

KEARSARGE LIGHTING PRECINCT

Zoning Review Committee Meeting

Minutes

August 6, 2019

Present:

Committee members - Josh Brustin, Karen Umberger, Chris Meier, Nancy Clark

Clerk - Meredith Wroblewski

Absent: Rick Jenkinson

Guests: Ray Porter, Dan Kennedy, Lynn Lyman, Danielle Dion, Adam Kenney, John Schellhorn, Berdine Fain, Dave VanNote

Agenda:

1. *Review July 16 meeting minutes*
2. *Research reports from similar resort communities*
3. *Next steps*
4. *Next meeting, September 3*
 - Reminder that Tom Irving will attend and has asked for specific questions in advance*
5. *Public Comment*

Call to Order: The meeting was called to order at 6:02 PM by Ms. Clark. Ms. Clark reviewed the steps of the committee process for those in attendance and reminded folks that Tom Irving from the Town of Conway will attend the next meeting. The website is up and running, including a section for the Zoning Review Committee information.

Mr. Ray Porter asked if meeting agendas are posted there. Ms. Clark agreed to post the agendas for the ZRC's upcoming meetings.

Ms. Umberger shared that she attended a meeting today and learned that Jackson residents are also having problems with short term rentals. They are planning to take action by going to the planning board soon.

1. Review July 16 meeting minutes

A motion to accept the minutes as amended was made. This was seconded and all were in favor.

2. Presentation of research reports from similar resort communities

- Allow long term rentals only - *Jenkinson*
Mr. Jenkinson was not in attendance to present his findings.
- Allow long term rentals, plus short term rentals for condos and apartments only - *Meier*

- Mr. Meier began by reminding those in attendance that these presentations are not necessarily what the committee members are advocating for. These findings reflect what is being done elsewhere and how these examples could be applied to the KLP.
- Mr. Meier explained that he created more folders in the Google drive to help organize the committee's information (examples from other communities, state regulations, current KLP regulations, proposed amendments). His draft is on the drive. He shared some highlights, including:
 - Rental regulations consistently limit occupancy and parking
 - Part of his draft includes a possible enforcement mechanism that would require homeowners to apply to rent and provide a contact person/number for nuisance complaints. This is in line with long-term statutes that are already in place. Homeowners seeking to rent would also have to provide a \$5500 bond in order to rent (which is 20 days of penalty fees). Disputed fines would go through the standard appeal of administrative decision process.
 - There are two different aspects to what he drafted:
 1. Parameters that every community wants to have (e.g. caps on occupancy and cars, defining short versus long term rental)
 2. Where rentals are allowed and prohibited (e.g. by districts, type of unit)
- Prohibit short term rentals by definition (defined as rentals less than 30 days) - *Jenkinson*
Mr. Jenkinson was not in attendance to present his findings.
- Create parameters for short term rentals based on location within the precinct - *Umberger*
 - Ms. Umberger presented the following possible regulations based on her research:
 - Condos where current covenants allow for short-term rentals will continue to be allowed to rent. There are three associations and one time share that currently allow short-term rentals in the KLP.
 - Current apartment complexes shall not turn property into short-term rentals.
 - Homes that are not occupied by owner and advertised on sites/real estate offices must have a minimum stay requirement of 5 days. If you have a definitive time frame, the group that is there will tend to be more friendly to the neighbors.
 - Mr. Meier and Mr. Brustin noted that people tend to work around minimum stay requirements, such as renting for just a weekend but calling it a five day rental.
 - Owner occupied residences may offer rentals of any length.
 - Rentals greater than 30 days are allowed throughout the precinct.
 - Timeshare properties that are currently permitted will be allowed, but no additional timeshare properties will be built.

- Ms. Umberger added she is concerned that the precinct has STR houses on septic systems with occupancies greater than what the systems are authorized for. She has not gone to the town hall to check what is allowed, but is concerned. One area of particular concern is Old Bartlett Road. Ms. Umberger said this road will most likely never get connected to the town sewer because of the topography and river. There could be leaching into Kearsarge Brook.
 - Mr. Brustin noted that Cranmore has sewer. He thinks it ends on Whitaker Lane.
- Ms. Umberger noted that some of the communities she read about have allowed timeshares in the downtown area, but this wouldn't be applicable here as we don't have a downtown in the KLP. Trying to figure out how to break up the district was almost impossible. She also considered the possibility of allowing STRs only at residences with sewer, but that's not something the homeowner has control over.
- Establish a short term rental lottery system - *Clark*
 - Ms. Clark reported the following about the one community she found that uses a short term rental lottery system (Cannon Beach, OR):
 - They give out 92, 5-year permits.
 - The system was established in 2004.
 - There is also a 14-day short-term rental permit.
 - Beyond the lottery system, they have a lot of restrictions and enforcements in place. It seems simple, but it is more complicated.
 - Ms. Clark also reported out on other communities she researched that are regulating STRs (in CA, HI and CO). She said there are a lot of really good restrictions out there, such as having to be able to respond to a complaint within an hour, and lengthy application forms with fees.
 - Ray Porter asked what the fee range was.
 - Ms. Clark responded that the fee rates varied, but that noncompliance fines were consistently high.
- Allow short term rentals with policies in place - *Brustin*
 - Mr. Brustin explained that he honed in on Vail, CO and Sonoma, CA. These are both resort areas, with at least 50% of properties being owned by second home owners. He then read his findings/possible restrictions aloud, which included:
 - STR applications require signed affidavits and good neighbor guidelines.
 - A local contact must be available 24-7, and respond within 30 minutes.
 - A maximum number of 5 guest rooms is permitted. More than that has to meet sewer and neighborhood requirements.
 - There is a maximum overnight occupancy of 2 people per sleeping room, plus an additional 2 people per property (12 people), excluding children under 3.

- Most communities have an enforcement officer, whose duties include conducting online research to see how properties are being advertised.
 - There is a maximum number of guests and day time visitors parameter.
 - The number of parking spaces allowed depends on number of bedrooms.
 - Trash and recycling must be stored away from the public view.
 - Outdoor fire areas must be in accordance with town regulations.
 - Owners have to comply with what the property will allow and advertise appropriately.
 - There would be a STR hotline.
 - Failure to resolve compliance issues will result in fines (1st - \$500, 2nd - \$1500, 3rd - \$2500, 4th - no renting allowed for two years).
 - The normal zoning appeals process would be used for those contesting violation notices.
 - There would be a \$150 annual permit fee, which would go towards paying the compliance officer.
 - Vail's regulations continue to evolve via town and community collaboration.
- Ray Porter asked what these towns had to do to collect on the fines.
 - Mr. Brustin said this wasn't a problem from what he had read. The fine system appeared to deter compliance issues. He offered to research this further.
 - Ms. Clark noted that she came across similar parameters to those mentioned by Mr. Brustin. She appreciated the parameters mentioning "consistency with the character of the neighborhood".
 - Lynn Lyman, a KLP Commissioner, asked for clarification regarding what issues would go before the zoning board. She reported that the precinct has a hard time getting people to volunteer for the zoning board,
 - Mr. Brustin responded that he thinks the Vail board is all volunteers. He said if you consider our community, it seems like a small percentage are actual trouble properties so it would be unlikely that you'd have many properties going before a board.
 - Ms. Lyman followed up and noted that they haven't been able to get people to follow the recent dumpster regulations.
 - Ms. Umberger noted that noise, parking and trash are the 'pain points' that need to be addressed.
- Decide to not recommend any changes to the ordinance - *Jenkinson*
Mr. Jenkinson was not in attendance to present his findings.

3. Next steps

The committee agreed to add their findings to the shared drive and use this to generate a broad list of possible restrictions for the KLP.

4. Next meeting, September 3.

Ms. Clark reminded everyone that Tom Irving will attend and has asked for specific questions in advance.

5. Public Comment

- Ray Porter presented a document to the committee and requested that this be included in the meeting minutes (see below). He has rental houses on both sides of his property. He also recommended that any changes to the ordinance should be delayed until after the judge's decision on the appeal of administrative decision case.

Mr. Porter's document:

August 6, 2019

To: Zoning Review Committee Meeting

From: Ray Porter, Danielle Dion 539 Old Bartlett Road, Kearsage

Re: Some thoughts/points to consider if you don't have one of these rental houses next to you. We have two.

- *I respectfully request that this document be part of today's minutes.*
- *Two weekends ago across from our home: 12-15+ cars, ~20-30+ people staying, 50-60+ people partying outside Saturday afternoon and night, 15-18 people coming on our property to go to the brook at our property, 1 stranger was very pushy saying "I was told I have every right to be on this property". No one that lives in Kearsage or anywhere should have to be exposed to this.*
- *Any KLP district vote on potentially modifying or changing Kearsage rental zoning rules should be delayed until after Judge Ignascius at the NH Superior Court has made her final ruling on the Andrews and Gleason cases.*
- *Concepts and Enforcement (who's going to do this ?)*
 1. *Limit the number of people that can be on the property as renters.*
 2. *Limit the number of cars that can be on the property as renters.*
 3. *The limit on the number of people (and the number of cars) that can be on the property as renters should not be determined by the "number of bedrooms or the number of beds" as a criteria for determining the limit on the number of people and the number of cars that can be on the property as renters. (houses with 5-6+ bedrooms, 15-20+ beds)*
 4. *All rental properties must be registered with the KLP and the Town of Conway and owners must abide by all zoning rules. Failure to do so will result in removal of your approved property as a rental and a substantial daily fine will be assessed to your tax bill and/or a public lien against your property.*
 5. *Outside fires - The owner must have a valid, current dated permit under all circumstances. The owner can convey his permit to a specific renter for a specified period of time. "All red flag warnings" must be researched and observed by the owner. It is the owners responsibility to*

verify whether there's a red flag warning in place before conveying any permit for outside fires to renters.

- 6. Fireworks - it is illegal setting off fireworks of any kind in North Conway.*
 - 7. Noise - The Kearsage neighborhood is very quiet in the evening. Sounds carry. I believe the rules are no outside noise between 10 (or 11pm) and 7am in the Conways.*
 - 8. Safety - all rental properties must be evaluated for all safety related issues. For example, fire extinguishers, smoke detectors, carbon monoxide detectors must be periodically evaluated and fully operational, all the necessary entrances, exits, necessary outside fire escapes for each floor must be evaluated for safety in the event of a fire.*
 - 9. Septic (Karen's comments 7/16 meeting) - properties on septic systems should have the absolute maximum number of people limited by the capacity of their current septic system as determined under New Hampshire state law.*
 - 10. Owner occupied or occupancy should be clearly defined as "the owner must be sleeping under the same roof for each and every night they have a renter for less than 30 days". Rentals 30 days or over do not require owner occupancy unless there are reported problems. Language prohibiting gaming this system will need to be put in place.*
 - 11. Lighting - all outside lighting must be directed down on the rental property and must not direct any light onto the street or beyond to neighboring properties.*
 - 12. Trash - all rental properties must hire a private trash removal company or have a dumpster inside a closed garage or fully enclosed on four sides by a stockade fence higher than the dumpster so not to be seen by abutting neighbors. Dumpsters must be emptied when full but minimally once a week to limit the smell, in attracting animals and all dumping after 9am to not disturb the neighbors.*
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- Dave VanNote stated that one of the goals of the committee should be how to stop situations such as Mr. Porter's. He wanted to be on the committee, but has been out of town. He pointed out that all the examples from today were pretty big towns with assets and staff. He asked if the committee has looked at smaller comparison communities and expressed concern with enforcement. He recommended that the committee members do executive summaries of their documents.
 - Mr. Kenney asked about overlap with the Towns of Conway and Bartlett. What enforcement can the KLP use from those communities?
 - Ms. Clark responded that Mr. Irving from the town of Conway is coming to the next meeting.
 - Dan Kennedy stated he is not familiar with Google docs. He asked that the committee continue to make everything accessible on the website.
 - Ms. Dion commented that Kearsarge is a residential neighborhood and commercial business doesn't belong here.

Adjourned: The meeting was adjourned at 7:06 PM by Ms. Clark.

Respectfully submitted,
Meredith Wroblewski, KLP Clerk and Recording Secretary