



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## DECISION

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**ZBA CASE NO. 13-12**

**PROPERTY LOCATION: 200 Otis Street**

**PETITIONER: Kevin Duggan, Metro Sign, Inc.**

**PROPERTY OWNER: Walmart Real Stores, Inc.**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 18789 Pg: 314**

This document is the **DECISION** of the Northborough Zoning Board of Appeals on the petition of Kevin Duggan, Metro Sign & Awning, for Variances to add an internally lit (Subway) wall sign to the front of the Walmart store that will be illuminated between the hours of 12am to 6am, on the property located at 200 Otis Street, Map 110, Parcel 3.

## APPLICATION

1. On July 23, 2013, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a **VARIANCE** from Section 7-09-040G(1)(c)[1][b], Signs, Signs in Business Districts, Highway Business District, of the Northborough Zoning Bylaw, to allow the addition of an internally lit (Subway) wall sign to the front of the Walmart store; and a Variance from Section 7-09-040D(5), Signs, Basic Requirements, of the Northborough Zoning Bylaw, to allow the proposed internally lit (Subway) wall sign to be illuminated during the operating hours of the Subway food establishment within the Walmart store, including during the hours of 12am and 6am, on the property located at 200 Otis Street.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on August 12, 2013 and August 19, 2013, and was mailed to abutters and other parties in interest on August 6, 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 letter from Kyle Thurman, Project Manager, Walmart Stores, Inc., dated March 29, 2013;
  - b. A Quitclaim Deed for Turnpike Road, Northboro, recorded at the Worcester District Registry of Deeds on April 30, 1997, Book 18789, Page 314.
  - c. A certified abutters list for parcels 300 feet from 200 Otis Street, including a cover sheet signed by Susan M. Reagan, for the Town of Northborough Board of Assessors, dated July 23, 2013 and a Northborough, MA GIS Viewer map entitled "200 Otis Street, Northborough", dated 7/23/13;
  - d. An 11" x 17" color plan from Metro Sign & Awning, Inc., for Subway, dated 7/3/13; and
  - e. Two "Google" maps of 200 Otis Street, Northborough, MA, with an aerial view of a building identified as Walmart, dated 7/15/13.

## **HEARING**

Applicant Kevin Duggan, Metro Sign & Awning, Inc. presented the Application at a duly noticed public hearing of the Board on August 27, 2013, in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Fran Bakstran, Richard Rand, Dick Kane, Robert Berger, and alternate member Jeffrey Cayer, and were present throughout the proceedings.

Mr. Duggan explained the Subway food establishment located inside the Walmart store at 200 Otis Street hired his company to create a "Subway" wall sign that they want to put on the front of the Walmart store. Because Walmart has the maximum number of wall signs allowed on their store already, a Variance is needed to add the proposed Subway sign. The sign will be internally-lit and Subway is proposing to have the sign illuminated during its hours of operation within the Walmart stores, including during the hours of 12am and 6am. The proposed sign is needed because Subway has no other form of advertising that it is located within the Walmart store.

No one present spoke in opposition to the project and the Board received no letters in opposition to the project.

The hearing was closed on August 27, 2013.

## **FINDINGS OF FACT**

1. The subject site at 200 Otis Street, on which a Walmart store is located, is off Route 9 (Belmont Street) in the Highway Business District.
2. The Applicant is proposing to add a 19.5 square-foot internally-lit "Subway" wall sign to the front of the Walmart store. Currently, the maximum allowed number of Walmart wall signs are located on the front of the Walmart store, and therefore a Variance is required from Section 7-09-040G(1)(c)[1][b], Signs, Signs in Business Districts, Highway Business District, Wall Signs, of the Northborough Zoning Bylaw, to allow the addition of the proposed internally-lit "Subway" wall sign to the front of the Walmart store.
3. The Applicant proposes the internally-lit "Subway" wall sign to be illuminated during the Subway food establishment's hours of operation, which, at some times, will include the hours of 12am to 6am, to coincide with the Walmart store's hours of operation. The use of an illuminated wall sign during the hours of 12am and 6am requires a Variance from Section 7-09-040D(5), Signs, Basic Requirements, of the Northborough Zoning Bylaw.
4. The proposed internally-lit "Subway" wall sign is 19.5 square feet in size, which meets the requirements of Section 7-09-040G(1)(c)[1][b] Signs, Signs in Business Districts, Highway Business District, Wall Signs, of the Northborough Zoning Bylaw.
5. The proposed internally-lit "Subway" wall sign is the only advertising the Subway food establishment inside the Walmart store has by which to identify itself. It is not located on the Walmart Pylon sign, and has no other form of advertising on the site at 200 Otis Street.
6. Illumination in the Highway Business District, along busy Route 9, and particularly in an area that involves other retail operations such as McDonalds and 24-hour grocery stores, is different than illumination requirements for other zoning districts. The Route 9 corridor is significantly different in character than other areas in Northborough. In order for the Subway food establishment within the Walmart store to be successful, it needs the proposed internally-lit "Subway" wall sign on the Walmart store to advertise its location. Therefore, the requested relief to add an internally-lit "Subway" wall sign on the Walmart store, for the purpose of advertising the Subway food establishment's location within the Walmart store, and which will be illuminated during all their hours of operation, including during the hours of 12am and 6am, will not nullify or substantially derogate from the intent and purpose of the Zoning Bylaw.

## **DECISION**

1. On August 27, 2013, after due consideration of the Application, the Board voted unanimously to **GRANT** a **VARIANCE** from Section 7-09-040G(1)(c)[1][b], Signs, Signs in Business Districts, Highway Business District, Wall Signs, of the Northborough Zoning Bylaw, to allow the addition of an internally-lit "Subway" wall sign to the front of the Walmart store to advertise the location of a Subway food establishment inside the Walmart store, on the property located at 200 Otis Street, with the condition that the proposed internally-lit "Subway" wall sign will not exceed 20 square-feet in size.
2. On August 27, 2013, after due consideration of the Application, the Board voted unanimously to **GRANT** a **VARIANCE** from Section 7-09-040D(5), Signs, Basic Requirements, of the Northborough Zoning Bylaw, to allow the proposed internally-lit "Subway" wall sign to be illuminated during the hours of operation of the Subway food establishment inside the Walmart store, including the hours of 12am to 6am, on the property located at 200 Otis Street.
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. The **VARIANCES** 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."
5. If the rights authorized by the **VARIANCES** are not exercised within one year 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**



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**FRAN BAKSTRAN, CHAIRMAN**