

Planning Board Minutes, 04/17/2018

Town of Lenox
Planning Board
Auditorium
April 17, 2018

Members present: Chair Pam Kueber (PK); Kate McNulty-Vaughan (KMV); Kameron Spaulding (KS); Tom Delasco (TD)

Absent with notification: Deborah Rimmmler (DR)

Staff present: Gwen Miller, Land Use Director, (GM); Peggy Ammendola, Land Use Clerk, (PA)

Others present: There were 17 members of the public present which included Clarence Fanto of the Berkshire Eagle Staff. Both he and staff recorded the meeting.

Documents presented at this meeting:

- Agenda
- Planning Board Minutes:

February 27, 2018
March 27, 2018
March 29, 2018

- Short-Term Rental Zoning Bylaw Amendment
- Short-Term Rentals Bylaw development process [April 16, 2018]
- Motels in Current Bylaw-Definition and Section 8.1
- Special Permit filed with ZBA on April 9, 2018 for 26 Church Street, LLC
- Town of Lenox Zoning Map
- STR Values Matrix

Approve meeting minutes:

- Planning Board February 27, 2018-KS made a motion to approve with one edit. PK seconded the motion and the Board approved by 3-0-1. TD abstained as he was not at this meeting.
- Planning Board March 27, 2018-KMV made a motion to approve as amended. PK seconded the motion and the Board approved by 4-0. ~
- Planning Board March 29, 2018-Tabled

Public Hearing held:

Notice is hereby pursuant to the provisions of Chapter 40A, Section 5 of the Massachusetts General Laws that the Lenox Planning Board will hold a public hearing for a proposed amendment to the Lenox Zoning Bylaw entitled the “Short-Term Rental of Private Homes”. The hearing will take place on Tuesday, April 17th, at Lenox Town Hall, 6 Walker Street, Lenox at 6:00 PM. Draft copies of the proposed “Short-Term Rental of Private Homes” Bylaw are available at the office of the Lenox Town Clerk during regular business office hours, between 8:30 a.m. and 4:00 p.m. Monday through Friday and on the Town of Lenox website 24/7.

PK noted that at April 10, 2018 meeting the Board voted to not have this proposed bylaw on the Warrant for the May 3rd Annual Town Meeting, but the Board is moving forward with the public hearing. On the issue of grandfathering, PK explained that when the Board creates a new bylaw there is a public hearing notice that is published in the local newspaper. It is at that point in time that “grandfathering” ceases for all pre-existing non-conforming uses that were previously associated with that bylaw, i.e., the day after which grandfathering is no longer relevant or applicable.

KS disagreed with PK saying that what will be presented would be a different bylaw and “would not hold water”.

KMV felt that the vote to reconsider had less to do with grandfathering and was more about the bylaw's readiness.

GM said that Counsel suggested both continuing the hearing and also re-noticing the hearing for when the PB actually brings a bylaw to Town Meeting.

KS argued that a public hearing is a part of the final process which leads to a town meeting. He questioned the sense of holding a public hearing on a bylaw that the Board voted seven days earlier to not take to the Annual Town Meeting followed by another public hearing that is scheduled for April 24th.

TD agreed saying that the Board's meetings are public meetings where the public can provide comment and questions. He is of the opinion to not hold the public hearing and end the process but continue forward.

KMV stated that the Board should continue on with the public hearing and not get into an argument of whether or not to close or open a public hearing.

KS said that so much time has been invested and he has started to wonder what the Board is doing by continuing with the public hearings on a bylaw that doesn't exist. He pointed out that there are other matters before the Board, e.g., medical marijuana and the definition of motels.

PK responded that she didn't think that KS's observation was fair. She said that the Board does know what it is doing. It was on the path for having a STR bylaw for the Town Meeting in November, but the Town asked that it will be on the Warrant for the May 2018 ATM. That turned out not to be possible, and now the Board is back on the original path toward the Town Meeting in November.

GM observed that people had read the notice in the paper for a public hearing, and had shown up expecting to be heard, whether or not the Town was bringing something to town meeting.

It was agreed that the Board would continue the hearing to Sept. 11, 2018, using the time between now and then to continue discussions on and finalize the proposed bylaw.

KS made a motion to continue the public hearing to September 11, 2018. PK seconded the motion and the Board voted to agree 4-0.

Since residents and stakeholders had come to this meeting to participate in the Public Hearing, the Board opened to public comments:

Andrea Wagner-East St.-She is concerned about change and feels that the impact on property values needs to be considered. She doesn't believe that people should be limited, and if they are, tourists will go to other towns. She believes this will hurt the businesses in Lenox. She would not vote for the bylaw.

Susan Foulds Walker St.-She asked why Accessory Dwelling Units (ADU) were not allowed in the C-District. KS responded that the intent of the ADU was written specifically to allow for limited purposes. PK noted that the next agenda item relates to this topic regarding motel units in the C-district~

Lauryn Franzoni Pederson-12 Sunset Avenue-She said that she moved here in 2000 and she is supportive of Lenox's long history of welcoming guests. She supports second home owners. She said that her family recently had a wedding with more than 80 guests who found accommodations at hotels/motels, local B & B's as well as Airbnb's.

Short-Term Rentals: Discuss and decide next steps relative to existing bylaw proposal: Update from April 13th Subcommittee meeting including timeline review:

Timeline-PK stated that the subcommittee has completed both Phase I and Phase II. GM has consolidated all of the meaningful comments expressed by the community to date. The Timeline includes a carryover from the previous timeline and recommends that discussions continue through April, May, June, July and August. It is expected that the State will have concluded with their regulations by July 31st. The schedule reflects that the public hearing will be September 11, 2018 and that the STR bylaw will be on the Warrant for the November Town Meeting. The

Master Plan will be discussed over this period as well. PK said that she welcomes feedback on the rough outline. The subcommittee will continue to bring updates to the Board.

GM asked the Planning Board to finalize which date Joel Bard (Town Counsel) could come out and help them with some of the legal issues they are concerned w/ regarding Short-Term Rentals.

After brief discussion, it was agreed that date would be June 26, 2018.

KMV explained her thought process on how to move forward. PK created a focused issue table reduced to one page to be more useful. Like items were grouped into main categories and she started to address the policy differences and tried to determine what the Board values and wants. She put together a rough matrix using the "Purpose" of the STR bylaw and a white paper similar to one from the city of Toronto, Canada. She reviewed the contents of the document, STR Values Matrix, with the Board. She asked that the Board study the document and use the Special Permit criteria as a guiding element. PK said that the subcommittee "will break into chunks" (STR Values Matrix) the comments and issues as they continue to move forward to produce a positive outcome and help with decision-making.

Discuss, consider and if agreed, vote on proposal to amend 5.2.9 / Use table, Hotel Motel Inn. Documents –

Motels in current bylaw

SP application received by Town April 9-26 Church St., LLC- PK stated that a new application has been filed with the Zoning Board of Appeals for permission to have two apartments, tourist home/guest rooms upstairs in a commercial building in the Village which she says would essentially be a Short-Term Rental. She never thought to cross reference what the motel use table says compared to the STR bylaw use says. She believes this to be a conflict. She said that the proposed STR bylaw does not allow for a non-primary resident to rent their dwelling in a short-term way and believes that one or the other bylaw must change and that in particular the use tables are in conflict -- the proposed bylaw has Ns in all zones for non-resident STRs, but the Motel use table now has surfaced allowing Ys in certain zones for non-resident STRs. KS disagreed that there was a conflict. PK also said she had concerns about upstairs apartments in the Village being converted to STRs, limiting housing choices and changing the character of the Village. KMV said that this would get an appropriate review under Section 3.4 of the bylaw. PK said that she wanted to bring this application to the Board's attention because it is a new and fresh way to do a STR in a commercial zone. TD mentioned building codes and how they may be different. PK asked GM if GM was questioning why this item was on the agenda to which GM confirmed. PK responded that, as she said at the beginning, she placed this on the agenda because the Board is in the midst of talking about the STR bylaw, but that it has nothing to do with the merits of this particular application. GM said that she didn't understand why there was such a rush to put a Special Permit application on the agenda and added that if there is such concern about protecting housing stock in the village, there are other ways to do so and other zoning improvements to make to diversify housing stock, and the PB has had those recommendations for some time.

See zoning map – C districts exist in both Lenox Village and Lenox Dale

Recreational Marijuana

- Review and agree on timeline to develop Recreational Marijuana bylaw for the November Town Meeting vote. KS brought everyone up to date stating that today is the first day to make application if one a priority applicant. Lenox is not. May 1st is the date when others may apply. Lenox has a moratorium until the end of December. KS would like to have a forum June 5th in which there will be a broad discussion on the topic. The state is expected to have regulations by early July which will provide guidance and a framework with which the Board can work to create a bylaw. It is expected that the bylaw would be on the Warrant for the Town Meeting in November 2018. The Town could have more restrictive regulations than the state, but no less restrictive.

On April 24, 2018, BRPC will be having a Recreational Marijuana Workshop at the Lenox Town Hall starting at 6:00 PM. This conflicts with the Board's meeting in which the 241 Walker Street project is on the agenda. There was discussion and agreed that the Board would move their schedule up to 5:30 PM. KS will leave the PB meeting after 241 Walker St. is concluded and go to the BRPC session in order to capture the information on behalf of the Board. The Planning Board will meet in the Board of Selectman's office.

KS made a motion to adjourn. TD seconded the motion and the Board voted in favor 4-0. The meeting was adjourned at 7:45 PM.

Respectfully submitted,
Peggy Ammendola