

**VILLAGE OF COXSACKIE
PLANNING BOARD MINUTES
July 20, 2023**

Chairman Robert Van Valkenburg, Jr. called the Planning Board Meeting to order at 6:00 p.m. Present were Planning Board Members: Christine Martin, Patricia Maxwell, and Deidre Meier. Matthew Bennett attended via Zoom Video Conference. Jarrett Lane was absent.

A motion to approve the minutes from the June 15, 2023 Planning Board Meeting was tabled due to a lack of quorum of eligible votes.

New Business

1. Short-Term Rental Local Law-Planning Board Referral – Chairman Van Valkenburg, Jr. stated that the Planning Board has to review this proposed Local Law and make their recommendation to the Village Board. He stated that Local Law #4 of 2023 is a Local Law regulating Short-Term Rentals in the Village of Coxsackie. The Village Board has been working on making some changes to that area of the Village Code for several months now, and before the Board tonight is the final draft of the Local Law.

Village Attorney, Robert Stout, Jr., stated that the Village Board adopted a Moratorium back in January 2023 to put a hold on all Short-Term Rentals while they figure out what changes they would like to make to the current Village Code. There was a general consensus that the existing requirements in the code relative to Short-Term Rentals needed some changes. There were several meetings over the last couple of months to discuss different aspects and changes to the code. There are changes to what the regulatory requirements are for Short-Term Rentals, in terms of basic safety regulations, what information needs to be presented in order to obtain a license, and also more robust enforcement measures for those who aren't following the code. The other changes, in which the Planning Board comes into play, is that the Village Board would like to see the Short-Term Rentals only permitted within two zoning districts within the village. The two zoning districts are Village Center ("VC") and Community Commercial ("CC").

Chairman Van Valkenburg, Jr. stated that they have a zoning map before them tonight to reference those two zoning districts. The Village Center zoning district is primarily the downtown Lower Mansion Street, Reed Street and South River Street area, and the Community Commercial zoning district is primarily an area in West Coxsackie along Mansion Street and a portion of Bailey Street.

Attorney Stout stated that once the Village Board starts attempting to regulate what can and cannot be done in certain zones, that is effectively a change to the Zoning Code. The Zoning

Code itself has very specific requirements as to what the Village Board has to do before they change the Zoning Code. One of which, is to refer the matter to the Planning Board, in order for the Planning Board to submit a written report to the Board of Trustees, prior to the Public Hearing by the Board of Trustees, and the Planning Board shall favorably recommend an adoption of an amendment or change in this chapter, or in a district boundary, only if such change does not conflict with the general purposes, goals, and intent of this chapter; and such change is consistent with the Comprehensive Plan. He said that he has encountered this before, where a written report is required. It is a bit of a challenge because the code also gives the Planning Board 30 days from the date that it is referred by the Village Board. The Village Board referred it at its last meeting on July 10th, and tonight is the only meeting that will occur within the 30 day time period. He feels that it is perfectly appropriate for a conversation to occur tonight amongst the Board Members as to how they feel about the code changes, that will then be reflected in the minutes, which will serve as the official report that is delivered to the Village Board before their next meeting date of August 14th. He said that he will go through the redline version of the proposed Short Term Residential Rentals code. A lot of the initial changes are just clean up changes. It is referenced in 111-1 that one of the purposes of what the Village Board is doing is to “Achieve an appropriate balance of Short Term Residential Rental uses and other uses within certain areas of the Village.” The changes in 111-2 are clean up changes to the definitions. The intent of the change of definition of “Rental Unit” is to clarify what units this applies to, not only on single family residential dwellings, and single family detached dwellings, but also two family dwellings. There was fear that there was a loophole because two family dwellings was not mentioned, and therefore somehow would not be captured by this law. It also adds “...or a portion of any such building or a single unit within a multiple family attached building unit...”. The thought here was to just make the definition as broad as possible, so that every potential rental unit is captured by the definition. A definition of “Responsible Person” was expanded to not only the person renting, but also the owner, so that both parties could be on the hook for compliance with the law, and their responsibilities were also expanded upon.

Chairman Van Valkenburg, Jr. asked if these definitions are actually found in the Village Code, and if so, they will be changed, or are these just definitions for the purposes of this law only.

Attorney Stout stated that these definitions are for the purposes of the Short Term Rental law. They are existing in section 111-2 of this code. They are not in the Zoning Code; they are in the Short Term Rental Code.

Patricia Maxwell asked about the “Rental Unit” defining “Single Family”, “Two Family”, or “Multiple”. She said that most of the building in Village Center are not single family or two family. So, how are they able to provide Airbnb or Short Term Rentals?

Attorney Stout stated that it is because the definition goes on to say, “...or any portion of such

building...”.

Patricia Maxwell stated that it is just that they are not classified as two family dwellings. They are classified as a mixed use building since they are all storefronts with residences on the second floor.

Attorney Stout asked if he understood correctly that a rental unit use for a Short Term Rental could include something in a mixed use building.

Chairman Van Valkenburg, Jr. stated that that is correct.

Patricia Maxwell stated that that is what the majority of Village Center is comprised of.

Attorney Stout stated that he thinks that that is a good point. He will check the cross references to make sure that there is nothing else that would bring that in, but he will suggest to the Village Board that that change be made. He said that in section 111-3- “Rental Unit Registration” discusses the list of things that need to be provided to the Village Clerk in order to register a unit.

Patricia Maxwell stated that in section A.1. where it states, “...use of property as a Short Term Residential Rental initial occupancy”, it doesn’t really make sense. She asked if it should say, “...initial use of the property of Short Term Residential Rentals”.

Attorney Stout stated that the “...initial occupancy” might be a relic of the language that was there before. It probably should have been deleted. It used to say, “...prior to any initial occupancy”.

Patricia Maxwell asked if in that same section of A.1. where it states, “...in addition to other information required by the Village Department...”, if “Department” should be deleted.

Attorney Stout stated that it should just say, “...Village...”. He changed it to “Village” because he didn’t know what “Department” meant, but he neglected to get rid of the “Department”.

Patricia Maxwell asked how the Village Board arrived at the maximum number of Short-Term Residential Rentals permitted in the Community Commercial zoning district being 15, and the maximum number of Short-Term Rental buildings permitted in the Village Center zoning district being 10, in sub section B. 1 & 2 of section 111-4- “Terms and Limits”. She asked if that was another effort of trying to limit the number of places in those two zones.

Attorney Stout stated that it was the Board’s thought that they didn’t want the area to become entirely overrun by Short Term Rentals, and there is nothing magic about the numbers 10 and 15.

He thinks that it is the Village Board's intent to go with these numbers initially, and if any issues are seen, they can always go back and amend them by a simple process next year.

Christine Martin asked how many Short Term Rentals are in the village currently.

Village Clerk, Nikki Berezna, stated that there are less than 20.

Attorney Stout stated that there was an initial perception that there were more than what was actually found. Also, there wasn't a ton that were unregistered that were found either.

Clerk Berezna stated that the Board thought that they would find a lot that were unregistered, and there were around a half dozen.

Christine Martin asked if she understood correctly that these are all online commercial rentals, these are not month to month rentals at all.

Clerk Berezna stated that that is correct.

Attorney Stout stated that it is for rentals that are 28 days or less, because month to month is classified as a different realm of rental. There is a grandfathering provision for units that are unregistered and/or existing in zones that will not be allowed in the future. There will be a period of time for those people to essentially legalize their Short Term Residential Rental and gain pre-existing non-conforming use protections.

Chairman Van Valkenburg, Jr. stated that the Board seemed to have lowered the fees from the previous draft.

Attorney Stout stated that the fees are not lower than what they currently are, but are lower than what was initially proposed. The lowering of the fees are in response to comments received during the Public Hearings that the Village Board held.

Deidre Meier stated that she has a question regarding subsection G. in section 111-6- "Operational Requirements and Standard Conditions". It states that, "...the Owner's agent or representative shall obtain the name, address, and driver's license number of the responsible person...". She asked what would happen if the person does not have a driver's license, but has a non-driver ID, or some other form of ID. Not all people possess a driver's license.

Attorney Stout stated that that is a good point. He can make sure that they make that requirement broader.

Christine Martin asked if the Village has a noise ordinance.

Attorney Stout stated that the Village does have a noise ordinance.

Christine Martin asked what the details are of the noise ordinance.

Chairman Van Valkenburg, Jr. stated that he believed that the ordinance was from 10:00 p.m. to 7:00 a.m.

Christine Martin asked if there was any type of reference to noise ordinances with Short Term Rentals.

Attorney Stout stated that there is nothing in the Short Term Rental Code that would be more onerous than what exists in the current noise ordinance. There is existing language that references this in section 111-6, subsection F. It states that, "The owner shall use reasonably prudent business practices to ensure that the occupants and/or guests of the Rental Unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the Village Code or any state law."

Chairman Van Valkenburg, Jr. stated that in section 111-6, subsection K.5., it is referencing the "Department" again instead of the "Village".

Attorney Stout stated that that can be changed.

Deidre Meier stated that she has a question in regard to section 111-9- "Pre-existing Short Term Residential Rentals". She asked if when a property that is operating as a Short Term Rental is sold to another owner, if they would still fall under that grandfathered clause and can continue to operate as a Short Term Rental.

Attorney Stout stated that in section 111-9, subsection A.4., it states that, "Abandonment of the use by nonrenewal of the permit, conveyance of the property without transferring the permit, or discontinued use for six (6) consecutive months shall extinguish the legal nonconforming status."

Deidre Meier asked if she is correct in understanding that they can transfer the permit.

Attorney Stout stated that that is correct.

Chairman Van Valkenburg, Jr. asked if he is correct in understanding that they can transfer even in the grandfathered zones.

Attorney Stout stated that that is correct so long as they follow all of the renewal rules. The language is the same for both current units that are unregistered, or registered, provided that they do everything that the code lays out.

Chairman Van Valkenburg, Jr. stated that in section 111-10- "Enforcement", subsection B, it uses the term "Department" again.

Attorney Stout stated that in this section it references Code Enforcement, so where it states "Department" it probably should be "Code Enforcement Department".

Chairman Van Valkenburg, Jr. stated that he is curious what areas allow for Bed & Breakfasts in the code, because that seems like a pretty easy way to skirt around the Short Term Rental requirements.

Attorney Stout stated that that is why they are proposing these changes, to try and change those definitions to make them more distinct for a Short Term Rental.

Patricia Maxwell stated that Bed & Breakfasts can be permitted under Special Use in most of the mixed residential areas.

Deidre Meier asked if people who swap their homes while on vacation could be regulated as a Short Term Rental. She asked if that would not be considered a Short Term Rental if it is not listed on a website.

Attorney Stout stated that it likely would be considered a Short Term Residential Rental because according to the definition of a Short-Term Residential Rental, it is a rental unit rented for occupancy for dwelling, lodging, or sleeping purposes to the same renter for the same unit for a period of 28 consecutive days or less, other than ongoing month-to-month or annual tenancy.

Deidre Meier stated that the code seems limiting in the areas that they are permitted.

Patricia Maxwell asked if the reason that Schedule A, which is the use table of the Zoning Code, is not being changed is because they are not specifically prohibiting the use in Schedule A since there is a grandfathering provision. If it is allowed in Schedule B, which is the use regulations for nonresidential/mixed use districts, but it is not prohibited in Schedule A, this seems counterproductive.

Attorney Stout asked if Schedule B is commercial uses.

Patricia Maxwell stated that that is correct.

Attorney Stout stated that both Schedule A and B should be changed to reflect that it is not permitted across the board, subject to the pre-existing use requirements.

Chairman Van Valkenburg, Jr. asked if there is a conflict with stating that is permitted in code but there is a cap.

Attorney Stout stated that there is no conflict because it references that it is permitted subject to that cap.

Chairman Van Valkenburg, Jr. stated that he has not looked at the Comprehensive Plan in a while. He asked if the Board, in crafting this law, look at the Comprehensive Plan as far as what it recommends.

Attorney Stout stated that there was discussion about particular sections that were relevant to regulating Short Term Rentals. Such as, the goals of the Comprehensive Plan to preserve community character and historic preservation. It states that, "The Town and Village will employ best practices to create land use tools, shape development, and improve design aesthetics, preserve historic resources, and enhance rural character, economic development, Village vitality, and the Village and Town will recruit compatible new companies supporting business expansion, and creating a thriving retail center, focus on stimulating a thriving local economy in the Village core...". He said that of course nothing in the plan directly addresses Short Term Rentals since at the time of completion of this plan, this was not a concern. The Comprehensive Plan states that, "the community is strongly in favor of using regulatory tools in meeting objectives." "A significant majority of people surveyed favored strict development regulations such as zoning and design guidelines." "Residents expressed a clear desire to preserve the character of the community, with a full 90% of them indicating that the Town and Village should work to preserve the rural character, 86% of them indicating that they should work to protect active farms, and 83% of them indicating that they should work to protect wetlands and open space." "One of the goals within the commercial land use, is to evaluate future commercial uses to incur growth while protecting community character, and a focus on new development in appropriate locations."

Chairman Van Valkenburg, Jr. stated that as the Comprehensive Plan reads, and also the Planning Board's intentions of redevelopment of the lower Reed Street and South River Street area, this code change does certainly fit into the criteria laid out by the Comprehensive Plan as something appropriate as far as zoning use. Certainly, with the development of the hotel, and having a venue downtown, there will be a utilization of things like Airbnb in that area, and he thinks that this code change makes sense. He also thinks that it makes sense in the Community Commercial zone as well. This is what the Village Board has come up with, and he thinks that for these two zones, it is appropriate as far as aligning with the Comprehensive Plan.

Patricia Maxwell stated that she would agree with that, and it also puts the onus on the existing Airbnb's outside of those zones to follow the rules. It also makes it less likely to have disturbances occur in the residential areas.

Chairman Van Valkenburg, Jr. stated that it also gives Code Enforcement a tool to enforce areas of this code.

Robert Stout stated that the purpose and intent of the Zoning Code is to promote the health, safety, morals, and general welfare of the community. In accordance with the Village's Comprehensive Plan, this chapter considers the land use policies, principles and guidance provided by such plan to protect and promote the health, safety, character, morals, comfort, convenience, economy, aesthetics, general welfare, natural and cultural resources; and provides adequate light and air; to prevent crowding the land and undue concentration of population; to facilitate transportation, water, sewage, schools, parks, and other requirements. He stated that fundamentally, the Village Board wanted to look at Short Term Rentals as more of a commercial use vs. a residential use, and have them in those areas more suited to commercial uses.

Chairman Van Valkenburg, Jr. stated that he understands what the Village Board is trying to do, and the areas that they are trying to limit the Short Term Rentals in. The two districts mentioned are the areas where having Short Term Rentals makes the most sense.

Patricia Maxwell stated that she would agree as well, because the areas where they will be allowed already have operating businesses such as restaurants and bars, where people are used to the noises, as opposed to a quiet residential district. People who buy homes near there have to realize that it is pre-existing, and they need to consider that as part of their decision of whether to buy it or not.

A motion to approve a positive recommendation from the Planning Board to the Village Board of the proposed Local Law #4 of 2023-Short Term Residential Rentals, subject to the changes discussed with counsel at tonight's meeting to be reflected in the final draft of Local Law #4 of 2023, was made by Deidre Meier and seconded by Patricia Maxwell. Chairman Van Valkenburg, Jr. voted yes. Matthew Bennett voted yes. Christine Martin voted yes. Patricia Maxwell voted yes. Deidre Meier voted yes. The motion carried.

Attorney Stout stated that he will also recommend to the Village Board that they make all of the changes discussed tonight.

2. Attorney/Client Privileged Information Session – The Planning Board entered into an Attorney/Client Privileged Information Session with Village Attorney, Robert Stout, Jr. at 6:40 p.m.

The Planning Board returned to the regular Planning Board Meeting at 7:10 p.m.

Public Comment Period

No public comments were offered.

A motion to adjourn the Planning Board meeting was made by Patricia Maxwell and seconded by Deidre Meier. Chairman Van Valkenburg, Jr. voted yes. Matthew Bennett voted yes. Christine Martin voted yes. Patricia Maxwell voted yes. Deidre Meier voted yes. The motion carried.

The meeting was adjourned at 7:10 p.m.

Respectfully submitted,


Nikki Berezna
Clerk