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:

☒ A Special Permit for exception under the provisions of Section 5.2.F.9., 8.1 of the Town of Lenox Zoning By-law.

☐ A Variance from the following provisions of Section _________________________ of the Town of Lenox Zoning By-law.

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

SEE ATTACHED

For premises:

Owner of Record 26 CHURCH ST, LLC

Address 26 MONARCH PLACE, SUITE 1300, SPRINGFIELD, MA 01114

Map and Parcel 43-16-1-0

Zoned as 1.0

Deed Reference Book 6086 Page 22

(This information is available from the Assessor's Office or town@lenox.ma in the Property Assessments-Online Database section.)

Petitioner ________________________________

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

Address (Mailing Address) c/o Lynch Seitz PLLC P.O. Box 1787 LENOX MA 01240

Telephone Number 413-637-1300

Email address lynch@lenoxattorney.com

Date 4-6-2018
26 Church Street, LLC
Special Permit Application
26 Church Street, Lenox, MA

Applicant seeks a special permit under Section 5.2.F.9 and Section 8.1 to open a two-unit tourist home/guest house at 26 Church Street. 26 Church Street is in the Commercial District.

Applicant purchased 26 Church Street and is in the process of converting its use to a two-unit tourist home/guest house. The existing use is: retail on the first floor, with two existing apartments on the second floor. Applicant’s intent is to rent the renovated residential units to transient guests on a short-term basis. The retail use on the first floor will remain.

A tourist home/guest house may operate in the commercial district upon issuance of a special permit from the Zoning Board of Appeals.

The criteria for a special permit are met.

1. Community needs served by the proposal.

As the Board is aware, an issue exists locally and nationally whether the rental of private single or multifamily units to transient guests are regulated or should be regulated pursuant to zoning bylaws and subject to commercial taxation including locally assessed room tax. In 2014, the Executive Office of Health and Human Services issued the attached directive requiring that health departments and inspection agencies treat online home rental services for transient guests as a lodging house or bed and breakfast establishment. A counter opinion exists as to whether transient guest rentals are allowed without any required permitting under the current Lenox Zoning Bylaw. Applicant seeks to use 26 Church Street for transient guests but with the full

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1 Motel is defined “The word ‘motel’ shall include ‘hotel’, ‘inn’, ‘tourist home’, ‘guest house’, and others of like significance.
authority of the Town and in compliance with the inspections services directive. Its upgrades include interconnected alarms, life safety improvements, and improved access.

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

The property meets the parking and traffic flow requirements of Section 8.1. The frontage and single access point is on Church Street; the driveway and Church Street intersect at 90 degrees. The Commercial C Zoning District’s loading and parking exemptions apply.

3. Adequacy of utilities and other public services.

26 Church Street is serviced by electric, natural gas, and town water and sewer.

4. Neighborhood character and social structure.

26 Church 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. The upgrades completed to the building will increase the properties assessed value which will lead to an increase in taxes. As a tourist home/guest house the Town will receive the room tax. There will be no negative impact on town services. The intended uses will not increase usage when compared to the existing use of the structure.
MEMORANDUM

TO: Local Boards of Health and Code Enforcement Agencies

FROM: Paul Halfmann, Assistant Director, Community Sanitation Program

DATE: May 16, 2014

SUBJECT: Licensing of Online Home Rental Services

The Department of Public Health, Bureau of Environmental Health, Community Sanitation Program (hereafter, "DPH") has been asked to clarify whether online home rental services for transient occupancy, such as Airbnb (www.airbnb.com), are subject to licensure or permitting as a lodging house or bed and breakfast establishment/home or whether rooms rented through such services are not subject to licensure because they are dwelling units under Chapter II of the State Housing Code (105 CMR 410.000: Minimum Standards of Fitness for Human Habitation, State Sanitary Code, Chapter II).

Airbnb and similar services facilitate a connection between individuals who wish to rent out a room, several rooms, or a whole house with individuals who seek out such a rental, typically on a short term basis. The rentals are similar to traditional lodging houses or bed and breakfast establishments except that owners may only promote themselves as providing lodging through a website listing, often have not applied for or been granted a license or permit by the municipality to operate a lodging house or bed and breakfast, and may not be collecting occupancy taxes. Also, since payment is arranged through a website service, such as Airbnb, the transaction differs from the traditional innkeeper/guest relationship where payment is made directly by guests for lodging.

DPH has determined that lodging provided through Airbnb or similar online services is subject to local licensure or permitting as a lodging house or bed and breakfast in the same manner as traditional lodging houses and bed and breakfast establishments are licensed or permitted. Airbnb specifically states that: "In many cities, you must register, get a permit, or obtain a license before you list your property or accept guests." It further states that: "By accepting our Terms of Service and activating a listing, you certify that you will follow your local laws and regulations."

410-Licensing of Online Home Rental Services 5-16-14
DEED

That I, OLIVER K. G. BECKMANN, a married man, of Stamford, Connecticut, for consideration paid in the amount of FOUR HUNDRED SEVENTY THOUSAND DOLLARS AND 00/100 ($470,000.00) grant to 26 CHURCH STREET, LLC, a Massachusetts Limited Liability Company, whose post office address is One Monarch Place, Suite 1300, Springfield, MA 01144, with WARRANTY COVENANTS, the land with buildings, if any, thereon situated in the town of Lenox, Berkshire County, Massachusetts, bounded and described as follows:
Beginning at a point in the easterly line of Church Street at the northwesterly corner of land formerly of Krogman, now believed to be of Wheeler & Taylor or one Farnham;

thence in said line of said street north 28° 4' east 62 feet to land of one Mahanna at a cut stone set in the ground;

thence south 62° 15' east along the southerly line of said Mahanna land 200 feet and south 62° 15' east along land of one Quinn 49 feet to land formerly of Proctor, now believed to be of one O'Brien;

thence along said O'Brien's west line 48 feet to an angle in said line;

thence along said O'Brien's westerly line 51.6 feet to land formerly of Krogman, now believed to be of Wheeler & Taylor, or one Farnham;

thence along said Wheeler & Taylor or Farnham land north 62° 15' west 200 feet to the place of beginning.

Being all and the same premises conveyed to the Grantor herein by deed from Lenox Realty Corporation dated December 21, 2012 and recorded December 27, 2012 in the Berkshire Middle Registry of Deeds in Book 5109, Page 318.

The property was not a homestead property and was not the primary residence of the grantor or any other person.
WITNESS my hand and seal this 24 day of October, 2017

OLIVER K. G. BECKMANN

STATE OF CONNECTICUT
COUNTY OF Fairfield

On this 24 day of October, 2017, before me, the undersigned notary public, personally appeared OLIVER K. G. BECKMANN, who proved to me through satisfactory evidence of identification which was _CT Driver's License_____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature]
Notary Public

My Commission Expires: David J Dos Santos
Notary Public-Connecticut
My Commission Expires
February 28, 2022

Berkshire Middle District Registry of Deeds - END OF DOCUMENT