

**MINUTES OF THE VILLAGE OF JOHNSBURG
JULY 14, 2020 MEETING OF THE
SPECIAL ZONING COMMISSION**

CALL TO ORDER – Chairman Husby called the meeting to order at 7:28 p.m.

Commission Members Present

Curt Larsen
Scott Letzter
Mark Niggemann
Ken Calhoun (absent)
Tom Benck

Village Administrator Claudett Sofiakis
Assistant Administrator Vinny Lamontagna
Village Attorney Michael Smoron

VACATION RENTAL TEXT AMENDMENTS – Chairman Husby confirmed that all notice requirements were met and read the public notice. She explained that the Zoning Ordinance does not currently expressly or specifically address vacation rentals and therefore the Village Board directed the matter to the Commission with some draft language for their consideration. She then opened the hearing for public input.

Laurie Cwerenz of 4110 Pitzen Road attended to share the experience she had with a house adjacent to her home which was rented as a vacation rental, oftentimes for long weekend stays. Ms. Cwerenz described nuisance activity she experienced with the rentals including loud disruptive exchanges late at night, congestion in the street from excessive cars, and the lack of oversight from the owners residing out of state. Ms. Cwerenz expressed that she does not believe the activity is appropriate next to residential properties, and remarked that if you live next to a bar, disruptive behavior can be expected but if you live next to a home, you should not have to experience the disruptions and activity that take place with vacation rentals. Chairman Husby questioned if the home was listed through Airbnb or VRBO. Ms. Cwerenz confirmed that it was listed and she raised complaints to the listing company and was told that there was nothing they could do.

Commission Member Benck questioned if each property owner would be required to pay taxes and pursue a conditional use permit and if they do not comply, the permit would be revoked. Attorney Smoron confirmed that the draft ordinance includes those requirements. He explained that the Zoning Ordinance currently contemplates single family zoning used solely for single family purposes. He stated that the ordinance before the Commission has been drafted with the use as a conditional use meaning it is more intense than what is permitted in the district. He added that there is no presumption on the part of staff or the Village Board as to how the commission may decide to vote on the matter. Mr. Smoron explained that the question for the Commission to consider is if the use is appropriate as a conditional use; if conditions can be written into the ordinance to regulate the use in a manner that it can operate without being detrimental to the surrounding property owners; and if the use is practical and enforceable.

Rose Reichhart of 3316 Rocky Beach read a statement into the record regarding her concerns about residing next to a vacation rental property. She discussed the commotion associated with the constant turnover of transients guests staying at the adjacent home and the loss of a sense of safety experienced with the activity. Ms. Reichhart remarked that residential properties adjacent to commercial uses would be more appropriate for the use, not homes in single family neighborhoods. She expressed concern with needing to disclose the activity if she were to sell her home, which would negatively impact her property values. Ms. Reichhart explained that the access to the vacation rental property is a driveway easement across private property shared with two other property owners who maintain the easement and the activity is creating additional wear on the

driveway due to the commercial activity taking place. She added that the easement is accessed from Rocky Beach, a private road for which the homeowners paid to resurface, however the owners of the vacation rental property did not contribute to the cost. Ms. Reichhart expressed concern with how rules and regulations will be monitored and enforced if vacation rentals are permitted. Commission Member Letzter questioned if Ms. Reichhart has contacted the owners or managers to express her concerns. Ms. Reichhart stated that she has not personally contacted them, but her neighbors have.

Dawn Wicks of 3324 Rocky Beach stated that she has contacted the owners regarding the nuisance activity taking place at the vacation rental property adjacent to her home. She recounted incidents of people looking through her windows and renters utilizing her driveway because they cannot locate the driveway access to the rental property. Ms. Wicks reported that bachelor and bachelorette parties have taken place on the property and described incidents of loud and disruptive behavior late at night associated with the rentals. Ms. Wicks stated that dogs and children of the renters roam her property unauthorized. She expressed that she's had her home for 30 years and during the last two years during which the neighboring property has operated as a vacation rental, she feels unsafe in her home.

Ron Dunlap, owner of Door Service, Inc. at 3420 N. Richmond Road, stated that his sister owns a home on a channel between Bluff Lake and Spring Lake. He explained that the property at the end of her road was purchased a couple of years ago and listed as a vacation rental which has created many issues in the neighborhood which resulted in his sister having to take legal action.

Tadd Spiewak of 3318 Rocky Beach commented on the disruptive behavior associated with the bachelor party described by Ms. Wicks. He added that the transient activity, excessive vehicular traffic, overflowing garbage, glaring lights and the potential for damage to personal property creates a sense of vulnerability for the neighbors residing adjacent to a vacation rental property.

Laurie Cwerenz shared her experience with garbage and pets continually barking and roaming at large into her yard from the vacation rental next to her home. She remarked that in allowing vacation rentals in residential neighborhoods, the neighbors are imposed upon so that someone can make money through a commercial venture in a residential neighborhood. Ms. Wicks concurred and described a situation in which a renter allowed a month's worth of garbage to accumulate and overflow.

Shae Reichhart of 3316 Rocky Beach remarked that both the interior and exterior lights from the adjacent vacation rental property are an issue, comparing the experience to living next to a gas station. He read a statement recounting his experience, expressing concern with the transient activity, excessive vehicles and constant vehicular traffic, impacts to the shared driveway easement and loss of sense of security in his home. Mr. Reichhart added that vacation rentals disproportionately benefit a single party at the expense of many, and in doing the neighborhood's complexion is changed without the consent of those affected. Mr. Dunlap added that the activity creates a wedge between the neighbors resulting in a hostile neighborhood.

Commission Member Letzter questioned if there has been any contact with the property managers or owners. Ms. Wicks stated that she has contacted the property owners and they take no responsibility for what their renters do. Mr. Cwerenz stated that there is no way to enforce nuisance violations without calling the police who have better things to do.

Ms. Reichhart reiterated her concerns regarding the impact to neighboring property values. She added that the situation has created divisiveness in the neighborhood which she expects will get worse and questioned who will be overseeing the activity.

Mr. Reichhart stated that he believes the fines and penalties have to be greater than profits being generated from the property. Commission Member Letzter questioned if there is a limit on what can be fined. Attorney Smoron stated that the limit is \$1,000.

Mr. Dunlap questioned if a rental property can be taxed. Chairman Husby stated that the Village has a hotel tax and she expects it would apply. Attorney Smoron confirmed that the hotel motel tax does apply to vacation rentals but it does not authorize the use, which is why the text amendments are being presented to the Commission, so that they can make a recommendation as to if the Village should create a special use for the activity. He added that if the Village creates a special use for vacation rentals, it is basically endorsing the activity provided the criteria is met.

Mr. Dunlap questioned if nuisance ordinances apply. Mr. Smoron confirmed that they do apply but explained that they can be difficult to enforce since oftentimes the police arrive after the nuisance took place and evidence of the violation can be difficult to provide, such as proof of decibel levels in the case of noise violations. Mr. Dunlap remarked that it becomes a waste of police resources having to respond to constant nuisance calls.

Ms. Cwerenz expressed concern that if the use is allowed, more homes will be become vacation rentals with absentee investment owners and the community will lose its neighborhoods.

Mr. Reichhart questioned the inclusion of language regarding revocation. Attorney Smoron stated that language addressing revocation is included on Page 6 of the draft ordinance.

Mary Beth Adams of 3314 Rocky Beach remarked that the Board's action should represent what the residents in the neighborhood desire. Chairman Husby explained that is the purpose of the hearing. Ms. Adams questioned if the board goes forward with the text change, will the Village require licenses. Attorney Smoron explained that the Village is not Home Rule and therefore cannot license professions, but if approved as drafted, the use will require a special use permit which requires a public hearing.

Commission Member Benck questioned if Airbnb's are currently allowed. Attorney Smoron stated that they are not provided for within the ordinance and just because it is not expressly prohibited does not mean they are allowed. Commission Member Benck questioned why they are taking place. Attorney Smoron explained that they are being pursued without authority to do so.

Mary Lou Hutchinson of 3320 Rocky Beach attended via telephone. She remarked that she has heard fabrications and lies from her neighbors about the activity on her property and questioned how rental homes are currently regulated in the Village. Chairman Husby stated that any rentals are likely long term rentals which are not the subject before the Commission. Ms. Hutchinson stated that one of her neighbors has rented to long term renters and had similar issues. She acknowledged that her property is accessed via a shared driveway and added that she has paid for maintenance of the driveway in the past and has solely paid for it to be plowed the last two to three years.

Ms. Hutchinson acknowledged that all of her neighbors have stated that they do not like the concept of her property being utilized for an Airbnb and explained that it is a classic "NIMB" situation. She explained that she instructed Ms. Wicks to call her or the police if there were any issues and she was not asked for assistance regulating her renters. Ms. Hutchinson stated that she does not allow parties on the property and no bachelor's parties have taken place at her home. She invited commission members to come to her home to see how it is situated and offered to share the positive reviews she has received from renters. Ms. Hutchinson refuted the allegations made by her neighbors regarding activities on her property and remarked there are two

sides to the story. She added that she supports an ordinance regulating vacation rentals but requested consideration that the ordinance require a manager within 50 miles rather than 30 miles. Ms. Hutchinson remarked that ordinances from other communities do not include language prohibiting a special use permit if the property owner is in default of taxes. She questioned where the language derived as the restriction would take away a mechanism for the property owner to raise money to pay those taxes.

RECESS— Commission Member Niggemann moved to recess the hearing to July 28, 2020 at 7:00 p.m. in the Village Hall. Commission Member Larsen seconded the motion. The meeting recessed at 9:08 p.m.

Respectfully Submitted,

Claudett Sofiakis
Village Administrator