

Approved minutes

Planning Board – **Short Term Rentals subcommittee**

Monday, July 10, 2017 — 1:30 p.m. Lenox Town Hall – School Superintendent’s Conference Room

Attending from Subcommittee: Pam Kueber, Deborah Rimmler

Attending from Advisory Board: Kate McNulty Vaughan

Attending from Town Hall: Gwen Miller, Town Planner and Land Use Director

Not attending from Advisory Board: Molly Elliott, Ken Fowler, Dave Neubert

Attending in audience: Clarence Fanto of the Berkshire Eagle, tape recording the meeting

Documents used or referenced:

- Draft minutes for June 29 and July 6 meetings
- Town Attorney memo from 2014
- Pam’s look at legal interpretation considering definition of dwelling
- Emails from Ruth Pearce and Kate Fletcher

Meeting:

1. **Minutes** -- The group agreed to defer consideration of the minutes from June 29 and July 6 to allow more time to pre-read them. They will be considered at the next meeting, July 17.
2. **Stockbridge participation** -- Pam explained that two members of the Stockbridge Planning Board would be at our meetings, as their calendars allowed, and read emails from them indicating why they were interested in participating. Their goals include exploring common interests and concerns in the two towns, working together to better assess the impacts – positive and negative -- of proposed state legislation on our small towns and the local economy, and raising awareness of the issues with residents and other board members.
3. **“Enforcement”** — In the wake of the Berkshire Eagle story “Lenox to study enforcing its rental bylaw”, Pam clarified that the roles of this subcommittee and the Planning Board do not include enforcement. The response from the Town to the recently conveyed Planning Board message of concern was that anyone with an enforcement concern should send a written letter to the Building Commission for investigation.

At our next subcommittee meeting July 17, Deb will lead a complete review of the state legislation currently under consideration including their status and likelihood of passing this year. Everyone is asked to read both beforehand – they are available on lenoxplanningboard.com in the Documents section – H3253 and S1553.

4. **2014 Town Attorney memo** — The group discussed the 2014 opinion letter from Town Counsel with his view of our current bylaw and whether it allowed for the rental of complete houses not occupied by the owner. He said that according to his review, our bylaw does not restrict the renting of entire dwellings. Pam said she disagreed with the opinion because it did not consider the definition of “dwelling”, which is intrinsic to our Use definitions. Deb clarified that the Town is currently using this legal opinion to guide its enforcement efforts. Pam summarized the discussion by saying this issue is not one that the subcommittee needs to respond to, but that it points to the need for the work we are now doing to clarify these issues given the relatively new phenomenon of short term rentals. She also said the Town Counsel memo was on the Planning Board’s agenda for July 11.

5. **Building Commissioner meeting update** — The group discussed the July 6 meeting with Building Commissioner B.J. Church to learn what Massachusetts building code requirements are required for Short Term Rentals, including both owner-occupied and non-owner occupied. Pam clarified that our meeting with the building commissioner was our first – we did not expect her to have exact information, rather, we wanted to ensure we were looking at the right questions. The meeting is summarized in the document “DRAFT minutes July 6 Short Term Rentals meeting.” We agreed there is more work to be done to fully understand this issue, including verifying the requirements as various short term rental scenarios ramp up in terms of how much and/or how often a house is rented; these could be mapped, as well, to the various categories proposed in H3454, if further research indicates this bill is likely to be the basis for state legislation. As followup to this discussion, Deb will be meeting with the building commissioner to understand the building code issues better and more definitively, if possible. In addition, we also will schedule a meeting with the Health Department, which we understand to have a role. Kate made the point that many of these entities’ roles today revolve around the others loosely – and we need to get them to hang together tightly in order to be able to move forward knowledgably.

6. **Draft “listening tour” document for meetings with stakeholders** – Pam did not have enough time to work on this since the last meeting. Kate volunteered to work on the Policy questions if Pam did the up-front Info part. Gwen suggested a different approach, which the group really liked, to asking Lenox townspeople about their vision for the future – she suggested having them focus on their own block, rather than Lenox as a whole; Kate will incorporate this.

7. **Additional discussions:**
 - Kate emphasized the need to develop a clear and consistent set of definitions and terminology and that we should start making a list as we see them. Words identified in common use so far include:
 1. Short term rental (30 days and under)
 2. Seasonal use
 3. Primary residence

4. Second home
 - **Re July 17 meeting**, Deb to let Pam know if moving it earlier in the day will be better for her schedule or whether she will be traveling and need to call in
8. **Communications** — Pam said no work on the website yet – that will require the stakeholder meeting document first.
9. **Agenda and Assignments for July 17 to include:**
 - Minutes -- Approve minutes for June 29, July 6, and July 10
 - State Legislation -- Deb will lead a discussion and review of the two State bills including how they affect / may provide a framework for our efforts
 1. Everyone, please pre-read both, available on the website, Documents section
 - Listening Tour Outreach Materials -- Review draft listening tour document, if ready
 - Update on “assignments”
 1. Pam to set up meeting with Tri-Town Health department
 2. Deb to meet with Building Commissioner to review building code