

Minutes of October 19, 2023, Germantown Town Board Short Term Rental Law Public Hearing, held in the Germantown Town Hall, 50 Palatine Park Road, Germantown, NY and via Zoom, commencing at 6:00pm.

Present: Supervisor Helsley
Councilman Sullivan
Councilmember Suarez
Councilman Christian

Town Attorney, Corinne Smith

Absent: Councilman Kukon

Recorded by: Town Clerk, Joyce Vale

15 Residents present.

Supervisor Helsley opened the STR Law public hearing and asked Corinne to give the instructions for the procedure. Corinne proceeded by saying the Town Board is considering Local Law C of 2023 regulating Short Term Rentals. Corinne asked the public to limit their comments to three minutes to keep the public hearing moving along. Corinne also said the written or oral comments are already a part of the public record. Corinne then said since the last public hearing in July there were no substitutions made to the local law. Councilman Sullivan reminded the public that this is not a town board workshop that it is a public hearing for the town board to receive input not conversation.

Councilmember Suarez sent all the emails received today and asked if we were reading them? Supervisor Helsley said they would just go into public record. Corinne would answer any questions from the written comments after the inhouse comments were finished.

Supervisor Helsley opened the floor to public comments.

Jon Padgett lives in Germantown and has no interest in Airbnb and is asking for explanation. Councilmember Suarez answered him by reading Section 3- (1.) Purpose. The purpose of this Local Law is to address the use of housing units in the Town of Germantown for short-term rental purposes so as to enhance the tourism economy of the Town while protecting the safety of renters and the privacy for residential purposes, nuisances; ensuring that the value of housing is tied to its use for residential purposes, helping to maintain the affordability of both home ownership and rental units; encouraging the development of appropriate sized short term rental facilities in the community while protecting existing inventory of long-term rentals and full-time residences.

Councilman Sullivan said there was a concern in 2020, 2021 and the town formed the STR committee. Councilman Sullivan stated that this is not just a Germantown problem but a problem throughout NYS to help residents with affordable housing.

Corinne said the Town of Germantown Zoning & Subdivision Law currently does not regulate STR, that this law creates a framework for regulating STR's.

Genette Piccici Oehlke read her letter.

My name is Genette Piccici Oehlke and I would like to thank all members of the Town Board for their service to our community. I will discuss the need, the desire and the cost of compliance of the proposed short-term rental regulation.

Regarding need for a short-term rental regulation, for about a year I was a member of the short-term rental committee, an initiative Sarah Suarez spearheaded from her sat on the Town Board. Myself, I was assigned to the Research subgroup collecting metrics on complaints, current short-term rental stock and current housing stock in Germantown. The Research subgroup found that there were no complaints to the Town Board regarding short-term rentals, no noise, parking, trash issues to contend with. We estimated about 71 Airbnbs

in Germantown, which equates to 10% or less of the available residential housing stock being offered as a short-term rental.¹

Given no complaints and the relatively low percentage of residential housing units that may be STRs, these metrics do not substantiate the urgent need for a short-term regulation in Germantown.

Regarding desire for a short-term rental regulation, when speaking with residents, I am met with apathy, because many people do not rent their homes or I am met with mild agreeance that residents would accept a short-term rental regulation, but they want one that is measured and fair. If the Town wanted to raise money through an annual permitting cycle with some basic requirements for health and safety that would be more palatable than what we are commenting on today.

Regarding cost of compliance, the distinction between seasonal short term rental vs a non-seasonal short-term rental, the Vacation Exemption, the requirement to post a permit number in any ad not falling under the Vacation Exemption, the bedroom and visitor maximums, I could go on, all increase cost. Speaking from experience, hosting a short-term rental is hard work. You must clean it, carry appropriate insurance, cater to guests, maintain your property, sometimes guests do not want to pay. This regulation penalizes residents to jump through hoops for working and hosting their home. This law will be difficult for the individual to comply with.

Not to mention, this law will be difficult for the Town to enforce as the Town would need to increase the Code Enforcement Officer's hours just to ensure compliance with this law.

Finally, the regulation states in Section 4(e) "the total number of valid STR permits shall be limited relative to the percentage of the number of single-family residences (property type 210) total housing stock in the town, based on the County property data." When I was on the short-term rental Research sub-committee, 677 units were classed as property type 210. A cap of 6% of 677 unit is 41 units. Also at that time, there were approximately 71 airbnbs. Therefore, this proposed regulation would reduce the number of short-term rentals by approximately 30 units.

I am going to repeat, capping the permit at 6% of available residential units, would reduce the number of STRs by approximately 30 units. Could yours be eliminated?

This tone-deaf and onerous regulation proposed in an inflationary economic environment where costs for all of us are on the rise is one of the many reasons voters put me, Genette Picicci Oehlke, on the ballot for the Germantown Town

¹ As reported in the Town of Germantown STR Committee 06/28/2021 Meeting Minutes

Board. When elected to this Town Board, I will work to pare back the short-term rental regulation and realistically address the needs of our residents. Thank you!

Kaya Weidman (via Zoom) is a resident of Germantown and part of a community of young farmers. Kaya supports this legislation and doesn't think it goes far enough there should be time limits to permits.

Laura Sink asked where to find the draft law?

Councilman Sullivan said it is on the website and on the calendar listing.

Laura Sink commented that when the STR committee calculated the number of STR's there were 43 on August 22, 2022 and today there are 42.

Harry Franklin from Gallatin asked is there a distinction between owner occupied and not owner occupied.

Councilman Sullivan said they did initially but not in the law now.

Corinne said originally it was in the draft but is no longer in the law.

Pamela Murphy is questioning how many of the STR's will come available for affordable housing. Councilman Sullivan said the Town is looking to limit the growth of STR's. Supervisor Helsley commented the end goal is to limit the growth of STR's in Germantown.

Marianne Thorsen asked if she had a legal BNB for years would this become an illegal use?

Councilman Sullivan answered by saying it would not be illegal it would just be permitted.

Corinne said if she is permitted now as an AirBNB or a hotel that this law does not affect her.

Councilmember Suarez said Bed and Breakfast is in the code and is allowable.

Christina Bohnsack said she is also on the STR committee. Christina echoes what Kaya said and would like to see a time limit on the STR's.

Jon Padgett feels like AirBNB rentals are bringing the property values up.

Christina Bohnsack said this predates the pandemic and is pushing people out of their primary residence to get a secondary residence.

Kaya Weidman (via Zoom) said there is less houses on the market which is putting pressure on existing housing driving up the rental cost.

Councilmember Suarez stated that the Fire Department and the Code Enforcement Officer participated in the drafting of the STR Law.

A resident (via Zoom) stated there are current long term residents of Germantown that are being kicked out of their home for long term rentals to make space for AirBNB's and that this is a housing rights issue and a human rights issue.

Harry asked what is the impact on rental stock?

Councilman Sullivan said it's not just focused on rentals but on properties that are available for people to purchase.

Supervisor Helsley again said this law would be limiting the number of STR's in Germantown.

Scott Kellerhouse is a long-term renter in Germantown and he would like to see strict regulation on STR's to help with the affordability of housing.

Matthew Mercier would like to second what Olivia Scott said. Matthew said there is no protection for renters and he thinks this is necessary to regulate the STR's.

Noel lives in Germantown and is in support of the town.

Christina said since the last public hearing the towns of Kingston, Kinderhook and Tivoli have put in stricter AirBNB laws. Christina thanked the Town Board.

Tony Albino said the rezoning committee in rewriting the zoning laws is dealing with affordable housing and he thinks that everyone is trying to do that.

Supervisor Helsley asked if there were any further comments. There were no further comments.

Corinne said that we can adjourn the public hearing and set a date for another public hearing and people can still send in their comments either oral or written.

Corinne addressed the written comments.

A question was how did the town board come up with the cap and how they came up with the numbers of STR's? Corinne answered saying the town is seeking to reduce the limit of current STR's.

A question asked should all complaints go to the Code Enforcement Officer. Corinne said any complaints on zoning or subdivision should go to the Code Enforcement Officer and he is required to investigate.

Someone asked about restrictive covenant in their deed? Corinne said this is separate than any restrictive covenants.

Someone asked about the effective date and bookings outside of six months? Corinne said the Local Law goes into effect once adopted and filed with the Secretary of State. Corinne explained that owners who operate existing STR's have six months from the effective date of the law to apply for an STR.

A few people asked why this doesn't apply to long-term rentals? Corinne said this doesn't apply to long-term rentals it would be a separate local law.

Is the town taking on liability inspecting this property prior to authorizing it's use as a STR? Corinne answered "no".

Was does this Local Law allow each owner to apply for one STR? Corinne is recommending to change the definition of owner to if an owner encompasses individual plus the members or shareholders of an LLC or corporation as well.

Whether the hearing should provision should be before the ZBA and not the Town Supervisor? Corinne said that is something for the Town Board to discuss.

Whether a notice should go out to neighbors of an STR? Corinne said the is something else the Town Board could consider.

Motion to adjourn the Public Hearing at 7:01pm made by Councilmember Suarez, seconded by Councilman Sullivan, with all in favor and none opposed.

Supervisor Helsley thanked everyone for their comments.

Letters received from the public for the record:

I have read the proposed STR law several times and as a Germantown homeowner since 2021, I find it onerous, confusing, cumbersome, difficult to understand and seemingly prohibitive to implement both for property owner and town. The many requisites to meet a long yet evidence-unsupported list of STR property requirements, and to submit STR to pre-permitting inspection and compliance reviews, are out of scale with the record of noise complaints (0) or other public nuisance complaints relative to short term rentals. I have conducted two long-term rentals without explicit plans to begin any kind of short-term program. Yet I am concerned that the language of the proposed law

appears to shift the burden of affordable housing development from the town to the private homeowner. This is poor public policy and even worse town planning in terms of resources and a potentially unconstitutional enforcement mechanism.

The town has failed to make clear, beyond a stated wish to preserve rural character, the scope of harm that has accrued through several dozen short-term rentals operating. Furthermore, a lack of housing stock should not burden homeowners who cannot always offer long-term rental contracts. I can attest that it is possible and even desirable to include STRs in a local housing mix without the need for this much small print and this many categories of oversight and scheduled permitting application dates. How, truly, do you envision operating this program? I soundly oppose passage of this regulation.

Ellen Berkovitch

Town Board,

I'm a renter in Germantown with a landlord who owns multiple rental properties and Airbnbs. As he turns more of his long-term rentals into short-term rentals, my friends and neighbors are forced to leave this area. For those of us with a lease, we live with constant anxiety that we will eventually be kicked out if he continues to turn over his properties.

Our community is close-knit and committed to this small town. We want to stay long-term, raise our children, and invest in our local businesses. But we're not able to buy in this current climate so our housing is always in jeopardy. It's a very stressful situation. To be completely honest, I fear retaliation from my landlord.

My other concern about short-term rentals is the increasing emptiness of my neighborhood as fewer and fewer people really *live* here. So many homes sit vacant and leave this area feeling un-lived in, empty, and even at times dangerous. Neighbors mean someone is home. Empty houses mean we're alone.

Thank you for your work on this issue.

Chase

Dear Germantown Town Board,

I operate one STR in the town of Germantown. Often my bookings are made over a year in advance. This law covers existing STRs which have bookings within 6 months of its passage but not those with bookings outside of the six months. What happens in this situation?

Ripley G Hathaway

Thank you for asking for public input on regulating short-term rentals (STRs).

I was able to join the October 19th meeting via Zoom around 6:30 so I only heard some of the comments.

I do support regulating short-term rentals. It is making it difficult for full-time residents to live in Germantown. There is less housing

available because of STRs and prices are unaffordable for middle-income people. We are also losing a sense of community. The house next to me is now empty most of the time. Once in a while different strangers stay there for a short time. I miss the days when you knew your neighbors.

Jan Winig

Hello Town Board Members,

Thank you for addressing our written questions today! We appreciate the work being done and underlying objectives of this law.

Three follow up questions:

- 1) What is the current contemplated STR application fee in Section 7(a) and annual permit fee mentioned in Section 5(c)(i)(2)?
- 2) Has the Town Board considered requesting STR usage data from each Owner as part of the annual permit renewal process (allowing the Town to, for example, better understand the number of nights or revenue generated per property per year, and quantify the scale of STRs in the Town of Germantown beyond a simple property count)?
- 3) Am I correct in understanding that Section 9(f) would allow existing STR Owners to renew their Permit in perpetuity, regardless of any pending waitlists (including the 3 year expiration mentioned in Section 5(b)), while any STR Owners who begin operating their STR after the passage of the law would be subject to both the 3 year expiration, and the drawing order (first come, first served, subject to 6% cap availability) specified in Section 4(e)(ii)(1)? Will there be a mechanism to prioritize Owners on the waitlist from a previous Application Period over net new applicants for the current Application Period? Finally, has the Town Board considered language that would prevent "warehousing" wherein an Existing STR Owner continues to renew their STR permit despite not actively using the residency as an STR?

Thank you,

Austin Opatrny
331 Church Avenue
Germantown, NY 12526

Town Board,

Thank you for last night's hearing.

I would like to draw your attention to the gray area in section 9. APPLICATION TO EXISTING SHORT-TERM RENTALS: 'Existing STRs permitted under this section shall count toward the limit of one STR permit application in a 12-month period in Article VI.CC.4(c), such that an Owner who receives an STR permit(s) for existing STR(s) under this section is ineligible to apply for an additional STR permit for a new STR for a 12-month period.'

Does this mean that if you apply for your existing STR and then there are still new permits available in the next 12-month period, you could apply for another one?

Please consider more precise language that you can only operate ONE whether you have already been operating or not.

This is of dire importance to my housing situation and others in town.

Additionally, could there potentially be something added that a long-term renter cannot be forced to leave to allow for a STR by the same landlord? I realize this gets into rental

protections category but since it's inherently interwoven in the STR issue (I know cases where people would still have homes if STRs didn't exist) I'm hoping something is possible.

Thanks again for tackling this important matter with such thoughtfulness.

Chase.

Respectfully submitted,