



AGENDA
COMMITTEE OF THE WHOLE MEETING
Village Hall – Board Room
Monday, October 26, 2015
Immediately following Regular Village Board Meeting

Reasonable accommodations / auxiliary aids will be provided to enable persons with disabilities to effectively participate in any public meetings of the Board. Please contact the Village Administrative Office (847.883.8600) 48 hours in advance if you need special accommodations to attend.

The Committee of the Whole will not proceed past 10:30 p.m. unless there is a consensus of the majority of the Trustees to do so. Citizens wishing to address the Board on agenda items may speak when the agenda item is open, prior to Board discussion.

CALL TO ORDER

1.0 ROLL CALL

2.0 APPROVAL OF MINUTES

2.1 Acceptance of the October 13, 2015 Committee of the Whole Meeting Minutes

3.0 ITEMS OF GENERAL BUSINESS

3.1 Planning, Zoning and Land Use

3.11 Consideration of a Zoning Board recommendation regarding a request to amend Sections 6-2-2, 6-3-5, 6-5A-1(H), 6-5B-2(G), 6-5C-2 and 6-5D-2 of the Lincolnshire Zoning Code to amend and introduce new regulations governing short-term rental of residential property (Village of Lincolnshire)

3.2 Finance and Administration

3.3 Public Works

3.4 Public Safety

3.5 Parks and Recreation

3.6 Judiciary and Personnel

4.0 UNFINISHED BUSINESS

5.0 NEW BUSINESS

6.0 EXECUTIVE SESSION

7.0 ADJOURNMENT



**MINUTES
COMMITTEE OF THE WHOLE MEETING
Tuesday, October 13, 2015**

Present:

Mayor Brandt	Trustee Feldman (Left at 9:55 p.m.)
Trustee Grujanac	Trustee Hancock
Trustee McDonough	Trustee Servi
Trustee McAllister	Village Clerk Mastandrea
Village Attorney Simon	Village Manager Burke
Chief of Police Kinsey	Treasurer/Finance Director Peterson
Public Works Director Woodbury	Community & Economic Development Director McNellis
Village Planner Robles	

ROLL CALL

Mayor Brandt called the meeting to order at 8:25 p.m. and Village Clerk Mastandrea called the Roll.

2.0 APPROVAL OF MINUTES

2.1 Acceptance of the September 28, 2015 Committee of the Whole Minutes

The minutes of the September 28, 2015 Committee of the Whole Meeting were approved as submitted.

3.0 ITEMS OF GENERAL BUSINESS

3.1 Planning, Zoning and Land Use

3.11 Consideration of a Zoning Board recommendation regarding a request to Rezone a 14+ acre lot from R1 Single-Family Residence District to R2A Single-Family Residence District, to permit the development of a 17-lot environmentally sensitive large lot subdivision at 1700 Riverwoods Road (Arthur J. Greene Construction Company)

Mayor Brandt stated she had requested staff prepare information comparing the proposed development to others in Lincolnshire and the information has been provided at the meeting.

Village Planner Robles provided a summary of the recommendation regarding a request to rezone the development lot from R1 to R2A to permit the development of a 17-lot environmentally sensitive large lot subdivision by Arthur J. Greene Construction Company. A revised subdivision summary chart was provided to the Board today as requested by Mayor Brandt.

Mr. Jeff Greene, President of Arthur J. Greene introduced Mr. Glenn Christensen, Land Planner from Manhard Engineering and Mr. Tim Golatta, Vice President of Arthur J. Greene Construction Company.

Mr. Christensen provided a presentation indicating changes made since the last time this project was presented. Changes were made by Arthur J. Greene Construction Company prior to presenting to the Zoning Board. The original plan called for 19 lots and has since been revised to 17 lots.

Trustee McAllister asked if some of the proposed area is wetland. Mr. Christensen stated a portion is considered lowland but not wetland. Trustee McAllister asked if there have been drainage issues in this area. Public Works Director Woodbury noted there have not been drainage issues in this area in the past.

Trustee McDonough asked if Meadows of Birch Lake is zoned R2A. Village Planner Robles confirmed Meadows of Birch Lake is zoned R2A. Trustee McDonough asked what qualifies the Meadows of Birch Lake to be environmentally sensitive, and zoned R2A. Community & Economic Development Director McNellis noted the pond and all the environmental work in and around the area qualified Meadows of Birch Lake to be environmentally sensitive. Trustee McDonough asked what qualifies this proposed project to be environmentally sensitive. Village Planner Robles stated the wetlands that continue onto the parcel from Whytegate and the park or green space qualify it to be rezoned R2A. Trustee McDonough asked how it compares to the other environmentally sensitive zoned areas. Village Planner Robles stated the proposed project is comparable to what is directly to the north, but comparisons with other subdivisions is a different comparison. Mayor Brandt noted all the comparisons to this project have been to Whytegate which was approved in 1984, and Lincolnshire is currently in a different building pattern. Mayor Brandt noted her opinion was comparison should be made to some of the more recent subdivisions.

Mayor Brandt asked if the proposed lot size, based on more current development is the look the Board wants. A brief conversation regarding lot size compared to proposed square footage of the homes in comparison to other subdivisions in Lincolnshire followed. Mr. Greene noted the typical goal of a buyer is to build larger homes on larger lots as to compare to the surrounding homes; if the lot size becomes larger, he would expect buyers to want a larger home.

Trustee Grujanac noted the topography of the proposed plan slopes toward an existing house to the west and wanted to know how the flow of drainage would affect this existing home. Community & Economic Development Director McNellis stated a swale would be created to bring the water back around to the front of the lots.

Mr. Christensen noted the Comprehensive Plan was the criteria followed when planning the subdivision. Mayor Brandt stated more homes have been built in recent years on a larger lot and would like Arthur J. Greene Construction Company to consider this when planning.

Trustee Mark Hancock noted concern about approving a development through zoning and the lack of impact the Board has regarding the size of the homes, the setbacks and the look of the homes. Mr. Greene noted Arthur J. Greene Construction Company comes up with plans based on demand, and certain guidelines are created with staff. Mayor Brandt noted her concern is the density compared to other current projects. Trustee Hancock noted his concern is variation of development. Trustee McDonough noted his opinion was that Arthur J. Greene Construction Company could provide the variation and architecture needed but had concern with the revised zoning request. Trustee McDonough noted he would consider only one lot in the proposed development to meet the R2A criteria. Mr. Christensen noted the site in the past was farmed and the desire was to be compared with the adjacent developments. Trustee McDonough noted providing a park could possibly capitulate this as being rezoned R2A.

Mr. Joseph Cloonen, resident on Whitmore Lane, north of the proposed development, stated he is aware the school district is not in favor of the development. Mayor Brandt stated the school district is not in favor of any development due to capacity and having to add on to the schools, but the Village Board has to try and balance what is in the best interest of the Village. Mr. Cloonen stated he attended the Zoning Board review of this project, and it was not a unanimous vote to approve. It was noted in the Zoning Board meeting the developers met the criteria, and Mr. Cloonen stated it is the Trustees who are representing what is in the best interest of the resident not the developer. Mr. Cloonen noted open space is what differentiates Lincolnshire from the surrounding communities, and his request is not to approve the proposed subdivision.

Trustees Grujanac and McDonough noted it was their opinion to add conservancy/open area and landscaping. Trustee Grujanac and Mayor Brandt suggested putting a sample building and driveway footprint of one of the proposed houses on the plans to review.

Continued conversations took place regarding landscaping, lot size, building product and architectural variation.

Mr. Christensen asked the Board what the correct way to proceed is, and asked if it was to come back with a PUD. Community & Economic Development Director McNellis stated the current path of rezoning is the recommended direction. Village Planner Robles outlined the process.

There was a consensus of the Board was for Arthur J. Greene Construction Company to revise the plans to include additional

landscaping and environmentally sensitive areas, less lots, less density, and revised garage locations.

3.2 Finance and Administration

3.21 Official Announcement of Estimated Amount to be Raised by Ad Valorem Taxes for the 2015 Tax Levy to be Collected in Fiscal Year 2016 (Village of Lincolnshire)

Finance Director/Treasurer Peterson officially announced the estimated amount to be raised by Ad Valorem Taxes for the 2015 tax levy to be collected in fiscal year 2016. The tax rate has been maintained for four years. Further discussions will be made on November 23, 2015.

Trustee McDonough asked how much of the EAV is new development. Finance Director/Treasurer Peterson noted real amounts will not come out until April.

3.22 Consideration and Discussion of Amendment to Police Pension Funding Policy (Village of Lincolnshire)

Finance Director/Treasurer Peterson provided a summary of the proposed amendment to the Police Pension Funding Policy.

Trustee Hancock noted his opinion was the actuary background is there, and asked if it is still the discretion of the Board and staff regarding what the allocation will be. Village Manger Burke noted the final allocation is for the Board to decide.

There was a consensus of the Board to place this item on the Consent Agenda for approval at the next Regular Village Board Meeting.

3.3 Public Works

3.31 Consideration and Discussion of a Joint Purchasing Agreement with Compass Minerals Incorporated in the Amount of \$28,176.00, and Cargill Incorporated in the Amount of \$13,556.00, for the Purchase of Rock Salt for the 2015-2016 Winter Season (Village of Lincolnshire)

Public Works Director Woodbury provided a summary of the joint purchasing agreement with Compass Minerals Incorporated and Cargill Incorporated for the purchase of rock salt. The purpose of dual purchasing is to anticipate pricing.

There was a consensus of the Board to place this item on the Consent Agenda for approval at the next Regular Village Board Meeting.

3.4 Public Safety

3.5 Parks and Recreation

3.6 Judiciary and Personnel

4.0 UNFINISHED BUSINESS

Mayor Brandt noted Boo Bash will be taking place on October 30, 2015 at North Park. Trustee McDonough asked if volunteers are still needed. Village Manager noted it would be much appreciated if Trustees would be able to come to the event and volunteer.

5.0 NEW BUSINESS

Trustee McAllister provided a letter announcing his resignation as Trustee from the Board due to job relocation.

6.0 EXECUTIVE SESSION

Trustee Grujanac moved and Trustee McDonough seconded the motion to go into Executive Session for the purpose of discussing Personnel. The roll call vote was as follows: AYES: Trustees McAllister, McDonough, Servi, Hancock, and Grujanac. NAYS: None. ABSENT: None. ABSTAIN: None. The Mayor declared the motion carried and the Board went into Executive Session at 10:15 p.m. and came out of Executive Session at 10:45 p.m.

7.0 ADJOURNMENT

Trustee McDonough moved and Trustee Servi seconded the motion to adjourn. Upon a voice vote, the motion was approved unanimously and Mayor Brandt declared the meeting adjourned at 10:46 p.m.

Respectfully submitted,

VILLAGE OF LINCOLNSHIRE

Barbara Mastandrea
Village Clerk

**REQUEST FOR BOARD ACTION
Committee of the Whole
October 26, 2015**

Subject:	Text Amendments to address Short-Term Rental of Residential Property
Action Requested:	Consideration of a Zoning Board recommendation regarding a request to amend Sections 6-2-2, 6-3-5, 6-5A, 6-5B, 6-5C, 6-5D and 6-5F of the Lincolnshire Zoning Code, to amend and introduce new regulations governing short-term rental of residential property.
Originated By/Contact:	Steve McNellis, Director Department of Community & Economic Development
Advisory Board Review:	Zoning Board

Background:

- The Village has traditionally permitted single-family residential property to be rented, whether a room or an entire home, on an annual basis.
- The rental of single-family residential property for uses such as a bed and breakfast, lodging house or through a home rental organization such as Vacation Rental By Owner (VRBO) or Air BnB is not currently permitted; nor has it ever been.
- A recent issue with a resident operating an Air BnB business in a single-family residence made it clear the Village's regulations prohibiting such a use should be clarified and placed in a more appropriate section of the Code, with increased visibility.
- ***The Zoning Board held a Public Hearing on September 8th, followed by further discussion at the October 14th regular Zoning Board meeting, at which there was a unanimous recommendation to amend the Zoning Code to regulate short-term rentals, with the following key stipulations (further detailed in the attached Draft Ordinance):***
 - ***Minimum permitted rental period = 3 months***
 - ***No more than two rentals per year.***
 - ***Leases which meet the minimum required rental period may be permitted to extend on a month-to-month basis.***
 - ***Leases less than the 3-month minimum are permissible only when they involve a rent-back option to the original owner on a home sale.***
 - ***No temporary structure (ie. a shed, treehouse, tent, etc.) is permitted to be used for short-term rental.***

Zoning Board Commentary:

The Zoning Board discussed a number of different options, with the intent of balancing the character of a neighborhood, minimizing transient uses, and a desire to permit homeowner flexibility. In the context of this discussion the following benefits were identified:

Potential Benefits:

- Insure that transient uses, which can detract from the stable nature of a residential area, such as Air BnB, VRBO and Bed & Breakfast type uses, are not permitted.
- Require any permissible lease periods, less than three months, are only for situations in which the current home occupant is extending their stay, rather than accommodating

greater transiency.

- Provide homeowners an ability to reasonably rent their home when situations like a corporate relocation occur and they are unable to sell their home.
- Provide homeowners an ability to reasonably rent their home when they are relocated, but do not desire to sell their home if they are underwater on their mortgage.
- Allow future residents an opportunity to rent in the area if they were awaiting home construction to be completed.
- Allow future residents an opportunity to rent in the area while they find a home to purchase.

Note – The attached correspondence from Howard Handler of NorthShore Barrington Realtor’s Association (NSBAR) was submitted during the Zoning Board review process. NSBAR is active in lobbying local governments regarding Ordinances that could have a potential impact on their member Realtors. Mr. Handler attended the October 14th Zoning Board meeting and expressed the concerns of their organization.

Recommendation:

Consideration of text amendments to Chapter’s 2, 3 and 5 of Title 6 - Zoning of the Lincolnshire Zoning Code and placement on the November 9th Consent Agenda for approval.

Reports and Documents Attached:

- Draft Ordinance, Prepared by Village Attorney Simon
- Draft Section 6-3-5, Accessory Structures and Uses, of the Lincolnshire Zoning Code.
- Staff Memoranda, Dated September 8, 2015 and October 14, 2015
- Attachment submitted by Northshore Barrington Realtors Association

Meeting History	
Preliminary Evaluation (COW):	July 27, 2015
Zoning Board Public Hearing:	September 8, 2015
Continued Zoning Board Discussion:	October 14, 2015
Current COW Discussion:	October 26, 2015

VILLAGE OF LINCOLNSHIRE

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 6 (ZONING)
OF THE VILLAGE OF LINCOLNSHIRE MUNICIPAL CODE
(Short-Term Rentals)**

WHEREAS, the Village of Lincolnshire, an Illinois home rule municipal corporation, has the authority to adopt ordinances and promulgate rules and regulations that pertain to its government and affairs, including the coordination and operation of various activities and structures within its boundaries, and to protect the public health, safety, and welfare of its citizens; and

WHEREAS, the Corporate Authorities of the Village of Lincolnshire find it necessary for the promotion and preservation of the public health, safety and welfare of the Village that the regulation of short-term rental of residential dwellings be reviewed for legality, efficiency and predictability;

WHEREAS, the Board of Trustees referred to the Zoning Board (“Zoning Board”) a petition to research, consider and prepare proposed text amendments to the Zoning Code to clarify and amend the regulation of short-term rental of residential dwellings; and

WHEREAS, following due publication of notice in the Lincolnshire Review on _____, a public hearing concerning the proposed amendments to the Zoning Code of the Village was convened by the Zoning Board on September 8, 2015, and finally adjourned on October 14, 2015, 2015; and

WHEREAS, following deliberation and consideration on the evidence and testimony elicited during the public hearing and the recommendation of the Zoning Board, the Village

Board desires for the Zoning Code to be amended to improve the Zoning Code regulations affecting the short-term rental of residential dwellings; and

WHEREAS, the Village hereby finds that it is in the best interest of the Village and the public to amend its Zoning Code to promote the economic health and welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village Of Lincolnshire, Lake County, Illinois, in exercise of its home rule powers, as follows:

SECTION ONE: The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance as though fully set forth herein. The findings of the Zoning Board of the Village of Lincolnshire, attached hereto as **Exhibit A**, are herein incorporated by reference as the findings of the Village Board to the same effect as if fully recited herein at length. All references in the Zoning Board’s findings are made the references of the Mayor and Board of Trustees of the Village of Lincolnshire.

SECTION TWO: Title 6 of the Village of Lincolnshire Municipal Code (“Zoning”) is hereby revised by amending Chapter 3, Section 5 (Accessory Structures and Uses) by adding a new category of Accessory Use regulations entitled, “Short Term Rental” in the form described in **Exhibit B**, attached hereto and incorporated as though fully set forth herein.

SECTION THREE: Title 6 (“Zoning”), Chapter 2 (“Definitions”) is hereby amended in the following manner:

SHORT-TERM RENTAL The accessory use of a residential dwelling under a written or oral agreement providing for occupancy of all or part of the dwelling by any person other than the owner thereof in exchange for consideration therefor.

LODGING HOUSE
(INCLUDING BOARDING ~~A residential building, or portion and thereof, other than a motel, apartment hotel, or hotel, containing lodging rooms which and accommodate persons who are not members of~~

~~the keeper's family. Lodging with or without meals is provided for compensation on a weekly or monthly basis.~~

**~~ROOM HOUSE)
LODGING ROOM
(ROOMING UNIT)~~**

~~A room which is not physically a part of a dwelling unit, or which through physically a part of a dwelling unit is used or intended for use by a person or persons other than members of the family occupying said dwelling unit, and which is used or intended to be used as sleeping and living quarters, but without facilities for either cooking or eating.~~

SECTION FOUR: Title 6 (“Zoning”), Chapters 5A, 5B, 5C, 5D and 5F (the Residential zoning districts) are hereby amended by adding the following permitted use to each Chapter:

Short-Term Rental, as an accessory use to residential dwelling units and as regulated in section 6-3-5 of this Title.

SECTION FIVE: If any section, subsection, sentence, clause, phrase or application of this Ordinance, or any regulations adopted hereby, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, either facially or as applied, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof or any other application under which such provision is deemed permitted.

SECTION SIX: All prior Ordinances in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION SEVEN: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

SO ORDAINED this _____th Day of _____, 2015, at Lincolnshire,
Lake County, Illinois.

AYES:

NAYS:

ABSENT:

APPROVED:

Elizabeth Brandt, Mayor

DATE: _____

ATTEST:

Barbara Mastandrea, Village Clerk

EXHIBIT A

ZONING BOARD FINDINGS OF FACT

EXHIBIT B

TITLE 6, CHAPTER 3, SECTION 5

ACCESSORY STRUCTURES AND USES

Short Term Rental

- Except as otherwise provided herein, leasing a residential dwelling in any Residential zoning district (R1 through R5, inclusive) for less than three (3) months shall be prohibited.
- The term of any lease which has satisfied the minimum term required by these rules may be extended on a month-to-month basis so long as the tenant(s) remain the same.
- Residential dwellings shall not be leased more than two (2) times during any consecutive twelve (12) month period unless the rental agreement has been terminated by reason of a tenant default.
- The rental premises may comprise all or a part of the principal structure.
- The rental premises shall not count toward the limit of accessory structures otherwise permitted by this Chapter.
- The form of consideration exchanged for the rental premises does not affect whether it is treated as a short term rental for the purposes of this Chapter.
- The property owner shall remain responsible for compliance with all Village Codes during the term of any rental agreement unless the owner can show by clear and convincing evidence that the tenant caused the violation despite good faith efforts by the owner to abate the violation.
- No temporary structure shall be permitted to be used for a short-term rental.
- The prohibition on short term rentals for less than three (3) months shall not apply when the immediately preceding owner maintains possession of the dwelling unit after closing and leases it from the successor owner under a written lease agreement.

Text = New Text Proposed by Zoning Board

6-3-5: ACCESSORY STRUCTURES AND USES

No accessory structure or use shall be established, erected, altered or moved onto a lot unless it is specifically conforms to the requirements of this Section.

A. General Requirements:

1. Floor Area Ratio: The maximum size shall not exceed 10% of the gross square feet of the Principal Structure on the lot, except as further regulated in Section 6-3-5(B).
2. Height: The maximum height shall not exceed fifteen (15) feet, except as further regulated in Section 6-3-5(B).
3. Location: Shall meet the minimum required Setbacks applicable to the Principal Structure on the lot, except as otherwise permitted in Section 6-3-5(B).
4. Relationship to Principal Structure: No portion of an Accessory Structure shall extend beyond the front façade of the Principal Structure on the lot.
5. Tree Removal: Any tree removal related to the installation of an Accessory Structure shall be subject to the tree removal requirements of Section 13-1-3(l).
6. Quantity: A maximum of two Accessory Structures shall be permitted on a lot. No two Accessory Structures shall be the same, with the exception of Play Structures.
7. Establishment: An Accessory Structure shall not be erected, altered or moved onto a lot prior to the establishment of a permitted Principal Structure on the same lot. Accessory Structures to any non-residential use or structure shall require Architectural Review Board approval prior to establishment.
8. Appeal: Any person or entity aggrieved by Staff determination regarding the application or interpretations of these requirements may submit a written appeal, as specified in Section 6-14-12 of the Lincolnshire Village Code, to the Architectural Review Board or Zoning Board, for final decision by the Village Board of Trustees.

B. Specific Requirements: The following Accessory Structures and Uses shall be permitted subject to the additional specific regulations set forth below:

ACCESSORY STRUCTURES AND USES 6-3-5(B) P = Permitted
S = Special Use

Flagpole & Flags

- Flagpoles shall not exceed a height of fifteen feet (15') or 75% of the height of the Principal Structure, whichever is greater.
- Flagpoles may be located beyond the front façade of the Principal Structure and shall comply with all required building setbacks or setbacks shall be equal to the pole height, whichever is greater.
- Flagpoles shall be exempt from the Quantity requirement of Section 6-3-5(A)(6). In addition, Flagpoles in single-family residential lots shall be limited to one (1) flagpole per lot.

Gazebo

- Shall incorporate traditional/classical architectural detailing and ornamentation in the pillars, railings, walls, eave brackets, structural members, roof and/or similar elements
- Shall have a shape of six (6) or more sides, with a maximum diameter of fifteen feet (15').
- Shall be open sided, with no more than 50% of any exterior side of the structure consisting of a solid wall surface.
- Installation of natural gas, water supply or sanitary sewer service; plumbing fixtures; hot tubs; whirlpool tubs or similar equipment is prohibited.

- Permanent or temporary windows or other installations are prohibited. The installation of screens to control insects and ceiling fans are permitted.
- Storage is prohibited.
- Shall be constructed of wood materials erected upon concrete piers or a structural foundation
- Permitted within the required rear yard setback, provided the Gazebo is no closer than ten feet (10') from the nearest property line(s).

Greenhouse

- At least two walls and the roof of the structure must be glass or similar transparent materials.
- Storage of materials other than plants shall not be visible from adjacent properties and public ways

Memorial Garden

- As defined in Section 6-2-2

Memorial Assembly Facility

- Shall only be permitted as an accessory use to an assembly use, including but not limited to religious institutions or schools.
- Shall be permitted inside the principal structure on the lot.
- If located outside as an accessory structure, the following shall apply:
 1. Shall be located not less than 100 feet from any Lot Line where there is Frontage.
 2. Shall maintain a minimum distance of 135 feet from any Lot Line where there is no Frontage.
 3. Shall be located not more than 20 feet from the principal structure on the lot.
 4. Shall comprise an area no greater than 600 square feet.
 5. The structure shall have a height not greater than 3 feet.
 6. The structure shall be concealed from the adjacent right-of-way and contiguous residential Lots with vegetation which provides complete screening during the entire year and shall be a minimum of 6 feet tall at the time of planting (such vegetation shall not be considered part of the permitted area).
 7. The face of the structure into which cremated human remains are interned must substantially face towards the principal structure on the Lot.

Parking Garage Structure

- Refer to permitted zoning districts for specific regulations.

Personal Recreation Facility

- Recreation courts/facilities which do not require a foundation, concrete slab, or impervious surface floor shall not require a building permit.
- Permitted within the required rear yard setback, provided they are no closer than ten feet (10') from the nearest property line(s).
- Lighting shall be positioned and operated to minimize the amount of light and glare cast onto any adjacent property or street to not be a nuisance.

Play Structure

- Structures which do not include a foundation or concrete slab shall not require a building permit.
- Playhouses shall not exceed 8 feet in height and a maximum floor area of sixty (60) square feet.
- Storage of materials is prohibited.
- Permitted within the required rear yard setback, provided they are no closer than ten feet (10') from the nearest property line(s).

Private Residential Swimming Pools & Pool Houses

- Private Residential Swimming Pools – Refer to Chapter 5 of Title 5 for specific requirements.
- The combination of a Private Residential Swimming Pool and Pool House shall be classified as one Accessory Structure/Use and exempt from the Quantity requirement of Section 6-3-5(A)(6).
- The use of a Pool Houses as a Second Residential Unit is prohibited.
- Pool Houses shall be constructed with the same materials used on the Principal Structure.

- Pool Houses shall be permitted only in conjunction with an in-ground swimming pool. Installation of natural gas, water supply or sanitary sewer service; plumbing fixtures; heating/air conditioning is permitted.

Second Residential Unit

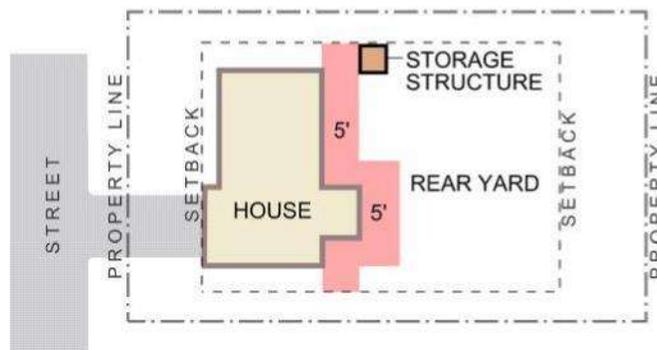
- Refer to Section 6-5A-2(H) for specific requirements.

Short Term Rental

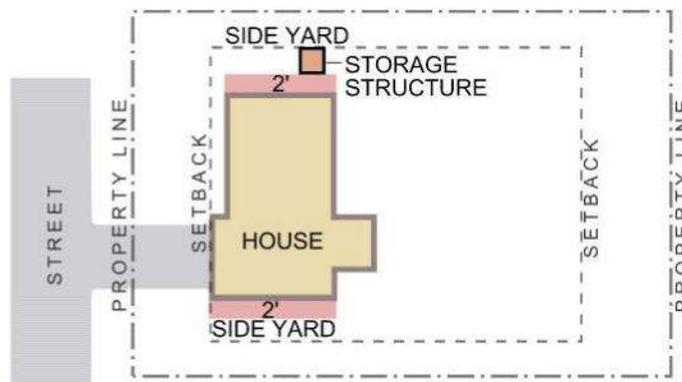
- Except as otherwise provided herein, leasing a residential dwelling in any Residential zoning district (R1 through R5, inclusive) for less than three (3) months shall be prohibited.
- The term of any lease which has satisfied the minimum term required by these rules may be extended on a month-to-month basis so long as the tenants remain the same.
- Residential dwellings shall not be leased more than two (2) times during any consecutive twelve (12) month period unless the rental agreement has been terminated by reason of a tenant default.
- The rental premises may comprise all or a part of the principal structure.
- The rental premises shall not count toward the limit of accessory structures otherwise permitted by this Chapter.
- The form of consideration exchanged for the rental premises does not affect whether it is treated as a short term rental for the purposes of this Chapter.
- The property owner shall remain responsible for compliance with all Village Codes during the term of any rental agreement unless the owner can show by clear and convincing evidence that the tenant caused the violation despite good faith efforts by the owner to abate the violation.
- No Temporary Structure shall be permitted to be used for short term rental.
- The prohibition on short term rentals for less than three (3) months shall not apply when the immediately preceding owner maintains possession of the dwelling unit after closing and leases it from the successor owner under a written lease agreement.

Storage Structure

- Shall be located in one of the following locations:
Rear Yard: Within five feet (5') of the Principal Structure (see figure below)



- Side Yard: Within two feet (2') of the Principal Structure (see figure below)



- Shall have a maximum floor area of 100 square feet.
- Shall not exceed a height of ten feet (10') from the established grade.
- Shall be placed on a hard surface, including but not limited to a concrete pad, cement blocks or similar materials.
- Shall be screened by plant material that provides visual relief throughout the year from both the public way and adjacent properties.
- Plastic, corrugated metal, fiberglass and dryvit/stucco are prohibited unless they are the primary material(s) on the principal structure.

END OF ACCESSORY STRUCTURES AND USES LIST

6-3-5(B)

C. Existing Non-Conforming Accessory Structures: Accessory structures existing as of July 10, 1995 shall be considered Non-Conforming and may be preserved, maintained and used subject to the restrictions in Chapter 13 of this Title.

1. Detached garages located within the Stonegate Circle Subdivision, as defined in Ordinance No. 62-000-70, shall not be subject to the restrictions in Chapter 13 of this Title, but shall be subject to flood plain and flood way regulations and are permitted to perform normal maintenance and incidental repair, reconstruction and restorations but may not increase the existing garage floor area.

Section 6-2-2: Definitions

SHORT-TERM RENTAL The accessory use of a single-family dwelling under a written or oral agreement providing for occupancy of all or part of the dwelling by any person other than the owner thereof in exchange for consideration therefor.

**LODGING HOUSE
(INCLUDING BOARDING
ROOM HOUSE)** **DELETE THIS DEFINITION**

**LODGING ROOM
(ROOMING UNIT)** **DELETE THIS DEFINITION**

Sections 6-5A, 6-5B, 6-5C, 6-5D and 6-5F are amended by adding the following permitted use to each chapter:

Short-Term Rental, as an accessory use to residential dwelling units and as regulated in Section 6-3-5 of this Title.

**REQUEST FOR BOARD ACTION
Zoning Board
September 8, 2015**

Subject:	Text Amendments to address Short-Term Rental of Single-Family Residential Property
Action Requested:	Public Hearing regarding Text Amendments to Chapter 3, General Zoning Regulations, Chapter 2, Zoning Definitions, Chapter 5, Residence Districts, and associated cross-references, in Title 6 - Zoning of the Lincolnshire Village Code, to amend and introduce new regulations governing short-term rental of residential property.
Originated By/Contact:	Steve McNellis, Director Department of Community & Economic Development
Advisory Board Review:	Zoning Board

Background:

- The Village has traditionally permitted single-family residential property to be rented, whether it's a room or an entire home, on an annual basis.
- The rental of single-family residential property for uses such as a bed and breakfast, lodging house or through a home rental organization such as Vacation Rental By Owner (VRBO) or Air BnB is not currently permitted, nor has it ever been.
- A recent issue with a resident operating an Air BnB business in a single-family residence brought to light the Village's regulations prohibiting such a use should be clarified and placed in a more appropriate section of the Code.
- At their July 27th meeting, the Village Board re-confirmed that certain rentals should continue to be prohibited and clarified what should constitute a permitted short-term rental. The Village Board further directed Staff and the Zoning Board to hold a Public Hearing to consider amending Village Code to clarify permissibilities and prohibitions related to the single-family home rentals.
- Per Village Code, a Notice of Public Hearing regarding proposed Text Amendments to be discussed at the September 8th Zoning Board meeting was published in the Lincolnshire Review on Thursday, August 20, 2015.

Project Summary:

Following, is a summary of proposed amendments related to the rental of single-family residential property (*for specific detail, please see attached Draft Code*):

- **Accessory Use:** Per Village Attorney's recommendation, regulations on the permissibility of short-term rentals are placed in the Accessory Structures and Uses (Section 6-3-5(B)) section of the Zoning Code. This is to reiterate the primary use of single-family residential property should be residential and not business use. This also recognizes rental of a property is accessory to the primary purpose of single-family residential, which is long-term owner-occupied use.
- **Permissible Timeframe:** The proposed amendment follows Board direction in permitting rentals for no less than three months and permitting no more than one rental per consecutive twelve-month period, regardless of whether the rental is for 3 months, 6 months or 11 months, etc. However, a caveat is provided permitting more than one rental per twelve-month period if a Tenant defaults on a Rental Agreement. The 3-month minimum

rental still applies in this scenario. In this way, the Owner is not punished for any legal remedy they must take with a bad Renter.

- **Limits of Rental Area:** Since this amendment is not intended to prohibit the rental of a room in someone's house versus the entire house that permissibility has been clarified.
- **Code Enforcement:** A caveat is added stating compliance with Codes is the owner's responsibility during a Rental period, unless it can be clearly proven the tenant caused a particular violation, despite the Owner's demonstrated efforts to remedy the violation. The Village Attorney advises this stipulation is commonplace in Municipal regulations.
- **Definitions:** The proposed amendment removes current definitions for both Lodging Room and House, which were previously utilized to define the type of short-term rentals being clarified in this Code Amendment. These are being replaced by a new definition of Short Term Rental, which more accurately describes these uses.
- **Permissibility in Residential Zoning Districts:** The R1, R2, R2A and R3 Zoning Districts would be amended to add a caveat that Short-Term rentals are permitted per the requirements of Section 6-3-5(B), Accessory Structures and Uses.

Note – Three of six Zoning Board members have notified Staff they will not be available for the September 8th Zoning Board meeting. Although there is sufficient attendance for a Quorum to hold a meeting, there will not be sufficient attendance to vote on the proposed amendment. Therefore, Tuesday night's meeting will function as the required Public Hearing and a workshop session, to enable revised language to be prepared for a vote on October 14th.

Recommendation:

Hold the **Public Hearing** and provide feedback and direction to Staff regarding proposed Draft Code Amendments for further consideration at the October 14th Zoning Board meeting.

Reports and Documents Attached:

- Draft Section 6-3-5, Accessory Structures and Uses, of the Lincolnshire Zoning Code.

Meeting History	
Preliminary Evaluation (COW):	July 27, 2015
Current Zoning Board Public Hearing:	September 8, 2015



- APPROVED** Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, September 8, 2015, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL.
- PRESENT:** Members Bichkoff, Brady and Kalina.
- STAFF PRESENT:** Steve McNellis, Community & Economic Development Director.
- ABSENT:** Chairman Manion, Members Leider and Van de Kerckhove and Trustee McDonough.

CALL TO ORDER: **Member Kalina** called the meeting to order at 7:02 P.M.

Director McNellis noted **Chairman Manion** was absent this evening, so the Zoning Board would need to elect a Chairman Pro Tem. In speaking with Staff, **Chairman Manion** requested **Member Kalina** serve as Chairman Pro Tem, as he is the next most senior member of the Zoning Board.

Director McNellis requested a vote of the Zoning Board to consider Member Kalina to serve in the role of Chairman Pro Tem. **Member Bichkoff** moved and **Member Brady** seconded appointment of **Member Kalina** as Chairman pro Tem. The temporary appointment was approved unanimously.

1.0 ROLL CALL

The roll was called by **Director McNellis** and **Chairman Pro Tem Kalina** declared a quorum to be present.

2.0 APPROVAL OF MINUTES

2.1 Approval of the Minutes related to the Rescheduled Zoning Board Meeting held on Thursday, August 13, 2015.

Member Brady moved and **Member Bichkoff** seconded the motion to approve the minutes of the Regular Meeting of the Zoning Board, as submitted. The motion passed unanimously by voice vote.

3.0 ITEMS OF GENERAL BUSINESS

3.1 **PUBLIC HEARING** regarding Text Amendments to Chapter 3, General Zoning Regulations, Chapter 2, Zoning Definitions, Chapter 5, Residence Districts, and associated cross-references, in Title 6 - Zoning of the Lincolnshire Village Code, to amend and introduce new regulations governing short-term rental of residential property (Village of Lincolnshire).

Chairman Pro Tem Kalina recessed the Zoning Board meeting and opened the Public Hearing.

Director McNellis presented Staff's memorandum and summarized what the Village Code currently does and does not permit. He noted there had been an issue recently with a resident operating an Air BnB service. These types of short-term uses are not permitted by the Village Code, however, the current language in the Code is not necessary clear to the average person who may consult the Code. He noted this issue, and potential Code Revision remedies were discussed with the Village Board at their July 27th meeting, where it was subsequently referred to the Zoning Board for consideration.

Director McNellis stated Staff has worked on proposed Code language with the Village Attorney, who believes the most appropriate place to house these regulations is under the Accessory Structures section of the Zoning Code. He noted cross-references have also been added in the Residential Zoning District requirements to help make it more clear and obvious to the average reader consulting the Code where the specific regulations related to the permissibility of short-term rentals are housed. Director McNellis concluded his summary.

Chairman Pro Tem Kalina noted since this is a Public Hearing he would ask for any comment from the public in attendance. There being no comment, with no one present in the audience, Chairman Pro Tem Kalina closed the Public Hearing and reconvened the Regular Zoning Board meeting and sought comments from the Zoning Board.

Chairman Pro Tem Kalina noted he is all for changing the Code to prohibit Air BnB type uses, as he believes it makes sense. He wondered what recourse we currently have. **Director McNellis** noted that presently it's difficult to shut-down such a use immediately as the Courts would likely see our existing Codes as a little vague. The idea would be to make the Code more clear and obvious, and combine that with a concerted effort to "advertise" to the Public that short-term rentals like Air BnB are prohibited via the Village Newsletter, website, e-blasts, etc. This all helps make the Village's intentions clear and can help considerably if a violation needs to go to Court.

Member Brady asked why there is an objection to these types of uses. **Chairman Pro Tem Kalina** answered that for him, the concern is an online marketplace where you have no idea who's coming into a neighborhood. **Member Brady** countered that while he agrees with that concern, a longer rental still doesn't guarantee you know who you're getting as a neighbor. He further noted the only thing he'd like to change is removing the limitation on only one rental per year. He believes the Village is over-reaching with that requirement. **Chairman Pro Tem Kalina** noted it is a point well-taken. He further agreed if a Renter leaves after a 6-month rental, the property owner should be able to rent to another individual for another 6-months. He believes the ultimate goal here is simply to eliminate nightly or weekly rentals.

Member Brady stated he believes daily or weekly rentals should be separate from monthly and should be prohibited. **Member Bichkoff** noted it's about the character of the community, which is family-based and not transient in nature.

Member Brady stated if he has to move and can't sell his house, he'll need to rent it and he doesn't believe this Code should interfere with that. He went on to state he believes this Code should separate Air BnB users from longer-term rentals. **Director McNellis** noted a clarification that if you rent your home for 12 months and someone leaves in the middle of that lease term, you can still rent again for another 12-month lease.

Member Brady inquired as to what happens if he can only find Renters willing to enter into 3-month leases. He believes at a certain point you have to leave it to the Homeowner. He further questioned if maybe the threshold for prohibition should be less than 1-month. **Director McNellis** noted the Village Board's unanimous direction at referral was for a 3-month minimum rental period. **Chairman Pro Tem Kalina** noted while he felt Member Brady had brought up some great points, he still believes a 3-month minimum is reasonable. He further noted he does believe the prohibition on one rental per year should be removed and an owner should be able to rent as many times as they want as long as the 3-month minimum rental period is met.

Member Brady inquired what would happen if someone rents for a 12-month period and then desires to go on to a month-to month lease at that same property. A scenario could be that you are having a house built in Lincolnshire, you're renting in the community while the house is built, and it goes beyond the scheduled completion date and you need more time. With this Code as proposed, you would be out of luck. **Member Bichkoff** noted that is a good point, and inquired of Staff if a lease could be extended under those circumstances. **Director McNellis** stated his agreement in that month-to-month leases are a roll-over of the same tenants, so the transient concerns are lessened.

Member Brady reiterated his concern that rentals of a month or more should be treated differently from Air BnB type uses. **Director McNellis** stated that ultimately, the bottom line is if renting becomes a business, it should be secondary to single-family residential ownership. **Member Brady** noted if the Village has too firm and broad a set of restrictions it could be an over-reach. He believes there should be caveats for residents who really need the ability to rent their house. **Chairman Pro Tem Kalina** agreed with Member Brady. He further noted he is not a supporter of Air BnB uses and believes there is no place for that type of use in the Village's residential community. He believes Member Brady has a valid point that there must be language allowing rentals for someone who is in a position where they need to do this.

Member Bichkoff asked the Zoning Board what they would think about a flat 6-month rental period, with no other restrictions? **Member Brady** asked about a scenario in which you only needed to rent for three months and were then held to a 6-month rental period. He further noted the housing market is still tough, with many homes still under water. If you had to sell your house now, you might strongly considering renting it until the market comes back, so you can get more equity out of it. **Chairman Pro Tem Kalina** noted he would go as short as one-month rentals being permitted. **Director McNellis** asked if the Zoning Board could find a compromise between all the issues discussed tonight?

Member Bichkoff asked if anyone ever signs 90-day leases? To which **Member Brady** noted he has relocated many times and people do want rentals for 90-days as that can be the amount of time you're waiting on new home construction or an addition or remodel to be finished. **Member Bichkoff** inquired if Member Brady was implying that he would be ok with four 3-month leases in a year, with added permissibility for a month-to-month roll-over of an existing lease? **Member Brady** stated whether someone rents for 3-months or 2-years , you still don't know who you're getting living next to you if you're a neighbor unless the Village requires a background check. There was no consensus from the Zoning Board favoring required background checks.

Director McNellis summarized the concerns of the Zoning Board voiced at tonight's meeting and stated Staff would work with the Village Attorney to prepare revised Draft Code language. He thanked the Zoning Board members for their comments.

There being no further comments, **Chairman Pro Tem Kalina** noted this matter will return for additional consideration at the next Zoning Board meeting.

- 4.0 UNFINISHED BUSINESS (None)**
- 5.0 NEW BUSINESS (None)**
- 6.0 CITIZENS COMMENTS (None)**
- 7.0 ADJOURNMENT**

There being no further business, **Chairman Pro Tem Kalina** sought a motion for adjournment. **Member Brady** moved, and **Member Bichkoff** seconded the motion to adjourn. The meeting adjourned at 7:36 p.m.

Minutes Submitted by Steve McNellis, Community & Economic Development Director.

**REQUEST FOR BOARD ACTION
Zoning Board
October 14, 2015**

Subject:	Text Amendments to address Short-Term Rental of Single-Family Residential Property
Action Requested:	Continued discussion regarding Text Amendments to Chapter 3, General Zoning Regulations, Chapter 2, Zoning Definitions, Chapter 5, Residence Districts, and associated cross-references, in Title 6 - Zoning of the Lincolnshire Village Code, to amend and introduce new regulations governing short-term rental of residential property.
Originated By/Contact:	Steve McNellis, Director Department of Community & Economic Development
Advisory Board Review:	Zoning Board

At the September 8th meeting, the Zoning Board conducted a Public Hearing regarding the regulation of Short-Term Rentals on residentially-zoned property. Draft Ordinance language was discussed and the Zoning Board requested Staff consider revisions to address the following concerns:

- 1) **Limitation on Number of Rentals Annually:** The Zoning Board discussed, and was strongly in favor of, eliminating the previously-proposed draft language limiting the number of rentals per year to one, (regardless of whether that rental period was three months, twelve months or anywhere in between). The three-month minimum rental requirement would remain in place, permitting a maximum of 4 three-month rentals annually. ***The limitation on one rental annually is shown crossed-out on the attached Draft and would be removed if this is the Zoning Board's consensus.***
- 2) **Month-to-Month Lease Extensions:** The Zoning Board recommended existing leases be permitted to continue past the initial lease period on a month-to-month basis, in light of the fact this would be a continuation of an existing tenant's residency and would actually decrease the transient nature of the property. ***A new bullet point is added permitting month-to-month leases as an extension or "roll-over" of an existing lease.***
- 3) **Rental of Unoccupied Property:** The Zoning Board had considerable discussion regarding a way to distinguish between a property that is being used for a rental business and one in which a homeowner seeks the ability to rent due to circumstances beyond their control (relocating and unable to sell, mortgage is underwater, etc.). Staff is concerned that distinguishing between a rental for business reasons and a rental to provide an owner economic peace of mind is a difficult proposition. In addition, the reason for the rental does not necessarily change the end result, which could be a frequently-changing transient population. ***The Village Attorney provided the following draft language as a possible way to address this concern, should the Zoning Board wish to pursue such a distinction:***

In the interest of promoting property maintenance and the preservation of property values, and to prevent the risk of criminal activity at abandoned property, a property owner who certifies to the Village that his/her Single Family Dwelling has been unoccupied for not less than 120 consecutive days may

register such property with the Department of Community and Economic Development and lease that Single Family Dwelling for not less than one month terms. Such owners shall have a duty to renew such registration semi-annually and notify the Department when the property becomes occupied by a successor owner.

- 4) Consider Multi-Family Residential restrictions:** While the Zoning Board didn't previously discuss the details of the residential districts to be covered by the proposed Short-Term rental requirements, Staff believes this matter warrants further deliberation. The proposed Draft Code language regulates Short-Term rentals in all single-family residential zoning districts, including: R1, R2, R2A and R3 zoning districts. The two multi-family residential districts: R4, Attached Residential (townhouse communities such as Heritage Creek, Woodcreek Courts, etc.) and R5, Mixed Use Residential (including the Village Green condominiums) were not initially included as Districts regulated by this proposal. Staff sees a difference in this residential use type in that Condo/Townhouse Homeowner Associations and Apartment Landlords can also tackle this issue if there were a problem, while residential neighborhoods have only the Village to rely on for regulation. However, it would be more uniform to include all residential zoning districts in these regulations. ***So, Staff has added the R4 and R5 Residential Zoning Districts to the list of those regulated by this proposed Draft Code language.***

Recommendation:

Approval of text amendments to the Lincolnshire Zoning Code to amend and introduce new regulations governing short-term rental of residential property, as presented in Draft Code language attached to this memorandum, with the following revision:

- 1) Removal of the prohibition on more than one rental in a 12-month consecutive period.

Motion:

Having made findings based on facts covered in a Public Hearing held on September 8, 2015, the Zoning Board recommends approval to the Village Board of amendments to Sections 6-2-2, 6-3-5, 6-5A-1(H), 6-5B-2(G), 6-5C-2 and 6-5D-2 of the Lincolnshire Zoning Code to amend and introduce new regulations governing short-term rental of residential property, as recommended in Staff's memorandum, and further subject to. . . .

{Insert any additional conditions or modification desired by the Zoning Board}

Reports and Documents Attached:

- Draft Section 6-3-5, Accessory Structures and Uses, of the Lincolnshire Zoning Code.
- Staff Memorandum, Dated September 8, 2015.
- Attachment submitted by NSBAR

Reports and Documents Attached:

Meeting History	
Preliminary Evaluation (COW):	July 27, 2015
Zoning Board Public Hearing:	September 8, 2015
Current Zoning Board Consideration	October 5, 2015



APPROVED Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Wednesday, October 14, 2015, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL.

PRESENT: Chairman Manion, Members Bichkoff, Kalina and Van de Kerckhove.

STAFF PRESENT: Steve McNellis, Community & Economic Development Director.

ABSENT: Members Brady and Leider and Trustee McDonough.

CALL TO ORDER: **Chairman Manion** called the meeting to order at 7:00 P.M.

1.0 ROLL CALL

The roll was called by **Director McNellis** and **Chairman Manion** declared a quorum to be present.

2.0 APPROVAL OF MINUTES

2.1 Approval of the Minutes related to the Rescheduled Zoning Board Meeting held on Tuesday, September 8, 2015.

Member Van de Kerckhove moved and **Member Bichkoff** seconded the motion to approve the minutes of the Regular Meeting of the Zoning Board, as submitted. The motion passed unanimously by voice vote.

3.0 ITEMS OF GENERAL BUSINESS

3.1 Continued discussion regarding Text Amendments to Chapter 3, General Zoning Regulations, Chapter 2, Zoning Definitions, Chapter 5, Residence Districts, and associated cross-references, in Title 6 - Zoning of the Lincolnshire Village Code, to amend and introduce new regulations governing short-term rental of residential property (Village of Lincolnshire).

Director McNellis presented Staff's memorandum and summarized the proposed Draft Ordinance language. He noted what the Village Code currently does and does not permit. He noted there had been an issue recently with a resident operating an Air BnB service. These types of short-term uses are not permitted by the Village Code, however, the current language in the Code is not necessary clear to the average person who may consult the Code. Director McNellis further noted there was a Public Hearing at the September 8th Zoning Board meeting, at which there were no members of the public present and no one testified. The Public Hearing was subsequently closed.

As requested, **Director McNellis** began to summarize the proposed revisions, beginning with the three-month minimum rental period. He noted there was a lot of discussion at the last meeting. Staff continues to believe this 3-month minimum rental period is appropriate. The Village Board also seemed to be agreeable to that timeframe when the code revision was referred.

Director McNellis discussed a proposed caveat to the three-month minimum rental regarding permissibility of a month-to-month extension for an existing lease. This was discussed at the last meeting by Member Brady. Director McNellis noted that if the concern is about the transient nature in a neighborhood, and if a permissible length of rental occurs, but a situation happens where someone has to extend month-to-month, if say perhaps a home under construction isn't finished, then an extension wouldn't make that property any more transient as it would be the same person that was living in the house for the previous rental period simply extending their time. Staff agrees this is a reasonable change to the Draft Ordinance. Members Bichkoff and Kalina agreed.

Chairman Manion noted he works in an industry that finances apartment buildings and he finds that lease extensions are typical. He agrees this reduces the transient nature of a property, so he believes it seems very reasonable to permit it.

Director McNellis noted the crossed-out bullet point on the current draft was in the previous draft in September, and previously stated that single-family dwellings shall not be rented more than once in a 12-month period. This was the direction from the Village Board that regardless of the lease time frame, there should be only one rental per year. There was much discussion at the last Zoning Board meeting about whether or not that was appropriate. Some Zoning Board members were ok with the minimum 3-month rental period, but believed there should be no further limitations, which should allow you to do up to 4 rentals per year.

Member Kalina praised Member Brady for noting the scenario in which someone was in a distressed financial situation, perhaps with two mortgages, and needed to rent their property, he wondered if it should really be up to the Village to mandate a one rental per year maximum. Member Kalina said he felt it does make sense to allow more than one per year.

Member Bichkoff recounted the discussion was about if you were in this dire situation and you could only find someone for perhaps six months, you'd be prohibited from leasing again, losing 6 months of rental income. He recalled that Member Brady was pretty adamant that this was not a good idea.

Chairman Manion inquired of Staff if they know how many people rent their homes. To which **Director McNellis** answered that Staff has no way of knowing, as we don't require rentals to register with the Village. **Chairman Manion** noted that even most large condo buildings wouldn't allow rentals for less than 12 months initially, and he doesn't see the difference here. **Member Kalina** stated, however, that if you're in a large condo building or high-rise you're all walking in the same entrance, whereas in Lincolnshire we have nice large yards, so perhaps the impact is even greater in a condo building than single-family residential. **Chairman Manion** noted regardless it's the same in that it's a community and however you define community, it doesn't matter whether it's a high-rise or single-family homes. Having said that, Member Brady had a good point and I'm trying not to limit rentals. **Member kalina** noted he agrees that rentals for a day, night or week should not be permitted, but he inquired as to what the Zoning Board is really trying to do by limiting the rental period minimum to 3-months. He wondered what it is we are really trying to prevent by such a long minimum rental period.

Director McNellis stated the Village Board appeared to agree that single-family neighborhoods are for single-family residential. The real concern is permitting a transient

nature to form in the Village's neighborhoods. The expectation of the Village is that on a longer-term basis the same people will be living in each area. The expectation is that single-family neighborhoods will remain stable. The more rental periods you add, the greater potential the neighborhoods become more transient.

Member Kalina agreed that the Village does need to protect the homeowners to a degree, but if someone were to have an economic hardship, he wants to be sure that the Zoning Board looked at all the angles.

Chairman Manion noted that apartments, in general, all require a 12-month lease to start. Very few apartments can be gotten for less. Even apartment dwellers don't want a transient nature to their building. He believes that to allow someone to rent their house for three months is more than reasonable, and he reiterated in the world of apartments, its very common that the rental period is a minimum of 12-months initially.

Member Kalina stated he believes the main question here is how many 3-month rental segments the Village should permit per year. **Chairman Manion** noted that with the previous proposal if you have a 3-month rental and that person leaves and you want to rent again, you couldn't re-rent it that year. But now you're saying there could be up to four 3-month rentals per year? **Director McNellis** noted that was the direction of the Zoning Board at the end of the September meeting. Staff's position is we thought one rental per year would be appropriate, but the Zoning Board at the last meeting felt strongly one rental was not enough. Further, the Zoning Board noted they are an advisory body and should pass on a recommendation they believe is appropriate. If the Village Board disagrees, they can always over-ride that recommendation.

Member Kalina stated he would like to limit the number of rentals to two in a 12-month period. Chairman Manion stated he felt four times a year is excessive, but 2 times seems more realistic. He further inquired of Staff what would happen if the Village changes the Code to 2 times a year, and someone wants to do it 3 times a year. **Director McNellis** stated if the Code is twice per year and we learn someone has more than two leases, we'd notify them they weren't in compliance and undertake a legal process.

Member Kalina stated he thinks of the financial hardship that is involved if someone is relocated and has to sell their house. What if you get a bad tenant and don't renew a lease with them? If its once a year, you're out of luck for the next 9 months. **Chairman Manion** noted that at some point the use becomes transient. He stated two rentals per year is the permissibility he believes the Village should consider.

Member Van de Kerckhove stated someone could go away for the Winter for three months and would like to rent for the period of time they're gone. Would that work? **Chairman Manion** answered that three months would be the minimum and you could do it two times a year, so that would work. He believes this reasonably maintains property rights for a homeowner. He further inquired what it is the Village is trying to accomplish here? He believes its to limit the transient nature of renting and he believes two rentals per year does that. He asked if the rest of the Zoning Board was in agreement with this, to which there was a consensus of agreement.

Director McNellis continued to summarize the regulations contained in the Draft Ordinance. He noted the section of the Ordinance regarding the owner's responsibility for violations on a property, unless it can be shown that the owner tried and failed in good faith to remedy a situation. He noted the Village Attorney stated this caveat is

typical in most Village Codes. **Director McNellis** also noted that temporary structures, like treehouses, cannot be rented. He further noted there is a new proposed definition in the Code and the permissibility of short-term rentals will be prominently cross-referenced in each residential Zoning section of the Code. He asked the Zoning Board if they wanted to include R4 (Townhouse) zoning district and R5 (mixed-use) zoning district in these regulations and permissibility's. **Chairman Manion** asked if there were any for-rent professionally-managed apartment buildings in the Village, to which Director McNellis answered there is one on Apple Hill Lane at Rt. 22.

Chairman Manion asked if condo buildings would then get added-in to the areas regulated by this proposed Code amendment? **Director McNellis** answered yes, but asked the Zoning Board to keep in mind that multi-family developments are usually protected by Landlords and Homeowners Associations whereas single-family development is protected only by Village regulations.

Member Bichkoff asked why we would be inconsistent, when we're trying to make the Code more clear? As such, he believes all zoning districts, single or multi-family, should be included. **Member Van de Kerckhove** stated if the multi-family properties are being governed by a condo HOA, let's let them enforce it. **Chairman Manion** stated he believes all Village residential properties should be subject to the same regulations in this regard. **Director McNellis** noted this is a good point, as there could be some confusion about some residential being treated one way and others being treated a different way. **Member Kalina** noted that an AirBnB use in a condo building could, in many ways, be even more disruptive than in a single-family home.

Director McNellis continued on and stated he would conclude his remarks by asking the Zoning Board to consider Member Brady's position that they should look at language that would differently define rental property as a business versus rentals because of economic hardship a particular owner might have. He noted he spoke with the Village Attorney and they both agreed that this continues to be problematic. The Village would have to register them and show proof of hardship. He also believes what the Zoning Board has agreed to tonight allows for those situations anyway.

Member Kalina gave credit to Member Brady for introducing the thought process on this, but he ultimately agreed that we don't need to separately define the two different situations.

Director McNellis noted there is a member of the public present in the audience who may wish to address the Zoning Board. This isn't a Public Hearing, but the Zoning Board certainly can permit comments from the audience. **Mr. Howard Handler** of the Illinois Association of Realtors and NorthShore Barrington Association of Realtors, located at 450 Skokie Boulevard in Northbrook, provided commentary about how the Realtors Association is looking at this. He stated they're formulating their position and are happy the Zoning Board is balancing private property rights and the needs of the community. He also mentioned Evanston's experience in dealing with this issue. He stated he would strongly recommend a stipulation that Evanston used in which "rent-back" options are considered. This occurs when someone sells their property and can't move out, so they rent it back from the new owner for a few weeks or other specified period of time. He further stated he is not at the meeting to oppose the proposed Village ordinance, only to send the message that the Village may want to consider an ordinance that is least restrictive, but still accomplishes your goals.

Member Kalina inquired what is the real interest of the Illinois Association of Realtors? **Mr. Handler** responded they have no interest in AirBnb whatsoever, and their interest is solely in private property rights and real estate. He noted the Association also wants to be a resource. He further noted that a 3-month minimum rental could make it difficult for a homeowner to rent their house, which could create a hardship, especially if they need the income. The Zoning Board thanked Mr. Howard for his comments.

Chairman Manion asked if its common that people have to rent back their homes after a sale. **Member Kalina** stated Mr. Handler made a good point. We're building a Code to prevent the negative element, but this wouldn't be a problem. He conjectured that in many cases, though, the Village will never even know if someone is going beyond the parameters of the code. **Mr. Handler** noted if you do want to permit something, you shouldn't be silent on it just because no one will complain if its going on. The problem is if someone wants to follow the law and they look in the Code and don't see the permissibility to do something, they won't try to do it. In that way, they'll be deprived of an opportunity.

Director McNellis stated the Village's single-family residential property is intended for longer-term residency and the Village is not interested in seeing a lot of turnover. He further stated the Village should be looking at how far things are opened up and the negative that could come if its opened too far.

Chairman Manion noted there are plenty of options for people to rent for shorter periods. There are plenty of hotels in the area. **Member Bichkoff** agreed with the rent-back option after a sale. He noted if he sold his house he'd like to think this was a viable option. He stated he thinks this caveat would be a good "carve-out". **Member Van de Kerckhove** agreed.

Chairman Manion noted he believes a three-month minimum rental is already a huge concession. He stated he believes the Zoning Board agreed to two caveats in the motion, but agreed with everything else Staff presented to them. The Zoning Board agreed with this assessment.

Member Kalina noted he could go less than a 3-month minimum, as even 1-month would effectively eliminate AirBnB, but he's fine with keeping the 3-month minimum.

The Zoning Board did not have any further questions or concerns.

There being no further comments, **Chairman Manion** sought a motion from the Zoning Board.

Member Kalina moved and Member Van de Kerckhove seconded a motion to recommend approval to the Village Board, based on facts covered in a Public Hearing held on September 8, 2015, of amendments to Sections 6-2-2, 6-3-5, 6-5A-1(H), 6-5B-2(G), 6-5C-2 and 6-5D-2 of the Lincolnshire Zoning Code to amend and introduce new regulations governing short-term rental of residential property, as recommended in Staff's memorandum, and further subject to; 1) No more than two rentals may be permitted per 12-month period, and 2) It is permissible for a seller of a property to rent-back that property for a period of time less than 3-months, after its sale.

The motion passed unanimously by voice vote.

- 4.0 UNFINISHED BUSINESS (None)**
- 5.0 NEW BUSINESS (None)**
- 6.0 CITIZENS COMMENTS (None)**
- 7.0 ADJOURNMENT**

There being no further business, **Chairman Manion** sought a motion for adjournment. **Member Kalina** moved, and **Member Van de Kerckhove** seconded the motion to adjourn. The meeting adjourned at 8:03 p.m.

Minutes Submitted by Steve McNellis, Community & Economic Development Director.

OVERVIEW OF SHORT-TERM RENTAL REGULATIONS

WHAT IS SHORT-TERM RENTAL HOUSING?

The term “short-term rental housing” typically means a dwelling unit that is rented for a period of less than thirty consecutive days. In general, short term rental housing differs from bed & breakfasts, hotels, motels, and other lodging uses by providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Although bed & breakfasts often are similar in appearance and location to many short-term rentals, they are distinguishable by the presence of the owner/operator onsite. Boarding houses differ from short-term rentals by having multiple rooms or units for rent and common kitchen and dining facilities that are shared by the occupants; boarding houses also tend to be less transient than short-term rentals. Similarly, hotels and motels are distinguishable from short-term rentals by having separate entrances, an on-site management office, and multiple rooms for rent by multiple parties. In some communities, short-term rental housing may be referred to as vacation rentals, transient rentals, or resort dwelling units.

WHY DO PEOPLE CHOOSE SHORT-TERM RENTAL HOUSING?

It is undeniable that, like Uber and other market disrupters, short-term rental housing is fulfilling a market demand. In 2012, 12 percent of Americans stayed in short-term rental housing and the number is growing. In just August 2015, more than 17 million people throughout the world stayed at an Airbnb listing (this figure does not even include listings on other sites). Short-term renters are attracted to the extra living space, lower rates than hotels, and better amenities – short term rentals have been cited as being about 50 percent per square foot less expensive than hotels.

Short-term rentals are used for more than weekend jaunts. They serve a broad variety of needs including providing housing for families renovating their home, people in-town for business, patients and their families in-town for extended medical care, out-of-town relatives visiting family for an extended period of time, families that had to vacate their home but are unable to move into their new home, and much more.

WHY DO PEOPLE RENT THEIR PROPERTY ON SHORT-TERM BASIS?

The money generated by short-term rentals is most often viewed by hosts as extra spending money or supplementary income that the host relies upon. In many cases, the supplementary money is used to make home improvements. In other more extreme cases, property owners are experiencing significant financial hardship and are renting out their house to pay the mortgage or put food on the table.

TYPES OF SHORT-TERM RENTAL RESTRICTIONS

1. **No restrictions.** The vast majority of municipalities have not adopted any short-rental regulations.
2. **Prohibition.** This approach prohibits, community-wide, short-term rentals.
3. **Geographically-based restrictions.** With this option, short-term rentals are allowed within certain zoning districts or neighborhoods.
4. **Quantitative restrictions.** This restriction places a limit on the number times a property may be rented for short-term occupancy. For example, Santa Fe limits short-term rentals, per dwelling, to a maximum of 17 rental periods per calendar year and no more than one rental within a seven consecutive day period. Evanston caps their short-term rentals, per dwelling, to one per year (there is a rigorous licensing process for those that seek to do so more often).

Quantitative restrictions provide the greatest balance between protecting private property rights and preserving neighborhood harmony.

Registration or licensing requirements are frequently adopted in communities that have opted to allow short-term rentals but want some regulation. Registration/licensing requirements may include maximum occupancy limits, parking requirements, required postings, mandatory designated representatives, etc. Registration/licensing is commonly not imposed on those that infrequently rent their property on a short-term basis. For example, Evanston only requires a license for properties that seek to rent their property on a short-term basis more than once a year.

The U.S. Conference of Mayors warns that “onerous regulations of short-term rentals can drive the industry underground, thus evading local regulations.”

The U.S. Conference of Mayors in 2012 unanimously adopted a resolution that “urges support for economic development opportunities through the visitors industry by encouraging regulations of the short-term rental industry” that identify property owners, make any tax collection and remittance obligations clear, and treat short-term rental tenants the same as long-term rental tenants. “Regulations that accomplish all three can achieve a high level of compliance, and are highly effective.”

Often, communities will create exemptions to their short-term rental regulations. Exemptions can include:

1. **A rental agreement in conjunction to sell the house.** This exemption primarily is intended to legalize the very common occurrence of “rent-backs” in which an owner sells their house, is temporarily unable to move into their new home, and rents their home back from the new owner. This exemption could be extended to anyone that is under contract on a house (even if the short-term rental is not related to the contract) but have yet to close and are in need of

housing -- this could be applied to only those that are under contract in relation to a home in the community or a neighboring community.

2. **Displacement.** An exemption can be created for those that are displaced from their own home due to renovation or repair. For example, if family is temporarily displaced from their home due to a fire and are seeking short-term living arrangements during the repair, they would have the ability to rent a nearby house for a few weeks. Again, this exemption could be applied to those that are pre-existing members of the community or a neighboring community.
3. **Demonstratable hardship.** A community should consider if they want to make allowances for those experiencing financial hardship. This exemption may make the difference to prevent a property from falling into foreclosure, or even putting food on the table.
4. **Medical treatment.** This exemption could be provided to individuals and their families that are travelling to the Chicago-area for medical treatment; a doctor's note could be required.
5. **Professional relocation.** This exemption could be granted in cases where individuals have been temporarily relocated in-town for business purposes; a letter from a business located in-town or a nearby community.
6. **Apartment buildings, condominiums, and homeowner associations.** The rationale for exempting apartment buildings, condominiums, and homeowner associations is that the owner or association is empowered to implement regulations if short-term rentals become disruptive whereas single-family property owners cannot dictate the actions of their neighbors.
7. **Catch-all.** This exemption recognizes the inherent right to make use of one's property without unduly burdening neighboring properties. A free, no-questions-asked exemption once, twice, or more per year can be a reasonable balance.

SUMMARY

In adopting any short-term rental policies, municipalities should consider the minimum amount of regulation necessary to achieve the community's goal without unnecessarily depriving property owners of their rights. If homes being rented, day-after-day, night-after-night are disruptive to the community, consider allowing property owners to rent out their property just once or twice a year which would end the problematic activity. A municipality can always revisit and amend an existing ordinance. In Evanston, opponents of allowing any short term rentals argued that short-term rentals would disrupt neighborhood harmony and introduce criminals and sexual predators into residential neighborhoods, but more than two years later after minimal regulations were adopted that allow some short-term rentals city officials report that they are not receiving resident complaints.

The North Shore – Barrington Association of REALTORS® (NSBAR) is the area's leading private property advocate and the recognized voice for real estate. NSBAR, along with affiliated REALTOR® associations, is a strong advocate for a healthy business environment and a resource for its members to deliver ethical and professional services to the public and to one another. With 1.1 million members, REALTORS® are the largest trade association in North America; NSBAR represents approximately 3,600 members. The views expressed within may or may not reflect the view of each and every member.

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