

LILLEY TOWNSHIP PLANNING COMMISSION MINUTES
REGULAR MEETING AND PUBLIC HEARING ON SHORT TERM RENTALS
JULY 20TH, 2023 – UNAPPROVED

The July 20th, 2023 Regular Meeting and Public Hearing of the Lilley Township Planning Commission, held at the Multi-Purpose Building, was called to order by Chairperson Cindy Israels at 7:30 P.M.

The Pledge of Allegiance was recited, invocation by Doornbos.

The roll was called with the following members present: Robert Doornbos, Anna Bonnett, Chris Moore, Cindy Israels and Judith Hoving

Motion to approve the Agenda by Moore, Second by Doornbos – All in Favor – Motion Carried

Motion to approve the June 22nd, 2023 Special Meeting Minutes by Moore, second by Doornbos
All in Favor – Motion Carried

There were no Public Comments on this portion of the agenda.

Guests present and introduced were Clifford Bloom, legal counsel to the Township, and the Newaygo County Sheriff's Department Representative Deputy Jonothan Vanderwall.

***** **OPEN PUBLIC HEARING** *****

Presentation by Attorney Clifford Bloom, Lilley Township's attorney, is summarized based on the document dated July 13th. 2023 entitled **"Important Facts Regarding the Possible Regulation of Short-Term Rentals"**
This document was placed on File with Township Records.

Attorney Clifford Bloom introduced himself and his purpose for being here at this meeting. He explained how Short-Term Rentals have consumed his time in the last several years. His purpose tonight was not to define what is good or bad, but to discuss legal options. He listed 3 types of responses to STRs impacting Zoning being considered in West Michigan. Some have banned them completely to Commercial Districts, some are welcoming with few restrictions and licensing. Being considered here was a CAP ordinance that would cap the number allowed with other restrictions around lakes. The ones shown are just placeholders. Nothing is final. He recommends no final decisions be made tonight. Other restrictions and regulations would be made outside of Zoning modifications. He has read all Township minutes. All will get their chance to speak and recommends to the Chairperson that all rules of order be strictly followed.

Bloom began summarizing the **"Important Facts"** document previously circulated to the Planning Commission for consideration.

1. The State of Michigan only regulates Building and Fire Codes not Short-Term Rentals.
2. Lilley Township has had zoning for decades. STRs have never been expressly allowed except in a General Commercial Area. Rural Townships lack expensive infrastructure such as Full Time Police or Fire Departments. Various inspectors and code regulators are contracted at taxpayer expense.
3. To the best of our knowledge, none of the owners of any current STRs in the Township have ever obtained any zoning approval or permit from the Township. Only two inquired and were told that it was not allowed but they went ahead anyway. Those that existed before zoning and can document that can be Grandfathered.
4. Many Michigan Townships have banned STRs but regulations proposed by Lilley Township are actually fairly permissive, liberal and fair. If enacted a fairly large number would be allowed.
5. Some of the advocates of STRs propose no limits on STRs.

Important Facts (continued)

6. In most cases in rural and semi-rural areas, an STR depresses the property values of other non-STR cottages, cabins and houses adjoining and near an STR. Bloom's realtor friends are against the State of Michigan taking away local regulation of STRs for that reason.
7. A cottage, cabin or house still has significant value in Lilley Twp. even if it cannot be used as an STR.
8. The majority of townships in Michigan, that allow STRs in single family zoning districts, can only be utilized for single family residential use and can be rented to or occupied by only one family at a time. Virtually none allow multi-family rentals, party rentals, rentals by an un-related group of individuals or similar uses for an STR dwelling.
9. A number of existing STR dwellings in Lilley Township may not meet building or fire codes.
10. Unlike cities or villages, Lilley Township would benefit very little by an increased tax base due to many more STRs and given the limited millage rates for Townships.
11. Given that Lilley Township has no police force, limited ordinance enforcement staff and no conventional full-time employees, the Township is ill-equipped to police large numbers of STRs.
12. Section 2.04C of the Lilley Township Zoning Ordinance has long defined "commercial use" as "any use connected with, or work intended for financial gain," and a "hotel or motel" as "a facility offering lodging accommodations to the general public for a daily rate and which may or may not provide additional services, such as restaurants, meetings rooms, and recreational facilities in Section 2.09H.

He continued saying Tiny houses are not allowed anywhere in Michigan. You cannot rent out your chicken coop, boat house or trailer. Must be in a house only. Are STRs legal in Lilley Township? He doesn't know. It is a close call. He cannot guarantee that they would be allowed by the Court. Probably, they would not be allowed because if you look at commercial use, there are various definitions. This is probably why we are carefully looking at this situation.

Mr. Bloom ended his summary and he respectfully requested of the Chairperson that the Planning Commission not to make any final decisions tonight.

Chairperson Israel spoke regarding the registry letter to be voluntarily completed that will be mailed to property owners, with a return by date of September 30th, 2023. This will help to determine who might be eligible for Grandfathering and who might qualify if STRs are allowed. Legal feels that this could be a good idea but registering is not mandatory without an ordinance. It could hurt some if there is a cap placed as various rules for acceptance could apply later. Whether registering will help or hurt an individual will depend on the final ordinance such as first come first served or other conditions to be set forth by the new ordinance.

Bloom answered an audience question and explained what is meant by a "single family" in terms of rental and/or occupancy in a residential zone. It is a single-family unit but not several unrelated adults or extended families. Questioner asked how this would be enforced. That is to be determined.

Hoving spoke regarding concerns on how to ensure single family occupancy at an STR by an off-site owner and at what cost to other taxpayers to monitor that situation. Cited another example of an attempted late-night intrusion, not STR related, and the difficulty of getting prompt law enforcement protection here if a dangerous situation occurs.

Bloom answered that ordinance enforcement is difficult to win in court and Townships are rarely awarded court costs and legal fees. STR licensing fees could offset oversite expense and licenses could be pulled for non-compliance with their contract. Private companies are available to manage licensing at a cost.

Hoving also raised the subject of outdated Septic systems and overuse by large groups, for longer periods of time, impacting ground water, wells and eventual drainage into lakes. This is a concern in Zoning areas with 50-foot wide lots and housing very close to lot lines.

Bloom replied that the Township has no jurisdiction over septic systems, that is up to the Newaygo County Health Department to enforce. Licensing could require proper inspection for capacity and maintenance. Zoning Officer Madalyn Wroblewski asked about ordinance changes, when enforcement would be started and who would enforce. Bloom recommended two steps toward licensing and enforcement. Modifying ordinances and licensing items to include parking, septic inspection, occupancy, fire and carbon monoxide code. He recommends License term to be 3 years. The township to enforce. There is no time limit on making these changes. The Planning Commission could decide tonight or six months from now.

There is a Moratorium to be extended to December 31st, 2023.

Member Anna Bonnett inquired as to why the zoned residential area around lakes should allow commercial business. Bloom answered that it is a legal issue because the ordinance is silent. It has gone both ways in other courts. Doornbos asked if it would be legal to set up a tool and die business in a residential neighborhood. Bloom answered the courts have been very specific that renting to one family at a time is not a commercial use. Another type of home business that creates no neighborhood disturbance would most likely be allowed by the court. When zoning is silent the courts go both ways.

CORRESPONDENCE - SUMMARIZED

1. Michael & Dana Boyle on Pettibone Lake wrote regarding early family ownership where family gathered. Sold before he was able to enjoy it. Dreamed of cottage ownership and purchased their vacation cottage here 2 years ago. Live 2 hours away but family is nearby. It has become a great meeting place for family and friends to visit. They have made great friends interacting with neighbors and money was spent with local contractors and stores to update their cottage. Attended the May meeting. Heard support from business owners, residents and property owners. Their only problems have been from noisy large groups in an owner-occupied home. At that meeting he heard about renter's dogs roaming unleashed. He has had unwelcome animals owned by full-time residents including 3 dogs roaming and 7 cows defecating on their property. Sees no gain to reverting to 2009 levels by reducing numbers of STRs. That would reduce revenue from licensing to fund enforcement. Feels rules should be universal so as not to target anyone and apply to everyone area, not just lake access. They have limited information on what went into recommendation on STRs that would be permitted based on 2009 levels or validation process for this group. Suggests a documented process for current STR properties from 2009 levels to be removed due to violations. Should be documentation on how other properties could pursue permitting for their STR that are not part of the arbitrary 2009 level. They **may or may not pursue rental of their cottage** through short term rentals for a very limited time. They want the freedom to make that decision with fair and documented rules and processes for everyone based on facts, feedback and support from the entire community to ensure our local government has the power it needs to govern STRs without becoming another bureaucratic entity out of touch with constituents.
2. Bill Petrauskas – Pettibone Lake wrote that he purchased his cottage on Highland Drive in 2014. His wife spent childhood summers at their cottage next door. They purchased their place because of the quiet family community that was Pettibone Lake. This community has lost its sense of closeness within the past few years with the turnover in homes and now vacation home rentals have popped up around the lake. Safety on the water has become a major concern to many of them. Kids can no longer play in the lake freely as they once did. Lake rules are being violated during all hours.

Petrauskas Correspondence (continued)

The vacation rental guests are causing serious safety issues and overcrowding on our small lake. Pollutants can be brought in with their boats from other lakes. They have shown no concern for the environmental/ecological issues that can and will cause damage to one of the cleanest lakes in Michigan. Full time residents here take great pride in keeping their boats clean of microorganisms that damage the lake. Vacation rentals sometimes bring in 10, 15+ guests at a time per stay who also bring all-terrain vehicles, quads, dirt bikes etc. who tear around the lake at night at high rates of speed with no concern for anyone. It is unfortunate that individuals have purchased property just for profit. For the individuals that have invested in property at Pettibone or any lake as income property he says sell versus rent. They have created an unsafe environment for permanent residents. This has become a health and safety issue for our small community. Several other families share his concern about this issue and he hopes you will hear from them. He has spoken to the Supervisor about this. In his mind there is no compromise on this issue. He has thought of selling his residence because these outsiders have wrecked our little quiet safe place. His family's stance is a **hard NO** on vacation rentals or short-term rentals. Thank you for reading our families concern and thoughts on vacation rentals.

The audience was cautioned by legal at this time that speaking out without being recognized is a criminal misdemeanor that violates the Open Meetings Act. It is disrespectful and a person can be escorted out.

PUBLIC COMMENTS (SUMMARIZED)

Ron Thomas – Walkup Lake – Parents owned Bitely Tavern started in 1953 - 63. Brother was circuit Judge here for 36 years. Four Generations of Thomas's own property in Lilley Township. Situation around Walkup Lake is bad. People are putting up signs trying to change things to Commercial. This shallow lake could dry up again to just a small pond. This is a small area. He knows most of the people around here. He attended the one room schoolhouse here. He is **totally opposed** to commercializing the area as some are attempting to do.

Steve Loomis – Bitely Lake - Been here for about four years. Retired Builder – Question to lawyer. You said it's not Commercial if you rent a single-family house. What if an owner has 15 houses and rents each one to a single family, is that not commercial? Bloom replied it's not what he wants or believes, he is telling us the courts, ruling on ordinances similar, to ours have ruled both ways. There is a STR near him. The owners keep the place up and work on it when it is not rented. This week they rented it to a **four-car family** It's noisy all day long and all night long. These renters did not have a lot of boats but he has seen renters have as many as **eight boats and thirteen cars**. Is that even legal? He did make a complaint to the Township Board last summer. Will the **proposed ordinances** take care of this problem or is there something in place now to take care of this issue? **He is really tired of this situation.**

Josh Wiser – STR owner in Lilley Township representing the current STR owners numbering 14. Is not aware of any other operations not on Airbnb or VRBO platforms. Disputes numbers reported at previous meetings. Claims the majority of STR owners are using their property as their cottage. Platforms are helpful to market their businesses to cover their costs. It can be lucrative but he is two years in and \$15,000 in the hole.

Wiser began reading a letter from TRAVERSE LEGAL, PLC dated July 17, 2023 addressed via email and regular mail to – Lilley Township Planning Commission, 10767 N. Prospect, Bitely, MI 49309 – Signed by Mark Clark. THIS DOCUMENT HAS BEEN PLACED ON FILE WITH TOWNSHIP RECORDS.

Sarah Glidewell & Andrew Young both STR owners in Lilley Township completed the reading of the letter.

Note: Neither the Township Attorney nor the Planning Commission Chairperson had any knowledge of the correspondence from Traverse Legal, PLC prior to this meeting. Copies were now made available to Planning Commission Members with no chance to research the information it contained prior to this meeting.

Question came from the audience regarding reporting of Septic systems and was answered by member Hoving that a complaint would not be made without proof. Several members had knowledge of 55-gallon drums being used in the past (Honey Pots) and still exist without inspected drain fields. Many properties locally have been here since long before zoning existed or was enforced and when properties were not used extensively as today. This can cause pollution problems. Doornbos spoke of proliferation of weeds in lakes due to pollution. Do we still have a constable? No. Per lawyer we could contract with a law enforcement officer paid by a millage or the township funds. Suggested that a millage would not pass so funds would have to come from the General Fund instead of benefiting all local taxpayers.

PUBLIC COMMENT (continued)

Chuck Barron – Lilley Township resident – Re: Septic Systems – He has installed them and suggests that instead of hearsay that we contact District 10 to inspect local systems. Is concerned about expensive legal battles with taxpayer funds. Right now, wells have to be fifty feet away from the Septic systems. If the issue is septic systems, contact District 10 for inspections.

Robert Sergi – Lilley Twp. – He agreed that we should not keep the legal battles going and that we should **put a cap** on STRs.

Jerry Minier – Lilley Township – Nichols Lake – After hearing the problems on Pettibone, he is **against STRs**.

PUBLIC COMMENT IS NOW CLOSED TO PERMIT THE MEETING THAT WAS DISRUPTED PREVIOUSLY.

Member Bonnett commented by asking how many were born and raised here. Spoke of those who bought property many years ago, never charged rent and sacrificed to own their retirement home. They came not to change anything but to enjoy a well-earned quiet retirement.

Member Hoving spoke regarding the Legends Ranch which has some short-term rental activity. Their zoning is Agricultural and falls under the State of Michigan GAAMPs rules. They are a deer farm and a Pay to Hunt facility. They also run programs for children and families to educate about wildlife and have wildlife dinners. During short term stays there is someone onsite to monitor activities. This is not the same as other STRs.

Cindy Israels continued that they do everything correctly. They are in the right zoning district and make sure they communicate with the Township when required. Legends and Hunt to Heal have large numbers coming and going. There is a lot of transient traffic in this township already impacting the area. Lakes especially are impacted when many visitors launch boats and groups party. Pettibone is in the process of conducting invasive species studies. Memories are created when families visit for weekends. This is a good thing. When STRs house multiple groups the impact is detrimental to the area in many ways. Rural residential areas are also impacted by multiple dirt bikes and ATVs tearing through private property and damaging our local roads where upgrades have finally been completed at taxpayer expense. Complaints have been heard.

Israels – Referencing 5 questions in the April 13, 2023 General Questions to be addressed for short-term rentals document, Israels asked Bloom if that can be revisited by this Planning Commission and revised now that we have updated information. The answer was yes. Until final recommendations are ready to be made to the Township Board, it is a living document subject to revisions. Recommends **changes** to lake STR numbers based on new information including each public **boat launch** to replace one STR on a lake.

The original answers given to these questions must be modified due to more information that has come to light. The assumption that those original answers were final or agreed to is not true. They were a starting point only. Based on the information that we have now and the abuse, disrespect and violations we have encountered, in respect to the first question "Should STRs be allowed within the Township?" Israel's answer would be a resounding NO. In going through the proposed ordinance, Israel's opinion was that it was good start. Moore disagreed stating the problem was with the numbers. She also questioned the attorney letter from 2009 mentioned in the Traverse legal letter. Bloom responded that it was regarding a short-term rental situation that occurred at that time and many changes have occurred since then. Opinions are not binding. There were many reasons that that situation was never followed up on and it lapsed.

At Israel's request, Hoving read an answer received on an MTA forum. Member from Park Township replied stating that their Planning Commission had gone through a long arduous process for 2 years and their work was invaluable. STRs were found to be having a significant negative impact on neighborhoods. In the end the Park Township Board voted 6-0 to not allow STRs in the best interests of the community. They were given until October 1, 2023 to cease operation. Lincoln Township is also going against STRs.

Moore is not in favor of any of the proposed ordinance especially the cap of 50. Bloom stated that if the majority of the Planning Commission is against any STRs, modifying the ordinance is a waste of time and resources. Hoving objects to the numbers count for and against. Consensus among local taxpayers is difficult to collect. We are not organized or as well-funded, as a township, to get the word out. Bloom replied that for and against numbers may not count in court. Opinions also can change. Bonnett spoke out about the difficulty in working together on this important subject. We are hampered by the requirement to comply with the Open Meetings Act especially when our working meetings are bombarded by opposing arguments. Moore said we sent out a survey and the majority made clear that they do not want change. Our Master Plan survey was sent out to all taxpayers. All returns replied that they wanted to keep this township rural, quiet and clean and not more commercial and resort-like. Number one on the list was Blight. This is being worked on but we are limited by a part-time system and progress is slow but steady. Israel's points out that out of all property owners and taxpayers in Lilley, the STR supporters present here are a tiny minority. Thousands of those taxpayers' dollars have already been spent on this process, making sure all of you are heard, when what you are doing is unlawful according to our Zoning. Hoving noted that we are here to represent the interests of the property owners and taxpayers of the township. We must protect the interests of those who live here and plan to someday live here. This is a hard job and the abuse we have taken is unacceptable. The entire township being accused of corruption and racism among other accusations, on a blog by an STR owner, is an example of the abuse we have received.

Israel's asked members for their opinions on the proposed Zoning ordinance. Understands the reluctance over the number 50. Lake numbers could be lowered based on other factors such as public boat landings. What are thoughts about the rest? Moore replied that none but the rental units here before zoning are acceptable to her. Burden of proof is on those properties to show activity before 1972. Bloom advised that the only zoning that is clear is Single Family Only in single family districts. Criteria under a cap would be first in time. Doornbos agrees with no STRs on private roads that property owners maintain. General agreement on this. Also agreed upon restriction that only allows legal stick-built homes, not trailers, boats, tents, yurts or mobile homes. Doornbos pointed out that our Zoning Officer has a limited time to enforce rules and these are usually complaint based. The Zoning officer agreed that when something is spelled out it makes it easier to enforce a complaint. Licensing would have the same benefit when it comes to enforcing a clear-cut zoning ordinance. With licensing, enforcement would be made easier because licenses could be terminated.

Israels agreed and furthermore suggested that maybe for the first 5 or maybe 3 years, licenses would be yearly until we can see how it goes. Once we have confidence that things are going well, we can modify the licensing term. Questioned Zoning on what would make their job easier. Bloom suggested that noise ordinances in a rural township do not work well. Judges hate them and with no local police force they are impossible to enforce. Disturbing the Peace, a State law however, can be enforced. Noise is subjective. Wroblewski asked if multiple noise complaints came to them, could that effect licensing? The STR has the right to appeal to the Township Board regarding the termination of their license after valid investigation. Bloom says if the Township allowed STRs under a cap, Licensing can be a powerful enforcement tool. Licensing can control parking area, the number of cars allowed. Owner occupied homes can have slightly different rules. Jeff Wroblewski asked what if a next-door neighbor doesn't agree with an STR next door. Do neighbors have to be notified for approval? Bloom replied NO. As long as they are compliant with the ordinance, they are allowed. No matter what is done, someone will not agree. Wroblewski replied that their home is on a lake and they SHARE a driveway with their neighbor. If it became an STR he would have to share a driveway with their customers. There could be restrictions on lot size ensuring a buffer area. It was suggested, that on properties with a **SHARED DRIVEWAY, STRs should not be allowed. All agreed.** Lot size was also discussed and should be researched for exact Ordinance wording. Lot size and parking area ability could be looked at for licensing purposes.

Parking on the roadside on a narrow dirt road can be problematic. Road Commission vehicles cannot properly maintain roads. Our fire department has been partially blocked by parked cars creating a danger. Our guest Sheriff's Deputy says that the Road Commission can call to have vehicles impounded. Bloom advised that State Law says that unless it is a paved road or a gravel road marked "parking" vehicles must park completely on the shoulder and there are no shoulders on most dirt roads. Cars can be towed and impounded per the deputy. One more question, **can the number of motorized watercrafts be limited** for each STR to one or two on our crowded lakes? How about unpermitted ORVS which tear up our roads.

Israels asked if there are any more questions and should we revisit the five-question questionnaire? Moore replied Yes but not tonight. Bloom advised that if the majority of the Planning Commission want NO STRs, that would end progress. However, input on numbers and other recommendations would allow the Ordinance to be redrafted to reflect updated information. Bloom in replying to Zoning stated if caps are placed and all goes well, that number can be increased later but not decreased. New ones can also be added if licenses are pulled from existing entities. Several of his Township clients are looking at Caps. Israels had proposed to the Commission based on Lake numbers that **STRs be capped at 35.** The Registry will help with final numbers. Two registries have already been returned. The mailing is about to take place.

STR owner and organizer Josh Wiser was recognized by the Chair. He stated that he could only find 14 STRs in Lilley but he does not know how many that are not available to him. Jeff knows of two, 1 on Pettibone and 1 on Nichols. Moore has found 29. Also, Josh disputes our numbers. Israels stands by our research. Moore requested to be heard and wants to recommend a cap of 30 and only allow those that were here prior to zoning. Bloom clarified that those would be Grandfathered and would only apply to those established after zoning. It was agreed that the **Grandfathered ones be INCLUDED in the cap.** Not including them would increase the total number on each lake. Israels proposed that those being considered for licensing would currently be following the Single-Family rental restrictions. Current rentals to large groups may impact the licensing procedure as Groups are not currently allowed. Doornbos wants to see the results of the Registry and base his opinion on that information. Bloom answered Bonnett's concerns regarding the registry. Wroblewski thanked Bloom for his help in clarifying this issue for us. He also asked if it's fair to say we don't decide tonight and wait for information from the Registry and go from there.

Moore asked what the 2009 Lilley Township letter mentioned in the letter from Traverse Legal, PLC dated July 17, 2023 is all about. Bloom responded that he would research the letter and agreed it went all the way back to a Rental situation that arose years ago and many things have changed since then.

Bonnett asked that since STRs are a business, do they pay more tax to the Township. This is a question for the assessor however Bloom advised that an increased tax benefits the Township **Zero** and only **increases expenses**. In response to a question from Israels, Doornbos is willing to wait for the Registry information to make a final decision. Israels assured the two owners present that their Registry letters had been received and acknowledged as all would be. There is a valid email address to answer in case something goes wrong

We want input from our Zoning Officers as to what would make their job easier and we thanked them for their input tonight. They thanked the Planning Commission and replied that enforcement can be time consuming and expensive for the Township. Licensing has to be clear and hefty to cover the expense.

The consensus among the Members is to revisit the proposed Zoning Amendment dated June 26, 2023 after the Registry letters are returned, place a temporary cap of 20 and Legal can tweak the Amendment to include items addressed here tonight including Lake cap number changes, shared driveways, private access roads, motorized watercraft numbers allowed at STRs, number of cars allowed and proper parking rules. Some can be addressed by Zoning and others by licensing as we are advised. The results of the registry to be sent to Legal to be addressed as needed. Doornbos is very concerned about the **cost** if STRs are allowed.

Per Bloom, it has come to his attention that some STR owners may be Homesteading their rental property and even though there may be a percentage that allows this the Township is looking at this situation.

Hoving explained that as a Board member as well as a Planning Commission member her primary responsibility is to all of the taxpayers of Lilley Township and oversight as to how their tax dollars are spent. Expenditures should benefit all property owners and not just a few small business owners.

Israels spoke regarding Jason Schuringa airing his complaints on the Bitely Community Message Board which is not a Bitely page and most of the responses are not from Lilley Township residents or taxpayers. Wroblewski thanked her for her comments. He does not read those pages but has heard about the spread of false information. He has become famous there and can guarantee that much information is not factual.

Bloom advised us regarding the First Amendment which allows certain speech calling folks crazy or stupid however when there are accusations of corruption, bribery or being on the take, that becomes **libel**.

Our thanks to Clifford Bloom for his valuable input into tonight's meeting. The next regular meeting of the Planning Commission will be held October 19th, 2023 at 7:30 P.M.

Motion made to adjourn by Moore, Second by Doornbos
Meeting adjourned at 9:37 P.M.

Respectfully Submitted,

Judith C Hoving

Recording Secretary