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PETER J. OSTROSKEY  
STATE FIRE MARSHAL

**Docket # 2023-08**  
**747 Chase Road**  
**Lunenburg, 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 Lunenburg Fire Department to require Colonial Auto Group, Inc. d/b/a North End Mazda (hereinafter the “Appellant”), to install automatic sprinklers in a building located at 747 Chase Road, Lunenburg, Massachusetts.

**B) Procedural History**

By written notice dated April 3, 2023 and received by the Appellant on April 3, 2023, the Lunenburg 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 installed in a building at 747 Chase Road, Lunenburg, Massachusetts. On April 12, 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 June 14, 2023 via video conference.

Appearing at the hearing on behalf of the Appellant was: Roy Catignani, President, ConServ Group, Inc. and agent for Colonial Auto Group, Inc.; Fred Peccini, Architect, ConServ Group, Inc.; and Peter Van Slyck, Project Manager, ConServ Group, Inc.

Appearing on behalf of the Lunenburg Fire Department was Chief Patrick Sullivan.

Present for the Board at the hearing was: Maurice M. Pilette, Chairman; Patricia Berry, Vice Chair; Deputy Chief Patrick Ellis (designee of the Boston Fire Commissioner); Chief Michael Spanknebel; Alexander McLeod; Kristin Kelly; Daniel “Gary” Rogers; and George Duhamel. Rachel E. Perlman, Esquire, was the Attorney for the Board.

**C) Issue(s) Presented**

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

**D) Evidence Received**

1. Application for Appeal filed by Appellant (dated 4/12/2023)
2. Owner Authorization for ConServ Group, Inc., Builders-Architects (dated 10/11/2022)
3. Statement in Support of Appeal Application (dated 4/11/2023)
4. Correspondence from ConServ to Lunenburg Fire and Building Departments regarding
5. lack of public water supply (dated 3/22/2023)
6. Order of Notice issued by the Lunenburg Fire Department (dated 4/3/2023)
7. Correspondence from ConServ to Lunenburg Fire and Building Departments regarding
8. work area of proposed project (dated 4/11/2023)
9. Plan for North End Mazda showing work area and existing automobile service shop outside of work area
10. Proposed Addition / Renovation for North End Mazda (Title Sheet)
11. Correspondence from the Lunenburg Water District regarding available water supply With map of water distribution system (dated 4/14/2023)
12. Phone Memo signed by Brian Catignani, Project Manager for ConServ Group, Inc. Regarding available water from the Town of Townsend (dated 4/10/2023)

**E) Subsidiary Findings of Fact**

- 1) By written notice dated April 3, 2023 and received by the Appellant on April 3, 2023, the Lunenburg 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 installed in a building at 747 Chase Road, Lunenburg, Massachusetts. On April 12, 2023 the Appellant filed a timely appeal of the determination with the Automatic Sprinkler Appeals Board.
- 2) Representatives for the Appellant testified that the property in question is an automobile dealership owed by Colonial Auto Group, doing business as North End Mazda. The building which provides auto sales and service is currently not sprinklered. They indicated that due to Mazda's image upgrade program to ensure a uniform look among all Mazda dealerships, the business/showroom area of the building was being renovated and expanded.
- 3) Specifically, the business/showroom area which is currently 3,734 s.f. in size, would be renovated for aesthetics to match other dealerships. The building would also be expanded in the front to include a new addition of 1,467 s.f. on one side for a new vehicle display area (glass room with a vehicle on a lift), and another 754 s.f. addition on the opposite side of the building to include a service drop off canopy. The existing auto service shop area,

which is outside the planned work area, is 6,037 s.f. If the additions moved forward, the size of the structure would increase to 11,238 s.f.

- 4) The Appellant's builders/architects testified that the initial design of the building included a sprinkler system but that it was later determined that the Town of Lunenburg did not have a publicly available water supply. The representatives indicated that they contacted the Lunenburg Water District to see if there was any possibility to connect to water and were advised that the nearest water supply was miles away.
- 5) Architect Mr. Peccini conceded at the hearing that the addition and renovations to the building exceeds 7,500 s.f. and as a result, M.G.L. c. 148, s. 26G applies. However, he argued that the location lacks sufficient water and water pressure to supply an adequate sprinkler system. He noted language in the applicable statute, M.G.L. c. 148, s. 26G, which states that "no such sprinkler system shall be required unless sufficient water and water pressure exists". The Appellant asserted that said statute creates an exemption from the installation of enhanced sprinkler protection in the subject building due to the lack of sufficient water and water pressure. He further stated that the project would be very cost prohibitive if other means of sprinklers were to be required, although the Appellant had not received any estimates or proposals.
- 6) When questioned by the Board about the availability of water from the nearest town, Townsend, the Appellant testified that he had spoken with the Water Superintendent for the Townsend Water Department and was advised that the closest service connection location was 1.44 miles away from the town line with Lunenburg, and then another 2½ miles to the site.
- 7) In support of his order, Chief Sullivan of the Lunenburg Fire Department testified that the Order was issued because the proposed additions exceeds 7,500 s.f., the amount of floor area which triggers the enhanced provisions of s. 26G. While Chief Sullivan did not dispute the lack of water legally available on or off the land, he testified that he thought the Appellant should make a good faith attempt to find an alternative to allow for sprinklers, which could include a pump and tank. Chief Sullivan stated that the project managers and architects never provided a cost estimate to him for the installation of a sprinkler system.
- 8) Chief Sullivan stated that the location of the car dealership is on the outskirts of the town. His department currently has 3 firefighters on duty during the day and the rest of his department is call firefighters. He stated that the response time to that location would be approximately 6-7 minutes and if a full first alarm assignment was required for a fire, mutual aid companies would be 10-15 minutes away. He stated that, in his opinion, the only way to salvage the building in case of a fire would be through a sprinkler system.

**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.” The stated provisions reflect amendments to the statute enacted by Chapter 508 of the Acts and Resolves of 2008.
- 2) The statute also states that “no such sprinkler system shall be required unless sufficient water and water pressure exists”.
- 3) The building, with the proposed additions, will consist of approximately 11,238 s.f. gross square feet in floor area. This clearly exceeds the statutory 7,500 s.f. threshold.
- 4) With respect to the Appellant’s contention that the sprinklers should not be required due to the lack of sufficient water and water pressure, the board is guided by the language of the statute and related case law. In the case of *Chief of the Fire Department of Worcester v. John Wibley*, et al. 24 Mass. App. Ct. 912 (1987), the Massachusetts Appeals Court concluded that “The term ‘sufficient water and water pressure exists’ means that the owner of a building or addition to which the statute applies **must have access to a source of water sufficient to operate an adequate system of sprinklers, or the exemption applies**. The source may be either on the land on which the new building or addition is constructed or off the land, provided that it is legally available to the owner of the building or addition.”
- 5) Based upon the testimony and evidence submitted by the Appellant and confirmed by the Fire Chief, the Appellant is unable to acquire legal access to any source of water or adequate water pressure sufficient to operate an adequate system of automatic sprinklers. There is no source of adequate water or water pressure available on either the land on which the new building is being constructed or from any source legally available from the Town of Lunenburg.

**G) Decision and Order**

Based upon the evidence presented to the Board and for the reasons stated herein, the Board unanimously **reverses** the Order of the Lunenburg Fire Department to require sprinkler protection in the building located at 747 Chase Road, Lunenburg, Massachusetts pursuant to M.G.L. c. 148, s. 26G, due to a lack of sufficient water and water pressure.

**H) Vote of the Board**

Maurice Pilette, Chairman	In Favor
Patricia Berry, Vice Chair	In Favor
Deputy Chief Patrick Ellis, designee	In Favor
Chief Michael Spanknebel	In Favor
Alexander McLeod	In Favor
Kristin Kelly	In Favor
Daniel "Gary" Rogers	In Favor
George Duhamel	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,



Patricia Berry, Vice Chair

Dated: June 21, 2023

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

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