



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

*Automatic Sprinkler Appeals Board*

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PATRICIA BERRY  
VICE CHAIR

**Docket # 2023-02**  
**1735 GAR Highway**  
**Swansea, Massachusetts**

**AUTOMATIC SPRINKLER APPEALS BOARD DECISION**

**A) Statutory and Regulatory Framework**

This is an administrative appeal held in accordance with Massachusetts General Laws Chapter 30A, Chapter 148, s. 26G, and Chapter 6, s. 201, relative to a decision of the Swansea Fire Department to require Eric Eunis and Rabecca Eunis of Prestige Gymnastics Center (hereinafter the “Appellant”), to install automatic sprinklers in an existing building located at 1735 GAR Highway, Swansea, Massachusetts.

**B) Procedural History**

By written notice dated February 24, 2023, and received by the Appellant on February 24, 2023, the Swansea Fire Department issued an Order pursuant to the provisions of M.G.L. c. 148, s. 26G, to the Appellant requiring automatic sprinklers to be fully installed in an existing building owned and/or operated by said Appellant located at 1735 GAR Highway, Swansea, MA. On March 14, 2023, the Appellant filed a timely appeal of the determination with the Automatic Sprinkler Appeals Board. The Board held a hearing relative to this appeal on May 10, 2023, via video conference.

Appearing at the hearing were Eric and Rabecca Eunis, Business Owners, Prestige Gymnastics and Jennifer Flaxington, Business Manager, Prestige Gymnastics. Appearing on behalf of the Swansea Fire Department was Chief Eric Hadjer and Deputy Chief Michael Patterson.

Present for the Board at the hearing was: Patricia Berry, Vice Chair; State Fire Marshal Peter J. Ostroskey; Deputy Chief Patrick Ellis (designee of the Boston Fire Commissioner); Chief Michael Spanknebel; Kristin Kelly; and George Duhamel<sup>1</sup>. Glenn M. Rooney, Esquire, and Rachel E. Perlman, Esquire, jointly served as counsel to the Board.

**C) Issue(s) Presented**

Whether the Board should affirm, reverse or modify the determination of the Swansea Fire Department requiring sprinklers in the Appellant's proposed building, in accordance with the provisions of M.G.L. c. 148, s. 26G?

<sup>1</sup> Due to technical issues, Mr. Duhamel was unable to actively participate in the hearing and abstained from voting.

**D) Evidence Received**

1. Application for Appeal filed by Appellant (dated 3/14/2023)
2. Statement in Support of Appeal
3. Order of Notice from the Swansea Fire Department (dated 2/24/2023)
4. Certificate of Inspection issued by Town of Swansea (issued 12/2022)
5. Construction Plans from Herk Works Architecture for Prestige Gym (14 pages total) (dated 2/8/2023)
6. MA IEBC Code Compliance Investigation & Evaluation from ACS Group for Prestige Gym (dated 8/4/2022)
7. Fire Alarm Basis of Design Narrative prepared by H&C Security for Prestige Gym (dated 2/2/2023)
8. Marked Building Plan with 2-page legend showing fire protection devices located throughout building
9. Information on ES-50X Intelligent Addressable Fire Alarm Control Panels with Communicator from Honeywell (dated 7/16/2018)
10. ES-50X Battery Calculation – Secondary Power Source Requirements from Honeywell (dated 2/1/2023)

**E) Subsidiary Findings of Fact**

- 1) By written notice dated February 24, 2023, and received by the Appellant on February 24, 2023, the Swansea Fire Department issued an Order pursuant to the provisions of M.G.L. c. 148, s. 26G, to the Appellant requiring automatic sprinklers to be fully installed in an existing building owned and/or operated by said Appellant located at 1735 GAR Highway, Swansea, MA.
- 2) Appellant owns an existing commercial building located at 1735 GAR Highway, Swansea, Massachusetts. The building is steel construction (Type IIIB), A-3 commercial use group. The Appellant represented at the hearing that the footprint of the building is 7,000 s.f. with approximately 400 s.f. of mezzanine space. The Appellant further testified that there are plans to add approximately 1,200 s.f. of additional mezzanine space to the existing building. In the documentation provided by the Appellant, it indicates the subject building has a footprint area of 6,820 s.f. with approximately 1,194 s.f. existing mezzanine space with plans to add 1,710 s.f. of additional mezzanine space. Using either measurement provided by the Appellant, the building and the proposed additional mezzanine space exceed 7500 s.f. The building also contains a commercial zoned fire alarm system.
- 3) The building has been owned by the Appellant since 2012 and is currently used as a youth instructional gymnastics training facility. The current capacity of the facility is: 118 for the first-floor seating, 30 for the mezzanine bleacher seating and 19 in the mezzanine standing area.
- 4) The Appellant is requesting relief from the Order to install sprinklers so that an interior renovation can be completed including: the demolition of the existing mezzanine and walls on the ground floor; build out of the mezzanine to increase square footage; the

opening of the main entry, and expansion of rooms underneath the mezzanine. The reconfigured spaces on the ground floor will consist of the locker room, staff room, entry, check-in, and office. The mezzanine will be expanded from 1,194 s.f. to approximately 1,710 s.f. and will consist of the gym floor and viewing area. The gymnastics area will not be reconfigured but additional sporting equipment, finishes and fixtures may be added as part of this project. (See Appellant's Exhibit 6, page 3)

- 5) The Appellant indicated that the renovation is not to increase overall capacity but would allow for a better flow within the building, as well as allow them to move younger gymnasts and their parents to the mezzanine level to alleviate crowding on the ground floor. The Appellant argued that since the work area is less than 50% of the floor area and the gross square footage, excluding the mezzanine, is less than the 7,500 s.f., an automatic sprinkler system will not be required, as per the State Building Code. (See Appellant's Exhibit 6, page 8)
- 6) The Appellant testified that other steps have already been taken to improve safety in and around the property, including added space on the sides of the building to increase access for emergency vehicles. In addition, the Appellant has agreed to update the zone only fire alarm system to a total coverage fire alarm system with a radio box connected direct to the fire station with central station monitoring and indicated that they would be willing to install an added egress from the mezzanine level to the outdoors. The Appellant also mentioned that there is a Swansea Fire Department station in the vicinity, approximately 240 feet away from the gym.
- 7) When asked about the cost to install sprinklers, the Appellant stated that preliminary cost estimates for sprinklers would be anywhere between \$150,000-\$200,000 and would include: costs to install sprinklers throughout the building; accessing the water supply approximately 250 feet away from the building on GAR Highway; routing the new water lines around an existing septic system on the property; and the digging up/repair of the building parking lot during and after the work. In short, the Appellant stated that if sprinklers were to be required, they would not be able to proceed with the plans to renovate the facility due to the enormous cost.
- 8) In support of the Swansea Fire Department's Order to install sprinklers, Chief Hadjer testified that the building's size is, absent the renovations, currently in excess of 7,500 s.f. If the proposed renovations moved forward, it would further increase that square footage over the limit in M.G.L. c. 148, s. 26G. Chief Hadjer stated that the new owners have been very cooperative throughout this process and have been open to suggestions on ways to improve the safety of the facility and improve emergency vehicle access to the property for the fire department.
- 9) Chief Hadjer stated that while the nearest fire station to the property is very close, that station is not staffed and that his department is comprised of volunteer firefighters, except for administrative staff. He stated that the average response time to 1735 GAR Highway would be approximately 6-7 minutes once firefighters respond to the station.
- 10) Chief Hadjer stated that if sprinklers were to be required by the Board, there is municipal water available on GAR Highway and that the infrastructure in the area could support the installation of sprinklers in that building.

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

- 1) In general, the automatic sprinkler provisions of M.G.L c. 148 s. 26G, require the installation of automatic sprinklers for every building (with specific exceptions) of more than 7,500 gross square feet in floor area.
- 2) M.G.L c. 148 s. 26G states in pertinent part, “for the purposes of this section, the gross square feet of a building or addition shall include the sum total of the floor areas “for all floor levels”, basements and sub-basements, measured from outside walls, irrespective of the existence of interior fire resistive walls, floors and ceilings.”
- 3) The Board determines that the second level areas of this building are clearly considered a “floor level”, as that term is used in section 26G. Therefore, the floor area on this second level should be included in calculating the gross floor area of the subject building for the purposes of s. 26G. Using said calculation, if the proposed renovation was to move forward, the gross square footage of this building would be approximately 8,530, which is clearly over the 7,500 square feet floor area amount required to trigger the requirements of M.G.L. c. 148, s. 26G.
- 4) The Appellant’s reliance on 780 CMR, the State Building Code, is incorrect. State Building Code requirements for the installation of automatic sprinklers are separate and distinct from the automatic sprinkler mandate of s. 26G. The reference to the State Building Code in s. 26G merely refers to the technical method and manner of installation of the required sprinklers.
- 5) Although the Appellant testified that compliance with the provisions of s. 26G would be cost prohibitive to the building improvements, the Board has not and will not grant a variance or waiver, based solely on the cost of compliance, as it would frustrate the clear legislative intent of this important life safety provision.
- 6) Ultimately, the Appellant offered no factual or legal basis that would support a waiver or variance from the provisions of s. 26G.

**G) Decision and Order**

Based upon the evidence presented to the Board and for the reasons stated herein, the Board **upholds** the Order of the Swansea Fire Department to require adequate sprinkler protection in the subject building in accordance with the provisions of M.G.L. c. 148, s. 26G.

**H) Vote of the Board**

Patricia Berry, Vice Chair	In Favor
State Fire Marshal Peter J. Ostroskey	In Favor
Deputy Chief Patrick Ellis, designee	In Favor
Chief Michael Spanknebel	In Favor
Kristin Kelly	In Favor
George Duhamel	Abstained

**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,



Patricia Berry, Vice Chair

Dated: May 31, 2023

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

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