

Town of Lenox
Planning Board
Lenox Town Hall
July 23, 2019

Members present: Chair Pam Kueber (PK); Tom Delasco (TD); Kate McNulty-Vaughan (KMV); Jim Harwood (JH)

Absent without Notification: Kameron Spaulding (KS)

Others present: Clarence Fanto, Berkshire Eagle

Documents used at meeting:

- July 23, 2019 agenda
- Form A submitted by SK Design for 65 Cliffwood Street
- June 25, 2019 and July 9, 2019 Minutes for approval
- Short-Term Rental first draft bylaw

PK opened the meeting at 6:00pm. The meeting was recorded by the Planning Board and the Berkshire Eagle.

1. Review and vote whether to endorse Approval Not Required for property at 65 Cliffwood Street / Map 46 Parcel 7 [property located between Cliffwood Street and Yokun Street], applicant George Krupp (15minutes)

- Jim Seidl from SK Design, representing George Krupp, discussed the property located on Cliffwood Street.
- JH and Board reviewed the dimensional requirements for the R1A zoning district.
- The Board discussed that the division of the parcel might create a non-conforming use as the second parcel would have a tennis court and no other structure.
- Some members of the Board were not sure if they could approve the ANR that would create a non-conforming use based on current zoning bylaws.
- The Board deferred granting ANR until they can follow up with Town Counsel for clarification.
- The Board as well as the petitioner agreed to meet in one week, on July 30th at 6:00pm, after Town Counsel has weighed in on the issue.

2. Approve minutes for June 25, 2019 and July 9, 2019 (10minutes)

- JH moves to accept June 25, 2019 minutes. TD seconds. All in favor 3-0. PK abstains (absent from meeting).
- TD moves to accept July 9, 2019 minutes as amended. JH seconds. All in favor 4-0.

3. Historical Commission representatives present and discuss proposed Demolition Delay and demolition by Neglect draft bylaw proposals; Board provided comments (20 minutes)

- Olga Weiss, Cindy Weiss and Lucy Kennedy representing the Historical Commission.
- Lucy presented Demolition Delay general bylaw that the Historical Commission is hoping to bring to the STM in November. The bylaws were recommendations in the 2018 Historic Preservation Plan.

- Lenox currently has 720 properties built before 1930 and 446 properties on the Massachusetts Cultural Resources Inventory. 10 properties are protected by estates bylaw. 115 protected by being in the Historic District.
- A “demo delay” bylaw –the Building Inspector alerts Historical Commission if the building is 75 years or older and a demolition permit has been requested. This allows the commission to either say yes or no to the demolition and they are allowed 10 days to research the property. Then there is a public meeting in regards to the property to hear community input, and the decision to “delay” is up to the Historical Commission.
- The bylaw would allow for an 18 month delay so that the owner and the Commission can work together to decide how to save the building.
- PK asked if they were pursuing this as a General Bylaw. Lucy said yes.
- KMV asked if it was all buildings not just residential buildings. Lucy stated yes that it doesn’t have to be just residential.
- TD suggested that the language in the bylaw should state what will happen during the 18 month delay.
- KMV asked about what type of tools would be available during the 18 month delay for the owner of the structure as well as the Historical Commission. That is important to include or discuss so that the community knows there will be resources, money and a process for preservation.
- JH thinks that 18 months is a long time for a delay.
- PK suggests having the plan in place of what the team will look like and what tools are available during the delay. Letting the community know what is available – think about figuring out what the plan will be once the 18 month delay starts so that the voters know what to expect if they accept this bylaw. A flow chart and a list of potential resources available to those affected by this bylaw.
- JH suggests having examples of what would and what would not trigger a “demo delay.”
- Lucy will ask Building Inspector BJ Church for information about the number of “demo” requests and costs associated to get a handle on the frequency of requests.

4. 6:45 p.m.: Short-Term Rental roundtable discussion – discuss first-draft bylaw proposal; next steps (1 hour)

- PK created the first draft based on the roundtable, JH reviewed and simplified/clarified a bit of the first draft.
- Two correspondences: Jeff Lynch marked up first draft of bylaw and Beth Tracy Gamble provided letter as she was unable to attend this round table.
- Board discussed the first section of the bylaw – the purpose of the bylaw.
- KMV wonders where it fits into the zoning bylaws – is it replacing part of current bylaws?
- Meant to replace “Seasonal rental of rooms” – 8.8.1 in current zoning bylaws.
- KMV believes that the board needs to set out more goals and refer to previous meeting minutes where the Board stated the goals of this new bylaw.
- TD believe the bylaw at this time is too short and needs to be broken out a bit more, such as rental rooms, rental of entire dwelling units for a certain amount of days, and be responsive to intensity of use: # of days for “by right” and # of days to trigger a “Special Permit.”

- Mary Jo Piretti agrees that the affordable housing is one of the goals of the bylaw. Doesn't see differentiate whole house owner occupied vs whole house without owner present. MJP believes that there is a difference between primary residence being rented for a certain number of days and a second homeowner/investor renting their entire home – she believes that number should be less than a primary residence renting their home.
- Jeff Lynch asked if the board has spoken to the building inspector and the town attorney. JH stated at the last meeting there was discussion about the Building Inspector, that he spoke with the Building Inspector who described the role and responsibility as: What's enforceable? What's actionable?
- Susan Lyman has a house near her that is used year-round as an AirBnB – commercial business in a residential zone. She wants to know who is going to enforce that clear violation of the residential zone. PK stated that she has a letter from Town Counsel that states that is not a commercial business which she will share with Susan. The PB is not an enforcement entity.
- David Fisher asks why up to two bedrooms and all year round – difficult to enforce how many bedrooms are being rented – all year round moves away from goal of maintaining residential nature of neighborhood. Feels the number of days limiting is how board will address intensity. Recommends a town registry with local contact who is available 24/7 when owner is an available.
- Susan Foulds believes bylaw needs to be written in regards to future uses as well, suggesting the probability of repeat private rentals, bypassing online services.
- Sarah Lake feels that there is a culture in the Berkshires of second homeowners. To think all second homeowners are investors makes those people feel less welcome. Feels like she is part of the community but she is a second homeowners – spends 40% of her time in Lenox. Likes the simplicity of the bylaw and the simplicity of the number of days.
- Paul Marshall has questions about the parking being in paved parking spots per the first draft of the bylaw...does that mean gravel driveways can't rent?
- Jackie Wong does long term and short term and had a question in regards to parking and if there is a difference between the two.
- Jeff Brown stated you need to have parking spots to have a rental. If you rent one bedroom to rent but you don't have a parking spot you can't rent – per the bylaw.
- Alan Strassler wonders why renting a house is any different than a B&B and the rules and regulations that the B&B has to abide by why don't home/room rentals have to abide by these rules?
- Laura McNulty thinks if the purpose is to help the people who live in Lenox then the focus of the bylaw should be on primary homeowners. .
- Mary Beth Mitts believes that STRs shouldn't be in the R zones for up to 90 days and should not be extended past that which would then affect residential neighborhoods.
- Jeff Lynch suggest looking at this a commercial perspective and there may be a minimum nights (such as 6 nights) so that there isn't a constant turnover which helps the neighborhood.
- KMV read correspondence from Beth Tracy Gamble.
- JH read Jeff Lynch's comments on the first draft of the bylaw.
- Board discussed the first draft bylaw and some changes to the verbiage the setup of the bylaw.

- Mary Jo Piretti asked about a town registration and the Planning Board responded that that is in the purview of the Board of Selectmen. There will be two bylaws at town meeting, one will be zoning and the other will be general.
- Ted Silverman mentioned that the number of days for seasonal rentals is about 110 days. All of June, July and August and then some days in May and September.
- Ted Silverman and Jackie Wong both explained local programs (Kripalu and BUTI) and different rental period needs (weekends, and 6 day, etc.) and the negative impact of trying to curb turnover with a 6-day minimum stay.
- Jeff Brown explained a regimen of inspections in Indiana for rentals which start with a 2yr. requirement, then shift to 3 and then 5 years.
- Board, as well as stakeholders, discussed what the “magic number” may be in regards to the number of days for rentals of STRs.
- The discussion concluded with a discussion of registration, health and safety inspections, and calculating an ROI (“Return On Investment”) to sort out the number of days STR’s would be allowable that might be satisfactory to interest groups and segments of the community: “clients, STR renters, and neighbors.” And the necessity of building consensus before another Town Meeting.

5. Set date for separate additional meeting to discuss draft Land Use section of Master Plan (5minutes)

- Board needs to meet before September to discuss the Land Use section of the Master Plan.
- Board decided to set it aside until September meeting.

6. Discuss agenda for next meeting, August 13, 2019 (10 minutes)

- PK will be absent at the next meeting. TD will be the acting chair for the next meeting.
- Another round table discussion with stakeholders.

Meeting closed @ 8:49pm JH motioned and TD seconded. Passed unanimously 4-0.