



Roxann Wedegartner
Mayor

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

Members:
Twarog, Eric
Director, Planning & Dev.

Gilkes, Debra (2025)
Maloni, Mark (2025)
Moschella, Victor (2025)
Singer, David (2024)
Winn, James (2026)
Wozniak, Peter (2026)

Snow Stated that one of his inspectors became aware of some work going on at 172 Highland Avenue Ext. As a result of that, there was some communication between the occupants of the building and the Inspector. He asked that the work stop and then he came back and notified me of the situation. After that his office arranged to meet with Andrew Huckins, the owner of the property, to discuss what was going on and to discuss any other matters related to the property. The local inspector told him that there were seven (7) unrelated individuals living at the property. On August 7, 2023, local inspector Vern Harrington and I met with Andrew Huckins regarding the matter. During that meeting, Mt. Huckins stated that the work he was doing was without permits and that he know that this work required permits. Mr. Huckins was apologetic about working without permits and that he wanted to obtain the proper permits. We then talked about the 7 unrelated individuals living at the property which included Mr. Huckins. At that meeting, Mr. Huckins indicated that the six individuals pay rent. At this meeting, Mr. Huckins was informed that all work has to stop until he obtains the proper permits. He stated to Mr. Huckins that he would do some further research into this issue. He stated that he spoke with the Director of Planning and Development, Eric Twarog, and that we both felt that it fell under the definition of Lodging/Boarding House. Because the property is within the Urban Residential (RA) Zoning District, a Lodging /Boarding House requires a special permit from the Zoning Board of Appeals. He stated that there is no special permit approval for a Lodging /Boarding House at this address. As a result of this, I issued a Notice of Violation for the property in accordance with the Zoning Ordinance. As a result of this notice, an appeal was filed by Mr. Huckins.

Chairman Singer asked the Board if they have any questions at this time.

Winn Asked if any permits were pulled for the electrical and/or plumbing work.

Snow There was both electrical work and plumbing works done by Mr. Huckins himself.

Singer Asked if any other notices were issued relative to this issue.

Snow Responded yes, that he also issued a Stop Work Order and Notice of Violation under the State Building Code. It addresses the change of occupancy under the State Building Code. When a building is changed from one occupancy type to another, a building permit is required. Based on the information that he had, he felt that it was a change of use from a single family home to a Lodging/Boarding House. There are different requirements for a Lodging/Boarding House than those of a single family home. Single family homes as well as two-family homes are regulated under the Residential Code. All other occupancies are regulated under the Base Code. There is also an appeal of the Notice of Violation under the State Building Code filed with the State Board of Appeals.

Moschella Asked what sort of impact would the change of use have on the owner of the property.

Snow Responded that when you change from the single or two-family home to a Lodging/Boarding House, many times one is required to meet the Code for new construction. It depends on a lot of



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different factors. One of the key things that may need to be addressed is a fire sprinkler system. He stated that there was some permitted work done at the property so as a result of that work, there are now updated smoke alarms throughout the building so there are hard wired smoke alarms with battery backups. There may be some fire separation between rooms as well as other life-safety improvements.

- Wozniak Are there any plumbing related issued as a result of the change of use.
- Snow Responded that plumbing work was done but he is not a plumbing inspector so he does not know the extent of the plumbing work done and cannot answer the question.
- Wozniak Inquired about the sewer connection.
- Snow Responded that his property has its own septic system approved by the Board of Health. He stated that he does not know the number of bedrooms that the septic system was approved for.
- Singer Asked if permits were pulled for the previous work done without permits.
- Snow Responded yes, they pulled the proper permits for that work which was issued today with conditions. The conditions were that they respond to all concerns in the Notice of Violation.
- Singer Inquired on what factors were used to determine it was a lodging/boarding house when you sat down with Eric Twarog to review this.
- Snow Responded that it came down to the number of unrelated individuals living at the property. There are different definitions for dwelling units, single family homes, and lodging/boarding houses in the Zoning Ordinance. There are also different definitions in the State Housing Code and State Building Code. M.G.L. also has a different definition. None of these definitions match which is unfortunate.
- Singer Inquired if there is some provision of the Zoning Ordinance that the Board needs to apply in terms of the number of individuals living in a home to determine if it is a lodging/boarding house.
- Snow Responded no.
- Singer Are there any other factors considered.
- Snow Read the definition of lodging/boarding house to the Board and stated that this definition was amended in its entirety in 2006.
- Singer Expressed concerns that since there is no specific number of people in the definition of lodging/boarding house, that when the city does inspections, if 3-4 unrelated individuals are living together, that they could run afoul of the Zoning Ordinance. How is this determined?



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- Snow Responded that he does not have the answer to this except that the definitions under other codes do specific numbers. He stated that there used to be a definition of “family in the Zoning Ordinance that was removed.
- Singer Asked if this definition made clear who could live in a single family home before it arose to another type of housing.
- Snow Responded yes.
- Singer Asked for clarification on the language “not shared as a single housekeeping unit” and how that is determined.
- Snow Responded that he doesn’t know the specific living arrangements in the house.
- Wozniak Asked how would one know when to obtain a special permit for certain living arrangements? For example, if a person bought a large single family home with 5 bedrooms and needed help with the living expenses, how would they know when a special permit is required?
- Snow Responded that he thinks that the Zoning Ordinance needs to be amended so that this doesn’t happen throughout the city.
- Singer As for clarification that the definitions under other codes are not under the purview of the ZBA.
- Snow Confirmed that this is correct.
- Huckins handed out a signed and notarized Affidavit to the Board members.
- Singer Stated that under M.G.L., he is authorized to ask applicants to present evidence under oath which is what an Affidavit is. Asked the Applicant if he has any introductory statements to make at this time or if he will use the Affidavit for this purpose.
- Huckins Stated that he is owner of 172 Highland Avenue and lives at the property. He lives with six (6) other individuals at the property. The Notice of Violation came as a surprise to them. He read the signed and notarized Affidavit into the record.
- Moschella Inquired if the other six residents of the property are part of the LLC.
- Huckins Responded no.
- Moschella Asked if he is the sole owner of the LLC listed as owner of the property.
- Huckins Responded yes.



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- Singer Asked if the LLC is the landlord of the property.

- Huckins Responded yes. Stated that the intention of the LLC formation was for liability and the potential for them as a group of people to variously occupy the legal instrument that owned the property. It was not to create a for profit business.

- Wozniak Asked if a business can own a residence.

- Singer Responded yes.

- Gilkes Stated that she has two questions. She asked if Mr. Huckins has rental agreements with the tenants that live there.

- Huckins Responded no.

- Gilkes So if they decided not to pay rent, he has no recourse. She asked if the other six people who live there also have Affidavits.

- Singer Responded that he only asked the Applicant for the Affidavit, not from the other residents. He asked if she has questions for the other people living there.

- Gilkes Asked for a show of hands of those living at the property and asked if they agree with the statements made from the Affidavit read by Andrew Huckins.

- The other residents of the property responded yes, the statements are true to include making no money from the property.

- Singer Asked the Applicant to describe to the Board how they share the home as a single housekeeping unit.

- Huckins Responded that they do talk about themselves as members of a family. Some people do most of the cooking while some do most of the cleaning. Some people do most of the paying for things and they all work together. For example, someone recently got sick in the household and that was the priority for all of the household members to care for that individual until they got better.

- Singer Inquired on how the household chores and responsibilities are divided up.

- Huckins Responded that they all divide the responsibilities up depending on what each person can handle at the time to include how much each can pay in. Generally, each person is responsible for specific roles. Somebody does most of the trash and garage removal and there is someone who does most of the bookkeeping. There is someone who does most of the communicating with friends. There is someone who maintains the land and organizes group work parties to take care of that. He stated that they are all close emotionally to one another as well.



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Chairman Singer opened the public hearing up to public comment at 7:30 p.m.

Garth Shaneyfelt, 26 Grinnell Street, Greenfield

Stated that he can give some history of the property as he knew 5-6 people that lived there previously when John Bailey owned the property. Since that time, the definition of “family” was removed from the Zoning Ordinance so that unrelated individuals could live together which he stated is a cool thing given housing process and the cost of living. He stated that he confirmed this through previous City Council members. There intent was to remove that restriction. He stated that he knows of 3-4 other houses where more than 4 unrelated individuals are living together. He mentioned Sandra Boston as an example. He stated that he supports Mr. Huckins and doesn’t feel that the property is being used as a lodging/boarding house.

Linda McInerney, 102 Highland Avenue, Greenfield

Stated that the residents of 172 Highland Avenue are a family so she supports Mr. Huckins and doesn’t feel that the property is being used as a lodging/boarding house.

Singer closed the public comment at 7:40pm.

Wozniak read public comment from Otis Wheeler, 115 Deerfield Street; and from Sandy and Peter Ruggeri, 152 Highland Avenue.

- b. **7:15 p.m.:** Application of ALDI, Inc. for property located at 208 Mohawk Trail (Assessor’s Tax Map 37, Lot 5), which is located in the General Commercial (GC) 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 signage area greater than allowed by zoning regulations for the new ALDI’s grocery store at this location.

On Thursday, November 9, 2023 at 7:15 p.m., in the 2nd Floor Meeting Room of 20 Sanderson Street, the Greenfield Zoning Board of Appeals held a public hearing on the application of ALDI, Inc. for property located at 208 Mohawk Trail (Assessor’s Tax Map 37, Lot 5), which is located in the General Commercial (GC) 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 signage area greater than allowed by zoning regulations for the new ALDI’s grocery store at this location. Wozniak read the public notice into the record. Members of the Board sitting were David Singer, Chairman; James Winn; Peter Wozniak, Clerk; Debra Gilkes; and Mark Maloni. The following project proponent was present: Lucien M. DiStefano, P.E., Bohler Engineering.

Singer 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.

DiStefano Introduced himself and stated that he is here for permitting to allow signage greater than what is allowed under zoning for the previously approved ALDIs which will hopefully start construction in the spring of 2024. They are seeking approval for two building wall signs and one freestanding pylon sign. Each of the building wall signs being proposed are about 120 square feet in size. They feel that the proposed signage needs to be that size given the location of the new ALDIs and its distance to Mohawk Trail. The new store is a little hidden by the other uses in the area. The



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proposed signage would give people a better opportunity to see the store if they are unfamiliar with the area. The proposed pylon sign is also about 120 square feet at 15 feet in height for a total height of 27 feet. Zoning allows up to a 64 square foot wall sign as well as a 64 square foot pylon sign. The proposed signage is in keeping with other such signage in this area along Route 2. Given that they do not have street presence, that the increased size is what is needed for visibility.

Wozniak Inquired if the signs will be illuminated, both the wall signs and pylon sign.

DiStefano Responded yes.

Gilkes Inquired on the height of the existing MacDonald’s pylon sign.

Singer Also asked about the Friendly’s pylon sign.

DiStefano Responded that the MacDonald’s pylon sign is about 30-35 feet high. He stated that they cannot go on private property to measure existing signs but based on his 30 years of experience, the Friendly’s pylon sign is about 18 feet high and about 120 square feet in area.

Singer Inquired on the hours of illumination for the signs.

DiStefano Stated that typically, if the store is not open, then the wall signs are turned off. He stated that for the site plan approval, the exterior lights were approved to be on a little after closing to give staff time to do what they need to do.

Chairman Singer opened the public hearing up to public comment at 7:47 p.m.
Singer closed public comment at 7:47 p.m.

Wozniak read review comments from the Fire Prevention Officer and the Engineering Superintendent which both had no issues or comments with the project.

- c. **7:30 p.m.:** Application of Jennifer Moser for property located at 678 Bernardston Road (Assessor’s Tax Map R14, Lot 21), which is located in the Suburban Residential (RB) Zoning District, for a special permit pursuant to Sections 200-6.1; 200-7.18; 200-8.3; and 200-8.4 of the Zoning Ordinance, in order to allow reduced side and front yard setbacks for an attached garage and Accessory Dwelling Unit at this location.

On Thursday, November 9, 2023 at 7:30 p.m., in the 2nd Floor Meeting Room of 20 Sanderson Street, the Greenfield Zoning Board of Appeals held a public hearing on the application of Jennifer Moser for property located at 678 Bernardston Road (Assessor’s Tax Map R14, Lot 21), which is located in the Suburban Residential (RB) Zoning District, for a special permit pursuant to Sections 200-6.1; 200-7.18; 200-8.3; and 200-8.4 of the Zoning Ordinance, in order to allow reduced side and front yard setback for an attached garage and Accessory Dwelling Unit at this location. Wozniak read the public notice into the record. Members of the Board sitting were



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David Singer, Chairman; James Winn; Peter Wozniak, Clerk; Debra Gilkes; and Mark Maloni. The following project proponents were present: Jennifer Moser; Applicant, Ted Moser; and Seth Wolshutes, Architect.

- Singer Introduced the Board members sitting and asked the Applicant to introduce herself and explain what she wants to do, where she wants to do it, and why.
- Jennifer Moser Stated that they would like to demolish the existing two-car garage and build a new larger attached garage with a Accessory Dwelling Unit (ADU) for their daughter who has learning disabilities. The new garage would be wider but less deep.
- Wolshutes Reviewed with the Board the plans set showing the footprint of the existing and new garage. Their plan is to build the new garage in style with the existing house. The house where it currently sits is nonconforming due to setbacks.
- Winn Inquired who owns the property on the right and if they share the existing driveway and if there is a shared maintenance plan for the driveway.
- Wolshutes Responded that David and Janet Puchalski own the house to the right and that they do have a shared driveway with a maintenance plan with them.
- Moschella Inquired about ingress/egress of the proposed ADU.
- Wolshutes Responded that currently, the plan shows one exit but after talking to Mark Snow, Inspector of Buildings, that they will need to add another exit point out from the back of the ADU.
- Singer Inquired if this will change the square footage of the structure.
- Wolshutes Responded that it may. He reviewed the submitted interior layout with the Board and stated that it is his suggestion to alter the interior layout for a new exit point that would lead to the existing patio area to meet the requirement under the State Building Code for two means of egress.
- Woznaik Inquired if the concern of the DPW that the site plan doesn't show water and sewer connections would affect the conversation.
- Wolshutes Responded no since the house is on both public water and sewer.
- Singer Handed Mr. Wolshutes his copy of the site plan to add the proposed stairs for the 2nd egress not into the garage. Mr. Wolshutes marked up the site plan for the Board to show the staircase for the 2nd egress.

Chairman Singer asked the Board if they have any additional questions at this time. The Board had no additional questions.



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Chairman Singer opened the public hearing up to public comment at 8:05 p.m.

John Richardson, 22 Woodsia Ridge, Greenfield

He stated that he and his wife who couldn't make the meeting both support the project. The property is well kept.

Wozniak read review comments from the Engineering Superintendent and the Department of Planning and Development. He also read public comment from David and Jan Puchalski; Anna Joseph and H. Jay LaRocque; and Terence Jay Hanley who all support the request.

Singer Stated to the recording that a marked up site plan has been left for Director Twarog. He also stated to the Applicant that the section of the Zoning Ordinance relative to ADUs requires that the owner either live in the ADU or the primary home and must file an Affidavit with the Registry of Deeds.

Mosers Responded that they were not able to find the language that Chairman Singer referenced.

Singer Stated that Eric Twarog can get them that information.

d. **7:45 p.m.:** Application of Carolyn Gargone for property located at 6 Power Court (Assessor's Tax Map 30, Lot 12), which is located in the General Commercial (GC) Zoning District, for a special permit pursuant to Sections 200-4.9(C37); 200-6.1(C); 200-7.18; 200-8.3; and 200-8.4 of the Zoning Ordinance, in order to allow the conversion of a legal nonconforming structure into a Detached Accessory Dwelling Unit at this location.

Wozniak Read a request from the Applicant to withdraw without prejudice. The Board accepted this request.

Board Discussion/Decision

Andrew Huckins

For property located at 172 Highland Avenue (Assessor's Tax Map R01, Lot 4)

Maloni Stated that for him, the whole thing hinges on whether the property is being shared as a single housekeeping unit. He stated that it feels and looks like a single household, not a lodging/boarding house so he would be inclined to grant the appeal.

Gilkes Stated that she concurs and that there were no rental agreements for the people living there. Also, the definitions in the Zoning Ordinance do not state specific numbers for when it becomes a lodging/boarding house. She stated that she would vote to overturn the Inspector of Buildings Notice of Violation.

Winn Stated that the Board needs to make a decision so that the Inspector of Buildings knows how to proceed. He stated that he is still deciding whether to overturn the Inspector of Buildings Notice of Violation.



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Wozniak He stated that he would vote to overturn the Inspector of Buildings Notice of Violation. He also stated that the City should amend the Zoning Ordinance to clear this issue up. He feels that 172 Highland Avenue is being shared as a single housekeeping unit.

Moschella Stated that to him it is clear based on the language in the code that it is no longer a residence but now a lodging/boarding house. He believes that these laws were put in place for safety reasons. If there was a fire or some other safety situation which caused damage to property or injured someone, the City would be responsible for not addressing the safety issues relative to lodging/boarding houses.

The Board members discussed this. Moschella referenced Massachusetts General Law and that the Board also has to follow state laws and definitions. Attorney Belcher-Timme stated that the Notice of Violation is based on Greenfield's Zoning Ordinance. He stated that there is case law about this issue and that municipalities cannot really define family but that there is a lot of experience of what a family is or is not. The language "not shared as a single housekeeping unit" in the definition of lodging/boarding house allows the Board to make such a determination based on testimony and evidence. The Board did a good job of doing that in this case.

Singer Asked Attorney Belcher-Timme if Greenfield has the right to come up with a different definition than the state's definition.

Belcher-Timme Responded that the state's definition of a lodging/boarding house is under the State Building Code and it looks like the definition in Greenfield's Zoning Ordinance used that definition and added the language on "not shared as a single housekeeping unit" which municipalities have the right to do in order to determine what would require a special permit. The appeal filed with the state under their definition is separate from the appeal of Greenfield's zoning. The state could decide that 172 Highland Avenue is a lodging/boarding house but that would only be under the State Building Code.

Singer Stated that he would vote to overturn the Inspector of Buildings Notice of Violation. He stated that the Inspector of Buildings gave no evidence that 172 Highland Avenue is not being shared as a single housekeeping unit. This is only for the appeal of the zoning notice of violation, not the appeal to the state building board of appeals.

Winn Stated that he does consider 172 Highland Avenue as a lodging/boarding house.

Maloni Stated that he doesn't understand how this came before the Board. The Inspector of Buildings could have asked some additional questions to get a sense of the living arrangement at the property. The Notice of Violation should not have been issued, sparing these folks from having to appeal this before the Zoning Board of Appeals.

MOTION Moved by Wozniak, 2nd by Maloni, and voted 4:1:0 (Winn voted against) to approve the application of Andrew Huckins for property located at 172 Highland Avenue (Assessor's Tax Map R01, Lot 4), which is located in the Urban Residential (RA) Zoning District, to



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overturn of the Notice of Violation dated September 18, 2023 stating that the premises is being used as a Lodging/Boarding House. This is only for the appeal of the Notice of Violation under Greenfield’s Zoning Ordinance.

Board Discussion/Decision

ALDI, Inc.

For property located at 208 Mohawk Trail (Assessor’s Tax Map 37, Lot 5)

The Board discussed the issue of not knowing the height and square footage of the existing signs in this area. The Board discussed potential conditions of approval. The Board reached consensus to proceed without this information.

MOTION

Moved by Wozniak, 2nd by Winn, and voted 5:0:0 to approve the application of ALDI, Inc. for property located at 208 Mohawk Trail (Assessor’s Tax Map 37, Lot 5), which is located in the General Commercial (GC) 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 signage area greater than allowed by zoning regulations for the new ALDI’s grocery store at this location as submitted and presented to the Board with the following condition:

- 1. The approved signage shall only be illuminated during store business hours.**

Board Discussion/Decision

Jennifer Moser

For property located at 678 Bernardston Road (Assessor’s Tax Map R14, Lot 21)

MOTION

Moved by Wozniak, 2nd by Winn, and voted 5:0:0 to approve the application of Jennifer Moser for property located at 678 Bernardston Road (Assessor’s Tax Map R14, Lot 21), which is located in the Suburban Residential (RB) Zoning District, for a special permit pursuant to Sections 200-6.1; 200-7.18; 200-8.3; and 200-8.4 of the Zoning Ordinance, in order to allow reduced side and front yard setback for an attached garage and Accessory Dwelling Unit at this location as submitted and presented to the Board with the following conditions:

- 1. The Applicant shall adhere to the site plan as modified at the public hearing dated November 9, 2023;**
- 2. All construction debris shall be removed from the property within a reasonable time period after construction;**
- 3. No burning of construction debris or other materials shall be allowed at the property.**

Adjournment:

MOTION: Moved by Wozniak, seconded by Winn, and voted 5:0:0 to adjourn the meeting at 8:50 p.m.

Respectfully Submitted,



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