



Lynch Scrimo

Attorneys

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August 22, 2022

Town of Lenox
Land Use Department
6 Walker Street
Lenox, MA 01240

RE: Special Permit Application

Dear Gwen:

Enclosed is a Special Permit application and filing fee for 35 Walker Street. If you have questions please let me know.

Sincerely,
LYNCH SCRIMO

Jeffrey R. Lynch

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF LENOX

Filing fee is due with the petition. If hearing expenses exceed this amount the Zoning Board of Appeals will bill the petitioner.

The undersigned hereby petitions the Town of Lenox Zoning Board of Appeals for:

X A Special Permit for exception under the provisions of Section of the
Town of Lenox Zoning By-Law.

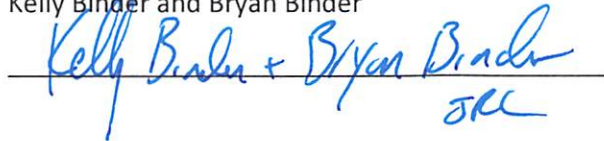
To permit the following use or activity (describe proposed use or activity):

See Narrative attached hereto.

To For premises:

Owner of Record	Kelly Binder and Bryan Binder and Doctor Sax, LLC
Address	35 Walker Street
Map and Parcel	Map 43-163-0-R,
Zoned as	Commercial
Deed Reference	Book 6776, Page 253

Petitioner Kelly Binder and Bryan Binder



(Your signature here also acknowledges that you agree to pay all hearing expenses relative to this petition.)

Address (Mailing Address) c/o Lynch Scrimo PO Box 1787 Lenox, MA 01240

Telephone Number 413 637 1300

Email address lynch @lenoxattorney.com

Dated: August 22, 2022

SPECIAL PERMIT APPLICATION

DATED: August 2022

BY: Lynch Scrimo, 68 Main Street, Lenox, Ma. For Petitioner – Kelly Binder, Bryan Binder and Doctor Sax LLC (d/b/a, Doctor Sax House)

INTRODUCTION

OWNER: Kelly Binder, Bryan Binder and Doctor Sax LLC

TAX PARCEL: 43-163-0-R See Attached Assessor’s Card

ADDRESS: 35 Walker Street

ZONE: Commercial (C)

CURRENT USE: Residential Home

HISTORY OF CURRENT USE: The present use is a residential home. Prior to the current use, the residence was a Bed and Breakfast Inn with a restaurant for almost 50 years. In 2005, the property was converted to a single-family residence.

DIMENSIONAL REQUIREMENT: Table 4.1.1

	<u>Required</u>	<u>Actual</u>
Min Lot Size	5,000 sq. ft.	25,120 sq. ft.
Min Lot Frontage	75 ft.	203+/- ft.
Min Lot Width At Building	see fn 4 in Zoning Bylaws no requirement	
Set back line		
Min. Set Backs	see fn 4 in Zoning Bylaws no requirements	
Max. Building Height	2 stories	2+ story
Max. Building Coverage	75%	within standard

MATERIAL FACTS AND CONCLUSIONS:

Lenox enacted its first zoning bylaws on February 3, 1941.

1. The building at 35 Walker Street was constructed in approximately 1885 and has been a cornerstone in the Lenox community based on its location and history, helping welcome the community and tourists to the town.
2. In 1971 and 1988, the Town of Lenox Zoning Board of Appeals granted variances and a special permit.
3. In more recent history, in 1977, the Candlelight Inn opened as a restaurant and inn. As reported in iBerkshires, "During the 1980's the Candle Light [Inn] received much attention as a highly regarded destination for tourists and was frequently reviewed by big-city food editors, who gave glowing reports on the quality of the food and accommodations."
4. In 2005, the property was sold to Mr. and Mrs. William Dakin. The Dakin's converted the property to a residential home, but left much of the commercial features intact.
5. Present day, Bryan and Kelly Binder seek approval for a special permit to change the use of 35 Walker Street from a residential home to commercial with plans to reinstate it back into an inn with a small restaurant and retail space
6. The site plan establishes there are 2 handicap accessible parking spaces.
7. The property is served with town water and sewer.
8. The property is located within the Commercial Zone.
9. The parking and loading exemption for a Change of Use pursuant to 7.1.20 of the Zoning Bylaw applies.
10. Retail use is permitted by right in the Commercial Zone. Table 5.2 F.1.
11. A restaurant is permitted by right in the Commercial Zone. Table 5.2 F.3.

REQUEST

The Applicant requests issuance of a Special Permit pursuant to Section 8.1 of the Zoning Bylaws to change the use of 35 Walker Street from a residential home to commercial with the plans to reinstate it back into an inn with a small restaurant and retail space.

No new construction that constitutes a Substantial Building or Structure Change is contemplated.

The operator will be Doctor Sax LLC (d/b/a Doctor Sax House), a Massachusetts limited liability company. Doctor Sax, inspired by the Jack Kerouac novel for spontaneous prose, will look to be a complementary addition to the Town of Lenox and surrounding Berkshires Region. The property will highlight the historical nature of the property and town and feature art, music, and culture. The property will feature 7 guest rooms, dining room, bar and retail space.

The owner/operators of Doctor Sax LLC are Kelly and Bryan Binder.

Mrs. Binder was born in Collingswood, NJ and is an entrepreneur, technologist, and philanthropist. Her last role was as Chief Solutions Officer at Unite Us, a nationwide technology company that builds coordinated care networks of health and social service providers, was founded in 2013, valued at over \$1.6 billion, has over 900 team members, and has helped over 1.5 million individuals to get connected to social care (food, housing, employment) in their communities. During her time at Unite Us, Mrs. Binder led the construction, build out, and strategy of over 8 office spaces nationally, totaling in over 50,000 square feet. In addition to leading Unite Us physical presence, she oversaw all Human Resources, IT, Data Analytics, Products, and Operations — including the acquisitions of Staple Health, Carrot Health, and NowPow. Before Unite Us, Mrs. Binder worked with the Department of Justice and the Department of Defense on large-scale software implementations and with the Navy on combat system engineering initiatives. One of Mrs. Binder's passions is building an environment where everyone is welcomed and she is excited to take that passion and apply it to The Doctor Sax House.

Mr. Binder was born in Sayville, NY and is one of the founders of Jetty Rock Capital, a boutique investment advisory firm that was formed to focus on small businesses. With 15+ years of corporate finance expertise, Mr. Binder is currently combining his talent in finance with his love for travel, community, and the environment by taking on the next generation of sustainable hospitality. Prior to that he worked at the global private equity firm, Lone Star Funds and at the global investment bank Oppenheimer & Co. Mr. Binder also has several past-and current real estate investments including: (i) long-term rental investment property in Rockaway, New York, (ii) short-term rental operations in multiple condo units in Brooklyn, New York, (iii) vacation rental in East Hampton, New York, and (iv) land investments in varied locations among others.

Interior Overview: The ground floor will consist of multiple lounge spaces, bar, bathroom, and kitchen for dining, the second floor will consist of four bedrooms and baths, and the third floor will consist of three suites. Petitioner intends to open the enclosed porch per its original use prior to 2005 to serve lunch, drinks, and light fare to the public.

Exterior Overview: The property will have outdoor hardscape patios for seating, and general refined landscaping around the property. There will be a carriage barn (currently a 3-bay garage constructed in 2005) renovated for retail.

ANALYSIS

1. Community needs served by the proposal.

As the Board is aware, a debate exists locally and nationally whether the rental of private single or multifamily units to transient guests are or should be regulated pursuant to zoning bylaws and subject to commercial taxation including locally assessed room tax. The Town has addressed this issue through its recent zoning amendment, but the Petitioner seeks the benefits of a full commercial permitted space. Taking the extra steps to obtain the Special Permit results in a better product. The new units will be fully code compliant and be subject to annual commercial inspections. This will be a safer space for visitors if compared to the less regulated short term residential rentals. In return, the Petitioner will receive the ability to market the property for year-round occupancy.

2. Traffic flow and safety, including parking and loading.

The frontage on Walker Street will be closed. The curb cut on Church Street will be utilized for deliveries and ADA accessibility. The Commercial C Zoning District's loading and parking exemptions apply. *See* Section 7.1.20. Employees will be asked to utilize public parking provided in town.

3. Adequacy of utilities and other public services.

35 Walker Street is serviced by electric, natural gas, and town water and sewer.

4. Neighborhood character and social structure.

35 Walker Street is in the Historic Village. The surrounding uses include a mix of restaurants, inns, shops, and offices with some residential uses. The intended use is compatible with the commercial district and is not dissimilar to the services provided by the neighboring inns and boutique hotels.

5. Impacts on the natural environment.

None. The building is existing. The applicant is not extending the building's footprint.

6. Potential economic and fiscal impact to the Town, including impact to town services, tax base, and employment.

Positive. Increasing the number of overnight guests in the Village will benefit merchants because the travelers staying within the Village will be more likely to walk through Town and patronize the stores and restaurants. As an Inn in contrast to a residence, the Town will assess the property at the commercial property rate. There will be no negative impact on town services.

The intended change of use is compatible and complementary to the existing surrounding properties. As noted above, the Village District is comprised of hotels, restaurants and galleries, and retail stores. No negative direct impact is foreseen.

Key: 1987

Town of LENOX - Fiscal Year 2022

12/8/2021

3:20 pm

SEQ #: 2,168

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CURRENT OWNER		PARCEL ID	LOCATION	
BINDER BRYAN SEEMAN KELLY 35 WALKER ST LENOX, MA 01240		43-163-0	35 WALKER ST	
		TRANSFER HISTORY		DOS
		BINDER BRYAN	11/18/2020	QS
		DAKIN WILLIAM G C	08/31/2004	N
		HEDGECK REBECCA M	09/19/2002	A

CD	T	AC/SF/UN	Nbhd	Infl1	Infl2	ADJ BASE	SAF	Infl3	LPI	VC	CREDIT AMT	ADJ VALUE
100	S	25,120	1	1.00	A	1.00	A	1.00	51	1.55		128,420

TOTAL	25,120 SF	ZONING	COM	FRNT	0	ASSESSED	CURRENT	PREVIOUS
Nbhd	Tanglewood	NOTE				LAND	128,400	117,800
Infl1	AVG					BUILDING	808,300	930,700
Infl2	AVG					DETACHED	53,100	51,500
						OTHER	0	0
						TOTAL	989,800	1,100,000

TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD
GFU	V	1.50	20 0.80 26 X 40	2005	1,040	63.79	53,100

PHOTO 08/17/2010



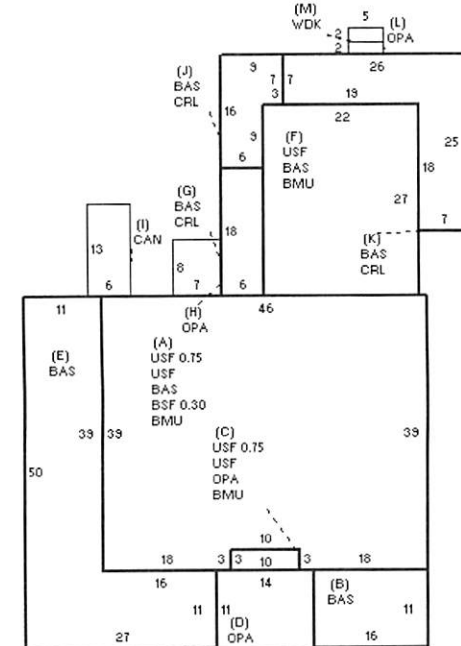
BLDG COMMENTS

WET BMU=22X27 REAR SECTION

BUILDING	CD	ADJ	DESC	MEASURE	1/17/2006	PBK
MODEL	1		RESIDENTIAL			
STYLE	7	1.05	CONV/OLD STYLE [100%]	LIST	1/19/2006	PBK
QUALITY	G	1.35	GOOD [100%]			
FRAME	1	1.00	WOOD FRAME [100%]	REVIEW	2/1/2006	ER

YEAR BLT	1885	SIZE ADJ	1.000	ELEMENT	CD	DESCRIPTION	ADJ	S	BAT	T	DESC
NET AREA	7.527	DETAIL ADJ	1.081	FOUNDATION	4	FLR & WALL	1.00	+	BMU	N	BSMT UNFIN
\$NLA(RCN)	\$182	OVERALL	1.000	EXT. COVER	2	CLAPBOARD	1.00	A	BSF	N	BSMT SEMI-F
				ROOF SHAPE	3	GAMBREL	1.00	+	USF	L	UPPER STOR
				ROOF COVER	5	SLATE	1.00	+	USF	L	UPPER STOR
				FLOOR COVER	13	COMBINATION	1.00	+	BAS	L	BASE AREA
				INT. FINISH	1	PLASTER	1.00	+	OPA	N	OPEN PORC
				HEATING/COOL	9	WARM/COOL AIR	1.03	+	BAS	L	BASE AREA
				FUEL SOURCE	2	GAS	1.00	F	USF	L	UPPER STOR
								+	CRL	N	BSMT CRAW
								I	CAN	N	CANOPY
								J	BAS	L	BASE AREA
								M	WDK	N	WOOD/COM
									F31	O	FPL 3S 10P
CAPACITY				UNITS	ADJ						
STORIES	2.75	1.00									
ROOMS	15	1.00									
BEDROOMS	8	1.00									
BATHROOMS	8	1.00									
TOT FIXTURES	28	\$32,689									
GARAGE SPACES	0	1.00									
% BSMT FIN	0	1.00									
# 1/2 BATHS	2	1.00									
# OF UNITS	1	1.00									

CLASS	CLASS%	DESCRIPTION			BN ID	BN	CARD	
1010	100	SINGLE FAMILY				1	1 of 1	
PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st	%
E16-153	08/08/2016	43	Electrical		07/14/2017	RJM	100	100
16-119	05/26/2016	3	Reno / Alter	8,000	07/14/2017	RJM	100	100
9-416	11/30/2009	3	Reno / Alter	6,000	08/10/2010	RJM	100	100
7-18	02/02/2007	3	Reno / Alter	1,000	01/08/2008	RJM	100	100
6-040	03/10/2006	3	Reno / Alter	22,000	01/08/2008	RJM	100	100



TOTAL RCN	1,369,959
CONDITION ELEM	CD
EXTERIOR	A
INTERIOR	G
KITCHEN	G
BATHS	G
HEAT	U
ELECT	A
EFF.YR/AGE	1994 / 26
COND	26 26 %
FUNC	15 SIZE
ECON	0
DEPR	41 % GD 59
RCNLD	\$808,300

QUITCLAIM DEED

We, **WILLIAM G. C. DAKIN** and **SUZANNE R. DAKIN**, a married couple, of Denver, Colorado, for consideration paid in the amount of **NINE HUNDRED SEVEN THOUSAND FOUR HUNDRED AND NO/100 (\$907,400.00) DOLLARS** grant to **BRYAN BINDER** and **KELLY SEEMAN**, husband and wife, whose residence and post office address is 35 Walker Street, Lenox, Massachusetts 01240, as tenants by the entirety, with QUITCLAIM COVENANTS, the land with the buildings thereon situated in Lenox, Berkshire County, Commonwealth of Massachusetts, further bounded and described as follows:

Premises: 35 Walker Street, Lenox, Massachusetts

Beginning at a point at about the middle of a certain driveway leading from the property herein described to Walker Street in said Lenox, said bound being the southwesterly corner of a certain parcel of land deeded by Florence V.C. Parsons to Charles Lewis Slattery by deed dated February 14, 1921 and recorded with the Berkshire Middle District Registry of Deeds in Pittsfield in Book 400, Page 319;

Thence North $41^{\circ} 43'$ West along the northerly line of said Walker Street to the easterly line of Church Street, a distance of 83.05 feet, more or less;

Thence North $29^{\circ} 08'$ East along the easterly line of said Church Street, a distance of 203.38 feet to the northwesterly corner of the property described;

Thence South $60^{\circ} 56'$ East a distance of 130.33 feet being the same more or less to the westerly line of said property described in deed from Parson to Slattery aforesaid;

Thence by an interior angle of $87^{\circ} 15'$ and South $50^{\circ} 11'$ West a distance of 83.44 feet to a point;

Thence by an interior angle of $164^{\circ} 28'$ and South $42^{\circ} 39'$ West a distance of 155 feet to the place of beginning.

The directions herein are given with a variation of $9^{\circ} 55'$ from the true meridian, together with the right in common with said Slattery, his heirs and assigns, to the use for all the usual and ordinary purposes of a road or way of a roadway leading from Church Street over the lands of said Florence V. C. Parsons and over the lands of the said Slattery to the northerly portion of the premises formerly owned by said Parsons; and also of the westerly portion of the roadway situated at the southerly side of the premises described in said deed to Slattery, leading from said Walker Street to the premises formerly of said Slattery.

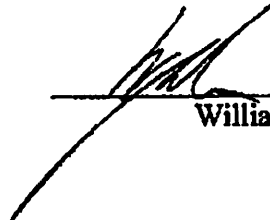
Subject to the right granted to the said Slattery, his heirs and assigns, by deed of Florence V. C. Parsons, in common with the owner of the demised premises to the use for all the usual and ordinary purposes of a way for the roadway leading from Church Street over the demised premises to the northerly portion of the premises formerly of Slattery and also of the roadway leading to a portion of the premises formerly of Slattery. Both roadways are shown upon a "Plan of the Bishop Lot in Lenox Village, made by E. C. Carter," dated January 15, 1921 and recorded in said Registry, February 16, 1921.

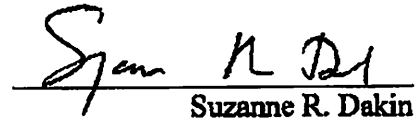
Being the same premises conveyed to the Grantors herein by deed of Rebecca M. Hedgecock dated August 31, 2004 and recorded in said Registry in Book 3035, Page 245 on August 31, 2004.

As per M.G.L. c. 188 §13, the Grantor, under oath and subject to the pains and penalties of perjury, does hereby depose, state and certify that: (i) I release all rights of homestead in the subject realty, (ii) that no spouse, no non-owner spouse, former spouse, or any other person resides in the home, and (iii) at the time of delivery of this deed, no spouse, former spouse, or any other person is entitled to claim the benefit of an existing estate of homestead.

Real estate taxes for the premises have been apportioned between the parties hereof as of the date of delivery of this deed, and the grantees herein agree and assume to pay the same.

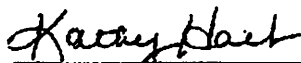
WITNESS our hand and seal this 6th day of October, 2020.


William C. G. Dakin


Suzanne R. Dakin

State of Colorado :
Arapahoe County : ss.

On this 10th day of October, 2020, before me, the undersigned notary public, personally appeared William G. C. Dakin and Suzanne R. Dakin, proved to me through satisfactory evidence of identification, being (check whichever applies): ☐ driver's license or other government-issued photo id, ☐ oath or affirmation of a credible witness known to me who knows the above signatory, or ☒ my own personal knowledge of the identity of the signatory, to be the persons whose names are signed on the preceding or attached document in my presence and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of their knowledge and belief.



Notary Public, State of Colorado
My commission expires: 04-06-2024

SEAL

