



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## DECISION

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**ZBA CASE NO. 13-27**

**PROPERTY LOCATION: 367 West Main Street, Unit F**

**PETITIONER: Coram Healthcare Corporation of Massachusetts**

**PROPERTY OWNER: Edward Hartunian**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 20811 Pg: 84**

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of Coram Healthcare Corporation of Massachusetts for a Special Permit, Groundwater Protection Overlay District, to allow the use of an infusion therapy pharmacy which specializes in injectable medicine, and which includes the storage of potentially hazardous materials on-site, on the property located at 367 West Main Street, Unit F, in Groundwater Protection Overlay District Area 2, Map 81, Parcel 18.

## APPLICATION

1. On December 26, 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)(b)[6], Groundwater Overlay Protection District, to allow the use of an infusion therapy pharmacy which specializes in injectable medicine, and which includes the storage of potentially hazardous materials on-site, on the property located at 367 West Main Street, Unit F, in Groundwater Protection Overlay District Area 2.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on January 13, 2014 and January 20, 2014, and was mailed to abutters and other parties in interest on December 31, 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 57-page document entitled "Exhibit A;
  - b. A Quitclaim Deed for 361-367 West Main Street, Northborough, MA 01532, recorded at the Worcester District Registry of Deeds on 12/20/13, Bk: 20811, Pg: 84; and
  - c. A certified abutters list for parcels 300 feet from 363-367 West Main Street, including a cover sheet signed by Mary E. Carey, for the Town of Northborough Board of Assessors, dated December 19, 2013; a map entitled "Northborough MA GIS Viewer" for 363-367 West Main Street, dated 12/19/13; and Commercial Property Record Card for 363-367 West Main Street, dated 12/19/13.
2. An 11" x 17" plan entitled "Coram – Northborough, MA, 367 West Main Street, Northboro, MA", prepared by LK design group, dated September 17, 2013; and
3. A letter to Fran Bakstran, Chairman, Zoning Board of Appeals, from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated January 28, 2014, Re: 367 West Main Street.

## **HEARING**

Robert Plitnick, Pharmacist, Coram Healthcare Corporation of Massachusetts, presented the Application at a duly noticed public hearing of the Board on January 28, 2014 in Conference Room B of the Northborough Town Hall. Board members Fran Bakstran, Mark Rutan, Robert Berger, Jeffrey Cayer and Brad Blanchette were present throughout the proceedings.

Mr. Plitnick explained Coram Healthcare Corporation of Massachusetts is seeking a Special Permit to operate an infusion therapy pharmacy at 367 West Main Street, Unit F, which is located in a Groundwater Protection Overlay District. He explained the infusion therapy pharmacy specializes in injectable medicine. Coram Healthcare works with visiting-nurse agencies and has their own medical staff, as well. Patients are serviced almost exclusively at their homes and Coram Healthcare may have contracts to deliver to other facilities. The Coram Healthcare facility will most likely deliver the first dose of medicine a patient will receive, and subsequent deliveries would be done by FedEx or another carrier. It is rare that a patient would be seen at the facility. Coram Healthcare is a dispensary, not a medical center.

Mr. Plitnick stated the Application includes a small list of hazardous materials (Exhibit A). These hazardous materials will be stored in a flame-retardant storage unit in the building. Outdated medicines are returned to the vendors. Chemotherapy products are not considered first-dose medicines and would not be located on-site. Narcotics, in the form of pain medication, are located on-site and security for the site will meet the requirements of the Board of Pharmacy. He noted they have not had an issue with spills or combustibles.

In response to a question from resident Patti Kress, 60 Old Colonial Way, Mr. Plitnick stated most of the carriers use cars, vans or mini-vans, not large trucks.

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

The hearing was closed on January 28, 2014.

## **FINDINGS OF FACT**

1. The subject property at 367 West Main Street, Unit F, is located in the Business West District and Groundwater Protection Overlay District Area 2.
2. The Applicant, Coram Healthcare Corporation of Massachusetts, is proposing to operate an infusion therapy pharmacy which specializes in injectable medicine, and which includes the storage of potentially hazardous materials on-site. Due to the handling and storage of hazardous materials proposed to be used at 367 West Main Street, Unit F, located in Groundwater Protection Overlay District Area 2, a Special Permit per Section 7-07-010D(3)(b)[6] of the Northborough Zoning Bylaw is required.
3. The use of an infusion therapy pharmacy in the underlying Business West zoning district is allowed by right.
4. A document submitted by the Applicant (in Exhibit A), identified as "Requisition No. LPR135241" dated 12/6/13, indicates Coram Healthcare has purchased the required storage unit for the listed hazardous materials.
5. A 3-page document submitted by the Applicant (in Exhibit A), entitled "Coram Healthcare Corporation of Massachusetts, 367 West Main Street, Suite F, Northborough, MA 01532", is a revised inventory and list of hazardous materials to be stored on-site.
6. An updated set of Material Safety Data Sheets (MSDS), for all products indicated as hazardous, has been submitted by the Applicant (in Exhibit A).



7. A document submitted by the Applicant (in Exhibit A), entitled "Consent to Assignment of Purchase Agreement", indicates the Applicant has contracted with Sharps, Inc., their medical and hazardous waste hauler, and indicates the approximate quantity of waste to be stored.
8. A total of 4 employees will work on-site (in Exhibit A).
9. An 11" x 17" plan entitled "Coram – Northborough, MA, 367 West Main Street, Northboro, MA", prepared by LK design group, dated September 17, 2013, shows the pharmacy clean and prep room areas and their distance from the back of the building.
10. There are 70 parking spaces available on the site for the use of the proposed facility.
11. In a letter to Fran Bakstran, Chairman, Zoning Board of Appeals, from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated January 28, 2014, Re: 367 West Main Street, Suite F, Map 81, Parcel 18, Mr. Litchfield states the Groundwater Advisory Committee voted unanimously in favor of recommending approval of the requested Special Permit and offered conditions.
12. There will be no on-site disposal of any hazardous materials and no outside storage of toxic or hazardous materials. A flame-retardant locker for storage of the indicated hazardous materials will be used within the facility to avoid spillage or release of hazardous materials. Outdated medicines will be returned to their respective vendors. Security for the facility will meet the requirements of the Board of Pharmacy. Therefore, the use of a proposed pharmacy for infusion therapy at 367 West Main Street, Unit F, will not be detrimental to, or otherwise degrade the water resources or cause hazard to public health or ecological damage; will not adversely affect the quality or yield of an existing or potential water supply or reduce existing capacity beyond that which is allowed; and will not derogate from the purpose or intent of Chapter 7-07, Groundwater Protection Overlay District Area, of the Northborough Zoning Bylaw.
13. The use as presented cannot be reasonably altered without significant impairment to the operation of the infusion therapy pharmacy.
14. Several other businesses are located in the building in which Coram Healthcare proposes to be located, and there are businesses on parcels surrounding the subject property. Vehicles used for deliveries by Coram Healthcare during the operation of the infusion therapy pharmacy are cars, mini-vans, vans and other carriers including FedEx. Therefore, such use will not adversely affect the local neighborhood or pose a nuisance or hazard to vehicles or pedestrians given the nature of the operation.
15. The Applicant will conform to any special requirements of the special permit granting authority as stated in its written decision. The Applicant is prepared to provide such additional information as the Town may require.

## DECISION

1. On January 28, 2014, after due consideration of the Application, the Board voted unanimously to **GRANT** a **SPECIAL PERMIT** per Section 7-07-010D(3)(b)[6], Groundwater Overlay Protection District, to allow the storage and handling of hazardous liquids associated with the proposed operation of an infusion therapy pharmacy on the property located at 367 West Main Street, Unit F, in Groundwater Protection Overlay District Area 2, with the following conditions:
  - a. The applicant must demonstrate and certify on an annual basis to the Building Department and Board of Health that all applicable federal, state and Town of Northborough licenses, permits and standards for the handling, use, storage and disposal of any regulated materials have been obtained or met.

- b. The floor plan shall be revised to show the location of the flame retardant locker for storing the sharps containers or the hazardous waste container, prior to the issuance of an occupancy permit.
- c. Adequate parking must be verified with the Building Inspector in accordance with the Zoning Bylaw prior to the issuance of a building permit.
- d. All listed chemicals shall be kept within the flame retardant locker at all times:

Manufacture Number	Description	Quantity
7241-01	Epinephrine	10 @ 1mg/ml
6510-25	Selenium	10 @ 10ml vials
EN22	9 volt batteries	50
EN91	AA Batteries	20
PC1400	C Batteries	24
82-287	Chlorhex Scrub	4 @ 8 ounce bottles
8416	Alcohol Filtered Cidehol	24 @ 16 ounce bottles (3 gallons)
6395-57	Surgical Foaming Scrub	4 @ 5.4 ounce cans
50-5167	Defense Floor Sealer	4 gallons
50-5171	Superguard Floor Sealer	1 @ 5 gallons

- e. If any site plan changes are proposed to provide additional parking spaces, an as-built site plan shall be submitted to the Town Engineer for approval prior to the issuance of a certificate of occupancy. The as-built plan shall include, at a minimum, and as applicable to the project, a permanent benchmark, elevation of all pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. Upon approval by the Town Engineer one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town's GIS system and the Town's vertical datum (U.S.G.S. Datum of 1988).
  - f. Any additions to the list of hazardous materials (Exhibit A) will require the Applicant to file with the Zoning Board of Appeals for an amendment of this decision.
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. 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**

  
FRAN BAKSTRAN, CHAIRMAN