

Planning Board Minutes, 06/27/2017

**Town of Lenox
Planning Board
June 27, 2017
Landuse Meeting Room**

Members present: Chair Kameron Spaulding, (KS); Tom Delasco, (TD); Pam Kueber, (PK); Kate McNulty-Vaughan, (KMV)
Participating remotely: Deborah Rimmner, (DR), via audio conferencing due to geographic distance.
Staff present: Peggy Ammendola, Land Use Clerk, (PA)

It was noted that all votes taken at a meeting where remote participation is used must be by roll-call vote.

Also present were Clarence Fanto of the Berkshire Eagle and resident Mark Smith.

Materials provided prior to this meeting:

- Process to consider revising Lenox bylaw to reflect evolving Short Term Rental (STR) industry
- A~Practical Guide to Effectively Regulating Short-Term Rentals on the Local Government Level” /

Approval of Minutes-

May 23, 2017-PK made a motion to approve the minutes with two amendments. TD seconded the motion. By way of roll call, the Board voted to approve the minutes as amended. KS, TD and PK voted to approve and KMV and DR recused themselves as they had not been at the meeting.
June 13, 2017-The minutes were not ready for approval.

Re-organization for 2017-2018-

KMV nominated PK to serve as Chair. KS seconded the motion, and the Board voted by way of roll call to approve PK as Chair. KMV nominated TD to serve as Vice Chair. PK seconded the motion, and the Board voted by way of roll call to approve 5-0.

By consensus, the following members will continue to serve on the respective committees:

- Community Preservation Committee (CPC)-TD
- Affordable Housing Committee (AHC)- KMV
- Berkshire Regional Planning Commission (BRPC)-PK
- Land Management Committee (LMC)-DR
- Historic District Commission (HDC)-KS (The Planning Board no longer provides a representative to the HDC. KS had served in that capacity, but is serving now as a citizen.)

KMV said that she will resign from the Affordable Housing Trust, but she believes that position is an appointment by the Board of Selectmen. She will be on the Affordable Housing Committee until at least June 30th. The Board was not sure if the Town Bylaw states that a Planning Board member is to serve on the Affordable Housing Committee.

PK said that she has attended 3-4 meetings at BRPC since becoming the Board's representative. One item brought up at one of the meetings that interested her was the consideration of regulating local airports. Sheffield had a bylaw, but it had not been approved by higher levels of government. PK noted that Lenox does not have this in its use table. KS said that it is a massive undertaking to create a bylaw which would have to be approved by many entities and in his opinion there are bigger things that the Board on which the Board should focus. The Board was in agreement.

The Board agreed that it would be helpful if committee updates be a standing agenda item.

Short Term Rental Regulations

- Update on ongoing work to consider bylaw revisions-PK said that they are having their first sub-committee meeting on June 29, 2017 at 3:00 PM and a second one on July 6, 2017 at 9:00 AM. PK feels that there are many “tentacles” e.g. property owners renting out rooms and houses, lodging industry, school, finance, etc., so she feels that there is a need for a “cross functional” subcommittee. DR is a part of the committee, and others who may participate are, Ken Fowler of the Board of Selectmen, Dave Neubert and Elliott Morss of the Finance Committee; a representative of the School Committee, and KMV as a representative of the Affordable Housing Committee. It is unclear at this time if the subcommittee will be formal members and vote or if they will be informal. KMV suggested that the committee attend the Board of Selectmen's televised meeting so that the public can be made aware.
- Share updated process plan-PK said that they have already begun to gather information by looking at what is presently allowed as per the zoning bylaw and to meet with the Building Commissioner. She hopes the subcommittee can meet once a week.

- Share Host Compliance white paper –PK said under Host Compliance that there is a start-up company created by a Harvard MBA in San Francisco, which exists solely to help municipalities manage their short-term rental issues including how many short-term rentals are listed across many websites. They can help with the online process, licensing requirements, collect taxes and reach out in the community to create bylaws. PK will talk with GM to see if the subcommittee can talk to this company as a resource.

KS stated that he didn't know how to write a bylaw for short term rentals, and suggested that it would be wise to enforce the Zoning Bylaw, Section 8.1.1. Seasonal Rental of Rooms which states the following requirements:

1. *The establishment shall be limited to not more than 3 guests;*
2. *Rental of rooms shall be limited to Memorial Day and Labor Day, and weekends only through Columbus Day;*
3. *Parking must be off street, on premises, with 1 space per room rented and 1 per owner;*
4. *Except for a home occupation that complies with this Bylaw, no other uses shall be permitted on the property;*
5. *No additions or external modifications may be made to the property for lodging use; and*
6. *A certificate of occupancy required and premises shall be subject to annual inspection.*
7. *The home shall be the legal residence of the owner with lodging as an accessory use.*
8. *Only continental breakfast from the common family kitchen is permitted.*

He feels that this bylaw is "great", but needs to be enforced and suggested that this enforcement be done for a year. KMV said that the public should be reminded of this bylaw and agrees with the enforcement. KS agreed and mentioned that prior to the summer season a written reminder could be placed in the mail with the tax bill. KMV agrees with enforcement.

PK said that she has done some research on other towns which have bylaws in place, and as far as she can tell none of them have "just put the hammer down" but went thru a process of understanding the impacts of this new phenomenon. She said that studies have shown that 1 out of 3 Americans have stayed in short term rentals this past year. She feels that the existing bylaw does not take into account this huge shift in lodging marketplace and asked if enforcement would mean that property owners could not rent out their home for two months. TD explained that the existing bylaw applies to less than thirty days. KS agreed and used as an example that the seasonal rentals are usually for Boston Symphony and Shakespeare and Company during the summer. PK said that there is a market for families who want to stay in houses for the weekend and that if Lenox doesn't allow this, then these families would go into neighboring communities. She feels that this huge shift in the marketplace requires discussion for at least a greater understanding and consensus among everyone in Lenox. KS wondered if there had been a discussion when the original bylaw was crafted. He agrees that Airbnb has changed the market, but stated that the renting out of rooms in Lenox goes back 80-90 years and was already a major part of the local economy before internet or B&Bs. PK said that she is concerned that investors are buying properties solely for the purpose of engaging in short term rentals. KS stated that this falls under a commercial enterprise operating in a residential district and concluded that he supports redoing the bylaw, but until it is changed, there should be enforcement. It was agreed that it is dangerous to be discussing amending the bylaw and ignoring the existence of the bylaw. PK said that she would relay Board members' concerns about enforcement to the Town Manager.

Multi-family Housing & Apartment Bylaw Amendments (including Accessory Dwelling Units-ADU)

Chair's Recommendations-KS stated that his goals are to make it easier to build middle-market housing; look into the 700 square-foot apartment size, multi-family housing and more support for ADUs. He explained that in an R15 zone, to build a 1,000 square foot home, 15,000 sf of land is required, but if you were to build a two-family duplex, 30,000 square feet of land would be required. If one were to convert an existing dwelling to a multi-family home, there are extra requirements. Another issue he has is that to build a multi-unit development over a certain number, the access road would have to meet subdivision requirements. With regards to ADUs, he believes more time should be focused on how to allow more support for these units. Discussion ensued.

It was noted that for the Annual Town Meeting the Planning Board should have completed all of the ground work by December or January because it is possible that the state may issue a ruling on recreational marijuana and the Town will need to make a decision. KS said that it is expected that there will be a Special Town Meeting in the first or second week in November.

The following two agenda items were not discussed as complete information was not yet available:

- Material from Housing Production Plan (HPP)
- Map of Non-Conforming Parcels
- Assign sub-committee to review and prepare final versions for next Town Meeting- Multi-family Housing & Apartment Bylaw Amendments (including Accessory Dwelling Units-ADU)

KS said that he would like to work on this. He will not be ready for the next meeting, but once he is, he would like to have one of the regular Board meetings to be solely for this issue.

Parking Buffer Requirements

Proposed amendment to Section 7.1 of the ZBL-KS stated that as the Town looks to develop commercial lots it has been realized that the zoning bylaw may make this difficult. He has talked to the DPW and Town manager who have reached out to building owners.

Downtown Parking

Review plans prepared by BETA, Inc. as available - KS said that this is not yet complete. Gwen Miller, Chris Ketchen, Ken Fowler and KS are working on this. KS described the area for a proposed parking lot that would be within the area bounded by Church, Franklin and Main Streets. Angled parking on part of Main is being considered. Nothing has been finalized with property owners. KS said that he would like to have this issue on the next agenda both as a regular meeting and executive session as the last item.

In closing the meeting, PK said that she will prepare a tentative agenda and post online and on Thursday before the next meeting, she will finalize the agenda. Materials for discussion will be uploaded on Thursdays before meetings to allow for ample time for the Board to review and be ready for discussion. Additional time would be given for longer documents, e.g. the 53 page document that was available at a previous Affordable Housing Committee meeting.

Adjourn-KS made a motion to adjourn. TD seconded the motion and the Board voted unanimously to adjourn at 8:00 PM.

Respectfully submitted,
Peggy Ammendola

