

Town of Lenox  
Zoning Board of Appeals  
August 3, 2020  
7:00 p.m.  
Public Hearing Via Zoom

**Members Present:** Albert Harper (AH), Robert Fuster (RF), Cliff Snyder (CS), Shawn Leary Considine (SLC), Clayton Hambrick (CH)

**Staff:** Gwen Miller, Land Use Director

**29 Kemble Street, Special Permit Request (Continued from 7/29)**

Gregg Carlo and Lisa explained how their proposal meets the criteria of the Special Permit

Explained trips to and from home

Noted that many guests walk to town and don't use their car once they are here

Have support from neighbors

Pay a hospitality tax

Al Harper: if for some reason we don't grant 35 days, what hardships will you face?

Lisa: when we purchased the property we calculated the rentals into the mortgage payment

CS: when you purchase the house, how many days did you calculate you would need to rent the property for your mortgage

GC: previous owner had done 190 nights

Could maybe go lower but would need to do fewer days

GC understands long term rentals would not count toward STR limit so they would do a longer rental once a year

There were three letters of support provided, all in favor

No public comment

No need for site visit

Hearing closed at 7:19 pm

RF (will write decision): having a little time goes by can be a good thing. Was initially not in favor of this. He understands it would be a hardship to own the house without a rental income. Though it's not very persuasive, they did buy the property not knowing this new regulation

would be adopted. He appreciates how the standards are met. They have crafted a thorough justification.

AH: this is a case of first impression for the bylaw. It's not our personal feelings—delighted the younger owners want to live here. But they purchased an investment property. Even if they have to rent it for 31 or more days, they could just do that more often. He finds the impact of STRs weigh the benefits.

RF: at what point will you live in the property full time

LB: would like to move out there as soon as we can but most likely retirement

CS: very torn, though agrees with AH. setting precedent, important.

SLC: concerned by intent of owners to buy and pay for as an investment property. Torn by bylaw purpose. Very torn like Cliff.

CH: agreed with board

SLC asked if Town Counsel would want to weigh in. GM said she didn't think so, the bylaw is fairly clear and while earlier iterations did prohibit non primary residents from STRing, the new one does not prohibit

SLC said she would switch her vote bc the PB in February asked the ZBA to grant the special permit personal to the property

RF asked how many nights they spent said 70 and hoped to spend the whole month

SLC moves to grant the requested Sp via 8.4 of the bylaw

SLC: yes, CS: no; CH: Yes; AH: No, RF: yes

3-2 vote; SP denied

#### **46 Sargent Brook Road Special Permit Request (Continued from 7/29)**

At 7:42 pm RFJr opened the public hearing.

Michael Cooney, Applying for additional 35 days

Has lived on Tucker Street

Family has owned cottage for 40 years

It is three season, only heat source is gas fireplace

They do have repeat tenants who come for 28 days at a time

Mr. Cooney explains how proposal meets special permit requirement.

One piece of correspondence, in favor.

SLC asks if owners would be ok to making SP personal to property owners.

Mr. Cooney is in favor of that. Not an issue t all.

AH thinks even that restriction is too liberal. AH would be in favor of a sunset provision. Would set it for two years. AH asks how often he visits when home is rented. Mr. Cooney says he visits once a week.

Explains how he deals with special requests.

CS asked about tweaking # of days

CS asked abt monthly rental...could you give a family extra days.

SLC explains that once you go over 30 days they become a tenant

No need for site visit

Public hearing adjourned at 7:57

AH moves to grant petition as presented

CS seconds

RF: in favor, family is there a lot and supports making personal to owner

SLC: in favor, meets requirement, fits in with neighborhood but does request SP to be personal. Doesn't need a sunset provision.

AH: a SP runs with the property, not the person. I know we can adjust the time of the permit. Not comfortable running with owner.

CS did note the property is three seasons and could not be a single family home

CH, all wrestling with new bylaw

This has been going for a long time, owner loves in town

CH moves to approve

All in favor

SLC proposes condition to make SP personal to applicant

All in favor but for AH

Passes 4-1

AH moves for a time limit on SP, owner to come back in two years

Ah: yes, rf, yes, ch: yes, sLC: no, CS: no

### **51 Willow Creek Road Variance Request**

Jeff Clifford explained the project and that his is the only residential property on the road.

RF asked Mr. Clifford if he still plans to use it for office or commercial space. Would it still be a residence? Mr. Clifford responded he would add a residence above the garage so tenants could remain or his son could move in above office space.

AH asked details about size of new structure

Retaining wall

Utility easement and utility poles

JC explained he would

Public hearing adjourned at 8:40

RF In favor, physical circumstances make it necessary

SLC seconds and votes in favor with no conditions

### **Elm Court (310 Old Stockbridge Road) Special Permit Extension Request**

NA explained the market in current conditions is very tough for hospitality financing

Covid 19 has had big impacts

Client has kept trying to go forward

NA explained the efforts they have made

Have kept in touch with contractors

2 year request is based on ever lengthening Covid situation

RF asked if they would sell property with an extension

NA said not their intention; also permit has no value to anybody else.

AH: what happened in Stockbridge

NA: they were granted an extension in Stockbridge for two years

SLC said there is a bill in the legislature that would automatically extend permits

CS said he thought that financing was secured previously

NA says big increase in cost

RF asked how many times they asked for lending and how many lenders they asked

NA didn't have specifics

AH wants to see something there, understands that Stockbridge granted extension

Correspondence— Wendy Rutledge work effort by les freeman has reflected well on Front Yard LLC; afraid to see what else could happen there

Judith blank recently bought property next to Elm Court knowing development could happen and hope it will

CH: says yes

CS says yes

SLC says yes

AH says yes

RF says yes

AH moves to grant a 2 year SP extension

All in favor

Rf to write

Meeting adjourned @ 8:33 p.m.