



Charles D. Baker  
Governor

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# The Commonwealth of Massachusetts

## Department of Public Safety Architectural Access Board

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Daniel Bennett  
Secretary

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Thomas P. Hopkins  
Executive Director

### Board Meeting Minutes – August 22, 2016 21<sup>st</sup> Floor – Conference Room 3

#### Present Board Members:

- Walter White, Chair (WW)
- Diane McLeod, Vice Chair (DM)
- Jeffrey Dougan, Massachusetts Office on Disability Designee (JD)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Andrew Bedar, Member (AB)
- Dawn Guarriello, Member (DG)
- George Delegas, Member (GD)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

#### Members Not Present:

- Jane Hardin, Member (JH)

- Meeting began at approximately 9:43 a.m.

- 1) Discussion: Board Member Roll Call  
DM - all but JH present

2) Incoming Discussion: New Housing, 88 Ames Street, Cambridge (V16-226)

TH - EXHIBIT – Variance application and supplemental information; e-mail from Michael Muehe on 7/26/16

- new construction of apartments, studio, 1, 2 and 3 bedrooms
- seeking variances for sink depths and postal box heights

JD - *grant the variance for sink depths, based on the August 16<sup>th</sup> memo*

DM - *second – carries unanimously*

JD - *grant as propose for wall outlets*

DM - *second – carries unanimously*

JD - *grant on the condition that policy in place for the refrigerator replacement when requested, at no cost to the tenant*

AB - *second – carries unanimously*

JD - *parcel boxes above 54”, with policy in place*

AB - *second – carries unanimously*

3) Discussion: Board Handbooks and Training from DPS Legal Department

*Deirdre Hosler, Deputy General Counsel – Now Present (DH)*

- DH
- want to roll out handbook on a yearly basis for all boards
  - update information with open meeting law information
  - all of the handbooks are the same, except for the enabling statutes
  - EXHIBIT- Training 2016 – Architectural Access Board handout, dated August 2016
  - Executive Order 567 also now in place
  - EO 562 for regulation reform – still waiting on that process
  - still in the waiting line with Administration and Finance (A & F)
  - other boards and commissions are tied up; there are at least 3 other boards within DPS awaiting approval to go to public hearing with their proposed regulations
  - meeting procedure guidelines for boards and commissions; use Robert’s Rules
  - tab D in handbook is a summary of the rules for meetings
  - have to have the chair vote as well
  - can hold a meeting for a sole purpose
  - open meeting law is basically meeting minutes and notice sent
  - do not need notice to discuss previous cases
  - just when talking about a meeting after no more evidence is presented
  - do not “reply all” to board emails with discussion regarding board information

TH - will e-mail information for submittals after board packets sent out

DH - all one-way communication from Executive Director is okay

- DH
- technically parties appearing before the Board have the authority to ask other parties present questions before the Board
  - have a meeting and do not have a quorum, can still hold the meeting, but cannot vote
  - have a quorum, but not proper notice for the meeting, cannot hold the meeting
  - open meeting law allows boards to take up matters as long as the information was submitted within 48 hours of the meeting

- TH - what about time extension request within that timeframe  
DH - can't the board staff make that decision?  
- yes, but would want the board to approve that decision with a vote
- WW - what if we had a quorum, but had a member that wanted to appear being conference call, can they vote?  
DH - yes, but cannot have a remote appearance to make the quorum  
- chair has to be present as well
- DH - public records law was recently modified with new provisions going into effect shortly  
- tighter deadlines for records requests, and required to have decisions online  
- all decisions, notices and orders online and publicly available
- DH - any request for public records goes through DPS Legal  
- Conflict of Interest law, need to familiarize with that law  
- extensive material regarding the conflict of interest law  
- always call the State Ethics Commission when something is in question  
- also have a series of questions and answers
- DH - state e-mail accounts  
- do have to save all e-mails regarding AAB business  
- agency has been wanting to provide state e-mail addresses for all board members  
- working to finalize those e-mails
- DH - NC Dental Examiners case  
- board of dental examiners had engaged in some practices regarding tooth-whitening services, and were sued for anticompetitive conflict  
- typically state boards are immune, but Supreme Court decided they did not have immunity  
- sent shockwaves throughout licensing boards throughout the country  
- does not generally effect this board since there would never be an anti-trust suit against this board  
- EO 567, DPL and DPH boards are overseen by the executive departments for the agency that can essentially veto a board vote

*JD left the room*

- RG - personal liability in regards to torts or anti-trust
- DH - all state actors are covered by state laws  
- there are numerous exemptions  
- but can be brought to court for "bad behavior"

*JD now present*

4) Advisory: Access Symbol, 521 CMR 41.1.3

- TH - EXHIBIT- submittal from Girgori Fateyev of AF Architecture, e-mail on 7/27/16  
- seeking approval of new access symbol

- I responded on the same day and included the language from 41.1.3, which states that it shall be identified by the International Symbol of Accessibility
- answered the question, but this is an example of things getting out of hand with modified access symbols
- waited for openings from Federal Highway Administration and the US Access Board

*RG - motion to affirm that alternate symbol not allowed*

*JD - second – carries unanimously*

DH - not applicable to exception in section 2, even though they did not seek the opinion based on that section

JD - we cannot change the International Symbol of Accessibility  
- there is an owner of the symbol, it is decided by a group

DH - International Symbol was designed decades ago, but anyone can use it  
- the US Access Board mandates that use of that symbol  
- we could decide to use a different symbol

JD - we say Universal Symbol use  
- we have decided already about the symbol

5) Advisory Opinion: Continuing Care Retirement Community, Wakefield; 521 CMR 2.5.1, 30.8.4 and 44.7

TH - EXHIBIT- Lorraine Smith from Procon, Inc.  
- Iso Grab Bar, on 8/16/16, met with a representative from Moen, and provided a sample

DM - not acid etched or roughened (30.8.4)

TH - is it something new?

DM - no

*DM - does not comply*

*RG - second – carries unanimously*

***DM and DG left the room***

***DG – now present***

6) Incoming: Wellfleet Police Station, 36 Gross Hill Road, Wellfleet (V16-208)

TH - EXHIBIT – 8/17/16 – submittal from Chief of Police included affidavit and general policy; including plans and site plan  
- plans show public spaces on both floors and the routes to each entrance to the separate floors  
- internal stair that is within the building

***DM now present***

KS - previously voted on 7/25/16 to grant on the condition that affidavit and policy submitted and recorded with the registry of deeds

*GD - reopen discussion regarding this matter*

*AB - second – carries unanimously*

*RG - rescind previous motion*

*DG - second – carries*

*JD - deny the variance requested*

*AB - second – carries*

*JD - plan for compliance within 30 days of receipt of decision of the Board*

*DG - second – carries unanimously*

7) Incoming: Temple Sinai, 50 Sewall Avenue, Brookline (V16-238)

TH - EXHIBIT – variance application and supplemental information

- spending over 30%

- EXHIBIT- 8/17/16 e-mail from Saralynn Allair of the Brookline Commission on Disability in support of variances requested

*JD - put in the packet for next meeting*

*RG - second – carries unanimously*

8) Incoming Discussion: West Falmouth Library, 575 West Falmouth Highway, West Falmouth (V16-155)

TH - reviewed on 5/23/16 and voted to have architect meet with TH

- KS presented additional information on 7/25/16

- historic entrance variance with removal of vertical wheelchair lift

- accommodation plan for other libraries in the area

- never voted to grant the variance for the front entrance

-looking for an outright variance for the front entrance

- had multiple phone calls from the Petitioners

- EXHIBIT – submittal from Maria Raber, asked for reconsideration of the handrails

- the new sample of handrails proposed are allowed by right

JD - grip doesn't comply, not sure of height, no extensions

TH - EXHIBIT – received a letter from Mass. Historic Commission on 7/27/16

*JD - motion to reopen*

*AB - second – carries unanimously*

*JD - grant the variance for the lack of access to the front entrance (25.1)*

*AB - second – carries unanimously*

*JD - rescind denial of handrail variances and grant the variances requested*

*GD - second – carries with RG opposed*

***Brief Break***

9) Incoming: Joseph Osgood School Playground, 201 Sohler Street, Cohasset (C16-042 & V16-241)

- TH - complaint filed on 6/13/16 for the lack of accessible route to equipment and around the playground  
- EXHIBIT – 8/16/16 interim superintendent of schools, Louise Demas, file a variance for time to comply; variance application and supplemental information  
- seeking time to comply with the path of travel  
- seeking a variance for a year or more

RG - *grant time variance to August 15, 2017 to comply with the applicable requirements of 521 CMR*

DG - *second – carries with JD abstaining*

10) Hearing: Boston Sports Club, 135 Wells Avenue, Newton (C14-159) – Fine

- WW - called to order at 11:15  
- introduce the Board

William Joyce, Compliance Officer for the Board (WJ)

- WW - WJ sworn in  
- EXHIBIT 1 – AAB1-14  
- EXHIBIT 2 – E-mail from Katherine McGuinness, sent on August 22, 2016, stating her inability to appear  
- no one has appeared on behalf of the Boston Sports Club

- WJ - notice of fine hearing received on May 25, 2016 and signed for; verified by return receipt received by the Board on June 3, 2016  
- read into the record e-mail from McGuinness  
- tiles are still a problem, slippery and “dangerously sloped”  
- mat provided to alleviate slope  
- mat only covers a portion of the floor  
- a fuller mat will rectify the matter  
- BSC is nonresponsive  
- no proof of compliant slope submitted

- JD - did BSC send anything?

WJ - no all pictures have come from McGuinness, the complainant

- WW - maybe site visit before fines are rendered

- WJ - they were required to submit clarification that they completed work and the work is in compliance

JD - *in light of the willful noncompliance of the order of the Board, fine at a rate of \$500/day/seven days a week, starting today, August 22, 2016, until verification of compliance is received by the Board; if compliance not verified within 30 days receipt of decision of the Board, then the board staff shall go and post the bathroom as closed; send decision to owner and operating manager of the BSC via certified mail with return receipt requested*

DM - *second – carries unanimously*

JD - *expedite*

DM - *second – carries unanimously*

11) Incoming: Commercial Building, Tile Shop and Buffalo Wild Wings, 476 Boston Turnpike Road, Shrewsbury (C16-015 and V16-235)

- TH - EXHIBIT – variance application and supplemental information; complaint filed by Karen Dempsey on March 21, 2016
- 5/31/16, first notice sent
  - 7/7/16, second notice sent for lack of response
  - variance application submitted on 7/20/16 stating that the sidewalks were improved
  - took the ramp out, and added stairs, arguing that since there was no curb cuts, it wasn't accessible anyways
  - EXHIBIT – e-mail from Karen Dempsey on 8/22/16, opposed to the variance request

DM - *schedule a hearing*

RG - *second – carries unanimously*

***WW left the room – DM acting chair***

12) Incoming: Boston-Higginbotham House, 27 York Street, Nantucket (V16-236)

- TH - EXHIBIT – variance application and supplemental information
- spending is over 30%
  - variance for students' guest house
  - African Meeting House on the property is accessible
  - historic house, proposing alternative location for persons with disabilities to stay

AB - *schedule a hearing, and bring the accessibility documentation for the other buildings showing how they are accessible as an alternative accommodation space; need to clarify what is accessible on the property and what is not*

RG - *second – carries unanimously*

13) Incoming: Tartine, LLC, 197 Cabot St., Beverly (V16-239)

- TH - EXHIBIT – letter from Chris Rogers of Chestnut Hill, owners' representative, received May 18, 2016
- reconstruction and renovation of existing pizza building, assume over 30%
  - seeking variances for 25.1, front entrance; extensions at the front entrance handrails (27.4.3); and adding continuous handrails at existing interior ramp (24.5.3)

DG - 28 interior seats

***WW now present – DM still acting as chair***

- TH - handrails at the ramp are not continuous due to the existing obstructions along the ramp

JD - *grant the variance for the front entrance, for this use only, and with signage*

RG - *second – carries unanimously*

JD - *grant the variance for the lack of extensions at the front entrance handrails*

RG - *second – carries unanimously*

- JD - arguing the reduction of size, but what is the size?  
DG - looks like 3'6", based on the submitted drawing  
TH - need a variance for the width as well

*JD - grant the variance for the ramp handrails, for this use only*  
*RG - second – carries unanimously*

*JD - grant the variance for the existing width of the ramp, based on the measurements of the submitted drawings*  
*RG - second – carries unanimously*

14) Incoming: The League School of Greater Boston, Educational Living Center, Buildings 1 (250 Moose Hill Road) and 2 (310 Providence Turnpike), Walpole (V16-237)

- TH - EXHIBIT – variance application and supplemental information  
- Building 1 is completed and they are at the point of constructing Building #2, which is almost identical to Building 1  
- new dorm buildings (521 CMR 3.2)  
- two-story building, with basement community space, served by vertical wheelchair lift  
- one building is done; the other is proposed  
- took this up and allowed them to proceed to permit for building #2, reviewed by the Board on July 25<sup>th</sup>  
- were supposed to send copies of permits as a condition of the allowance of a permit  
- only problem that I saw was that first and second floor are identical, but no vertical access provided from first to second floor

- DG - what is the need of the students?  
- do most of them need accessible living quarters

TH - believe that it is cognitive disabilities  
- cited section 9, but should be dormitory sections (521 CMR 8)

- TH - should probably have a hearing, and expedite the date

*JD - schedule a hearing for these two properties and require that a copy of the at-risk permits be submitted to the Board no later than 14 days from receipt of decision*

*RG - second – carries unanimously*

*JD - require that the petitioners meet with Board Staff to discuss the variance application prior to the hearing date*

*DG - second – carries unanimously*

15) Incoming: Main Street Rehabilitation Project, Main Street (High St. to Maple St.), Spencer (V16-231)

- TH - EXHIBIT – variance application and supplement information  
- steep existing sidewalks  
- seeking variance for multiple locations  
- variances for 521 CMR 21.2.1.2, 21.3, 21.4, 22.8.1, 22.2, 22.3, 24.5.1 and 26.6

*AB - grant all variances requested, as proposed*

*JD - second – carries unanimously*



***AB left the room***

**16) Incoming Discussion:** Lowney Chocolate Factory, 150 Oakland Street, Mansfield (V16-189)

- TH - EXHIBIT – time extensions submitted on 8/17/16, submitted by Warren Mott of BKA  
- seeking until September 12, 2016 to submit letter from Mass Historic

- JD - *grant extension as proposed*  
DG - *second – carries unanimously*

***Break for Lunch***

**17) Hearing:** Hopkinton Mews, Lumber Street, Hopkinton (V16-119)

- WW - called to order at 1:05 p.m.  
- introduce the Board

Don Havener, Cosentini (Code Consultant) (DH)  
David Giuliano, Cube 3 Studio (Architect) (DG2)  
Tom Svirskey, Cosentini (Code Consultant) (TS)  
Carolyn Mendel, MillCreek (CM)  
Lars Unhjem, Vice President of Development for MillCreek Residential (LU)

- WW - all but CM sworn in  
- EXHIBIT 1 – AAB1-73

- DG2 - AAB19  
- variance request for 521 CMR 9.5.4  
- four-story building shown on AAB19  
- 92 units, group 1 and 5% group 2a  
- fourth floor, as shown on AAB20  
- 26 units with a mezzanine located in the living and kitchen area of the dwelling unit  
- location in each of these units is a location where a lift could be installed  
- AAB57-62 shows the units in question  
- 17% increase to the cost of each dwelling unit, if lift installed prior to being requested  
- boards presented are AAB62, AAB60 and AAB57  
- AAB53, 54 and 55 show the lift models  
- prefer to provide option to install the lift, rather than install them in each unit  
- MillCreek manages and operates multiple properties, and have lease language that the installation of the lift is available for those loft units  
- lift would be provided at no cost to the tenant

- DC - seeking a variance for the lofted units on the uppermost floors  
- would like to not provide the lift at the time of initial construction, due to additional costs and reduction of space and sight lines within the units  
- all of rough structural and electrical work will be in place, so that the lead-time for the installation of the lift is as small as possible  
- lease language will outline the availability of the lift install and the fact that the lifts will be installed upon request at no cost to the tenant

- DG2 - 26 units out of 92

- LU - Out of the total community, there are 273 loft units
- DM - 26 seeking relief are 1, 2 and 3-bedroom units?  
DG2 - yes, mix of units
- DM - how are they going to be marketed?  
LU - through the website and other media  
- can add notice on the website that the lifts can be installed upon request
- DM - why not a percentage of lifts installed at construction  
LU - we don't know where a resident would want to request accessibility modifications  
- wanted to put base provisions in all of the units to allow the installation of vertical lifts upon request
- RG - adequacy of \$47,000 for money set aside for lift amount  
- concerned with the amount being set aside
- LU - \$25,000 per unit is set aside for the installation of the lift  
- annual operating budget is a stabilized yearly budget to support the installation and maintenance of the equipment over time
- RG - question about the lift size?  
- 36" by 54"
- TH - what is the boarding for the lifts in the units?  
DH - yes, straight-in-straight-out  
- 36" by 54" is compliant
- DG - wall height; full or partial?  
DH - partial height
- DG - loft will mostly be used for storage?  
DG2 - limited to not greater than 1/3 the size of the unit
- DG - how much more rent for the lofted units?  
LU - hard to know, but estimate \$200/month for a three-bedroom
- DG - location of lifts is an obstacle and appears to be an after thought  
- seems to be right in the middle of the space within the kitchen
- DG2 - limited area to locate the lift
- DG - eye sore rather than something that is planned for
- RG - what is the clearance between the lift and the stair in the one bedroom?
- LU - working on another project with lofts as well, trying to figure out to have the stairs surround the lift property  
- limits the living room space in that design, because of need for clearances  
- challenges because they are wood buildings

- DG - change a coat closet to the lift location, and then have the closets available at other locations for the closets
- WW - does each unit have enough electricity to support the installation of a lift  
LU - yes
- AB - 26 units with lofts
- JD - lease language does not feel right, heavy on the tenant  
- 90 days is the quickest that the lift can be installed  
DH - 90 days is the longest it would take  
- driving force is the equipment for the lift  
- lift stored on site?  
LU - typically would not keep them on site  
- better to order them from vendor  
- will \$43,000 grow every year or be the same  
LU - yes, it will grow every year  
- the number grows annually and capital reserve account so the money sits in that account
- GD - the lift location will be an eyesore and can be modified to be pushed up against the wall
- DM - lead time of 3 months for the building operator, but does that include the manufacturer lead-time as well?  
DH - 2 weeks to a month from the manufacturer
- DM - where is the project at this point?  
LU - started construction, in the process of framing the building as we speak
- TH - primarily looking at new tenants, some tenants may have a disability that progresses and requires accommodations  
- would the board be willing to grant complete relief for some of the units in question?
- WW - if unit held on site, risk the lift unit losing parts or having the company go out of business
- JD - lease language needs to be tweaked  
- would like to see the Group 2 units fully accessible at the time of initial construction
- LU - this was our best effort  
- would like to confer with architect and consultants
- WW - almost 2 and have another hearing, and have more items to deal with for this hearing
- DM - such a demand for accessible rental units
- DG2 - very deliberate and direct intent that the installation of the lift required the least amount of demolition possible
- DM - continue for a redesign for a better design regarding the location of the lift (more so for the Group 2A units)*

- TH - flat or pitched roof?  
 DH - pitched roof, makes the location a little harder
- JD - second – carries unanimously*
- RG - would like to see the compliant sinks in stock and installed at no cost to the tenant
- TH - problem is with Group 1 units, not an issue for Group 2A, since they are allowed to have a deeper sink
- RG - grant as proposed 43.3.2, with lease language as proposed*  
*JD - second – carries unanimously*
- DM - no variance required for 45.4.5 since the sinks are required to comply or be capable of complying*  
*DG - second – carries unanimously*

***RG left the room***

18) Hearing: The Fitch Home, Inc. 75 Lake Avenue, Melrose (V16-135)

- WW - called to order at 2 p.m.  
 - introduce the Board

Joyce Lamb, Fitch Home (JL)

David Stirling, Stirling/Brown Architects (DS)

William Joyce, Compliance Officer for the Board (WJ)

- WW - all sworn in  
 - EXHIBIT 1 – AAB1-41
- JL - administrator of Fitch Home for the last 35 years  
 - established in 1918 as a charitable home for the aged  
 - licensed for 26 residents, but typically only have 20 residents to allow for couples  
 - the petitioners are seeking a variance to install a full elevator to replace a LULA that was installed in the 1980s  
 - during the installation would like to install a stair lift to access levels 2A and 2B, and then maintain the stair lift when the elevator construction and inspection is completed  
 - some residents have fear of elevators, with one being stuck in the LULA recently; hence the reason to ask to maintain the chair lift after the elevator is completed  
 - residents can use the chair lift independently, as opposed to the elevator phobic residents which are asked to be escorted by resident staff when using the LULA or elevator
- DS - due to the location and orientation of the existing stairway, the installation of an incline wheelchair lift is not feasible to access the other floors  
 - also looked at the installation of the elevator and will use the existing LULA shaft with a very small addition, since it is on an outside wall  
 - a secondary accessible egress will also be installed when the small addition for the elevator is completed  
 - the petitioners are seeking the use of the chair lift to access the upper floor during the construction of the elevator

- none of the current residents use a wheelchair
- they would like to maintain the chair lift as a “convenience” for the building

- WJ
- surprised with the proposed elevator modernization project
  - original focus was the installation of the chair lift as an alternative for access via the existing LULA, with the potential for the installation of a compliant elevator in the future
  - now proposing elevator modernization, which is the only circumstance where the Board has previously approved the temporary use of a stair lift
- DM
- what is on the different levels of the building?
- JL
- Level 1 has 11 rooms, plus common areas and sitting rooms; Level 2 has 2 private rooms for residents and some sitting rooms
  - there are two levels within Level 2
  - first floor has 4 stairs, then a landing, then 7-8 stairs, then a landing, then another 7-8 stairs; which is the reason for the proposed stair lift
- DM
- any signed contract yet?
- JL
- no, looking into companies
  - time of construction?
- JL
- 4 months to a year, not positive yet
- DM
- current residents can go up and down the stairs?
- JL
- yes, but with some difficulty and with some assistance required by staff, which would require additional staffing to accommodate the residents up and down the stairs
  - the installation of the chair lift would make for easier usage by the residents
  - board for the Fitch Home wants to do the elevator project after the LULA has been breaking down more frequently
- DM
- is the budget set aside for the elevator?
- JL
- not presently, want to know the cost of the project; expecting it to be \$100-200,000
  - we do have the funds, but have not written out a budget; we have an endowment
  - residents pay half of the cost of living and endowment covers the remainder of operating costs and paying employees
- DG
- what is the difference in height between the two levels at Level 2
- DS
- about a half a flight of stairs
  - it will be a two-door elevator due to the two levels
- TH
- nothing in the codebook (521 CMR) says that you can use a stair lift, 28.12.5 states that an incline wheelchair lift shall have a platform; anything without a platform will not comply
- WJ
- even if an incline lift is provided, it still has to comply with 521 CMR 28.12.5
- GD
- why can't the chair lift be used as an alternative means of access
- TH
- incline lift must comply with the regulations or have a variance (521 CMR 28.12.5); without a platform, persons in a wheelchair cannot use the proposed lift
  - average age of residents?
- JL
- 72-95

- TH - have allowed chair lifts during elevator modernization projects as an alternate means of access, but it has always been removed when the elevator is completed
- JD - the Board does have jurisdiction over the lift, still part of an accessible route and required to comply with 521 CMR
- DM - not even a contract for the elevator installation presently before the Board, so considered a moot issue
- JD - grant the use of a stair lift during the elevator renovation, and the stair lift may only be installed once a contract for the elevator renovation is submitted to the Board; the lift shall be removed upon completion and inspection of the elevator*
- AB - second – carries with WW opposed*

***DM left for the day***

19) Incoming: East Street School, 508 East Street, Ludlow (V16-227)

- TH - EXHIBIT – variance application and supplemental information  
 - August 8, 2016 voted to have the case put in your packets  
 - spoke with Jeffrey Davis (project architect), and assured me that all other aspects of the building will comply with 521 CMR
- JD - what about the use of the portable lift?  
 TH - yes, that would need a variance
- JD - 24.2.2, existing first floor ramp; 24.4 – grant as proposed*  
*DG - second – carries unanimously*
- JD - 24.8 and 27.4.1 – grant as proposed*  
*DG - second – carries unanimously*
- JD - 24.4.3 – grant on the condition that the door remains open with magnetic hold open connected to the alarm system*  
*DG - second- carries unanimously*
- JD - require amendment to the variance for the portable stage lift*  
*DG - second – carries unanimously*

20) Incoming: Hingham Congregational Church, 378 Main Street, Hingham (V16-220)

- TH - EXHIBIT – variance application and supplemental information  
 - previously voted to have in packet at August 8, 2016 meeting
- JD - 25.1 – grant as proposed, on the condition that the accessible entrance is open and available during the times that the consignment shop is open as well*  
*- modify to grant on the condition that Entrance 1, as shown in the plan A1.01, is open at all times that the consignment shop is open, with directional signage to the door*  
*DG - second – carries unanimously*

*JD - 25.1 (Item 2), 26.6.3a (item 10), 26.5 (item 11) – grant as proposed*

*AB - second – carries unanimously*

*JD - 27.4 (item 3-7) – deny*

*GD - second – carries unanimously*

*JD - 30.1 (item 12) – not needed*

*JD - 28.1 (items 8 & 9) – grant on the condition that used as overflow only and policy submitted regarding the balcony being used for overflow only*

*DG - second – carries unanimously*

*JD - 26.6.3 (Item 13) – grant on the condition that auto-openers are installed*

*DG - second – carries unanimously*

DG - vestibule 11 does not look deep enough  
- need to confirm it will comply

***JD left the room***

21) Hearing: Nahant Housing Authority, Spindrift Building, 194 Nahant Road, Nahant (C14-018 & V15-048)

WW - called to order at 3:10 p.m.

- introduce the Board

Lynn Leonard, Attorney for Complainant (LL)

Gene Argiro, Certified Building Official (GA)

Gretchen Benkert, Complainant (GB)

Maureen Reilly, Attorney for Nahant Housing Authority (MR)

Donna McDonald, Executive Director (DM)

Avalon McLann, DHCD Project Manager (AM)

Neal Mongold, Narrow Gate Architecture (NM)

WW - all but attorneys sworn in

- EXHIBIT 1 – AAB1-115

TH - presentation now by the Nahant Housing Authority that a solution has been agreed to

- EXHIBIT – submittal from Neal Mongold, showing a 3-stop elevator now proposed and removal of inclined lifts within the stairways

WW - accept as EXHIBIT 2 – August 18, 2016 e-mail from Neal Mongold

TH - this is the same material as what is on the presentation boards

NM - project had sought a variance more than a year ago and was granted a variance to install a vertical wheelchair lift from the lower floor to the main level

- some disagreement about the location of the lift

- GA suggested alternate locations to the housing authority, instead of blocking a unit's window and going through the complainant's unit

- had to determine if there was an oil tank under the building

- after hiring an underground radar specialist, have determined that oil tank not at this location
- was allowed by DHCD to proceed with the two different schemes, one for a two-story vertical wheelchair lift and one for a full 3-stop elevator
- would like to ask for a variance to continue to use the incline stair lift in place, until the full elevator is installed
- proposed timeline is that the elevator will be up and running by January 1, 2018, has a lot to do with DHCD bidding and document review process and construction time
- do have a preliminary schedule in place

LL - thrilled that there is an elevator going in  
 - in regards to the variance for the stair lift, would like it contingent upon the completion of the elevator  
 - would like the AAB to keep oversight of the project by having reports submitted

NM - as a result of the cost of the elevator; pushes the cost of construction over 30%, and there will be additional areas of the building that will be required to comply with 521 CMR; have not finished that study yet

DG - estimate provided is schematic?

NM - yes, schematic

- do you have quotes from other companies?

NM - have done some recent elevators that were more money for more stops; estimate is based on another job

- enough money in the budget to address the items that will trigger further compliance with 521 CMR

NM - one thing that will be triggered will be 5% of the units to comply with the current regulations  
 - there are 2 accessible units currently built to the 1982 edition of 521 CMR  
 - the housing authority is proposing to provide one more accessible unit  
 - there are some violations as shown on the plans for Ms. Benkert's unit, may require renovation of her bathroom

TH - some of the required work may be eligible for variances

LL - there are building code violations for the existing chair lift, beyond 521 CMR

AB - will be using the chair lift until the new elevator is up and running

GD - what is the value of the building?

NM - the elevator would be 36% of the value of the building (assessed value); and at 39% for the publicly funding analysis based on full and fair cash value definition

*GD - grant a time variance to keep the chair lift in place until such time that the elevator is installed, inspectional and operational, to be verified as such by January 1, 2018, with status reports submitted every 6 months, starting January 1, 2017 (copy of deposit check and contract for elevator, shop drawings); evaluation of the rest of the building complying with 521 CMR to be submitted to the Board by January 1, 2017.*

AB - second – carries unanimously

TH - may help to close the complaint

*DG - acceptance of the elevator plan satisfies the original complaint docket C14-018, will not be closed until the elevator is installed inspected and operational*



AB - second – carries unanimously

- AM - DHCD has never not wanted to put in an elevator, just needed to find a location for the elevator  
- initially it was the thought that two units on the third floor would have to be removed and one unit on the second floor would have to be disrupted, and thought that was too much  
- wanted minimal impact on the building  
- just an issue of the location not being able to be rectified with minimal impact on the existing building

22) Incoming: Carmelina's Restaurant, 120 Salem and 124-126 Salem Street, Boston (V16-240)

- TH - EXHIBIT – variance application and supplemental information  
- seeking variances for the change in level at the entrance at 120 and the stairs  
- 12" change in level  
- 124-126 is a new building  
- 120 is an existing building

*JD now present*

DG - deny

RG - second – carries unanimously

*DG left the room*

23) Incoming Discussion: Mass. College of Art and Design, 621 Huntington Ave., Boston (V15-327)

- TH - EXHIBIT – amendment submitted on 8/3/16 by Howard LaRosee and Charles Brainerd of Ennead Architects

*DG now present*

- college seeks an amendment to 26.8 for 3 doors in the sound studio, with door opening pressures that are 10 lbs, as opposed to 5 lbs.  
- door pressures are required for soundproofing

JD - grant as proposed, on the condition that accommodation policy in place and signage in place as proposed, for this use only

AB - second – carries unanimously

24) Incoming: Amesbury Visitors Center Trail Head, 520 Main Street, Amesbury (V16-242)

- TH - EXHIBIT – variance application and supplemental information  
- proposing stair connection  
- stair is \$490,000, ramp cost is \$1,400,000

DG - hearing

JD - second – carries unanimously

25) Incoming Discussion: Casa Esperanza, Men's Residential Facility, 291 Eustis Street, Roxbury (V16-155)

- TH - met with the architect and the owner on August 19<sup>th</sup>  
- came to us and asked to remove vertical wheelchair lift and proposed an AmRamp ramp  
- \$10,000 for the ramp installation, but not a permanent installation  
- contract says, designed to meet ADA, and if have to comply with other local codes, have to have a different price  
- EXHIBIT – e-mail from Anthony D'Oliveira, submitted 8/22/16, building owner, seeking a 90-day extension to submit an alternative solution

JD - *grant extension to December 1, 2016*

DG - *second – carries unanimously*

JD - *if a resident, in the interim, requires access, this issue may have to be remedied sooner with temporary means of access or placing them in alternate location, until such time that permanent access is provided*

AB - *second – carries unanimously*

26) Incoming Discussion: One Liberty Square, Boston (V16-221)

- TH - EXHIBIT – follow-up submittal from Allegro, received August 18, 2016  
- proposing alternate swing of door and door hardware

DG - *accept the submittal as meeting the requirements of previous decision*

JD - *second – carries unanimously*

27) Incoming Discussion: Educational Residence (SMOC), 46 Gordon St., Framingham (V16-204)

- TH - EXHIBIT – packet of information  
- EXHIBIT – submittal of 21 additional pages received today (8/22/16) from Mary Feeney of Bowditch and Dewey – submitted at 11:21 a.m. via e-mail

- JD - spending \$90,000 for emergency work, \$45,000 going to access improvements  
- Karen Dempsey is looking for another entrance to be ramped  
- was previously considering upholding previous decision, prior to this most recent submittal  
- all life safety work

DG - *schedule a hearing*

JD - *second – carries unanimously*

28) Incoming: Mixed Use building, 717-719 Washington St., Dorchester (V16-234)

- TH - EXHIBIT – variance application and supplemental information  
- in the design phase  
- 8 unit apartment building  
- 8 3-bedroom units  
- ground floor is retail  
- building is 11,003 square feet  
- seeking relief to use a LULA  
- seeking a variance for 28.12.3, proposing cab size of 48" by 54", required to be 36" by 60"

- only designed first floor above retail to comply with Group 1, when LULA goes to all floors, so all units should comply with Group 1

*DG - deny*

*JD - second - carries*

29) Incoming Discussion: Copeland McKinnon Funeral Home, 93 Center St., Easton (V16-216)

TH - 8/8/16 review and continued the case for more information  
- EXHIBIT – 8/19/16 received e-mail with plot plan and site plan from Robert Stockwell  
- reconstructing 4,800 square feet, 2-story building, funeral home  
- spending over 30%  
- rebuilding the main entrance stair  
- proposing an alternate entrance served by a vertical wheelchair lift

*GD - grant as proposed for the entrance, on the condition that the new stairs are compliant*

*JD - second – carries unanimously*

*JD - accept the plan for the lift, on the condition that it complies with 28.12.2*

*GD - second – carries unanimously*

30) Incoming Discussion: Memorial Church, 23 Harvard St., Cambridge (V16-163)

TH - EXHIBIT – 8/8/16 submittal from Diane Gray of Harvard showing handrails  
- plans showing handrails at stairs

*JD - accept the handrail plans*

*GD - second – carries unanimously*

31) Discussion: Minutes from 8/8/16

KS - any changes to minutes from 8/8/16

RG - page 10, TH comment, a word that shouldn't be in there ("here" twice)

*JD - accept*

*DG - second – carries unanimously*

32) Advisory Opinion: West Chelmsford United Methodist Church, 242 Main St., North Chelmsford

TH - before us previously in May, wanted support for no sprinklers, but took no action  
- EXHIBIT – submittal from Dale Gienapp on August 17, 2016  
- proposing two lifts for the project, at two ends of the building, have to go outside the building to access the lifts  
- also 90 degree turn and don't meet 42" by 60" dimensions for vertical wheelchair lift

*JD - need variances for the route and the lifts*

*DG - second – carries unanimously*

33) Advisory Opinion: EcoTarium, 222 Harrington Way, Worcester (C14-131)

- TH - EXHIBIT – submittal from Joseph Cox, President, with samples and route maps, received on August 5, 2016
- Michael Kennedy of CLW filed complaint in November 2014
  - issued a stipulated order for response from EcoTarium on January 2015
  - proposed wood fiber for all outside paths
  - January 14, 2015 response from Kennedy in opposition
  - February 2015, found in favor of the complainant and voted that wood fiber would not comply
  - seeking until 4/1/17 to provide routes to the play equipment and around, wood fiber, and stone dust around the playground and to the equipment
  - the former compliance officer issued no new stipulated order for that 4/1/17 date
  - want to use engineered wood fiber in the fall zones, and stone dust for the paths

JD - no routes to the climbing structures shown

*JD - accept the proposed material as proposed, on the condition that an accessible route be provided to the climbing structures as shown on the sketches, and a maintenance policy for the stone dust is submitted*

*DG - second – carries unanimously*

### 34) Discussion: City of Boston – Urban Housing Project

- TH - proposal for 50,000 housing units
- first unit for public display was manufactured out of state
  - it was set up on City Hall Plaza on a trailer
  - went down to the trailer and inspected it with Felix Zemel, Chief of Building Inspections for DPS
  - removed the initial ramp and hired AmRamp
  - do not have compliant handrails, and the slopes did not comply, handrails were not continuous
  - the joints for the handrails do not comply, even after two decisions from the Board
  - EXHIBIT - variance submitted via e-mail from Max Stearns of the Office of the Mayor, today
  - seeking a variance for the ramp handrail requirements
  - have filed a staff generated complaint regarding the handrails already
  - still functioning as if no permits are required
  - service notice is not complete

*JD - not accept the variance application since incomplete*

*AB - second – carries unanimously*

- End of Meeting -

### Matters not reasonably anticipated 48 hours in advance of meeting

- One Liberty Square, Boston (V16-221) - follow-up submittal from Allegro, received August 18, 2016
- Copeland McKinnon Funeral Home, 93 Center St., Easton (V16-216) - 8/19/16 received e-mail with plot plan and site plan from Robert Stockwell
- West Chelmsford United Methodist Church, 242 Main St., North Chelmsford - submittal from Dale Gienapp on August 17, 2016

## EXHIBITS:

- New Housing, 88 Ames Street, Cambridge (V16-226) - Variance application and supplemental information; e-mail from Michael Muehe on 7/26/16
- Temple Sinai, 50 Sewall Avenue, Brookline (V16-238) - application and supplemental information; 8/17/16 e-mail from Saralynn Allair of the Brookline Commission on Disability in support of variances requested
- Joseph Osgood School Playground, 201 Sohier Street, Cohasset (C16-042 & V16-241) - 8/16/16 interim superintendent of schools, Louise Demas, file a variance for time to comply; variance application and supplemental information
- Commercial Building, Tile Shop and Buffalo Wild Wings, 476 Boston Turnpike Road, Shrewsbury (C16-015 and V16-235) - variance application and supplemental information; complaint filed by Karen Dempsey on March 21, 2016; e-mail from Karen Dempsey on 8/22/16, opposed to the variance request
- Boston-Higginbotham House, 27 York Street, Nantucket (V16-236) - variance application and supplemental information
- The League School of Greater Boston, Educational Living Center, Buildings 1 (250 Moose Hill Road) and 2 (310 Providence Turnpike), Walpole (V16-237) - variance application and supplemental information
- Main Street Rehabilitation Project, Main Street (High St. to Maple St.), Spencer (V16-231) - variance application and supplemental information
- East Street School, 508 East Street, Ludlow (V16-227) - variance application and supplemental information
- Hingham Congregational Church, 378 Main Street, Hingham (V16-220) - variance application and supplemental information
- Carmelina's Restaurant, 120 Salem and 124-126 Salem Street, Boston (V16-240) - variance application and supplemental information
- Amesbury Visitors Center Trail Head, 520 Main Street, Amesbury (V16-242) - variance application and supplemental information
- Mixed Use building, 717-719 Washington St., Dorchester (V16-234) - variance application and supplemental information
  
- Board Handbooks and Training from DPS Legal Department - Training 2016 – Architectural Access Board handout, dated August 2016
- Access Symbol, 521 CMR 41.1.3 - submittal from Girgori Fateyev of AF Architecture, e-mail on 7/27/16
- Continuing Care Retirement Community, Wakefield; 521 CMR 2.5.1, 30.8.4 and 44.7 - Lorraine Smith from Procon, Inc.
- Wellfleet Police Station, 36 Gross Hill Road, Wellfleet (V16-208) - 8/17/16 – submittal from Chief of Police included affidavit and general policy; including plans and site plan
- West Falmouth Library, 575 West Falmouth Highway, West Falmouth (V16-155) - submittal from Maria Raber, asked for reconsideration of the handrails; received a letter from Mass. Historic Commission on 7/27/16
- Tartine, LLC, 197 Cabot St., Beverly (V16-239) - letter from Chris Rogers of Chestnut Hill, owners' representative, received May 18, 2016
- Lowney Chocolate Factory, 150 Oakland Street, Mansfield (V16-189) - time extensions submitted on 8/17/16, submitted by Warren Mott of BKA
- Mass. College of Art and Design, 621 Huntington Ave., Boston (V15-327) - amendment submitted on 8/3/16 by Howard LaRosee and Charles Brainerd of Ennead Architects
- Casa Esperanza, Men's Residential Facility, 291 Eustis Street, Roxbury (V16-155) - e-mail from Anthony D'Oliveira, submitted 8/22/16, building owner, seeking a 90 day extension to submit an alternative solution

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