



MAURA T. HEALEY
GOVERNOR

KIMBERLEY DRISCOLL
LIEUTENANT GOVERNOR

TERRENCE M. REIDY
SECRETARY

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

(978) 567-3181 Fax: (978) 567-3121

KRISTIN M. KELLY
CHAIR

DANIEL GARY ROGERS
VICE CHAIR

Docket # 2023-12
254 Hornbine Road
Rehoboth, 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 Rehoboth Fire Department to require Raycon Construction (hereinafter the “Appellant”), to install automatic sprinklers in a building located at 254 Hornbine Road, Rehoboth, Massachusetts.

B) Procedural History

By written notice dated September 18, 2023 and received by the Appellant on September 18, 2023, the Rehoboth 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 proposed building at 254 Hornbine Road, Rehoboth, Massachusetts. On October 6, 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 December 13, 2023 via video conference.

Appearing at the hearing were Patrick Tannous, Owner/Operator of Creative Spaces and Steven Andreozzi, Project Manager for Creative Spaces, on behalf of Raycon Construction. Appearing on behalf of the Rehoboth Fire Department was Chief Frank Barresi and Bill McDonough, Rehoboth Building Inspector.

Present for the Board at the hearing was: Kristin Kelly, Chair; Daniel “Gary” Rogers, Vice Chair; Patricia Berry; Deputy Chief Patrick Ellis (designee of the Boston Fire Commissioner); and Alexander MacLeod. Rachel E. Perlman, Esq. was the Attorney for the Board.

C) Issue(s) Presented

Whether the Board should affirm, reverse or modify the determination of the Rehoboth 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 10/6/2023)
2. Order of Notice from Rehoboth Fire Department (dated 9/18/2023)
3. Raycon Construction Office Renovation Plans (9 pages) (dated 8/21/2023)
4. Fire Sprinkler quotation from A & E Fire Protection, Inc. (dated 11/2/2023)

E) Subsidiary Findings of Fact

- 1) By written notice dated September 18, 2023 and received by the Appellant on September 18, 2023, the Rehoboth 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 located at 254 Hornbine Road, Rehoboth, Massachusetts. On October 6, 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 December 13, 2023 via video conference.
- 2) The Appellant owns the property at 254 Hornbine Road, Rehoboth, Massachusetts. The building is currently used for office and warehouse space and the Appellant is seeking to renovate the existing office space. The representative of the Appellant stated that the building is approximately 20,000 s.f. total in size and that the planned renovations would originally be limited to approximately 5,000 s.f. of the office space.
- 3) The Appellant's representative testified that the renovations to office space would include moving walls, updating bathrooms to become compliant with the Americans with Disabilities Act (ADA), the installation of new ceilings, floors, HVAC systems and updating the electrical and lighting systems. Appellant stated that there would be no renovations to the warehouse space, which is currently used by a concrete company for their storage of concrete forms, steel staging, and other associated equipment, materials, and tools.
- 4) The Appellant's representative further clarified that the actual space subject to the renovation is approximately 6,400 s.f. (not 5,000 s.f.) as it includes a storage/utility room that attached to the office space.
- 5) Through testimony and documentation entered into the record (a sprinkler company quote), the Appellant's representative stated the cost would be approximately \$192,000 to

install sprinklers in the office space, including the installation of a 6” water supply within the garage area. The quote did not account for any additional measures including a water tank and/or pump. In addition, Appellant’s representative stated that the existing 1” water line currently feeding the building would not be enough to support a sprinkler system and stated that these costs would be cost prohibitive for the project (neither party could definitively establish whether this was a private line or municipal line from the town of Swansea)

- 6) The Appellant further argues that the “water pressure is inadequate for sprinkler installation” and cited M.G.L. c. 148, s. 26G, which states that “no such sprinkler system shall be required unless sufficient water and water pressure exists”.
- 7) Chief Barresi testified that the Order was issued because the building exceeds 7,500 s.f., the amount of floor area which triggers the enhanced provisions of s. 26G.
- 8) The Appellant did not dispute the applicability of s. 26G. Instead, the Appellant argued only that one or more exemption to 26G applied.
- 9) When questioned about the availability of water in the Town of Rehoboth, both Chief Barresi and Mr. McDonough confirmed that there is no municipal water available in the Town of Rehoboth. Further, Mr. McDonough stated that while the property in question sits on the Swansea line, he has no information on how far away a Swansea water line may be. Further, he stated that the Town of Rehoboth does not have any sort of agreement with the Town of Swansea or any other municipality that would allow them to tap into the other communities’ water supply.
- 10) Chief Barresi stated that while the Town of Rehoboth does not have a municipal water supply, there are five (5) other buildings within the town that have sprinkler systems, supported by holding tanks, diesel pumps and generators.
- 11) When questioned by the Board regarding other fire safety features within the building, the Appellant’s representative stated that as part of the proposed renovations to the office space, the Appellant will be required to install a fire alarm 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) 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.”
- 4) Based upon the testimony and evidence submitted by the Appellant and confirmed by the Fire Chief, it is clear that the Appellant is unable to acquire legal access to a source of water with 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 Rehoboth.

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 Rehoboth Fire Department to require sprinkler protection in the proposed building to be located at 254 Hornbine Road, Rehoboth, 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

Kristin M. Kelly, Chair	In Favor
Daniel “Gary” Rogers, Vice Chair	In Favor
Patricia Berry	In Favor
Deputy Chief Patrick Ellis, designee	In Favor
Alexander MacLeod	In Favor

D) 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,



Kristin M. Kelly, Chair

Dated: January 4, 2024

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

Liana Haddad
c/o Raycon Construction
2 King Phillip Road
Lincoln, Rhode Island 02865
Liana@rayconconstruction.com

Chief Francis T. Barresi
Rehoboth Fire Department
334 Anawan Street
Rehoboth, Massachusetts 02769
Chief@rehobothfire.com