



City of
GREENFIELD, MASSACHUSETTS

ZONING BOARD OF APPEALS

City Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1549 • Fax 413-772-1309
eric.twarog@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 April 11, 2019

**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 David Singer

ABSENT: Robert O'Neill, Alternate

ALSO PRESENT: Eric Twarog, Director of Planning and Development

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 Chuck's Sign Company for property located at 102 Main Street (Assessor's Map 58, Lot 2), which is located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-6.7(F) and 200-8.3 of the Zoning Ordinance in order to allow the installation of a building mounted wall sign that exceeds the maximum square footage requirements of the Zoning Ordinance at this location.

At a public meeting on Thursday, April 11, 2019 at 7:00 p.m., in the 2nd Floor Meeting Room of City Hall, 14 Court Square, the Greenfield Zoning Board of Appeals held a public hearing on the application of Chuck's Sign Company for property located at 102 Main Street (Assessor's Map 58, Lot 2), which is located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-6.7(F) and 200-8.3 of the Zoning Ordinance in order to allow the installation of a building mounted wall sign that exceeds the maximum square footage requirements of the Zoning Ordinance 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 Chuck Martins of Chuck's Sign Company.

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.

Martins Explained to the Board that the owner, Center for Human Development, asked his company to design new signage to match the historical signage of the building.

Winn Inquired if the signage will be illuminated.



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- Martins Responded no.
- Maloney Inquired on the two different fonts for the proposed signage.
- Martins Responded that the fonts were what was submitted to his company from the owner.
- Singer Inquired on what the Zoning Ordinance allows in terms of square footage for signage in the CC District.
- Killeen Read the relevant section from the Zoning Ordinance (10% of wall area or 45 square feet, whichever is less).
- Wozniak Inquired on the building wall packs.
- Maloney Responded that the building wall packs already exist.

Chairman Maloney opened up the public hearing to public comment at 7:10 p.m. No public comment.

Public Hearing closed at 7:10 p.m.

Approval of Minutes:

MOTION: Moved by Killeen, seconded by Winn, and voted 5:0 to approve the meeting minutes from March 28, 2019.

- b. **7:15 p.m.:** Application of Toro Verde (Massachusetts) II, Inc. for property located at 51 Davis Street (Assessor's Map 57, Lot 68), 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 a Marijuana Retail Establishment at this location. This application also requires a finding under Section 200-6.1(C) of the Zoning Ordinance for a change in use for an existing nonconforming property due to insufficient open space on the property.

At a public meeting on Thursday, April 11, 2019 at 7:15 p.m., in the 2nd Floor Meeting Room of City Hall, 14 Court Square, the Greenfield Zoning Board of Appeals held a public hearing on the application of Toro Verde (Massachusetts) II, Inc. for property located at 51 Davis Street (Assessor's Map 57, Lot 68), 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 a Marijuana Retail Establishment at this location. This application also requires a finding under Section 200-6.1(C) of the Zoning Ordinance for a change in use for an existing nonconforming property due to insufficient open space on the property. 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 following project proponents: Attorney Richard Evans; Chris Chamberlain, Berkshire Design Group; Blake Gilmore, Security Consultant from



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Harvest, Inc.; Peter Davies, Real Estate Broker, Mark Abramson, Real Estate Broker; William Beetz, CEO of ToroVerde Mass.; Mark Jarvis, Consultant; and Ezra Parzybok of Green Glove Consulting.

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

Attorney Evans Introduced the project team members to the Board.

Maloney Asked for clarification on the relationship between ToroVerde Mass. And Harvest, Inc.

Attorney Evans Explained to the Board that Harvest, Inc. is serving as a security consultant for the project with no controlling interest.

Chamberlain Handed out a revised 11" x 17" plan set to the Board members and reviewed the changes made to it as a result of the meeting with the Planning Board. Bicycle racks have been added to the plan; a handicap space was added near the main entrance; security fencing was added near the loading area as requested by Police Chief Robert Haigh. He reviewed the plan set with the Board to include the Neighborhood Plan showing the 250, 300, and 500 foot buffers to the subject property; the site plan; interior layout; and building elevations. No K-12 public or private schools fall within the 250 or 500 foot buffers and no houses of worship are within the 300 foot buffer for notification purposes. No exterior changes are proposed for the existing building except a new sign meeting zoning and CCC regulations. The property doesn't currently meet the open space requirement of 15% within the Central Commercial (CC) District; it is currently at 0%. 16 existing off-street parking spaces will be dedicated for public parking and 3 spaces will be dedicated for employees for a total of 19 spaces for the proposed retail facility. The existing office building has about 7,000 square feet of floor area. 4,200 square feet will be dedicated for ToroVerde. Per Police Chief Robert Haigh's request, a fence will be added around the loading area. New restrooms will be added in the interior space for ToroVerde which will be ADA compliant. He stated that an odor neutralization method will be used to remove odor.

Maloney Sought clarification that there will be no public access to the 2nd floor from the facility and no public access to the fulfillment area.

Chamberlain Responded yes.

Winn Inquired on who the tenant is on the 2nd floor.

Chamberlain Responded that the owner Kevin O'Neill utilizes this space for his office.

Maloney Inquired on security monitoring for the facility.

Chamberlain Responded 24/7 off-site monitoring.



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- Maloney Inquired on the number of employees.
- Beetz Responded 10 and one security person.
- Winn Inquired on the number of clients that will be at the facility at one time.
- Beetz Responded about 12 clients.
- Wozniak Stated that the downtown campus of Greenfield Community College is within the 250 buffer to K-12 public and private schools and asked if there would be a problem if in the future they offered education classes for K-12.
- Attorney Evans Responded no based on the language in Greenfield's Zoning Ordinance .
- Singer Inquired on the egress at the secured loading area.
- Chamberlain Responded that the egress is for United Way.
- Singer Expressed concerns about United Way's egress being within the fenced loading area. He inquired on open space for the property.
- Chamberlain Responded that because the property is a legal non-conforming property due to the lack of the required 15% open space, they are requesting a finding from the Board that the proposed change of use to a retail marijuana establishment will not be substantially more detrimental to the neighborhood than the existing non-conforming use.
- Wozniak Asked for clarification on egress shown on the building elevations.
- Chamberlain Reviewed the building elevations with the Board for clarification.
- Maloney Read the review criteria for special permits from the submitted letter from the Berkshire Design Group dated March 18, 2019.
- Chamberlain Stated that at the Planning Board meeting, they agreed to have a police officer on site on Day 1 and would continue to have a police on site until the Greenfield Police Chief determines that an officer is no longer necessary.
- Maloney Inquired on municipal impacts as a result of the project.
- Attorney Evans Responded that 3% of gross sales will be going to the municipally starting on day1 of operations. He stated that he has not seen any actual municipal impacts resulting from marijuana establishments.



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Wozniak Inquired on the two new restrooms for the facility and whether there would be any sewer capacity issues.

Chamberlain Responded that capacity will not be an issue.

Singer Reiterated that he is concerned about United Way's emergency egress being within the fenced in loading area.

The Board discussed this issue and possible options to address it.

Chairman Maloney opened up the public hearing for public comment at 8:08 p.m.

Christopher Millner, 87 Maple Street

Stated that he used to work for Snow's Ice Cream and that he supports the proposed project as it would be improvement over existing conditions.

Chairman Maloney closed the Public Hearing at 8:09 p.m.

Board Deliberation/Decision

Application of Toro Verde (Massachusetts) II, Inc. for property located at 51 Davis Street (Assessor's Map 57, Lot 68)

Killeen Read review comments from the Department of Planning and Development; Planning Board which forwarded a positive recommendation to the ZBA; Board of Health (no comments or concerns); Fire Prevention Officer (no comments or concerns); Engineering Superintendent (no comments or concerns); Police Chief Robert Haigh (Security Letter); and Kevin O'Neil (Authorization letter from the owner).

Maloney Inquired on the proposed hours of operation.

Beetz Responded that the hours would be based on demand from the public.

Singer Inquired if the Police Chief reviewed the plans for his security letter.

Twarog Responded yes.

Maloney Expressed safety concerns about the proposed placement of the bicycle racks.

Killeen Asked if an existing parking space could be converted for a bicycle rack and parking.

Chamberlain Responded yes.

The Board discussed parking space number 15 as an option.



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No further questions from the Board.

The Board discussed potential conditions of approval.

Attorney Evans Stated that the proposed project is consistent with Greenfield's Master Plan and other planning documents/plans that he has reviewed which encourages development/redevelopment in the downtown area. He also mentioned that Greenfield has been identified as a disproportionately impacted community by the CCC due to its demographics. Because if this, Toto Verde Mass. is required to implement a Positive Impact Plan for Greenfield.

Parzybok Explained what a Positive Impact Plan is to the Board.

Board member James Winn left the meeting due to a medical emergency at approximately 8:40 p.m.

Chairman Maloney explained to the Applicant that state law requires a supermajority vote of the Board to approve a special permit. A supermajority of the Greenfield ZBA is 4. The Board gives applicants the chance to wait until a meeting with the full Board.

Attorney Evans waived this right and asked the Board to proceed.

MOTION: Moved by Killeen, seconded by Singer, and voted 4:0 to approve the application of Toro Verde (Massachusetts) II, Inc. for property located at 51 Davis Street (Assessor's Map 57, Lot 68), 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 a Marijuana Retail Establishment at this location with the following conditions:

1. Delivery vehicles shall be limited to box trucks or smaller. Tractor trailer trucks shall be prohibited;
2. The Applicant shall install a bicycle rack(s) in parking spot number 15 as shown on the submitted plan set;
3. The emergency egress from United Way shall be outside of the fenced in loading area;
4. Hours of operation shall be 8:30 a.m. to 9:00 p.m. Monday through Saturday and from Noon to 5:00 p.m. on Sundays;
5. The Applicant shall install signage to designate employee parking for the facility;
6. All signage shall be in conformance with the Greenfield Zoning Ordinance and the regulations of the Cannabis Control Commission;
7. Police detail shall be provided on opening day and ended at the Greenfield Police Chief's discretion not to exceed 75 days;
8. The special permit shall only run with the Applicant, Toro Verde (Massachusetts) II, Inc.; and



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9. 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.

MOTION: Moved by Singer, seconded by Killeen, and voted 4:0 that the Board finds that the proposed change of use to a retail marijuana establishment at 51 Davis Street will not be substantially more detrimental to the neighborhood than the existing non-conforming use.

Board Deliberation/Decision

Application of Chuck's Sign Company for property located at 102 Main Street (Assessor's Map 58, Lot 2)

Killeen Pointed out to the Chair that the Applicant isn't present to have the option of waiting for the next meeting when the full Board is present.

The Board reached consensus to proceed with its deliberation and decision.

Killeen Read review comments from the Planning Board which forwarded a positive recommendation to the ZBA and from the Fire Prevention Officer who had no issues or concerns.

Singer Stated that the proposed signage meets the intent of the Zoning Ordinance.

Wozniak Suggested that the owner be allowed to choose the font for consistency of the proposed signage.

MOTION: Moved by Wozniak, seconded by Singer, and voted 4:0 to approve the application of Chuck's Sign Company for property located at 102 Main Street (Assessor's Map 58, Lot 2), which is located in the Central Commercial (CC) Zoning District, for a Special Permit pursuant to Sections 200-6.7(F) and 200-8.3 of the Zoning Ordinance in order to allow the installation of a building mounted wall sign that exceeds the maximum square footage requirements of the Zoning Ordinance at this location as presented to the Board with the following condition:

- 1) The font for all the approved signage shall be consistent. The owner can decide which font to use from the two presented to the Board.

Adjournment:

MOTION: Moved by Maloney, seconded by Singer, and voted 4:0 to adjourn the meeting at 9:02 p.m.

Respectfully Submitted,



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Eric Twarog, AICP
Director of Planning and Development