

SOUTH HADLEY PLANNING BOARD PUBLIC HEARING CONTINUANCE:

Discussion on proposing articles to Town Meeting for the purpose of creation of a new Short Term Rental General Bylaw and Short Term Rental Zoning Bylaw

MEETING MINUTES OF MARCH 27, 2023

Present: Brad Hutchison, Chair; Diane Mulvaney, Vice-Chair; Joanna Brown, Clerk; Nate Therien, Member; Michael Davis, Member; Michael Adelman, Associate Member; and Anne Capra, Director of Planning and Conservation; Colleen Canning, Planning/Conservation Coordinator

Chair Hutchison called the public hearing to order at 6:58 PM.

Director Capra met with Town Counsel earlier in the day to discuss the Short Term Rental (STR) bylaw drafts. It had been advised that the reference to deed restricted affordable housing be stricken from the zoning bylaw. As a replacement, the general bylaw could prohibit any deed restricted housing without directly referencing affordable housing. Relative to enforcement, the general bylaw could not direct the Building Commissioner's duties as they were defined under state law. Therefore, language stating the Building Commissioner 'shall' perform certain duties needed to be removed. Relative to license suspension, due process needed to be followed allowing an appellant a hearing process. Director Capra also clarified that the maximum daily fine for violations was \$300.

Member Therien discussed the process for tenant notification of local nuisance laws. Such notification could be required under the general bylaw section relating to 'tenant information' as the section already had an itemized list of owner obligations.

Clerk Brown addressed concerns for how enforcement would be handled. Under the 'enforcement' section of the general bylaw the language indicates owner responsibility when 'knowingly' allowing violations. She questioned if including the word 'knowingly' allowed for a loophole in responsibility. Additionally, the 'enforcement' section indicated that operators had 90 days to comply after notice of violation. She questioned if 90 days was too long of a period.

Members continued to discuss enforcement and nuisance concerns. Chair Hutchison indicated that the most applicable nuisance for an operating STR would be noise. As such, enforcement of immediate nature would be addressed through the police department. He added that no complaints had been received for the series of STRs operating in Town illegally prior to enforcement. Clerk Brown referenced the experience of a friend who lived near two STRs which were used for criminal activity. She wanted additional protection under the bylaw. Vice-Chair Mulvaney stated that the STR bylaws were not an appropriate place to address criminal enforcement or police protocol as was similarly indicated by Town Counsel relating to the responsibilities of the Building Commissioner. Member Davis also added that the general bylaw required an operator to make their home available 24 hours after a request. It was recommended that the language be amended to indicate that the home be made available after request *or notice of complaint*.

Chair Hutchison asked members to indicate if they were comfortable with the current draft of the zoning STR bylaw and if they supported sending it to Town Meeting. All members indicated support except Clerk Brown.

Members discussed what additional edits should be made to the general bylaw given the discussion during the hearing. The 'tenant information' section should be amended to include the requirement for operators to provide the nuisance law to renters and the 'inspections & complaints' section should be amended to require operators to make their house available after receipt of a complaint. Members were also interested in gathering feedback from the Building Commissioner regarding the 90 day response period following notice of a violation. However, the language would not be changed at this time as the Board needed to render a decision on the bylaw tonight.

Chair Hutchison addressed an email (attached) that was received from Ashleigh Murphy, 5 Dove Hill Road. At a previous hearing, Chair Hutchison indicated that building and fire code requirements could be cost prohibitive for some people interested in establishing an STR. The Fire Department and the Building Commissioner were the ultimate authority for fire and building code requirements.

Chair Hutchison opened the hearing to public comment.

Martha Terry, 25 Brainard Street, addressed the Board. She supported the recommendation to require tenant notification of the local nuisance law. She asked for clarity on the permitting avenues for the STR use type in each district and requested a diagram be included in the bylaw to indicate how to file complaints for STR operations. Director Capra clarified permitting thresholds and stated that the inclusion of a diagram was not feasible. Rules and regulations would be developed following bylaw adoption. She added that noise complaints would be handled the same way for STRs as other residences. Noise complaints would be handled by the Police Department.

Anne Stockton, Amherst Road, addressed the Board. She did not support non-owner occupied STRs and recommended that the Board seek to limit the amount of days an STR could be rented per-year.

Clerk Brown re-addressed concern for potential criminal behavior from short-term renters and expressed interest in including protections against it. No other members indicated similar interest as monitoring and enforcing against criminal behavior was under the authority of the police department.

Members discussed the comments made by Anne Stockton regarding limiting the number of days a short term rental could be rented out per year. No members indicated support for limiting the amount of days an STR could be rented per year.

Members were aware that Town Meeting was soon approaching. For the STR bylaws to be considered at May 2023 Town Meeting, the Board would need to close the hearing and make a recommendation for adoption that night.

Motion: Member Therien moved to send the drafted General Short Term Rental Bylaw as amended to the Selectboard for placement on the May 2023 Town Meeting warrant. Member Davis seconded the motion. Four (4) out of five (5) members voted in favor of the motion through roll call. Clerk Brown voted against the motion.

Motion: Member Davis moved to send the drafted Zoning Short Term Rental Bylaw as amended to the Selectboard for placement on the May 2023 Town Meeting warrant. Vice-Chair Mulvaney seconded the motion. Four (4) out of five (5) members voted in favor of the motion through roll call. Clerk Brown voted against the motion.

Motion: Member Therien moved to close the hearing. Vice-Chair Mulvaney seconded the motion. Four (4) out of five (5) members voted in favor of the motion through roll call. Clerk Brown voted against the motion.

The regular meeting reconvened at 8:53 PM.

Respectfully Submitted
Colleen Canning, Planning/Conservation Coordinator

Appendix

Document	Document Location
Public Hearing Draft - General Short Term Rental Bylaw	Planning Files
Public Hearing Draft -Zoning Short Term Rental Bylaw	Planning Files
March 20 email from Ashleigh Murphey, 5 Dove Hill	Attached

Fwd: STR bylaw question

Colleen Canning <ccanning@southhadleyma.gov>
To: Colleen Canning <ccanning@southhadleyma.gov>

Fri, Mar 24, 2023 at 11:52 AM

----- Forwarded message -----

From: **Ashleigh Murphy** <ashleighmurphy624@gmail.com>
Date: Mon, Mar 20, 2023 at 9:06 PM
Subject: STR bylaw question
To: acapra@southhadleyma.gov <acapra@southhadleyma.gov>

Hi Anne,

I was just an attendee at the public hearing about owner occupied STRs. This question occurred to me after you all had moved on. If the bylaws are approved and a path is created for home owners to apply for a special permit, do you know details of what the building inspector and fire chief will require of these spaces? I heard a quick comment from the chair that the requirements of the fire and building chief may significantly limit the number of approved STRs anyway and I just want to have that important detail clarified. I want to point out, that if the fire chief and building inspector require something, like sprinkler systems for example, to be installed in order to gain permit approval, this whole discussion is a mute point because the cost of that process would be prohibitive for most. Is there a way to make recommendations from the planning board and the community regarding these potential requirements? When would their requirements be known and shared with the public?

Have you looked into the bylaws in Northampton and Amherst, who have a number of listed STRs, to inform your process for South Hadley? Are those towns requiring special permits that include site plan review?

My concern is that through this process, somehow the by laws and requirements are going to be prohibitive to something that has caused no known issue in town, serves as a nice *little* financial side gig, and has created a welcoming space for folks visiting family and friends, coming to town for events at the college, and even provided some traffic for small businesses in town.

Thank you for your time and service to our community.

Best,

Ashleigh Murphy
5 Dove Hill