

STR Ad Hoc Committee  
November 20<sup>th</sup>, 2023  
Meeting Minutes

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TOWN CLERK

# Minutes of EAST LYME SHORT TERM RENTALS AD HOC COMMITTEE REGULAR MEETING - 11/20/23

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**Date and time:** 11/20/23 07:00 pm to: 11/20/23 08:59 pm

**Present:** Brooke Stevens, Recording Secretary, Anne Santoro, Anne Thurlow, John Cellino, Gary Cicchiello, Greg McIntire, Gary Farrugia, Absent:, Paul Formica, Daniel Beachy

**CC:** Mark Zamarka, Town Attorney, Michael Finkelstein, Chief of Police

**Location:** East Lyme Town Hall, Upper Meeting Room

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## Topics

### 1. Call Meeting to Order/Pledge

**Note** Co-Chair Santoro called the meeting to order at 7:03 p.m. and led those assembled in the pledge of allegiance.

### 2. Correspondence

**Note** Info from G. Farrugia

 [Lesson\\_plan.pdf](#)

**Note** See attached email.

 [Correspondence from J. Capodiece.pdf](#)

**Note** Vafidis email

 [Vafidis\\_email.pdf](#)

**Note** See attached email.

 [Correspondence from P. Lord.pdf](#)

**Note** Info from G. McIntire

 [Email from G. McIntire.pdf](#)

### 3. Public Delegations

**Note** There was none.

### 4. Approval of Minutes

#### 4-1. Minutes of Regular Meeting of October 23, 2023

**Note** see attached minutes.

 [STR-Ad-Hoc-Committee-October-23-2023-Minutes.pdf](#)

**Decision** MOTION (1)

Mr. Cicchiello moved to approve the Meeting Minutes of October 23rd, 2023, as presented.

Mr. Farrugia seconded the motion.

Motion carried, 6-0-0.

## 5. Update from Town Attorney Mark Zamarka

**Note** Mr. Zamarka came forward and shared some of the following:

There's not much to update, per se.

There is one administrative matter.

There was a municipal election last week, and some members who are on this committee are no longer serving on the boards or commissions that they previously were.

According to the charge issued by the Board of Selectmen, there is one representative from zoning, Ms. Thurlow, and one representative from the Board of Selectmen, Ms. Santoro, and since those seats were not won, it will be up to the Board of Selectmen to decide whether or not they will continue.

This will be decided at the next Board of Selectmen meeting.

He thinks it might be a good idea to get a refresher on the case that's currently pending in the Supreme Court, Whitty v. Pine Orchard Zoning Board of Appeals.

The Pine Orchard Association is a section within the town of Branford.

It's a quasi-municipality that does have its own zoning, somewhat similar to the beach communities we have here.

In 2019, the Zoning Enforcement Officer issued a cease and desist to the plaintiff, Mr. Whitty, for violating the then-in-effect 1994 zoning regulations by running a business- a short-term rental in an area that was zoned for single-family dwelling use.

In 2018, the association amended its regulations to prohibit short-term rentals.

Because this use existed prior to that, it was the 1994 regulations that were operable.

Mr. Whitty appealed that cease and desist to the Zoning Board of Appeals, which they upheld.

Mr. Whitty then took an appeal to the Superior Court, and they reversed the cease-and-desist order.

They ruled that Mr. Whitty was entitled to use the short-term rental as a pre-existing non-conforming use.

They found that they were lawful under the regulations prior to the 2018 amendments, and that nothing in the 1994 regulations precluded short-term rentals.

As most towns and municipalities in Connecticut do, the Pine Orchard Association has what is known as permissive zoning.

Generally, this means if a use is not specifically provided for in the zoning regulations, it is not allowed.

The ZBA then appealed that to the Appellate Court.

The trial court found that the 1994 regulations were clear and did not prohibit short-term rentals.

The appellate court then affirmed that decision in part and reversed it in part.

They found that there was no requirement under the regulations that a single-family dwelling need be owner-occupied.

That there is an indisputable right of an owner to do with his property as he wishes within the bounds of the law.

There are three things that essentially go along with that right of ownership; the right to live in, sell, or rent the property as one sees fit.

The Appellate Court agreed with the trial court, that since the 1994 regulations did not impose a minimum length of occupancy, the appellate court was not going to do so either.

They also concluded that when the association enacted the regulations in 1994, they knew what they were doing and if they had not wanted to allow rentals of a certain duration, they knew how to do so, but they chose not to.

The Appellate Court felt that the regulations at issue in Pine Orchard allowed owners to advertise their properties for rent, and that this is a recognition by the zoning commission that rentals of single-family residences are allowed.

The sign regulation at issue in Pine Orchard is somewhat similar to the one we have here.

This is why we're sort of waiting to see what happens at the Supreme Court

This is why we're sort of waiting to see what happens at the Supreme Court.

As you can imagine, the ZBA petitioned for Supreme Court review.

That was granted in May.

The review is limited to one issue- did the Appellate Court correctly decide that short-term rentals of single-family dwellings was a permissible use under the 1994 zoning regulations?

The argument will probably happen sometime early next year.

That will tell us a lot in terms of when, how, and if we would proceed.

This commission is advisory.

You can take no action other than to recommend to the Board of Selectmen potential courses of action or no course of action at all.

He will leave it up to the committee as to whether or not you feel it's prudent to wait for the outcome of the Supreme Court case.

**Note** The Committee and Mr. Zamarka briefly discussed permissive zoning and the Court's ruling.

**Note** Ms. Santoro asked about rental signage, how that might impact this decision going forward, and then how it might impact the applicability of that Supreme Court decision for us?

**Note** Mr. Zamarka offered some of the following remarks:

East Lyme allows advertising of properties for rent via signs.

The Pine Orchard Association had a very similar sign regulation in their zoning regulations.

The Appellate Court felt that the association allows you to advertise homes for rent, so the association knew through their zoning commission and the adoption of their zoning regulations and acknowledged that these properties can be rented.

However, they put no time frame on how long those properties could be rented.

Because of that, the Appellate Court was not willing to do so either.

## 6. Continued Discussion and Possible Action concerning findings, goals, and ways to address concerns

### 6-1. Gary Cicchiello to summarize his Chart of Findings

**Note** Mr. Cicchiello said he attempted to synthesize all the information they heard at the previous meetings and public hearing, and he broke it down into three different sections- East Lyme Short-Term Rental Owners' Arguments in Favor of Short-Term Rentals, Arguments Against Short-Term Rentals, and recommendations for co-existing.

**Note** see attached document.

 [In\\_favor\\_of.pdf](#)

**Note** Mr. Cicchiello gave a detailed explanation of the arguments made in support of short-term rentals and noted that short-term rental owners argue that the income helps defray the cost of owning property and that they have the right to do what they want with their property.

He added that they also believe that short-term rentals benefit the town, provide valuable travel services, and some owners feel that short-term guests are better than long-term renters. They argue that short-term rentals have a long history in the community, that regulations should not punish all owners for the actions of a few and suggest implementing a permitting system to address concerns and improve safety.

**Note** see attached document.

 [Arguments\\_Against.pdf](#)

**Note** Mr. Cicchiello discussed his summary of the arguments made against short-term rentals and noted that residents against short-term rentals argue that they negatively affect communities, make housing more expensive, and change the character of the town. They believe that non-resident investors only care about money and that short-term rentals are a commercial use of residential homes.

He added that they feel that short-term rentals decrease the quality of life for neighbors, can lead to problems such as noise, trash, and parking issues, and they suggest implementing a permitting system with stricter regulations, including limits on occupancy and rental duration, to address these concerns.

**Note** Mr. Cicchiello noted that one person did recommend a moratorium because short term rentals are not a permitted use in town.

**Note** see attached document.

 [STR\\_Co-Existing.pdf](#)

**Note** Mr. Cicchiello discussed his summary of coexisting with short-term rentals in detail, which include the following:

Some residents feel that STRs are not a problem, and no regulations are needed.

That there is no evidence that STRs are a problem in East Lyme.

That not all STR properties are party houses.

That all STR owners should not be punished because of a few "bad apples."

That no limits should be put on STRs.

That more rules and regulations will cause an enforcement problem and cost the town money.

That there is no difference between a 7-day rental and a rental less than 7 days.

Some residents recommended that STR owners must provide rules to STR guests.

That rules and regulations of the town and owner should be posted in the property.

That they should only rent to top-rated guests.

That they should be a good host.

**Note** Mr. Cicchiello further detailed the regulations suggested by some STR owners which include the following:

Some type of regulation to combat parking problems due to narrow streets.

That the noise ordinance needs to be enforced.

That the number of occupants should be controlled by the number of bedrooms.

That the time of rental should be limited to no less than one week.

That STRs should not be banned.

That a registration mechanism should be put in place.

That to prevent crime, an STR owner must reside in the STR property.

That trash collection needs to be improved.

That cameras should be installed to increase safety.

That best practices should be made by STR owners.

**Note** Ms. Santoro said this is a good summary of everything they've heard in one place.

**Note** Ms. Santoro noted the materials that was provided to them during the last week such as the updated information from SECOG.

 [SCCOG\\_Report.pdf](#)

**Note** Ms. Santoro said that Bill Mulholland, the Zoning Enforcement Officer, also suggested a webinar to better analyze and address the impacts of STRs in our town.

 [webinar\\_email\\_sent\\_by\\_B.\\_Mulholland.pdf](#)

**Note** The webinar can be viewed at the following link: <https://granicus.com/resource/short-term-rental-strategic-regulations-workshop/>

**Note** Ms. Santoro said a main point in the webinar was that you need to identify your goals before you can come up with solutions.

**Note** Ms. Santoro referenced the previously supplied Airbnb's Toolkit, and although it has some good thoughts, they're obviously self-interested; this demonstrates you have to know your sources.

## **6-2. Determine issues and goals-immediate and long-range/Consider various methods of addressing issues and achieving determined goals, including adoption of new law and application of existing law**

**Note** Mr. McIntire discussed how he could see establishing a permit system with fees, which would allow for inspections, provide contact information for the police, and counteract the associated expenses for having the system in place.

**Note** Ms. Thurlow said she wants owners to be more responsible.

**Note** Mr. McIntire said as it stands today, he thinks the measures they've talked about should be governed through zoning.

**Note** Ms. Santoro said she has gone back and forth between zoning verses ordinance and noted that she doesn't want something in place that isn't compatible with zoning.

**Note** Mr. Cellino discussed how this boils down to issues of enforcement and zoning isn't solving problems. He said if they recommend anything, he thinks it should be a town ordinance. This would allow them to at least have an inventory of rentals while preventing any grandfathering issues.

**Note** Mr. Cellino discussed how he grapples with the distinction between commercial and residential, and where the line is drawn. He asked when a rental becomes a commercial enterprise and noted that while people have a vested interest, they also need to represent the silent majority.

**Note** Mr. Cellino said he doesn't think the court case will have a tremendous impact on what they're doing here and need to look at.

**Note** Ms. Santoro observed they have at least identified some at least competing interests and concerns-interests of the homeowner, residence versus the community at large, the effect that has on that neighborhood, the community at large, so it could be quality of life issues, affordable housing issues, and so forth. She added that it's about trying to balance these interests.

**Note** Ms. Thurlow commented that she doesn't think we have a sense of what the community at large thinks, and an additional public hearing may provide a good representation of thoughts from non-owners of STRs.

**Note** Mr. Cicchiello wondered about doing a town wide survey and Mr. Farrugia said he wants to give the community a sense of transparency, accountability, and enforcement.

**Note** Mr. McIntire said if they're going to have another public hearing it would be beneficial to have kind of proposal for the public to look at.

**Note** Mr. Cellino wondered what the practical way to address this and Ms. Thurlow said they need to determine how to enforce this.

**Note** Ms. Santoro asked what some goals are and some of the following remarks were made: Mr. Cicchiello said we need to take charge of our town, take note of special interests, and take note of taxpayer interests; residents have the "most skin in the game," and our current regulations say we don't allow them.

Ms. Thurlow said we need to determine what constitutes a residential neighborhood and when it becomes commercial.

Mr. Farrugia said he wants transparency, people need to know what the rules are, and it should be the same everywhere. He added that he wants accountability for both renters and owners, there needs to be some form of regulation and permitting process and requiring lodging houses to register every year hits all his trigger points.

Mr. Farrugia observed that commercial verses residential is somewhat convoluted now.

Ms. Santoro said that it seems like public safety is essentially one of Mr. Farrugia's goals, which he confirmed.

Mr. McIntire said he would like the sense of community to be preserved, he likes knowing his neighbors.

Mr. Cellino said his goal is fairness to everyone. He suggested the idea of annual income statements for STRs being supplied to the town and noted this might be a means of determining value/devalue from an assessor's standpoint.

Ms. Santoro said her goal is similar to fairness, she would like to see the competing interests balanced and finally grapple with the fact that this is a cottage industry. She wants to make sure they don't confer extra benefits on special interests versus residents living in neighborhoods.

Ms. Santoro said this cottage industry has really exploded in the last 5-7 years and is something residents and nonresidents have pursued. She asked if this is changing something for us in a way that we don't necessarily want changed? Some people feel that this is not what they bought into when they purchased their homes, and she wants to make sure that we balance those competing interests.

She added that she's concerned about what legal approach they take- regulation verses ordinance, and when an ordinance is written a certain way, the assumption is that it's allowed.

**Note** The Committee briefly discussed how Ledyard wrote an ordinance, was unhappy with it, and created a zoning regulation.

**Note** The Committee discussed what scenario might make the town more affordable and if capping the number of STRs should be considered as well.

**Note** Mr. Cellino asked if the STR registration would preclude renting out a room.

**Note** The Committee discussed the benefits of a registration system.

**Note** Mr. Farrugia noted that registration would provide more information for residents and could also be useful for marketing purposes; people who do rent could advertise and be listed on the town website as a lawfully established rental.

**Note** Ms. Thurlow said this speaks to ownership responsibility, and it's good to have a contact number to call if there is a problem.

**Note** Mr. Cicchiello discussed capping STRs, establishing zones, and a lottery system for permits.

**Note** Mr. Cellino asked if this deflects from fairness, would that be raising the barrier of entry?

**Note** Ms. Thurlow discussed utilizing fines for enforcement.

**Note** Mr. Farrugia commented that requiring permits would really give them a better sense of how many STRs there actually are.

**Note** Ms. Santoro said the ineffectualness of the noise ordinance will need to be addressed sooner than later.

**Note** The Committee discussed how one more meeting would be necessary to put something together for a public hearing.

**Note** Ms. Santoro said she will see if there is something they can use as a template and noted the amount of time the Committee was allowed will have to be lengthened by the Board of Selectmen.

## 7. Schedule Future Meeting(s)

**Note** The Committee discussed when to hold future meetings and settled on December 11th, 2023, for their next meeting and to hold off on scheduling a public hearing for now.

## 8. Reports of Co-Chairs

**Note** Mr. Cicchiello had nothing to report.

**Note** Ms. Santoro shared that CCM will have a presentation on STRs on November 28th and may be of use to them if it's available online.

## 9. Committee Member Comments

**Note** Mr. Farrugia said he wants to go on the record to thank Ms. Santoro and Ms. Thurlow for their service. He would like to encourage the Board of Selectmen to allow their continued participation. The rest of the Committee concurred, and Ms. Santoro thanked them for their kind words.

**Task**  Mr. Cellino asked how the state defines the length of rentals in terms of sales tax and if Mr. Zamarka could research this item for them.

*Owned by Mark Zamarka, Town Attorney due 12/12/23*

## 10. Adjournment

**Decision** MOTION (2)

Mr. Cicchiello moved to adjourn the November 20th, 2023, Regular Meeting at 8:59 p.m.

Mr. Farrugia seconded the motion.

Motion carried, 6-0-0.

**Note** Respectfully Submitted,  
Brooke Stevens, Recording Secretary



## Task Summary

### New Tasks

**Task**  Mr. Cellino asked how the state defines the length of rentals in terms of sales tax and if Mr. Zamarka could research this item for them.

*Owned by Mark Zamarka, Town Attorney due 12/12/23*