

News

Following short-term rental law, landlords look to become B&Bs

by Grant Parpan | 05/12/2016 6:00 AM

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“Welcome to The Beach House!” reads an ad on [homeaway.com](#) promoting a five-bedroom rental on a private road in Orient.

The “large entertaining home” has an average price tag of \$586 per night and sleeps 14 people, according to the listing.

Fourteen is also the minimum number of nights the home can be rented for, the ad states.

A calendar on the website shows no bookings for this summer.

One of six houses on Windward Road in Orient, its owners are now seeking a new way to rent out their property in light of Southold Town’s new short-term rental law: becoming a bed and breakfast.

Last Thursday, nine months after that [law was adopted](#) — and just weeks before the busy summer season gets underway — this property owner and three other short-term landlords appeared before the town’s Zoning Board of Appeals for public hearings on four separate applications. Two of the homeowners are seeking to turn their houses into bed and breakfasts. The other two are seeking an interpretation of the town code that would permit their rental operations to continue as a non-conforming use, allowing them — and other “grandfathered” short-term landlords — to rent for less than the minimum 14 nights.

A common thread among the four applicants is that they are all seeking a way to keep their existing rental properties viable.

But during each of last Thursday's hearings, neighbors spoke out against the applications, citing quality of life concerns about transient rentals and accusing the applicants of attempting to circumvent the new law for their own financial benefit.

Attorney David Leno of Rivkin Radler in Uniondale submitted letters from four of the five other homeowners on Windward Road — where visitors are greeted by a sign reading “Private road: Please do not enter” — raising concerns about the impact a bed and breakfast might have on their neighborhood.

“This has always been portrayed and listed as a rental house and this is just a segue to turn it into a different type of rental house,” Mr. Leno said of the B&B application.

James O'Hagan, owner of the rental property, is requesting approval to operate the house as a four-bedroom B&B. His wife, Renee Murray, appeared on his behalf at last week's ZBA meeting, saying recent changes in their professional lives have made it possible for them to make Orient their full-time home and they intend to operate it as a legitimate bed and breakfast.

“I recently lost my job in Manhattan, but my husband and I built this house here nine years ago,” she told the board, adding that her husband now works within commuting distance of Orient. “We want to manage and operate our own business so I can still work from home and generate income as well. Our goal is to be a professional operator. There will be no funny business.”

But Mr. Leno and several neighbors who spoke at the hearing questioned whether guests of a B&B would have a legal right to access the private road leading to the residence, the walkway to a private beach for Windward Road property owners or the beach itself.

Mr. Leno also said the regular addition of “four families by virtue of this bed and breakfast would have a material and adverse impact on this small community.”

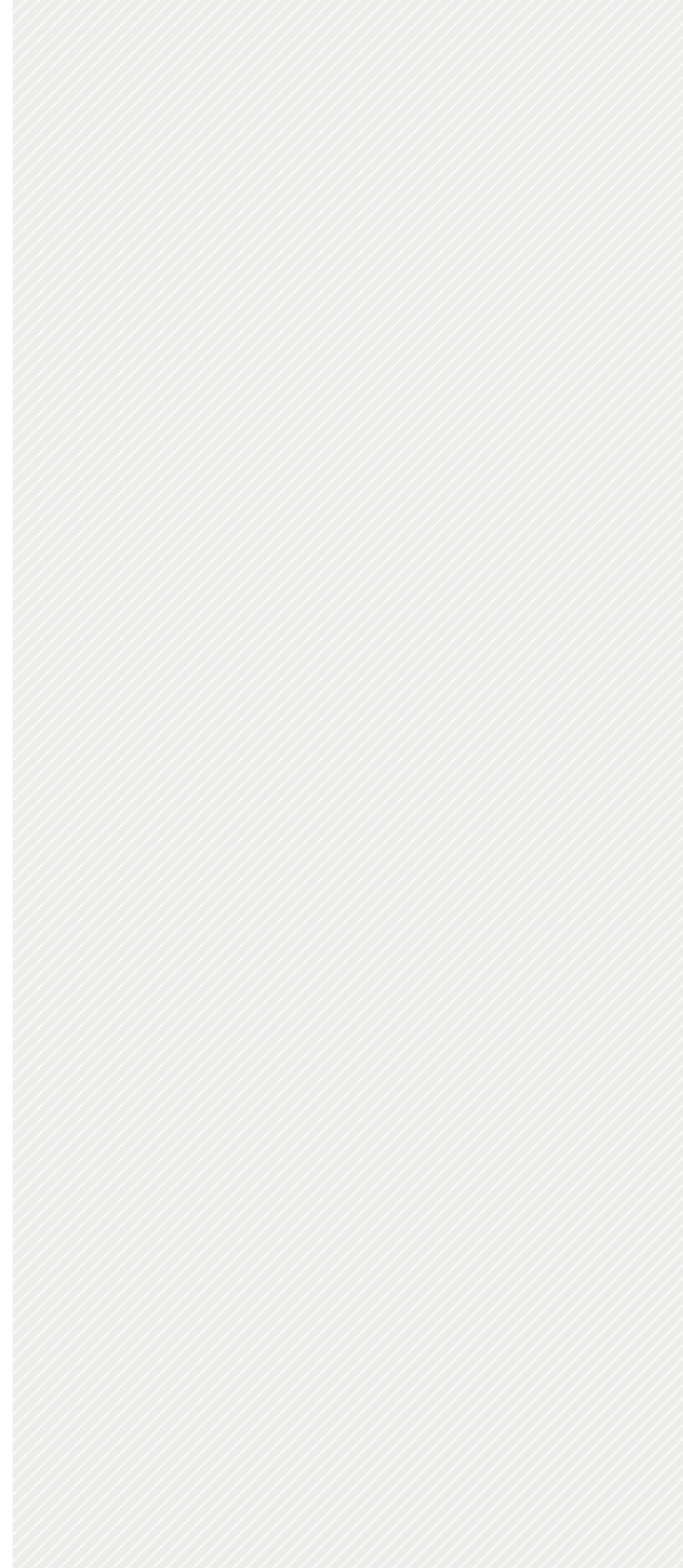


Renee Murray of Orient (left) stares across the room as her neighbor Sharon Kuehn explains to the Southold Town Zoning Board of Appeals why she objects to a bed and breakfast operating on their private road. (Credit: Grant Parpan)

So far this year, the ZBA has hosted five public hearings for homeowners seeking special exceptions to operate a bed and breakfast, though one was for the expansion of an existing B&B. Over the same period of time last year — before the short-term rental law was on the books — only one such hearing was held.

The two hearings last week were the first in which the proposals encountered opposition from concerned neighbors.

While declining to speak on any specific application, Southold Town



Supervisor Scott Russell said this week that “the chief distinction between short-term rentals and B&Bs is that operating a B&B requires that the owner live in the home and that it is designated as the primary residence of the owner.” He said he has encouraged short-term landlords to pursue operating as a bed and breakfast.

“I suggested at the time [the transient rental law was adopted] that anyone who wants to stay in the hospitality business should apply to the ZBA for a B&B use and meet all of the criteria to ensure the surrounding community is protected from impacts of that use,” Mr. Russell said in an email.

Mary Ann Fleischman of Holden Avenue in Cutchogue said that’s partly why she appeared before the ZBA last week to seek a special exception to operate a bed and breakfast in her home. The ZBA told her the B&B would have to be limited to one room and that her driveway would need to be reconfigured to accommodate three parking spaces and allow room for guests to turn their vehicles around.



The driveway leading to Mary Ann Fleischman’s house on Holden Avenue in Cutchogue would need to be reconfigured for the home to be used as a bed and breakfast. (Credit: Grant Parpan)

Ms. Fleischman said that during 2015, she rented out a room in her home on Airbnb every weekend except one from mid-May to mid-September. Since the current law took effect last November, she has not booked a single rental, she said in an interview following the hearing.

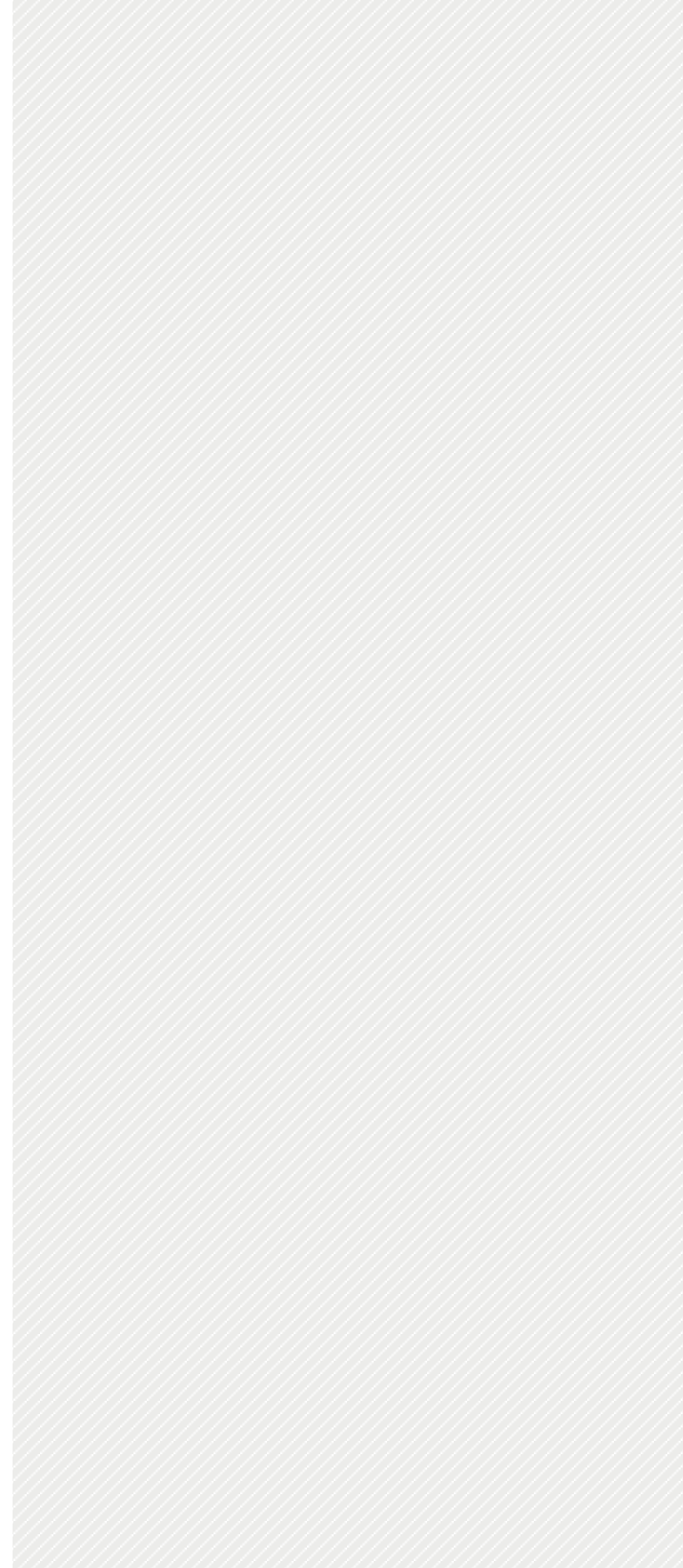
A licensed clinical social worker who also operates a therapy business out of her home, Ms. Fleischman said she’s always lived on the property full-time. She said she began renting out her daughter’s former room once she left for college and uses the supplemental income to help pay her taxes.

“I was born and raised here and don’t want to do anything to bring the area down,” she said in an interview. “I had no complaints from anyone last summer.”

Still, the town has received five letters from residents on her block objecting to her application for the special exception. One of her neighbors, Gerard Schultheis, also spoke at the hearing. He questioned whether the town code allows for a bed and breakfast and an office in the same residence, among other concerns over COs on the property. Ms. Fleischman said the town building department has since assured her she could operate both a bed and breakfast and her therapy practice from her home.

The Fleischman and O’Hagan applications are expected to be taken up again at a ZBA meeting next Thursday, May 19.

As for the interpretation of the transient rental law, the ZBA closed its hearing and now has two months to render a decision, ZBA chair



Leslie Kanés Weisman said.

About a dozen town residents appeared before the board to ask that it consider rejecting the grandfathering argument. Still others, including Southold attorney Patricia Moore, who expressed a personal interest in the decision as an attorney and not a professional one, said they believe it should be treated as a non-conforming use.

“It’s [the opinion of my husband, attorney William Moore, and I] that when the Town Board adopted this law they chose to adopt it as a zoning regulation and it’s pretty clear in zoning law of the State of New York ... that any use that has been established prior to the law being adopted is grandfathered,” she said.

The two homeowners asking the ZBA for an interpretation of the code — Laurie Bloom of Paradise Shore Road in Southold and Lisa Credit of Sound Road in Greenport — are among about a dozen transient renters represented by Orient attorney Salem Katsh, who in March sent a 23-page letter to the town [arguing in favor of the non-conforming use](#).

Another attorney representing a large number of short-term landlords, Abigail Field of Cutchogue, estimated that about 300 property owners in Southold Town who rented out their homes before the adoption of the law will be affected by the ZBA’s decision.

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Top photo: Should a bed and breakfast be allowed to operate on a private road? Neighbors of this home on Windward Road in Orient have objected to the owner’s application to operate a B&B. (Credit: Grant Parpan)

