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CHARLES BORSTEL  
COMMISSIONER, DIVISION OF  
PROFESSIONAL LICENSURE

Date: July 11, 2018

Name of Appellant: Michael Newman & Polly  
Kornblith

Service Address: Harold Cutler  
163 Landham Road  
Sudbury, MA. 01776

In reference to: 16 Nason Hill Lane  
Sherborn, MA. 01770

Docket Number: 18-0066


Property Address: 16 Nason Hill Lane  
Sherborn, MA. 01770

Date of Hearing: June 7, 2018

Enclosed please find a copy of the decision on the matter aforementioned.

Sincerely:

**BUILDING CODE APPEALS BOARD**

  
Patricia Barry, Clerk

cc: Building Code Appeals Board, Building Official



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BUILDING CODE APPEALS BOARD  
DOCKET NO. APP-BCAB 18-0066

_____	)
Michael Newman & Polly Kornblith,	)
Appellants	)
	)
v.	)
	)
Town of Sherborn,	)
Appellee	)
_____	)

DECISION

Procedural History

This appeal ("Appeal") is before the Massachusetts Building Code Appeals Board ("BCAB") as a result of an application filed pursuant to G.L. c. 143, § 100 ("Application") on April 25, 2018. Appellants sought an interpretation of and variances from 780 CMR with respect to the construction of an accessory apartment within new construction of a stable and arena addition to an existing barn, located at 16 Nason Hill Lane, Sherborn, MA ("Project").

On or about, April 4, 2018, the Building Commissioner for the Town of Sherborn issued a letter re: "Sprinkler Requirements for Riding Arena with Apartment." (Exhibit 1A, hereinafter the "Town's Code Analysis"). The Town's Code Analysis (covering 2 and one-half pages) concluded that the new apartment/barn/riding area building must be equipped with an NFPA 13 automatic fire sprinkler system.

Notice of the hearing was issued to the parties. The hearing for the Appeal was held on June 7, 2018. All interested parties were provided with an opportunity to testify and present evidence to the BCAB. (For Appellants: Michael Newman; Harold R. Cutler; James T. Guarino); (for Appellee: Christopher Canney); (for the BCAB: Michael McDowell; Steve Frederickson; H. Jacob Nunnemacher). Patricia Barry, the BCAB's clerk was also present.

Exhibits

The following documents were entered into evidence:

1. BCAB18-0066 Appeal Application;
- 1A. April 4, 2018 letter to Mike Newman from Christopher Canney;

- 1B. "Supporting Statement, Appeal Application, 16 Nason Lane, Sherborn," by Harold R. Cutler, P.E., dated April 24, 2018;
- 1C. Plans entitled "Wildstar Farm Equestrian Facility", sheets A0-0-2, A1-0-2, A1-0-3, by James T. Guarino Consulting, dated 12/28/17, printed 4/18/2018.

### Findings and Discussion

The project consists of expanding an existing 900 square foot barn by adding a 4,000 square foot stable area and a 15,000 square foot riding arena. A barn manager's apartment is proposed for the upper level of the new stable area. The apartment will have only one bedroom and the architect represented that he calculated the space for an occupant load of 4. The stable portion of the addition will be of wood-framed construction. The riding arena will consist of a membrane structure with a steel frame and fabric roof. The BCAB incorporated by reference the facts set forth in pages 1 and 2 of Exhibit 1B. (Notwithstanding the Building Code analysis set forth in Exhibit 1B, which discusses the application of the 9<sup>th</sup> Edition of 780 CMR, the Town clarified (correctly) during the hearing that the 8<sup>th</sup> Edition applies because the Project's building permits all were issued well prior to January 1, 2018. According to Appellants, a former building inspector, approximately one year ago, approved the permit for the construction of a dwelling unit within the building, and the former building inspector concluded that the installation of an automatic fire sprinkler system was not required. For the reasons discussed below, the BCAB found that the conclusion was not correct, based on the facts presented to the BCAB in this Appeal. The BCAB also noted that most of the building, with the exception of the apartment within the building, had been constructed as of the date of the hearing.)

Appellants made two arguments, as set forth in detail in Exhibit 1B: (1) that 780 CMR should not be interpreted to require the entire building to have fire protection requirements applicable to an accessory occupancy, thus automatic fire sprinkler protection should be required in only the accessory use apartment; and (2) if 780 CMR requires in the installation of automatic fire sprinkler protection throughout the entire building, the challenges associated with that type of installation and the proposed mitigation measures warrant allowing variances from 780 CMR.

Appellants represented that the approximate cost to install an NFPA 13 automatic fire sprinkler system for the only the stable end of the building would be \$225,000. Because the Town does not supply a public water supply to the property, the fire sprinkler system would depend upon its own tank and pump systems. If the entire arena end were added to the fire sprinkler system, the additional cost would be approximately \$135,000. The Town generally agreed that the lack of a public water supply to the property would require the magnitude of expenses Appellants represented to equip the entire building with an NFPA 13 system. The BCAB found those cost estimates to be credible.

With respect to Appellants' first argument, the BCAB agreed with the Town's Code Analysis and conclusions set forth therein. The BCAB was not persuaded by Appellants' first argument. (The BCAB also noted that, if the proposed apartment were constructed as a building separate and apart from the barn complex, the requirements for automatic fire sprinkler protection in 780 CMR would be eliminated.)

With respect to Appellants' second argument, however, the BCAB found that, in these particular circumstances, the challenges associated with the installation of an NFPA 13 system and Appellants' proposed mitigation measures outweighed the benefits associated with the installation of an NFPA 13 system throughout the entire building. Appellants have agreed to provide mitigation measures set forth in on pages 5 and 6 of Exhibit 1B, including the installation of an NFPA 13D automatic fire sprinkler system for the apartment, with a 20-minute water supply, a two-hour fire rated separation between the apartment and the rest of the building, and heat detection throughout the barn portion of the building as deemed fit by the Building Commissioner. The BCAB also noted that the Building Commissioner did not oppose allowing the requested variances.

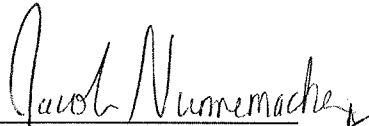
#### Conclusion and Order

Based on the evidence and arguments relevant only to these specific facts, the BCAB considered a motion to uphold the Town's Code Analysis interpretation that 780 CMR (8<sup>th</sup> Edition) requires the installation of an NFPA 13 system throughout the entire building ("Motion One"). Motion One was approved by unanimous vote.


Also based on the evidence and arguments relevant only to these specific facts, the BCAB considered a motion to grant variances from 780 CMR 903.2 and Table 903.2 (8<sup>th</sup> Edition) from the requirements to install an NFPA 13 system throughout the building ("Motion Two"). Motion Two was approved by two-to-one vote (McDowell opposed).

**SO ORDERED,  
BUILDING CODE APPEALS BOARD**

By:

  
H. Jacob Nunnemacher

  
Steve Frederickson, Chair

  
Michael McDowell

DATED: July 11, 2018

*Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to Superior Court of the Commonwealth of Massachusetts in accordance with M.G.L. c. 30A, § 14 within 30 days of receipt of this decision.*