



City known as the Town of
GREENFIELD, MASSACHUSETTS

ZONING BOARD OF APPEALS

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1549 • Fax 413-772-1309
EricT@greenfield-ma.gov • www.greenfield-ma.gov

William F. Martin
Mayor

Members:
Twarog, Eric
Director, Planning & Dev.

Allis, Brickett (2018)
Conti, Scott (2016)
Joseph, Christopher (2014)
Maloney, Mark (2016)
Winn, James (2017)

ZONING BOARD OF APPEALS
Minutes of November 12, 2015
Department of Planning & Development
114 Main Street

The meeting was called to order by Chair, Mark Maloney at 7:00 p.m. with the following members:

PRESENT: Mark Maloney, Chairman Scott Conti Christopher Joseph
James Winn Brickett Allis

ALSO PRESENT: Maureen Pollock, Assistant Planner & Conservation Agent and Applicants

CHAIRS STATEMENT: This meeting is being recorded, if any other persons present are doing the same, you must notify the chairperson at this time. No one responded.

Public Hearings:

Application of Trinity Solar for property located at 308 Country Club Road (Assessor's Map R22, Lot 10), which is located in the Rural Residential (RC) Zoning District, for a special permit pursuant to Sections 200-7.16 and 200-8.3 of the Zoning Ordinance in order to allow the installation of a 60 panel 15.60 kW ground-mounted solar photovoltaic system at this location.

Members sitting were Mark Maloney, Chair; Scott Conti; Christopher Joseph; James Winn; and Brickett Allis. Also in attendance were members of the public. The Applicant and the representative to the Applicant were not present.

Chairman Maloney opened up the hearing for public comment.

Jeffrey Sabey, Country Club Road (Assessor's Map R16, Parcel 2)

Sabey Stated he had hoped to hear more about the project.

Public Hearing closed at 7:15 p.m.

Discussion/Decision

Trinity Solar for property located at 308 Country Club Road (Assessor's Map R22, Lot 10)

The Board discussed tabling the discussion and decision without prejudice until the Applicant can present the project.

MOTION Moved by Winn, seconded by Conti, and voted 5-0 to table the discussion/decision with prejudice the application of Trinity Solar for property located at 308 Country Club Road (Assessor's Map R22, Lot 10), which is located in the Rural Residential (RC) Zoning



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District, for a special permit pursuant to Sections 200-7.16 and 200-8.3 of the Zoning Ordinance in order to allow the installation of a 60 panel 15.60 kW ground-mounted solar photovoltaic system at this location.

- Application of Charles Kosterman for property located at 141 Barton Road (Assessor's Map R20, Lot 7), which is located in the Rural Residential (RC) Zoning District, for a special permit pursuant to Sections 200-7.16 and 200-8.3 of the Zoning Ordinance in order to allow the installation of 2 ground-mounted solar photovoltaic systems, each with 14 modules, totaling in 9.156 kW at this location.

Members sitting were Mark Maloney, Chair; Scott Conti; Christopher Joseph; James Winn; and Brickett Allis. Also in attendance were Applicant, Charles Kosterman; Representative to the Applicant, Carl Siebing; and members of the public.

- Maloney Introduced the Board members sitting and asked the Applicant to introduce himself and explain what he wants to do, where he wants to do it, and why.
- Siebing Stated the applicant would like to install 2 ground-mounted solar photovoltaic systems, each with 14 modules, totaling in 9.156 kW at this location. Stated the systems will be located in the center of the property and north of the house. Stated the systems meet the setback and dimensional requirements of the Zoning District for the accessory structures.
- Joseph Inquired whether there are trees on all sides of the systems.
- Siebing Responded there are currently trees to the north and east of the proposed systems. Stated the trees to the east are not healthy and will be removed.
- Allis Inquired what the distance between the proposed systems and the abutters are.
- Siebing Responded he is not sure. Stated he only focused on meeting the setback and dimensional requirements of the Zoning District for the accessory structures.
- Joseph Inquired what the distance between the proposed systems are.
- Siebing Responded the systems are 20-feet apart from one another.
- Maloney Inquired who owns the swimming pool depicted in the site plan.
- Kosterman Responded he owns the swimming pool.
- Conti Inquired whether the trenching for the systems are going to be near the septic tank and leach field components.
- Siebing Responded the system foundation and conduit trench are setback from the septic tank and leach



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field components.

Conti Read correspondence from the Planning Board and Board of Health.

Chairman Maloney opened up the hearing for public comment.

None

Public Hearing closed at 7:24 p.m.

Discussion/Decision

Charles Kosterman for property located at 141 Barton Road (Assessor's Map R20, Lot 7)

Joseph Stated he has no issues with this request, especially since none of the abutters have expressed concerns about this project.

Allis Stated he has no issues with this request, especially since none of the abutters have expressed concerns about this project.

Winn Stated he has no issues with this request, especially since none of the abutters have expressed concerns about this project.

Conti Stated he thinks ground-mounted solar photovoltaic systems are ugly. Stated the applicant does not address solar disposal.

MOTION: Moved by Conti, seconded by Allis, and voted 5-0 to approve the application of Charles Kosterman for property located at 141 Barton Road (Assessor's Map R20, Lot 7), which is located in the Rural Residential (RC) Zoning District, for a special permit pursuant to Sections 200-7.16 and 200-8.3 of the Zoning Ordinance in order to allow the installation of 2 ground-mounted solar photovoltaic systems, each with 14 modules, totaling in 9.156 kW at this location.

3. Application of Sean & Robin King for property located at 330 Chapman Street (Assessor's Map 97, Lot 31), which is located in the General Industry (GI) Zoning District, for a special permit pursuant to Sections 200-4.11(C17), 200-6.5(A6), 200-8.3, and 200-8.4 of the Zoning Ordinance in order to allow a private club or membership organization (King's Gym) at this location.

Members sitting were Mark Maloney, Chair; Scott Conti; Christopher Joseph; James Winn; and Brickett Allis. Also in attendance were Applicants, Sean & Robin King; and members of the public.

Maloney Introduced the Board members sitting and asked the Applicant to introduce himself and explain what he wants to do, where he wants to do it, and why.



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- King Stated he and his wife, Robin have owned King's Gym located on Main Street for the last 14 years. Stated he needs more interior space for the gym as well as more parking spaces. Stated he found the Chapman Street location which offers a lot more interior space, parking spaces, and privacy. Stated the location is located within the General Industry Zoning District.
- Stated the Town Council amended the Zoning Ordinance on August 19, 2015 to allow private club or membership organizations by special permit within the General Industry Zoning District.
- Stated he is here tonight to request a special permit in order to allow his private club or membership organization (King's Gym) and to request a reduction of parking spaces required at this location. Stated the proposed plan includes 75 parking spaces. Stated 75 spaces are more than enough.
- Maloney Inquired about the property specifics.
- King Responded the property is located off of Chapman Street on a private road, known as Box Shop Road. Stated the property is adjacent to the railroad tracks. Stated the property offers a lot of privacy. Stated the property is currently vacant.
- Conti Inquired if any of the structure will be removed off-site.
- King Responded all of the trailers will be removed.
- Winn Inquired whether the property will be fenced off from the railroad tracks.
- King Responded he has not considered whether to install a fence along the railroad tracks.
- Joseph Inquired what the average amount of people using the gym per day is.
- King Responded the average amount is 200 people per day. The gym is steady between 9:00am-2:00pm. The busiest time of day is between 3:30pm-6:30pm.
- Joseph Inquired whether exterior lighting is proposed.
- King Responded yes, there will be 3 exterior lights installed. Showed the Board the lighting locations on the site plan.
- Joseph Inquired the height of the exterior lighting and what kind of lighting.
- King Responded, not sure yet. Stated the lighting will be downcast so it will spill onto the abutting properties.
- Maloney Read the Town Council change that allows private club or membership organizations by special permit within the General Industry Zoning District.



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Allis Stated he is an abutter of the project property and stated the gym will be a fine use of the land. Stated the property is not currently used.

Conti Inquired what will happen to the loading dock.

King Responded it will become a garden.

Conti Stated so the area will be filled in and leveled. Stated he is fine with that.

Inquired whether the applicants are planning to put up a non-conforming sign.

King Responded not at this time.

Conti Read correspondence from the Building Department, DPW, Planning Board and Licensing.

Chairman Maloney opened up the hearing for public comment.

None

Public Hearing closed at 7:45 p.m.

Discussion/Decision

Sean & Robin King for property located at 330 Chapman Street (Assessor's Map 97, Lot 31)

The Board has no issues with this request.

MOTION: Moved by Conti, seconded by Joseph, and voted 5-0 to approve the application of Sean & Robin King for property located at 330 Chapman Street (Assessor's Map 97, Lot 31), which is located in the General Industry (GI) Zoning District, for a special permit pursuant to Sections 200-4.11(C17), 200-6.5(A6), 200-8.3, and 200-8.4 of the Zoning Ordinance in order to allow a private club or membership organization (King's Gym) and reduction of parking spaces to seventy-five (75) spaces at this location, with the following conditions:

1. Dimensions for parking spaces shall meet the Greenfield Department of Public Works design requirements for off-street parking;
2. The dumpster shown on the site plan shall be located in an enclosure;
3. All exterior lighting shall be shielded or downcast to prevent glare or light shining onto adjoining properties;
4. All exterior lighting poles shall not exceed fifteen (15) feet;
5. A building permit shall be required for the interior renovation and construction work prior to working beginning;
6. Signage shall require a permit from the Department of Inspections and Enforcement, if the sizes of signs exceed Greenfield's Zoning Ordinance, then a special permit shall be required for the additional signage.



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4. Application for appeal of the building permit issued for the renovation of an existing service station by adding a convenience store and drive-thru Dunkin' Donuts at 295 Federal Street (Assessor's Map 94, Lot 21A), which is located in the Limited Commercial (LC) Zoning District pursuant to Sections 200-8.1, 200-8.4(G) and 200-8.6 of the Zoning Ordinance. The appeal is made by Attorney Charles Olchowski representing the following abutters: Howard & Mary Ellen Hansen (11 Smith St); Lisa Morrison (19 Smith St); Kelly Wallace & Leonard Adams Jr. (23 Smith St); Jeremy & Jessica Remillard (23 Smith St); Mike & Dorina Placinta (27 Smith St); Charles Olchowski (28 Smith St); Dana & Aurora Wojtkowski (39 Smith St); Simion & Maria Pacinta (91 Smith St., Apt 206); and other parties to be named.

Members sitting were Mark Maloney, Chair; Scott Conti; Christopher Joseph; James Winn; and Brickett Allis. Also in attendance were the Representative to the Applicant, Charles Olchowski; Town Attorney, Layla Taylor, Representative to the Appellee, Attorney Jack Mason; and members of the public.

Maloney Introduced the Board members sitting and asked the Applicant to introduce himself and explain what he wants to do, where he wants to do it, and why.

Olchowski Stated this is his second time back to the Board regarding Sandri's proposal to add a drive-thru Dunkin's Donuts at 295 Federal Street. On June 25, 2015 the Board approved a special permit in order to allow the installation of new gasoline tanks/fuel dispensers, the removal of an existing diesel tank and fuel pump at this location. The original application included a drive-thru Dunkin's Donuts with an egress onto Smith Street. Many abutters expressed their concerns about the potential impact to traffic onto Smith Street as well as drainage issues. The Board members expressed their concerns regarding the proposed egress onto Smith Street too. The Applicants withdrew without prejudice their request for the drive-thru.

Stated the Applicants requested a site plan review for the drive-thru Dunkin Donuts to the Planning Board. Stated The Planning Board approved the site plan on August 20, 2015.

Stated the Building Inspector issued the Building Permit for the convenience store and drive-thru Dunkin' Donuts on September 22, 2015.

Stated he and his fellow neighbors feel aggrieved by the issuance of the building permit.

Maloney Inquired what his issues with the issuance of the building permit are.

Olchowski Stated the building permit should have never been issued. Stated the approved site plan did not adequately address the following items: utility placement, air quality, surface water runoff, erosion, and traffic flow.

Stated the dumpster is to be located along a residential property line. Stated it was previously discussed to move the dumpster to the west of the property which would have been better for the abutter. Stated the transformer should have been moved away from the residential property line.



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Stated the drive-thru will produce exhaust, causing bad air quality for the abutters. Stated there are issues with the approved drainage. There were no calculations shown to help evaluate whether the project would handle heavy rain storms.

- Maloney Stated the approved site plan made a condition that addresses potential drainage problems. Special Condition #7 states: "The Applicant shall monitor the flow of drainage at the site to ensure that neighboring properties are not impacted. If the drainage flow becomes a problem, the Applicant shall come back before the Planning Board to resolve the issue."
- Olchowski Stated there are safety issues with this project which have not be adequately addressed. The project will create more traffic and safety issues, especially with the rehabilitation center going in at the former Lunt property.
- Stated the town is creating a liability with allowing the curb cut to remain so close to the Smith Street intersection.
- Conti Inquired why he did not appeal to the Superior Court.
- Taylor Responded under the Zoning Ordinance, Olchowski's only choice was to appeal the issuance of the building permit to the Board.
- Joseph Inquired whether the building permit was issued in violation of provisions of the Greenfield Zoning Ordinance, as indicated in Olchowski appeal application.
- Snow Responded the project Applicant was issued a building permit before the 30 day appeal period had expired. The Applicant had obtained all necessary approvals and is a by-right use. Stated he felt satisfied issuing the building permit. Stated the applicant was aware that they would be proceeding at their own risk if they started work prior to the 30 day appeal period.
- Conti Stated he finds it reasonable to proceed at your own risk for specific projects and situations.
- Snow read letter he wrote to Charles Olchowski on October 16, 2015.
- Snow Stated he was under the understanding that the Planning Board reviewed and conditioned the site plan approval properly. Stated he received inter-department sign-offs for the building permit.
- Joseph Inquired whether he believes the issuance of the building permit is in violation of the Zoning Ordinance.
- Snow Responded no.

Chairman Maloney opened up the hearing for public comment.

Ronald Senn, 73 Smith Street



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Stated his property will be negatively impacted by this project. Stated there are safety and water issues that need to be adequately addressed.

Peter Loiacono, 43 Smith Street

Stated there are traffic flow issues. Stated he has been monitoring the traffic patterns at the existing Dunkin Donuts along Federal Street. Stated it is very awkward; cars are coming in all directions. Stated there have been many near head on car collisions.

Dana Wojtkoski, 39 Smith Street

Stated there are traffic and safety issues associated with this project. Stated these issues need to be addressed.

Mike Placinta, 27 Smith Street

Stated there are drainage issues which flow all the way towards his house. Stated there is only one sidewalk along Smith Street. Children often walk on the street during rain storms and during the winter months because the sidewalk is either flooded or icy. Stated with added traffic onto Smith Street from the Dunkin Donuts, the street will be unsafe for children.

Jack Mason, 7 James Street

Stated he represents Sandri. Stated Sandri is fixing up the property and is investing in it. Stated the use is by-right.

Olchowski Stated he called Snow during a rain storm in August 2015 about sediment and water flowing down Smith Street from off of the Sandri property during demo work. Snow had Sandri stake haybales and silt fences to stop any sediment going down Smith Street and slow down water running off the property.

Snow Stated he believes that once the property is developed, the drainage issues will go away. Stated he is not clear whether the drainage is still an issue on the property. Stated he has not heard any complaints about drainage since that conversation.

Conti Stated he remembers that rain event. Stated it was a very severe rain event. Stated nearly half the town was flooded.

Olchowski Inquired whether the Building Inspector can override the Planning Board's decision. Inquired whether the Building Inspector can add, subtract, or alter the Planning Board's decision.

Snow Responded he is not aware of whether he could override the reviewing authority's decision.

Joseph Inquired whether the issuance of the building permit was done correctly.

Taylor Responded yes.

Maloney Stated Federal Street has been a commercial strip for the last 30-40 years.

Allis Inquired whether the drainage will be an issue.



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Snow Responded he does not believe drainage will be an issue once the property is developed. Stated if drainage does become an issue, the Planning Board will address it.

Stated he issued the building permit after the Planning Board did their due diligence and approved the site plan. Stated he does not feel that the building permit was done incorrectly.

Public Hearing Closed at 9:12 p.m.

Discussion/Decision

Attorney Charles Olchowski representing the following abutters: Howard & Mary Ellen Hansen (11 Smith St); Lisa Morrison (19 Smith St); Kelly Wallace & Leonard Adams Jr. (23 Smith St); Jeremy & Jessica Remillard (23 Smith St); Mike & Dorina Placinta (27 Smith St); Charles Olchowski (28 Smith St); Dana & Aurora Wojtkowski (39 Smith St); Simion & Maria Pacinta (91 Smith St., Apt 206); and other parties to be named, 295 Federal Street

Joseph Stated the appellants have stated they are aggrieved by the issuance of the building permit and object to it. The grounds for the appeal are as follows:

1. The issuance violates the Greenfield Zoning Ordinance;
2. The issuance is arbitrary and capricious;
3. The issuance exceeds the authority of the Inspector of Buildings and his Department;
4. The Planning Board issued an approval of the site plan that was determined and reached on untenable ground and the building permit that was subsequently issued was without additions, deletions, corrections, and/or without addressing several deficiencies of the site plan and therefore issued on untenable grounds; and
5. The Building Permit was issued in violation of provisions of the Greenfield Zoning Ordinance. In particular, a Building Permit was issued before a 30 day appeal period had run which allows aggrieved parties to appeal the site plan approval by the Planning Board.

Inquired whether these grounds hold any merit.

Taylor Responded the Appellants have not provided evidence to any of the grounds aforementioned. Stated she does not see any reason to not to affirm the issuance of the building permit.

Allis Stated the Building Inspector was within his authority when issuing the building permit. Stated he feels for the abutters, but there are special conditions that have been included as part of the approval site plan. States if problems arise, the Planning Board will address them.

Stated if Snow did not take action within the 30 days, Sandri could have started their project and this appeal would not have been allowed.

Maloney Stated he does not see Snow's issuance arbitrary and capricious. Stated there are special conditions that must be kept. If problems arise, the Planning Board must act.



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Winn Stated the issuance of the building permit was done properly. Stated the use is by-right. Stated the drainage issues will be addressed as part of the project.

Joseph Stated the appellants do not think the Planning Board did their job. Stated he does not know how the ZBA would have reviewed this project differently.

Conti Stated the DPW has been part of this whole process. Stated the videos Olchowski submitted to the Board in August 2015 were during a severe rain storm. Stated half the town was almost flooded.

Maloney Stated traffic numbers are up becomes the timers on the traffic light have been programmed inefficiently.

Allis Stated the Town hopes to conduct a traffic study to address the traffic issues.

MOTION Moved by Joseph, seconded by Allis, and voted 5-0 to deny the Application for appeal of the building permit issued for the renovation of an existing service station by adding a convenience store and drive-thru Dunkin' Donuts at 295 Federal Street (Assessor's Map 94, Lot 21A), which is located in the Limited Commercial (LC) Zoning District pursuant to Sections 200-8.1, 200-8.4(G) and 200-8.6 of the Zoning Ordinance because the Appellant did not provide evidence proving the issuance of the building permit was done improperly.

Discussion Items

1. Proposed Revisions to the Approved Landscaping Plan for the Ford-Toyota Dealership Project.

Robert Cartelli, Applicant was not able to attend the meeting due to feeling sick. The discussion will continue at the next regularly scheduled meeting.

2. American House, LLC Request for a Special Permit Extension

Kevin O'Neil, Applicant has requested a permit extension for the property located at 258 Main Street (Assessor's Map 51, Lot 53) in order to renovate the existing Wilson's Department Store building and to construct a new building of 13,227 square feet to be used as a new downtown hotel with conditions.

MOTION: Moved by Allis, Seconded by Joseph, and voted 5-0 to approve the permit extension for the applicant American House, LLC for property located at 258 Main Street (Assessor's Map 51, Lot 53), which is located in the Central Commercial (CC) Zoning District, for a special permit pursuant to Sections 200-4.7(C5) and 200-8.3 of the Zoning Ordinance in order to renovate the existing Wilson's Department Store building and to construct a new building of 13,227 square feet to be used as a new downtown hotel with conditions until December 31, 2017.



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Approval of Minutes:

MOTION: Moved by Allis, seconded by Joseph, and voted 5:0 to approve the Minutes from August 23, 2015.

Adjournment:

MOTION: Moved by Winn, seconded by Allis, and voted 5-0 to adjourn the meeting at 10:10 p.m.

Respectfully Submitted,

Maureen Pollock
Assistant Planner & Conservation Agent

DRAFT