

**Town of Lenox  
Planning Board  
Land Use Meeting Room  
June 12, 2018**

**Members present:** Chair Pam Kueber, (PK); Kate McNulty-Vaughan, (KMV); Tom Delasco, (TD)  
Deborah Rimmner, (DR)

**Absent with notification:** Kameron Spaulding, (KS)

Staff absent with notification: Gwen Miller, Land Use Director, (GM) and Peggy Ammendola, Land Use Clerk, (PA)

**Approve minutes** for May 22

*May 22, 2018*-KMV made a motion to approve the minutes with amendments. TD seconded the motion. (KMV made the changes and will submit to Peggy Ammendola.) The Board voted to approve 3-0-1. DR abstained as she was not at this meeting.

Clarence Fanto of the Berkshire Eagle and the Board recorded the meeting.

**Citizen comments:**

*Paul Marshall, Hubbard St.*-He had a number of questions regarding KS's proposed bylaw for Short Term Rentals which included, but not limited to, the change in the definition of seasonal rentals which does not specify the number of people and new definition of seasonal rental of an entire dwelling. PK advised that this is a proposal. TD commented that he liked the order of the previous STR bylaw proposed in the spring which was ultimately shelved. He feels that the rental, STR, of an entire dwelling when the owner is not living there, is a commercial use. When PK asked how Mr. Marshall felt about seasonality, Mr. Marshall expressed his reservations and referred to the letter sent out by the Building Commissioner. PK said that "seasonality" will be discussed later during this meeting.

*Beth Gamble*-She wanted to know where she could find a copy of KS's proposed bylaw and a timeline for developing a STR bylaw. PK advised that people could access this and other Board documents at [lenoxplanningboard.com](http://lenoxplanningboard.com). Ms. Gamble asked the Board to question Town Counsel Joel Bard on grandfathering when one purchases a home when the previous owner was grandfathered in terms of Short Term Rentals.

*Jackie Wong, Hubbard St.*-Ms. Wong urged that everyone compromise and work toward a solution to this issue. She feels that hosts have a negative image and the cease and desist letter sent out by the Building Commissioner created anxiety. She said that some young families can afford to purchase a home in Lenox when they have the ability to be a host. She doesn't feel that this practice should be labeled as a "motel".

*Steve Seltzer*- He said that this practice of renting out property for short term has been happening for years in Lenox. He said that it is beneficial to guests coming to Lenox to have access to rentals that welcome pets and children and he believes that people are using town government to stifle competition. He said that many people who rent STR do have children and pets with them.

**Master Plan:**

PK said that a request for proposal (RFP) had been sent out and only two entities responded. They were Berkshire Regional Planning Commission and Harriman. Ranking charts had been submitted to the Board members and others. TD said that he didn't complete the chart, but compared the two. He feels that Harriman could produce a more diverse product as they have worked with other communities in the state and region. BRPC has only worked for communities in the county. It is believed that more organizations

didn't respond because of the budget allowed. The other members provided their opinions and it was decided that there should be further discussion with both BRPC and Harriman to clarify exactly what they would be providing to the Town. Then the Board could decide how to proceed.

### **Recreational Marijuana:**

At a recent meeting on this topic, it was reported that there were 14 members of the public who attended with the majority of them from out of town. One member said that there were 6 residents. It is believed that there are citizens who want to prohibit all adult use establishments. Gwen Miller, Land Use Director and Town Manager Chris Ketchen feel that it would be wise to have a second warrant article. The first would be a proposed bylaw that makes provisions for an adult use establishment in Lenox. If it fails to pass, there would be a second warrant article. If the first article fails, and the second passes, this would go to a ballot initiative. There was discussion on different scenarios as well as what uses would be proposed for what zones. PK will meet with GM. There was a review of the timeline.

At the conclusion of the discussion on recreational marijuana, PK reminded the Board that after the June 26<sup>th</sup> meeting, there are 3 meetings slated. The Board will have to decide by the August 27<sup>th</sup> meeting on a STR bylaw so that it can be ready for publication in advance of the September Public Hearing.

### **Short-Term Rentals:**

- **Discussion among the Board, discussion topics:**

“Why “Seasonal Rental of Rooms” Seasonality?” (two remaining topics, on Tourism and ADUs may also be discussed, time permitting)-PK said that this relates to KS's proposal of a few weeks ago. For this session, the Board is not looking at the content of the bylaw. PK wondered why, when the bylaw was created, there was a provision for Seasonal Rental of Rooms. TD responded that it was because of Tanglewood as it ties in with their season. The season is Memorial Day through Labor Day and includes weekends until Columbus Day. The rental of a couple of bedrooms, although a commercial activity, has less of an impact in a neighborhood than the rental of an entire house in the absence of the homeowner.

Discussion included, but was not limited to, capping the number of days, expansion to other times of the year, neighborhood density, etc. PK feels that the season should remain the same and not expanded, because of the personal property rights of property owners to live in a residential neighborhood. DR said that she doesn't expect that there would be much demand for off season STR. KMV said that she would consider use for some period in an accessory way, but she is not in favor of individuals buying a home for the sole purpose of renting out to transients and never intending to live in the home. She also believes that if the owner is not in the home, the renters are to be provided with a local contact

TD pointed out that the building code will dictate regulations. The code exists for life safety purposes and came into being because of disasters.

Public Comment-(No name given.) She said that the STR are being used by the typical family, which is no different than families who live in a residential neighborhood. With regard to parking, she said the family next to her has four cars.

Public Comment-(No name given.)-She suggested that when this topic is discussed the building code should be referenced. DR said that the only issues that the Board should be determining are the time limit and place. She said that it would be helpful to have clarity regarding the building code, health code, etc. which is not within the Board's purview. TD added that the Building Code is subject to interpretation.

Public Comment-(Kathy Barret? Last name was not clear.) She said that she believes that transients have less impact than some permanent residents. She used an example of construction that has been going on for last five years at a home across from her. She said that transients use fewer resources and they feed the cultural center. She stated that younger people are more likely to use an Airbnb.

Public Comment (No name given.)-He said that he appreciated the time the Board was taking on STR. He rents a home part-time, for durations of a month or shorter. His tenants are repeat tenants and have been for years. He expressed confusion over the Building Commissioner's cease and desist letter. The Board then discussed how to prepare for the upcoming June 26 meeting with Town Counsel Joel Bard. Questions will focus on bylaw creation including addressing grandfathering concerns. PK asked the Board members to prepare questions to give to Gwen Miller. She and GM will put together the questions and provided to Attorney Bard in advance of the meeting. The plan is to then have a working STR document by July 10<sup>th</sup>.

Affordable housing bylaw improvements: The Board reviewed of a proposed bylaw change to allow multifamily dwellings in the C-district and reduce apartment size requirement to building code standard-. PK and GM hope the Board can get this in for the November Town Meeting. There are no provisions in the bylaw to create multifamily housing in the C district. In granting of a Special Permit to repurpose the Walker House from a B and B, the Zoning Board applied the inclusionary zoning bylaw. It is felt that changing the bylaw to permit multifamily dwellings in the C-district housing in the District will be more accessible to people of different income levels.

There was confusion as Board members had different language in their copies of the bylaw. Discussion ensued. TD said that GM was suggesting to be less restrictive and to allow by right in the C district to the standards of Section 9.1. One member said that where the bylaw had not allowed multifamily dwellings in the C-district before, it had been changed to "BA" (Zoning Board of Appeals)

The definition for an apartment states that 700 square feet is the minimum size. With the proposed change, an apartment size is to be governed by the current building, safety, sanitary and housing codes.

KMV discussed home occupation in a residential zone being limited to no more than 20%.of the home. She spoke of STR being thought of as an "accessory" use. PK suggested that this standard could be applied to STR to limit use of the dwelling. It was agreed that there was a need for further discussion.

DR agreed to read through the bylaw with proposed changes in mind to make sure that anything that is affected is also changed.

Public Comment-(No name given.) He feels that the Building Commissioner's cease and desist letter makes more sense when one also reads Attorney Lynch's letter.

Respectfully submitted,  
Peggy Ammendola