

Buckland, MA Planning Board Meeting Minutes

January 25, 2023

Via Zoom

Agenda

1. Review and discuss draft zoning bylaw changes related to short-term rentals
2. Deliberate on public comments received on short-term rental bylaw thus far
3. Schedule public information session on short-term rentals & develop agenda
4. Schedule public hearing on short-term rentals
5. DLTA (District Local Technical Assistance) projects for 2023
6. Review of previous meeting minutes
7. Other topics unanticipated by Chair 48 hours in advance
8. Schedule next meeting
9. Adjourn meeting

Attendees

John Gould, co-chair

Michael Hoberman, co-chair (see minutes for details in re: attendance)

Jon Wyman, member

Andrea Donlon, member

Cara Leach, public

Randy Heminger, public

Co-chair John Gould opened the meeting at 6:32 pm.

1. Review and discuss draft zoning bylaw changes related to short-term rentals

Co-chair Gould reviewed the current status of co-chair Michael Hoberman's participation in discussions and actions related to the draft Short Term Residential Rental (STRR) bylaw. After engaging in the conflict of interest process with the Massachusetts Ethics Board and the Buckland Select Board, it was determined that co-chair Hoberman must recuse himself from all deliberations about the proposed bylaw.

Co-chair Gould noted this determination has a significant impact on the work of the Planning Board as the PB is already operating with one less member than a full complement of five members, and there are no alternate members. Co-chair Gould stated his belief that it was not responsible for the PB to move ahead with this bylaw proposal with only three active members, and made a motion to table the STRR bylaw process until the PB has a full complement of five members.

Co-chair Hoberman seconded the motion. The following discussion ensued.

- A. Would this mean forgoing this proposal for the 2023 Town Meeting? It seems unlikely a new member of the PB could get up to speed in time to meet the required schedule, though the bylaw could be presented to a special Town Meeting called for this purpose.
- B. The PB was on the cusp of offering a public information session - would it be worth going forward with that? Also, the agreement with FRCOG for Peggy Sloan's input is coming to an end - should the process continue to involve her before her status with the town changes? It might be challenging to pull together all the information collected thus far, process it, and present it to the public with the PB operating below full capacity. Remembering the workload for the recent cell tower application, the need for a PB with full membership is essential to share the work and prevent burnout.
- C. The process is well along, with a lot of momentum which could be lost by postponing - would the "pause" become permanent? Also, special town meetings tend to have lower attendance. The issue still has urgency to it, and the PB is committed to addressing it. A special Town Meeting would allow the public to focus on just one issue rather than the myriad of issues part of the Annual Town Meeting.
- D. Is there a way to "slow down" but not suspend the process? Members of the PB came to this meeting with ideas to share, having made contact with the Town Clerk, Town Administrator/Select Board, and it would be a loss to not share and process this information. Perhaps use this meeting to respond to comments offered by the public and review the spreadsheet of STRR bylaws found in Massachusetts compiled by staff at FRCOG.
- E. Can co-chair Hoberman participate in this conversation and vote given the decision by the Select Board? As long as the motion is about how the PB should proceed rather than particulars of the proposed bylaw, co-chair Hoberman should be a part of the deliberation.
- F. If the bylaw proposal process is postponed, can conversations with the Town Clerk and Town Administrator continue? The PB would not be prevented from informal conversations, but would not pursue a public process at this time.

The proposed motion was amended as follows: The Planning Board will table the STRR bylaw process following the regular, public meeting of January 25, 2023 until one new member and preferably also one alternate member are appointed to constitute a full member PB. Also, co-chair Hoberman may participate in all PB business not addressing the STRR

Hoberman may participate in all PB business not addressing the STRR bylaw. The amended motion was moved by co-chair Gould, and seconded by co-chair Hoberman; on a roll call vote all members voted in the affirmative. Motion carried.

At this point in the meeting, co-chair Hoberman departed the meeting.

Given the passage of the above motion, the meeting agenda was adapted thus:

2. Deliberate on public comments received on short-term rental bylaw.

The three remaining PB members made the following comments:

- A. In regard to performance standard #6 and the PB's suggestion of having the Select Board issue use permits
  - Proposal not accepted by the Town Administrator/Select Board.
  - Event permits relate to commercial or business use, and not STRR use - does this belong in the bylaw at all?
  - If the STRR bylaw is oriented to owner occupied properties, in most cases the property/whole building wouldn't be rented out for events
  - Still a question about where to direct questions - should it be to the building inspector?
  - Looking at the bylaw from Great Barrington, no tents, amplified music are allowed for STRRs
  - If a special permit is required for 3 - 4 room rentals, could this be a part of the review for a special permit when relevant questions can be asked of the applicant?
  - Are Buckland residents required to have a permit for a large party at their own house?
  - Suggestion to replace "special events" with "commercial events" and shorten the sentence thus: The Short Term Residential Rental property shall not be rented out for commercial events such as weddings or other large parties.
- B. In regard to performance standard #5, missing language addressing additional limitations
  - The STRR must adhere to any existing condominium rules
  - STRRs may not be implemented if local taxes are in arrears
  - No STRR may be established if the property has any code violations
- C. What about non-owner occupied STRRs established prior to the passage of a new bylaw?
  - Refer to December 8, 2022 email from Town Counsel concerning "illegal use" or "not customary use"
  - Suggestion to consult with Randy Crochier of FRCOG on the

- process of registering STRR, including inspections, fees, etc.
- Question about whether the building inspector reviews both the legal use of the property per zoning and also life-safety codes? Co-chair Gould will send Town Counsel's note to the building inspector for further discussion.

D. In regard to 2-family houses

- What amount of property can be rented out for a STRR?
- How does "owner occupied" apply? (Owner occupied means the owner resides for some part of the year, and is intended to address the housing rental availability issue.)
- What about the term "primary residence"? Is that a better term?
- What about the terms "hosted" and "unhosted"? (This is intended to address the complaint issue.)

E. In regard to performance standard #9

- Town Clerk noted this constitutes a police issue
- Would contact people be included in the county permit process?
- Who would receive and maintain contact information so it is available 24/7?
- The Town Clerk noted businesses are required to register every four years - could STRRs be registered in the same way? If the PB maintains these are businesses, they should be registered as such.

G. Question about "adjacent property" ownership, and how to best accommodate this arrangement

H. Does it make sense to allow non-owner occupied STRRs in areas zoned the village commercial and historic industrial with a special permit required?

- The guideline from the beginning of this process has been to not diminish opportunities for long-term rentals
- Buckland has a very small commercial area, and limited opportunities for commercial activity - could STRRs be a good match?
- Member of the public earlier noted the need for the town to invest in hospitality
- State St. has complicated zoning between commercial and residential properties

G. General comments

- Of the general mindset to allow people to do what they wish within reason, without harming the rental situation in town
- Open to discussion about the definition of "owner occupied" or limiting the number of days that a STRR may be rented. Questions about who enforces this, and how the numbers are established.

- Look at kitchen facilities, and if limiting them in STRRs would keep more opportunities as long term rentals
- Should add additional language addressing fire exits, emergency services, certificate of inspection, etc.
- Question about language in the Purpose section - "preserving the rural character." Maybe "community feel" instead?

### 3. DLTA (District Local Technical Assistance) projects for 2023

Co-chair Michael Hoberman rejoined the meeting at this point

The PB will request continued funding for Peggy Sloan's services (as well as others) from FRCOG.

### 4. Review of previous meeting minutes

The minutes of the December 8, 2022 meeting were reviewed. Co-chair Gould moved to approve them as written; member Donlon seconded the motion; on a roll call vote, all four members voted to approve the minutes.

### 5. Other topics unanticipated by Chair 48 hours in advance

Member Donlon reported Brad Walker is the new owner of The Mill, and is open to creating public access from the property to the Deerfield River. This might be a topic for discussion at the Open Space and Recreation meeting.

A discussion regarding open seats on the PB surfaced names of possible candidates and detailed a process of advertising the opportunity to the public.

### 6. Schedule next meeting

The next meeting is scheduled for Thursday, February 9, 2023.

### 7. Adjourn meeting

Co-chair Gould moved to adjourn the meeting; member Donlon seconded the motion; on a roll call vote, all voted in favor. Meeting adjourned at 9:35 pm.

Respectfully submitted, Alison Cornish, Boards Clerk

### Documents Referenced

- Buckland Short Term Residential Rentals draft (12-16-22)
- Summary of bylaws related to short-term rentals in MA Compiled as of 9/1/2022 by staff of the Franklin Regional Council of Governments.