



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

*Automatic Sprinkler Appeals Board*

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**Docket # 2023-11**  
**42 Mitchell Road**  
**Ipswich, 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 Ipswich Fire Department to require Jason Stanley of Stanley Roofing (hereinafter the “Appellant”), to install automatic sprinklers in an existing building located at 42 Mitchell Road, Ipswich, Massachusetts.

**B) Procedural History**

By written notice dated July 19, 2023, and received by the Appellant on July 19, 2023, the Ipswich 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 42 Mitchell Road, Ipswich, Massachusetts. On July 24, 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 September 13, 2023, via video conference.

Appearing at the hearing were Jason Stanley, owner of Stanley Roofing and John Caveney AIA, President of Caveney Architectural Collaborative. Appearing on behalf of the Ipswich Fire Department was Chief Paul Parisi and Jim Bone, Ipswich Building Commissioner.

Present for the Board at the hearing was: Kristin Kelly, Chair; Daniel Gary Rogers, Vice Chair; Maurice Pilette; Alexander MacLeod; Deputy Chief Patrick Ellis (designee of the Boston Fire Commissioner); Chief Michael Spanknebel; and George Duhamel. Rachel E. Perlman, Esquire, served as counsel to the Board.

**C) Issue(s) Presented**

Whether the Board should affirm, reverse or modify the determination of the Ipswich Fire Department requiring sprinklers in the Appellant's proposed 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 7/6/2023)
2. Statement in Support of Appeal from Caveney Architectural Collaborative (dated 7/22/2023)

3. Order of Notice issued by the Ipswich Fire Department (dated 7/19/2023)
4. Permit Documents for 42 Mitchell Road, Ipswich (dated 6/16/2023)
5. Initial Construction Control Document filed by John Caveney (dated 6/16/2023)
6. Reasoning for sprinkler exemption at 42 Mitchell Road based upon code review by John Caveney and submitted to Jason Stanley (Appellant) and James Bone, Ipswich Building Commissioner (dated 7/14/2023)
7. Photographs of the mezzanine (labeled 7A-7E)
8. Ipswich Fire Department's Submission (dated 8/30/2023)
- 8A. Summary of applicable facts in support of Ipswich Fire Department's Order
- 8B. Building Permit Application (dated 5/1/2023)
- 8C. Town of Ipswich Permit Eyes Chat Feature (Application 28493 – Jason Stanley)
- 8D. Architects Submittal / Permit Documents (dated 6/16/2023)
- 8E. Assessors Card
- 8F. Assessors Card with Addition
- 8G. Copy of 2015 IBC 505.2
- 8H. 26G Adoption
- 8I. Copy of IFD Decision Letter (dated 7/19/2023)

**E) Subsidiary Findings of Fact**

- 1) By written notice dated July 19, 2023, and received by the Appellant on July 19, 2023, the Ipswich 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 42 Mitchell Road, Ipswich, Massachusetts.
- 2) The subject building was constructed in 1985 and is a two-story corrugated steel structure, with a footprint of 9,504 s.f. with approximately 1,100 s.f. of mezzanine space. The Appellant testified that the mezzanine is a steel structure, open on two sides, and is being used for storage. The business would like to add two walls, drop lights from the ceiling and convert the space from storage into office and conference room space, connecting it to the other office space at the front of the building. The work, when completed, would increase the usable square footage of the building to 10,162 s.f.
- 3) The Appellant's architect testified that they do not view this change as an addition to the existing structure but rather, a change in use, since the mezzanine space already exists. He indicated that the Appellant is in the process of changing the occupancy from S1 to business use, through the Building Code.
- 4) The Appellant's architect further argued that the mezzanine space has existed since the building's initial construction in the 1980s and the Town was aware of its existence when the occupancy certificate was granted. However, the mezzanine square footage was never included in the town's property record card nor was the Appellant ever taxed on the 1,100 s.f. mezzanine space.
- 5) The Appellant's architect further testified that based upon the Board's own guidance document regarding M.G.L. c. 148, s. 26G, the proposed work to convert the mezzanine into office space is not an addition and the proposed scope of work (adding walls and dropping lighting) does not constitute a "major alteration" or modification affecting thirty-three (33) % or more of the "total gross square footage" of the building, nor does the total cost of the work

(excluding costs relating to sprinkler installation) equal or exceed thirty-three (33) % of the assessed value of the subject building.

- 6) In support of the Ipswich Fire Department's Order to install sprinklers, Chief Parisi testified they believe that the square footage of the subject building has been 9,504 s.f. since its initial construction and that the town has only taxed the Appellant on that square footage, which does not include the existing mezzanine.
- 7) Chief Parisi further argued that the proposed work is not just a change in use but through the installation of walls, the Appellant is increasing the usable gross square footage of the building. Further, he believes that under the definition of mezzanines in the Massachusetts State Building (2015 Edition), 505.2 states that "a mezzanine shall be open". Based upon this definition, Chief Parisi believes the installation of walls no longer makes this space a mezzanine and constitutes an interior addition, increasing the square footage from 9,504 s.f. to 10,500 s.f.
- 8) However, Chief Parisi did agree that while the proposed mezzanine conversion does not constitute a "major alteration" or modification affecting thirty-three (33) % or more of the "total gross square footage" of the building nor does the total cost of the work equal or exceed thirty-three (33) % of the assessed value of the subject building, he still believes that the work constitutes an interior addition and triggers the sprinkler requirements of s. 26G.

**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 proposed renovation(s) constitute an addition because the space was previously unaccounted for on town building and tax records and is therefore treated as "new" space which increases the overall square footage of the building for purposes of analysis under section 26G,
- 4) The Board determines that the mezzanine 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 mezzanine 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 as an addition, the gross square footage of this building would be approximately 10,600 s.f., 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.
- 5) 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 Ipswich 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**

Kristin Kelly, Chair	In Favor
Daniel Gary Rogers, Vice Chair	In Favor
Maurice Pilette	Opposed
Alexander MacLeod	Opposed
Deputy Chief Patrick Ellis, designee	In Favor
Chief Michael Spanknebel	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,



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Kristin M. Kelly, Chair

Dated: September 27, 2023

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

Jason Stanley  
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