



*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*

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SECRETARY

**Docket # 2010-09**  
**1155 Central Avenue**  
**Needham, 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, § 26G, and Chapter 6, section 201, relative to a decision of the Needham Fire Department, ordering the Town of Needham (hereinafter referred to as the Appellant) to install automatic sprinklers throughout the Newman Elementary School, 1155 Central Avenue, Needham, Massachusetts. The Order also applied to the construction of temporary modular units, which will be added to said school.

**B) Procedural History**

By written notice received by the Appellant on May 11, 2010, the Needham Fire Department issued a determination requiring automatic sprinklers to be installed in the subject existing school building. The order also applied to the additional temporary modular classrooms that will be used while the existing building is undergoing major renovation. The determination was issued pursuant to the provisions of M.G.L. c. 148 § 26G. On May 14, 2010, the Appellant filed an appeal of the decision with the Automatic Sprinkler Appeals Board. The Board held a hearing on June 9, 2010, at the Department of Fire Services, Stow, Massachusetts.

Appearing on behalf of the Appellant was Steven Popper, Director, Needham Public Facilities Department, Hank Hoff and Calvin Olson, BRA Architects. Appearing on behalf of the Needham Fire Department was Chief Paul Buckley.

Present for the Board were: John Mahan, Chairman; Maurice M. Pilette, Vice Chairman; Frank Kodzis; Thomas Coulombe; Alexander MacLeod; Peter Gibbons; Aime DeNault; and George Duhamel. Peter A. Senopoulos, 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 Needham Fire Department requiring sprinklers throughout the existing school building and in the temporary modular classrooms, in accordance with the provisions of M.G.L. c.148 § 26G?

**D) Evidence Received**

1. Application for Appeal filed by Appellant
2. Statement in Support of Appeal, Permanent Public Building Comm., Public Facilities Department
3. Letter to Chief Buckley from Drummey Rosane Anderson, Inc.
4. Construction Phase Site Plan – Newman Elementary School (by DRA)
5. Order of Notice issued by the Needham Fire Department
6. Notice of Hearing to the Appellant
7. Notice of Hearing to the Needham Fire Department
8. Copies of two Memoranda that accompany Hearing Notices

**E) Subsidiary Findings of Fact**

- 1) By written notice received by the Appellant on May 11, 2010, the Needham Fire Department issued a determination to the Appellant, requiring automatic sprinklers to be installed throughout a building known as the Newman Elementary School and in proposed temporary modular classrooms which will be connected to the school. The subject buildings are located at 1155 Central Avenue, Needham, MA. The determination was issued pursuant to the provisions of M.G.L. c. 148 § 26G. On May 14, 2010, the Appellant filed an appeal of the decision with the Automatic Sprinkler Appeals Board. The Board held a hearing on June 9, 2010, at the Department of Fire Services, Stow, Massachusetts.
- 2) The determination of the Needham Fire Department was issued as a result of the Appellant's plan to conduct major renovations to the existing school building and the construction of temporary modular classrooms which will be occupied during the renovations of the existing school building.
- 3) At the hearing, the parties stipulated that both the existing building and the planned temporary modular units at issue are required to be sprinklered in accordance with the provisions of M.G.L. c. 148 § 26G, as amended by Chapter 508 of the Acts and Resolves of 2008.
- 4) The Appellant indicated that it plans to start the construction of the modular units this summer (2010). Appellant indicated that the construction project and renovations will be ongoing until the planned date of completion scheduled for August, 2012.

- 5) The Appellant indicated that its appearance before the Board is now limited to request this Board to allow the temporary use and occupancy of certain portions of the existing school building while other portions undergo renovation, including sprinkler installation.

**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 of this statute reflect recent amendments enacted by Chapter 508 of the Acts and Resolves of 2008.
- 2) The parties agreed and stipulated at the hearing that the existing school building and the temporary modular units at issue are required to be sprinklered in accordance with the provisions of M.G.L. c. 148 § 26G, as so amended. Additionally, the parties indicated that the commencement of said work is imminent.
- 3) Since the Appellant has represented its intention to comply with the provisions of s. 26G forthwith, the Board hereby determines that this appeal presents no issues within the jurisdiction of this Board to be determined.
- 4) With respect to the Appellant’s request for this Board to allow temporary occupancy of certain portions of this building during the renovations, the Board notes that all construction projects are conducted over some period of time. In most instances, such activity is completed over a period of months or even years. Additionally, such construction or renovations may be permitted in one or more portions of the building while other portions of the building are occupied on a temporary basis pending completion. However, the allowance of such temporary occupancy, and the specific procedure relating thereto, is regulated by the State Building Code, (780 CMR) which is within jurisdiction of the local building official.
- 5) Accordingly, based upon the facts presented in this case, the board is without jurisdiction to grant such a temporary occupancy permit.

**G) Decision**

Based upon the evidence presented at the hearing and the foregoing reasons, the Board hereby dismisses this appeal without prejudice, since there is no issue in dispute that is within the jurisdiction of this Board.

**H) Vote of the Board**

John Mahan, Chairman	In Favor
Maurice Pilette, Vice Chair	In Favor
Frank Kodzis, Boston Fire Marshal	In Favor
Thomas Coulombe	In Favor
Alexander MacLeod	In Favor
Peter Gibbons	In Favor
Aime DeNault	In Favor
George Duhamel	In Favor

**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,



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John Mahan, Chairman

Dated: July 28, 2010

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

Steven Popper, Director  
Needham Public Facilities Dept. - Construction  
Town of Needham  
Public Facilities Dept.  
470 Dedham Avenue  
Needham, Massachusetts 02492

Chief Paul F. Buckley  
Needham Fire Department  
88 Chestnut Street  
Needham, Massachusetts 02492