

THIS IS A DRAFT

6 p.m.

Select Board Conference Room, 2nd Floor, Lenox Town Hall

<u>SUBJECT</u>		<u>PRE-READING</u>
		BOARD MEMBERS: PRINTED PACKETS WITH THESE DOCUMENTS ARE AVAILABLE THURS. PRIOR IN LAND USE ROOM FOYER
1.	Approve minutes for June 12	June 12 2018 PB minutes
2.	Endorse the easement plans for Town of Lenox Walker St. project	
3.	Short-Term Rentals: Review Zoning bylaw draft dated July 15; vote on policy questions. Review General bylaw draft dated July 17 and vote to approve	KMVedits July 15 2018 Bylaw Revisions PJK and KMV July 17 issues to vote on Edits to General Bylaw July 17
4.	Citizen comments	
5.	Plan agenda for next meeting and review schedule.	Members: Bring your copies from previous meeting / will not be reprinted updated june 6 Calendar to Nov 1 Town Meeting

Adjourn

DRAFT FOR APPROVAL

**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 Rimmmler, (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. 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 26th meeting, there are 3 meetings slated. The Board will have to decide by the August 27th 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 10th.

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

Finalize STR bylaws:

1. Zoning Bylaw:
 - a. Review updates since last meeting
 - b. Vote on Policy issues:
 - i. Seasonal rental vs. # of Days
 1. If Days, then how many:
 - a. Rooms →
 - b. Entire Dwellings and ADUS →
 - c. Residency requirement – yes or no
 - d. ADUs – yes or no
 - e. Structure of bylaw
 - i. Is order of requirements okay
 - ii. Any other issues
 - f. Consider suggestion from Lynch correspondence about clarifying language / KM-V included suggested language
2. Vote on General bylaw
 - a. Review updates since last meeting
 - b. Any changes?

Short-Term Rentals (STR's): Warrant Articles**Add to Section 9 ~~8.8 Bed & Breakfast Establishments~~****Short-Term Rentals Bylaw – PURPOSES:**

The provisions of this bylaw section are intended to clarify the limits and uses of residential housing for Short-Term Rentals in Lenox:

- To protect neighborhoods from undue commercial activity, maintaining their character and livability;
- To minimize public safety risks for guests and visitors and to minimize possible nuisances for abutters;
- To sustain the supply and affordability of residential housing available to local community families and individuals who live and work in the region.

GENERAL STANDARDS:

- All Short-Term Rental property owners or leaseholders shall ensure that renters conduct themselves in a manner appropriate to the neighborhood.
- No rooms, single-family dwellings, apartments or permitted Accessory Dwelling Units used for Short-Term Rental purposes prior to this bylaw shall be construed as “grandfathered” unless compliant with the requirements of former Section 8.8. All uses of residential property for Short-Term Rentals must be compliant with the provisions of this bylaw and its requirements.

DEFINITIONS:

- **Short-Term Rental:** All or part of a residential dwelling unit that is used to provide sleeping accommodations for any rental period less than 30 consecutive days.
- **Primary Residence:** The dwelling unit that is the domicile and permanent legal residence of the owner or leaseholder.
- **Residential Use:** The dwelling or room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating for 31 consecutive days or more.

Comment [KM1]: Framework: move to Section 9: Special Residential Regulations

Comment [KM2]: Short-Term or Short Term Rentals: with our w/o the hyphen? Add Abbrev. (STR)

Comment [KM3]: This part: Purposes & definitions also need to be part of a Warrant Article --. I'm beginning to think we shouldn't break up into separate articles.

Comment [KM4]: General Standards: Remember the “nuisance” issue? Fits here OK? And this seems the likely spot for clarity about “grandfathering”/prohibition of out-of-compliance uses.

Comment [KM5]: Alternative defn – STR as a noun

Comment [pk6]: What has changed since July 10:

-Tweaking of definitions

Comment [KM7]: Alternative from Amherst – seems to hit the mark.

Warrant Item #1: Seasonal Short-Term Rental of Rooms:

	R3A	R1A	R30	R15	C3A	C1A	C	I	References
Seasonal Short-Term Rental of Rooms	Y	Y	Y	Y	Y	Y	Y	Y	8.8.1 Section 9

TABLE OF USES:

Y=By-Right

~~8.8.1~~ SEASONAL SHORT-TERM RENTAL OF ROOMS:

The following requirements shall apply:

1. Rental of up to two bedrooms shall be permitted from Memorial Day through Labor Day, and weekends only through Columbus Day.
2. The owner or leaseholder shall occupy the home during the rental period.
3. The home shall be the primary residence of the owner or leaseholder with lodging as an accessory use.
4. Registration and inspection:
 - a. A Seasonal Short-Term Rental Registration-Rooms and Certificate of Compliance are required;
 - b. Premises shall be subject to annual inspection;
 - c. One type of Short-Term Rental Registration may be held per address per year.
5. Except for a home occupation that complies with this Bylaw, no other uses shall be permitted on the property.
6. Parking must be off street, on premises, with one (1) space per bedroom rented and one (1) per owner available.
7. No additions or external modifications may be made to the property for lodging use.
8. Only continental breakfast from the common family kitchen is permitted.

Comment [KM8]: No HOST – owner....etc.

Comment [pk9]: Ways in which this has changed from previous bylaw:

- 1 – Added “Short-Term” to title
- 2 – Now allows rental of two bedrooms rather than up to three people
- 3 – Registration and inspection details added.
- 4 – Owner-occupancy requirement moved out of Definition into bylaw
- 5 – Reordering of items [discuss/decide: this can be easily reversed]

Short-Term Rentals: Warrant Article #2

	R3A	R1A	R30	R15	C3A	C1A	C	I	References
Seasonal Short-Term Rental of Entire Dwelling Units or Accessory Dwelling Units	BA	BA	BA	BA	BA	BA	BA	BA	8.8.2 9. X-Y

TABLE OF USES:

BA=Special Permit required from the Zoning Board of Appeals.

9. X SEASONAL SHORT-TERM RENTAL OF ENTIRE DWELLING UNITS ~~OR ACCESSORY DWELLING UNITS:~~

The following requirements shall apply: ~~to either of the above:~~

1. Rentals shall be permitted from Memorial Day through Labor Day, and weekends only through Columbus Day.
2. The dwelling unit ~~or accessory dwelling unit~~ shall be the primary residence of the owner or leaseholder with lodging as an accessory use.
3. Registration and Inspection:
 - a. A Seasonal Short-Term Rental Registration-Entire Dwelling Unit ~~or Accessory Dwelling Unit~~ and Certificate of Compliance are required.
 - b. Premises shall be subject to annual inspection.
 - c. One type of Short-Term Rental Registration may be held per address per year.
4. Special Permit required:
 - a. The Special Permit may be issued for an initial period of two years of operation;
 - b. Thereafter, the special permit may be issued for a maximum of five years.
 - c. The Special Permit shall be issued only to the primary resident of the property and shall not be transferable.
5. Parking must be off street, on premises, with a maximum of two (2) vehicles used by renters.
6. Except for a home occupation that complies with this Bylaw,
 - a. no other uses shall be permitted on the property, and
 - b. no special events accessory to the Short-Term Rental may be held on the premises.
7. No additions or external modifications may be made to the property for lodging use.

Comment [KM10]: Break this out – It's an entirely different issue & holders have a Sp. Permit already – confusing.... For all

Comment [pk11]: Need Planning Board discussion / decision

Comment [KM12]: Might want to make this a "may" which could be responsive to neighborhood concerns, etc.

Chapter XXVIII of the General Bylaw

Registration and Inspection of Short-Term Rentals

1. Applicants for Short-Term Rental uses ~~Hosts~~ must complete a registration application with the Town Clerk of Lenox. Requirements include:

Building Commissioner Certificate of Compliance	<p>The Building Inspections Department shall inspect the premises to determine adherence to applicable zoning, building, safety, sanitary, and housing codes and to determine maximum occupancy, and will issue a Certificate of Compliance if the premises meet all applicable requirements. Certain applications will require a Special Permit from the Zoning Board of Appeals; it is recommended that applicants speak first with the Building Inspection Department before applying for the Special Permit. If the Department and applicant are unable to schedule an inspection within sixty (60) days, a temporary registration number may be issued.</p> <p><u>Applicants may need to apply for a Special Permit from the Zoning Board of Appeals (ZBA).</u></p>
<u>Town Clerk</u> Receive and Display Registration	<p>Upon receipt of applicable zoning and building permits from the applicant <u>Short-Term Rental Host</u>, the Town Clerk shall issue <u>grant</u> a registration number and certificate to the Short-Term Rental Host. <u>Additional information is required to complete the registration, the following information is required:</u> will include:</p> <ul style="list-style-type: none">o Name, address, telephone number(s), email address.o Notarized affidavit certifying that the premise is and will continue to be the host's domicile and primary legal residence. Documentation may be requested including Homestead Exemption, state tax filing, voter registration, etc or the like.o <u>For Short-Term Rental-Entire Dwelling Units, local contact information for a local contact</u> the party who will be responsible for the property 24/7; if the owner/leaseholder is not available. Hosts of Entire Dwellings, who will not be on premises during the rental period, will be required to provide contact information for the local party who will be responsible for the property 24/7 in case of urgency or emergency.o <u>The</u> The Short-Term Rental Host shall display their registration number <u>shall be displayed</u> at all times in their online listings, <u>or</u> any other form of listing, and at their Short-Term Rental

Comment [pk1]: KMV request that GM doublecheck this

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Comment [KM2]: Added V above- Sandwich Bd Sgins are XXVII (27) so this is XXVIII (28).

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Comment [pk3]: What has changed since July 10:

1. This sentence noting possible requirement for SP added

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Comment [pk4]: Added since July 10 meeting

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Comment [pk5]: Added based on Board discussions July 10

July 17, 2018 update

	property.
Annual Renewal	Annual renewal through the Building Inspections Department is required and will be granted <u>subject to continuing evidence of</u> so long as the Host demonstrates: <ul style="list-style-type: none">○ Adherence to local and state zoning, building, safety, sanitary and housing codes.○ Adherence to all applicable state and local taxes and insurance laws.
Fees	The Select Board or its designee may set and periodically revise a schedule of <u>fees</u> for registration, permit application, and inspections of Short-Term Rental properties.

Comment [KM6]: Get this box onto previous page – so 1 page total