



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Fire Prevention Regulations Appeals Board
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THOMAS A. TURCO, III
SECRETARY

Docket # 2020-03
190R Washington Street
Brighton, Massachusetts

FIRE PREVENTION REGULATIONS APPEALS BOARD

A) Statutory and Regulatory Framework

This matter is an administrative appeal filed in accordance with Massachusetts General Laws Chapter 22D, section 5. The Appellant is seeking the Board of Fire Prevention Regulation's review of a decision of the Boston Fire Department to deny a site plan/fire department access plan filed with a building permit as it relates to a proposed single family home to be located at 190R Washington Street, Brighton, Massachusetts. The owner of the subject property is Peter Ofman (hereinafter referred to as the Appellant).

B) Procedural History

By notice dated June 22, 2020 and received by the Appellant on June 22, 2020, the Boston Fire Department rejected a site plan filed with the building department as it relates to a proposed single family structure to be located at 190R Washington Street, Brighton, Massachusetts. The Boston Fire Department determined that as proposed, the fire department access in said plan would violate 527 CMR 1.00, Chapter 18, specifically 18.2.3.2.1.1, 18.2.3.2.2.1, and 18.2.3.4.1.1.

On August 5, 2020, the Appellant filed a timely appeal of the Boston Fire Department's determination with the Fire Prevention Regulations Appeals Board. Per Governor Charles D. Baker's Emergency Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, s. 20 signed and dated March 12, 2020 and in effect at the time, the Board held a video conference hearing on this matter on September 23, 2020.

Appearing on behalf of the Appellant was: Peter Ofman and Jeremy Dolan, Fire Protection Specialist, Zade Associates, LLC. Appearing on behalf of the Boston Fire Department was: Deputy Chief Brian P. Tully Sr., Fire Marshal; Paul Donga, Head Fire Protection Engineer, Boston Fire Department; and Thomas O'Donnell, Fire Protection Specialist, Boston Inspectional Services Department.

Present for the Board were: Anthony P. Caputo, Presiding Panel Member; Chief William LaLiberty; and Paul C. Scheiner. Glenn M. Rooney, Esq., was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the Board should affirm, reverse or modify the decision of the Boston Fire Department regarding the proposed site plan/fire department access plan in accordance with 527 CMR 1.00, Chapter 18?

D) Evidence Received

1. Application for Appeal by Appellant
2. Order of Notice from the Boston Fire Department (dated 6/22/2020)
3. Fire Protection System Narrative Report for 190R Washington St., Brighton from Zade Engineering (dated 7/24/2020)
4. Plan for Fire Department drawn by Peter Nolan & Associates, LLC (Undated)
- 5A. Proposed Fire Protection Plans from Design Khalsa (dated 7/24/2020)
- 5B. Proposed Fire Alarm Plans from Design Khalsa (dated 7/24/2020)
- 6A. Utility Basement Hydraulic Calculations from Zade Associates LLC Consulting Engineers (Undated)
- 6B. Residential Hydraulic Calculations from Zade Associates LLC Consulting Engineers (Undated)
- 6C. Attic Storage Hydraulic Calculations from Zade Associates LLC Consulting Engineers (Undated)
7. Notice of Hearing to Appellant (dated 8/11/2020)
8. Notice of Hearing to Boston Fire Department (dated 8/11/2020)
9. Memorandum regarding Remote Hearing Procedures (dated 5/7/2020)
10. Copy of Guidance Document that accompanies Hearing Notices (dated 5/1/2020)
11. Photographs submitted by the Boston Fire Department (marked 11A-11L)
12. Photos submitted by the Appellant (marked 12A-12E)
13. Photo submitted by the Boston Fire Department

E) Findings of Fact

1. The Appellant sought this Board's review of the Boston Fire Department's decision Pursuant to the provisions of M.G.L. c. 22D, s. 5. At the hearing, the Appellant's testified that the subject property is currently an empty lot of land located off of Washington Street in Brighton, Massachusetts where he has proposed to build a single family dwelling on a parcel approximately 4,400 s.f. in size. The home would be 34' feet tall and 4,128 s.f. in size with a basement, two floors of living space and an attic.
2. The Appellant's Fire Protection Specialist testified that the proposed single family building and accompanying lot would be an zoned as "R3" and that he proposed to install an NFPA 13 sprinkler system with a fire alarm as an alternative to complying with the code requirement for fire department access roads.
3. In support of the Boston Fire Department's position, Deputy Chief Tully testified that the Department is opposed to this project due to life safety concerns and water access issues. As currently proposed, this project does not comply with the requirements of 527 CMR 1.00, Chapter 18 which requires that a twenty (20) foot access way be provided,

which would allow a fire department apparatus to gain access within twenty-five feet of the front door.

4. Deputy Chief Tully testified that the current lot is completely landlocked by other buildings on all sides and expressed concern about the lack of aerial ladder access to this proposed structure. Deputy Chief Tully indicated that without aerial ladder access to the proposed 35 ft. roof, the fire department would be required to use ground ladders that are fifty feet in height, weigh two-hundred and fifty (250) pounds and require five firefighters to operate.
5. In regard to water supply issues, Deputy Chief Tully further stated that the nearest hydrant to the proposed property is approximately 180 to 200 feet away at 192 Washington Street. Deputy Chief Tully indicated that while sprinklers help, if there was a fire at the proposed home, it would be a very labor intensive response, requiring the department to pump water onto the property through multiple, large hose lines at an extended distance. The Appellant did not dispute the distance(s) to the nearest hydrant provided by the Boston Fire Department.
6. The Appellant stated that while he is aware that the property poses difficult access for fire trucks, sprinklers in the proposed property and multiple means of egress were suggested to address those concerns. The Appellant also stated that the fire department may be able to get access to area hydrants through passages on Monastery Road, Nantasket Avenue, and LaRose Place. The Boston Fire Department disputed this assertion, stating that they could not run hoses through other properties and that responding engine companies do not carry enough hose to go to 100-125 ft. away as suggested by the Appellant.
7. ISD and Fire Protection Specialist Thomas O'Donnell testified that as of the date of this hearing, the City of Boston has not adopted the provisions of the so-called *Subdivision Control Law* in M.G.L. Chapter 41 Sections 81K-81GG or any type of similar zoning bylaws that would render 527 CMR 1.00, Chapter 18 inapplicable to the subject property.

F) Ultimate Findings of Fact and Conclusions of Law

1. The applicable sections of 527 CMR 1.00, Chapter 18 to the subject property are as follows:

527 CMR 1.00, 18.1 - Fire department access and water supplies shall comply with this chapter. The provisions of the chapter shall not apply to any city, or town which has accepted the provisions of M.G.L. Chapter 41, Section 81 *et. seq.* or similar laws which provide local jurisdiction over fire department access and water supply. In the absence of any such laws, fire department access and water supply shall comply with this chapter.

527 CMR 1.00, 18.2.3.2.1.1 - Where a new building, not provided with adequate frontage, is to be located behind an existing building that has frontage, a fire department access road shall extend to within 25 feet of at least one exterior door that be opened from the outside and that provides access to the interior of the building.

527 CMR 1.00, 18.2.3.2.2.1 - When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13: *Standard for*

Installation of Sprinkler Systems the Distance in Section 18.2.3.2.2 shall be permitted to be increased to 250 feet.

527 CMR 1.00, 18.2.3.4.1.1 - Fire department access roads shall have an unobstructed width of not less than 20 feet. Fire department access roads constructed in the boulevard-style shall be allowed where each lane is less than 20 feet but not less than ten feet when they do not provide access to a building or structure.

2. The City of Boston has not accepted the provisions of M.G.L. Chapter 41, Section 81 *et seq.*, the so-called *Subdivision Control Law*, or similar laws which provide local jurisdiction over fire department access and water supply. Accordingly, 527 CMR 1.00, Chapter 18 is controlling on the fire department access issues presented in this appeal.
3. As proposed, 190R Washington Street would not have adequate frontage and the subject project would be located behind existing buildings that have frontage. However, fire department access would not extend within twenty five (25) feet of at least one exterior door that can be opened from the outside and that provides access to the interior of the building. Further, fire department access roads, as proposed, would not have an unobstructed width of at least twenty (20) feet. As such, the Board finds that the proposed fire department access would be in violation of 527 CMR 1.00, 18.2.3.2.1.1, 527 CMR 1.00, 18.2.3.2.2.1 and 527 CMR 1.00, 18.2.3.4.1.1.

G) Decision and Order

Based upon the forgoing reasons, this Board **unanimously upholds** the Order of the Boston Fire Department to deny the site access/fire department access plan for the proposed property located at 190R Washington Street, Brighton, Massachusetts.

H) Vote of the Board

Anthony P. Caputo, Presiding Panel Member	In Favor
Chief William LaLiberty	In Favor
Paul Scheiner	In Favor

I) Right of Appeal

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

SO ORDERED,



Anthony P. Caputo, Presiding Panel Member
Fire Prevention Regulations Appeals Board

Dated: September 30, 2020

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

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