



MAURA T. HEALEY
GOVERNOR

KIMBERLEY DRISCOLL
LIEUTENANT GOVERNOR

TERRENCE M. REIDY
SECRETARY

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

P.O. Box 1025 ~ State Road

Stow, Massachusetts 01775

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

LARRY S. FISHER
CHAIRMAN

Docket # 2024-03
2 Coppersmith Way
East Boston, Massachusetts

FIRE PREVENTION REGULATIONS APPEALS BOARD DECISION

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 determination 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 three story, three unit building to be located at 2 Coppersmith Way, East Boston, Massachusetts. The property is owned by Joseph Trichilo (hereinafter referred to as the Appellant).

B) Procedural History

By notice dated May 7, 2024 and issued by the Boston Fire Department, the Department rejected a site plan filed with the building department as it relates to a proposed three story, three unit building to be located at 2 Coppersmith Way, East Boston, 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 18.1.1.4 and 18.2.3.2.1.1.1.

On June 17, 2024, the Appellant filed an appeal of the Boston Fire Department's determination with the Fire Prevention Regulations Appeals Board. The Board held a video conference hearing on this matter on August 6, 2024.

Appearing on behalf of the Appellant were: Joseph Trichilo, Property Owner/Appellant; Trevor Rabideau, SLS Consulting, Life Safety Consultant; Eric Zachrison, Context Architecture, Project Architect; and Richard Lynds, Esq., Zoning Counsel. Appearing on behalf of the Boston Fire Department was: Captain Keith Kelly, Assistant Fire Marshal. Present for the Board were: Chief Richard Arruda, Presiding Chair; Patricia Sheehan; Dr. Paul Scheiner; and Keith Pogarian, Alternate. Rachel E. Perlman was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the Board should affirm, reverse or modify the determination 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 filed by Appellant (dated 6/17/2024)
2. Order of Notice from Boston Fire Department (dated 5/7/2024)
3. Print outs of “Guidance on ADU’s and Fire Safety: Reference of related Massachusetts Fire Code (527 CMR) and Building Code (780 CMR)” from the City of Boston website (3 pages) (dated December 2023)
4. Correspondence to the Appellant from ZADE Engineering, LLC regarding Proposed water services (dated 3/21/2022)
5. Correspondence to the Appellant from ZADE Engineering, LLC regarding Fire protections System (dated 6/13/2024)
6. Existing Site Plan of Land for subject property from Boston Survey, Inc. (dated June 2021)
7. Proposed Site Plan of Land for subject property from Boston Survey, Inc. (dated February 2023)
8. Site Plan 22117 for 2 Coppersmith Way, East Boston as prepared by Anthony A. Esposito (dated 10/25/2022)
9. Copies of photographs from the City of Boston Archives showing an old Multi family building on the subject site (pages 13-18)
10. Two (2) photographs showing new and updated homes on Coppersmith Way built in 2021
11. Annex B – Emergency Access
12. Photograph outfront of new installed fire hydrant
13. Traffic Management Plan for 2 Coppersmith Way, East Boston (dated 10/9/2023)
14. Plans for proposed project by Context (6 pages)
15. Geotechnical Data Summary Report from Geotechnical Partnership, Inc. (dated 7/28/2023)
16. Photographs of subject property
- 16A. Entrance onto Coppersmith Way from Liverpool Street
- 16B. Entrance onto Coppersmith Way from Border Street
- 16C. Photograph showing width of Coppersmith Way
- 16D. Photograph showing hydrant at the entrance of Coppersmith way with hydrant at the front of the proposed site
- 16E. Photograph from Border Street to Coppersmith Way (northbound)
- 16F. Photograph of Liverpool Street looking down the street to Coppersmith Way
- 16G. Photograph taken from Coppersmith Way showing new 4 story buildings located at 1 and 6 Coppersmith Way (left and right) – both built in 2021
17. Correspondence to Appeals Board from SLS Consulting, LLC regarding Analysis of lot line condition and justification for an alternative method request in accordance with 527 CMR 1.10.1.1 (3 pages) (dated 6/27/2024)
18. Fire Truck Turning plan from Hardy + Man Design Group, PC (Undated)
19. City of Boston Inspectional Services Department – Zoning Code Refusal (dated 10/29/2021)
20. E-mail correspondence from Deputy Chief Patrick Ellis, Fire Marshal, City of Boston to Board Assistant, Mary Lynch-Lent, regarding Appellant’s swept path

- Analysis (6 pages) (dated 6/24/2024)
- 21. Submissions from the Boston Fire Department
 - 21A. E-ONE Aerial Body plan for 95-Platform Aerial Ladder Truck (dated 08/1/2017)
 - 21B. Photograph of Coppersmith Way entrance from Liverpool Street

E) Subsidiary Findings of Fact

1. The Appellant sought this Board's review of the Boston Fire Department's denial of a site plan/fire department access plan filed with the Department under the provisions of M.G.L. c. 22D, s. 5. At the hearing, the Appellant's representative testified that the proposed plan is for a three story, three-unit building, equipped with sprinklers, to be constructed at 2 Coppersmith Way, East Boston, Massachusetts. The site is currently open space.
2. At the outset of the hearing, the parties stipulated that, although the Appellant failed to provide a swept path analysis to Boston Fire Department at the time of their initial review, as required by 527 CMR 1.00, 18.1.1.4, an analysis was provided by the Appellant to Boston Fire Department via e-mail (dated June 18, 2024) in advance of the hearing.
3. Mr. Rabidou, the Appellant's Life Safety Consultant, testified that Coppersmith Way is 10 feet wide and cannot be utilized as a fire department access road per the requirements of 527 CMR 1.00, Chapter 18. He stated that the nearest fire code compliant fire department access roads are Liverpool Street and Border Street, which are located at either end of Coppersmith Way.
4. The Appellant testified that the project was originally submitted to the City of Boston in 2021 and approved in 2022 as a four-story building. However, the plans were later revised to decrease the building to a smaller three story, fully sprinklered building. Each level would be an individual studio apartment, approximately 630 s.f. in size.
5. Mr. Zachrison, the project architect testified that the building would have a single staircase located at the front of the building, which would be a separated enclosure as required by State Building Code. In addition, there would be a private roof deck on the top of the building. The total height of that deck down to the sidewalk would be 37 feet. The building would have clearances of 4 ft. in the rear and on one side, while the other side would have 2 ft., 9 inches from the property line. The building front would be located on Coppersmith Way.
6. Mr. Rabidou testified that the Appellant is looking for a variance from the requirements of Chapter 18, based upon several factors. He stated that the building is required to be sprinklered as a Group R2 building under the State Building Code but because the proposed building is residential and under 12,000 s.f. in size, the minimum sprinkler requirement for the proposed building would be an NFPA 13R system. However, the Appellant and project team opted instead to design the sprinkler system as an NFPA 13 system, which allows for greater protection by installing sprinklers within concealed spaces and goes above and beyond the minimum requirements for a property of that size.
7. Mr. Rabidou stated that the request for a variance is to permit an exterior door to be located more than 25 feet away from the fire department access road. 527 CMR 1.00, 18.2.3.2.1.1.1 and 18.2.3.2.1.1.2 allow distance to the fire department access road to be increased to 150 feet, so long as the building is a townhouse, as defined by the state

Building Code, and is protected with an automatic sprinkler system in accordance with NFPA 13D or 13R. Mr. Rabidou stated that in this instance, the exterior door would be located roughly 71 feet from Liverpool Street and 108 feet from Border Street. Mr. Rabidou stated that there is a newly installed fire hydrant located on Coppersmith Way in close proximity to the proposed structure.

8. Mr. Rabidou testified that while the proposed structure is similar to a townhouse, it cannot be called a townhouse because the units cannot be stacked one on top of the other. Furthermore, townhouses require two means of egress on two exposed elevations, but this structure would be a single egress building. He described the proposed structure as a “three family dwelling.”
9. The Appellant further testified that Coppersmith Way is considered a cut through to both Liverpool and Border Streets and for garbage barrel storage. He stated that vehicular traffic is rare on the street, except for residents who may be unloading groceries or other personal items closer to their building. Captain Kelly from the Boston Fire Department confirmed the same.
10. In support of the Order of Notice issued by the Boston Fire Department, Captain Kelly testified that the Department’s denial of the fire department access plan was due to life safety concerns and 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 fire apparatus access road be provided, as Coppersmith Way is 10 feet wide.
11. Captain Kelly further testified that because this “new” building would be located behind an existing building, the State Fire Code requires a distance of 25 feet or less from an exterior egress door to an approved fire department access road. He stated that regardless of exterior egress location or the type of sprinkler system installed, the proposed building cannot meet that code requirement, as Coppersmith Way is not an approved fire department access road. He testified that the nearest fire department access road, Liverpool Street, is 71 feet from the proposed building.
12. Captain Kelly testified that a review of the submitted swept path analysis shows that a Boston fire engine cannot gain access to Coppersmith Way due to its narrow size (10 ft. wide) and due to the height and width of various Department apparatus. Furthermore, Captain Kelly indicated that the longest ground ladder in use by the Department is 50 ft., with tormentor poles. He stated that trying to erect that particular ladder to access the building and its roof deck, would be extremely difficult, based upon the size and weight of the ladder and because of the incredibly steep angle that would be required to hoist it. . Captain Kelly also expressed concern over access as he described the East Boston neighborhood as “very tight” and “densely packed.”
13. Captain Kelly stated that the Department would have additional challenges accessing the left (or B) side of the building due to a row of HVAC condensing units which are mounted to the rear of the property at 67 Liverpool Street. Those units further narrow the 4 ft. space on the side of the building and would prevent the Department from accessing the 2nd floor bedrooms by ladder.
14. For all of the above cited reasons, Captain Kelly requested that the Board deny the variance request.

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:

18.1.1.4 The fire apparatus access road plans must include an analysis and evaluation of fire apparatus maneuvers throughout the access roads created by swept path analysis and turn simulation software.

18.2.3.2.1.1.1 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 can be opened from the outside and that provides access to the interior of the building.

2. The Board notes that because the Appellant provided the required swept path analysis in advance of the hearing, the parties stipulated that this violation was no longer in dispute and the Board did not hear testimony on this violation (527 CMR 1.00, 18.1.1.4).
3. The Board takes administrative notice based upon Fire Prevention Regulations Appeals Board docket numbers 20-01 (East Boston) and 20-03 (Brighton) that 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.
4. As proposed, 2 Coppersmith Way, East Boston would be a three story, three-unit building located behind 67 Liverpool Street. Based upon evidence submitted into the record and the testimony received at the hearing, Coppersmith Way is only 10 ft. wide, which is 10 ft. narrower than required by code¹.
5. The Board finds that 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.” The closest distance to a fire department access road is a minimum of 71 feet away to Liverpool Street. Further, the fire department access road distances cannot be increased, as the proposed building is not a “townhouse” as defined in the State Building Code. As such, the Board finds that the proposed fire department access would be in violation of 527 CMR 1.00, 18.2.3.2.1.1.1.
6. Lastly, the Board also concludes that the proposed installation of an enhanced sprinkler system (NFPA 13) as presented by the Appellant, is not a suitable alternative to compliance with the requirements of 527 CMR 1.00, chapter 18. The Board finds no factual or legal basis to grant the request for a variance in this matter.

¹ 527 CMR 1.00, 18.2.3.5.1.1 requires “fire department access roads shall have an unobstructed width of not less than 20 feet (6.1m).”

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 property located at 2 Coppersmith Way, East Boston, Massachusetts.

H) Vote of the Board

Chief Richard K. Arruda, Presiding Panel Member	In Favor
Patricia Sheehan	In Favor
Dr. 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,



Chief Richard K. Arruda, Presiding Panel Member
Fire Prevention Regulations Appeals Board

Dated: August 21, 2024

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

Joseph Trichilo, Trichilo Development
57 Mansfield Road
Lynnfield, Massachusetts 01940
Trichilodevelopment@gmail.com

Captain Keith Kelly
Boston Fire Department – Fire Prevention Unit
1010 Mass. Ave, 4th Floor
Boston, MA 02118
Keith.Kelly@boston.gov