

## **Talk by Emily Acheson**

I will mainly be discussing the specific issues with AirBnBs on our street of McCracken Road in Kingsville, along with the broader problems of AirBnBs in Kingsville where the host does not live within the same residence that is providing the AirBnB accommodation. I will also discuss how this breaches the current Kingsville zoning bylaws for Lakeshore Residential properties.

### Specific problems on McCracken Road:

Our street is within the Lakeshore Residential zone of Kingsville, according to the Town of Kingsville Comprehensive Zoning By-Law 1-2014, Schedule A, Map 59. Our LR zone falls within no exceptions.

One single home has already been posted on AirBnB, which was always a single dwelling home until this point, sitting empty most of the time as it waits for guests. It has been posted for up to 8 people and will be unsupervised. The host is not a Kingsville resident and will not be enforcing rules on site.

One more home on the street is being prepared for AirBnB (again, the host will not be living in the home). One more home is on AirBnB as a suite within a home. Two more houses are, or will be, for sale in the coming months. This means that, in a worst-case scenario, five homes on our street will be operated by AirBnB hosts. Only one of these will have long-term residents in the accommodation.

On McCracken Road, we live on the lake. This attracts a lot of AirBnB hosts, who want to take advantage of the convenient location and lakefront views. However, this road is also made up of private, tax-paying residents who are worried that the takeover of AirBnBs is changing the character of the neighbourhood, altering the dynamics of neighbours, and threatening the peace of the area.

We as a collection of neighbours do not take issue with AirBnB in general, or any kind of short-term rental enterprise. Short-term rentals are important for tourism and the Kingsville economy, which has a unique collection of ecological sites, amazing food and wineries, and other commodities. For our neighbours who rent out a suite while living in their home, we do not take issue. The primary residents are still on site, still present to supervise guests, and are still available to interact with neighbours should any issues arise.

What we take issue with is AirBnB hosts who buy up properties in the town from out of town, advertise them as party houses (the one on McCracken Road has a jacuzzi that is advertised as being available “all year, open 24 hours” for up to 8 guests), and do not live in the property that they are renting out.

### General problems regarding AirBnBs in Kingsville:

The lack of supervision by the hosts presents a number of problems:

- Safety issues,
- Slower response time/no response when an emergency arises,
- Parking violations,
- Lack of rule enforcement, including trespassing on other properties (this is especially an issue on our street, where backyards are not fenced),
- Lack of enforcement about noise and waste disposal violations, and other problem behaviours.

In addition, short-term rentals where the hosts are not the primary residents of the accommodation are presenting broader problems across the town which are problems already being presented in other areas across Ontario:

- Towns and cities are losing the availability of long-term rental properties, and properties for first-time homebuyers,
- Towns like Kingsville, known for their small-town charm and community, are quickly becoming ghost towns in their off-seasons (an example of this is Grand Bend). Long-term residents, who pay their taxes, vote in local elections, support local shops and services, and contribute to the close feel of the community, are being replaced by tourists using houses that sit vacant the rest of the year. These tourists may use some restaurants and wineries, but will not be building roots in the community, contributing to local grocery stores, doctors offices, etc.. and will not stay long. The empty houses left when the tourists are gone then sit vacant. Meanwhile, long-term renters and first-time homebuyers search elsewhere. Over 130 homes in Kingsville are already registered online with AirBnB. Many of those are not supervised and left vacant when the guests are gone.
- The appearance of an AirBnB, where the hosts are not primary residents of the accommodation, in a neighbourhood also drives down the appeal of houses for sale in that area, while paradoxically raising the price of houses in general in that area as housing availability drops. If we want to sell our home, and it's next to a party house, we will have more difficulty attracting long-term residents.
- The lack of a bylaw for Kingsville also means the town may be liable in a lawsuit raised by the company or by guests who have been left unsupervised. A bylaw would ensure the hosts are held responsible for problems, not the town.

Breaches of the current Kingsville zoning bylaw:

- AirBnB, when in an accommodation where the primary owner is not the primary resident, is essentially a commercial enterprise. The house is not used as a dwelling, but being used to make money.
- However Lakeshore Residential zones, which is where our AirBnB issues are occurring, are supposed to be either for "Residential use; or Rest home or Nursing home; Group home" (this is a direct quote from the Town of Kingsville Comprehensive Zoning By-Law 1-2014, as Amended, subsection 6.7, part A).
- Our area, which falls within Map 59 of this zoning bylaw, Schedule A (reference: <http://maps.kingsville.ca>) is not within an exception of lakeshore residential locations where businesses would be permitted.
- When I discussed this issue with the zoning bylaw office in Kingsville, I was told that the issue of short-term rentals would be considered sometime in 2023.

While AirBnB is not currently regulated by Kingsville, I strongly recommend a bylaw be put in place for short-term rentals.

Paperwork I'd like to submit with this:

Map 59 of Kingsville with "LR" designations showing properties in question.

Definition of Lakeshore Residential under Subsection 6.7 of the Town of Kingsville zoning bylaw 1-2014 (direct quotes document)

Definition of residential use and dwelling under Subsection 3.10.9 and 3.4.13 (direct quotes document)

## Talk by Anne Sorensen

I would like to start by pointing out the definition of “residence” within the meaning of the Kingsville Comprehensive Zoning By-Law. Under the current bylaw, our properties on McCracken Rd are designated LR; certain exceptions are made under other designations of LR but none of the exceptions impact our properties. Under the current LR zoning bylaw there is no exception for a non resident of Kingsville to operate a short term rental business. (see the Town of Kingsville Comprehensive Zoning By-Law 1-2014, as Amended, subsection 6.7, part A). There may be room under the current bylaw for Kingsville residents residing in a property to use part of their property for short term rental purposes, however, no provision is made for a non resident to conduct the business of short term rentals in a home they do not occupy. As a result, we respectfully are requesting that Council instruct the bylaw enforcement officer to enforce the current zoning bylaw by closing down the operation of any short term rental businesses being conducted by non residents. It is not a permitted use under the zoning bylaw.

We recognize the need for a short-term rental zoning bylaw; many towns and cities are facing the same issue with people who have absolutely no stake in their community buying up properties (especially lakefront properties) for short term rentals.

In a case that came before the Ontario Superior Court in 2015 with respect to short term rentals, the Court determined any rules made with respect to short term rentals must be written in a way that is not “discriminatory, vague, uncertain, or insufficiently specific.” So how do you meet that challenge?

The easiest approach is not to reinvent the wheel but rather to use, as a template, a bylaw which has been successfully defended when challenged on appeal to the Ontario Land Tribunal. The City of Ottawa enacted such a bylaw regarding short-term rentals (by-law No. 2021-104). This bylaw came into effect in the City of Ottawa as of April 1<sup>st</sup>, 2022 after the Ontario Land Tribunal dismissed an appeal of the City’s temporary use zoning for short-term rentals. The town of Kingsville does not have the resources to employ a full staff of municipal lawyers; Ottawa has many more resources available to it and that City has enacted a bylaw which withstood an appeal. There is no reason our town cannot use as a template the bylaw enacted by the City of Ottawa, Short-Term Rental By-Law No. 2021-104. Their bylaw is very comprehensive.

Sections 3 to 5 of the bylaw deal with who can provide a short term rental. Under s5(5) no person is allowed to provide or operate a short term rental in “a residential unit that is not a principal residence, with the exception of a cottage rental or a Dedicated Short-Term rental as provided” under the bylaw.

Under the Ottawa bylaw, **a principal residence is defined as:**

- “1. the residential unit that is owned or rented by a natural person, alone or with others, where the natural person is ordinarily resident and makes their home and conducts their daily affairs, including, without limitation, paying bills and receiving documentation related to identification, taxation and insurance purposes, driver’s licenses, income tax returns, medical plan documentation, vehicle registration and voter registration; or similar information; and
2. where the natural person has no other property designation as such within the City of Ottawa or any other jurisdiction.”

That definition alone would solve the problem of out of town people buying up properties for short term rentals. The bylaw goes on to extensively set out the need for a permit to operate the short term rental, the obligations of the host including, for example, the obligation to insure the property such that the municipality is not held accountable in the event of a lawsuit.

The Ottawa bylaw clearly sets out all of the obligations and responsibilities of any host who is granted a permit for a short-term rental. It includes, for example, the need for fire safety, information regarding how

to contact emergency services, the location of the nearest hospitals, emergency evacuation routes, contact information for the host/property manager who is to be available to receive communications from any guest during the rental period, and even instructions for matters such as solid waste disposal and recycling.

The Ottawa bylaw regulates the permitted number of overnight guests, and the number of persons permitted per bedroom, the prohibition against overcrowding etc. Administrative and enforcement provisions are included in the bylaw, including, for example, refusal of a permit, suspension of a permit, or revocation of a permit or registration.

These are just some of the points that I believe should be included in a Kingville short-term rental bylaw. To that end, I am providing a copy of the short-term rental bylaw from Ottawa (No. 2021-104) for reference by Council and staff.

I would ask that we be scheduled to return before the newly elected Council by the beginning of December 2022 so that we may be advised of any steps being taken by Council to enact a short term rental bylaw and to follow-up with council on any further information that may be required to assist staff and Council members in the development of the bylaw.

Paperwork I'd like to submit with this:

I will provide one copy of the Ottawa Short-Term Rental By-Law No. 2021-104, which I hope will be useful to council as a guide in developing a bylaw for short term rentals in this area.