

MINUTES

Ad Hoc Advisory Committee on Short Term Rentals

August 31, 2022, 7:30 PM, Village Hall, 85 Main St

Committee Members Present: Branis Buslovich (BB), Travis Fyfe (TF), Tom O'Quinn (TO), Megan Shea (MS), Marianne Remy (MR), Lara Demberg Voloto (LV), Jennifer Zwarich, Chairperson (JZ).

Committee Members Absent: none

Guests: Mayor Foley was asked, impromptu, to attend for about 10 minutes of the meeting.

1. and 2.

8/3 and 8/17 minutes were approved with minor changes.

OLD BUSINESS

3. Discussion of § 100-3. Short-Term Rental Classifications.

- a) Continued discussion of number limit/lottery
- b) Continued discussion of max days of operation
- c) location
 - i) Zoning districts allowed in
 - ii) street spacing requirement

JZ: last meeting we arrived at a definition of hosted, and we left off talking about maximum limits in terms of number of days rented. The question on the table was whether we want to impose 90 as in the original law, 180 as the VBOT suggests to us or some other higher or lower limit or no limit. We were split on this question. Some people felt that there should not be any limit. BB says that it self-adjusts. TF was for lower limit. Some discussion of "ticket" option ensued, but generally too much paperwork was the concern. TO: limiting permits to hosted, it eliminates a lot of the concerns. Is number of days likely to impact? JZ: my concern is that number of days limits have not been enforceable in any other community I've researched. It's function in the law is essentially to suggest a target. How useful is this function? What are the negative impacts of increased days operating and can we mitigate these in other ways that are enforceable? For example, if we are going to have no limits on days operating, we would want strict limits on number of permits, parking, etc. These things might all impact each other.

LV asked for clarification/review of consensus last week for the hosted versus unhosted. The one time permits are unhosted.

JZ: Yes, one-time permit hosted or unhosted was the consensus. MR: the idea was that there has not been complaints on the West Point graduation hosting that has been happening for a long time. She has not heard in meetings any pushback on the 7-14 day limit for one-time unhosted; that level of activity seems likely to not have the impacts. JZ expressed concern about enforcement of the two different kinds of permits. There was a question of day limit in short-term rental definition. TO: a month is a long-term rental, so if people who want to go away for awhile they are entitled to do a longer-term unhosted rental then. LV questions whether people can use VRBO or Airbnb for this month-long plus rental.

The committee returns to the topic of number of days. JZ points to where we left off last week.

MS: The "tickets" idea [essentially defining an allowable number of "stays" instead of number of days rented] would possibly alleviate confusion and it is a smaller number that on paper might be easier to understand and to enforce than the larger number of days.

TO: if it's your primary residence and it's hosted, what is the negative impact associated with higher # of days rented? MR points out that in past meetings several public comments focused the impact of the comings and goings, for example with an STR on Academy St. MS: Having reasonable check in times and check out times might solve these issues. JZ wonders whether the impacts associated by number of nights, which is not enforceable, could be mitigated by other parts of the law that are easier to enforce. Could the impact by increased comings and goings be mitigated by strict check in/out times and a robust complaint and enforcement system for example? Group discussion ensued on whether we need to limit the number of nights. JZ: wants to keep the original 90 days as a measure to at least set the bar and encourage good actors. LV, BB for unlimited number. TO for a "tickets" or number of stays (instead of nights) system which could make enforcement easier. TF for making it lower than 90. MR stated that she understands from experience that most people rent for many more than 180 days. The market is robust, so there would be pressure to ignore the day limit especially if there is no way to enforce it. Discussion returned to impacts of unlimited days.

JZ: Parking, for example, would be an impact in some parts of the village that could increase with greater number of nights rented. Could other parts of the law mitigate this impact? General discussion ensues: many people take the train; how could the law encourage other transportation forms or limit cars; is parking an actual limited resource in more residential parts of the village; how could we mitigate parking impacts where it is most limited.

JZ states the current law calls for one off-street space per permit application.

The discussion about parking leads into a discussion on zones. B-1 has very limited off-street parking and high pressure on the on-street parking soon to be impacted by a parking meter system and resident permit on adjacent R-1 areas. JZ: notes that in areas of the village adjacent to this B-1 shopping district parking is a very limited resource. She feels we should prioritize residents' needs and tourist needs must be secondary. Even in other parts of the village this should be the priority.

MR: Trash is another potential concern she's heard at prior meetings. MS suggests trash is mitigated by the new village trash collection by Royal. If more trash is created, then the owner needs to buy an extra can. The expense is no longer on the village.

MR: Another limited resource besides parking is administrative or staff time. The administrative cost to the village when we are asking people to submit applications and proof etc to the village should be a concern. Compensation for that staff time could be covered in the permit fee, but that doesn't help if they don't actually have enough time to devote to this. MR: In terms of number of nights allowed, we all have records of how many nights and could produce these if requested. She also notes that if you don't limit the number of nights, then there is potentially more revenue for the village via the occupancy tax.

Discussion ensues of occupancy tax and how to encourage compliance and how the two laws (STR CH-100 and the new tax law) could work together. General consensus on the easier it is to pay permit fees and taxes the more compliance we'll receive. Could the tax could be paid directly by STR operators through the platforms and deposited in village account? BB suggests that there is a way if the village account number could be given to STR owners. LV it's far more enforceable if it's automatic.

JZ asks Mayor Foley, who is passing by after a VBOT meeting adjourned, to pop in for a question about the occupancy tax.

There is discussion about whether STR operators can send the tax directly. JZ suggests it would encourage compliance. Platforms like Airbnb do collects tax for some select municipalities and submit it directly instead of operators having to do it, but those are much large municipalities. JZ suggests that a few of those arrangements were the results of settlements after litigation. JZ: repeats that her understanding is that much of the info needed for enforcement is proprietary or hard to access. We'd never know how

many days are actually rented unless Airbnb shared that information, we could only estimate. TO: the fines have to be high so that people will fear loss of income.

Mayor Foley agrees that this is the approach here: the risk to the income pushes compliance.

The similarity is made to the problem with some people not caring about parking tickets and just figuring that cost into all-day parking to hike. TF: but why should the fee in this case be measured against a vehicle infraction. Feels it should not because we have entirely different rules for cars. TF points to the word agency, which Mayor Foley brought up early. TF's concern is that the village does not enforce the other law. JZ points out that what we're trying to do in this Ad Hoc committee—is to create a system that self regulates as much as possible.

JZ points out that with the village STR situation, then a larger fine will have the impact necessary. People may not risk renting to someone who has too many in their group or who has a party for example if it means they risk losing their permit and cannot rent again for awhile.

Mayor Foley states that she'll look into the direct deposit question about the tax etc and will report back. The group thanks her for her time. (She exits.)

LV points to Philadelphia and how they regulate. LV suggests that the ban on parties by Airbnb has been helpful. MR suggests that the village law does not allow self check-in, that it is a best practice to greet guests. LV has allowed self check-in in the past, as has BB. Both suggest this is difficult to enforce.

JZ: Enforcement plan is key with all of these issues. Returns discussion to limit on number of days. JZ states that in her opinion, after this discussion, she feels either the number of STRs that can operate need to be strictly capped or the number of days strictly capped or, ideally, both. LV points out that this is part of her and many other residents' livable income; limiting the number of days limits the income. JZ: it's easier for me to think about it in a different way. If a short term rental is more like a home business similar to what is already allowed in our Zoning code, then the impacts are acceptable and maximizing income is your right that I support. But if there is more of a commercial enterprise on the street that asks neighbors to bear the larger impacts associated with your business and your maximizing income that is something that nobody should ask of their neighbors and that should not be allowed in zones like R-1.

TF: the thing that really irritates me is the lottery. I want to do everything I can to protect the person who is a part of the community. TO, MR, LV all state in different ways: the requirements of STRs being hosted and primary resident take care of so many impacts.

MS suggests that if I'm surrounded by all STRs, it seems like that would be disruptive even if they were all operated by residents and hosted.

JZ how should we decide on the max number of STRs. Discussion of the current numbers in the village and where/how to set the limit. TF talked to a code officer in Saranac who said that they are actually going to pull people out of the STR permits after three years. MS points that it is better to make the number smaller and add on if needed than to have to pull people's permits. TF points out that pulling permits would be hard for people who have invested in their properties to make them up to code.

LV looks up how many there are currently listed on AirBnB as an example. It is difficult to tell actual number because many are in Nelsonville and beyond CS village but are labeled as Cold Spring.

TF: what is allowed in the current law? Before that it was only allowed via special permit for a "tourist home". JZ: "Tourist home" requirements include bordering one of the 2 state roads, 9D or 301. This process seems to conflict with the current STR chapter at key points. LV: the old tourist home part of the zoning code should be changed/replaced by the new STR law. All agree. JZ states that she will put that recommendation in the report to the VBOT.

JZ notes that the committee previously seemed to agree that no one wants to keep the lottery system because, though it aims at fairness, it creates a very cumbersome and difficult to understand (and to administer) application process that is a major issue. Polls the group on this point. Everyone agrees. JZ: we all agree to do away with the lottery in favor of a strict cap on permit numbers with a waiting list. JZ: we need to decide then whether we would recommend one of 4 options: 1) limited number of permits with unlimited days of operation, unlimited permits with limited days of operation, or limits on both or both unlimited.

TO: we don't have to solve the for worst case scenario. JZ: but we want to avoid the worst-case scenario so that the village doesn't have to step in. TO: the 300 square feet apart requirement is difficult.

MS suggests that the village might deny permits based upon density of Airbnbs. TF points out that this has precedence through other limits: liquor license prohibition near churches, in schools, etc. TF suggests that making a metric defines a limit. Just let be it clear as opposed to up to interpretation down the line. LV points out that if it's vague people could be denied based on whether the person is liked by neighbors. TF points out that subjective issues have arisen in the past when it comes to Airbnb. All agree that it should be an objective process clearly delineated.

Further discussion of unlimited vs limited permits and days ensues. JZ: I'd prefer both limited but would be ok with unlimited days (since this is very difficult or impossible to enforce), as long as the number of permits was low enough. Thinks the number of STRs operating at any given moment is the greater impact on village life and is also the most enforceable limit. Further discussion ensues. The issue of how to avoid clusters of STRs presenting a greater burden to certain residential areas was raised.

JZ suggest time is up and we return to this issue of density next time. Polls group: who would be okay having number limits on STR permits and unlimited days of operation with the caveat that we would build in other strict limits that are enforceable? All are ok with this scenario. Details to be further discussed next meeting.

Did not get to **NEW BUSINESS. 4.**

Will start of next meeting with finishing this discussion and looking at the issue of B-1 and street spacing requirement. Then will move on to 100-4. Short-Term Rental Requirements, Permits. A through P.

5. Calendar work: Next meeting date confirmation.

Next meeting date set: Sept 14.

6. Public Comment

No public comment.

Meeting adjourned.