

To: Zoning Commission
From: Zoning Board of Appeals
Date: Oct.20, 2019
Subject: Information Related to Proposed Amendment to Section 4.3.

Thank you for copying the Old Lyme Zoning Board of Appeals (ZBA) on the proposed amendment to Old Lyme Zoning Regulations Section 4.3. The ZBA learned via a news article that part of the genesis of the proposed amendment may have been due to a concern about "variances granted" at 131 Shore Road (<https://ctexaminer.com/2019/09/10/old-lyme-zoning-commission-proposes-limits-on-waterfront-building/>). Therefore, to support the Zoning Commission in making a fully informed decision regarding the proposed amendment, the ZBA is providing a fact-based summary of the variance application for 131 Shore Rd. Please read this note into the record at the public hearing and add attachments into the record.

- The **original dwelling** at 131 Shore Rd, built in 1976, had **multiple legal pre-existing non-conformities**, including its location within 50 feet of regulated tidal wetland and within the 100-foot setback for CT River Gateway "Conservation Zone".
- The **original dwelling also spanned two coastal flood zones**: the more dangerous **VE flood zone** (wave action greater than 3 feet) and the **AE flood zone** (wave action less than 3 feet); thus, any renovation exceeding 50% fair market value of the structure required it be elevated and comply with applicable FEMA requirements.
- The applicants proposed replacing the original dwelling with **a FEMA-compliant dwelling in a more conforming location**: outside the 50-foot tidal wetland restriction and 29 feet farther from CT River tidal wetlands. The more conforming location would also be **outside the more dangerous VE Coastal flood zone**.
- The **Zoning Enforcement Officer**, in his capacity as agent of the Zoning Commission, determined the **only** variances required were to the 100-ft CT River Gateway **"Conservation Zone" setback: Section 4.3.1 and 4.10.3**. After its review, the **CT River Gateway Commission** stated they **would not oppose the granting of the variances with certain conditions**.
- After reviewing the CAM Application, **CT-DEEP supported relocating the dwelling landward, beyond the VE Flood Zone**. CT-DEEP also suggested the applicant **voluntarily** build to more stringent VE-flood zone standards, as it is not currently required by either FEMA or the Old Lyme Zoning Regulations. Recommendations that were incorporated included planting riparian buffer.
- In alignment with CT River Gateway and CT-DEEP feedback, and with **all requests from CT River Gateway Commission added as "Conditions", the ZBA granted only the requested variances** (Sections 4.3.1 & 4.10.3), due to increased safety of a more landward FEMA-compliant dwelling; reduced encroachment into tidal and coastal areas; and reductions in pre-existing non-conformities.
- ***Attachments:** 2016 Property Record Card; Aug2016 Zoning Compliance Permit Application with Health Approval and ZEO Compliance Report; Variance Application; CAM Application; Letters from CT River Gateway Commission and CT-DEEP; Sep2016 ZBA Variance granted; an Aug2019 Zoning Permit denoting the ZEO's independent authorization of fill and retaining wall revisions.*

Please note, the ZBA **cannot** vary a requirement for a Special Permit, including that required for accessory structures located within 50-feet of a regulated tidal wetland per current Section 4.3, or any new requirements for Special Permits in the proposed amendment to Section 4.3.