

*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*  
*Fire Prevention Regulations Appeals Board*

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SECRETARY

**Docket # 2020-05**  
**137 Mountain Street**  
**Haydenville, 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 Williamsburg Fire Department in determining that a newly constructed building located at 137 Mountain Road, Haydenville, Massachusetts is an "important building" as defined in NFPA 58 Table 6.3.1.1 and is subject to the requirements under 527 CMR 1.00, Chapter 69, 69.3.3. The owner of the subject building is the City of Northampton, Massachusetts (hereinafter referred to as the Appellant).

**B) Procedural History**

By notice dated March 11, 2020 and re-issued on August 20, 2020, the Williamsburg Fire Department determined that a newly constructed building located at 137 Mountain Road, Haydenville, Massachusetts is an "important building" as defined in NFPA 58 Table 6.3.1.1 and is subject to the requirements under 527 CMR 1.00, Chapter 69, 69.3.3. The Williamsburg Fire Department determined that the building was constructed with less than the allowable distance of fifty (50) feet to the pre-existing 18,000 gallon propane tank, in violation of 527 CMR 1.00, Chapter 69, specifically 69.3.3.

On September 25, 2020, the Appellant filed a timely appeal of the Williamsburg 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 October 22, 2020.

Appearing on behalf of the Appellant was: Alan Seewald, Esq., Northampton City Solicitor; Donna LaScaleia, Director, Northampton Department of Public Works; Chief Jon Davine, Northampton Fire Department; and David Pomerantz, Director of Central Services, City of Northampton. Appearing on behalf of the Williamsburg Fire Department was: Chief Jason Connell.

Present for the Board were: John Cox, Presiding Panel Member; Alfonso Ibarreta; and Robert MacKendrick. 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 Williamsburg Fire Department regarding the determination of the subject building as an “important building” as defined in NFPA 58 Table 6.3.1.1 and subject to the requirements under 527 CMR 1.00, Chapter 69, 69.3.3?

**D) Evidence Received**

1. Application for Appeal by Appellant
2. Statement in Support of Appeal
3. Re-issued Order of Notice from the Williamsburg Fire Department (dated 8/20/2020)
4. Original Order of Notice from the Williamsburg Fire Department (dated 3/11/2020)
5. Correspondence from Chief Connell of the Williamsburg Fire Department to Director Donna LaScaleia of the Northampton Department of Public Works (dated 5/12/2020)
6. Photograph of subject building and propane tank (Undated)
7. Aerial Map of subject property (source unknown)
8. Project plans of “Pole Barn Structure” located at 137 Mountain Street, Haydenville From Roy S. Brown, Architects and Robert W. Hall, Consulting Engineers (14 pages)
9. Notice of Hearing to Appellant (dated 8/11/2020)
10. Notice of Hearing to Williamsburg Fire Department (dated 8/11/2020)
11. Memorandum regarding Remote Hearing Procedures (dated 5/7/2020)
12. Copy of Guidance Document that accompanies Hearing Notices (5/1/2020)
13. Williamsburg Fire Department’s Submission Package in Support of Order of Notice
- 13A. NFPA 58 – Important Building\_NFPA Xchange Forum
- 13B. NFPA Handbook – Important Building 1.1 (Part D talks about what an important building is)
- 13C. NFPA 58 Handbook - Important Building 1.2 (Graphic)
- 13D. NFPA 30 FAQ (#4 talks about what an important building is)

**E) Findings of Fact**

1. The Appellant sought this Board’s review of the Williamsburg Fire Department’s decision pursuant to the provisions of M.G.L. c. 22D, s. 5. At the hearing, the Appellant’s witness, Donna LaScaleia, Director of the Department of Public Works, testified that the subject property is used as a water treatment plant for the City of Northampton, Massachusetts. The property is located along state highway Route 9 and is adjacent to the Mountain Street Reservoir, which serves as the water source for the City of Northampton.
2. The aerial photo submitted as Exhibit 7 shows the water treatment plant, its appurtenances including a well storage tank where chlorine is added before water enters the system; two lagoons, which are part of the treatment process; a large storage tank; the water treatment

plant; and the pre-existing 18,000 gallon propane tank. The newly constructed building is not noted in the photograph.

3. The plant sits on approximately 150 acres of land which is owned by the City of Northampton and is part of a larger grouping of land owed in the Town of Williamsburg, most of which owned/controlled in order to control water quality. The plant itself sits more than 600 feet from the road and more than 1,200 feet from the nearest occupied structure.
4. In late 2016, the City of Northampton decided to construct a garage on the site of the water treatment plant to house equipment that was used by the water department, as equipment had previously been stored outside and was degrading due to weather.
5. The subject building was described by Director LaScaleia as a multi-bay, pre-fab building, constructed by Morton, with a concrete slab and unheated, except for one heated bay, which is heated by propane. The building is 36 ft. x 72 ft. in size and is approximately 2,600 s.f. The building is strictly used for storage of vehicles and equipment, including: trucks with and without plows, a compressor truck, portable welders (used for thawing of frozen pipes), saws, and a skid steer with bucket. All equipment and vehicles stored on site are used for water purposes and repairs. When questioned as to why one bay of the garage is heated, Director LaScaleia indicated that it is used for the storage of a compressor, which must be stored at a temperature above 50 degrees Fahrenheit. It was confirmed that there are no restrooms, offices, break rooms or others spaces for employees to linger within the building.
6. The Appellant indicated that due to the determination of the Williamsburg Fire Department, the City of Northampton is unable to obtain a Certificate of Occupancy and therefore, the building is not currently being used. Both Director LaScaleia and Director Pomerantz testified that the Williamsburg Fire Department did not indicate that the placement of the building on the site was a problem, nor did anyone suggest that this building may be considered an “important building.”
7. In support of his Order, Chief Connell from the Williamsburg Fire Department testified that he did not know that the City of Northampton was building at this site until the garage structure had already been constructed and the City of Northampton was trying to obtain a Certificate of Occupancy.
8. In February 2020, Chief Connell stated that he visited the site and reviewed the building and discussed its operations and purpose with Director LaScaleia. Following that meeting, Chief Connell researched the definition of an “important building” and determined that the subject building was an “important building” based on: replacement value of the building, the value of the contents and human occupancy.
9. In addition, Chief Connell testified that due to the fact the building was located directly next to the largest propane tank in the town, the size/construction type of the building, and the equipment/materials that would be stored in the building, he believed that this building would not be considered expendable in an exposure fire, if the propane tank were to catch fire or explode. As a result, Chief Connell issued his Order, requiring the Appellant to move the pre-existing 18,000 gallon propane tank.

9. Chief Connell testified that as part of his decision process, he estimated the value of the vehicles that would be stored within the building as “high value contents” with a potential replacement value of \$20,000 or more.

**F) Ultimate Findings of Fact and Conclusions of Law**

1. The Order of the Williamsburg Fire Department dated March 11, 2020 and re-issued on August 20, 2020, was an enforcement action taken to correct a condition that the fire department deemed violations of NFPA 58 and 527 CMR 1.00, Chapter 69.
2. The Board reviewed the provisions of NFPA 58 and 527 CMR 1.00, Chapter 69, in addition to the documentation and testimony submitted by the Appellant and Williamsburg Fire Department at the hearing and determined that as constructed, the building at 137 Mountain Street, Haydenville, Massachusetts is directly adjacent to the pre-existing 18,000 gallon propane tank.
3. However, based upon the Appellant’s appeal application and testimony, the Board found that the subject building should **not** have been classified as an “important building” for a number of reasons, including: the garage location (on a large parcel of land in an unoccupied area of Williamsburg, away from occupied structures); while used by the Water Department, the building is not a control building that would require personnel for an orderly shutdown of water treatment operations; the building would be used strictly for storage of trucks and specialized equipment; and by if the building were to be lost to fire/explosion, all trucks and equipment could be readily replaced.

**G) Decision and Order**

Based upon the evidence received and testimony presented to the Board and for the reasons stated herein, the Board hereby **reverses** the Order of the Williamsburg Fire Department and has determined that the building in question located at 137 Mountain Street, Haydenville, Massachusetts is not an “important building” as defined in NFPA 58 Table 6.3.1.1 and is not subject to the Chief’s order to comply with 527 CMR 1.00, chapter 69, 69.3.3.

**H) Vote of the Board**

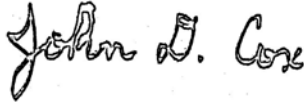
John Cox, Presiding Panel Member  
Alfonso Ibarreta  
Robert MacKendrick

Opposed  
In Favor  
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,



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John D. Cox, Presiding Panel Member  
Fire Prevention Regulations Appeals Board

Dated: October 27, 2020

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

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