

jMinutes of July 25, 2023, Germantown Town Board Public Hearing on Local Law No. C of 2023, providing for a local law revising the Town of Germantown Zoning and Subdivision Law to regulate short-term rentals, held in the Kellner Activity Building, 50 Palatine Park Road, Germantown, New York, commencing at 6:00pm.

Present: Supervisor Helsley
Councilman Sullivan
Councilman Kukon
Councilmember Suarez
Councilman Christian

Present via Zoom: Town Attorney, Corinne Smith

Recorded by: Town Clerk, Joyce Vale

35 residents in attendance.

Supervisor Helsley opened the public hearing to comments from the public.

Corinne said in order to keep the meeting moving forward and giving everyone enough time to speak they are limiting each speaker to 3 minutes and if the 3 minutes isn't enough time you can submit your comments in writing. Corinne also said this is the first of multiple public hearings.

Supervisor Helsley asked if everyone who speaks state their name for the record.

Doug Trapp read his letter. Doug feels as STR owners that they will be overly regulated. Doug's concerned about safety and property regulations and the liability put on the town. Doug also stated the proposed safety regulations put a big burden on the code enforcement officer. Doug gave the town board a copy of his questions.

Ellen Jouret-Epstein feels the owners of the STR should live on site so the town is not overrun by STR's. Supervisor Helsley told Ellen if she had any further questions that she could email them to the town board.

Councilmember Suarez asked Corinne to speak in regards to Ellen's comments. Corinne said that tonight's public hearing was more about the town board receiving comments and not a "q" and "a". Corinne said the town can regulate use of the STR but the town cannot regulate who's using the property. Corinne said the town had to remove those sections due to current case laws.

Supervisor Helsley said that you cannot treat a person differently no matter how long they own the property.

Melanie Mintz commented that in NYC you have to live in the apartment or place in order to do this.

Corinne reminded everyone that this is not a "q" and "a" this is about receiving comments.

A gentleman from Apple Valley Lane spoke in regards to his neighbor who has and Airbnb and the noise. Councilman Sullivan told him that Apple Valley Lane was in the town of Clermont. Supervisor Helsley said to call the Sheriff's or the Town Board of Clermont.

Kate Wood lives in Linlithgo but her family owns 2 properties on Main Street in Germantown. Kate said she has specific comments in regards to the STR law. She gave her list of comments to Supervisor Helsley.

Karen Targove thanked the STR committee. Karen feels as long as a person has an established STR and complies with all the regulations that they should have first dibs on the permits.

Ripley Hathaway has rentals and is wondering what happens to her existing rentals? Councilman Sullivan said that the number of permits will cover all of the current operating STR's

as far as he can tell and that they are not trying to close down any STR's. Supervisor Helsley commented they are still trying to figure out how many permits are too many and how many permits are enough.

Patty Hinkein said if a neighbor complains and are already not in favor of STR's next door how you evaluate that legitimate complaint. Patty also feels that long term rentals that are not being held to the same standards and that STR's are being singled out.

Billy Kimmel thinks that a lot of things in this law are not necessary. Billy also feels the inspections of the STR's will create more work for the CEO and the higher fees will be passed along to their customers. Billy said he feels like he's being punished.

Shannon Dunn lives on Main Street and does not currently have an Airbnb but would like to have that option. Shannon said that it's been proven that banning or regulating STR's not free up affordable housing.

Ellen Burnwich has had long term renters.

Billy Kimmel said there is nothing wrong with long term renters.

Robin Raskin neighbor changes every weekend and is very uncomfortable with that situation she would like to come to some kind of agreement so residents aren't uncomfortable.

Julie Becker (via Zoom) seems competition going up and some residents are trying to make ends meet but those who are doing this as a business are buying up the houses. Councilmember Suarez commented there would be a number that felt comfortable to the town.

James Himelright said as an Airbnb owner they can choose who they rent to.

Molly McClarnon is on the STR committee. Molly said she is a long-term renter and has a good relationship with the owner and can't compare the two.

Christina Bohnsack also is on the STR committee and said the committee worked hard on the law and safety is important and they need to be inspected. Christina said there is a lack of long-term residents and as a community member wants a town where people live in regulated and not banning anything. Supervisor Helsley said once you have a permit, they will not take it back.

Maggie Goudismit is also on the STR committee. Maggie's question was can someone purchase a permit and not rent out their house. Councilmember Suarez said that the current law doesn't address this. Supervisor Helsley added this is something they will probably add to the law.

Pamela Murphy asked where is the money going to go when you buy a permit, is that money paying for inspections? Supervisor Helsley said the money will go to the CEO for the extra time he will be spending on doing inspections. Supervisor Helsley added this is not a money making venture for the town.

Karen Targove said that some of us will not be happy with certain things. Karen likes the way the town has come together in the last few years and she would like people to understand that the town board has to think of the greater good for most people.

Kate Wood said that people aren't buying these properties to make a lot of money, that people are buying for all kind of reasons.

Doug Trapp thinks it is a great idea for the STR to register with the town. Doug also thinks that the STR's should pay an annual fee. Doug suggested putting a notice in the existing STR's tax bill to notify them they that the law exists and will need to register with the town. Doug said he loves this town very much and has spent many hours volunteering.

A resident asked if the data on STR's is 2 years old? Supervisor said "yes" and it will be updated.

Patty Hinkein grew up in Germantown and knew everybody. Patty thinks it is a benefit to the community having STR's.

Laura Sink is also on the committee. Laura sees the benefit for seasonal rentals and she feels the date should go through October 15th and not September 15th. Laura also thanked the town board for reviewing this law.

Shannon Dunn had a STR out of state for 10 years and had never received a complaint. Shannon said when you registered your STR they sent out a notice to your neighbors, you had to put your contact number and your property manager's contact number and you could not be more than a half hour distance from the STR.

Billy Kimmel said it is a good thing to register your STR. Billy also said he has never had a complaint and that his neighbor knows of his STR. Billy feels that the inspection part should be up to the owner.

Supervisor Helsley thanked everyone for coming out and future public hearings will be noticed accordingly.

Public hearing was adjourned at 7:13pm.

Attached are the letters emailed or delivered to the Town Board.

Respectfully submitted,

Dear Town Board,

I am writing to provide commentary on the proposed Short Term Rental Local Law No C of 2023.

I congratulate the committee that created this well thought out draft law, with one area of exception related to **who can get a permit and how**.

Essentially, the law **does not distinguish between owners who are "in business" from owners who are part time residents** and rent out their own homes to help with expenses, whether it is a primary home (beyond twice a year) or secondary home. Part time residents are forced to compete with commercial businesses for permits. This occurs in two ways:

- 1) Limited number of permits
 - While the law indicates an owner can only have one short term rental, this does not limit those in business from having one in each town in the area, which is common, and thus does not distinguish between an individual home owner and a STR business. *Local home owners will be competing with businesses for limited permits.*
- 2) Process for getting permits
 - While the current draft law was changed from a lottery to a first come first serve approach, businesses may have the resources and capacity to ensure applications get in first, while *individuals may not have the same infrastructure or staff to move as quickly*, disadvantaging them.

Why is it important to make this distinction?

- Individuals who are part time residents may be long-term home owners in the area, and are just trying to make ends meet to enable them to afford their homes. If they do not obtain a permit due to competition with businesses, they may no longer be able to afford their own mortgages and forced to sell their homes (potentially to businesses, defeating the purpose of the law)
- Individuals may need to rent their homes part time for a period of time, potentially in anticipation of fully occupying the home in retirement.
- Individuals who are part time residents may need to work temporarily or part time in another location, which is increasingly common with the trend of part time remote work since COVID, leaving their home free for rentals when working on-site at their place of employment; if they cannot rent out their homes, they may not be able to afford part time housing in their work location.
- Most importantly, part time residents are *part of the community and care about its welfare* on a different level than rental businesses

The way the law is written currently is *not in alignment with the purpose as stated in the draft law*. If one includes part time residents as residents, the draft law does not adhere to the following text under purpose of this law:

- "...helping to maintain the *affordability of both home ownership* and rental units..."
- "...protecting existing inventory..."
- "...ensure that residential neighborhoods are not turned into commercial areas..."
- "...meet the diverse needs of *residents* of the community..."
- "...keeping in mind the needs of our *residents*..."

In order to rectify this, I would propose that part time residents be given priority for permits over rental businesses, and could be defined as people who use the homes they rent out themselves and rent out their homes to others less than 75% or 50% of the days in a year. Thank you for considering this proposed change.

An additional area that lacks clarity for me is what distinguishes a motel/B&B from a STR? If someone has multiple dwellings or multiple rooms in their home that they rent out as a STR, is that any different from a B&B? What are the tax implications?

Thank you again.

Julie Becker

14 Meachers Attean Lane

Dear Town Board,

Here are my comments:

1. Although there is a prohibition against "activities other than residential occupancy" in section 6 (seasonal STR), there is no similar prohibition in section 5 (STR permitting requirements). There should be the same prohibition. No one wants loud parties and weddings, etc. taking place next door (different if it is an owner's party).
2. In section 8 (Enforcement), any hearing should be before the ZBA (not the Town Supervisor). This way there will be no perceived 'favoritism' and a decision will be made by a voting body.
3. In general, I worried about permitting and inspections, etc. How will the Code Enforcement Officer manage all this in the limited time s/he spends in Germantown?

Thank you.

Judy Bernstein
220 Northern Blvd.
Germantown, NY 12526

Dear Town Board,
Thank you again for your time and dedication in working through this complex topic, that in one form or another impacts every single resident in Town - as property owners or potential neighbors to an STR.

I appreciate seeing that so many aspects that were proposed by the STR committee remained in and made it into this draft law. Based on that, I would like to voice my support of the proposed law in its current form.

I did notice one aspect, though, that was intensively discussed during the STR committee meetings, that doesn't seem to have been included in this draft and that I would like the Town Board to reconsider including: A 2-year ownership requirement for STR permits. Requiring two years of ownership prior to being eligible to apply for an STR permit, deters anyone from buying properties simply as AirBnB-/Investment-objects. Which in my eyes, is an important part of preserving the community character.

Thank you again for your continuing efforts.

With appreciation,
Jan Borchert, STR-committee Chairperson

Carole Neville
206 Northern Boulevard
Germantown, New York 12526

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To the Members of the Germantown Town Board and Members of the Committee:

Re: Short Term Rental Regulation

Thank you for proposing the comprehensive regulation of short term rentals in Germantown. The proliferation of short term rentals threatens to change the character of the neighborhood where I live and has raised my concern about safety at home. I am glad to see some fair rules and restrictions and I support the stated goals of the regulation.

I have some questions and comments.

It looks like the total number of permits will be limited to 39-40 units. How did you arrive at that number? Does the Committee know how many short term rentals there are in town now?

Can the law suggest that the Owner give notice to immediate neighbors that property will be used as a short term rental? I learned that my neighbors had listed their house when strangers started knocking on my door asking for their address and different car pulled into the driveway every weekend.

If an individual or entity can apply for only one permit a year shouldn't the definition of Owner include an individual that is a principal of an entity? A person can hold properties in separate corporate forms and apply for each one as the law is written now.

Can the Code Enforcement Officer really take on the additional responsibilities required by the proposed law? Can there be a fee levied against each rental to pay for additional Town services as it seems is now permitted by State law?

Finally, should the hearing to revoke a permit be held before the Zoning Board of Appeals rather than the Supervisor?

Carole Neville

Testimony of Kate Wood
Before the Town Board of Germantown, NY
Regarding Proposed Local Law No. C of 2023 (Short-Term Rentals)

I'm Kate Wood, I'm a resident of Linlithgo, 5 minutes down the road, and my family owns two properties in Germantown — 285 Main Street and 321 Main Street — that we make available for both long- and short-term rental. My mother purchased one in 2010 and the other in 2013. I remember the dates pretty clearly because this kid was an infant strapped to my chest, getting wet paint on his head and feet while I put the finishing touches on what were full-house, historically conscientious rehabilitations of once-vacant houses that had seen very little if any maintenance or investment in decades. Bringing them into the 21st century was truly a family labor of love.

They were also personal passion projects for me — I'm a trained professional preservationist, and I encouraged my mother, who lived in Pennsylvania at the time, to invest in these properties that had been sitting empty on Germantown 's Main Street for several years. She could have purchased a nice place tucked away and out of view, but we felt it was important to revitalize highly visible houses where the improvements could be felt by the entire community.

My mom was all in on this goal and, at age 64, moved her whole life here to Germantown. She told me it was like coming home to the kind of small-town comfort she hadn't felt since she was a girl growing up in Texas. She still lives on Main Street, but unfortunately suffers from Alzheimer's disease and cannot be here to speak for herself.

With that preface, I want to thank the committee and those who have worked in earnest to examine this issue from all sides and understand the role of short-term rentals in our community. The proposed law includes several provisions that, I believe, introduce common-sense controls on a use that our town 's zoning doesn't yet address. Meanwhile, it contains other provisions that do not seem to bear a direct relationship to the public interest and overreach the mandate of government to serve public health, safety and welfare.

First, I want to emphasize that the properties owned by my family are homes. They are homes that we pour ourselves into and that we enjoy sharing with others. Guests we've hosted include:

- Families visiting for college graduations, weddings, birthdays and reunions
- Overflow guests for Germantown neighbors' holiday celebrations
- Team-building retreats for local businesses
- Small dinner parties for local charities like Friends of Clermont
- A couple of months ago, a family visiting a daughter who lives nearby and just had her first baby

We often host our own friends and family. We couldn't be happier that our houses can serve as extensions of the living space available to members of our community, and that the people who stay in our houses can experience this community in a way that feels like home.

In many ways, short-term rentals are just like any other private property use. I can stand on the front porch of 285 Main Street, look at the homes of our neighbors, and see the ways we are the same:

- ✓ We pay our taxes
- ✓ We take excellent care of our properties ✓ We employ local workers to help us
 - We buy many of our supplies from local businesses
- ✓ We respect our neighbors
- ✓ We occasionally have music or talking that can be heard by neighbors

It occurs to me that our rentals are, in some ways, more similar to coops in the city where neighbors are vetted and held to a high standard of behavior through House Rules. Because we don't want our houses or our neighbors to be disrespected, we have a process to make sure guests are the right fit. And if there's a problem, we handle it right away.

Our houses have had many lives — some people in town still refer to 285 Main Street as "the clinic" because it used to be doctors' and dentists' offices. You can still see where the chairs were bolted to the floors. We're doing what we can to ensure that these houses have many more lives to come.

Specific comments and questions about the proposed law:

I support provisions to ensure safety and respect for neighbors, although in some ways I think these public purposes could be better served by town policies that don't single out short-term rentals.

I urge the board to consider carefully the impacts these regulations, especially the cap on the number of permits issued, would have on homeowners like us who created short-term rentals in good faith. The proposed system of drawing for permits on a first-come, first-served basis in April and October seems rife for misunderstanding and protest. Travel plans (especially for spring graduations, weddings, summer vacations and holidays) are booked months, if not a full year, in advance. It means that homeowners on year 3 of a valid permit would be restricted, de facto, from accepting rental requests for the following year. That kind of uncertainty about our ability to use and make long-term plans for our property would create a hardship for us.

Furthermore, the limit of one short-term rental permit per owner seems arbitrary. Are there any other uses that are limited in that way? What public interest does it serve?

Those are my comments and questions. Again, thank you for your close attention to this issue.

July 25, 2023

Thank you for all the time and effort put into this law. We understand and appreciate all the energy that's been exerted with discussions and ideas.

Unfortunately, the overall feeling after reading this proposal is that we as short term rental owners will be overly regulated and, subsequently, punished.

Originally we were told that the STR law's purpose was to assure that housing stock and long-term rentals did not get overtaken by STRs. I understand that concern. But after reading the proposed law draft, what jumps out as the ACTUAL purposes of the STR law are SAFETY and ACCESS OF THE RENTAL for the Fire Dept, and PROPERTY REGULATIONS. The enforcer of all this safety and regulation is the Town Code Enforcement Officer. That puts a LIABILITY on the town because they are assuming the responsibility of an INSURER. We as property owners ALREADY assume that responsibility with

additional property insurance and all the requirements that entails. Not to mention the requirements that AirBnB and VRBO require of all rentals, or you're not covered by their insurance policy. The proposed safety REGULATIONS put a tremendous burden on the CEO, who is a part-time employee, to regularly inspect, enforce, and monitor everything down to a guest wondering when a chimney was last cleaned.

Therefore, with the law's purpose and requirements being about safety and regulation, I have several questions:

- 1) Have there been any instances when STR guests were in danger? Or where the Fire Dept could not access the unit? If so, can you show us the data?
- 2) Have there been any noise complaints from neighbors? Any guest complaints to the town about the property? If so, can you show us the data?
- 3) How will the CEO have the time to do all this monitoring, regulating and inspecting?
- 4) And if we're being honest, isn't that the reason for all the fees - to pay him for overseeing and regulating our business, when we've been doing fine on our own?

Other questions:

- 5) Why will you require STR owners to list the Germantown permit on their advertised ad? Can you show me AirBnB ads where owners list these kinds of permits? I haven't seen them.
- 6) How will you enforce all these regulations if STR owners don't register for a permit?
- 7) Are you assuming that everyone who has an STR in this town will obey all these rules?
- 8) "Vacation exemptions" don't require a permit - but you're asking a homeowner to email the CEO if they plan to rent their house out a couple of times a year? How will you monitor this?
- 9) A permit is good for 3 years. How much is the permit? How much is the application fee? How much is the inspection fee?
- 10) The total number of STR permits will be 6% of total housing stock in town. Please state the actual number of permits instead.
- 1 1) Seasonal STRs require annual inspection. How often do regular STRs have to be inspected?

I do want to make it clear that I think it's a very good idea to have STR owners registered with the town. I recommend something much simpler:

- 1) Have every STR owner register their rental with the town, and pay a nominal annual fee (\$50/year like Chatham). This will cover administrative costs of creating a database.
- 2) If a complaint is made by a neighbor, or a guest, the CEO or designed town official contacts the owner to correct the problem, and if they don't, they are fined.
- 3) Every year, put a notice in the STR owner's property tax statement (so they will actually know the STR law exists) and they must register their property and pay the annual fee.

And lastly, one way to incentivize STR owners to convert their short-term rentals to long-term, is to perhaps offer a tax incentive on their property and sewer tax. That would be an incentive rather than a punishment.

Thank you, Doug Trapp (212) 518-1500