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

Automatic Sprinkler Appeals Board

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KRISTIN M. KELLY
CHAIR

DANIEL GARY ROGERS
VICE CHAIR

Docket # 23-14
84 Creeper Hill Road
Grafton, Massachusetts

AUTOMATIC SPRINKLER APPEALS BOARD
DECISION AND ORDER

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 determination of the Grafton Fire Department, requiring All Steel Fabricating, Inc. (hereinafter referred to as the Appellant), to install automatic sprinklers throughout the building and proposed addition that the Appellant owns at 84 Creeper Hill Road, Grafton, Massachusetts.

B) Procedural History

By written notice dated October 16, 2023 and received by the Appellant on October 17, 2023, the Grafton Fire Department issued a determination requiring automatic sprinklers to be installed in the existing building and proposed addition on the subject property. According to the notice, the determination was issued pursuant to the provisions of M.G.L. c. 148 s. 26G. On November 29, 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 January 10, 2024 via video conference.

Appearing on behalf of the Appellant were: Kevin Magill, Owner, All Steel Fabricating, Inc.; Joseph Antonellis, Esq. and Robert Knapik, counsel for All Steel Fabricating, Inc.; and John Marro, Architect.

Appearing on behalf of the Grafton Fire Department was Captain Michael Killeen, Fire Prevention Officer and Robert Berger, Building Commissioner, Town of Grafton.

Present for the Board were: Kristin M. Kelly, Chair; Daniel Gary Rogers, Vice Chair; Jon M. Davine, State Fire Marshal; Deputy Chief Patrick Ellis (designee of the Boston Fire Commissioner); Patricia Berry; Chief Michael Spanknebel; and Alexander McLeod. Rachel E. Perlman, Esquire, was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the Board should affirm, reverse or modify the determination of the Grafton Fire Department requiring sprinklers in the Appellant's building and proposed addition 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. Corporate Vote confirming filing of appeal and representation by Counsel (dated 11/28/2023)
3. Appellant's Statement in Support of Appeal with Exhibits (dated 11/28/2023)
- 3-1. Grafton Assessor's Property Record Card
- 3-2. Building Permit # 422
- 3-3. 2008 Permit Drawing
- 3-4. 2023 Building Permit Application
- 3-5. 2023 Building Permit Plan
- 3-6. Site Plan
- 3-7. Concrete Pad Proposal Plan
- 3-8. October 16, 2023 Order of Grafton Fire Department
- 3-9. November 6, 2023 letter from Attorney Joseph M. Antonellis to Michael Killeen, Grafton Fire Prevention Officer
- 3-10. November 6, 2023 from Michael Killeen, Grafton Fire Prevention Officer to Attorney Joseph M. Antonellis
4. Appellee's (Grafton Fire Department) Statement in Support of Mass. General Law with Exhibits
- 4-1. 2023 Occupancy Limit E-mail
- 4-2. 2008 Permit Office Space Floor Plan
- 4-3. 2021 Site Plan
- 4-4. Interior Photographs
- 4-5. Exterior Photographs
- 4-6. NFPA 13 Temperature Rating Table
5. Joint Stipulation of Agreed Facts submitted by Appellant and Grafton Fire Department (dated 1/2/2024)

E) Subsidiary Findings of Fact

- 1) By written notice dated October 16, 2023 and received by the Appellant on October 17, 2023, the Grafton Fire Department issued a determination requiring automatic sprinklers to be installed in the existing building and proposed addition on the subject property. On November 29, 2023, the Appellant filed a timely appeal of the determination with the Automatic Sprinkler Appeals Board.
- 2) Counsel for the Appellant stated that there is no dispute that the subject building is "far in excess of" 7,500 s.f.
- 3) The Appellant testified that they are in the business of fabricating, assembling, machining, heat treating and sand blasting of steel and other metals. In addition, the company produces

steel framework and processes include plasma cutting, soring, bending, welding, in addition to “value added processes” that include thermal stress relieving and sandblasting.

- 4) The subject building was described as a 32,221 s.f. industrial building constructed in 1973, approximately 3,000 s.f. of which is currently used as office space. The facility does not have a fire protection system installed.
- 5) The Appellant testified that in October 2023 they applied for a Building Permit Application to build a 4,800 s.f. addition (40' x 120') to the existing building. The addition was described as a “steel framed metal building enclosure to protect an equipment pad that was installed for a proposed tempering oven and blast room”. The concrete pad for the addition has already been installed. The Appellant stated that a concrete block wall separates the addition from the manufacturing facility, and the addition will be annexed from the existing manufacturing facility.
- 6) The Appellant described the stress relieving furnace (contained in the blast room) as an oven used to cure steel weldments with the assistance from thermal couples. The furnace temperatures can range from 700°F to 1,250°F for the heating and curing of product, depending on the customers requirements. Both the Appellant and their Counsel stated that the products being fabricated and manufactured are non-combustible materials and do not involve a significant fire hazard. The Appellant testified that the gas fired furnace was used approximately 83 times last year.
- 7) Counsel argued that because the building is classified as an F2 use group for manufacturing and steel fabrication under the State Building Code, that sprinklers would not be required to be installed. The Architect also testified that the current building is considered type 2C construction, unprotected and non-combustible, and stated that the F2 use group classification clearly lists metal fabrication. The Architect further stated that based upon his review and the current use of the building, that he did not believe that the building would be required to have a sprinkler system installed.
- 8) Counsel for the Appellant argued that the Board must analyze both statutory interpretation and code interpretation. Specifically, M.G.L. c. 148, s. 26G states that any building or structure, including “any additions . . . 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.”
- 9) Further, Counsel for the Appellant stated that the law and prior decisions of this Board, make clear that one must look to the code to determine whether and how sprinklers or buildings should be protected by automatically sprinklers. In citing the prior decisions, Counsel testified that the general rule that the Board has established is that sprinklers are not required in instances where they would not be practical or provide meaningful protection, i.e. a salt shed.¹
- 10) In this instance, the Appellant argued that a system of automatic sprinklers would not be practical due to the high temperatures that are released by the blast furnace when opened, as the highest allowable temperature rating for an automatic sprinkler head to activate is 500°F. The Appellant stated that for the highest possible process, his ovens could run as high as

¹ Counsel for the Board cautioned the parties and the Board that the State Building Code and references to the International Building Code within the State Building Code, do not control the statute, M.G.L. c. 148, s. 26G.

1,650°F but typically run at about 1,250°F and that the ovens are opened for rapid cooling of product when the oven/product reach 800-850°F.

- 11) When questioned by the Board about the effect of having a sprinkler system activate over the blast furnace, the Appellant expressed concern that if the furnace is opened into the existing building, releasing the incredibly high temperatures, it could activate the sprinkler system. The water could then cause spalling to both the steel product that was being prepared/fired, as well as to the furnace, which is constructed of fire brick with fire block insulation lining it.
- 12) In support of the Order of Notice issued by the Grafton Fire Department, Captain Killeen testified that M.G.L. c. 148, s. 26G applies based upon the existing square footage of the buildings and the addition to each.
- 13) Captain Killeen testified that he does not believe that the Appellant's reliance on the "State Building Code wording" from the statute (M.G.L. c. 148, s. 26G) is correct, as the 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 the statute merely refers to the technical method and manner of installation of the required sprinklers.
- 14) Captain Killeen testified that the facility does not have a sprinkler system or fire alarm system installed and that the Grafton Fire Department has no records or permits on file for the existence or use of any flammable combustible liquids or gases inside the building. (The Appellant did confirm the existence of Acetylene gas and welding gases in contained bottles on the property.)
- 15) Captain Killeen confirmed that the Town of Grafton has a municipal water supply and that there is sufficient water supply and water pressure in the area of the property, as there is a 12-inch water main in the road near the property.
- 16) Captain Killeen testified that he disagrees with the Appellant's argument that there are no high temperature sprinkler heads available for sprinkler protection. Captain Killeen stated that National Fire Protection Association (NFPA) has indicated in their NFPA 13 *Standard for the Installation of Sprinkler Systems* Code (2013 Edition), that ultra-high temperature sprinkler heads do exist and are available on the market. He stated that these heads can withstand temperatures up to 650°F.
- 17) In closing, Captain Killeen testified that while the Grafton Fire Department wants the facility to be equipped with an adequate system of sprinklers throughout, that he would also like the facility to be appropriately protected with a fire alarm and wants the Department to be made fully aware of all chemicals and gasses being used on the premises.

F) Ultimate Findings of Fact and Conclusions of Law

- 1) The provisions of M.G.L. c. 148, s. 26G, state, (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 law limits the installation of sprinklers to new buildings and buildings

subject to major alterations or additions if said buildings feature more than 7,500 gross square feet in floor area.

- 2) It is undisputed that the building is currently 32,221 s.f. and the proposed 4,800 s.f. addition to the existing building triggers the requirements of M.G.L. c. 148, s. 26G.
- 3) 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 M.G.L. c. 148, s. 26G. The reference to the State Building Code in the statute, merely refers to the technical method and manner of installation of the required sprinklers.
- 4) Although the Appellant testified that compliance with the provisions of M.G.L. c. 148, s. 26G would be costly and could impact business processes, the Board has not and will not grant a variance or waiver based on the cost of compliance and business inconvenience, as it would frustrate the clear legislative intent of this important life safety provision.
- 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 and testimony presented to the Board and for the reasons stated herein, the Board **upholds** the Order of the Grafton Fire Department to require the installation of an adequate fire suppression system as acceptable to the Head of the Fire Department and which shall also be connected to an alarm system, for the existing and planned building located at 84 Creeper Hill Road, Grafton, Massachusetts in accordance with the requirements of M.G.L. c. 148, s. 26G. This decision is subject to the following conditions:

1. Plans for the installation of an adequate fire suppression system shall be submitted to the Head of the Grafton Fire Department within six (6) months from the date of decision (Wednesday, July 24, 2024);
2. An adequate fire suppression system shall be installed in the existing and planned building concurrently with the construction of the addition and prior to the approval of the Certificate of Occupancy by the Town of Grafton.

H) Vote of the Board

Kristin M. Kelly, Chair	In Favor
Daniel Gary Rogers, Vice Chair	In Favor
Jon M. Davine, State Fire Marshal	In Favor
Deputy Chief Patrick Ellis	In Favor
Patricia Berry	In Favor
Alexander McLeod	Opposed

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,



Kristin M. Kelly, Chair

Dated: January 24, 2024

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

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