



City 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.

Killeen, Andrew (2019)
Maloney, Mark (2019)
O'Neill, Robert (2021)
Winn, James (2020)
Wozniak, Peter (2020)

ZONING BOARD OF APPEALS

Minutes of July 26, 2018

**Department of Planning and 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 Andrew Killeen, Clerk James Winn
Peter Wozniak

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.

Annual Reorganization:

MOTION: Moved by Winn, seconded by Wozniak, and voted 4-0 to nominate Mark Maloney as Chair of the Board.

MOTION: Moved by Winn, seconded by Wozniak, and voted 4-0 to nominate Andrew Killeen as Clerk of the Board.

Public Hearings:

- a. **7:00 p.m.:** Application of Patriot Care Corp. for property located at 7 Legion Avenue (Assessor's Map 58, Lot 55), which is located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-7.17, 200-8.3, and 200-8.4 of the Zoning Ordinance in order to allow the operation of marijuana retailer to be co-located with the existing Registered Marijuana Dispensary (RMD) at this location.

Chairman Maloney explained the public hearing process to the Applicant. Killeen read the public notice into the record. Members sitting were Mark Maloney, Chair; Andrew Killeen, Clerk; James Winn; and Peter Wozniak. Also in attendance were the following project proponents: Dennis Kunian, Vice-President of Government and Community Relations for Patriot Care Corp.; George Agganis, Vice-President of Security for Patriot Care Corp.; David Calanzano, D.O.O for Patriot Care Corp.; Cal Goldswich, GPR, Inc.; and Nicki Rannikko, General Manager of 7 Legion Avenue for Patriot Care Corp. Chairman Maloney explained to the Applicant's representatives that the issuance of a special permit requires a super majority vote of the ZBA which is 4 affirmative votes. Chairman Maloney gave the option for the hearing to be continued to their next meeting when all five members are present. The Applicant's representatives elected to be heard at this meeting.

Maloney Introduced the Board members sitting and asked the Applicant's team to introduce themselves and explain what they want to do, where they want to do it, and why.



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- Kunian Mr. Kunian gave the history of 7 Legion Avenue and the current up and operational medical marijuana dispensary (RMD). He reviewed Patriot Cares involvement with the community of Greenfield. They are currently running RMDs in Boston and Lowell. He stated that they have provided 13 parking spaces for the facility even though the Zoning Ordinance doesn't require off-street parking within the Central Commercial District. Employees park in the back of the building. Parking is also available for clients.
- Agganis Mr. Agganis reviewed the security systems/measures being employed at the facility with the Board. The site has been designed to prevent theft through the use of preventative security cameras which are installed throughout the building and site.
- Winn Inquired if there is a permanent security person on site.
- Agganis Responded that there are two (2) permanent security people on site.
- Maloney Inquired if there is a fence separating the property from the railroad.
- Agganis Responded that there is an existing six (6) foot fence owned by Patriot Care Corp.
- Maloney Inquired on the issues relative to the renovation of the former American Legion building.
- Calanzano Responded that the condition of the back portion of the building and drainage issues required them to demolish the back wooden portion of the building. This allowed for staff parking at the rear of the building. The drainage issues have been resolved resulting in less impervious area.
- Maloney Inquired on lighting at night.
- Agganis Responded that night lighting has been increased in the area of the building for security purposes and is currently working well.
- Maloney Inquired on how long the RMD has been up and running and if there are any issues since operating.
- Kunian Responded that they have been up and operational as an RMD since April 2018 and that they have no issues.
- Maloney Inquired on the new uses under recreational marijuana.
- Kunian Responded that they prefer the term adult-use marijuana over recreational marijuana. The new use would include retail marijuana sales but that their primary mission is still medical marijuana. He explained to the Board that some current RMD users may not renew their registration cards now that adult-use marijuana is legal. He stated that Patriot Care Corp. is currently operating



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RMDs in ten (10) states but has not operated any recreational marijuana establishments. 7 Legion Avenue in Greenfield would be the first.

Killeen Inquired on pricing once Franklin County gets built out.

Kunian Responded that their intent is not to lower prices but to offer the best products available.

Killeen Read review comments from the Planning Board and Board of Health. Comments in the form of “no comments” were received from the Fire Department.

Maloney inquired of the Board members if they have any additional questions at this time. The Board members responded no.

Chairman Maloney opened up the hearing for public comment at 7:49 p.m.

No public comment.

Public Hearing Closed at 7:49 p.m.

Discussion/Decision

Application of Patriot Care Corp. for property located at 7 Legion Avenue (Assessor’s Map 58, Lot 55)

Wozniak No issues.

Winn No issues.

Killeen Stated that he is impressed with the operations of Patriot Care Corp. and supports individual liberties. He does not have any ethical objections to this use. However, he questioned the legality of the Zoning Board of Appeals approving a special permit for recreational marijuana use when the federal government still classifies marijuana as a Schedule 1 narcotic. He stated that in the case of local and state law vs. federal law, that federal law supersedes.

Maloney Responded that he does not have an answer to this legal question. He suggests that the Board obtain a legal opinion from Town Counsel on this legal question and continue the Board deliberation to another meeting.

Kunian Stated that Mitch McConnell told him personally that the federal dictate on the matter is to leave it up to the individual states.

MOTION Moved by Killeen, seconded by Wozniak, and voted 4:0 to continue the Board’s deliberation on the application of Patriot Care Corp. for property located at 7 Legion Avenue (Assessor’s Map 58, Lot 55), which is located in the Central Commercial (CC) Zoning



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District, for a Special Permit pursuant to Sections 200-7.17, 200-8.3, and 200-8.4 of the Zoning Ordinance in order to allow the operation of marijuana retailer to be co-located with the existing Registered Marijuana Dispensary (RMD) at this location to a special meeting of the Board once a legal opinion has been obtained from Town Counsel.

- b. **7:15 p.m.:** Application of Ilie Taraburca for property located at 38 French King Highway (Assessor's Map 119, Lot 9), which is located in the General Commercial (GC) Zoning District, for a Special Permit pursuant to Sections 200-4.9(C7), 200-8.3, and 200-8.4 of the Zoning Ordinance in order to allow the construction of a two-family home at this location.

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.

Taraburca Stated that he moved to Greenfield in 2005 and bought the land in question in 2008. He previously received special permit approval to construct a two-family home at this location. At that time he had a contractor in place but due to a family situation, he was unable to proceed with the project. He is now able to move forward with the project but the special permit had expired.

Maloney Inquired if anything is different from the approval in 2011.

Taraburca Responded no.

Killeen Read review comments from the Planning Board. Comments in the form of "no comments" were received from the Town Engineer and Fire Department.

Maloney inquired of the Board members if they have any additional questions at this time. The Board members responded no.

Chairman Maloney opened up the hearing for public comment at 7:58 p.m.

No public comment.

Public Hearing Closed at 7:59 p.m.

MOTION: Moved by Killeen, seconded by Winn, and voted 4:0 to approve the application of Ilie Taraburca for property located at 38 French King Highway (Assessor's Map 119, Lot 9), which is located in the General Commercial (GC) Zoning District, for a Special Permit pursuant to Sections 200-4.9(C7), 200-8.3, and 200-8.4 of the Zoning Ordinance in order to allow the construction of a two-family home at this location as presented in the submitted application.



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Planning Board Recommendations:

- a. Application of Parmar Properties North, LLC for property located at 125 Mohawk Trail (Assessor's Map 46, Lot 21), which is located in the General Commercial (GC) Zoning District, for a special permit pursuant to Sections 200-4.9(B15), 200-5.3(E2), 200-6.5(B), 200-7.12 (Major Development Review), 200-8.3, and 200-8.4 of the Zoning Ordinance in order to allow the construction of a 90-room, 4-story hotel with accessory retail uses with associated site improvements at this location. The Applicant is seeking an increase in the maximum height from 40 feet to 48 feet and seeking approval to allow parking within the required front yard setback.

Killeen read the agenda item. The following project proponents were present: Kishore Parmar, Property Owner; Kelly Killen, PE form CHA; and Hazem Dani, EIT from CHA. Mr. Killeen reviewed the proposed project with the Board. He stated that they have received an Order of Conditions from the Greenfield Conservation Commission and they have submitted their application to the Planning Board. Mr. Killeen stated that an Environmental Notification Form (ENF) may be required through MEPA due to the number of vehicle trips. Maloney commented on the lighting plan and inquired on lighting pole heights. Mr. Killeen responded 24 feet in height. Maloney stated that the ZBA typically requires pole heights to be no greater than fifteen (15) feet in height. Maloney commented on the landscaping plan and suggested that more sugar maples be used over red maples. Winn stated that a drive-thru Dunkin Donuts and bank are being proposed. He inquired on what the 3 remaining retail spaces will be. Mr. Parmar responded that the future tenants are unknown at this time. Wozniak inquired on if there are utilities available to the site and if natural gas will be used. Mr. Parmar responded that there is water and sewer available to the site and that they are currently in conversations with Berkshire Gas. There is an existing line to the site so the moratorium doesn't apply. Maloney inquired about the fence along the northern property line and whether it could be increased to eight (8) feet in height to screen the development from neighboring residential properties.

MOTION: Moved by Killeen, seconded by Winn, and voted 4:0 to forward a positive recommendation to the Planning Board on the application of Parmar Properties North, LLC for property located at 125 Mohawk Trail (Assessor's Map 46, Lot 21), which is located in the General Commercial (GC) Zoning District, for a special permit pursuant to Sections 200-4.9(B15), 200-5.3(E2), 200-6.5(B), 200-7.12 (Major Development Review), 200-8.3, and 200-8.4 of the Zoning Ordinance in order to allow the construction of a 90-room, 4-story hotel with accessory retail uses with associated site improvements at this location. The Applicant is seeking an increase in the maximum height from 40 feet to 48 feet and seeking approval to allow parking within the required front yard setback. The Board recommends a light pole height no greater than fifteen (15) feet and suggests that an eight foot fence be installed along the northern property line to screen the development from neighboring residential properties.

Approval of Minutes:

MOTION: Moved by Killeen, seconded by Winn, and voted 4:0 to approve the Minutes from June 14, 2018.



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Adjournment:

MOTION: Moved by Killeen, seconded by Wozniak, and voted 4-0 to adjourn the meeting at 9:09 p.m.

Respectfully Submitted,

Eric Twarog, AICP
Director of Planning and Development