

CONNECTICUT RIVER GATEWAY COMMISSION
REGULAR MEETING MINUTES
May 27, 2010

Present/Absent:

Chester:	Margaret (Peggy) Wilson, Martha Wallace
Deep River:	Nancy Fischbach, Amy Petrone
East Haddam:	Harvey Thomas, Robert Boulware
Essex:	Ellen Whaley, Anthony Chirico
Fenwick:	Ethel Davies, Borough Warden
Haddam:	Susan Bement, Derek Turner
Lyme:	Kevin Mazer, J. Melvin Woody
Old Lyme:	Ted Crosby, Vacancy
Old Saybrook:	Madge Fish, Vacancy
CRERPA:	Steve Williams
Midstate RPA:	Raul De Brigard, Stacia DeMichele
DEP:	David Blatt
Staff:	J.H. Torrance Downes
CRERPA:	None
Tidewater:	None
Guests:	David Royston, Attorney

Call to Order

Chairman **Melvin Woody** called the regular meeting of the Gateway Commission to order at 7:35 pm in the CRERPA meeting room.

Approval of Minutes

Motion to approve 4/22/10 minutes with corrections (presented by **Wilson, Fischbach and Woody**), by **Peggy Wilson**, seconded by **Stasia DeMichelle**, passed unanimously.

Guests

Variance Referral – Saybrook Point Marina and Hotel, Old Saybrook

Attorney David Royston presented a modified plan, differing from that seen at the Commission's April meeting. The proposed modification was to create a third story *open* porch of the same square footage where a covered porch was originally described. Otherwise, the plan was identical to that shown at the previous meeting. The lot is nonconforming while the use is approvable by virtue of a Special Permit (the Gateway Commission reviewed and commented on the application to allow extended stay hotel use in the district upon which the structure exists). The proposal will allow 7 hotel-related bedrooms where the current single family structure includes 8 bedrooms. Up to four dwelling units are proposed to exist. Setback variances are required due to proposed *vertical* encroachments into the setbacks. Additional square footage will be included to the rear of the structure in a location which is all but blocked from view from the Connecticut River. Motion to approve by **Nancy Fischbach**, seconded by **Peggy Wilson**, approved unanimously based upon findings of (1) the proposal reduces overall nonconformity, (2) the major portion of the new construction will be to the rear of the structure and not substantially visible from the river, (3) the restoration will improve the appearance of the neighborhood as seen from the Connecticut River.

Correspondence & Staff Report

See "Gateway Items of Interest" for full descriptions, attached.

- (1) Copy of letter from First Selectman Paul DeStefano of Haddam to Senator Eileen Daily. The letter, dated April 28, 2010, was written in response to a request for DeStefano's reiterated support of the conveyance of certain parcels of land in Haddam in the Tylerville section of town and adjacent to Conkaponsett State Park. The letter was written prior to the May 6, 2010 meeting held between members of the Town of Haddam and the Gateway Commission (see discussion below).
- (2) Staff presented numerous prospectus' for various investment opportunities.
- (3) Lisa Wadge of Citizens for Clean Groundwater requested to come before the Commission to discuss water pollution issues in Haddam and the Gateway Conservation Zone. The desire on the part of Wadge to talk to the Commission arose out of the ongoing discussions regarding the conveyance of land in Tylerville. The Commission concluded that, in that they don't have a direct jurisdiction over issues of water pollution, they'd like more information on what Wadge is interested in discussing prior to committing meeting time to such a discussion. Staff indicated that he will contact Wadge for additional information.
- (4) Platner, 66 Seldon Road, Lyme. Staff updated the Commission on issues being dealt with at that property, which is located directly on the Connecticut River and Seldon Creek and Cove. Discussion ensued regarding the reconstruction of a shed within 100 feet of Seldon Cove (the small structure is to be elevated to reduce flooding impacts but not enlarged in footprint), a project that would normally require a variance of zoning regulations, in this case, the 100 foot Gateway standard structure setback. Staff informed the Commission that the Lyme Zoning Regulations require that such encroachments be reviewed and approved by the Planning & Zoning Commission by Special Permit and not the Zoning Board of Approval by variance. As such, the application wouldn't necessarily be submitted to the Gateway Commission or its staff.

Motion by **Nancy Fischbach**, seconded by **Peggy Wilson** to have staff draft a letter and send it to the Planning & Zoning Commission which cites concerns regarding tree removal and other site related issues that would perhaps impact the "natural and traditional riverway scene" in that location. It was commented that the need for the letter was in part also due to what was described as the property owner's disregard for conservation restrictions placed on the property by a previous property owner. The letter is to request extra diligence on the part of the Acting Zoning Enforcement Officer (J. H. Torrance Downes) regarding the placement of the structure in the same footprint and assurances that the structure is built as proposed. Chairman Woody also requested that a comment be included which requests that any riparian buffer repairs previously required be completed. The letter is to be read into the record by the P&Z at their hearing.

- (5) CT River Gateway Commission Website. Staff reminded the Commission members that minutes and the upcoming agenda can be found online on the Gateway website www.ctrivergateway.org
- (6) Staff reported that the DEP is interested in closing their files on the easement offered by property owner Timothy Mellon at the Goodspeed Airport. Staff was told by DEP Analyst Martha Fraenkel that the 2008 request by the Gateway Commission to reconsider acceptance of the easement is the primary reason that this easement file is still "active". If the Commission reconsiders and retracts the request, the DEP will close the file. The reason the easement is not of interest is based upon a discussion Fraenkel had with East Haddam Land Use Administrator Jim Ventres who indicated that zoning regulations would not allow a tremendous level of development without significant revisions.

Treasurer's Report

Peggy Wilson presented a bill covering staffing for \$2,398 for approval. Motion by **Nancy Fischbach**, seconded by **Susan Bement** to pay the bill. Approved unanimously. Wilson reported that a budget discussion

will be scheduled for the June meeting. The Treasurer's Report was unanimously approved, motion by **Susan Bement** seconded by **Derek Turner**.

Variance Referrals

Haddam. Application of property owners Richard and Carmella Sogge, and Chris Boule, Applicant. In order to develop the property with the intended single family structure, a variance of a lot configuration regulation – minimum rectangle – is required. Staff presented aerial photographs and a hand-drawn property plot provided by Town Planner Liz West. No other significant information was presented with the application. Staff reported communications with West regarding the need for additional information with which to review the application for potential impacts to the “natural and traditional riverway scene”. The hand-drawn plot was presented by West although it wasn't a part of the application. Staff informed the Commission that he indicated that they may not have enough information to make a determination.

The Commission indeed found that, based upon the lack of information submitted, they didn't have enough information to determine whether or not the construction of a single family dwelling would create unacceptable impacts to the “natural and traditional riverway scene” (in such cases, the Commission would most often condition a finding of “no opposition” with requests to minimize impacts through the retention of visually buffering vegetation or other methods. The submitted hand-drawn plot plan showed that the property included both significant tree cover as well as open field. The application presented photographs which only showed tree cover. The lack of information suggesting where the structure would be located and whether or not the open field location was a part of the proposed lot was the basis for the Commission's determination.

As a result, the Commission felt the need to **oppose** the granting of the variance based upon the lack of information provided which, in turn, didn't allow them to determine if the granting of the variance would produce unacceptable impacts to the “*natural and traditional riverway scene*”. Motion to oppose made by **Nancy Fischbach**, seconded by Harvey Thomas, approved unanimously.

Old Lyme. Protection of Tidal Waters, inclusion of Coastal Resources.

The Old Lyme Zoning Commission proposes to modify regulations to include other coastal resources besides “tidal wetlands” in language which requires a fifty (50) foot setback. Other resources include beaches and dunes, coastal bluffs and escarpments and rock shorefronts. The intent, as explained by ZEO Ann Brown was to expand the resource protection offered by the setback. In addition, Section 4.3, Protection of Tidal Waters, was proposed to be modified in a way which appears to eliminate the Gateway minimum standards for structure setback (100 feet) and riparian buffer (50 feet). Again, discussion with Brown indicates that the intent of the regulation change is to add the resource protection but *not* eliminate or effect the Gateway standards. On a motion by **Susan Bement**, seconded by **Harvey Thomas**, the Commission voted to voice concern over what could be confusion in the language presented in the petition. If the intent was to eliminate the Gateway standards regarding the above-cited setbacks, the Commission would vote to “disapprove” the proposal. If the intent is to add the resource protection but *not* eliminate the Gateway standards, then the petition could be approved provided that the submitted language is corrected so as to eliminate any confusion or conflict with language citing the Gateway standards. A letter stated that a letter stated as such should be submitted to the Old Lyme Zoning Commission which requested the clarification.

Referrals Reviewed by Staff

None presented.

Discussion of Raised Bill No. 5520, Section 19, Conveyance of Certain Parcels of Land

The discussion opened with Chairman Woody's summary of the May 6, 2010 meeting between Haddam 1st Selectman Paul DeStefano and members of the Gateway Commission (DeStefano, Town Planner Liz West, P&Z

Chair Malcolm Gorin, Gateway Chairman **Melvin Woody**, Gateway Haddam representatives **Derek Turner**, **Susan Bement**, Gateway Mid-state Representatives and Haddam residents **Raul Debrigard** and **Stasia DeMichelle**, and Gateway staff J. H. Torrance Downes). Woody reported that the Haddam representatives explained the urgent desire for economic development in Haddam with particular interest in the Tylerville area of Town. Woody reiterated the Commission position of opposition based upon the lack of discussion between parties in the conveyance, the short time period under which review was required based upon the legislative schedule and the method of submission of the bill, and the overall policy consideration of conveying state-owned and conserved land for the purpose of development. Gateway members indicated that, under the circumstances of how the conveyance was proposed, they had no choice but to oppose House Bill No. 5520 as written. The parties appeared to understand each other's positions. DeStefano's April 22, 2010 letter to GW Staff expressing grave concerns over the Town's relationship with the Gateway Commission was briefly discussed with any ill feelings being set aside.

The meeting was reported as being positive in that Commission members reported understanding of the concerns of 1st Selectman DeStefano, who understood the position in which the Gateway Commission found itself. Although DeStefano reported that the conveyance seemed "dead", the Commission members indicated a willingness to consider discussing the issue with the Town and other interested parties in an effort of partnership, pending consensus of other members. It was pointed out that, where discussions could be held, there was no guarantee that a solution acceptable to all parties would be found. Commission members reiterated their concerns over the policy issue and the clarification of the protection of "undeveloped" land visible from the river versus protection of other resource values that may exist at the seventeen acre parcel in question (the parcel surrounds the Riverhouse property with five acres of visible land – described as an abandoned gravel pit – located between the Valley railroad tracks and the rear of the Riverhouse property). DeStefano asked if there was a way to more effectively interact with the Commission on issues concerning existing developable properties and whether or not there was Gateway concern with development of such properties. Town Planner West and GW Staff Downes agreed that they could discuss properties where the Town felt that were development opportunities in order to manage expectations of where concerns may exist. This offer of assistance appeared to please the Haddam representatives. At the end of the meeting, those who were to attend that evening's Rockfall Foundation dinner honoring, among others, Raul Debrigard, acknowledged with pleasure that they'd be socially gathering later on.

Significant discussion occurred on the potential conveyance of State-owned and conserved land in the Tylerville section of Haddam for land adjacent to Conkaponsett State Park. Cited in the discussion was the critical importance of the overriding policy issue of the State conveying land for development that was specifically acquired for conservation purposes (**Fischbach**), the likelihood that the conveyance will again be proposed in an upcoming special legislative session and the urgent need to meet with the Commissioner of DEP to discuss positions, for co-Commission/Department support, the ramifications of recent Council of Environmental Quality meetings, one at which GW Staff spoke and one of which Raul Debrigard spoke (**Debrigard**), the need for collaboration with other organizations including the League of Conservation Voters (**Crosby**), concern over the reaction of certain members of the Haddam government if the Gateway Commission were not willing to move forward to try to find common ground, the indication that individual Haddam residents may be opposed to the conveyance, but organizations including the Board of Selectmen, the Planning & Zoning Commission, the Conservation Commission and the Wetlands Commission *support* the conveyance and the concern over Haddam's comments regarding "leaving" the Gateway compact (**DeMichelle**). **Derek Turner** requested clarification on the use of easements in conservation. Comments were made regarding the Gateway's historic use of easements in its conservation efforts (**Woody**).

It was agreed that Chairman **Woody** would contact DEP Commissioner Marrella ASAP in order to set up a meeting with attendance by **David Blatt**, **Harvey Thomas** (for Debrigard who will be travelling), **Mel Woody** and J. H. Torrance Downes. The intent of the meeting is to discuss the State's stated opposition on the

conveyance and to discuss the positions of the DEP and the Gateway Commission collectively.

Riparian Buffer Standards

Due to the late hour, discussion regarding the next steps for riparian buffer standards was tabled.

Committee Updates

- Rules and Regulations. The April 22, 2010 draft of the Rules and Regulation Committee's Rules of Procedure were approved, motion by **Peggy Wilson**, seconded by **Susan Bement**. Motion was approved unanimously and are effectively immediately.
- Outreach. **Harvey Thomas** reported that progress was being made on the update of the Commission's Mission Booklet. Tasks have been assigned to members who have begun the process of rewriting and developing new sections. Staff is responsible for organizing the existing text, adding new sections where necessary, according to a committee-established outline.

Status of 2004 Standards

Staff reported several issues that could impact discussions regarding the adoption of the 2004 Gateway standards by the Town of Essex including the involvement of new member **Tony Chirico** (who excused himself from the meeting prior to this agenda item at approximately 9:25pm) and the recent resignation of ZEA Marian Staye.

Gateway Owned Properties – Duncan Property, East Haddam

Peggy Wilson reported that she and staff visited the Duncan property on Friday, April 30, 2010 and inspected three reported encroachments onto the Gateway-owned property. The encroachments were described as a relatively small driveway encroachment, scattered debris (of which the renter agreed to remove immediately) and the existence of a substantial shed, perhaps 200 square feet in area, on the property (the shed extends approximately 30 feet onto the Duncan property. Wilson reported that the East Haddam Land Trust was not interested in accepting the property with such encroachments. As a result, the Commission authorized staff to contact Attorney John Bennett to contact the shed owner, Mr. Peter Kaiser to require removal of the shed.

New and Other Business

None presented.

Adjournment

There being no further business, **Susan Bement** moved, seconded by **Peggy Wilson**, to adjourn the meeting at approximately 9:48 pm.

**The next regular meeting of the Gateway Commission is
Thursday, June 24, 2010**

Gateway Items of Interest

May 27, 2010

A. Correspondence

- (1) Paul DeStefano, 1st Selectman, Town of Haddam, April 28, 2010. Letter to Senator Eileen Daily reiterating support for the conveyance of land in the Tylerville section of Haddam. Letter written the week prior to the 5/6/10 meeting between Haddam and GW representatives in Haddam. Copy of 3/15/10 letter from DeStefano to Rep. Jamie Spallone included as well.
- (2) Various Prospecti:
 - (a) Goldman Sachs Fundamental Equity Growth Funds, 12/29/2009
 - (b) Fidelity Advisor New Insights Fund, March 1, 2010
 - (c) Fidelity Advisor Small Cap Fund, January 29, 2010
 - (d) Janus Investment Fund, February 26, 2010
 - (e) Main Stay Large Cap Growth Fund, April 1, 2010
 - (f) MFS Value Fund, January 1, 2010
 - (g) Eaton Vance Funds, May 1, 2010
 - (h) Templeton Global Bond Fund, Semiannual Report/Shareholder Letter, February 28, 2010
 - (i) MFS Investment Management, Notice to Shareholders, Source of Distribution for Dividends, 4/30/10
 - (j) Prudential Short-term Corporate Bond Fund, Summary Prospectus, March 24, 2010.

B. Staff Report

- (1) Meeting between Haddam and GW Representatives, Thursday, May 6, 2010.
Attendees: 1st Selectman Paul DeStefano, Town Planner Liz West, P&Z Chair Mal Gorin, Chairman Woody, Debrigard, DeMichelle, Turner, Bement, JHTD. Woody to report on the hour plus-long meeting held in Haddam's Old Town Hall building.
- (2) Citizens for Clean Groundwater. Lisa Wadge would like time to present information regarding water contamination issues within the GW area. CCG have approached the GW as a result of the events surrounding the recent conveyance bill. When asked about sites of concern within the GW Conservation Zone, Ms. Wadge indicated that there are "many". Suggested June agenda as a possible time for discussion pending GW approval. www.citizensforcleangroundwater.org
- (3) Brian and Beverly Platner, 66 Seldon Road, Lyme. JHTD is acting as ZEO/WEO for all work as the existing officer has a conflict of interest. Property at the mouth of Seldon Creek, separating Seldon Cove from CT River. Much work going on at the property in preparation for a July wedding. Small shed near Seldon Cove (opposite side of property from river frontage) is to be renovated by rebuilding on same footprint. The shed supports mechanical equipment and is located within the 100 foot Gateway structure setback. This application will be handled by a Special Exception through the Lyme P&Z despite what seems like a variance situation. ZEO cited the regulation that he interprets as allowing this procedure to occur. "Acting" ZEO will follow existing Lyme protocols and not step in and modify procedures as they exist. Little visual impact will result as a result of the proposed work. Given the delegated Special Exception authority, the P&Z may not even refer the application to staff for comment. Staff told Lyme ZEO Bernie Gigliotti that, given the minimal size of the project, non-referral of the application to GW staff would not be an issue – staff has seen the application and visited the site.
- (4) Website: www.ctrivergateway.org Note that the upcoming agenda and past minutes, including the draft from the previous GW meeting, are available on the website for review.

- (5) Mellon Easement at Goodspeed Airport. As a brief history, the Commission may recall that Campbell Hudson has brought the issue of an easement at the airport before the Commission. The most recent visit resulted in the GW writing a letter to the DEP asking them to “reconsider” accepting that easement. The GW, it seemed, felt ambivalent about the value of that easement, or what it was the Mellon was offering to protect. The DEP is disinterested in accepting the easement and has only continued because of the GW request for reconsideration.

Having said this, Martha Fraenkal of the DEP spoke to Jim Ventres, Land Use Administrator in East Haddam, and is satisfied that, based upon the zoning map and the zoning regulations, little could be done with the airport property that would necessitate adding the easement to the DEP’s list of easements they must steward. To dispose of this issue, Ms. Fraenkel has requested that the GW send a letter which states that they withdrawal their earlier request to reconsider the acceptance of the easement (the 2008 request letter is included below).

C. Variance Referrals to be Reviewed by the Commission

- (1) Chris Boule, 259 Injun Hollow Road, Haddam Neck. Variance requested in order to fit the “minimum rectangle” onto the lot. Described by Appellant as a minimal nonconformity (no information has been submitted to GW which shows the lot or the manner in which the appellant tried to fit the rectangle *onto* the lot. Although it’s presumed that the Appellant is interested in constructing a single family dwelling, no plans for such a structure have been submitted. The 4.2 acre size of the parcel suggests that a structure would fit the site without any issues. A hand-drawn “plot plan” from Town Planner Liz West and the review of aerial photographs led staff to a conclusion that a residential structure on that site would not likely impact the “natural and traditional riverway scene” in any significant manner.

D. Zoning Regulation Referral

- (1) Old Lyme, OL Zoning Commission Petition. Revision concerns the construction of structures no closer than 50 feet to tidal wetlands. Current regulations indicate that the setback is 100 feet for properties fronting the CT River, its tributaries and associated wetlands. The proposed language removes the increased setback when on the CT River, its tributaries and wetlands when the structure is adjacent to the CT River, etc. Simply stated, the GW standard is apparently being proposed for elimination, or so it would seem.

Existing: Except as provided for in Section 4.10.3 for the CT River, etc. (100 foot setback), structures will not extend to within less than 50 feet of tidal wetlands....

Proposed: No building or other structure shall extend to within 50 feet of tidal wetlands....

E. Variance Referrals with Impacts Reported by Staff to be Insignificant

None.

F. Status of Standards

ZEA Marian Staye of Essex has left her position in the Town of Essex and is working a day a week to keep permits moving forward. Staff will keep a close eye on the hiring process and who is hired.

G. Transfer of Gateway Property/Inventory Project

East Haddam, Duncan Property. Peggy Wilson and JHTD conducted a site inspection at three properties surrounding the Duncan property, speaking to two of the occupants who are responsible for three encroachments onto the property. Staff has contacted Rob Smith, President of EHLT, via email to communicate findings and determine the next step.

Telephone message from Rob Smith on Thursday, May 20th indicates that the EHLT may not be interested in the property if the structure encroachment on the Kaiser property isn't corrected first. Conversations between Mr. Smith and staff will continue.

DRAFT

October 24, 2008

Ms. Elizabeth Brothers
State of Connecticut
Department of Environmental Protection
Division of Land Acquisition and Management
79 Elm Street, 6th Floor
Hartford, CT 06106-5127

**SUBJECT: Goodspeed Airport, LLC
Proposed Grant of Scenic Easement and Development Rights
East Haddam in the Lower Connecticut River Conservation Zone**

Dear Ms. Brothers;

At their regularly-scheduled meeting on Thursday, October 23, 2008, the Connecticut River Gateway Commission learned that the Department is willing to reconsider the acceptance of the referenced Grant offered by Timothy Mellon. Although there may be conditions and issues that might mitigate the perceived value of the Grant, the Gateway Commission has concluded that protection of the scenic value of that property in *some* form is important to Commission efforts in the protection and preservation of the "*natural and traditional riverway scene*". We very much appreciate the Department's willingness to re-review the Grant for possible acceptance and are more than willing to assist the Department in the re-evaluation if so desired.

Thank you for your efforts and support in this and other land-based partnerships with the Connecticut River Gateway Commission. Please feel free to contact the Commission through our staff, Mr. J. H. Torrance Downes at (860) 388-3497 or at jhtdownes01@yahoo.com.

For the Commission,

J. H. Torrance Downes
Senior Planner, CRERPA

Copies to:

Ms. Gina McCarthy, Commissioner of Environmental Protection
Mr. Tom Tyler, Director of Constituent Affairs and Land Manag