



## Motel Bar and Dining Law Prompts Cheers, Fears

By Joanne Pilgrim | June 25, 2015 - 1:14pm

A proposed law that would limit the ability of East Hampton motels to add a restaurant or bar drew support, critique, and criticism last Thursday night during a hearing before the East Hampton Town Board.

The law would prohibit motels in residential areas from adding new “accessory” restaurants or bars, though existing ones would be allowed to keep operating. It would also require motels in other zoning districts that wish to add a bar or restaurant to obtain a special permit from the planning board, and meet a set of specific standards outlined in the new law.

According to the proposed legislation, restaurants and bars at motels have traditionally been viewed as amenities for motel guests. But, it says, they have “caused negative effects to the character of the community, quality of life of the neighbors and created public health, welfare and safety concerns by becoming less accessory and growing into a second principal use” at motel properties. Those in residential districts, the town has asserted, are “especially detrimental to the quality of life of the surrounding neighborhood,” causing an increase in traffic, noise, and parking problems.

Only resorts or motels with at least 25 rooms would be allowed to add a restaurant or bar, and the new facility could only be sited in the business’s main building, not in a freestanding space.

The law would limit the area to be used and require that outdoor seating areas be set back twice as far from rear or side-yard property lines as is currently required under the code when the neighboring lot is residential. Screening would be required.

Some opponents at the hearing last week painted the proposal as an unfair political reversal of previous town policy. However, residents of Montauk, where the expanded use of a number of longstanding restaurants has sparked a conflict between the businesses and surrounding neighbors, said that an effort to tamp down the burgeoning party scene and better balance commercial and residential interests is sorely needed.

A number of speakers who supported the law also supported suggestions for its revision by Christopher Kelley, an East Hampton attorney, who said that the legislation would be improved by tightening it in several ways.

Only those motels that conform to all current town code provisions should be eligible for a permit to add an accessory bar or restaurant, he said, and service at those facilities should be limited to motel guests only.

Outdoor dining and bar service should be banned, Mr. Kelley said, as should outdoor music, or live music indoors if the motel abuts residential properties. Should the town board allow outdoor eating or drinking, Mr. Kelley said that the setbacks for the al fresco areas should be greater than as is proposed, equal to the setbacks required from property lines for the principal motel building.

The current proposal “doesn’t really protect” neighbors, he said.

Those seeking a permit for an accessory bar or restaurant, Mr. Kelley said, should be required to upgrade septic systems.

Jeremy Samuelson, the executive director of Concerned Citizens of Montauk, noted recent instances of fish kills, algal blooms, and contamination caused by pollutants reaching the water, and said septic system improvements are key. “We have the right to ask them to do the right thing. We have the right to ask them to take care of their sewage,” he said. “These are not theoretical concerns; this is happening.”

The proposed law is a “huge step in the right direction,” for which there is a “desperate need,” he told the board. With some fine-tuning, he said, “I think we’ll have a really powerful and meaningful piece of legislation that will truly benefit the residents and visitors to Montauk.”

He pointed out that, as written, the law could allow both a 2,000-square-foot restaurant and a 1,000-square-foot bar at a motel, and said business owners should be asked to choose one or the other. “It’s too much,” he said. “It’s not clear to me that there’s a significant need or benefit to the community.”

Limiting eligibility for permits for new accessory restaurants or bars to only those motels that have 25 rooms or more “appears random,” said Margaret Turner, the executive director of the East Hampton Business Alliance. “The trend is toward boutique hotels, where breakfast and room service are expected. Why shouldn’t a 9 or 10-room hotel be allowed to serve their guests breakfast or a glass of wine?”

She asked the board to delay a decision on the new law until the completion of planning studies on the town’s business needs and on individual hamlets, which are in planning stages.

“We feel that this proposal may be reactionary to what has or may happen in Montauk, and remind the board that this proposal affects the entire town.”

James Daunt, who recently sold his Montauk motel, says the town codes regarding occupancy, noise, and the like, are “selectively enforced.” He acknowledged that there are legitimate issues to address, but, he asked, “is this really the proper way to correct it?”

“The town has a responsibility to balance the concerns of residents. It has a responsibility to protect our sensitive environment. The town must also balance the interests of businesses and investors,” said Jay Levine, adding that the proposed law “does seem to balance those concerns.”

A limit on the expansion of hospitality businesses is “long overdue,” said Stacey Brosnan of Montauk. A former business owner, she said she is sympathetic to the needs of businesses. “But there is no balance in Montauk,” she said. “At this point it really has tipped in favor of the business community as opposed to the quality of life and the protection of our beautiful place that we live. The people of Montauk really need this very much.”

Though the town board has said that this legislation will not affect pre-existing, nonconforming hotels that already have restaurants or bars, “I tend to doubt that,” said Lawrence Kelly, an attorney who represents Montauk’s Memory Motel. “I tend to think that at some point someone will make use of this legislation to interfere with the doing of business in East Hampton Town by people who own the property, who have rights under state law, that those rights will be impacted by this.”

“The Beach House case established that the full use of a motel property includes bar service, under clearly established state law,” he said, referring to the former Ronjo motel in Montauk. Renovations there, including the addition of a bar, prompted town scrutiny and review.

“I understand that there is local opposition to business but that does not change state law,” Mr. Kelly said. “If you are going to prohibit outdoor music, if you are going to mandate that all pre-existing, nonconforming properties upgrade septic systems for any changes whatsoever, you will invoke paralysis. . . . Things that you say will not be onerous to business owners will indeed be onerous to business owners.”

“People have invested in the community; they look for a certain return on their investment under clearly established state law. If you want to go contrary to that clearly established state law to hit a political agenda, fine. But you will be challenged, and I believe ultimately you will be defeated on any such attempts.”

Mr. Kelly suggested the board have more discussions with the business community before moving forward.

Brian Kenny, an owner of the Memory Motel, said that the motel owners had made “a multimillion-dollar investment” and changes at the motel site based on assertions from the prior town administration and officials, and that it would be unfair to change the rules now.

“If our pre-existing business, and our actions in cooperation with the town are, after a successful six years of operation, now subjected to a political reinterpretation . . . [and] we as business owners are being targeted based on a revised agenda, we will have to conclude that our civil rights and our business rights are being capriciously violated.”

Last year, Mr. Kelly said, the Memory was cited for zoning violations by the town, which sought an injunction, and two weeks ago it was cited again.