

Town of Lenox
Planning Board
Lenox Town Hall
June 25, 2019

Members present: Tom Delasco (TD); Kate McNulty-Vaughan (KMV); Jim Harwood (JH)
Absent with Notification: Chair Pam Kueber (PK); Kameron Spaulding (KS)

Documents used at meeting:

- June 25 agenda
- Form A submitted by SK Design for 26 and 36 East Street
- Lenox DLTA Zoning (Agriculture/Education/Religious
- May 28, 2019 and June 11, 2019 Minutes for approval

TD opened the meeting at 6:05pm. The meeting was recorded by the Planning Board.

1. Review and vote to endorse Approval Not Required for 26 and 36 East Street, applicants Allan and Martha Joyner.

- Jim Seidl from SK Design representing the Joyners.
- Jim discussed the property located on the east side of East Street. The parcel (a small triangle of land) will be conveyed from Roger and Laura Brown and made part of the Joyner property. The remaining Brown land exceeds requirements for frontage after the conveyance to the Joyners.
- JH reviewed the dimensional requirements for the R1A zoning district.
- JH moves to approve Form A as submitted and KMV seconds. All in favor 3-0.

2. Approve minutes for May 28, 2019 and June 11, 2019

- KMV moves to accept May 28, 2019 minutes as amended. JH seconds. All in favor 2-0. One abstention by TD (absent from 5-28-19 meeting).
- KMV moves to accept June 11, 2019 minutes as amended. JH seconds. All in favor 3-0.

3. Update on Agricultural zoning (Section 4 Definitions & Section 5 Use Regulations) Educational & Religious Uses zoning (Section 8.6)

Board reviewed Lenox DLTA zoning for Agriculture, Education and Religious zoning.

Agricultural:

- KMV summarized the zoning for non-exempt as it refers to agriculture within the Lenox bylaw. Currently MGL 40 Section 3 allows livestock; therefore KMV suggests that if Lenox can't eliminate livestock, then the town can hold the zoning to parcels above five acres or greater per MGL 40 Section 3.
- Board would like more information on the farm stands reference within the Lenox DLTA zoning document, and is interested in input from the Board of Health.

Educational & Religious Uses:

The Board discussed Lenox's more stringent requirements and the applicable legal cases, and discussed the recommended changes. KM-V asked about the status of the final sentence on p. 53 referring to the C and R-15 Districts and their "exemptions" from Section 8.6..The board has questions and would like to include Zach Feury (BRPC) in a future meeting to discuss zoning changes and recommended changes.

1. Dialog with stakeholders on Short-Term Rentals (75 minutes)

- Board stated that they want to hear from the stakeholders during this session on STRs.
- JH reached out to Building Commissioner but has not connected yet. JH will continue trying to connect.
- JH believes that the intensity of use is the key gatekeeper for STRs based on conversations at the last Planning Board Meeting. JH and PK are trying to put together a meeting with Board of Selectman and Town Manager, Chris Ketchen, to discuss ways to ease the bite of the regulations for Bed & Breakfasts.
- KMV believes one of the issues during the last discussion is the “corporate” owner and determining the distinction between first and second homeowners to a corporate owner.
- KMV believes we need to be careful when we discuss the number of days for STRs and what the use is within the meaning of residential zoning.
- Paul Marshall asked if someone can expound how intensity of use varies between one family one weekend and another family the next weekend. JH addressed the question in regards to intensity over time. TD stated the more intense the STR use is the more commercial within the residential neighborhood.
- Beth Tracy Gamble believes that “commercial use” needs to be defined before moving forward with STRs bylaws, and questions why no one is enforcing the current bylaw.
- A stakeholder (Susan Foulds) discussed the idea of “changeover” and how many times your house may have a changeover during a time period. Ex: if you rent your home for 200 days but only have 7 change overs that has a different impact on your neighborhood as opposed to renting for 200 days and having 25 change overs.
- KMV suggests looking at other communities within the Commonwealth on the South Shore and Cape Cod and how these communities have allowed that kind of use and still maintained “neighborhoods.”
- JH and TD responded to Jackie Wong’s question about “strangers” and discussion ensued about the “fabric of neighborhoods” and the relationship of trust established with next door neighbors as materially different from STR renters and the “in and out” of transiency experienced.
- Ted Silverman pointed to the element of fear which is somehow not a feature of the current summer rentals – but is part of this STR discussion.
- Paul Marshall and others spoke of the lack of a market for long term (over 30 days) or year-round rentals while many dwellings remain empty.
- JH suggests looking at the positive or possibilities that STR’s advance (a tool to attract families to Lenox) with emphasis on leveraging these factors to better the economy and the community. And assessing the risks associated and the STR property “abusers.”
- TD suggested that rental of rooms helps owners.
- One stakeholder stated that Lenox needs to decide what type of community do we want to be? Does Lenox want to be like Cape Cod in the summer that is mainly a rental community?
- Mary Jo Piretti brought up points regarding the neighborhood and property values. When you are in a residential zone you become familiar with your neighbors but when you commercialize, you change the environment in your neighborhood and then your community with its effect on schools as well.
- Eric Federer spoke about the inns which are subject to regulatory scrutiny and the town showing some sensibility to their legitimate business concerns.
- Dan Zussman, a 2nd homeowner, reminded those attending the meeting that many 2nd homeowners expect to retire to their homes in Lenox and hope that the STR

regulations/standards do address neighbors' concerns (parking) and ways to prevent abuses.

- Among stakeholders, MJ Piretti suggested that a property owner do it all by Special Permit and meet health and safety requirements.

Consensus remained elusive with respect to the question of how STR use would be regulated: Special Permit or By Right with Performance Standards. TD suggests Performance Standards.

- Tom Johnson noted that fire and police would need to know which houses are being used by transients and that asking "permission" of neighbors (yes or no) by coming in front of the town one time to gain "permission" for short term rentals (Special Permit) seems reasonable..
- TD responded that that's where the "intensity of use" becomes the issue. If more intense usage – that suggests moving STR's to Special Permit in Residential zones.

The Planning Board is trying to determine what a "residential" use is regarding STR's.

JH averred that the STR use -- if a single family home meets the requirements for a single family home (building code, etc.) it's consistent with residential use.

- Dan Zussman referred to the count of "change-overs" which he views as a measure of impacts.
- Paul Marshall spoke of Building Inspector meetings and the political difficulty of determining when a residential use becomes a commercial use.
- Eric Federer referred to measurable impacts, mentioned the lack of a noise ordinance, and suggested that in discussing these issues with other communities a key question would be "What would you do differently?"
- Beth Gamble and Susan Foulds warned that differences in size, town budget, etc. could produce varied responses that might not be suitable to Lenox, and different ideas of "fabric of neighborhoods" (absentee owner-rentals).

Board discussed ideas brought forward by stakeholders during the meeting:

Timeframe, seasonal model and year-round interest;

Number of days;

STR usage on properties with multiple buildings;

Need to confer with BOS and Building Inspector;

Work on Performance Standards:

Ways to measure community and neighborhood impacts.

Meeting closed @ 8:08pm. TD motioned and JH seconded. Passed unanimously 3-0.