

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 ONE MONARCH PLACE, SUITE 1300, SPRINGFIELD, MA 01144

Map and Parcel 43-181-0

Zoned as COM

Deed Reference Book 6086 Page 22

(This information is available from the Assessor's Office or townoflenox.com 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 Sceimo PO 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 house¹. 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

¹Motel 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.



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Environmental Health
Community Sanitation Program
250 Washington Street, Boston, MA 02108-4619

DEVAL L. PATRICK
GOVERNOR

JOHN W. POLANOWICZ
SECRETARY

CHERYL BARTLETT
COMMISSIONER

www.mass.gov/doh

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."

Key: 1985

Town of LENOX - Fiscal Year 2018

12/4/2017 9:39 am SEQ #: 2179

CURRENT OWNER		PARCEL ID		LOCATION	
BECKMANN OLIVER K G C/O 26 CHURCH STREET LLC ONE MONARCH PLACE STE 1300 SPRINGFIELD, MA 01144		43-181-0		26 CHURCH ST	
TRANSFER HISTORY		DOS	T	SALE PRICE	BK-PG/Camt
26 CHURCH STREET LLC		10/31/2017	QS	470,000	6088-22
BECKMANN OLIVER K G		12/27/2012	F	5109-318	
LENOX REALTY CORP		10/08/1999	O	217,500	1689-33

CD	T	AC/SF/AUN	Nbhd	Int1	Int2	ADJ BASE	SAF	Int3	LPI	VC	CREDIT AMT	ADJ VALUE
103	S	12,500	1	1.00	A	1.00	A	1.00	C-1	1.30		154,840

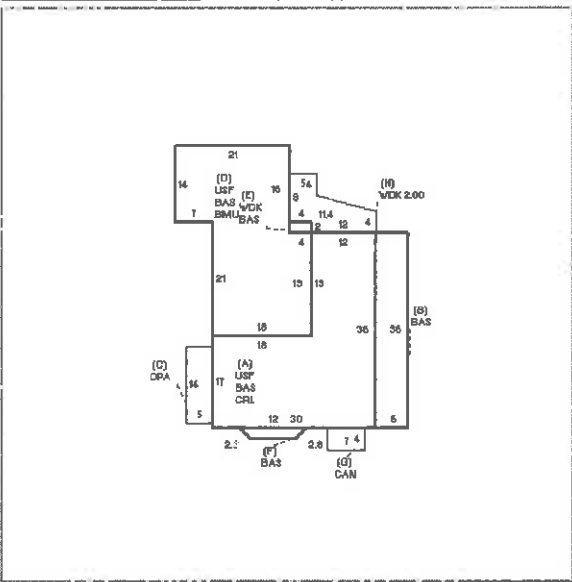
TOTAL	12,502 SF	ZONING	COM	FRNT	0	ASSESSED	CURRENT	PREVIOUS
Nbhd	Tanglewood					LAND	154,800	151,800
Int1	AVG					BUILDING	286,900	284,100
Int2	AVG					DETACHED	200	200
						OTHER	0	0
						TOTAL	441,900	436,100

TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD	PHOTO
SW2	G	1.20	20 0.80 2 X 3		6	36.84	200	10/18/2008



BUILDING	CD	ADJ	DESC	MEASURE	7/19/2006	PBK	BLDG COMMENTS
MODEL	5		COMMERCIAL	LIST	7/19/2006	PBK	2 APTS @ 3-1-17 Stellmann Fashion & Art
STYLE	31	0.85	STORE(SM.RETAIL [54%])	REVIEW	4/9/2015	RJM	
QUALITY	+	1.05	PLUS AVE [100%]				
FRAME	1	1.00	WOOD FRAME [100%]				

CLASS	CLASS%	DESCRIPTION	BN ID	BN	CARD			
0310	55	MULTI/COMMERCIAL		1	1 of 1			
PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st	%
01-100	01/01/2015	7	Other	400	04/03/2015	RJM	100	100
2000-140	05/19/2001	11	Signe-Free S	65,500	01/01/2002	PK	100	100
54-211	06/11/2000	8	Addition (C	85	05/25/2001	SL	100	100
93-94	12/02/1994	6	Peels	100	01/01/1995	PK	100	100
	07/21/1993	6	Peels	100	01/01/1994	PK	100	100



YEAR BLT	1870	SIZE ADJ	1.050	ELEMENT	CD	DESCRIPTION	ADJ	S	BAY	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN	TOTAL RCN	372,577
NET AREA	3,048	DETAIL ADJ	0.970	FOUNDATION	3	FOUND. WALL	1.00	A	CRL	N	CRAWL	738		8.40	6,199	CONDITION ELEM	CD
%NLA(RCN)	\$122	OVERALL	1.000	EXT. COVER	1	WOOD SHINGLE	1.00	+	USF	L	UP-STRY FIN	1,402	1870	108.91	154,093	EXTERIOR	G
				ROOF SHAPE	1	GABLE	1.00	B	BAS	L	BASE AREA	216	2000	108.91	23,741	INTERIOR	V
				ROOF COVER	1	ASPH/CMP SHIN	1.00	C	OPA	N	OPEN PORCH	70		26.27	1,839	CDN/APP	
STORIES	2		1.00	FLOOR COVER	2	SOFTWOOD	0.95	D	BMU	N	BSMT UNF	664		36.51	24,246		
% HEATED	100		1.00	INT. FINISH	1	PLASTER	1.04	+	BAS	L	BASE AREA	1,430	1870	108.91	157,170		
% AIR COND	55		1.02	HEATING/COOL	12	WML/AIR SPLIT	1.01	G	CAN	N	CANOPY	26		21.75	608		
% SPRINKLER	0		1.00	FUEL SOURCE	2	GAS	1.00	+	WDK	N	WOOD DECK	224		20.80	4,681		
				NAF	0		1.00										

EFF YR/AGE	1991 / 25
COND	23 23 %
FUNC	0
ECON	0
DEPR	23 36 GD 77
RCNLD	\$286,900

3



Bk: 6086 Pg: 22 Doc: DEED
Page: 1 of 3 10/31/2017 12:59 PM

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:

LOCUS: 26 Church Street, Lenox, MA

MASSACHUSETTS EXCISE TAX
Middle Berkshire ROD 001
Date: 10/31/2017 12:59 PM
Ctrl# 032669 10781 Doc# 00915281
Fee: \$2,143.20 Cons: \$470,000.00

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 $28^{\circ} 4'$ east 62 feet to land of one Mahanna at a cut stone set in the ground;

thence south $62^{\circ} 15'$ east along the southerly line of said Mahanna land 200 feet and south $62^{\circ} 15'$ 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 $62^{\circ} 15'$ 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.


, Notary Public

My Commission Expires:

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

