



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

ZBA CASE NO. 13-17

PROPERTY LOCATION: 11 Forbes Road

PETITIONER: Genzyme Corporation, a Sanofi Company

PROPERTY OWNER: GN11 Forbes Road LLC

RECORDED WITH WORCESTER REGISTRY OF DEEDS: Book 36431, Page 192

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of Genzyme Corporation, a Sanofi Company, for a Special Permit, Groundwater Protection Overlay District, to allow the use of an environmentally-friendly form of salt containing ice melt, during winter months, in Groundwater Protection Overlay District Area 3 on the property located at 11 Forbes Road, Map 15, Parcel 16.

APPLICATION

1. On September 18, 2013 the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit per Section 7-07-010, Groundwater Protection Overlay District, to allow the use of an environmentally-friendly form of salt containing ice melt, during winter months, on the property located at 11 Forbes Road, located in Groundwater Protection Overlay District Area 3.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on October 7, 2013 and October 14, 2013 and was mailed to abutters and other parties in interest on October 1, 2013.

EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

1. Application for Hearing before the Zoning Board of Appeals, including:
 - a. A Quitclaim Deed for 11 Forbes Road, Northborough, MA, recorded at the Worcester District Registry of Deeds on 05/24/2010, Bk: 458/29 Pg: 257;
 - b. A certified abutters list for parcels 300 feet from 11 Forbes Road, including a cover sheet signed by Mary E. Cary, for the Town of Northborough Board of Assessors, dated August 5, 2013; a Northborough, MA GIS Viewer map for 11 Forbes Road, Northborough, dated 8/2/2013; a Commercial Property Record Card for 11 Forbes Road, dated 8/2/2013; and a portion of the Town of Northborough Groundwater Protection Overlay District Map with a notation indicating the location of 11 Forbes Road;
 - c. A document entitled "Genzyme appeal of decision 4 – Town of Northborough case number 87-15 (May 12, 1987) 11 Forbes Road Decision (Overview of Appeal); and
 - d. An 11" x 17" plan entitled "Groundwater Overlay Plan" for GN 11 Forbes Rd, LLC, prepared by Nitsch Engineering and Signer Harris Architects, dated 05/21/09, dated-stamped by the Town Clerk's office on September 18, 2013.
2. A memo to the Zoning Board of Appeals from Mark Simmons of Genzyme, dated 10/22/13, re: 11 Forbes Road – Zoning Board Hearing request for continuance;
3. A letter to the Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, re: 11 Forbes Road, Map 15, Parcel 16; including an 8-page memo from Genzyme, dated 10/21/13 re: Proposal for salt reduction strategies;

4. A letter to Fred Litchfield, Office of the Town Engineer from Lisa Hartman, Director, Environmental Affairs, Genzyme Corporation, a Sanofi Company, RE: Response to the Groundwater Advisory Review Letter issued on October 22, 2013, dated November 5, 2013; and
5. A letter to the Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated November 25, 2013, RE: 11 Forbes Road, Map 15, Parcel 16.

HEARING

Mark Simmons, Environmental Associate, representing the Applicant, Genzyme, a Sanofi Company, presented the Application at a duly noticed public hearing of the Board on October 22, 2013 and November 26, 2013 in Conference Room B of the Northborough Town Hall. Board members Fran Bakstran, Richard Rand, Richard Kane, Mark Rutan, and Brad Blanchette were present throughout the proceedings.

Genzyme, a Sanofi Company, would like to use an environmentally-friendly form of salt containing ice melt, and deicers, on the property at 11 Forbes Road in order to prevent vehicles from sliding and pedestrians from falling. It will be used on the parking lots and the sidewalks. Due to the 1987 variance decision condition #4, ZBA Case No. 87-15, the subject property may only use sand free of salt because of its proximity to a groundwater well recharge area. Approximately half of the property falls within Groundwater Protection Overlay District Area 3. A 10-foot by 12-foot area on the property is designated for salt storage.

Mr. Simmons stated they have been using salt because they were unaware of the condition stating they could only use sand free of salt.

No abutters were present and the Board did not receive any letters in opposition to the project.

The hearing was closed on November 26, 2013.

FINDINGS OF FACT

1. The subject property at 11 Forbes Road is 20 acres in size and is located in the Industrial District and in Groundwater Protection Overlay District Area 3.
2. The Applicant is requesting a Special Permit, Groundwater Protection Overlay District, per Section 7-07-010 of the Northborough Zoning Bylaw, to allow the use of an environmentally friendly form of salt containing ice melt and deicers during winter months on the subject property.
3. Condition number 4 of a ZBA decision granting a Special Permit for ZBA Case No. 87-15, 11 Forbes Road, states *'Only sand which is free of salt may be used on paved surfaces'*.
4. The subject facility is a 200,000 square-foot distribution center with heavy truck traffic and 200 employees. In winter, due to the slope of the property, the use of only sand poses a safety hazard for all of Genzyme's employees, contractors, inspectors and visitors who work and visit the site, both in vehicles and as pedestrians.
5. The property slopes towards the southwest corner of the lot. The soil conditions are predominantly sandy loam, and all stormwater runoff is piped to an existing retention pond, which is currently used for landscape irrigation.
6. Genzyme's first concern is public safety on the subject property. Without the use of ice melt and deicers, the property becomes hazardous in the winter.
7. The decision to allow only sand free of salt was made in 1987, shortly after groundwater zones were delineated throughout the Town of Northborough, with the intent to keep groundwater clean from road salt entering the Town's well water supply. The products used to melt ice have dramatically improved from an environmental standpoint over the past 25 years. Therefore, the use of an environmentally friendly ice melt is unlikely to change Northborough's well water quality.
8. Currently, Genzyme is using the collected stormwater runoff for landscape irrigation. The irrigation water has been sampled and found only to have low levels of chlorides. It is acceptable for landscape irrigation and the environment.
9. In a letter to the Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated November 25, 2013, RE: 11 Forbes Road, Map 15, Parcel 16, Mr. Litchfield states


the Groundwater Advisory Committee voted unanimously in favor of recommending approval of the requested change to the existing condition number 4 of the Special Permit in Case No. 87-15 and offer their conditions.

10. Due to circumstances relating to the topography of the lot, that slopes towards the southwest corner, and the location of the lot in Groundwater Protection Overlay District Area 3, affecting only the subject land but not generally affecting land or structures in the same zoning district, a literal enforcement of the Zoning Bylaw would involve substantial hardship.
11. The proposed use of environmentally friendly ice melt and deicers will provide increased safety on the site and therefore the relief sought may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw.

DECISION

1. On November 26, 2013, after due consideration of the Application, the Board voted unanimously to **GRANT** a **SPECIAL PERMIT per Section 7-07-010, Groundwater Protection Overlay District**, of the Northborough Zoning Bylaw, to amend the decision for ZBA Case No. 87-15, 11 Forbes Road, by deleting condition #4, and allowing the use of environmentally-friendly ice melt on the property located at 11 Forbes Road, located in Groundwater Protection Overlay District Area 3, with the following conditions:
 - a. The applicant shall be allowed to use road salt and one of the following four (4) deicers that include magnesium chloride or the equivalent: Magnesium Chloride (MgCl), Calcium Chloride (CaCl), Potassium Acetate (KAc) or Calcium Magnesium Acetate (CMA).
 - b. The onsite storage of the road salt and deicer can be allowed provided the material is protected from the elements in an enclosed structure. The enclosed structure for storage of the salt and deicer shall require a building permit.
2. The **SPECIAL PERMIT** shall not take effect until a copy of the decision bearing the certificate of the Town Clerk is recorded with the Worcester District Registry of Deeds in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 11 and 15 stating that "twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed it has been dismissed or denied."
3. Appeals, if any from this decision shall be made pursuant to Massachusetts General Laws, Ch. 40A, Sec. 17 and shall be filed within twenty (20) days after the date of filing of this decision in the office of the Town Clerk.
4. If the rights authorized by this **SPECIAL PERMIT** are not exercised within two years from the time of granting, it shall lapse in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 10.

TOWN OF NORTHBOROUGH, MASSACHUSETTS
ZONING BOARD OF APPEALS



FRAN BAKSTRAN, CHAIRMAN