

**BOARD OF TRUSTEES
VILLAGE OF WARWICK
DECEMBER 2, 2024, 6:00 P.M.
WORK SESSION**

10,400

The Work Session Meeting of the Board of Trustees of the Village of Warwick was held on Monday, December 2, 2024, at 6:00 p.m. in Village Hall, 77 Main Street, Warwick, NY. Present was: Mayor, Michael J. Newhard. Trustees, Barry Cheney, Thomas McKnight, and Mary Collura. Also, present was Deputy Village Clerk, Jennifer Mante and Village Attorney, Stephen Gaba. Absent was Trustee, Carly Foster.

The Mayor called the meeting to order and led in the Pledge of Allegiance.
The Deputy Village Clerk held the roll call.

Discussion

1. Proposed Local Law – Short-Term Rental Property.

Mayor Newhard opened the work session on December 2, 2024, to discuss the proposed local law regarding short-term rental properties. He invited Village Attorney Stephen Gaba to provide guidance on the topic but first prefaced the discussion by noting that the Village had conducted multiple open public hearings on the matter. These hearings yielded a variety of public responses and suggestions.

Mayor Newhard explained that the goal of the session was to review these ideas and determine whether they are practical and beneficial or whether they would not be effective in addressing the issues at hand.

Village Attorney Stephen Gaba addressed the Board, bringing up the first outstanding issue regarding the proposed short-term rental law. He reminded the Board that prior to public comments, there was a discussion about whether permits and renewals should be issued for one year or two years. He noted that while the draft presented at the public hearing leaned toward one-year terms, the Board had not firmly decided on this matter.

Mr. Gaba added that, based on his review, no public comments specifically addressed the duration of permits. He suggested that if the Board had differing opinions on this issue, it might be a good starting point for the discussion.

Trustee McKnight expressed his opinion that a one-year permit and renewal term would be too burdensome both for the administration and for applicants. He suggested that a two-year term would be more appropriate and manageable.

Mayor Newhard agreed with Trustee McKnight, noting that short-term rental permits and renewals are distinct from larger-scale businesses with constant transient traffic. He emphasized that short-term rentals are typically home-based, with fluctuating levels of activity, and suggested that a two-year term would be more practical. He highlighted that the administrative workload for the Building Department is already significant, and adding this responsibility would be a considerable task.

Mayor Newhard expressed hope that the department would manage its time effectively without being overwhelmed. He also noted that the policy could be revisited if issues arise and reminded the Board that the ordinance grants the Building Inspector authority to revoke permits if necessary.

Trustee Cheney noted that the Village's current bed and breakfast regulations do not mandate specific inspection requirements, implying that such inspections would default to existing state standards. He expressed no objection to initiating the short-term rental permits with a two-year term, reasoning that significant safety issues are unlikely to develop rapidly in owner-occupied dwellings. He emphasized that the primary purpose of inspections is to ensure safety and indicated his comfort with a two-year permit duration.

Village Attorney Stephen Gaba addressed a comment received from Patrick Gallagher regarding the requirement for short-term rental agents to respond within 30 minutes of being contacted. Mr. Gaba acknowledged the concern about how the Village would ensure that agents could meet this requirement, particularly given the absence of a residency requirement.

Mr. Gaba explained that compliance would be determined based on actual response times. If an agent fails to respond within the required timeframe, it would constitute a permit violation. In such cases, the Building Inspector could initiate steps to revoke the permit, requiring the property owner to appear before the Village Board to explain the failure. Mr. Gaba noted that property owners might designate multiple agents or work with professional agencies to ensure compliance, as previously suggested by Trustee Collura. He added that the Board might consider excusable circumstances, such as emergencies or unforeseen events, but a lack of preparation or consistently failing to meet the response requirement would jeopardize the permit. He invited the Board to discuss whether any changes to the agent response requirements were needed.

Mayor Newhard agreed with Mr. Gaba, noting that the issue of agent response times had been thoroughly discussed over multiple meetings. He concurred that if an agent fails to respond within the required timeframe, it would become evident through a complaint or report. He affirmed confidence in the process and supported addressing such issues as they arise.

Stephen Gaba addressed another comment from Patrick Gallagher, which proposed an exemption from the local law for seniors who own and occupy or supervise short-term rentals in homes with off-street parking. Mr. Gallagher also suggested that the exemption apply to those with a "good background or history," though Mr. Gaba noted that the specifics of this requirement were unclear.

Mr. Gaba expressed concerns about implementing such an exemption, emphasizing the potential challenges of structuring it in a non-arbitrary way. He noted that a narrowly defined exemption, such as for existing operations, could be considered, but verifying which

properties qualify as "existing" could be difficult. Additionally, he questioned what practical benefits the exemption would provide, apart from saving certain individuals the costs and effort of registration. He reminded the Board that they had agreed to consider the suggestion and invited discussion on whether such an exemption should be included in the law.

Mayor Newhard expressed skepticism about the practicality of the proposed exemption for seniors, questioning how the Village could ensure that it would not be misused. He raised the scenario of a property owner potentially exploiting the exemption by involving a relative, such as a grandfather, to falsely claim eligibility by filling out the required form.

Village Attorney Stephen Gaba responded that the proposed exemption would still require the property to be owner-occupied, meaning the owner would need to be listed on the deed. He acknowledged that while it is theoretically possible for someone to transfer title to exploit the exemption, such actions would be extreme and unlikely solely to avoid short-term rental registration. He noted that creating a legal exemption would require significant effort to develop appropriate criteria and define its purpose. Mr. Gaba questioned whether the primary goal was simply to provide a financial or procedural break for seniors already engaged in short-term rentals in the Village, and whether this was sufficient justification for the exemption. He left the matter open for further consideration.

Trustee McKnight highlighted that the proposed local law does not always require short-term rentals to be owner-occupied. He noted that property owners could list an agent as being within the required 30-minute response time, even if this is not accurate, making it difficult for the Village to verify in advance. However, he agreed that any issues would come to light if an agent fails to respond promptly, which would result in a permit violation.

Trustee Collura expressed concerns about beginning the implementation of the short-term rental regulations by granting exemptions or grandfathering existing arrangements. She suggested starting without these measures to better understand how many individuals might be excluded or affected. If a significant number of seniors reliant on rental income emerge, the issue could be revisited later. She argued that immediately introducing exemptions could undermine the purpose of the regulations and recommended a more measured approach to rollout.

Mayor Newhard noted that the fee structure for the proposed short-term rental regulations had not yet been established.

Village Attorney Stephen Gaba clarified that the fee structure would be adopted separately from the local law through a resolution amending the Village's schedule of fees. He noted that the discussion about tiered fees and related considerations would be addressed shortly. He emphasized that the local law itself does not establish fees but instead defers to the Village's fee schedule.

Trustee McKnight commented on the distinction between concerns about fees and resistance to inspections under the proposed short-term rental regulations. He acknowledged that property owners rent out their primary residences to generate income and that any fee, even one assessed every two years, could reduce that income, which may be a concern for some.

On the other hand, he noted that some individuals might object to inspections simply because they do not want Village personnel entering their homes. Trustee McKnight emphasized that this issue relates to public safety, as inspections are necessary to ensure compliance with basic standards, such as having proper bedrooms and functioning smoke detectors. He also pointed out the potential for misuse, such as housing large groups in unsuitable conditions, and underscored the importance of safeguards to prevent such scenarios.

He concluded by questioning whether the primary issue for those voicing concerns is the financial impact of fees or discomfort with inspections, as these are fundamentally separate matters.

Village Attorney Stephen Gaba summarized what he understood to be Mr. Gallagher's position based on his previous comments. Mr. Gallagher, a Village resident who has operated short-term rentals on his property for several years, has received positive reviews and no reported concerns. He questioned why the Village is now introducing inspections, fees, and additional regulations, which he sees as unnecessary interference with his established and successful business.

Mayor Newhard reflected on the purpose of regulations, emphasizing that rules are not made for the best-behaved individuals but to address potential issues caused by the worst. He compared this approach to zoning laws, noting that leniency, while well-meaning, does not establish effective codes. Mayor Newhard shared a memory of Lou Marquette, who once expressed optimism about Warwick Grove's potential and suggested that more leniency might have been beneficial. However, he underscored that the ultimate goal of code enforcement is protection, which requires firm and consistent regulations.

Trustee McKnight acknowledged that Mr. Gallagher appears to be running a well-maintained and problem-free short-term rental operation, which others should aspire to emulate. However, he stressed that public safety necessitates inspections, and a two-year inspection schedule could help minimize any inconvenience to property owners.

Regarding fees, Trustee McKnight pointed out that they are justified due to the administrative effort required to manage the program, including the on-site inspections. He stated firmly that no one should be exempt from safety inspections, as they are essential for ensuring compliance. He also noted that the fees are necessary for the Village to effectively oversee and track the operations of short-term rentals.

Trustee Cheney emphasized that the proposed regulations are being developed for the right reasons and acknowledged that their enforcement and oversight will involve costs. He argued

that these costs should be borne by those who directly benefit from short-term rentals—namely, the property owners operating them. Trustee Cheney reasoned that shifting the burden to the entire Village would unfairly require the majority of residents, who derive no benefit from short-term rentals, to subsidize their regulation.

Mayor Newhard expressed concern about creating exemptions within the short-term rental regulations, noting that delineating who qualifies for exemptions and who does not could lead to a "slippery slope." He cautioned that such measures could result in an uneven playing field and be perceived as preferential treatment or a gift.

Village Attorney Stephen Gaba stated that he would not include the proposed changes related to exemptions in the redlined version of the local law. He then directed the Board to review the comments from the Orange County Department of Planning. To address these comments, he advised the Board to refer to Section 115-5(4)(III) in their copies of the proposed local law for further discussion.

Village Attorney Stephen Gaba addressed a comment from the Orange County Department of Planning regarding Section 115-5(4)(III) of the proposed local law. He clarified that while the comment was advisory and not binding, it raised a valid point about the language in the section. The current wording requires permits to state the number of bedrooms in the residence and "identify any other approved sleeping quarters."

Mr. Gaba noted that while it is theoretically possible to have additional approved sleeping quarters, such as a finished basement or a den with a pull-out bed, this is not something the Village may want to encourage. He recommended removing the word "and" as well as the phrase "identify any other approved sleeping quarters" to simplify the requirement. This change would clarify that only the number of bedrooms in the residence needs to be listed on the application, aligning the language more closely with the intended focus of the law.

Mayor Newhard agreed that the language in the section was too ambiguous and supported clarifying it as suggested.

Trustee Cheney emphasized the need to clarify the language in the law to differentiate between situations where the entire residence is used as a short-term rental and cases where only a portion, such as a separate apartment, is rented out. He noted that the current language seems to assume the entire house is being used for short-term rental purposes, which is not always the case. Trustee Cheney suggested explicitly stating that the number of bedrooms listed should only include those that are part of the short-term rental, to ensure the law accurately reflects these distinctions and avoids confusion.

Village Attorney Stephen Gaba responded by suggesting that the phrase "to be used" could be added to the language to further clarify and define the specific spaces within the residence that are part of the short-term rental.

Trustee McKnight paused the discussion to draw attention to the Town of Warwick's short-term rental code. He noted that it mentions the number of conventional bedrooms in the dwelling, as well as the overnight and daytime occupancy limits for the unit. He pointed out that it does not reference "approved sleeping quarters," prompting him to ask for clarification on where the Board stood regarding the proposed language.

Trustee McKnight questioned whether the Board intended to remove the entire reference to "approved sleeping quarters" or to retain the mention of the number of bedrooms while omitting the rest. He expressed a desire to ensure this aspect of the regulation was thoroughly considered before moving forward.

In a discussion between Trustee McKnight and Village Attorney Stephen Gaba, Trustee McKnight asked whether information about the total number of bedrooms in a building would already be known through property records. Mr. Gaba responded affirmatively but emphasized the importance of including this information directly on the short-term rental application to avoid the need for separate lookups during the review process.

Mr. Gaba clarified that the focus should be on identifying the specific bedrooms within the building that are designated for short-term rental use. For instance, an owner might choose to lock the master bedroom and rent out the other three bedrooms, or, as suggested by Trustee Cheney, there might be an accessory apartment available for rental while the owner resides in another part of the property. Understanding how many and which bedrooms are being used for the rental is critical for accurately assessing the application.

Mr. Gaba concluded by affirming that this clarity is the intent behind crafting the application and ensuring the regulations align with this purpose.

Village Attorney Stephen Gaba addressed a comment from the Planning Board regarding Section 115-3, particularly subsection 3, which raised the question of whether an owner-occupant needs to be physically present during a short-term rental. He noted that the Board's understanding is that the owner does not need to be present, allowing for the entire property to be rented if desired.

Mr. Gaba highlighted that the current language states, "only owner-occupied properties may be used for short-term rentals," which could cause confusion. He referenced the exception for the CB zone (Central Business Zone) and suggested clarifying the language to reflect the Board's intent. Specifically, he proposed adding a sentence to explicitly state that the owner's presence is not required while the short-term rental is in effect. He offered to insert this clarification to ensure consistency and eliminate ambiguity.

Trustee McKnight pointed out that the definition of "owner-occupied" in the proposed law specifies that the property must be a residence in which the record owner or the owner's registered agent resides for no less than six months within a calendar year. He noted that this definition is clear and directly addresses the criteria for owner occupancy.

Village Attorney Stephen Gaba acknowledged Trustee McKnight's point but clarified that the definition of "owner-occupied" does not explicitly state that the owner does not need to be present during the rental period. He suggested that this detail might need to be explicitly added to the language to avoid any potential confusion.

During a general discussion, the group considered adding language to clarify that an owner does not need to be present during short-term rentals. It was suggested that this clarification could be included in the definition of "owner-occupied".

However, concerns were raised that if the clarification is placed only in the definitions section, it might be overlooked. The idea of including it both in the definitions and in the main body of the law was proposed to ensure clarity.

Village Attorney Stephen Gaba addressed a comment regarding the distinction for the Central Business (CB) Zone within the proposed short-term rental law. He explained that properties in the CB Zone are not required to be owner-occupied, and the comment suggested that the rationale for this distinction should be clearly articulated to ensure consistency and transparency. While the law does not require such justification, including it could strengthen the provision and avoid confusion.

Mr. Gaba reminded the Board of earlier discussions where it was agreed that the CB Zone differs from other districts due to its mix of commercial uses and the distinct expectations of property owners and residents in the area. He proposed adding clarification in the "Statement of Purpose" section to address this distinction.

To make the rationale clear, he suggested splitting the Statement of Purpose into two parts: one for general purposes (as Sub A) and another specifically addressing the CB Zone (as Sub B). He offered to draft language based on the Board's prior discussions to explain why owner occupancy is not required for short-term rentals in the CB Zone.

Mayor Newhard agreed with the suggestion to articulate the distinction for the Central Business Zone in the law, describing the comment as astute. He noted that refining the language to clearly define the difference between the CB Zone and other districts would be fair and beneficial for transparency.

Village Attorney Stephen Gaba addressed a comment pertaining to homeowners' associations. He indicated that the provision refers to compliance with state law, suggesting that the language may simply need to ensure alignment with existing legal requirements.

Mr. Gaba explained that this provision addresses scenarios where properties, such as those in subdivisions with shared common elements or condominiums, may have governing homeowners' association (HOA) rules. These rules could impose restrictions or require specific permissions for renting out units, including short-term rentals.

Mr. Gaba clarified that the intent of the section is to ensure that the local law does not override or conflict with the regulations established by a homeowners' association. He referenced the specific language and how it aligns with state law to respect the authority of HOA agreements in governing rental activities within their respective communities.

Trustee Collura read the specific section, "Homeowner association policies and developments within the Village shall supersede short-term rental provisions herein, provided that the homeowner association policies are more restrictive than the terms hereof." This language ensures that stricter HOA rules will take precedence over the Village's short-term rental regulations.

Village Attorney Stephen Gaba discussed the Planning Board's suggestion regarding applications for short-term rentals in properties governed by HOAs. The suggestion was that applicants should provide either permission from the HOA or a copy of the HOA bylaws to confirm that short-term rentals are not prohibited.

Mr. Gaba expressed concerns about the practicality of this approach, particularly the burden it would place on the Building Department to interpret HOA bylaws. Instead, he recommended requiring applicants to submit a notarized statement affirming that their short-term rental complies with their HOA's rules. He noted that this approach shifts the responsibility back to the property owner and HOA to resolve any disputes.

Alternatively, Mr. Gaba suggested the Board could decide not to verify HOA compliance at all, instead stating in the law that HOA policies supersede the local law where they are more restrictive and leaving it to the HOA to enforce its own rules.

Trustee Collura supported the idea of requiring a notarized statement from applicants affirming compliance with their HOA rules. She noted that while cases involving HOA policies may be rare in the Village, having this requirement would ensure that all situations are properly addressed and documented.

Mayor Newhard agreed with the approach, emphasizing that he would not want the Building Department to expend administrative effort on applications that are not approved by the HOA. He supported shifting the responsibility to the applicant and HOA to ensure compliance.

During a general discussion, the Board addressed administrative concerns, HOA compliance requirements, the limited number of HOA cases, benefits for HOAs, implementation considerations, and a cost-benefit analysis.

The Board agreed to require a notarized statement from the HOA as part of the short-term rental application for properties within HOA developments. This approach ensures regulatory oversight while maintaining administrative efficiency and respecting HOA authority.

Additionally, the discussion emphasized the importance of streamlining the application process to minimize delays and confusion.

Village Attorney Stephen Gaba addressed another Planning Board comment suggesting that the Board evaluate the benefits of the regulatory structure against the costs of implementing it, particularly in terms of the additional workload for the Building Department.

Mr. Gaba noted that the proposed changes, such as requiring inspections every two years instead of annually, effectively halve the workload. Additionally, the option for applicants to use certified outside agencies for inspections further mitigates the administrative burden. He suggested that these provisions already address the Planning Board's concerns but left it open for further discussion if the Board wished to revisit the issue.

Trustee Cheney emphasized that the Village's fees must be set based on the actual costs associated with services, such as processing applications or conducting inspections. He stated that fees should not be designed to generate surplus revenue for the Village but should simply cover the related expenses. Trustee Cheney noted that this principle has been applied consistently across various fee structures and suggested that the Planning Board may not fully understand the factors involved in determining appropriate fees.

Village Attorney Stephen Gaba summarized the final comment from the Planning Board, which expressed a general consensus that some regulation is necessary to limit the number of rentals and preserve housing availability. He noted that this comment did not include specific recommendations for action.

Mr. Gaba then transitioned to comments from Margaret McNealy, focusing on fees and fee structures. He reminded the Board that fee schedules are not part of the proposed local law but would be adopted by resolution. He suggested that the Board could begin developing the fee structure in parallel with the local law to ensure timely implementation.

He emphasized the need for input from the Building Department to estimate the anticipated man-hours and overall costs of administering the short-term rental program.

Additionally, Trustee Cheney's earlier suggestion of creating an online application system might involve a one-time cost, which should also be considered when determining fees. Mr. Gaba highlighted the importance of having a clear understanding of these costs before finalizing the fee structure.

Trustee McKnight asked for clarification, seeking to understand what Mr. Gaba meant by his statement regarding the costs and program setup for administering short-term rental applications.

Village Attorney Stephen Gaba clarified that the fee structure should account for more than just the Building Inspector's time spent on inspections. He noted that there are broader administrative costs involved in running the short-term rental program. These might include expenses for developing an interactive online application system, ensuring proper submission and storage, and maintaining records in compliance with document retention policies.

Trustee McKnight shared his vision for streamlining the short-term rental application and inspection process using an online system like Muncipity, which allows for managing various applications, such as building permits and fire inspections. He explained that the system could include an online interface for submitting applications, with the flexibility of also accepting paper applications. Paper submissions would be scanned, uploaded, and linked to the corresponding parcel ID within the system, ensuring all records are centralized and accessible.

He emphasized the benefits of this approach, such as allowing the Building Department to track which properties require inspections, linking applications and payments to parcel IDs, and creating an efficient workflow for new staff to review active applications. To further improve efficiency, Trustee McKnight proposed a biannual "wave" system for scheduling inspections. Under this plan, Short-term rental inspections would be grouped into two waves—one in the first half of the year and the other in the second—with new applicants defaulting to the closest wave and starting a two-year cycle from that point, an approach designed to prevent inspections from being spread across the entire year and overburdening the Building Department.

Trustee McKnight noted that this system would reduce administrative challenges, simplify tracking, and ensure inspections remain organized and manageable. He acknowledged that details would need to be finalized, particularly for mid-year applications, but expressed confidence that the system could provide a more streamlined and practical solution for managing short-term rental operations.

Village Attorney Stephen Gaba sought clarification from Trustee McKnight, asking if the proposed system would involve two specific registration periods each year, with one in January and the other in July. This would determine when applications are submitted and inspections are scheduled.

Trustee McKnight clarified that his initial proposal did not include specific registration periods but agreed that having two defined periods, one in January and another in July, made sense and could further streamline the process.

Village Attorney Stephen Gaba elaborated on the idea, noting that having specific registration periods, such as January 1 to January 31, would align with the two-year cycle for inspections. He suggested this approach as a practical way to organize registrations and manage the process efficiently.

Trustee McKnight expressed concerns about limiting registrations to specific blocks, such as January, as it might prevent individuals from registering when they decide to start operating, such as in preparation for an event like Applefest. He noted that this approach could feel overly restrictive. Instead, he suggested focusing on reducing the administrative burden by aligning applications and inspections into manageable cycles that make sense for the Building Department, allowing for flexibility while maintaining efficiency.

Village Attorney Stephen Gaba pointed out that the current draft of the law does not include provisions for specific registration periods or cycles. He noted that if the Board wishes to implement such a system, it would require substantial revisions to the relevant section of the law.

Trustee Cheney sought to clarify the proposed process for managing short-term rental applications and inspections. He outlined a scenario where applications might be filed at different times, such as in April, May, or June, and questioned whether the intent was to group inspections together to improve efficiency, such as completing multiple inspections in a single day.

He raised a concern about timing, noting that if inspections must occur a certain number of days before a permit expires for renewal, postponing inspections could require extensions, adding complexity and administrative burden. Trustee Cheney highlighted the need to consider how the Building Department could manage this process without overcomplicating it or violating established deadlines.

Trustee McKnight clarified that he was not strongly advocating for a rigid system but emphasized the importance of ensuring inspections are conducted. He acknowledged that it would become burdensome for the Building Department if new short-term rental applications and inspections were required every week. His focus was on finding a balance that maintains oversight while minimizing administrative strain.

Village Attorney Stephen Gaba noted that while the Village does not currently have a high number of short-term rentals, the inspections will likely follow a rolling schedule. For example, one property might require inspection two months after approval, another three weeks later, and so on. He explained that this system would result in ongoing inspections by the Building Inspector. If the Building Inspector is unavailable, property owners could alternatively use a certified outside property inspector to provide the necessary certification. This flexibility helps ensure the process remains manageable.

Trustee McKnight brought up a provision in the Town's regulations regarding inspections, noting that if a property fails an inspection, there is a \$25 reinspection fee. He asked whether the Village has a similar provision in its regulations.

Village Attorney Stephen Gaba referred to the short-term rental draft, highlighting that it specifies the payment of inspection and permit fees as prescribed by the Village Board in the Village's schedule of fees. He noted that the Building Inspector is required to conduct an inspection to determine whether the property is substandard and to verify that the proposed maximum overnight and daytime occupancy limits comply with the New York State Fire Code. Upon confirming that the property is not substandard, the Building Inspector would issue a short-term rental permit.

Mr. Gaba pointed out, however, that the draft does not currently include any provisions for additional fees in the event of a failed inspection or the need for a reinspection.

Trustee Cheney suggested addressing the issue of reinspection fees within the Village's schedule of fees. He proposed that the schedule include a line specifying the cost of registration or renewal, which would include the initial inspection fee, along with an additional line detailing the fee for reinspections, should they be necessary. This approach would provide clarity and streamline the process without requiring changes to the draft law.

Village Attorney Stephen Gaba confirmed that the Village could address reinspection fees within the schedule of fees, as the draft already states that applicants must pay the prescribed fee. He explained that if a property fails an inspection and requires a reinspection, the Village could require payment of the fee again. Alternatively, the Board could add a specific provision to the local law to address reinspections, leaving the decision up to the Board.

Trustee McKnight emphasized that the responsibility for scheduling the required two-year inspection should rest with the applicant, not the Village. He compared this to fire inspections, where it is the applicant's responsibility to contact the Village for compliance, ensuring that the Building Department is not burdened with tracking and chasing down applicants for inspections.

Village Attorney Stephen Gaba noted that currently applicants have a set period, such as 90 days before their permit expires, to complete the required inspection. If they fail to do so, the permit would expire, and they would no longer be licensed and the applicant would have to reapply. He added that if a property owner rents without a valid license, it would result in a violation of the law.

Mr. Gaba asked the Board whether they preferred to address inspection fees in a separate section of the short-term rental law or handle them through a resolution as part of the Village's schedule of fees. He sought the Board's input on how they wanted to proceed.

Trustee Collura expressed her opinion that inspection fees should be addressed in the Village's schedule of fees rather than included as a separate section in the short-term rental law.

Village Attorney Stephen Gaba advised the Board that determining the fees for the short-term rental program would require collaboration with the Building Department. He noted that several factors must be considered in setting the fees, and emphasized that fees, often referred to as "exactions," must align with legal requirements to ensure they are fair and based on the actual costs of administering the program. He emphasized that fees cannot be used as revenue-raising measures; they are intended solely to reimburse the Village for its expenses.

Mr. Gaba suggested working with the Building Department, including the Planning Secretary, to develop a proposed fee structure. He noted that the Village could offer discounts to specific groups, such as seniors or residents, based on policy decisions, like considering fixed incomes or residency benefits. However, he clarified that these discounts represent income the Village chooses to forgo, not additional charges to other groups.

Importantly, Mr. Gaba stressed that the Village cannot impose higher fees on non-residents or groups outside these discount categories simply to generate additional revenue. The fees must be fair, reasonable, and consistent for all applicants, with any discounts applied as a policy decision.

Trustee McKnight asked Village Attorney Stephen Gaba how to codify what is considered a "fair and reasonable" fee amount. He noted that while the Board could determine the fee by evaluating all associated costs, he sought clarification on how to establish or define that the calculated fee aligns with the standard of fairness and reasonableness.

Village Attorney Stephen Gaba responded to Trustee McKnight, explaining that to justify a "fair and reasonable" fee, the Village could rely on documentation from the Building Inspector. This might include a memo outlining the anticipated hours and costs for processing applications and conducting inspections. For example, the Building Inspector could estimate the average time spent on similar tasks to provide a basis for the fee.

Mr. Gaba acknowledged that while some applications and inspections might require more time and resources than others, resulting in occasional gains or losses for the Village, the fee structure should be based on an average that is roughly proportional to the anticipated costs. Over time, these differences would balance out.

He also suggested the Board begin considering a resolution or a preliminary fee figure to ensure readiness when the law is adopted. Additionally, Mr. Gaba asked whether the Board was interested in exploring a tiered fee structure, which could account for factors such as property size or owner residency status along with different rates for specific groups, such as seniors, veterans, residents, and non-residents. He acknowledged that creating such a system would require careful consideration, both in defining the categories and determining the appropriate fee differentials. He emphasized that this approach would require thoughtful planning and placed it on the table for the Board's consideration.

Mayor Newhard acknowledged the suggestion, stating that it was worth considering but suggested tabling the discussion for now. He noted that it would be more appropriate to address the details as part of a broader conversation about the fee structure.

Trustee McKnight agreed with Mayor Newhard's point, noting that while the local law is already in a solid state, additional administrative considerations need to be addressed. He emphasized the importance of carefully planning how the Village will handle the program internally, particularly in ways that avoid overburdening the Building Department. Trustee McKnight acknowledged that this ongoing discussion about administrative processes and their impact on the fee structure is crucial for ensuring the law's successful implementation.

Village Attorney Stephen Gaba referred to Margaret McNealy's second comment, which criticized the definition of a bedroom as being lengthy and unnecessary. He acknowledged that the definition is somewhat long but noted that all the included elements seem appropriate. He suggested that the Board could review the definition further if they wished to consider any revisions.

Trustee McKnight questioned why the length of the definition of a bedroom was considered a problem.

Mr. Gaba noted that while some might view the definition as unnecessary or overly prescriptive, it serves an important purpose in providing clear standards.

Trustee McKnight addressed the comment to add "quiet hours," noting that the Village already has Chapter 94 in its code, which comprehensively covers noise regulations. This chapter includes provisions related to alarm systems, animals, public assemblies, and other factors contributing to peace and good order. He suggested that instead of creating a separate definition, the proposed section should simply refer to Chapter 94 of the Zoning Code for guidance on noise regulations.

During a general discussion, the Board considered where to include a reference to "quiet hours." It was ultimately decided that the existing requirement for compliance with all Village codes and ordinances, already included in the short-term rental law, was sufficient. No additional section or specific reference to quiet hours was deemed necessary.

Village Attorney Stephen Gaba addressed the timeline for new short-term rentals to register and obtain a permit. He noted that as the law is currently written, all short-term rentals would need to comply immediately upon the law's enactment, and any unregistered property would be in violation.

To provide flexibility and allow property owners sufficient time to comply, Mr. Gaba suggested including a grace period, such as requiring all short-term rentals to register within 90 days or six months of the law taking effect. This would give property owners a clear timeframe to meet the new requirements.

Mayor Newhard emphasized the importance of having the Municipality system fully operational before the Village can begin issuing permits for short-term rentals.

Mr. Gaba pointed out that if the Village is not ready to issue permits but requires them immediately upon the law's enactment, it could create a problematic situation. He suggested adding a provision to the law specifying that its requirements would take effect after a set lead time, allowing for sufficient preparation. He emphasized the need for the Board to determine how much lead time would be appropriate.

During a general discussion on the timeline for requiring permits, the Board acknowledged that many short-term rentals are likely operating already and emphasized the need for clarity and fairness in the implementation process. Concerns were raised about the steps still needed, such as finalizing the application process, setting up the Municipality system, and establishing the fee structure, all of which take time.

It was suggested that the law could include a provision requiring permits within six months of its effective date, which, if passed in December, would set a deadline in June.

The Board also debated whether to keep the public hearing open while these details are finalized. Mr. Gaba mentioned that holding the public hearing open indefinitely is possible but noted that once a public hearing is closed, the local law should be enacted within a reasonable time frame. If too much time passes, reopening the public hearing might be necessary to account for any changes in circumstances.

Concerns were expressed about the implications of keeping the public hearing open, such as the potential for new input that would need to be reviewed and could delay the process further.

It was noted that Section 115-3(5) of the draft law already includes a provision stating that short-term rental properties must register within 90 days of the law's effective date.

The Board considered whether this timeline was sufficient and agreed it was reasonable. It was also noted that the Secretary of State might not return the approved law until January or February, which would effectively give property owners additional time to prepare since they would know when the law was passed and could begin taking steps to comply.

A question was raised about whether there were any anticipated state laws regarding short-term rentals; Mr. Gaba stated that no specific information was available.

Mr. Gaba addressed a comment suggesting that the Village impose a timeline for completing and processing applications within five days of fee payment. He strongly advised against setting such a specific and restrictive timeline. He explained that while the current draft requires applicants to submit their applications and fees for processing, it does not commit to a specific timeline for completion. He advised against including a fixed turnaround time, such as five days, as it could be unrealistic and expose the Village to legal challenges, especially given the Building Inspector's varied responsibilities and potential for unforeseen circumstances.

Mr. Gaba also addressed suggestions to limit short-term rentals to no more than 10 guests and to prohibit large parties, referencing prior public hearing feedback. He acknowledged that while banning large gatherings might align with practices in other municipalities, enforcement could be challenging. However, he suggested including language to clarify that hosting gatherings exceeding the allowed number of guests would not be permitted. Additionally, he revisited the idea of explicitly referencing the Village's existing noise ordinance in the law to address potential disturbances. He recommended that the Board consider these points when finalizing the draft law.

Trustee McKnight expressed concern about including a provision to prohibit parties, suggesting it could lead to a slippery slope in defining what constitutes a "party." He raised the potential for disputes, such as someone claiming the gathering is a religious event and emphasized the difficulty in enforcing such distinctions. Instead, he pointed out that the draft law already includes provisions addressing daytime and overnight occupancy limits for each building on the property, which could serve to manage large gatherings indirectly.

Village Attorney Stephen Gaba addressed the challenges of enforcing restrictions on parties at short-term rental properties. He noted that while the draft law includes provisions for limiting overnight occupancy, it leaves room for scenarios where large gatherings might occur during the day. For example, a property could host a bachelorette or bachelor party with up to 50 guests, complete with lawn chairs on the front lawn, kegs in the backyard, and possibly a DJ, as long as the guests leave by the evening and the overnight occupancy limits are not exceeded. He highlighted this as a potential loophole for misuse of short-term rental properties and suggested the Board consider how to address such situations.

Trustee McKnight expressed doubts about the feasibility of writing restrictions on large gatherings into the short-term rental law. He pointed out that property owners or long-term renters can host gatherings and use their property as they see fit, such as sitting in lawn chairs on their lawn, without restrictions. He questioned why short-term rental properties should be treated differently, noting that it would be inconsistent to impose such limitations solely on short-term rentals while allowing long-term renters or property owners the same freedoms.

Village Attorney Stephen Gaba noted that in some areas, large gatherings at short-term rentals have caused issues with noise, traffic, and related disturbances. However, he stated that the Village of Warwick might not face the same challenges, particularly given the smaller properties and lack of expansive lawns typical in such cases. He advised against adding provisions specifically targeting parties unless there is evidence of existing problems, emphasizing the principle of "if it isn't broken, don't fix it." Regarding noise concerns, he pointed out that the Village already has a noise ordinance in place and saw no need to duplicate those regulations within the short-term rental law.

Trustee McKnight acknowledged that the intent behind the comments on regulating large gatherings and noise at short-term rentals was valid and reasonable. However, he reiterated the challenge of translating that intent into enforceable language within the short-term rental law.

Trustee Collura recalled a previous discussion where the Board addressed concerns about large gatherings and noise by focusing on provisions for daytime and nighttime occupancy limits and relying on the existing noise ordinance. She noted that this approach was intended to manage such issues effectively and questioned the need to revisit the topic.

Village Attorney Stephen Gaba expressed concerns about arbitrarily limiting the number of people in a short-term rental to 10. He suggested that if a property can accommodate more than 10 people comfortably and safely, there is no reason to prohibit 12, 15, or even more occupants. While he acknowledged that most properties might be smaller and naturally accommodate fewer guests, he emphasized that the permit process allows for flexibility, enabling property owners to apply for higher occupancy if appropriate for their property.

Trustee Collura highlighted a concern about the impact of short-term rentals on neighborhood dynamics, noting that the issue is not just about the capacity of a property but the volume of new, unfamiliar people in a neighborhood. She provided an example from her own experience, mentioning that if three Airbnbs on her street each hosted 10 people, it could result in 30 strangers in the neighborhood at the same time.

After Mayor Newhard confirmed there were no further public comments, Village Attorney Stephen Gaba outlined the next steps for the short-term rental law. He recommended preparing a redlined version of the draft law and publishing it on the Village's website prior to the continued public hearing on December 19. He noted that the law must be posted at least five days before the hearing, with legislative documents ideally available about seven days in advance.

Mr. Gaba explained that if the Board is satisfied with the revisions, they could move forward with the adoption process at that time. However, if additional changes are needed, the public hearing would need to be continued into January to allow time for further revisions and finalization before adoption.

Adjournment

A **MOTION** was made by Trustee McKnight, seconded by Trustee Cheney, and carried to adjourn the regular meeting at approximately 9:15 p.m.

The vote on the foregoing motion was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Absent Trustee Collura Aye

Trustee McKnight Absent Mayor Newhard Aye