



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

Automatic Sprinkler Appeals Board

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Docket # 2025-02

3-5 Gould Street

Stoneham, Massachusetts

AUTOMATIC SPRINKLER APPEALS BOARD DECISION

A) Statutory and Regulatory Framework

This administrative appeal is held in accordance with Massachusetts General Law, Chapter 30A; Chapter 148, section 26H and Chapter 6, section 201, to determine whether to affirm, reverse or modify the Order of the Stoneham Fire Department requiring Jacqui Webb and Deans House, LLC to install automatic sprinklers in a house owned by Ms. Webb at 3-5 Gould Street, Stoneham, Massachusetts. Said owner leases the house to Mr. Robert Johnson who operates Deans House, LLC.

B) Procedural History

By written Order dated January 14, 2025 and received by Ms. Jacqui Webb on January 14, 2025, the Stoneham Fire Department required automatic sprinklers to be installed throughout a building owned by Ms. Webb and leased to Robert Johnson and Deans House, LLC at 3-5 Gould Street, Stoneham, Massachusetts. The Order was issued pursuant to the provisions of M.G.L. c. 148, section 26H. On February 3, 2025, Ms. Webb filed an appeal of the decision with the Automatic Sprinkler Appeals Board. The Board held a video conference hearing on this matter on March 12, 2025.

Appearing on behalf of the Appellants were: Jacqui Webb, property owner and Robert Johnson, operator of Deans House, LLC and Lessee of 3-5 Gould Street, Stoneham, MA. Appearing on behalf of the Stoneham Fire Department were: Chief Matthew Grafton; Captain Michael Labriola; Lt. Michael Rourke; and Cheryl Noble, Stoneham Building Commissioner.

Present for the Board were: Daniel Gary Rogers, Chair; Kristin Kelly, Vice Chair; Alexander MacLeod; Jennifer McHale; and Chief Michael Spanknebel. Rachel E. Perlman, Esquire, was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the Order of the Stoneham Fire Department requiring sprinklers in the house located at 3-5 Gould Street, Stoneham, Massachusetts pursuant to M.G.L. c. 148, section 26H, should be affirmed,

reversed or modified?

D) Evidence Received

1. Application for Appeal filed by Appellant (dated 2/3/2025)
2. Statement in Support of Appeal (dated 1/31/2025)
3. Order of Notice of the Stoneham Fire Department to Appellant (dated 1/14/2025)
4. Additional Documents and Photographs submitted by Appellant
- 4A. Document defining the residents currently living in the property
- 4B. Assessment and Sales Report for 3-5 Gould Street, Stoneham as submitted by Appellant showing correct address and that the property is a multi-family property
- 4C. Two (2) property photographs from front and back showing cameras on property
- 4D. Three (3) Interior photos to show the integrity of the units have remained (living rooms and kitchens in units and to demonstrate there is no work going on right now)
- 4E. Receipt from Contractor back in 2020 when the permits were pulled for the property and the work was completed.
5. Submissions from the Stoneham Fire Department
- 5A. Town of Stoneham acceptance of M.G.L. c. 148, s. 26H (dated 10/20/1986)
- 5B. Statement from Appellant submitted as part of Appeal detailing property and number of residents
- 5C. Building Department Certificate of Inspection providing occupancy load of 3 units (issued 12/12/2019 with expiration of 12/12/2024)
- 5D. Building Department Notice of Violation indicating building is being used as a congregate living facility without the proper approvals (dated 1/28/2025)
- 5E. Building Permit Application, Proposed Work Narrative and Proposed Building Plans filed with Town of Stoneham (dated 10/2019)
- 5F. E-mail from Thomas Bilbilian, Stoneham Health Inspector to Lt. Michael Rourke, regarding an initial inspection conducted on 1/9/25 and a follow up inspection on 1/10/2025 (dated 2/6/2025)
- 5G. Investigation Report on subject property from Lt. Rourke, Stoneham Fire Department Fire Prevention Unit (dated 1/9/2025)
- 5H. Notes from Lt. Michael Rourke, Stoneham Fire Department Fire Prevention Unit regarding property, observations during inspections, and statements from property representative regarding use of property (1/9/25-1/16/25)
- 5I. Copy of 26F Inspection Certificate (dated 9/24/2019)
- 5J. Unofficial Property Record Card from Stoneham Town Assessor
- 5K. 3-5 Gould St Dimensions – Dimensions of the building from the Assessor's database
6. Photographs of property submitted by Stoneham Fire Department
- 6A. 3-5 Gould St D side – photo of the D side of the building
- 6B. 3-5 Gould St B side – photo of the B side of the building
- 6C. 3-5 Gould St C side – photo of the rear of the building
- 6D. 3-5 Gould St A/B Corner – photo of A/B corner and electric meters
- 6E. 3-5 Gould St A side – photo of the front of the building

E) Subsidiary Findings of Fact

- 1) By written Order dated January 14, 2025 and received by Ms. Jacqui Webb on January 14, 2025, the Stoneham Fire Department required automatic sprinklers to be installed throughout a building owned by Ms. Webb and leased to Robert Johnson and Deans House, LLC at 3-5 Gould

Street, Stoneham, Massachusetts. The Order was issued pursuant to the provisions of M.G.L. c. 148, section 26H. On February 3, 2025, Ms. Webb filed an appeal of the decision with the Automatic Sprinkler Appeals Board. The Board held a video conference hearing on this matter on March 12, 2025.

- 2) According to testimony and documentation provided by the Stoneham Fire Department, the Town of Stoneham accepted the provisions of M.G.L. c. 148, section 26H on or about October 20, 1986. The Appellants did not challenge the legality of the City's acceptance of the statute. The provisions of M.G.L. c. 148, section 26H provide for enhanced fire protection requirements for certain buildings that are considered lodging or boarding houses. Section 26H states, in pertinent part: "For the purposes of this section "lodging house" or "boarding house" shall mean a house where lodgings are let to six or more persons not within the second degree of kindred to the person conducting it, but shall not include fraternity houses or dormitories, rest homes or group residences licensed or regulated by agencies of the commonwealth." According to the third paragraph of the statute, any lodging house subject to the law shall be equipped with automatic sprinklers within five years of the statute's acceptance by a city or town.
- 3) According to testimony and documentation provided by Appellants, 3-5 Gould Street was purchased in 2019 by Jacqui Webb and was described by Ms. Webb as being zoned as a three (3) family house, with 7 bedrooms.¹ Ms. Webb testified that all three units of the property are rented to Mr. Robert Johnson on behalf of Deans House, LLC, a non-profit organization helping individuals with sobriety and recovery, which pays Ms. Webb \$12,000.00 per month in rent.
- 4) Ms. Webb testified that she disagrees with the fire department's order, which describes the home as a lodging house. Ms. Webb testified that while there are more than six (6) people without a kin relationship in the property, she does not believe that M.G.L. c. 148, s. 26H should apply. Ms. Webb stated that the residents are protected as disabled individuals under M.G.L. c. 40A and should be treated as a family and protected under the Disability Act. Ms. Webb believes that, in her opinion, if each unit of this building was occupied by three large families, the Town of Stoneham would not require a sprinkler system throughout.
- 5) In support of the programs offered at the property, Robert Johnson of Deans House, LLC testified that his organization has been in Stoneham since 2017 and moved to the current location in 2020. The organization was described as a recovery program which provides congregate living arrangements for individuals recovering from issues with drugs or alcohol. Mr. Johnson described the residents as usually coming from a detox residential level of care and that Deans House, LLC helps provide residents with housing and helps them get back into work and on their feet.
- 6) Mr. Johnson stated that while the property is a three-family home, M.G.L. c. 40A, section 3 does not allow a city or town to change the zoning based on a disabled person being there, which is happening in this case. He stated that because the residents are disabled, they are exempt under both federal law and state law and they do not believe that an automatic sprinkler system or a zoning change should be required by the Town of Stoneham.
- 7) Mr. Johnson stated that there are currently seventeen (17) residents in the home and that residents typically stay for 6-12 months. He stated that each individual is responsible for their own rent, which is \$1,000.00 per month. Rent payments cover the rent, in addition to house

¹ Ms. Webb stated that the property record card indicates the home has 6 bedrooms.

utilities and general upkeep and maintenance of the property. For residents who are unable to privately pay for rent, Mr. Johnson testified that Deans House, LLC also offers “scholarships” to cover rental costs.

8) Mr. Johnson stated that residents are required to conform to “house rules” including abstinence from use of drugs and/or alcohol in the house, attending regularly scheduled house meetings, and active participation in alcohol and/or substance abuse counseling. Failure to comply with the rules may result in release from the house/program. Mr. Johnson stated that one individual is considered the house manager, who lives on site and provides general enforcement of “house rules” and on-site supervision.

9) Mr. Johnson described the physical layout of the home as follows:

- Unit 3A was described as a first floor, one bedroom unit with 3 residents;
- Unit 3B was described as a two-floor unit, with 3 bedrooms and 7 residents; and
- Unit 5 was described as a three-floor townhouse, with 4 bedrooms and 6 residents.

Mr. Johnson and Ms. Webb indicated that the property currently houses between 15 and 17 residents but could accommodate up to 18 residents. Each unit was described as having its own separate living room, dining room, kitchen, and bathroom areas. In addition, residents also have access to the back patio area of the property.

10) Mr. Johnson stated that following the initial fire department and health inspections in early January, which resulted in the fire department Order to install sprinklers, that he and Ms. Webb also received a letter from Cheryl Noble, Stoneham Building Commissioner dated January 28, 2025. Ms. Noble’s letter stated that the property was being “operated as a congregate living facility with the proper approvals” (see Exhibit 5D) and ordered Ms. Webb to comply with a change of occupancy.

11) Mr. Johnson stated that the decision was made to appeal the fire department Order to this Board before they consider consulting with an attorney if a zoning change is needed.

12) In support of the Order of Notice issued by the Stoneham Fire Department, Fire Prevention Lt. Michael Rourke testified that the department first became aware of the property when they were contacted by the Stoneham Health Department. The Health Department advised that they had received a “no heat” complaint on January 8, 2025. Lt. Rourke stated that it is routine for a member of the fire department to accompany the Health Department to inspections to check for fire safety issues.

13) Lt. Rourke stated that he accompanied the Health Department to the subject property on January 9, 2025, where they met with a manager for the building. The house manager accompanied them into the unit in question, Unit 3A. Lt. Rourke stated that the manager advised them that the home was being used as a sober house, with 17 residents but with room for up to 19 residents.

14) During the inspection of the unit, Lt. Rourke stated that he observed three beds in a bedroom, in addition to a living room, a kitchen, and a bathroom. He also observed no smoke detectors in the unit and only one carbon monoxide detector in the kitchen which was located approximately 20-25 feet from the bedroom.

15) Lt. Rourke testified that during the inspection he was not allowed to enter the other two units by the manager, as he was told the other residents were getting ready for work and that they were entitled to privacy, which he respected. However, Lt. Rourke did request to inspect the basement of the property, which he was able to do.

16) Lt. Rourke described access to the basement as stairs leading down from Unit 5, with a second staircase down from the common areas between Units 3 and 3A. He stated that the basement was a common, connected basement with a hole in the wall that allows individuals to go back and forth between sides. Lt. Rourke stated that there is also a common laundry space in the basement.

17) Lt. Rourke noted that during the basement inspection, there was a missing carbon monoxide detector above the boiler, no emergency lighting in the basement, which he believed was required by the State Building Code, and excessive clutter and construction debris strewn about the basement.

18) Lt. Rourke noted that in his conversation with the building manager, he was told that Deans House, LLC pays for the utilities including electric and laundry and that residents use the largest living room in the home for their group meetings. Lt. Rourke stated that he advised the manager that if the property was a sober home, it might fall under the lodging house law which would require a sprinkler system to be installed. However, he advised the house manager that he would be in touch with the property owner with more information.

19) Lt. Rourke stated that a follow-up inspection of the other units in the property was scheduled for January 10, 2025. Due to a conflict, Lt. Rourke was unable to attend but Thomas Bilbilian of the Stoneham Health Department did attend and later provided his written notes to Lt. Rourke (Exhibit 5F). In summary, Mr. Bilbilian noted that Unit 3 had 3 bedrooms with 8 beds; Unit 3A (inspected on January 9, 2025) had one bedroom with 3 beds; and Unit 5 had 4 bedrooms with 8 beds for a total number of 18 beds.

20) Based upon the findings of the Health Department, in addition to information provided by the house manager regarding the rental of the property in its entirety by Deans House, LLC, Lt. Rourke determined that there were more than six (6) unrelated individuals living in the subject property and that it was no longer being used as a traditional three family property. Accordingly, Lt. Rourke determined that the property's use and classification had changed and should be properly classified by the Town of Stoneham as a lodging house and that the property was subject to the requirements of M.G.L. c. 148, s. 26H.

21) Prior to the issuance of the Order to require sprinklers by Chief Grafton, Lt. Rourke advised that he received no information or found evidence that Deans House, LLC was licensed by any agency of the Commonwealth, which would have exempted the property from the requirements of s. 26H.

22) Chief Grafton testified that he is familiar with the mission of Deans House, LLC and appreciates the work they do to help those with substance abuse in his community. Chief Grafton strongly disagreed with assertions made by the Appellant and Ms. Johnson that the Order to require sprinklers throughout the building was discriminatory in nature. Chief Grafton stated that the Order was based solely upon the conditions found and number of individuals residing at 3-5 Gould Street. Chief Grafton stated that neither he, nor his department, can ignore state law and they must enforce M.G.L. c. 148, s. 26H when a lodging house is identified.

- 23) When questioned by the Board about water availability, Lt. Rourke confirmed that the Town of Stoneham has municipal water and that there is sufficient water supply in the street and stated that the department “gets good hydrant pressure” from all hydrants in that area of town.
- 24) When questioned by the Board about extra time or other considerations that Ms. Webb and Mr. Johnson may need if the Board were to uphold the Order of the Stoneham Fire Department, Ms. Webb stated that the work could be performed but that the residents of the home would be displaced due to construction and stated that “we are probably going to close down the house”. Neither Ms. Webb nor Mr. Johnson suggested any alternative fire safety measures in lieu of sprinklers.
- 25) During the hearing, the Board heard conflicting testimony from the Appellants and the Stoneham Fire Department regarding the requirements for smoke detectors and whether they should have been hardwired throughout the property at the time of its transfer in 2019. Lt. Rourke confirmed that the property currently does not have a hardwired smoke detection system and reiterated his concern that some units were missing detectors.

F) Ultimate Findings of Fact and Conclusions of Law

- 1) The Board finds that on or about October 20, 1986, the Town of Stoneham adopted the provisions of M.G.L. c. 148, section 26H.
- 2) Section 26H requires the installation of an adequate system of automatic sprinklers in accordance with the state building code in certain lodging or boarding houses. The statute requires installation of said system in all applicable houses within five years after acceptance of the law by a City or Town. The statute defines a “lodging house” or “boarding house” as a house “. . . where lodgings are let to six or more persons not within the second degree of kindred to the person conducting it . . .”
- 3) The Board is owed deference in its reasonable interpretation of its own statute. *See AT&T v. Automatic Sprinkler Appeals Board*, 52 Mass. App. Ct. 11, 15 (2001). The Board is an agency with expertise and experience in the technical aspects of fire safety. *See Mass Sober House Corp. v. Automatic Sprinkler Appeals Board*, 66 Mass. App. Ct. 701.
- 4) The Board rejects the Appellants’ argument that 3-5 Gould Street is being operated as three family home. Instead, the Board finds that the property is being used as a lodging house in its entirety by Deans House, LLC, which operates a drug and alcohol support program. No occupants have any property interest or possession in housing accommodations. Rather, occupants only have the right to remain in the house with an agreement with Deans House, LLC and are subject to house rules, which requires abstinence from use of drugs and/or alcohol in the house, attending community meetings, and active participation in alcohol and/or substance abuse counseling. Those who violate the rules may be subject to being released from the house and program.
- 5) The Board finds that the occupancy, in the manner contemplated by Deans House, LLC, results in use of the property which is different from that which is ordinary and expected in a single, two or three-family structure. In its entirety, 3-5 Gould Street, although zoned as a three-family structure, houses seventeen (17) unrelated men in a non-institutional setting, in a residential

neighborhood, in a large structure with many bedrooms. Construing 3-5 Gould Street as three separate and distinct homes and not as one lodging house in its entirety, would lead to absurd results. The increased risk of fire or injury associated with traditional lodging or boarding house arrangements in a single-family home is further amplified in this three-family home, which is being operated as a lodging house in its entirety.

- 6) The Board also finds that the subject house and the arrangement does not fall within any of the specific exceptions enumerated in the second paragraph of section 26H.
- 7) This Board has decided many appeals of fire department orders enforcing the provisions of M.G.L. c. 148, s. 26H. Once this Massachusetts statute is accepted by a municipality, it requires enhanced protection for boarders by means of an adequate system of automatic sprinklers installed in accordance with the State Building Code. A significant number of these appeals involve houses that are leased or owned and operated by various organizations or persons that provide, usually at a cost to the occupants, communal living accommodations and support to persons who seek recovery from substance abuse issues. The Board has consistently determined that the provisions of M.G.L. c.148, s. 26H apply to all such houses that fit the criteria of the statute. These decisions have been upheld upon appeal, including two cases decided by the Massachusetts Appeals Court (see *Mass Sober House Corp. v. Automatic Sprinkler Appeals Board*, 66 Mass. App. Ct. 701 and *Crossing Over, Inc. v. City of Fitchburg*, 98 Mass. App. Ct. 822 (2020).)
- 8) The purpose of the automatic sprinkler requirement in M.G.L. c. 148, s. 26H is to protect unrelated groups of persons living in a lodging or boarding house, as defined, from the deadly consequences of fire. Although the statute requires a monetary expenditure related to the installation of a fire sprinkler system, it clearly does not prohibit the intended use of the house by the Appellants.
- 9) Although not raised in their appeal application, the Appellant and Mr. Johnson both testified that M.G.L. Chapter 40, Section 3A exempts sober homes from compliance with M.G.L. Chapter 148, s. 26H. However, the Board is guided by *Crossing Over, Inc. v. City of Fitchburg*, 98 Mass. App. Ct. 822, 829, 161 N.E.3d 432, 439 (2020) where the Appeals Court held that General Laws c. 40A, § 3, does not apply to the General Laws of the Commonwealth.

G) Decision and Order of the Automatic Sprinkler Appeals Board

Based upon the aforementioned findings and reasoning, the Board hereby **upholds** the Order of the Stoneham Fire Department and requires the installation of an adequate system of sprinklers throughout all portions of the subject building used and/or occupied for boarding or lodging purposes in accordance with the provisions of M.G.L. Chapter 148, section 26H. This decision is subject to the following conditions:

1. Plans for the installation of sprinklers shall be submitted to the Head of the Stoneham Fire Department within six (6) months from the date of this decision; and
2. The installation of adequate sprinkler system shall be completed within twelve (12) months from the date of this decision.

H) Vote of the Board

Daniel Gary Rogers, Chair	Abstain
Kristin Kelly, Vice Chair	In Favor
Alexander MacLeod	In Favor
Jennifer McHale	In Favor
Chief Michael Spanknebel	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,



Daniel Gary Rogers, Chair

Dated: March 26, 2025

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

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