

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

*Automatic Sprinkler Appeals Board*

*P.O. Box 1025 ~ State Road*

*Stow, Massachusetts 01775*

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CHIEF THOMAS COULOMBE  
CHAIRMAN

MAURICE M. PILETTE  
VICE CHAIRMAN

**Docket # 2017-08**  
**441 Main Street**  
**Groveland, 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, s. 26G and Chapter 6, s. 201, to determine whether to affirm, reverse or modify the decision of the head of the Groveland Fire Department requiring the Appellant, Eric Harper, (hereinafter referred to as "Appellant"), to install automatic sprinklers in two buildings owned by the Appellant and located at 441 Main Street, Groveland, MA.

**B) Procedural History**

By written notice dated May 15, 2017 and received by the Appellant on said date, the head of the Groveland Fire Department issued a determination to the Appellant, requiring automatic sprinklers to be installed throughout two existing buildings owned by the Appellant located at his property at 441 Main Street, Groveland, MA. The determination was issued pursuant to the provisions of M.G.L. c. 148, s. 26G. On June 27, 2017, the Appellant filed an appeal of the determination with the Automatic Sprinkler Appeals Board. The Board held a hearing on August 9, 2017, at the Department of Fire Services, Stow, Massachusetts.

Appearing on behalf of the Appellant was: Eric Harper, Owner/Appellant and Norton Remmer, P.E., Consultant. Appearing on behalf of the Groveland Fire Department was: Chief Robert Lay and Assistant Fire Chief Kurt Ruchala.

Present for the Board were: Chief Thomas Coulombe, Chairman; Maurice Pilette, Vice Chairman; Peter Gibbons; Deputy Chief Jack Dempsey; Alexander MacLeod; and Aime DeNault. Peter A. Senopoulos, Esquire, was the Attorney for the Board.

**C) Issue(s) to be Decided**

Whether the determination of the Groveland Fire Department requiring sprinklers in the two subject buildings (Building B-104 and Building B-109) located at 441 Main Street, Groveland, MA, should be affirmed, reversed or modified?

**D) Evidence Received**

1. Application for Appeal by Appellant
2. Authorization Letter of Representation (6/23/2017)
3. Order of Notice of Groveland Fire Department (5/15/2017)
4. Site Plan for Etsys Park, 441 Main Street, Groveland
5. Correspondence from Groveland Fire Department to Appellant (Undated)
6. Correspondence from Groveland Fire Department to Kimberly Powers, Aon Fire Protection (Undated)
7. Correspondence from Andrew Shanahan, P.E., Office Leader, Aon Fire Protection Engineering Corporation to the Groveland Fire Department (9/23/2014)
8. Code Compliance Review correspondence from Andrew Shanahan, P.E., Office Leader, Aon Fire Protection Engineering to Property Owner, Eric Harper (10/17/2014)
9. Engagement Letter Correspondence from Aon Fire Protection to Groveland Fire Dept. (11/5/2017)
10. Code Compliance Review correspondence from Kimberly Powers, P.E., Aon Fire Protection Engineering to Groveland Fire Department (1/13/2015)
11. Notice of Hearing to the Appellant (7/25/2017)
12. Notice of Hearing to the Groveland Fire Department (7/25/2017)
13. Copies of two Memoranda that accompany Hearing Notices

**E) Subsidiary Findings of Fact**

- 1) By written notice dated May 15, 2017 and received by the Appellant on said date, the head of the Groveland Fire Department issued a determination to the Appellant, requiring automatic sprinklers to be installed throughout two existing buildings owned by the Appellant located at his property at 441 Main Street, Groveland, MA. The determination was issued pursuant to the provisions of M.G.L. c. 148, s. 26G. On June 27, 2017, the Appellant filed an appeal of the determination with the Automatic Sprinkler Appeals Board. The Board held a hearing on August 9, 2017, at the Department of Fire Services, Stow, MA.
- 2) During the course of the hearing, the Appellant agreed and stipulated that the two buildings which are the subject of the Order of Notice (Building B-104 and Building B-109), have undergone major renovations, are over 7,500 s.f. in floor area and are subject to the enhanced sprinkler requirements of M.G.L. c. 148, s. 26G.
- 3) The Appellant testified that the two subject buildings are located on a 15.5 acre site which used to be operated as a lumber yard. In total, there are 14 separate buildings, one of which is already sprinklered. The Appellant acquired a building permit in 2013 to improve the site, including enclosing and modifying several buildings that he uses and rents out to various individuals and business entities for the purpose of storage. He indicated that the use is limited to storage rather than human occupancy. The Appellant testified that during the building permit application process, the building official, at that time, indicated that sprinklers would not be required under the State Building Code. The Appellant indicated that he has conducted substantial improvements to the complex which, previous to his purchase, was in dilapidated condition. Appellant indicated that as part of his

improvements he has added basic fire protection equipment in some of the buildings, including fire warning alarms and strobes. He has also cleared out substantial combustible debris and has improved fire department access. He stated that he did not believe that he had to meet the sprinkler requirements of M.G.L. c. 148, s. 26G for the two subject buildings until very recently.

- 4) The Appellant testified that Building B-104 is a steel and wood structure, and consists of approximately 9,500 s.f. in floor area and features 6 garage bays for storage. The building is currently unheated. Currently several motor vehicles, ladders and various contractor's equipment, supplies and materials for a plumber and landscaper are stored in the building. Assistant Fire Chief Ruchala stated that the building is classified as a Type 5B, or combustible/unprotected structure.
- 5) The Appellant testified that Building B-109 is a metal structure, consisting of approximately 9,650 s.f. in floor area. The building features 5 storage areas and is partially unheated. Current storage in the building includes ladders, cars/motorcycle, contractor supply materials for an HVAC and an electrical contractor. There is also propane gas tank storage outside the building.
- 6) The Appellant, agreeing that the sprinklers are required in Building B-104 and Building B-109, now seeks additional time to complete the sprinkler installation. He is requesting a 5-year extension of time to install sprinklers, as he is currently in the middle of installing fire protection throughout all buildings on site, including carbon monoxide detectors, heat detectors, horns and strobes. Due to the unanticipated cost of sprinkler protection, the Appellant needs additional time to also secure additional financing for the design and installation of the sprinklers. He also indicated that water access is an issue and that one of the buildings would require nearly 900 feet of pipe. He indicated that he has sought informal verbal estimates that the cost to install the required sprinkler systems, including piping in the two subject buildings, would be approximately \$100,000 dollars.
- 7) In support of the Groveland Fire Department, Chief Lay testified that the Order of Notice was issued based upon the enhanced sprinkler provisions of s. 26G, since the two buildings have undergone substantial work since 2014. He indicated that contrary to what Appellant stated, the Appellant has been aware for quite a while that sprinklers may be needed based upon the amount of renovations and modifications. He indicated that the Appellant, in the past, has not been forthcoming with adequate plans and other necessary information about the work being conducted at the complex in order for the Groveland Fire Department to determine what fire protection systems, including a sprinkler system, would be required. The Chief indicated that the Fire Department has issued several letters of non-compliance due to a lack of oversight of the property. Chief Lay further indicated his concerns that the site, in its current state, is a potential fire hazard due to its wooden construction and location along the Merrimack River, which often experiences strong 10-15 m.p.h. winds which would contribute to conflagration in the event of a fire. Chief Lay also indicated that the location is in a residential area.
- 8) The Chief stated that he would be agreeable to a reasonable extension of time of 6 months to install sprinklers in one building, and another 6 months (or 1 year from now) to install

sprinklers in the other building. The Chief indicated that the property was recently “stubbed out” and there is water available onsite for sprinkler connections.

**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 applies to “the construction of buildings, structures or additions or **major modifications** (emphasis added), 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 leading to the amendment 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.
- 2) As stipulated by the parties, Building B-104 and Building B-109 have undergone substantial work and each building consists of approximately 9,500 s.f. and 9,650 s.f. respectively, of floor area. The size of both buildings are clearly more than the 7,500 gross square feet, which triggers the provisions of s. 26G. Both parties stipulated to this fact.
- 3) Based upon the testimony and evidence presented at the hearing, the Board finds that there is justification for a reasonable, yet well-defined, extension of time be granted to raise finances and complete the design and installation of the required sprinkler protection. However, such circumstances, based upon miscommunication and/or misinformation between the Appellant and the then building official does not justify a determination to grant the 5-year extension sought by the Appellant. Such a lengthy extension, under these circumstances and without legal justification, would frustrate the clear Legislative intent of this important life safety provision.

**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 Groveland Fire Department to require an adequate system of sprinklers throughout Building B-104 and Building B-109 pursuant to the requirements of M.G.L. c. 148, s. 26G, as approved by the Fire Department. This decision is subject to the following conditions:

1. Plans for such installation in both buildings are to be filed within ninety (90) days from the date of the hearing (due November 7, 2017);
2. Building B-104 shall have sprinklers installed by July 1, 2018; and
3. Building B-109 shall have sprinklers installed by January 1, 2019.

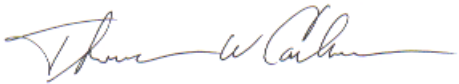
**H) Vote of the Board**

Thomas Coulombe, Chairman	In Favor
Maurice M. Pilette, Vice Chairman	In Favor
Deputy Chief Jack Dempsey	In Favor
Alexander MacLeod	In Favor
Peter Gibbons	In Favor
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,



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Chief Thomas Coulombe, Chairman

Dated: September 18, 2017

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

Norton S. Remmer, P.E  
Consulting Engineers  
18 John Street  
Worcester, Massachusetts 01609

Chief Robert B. Lay  
Groveland Fire Department  
181 Main Street  
Groveland, Massachusetts 01834