

Town of Lenox  
Planning Board  
Board of Selectmen's Meeting Room  
July 24, 2018

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

**Participating remotely:** Deborah Rimmmler (DR)

**Absent with notification:** Tom Delasco (TD)

**Staff present:** Land Use Director/Town Planner, Gwen Miller (GM) and Peggy Ammendola, Land Use Clerk (PA)

**Others present:** Joel Williams of the Berkshire Record and Clarence Fanto of the Berkshire Eagle, who along with staff recorded the meeting. Seventeen members of the public were also present.

*All votes were taken by roll call as one member was participating remotely.*

The meeting was called to order at 6:05 PM.

**List of documents provided for this meeting:**

Minutes of June 12, 2018 minutes

KMV edits of July 15, 2018 Bylaw. Revisions by PK and KMV

July 17, 2018 issues to vote on.

Edits to General Bylaw July 17, 2018

Updated June 6, 2018 calendar to the November 1, 2018 Town Meeting

**Approve Minutes-June 12, 2018-**KMV made a motion to approve the minutes. PK seconded the motion. The minutes were approved by a vote of 3-0-1. PK, KMV and DR voted to approve the minutes. KS abstained as he was not present at that meeting.

**Endorse the easement plans for Town of Lenox Walker St. project-**This was tabled to the next meeting. GM gave a brief explanation of the project. KS asked whether he needed to recuse or abstain since his property is part of the easement, GM suggested that since this is just an endorsement he could participate.

**Short-Term Rentals:**

PK noted that in list of things the Board would discuss and vote on during this meeting, they would also need to discuss "effective" date of provisions. *This did not happen and will be placed on next agenda.*

PK also noted that the Board had received several items of correspondence some just prior to the meeting. The letters will be added to the record and the Board will read them. She explained to the audience that this meeting was a decision-making meeting for the Board, and that the Public Hearing will be September 12<sup>th</sup>. Correspondence was received from the following:

Jeff Lynch

Alan Billingsley

Martin & Oliveira, LLP

James Harwood

Airbnb

PK and KM-V walked the Board through changes made since the last meeting and the Board discussed and agreed on what to keep in or take out. The Board did not vote on each policy element, as consensus was clear in discussion.

- It was agreed to move bylaws to section 9 Special Residential Regulations.
- There was consensus agreement on Purposes section.
- In General Standards, there was discussion about the first bullet regarding renters conduct: GM said that Joel Bard had previously suggested such a requirement in order to give the Building Commissioner language that could provide enforcement guidance. DR suggested that the language still did not have enough detail to provide enforcement guidance. GM was asked to get with Attorney Bard to add more detail to this bullet; the Board also suggested we look at Elm Court language for general ideas. Consensus in support of keeping bullet especially if language could be improved.
- In General Standards second bullet, Attorney Bard recommended amended language; the Board agreed to make these amendments. Noted that correspondence had been received on this language as well and that the changes addressed the concerns raised in the correspondence. There was consensus support for the section.
- On Definitions: A few edits made to words and punctuation made on recommendation of Attorney Bard. Otherwise, Board was fine with the Definitions.
- On Warrant Item #1 Seasonal Short-Term Rental of Rooms, key discussion and/or consensus reached:
  - Rental of up to two-bedrooms shall be permitted year-round [rather than Memorial Day through Labor Day etc.] Pro's discussed included: As long as a resident is on site during the rental period, they have clear oversight of guests so there is much less likelihood of disruptions occurring within the neighborhood; this would also enable residents to earn more money to live in their homes year-round. One concern raised: Residents wanting to do such rental year-round already have the option by applying to become bed and breakfasts. There was tentative consensus for this change.
  - Discussion of Residency requirement for this bylaw and for Entire Dwellings: 3-1 consensus to keep this requirement. Pro/con discussion included: Limits commercial activity / sustains housing options / prevents "investor" homes vs. is more inclusive of all homeowners that make up our community, keeps more visitors in Lenox.
- On Warrant item #2 Seasonal Short-Term Rental of Entire Dwelling Units:
  - Board removed 4.a. and 4.b regarding suggested duration of initial special permits.
  - Board kept 4.c requiring that SP shall be issued only to the primary resident of the property and shall not be transferable. However, discussion over how to beef this up to make sure that it's clear it's the current primary resident and not the future primary resident, that is, beef up the 'not transferable' part. PK to ask GM to ask Attorney Bard for help on this.
  - Discussion of whether to set rental time frame around season or by number of days. Agreement 3-1 via discussion not by vote that there was Board support to recommend the seasonal window, Memorial Day through Labor Day and weekends only through October. Reasons included that this would keep this commercial activity limited within the traditional summer season and that it

would be easier to enforce. KM-V shared her analysis of how many days of such rental were typically possible and they range from 112-130 days of possible rentals, up to 34% of the years. DR was more supportive of days limit because it gave homeowners flexibility.

- Discussion of whether to include Accessory Dwelling Units or not: By 3-1 consensus discussion, the Board agreed to recommend that Accessory Dwelling Units should not be used for short-term rentals because they were explicitly added to the bylaw just a few years ago in order to increase the supply of affordable housing options for year-round residents. KM-V said the Affordable Housing Committee had discussed this at recent meetings and had voted unanimously to oppose codifying ADUs for STR use. Affordable Housing Chair Marybeth Mitts was at the Planning Board meeting, so the Board invited her to discuss the Affordable Housing Committee's view. She affirmed that ADUs were explicitly intended to increase long-term housing stock and also said the Committee was in favor of limiting their use as STRs to preserve the residential character of neighborhoods. As part of the discussion, KS pointed out that if we codified ADUs as STRs, we would need to concurrently change the ADU bylaw, which would require additional time. DR, who was in support of including ADUs in the STR bylaw, said that could be done in time. There was discussion about use of ADUs as income generators to help people afford to buy a house vs. as lower-cost housing for people who could not afford home ownership. ACTION ITEM: PK and GM need to amend bylaw language to ensure this exclusion is clear, since all ADUs are technically Dwellings.
- TD, who could not attend the meeting, had provided several comments to GM via phone call. The Board was not clear on his concerns; we will get more information and address them at the next meeting.
- General Bylaw: Board reviewed the few changes since the last meeting and agreed to them by consensus. Motion to approve by KS; second by KMV; vote 4-0 to move this bylaw to Town Meeting. It will be included as part of a Public Hearing on Sept. 12. GM was asked about formatting to fit General Bylaw style; we will reformat accordingly.
- Public comments:
  - Sarah Lane: Owns a vacation property, does short-term rental of on-site cabin (ADU) – concerned about loss of her ability to rent the cabin.
  - Attorney Bill Martin of Martin & Oliveira: Had suggestions how to present the bylaw material at Town Meeting including being ready for taking amendments; recommended we take out explanation of grandfathering.

Submitted by:

Pam Kueber

Peggy Ammendola

Approved by Planning Board, Nov. 27, 2018