

**Town of Lenox  
Planning Board  
Meeting Minutes  
January 9, 2024 6pm  
Town Hall Land Use Room/ Zoom**

**Documents available at meeting:** Minutes from December 12 2023, Documents related to 89-94 Dunmore Court Covenant Release: *Birchwood Village\_PlatB.Plan No.306, Certificate of Compliance-Dunmore Court, Certificate\_DunmoreCt.1992\_Bk.1351Pg.661, Covenant Release Form, Relase\_DunmoreCt.1989\_bk.1274.Pg.689*, ZBA folder and decision on 23 Lime Kiln Road

**Members present:** Tom Delasco- chair, Pam Kueber, Kate McNulty-Vaughan, Susan Lyman, Jim Harwood (arrived for agenda item #3)

**Others:** Nick Arienti

Meeting called to order by TD at 6:00

**1. 89-94 Dunmore Ct. Lenox - Release of Covenant 1989/1992**

Attorney Arienti explained that the subdivision at Birchwood Village was constructed in 1989 and the covenant was released by the Planning Board. Three years later, they clawed back number 6 for final paving and it was never followed up on. When the owners of 89 & 94 Dunmore Court went to sell their property in recent years, this un-closed covenant release was still on record.

Motion made by KMV for the board to sign the covenant release, seconded by PK. Those in favor- TD aye, SL aye, KMV aye, PK aye.

**2. Approval of Minutes December 12, 2023**

Motion made to approve the minutes of December 12, 2023 by KMV with one edit, seconded by SL. Those in favor- TD aye, KMV aye, SL aye, PK aye.

**3. 23 Lime Kiln Road Discussion**

The property is located in the C3A zone. SL raised the issue that properties in the C3A zone are not permitted to have accessory dwelling units, and that the proposed pool/guest house is an ADU. Even if someone contended this is not an ADU, a Guest House has no mention in the Use Table or no definition which pulls it into another use, and therefore is a prohibited use. KMV pointed out that ZBA decision on the property has the condition that the owners cannot rent out the structure, it can only be used to house guests. PK agreed with SL and felt they need to address the Zoning Board, as a guest house is technically an ADU, there is not another category for guesthouse and in either case this should not have been approved. . TD explained that the Zoning Board approved the petition with the condition that “no structure on the property should be utilized as an ADU or rented out without a new special permit from the ZBA” and that the property should only be used for residential purposes and not for commercial purposes. The Board discussed what makes a free-standing accessory building a habitable “dwelling.” JH

contended it was the addition of a kitchen and that just have sleeping rooms was just an extension of the primary residence; he said that when the owners apply for their building permit, the inspectors will hold them to their special permit and not allow a kitchen to be added to the pool house. PK thought it was the inclusion of sleeping spaces that made a structure a dwelling – something she had heard discussed by the Building Commissioner in the past because once there are sleeping rooms the structure needs to be built to a more stringent residential code. The Board decided:

- TD would reach out the Building Commissioner to find out what in an accessory structure makes it a “dwelling unit” – the kitchen or the bedrooms? The Board would use this to inform further discussion, including what to communicate to the ZBA and whether to reach out to the building inspector to make sure they’re aware to not allow a kitchen in the pool house.
- The Board discussed a plan going forward to be more proactive about situations like this where an application may included intricacies of the Zoning Bylaw that are not called out in the application, potentially by having a rotation where a member of the Planning Board attends all ZBA hearings.
- PK said that she was not against the proposal per se in this application – that having a guest house or an ADU on a Residential lot in the C3A district sounded very reasonable, it’s just that in these case an ADU not allowed in this district and there Guest Houses are not a defined use. She suggested amending the ADU bylaw to allow for ADUs in the C3A zone. JH clarified it should be only for single-family residential uses in the C3A.
- The board will ask Town Staff to draft a letter to the Zoning Board to make sure everyone is on the same page regarding what is an ADU and that there is not definition within our bylaw currently for a “Guest House”.
- Town Staff will also be asked to make sure all submitted applications to the ZBA get sent to the Planning Board for review.

#### **4. Other Business**

KMV suggested the key at the end of the Use Table in the ZBL be update to include “SB” for Selectboard Approval. The board discussed topics for upcoming meetings, including the signs bylaw and housing amendments.

Motion made to adjourn by TD, seconded by JH.

Adjourned at 7:08 pm