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*The Commonwealth of Massachusetts*  
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*Automatic Sprinkler Appeals Board*

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CHAIR

DANIEL GARY ROGERS  
VICE CHAIR

**Docket # 2024-03**  
**360 Pecks Road**  
**Pittsfield, 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 decision of the Pittsfield Fire Department to require Sonal Patel, LLC (hereinafter the "Appellant"), to install automatic sprinklers in a building at 360 Pecks Road, Pittsfield, Massachusetts.

**B) Procedural History**

By written notice dated March 6, 2024 and received by the Appellant on March 9, 2024, the Pittsfield Fire Department issued a determination requiring automatic sprinklers to be installed throughout the subject building pursuant to the provisions of M.G.L. c. 148 s. 26G. On April 19, 2024, the Appellant filed an appeal of the determination with the Automatic Sprinkler Appeals Board. The Board held a hearing relative to this appeal on June 12, 2024, via video conference.

Appearing on behalf of the Appellant were: Anthony Doyle, Esq., Counsel; Jay Patel, owner/principal of Sonal Patel, LLC; Guarang Panwala, owner Johnnie's Superstore; and Seth Holden, Architectural Designer, SAH Design, LLC. Appearing on behalf of the Pittsfield Fire Department was Lt. Scott McGinnis.

Present for the Board were: Kristin Kelly, Chair; Daniel Gary Rogers, Vice Chair; Jon M. Davine, State Fire Marshal; Deputy Chief Patrick Ellis, designee, Boston Fire Commissioner; and Jennifer McHale, P.E. Rachel E. Perlman, Esq., served as counsel to the Board.

**C) Issue(s) to be Decided**

Whether the Board should affirm, reverse or modify the determination of the Pittsfield 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 4/19/2024)
2. Statement in Support of Appeal
3. Order of Notice of the Pittsfield Fire Department to Sonal Patel, LLC (dated 3/6/2024)
4. Sprinkler Proposal for Johnnie's Super Store from Encore Fire Protection (dated 4/12/2024)
5. Sprinkler Proposal for Johnnie's Super Store from Berkshire Custom Carpentry (Undated)
6. Submission of the Pittsfield Fire Department in Support of the Order of Notice
- 6A. Fire Alarm Narrative submitted to Pittsfield Fire Dept. from MEA Engineering Associates, Inc. (dated 1/4/2024)
- 6B. Copy of Order of Notice of the Pittsfield Fire Dept. to Sonal Patel, LLC (dated 3/6/2024)
- 6C. Johnnie's Super Store Phase 2 Expansion plans (4 pages)
- 6D. Johnnie's Super Store Demolition Package Plans (3 pages)
- 6E. Existing Building Code Report from SAH Design, LLC to Pittsfield Building Commissioner (5 pages) (dated 12/29/23)
- 6F. Photographs of interior of Johnnie's Super Store (11 in total)
- 6G. Automatic Sprinkler Appeals Board Advisory on M.G.L. c. 148, s. 26G (dated 10/14/2009)<sup>1</sup>

**E) Subsidiary Findings of Fact**

- 1) By written notice dated March 6, 2024 and received by the Appellant on March 9, 2024, the Pittsfield Fire Department issued a determination requiring automatic sprinklers to be installed throughout the subject building pursuant to the provisions of M.G.L. c. 148 s. 26G. On April 19, 2024, the Appellant filed an appeal of the determination with the Automatic Sprinkler Appeals Board. The Board held a hearing relative to this appeal on June 12, 2024, via video conference.
- 2) Mr. Jay Patel, Principal of Sonal Patel, LLC and owner of the property at 360 Pecks Road, Pittsfield, Massachusetts testified that Guarang Panwala (the Appellant), owner of Keshav Pramukh Corp, d/b/a Johnnie's Superstore had his permission to represent his interests at the hearing.
- 3) The Appellant's architectural designer, Seth Holden, testified that the subject building is approximately 9,008 s.f. and is a non-sprinklered Type 5B construction with exterior wood stud framing and wood roof trusses. The building currently houses Johnnie's Superstore, which is approximately 4,684 s.f., as well as two vacant units approximately 2,984 s.f. in size, and a Subway Restaurant, approximately 1,340 s.f. in size.
- 4) The Appellant testified that when an opportunity to take over the vacant spaces arose, he decided to expand Johnnie's Superstore by upgrading his lease and taking over those spaces. The new combined square footage is now approximately 7,688 s.f.

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<sup>1</sup> A scrivener's error incorrectly identified the author of this Guidance Document on the exhibit list provided to the Board and read during the hearing. The description has been corrected above. Note: A copy of the 2009 Guidance Document on M.G.L. c. 148, s. 26G from the Automatic Sprinkler Appeals Board was submitted into the record by the Pittsfield Fire Department in support their Order of Notice issued in this matter. It is important to note that the Board had rescinded and replaced said 2009 Guidance Document with an updated memorandum in May 2020.

- 5) Mr. Holden testified that by combining the existing Johnnie's Superstore space (4,684 s.f.) with the two vacant units (2,984 s.f.) through the demolition of interior walls, the new total square footage is 7,668 s.f., which triggers the requirements of M.G.L. c. 148, s. 26G. Further, because of the removal of interior walls to combine those spaces, he stated that the work is considered a "major alteration" and that the work is "above 33%" of the total square footage of the building.
- 6) The Appellant testified that upon assuming the vacant spaces, he began renovations including replacement of the existing floor, replacement of missing and broken ceiling tiles, and the removal and replacement of existing beverage coolers to more energy efficient appliances. The Appellant also indicated that a restroom servicing both the Subway Restaurant and Johnnie's Superstore had been updated and upgraded to be compliant with the Americans with Disabilities Act (ADA). He further advised that two (2) fire exits would be added to the building, for a total of five (5) fire exits.
- 7) The Appellant stated aside from the improvements within his store and the vacant spaces, other work had been done on the building including the replacement of the roof and installation of additional layers of rigid insulation. The additional insulation is to prevent frozen pipes and water damage, which he indicated he has suffered from each year since opening his store in 2017.
- 8) Mr. Holden confirmed that the project was intended to be completed in phases in order to allow the current store to remain open and to provide a pleasant shopping experience for customers. He stated that the only work currently being done is the floor renovation and replacement of older ceiling tiles in favor of new fire rated ceiling tiles.
- 9) In the appeal application and at the hearing, the Appellant testified that currently, there is insufficient water supply in place to support the installation of a fire sprinkler system, as the water servicing the building is approximately 1½ inches. According to an estimate received from Encore Fire Safety (Exhibit 4), a sprinkler system would require a 6-inch water line. The Appellant further indicated that the new water service would require digging from the street to the store, through the parking lot, at a distance of approximately 150 feet, before entering through the back of the building. He also stated that the water lines would need to be installed throughout the building floor, which is slab concrete and would require the closing of both businesses.
- 10) The Appellant testified that the renovation costs to the property are currently over \$300,000, including the cost to replace the beverage cooler at \$150,000, as well as contractor costs and materials. He further indicated that he received a quote from Berkshire Custom Carpentry (Exhibit 5) for \$25,367.00 for a "sprinkler addition" to house related mechanical systems for the sprinkler system and referenced the fire sprinkler system cost estimate for \$98,000.00.
- 11) The Appellant stated that the fire sprinkler estimate did not include the costs of increasing the size of the water supply from the street but indicated that he received a verbal quote of \$50,000 for the costs of excavation.
- 12) When questioned as to the valuation of the property, Counsel for the Appellant stated that the building is valued at \$692,600. The Appellant further stated that the renovations are

approximately \$300,000. He stated that the monthly rent is approximately \$7,000 and that per his agreement with the landlord, he is also responsible for the property tax on the building which is approximately \$35,000.00.

- 13) The Appellant indicated that he currently has a loan on the property in order to facilitate the repairs and upgrades. He stated that if the Board was to require sprinklers, he would need additional time to secure funding and to install the sprinkler system.
- 14) In support of the Order of Notice issued by the Pittsfield Fire Department, Lt. Scott McGinnis testified that upon reviewing the project, including the square footage and the combining of the vacant spaces into the store spaces, he issued an Order to sprinkler under M.G.L. c. 148, s. 26G. He described the interior, including the Subway restaurant and Johnnie's Superstore as "all open, all one open space".
- 15) Lt. McGinnis confirmed that the City of Pittsfield has municipal water throughout, including to the subject property, and that there is sufficient water and water pressure. He further indicated that the nearest fire station is approximately 0.8 miles away, with a hydrant located directly across the street from the building.

**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." This law, as stated in part, reflects amendments to the statute due to the enactment of Chapter 508 of the Acts and Resolves of 2008. The amendment arose in the aftermath of a tragic commercial building fire which occurred in Newton, Massachusetts in February, 2000, resulting in the death of five individuals. The provisions apply to "the construction of buildings, structures or additions or **major modifications** thereto, which total, in the aggregate, **more than 7,500** (emphasis added) gross square feet permitted after January 1, 2010." (Sec. 6, Chapter 508 of the Acts of 2008). The law is only applicable if: (1) a new building or structure is constructed, (2) an addition is built onto an existing building or structure, or (3) **major alterations or modifications** are made to an existing building.
- 2) The subject building consists of approximately 9,008 s.f. in total floor area and its current use and occupancy is not within any of the enumerated exemptions of s. 26G. The building clearly totals, in the aggregate, more than 7,500 gross s.f. in floor area.
- 3) Since this building is existing and is not undergoing an addition, the provisions of s. 26G will apply only if major alterations or modifications are made to the existing building. In determining whether major alterations are taking place, the Board has relied upon the factors stated in its updated May 15, 2020 guidance document. In the document, the Board discussed the meaning of the words "major alterations" as those terms are used in the statute. The Board, generally guided by Congregation Beth Shalom & Community Center, Inc. v. Building Commissioner of Framingham et. Al., 27 Mass. App. Ct. 276 (1989), indicated that it would review factors such as: **(A) the nature** of the work and **(B) the scope** of the work. In determining the **nature** of the work, the Board indicated that it

would determine if the work is the type of work that would make the effort to install sprinklers substantially less than it would have been if the building were intact or is the work merely minor repairs or cosmetic vs. major alterations. This Board also established two presumptions that could be used to determine if the **scope** of the alterations or modifications are “major.” The Board concluded that major alterations or modifications could reasonably be considered major in scope when: **(1) such work affects thirty-three (33)% or more of the “total gross square footage” of the building, calculated in accordance with section 26G or (2)** when the total cost of the work (excluding costs relating to sprinkler installation) is equal to or greater than thirty-three (33)% of the assessed value of the subject building. It was the conclusion of the Board that if the nature of the work is the type of work described in A and also meets at least one of the two presumptions described in B above, then it can be reasonable to conclude that the alterations or modifications are “major,” thus requiring sprinklers throughout the building.

- 4) In reviewing the evidence as a whole, the Board finds that by combing the vacant spaces (2,984 s.f.) with the existing Johnnie’s Superstore space (4,684 s.f.), the square footage of the space has been increased to 7,668 s.f. This number clearly exceeds 33% of the 9,008 s.f. area of the subject building. The Board finds that the Appellant’s testimony regarding the nature and extent of the remodeling and associated costs, is unreliable and self-serving at best. Furthermore, the Appellant’s own architectural designer testified that the work is considered a “major alteration” and that the work affects “above 33%” of the total square footage of the building. In conclusion, the work is major and substantial and is clearly the type of work that the Legislature envisioned would trigger enhanced sprinkler installation.
- 5) As to the Appellant’s argument that there is insufficient water, M.G.L. c. 148, s. 26G states that “no such sprinkler system shall be required unless sufficient water and water pressure exists”, the Board finds that this argument is without merit. 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.” Lt. McGinnis confirmed that the City of Pittsfield is served by a municipal water supply, which the property currently draws from.
- 6) 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.

**G) Decision of the Automatic Sprinkler Appeals Board**

Based upon the evidence presented at the hearing and the aforementioned reasons, the Board hereby **upholds** the determination of the Pittsfield Fire Department to require the installation of an adequate system of automatic sprinklers throughout the building located at 360 Pecks Road, Pittsfield, Massachusetts in accordance with the requirements of M.G.L. c. 148, s. 26G. The specific deadlines are as follows:

1. Plans for the required system shall be provided to the Pittsfield Fire Department no later than 90 days from the date of the Board's written decision.
2. Installation of an adequate sprinkler system throughout the entire building shall be completed no later than one (1) year from the date of approval of sprinkler plans by the head of fire department.

**H) Vote of the Board**

Kristin 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
Jennifer McHale, P.E.	In Favor

**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,



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Kristin M. Kelly, Chair

Dated: July 15, 2024

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

Guarang Panwala  
Keshav Pramukh Corp. d/b/a Johnnie's Superstore  
360 Pecks Road  
Pittsfield, MA 01201  
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