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

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LARRY S. FISHER
CHAIRMAN

Docket # 2026-04
68 Old Lighthouse Road
Vineyard Haven, 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 a review by the Fire Prevention Regulations Appeals Board of a determination of the Tisbury Fire Department to deny the final approval of a solar panel installation and exterior battery storage at a single-family home located at 68 Old Lighthouse Road, Vineyard Haven, MA. The property is owned by Angela and Benjamin Luckey (hereinafter referred to as the Appellants).

B) Procedural History

On April 7, 2026, the Appellants were notified that the Tisbury Fire Department denied the final approval of a solar panel installation and exterior battery storage at a single-family home located at 68 Old Lighthouse Road, Vineyard Haven, MA. The Tisbury Fire Department determined that the property does not have fire department access, in violation of 527 CMR 1.00, Chapter 18.

On May 1, 2026, the Appellant filed an appeal of the Tisbury Fire Department's determination with the Fire Prevention Regulations Appeals Board. The Board held a video conference hearing on this matter on June 16, 2026.

Appearing on behalf of the Appellant was: Angela and Benjamin Luckey, property owners and Phillip McCarron, President of Beacon Solar. Appearing on behalf of the Tisbury Fire Department was Chief Patrick Rolston.

Present for the Board were: Alfonso Ibarreta, Presiding Chair; Chief Martin Dyer; Kenneth Smith; and Christopher Towski, 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 Tisbury Fire Department regarding the denial of the final approval of a solar project and battery installation due to fire department access issues in accordance with 527 CMR 1.00, Chapter 18?

D) Evidence Received

1.	Application for Appeal by Appellant	5/1/2026
2.	Statement in Support of Appeal	5/1/2026
3.	Photographs of 68 Old Lighthouse Road and access to the property (7 pages)	Undated
4.	Video depicting fire hydrant location	
5.	Plan set for New Grid-Interactive Photovoltaic System with Battery Storage System from Beacon Solar	Undated
6.	Map from Town of Tisbury showing distance from fire hydrant	
7.	Map from Town of Tisbury showing distance from Bernard Circle	
8.	Map from Town of Tisbury showing length of Old Lighthouse Road	
9.	Supplemental Statemen in support of Appeal from Appellant	6/3/2026
10.	Additional photographs showing access to 68 Old Lighthouse Road to Bernard Circle property with fire hydrant (2 pages)	
11.	Map from Town of Tisbury showing 119 Bernard Circle	
12.	2024 Science Direct comparative study on battery technology	2024
13.	Memorandum to Tisbury Fire Chief regarding Authority to Deny Residential Permits on Fire Access Grounds (from Planning Board)	4/13/2026
14.	UL 9540A Test Method for Evaluating Thermal Runaway Fire Propagation in Battery Energy Storage System	
15.	Submission from Chief Patrick Rolston of the Tisbury Fire Department with accompany Exhibits	
15A.	Statement of Fire Chief Patrick Rolston in support of denial with accompanying photographs (22 pages)	6/2/2026
15B.	E-mail between Chief Rolston and the Appellant (7 pages)	5/29/2026
15C.	Battery Energy Storage Systems: Frequently Asked Questions on Fire Safety and Public Health from website for Executive Office of Energy and Environmental Affairs	
15D.	Deed/Plot Plan for Old Lighthouse Road from Dukes County	filed 2/2/1967

E) Subsidiary Findings of Fact

1. The Appellant sought this Board's review of the Tisbury Fire Department's denial of the final approval of a solar panel installation and exterior battery storage at a single-family home located at 68 Old Lighthouse Road, Vineyard Haven, MA. The appeal was filed with the Board under the provisions of M.G.L. c. 22D, s. 5.
2. The Appellant, Mrs. Luckey, testified that she is seeking a reversal of the Tisbury Fire Chief's denial of the final installation of a roof mounted residential solar system and an exterior mounted battery energy storage system at her property. She stated that the building and electrical inspectors gave final approvals on the project, leaving Tisbury Fire Department sign-off as the final step for issuance of a certificate of completion.

3. The Appellant testified that the application for the solar and battery installation project was reviewed and approved by the Tisbury Fire Chief in October 2025 and at that time, there was no mention of site access issues. However, the Appellant stated that during the final inspection of the project in April 2026, the Tisbury Fire Chief conditioned his approval based on the widening of the road to meet the fire code for site access and cited 527 CMR 1.00, Chapter 18.
4. The Appellant argued that the Fire Chief improperly applied 527 CMR 1.00, Chapter 18 by requiring the private dirt road to be widened for fire apparatus access as a condition of approval. She further asserted that residential exemption in Chapter 18 applies to existing and new one- and two-family detached dwellings, making the fire access road requirements in Section 18.2.3 inapplicable to this project. The Appellant maintained that installation of solar panels and battery storage does not change the home's occupancy classification and should not trigger additional infrastructure requirements. The Appellant also stated that this application of Chapter 18 exceeds its scope and creates a "an impermissible barrier to residential clean energy infrastructure."
5. The Appellant stated that widening the road would be financially burdensome and practically impossible because Old Lighthouse Road is a private road with approximately 30 parcels, no homeowners association, and ownership extending only to the midpoint of each parcel, limiting the homeowner's ability to alter neighboring land or remove trees.
6. The Appellant challenged the fire chief's assertion that emergency vehicles could not safely access the road, citing historical fire department access, prior house fires, large construction deliveries, and other nearby homes with solar systems that had been approved without access-related concerns. Notwithstanding those concerns, the Appellant indicated that the fire department would have access to a fire hydrant on nearby Bernard Circle, approximately 191 feet from the exterior battery location. The Appellant advised that the Bernard Circle property already has a deeded easement restriction for those residents to access a right of way through their property, and that the area would remain open for passage.
7. The Appellant stated that the solar and battery system fully complies with all applicable fire safety requirements under Chapters 11 and 52 of 527 CMR 1.00, including required labeling, emergency contact information, access pathways, battery placement, thermal runaway separation distances, and a ground-level rapid shutdown switch that de-energizes both the solar array and battery system. The installed battery, a Tesla Powerwall 3, was described as using lithium iron phosphate chemistry, which the Appellant represented is more stable and resistant to thermal runaway, and as having passed UL 9540 and UL 9540A fire safety testing.
8. The Appellant also cited a 2025 Massachusetts Land Court case *Duxbury Energy Storage LLC v. Town of Duxbury ZBA*, where the Court ruled that stand alone battery energy storage facilities are protected from restrictive local zoning under state law and established that a town cannot use the generalized health and safety risks of lithium-ion batteries to preemptively restrict or place unreasonable burdens on statutorily protected energy systems. It was the Appellants' position that, in this instance, it would be an unreasonable burden for the widening of the road to fall to them.
9. In closing, the Appellants argued that the Fire Chief misinterpreted the fire code by applying Chapter 18 site-access requirements to a minor residential energy upgrade on a

grandfathered single-family home. They requested that the Board reverse the denial and order immediate approval of the fire safety review so the clean energy installation could be completed.

10. In support of the Tisbury Fire Department's determination in this matter, Chief Rolston advised that contrary to the Appellant's assertion that the final permit approval was denied, he stated that he placed the permit on hold so that site access and safety concerns could be addressed.
11. Chief Rolston testified that, in his opinion, 527 CMR 1.00, Section 18.1.1.3 applies in this matter and stated that adequate frontage must mean at least 20 feet or more abutting a public way. He stated that the property does not qualify for the Chapter 18 residential exemption because the exemption requires at least 20 feet of frontage on a public way, and the property has no direct access to a public road, relying solely on Old Lighthouse Road, a privately owned road. He stated that Old Lighthouse Road is approximately 18–20 feet wide and requires maintenance to remain passable.
12. Chief Rolston explained that the Town of Tisbury requires both a building permit and a separate energy storage system (ESS) permit through the fire department. He stated that during the permit review, discrepancies were identified between the approved plans and the actual installation, including the battery storage being installed in a different location than originally submitted. He also explained that department protocol requires a rough fire inspection before installation to verify site access, confirm proper battery placement, and determine whether additional fire protection measures are needed. However, no rough inspection occurred before installation, and the system was fully installed before the Fire Department's final inspection in April 2026.
13. Chief Rolston described access to Old Lighthouse Road as "extremely difficult for fire apparatus to navigate" and detailed a prior fire incident where only one fire engine could reach the area, while larger apparatus, including the ladder truck, could not access the road and had to operate from nearby public streets. Chief Rolston also stated that apart from himself and his deputy chief, department personnel are volunteer or call firefighters.
14. In closing, Chief Rolston stated that his decision to enforce the provisions of Chapter 18 were based upon the nature of the project, in addition to the varying road widths, physical obstructions and restrictions on the road, all of which create significant operational challenges for emergency response.

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 (see Exhibit 15B):

18.2.3.5.2.1 Permeable drivable surfaces, that meet loading of *Section 18.2.3.4.2* are allowed when approved by the AHJ. When approved, the permeable surfaces shall be identified by a method acceptable to the AHJ.

18.2.3.5.3.1 The minimum inside turning radius of a fire department access road shall be 25 feet. The AHJ shall have the ability to increase the

minimum inside turning radius to accommodate the AHJ's apparatus.

18.2.3.5.3.2

Turns in fire apparatus roads shall maintain the minimum road width.

18.2.3.5.4

Dead Ends. Dead-end fire apparatus access roads in excess of 150 ft. (46 m) in length shall be provided with approved provisions for the fire apparatus to turn around.

2. The Board finds that Chapter 18, including the fire apparatus access road provisions set forth in Section 18.2.3, does not apply because this project does not involve new construction, relocation of a structure, or a significant change in occupancy or use.
3. The Board finds that the installation of a photovoltaic system and battery energy storage system on an existing single-family dwelling does not, by itself, trigger the fire apparatus access road requirements of Chapter 18.
4. The Board finds that the solar and battery installation did not materially alter the existing structure or site conditions so as to require reevaluation of fire department access to the property.
5. The Board finds that nothing in the applicable sections of the State Fire Code (Chapters 11 or 52) or NFPA 855 requires the application of Chapter 18 under these circumstances. As a result, the Tisbury Fire Department lacked a sufficient code basis to withhold approval of the installation.
6. The Board expects that, whenever reasonably practicable, fire departments will identify any code concerns during the permit review process. This provides applicants with notice of any issues before construction and installation begins and promotes a fair and consistent permitting process. Raising new objections after permits have been issued and work has been completed can impose significant and unnecessary costs on applicants who have reasonably relied on the fire department's prior approvals. While the Board recognizes that previously unknown code violations or legitimate public safety concerns may require later action, principles of fundamental fairness favor identifying and resolving code issues as early as possible.

G) Decision and Order

Based upon the forgoing reasons, this Board **reverses** the denial of the Tisbury Fire Department to accept the photovoltaic and battery energy storage systems. The Board determines that the application of Chapter 18 regarding fire department access is not applicable to this solar installation and battery energy storage system project at 68 Lighthouse Road, Vineyard Haven.

H) Vote of the Board

Alfonso Ibarreta, Presiding Chair
Chief Martin Dyer
Kenneth Smith

In Favor
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,



Alfonso Ibarreta, Presiding Chair
Fire Prevention Regulations Appeals Board

Dated: August 3, 2026

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

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