



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

Automatic Sprinkler Appeals Board

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Docket # 2016-02
10 Naquoag Street
Rutland, Massachusetts

AUTOMATIC SPRINKLER APPEALS BOARD DECISION

A) Statutory and Regulatory Framework

This administrative appeal is held in accordance with Massachusetts General Law, Chapter 30A; Chapter 148, section 26G and Chapter 6, section 201, to determine whether to affirm, reverse or modify the decision of the Rutland Fire Department requiring the Appellant, Clealand B. Blair, Sr. of C.B. Blair Development Corp. (hereinafter "Appellant"), to install automatic sprinklers in a building and addition owned by the Appellant located at 10 Naquoag Street, Rutland, MA.

B) Procedural History

By written notice received by the Appellant on January 25, 2016, the Rutland Fire Department issued a determination to the Appellant, requiring automatic sprinklers to be installed throughout an existing building and addition thereto, owned by the Appellant located at his property, 10 Naquoag Street, Rutland, MA. The determination was issued pursuant to the provisions of M.G.L. c. 148 s. 26G. On January 27, 2016, the Appellant filed an appeal of the determination with the Automatic Sprinkler Appeals Board. The Board held a hearing on March 9, 2016, at the Department of Fire Services, Stow, Massachusetts.

Appearing on behalf of the Appellant was Attorney George Kiritsy and Clealand B. Blair, Sr. Appearing on behalf of the Rutland Fire Department was Deputy Chief Seth Knipe.

Present for the Board were: Maurice M. Pilette Chairman; Peter Gibbons, Vice Chairman; Peter Gibbons; State Fire Marshal Peter J. Ostroskey; Alexander MacLeod; and Aime DeNault. Peter A. Senopoulos, Esquire, was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the decision of the Head of the Fire Department requiring sprinklers in the building located at 10 Naquoag Street, Rutland, MA, should be affirmed, reversed or modified?

D) Evidence Received

1. Application for Appeal filed by Appellant
2. Letter/Statement in Support of Appeal
3. Order of Notice from the Rutland Fire Department
- 4A. Main Street Elevation
- 4B. Floor Plan including Existing Garage
- 4C. Plot Plan
- 4D. Proposed New Garage Plan – Foundation
- 4E. Proposed New Garage Plan – East/West and Main Street Elevations
- 4F. Proposed New Garage Plan – Plan Showing New Garage and Existing Structure
5. Notice of Hearing to Appellant
6. Notice of Hearing to Rutland Fire Department
7. Copies of two Memoranda that accompany Hearing Notices

E) Subsidiary Findings of Fact

- 1) By written notice received by the Appellant on January 25, 2016, the Rutland Fire Department issued a determination to the Appellant, requiring automatic sprinklers to be installed throughout an existing building and a recent addition thereto, owned by the Appellant and located at his property, 10 Naquoag Street, Rutland, MA. The determination was issued pursuant to the provisions of M.G.L. c. 148 s. 26G. On January 27, 2016, the Appellant filed an appeal of the determination with the Automatic Sprinkler Appeals Board. The Board held a hearing on March 9, 2016, at the Department of Fire Services, Stow, Massachusetts.
- 2) Counsel for the Appellant testified that he is the owner of C.B. Blair Development Corp. which owns the building located at 10 Naquoag Street in Rutland, MA. The existing 6 bay garage is approximately 8,712 s.f. in size and is used as a commercial construction garage. The property also houses a vehicle inspection sticker business. The single story, 2 bay garage addition to the existing building is approximately 1,250 s.f. in floor area.
- 3) The Appellant testified that before he began constructing the new 1,250 s.f. addition, he consulted with representatives of both the Rutland Fire Department and Building Department who advised him that if the entire building was less than 12,000 s.f. in floor area, sprinklers would not need to be installed in the building.
- 4) The Appellant indicated that later, after the excavation and foundation had been poured for the addition, he was contacted by the Fire Chief who indicated that he had been mistaken in his assessment of the sprinkler issue. It was at that time that the chief stated that the construction of the additional space to the existing building exceeded 7,500 s.f. in the aggregate, and that sprinklers would need to be installed throughout in accordance with the provisions of M.G.L. s. 26G.
- 5) At the hearing, the representatives of the Appellant did not dispute the facts to support a finding that the construction of the addition combined with the aggregate total floor area, now triggers sprinkler installation under s. 26G. The Appellant/owner testified that if he had known that sprinklers would be required, he would not have built the addition and asked that the Board grant a “variance” from the sprinkler installation. Upon the Board’s inquiry, the Appellant indicated that if the Board upheld the decision of the fire department, additional time was not needed to install the sprinkler system.

- 6) Deputy Chief Knipe of the Rutland Fire Department appeared on behalf of the Fire Department, as the Fire Chief has been on leave. Deputy Knipe indicated that the Order of Notice was issued since the construction triggers the installation of sprinklers, under s. 26G, as the building is now well over 7,500 s.f. in the aggregate. Furthermore, Deputy Knipe testified that he believes sprinklers should not be waived, based upon the characteristics and use of the building. The garage is used in the operation of a business that inspects and repairs heavy construction trucks and the building is used overnight to store two 3,000 gallon home heating oil trucks.
- 7) Deputy Knipe indicated that if sprinklers were ordered by the Board, there is an adequate water supply, via a 12 inch water line in to the property.

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.” This law, as stated, reflects amendments to the statute in 2008. The provisions apply to “the construction of buildings, structures or additions or major modifications thereto, which total, in the aggregate, more than 7,500 gross square feet *permitted after January 1, 2010*”. (Sec. 6, Chapter 508 of the Acts of 2008). The legislative activity to amend the provisions of M.G.L. c. 148, s. 26G arose in the aftermath of a tragic commercial building fire, which occurred in Newton, Massachusetts in February 2000, resulting in the death of five individuals. Over the past decades, a long series of significant additions and /or alterations were made to the building without the need to update or enhance the building’s fire protection systems. The intent of the 2008 amendment was to close this compliance loop hole. The elimination of the limiting words “addition only,” from the pre-existing law and the requirement that the square footage determination be conducted “in the aggregate” indicate the clear intent of the Legislature to require enhanced sprinkler protection throughout the building when the building is added to and if the gross s.f. of the additional space, combined with the existing building, totals more than 7,500 s.f. “in the aggregate.”
- 2) The existing building, combined with the newly constructed addition, consists of approximately 9,962 s.f., in the aggregate, of floor area. This amount is clearly more than the 7,500 gross square feet, which triggers the provisions of s. 26G. The Appellant did not contest this finding and did not ask for any extension of time to install sprinklers.
- 3) The Appellant failed to submit any evidence of substance to support a determination of this board to grant a variance or waiver from the provisions of s. 26G. The Board notes that the 12,000 s.f. floor area referenced by the representative of the Appellant which may have cause some confusion in the enforcement of s. 26G, appears to be a reference to the floor area threshold that triggers sprinkler requirements for certain buildings under the provisions of the State Building Code. However, the threshold that requires enhanced sprinkler protection under the provisions of s. 26G, are clearly separate and distinct from those of the State Building Code.

G) Decision and Order of the Automatic Sprinkler Appeals Board

Based upon the evidence presented to the Board and for the reasons stated herein, the Board hereby **upholds** the Order of the Rutland Fire Department to require sprinklers throughout the building pursuant to the requirements of M.G.L. c. 148, s. 26G.

Installation of an adequate system of sprinklers shall be installed and completed prior to the issuance of a Certificate of Occupancy from the Town of Rutland.

H) Vote of the Board

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| Maurice Pilette, Chairman | In Favor |
| Peter Gibbons, Vice Chair | In Favor |
| Peter J. Ostroskey, State Fire Marshal | In Favor |
| Alexander MacLeod | Opposed |
| Aime DeNault | In Favor |

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, P.E., Chairman

Dated: April 5, 2016

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

Clealand Blair, Sr.
C.B. Blair Development Corp.
87 Main Street
Rutland, MA 01543

George P. Kiritsy, Esq.
294 West Boylston Street
West Boylston, MA 01583

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