



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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Commissioner

Thomas P. Hopkins  
Executive Director

### **Board Meeting Minutes – December 12, 2016** **21<sup>st</sup> Floor – Conference Room 3**

#### **Present Board Members:**

- Diane McLeod, Acting Chair (DM)
- Jeffrey Dougan, Massachusetts Office on Disability Designee (JD)
- George Delegas, Member (GD)
- Andrew Bedar, Member (AB)
- Jane Hardin, Member (JH)
- Dawn Guarriello, Member (DG)

and

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

#### **Members Not Present:**

- Walter White, Chair (WW)
- Raymond Glazier, Massachusetts Office on Elder Affairs Designee (RG)

- Meeting began at approximately 9:00 a.m.

Start at 39

**DM acting as chair**

- 1) **Discussion:** Board Member Roll Call  
WW - all but WW, DG and JH present

*Walter White, Chair (WW) – now present*

2) Incoming Discussion: Ichabod Washburn House, 1183 Main St., Worcester (V10-028)

TH - EXHIBIT – 12/6/16 e-mail from Greg O'Connor  
- seeking amendment to variance application, seeking to add a coded key pad to access the vertical wheelchair lift

*DM - grant as proposed*

*JH - second – carries unanimously*

TH - bedroom layout (used to be a nursing home), with single user toilet room shared  
- want to change to one inaccessible single-user toilet room and then one accessible toilet room

*JH - grant as proposed*

*DM - second – carries unanimously*

3) Incoming: Citywide Senior Center, 806 Mass. Ave., Cambridge (V16-342)

TH - EXHIBIT – variance application and supplemental information  
- spending over 30%  
- first variance for the meeting room men's and women's single user toilet rooms (88" by 79")

*DM - grant as proposed*

*JD - second – carries unanimously*

TH - 26.6.3, 18" pull side clearance at the doors impeded by the sink  
- 14" provided

*DM - grant as proposed*

*DG - second – carries unanimously*

TH - 30.7.2, toilets off the short wall 17-17 ¾"

*DG - grant as proposed, on the condition that valve location is fixed*

*AB - second – carries unanimously*

TH - two kitchenettes  
- seeking variance for countertop heights in second floor kitchenette  
- counter is 36" from finished floor  
- seeking to remain as is  
- no knee clearance

*JD - deny both*

*DG - second – carries unanimously*

4) Incoming: Route 30 Mall, 341 Cochituate Rd., Framingham (C14-149 & V16-339)

TH - EXHIBIT- complaint file and variance application and supplemental information  
- two different notices to owners regarding parking, curb cut and sidewalk violations

- case was closed at one point
- EXHIBIT – April 22, 2016 letter from Mark Dempsey, Access Compliance Officer for Framingham Building Department
- Dempsey worked on this case while he was the Compliance Officer for the Board, so banned on dealing with this matter before the Board based on State Ethics Commission
- EXHIBIT – e-mail Karen Dempsey, Commission on Disability Chair, noting the Commission taking no action regarding this matter, but did request that wheel-stops were placed in front of the parking spaces
- path of travel is 35” at reduction
- issue of cars parking and intruding into path of compliance
- they are seeking a variance for 521 CMR 22.2
- \$71,400 to fix the path of travel issues

*JD - grant on the conditions that wheel-stops are placed at those parking locations*  
*DG - second – carries unanimously*

***Raymond Glazier, Executive Office of Elder Affairs Designee (RG) – Now Present***

**5) Incoming:** 5-story Commercial Building, 1280 Mass. Ave., Cambridge (V16-344)

- TH - EXHIBIT- variance application and supplemental information
- tenant fit out
  - previous tenant, Panera Bread, got a variance for the same item in 2011
  - first floor space is only overlapped by the second floor space at the staircase
  - rely on house (corridor elevators) to access the second floor

*DG - grant with same conditions from docket V11-184*  
*JH - second – carries unanimously*

**6) Incoming Discussion:** Casa Esperanza, 291 Eustis Street, Roxbury (V16-144)

- TH - EXHIBIT – 12/2/16 letter from Anthony Oliveira, seeking a time extension to April 15, 2017
- they have removed trees and bushes and poured concrete, but have to wait until the spring for the completion of the construction of the ramp

*JD - grant as proposed*  
*JH - second – carries unanimously*

**7) Discussion:** Bidwell House Museum, 100 Art School Rd., Monterey (V15-143)

- TH - EXHIBIT – 11/23/16 submittal of extension request from Barbara Palmer, Executive Director, for the completion of the required video
- work will be completed in the summer of 2017
  - need to film that work and the completed building, and proposing it will be completed by 9/15/17

*RG - grant as proposed*  
*DM - second – carries unanimously*

**8) Incoming Discussion:** The Commons at Forest Hill Station, 3611-3615 Washington St., Boston (V14-265)

TH - EXHIBIT –11/28/16 submittal Mary Davis submitted lease language for MetroMark Apartments regarding sinks

DG - *accept submittal of lease language*

DM - *second – carries unanimously*

9) Incoming: Fowler Clark Epstein Farm, 487 and 487R Norfolk St. and 47 Hosmer St., Mattapan (V16-302)

TH - first reviewed on 11/14/16 and granted all as proposed, with the exception of the request for 22.4  
- there are three sets of stairs on the property  
- accessible routes, seeking alternative routes around the stairs  
- EXHIBIT – submittal from Lisa Lewis e-mail with plans and slopes received on 12/7/16

AB - *grant as proposed*

DG - *second – carries unanimously*

10) Incoming: Princeton Chelmsford Apartment Homes, 276 Mill Rd., Chelmsford (V16-343)

TH - EXHIBIT – variance application and supplemental information  
- never received requested disc for the case; sent request on 11/23/16  
- variance request for site compliance (20.2)  
- new construction  
- EXHIBIT – 12/6/16 letter of opposition to the request from Jim Lyons of the local Independent Living Center

DM - *schedule a hearing*

DG - *second – carries unanimously*

11) Incoming: 2 Exterior Entry Landings, 2 Boylston St., Boston (V16-347)

TH - EXHIBIT – variance application and supplemental information  
- Liberty Plaza, which was completely renovated previously  
- sloped entry landing at entry 1 and entry 2  
- Entry 1, slopes of 5.6-7.9%  
- Entry 2, slopes of 2.9%  
- seeking variance for 25.2 and 26.6.1

RG - *grant on the condition automatic door openers are installed at both entries*

DM - *second – carries unanimously*

12) Incoming: North Mount Hermon School Daycare Center, 14 Mount Hermon Rd., Gill (V16-348)

TH - Petitioner seeks variance to waive 2-week waiting period

DM - *waive the 2-week waiting period*

AB - *second – carries unanimously*

- EXHIBIT – variance application and supplemental information  
- variance for height of children's sinks (30.16.2), height limit of 25" for children's bathroom sink  
- they are seeking to install the sink at a height of 18" above the floor  
- kids are infants to 5 years old; 60 children

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

13) Incoming: Zion Lutheran Church, 74 First St., Pittsfield (V16-345)

- TH - EXHIBIT – variance application and supplemental information  
- seeking many variances  
- over 30%  
- EXHIBIT – 12/9/16 e-mail from June Hailer of Pittsfield Commission on Disability in favor of the variances requested  
- would like to put in packet

*DM* - put in packet for 1/7/17  
*JD* - second – carries unanimously

14) Incoming Discussion: Middle East Restaurant, 472 Mass Ave., Cambridge (V16-327)

- TH - previously denied variance for the lack of access to the stage  
- also ordered further analysis of the building based on analysis of spending by Larry Braman of Cambridge ISD  
- EXHIBIT – plans and specs for portable lift to be used at two stages, received 12/6/16

*DM* - grant as proposed  
*JD* - second – carries unanimously

15) Incoming Discussion: Brookline Dental Specialists, 21 Longwood Ave., Brookline (V16-333)

- TH - previously denied based on no partial application analysis  
- construction is complete and temporary CO has been issued  
- seeking a variance for the lack of accessible entrance  
- also appears that none of the exam rooms are accessible  
- 12/5/16 met with Julie Nelligan, AIA, and established that spending was over 30% of the value of the building  
- EXHIBIT – confirmation of compliant size of exam rooms and toilet rooms, submitted by Julie Nelligan on 12/8/16  
- issue of entrances still needs to be resolved

*DG* - schedule a hearing  
*JH* - second – carries unanimously

16) Incoming Discussion: Jade Silvestri Hair & Makeup, 6 Brussels St. – 3<sup>rd</sup> Floor, Worcester (V16-329)

- TH - previously denied and required contacting owner of the building  
- met with Doug Vogel, owner of the building, on 12/8/16  
- EXHIBIT – e-mail from Doug Vogel on 12/8/16 regarding submittal of variance application for the main building, also in support of variance application from tenant who is already in the space  
- large mill building that was split into tenant spaces prior to the current owners  
- variance for the lack of access to her tenant space and the lack of accessible toilet rooms on the third floor  
- owner is seeking 2 years to put elevator in, via the submittal of the proposed variance

WW - freight elevator now  
TH - no

*JH - grant the variance for the salon, on the condition that the owner submit the variance for time to install a full elevator by 12/23/16, variance application should include proposed contract for elevator*  
*DG - second – carries unanimously*

17) Incoming Discussion: Golda Meir House, 160 Stanton Avenue, Newton (V16-260)

TH - met with representatives of the Golda Meir House on 12/5/16  
- EXHIBIT – e-mail from Sarah Green Vassawane 12/9/16, submittal of new policy language

*JD - accept modified policy*  
*DG - second – carries unanimously*

***JD left the room***

18) Incoming: South Canal Apartments, Sargeant St., Holyoke (V16-346)

TH - EXHIBIT – variance application and supplemental information  
- spending over 30%  
- 6 new accessible units  
- 3 “sensory-impaired” units  
- seeking variance for emergency egress

*DG - continue and have TH meet with the applicants*  
*RG - second – carries unanimously*

19) Discussion: Maynard Theater Place, 17-21 Summer St., Maynard (V16-207)

TH - EXHIBIT – 12/7/16 from Andrew Gately, requesting extension of time from 12/5/16 deadline to January 31, 2017 to submit documentation requested by the Board

*JH - grant extension to 1/31/17*  
*AB - second – carries unanimously*

*JH - expedite*  
*RG - second – carries unanimously*

***JD now present***

20) Incoming: St. John’s Lutheran Church, 32 Ellsworth Rd., Peabody (V16-341)

WJ - EXHIBIT – variance application and supplemental  
- proposal to install incline chair lift with no platform

DG - deny  
GD - second – carries unanimously

***DG left the room***

**21) Discussion:** Abby House, 52 High St., Worcester (V08-128)

TH - EXHIBIT – 11/21/16 e-mail from Kitty Ryan of Narrowgate Architects requested amendment to decision from 11/4/08  
- request is time-barred

JD - when were they supposed to be done?

TH - it was assumed that the work would be done right away

***DG now present***

JH - put it in the packets for 1/9/17

JD - second – carries unanimously

**22) Incoming:** Worcester City Hall Common Improvements project, 455 Main St., Worcester (V16-332)

TH - EXHIBIT – original variance application and supplemental information; no addition information submitted to date  
- first reviewed on 11/28/16 with blank service notice and no authorization from the City of Worcester  
- continued the case  
- met with contractors and City of Worcester representatives on 12/7/16  
- nothing submitted yet, but did get follow-up e-mail from Ed Dwyer of Mountainview Landscapes on 12/9/16  
- City of Worcester is trying to get bond money back

***DM left the room***

**23) Incoming:** West Tisbury School, 401 Old County Road, West Tisbury, 401 Old County Rd., West Tisbury (V16-340)

TH - EXHIBIT – variance application and supplemental information  
- reconstruction  
- remodeling 3 sets of existing toilet rooms  
- jurisdiction is 3.3.1b  
- seeking variance for children's grab bars and mirrors  
- girls toilet room 248 toilet located to 14.5" off of side wall

***DM now present***

GD - grant as proposed

DG - second – carries unanimously

TH - mirror height

*JD - grant as proposed*

*DG - second – carries unanimously*

24) Discussion: Jenkins Elementary School Playground, 54 Vinal Ave., Scituate (C15-138)

***JD left the room***

TH - EXHIBIT – 12/6/16 submittal from Brandon Moss of Murphy Hess Toomey and Lehane LLP including plan to correct playground surface  
- seeking extension to 9/1/17 to complete the work

*DG - grant as proposed*

*AB - second – carries unanimously*

***JD now present***

25) Discussion: Schofield Elementary School, 27 Cedar St., Wellesley (V16-168)

TH - EXHIBIT – 12/2/16 amendment request from Jennifer Soucy  
- regarding two toilet rooms for staff (not employees only), with out-swinging doors on single user toilet rooms  
- toilet rooms 146 and 147  
- bathrooms are 84” by 72”, proposing to swing the doors into the rooms  
- also need a variance for the size of the rooms

*DG - grant as proposed, on the condition that closers are provided at both doors*

*GD - second – carries unanimously*

***JD left the room***

26) Discussion: Jacob’s Farm House, 7 Jacob’s Lane, Norwell (C16-033)

TH - warrant article found for significant funds granted to renovate the historic home  
- EXHIBIT – letter from Peter Morin, Town Administrator on 12/8/16; on 12/7/16 Town of Norwell representatives met with architect, representatives from Norwell Historic Commission and Norwell Commission on Disability  
- proposal of submittal of review of the project from the architect to be submitted to the Board in January of 2017

*DM - full review of building in accordance with the requirements of 521 CMR, as proposed, by 1/31/17*

*JH - second – carries unanimously*



***JD now present***

27) Discussion: Draper Labs, 555 Technology Sq., Cambridge (V16-064)

- TH - EXHIBIT – submittal from Robert Durkin on 12/5/16, with status report of the work  
- hearing was held on 6/20/16  
- proposed signage at first floor lobby area, which does have accessible toilet room

*DM - accept status report and signage*

*DG - second – carries unanimously*

28) Discussion: 21 Old South Rd., Nantucket (V15-214)

- TH - new construction, convenience store on first floor and rentals at the upper floors  
- when first before the Board, basement was noted as storage  
- granted the use of a LULA in new construction  
- now want to add apartments in the basement  
- town and commission is saying that they want the apartments to not be open to the public  
- EXHIBIT – letters from the Commission on Disabilities  
- want to follow-up with architect and town building department

*DM - have staff contact the architect and building department*

*RG - second – carries unanimously*

***Brief Break***

***TH not present***

29) Hearing: Amesbury Visitors' Center – Path, 520 Main Street, Amesbury (V16-242)

- WW - called to order at 11:00 a.m.  
- introduce the Board

Andrew Clarke, WSP Parsons Brinckerhoff for MassDOT (AC)

Michael Bartoulin, WSP Parsons Brinckerhoff for MassDOT (MB)

- WW - both sworn in  
- EXHIBIT 1 – AAB1-30

- MB - larger project was the Whittier bridge  
- due to community input, a path was added to the project  
- also connected to park and ride in Newburyport  
- AAB12 shows path  
- trailhead location in Newburyport and terminus in Amesbury  
- shared use path will be “live” next year  
- 16 interpretive panels along the path regarding the history of the wildlife, John Greenleaf Whittier, the Native Americans that camped along the river, and history of the waterway

- WW - copy of the Board showing the Whittier bridge project will be submitted via PDF digitally and considered EXHIBIT 2

- MB - 22 foot change in elevation from Route 95 to the Visitors' Center  
- AAB13 shows proposed switchback ramp, but pushes the ramp into the wetlands and currently at the edge of the wetlands  
- ramp would double the cost of the project  
- bridge with stairs down to the visitors center  
- can walk their bikes up the stairs with a bike rail detail

***TH now present***

- MB - granite panels along the path  
- have moved the stairs to get away from the wetlands variance line  
- Whittier Working Group made up of Towns of Amesbury, Newburyport and Salisbury

- AC - overall project has 6 access points, the stairs are one of 6  
- cost of the ramp would double the cost of the project  
- doesn't impede access to the overall system

- WW - can people get to the adjacent bridge?  
MB - yes, as other locations

- DG - can access visitors' center by a car, but cannot connect from bridge down to the Visitors Center  
MB - yes

- WW - would have to go to another location to get access to the path  
AC - another mile to Elm Street entrance to the path, which is at-grade and accessible

- MB - \$1.5 million for the project to connect via a ramp; project is currently \$1 million

***DM left the room***

- MB - other access points within  $\frac{3}{4}$  of a mile that are accessible  
- cannot install the ramp without impacting the adjacent wetlands

- WW - ever look into an elevator or lift

- MB - MassDOT does not own any elevator or have a maintenance department for dealing with elevators, so not an option

- AC - other sites to access the path that are accessible  
- site is not considered a trailhead, other sites are dedicated trailheads  
- Amesbury would like to use the facility for the Town, wanted to add the connection to the path to create access for cyclists on the path

- MB - a lift would be totally exposed in this location  
- would require a large maintenance contingent, which MassDOT does not have

- AC - one switchback shown in AAB13, 5 switchbacks would cover any green space adjacent to the building  
- also a technical issue based on the adjacent wetlands, making the ramp installation infeasible

- MB - parking for 12-14 cars

- picnic tables and seating

AB - is there directional signage at the stairs to tell visitors where the accessible trail entrances are to get to the Visitors' Center

JD - need convenient directional signage, showing the shortest accessible route

AC - building does not have any bathrooms or facilities

MB - is open for a few hours sometimes, but as of right now will not have full facilities

JH - demographic of visitors yet?

MB - not very used currently by the Town

MB - two overlooks will have panels, to create full visual and buffer sound

- ramp would dwarf the existing facility

- installation of the tunnel for the bikes was a cost effective way for the high number of cyclists that use the trail

- a lot of people use it for transportation since it connects to the Newburyport transportation hub

- 16 interpretive panels are also facts about the local history of all three towns

AB - *grant on the condition that directional signage is posted for the accessible trail access points that will get you back to the Visitors Center, and would like to have panels information submitted as well*

GD - *second*

JD - *would also like language on the website about the lack of access at this location and the alternate routes to get to the Visitor's Center, with signage at the top and bottom of the stairs regarding routes, as well as signage at all trailheads and access points clarifying accessible routes*

AC - submittal of stair details

WW - EXHIBIT 3

AB - *accept the amendments*

GD - *second – carries with WW opposed*

### ***Break for lunch***

30) Hearing: Sky Zone, 290 Turnpike Road, Westborough (C16-014 & V16-232)

WW - called to order at 1:00 p.m.

- introduce the Board

William Joyce, Compliance Officer for the Board (WJ)

Karen Dempsey, Complainant (KD)

David O'Connor, Owner (Sky Zone) (DO)

WW - all sworn in

- EXHIBIT 1 – AAB1-62

JD - work with Commissions on Disabilities throughout the Commonwealth, and have worked with Ms. Dempsey regarding Commission work, but has not discussed this case  
- no objections to JD sitting on the Board

KD - AAB16, e-mail regarding issues found at Sky Zone  
- have been 2-4 times

*TH left the room*

WJ - AAB62 shows the change in level

KD - was able to get to around the trampoline area at first  
- no access to get to foam pit area  
- was not able to get to the foam pit area to watch 10-year old twins  
- have not met either criteria to grant a variance

WJ - tenant fit-out in 2013  
- 2 issues were the lack of second set of handrails at a ramp, and the lack of access to the raised area  
- since the complaint was filed pictures were submitted showing handrails have been installed (AAB18-21)  
- other complaint is still outstanding regarding the change in level, which was addressed with the submittal of the variance application

DO - no access to the foam pit, due to running and jumping into the trampolines and into the foam pit  
- platform is only to utilize the foam pit  
- this is not a congregation and circulation area  
- need to enforce no parents on the platform, only for use by the users  
- don't want to allow the employees to fight back with parents, but they are supposed to be asked to not go up on the platform  
- there is a carve out area that is lowered to see take a picture  
- no congregation in this area  
- toddlers are not allowed in the building in the afternoons  
- staff is tasked with watching the kids  
- area to see the foam pits through a fenced area  
- no lack of visibility is no different at any other areas  
- AAB9, picture from the lower level  
- AAB10, picture from lower level  
- issue is not the lift, but franchise owner  
- AAB62 shows that adult picture being taken, they were either not enforced to not come up to the space, or were obstinate

WW - is there any signage regarding no congregating at the foam area  
DO - signage said "For Participants Only" and was initially on the wall, but now on a stantion

WW - why not roping off the stairs and have someone have to remove the rope to allow access to the area  
DO - on a busy day, it is too much to have a rope across

JH - if rules are in place and signage is there, almost safer to restrict to only the children that are participating

- GD - what percentage of parents break the rules and go up there and take pictures  
 DO - I have great employees that wouldn't let it happen, other employees are more lax  
 - sure, there is a handful per day  
 - on Saturdays there are 1620 jumpers, probably happens once an hour
- AB - if someone has a cane, crutch or walker  
 DO - cannot have any range limiting devices, have to be able to participate unassisted  
 - have an autistic child, but have never been on the trampoline in my own business  
 - she has to be assisted by the "court monitors" to get off the trampolines if she has a problem
- DO - what is provided as far as signage is from the corporate offices  
 - if someone had a cane, we would say you cannot use the trampolines
- KD - but there are people with disabilities that have PCA's that help out  
 - what about a child with a disability that cannot participate by even getting up there to watch the jumping
- DO - it is part of the insurance policy  
 - the area will never be for congregation
- JD - this is just to discuss building code issues  
 - do any children with mobility issues have ability to utilize
- DO - there are basketball hoops with trampolines, dodgeball trampolines, and then a large trampoline court with a series of small connected trampolines  
 - injury rate is very low
- KD - variance is only to be granted for one of two reasons  
 - rules are not always being enforced  
 - I do not have that option  
 - being a brand new facility, it should have been accessible  
 - also an issue for children with mobility impairments
- WJ - is there a written policy in place?  
 DO - yes, it is a franchise order
- DO - sold the franchise last week, but had to see this matter through to the end  
 - not sure if disclaimer was on the website  
 - there is signage throughout the area
- JH - concern with a person with a disability being injured in that area of the trampoline park  
 - also option of potentially having a camera to take pictures for the parents
- DO - 500,000 kids through the door  
 - no one with a kid with disability has booked a party at this trampoline park
- WJ - when is the sign on the post put out?  
 DO - it is not on a schedule, it is out all the time

DO - submit picture of the sign  
WW - accept the picture as EXHIBIT 2

DO - could have a roped off area, but it would be an exchange

*DM - find in favor of the complainant, and that a variance for the change of level is needed*  
*DG - second – carries with JH opposed*

*DM - grant on the condition that there is a written policy and clear signage provided to the Board for review, permanently installed, stating that no one other than participants uses the platform, submittal by January 4, 2017;*

*JD - making a huge assumption that people with disability are not going to use them*  
*- similar structure with accessible elements built in*

*DM - only looking at this case*

*JH - definitely an issue for corporate Sky Zone, but under present structure, with what is in place*

*AB - second – motion ties, with JH, AB, GD and DM in favor and RG, JD, DG and WW opposed – motion fails*

*DM - motion to take the matter under advisement*  
*GD - second – carries unanimously*

31) Hearing: Sidewalks, Washington Street, Norwell (C15-102)

WW - called to order at 2:00 p.m.  
- introduce the Board

John Lozada, MassDOT Manager of Federal Programs (JL)  
Daniel Vieira, MassDOT, District 5 (DV)  
Albert Caldarelli, MassDOT Deputy General Counsel (AC)  
William Joyce, Compliance Officer for the Board (WJ)

WW - all but AC sworn  
- EXHIBIT 1 – AAB1-46  
- Fine hearing

AC - present evidence of compliance with the Board's previous order  
- in the interim of receiving the notice and today, have addressed the issues in question  
- submit packet of photographs as exhibit

WW - accept as EXHIBIT 2

DV - in the original complaint notice, five specific locations were cited to be in violation  
- AAB16, utility pole #17, removed the redundant utility pole and widened the sidewalk  
- over the required 36" in width at this location  
- AAB17, Pole #15, sidewalk was 29", widened the sidewalk to more than 36"  
- Pole #13, removed redundant utility pole and widened the sidewalk to more than 36"

- Pole #10 was not part of the violation, but the sidewalk at this location was not at the correct width, so removed redundant utility pole to provide a path greater than 36"
- AAB35, multiple utility poles at one location, removed the redundant poles to create a width of more than 36"
- AAB36, ponding at the curb ramps at Jacob's Trail
- regarded the area to provide a compliant run-off

WJ - Pole #13 shows broken path  
 DV - will be addressing that paving within the next two weeks

DM - *accept the documentation and testimony provided that these items have been repaired by December 31, 2016 for #13 sidewalk*

DG - *second – carries unanimously*

DM - *expedite*

AB - *second – carries unanimously*

DG - why did it take to a fine hearing to have the matter resolved?

JL - correspondence was going to the district but not being noticed at headquarters as well  
 - coordinated so that I am noticed each time a MassDOT case comes before the Board

#### ***GD left the room***

32) Advisory Opinion: Exterior Work Jurisdiction – 521 CMR 3.8 – 1220 Washington St., Newton  
 TH - EXHIBIT – letter from Steven Gilbert, Baker Design Group 11/30/16

#### ***GD now present***

TH - spending is over 30%  
 - Donald Lang contacted me on 12/7/16 and the owner of the building is being submitted for the 1/9/16

DM - *motion to accept and put on file until variance arrives*

JD - *second – carries unanimously*

33) Discussion: Waverly Commuter Rail Station, 525 Trapelo Road, Belmont (C12-033 & V13-076)

TH - EXHIBIT – e-mail from Laura Brelsford of MBTA on 11/15/16  
 - first condition of decision was to require the MBTA to submit an annual status report no later than June 1, 2017; decision issued on May 31, 2016  
 - should the meeting with Fiscal Management Control Board, prior to June 1<sup>st</sup> date or after?

DM - *report before the meeting with the FMCB*

DG - *second – carries unanimously*

DG - *have the member of the FMCB appear before the board on 6/19/17 to discuss the status report submittal*

JD - *second – carries unanimously*

34) Advisory Opinion: Group 2 A kitchen requirements

- TH - EXHIBIT – 2005 advisory opinion and minutes; 12/1/16 and 12/6/16 e-mails from Larry Braman of Cambridge ISD; Thomas Dennehy of The Hanover Company letter on 12/9/16; 12/8/16 e-mail from Larry Braman
- D Ryan Associates submitted a request for advisory opinion regarding 521 6.3; 45.3, requires a turning radius and references 6.3
  - at the time 2005, Ms. Ryan wrote to the Board asking if T-Turn could be used in Group 2 kitchen
  - current project of Group 2 housing and Ms. Ryan is using the 2005 opinion that a T-turn would be allowed, but that is not applicable for all housing, it was only applicable at that time
  - the use of a T-Turn narrows the kitchen
  - the 2005 case was an advisory, and no longer accept the use of a request if a specific building or project is not cited

WW - basically negates 45.3 requirements

*JD - refer to DPS legal for opinion*

*DM - second – carries unanimously*

***JD left the room***

35) Discussion: 25 Mount Auburn St., Cambridge (V11-039 & V11-224)

TH - need to talk to architect of record before presenting to the Board

36) Advisory Opinion: Brazilian Baptist Church, 35 South Street, Framingham

TH - EXHIBIT – e-mail including photos from Mark Dempsey, Access Compliance Inspector for the Town of Framingham, submitted on 11/29/16; pictures on December 1, 2016 submitted via e-mail by Mark Dempsey

***JD now present***

- vertical wheelchair lift versus a LULA elevator
- LULA would create access at the front of the building
- would the LULA adjacent to the stairs resolve the issue of access at the stair entrance
- vertical wheelchair lift with entrance inside the building adjacent to the stairs
- LULA does not enter at the same location

*DM - motion that a LULA would not require a variance, as shown, and the entrance would be considered accessible due to location of the LULA; or would need a variance for the lack of access at the stair entrance, with a vertical wheelchair lift as shown adjacent*

*DG - second – carries unanimously*

37) Hearing: Sky Zone, 290 Turnpike Road, Westborough (C16-014 & V16-329)

JD - issue with blanket statement about policy and no exceptions to it

- does not seem excessive cost, but need to determine benefit



- WW - need to know where the limitations come from
- JD - issue with the limitations on people with disabilities not being allowed to participant
- WW - need to narrow it down to issue of parents going up to take pictures, and not about participants  
 - need to know why the requirements against people with disabilities participating  
 - need more information about where the rules come from
- JH - still does not want parents up on the landing  
 - not discriminating, no parent is supposed to go up there, more a problem of enforcement of the rules and very clear signage
- DM - shouldn't we look at the parental part, and have the ADA deal with the issue of use of the rights
- JD - deny and require a compliant plan for access to the platform within 30 days receipt, to be completed within the 3 months of approval of the plan*
- DG - second – carries with GD, JH and DM*
- DM - expedite*
- JD - second – carries unanimously*

***DM left for the day***

38) Hearing: Mixed Use Building, 359 Union Ave., Framingham (V16-218)

- WW - called to order at approximately 3 p.m.  
 - introduce the Board

Richard Peary, Property Management Representative (RP)

Karen Dempsey, Chair of Framingham Commission on Disability (KD)

- WW - both sworn in  
 - EXHIBIT 1 – AAB1-39
- RP - work is technically feasible, but the cost is excessive without substantial benefit to persons with disabilities  
 - submittal of printed PowerPoint presentation
- WW - accept as EXHIBIT 2
- RP - 2 commercial units at the first floor, psychiatric office and construction office, ramp accesses the doctor's office only  
 - psychiatrist is not accepting new patients  
 - ramp currently accesses the rear of the building  
 - purchased the property in October 2015  
 - existing ramp was in very poor condition so made a plan to reconstruct the ramp and not repair it  
 - ramp was installed without a building permit, and was not aware of the code requirements and contractor moved forward with work without the permit  
 - Building Department is a ½ mile from the building

- work was done in the winter and wanted to complete the work as soon as possible
- wooden platform ramp with a short steep slope and very slippery and not safe to use
- it had been hit by vehicles as well
- corner property with an access road between this building and the adjacent which is used as an access to the rear of the building
- ramp width is 36" clear
- ramp is 31 feet long without an intermediate landing
- top landing is only 50" wide instead of required 60"
- lower handrail is 21" and not continuous
- handrail at top is also not continuous
- 4 units in total
- a fully compliant ramp would intrude on the driveway an additional 4 feet and would not allow for a car to turn around, and would lose 5 of the 7 parking spaces for the neighboring space
- would lose 5 of parking spaces
- Eden Street has only parking at one side of the street
- doctor is supportive of keeping the existing ramp, and concerned about losing parking spaces and does not want to change anything more in the doctor's office, due to patients needs and disruptions to his patients
- approximately \$25,000 to replace the ramp, but have very limited cash flow at this time

WW - has Framingham Building Department taken up the issue of the lack of permits with the contractor  
 - does the adjacent tenant space connect to the ramp?  
 RP – no, no connection between the two tenant spaces

RG - appears to be a typical AmRamp type construction  
 - should not have been built as it was, should be rebuilt by the contractor

RP - Total Access New England installed the product  
 - prefabricated product  
 - not an issue of cost, issue is that a fully compliant ramp would intrude too much into the adjacent drive  
 - only about 8 inches between railing and the building

JD - handrails are not continuous  
 - could widen the ramp towards the house

KD - Commission on Disability would agree with a time variance  
 - have to leave the hearing

***KD left the hearing***

JD - think that handrails and width need to be fixed, but that length and width at landing would be a variance situation

RP - what if widened the handrails

JD - take the matter under advisement  
 DG - second – carries unanimously

***JH left for the day***

39) Discussion: Minutes and Decisions from 11/28/16

*JD - accept minutes and decisions from 11/28/16*

*DG - second – carries unanimously*

40) Advisory Opinion: Coat Hooks in Children's Toilet Rooms – Nantucket Intermediate School

TH - EXHIBIT – Stephen Rode, Earth Safe Inc. 12/6/16 e-mail

- coat hooks for children's toilet stalls

*JD - comply with 30.20, since it would be considered a receptacle, based on the fact that there is no reach ranges for children's reach ranges, we will consider this the applicable section of 521 CMR.*

*RG - second – carries unanimously*

***WW left the room, brief break***

***WW now present***

41) Hearing: Mixed Use Building, Unit 1, 359 Union Avenue, Framingham (V16-218)

*JD - grant the variance to 24.3, width shall not be less than 36 inches (including the handrails); and 24.4, 24.4.3 and 24.4.5, on the condition that the clear width of the ramp is not less than 36 inches*

*RG - second – carries unanimously*

*JD - 24.5.2 and 24.5.3, handrail heights and lack of continuous surface, deny*

*RG - second – carries unanimously*

*JD - instruct the Executive Director to assist the building owner to remedy the issues with the contractor and the installation of a noncompliant ramp without permits*

*DG - second – carries unanimously*

- End of Meeting -

Matters not reasonably anticipated 48 hours in advance of meeting

- Worcester City Hall Common Improvements project, 455 Main St., Worcester (V16-332) – variance application and supplemental information, no new information submitted

EXHIBITS:

- Ichabod Washburn House, 1183 Main St., Worcester (V10-028) - 12/6/16 e-mail from Greg O'Connor
- Route 30 Mall, 341 Cochituate Rd., Framingham (C14-149 & V16-339) - complaint file and variance application and supplemental information; April 22, 2016 letter from Mark Dempsey, Access Compliance Officer for Framingham Building Department; e-mail Karen Dempsey, Commission on Disability Chair, noting the Commission taking no action regarding this matter, but did request that wheel-stops were placed in front of the parking spaces

- Casa Esperanza, 291 Eustis Street, Roxbury (V16-144) - 12/2/16 letter from Anthony Oliveira, seeking a time extension to April 15, 2017
  - Bidwell House Museum, 100 Art School Rd., Monterey (V15-143) - 11/23/16 submittal of extension request from Barbara Palmer, Executive Director, for the completion of the required video
  - The Commons at Forest Hill Station, 3611-3615 Washington St., Boston (V14-265) -11/28/16 submittal Mary Davis submitted lease language for MetroMark Apartments regarding sinks
  - Fowler Clark Epstein Farm, 487 and 487R Norfolk St. and 47 Hosmer St., Mattapan (V16-302) - submittal from Lisa Lewis e-mail with plans and slopes received on 12/7/16
  - Middle East Restaurant, 472 Mass Ave., Cambridge (V16-327) - plans and specs for portable lift to be used at two stages, received 12/6/16
  - South Canal Apartments, Sargeant St., Holyoke (V16-346) - variance application and supplemental information
  - St. John's Lutheran Church, 32 Ellsworth Rd., Peabody (V16-341) - variance application and supplemental
  - West Tisbury School, 401 Old County Road, West Tisbury, 401 Old County Rd., West Tisbury (V16-340) - variance application and supplemental information
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- Citywide Senior Center, 806 Mass. Ave., Cambridge (V16-342) - variance application and supplemental information
  - 5-story Commercial Building, 1280 Mass. Ave., Cambridge (V16-344) - variance application and supplemental information
  - Princeton Chelmsford Apartment Homes, 276 Mill Rd., Chelmsford (V16-343) - variance application and supplemental information; 12/6/16 letter of opposition to the request from Jim Lyons of the local Independent Living Center
  - 2 Exterior Entry Landings, 2 Boylston St., Boston (V16-347) - variance application and supplemental information
  - North Mount Hermon School Daycare Center, 14 Mount Hermon Rd., Gill (V16-348) - variance application and supplemental information
  - Zion Lutheran Church, 74 First St., Pittsfield (V16-345) - variance application and supplemental information; 12/9/16 e-mail from June Hailer of Pittsfield Commission on Disability in favor of the variances requested
  - Brookline Dental Specialists, 21 Longwood Ave., Brookline (V16-333) - confirmation of compliant size of exam rooms and toilet rooms, submitted by Julie Nelligan on 12/8/16
  - Jade Silvestri Hair & Makeup, 6 Brussels St. – 3<sup>rd</sup> Floor, Worcester (V16-329) - e-mail from Doug Vogel on 12/8/16 regarding submittal of variance application for the main building, also in support of variance application from tenant who is already in the space
  - Golda Meir House, 160 Stanton Avenue, Newton (V16-260) - e-mail from Sarah Green Vassawane 12/9/16, submittal of new policy language
  - Maynard Theater Place, 17-21 Summer St., Maynard (V16-207) - 12/7/16 from Andrew Gately, requesting extension of time from 12/5/16 deadline to January 31, 2017 to submit documentation requested by the Board
  - Abby House, 52 High St., Worcester (V08-128) - 11/21/16 e-mail from Kitty Ryan of Narrowgate Architects requested amendment to decision from 11/4/08
  - Jenkins Elementary School Playground, 54 Vinal Ave., Scituate (C15-138) - 12/6/16 submittal from Brandon Moss of Murphy Hess Toomey and Lehan LLP including plan to correct playground surface
  - Schofield Elementary School, 27 Cedar St., Wellesley (V16-168) -12/2/16 amendment request from Jennifer Soucy

- Jacob's Farm House, 7 Jacob's Lane, Norwell (C16-033) - letter from Peter Morin, Town Administrator on 12/8/16; on 12/7/16 Town of Norwell representatives met with architect, representatives from Norwell Historic Commission and Norwell
- Draper Labs, 555 Technology Sq., Cambridge (V16-064) - submittal from Robert Durkin on 12/5/16, with status report of the work
- 21 Old South Rd., Nantucket (V15-214) - letters from the Commission on Disabilities
- Exterior Work Jurisdiction – 521 CMR 3.8 – 1220 Washington St., Newton - letter from Steven Gilbert, Baker Design Group 11/30/16
- Waverly Commuter Rail Station, 525 Trapelo Road, Belmont (C12-033 & V13-076) - e-mail from Laura Brelsford of MBTA on 11/15/16
- Group 2 A kitchen requirements - 2005 advisory opinion and minutes; 12/1/16 and 12/6/16 e-mails from Larry Braman of Cambridge ISD; Thomas Dennehy of The Hanover Company letter on 12/9/16; 12/8/16 e-mail from Larry Braman
- Brazilian Baptist Church, 35 South Street, Framingham - e-mail including photos from Mark Dempsey, Access Compliance Inspector for the Town of Framingham, submitted on 11/29/16; pictures on December 1, 2016 submitted via e-mail by Mark Dempsey
- Coat Hooks in Children's Toilet Rooms – Nantucket Intermediate School - Stephen Rode, Earth Safe Inc. 12/6/16 e-mail