoning Regulations (and Gateway standards). From all accounts, it sounds like the property owners would rather argue than to come into compliance. The property owner has not used an engineer or site professional, so there’s no ability to reach out to a representative to try to “facilitate” compliance. Said owners are out of the country but will be returning in September.

- 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:
- Rules of Procedure Committee: Issues to be discussed:
 - Update on 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 fall river trip.
 - The boat trip is scheduled for Thursday, October 7, 2021. Starting time being discussed. Invitations are being sent out (ZEOs, planners, architects, engineers, landscape architects, real estate agents, P&Z chairs, conservation partners)
- Land Committee: Update on Land Committee initiatives (Executive Session).
- Grants Review Committee: Committee chair Joel R. Ide has tendered his resignation due to personal circumstances. Updates to be provided. on review of the RTPEC grant application and other committee efforts.