



# Town of Barnstable Planning Board



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Board Members

Steven Costello – Chair   Jeffrey Swartz – Vice Chair   Patrick Foran - Clerk   Mary Barry   Stephen Robichaud   Aimee Guthinger  
Mathew Levesque – Town Council Liaison

Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director  
Paul Wackrow, Senior Planner  
Karen Herrand – Principal Assistant - [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

## Town of Barnstable PLANNING BOARD Minutes July 13, 2020

Steven Costello – Chairman	Present
Jeffrey Swartz – Vice Chairman	Present
Patrick Foran – Clerk	Present
Marry Barry	Present
Stephen Robichaud	Present
Aimee Guthinger	Present

*Also in attendance via remote participation were Paul Wackrow, Senior Planner, Planning & Development and Karen Herrand, Principal Assistant, Planning & Development.*

In accordance with the Governor’s Order Implementing a Phased Reopening of Workplaces and Imposing Workplace Safety Measures to address COVID-19 (COVID-19 Order No. 33) this meeting will be physically closed to the public to avoid group congregation. Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>
2. Real-time access to the Planning Board meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Planning Board by utilizing the Zoom link or telephone number and Meeting ID provided below:

Link: <https://zoom.us/j/96662768084>

Phone: 888 475 4499 US Toll-free Meeting ID: 966 6276 8084

3. Applicants, their representatives and individuals required or entitled to appear before the Planning Board may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to [elizabeth.jenkins@town.barnstable.ma.us](mailto:elizabeth.jenkins@town.barnstable.ma.us), so that they may be displayed for remote public access viewing.

Application materials may be accessed by contacting [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us) or calling 508-862-4703.

Application materials will be available at [www.townofbarnstable.us/PlanningBoard](http://www.townofbarnstable.us/PlanningBoard)

**Call to Order:** Introduction of Board Members and Staff Members

**Notice of Recording:** This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

**Roll Call Vote for attendance:**

Jeff Swartz  
Stephen Robichaud  
Patrick Foran  
Aimee Guthinger  
Mary Barry  
Steve Costello Chair

**Elections**

Mary Barry makes a motion to nominate/nominations for 2020, for Steve Costello as Chair, seconded by Jeff Swartz,

**Roll call Vote;**

Jeff Swartz – aye  
Patrick Foran – aye  
Mary Barry – aye  
Stephen Robichaud – aye  
Aimee Guthinger – aye  
Steven Costello – aye  
All aye – unanimous

Mary Barry makes a motion to nominate Jeff Swartz for Vice Chair, seconded by Patrick Foran,

**Roll call Vote;**

Jeff Swartz – aye  
Patrick Foran – aye  
Mary Barry – aye  
Stephen Robichaud – aye  
Aimee Guthinger – aye  
Steven Costello – aye  
All aye – unanimous

Mary Barry makes a motion to nominate Patrick Foran for Clerk, seconded by Stephen Robichaud,

**Roll Call Vote;**

Jeff Swartz – aye  
Patrick Foran – aye  
Mary Barry – aye  
Stephen Robichaud – aye  
Aimee Guthinger – aye  
Steven Costello – aye  
All aye – unanimous

**Approval Not Required Plans:**

Robert P. Madonna has submitted an Approval Not Required Plan for 330, 370, 390, 400 & 420 Main Street, Route 6A, West Barnstable - plan entitled "Plan of Land in Barnstable MA (West Barnstable Fire District) prepared for Robert P. Madonna 330 Main St.- Parcel ID 134-026-000, 370 Main St. – Parcel ID 133-002-001, 390 Main St. – Parcel ID 133-002-002, 400 Main St. – Parcel ID 133-002-003 & 420 Main St. – Parcel ID 133-002-004 prepared by Bracken Engineering, Inc. dated March 5, 2020". *Continued from June 22, 2020.*

The Applicant has requested to continue to the next meeting of July 27, 2020, submitted an extension of time.

Chair Steven Costello entertains a motion, moved by Jeff Swartz to continue to July 27, 2020, meeting, seconded by Mary Barry,

**Roll Call Vote:**

Jeff Swartz – aye

Patrick Foran – aye

Mary Barry – aye

Stephen Robichaud – aye

Aimee Guthinger – aye

Steven Costello – aye

**Zoning Amendments:**

Town Council Item No. 2020-193 – Order Amending Chapter 240 Zoning Article II, Section 7 Adding Certain provisions pertaining to short term rentals. This proposal would amend Section 240-7 Application of District Regulations by adding a subparagraph that defines short term rentals and permits short term rentals within all zoning districts.

*Patrick Foran has a conflict of interest and will recuse himself from this matter/meeting.*

Chair Steven Costello entertains a motion to open the public hearing, moved by Mary Barry, seconded by Jeff Swartz,

**Roll Call Vote:**

Jeff Swartz – aye

Mary Barry – aye

Stephen Robichaud – aye

Aimee Guthinger – aye

Steven Costello – aye

**The public hearing is open.**

Chair Steven Costello asks/directs to Staff – briefing of matter.

Assistant Town Manager Andy Clyburn in attendance. *We are presenting a zoning amendment for short term rentals (STR) proposed by the Zoning and Regulatory Subcommittee of Town Council. This subcommittee of 5 Town counselors are the policy makers tasked with recommending how the TOB should regulate STRs. The piece of Zoning in front of you this evening is one of 2 items the counselors are recommending; the second being a General Ordinance that would regulate Short Term. All of the Town Departments here this evening have provided staff support to these policy makers as they developed the proposed regulations.*

*These regulations are being developed because there are 663 Short Term Rentals currently operating in the Town of Barnstable. Although vacation rentals have always been a customary use in our community those “traditional Cape Cod Rentals” are now part of what the State has defined as STRs...If you rent your property for 30 days or less, you are operating a Short Term Rental in the State of Massachusetts...Does that mean we have to change zoning in the Town of Barnstable to allow STR’s? NO, we don’t; many communities have simply allowed STRs to register as any other rental in Town...Unfortunately if you take that stance you are not addressing STRs being operated in areas that some believe they are not allowed...Some believe that STRs are not currently allowed in residentially zoned areas; while others believe because they have rented a property for decades in those very same areas that means STRs are allowed there. This question of where STRs should be allowed is one of many issues this group of policy-makers have discussed over the past several months. The person authorized by law to make the determination of whether or not STR’s were always allowed is the zoning enforcement officer, our Building Commissioner.... To date building commissioners have interpreted the existing ordinance to mean that STRs have always been allowed as long as they were registered w/ BOH. Tonight’s presentation may seem as though a new zoning ordinance is being created; it is actually affirming an old interpretation.*

*Doing nothing is certainly an option. Banning STRs altogether is another option. As is banning them in certain zoning districts. This group of policy makers is proposing Barnstable regulate STRs rather than banning them in any zoning district. We will show you where STRs are currently operated; they are in and have always been in every zoning district.*

*The most commonly cited purpose for regulating STRs is to protect the character of existing residential neighborhoods. It is a real concern. The ability to rent one's property may be of tremendous value to homeowners, but if mishandled could also be a disruptive element in residential neighborhoods. These 5 Councilors have been working on how to best address these competing issues. As someone observing from a staff-support role, I would have to say that compromise has not always appeared easy; and the general issue of STRs is polarizing in our community.*

*So why take up the issue now? Great question...the issue of where rental properties are authorized has been out there for a long time as has been the need for a thorough review of our zoning throughout Town...However, in January of 2019 the Governor signed an STR tax into law...this action is what brought the issue forward more than anything...The DOR is now taxing STRs (including the "traditional cape cod" rentals)...Town council leadership at that time felt that the implementation of this tax was enough that STR regulations should be considered by our Zoning and Regulatory Subcommittee.*

*The policy makers are proposing Short Term Rentals be defined by the State definition of STR and affirmed as an "allowed use" in all zoning districts and then that "use" be regulated by a STR General Ordinance. This hand-in-glove approach is an effort to find a middle ground that addresses all community concerns. The Zoning amendment alone would not be sufficient and it was never the intent of this group to simply define STR's and allow them everywhere in Town; in fact many believe they ARE allowed everywhere in Town now. Similarly a General Ordinance regulating STRs alone, while a step in the right direction, would not definitively answer the question of where STR's can operate. Proposing regulations with ambiguity over where those regulations would apply is obviously unpalatable. We would be exactly where we have been with some residents feeling STRs are allowed because of years of traditional rentals and some residents feeling STRs are prohibited as a result of what they believe to be very carefully constructed Zoning that doesn't address STR's.*

*Perhaps the Town should have never allowed rentals to occur in residential zones and now is the time to "phase them out"...or perhaps the market has changes and Short Term Rentals as we see them today were never considered when Zoning was put into place and regulations are needed to address current concerns...perhaps both...Either way any limits or bans will impact our residents and those impacts should be very carefully considered...This group of policy makers has attempted to put STR limits into the proposed General Ordinance regulating STRs...Additionally this General Ordinance should provide the framework to add limits as the community desires, whether that be prior to approval or at any time in the future...these limits could be minimum nights stays, maximum stays per year, limits on number of guests not staying overnight, residency requirements, or a multitude of other of concern.*

*Lastly I want to restate that this regulatory framework is being put into place to address STRs, current and future... this effort IS NOT an effort to bring STRs to Barnstable, quite the contrary. STRs are here in Barnstable now and should be regulated. With that I will turn it over to our Director of Planning and Development Elizabeth Jenkins.*

ZONING AMENDMENT SHORT TERM RENTALS: Presentation by Elizabeth Jenkins. – Exhibit A.

TWO PARTS:

Zoning amendment as a permitted use.

General ordinance which puts controls in place.

- General ordinance requires all to be registered with inspectional services Dept.
- Controls – 3 pieces – occupancy requirements, short term would limit to 2 persons per bedroom, plus 2 extra, trash removal requirements,

Building Commissioner Brian Florence in attendance, explains – opportunity for inspections to be allowed/enacted. Want to make sure safe. Have to meet smoke detection requirements. Enforcement options, fines, criminal offenses. Will have a hearing officer locally. Can appeal to court as well. Can seek an injunction.

Elizabeth Jenkins – a two component approach to regulation short term, second piece to help modernize our zoning. Several components: Short Term Rentals are permitted, also to be in a lawful unit. Definition of a short term rental - not more than 30 calendar days. Recognizes what is not a short term rental: i.e., bed and breakfast, cottage colony, these are not subject to these regulations. Parking – when property in use unsafe parking shall not be in any landscape, roadway, no parking on the front yard.

Town Attorney Charles McLaughlin in attendance. There is a need to have a uniform base line, balance historical uses in town vs. short term and/or air b and b's. The legislature authority signed by the Governor, expressly allows this type of regulation. Trying to adapt to an entirely new use. Permit generally. Zoning enactments – amendment before Town Council would bar further action for a period of 2 years if not enacted upon/pass with a 2/3 vote. Suggests concentrate on the broader issue/land use to allow the Town Council to craft out.

Chair Steven Costello asks if nothing happens how will this impact the continuing environment, do we continue on as we are?

Attorney Charles McLaughlin replies that we would have no effective control on the rentals. If in the negative it would still be in the Town Council realm to either withdraw or to vote it down. Registrations could be revoked/suspended, so could not operate your STR. This zoning amendment would allow clearer guidelines and speedy injunctive relief.

Town Councilor Paula Schnepf in attendance. Chair of this sub-committee, since January. Town wide survey done. This information incorporated to general ordinance. Also staff went and had conversations, 5 to 6 months a lot of opportunity for questions. Did a workshop as well. All meetings available to the public. Not the intent to make this an economic boom. Will continue to hear from constituents. Now a legislative matter, it is our responsibility to make a decision on this matter.

Assistant Town Attorney Kate Connolly in attendance. Any issues with violations then the Town will be in a good position to enforce.

David Bogan Town Councilor for the 5<sup>th</sup> precinct. Refers to the rationale, Exhibit B, it doesn't tell you that the sub-committee didn't want to adopt a certain consultant. He asked staff was this proposal with the work of the consultant, they stated no, it was staff. Proposal won't tell you that 5 of the 7 civic associations opposed. Residents are very concerned. STR could be as short as 1 day at a time. No analysis done.

Jeff Swartz asks Councilor Bogan if his wife and he had previously sued the Town, why not recuse yourself.

David Bogan replies that he dropped that law suit, that's why no conflict.

Chair Steven Costello states that he attended one of the civic assoc. meetings/workshops. This issue effects many of us.

Town Councilor Paul Hebert, Precinct 3 in attendance. STR's were established in the 1940's that allowed rental up to 14 days with no IRS liabilities, zoning cannot be revisited, favors traditional STR, more owner occupied income is taxed as income and allows to operate as a business in mixed use. Hotels and motels will hurt this business. General ordinance should be done. Rely on the present approach. Asks Town Council to withdraw this item or continue to a date certain.

Matt Levesque, Planning Board Liaison in attendance. Thinks a lot of hard work done on this by the Zoning Regulatory Committee.

**Public Comment:**

John Crow, President of Civic Osterville Civic Association, in attendance. Their motion – opposed to allow STR in residential zones. Has collaborated with 5 of the Civic Associations. We agree on regulatory measures that will be a bedrock of local governments, need more logical reasonable solution.

Deb Krau President of Greater Hyannis Civic Association. Opposed to STR in residential areas given the proposed regulation, should be reviewed - putting the cart before the horse. STR's already exist in residential areas. They are not yet a critical mass in residential areas. This will only make for more. Commends councilors on their work. There are some weak points, hate to see a zoning article pass and then an unacceptable ordinance, do after the ordinance. It relies on enforcement which has never been a strong point in the Town of Barnstable. This would make it much harder with reduced Town funding. Unless different zoning districts, many are designed to keep businesses out. This change invites into neighborhoods. We need to meet in person. Don't know the final version.

Ralph Krau in attendance, resident of the Village of Hyannis, MA. Legislation, Ordinances, Regulations, etc. need to be as specific as possible. It is either permitted or prohibited. If there is a "grey" area and it is not specified as being prohibited it is considered to be allowed by the courts. The amendment before you to amend Chapter #240 Zoning, Article II, Section 7, adding certain provisions for Short Term Rentals. The amendment has a number of concerns and one is parking.

The amendment states for property being used as a Short Term Rental that;

"On- site parking shall not be allowed in any cultivated or landscaped area between a roadway and part of the principal structure" IT DOES NOT STATE THAT YOU CAN NOT PARK IN BACK YARDS, SIDE YARDS. IT ONLY STATES NO PARKING ON FRONT YARDS.. (It's the out of sight out of mind theory.) Per this amendment, A three - bedroom house can overnight eight (8) persons. This mean that four (4) to eight (8) vehicles, and let's be practical, there will be very little car- pooling. In addition, most of these short- term rentals will have visitors. There could be five (5), ten (10) or more etc. visiting. They also have vehicles, so the obvious is to use side and backyards as well as parking on the street. Many of these visitors / guests may well party, "socialize", into the early morning hours. ("doing all- nighters"). So now you can have parking vehicles in excess of what is permitted The eight(8) vehicles from the renters which is allowed plus the excess five (5), ten (10) , which are not allowed per this amendment.

The next question is how long can visitors stay? Is there a curfew? How do you manage the cut off when these guests stay overnight?

If the neighbors complain, when and how will enforcement be able to tell owners and or the renters by statute that their guest(s) need to leave? The amendment to the Ordinance /Regulation does not so state how to handle this issue.

Parking in fragile areas on one's yard is a major concern. Most septic systems are in back and or side yards where the renters need to park. The extra weight will eventually crack the leaching fields, distribution box and perhaps the tank. Until noticed and corrected (at could take a few weeks) the affluent permeates into the ground especially in the leaching fields, and eventually into our fragile water system. There is also the possibility of contamination from vehicles leaking oil and other fluids when they are parked. The basic questions that this Planning Board should address with reference to parking are as follows:

Where should all the renters and their "visitors" park? When MUST guests leave since they are not renters?

Environment: Parking in back and side yards can cause an environmental issue to occur. How should this be addressed? Enforcement: Many Short Term Rentals are for one or two nights. It may well be the next day that the neighbors report the issue since up to eight (8) vehicles will be legal. The renters will generally have departed so that the cleaning crew can prepare the residence for the next renter(s).

Staff: Will there be sufficient staff to be able to handle all of these complaints? Attorney Charles McLaughlin stated at least two (2) weeks to process complaints. Owner: Yes you should be able to advise the Owner on all of these problems and concerns. Since he needs to only register and not be licensed how will you enforce prohibiting them from continuing to rent. because they can create multiple "shell" entities? In summary the concerns are: Parking, Curfew, Environment, Enforcement, Staff; and Prohibiting

Perhaps this amendment should be sent back for further review. Thank you.

Laura Cronin in attendance. Against this proposal as it stands tonight. This version has significantly changed since March 5<sup>th</sup>. Public was not able to speak or ask questions. April 30<sup>th</sup> meeting was not properly posted. Sub Committee on May 13<sup>th</sup> sent revised document with more significant changes. New Section 190-3A, cottage colonies. 190-3c compliance inspections. 190-6, 170-s parking regulations. Inspection removed entirely, not required to be inspected. Govenor Baker deemed that STR are not essential. We ask for a vote no. Safe residential neighborhood.

Bob Shulte in attendance. Opposed. *Good evening. Thank you for the opportunity to address the Planning board this evening. My name is Bob Schulte and my wife and I live in Centerville. We purchased our home in a residential only zoned district and over the past 25 years, raised our two children there. I'd like to start by asking the Planning Board members to vote NO on the proposed amendment to Chapter 240, Article II, Section 7 relating to Short Term Rental properties. If for some reason, you feel you cannot vote NO tonight, I ask that you table a vote on the amendment until such time open public meetings can be held in person – not in Zoom format – to discuss and negotiate a resolution to this issue which will, undoubtedly, have a permanent impact on the character of Barnstable's residential only neighborhoods. There are numerous reasons why I feel you should vote NO, but out of respect for the Planning Board members and other citizens participating tonight, I will not attempt to list them all. However, I want to point out that some of the materials with which you were provided as input to this matter, are inaccurate and contain misleading statements. The statements to which I am referring are in the 5<sup>th</sup> paragraph of what is labelled Summary, page 61 of 61 in the materials. The paragraph states: "This proposed amendment to the zoning ordinance was developed with the assistance of consultant groups who provided background research on short term rental operations in Barnstable; meetings with the Centerville, Osterville, West Barnstable, Barnstable, Marston Mills, and Greater Hyannis Civic Associations; and public input at multiple Town Council and Zoning & Regulatory Subcommittee meetings." On June 25<sup>th</sup>, one day after the document from which that statement was excerpted was released to the public by Planning Director Jenkins, the Centerville Civic Association and the Osterville Village Association sent an email to Ms. Jenkins, Paula Schnepf, Chair of the Zoning & Regulatory Committee, and other Town officials expressing our objection and requesting the document be corrected and resent to the public. We requested acknowledgement of our email. Instead, no acknowledgement was provided, we were completely ignored and the document before you still remains uncorrected. Unless the objectives of the Planning Department and the Zoning & Regulatory Committee were to ignore essentially every comment and request made by the Civic Associations, the truth is that the proposed zoning amendment was NOT developed with their assistance. As a matter of fact, two of the provisions – the definition of a short term rental to include "any portion of a dwelling" and the insertion of language which would allow short term rentals to have parking anywhere but on their front lawns – for example, back yards and side yards, were both added to the proposed amendment without any discussion with the civic associations or the public. These provisions were inserted just prior to a meeting of the Zoning & Regulatory Committee originally scheduled for April 30<sup>th</sup>. That meeting had to be postponed until May 14<sup>th</sup> due to a deficiency in the Town's public notice process. I want to make it clear, the proposed zoning amendment before you tonight expressly authorizes what the attendees of the various civic association meetings overwhelmingly asked the Town to protect them from which was non-owner occupied, off-site investor operated, 365 day a year short term rentals in residential only zoned districts across all of Barnstable. Thank you.*

Heather Hunt in attendance. The regulatory would allow every single home to be used as investors/profit centers on a one and two night basis. Opposed. Defer a vote until can discuss. About 113 or so are allowed currently. Has read Massachusetts cases for STR ordinances.

Ann and George Gingle in attendance, Centerville resident. Opposed. This would be detrimental to neighborhoods, encourages that it be discussed with the Civic Associations and some extended dialogue. Why is this happening now, additional revenues would defray cost of sewerage, there are many realtors that are wanting this for monetary gain.

Anne Schulte in attendance. Good evening. My husband and I are 25 year residents of Centerville. I'd like the Planning Board members to tell the public if they all were provided with a copy of the Town's own short term rental survey dated November 7, 2019. And if they were, did they all read and consider the 19 pages and 384 responses from the public regarding their concerns about and issues with short term rentals in Barnstable. If so, I hope they took note of the 384 responses from the public, approximately 305 or 80% of which expressed negative views and experiences with short term rentals. Thank you.

Christian Teague in attendance. He is a short term rental owner. He has never gotten any crime report for property. 633 registered properties, represents 2.4 percent. Support. Could not find one record with any

parking enforcement issue that had a fine. Board of Health records couldn't find anything either. Tens of millions of dollars are made from short term rentals. This is not an issue. Let's not legislate because of poor neighbors.

Amy Corcoran in attendance. Osterville resident. This is not ready for a vote. Asks to delay/defer. The zoning is unclear. What is a portion, this is confusing. She can't rent any bedrooms where she lives, it's a zoning code. Can we rent out portions of our home? This proposal would allow me to rent out my pool. Can I charge renters to wash cars in my driveway? These are vague words in this proposal. No clarity.

Margaret Supkin in attendance. 44 Foxrun, Centerville resident. Opposed. Not opposed to STR's but must be stringently controlled/managed. This current proposal will not work. A lot of neighborhoods will be destroyed. Defer the current proposal and allow for more citizen input.

Elaine Cwynar in attendance. Opposed. Asks to defer. This is a good start for things that might retain. STR are historic in Barnstable. Would like to request clarification of commercially operated. The use of the work Air B and B's is inaccurate/incorrect term, this would be an online aggregate, we don't use them. There is some good that can be done with an STR.

Don Megathlin in attendance. This will change the character, section 242 is to protect and conserve. Why didn't the sub committee have Planning Board members on it. Opposed. This was not studied in other communities. Urge to defer. Restart workshop with the Planning Board. Zoning ordinance is vague and unclear. On site parking needs to be re written. Term portions is very vague and unclear. Absentee homeowners should be studied. Consider a conditional use or special permit. Seven day minimum stay.

Robert Kerns, Precinct 1. He's speaking for his grandmother. She's been renting to families for many years. They stay here while renting. Support. STR's have helped with repairing their home. This will have a negative effect on the economy. More cost affordable for a short term rental and better experience. Parking concerns with private landowners as well.

Matthew Teague in attendance. Support. This is an over reactive response. How many calls for STR's, none. He understands the concern, but not really an issue. Parking at private residents - regulations. Life, liberty and the pursuit of happiness.

Martin McNeely in attendance. Support. STR's are not new. Allowed everywhere in the Town of Barnstable. These are existing and most are not a problem, there are a few sometimes. Do not penalize. This would be a severe economic problem.

Elizabeth Herlihy in attendance. Support. She rents STR's and has for a long time. There is a 15 percent lodging tax and COVID 19 is already hurting people and the economy. Should not be holding everyone responsible. Can't expect a community to change for one person's view.

Joan Twining in attendance. Is there a consideration to cap per village, control issue where houses are constantly rented over and over, maybe 1 per owner. Maybe control completely - non resident owners.

Jennifer Lynch in attendance. Support. Has rented and has never had a problem. More space and amenities in STR's or Air B and B. Portion should mean a bedroom. People and merchants will suffer. Unfair to limit. Doesn't see these harming/detrimental to neighbors. Only some isolated issues.

Kathy Holton, Centerville resident. Most rentals are in zones where they are allowed, i.e., refers to Matt Teague, have 24011 RB which allows both accessory and permitted uses for rentals. They are not in residential zones, this would not be a problem for them to continue what they are doing. North and South of Rte 6A - areas that are strictly residential. Only 123 that exist in distinctly and/or residential uses. This is unique in that it sets out as we know Barnstable to be. People should find out what zone they are in.



Margo Pisacano in attendance. Support. Been renting to people since 1992. Need better enforcement/policing for rentals and accountability. They get information from the renters. Economy would suffer.

Linda Destefano and Doris Clausen in attendance, Cummaquid Heights. Opposed. This would introduce commercial and transient uses. Adversely affect the infrastructure. Have had some complaints in the past in some homes rented in the areas and over capacity. Trash concerns. Parking concerns. Neighborhood shouldn't be transient. Seems to be more in opposition at this time.

Chair Steven Costello asks/directs to Linda Destefano if she would prefer any regulations? There's nothing that would prohibit use of STR's in your area.

Linda Destefano replies, not in mixed use in this area.

Ronald Curran in attendance. Sunset Lane. Opposed. Not a good time to try to push this through now. Possibly table for more public comment.

Chris Wolf in attendance. Opposed. Speaking for her Mom, who is unable to navigate Zoom meetings.

**End public comment.**

Jeff Swartz directs to Attorney McLaughlin – has there been discussion of who will be on an enforcement committee? How will this work?

Attorney McLaughlin replies the anticipation is that the Assistant Town Manager will be appointed as the Hearing Officer and the Bldg. Commissioner will be point of contact. Complaint driven process as always has been, with hearing process in place.

Jeff Swartz asks what would constitute something going to court? This needs to be more refined.

Attorney McLaughlin replies they will know it when they see it and how property owner responds. Repeat offenders would be court cases.

Jeff Swartz directs to Paula Schnepf – Planning Board never included in this. We are ill prepared because of that. Would be more well versed if not excluded.

Paula Schnepf replies that they wanted to preserve the Planning Board to have its own process. Will take into consideration. Tonight's decision is relative to the zoning ordinance.

Stephen Robichaud directs to Paula Schnepf did the subcommittee look at what other Town's did?

Paula Schnepf – yes we did, Staff did this. The ordinances before you included a lot of elements that other communities considered. Barnstable is unique and has had very minimal regulations. This is a work in progress before final.

Stephen Robichaud directs to Elizabeth Jenkins – what is the difference between zoning and ordinance.

Elizabeth Jenkins replies that the two will work hand in glove. Ambiguity in the zoning ordinance to begin with. STR use was not the same in the past. The core goes into the general ordinance. STR as a land use is important component to the overall scheme.

Attorney McLaughlin states that the legislation expressly asked to do either through zoning or ordinance. With the long history of STR's – clarification needed what is and what isn't allowed. Create a playing field for the whole town and then enforce.

Stephen Robichaud states that if have zoning and then the ordinance can't pass, hopefully if one happens the other will.

Mary Barry asks about portions, need to clarify, what renting out a portion is. A requirement for an onsite manager, is this in the wording?

Elizabeth Jenkins responds the definition does define as a residential or any portion to be rented out, either a whole house or a room. This was in recognition that it could be either. Operators agent provisions in the general ordinance, required to provide the town with operator or agent to respond to any issues emergencies that may be needed, if owner is not there.

Mary Barry states that this lays out a process for what they should do, a framework, if issue now what is the course. In favor of having framework to hold people accountable and a record, an appeals process and financial implication. Right now police get the calls.

Aimee Guthinger states that the record was 5 total calls on complaints last year on STR's. She supports them. She doesn't fully support, thinks to restrictive, troubled that citizens were stating the Planning Board proposed, but had nothing to do with it. Worse possible time to consider this.

Mary Barry asks procedurally she's not upset about not being brought in to this. We now can put our input into this.

Chair Steven Costello states that he did go to the Osterville meeting. The statement that Civic Associations didn't have anything to do with this he doesn't agree with. There is some confusion. The scare tactics do not work. Income from rentals happens here. Not to be told whether you can rent or not. People that come here come for vacation. That's how people come to be homeowners here/live here. Restrictions in his opinion are completely wrong. The ordinance, the Town Council has made a very real effort for structure. He would like to move forward.

Jeff Swartz directs to Brian Florence. Enforcement, Mass State Bldg. Code 9<sup>th</sup> edition, section 101-3-2, reference Newport and what they are doing there. Thinks smart thing to do re enforcement/safety, swimming pools. Have a law and abide by it, no middle ground. Parking, what is the cap? So Many things that are to open ended at this point. This is a positive first step.

Bldg. Commissioner Brian Florence – Enforcement in ordinance set up so that they are progressive in nature; procedure of process and fines and injunction/revocation. Most Cape Town's don't regulate. Provincetown they are allowed. Most are done through the Health Dept. most not designated between long and/or short term rentals. Portions – language out of state tax code/DOR – it's renting out a room/space. Framework and how managed/enforced, code compliance – have come up with the most comprehensive plan for this.

Aimee Guthinger, any impact study on what the economics would be?

Brian Florence replies, 8 million dollars, small/short study done.

Jeff Swartz states that people that don't comply should be dealt a heavy enforcement. Thinks this is a good opportunity to change the culture in a positive way so people don't violate.

**Chair Steven Costello entertains a motion to close the public hearing, moved by Jeff Swartz, seconded by Aimee Guthinger,**

**Roll Call Vote:**

**Steven Costello - aye**

**Jeff Swartz - aye**

**Mary Barry - aye**

**Stephen Robichaud - aye**

**Aimee Guthinger – aye**

**The public hearing is closed.**

Aimee Guthinger states that 2 properties be taken off the record.

Stephen Robichaud doesn't like the thought of limiting to how many properties, doesn't see why should be limited. Would like to see a minimum age requirement of 25 for an STR on the cape. The economy – hotel infrastructure can't handle the amount of people that want to be here in the summer/peak times. STR owners are so important, they rehab houses, renovate, spend money that puts money in blue collar workers. If they can't rent would they buy?

Paula Schneep replies that question came as a way to address properties, this is the general ordinance and can change it to look differently. Planning Board can show up/make comment. Opt to put ownership, but this can be up for reconsideration.

Chair Steven Costello asks if can be continued to the next meeting to July 27<sup>th</sup> meeting.

Attorney McLaughlin states the timeframe for bringing it to Town Council. The Board can re open public hearing.

Chair Steven Costello states that if re open public hearing it would be for Board discussion.

**Chair Steven Costello entertains a motion to continue to July 27<sup>th</sup>, moved by Jeff Swartz, seconded by Mary Barry,**

**Roll Call Vote:**

**Steven Costello – aye  
Jeff Swartz - aye  
Mary Barry - aye  
Stephen Robichaud - aye  
Aimee Guthinger - aye**

**Approval of Minutes:**

**June 22, 2020**

**Chair Steven Costello entertains a motion to approve, moved by Jeff Swartz, seconded by Aimee Guthinger,**

**Roll Call Vote:**

**Steven Costello – aye  
Jeff Swartz - aye  
Mary Barry – aye  
Stephen Robichaud – aye  
Aimee Guthinger - aye**

**April 24, 2017**

**Chair Steven Costello entertains a motion to approve, moved by Jeff Swartz, seconded by Stephen Robichaud,**

**Roll Call Vote:**

**Steven Costello – aye  
Jeff Swartz – aye  
Mary Barry – aye  
Stephen Robichaud – aye  
Aimee Guthinger - aye**

**Correspondence:**

Chapter 91 Application – 986 Sea View Ave., Osterville – Michael Bass – timber bulkhead

**Upcoming Events/Workshops**

**Matters Not Reasonably Anticipated by the Chair:**

**Future Meetings:** July 27, 2020, and August 10, 2020, @ 7:00 p.m.

**Adjournment**

Chair Steven Costello entertains a motion to adjourn, moved by Jeff Swartz, seconded by Aimee Guthinger,

**Roll Call Vote:**

Steven Costello – aye

Jeff Swartz – aye

Mary Barry – aye

Stephen Robichaud – aye

Aimee Guthinger - aye

The meeting adjourned at 10:12 p.m.

Respectfully Submitted

Karen Herrand, Principal Assistant, Planning & Development

Approved by vote of the Board on July 27, 2020

Further detail may be obtained by viewing the video via Channel 18 on demand at  
<http://www.town.barnstable.ma.us>

**List of Exhibit Documents**

**Exhibit A** – ZA 2020-193 – presentation information by Elizabeth Jenkins, Director Planning & Development

**Exhibit B** – ZA 2020-193 – TC Rationale