

Town of Lenox
Planning Board
Board of Selectmen's Meeting Room
September 25, 2018
As approved Oct. 23, 2018 incorporating amendments

Members present: Chair Pam Kueber (PK); Kate McNulty-Vaughan (KMV); Kameron Spaulding (KS); Tom Delasco (TD);

Member absent with notice: Deborah Rimmler (DR)

Staff present: Gwen Miller, Land Use Director (GM); Peggy Ammendola, Land Use Clerk (PA)

Others present: There were 6 members of the public present.

The meeting was recorded by staff and Clarence Fanto of the Berkshire Eagle.

Documents used or referenced at the meeting:

- Agenda
- PK Correspondence and Issues from Public Hearing summary dated 9/21
- Draft warrant language prepared by GM dated 9/20
- Marijuana article presentation article consideration chart
- Email from GM summarizing conversation with Town Counsel dated 9/12
- Email from PK to board 9/24 referring GM and Board of Health answers to some questions that came up during public hearing re STR bylaw, housing bylaws
- Potential draft amendment language to short-term rentals general bylaw
- Board also referred to existing copies of proposed zoning bylaws for short-term rentals and adult use of marijuana
- Timeline to town meeting

Approve Minutes:

Sept. 12, 2018-KS made a motion to approve the minutes as presented, but with the addition of Steve Seltzer's address which is believed to be East St. TD seconded the motion. The Board voted 3-0-1 with KMV abstaining.

Addition to agenda

PK said that after the close of the Public Hearing about two weeks ago, the Board met to finalize the marijuana portion of the bylaw, but she was not sure if the Board voted to move the extension forward, so she added this to the agenda for tonight's meeting.

Correspondence received

PK wanted to acknowledge the correspondence received prior to the Public Hearing that had been forwarded to the board members.

Correspondence related to Short Term Rentals was received from the following:

- Attorney Jeff Lynch

- Kelly Brown
- Attorney Michael Martin, who represents Kelly Brown
- Susan Foulds
- Bill Polk
- Christian Decker
- Betsy Sherman (Her correspondence was received on today's date.)

Also, on the subject of marijuana, Helen and Joe Hayes sent a letter that came in just before the Public Hearing and PK forwarded it to the Board today.

Discuss, consider and vote on any proposed amendments to proposed bylaws based on feedback from the Public Hearing, Board of Selectmen, and correspondence.

- **Changes to multi-family housing dimensional requirements:** In response to a question that had come up in the Public Hearing, PK reported on info gathered by GM from both the Board of Health and Building Department, which have dimensional requirements for new construction and adaptive reuse. The two entities have different requirements depending on the specifics of the unit and its layout. In general, for one individual, the square footage could be 190 sf to 220 sf of habitable space. Closets, halls, bathrooms and even kitchens are not considered habitable space. KS made a motion to approve Articles 6 through Article 10 with an amendment only to Article 6 and that would be to remove the following wording: *(between New Lenox Road and the Pittsfield/Lenox line)* reflecting the fact that there is a small C1A parcel farther south. This bracketed statement follows the wording: *"in the C-1A district along Route 7"*. The motion would include the amendment that would change "district" to "districts". KMV seconded the motion and the Board voted to agree 4-0.
- **Extension of the local current Moratorium on Adult Use of Marijuana in Lenox:** TD made a motion to move the moratorium language forward and extend to June 2019 as written unamended (Articles 3 & 5). KS seconded the motion. TD then asked, since the prohibition was not being brought to Town Meeting, what would happen if the bylaw failed. His concern was that nothing could be done immediately. KS stated that if there is a substantial change the Board could return to the process of re-writing a bylaw. There was discussion on whether to extend to the end December 2019, but the consensus was to leave it as June 2019. The Board voted 4-0 in favor of the motion.
- **Additional discussion of or feedback regarding Adult Use of Marijuana bylaws:** PK asked whether the Board would like to make AUM establishments by Special Permit rather than by-right. There was not majority support for this request so no further action was taken.
- **Short-Term Rentals General Bylaw:** The Board discussed removing the requirement to prove domicile from the General Bylaw and keeping it only in the Zoning bylaw. KS made

a case that residency requirements can be part of licensing requirements in general bylaws and as such, the requirement was appropriate. Board voted 3-1 (PK against) to keep the requirement in the General Bylaw. After the vote, the Board accepted comment from Attorney Miller, representing Lenox clients, that such a requirement related to zoning and should not go into a general bylaw; he said that a non-resident who successfully claimed grandfathering under zoning would then be blocked from obtaining registration under the general bylaw. He suggested that the Attorney General would not approve this General Bylaw provision as written.

Discuss next steps as bylaw proposals move to Special Town Meeting on Nov. 1:

- Review warrant language
 - Note, memo to go to Select Board with warrant language – PK said that we do not need to present this language in person, it will go in writing to the BOS. It was also pointed out that “discussion” in the warrant language is draft only – presenters at STM will prepare their own discussion for delivery.
 - Review timeline/deadlines to Special Town Meeting – warrant to be posted Oct. 17.
- Discuss and gather input on key points that Board members would like to make about each bylaw – tabled to the next meeting
 - Discuss elements of Town Meeting presentation and any other communications efforts – tabled to the next meeting

Submitted by Peggy Ammendola/Amended by Pam Kueber