

SOUTH BRISTOL TOWN BOARD PUBLIC HEARING

January 13, 2020

PUBLIC HEARING

The Public Hearing of the South Bristol Town Board was called to order January 13, 2020 at 7:14pm at the Town Hall, 6500 W Gannett Hill Rd., Naples NY 14512.

PRESENT

Daniel Marshall, Supervisor
Donna Goodwin, Councilwoman
Jim Strickland, Councilman
Stephen Cowley, Councilman
Scott Wohlschlegel, Councilman

RECORDING SECRETARY

Judy Voss, Town Clerk

OTHERS

Brian Perkins, Alan & Kristie Braun, Cathy Colby, Virginia Latke, Candace Ryan, Ann Jacobs, John & Judy Manzer, Keith & Martha McIntyre, Carl & Sue Widmer, Lori McAlees, Sam Seymour, Tom Gunter-Kremens, Craig Webster, Jared Hirt & Jim Wight, et al

**TOWN OF SOUTH BRISTOL
NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE, that a public hearing will be held by the Town Board of the Town of South Bristol on Monday January 13, 2020, at 7:00 p.m., at the South Bristol Town Hall, 6500 Gannett Hill Road - West, South Bristol, New York, regarding the adoption of a Local Law of the Town of South Bristol for the year 2020, which would amend the Zoning Law of the Town of South Bristol by adding regulations pertaining to short-term rentals that will require a permit to be obtained before a dwelling unit can be used for short-term rentals, that will establish requirements for the maintenance of such permit and for how a short-term rental can be used and that will establish enforcement and penalty provisions.

Any resident of the Town of South Bristol shall be entitled to be heard upon said proposed Local Law at such public hearing. Copies of said proposed Local Law are available for public review at the Town of South Bristol Town Hall, 6500 Gannett Hill Road - West, South Bristol, New York.

This by Resolution of the Town Board of the Town of South Bristol.

Judy Voss, Town Clerk

PUBLIC HEARING

Supr. opened the public hearing for comment. Supr. Marshall explained that the purpose of the public hearing is to gather input from the residents or property owners with regards to the Short-Term Rental Law.

Tom Gunter-Kremers, owner of 18 Golfside Circle and 30 Andrews Way, wanted to thank the Planning Board for all their work in putting this together. We tried to work with them and the creation of this document and it has come a long way. Wanted to thank the Board for allowing this opportunity to speak.

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I represent a number of people in the Bristol Harbor and other areas in the community; we've been talking and passing on our comments to the Boards. We have about 75-100 different properties that are for rent using the websites that are listed; not all of them are short-term rentals. I do want to, just in a general aspect of the law, make sure that taking what you learned from doing the Noise Law, try to go for simplification and not making things over complex so that you don't have to make changes to retract parts of the law. Bristol Harbor has been a place where people have been renting for almost 50 years. A lot of people rent first and then join the community, so it is a great resource for us to bring folks in. But we also self-regulate because we know there can be issues. Hopefully everybody has had a chance to be briefed on the rules that we have at BHVA as well as some of the smaller HOA's that self-impose their own rules. We certainly want to make sure everybody thinks of some of the benefits of the rental properties as well. It helps businesses we think may be better than a hotel for people as a place to stay especially as it becomes much more popular. For the residents, especially along the lake it does help them with taxes. Not everybody rents all the time; sometimes people only rent for a couple of weeks just to cover some of the taxes. Really wanted to focus on what is the real purpose of the law. We know that there was a big problem with a certain property across from Bristol Mountain that caused a lot of these things to be brought into question and just want to remind you that not everybody is like that. Many of us are trying to be very responsible. Going through the documents I've have some questions. A lot has been covered by the Planning Board. One question is, a lot of focus is on whole house rentals, we also want to know what the Board is thinking about renting just a room in your house which can be a very different issue. We are actually looking at maybe that being a separate policy for our own communities. In the section where you have the definitions, you define a Short-Term Rental as 31 days or less. I just wanted to make sure that we are taking into account that a complaint can't be filed if somebody is renting monthly and advertising monthly. But if they rent for the month of February, 28 or 29 days, somebody could have the intention of renting monthly, rent that month and could be called in. Just a minor point you might want to think about; maybe 28 days, 4 weeks, as being a possible choice there. In Section C Part 4, wanting to understand why there seems to be a discouraging of growth, *No dwelling units for new construction*. Again, a lot of people wanting to be able to just rent for a couple of weeks just to cover their taxes. If I build a new house, why are we limiting somebody building a new house from renting for a couple of weeks which still doesn't qualify to the IRS as renting but you actually have to file your proceeds. The next section, how will the town handle the initial flood of requests? You talk about 30 days for the process but yet when you read through the whole document there is 30 days, then another 30 days and another 30 days and 5 days; potentially of time, the largest gap could actually be 95 days. That is one of the inconsistencies I've found in the document. In Section D, Part 1, I'm just curious because it talks about signatures of all the tenants, is that in place for somebody that might be allowed to sub-let to somebody else. That could be somebody just renting a room and the danger of a leased tenant and then choosing to sub-let.

Councilman Cowley asked if they allowed sub-letting at Bristol Harbor?

Mr. Gunter-Kremers said he doesn't believe we do. I know that is a concern and I believe some of these smaller HOA's don't allow that. Section D Part 5 where it talks about a list of existing property owners. In another part of the document you say entities, here you don't. If somebody has a LLC I don't think that you can force them to list all the owners because the owner of that property is the LLC and in some cases it is not equal shares and some cases you might have a corporation or LLC where somebody might not have any ownership of that specific property, it could be delineated within their organization who has certain assets. Just wanted to be careful and

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have consistency again, that you have entity listed in part 5. In Part they talk about name, address, email, cell phone number, and contact of person responsible which is good because you want to get the managing partner and somebody else who also is responsible for that particular property. There were some questions on Part 7 when you talking about a suitable floor plan and some concern from some folks that are renting, it says not professionally done, but does it have to be computer done, can it be a sketch? It is not clearly defined, how that has to be, measurements, that could be very well layed out as to your expectations are so people can make sure that they comply and get it right the first time and not waste your time. Section 8 talks about a statement from that none of the owners have short-term rental; when you are asking for statements, it would be nice if that could be laid out clearly, stating sign here, nobody has lost their ability to do short-term rentals.

Councilman Cowley asked, something we would provide?

Mr. Gunter-Kremers agreed. Moving on to Section E Part 1, Section C Part 2, where it talks about the fire extinguishers being inspected monthly by permit holders. I don't know how that could be enforceable, the homeowners or permit holders would be the ones managing that but don't know how that is enforceable and if it really necessary to have in there. As well as Part D below it where the house number shall be located in multiple places; certainly, you should have the house number there. It does seem excessive to list it twice and that really just depends on if you have a house way up the hill, I get that. Section E.1F a form for the electrical inspections must be performed by a 3rd party inspector. Just wanted to know if there is a specific form that is approved that you would then give to your electrician for them to say yes, this is all good. Otherwise I could find a friend that is a 3rd party electrician and as long as there is nothing, I mean obviously he should be signing it because you want the liability, I assume, that they are saying yes that's good as an electrician. Some clarification there. Question about fireplaces, again, this is where I almost wonder if there is too much detail. If somebody is not using a fireplace, I have a fireplace I don't let my tenants use it; I take out the grate. It is useable, but I don't understand why that is in there because there are all ready laws and regulations around that. That might be part of the inspection that you say, hey advice, you have a fireplace, make sure. Part H, property must have a minimum of one off-road parking space for every bedroom shown on the floor plan, this is referenced a little bit, later on, and we do just have some concerns about that way that you are counting folks. When we talk about that and Part I where you are talking about 2 people per bedroom shown on the floor plan. I mostly rent to families. We often get families with a big vehicle, they have 2 people and 3 kids, that could be a 4 bedroom usage with 5 people and one parking spot. I'm trying to understand the intent of why you've gone to this instead of just the simple 12 person maximum for the rentals. Is this not including infants, is this not including kids, just some clarification there because if it was adults that would be a different story. I might have a 2-bedroom and I might be able to rent to 8 people, if I have a couch and a loft with a futon, just wanted to bring attention. That's one of the biggest concerns we have. Certainly, we have a community center so we really have unlimited parking so it doesn't affect us too much but there might be other situations where what is the purpose of this part of the law, what are you trying to restrict? Why not just keep it simple and just say 12 maximum for property as well as, the really important part, which is the septic piece. Which would then help self-limit some of those issues. Moving down to Section 4 in this area where we talk about rental contract, *all applicants and permit holders must have a rental contract*. There are some great resources that are out there that people could reference, maybe you could pick out some that the Board likes and suggest those on the website. VRBO and those sites tend to have pre-made contracts for a lot of people. Section F, this is where we started talking about the one part of the document not being consistent with the other, here you talk about 30 days for the enforcement

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officer to do the inspection, 30 days for the Planning Board and 30 days, so clarification would be nice there on the over all process and time lines. This initial rush of getting everybody in and getting everybody a permit, just want to make sure that we don't get in trouble because of the timing of the process. A quick question, I am assuming that since you have a newspaper that you work with, that the public hearings, in Section F, 5, will be advertised at least 5 days, I assume that would just follow your normal process. Concern on Section F, Part 8, the word *served* is listed for providing the information once the permit is approved. *Served* to the neighbors, just want to make sure it is clear as it talks about hand delivery but then it says served and didn't know if that had to be hand-delivered by a lawyer, properly served, or if it just needs to be handed off.

Section G, Part 4, suggest that you add in there, at the very end, if there is an amendment that you also have that provided the notice to the Code officer cause that's initially in there but it's not in that section.

Section 5, a little bit more detail on where you should be listing your permit number on your advertisements if that can just be anywhere.

In part J, Section 6, in a previous version from the Planning Board they had listed requirements for egress and that was removed, but it wasn't removed from this last section.

Supr. Marshall thanked Mr. Gunter-Kremers for the detailed information.

Jared Hirt said he was going to rely upon Tom because he did a great job. Jared Hirt with Evans, Fox, attorney for Webster Luxury Living. I've appeared before many towns in dealing with these Short-Term Rental laws. I actually ** for the Planning Board when they were going through and analyzing what was necessary and what they felt was needed. The elephant in the room here is that as we go through all the minutes and all of these laws, it is pretty clear that they are all really focused on my client and the issues that perhaps may have arisen as a result of what they are doing with the properties there. The one thing that I want to remind this Board of respectfully is that a lot of what is the intent behind this law is to govern the use of the property and there are laws that are all ready in place. The big issue seems to be noise for lack of a better word. I mean that is what you see a lot of I know it looks like this Town recently incorporated a new Noise Ordinance to try alleviate some of that but in my experience in dealing with a lot of towns that have gone through this and a lot of them are Finger Lakes; Town of Livonia looked at it, Victor, and it goes on and on. The big issue generally is noise, there are ordinances though that are in place to govern that. The problem becomes as these laws become more and more extensive and more and more complete it ultimately falls back on the Town to enforce that. The reality is a lot of Towns have had turned away from that because keep in mind as you have more and more strict standards that need to be enforced, who is going to do that? From the Town standpoint? And it can't be just one selective enforcement against one individual because that opens the door to all sorts of litigation issues. It's got to be across the board and one of the great attributes that this Town has is that this is a great place for Short-Term Rentals. At Bristol Harbor is a great example of that. I just really implore this Board to think about that. It is a great source of revenue, it brings people to the Town. It's everything you want and everyone that has these Short-Term Rentals is in fact paying taxes. They pay the same taxes, if not more than their neighbor. And so, just keep in mind that as this law becomes more extensive you just can't put a law on the books and then not enforce it or can't selectively enforce it. What I think everybody is trying to get at is everybody would like to be able to come home and live in a peaceful setting and not have their neighbor's, whether it is a short-term rental or John and Betty who have crazy parties, we want to make sure that we have a peaceful

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setting for everyone to enjoy. And the enforcement of that is really through the noise, sheriff's department, troopers, that is who generally does it. In a lot of towns I've seen look at this and go really this isn't a Code issue because the more and more things that you begin to create again you've got to enforce it somehow. I would just offer those words and certainly I would open the Board to any questions they have of me given the fact that it kinda seems like my client is the point of all of this. So certainly if there is any questions, by all means I'm here.

Supr. Marshall asked the Board for their comments.

Councilman Wohlschlegel asked, are you saying that basically that there really wouldn't be a need to really have this law if enforced our Noise Laws, that type of thing? Are you saying that there is not a need for Short-Term Rental?

Mr. Hirt said he is saying that a lot of the concerns that he's seen, both not only here but in other municipalities as well, really is centered on noise. That is really what gets everybody going. I'm not saying that is wrong, but there generally if there's noise ordinances within a town then the enforcement of those ordinances are generally done at the time they are occurring by the sheriff's department or the State Troopers, whoever the law enforcement agency assigned to that specific territory is. That is generally what is driving this and then as you get into more and more issues, you know, when you start talking about going through and inspecting homes, keep in mind that there is an obligation and burden that the Town has now taking. If the Town doesn't necessarily inspect the property pursuant to its own Code or it doesn't have the resources to do that, that can become problematic for the town itself. My experience on a lot of these is that when there are specific situations and most of these are driven by one or two or three specific properties where the neighbors have issues with, then a lot of times those are dealt with internally between the Town and property owner. That's my experience with these because as you pass the Town Code, again, it is applicable to every single property in the town. That has some pretty damming effects on what the intent may be behind it.

Supr. Marshall asked the Board if they had any questions.

Councilman Cowley asked, beside your client there has been a lot of other complaints throughout the town that has come to this office so you are a little special but I think other people come in here and talked about it. We are not just picking on you.

Mr. Hirt said he doesn't strive to be special.

Supr. Marshall noted that he also believe the intent of the law is to get the property owner or corporation owner to enforce the law. In other words, don't rent your property out to 150 people who are going to throw a party that lasts to 2:00am. That's not what we want here in this town, we want peace and quiet. We have residents who pay their taxes very diligently and are looking for peace and quiet and when someone comes in and has an out-of-control party that's wrong and that's what we faced. Quite frankly, yes, your client is the reason we are all sitting in this room tonight.

Mr. Hirt, said I don't think anybody in this room would disagree with the fact that we don't want that at any ** whether it be Bristol, Spencerport, Victor, wherever. But the problem if I may is

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that, to your point, it is a party til 2:00am that's loud and disturbing and again it goes back that noise ordinance.

Supr. Marshall said, no, it goes back to the person who rents the property in the first place.

Mr. Hirt asked, what's the difference if I have a party at my house, I don't have a short-term rental, but I like to party and I have my friends over until 2am, there is no difference there. So if I don't have a short-term rental but I like to party and I like to annoy my neighbors, what is the point of this law, you can't do anything, you can't do nothing. So what you fall back to ultimately is again, the law enforcement agency and their job. So that is what a noise ordinance is, because there are people that I have lakefront property and when people go down to the lake they like to let loose whether they own the property or they rent the property. So ultimately if they are down there partying but it is not a rental, then this law doesn't address that. Now you have set two different classes.

Supr. Marshall said there are other issues as well, we are talking about a facility that is not capable of handling 150 people with the septic system that is there. There are other issues and in particular, not just on your property, but any property on Canandaigua Lake, the septic issue is paramount. We have a problem on Canandaigua Lake now with harmful algae bloom and we don't know exactly where it is coming from but we sure do know that properties that have septic systems close to the lake have to be looked at and reviewed very very carefully. That lake is golden, pristine, it's what make this area what it is. We can't be messing with it. The same thing applies to any property in this town, because it all eventually goes to the lake.

Mr. Hirt said sure, I don't disagree, that the use of a septic system and its overuse is an important issue. But where it become problematic is that the health department has jurisdiction over that.

Supr. Marshall said, the bottom line to me, sir, that if your client were to be very careful with who he is renting to things would be a whole lot better.

Mr. Hirt said the problem is that we are now dealing with one specific person.

Supr. Marshall answered, no, because of that situation we now addressing everybody in the room that has an interest in short-term rentals.

Mr. Hirt, said, I guess that is my point, when we do that again the elephant in the room is we are trying to address one specific person but it is going to apply throughout the town.

Supr. Marshall said, no we are not addressing one specific person and you keep trying to say that. We have problems along the water, along the lake those are issues as well. And those are issues when we are concerned about the rental, where a property gets rented with the idea that 6 people are going to be there and it can accommodate that and the next thing you know a fraternity with 50 guys shows up and they are all parked out. We are concerned about that, it isn't just your property, your property brought up the point to begin with.

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John Manzer of Mountainside Drive, thanked the Board for the Noise Ordinance, I appreciate the efforts there. The short-term rental I feel is necessary and Craig, we are not trying to run you out of town. We just want our peace. It is Animal House every weekend because of the guys or gals before don't know anything about the party last week, so this week it is a brand new party that starts all over again. So I think the key comment is that, just be more careful about who you rent to, let's keep it down to 12 or less and it is not just noise, it's the traffic that comes with the people that are there. Now, in terms of the Short-term Rental document itself, and this was discussed, I'd really push to keep that 12 renters all the time. We keep using the word "overnight" to me, if the septic is "X" and 12 is the max then 12 is the max. I don't care if it is 2pm in the afternoon or 8pm in the evening or 10-11pm when the noise ordinance hits. I wanted to address Craig specifically because we are not trying to run you out of town but spinning things and avoiding the issues with this septic to my mind have never been addressed, that has created what used to be a working relationship is now an untrusting relationship. We have different priorities here then in the Town of Victor that ran you out, I don't know what there priorities are, but we are all down here for peace and quiet. My main point is, if the number is 12 max, it doesn't matter if it is 10am, 2pm, 8pm, that should be the total number. Some of the comments that came from the prior gentleman it is borderline an event center. This is supposed to be a Short-Term Rental law, none of these properties are supposed to be unendorsed event centers.

Tom Gunter-Kremers of 30 Andrews Way and 18 Golfside, just one quick thing that was removed from the last draft that had been done by the Planning Board, this no longer says a minimum of one night, so does this apply if the community center for a family party for 2 hours as well. Does the Board know how much the permit will cost? Will there be penalties?

Supr. Marshall answered no and the permit will be a 2-year permit and \$25.00 has been mentioned. Supr. Marshall noted that Mr. Gunter-Kremers has raised enough questions where we will not be taking any action this evening. This document was authored by the Planning Board with their recommendations that we take a look at it and approve it. Certainly enough information has come up this evening to suggest it needs a little more review. The Town Board agreed.

Adjourned: 7:464pm

Respectfully Submitted,

Judy Voss
South Bristol Town Clerk