



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

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ZBA CASE NO. 13-07

PROPERTY LOCATION: 255 West Main Street (part of 243-265 West Main Street)

PETITIONER: Lowe's Variety & Meat Shop, Inc.

PROPERTY OWNER: Maney Realty Trust

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 7018 Pg: 166;
Bk: 14238 Pg: 160; and Bk: 14308 Pg: 89**

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of Lowe's Variety & Meat Shop, Inc., for a Special Permit, Groundwater Protection Overlay District, to allow an above-ground generator with a self-contained diesel fuel storage tank to be located behind the building at 255 West Main Street, in Groundwater Protection Overlay District Area 3, Map 82, Parcel 16.

APPLICATION

- 1.. On May 22, 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 7-07-010D(3)(c)[5] Groundwater Protection Overlay District, Use Regulations, of the Northborough Zoning Bylaw, to allow an above-ground generator with a self-contained diesel fuel storage tank to be located behind the building at 255 West Main Street, in Groundwater Protection Overlay District Area 3.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on June 10, 2013 and June 17, 2013, and was mailed to abutters and other parties in interest on June 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 deed for a parcel of land on the southeasterly side of West Main Street, recorded at the Worcester District Registry of Deeds on March 23, 1961, Book 4180 Page 530; Book 7018 Page 166; Book 14238 Page 160; and Book 14308 Page 80;
 - b. A 13-page proposal and equipment document from Generac Authorized Services of New England, LLC, to Lowe's Meat Market, dated March 22, 2013, Reference: Lowe's Meat Market;
 - c. A certified abutters list of parcels 300 feet from 243-265 West Main Street, dated 5/15/13; and
 - d. Two Northborough, MA GIS Viewer maps entitled "Maney's Plaza", for property located at 243-265 West Main Street, dated 5/14/13, dated-stamped by the Town Clerk's office on May 22, 2013.

2. A letter to Richard Rand, Chairman, Zoning Board of Appeals, from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated June 24, 2013, RE: 243-265 West Main Street, Map 82, Parcel 16.

HEARING

Tom Lowe, owner of Lowe's Variety & Meat Shop, Inc., presented the Application at a duly noticed public hearing of the Board on June 26, 2013, in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Richard Rand, Dick Kane, Fran Bakstran, Mark Rutan and Brad Blanchette were present throughout the proceedings.

Mr. Lowe explained he is proposing to locate an above-ground Generac generator behind his store at 255 West Main Street, in Maney's Plaza, which is located in a groundwater overlay district. The generator will have a self-contained 189-gallon diesel fuel storage tank.

Mr. Lowe stated the generator will avoid loss of electricity from major storms and other emergency situations, and will allow him to keep his perishable goods from spoiling, and his store open to the public.

No one spoke in opposition to the project and the Board did not receive any letters in opposition to the project.

The hearing was closed on June 26, 2013.

FINDINGS OF FACT

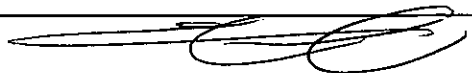
1. The subject store, Lowe's Variety & Meat Shop, Inc., at 255 West Main Street, is part of Maney's Plaza located at 243-265 West Main Street. It is in the Business West and Residential C Districts, and in Groundwater Protection Overlay District Area 3.
2. The Applicant, Tom Lowe, Lowe's Variety & Meat Shop, Inc., proposes to use an above-ground Generac generator with a self-contained 189-gallon diesel fuel storage tank behind his store. The use of a commercial or industrial activity involving the storage of toxic or hazardous materials within a self-contained diesel fuel storage tank is allowed by Special Permit per Section 7-07-010D(3)(c)[5], Groundwater Protection Overlay District, Use Regulations, of the Northborough Zoning Bylaw.
3. The proposed above-ground generator will be on a pad in a weather-proof enclosure located behind Lowe's Variety & Meat Shop, beside new electrical meters. The diesel fuel storage tank will be double-walled and will have an electronic leak detector connected to the subject store at 255 West Main Street.
4. In a letter to Richard Rand, Chairman, Zoning Board of Appeals, from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated June 24, 2013, RE: 243-265 West Main Street, Map 82, Parcel 16, the Groundwater Advisory Committee recommended approval of the application at their meeting on June 11, 2013.
5. The use of an above-ground generator with a self-contained, double-walled diesel fuel storage tank in a weather-proof enclosure behind the building at 255 West Main Street and next to new electrical meters, is an appropriate location for the use, will not adversely affect any neighborhoods in the area and will cause no nuisance or serious hazards to vehicles or pedestrians.
6. Adequate and appropriate facilities will be provided for the proper operation of the use of an above-ground generator with a self-contained, double-walled diesel fuel storage tank in a weather-proof enclosure on a pad located next to new electrical meters behind Lowe's Variety & Meat Shop, Inc., at 255 West Main Street.

7. The use of an above-ground generator with a self-contained diesel fuel storage tank behind the building at 255 West Main Street meets the purpose and intent of, and will not derogate from the purpose of, the Groundwater Protection Overlay District. It will not, during construction or thereafter, impair ambient groundwater quality or reduce existing recharge capacity beyond that allowed in Section 7-07-010 of the Northborough Zoning Bylaw; and it will not adversely affect the quality or yield of an existing or potential water supply.
8. The proposed above-ground generator with a self-contained diesel fuel storage tank will conform to any special requirements of the special permit granting authority as stated in its written decision.
9. The proposed above-ground generator with a self-contained diesel fuel storage tank will have no impact on the natural environment, historic development patterns of the town, or historically significant buildings.

DECISION

1. **On June 26, 2013**, after due consideration of the Application, the Board voted unanimously to **GRANT a SPECIAL PERMIT** per Section 7-07-010D(3)(c)[5], Groundwater Protection Overlay District, Use Regulations, of the Northborough Zoning Bylaw, to allow the use of an above-ground generator with a self-contained diesel fuel storage tank behind the store located at 255 West Main Street, in Groundwater Protection Overlay District Area 3, to provide auxiliary power to Lowe's Variety & Meat Shop, Inc., with the following conditions:
 - a. The overall capacity of the tank shall not exceed 200 gallons of diesel fuel;
 - b. The tank shall be equipped with double-wall containment with leak detection and an alarm; and
 - c. The applicant shall provide the Town Engineer with an as-built plan verifying the location of the generator and verifying the generator is equipped with the accessories as outlined above (item a.) and in the application as submitted.
2. 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.
3. 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."
4. If the rights authorized by the **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

A handwritten signature in black ink, appearing to read 'Fran Bakstran', written over a horizontal line.

FRAN BAKSTRAN, CHAIRMAN