



DEVAL L. PATRICK
GOVERNOR

ANDREA J. CABRAL
SECRETARY

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Fire Safety Commission

Automatic Sprinkler Appeals Board

P.O. Box 1025 ~ State Road

Stow, Massachusetts 01775

(978) 567-3181 Fax: (978) 567-3121

MAURICE M. PILETTE
CHAIRMAN

RODERICK J. FRASER, JR.
VICE CHAIRMAN

Docket # 2013-02
75 Finnell Drive
Weymouth, Massachusetts

AUTOMATIC SPRINKLER APPEALS BOARD DECISION

A) Statutory and Regulatory Framework

This is an administrative appeal held in accordance with Massachusetts General Laws Chapter 30A; Chapter 148, s. 26G; Chapter 6, section 201, relative to a decision of the Weymouth Fire Department, ordering the installation of automatic sprinklers throughout a building complex and planned addition located at 75 Finnell Drive, Weymouth, Massachusetts. The complex features a facility known as the Weymouth Club (hereinafter referred to as the Appellant).

B) Procedural History

By written decision received by the Appellant on January 17, 2013, the Weymouth Fire Department issued a determination to the Appellant, requiring automatic sprinklers to be installed throughout a building complex and a planned addition located at 75 Finnell Drive, Weymouth, MA. The determination was issued pursuant to the provisions of M.G.L. c. 148 s. 26G. On February 19, 2013, the Appellant filed an appeal of the decision with the Automatic Sprinkler Appeals Board. The Board held hearings on two dates relative to this matter at the Department of Fire Services, Stow, Massachusetts.

Appearing at a March 13, 2013 hearing on behalf of the Appellant was: Attorney Gregory F. Galvin; James Hass, Construction Manager; and Kristian Jenkus, Director of Operations for the Weymouth Club. Appearing on behalf of the Weymouth Fire Department was Chief Joseph L. Davis and Justin Myers. At the hearing it was determined by the Board, with agreement of the parties, that a continuation of this matter was necessary to obtain and review additional information.

Present for the Board at the March 13, 2013 hearing was: Maurice M. Pilette, Chairman; Richard Magee, designee of the Commissioner of the City of Boston; Anthony DiNatale; Alexander MacLeod; Chief Thomas Coulombe; and George A. Duhamel. Peter A. Senopoulos was the Attorney for the Board.

The second hearing was held on May 8, 2013. Appearing at this hearing on behalf of the Appellant was: Attorney Gregory F. Galvin and Stephen E. Goldman, owner of the Weymouth Club. Appearing on behalf of the Weymouth Fire Department was Chief Joseph L. Davis and Justin Myers.

Present for the Board at the May 8, 2013 hearing was: Maurice M. Pilette, Chairman; Richard Magee, designee of the Commissioner of the City of Boston; Alexander MacLeod; Peter Gibbons; and George A. Duhamel. Peter A. Senopoulos was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the Board should affirm, reverse or modify the determination of the Weymouth Fire Department requiring sprinklers in the Appellant's building, in accordance with the provisions of M.G.L. c.148 s. 26G ?

D) Evidence Received

1. Application for Appeal by Appellant
2. Memorandum in Support of Appeal
3. Order of Notice of the Weymouth Fire Department
4. Notice of Hearing to Appellant
5. Notice of Hearing to Weymouth Fire Department
6. Copies of two Memoranda that accompany Hearing Notices
7. Submission Package from Weymouth Fire Department (including Index)
 - 7A. Letter to Appellant's Attorney from Weymouth Fire Department (March 11, 2013)
 - 7B. Order of Notice to Appellant from Weymouth Fire Department (January 17, 2013)
 - 7C. Notice of hearing to Weymouth Fire Department (February 20, 2013)
 - 7D. Town of Weymouth Property Card – 75 Finnell Drive (page 1)
 - 7E. Town of Weymouth Property Card – 75 Finnell Drive (page 2)
 - 7F. Map of building and surrounding areas (labeled Town of Weymouth Property Viewer)
 - 7G. Photograph of exterior of building (front view)
 - 7H. Photograph of lower elevation of building (left side)
 - 7I. Photograph of parking lot and rock wall (right side)
 - 7J. Photograph of exterior building/white fence (partial front)
 - 7K. Photograph of lower elevation of building (left side)
 - 7L. Photograph of building with Weymouth fire vehicle (partial right)
 - 7M. Interior of Facility showing the building elements
 - 7N. Photograph of pump system (sprinkler main)
 - 7O. Photograph of chlorine tank
8. Plans for Weymouth Club (pages 1-5)
9. 2nd Notice of Hearing to Appellant
10. 2nd Notice of Hearing to Weymouth Fire Department

E) Subsidiary Findings of Fact

- 1) By written decision received by the Appellant on January 17, 2013, the Weymouth Fire Department issued a determination to the Appellant, requiring automatic sprinklers to be installed throughout a complex of buildings and a planned addition which the Appellant is proposing to construct. The complex is located at 75 Finnell Drive, Weymouth, MA. The determination was issued pursuant to the provisions of M.G.L. c. 148 s. 26G. On February 19, 2013, the Appellant filed an appeal of the decision with the Automatic Sprinkler Appeals Board.
- 2) The Appellant testified that the building complex at issue is a health club with tennis courts and several swimming pools. The buildings are connected and consist of approximately 138,000 s.f. One of these buildings is an air supported structure that houses a swimming pool and is erected less than 180 days per year. During such times, this temporary structure, particularly during periods of inclement weather, is sometimes dismantled and re-erected. The Appellant is proposing to add additional space to the permanent portion of the complex which features a tennis court. The addition will extend the second level over the tennis court. This new space would then be used for various types of exercise, conference rooms and lounge areas. The second floor of this new space would remain as open space.
- 3) The representatives of the Appellant indicated that they agree, in general, that the building complex is subject to the provisions of M.G.L. c. 148 s. 26G. The Appellant intends to install sprinklers throughout the complex. However they are requesting that the sprinklers be installed in a timeline that coincides with the phases of the project. They are seeking a “phased in” installation schedule due to the substantial cost, extent of the work which will be conducted in phases and the activity’s impact on the ongoing business activity.
- 4) Both parties testified that they met and agreed that the subject complex requires sprinklers to be installed in accordance with M.G.L. c. 148, s. 26G. The Weymouth Fire Department agrees with the phased in sprinkler installation schedule outlined in the letter dated May 7, 2013 and submitted into the record by the Appellant as Exhibit # 11. The Weymouth Fire Department’s agreement takes into consideration the size of the project, costs and impact on the business. The representatives from the Weymouth Fire Department also agreed with the Appellant’s position that the air supported structure, including the “air-lock” point of connection with the permanent building, is a temporary structure not subject to the sprinkler provisions.

F) Ultimate Findings of Fact and Conclusions of Law

- 1) The provisions of M.G.L. c. 148, s. 26G, states, (in pertinent part): “Every building or structure, including any additions or major alterations thereto, which totals, in the aggregate, more than 7,500 gross square feet in floor area shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code.”
- 2) The provisions of the law apply to “the construction of buildings, structures or additions or major modifications thereto, which total, **in the aggregate** (emphasis added), more than 7,500 gross square feet permitted after January 1, 2010” (Sec. 6, Chapter 508 of the Acts of 2008).

- 3) The Board finds that the construction activity, including the addition of new space at this building complex is clearly subject to the enhanced sprinkler requirements of M.G.L. c.148, s. 26G. Accordingly, the Board finds that an adequate sprinkler system is required throughout the building complex, including the proposed addition. At the hearing, the representative for the Appellant did not provide any factual, technical or legal basis to support a contrary finding. The Board also finds, based upon the evidence presented, that the air supported structure and associated air-lock portion connected to the permanent structure is erected less than 180 days per year and is subject to occasional dismantling and reassembly due to adverse weather. Accordingly, the Board finds that this air-supported structure and associated air-lock portion is a temporary structure and not subject to the provisions of s. 26G.
- 4) The Board further finds that a phased-in installation schedule is warranted based upon the nature and extent of the long term project and financial considerations. The Board's decision in this regard also relied upon the concurrence of the Weymouth Fire Department in this regard.

G) Decision of the Automatic Sprinkler Appeals Board

Based upon the evidence and testimony presented at the hearing, the Board hereby **upholds** the Order of the Weymouth Fire Department and finds that a sprinkler system shall be installed in accordance with the timeline stated in the confirmatory letter dated May 7, 2013, and signed by the parties (referenced as Exhibit # 11). Such schedule is incorporated herein by reference as part of this decision.

The Board notes that its finding relative to the airborne structure and airlock is subject to the condition that such structure continues to be erected no more than 180 days per year.

H) Vote of the Board

Maurice M. Pilette	In Favor
Richard Magee	In Favor
Alexander MacLeod	In Favor
Peter Gibbons	In Favor
George A. Duhamel	In Favor

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I) **Right of Appeal**

You are hereby advised you have the right to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order, pursuant to section 14 of chapter 30A of the General Laws.

SO ORDERED,



Maurice Pilette, PE, Chairman

Dated: June 11, 2013

A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO:

Gregory F. Galvin, Esq.
775 Pleasant Street, Suite 16
Weymouth, Massachusetts 02189

Chief Joseph L. Davis
Weymouth Fire Department
636 Broad Street
Weymouth, Massachusetts 02189