



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

Sutton, Massachusetts 01775

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

DANIEL GARY ROGERS
CHAIR

KRISTIN M. KELLY
VICE CHAIR

Docket # 2024-05
24 Oakhurst Road
Sutton, 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 an Order of the Sutton Fire Department requiring Ronald Anger of Ranger, Inc. (hereinafter the "Appellant"), to install automatic sprinklers in a proposed building to be built at 24 Oakhurst Road, Sutton, Massachusetts.

B) Procedural History

By written notice dated May 23, 2024, and received by the Appellant on May 23, 2024, the Sutton 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 24 Oakhurst Road, Sutton, MA. On June 7, 2024, the Appellant filed a timely appeal of the Order with the Automatic Sprinkler Appeals Board. The Board held a hearing relative to this appeal on July 10, 2024, via video conference.

Appearing at the hearing were Ronald Anger of Ranger, Inc. and Senator Ryan Fattman, Massachusetts State Senate. Appearing on behalf of the Sutton Fire Department were Chief Matthew Belsito, Deputy Chief Robin Dresser and John Couture, Sutton Building Commissioner

Present for the Board at the hearing were: Kristin Kelly, Chair; Daniel Gary Rogers, Vice Chair; State Fire Marshal Jon M. Davine; Deputy Chief Patrick Ellis (designee of the Boston Fire Commissioner); Chief Michael Spanknebel; Alexander MacLeod; Patricia Berry; and Jennifer McHale, P.E. Rachel E. Perlman, Esq., served as counsel to the Board.

Unable to reach a decision on July 10, 2024, the Board continued the hearing until August 14, 2024 and information requests were made of the parties.

On August 14, 2024, appearing on behalf of the Appellant was Ronald Anger of Ranger, Inc. and Dave Ryan of AJR Realty Trust and the Ryan family. Appearing on behalf of the Sutton Fire Department were Chief Matthew Belsito and John Couture, Sutton Building Commissioner.

Present for the Board at the hearing were: Daniel Gary Rogers, Chair; Kristin Kelly, Vice Chair; State Fire Marshal Jon M. Davine; Deputy Chief Patrick Ellis (designee of the Boston Fire Commissioner); Chief Michael Spanknebel; Alexander MacLeod; and Patricia Berry. Rachel E. Perlman, Esq., served as counsel to the Board.

C) Issue(s) Presented

Whether the Board should affirm, reverse or modify the determination of the Sutton 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 4/18/2024)
2. Statement in Support of Appeal (dated 6/4/2024)
3. Order of Notice of the Sutton Fire Department to Appellant (dated 5/23/2024)
4. Correspondence from Whitinsville Water Company to Ranger Trucking
Re: Water Service on Oakhurst Road (dated 5/30/2024)
5. 2nd Correspondence from Whitinsville Water Company to Ranger Trucking
Re: Water Service on Oakhurst Road (Undated)
6. Printed Map of 24-R Oakhurst Road, Sutton, MA 01590 from LoopNet (2 pages)
(dated 6/3/2024)
7. Proposed Site Plan (Proposed Building) from Alpha Omega Engineering
(Undated)
8. Proposed Building Plan from D.R. Poulin Construction (Undated)
9. Face Page and Page 16 from Roadway Study: Main Street, Lasell Road/Oakhurst
Road & Lackey Dam Road Northbridge & Sutton, Massachusetts from
Central Massachusetts Regional Planning Commission (dated June 2011)
10. E-mail correspondence from Kinder Morgan regarding placement of proposed
water main with map of gas line crossings (dated 4/24/2024)
11. Cost Estimate from Longwood Development Corporation to Appellant for installation
of water main, hydrants and associated work for Oakhurst Road (dated 6/12/2024)
12. Colorized map showing water lines in blue
13. Request for additional information to Appellant and Sutton Fire Department from the
Automatic Sprinkler Appeals Board (dated 7/18/2024)
14. Response from Appellant to request for additional information (dated 7/30/2024)
15. Additional communication from the Automatic Sprinkler Appeals Board to the parties
(dated 8/1/2024)

E) Subsidiary Findings of Fact

- 1) By written notice dated May 23, 2024, and received by the Appellant on May 23, 2024, the Sutton 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 to be built at 24 Oakhurst Road, Sutton, MA.

- 2) The proposed building, as described by the Appellant, would be a 9,600 s.f. metal prefab building. The building would be used for construction storage of trucks, truck parts, backhoes, foundation forms and tire storage. The Appellant stated that no chemicals would be stored in the structure except for potentially a 55-gallon drum of oil for the serving of construction equipment.
- 3) The Appellant testified that prior to the purchase of the property, a well was dug on the property for domestic uses, and that the proposed building would be equipped with a fire alarm system in accordance with the provisions of the State Building Code. The Appellant indicated that the total cost of the project including the land purchase is approximately \$2,500,000 (without factoring in sprinkler costs).
- 4) The Appellant did not dispute that sprinklers are required to be installed due to the size of the proposed building. However, he testified that there is no municipal water supply on Oakhurst Road and the nearest connection to water is approximately 1,075 to 1,200 feet to the north of the property. The Appellant stated that in order to connect to that water supply, a water line would need to cross several high-pressure gas lines (approximately 20 inches and 4 inches in size). The Appellant stated that the presence of these high-pressure gas lines poses additional safety concerns and that water lines could not be installed within thirty (30) feet of the gas lines.
- 5) The Appellant submitted into the record, copies of correspondence with the Whitinsville Water Company (“WWC”), the water provider for certain areas of Sutton. The Assistant General Manager for the WWC stated that the current termination points for the existing water system were at Main Street or Jared Drive, more or less equal distance from the proposed structure on Oakhurst Road. The Assistant General Manager further indicated that “good engineering practice will not permit a “dead end” connection of such length to that location as any size pipe we installed would be subject to quality issues due to per water turnover. . . . accommodating you request would require a system improvement which Whitinsville Water has no plans for as this property is outside the limits of Northbridge” (see Exhibit 4).
- 6) The Appellant further testified and submitted into the record, a subsequent communication with the WWC in which they stated that the Appellant could connect to the water line if he agreed to loop it and connect their two (2) existing water lines at either end of Oakhurst Road with an 8-inch water line. However, the WWC reiterated that there were no plans to upgrade the water system on or near Oakhurst Road and that the Appellant would bear all costs for such an upgrade (see Exhibit 5).
- 7) The Appellant stated that the costs to extend the water service through Oakhurst Road could be upwards of \$2,000,000. He argued that for such a cost to be borne by himself and his business would not be cost effective. He further argued that he should not be required to install a sprinkler system since there is not “sufficient water and water pressure”, which was the primary argument in the court case of *Chief of the Fire Department of Worcester v. John Wibley*.
- 8) The Appellant stated that he had not investigated water storage tanks but believed that they would not be cost effective, as they are primarily use for domestic purposes and not

for a sprinkler system. The Appellant estimated that the cost to install such tanks would be approximately \$48,000.

- 9) In response to the Board's request for additional information from the WWC regarding current water pressure of the existing water mains in the area and what the pressures would be if the system were extended to Oakhurst Road, the Appellant testified that he spoke with a representative of the WWC and they were unable to provide that information until the upgrade to the water system was complete.
- 10) In support of the Order of Notice, Chief Belsito testified that he ordered sprinklers due to the overall size of the building, which is in excess of 7,500 s.f.
- 11) Chief Belsito stated that the Town of Sutton does not have widespread municipal water and that Oakhurst Road in particular, is not connected to a municipal water supply. He stated that the nearest fire station to the property is approximately 4 miles away.

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 proposed building would be 9,951 s.f., well over the 7,500 s.f. that clearly triggers the sprinkler installation requirements of M.G.L. c. 148, s. 26G.
- 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) Here, although the Appellant has legal access to a water source from WWC, the statute implicitly requires that the existing municipal water system must be capable of providing adequate water supply and pressure to operate an automatic sprinkler system effectively, without necessitating extraordinary measures by the Appellant. The term "sufficient" inherently means that the existing system should be capable of meeting the needs of the sprinkler system without the need for significant infrastructure enhancements. In this case, the Appellant is not merely required to install or connect to a sprinkler system but is being asked to undertake significant upgrades to the municipal water connection. This includes

not only improving the municipal water system but also looping the system to avoid pressure and water quality issues. These requirements suggest that the existing water system does not have the capacity to provide sufficient pressure and flow for the proposed sprinkler system, as is.

- 5) While the Board recognizes that artificial pressure enhancements such as booster pumps or pressure tanks are appropriate solutions in certain situations where minor adjustments are needed, these enhancements are fundamentally different from requiring a building owner to substantially improve municipal infrastructure. Artificial enhancements are supplementary measures, while substantial municipal upgrades fundamentally alter the water supply system.
- 6) The necessity for the Appellant to upgrade the municipal water connection and loop the system, as opposed to relying on existing infrastructure or minor artificial enhancements, strongly indicates that the existing water supply is insufficient to meet the requirements of the sprinkler system.
- 7) The legal standard under M.G.L c. 148, Section 26G should not impose an obligation on building owners to bear the burden of upgrading municipal infrastructure, as this goes beyond the intent of ensuring that buildings have sufficient water and water pressure for sprinkler systems. Instead, it highlights a deficiency in the municipal water supply that renders it insufficient under the statute's requirements.

G) Decision and Order

Based upon the evidence presented to the Board and for the reasons stated herein, the Board **reverses** the Order of the Sutton Fire Department to require adequate sprinkler protection in the proposed building in accordance with the provisions of M.G.L. c. 148, s. 26G.

H) Vote of the Board

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

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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,



Kristin M. Kelly, Vice Chair

Dated: September 5, 2024

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

Ronald Anger
Ranger Inc.
27 Southwick Road
Sutton, Massachusetts 01590
Ron@rangertrucking.com

Chief Matthew Belsito
Sutton Fire Department
4 Uxbridge Road
Sutton, Massachusetts 01590
m.belsito@town.sutton.ma.us