

TOWN OF WASHINGTON TOWN PLANNING STEERING COMMITTEE

Meeting

Saturday April 2, 2022

Time – 9:00 AM

- Quick Review 03/12/2022 Discussion – acceptance.

Present KL: DG, KL, DS for Steering Committee, CL, LL, JG, PM, SC, FJ

Don Gagnon: Review of minutes. Motion to accept, seconded. All in favor.

- State of the Town planning discussion, ideas, suggestions

Kent Lew: A Select board venture. Two things to discuss, input on topics to discuss or work into the format. Any logistical things, thoughts, helping out. The presentation, I have not firmed it up in my mind, will be largely extemporaneous. First hour, a presentation from me. Second hour, Q&A, input, conversation. Two big topics for presentation: The dire nature of our upcoming budget, the drivers making things look worse, and the implications of that—the need for a levy override. Another topic, touched on by select board monthly letters: Will the town take on a town administrator.

The goals and priorities of the Select Board. The budget, and directions to department heads.

Susan Colgan: You mentioned about the levy override. What is that?

KL: A necessary evil. I have to figure out a concise way to do it. The budget states the amount we think is needed to run the town. Then we look at what we expect in terms of revenue from the state, what we expect from fees and fines, and then the rest is the levy; that has to come out of taxes. That came out of Proposition 2.5, which places a limit each year on what the levy limit can be. A constraint, we cannot raise our levy beyond it. This year, when we look at revenue, what's left for the levy exceeds our limit by about \$100k. Either we have to make adjustments to our budget, or we have to override our levy limit, and raise it higher.

If anyone has been paying attention to the finance committee, there are things that we can't control that are going up.

DS: It's been in effect for 42 years now, the law was enacted in 1980, You might compare it to inflation to that period.

John Fish: The override is the process by which the town can raise taxes more than usual.

KL: Yes, that's why people don't like it, because it says you can raise our taxes higher.

DG: Wasn't Paul Mark working on having the pilot money increased. Berkshire County, Hampshire County and the Cape, we have not for years and years been given enough money.

KL: A battle is being fought on the PILOT front, reimbursements from the state. For years, if not decades. I have had multiple conversations, written many white papers to agencies. A report by the state auditor acknowledged problems. She made some recommendations that did not go far enough and did not address the root cause. She suggested the PILOT be fully funded. Good. But the formula is not a reflection of our reality.

There are towns with PILOTs that exceed the local tax, 2.5 or 3 times the value of that taxable land. In Washington and most of Berkshire county, we get 40 percent of taxable base.

There is an acre of land on the Cape that get the same value of PILOT as half of Blandford State forest.

That formula needs to be seriously overhauled. There will be winners and losers.

There are other efforts to come up with revenue streams to help rural communities. Not likely to come through in the coming fiscal year. We won't be closing the gap we are facing.

Carol Lew: Some kind of brief example of these expenses we don't have control over would be helpful. To help people understand it is out of our control.

Also, I would suggest you figure out how much time you want to spend on this part of the agenda.

KL: This is such a fraught question, people would want to ask questions. Our school assessment goes up 4,6, 10 percent every years, which is how we hit that budget ceiling that fast. We are going from zero vocational students to four. The town is obliged to pay their tuition and cover their transportation. About \$19k per student for tuition. Three different schools, we have to transport them all. Current reimbursement for transportation is six percent from the state.

We feel strongly that we need to provide a cost of living interest to town staff. We're talking five percent and inflation is seven. We are their employer. They rely on us, as a town, to help them pay their bills.

DS: Central Berkshire, capital budget up 14 percent, the state thinks we can afford it.

SG: If Bucksteep paid the \$180k back taxes, wouldn't that help?

KL: If Bucksteep were to show up tomorrow and pay us the \$125k, I would have a hard time figuring out how to make it impact our taxes. It's already factored in, it doesn't change the formulas that effect the situation we are in.

Every year, we can try to figure out some way to make up the difference, but the next year we're in the same position. Every year, we need to find a on-time solution. That is not a way to run the budget.

DG: When we moved up here and bought this house with a 16 percent mortgage in 1982, the town was probably in the same crisis. How did we cover inflation back then?

KL: In the 1970s, the 2.5 limit didn't exist. Part of the reason Prop 2.5 came in was because people felt we needed to put reins on the government. Now, it's out of sync with reality; they are no longer reins, now handcuffs.

Best practice is to have, in reserve, two months of operating expense. I believe our stabilization fund is about six weeks' worth. Is this an emergency? We've taken from the fund in the past, and I am hoping not to take that approach.

JF: If our expenses have gone up 10 percent and our taxes have gone up 2.5, how have we been paying out bills.

KL: We always have a little excess, you put that into reserve or use it for one-time purposes like replacing a bin at the transfer station,

Linda Levernoch has offered to bake refreshments. We talked about trying to augment our audio set up. DG, do you have access to additional mics?

DG: Yes, I can do that.

KL: Let's talk and see what options we can consider.

JF: I am available that day if you need help with anything.

KL: April 9, next Saturday. 10 to 12.

LL: It's great that it's out on our website, and out in Tracks, I would encourage people to talk to your neighbors, get people involved so they are informed. If people don't feel like coming they can at least listen on Zoom. Very important that we come together as a town and address these challenges.

- Finalize ADU Report to the Planning Board.

CL: The group of us met and came up with a brief framework. DG wanted to make sure it tied to the town plan, so we expanded that; that's almost the whole first page. Why an ADU would address issues in the town plan.

As we went through discussion, most of us were swayed by the AARP recommendation to keep it simple. There are definitely benefits to keeping this simple.

Then we went to the points that had been part of the grid, to have two ways to look at the size, setback, type, and so on, so the grid, attached and the details. We tried to keep it short.

DG: From the Planning Board perspective, this is exactly what we would need to begin the process. KL have you heard anything at all about our request for a grant.

KL: I will be seeing Mark tomorrow; will ask. No news is often good news. That grant would come in the form of technical assistance, to assist the Planning Board with the nitty gritty of writing an ADU bylaw.

CL: It would be good for someone to say where we go from here, What is the process to move this along.

KL: We can start with small editorial suggestions; not content. I have two of those.

Under setbacks, An ADU needs to conform to other building codes. It should be general Zoning bylaws.

Under type: It should be noted that.

DS: I'd like the discussion of owner-occupancy to mention second homeowners, the impact on them. At the end of the second graph, There is a concern about policing owner occupancy.

CL: We want second homeowners to be able to do this.

DS: That sentence is listing two concerns. I think we should include the concern about the impact on second homeowners.

DG: We would want to describe second homeowners, the Planning Board would do that. I will pick out the items that will need to be defined. Whether they go in our specific definitions, or specific to this bylaw. If it were already stated here, it would be helpful.

KL: What I understand is that there not be any owner occupancy requirement, then if the Planning Board accepts that, then we don't need a definition. I want to get that cart after the horse.

I worry we are perpetuating something by defining second homeowners. An owner is an owner, if we are simply talking about the owner, then owner is defined. It is the owner of the property.

JF: You said what I was going to say. If we don't require an owner occupancy stipulation, then the definition is irrelevant.

DG: When you take a look at the model bylaw, it's written for people living in a house and building an ADU. If we don't put up guardrails against people moving into town and adding dwelling units. We have a bylaw for it. If the nature of the ADU is for the owner to put in an inlaw. I'm going to buy property and rent everything out.

CL: It will be easy to keep going down the tunnel of what we believe. This report is supposed to capture what our discussion talked about. The Planning Board doesn't have to take our advice. We need to capture what we talked about here and hand it over.

KL: Do we feel like this group is not making a recommendation about owner occupancy? If we want to address someone coming in and buying up rental properties, they can do that without an ADU bylaw. How can we address whether or not there needs to be the addition of a statement about a second-home owner?

CL: The way I wrote it addresses the nuance; Read her suggestion.

DG: Adding that as the opinion of the Steering committee is correct.

KL: The groups suggests that owner occupancy would be better addressed by a short-term rental bylaw. Usually when owner occupancy comes up, we want to restrict how the property is being rented out. Better to address it under a bylaw that addresses usage.

DG: North Adams or Williamstown came up with a STR bylaw, almost draconian. If you were a resident and owned the property, you didn't have to do certain things. If not a resident, you had to report certain things before you were allowed. Interesting how STRs are developing and how other towns are managing them.

KL: That is why we are shifting our attention to STR, and moving ADU forward. ADU expands the possibility, but that possibility already exists. An STR bylaw would be the way to address that.

Anything else that says too much or is missing?

JF: When talking about size, at one point, there was a consensus that a 900 sq ft restriction was discussed.

KL: Not more than 750 sq feet, or a max of 750 or 75% of the building, whichever is greater. 900 seems to be what other towns are using,

JF: Just another option to suggest.

CL: We threw out all sorts of numbers. This is what the graph said because we came to that. There are nuances and input is welcome.

KL: The Planning Board could just have a plain old cap. 900 is out there in the model bylaw. I don't know that we discussed 750 as a cap.

One is a cap on all ADUs, between 750 and 900 sq ft. We also discussed a circumstance with a maximum as well as a percentage. There should be some minimum maximum, even if we want a maximum maximum.

We discussed the maximum square footage, we also discussed the maximum square footage or a percentage.

KL: How can we frame our input. The concern about percentage of a primary unit, if we set it too large, we have gigantic ADUs, if too small, it is unrealistic.

JG: If we discussed 900, we should put it in there.

CL: Can we say, somewhere between 750 and 900.

KL: Under ADU occupancy, we have a short statement about municipal regulations; I'm not aware of any restrictions that exist.

CL: JF mentioned that he had a rental house and there were issues about how many people lived in it.

JF: There are regulations around the number of people allowed to occupy a rental unit. A state regulation.

KL: Replace "municipal" by "State"

CL: We don't know if it applied to Long Term rentals. "In some circumstances."

DG: The ADU needs to be subordinate, if the maximum is 900 and you have to be subordinate, Your 900 sq ft is fine.

KL: When you are discussing things like that, it is a question, are we leaving this to our building inspector or do we have to have a special permit process. You will have to contemplate those things.

We tried to define some numbers to define subordinate, that's why we had the percentage. Do you have enough information to take this to the Planning Board. I understand why DG is dreading it, which is why the Berkshire Regional Planning group could help.

CL: An ADU should be subordinate to the primary residence, the Steering Committee suggested an ADU of 750 to 900. The group also discussed a maximum of 750 sq feet or 75% of the primary residence.

DS: I hate to dwell on this owner occupancy; my home is owned by a trust.

KL: If the Planning Board discussed owner occupancy, it would need to consider ownership by a trust, or by children.

A motion to approve report, they have been recorded, Carol will make the changes and distribute to Don.

Note, at the next meeting the group should discuss a STR bylaw and whether it should be presented to the town at the same time. What are the feelings, in an ideal world, that these things be addressed at the same time.

PM: These bylaws have given everyone a head ache, lasting months and months, don't put them together.

JF: If we don't put them together and someone sees the ADU bylaw, is it going to be harder to tell people six months later that they have to stop renting out their ADU.

DG: The STR is in its infancy in being written, so still major pushback. Talking about Great Barrington or Northampton. We have time. We should take a look at how it is being developed elsewhere, before we venture into creating one. We should discuss what is new. I would like the request to come from this group and for our discussion to be passed along in a similar manner.

We should tell the Planning Board but not do it now.

DG: If we get the DLTA, then, I think when we wrote it up, we added this ADU plus others, Some room to bring in BRP to use their expertise to develop a STR plan for the town. It's hard work, it will delay the ADU, when you see it in the agenda for the planning board, members of this group should come to the meeting.

KL: We don't know enough to make a recommendation as to how the Planning Board should handle it. We give this to them to say, get working on this, we will work on STRs.

Because of the issues we came up against, the issues that came up will be handled by an STR bylaw.

But because STRs could be equally gnarly, we don't want to hold up the ADU bylaw because of the thorny STR.

SC: In the best of all possible worlds, they should be considered together, but we don't know until the discussion.

KL: What do we need to convey to the Planning Board?

CL: The problem with doing just the ADU, if they are not thinking about STR, this could be very restrictive. But if we just handed over the first part, the other part will address these concerns, and so go ahead without that fear of those concerns.

JF: My thought was that the purpose of the ADU bylaw, we talk about bringing in extra tax revenue, which is a nod toward STRs. It seems like it's a good idea to tie them together.

KL: If we pass an ADU bylaw and someone goes out and builds it, then we bring out an STR, that is grandfathered. If our main concerns about STRs are on the distant horizon, then we could consider moving forward with the ADU.

CL: I took notes and something new has to be written up. If I work with Don about this graph is that acceptable.

KL: I think so.

DG: If we are going to write one, we need to be sure we are covering our concerns. Building a bunch of ADUs is not going to be the same issue as in North Adams. Where is it a Zoning Law and where is it a managing the people coming and all the things that could happen. Who writes the general bylaw?

KL: Usage of property, any restrictions on your property, those are Zoning Bylaws. STR is considered a business, it falls under Zoning. General Bylaws are how we govern ourselves. How owners of property can utilize their property are generally Zoning Bylaws.

DG: How do you keep STRs from exploding. The State handles the revenue piece. If someone is abusing this thing, how do you regulate it.

KL: We would rat them out to the DOR. The state collects STR revenue, The state doesn't have mechanisms for that, you can rat out your neighbors. If we want to do more than that as a town, then we need to discuss that.

Are we now having a discussion about the STR bylaw? Yes, there are a lot of questions how anything we want to propose would be managed. The fact that STR exists through Airb&b and Verbo, the town has an opportunity to regulate and restrict, fair and complicated mechanisms to do that.

CL: We seriously have to educate ourselves on this. Maybe one or two can assemble things online and share it with us. There are so many ideas that we don't really have a clue.

PM: My family owns a house on Cape Cod and we rent it all summer. The STR tax is a pain in the neck for the owner. The State collects it, you have to register your house with the state. If you don't register your house, you get into a whole lot of trouble. STRs have been contemplated by a lot of towns on the Cape, perhaps around here. I would be glad to dive in on research.

KL: There are plenty of docs on the State site that answer things like how long something has to be rented to be considered an STR. I will send those links as follow up.

JF: I was going to say largely what Peter said. We had a property in Adams that we registered as an STR, the Vrbo app we used collected all the tax. The definition of STR, if I remember, was if it's less than 30 days.

KL: What I would like to get on the table are the various concerns we have, so we know what it is that we need to research.

What are trying to prevent?

One concern about STR is that someone could own a lot of properties, expand them and change the nature of our neighborhoods.

We want to limit STR: The concern of Spring Break coming to Washington, 20 college kids coming to a house.

Circumstances with a disproportionate number of people.

The high turnover and the lack of commitment, we want the majority of the town to have a stake in the community.

JF: If you have a neighbor with an STR, and people come in for the weekend and throw a party, you can call the police. Long term renters, you can't.

KL: These concerns already exist. The potential for problems exist. There are opportunities with STR bylaws to try to guard against these things.

STRs would bring in a lot of money and to some extent, they are not a problem.

SC: Who will regulate them. There is an article in the Country Journal, in Otis, they presented something to the Select Board, one person objecting to it is the Town Clerk who would be regulating it, She said, I can't do this.

KL: To the extent we create regulations that need to be monitored and tracked, we need to address how we will do it, who will do it, and how they will be compensated.

Someone could come in and purchase the homes on Washington Mountain Road, it might clean up the neighborhood, in fact, as if you will put it on Vrbo, you need to find renters.

CL: I am listening to this and realizing I don't have a lot of concerns. All the time I've been doing this ADU thing, thinking we're going to hammer this STR issue later, I don't see a huge issue.

JF: If we have certain times of year when STRs are packed, that may give an opportunity that someone might have a store, leading to more commerce?

SG: It would be really nice to have a store.

KL: You would need a lot of STRs to support a store. If there is a lot of tourism, the potential for sustaining a business in town go up. Does it go up enough is an open question.

People at the other end of the spectrum of the life cycle of STRs, because the profitability of STRs, more properties are being converted from long-term rentals to short-term rentals. There are maybe five long-term rentals in town.

JF: To your concern about STRs removing opportunities for affordable housing. I grew up pretty low income in Washington and it was beautiful and I would hate to create a situation where people had to move out to Pittsfield.

JG: An ADU and STR bylaw would possibly improve the opportunity for lower income folks to stay here.

DG: Good discussion. We also need to talk about Bucksteep.

KL: I have actually tried to find out if glamping falls into the category of STR that falls into room tax. We need to answer that to assess any proposal for a glamping operation. You would need a special permit for a glamping operation.

With regard to an inn, again, that is a use different from STR, even if those rooms are subject to room tax. Because it's an inn, that is subject to room tax. It would need to be resumed under our Special Permit process. Anything that could happen at Bucksteep other than a single to two family residence, it falls under residential zoning. Someone could purchase that and rent out rooms,; there is an open question when STRs turn into an inn. Those answers lie outside of our town, do we have the wherewithal to define that. I will look for some links.

PM: I will do some looking around. Let's all share info.

JG: Daniel Osman may know some details about glamping.

KL: Next meeting, Saturday, April 30. Motion to adjourn.