



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)
Singer, David (2021)
Winn, James (2020)
Wozniak, Peter (2020)

ZONING BOARD OF APPEALS

Minutes of January 10, 2019

**Department of Planning and Development
114 Main Street**

The meeting was called to order by Chair, Mark Maloney at 7:02 p.m. with the following members:

PRESENT: Mark Maloney, Chairman Andrew Killeen, Clerk Peter Wozniak
David Singer James Winn

ABSENT: Robert O'Neill, Alternate

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:

- a. **7:00 p.m.:** Application of Herbology Group, Inc. for property located at 8 Woodard Road (Assessor's Map 45, Lot 10), which is located in the General Commercial (GC) 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 and a Registered Marijuana Dispensary (RMD) at this location.

Killeen read public hearing notice into the record. Killeen read a request from the Applicant for a continuance to the February 14, 2019 meeting of the ZBA due to a medical emergency.

MOTION: Moved by Singer, seconded by Winn, and voted 5:0 to grant the request for a continuance of the public hearing to 7:00 p.m. on February 14, 2019.

Application of Sergio A. Nieves for property located at 113 Norwood Street (Assessor's Map 102, Lot 13), which is located in the General Commercial (GC) Zoning District, for a Special Permit pursuant to Sections 200-4.9(C24) and 200-8.3 of the Zoning Ordinance in order to allow an animal kennel for dog training purposes at this location.

Killeen read the request to withdraw without prejudice.

MOTION: Moved by Singer, seconded by Winn, and voted 5:0 to except the request of Sergio A. Nieves to withdraw without prejudice the special permit application for property located at 113 Norwood Street (Assessor's Map 102, Lot 13), which is located in the General Commercial (GC) Zoning District, for a Special Permit pursuant to Sections 200-4.9(C24) and 200-8.3 of the Zoning Ordinance in order to allow an animal kennel for dog training purposes at this location.



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- b. **7:15 p.m.:** Application for appeal by Greenfield KMW, LLC (Kris Warner) of the Building Permit issued on October 23, 2018 for a residential-scale ground-mounted solar system at 26 Verde Drive (Assessor's Map R17, Lot 17).

At a public meeting on Thursday, January 10, 2019 at 7:15 p.m., at the Department of Planning and Development, 114 Main Street, the Greenfield Zoning Board of Appeals held a public hearing on the application for appeal by Greenfield KMW, LLC (Kris Warner) of the Building Permit issued on October 23, 2018 for a residential-scale ground-mounted solar system at 26 Verde Drive (Assessor's Map R17, Lot 17). Chairman Maloney explained the public hearing process to the Applicant. Killeen read the public notice into the record. Members of the Board sitting were Mark Maloney, Chair; Andrew Killeen, Clerk; James Winn; and Peter Wozniak. David Singer recused himself due to a conflict of interest. Also in attendance were the Applicant Kris Warner and Attorney Kevin Parsons. Chairman Maloney explained to the Applicant that the issuance of an appeal decision 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 elected to be heard at this meeting.

Attorney Parsons Reviewed the history of the situation with the Board. He stated that Mr. Warner was never notified of the special permit public hearing for 26 Verde Drive for the residential scale solar installation. He stated that the only recourse they had was to appeal the issuance of the building permit.

Maloney Inquired about the M.G.L. that is in conflict with the internal covenant restrictions of McHard Acres Subdivision relative to the installation of ground-mounted solar systems.

Attorney Parsons Responded that he believes this issue will need to be litigated.

Mark Snow, Inspector of Buildings was invited to respond.

Snow Stated that the project was approved by the Zoning Board to include the as-built site plan, which was approved administratively by the Board. All provisions of the MA State Building Code were met.

No questions of Mr. Snow from the Board. Killeen read the response letter from Mr. Snow into the record. Chairman Maloney opened up the public hearing for public comment.

David and Eilidh Pederson, 26 Verde Drive, Greenfield, MA

Mr. Pederson stated that he believes that communication between himself and Mr. Warner was good. He reached out to Mr. Warner many times with no response back. Mr. Warner was notified of the solar installation early on so he was aware of it.

Mrs. Pederson stated that they did receive notice from the Town of the public hearing and that neighbors also received the proper notice. The cost of \$100,000 for these improvements is beneficial to both the neighbors and the City of Greenfield.



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No further public comment. The public hearing was closed at 7:45 p.m.

Maloney Stated that Director Twarog states and maintains that official notice to Mr. Warner was sent. Clarified for the Board that the issue at hand for this appeal is the issuance of the Building Permit itself and that Mr. Snow did everything right.

Winn He concurred.

MOTION: Moved by Winn, seconded by Wozniak, and voted 4:0 to deny the appeal of Greenfield KMW, LLC (Kris Warner) of the Building Permit issued on October 23, 2018 for a residential-scale ground-mounted solar system at 26 Verde Drive (Assessor's Map R17, Lot 17).

- c. **7:30 p.m.:** Application of Patrick Varner for property located at 234 High Street (Assessor's Map 92, Lot 56), which is located in the Urban Residential (RA) Zoning District, for a Special Permit pursuant to Sections 200-6.2(E) and 200-8.3 of the Zoning Ordinance in order to allow a five (5) foot high fence along the front yard lines for a corner lot at this location.

At a public meeting on Thursday, January 10, 2019 at 7:30 p.m., at the Department of Planning and Development, 114 Main Street, the Greenfield Zoning Board of Appeals held a public hearing on the application of Patrick Varner for property located at 234 High Street (Assessor's Map 92, Lot 56), which is located in the Urban Residential (RA) Zoning District, for a Special Permit pursuant to Sections 200-6.2(E) and 200-8.3 of the Zoning Ordinance in order to allow a five (5) foot high fence along the front yard lines for a corner lot at this location. Chairman Maloney explained the public hearing process to the Applicant. Killeen read the public notice into the record. Members of the Board sitting were Mark Maloney, Chair; Andrew Killeen, Clerk; James Winn; Peter Wozniak; and David Singer. Also in attendance was the Applicant Patrick Varner.

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.

Varner Explained his request to the Board. He stated that he will be installing a pool so the proposed fence is for privacy purposes. He also stated that he has a large dog (an 80 pound Red-bone Coon Hound) and a five foot fence would prevent him from jumping over the fence.

Singer Inquired of the existing trees in that location.

Varner Responded that the trees will be on the inside of the fence. He passed around a brochure to the Board on the type of vinyl fencing he is proposing.

Maloney Inquired on whether there will be gates in the proposed fencing.

Varner Responded that there will be a gate in the back and a gate in the front near the front walkway.



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Chairman Maloney opened up the public hearing to public comment. There was no public comment.

Public Hearing closed at 8:53 p.m.

Killeen Read review comments from the Planning Board which forwarded a negative recommendation to the ZBA, the Town Engineer and Fire Department who had no comments.

Singer Stated that he supports such requests in general but is concerned about the Planning Board's negative recommendation. He would like to see a rendering of what the proposed fencing would look like.

The Board discussed the extra foot of height over the by-right height of four feet. The Board discussed the issue of setting a precedent.

MOTION: Moved by Winn, seconded by Singer, and voted 5:0 to approve the application of Patrick Varner for property located at 234 High Street (Assessor's Map 92, Lot 56), which is located in the Urban Residential (RA) Zoning District, for a Special Permit pursuant to Sections 200-6.2(E) and 200-8.3 of the Zoning Ordinance in order to allow a five (5) foot high fence along the front yard lines for a corner lot at this location as presented to the Board with the following condition:

1) The Applicant shall maintain the fence in good order.

d. **7:45 p.m.:** Application of The City of Greenfield for property located at 19 Olive Street – Olive Street Parking Garage (Assessor's Map 51, Lot 21), which is located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-6.7(F1) and 200-8.3 of the Zoning Ordinance in order to allow the installation of semi-permanent banner signage on the new Olive Street Parking Garage.

At a public meeting on Thursday, January 10, 2019 at 7:45 p.m., at the Department of Planning and Development, 114 Main Street, the Greenfield Zoning Board of Appeals held a public hearing on the application of The City of Greenfield for property located at 19 Olive Street – Olive Street Parking Garage (Assessor's Map 51, Lot 21), which is located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-6.7(F1) and 200-8.3 of the Zoning Ordinance in order to allow the installation of semi-permanent banner signage on the new Olive Street Parking Garage. Chairman Maloney explained the public hearing process to the Applicant. Killeen read the public notice into the record. Members of the Board sitting were Mark Maloney, Chair; Andrew Killeen, Clerk; James Winn; and Peter Wozniak. David Singer recused himself due to a conflict of interest because he is an abutter. Also in attendance were the following project proponents: Mayor William Martin; Margo Jones, Architect; and sign banner designer Katie Craig. Chairman Maloney explained to the Applicant 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 Mayor William Martin elected to waive the conflict of interest of David Singer.



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- 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.
- Mayor Martin Stated that about \$204,000 of architectural detail had to be removed from the budget for the Olive Street Parking Garage so these banners were designed to make up for this. The cost of the banners will be \$24,000. Mayor Martin explained to the board the reason why dinosaurs and bees were chosen for the sign banners.
- Maloney Inquired on what architectural details were not done for the parking garage.
- Jones Responded that the architectural screening details were not able to be done due to cost factors.
- Winn Inquired on the life expectancy of the proposed banner signage.
- Jones Responded 5-10 years.
- Chairman Maloney read the definition of a “sign” from the Greenfield Zoning Ordinance for clarification purposes.
- Mayor Martin Further stated that there will be five (5) panels at two locations on the parking garage (Olive Street and Bank Row sides). The theme of the proposed banner signage is both dinosaurs and bees. Mayor Martin reviewed the history of Dexter Marsh and the first dinosaur tracks discovered in this area as well as the famous design for collecting honey from bees without disturbing the bee hive itself.
- Maloney Inquired on the cost of the bass reliefs put on the parking garage.
- Jones Responded about \$29,000. The size of the banners are 10’ x 25’.
- Wozniak Inquired on measures to prevent vandalism.
- Jones Responded that the only measures in place are the many security cameras located throughout the parking garage.
- Maloney Inquired on the breakdown of cost for the banner signage.
- Craig Responded about \$5,500 for design of the banner signage and about \$24,000 for production of the banner signage. They will be fastened to the garage structure by bars.
- Singer Inquired if the banner signage has already been completed.
- Mayor Martin Responded no.



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- Killeen Asked for clarification on the exact purpose of the proposed banner signage.
- Mayor Martin Responded to enhance the new pocket park and to highlight Greenfield's unique history particularly with respect to dinosaurs and bees.
- Killeen Inquired if the design of the banner signage reflects actual history.
- Mayor Martin Responded yes, that the chosen dinosaur species is historically accurate.
- Maloney Asked if other banner signage is proposed to be installed in Greenfield.
- Mayor Martin Responded not at this time.
- Killeen Asked if the banner signage will be replaced after the 5-10 year period.
- Mayor Martin Responded that there are no plans to replace them at this time.
- Maloney Stated that he was asked why the Town would want to cover up the nice new parking garage.
- Mayor Martin Responded that only a small percentage of the parking garage will be covered by the banner signage.
- Killeen Asked about deterioration of the banner signage.
- Jones Responded that they will not discolor but may get a tear.
- Singer Stated that he can understand why the banners are proposed near the pocket park but not the other side (Hope Street side).
- Craig Responded that they were both designed as a tease to direct people to the pocket park.

Chairman Maloney opened up the public hearing for public comment.

Karen O'Hare, 58 Smead Hill Road, Greenfield

Stated that she is an abutter to the parking garage at Karen's Dance Studio. Ms. O'Hare spoke against the proposed banner signage. Stated that the proposed signage is overkill and will negatively change the characteristic of the neighborhood.

Richard McCarthy, 31 Mill Street, Greenfield

Expressed concerns about the New England weather affecting the proposed banner signage as well as the use of taxpayer money to pay for the signage.



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Chairman Maloney closed the Public Hearing at 8:32 p.m.

Mayor Martin Stated that in his 40 plus years of development experience, he never experienced greater communication, outreach, and accommodation than with the Olive Street Parking Garage project.

Craig Stated that it is her belief that the proposed banner signage will draw people to Greenfield and enhance the vitality of Greenfield.

Killeen Read review comments from the Town Engineer and Fire Department who both had no concerns or comments, and from the Planning Board who forwarded a positive recommendation.

Singer Stated that he came to the meeting thinking that he wouldn't support this as a sign. He doesn't think that it is a sign.

The Board discussed the issue of whether the proposed banners are signage. Is it artwork or signage? The Board discussed the existing murals in town and whether they needed approval from the Board. The Board reached consensus that the proposed banners are signage. The Board discussed potential conditions of approval.

MOTION: Moved by Singer, seconded by Winn, and voted 5:0 to approve the application of The City of Greenfield for property located at 19 Olive Street – Olive Street Parking Garage (Assessor's Map 51, Lot 21), which is located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-6.7(F1) and 200-8.3 of the Zoning Ordinance in order to allow the installation of semi-permanent banner signage on the new Olive Street Parking Garage as presented to the Board with the following conditions:

- 1) The Applicant shall maintain the banner signage in good order;
- 2) No exterior lighting of the banner signage shall be allowed;
- 3) The banner signage must be removed if in disrepair as determined by the Code Enforcement Official. Disrepair is defined as: tattered, frayed, faded, flapping, or otherwise unsafe; and
- 4) If one panel is determined to be in disrepair, then all adjacent panels must also be removed.

e. **8:00 p.m.:** Application of David Nunez for property located at 46 Wells Street (Assessor's Map 58, Lot 11), which is located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-8.3, 200-8.4, and the Table of Uses of the Zoning Ordinance in order to allow the production and storage of gourmet frozen stuffed bananas at this location.

At a public meeting on Thursday, January 10, 2019 at 8:00 p.m., at the Department of Planning and Development, 114 Main Street, the Greenfield Zoning Board of Appeals held a public hearing on the application of David Nunez for property located at 46 Wells Street (Assessor's Map 58, Lot 11), which is



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located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-8.3, 200-8.4, and the Table of Uses of the Zoning Ordinance in order to allow the production and storage of gourmet frozen stuffed bananas at this location. Chairman Maloney explained the public hearing process to the Applicant. Killeen read the public notice into the record. Members of the Board sitting were Mark Maloney, Chair; Andrew Killeen, Clerk; James Winn; Peter Wozniak; and David Singer. Also in attendance were the Applicant David Nunez and his manager Diane Bouley.

- 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.
- Nunez Mr. Nunez reviewed the proposed project with the Board. He stated that he has developed a method of stuffing bananas to create gourmet bananas. He currently sells them to various retailers to include Big Y. He plans on bringing water and sewer service to the building and renovating the existing building.
- Maloney Inquired on the DPW issues, specifically the parking.
- Nunez Stated that he used the previous site plan designer to prepare a new site plan for his proposal 46 Wells Street. Some of the line work on the previous plan set wasn't properly removed so it showed off-street parking near the existing loading dock area. His intent is to use the existing loading dock as a loading dock with box trucks backing into the property into the loading dock area. His proposed off-street parking for employees will be accessed from the northern curb cut.
- Maloney Inquired on the number of employees.
- Nunez Responded four (4) part-time employees at this time.
- Maloney Inquired on the hours of operation.
- Nunez Responded 7:00 a.m. to 5:00 p.m. Monday through Friday.
- Winn Inquired on any proposed lighting for the property.
- Nunez Responded that he will use existing lighting at the site. He also stated that he will need approval from both the state health inspector and the local health inspector.
- Wozniak Inquired on means of egress for both the lower and upper levels.
- Nunez Responded the lower level will only be used for storage. The upper level will be used for the manufacturing for wholesale distribution. Signage will meet the requirements of the Zoning Ordinance.



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Chairman Maloney opened up the public hearing for public comment at 9:01 p.m. No public comment.

Public Hearing closed at 9:02 p.m.

- Killeen Read review comments from the Fire Chief who had no issues or comments, Town Engineer, Department of Planning and Development, and the Planning board who forwarded a positive recommendation.
- Maloney Inquired on a dumpster for the site.
- Nunez Responded that there will be two dumpsters, one for composting and one for recyclables.
- Maloney Inquired on truck deliveries.
- Nunez Responded that there will be two (2) deliveries per week by box trucks.
- Maloney Inquired on previous use of the p[roperty].
- Nunez Responded Storage for NAPS.

The Board discussed potential conditions of approval.

MOTION: Moved by Singer, seconded by Winn, and voted 5:0 to approve the application of David Nunez for property located at 46 Wells Street (Assessor's Map 58, Lot 11), which is located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-8.3, 200-8.4, and the Table of Uses of the Zoning Ordinance in order to allow the production and storage of gourmet frozen stuffed bananas at this location with the following conditions:

- 1) The hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday;
- 2) All exterior lighting shall be shielded and downcast;
- 3) The Applicant shall follow all recommendations of the Department of Public Works as stated in their December 17, 2018 review memo which are summarized as follows:
 - The Applicant shall obtain the following permits from the DPW: 1) Access Permit, 2) Excavation/Trench Permit, and 3) Non-residential Sewer Connection Permit.
 - The Applicant shall provide a minimum of five (5) feet of cover over the existing water service.
 - The Applicant shall provide a minimum of three (3) feet of cover over the sewer service.
 - The Applicant shall provide a minimum ten (10) foot separation between the water service and proposed sewer service.
 - The Applicant shall provide an outside cleanout for the sewer service within three (3) feet of the foundation wall of the building which can be either inside or outside.



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- 4) **The Applicant shall revise Note #19 on sheet 1 of 3 of the submitted plan set to read as follows: “Proposed Use: Commercial”;**
- 5) **All off-street parking shall meet the design standards of the DPW; and**
- 6) **The Applicant shall submit three (3) full-size copies of the revised plan set to the Department of Planning and Development within thirty (30) days of approval.**

Approval of Minutes:

MOTION: Moved by Killeen, seconded by Singer, and voted 5:0 to approve the meeting minutes from November 8, 2018.

Adjournment:

MOTION: Moved by Killeen, seconded by Winn, and voted 5-0 to adjourn the meeting at 10:55 p.m.

Respectfully Submitted,

Eric Twarog, AICP
Director of Planning and Development