

Planning Board Minutes, 07/11/2017

**Town of Lenox
Planning Board
July 11, 2017
Landuse Meeting Room**

Members present: Chair Pam Kueber, (PK); Tom Delasco, (TD); Kate McNulty-Vaughan, (KMV); Deborah Rimmner, (DR)
Absent with notification: Kameron Spaulding, (KS)
Staff present: Gwen Miller, Land Use Director/Town Planner, (GM); Peggy Ammendola, Land Use Clerk, (PA)
Also present were: Selectman Ken Fowler (KF) and Clarence Fanto of the Berkshire Eagle

The meeting was opened at 6:07 p.m.

Documents used at the meeting:

KF correspondence on Lenox Dale wants and needs as well as Select Board's current view on zoning of recreational marijuana
2014 Town Counsel memo on STRs

- PK – Looking at legal interpretation and considering definition of dwelling
- GM draft “Lenox Dale Neighborhood Memorandum”
- Three draft schematics on Village Parking improvements

Minutes-The following minutes were presented but the review was deferred until the next meeting which is July 25, 2017:

June 13, 2017

June 27, 2017

Correspondence and Media Coverage — Share correspondence and topical media stories

PK reviewed the notices that have been received from neighboring communities and briefly summarized. She encouraged the members to bring to the attention of the Board any newsworthy items that they may read or heard about. She shared the following articles:

- New York Times June 29: “[How Much Tourism is Enough?](#)” — PK said that some communities, e.g. Barcelona, are dialing back on tourism. She suggested that when the Board begins to work on updating the Master Plan next year, they should discuss at what point would there be too much tourism. TD shared his observation of vacationing in a particular location over the years and how it has become a community where the majority of the properties are rentals and many are investment properties.
- Berkshire Eagle July 5: “[Lenox to Study Enforcing Its Rental Bylaw](#)” — PK wanted to clarify that that enforcement is not the purview of the Planning Board or the subcommittee, but the Building Commissioner.

Citizen Open Forum — Citizens also may request to speak as part of the Board's discussion of a particular agenda item, with approval of chair, time permitting. No one was present to speak.

Lenox Dale Development — Discuss and decide how to handle request by Select Board for information about Lenox Dale community development wants and needs in the wake of their ongoing deliberations about a proposed medical marijuana facility there.

- Correspondence with request:~ A note from Selectman Fowler was received by the Planning Board in which he said that the Board of Selectmen (BOS) had discussed the medical marijuana proposal for the Niagara Mill in Lenox Dale and other development. With regards to future zoning of recreational marijuana in Lenox, KF said that the consensus of the BOS was to create a “by right” area in the C-3 zone and keep retail marijuana stores out of the villages. Communities in Massachusetts are awaiting the state's decision, but KF suggested that Lenox might want to be ready with a zoning plan. As far as the wants and needs of the Lenox Dale community, KF said that the general feeling was that the citizens who live in the Dale may not be looking for development in their village, but since the Planning Board (PB) had held some meetings in the Dale, he asked if the PB might be able to provide data which reflected the wishes of the residents.
- GM provided a 14-page draft entitled “Lenox Dale Neighborhood Memorandum” that will be submitted to both the Board members and the Board of Selectmen when complete. GM said that the memo “summarizes efforts to date to review land use opportunities and challenges in the neighborhood, and could also serve as a neighborhood planning term going forward.” After discussion, in particular regarding remediation issues that could affect the Niagara Mill site, it was agreed that everyone would read the memo and make any suggestions for additions to Gwen. The Board could then share it with others and re-engage to talk about the next steps in a development plan.
- It was also agreed that it would be a positive idea for the Board and the Board of Selectmen to hold a joint followup meeting with Lenox Dale residents to share the findings so far and to discuss next steps and overall development issues.

Short Term Rentals (STRs)

Discuss progress on the project to review Town bylaws as they relate to Short Term Rentals of less than 30 days

- Discuss Town Legal Counsel 2014 opinion letter and Hull Decision — A copy of this letter of January 2014 and the Hull, MA Decision was provided to the Board. PK said that Town Counsel letter stated that there was no language in the bylaw that could be interpreted to regulate STRs. PK provided to the Board her written argument to Counsel's opinion. She said that Lenox has seasonable rental rooms, which require the property to be owner occupied and that nothing speaks to non-owner occupied homes. DR advised the Board to wait to see what happens on the state level in the fall, as there is current legislation pending in the state House and Senate. The Board could decide what they would like to propose on a policy level and then consult with Town Counsel regarding tweaking the existing bylaw.
- Update on the first subcommittee meeting(s) and key discussions, input, next steps — PK said that there have been three meetings, one of which was with the Building Commissioner.
- Share info on meeting with Building Commissioner regarding various building code requirements for Short Term Rentals of less than 30 days. PK said that in the meeting with the Building Commissioner, BJ Church, she learned that there are 8500 pages in the Building Code. PK said that Ms. Church's interpretation is that if there is a single-family home, and the owner is renting to another set of people, no matter how often, it is a single-family home and the owner would be held to that code. There is no definition of Short Term Rental in the Building Code. DR said that the Building Commissioner isn't enforcing rental property unless there is a complaint. DR said that there is a bill regarding Short Term Rentals that is under consideration by the House and Senate and she believes that it would be prudent to wait to see what happens through the legislative process. There will be another meeting with the Building Commissioner.
- Share any feedback on request to Town Manager to review current compliance enforcement — If citizens have any concerns or complaints regarding Short Term Rentals, they should notify the Building Commissioner in writing.
- Weekly meetings: Mondays at 1:30 in Town Hall — The next meeting will be on July 17, 2017.

Village parking — Review concept parking design concepts for Village Center prepared by BETA:

Diagonal parking on Main Street "Master" parking lot between Church Street and Main Street — Both the Planning Board and Board of Selectmen had asked BETA to study the Village to see how public parking could be developed and tonight GM presented three scenarios from the BETA Group. The Board reviewed the drawings. It was mentioned that Nini Gilder had shared with PK a copy of Frederick Olmsted's firm's design for parking from the 1920-1930 era. After considerable discussion it was agreed that the Board would review Olmsted's design and also look at the previous parking study done that would incorporate a Village path. Ultimately, the Board's recommendations and suggestions will be submitted to the BOS.

DR left 7:30 p.m.

Subcommittee Reports —

- Affordable Housing / Housing Production Plan update-GM reported that she is waiting for the final document from the consultant. She will then present it to the Planning Board and Selectmen for adoption.
- BPRC –The following meetings are scheduled:
 - Regional Issues Committee Meeting July 19, 2017-PK will not go to this one.
 - Planning Board Training July 27, 2017
 - BRPC Commission Summer Meeting July 27, 2017 PK will go to this one.
- Community Preservation Committee (CPC) -TD said that applications are due by September 1, 2017 and the CPC will meet shortly after that.
- Land Management (LMC)- GM noted that the LMC had met, and the group consensus was the board plays an advisory role and a way for the groups in town working on conservation, recreation and community projects and programs to network and get together.

Next meeting: Tuesday, July 25-

- Discuss tentative agenda items-
 - There will be 3 sets of minutes that will be subject to review and asked that that the Board read in advance.
 - GM will be providing the village path diagram.
 - PK expects to have the Olmsted photo that Nini Gilder has and possibly more information related to Olmsted's design.
 - It is possible there will be an update on Short Term Rentals.

KF asked for clarification on the earlier discussion regarding Lenox Dale. The Board responded that there will be a future outreach meeting with residents in the Dale that would be attended by both the Planning and Select Boards. It would be a follow up discussion regarding the mill as well as include feedback from the previous meetings and walking tours in the Dale. The idea is to keep the discussion active and determine next steps.

TD made a motion to adjourn. KMV seconded the motion and the Board voted to agree 3-0. The meeting was adjourned at 8:03 p.m.

Respectfully submitted,

