

Minutes  
Town of Lenox  
Planning Board  
Board of Selectmen's Meeting Room  
October 9, 2018  
As approved Oct. 23, 2018 with amendments

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

**Member absent:** Deborah Rimmner (DR)

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

**Others present:** Beth Tracy Gamble and Clarence Fanto of the Berkshire Eagle. Mr. Fanto recorded the meeting.

Staff also recorded the meeting

**Documents used or referred to at the meeting:**

- Agenda
- Short Term Rental (STR) Zoning and General Bylaw with possible amendments based on Town Counsel Joel Bard's feedback with August 22nd edits
- Current version Marijuana bylaw for STM, dated September 26th
- GM's October 4<sup>th</sup> email to Board members regarding Attorney Bard's feedback

**STR Zoning and General Bylaw discussion:**

- Discussion of Attorney Bard's comments on residency requirement within the General STR-registration bylaw proposal: KS disagreed with Attorney Bard's interpretation and made the case that residency can be a requirement to receive an operator's license/registration in our General Bylaws. Two other board members KM-V and TD indicated agreement with the logic. As a result of the majority consensus, no change was made to the General Bylaw or the STR Zoning Bylaw in this regard. It was agreed that KS's interpretation of 'operator licensing' issue will be shared with Attorney Bard for his consideration, and that if a more definitive case is made against it, the bylaw can be changed up to the Special Town Meeting (STM).
- The Board amended the General Bylaw provision related to effective date per Attorney Bard's recommendation – becomes effective upon AG approval.
- STR Zoning bylaw General Standards section:
  - KM-V recommended and the Board approved adding the words 'or excessive' before the word 'sound' and an oxford comma after the word 'sound' to first bullet.
  - The Board took out grandfathering bullet under General Standards, agreeing that its content was implicit in the Zoning Bylaw already.
- Note that GM needs to and will add all sections to the bylaw for filing prior to STM.

**Retail Marijuana:**

- PK also shared key points from discussion with Attorney Bard about limits of Site Plan Review and community host agreement as tools to stop/limit/restrict by-right marijuana establishment applications. Pointed to strict limitations to denial of permit within Site

Plan Review language; and that host community agreement must be negotiated in good faith. After discussion Board agreed to amend the use table to recommend that retail marijuana establishments require a special permit from the ZBA. After discussion, no changes to other marijuana establishments. The consensus was that citizens are most concerned about retail, and that other types of marijuana establishments might be considered similar to any other of the same type.

- PK noted that Attorney Bard agreed that a provision to limit the number/percentage of retail marijuana establishments is likely not necessary. The market will likely effectively limit the number possible to exist/survive in any given market.

#### **Planning for Special Town Meeting:**

1. KMV will take the lead on creating and presenting Housing articles. PK is the backup in case KMV is not available. There was discussion of some of the concerns that had come from one citizen and PK will get with GM to ensure the Board has data to address.
2. TD will take the lead on Adult Use of Marijuana, with KS as support.
3. KS will take the lead on Short-Term Rentals, with the Board as support.
  1. PK asked a citizen in audience, Beth Tracy Gamble, who has a background in marketing, to share her thoughts on preparing presentation.
4. PK will send to the Board her prepared text which explained the bylaws that she shared at a Select Board meeting in September for the Select Board meeting she attended in September explaining our bylaws, for presenters to consider as they develop their presentations.
5. PK will call Town Moderator, John McNinch as soon as possible about having him meet with the Board at the next meeting, Tuesday, Oct 23, to discuss meeting protocols.
6. PK will plan a meeting with Town Manager Chris Ketchen and GM to confirm other setup questions for the meeting, including where it will be held and seating for the Board so that they are up front with the Select Board to be close at hand to help answer questions.

#### **Master Plan:**

- The Board voted 4-0 that PK and KM-V will represent the Planning Board on the Master Plan Steering Committee with backup from other members if necessary. The Board as a whole or by member may also be invited to participate in Core Assessment Team work.

Submitted by Pam Kueber