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Matt Carlin
Commissioner

Thomas P. Hopkins
Executive Director

Board Meeting Minutes – January 25, 2016

21st Floor - Conference Room 3

Present Board Members:

- Walter White, Chair (WW)
- David D'Arcangelo, Massachusetts Office on Disability Director (DD)
- Diane McLeod, Vice Chair (DM)
- Andrew Bedar, Member (AB)
- Jane Hardin, Member (JH)

and

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

Members Not Present:

- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- George Delegas, Member (GD)
- Carol Steinberg, Member (CS)

- Meeting began at approximately 9:05 a.m.

1) Discussion: Board Member Roll Call

WW - all but RG, GD and CS present

2) Incoming: One Franklin Tower, One Franklin St., Boston (V15-341)

TH - EXHIBIT – variance application and supplemental information
- new building
- two locations in two units where there are glass walls, and plugs cannot be on the walls, all other outlets will comply; Units 4500 and 4502

DM - *grant as proposed*

DD - *second – carries unanimously*

3) Incoming: Mixed Use Building, 50 Water Street, Worcester (V16-001)

TH - EXHIBIT – variance application and supplemental information
- renovation of existing 3 story building (basement, first and second)
- restaurant at first floor; second floor is three residential units
- spending is over 30%
- seeking a variance for the change in level within the restaurant space of 7 treads
- seeking to not put a lift in due to obstructions
- both sides are accessible from the exterior

DM - *deny*

DD - *second – carries unanimously*

4) Incoming: Winthrop House, Harvard University, 32 (Gore Hall) and 48 (Standish Hall) Mill Street, and 101 and 11 Plympton St., Cambridge (V15-339)

TH - EXHIBIT- variance application and supplemental information
- renovation of multiple buildings
- would like to put in board packet for next meeting

DM - *put the case in the board packet for February 8, 2016*

DD - *second – carries unanimously*

5) Incoming Discussion: Community Christian School, 39 South Broad St., Westfield (V10-101)

TH - previously denied variance and required that lift be installed by a certain date
- were required to give status reports since 2010 and did not submit any
- previously granted them until September 1, 2012 to install the lift or move the school to another building, or the occupancy for the second floor was to be rescinded
- EXHIBIT – January 11, 2016 letter from Tim Sheranko, Administrator for the school, noting that they have been operating

DM - *bring them in for a fine hearing*

DD - *second – carries unanimously*

6) Incoming: Constantine Place, 111 Elm Street, Cambridge (V15-339)

TH - EXHIBIT – variance application and supplemental information
- mixed use, new building, 3 story
- 3 commercial spaces, 4 group1 apartments
- seeking three variances: width of the ramp at the first floor space (36” between handrails)

DM - *grant variance for handrail clearance at ramp entrance to the restaurant*

AB - second – carries unanimously

TH - variance for lack of handrail extensions at stairs

DM - no variance required

AB - second – carries unanimously

TH - proposing deeper sinks with normal accommodations

DM - grant as proposed

AB - second – carries unanimously

Carol Steinberg, Member – Now Present (CS)

7) Incoming: Seaport Dental, 588 Randolph Street, Milton (V15-338)

TH - EXHIBIT – variance application and supplemental information
- renovation of existing space, replacing windows and storefront
- spending over 30%
- seeking a variance for the sloped landing at the door, with a slope of 1:12 and 1.5:12 at the top by the door

DM - grant on the condition that an automatic door opener is installed

AB - second – carries unanimously

8) Incoming: Weston Woods, 1330-1342 West Central St., Franklin (V16-002)

TH - EXHIBIT – variance application and supplemental information
- new residential complex with apartments for rent
- seeking a variance for sinks in the Group 1 and Group 2 kitchens, with the usual conditions

DM - grant as proposed with the usual conditions

AB - second – carries unanimously

9) Incoming Discussion: Association to Preserve Cape Cod, 482 Main St., Dennis (V15-329)

TH - first presented and voted to have TH have a meeting to confirm the cost of the lift
- they sought a variance to not install a ramp and instead put a vertical wheelchair lift from the rear porch into the building
- when met with architect, lift was well over the original cost of \$8,000
- EXHIBIT- Allison Alessi, A3 Architects, January 19, 2016 submittal of affidavit that the second floor will be employees only
- now proposing ramp to the rear porch
- there are other variances that are requested now since the spending is over 30%
- seeking a variance for the front entrance of the building and the sun room entrance at the side; fully compliant ramp at the rear, closest to the parking

DM - grant as proposed, on the condition that compliant ramp at the rear and directional signage at the inaccessible entrances

AB - second – carries unanimously

TH - also need to vote on the affidavit

CS - *accept the affidavit, record with the registry of deeds within 60 days receipt of decision*
DM - *second – carries unanimously*

TH - the toilet is 99” by 63” instead of 72” by 90”

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

TH - Section 27, stairs to the second floor are to remain
- no specific variances requested

DM - *continue on the stairs, to get more information on specific variances*
CS - *second – carries unanimously*

TH - seeking to open now and have the work done by May 2016

DM - *grant to May 1, 2016*
DD - *second – carries with CS opposed*

10) Incoming Discussion: Pond Plain Improvement Association, 330 Pond St., Weymouth (V13-020)

TH - Originally heard in 2013, and granted a time variance for the installation of a 3-stop vertical wheelchair lift to be installed by March 1, 2014
- call from architect in the beginning of January
- EXHIBIT – January 21, 2016, letter from Patricia Fisher of Fisher Associates, seeking an extension to install the lift by March of 2016
- the building has not been occupied

DM - *grant extension to March 30, 2016 on the condition that the building is not occupied until such time that the lift is inspected and operational, with a copy of the certificate of inspection to be sent to the Board*
DD - *second – carries unanimously*

Raymond Glazier, Designee for Executive Office of Elder Affairs now present (RG)

11) Incoming: Performing Arts Center, 51 Walden Street, Concord (V16-004)

TH - EXHIBIT – variance application and supplemental information
- had been interacting with the architect about seating plans for months
- had asked to submit the proposed plans for advisory opinions
- John Minty, building inspector, only has one permit on record; but the website for the company boasts of the spending on the building
- variance is for the seating and access to the stage

CS - *schedule a hearing*
DM - *second – carries unanimously*

DM - motion to subpoena the spending on the building since 1975, and plans for the proposed variances (seating and lack of access to the stage)

DD - second – carries unanimously

DM - have the building inspector appear at the hearing

CS - second – carries unanimously

12) Incoming Discussion: Rolling Green Apartments, 1A Rolling Green Drive, Amherst (V15-236)

TH - follow-up to the case originally heard on September 21, 2015, and denied the request for the lack of distribution of Group 2A units over the types of units within the complex

- EXHIBIT – January 15, 2016 letter from Dominic Marinelli seeking an extension to the appeal period

- EXHIBIT – December 1, 2015 letter from Commission on Disability for Amherst in support of the variance

- proposing to provide 13 (521 CMR requires 10), providing the required 10, and an additional 3 2-bedroom units

DM - waive the 30 day appeal period and reopen

RG - second – carries unanimously

DM - grant as proposed

RG - second – carries unanimously

13) Advisory Opinion: Sherman Dining Hall, Brandeis University, Waltham

TH - voted that ramp is required as secondary means of egress
- would like to put all material in packet

DM - why are we relooking at this if we already voted for it?

TH - the architect is unhappy with the vote of the Board

- the architect removed the ramp after the permits were approved with the ramp on the plans due to finding an electrical vault in the same location

DM - maintain previous motion that ramp built as previously ordered

RG - second – carries unanimously

14) Incoming: Rolling Ridge Retreat and Conference Center (Moses Hall), 660 Great Pond Rd., North Andover (V15-335)

TH - EXHIBIT – variance application and supplemental information

DM - grant the variance for entrances C and D on Exhibit F, as proposed

AB - second – carries with CS abstaining

DM - what was the clearance that was provided at the doors in question for the lack of maneuvering clearances at the Entrance B?

DM - grant as proposed

AB - second – carries unanimously

DM - grant as proposed for the stair nosings

CS - second – carries unanimously

DM - grant the handrails for the interior stair, on the condition that compliant wall side handrails installed

AB - second – carries unanimously

DM - five guestrooms and one is accessible

CS - accessible room is in Moses Hall?

DM - grant as proposed

CS - second – carries unanimously

TH - variance for 22.4 and 22.5

DM - grant the variance for the cobblestone driveway, on the condition that the driveway will be pulled up and reset to comply

CS - second – carries unanimously

DM - rescind previous motion

CS - second – motion rescinded

DM - have the staff conduct a site visit regarding the changes in level at the cobblestone drive

CS - second – carries unanimously

CS - what is the association with the other buildings on the property?

CS left the room

15) Incoming Discussion: Roxbury Tenants of Harvard, 81 Dwelling Units, Boston (V14-192)

TH - on January 4, 2016 granted handrail for width between the handrail and denied the continuity issue
- EXHIBIT – e-mail from Laura Mowatt, with additional pictures regarding continuous surface of

handrails

- the handrails are not continuous at all, may need an additional variance for the handrail clearance width

DM - deny, and require compliant handrails at the ramp

AB - second – carries unanimously

16) Incoming Discussion: First Congregational Church of Truro, 3 First Parish Lane, Truro (V14-056)

TH - EXHIBIT – Mark Almeda, Architect, January 16, 2016; seeking an amendment for alternate handrail profile

DD - grant as proposed

DM - second – carries unanimously

CS now present

17) Hearing: Milford Regional Medical Center, 14 Prospect Street, Milford (V15-267 and C15-124)
WW - called to order at 10:30

Harold Rhodes, Complainant (HR)

Marcia Rhodes, Complainant (MR)

Mike Nicholson, Former Chairman of Milford Commission on Disability (MN)

Kevin Hastings, RW Sullivan, Consultant (KH)

Stephen Madaus, Mirick O'Connell, Attorney for Milford (SM)

Vascen Bogigian, Milford Regional Medical Center (VB)

Don Contois, RW Sullivan, Consultant (DC)

Peggy Norick, Milford Regional Medical Center (PN)

Joseph Boczanowski, Milford Regional Medical Center (JB)

Edward Kelly, Milford Regional Medical Center (EK)

Joseph Murphy, GBC (JM)

Christopher Becker, Consultant for HR, Former employee of Massachusetts Office on Disability (CB)

David Correia, MetroWest Center for Independent Living (DC)

Mike Kennedy, Center for Living and Working (MK)

Don Summerfield (DS)

Michael Ferriter, GBCNSCJA (MF)

Lawrence Brennan, GDC (LB)

Dan Manning (DM)

WW - HR, CB, MF, KH sworn in; with all others present sworn in to testify

WW - EXHIBIT 1 – Board package (AAB1-245)

- EXHIBIT 2 – submission from Kevin Hastings, Friday January 14, 2016

- EXHIBIT 3 – submittal from Mike Kennedy and David Correia, January 19, 2016

HR - submittal of exhibit

WW - accept as EXHIBIT #4

- wife is paraplegic and has been hospitalized 22 times in the last 4 years

- doubt that wife would be alive without the care at Milford Hospital

- donated over \$225,000 to the building fund

- chairman on committee with disability

- wrote a book about the accident, which details the accident and the wonderful care that was provided at

Milford Hospital

- wanted to resolve the issues with the hospital's management, but was unable to, hence the filing of the complaint

- on January 25, 2012, hospital announced intent to expand hospital (ER and ICU)

- on 8/26/12, former chair of commission on disability MN, asked the hospital to review compliance

with 521 CMR

- in September of 2012, asked the office on disability to get involved

- there are 27 areas that are not addressed in the variance request

- they are spending over 30%

- September 11, 2015, submittal of formal complaint to the Board

- cross slope and running slope of the walkway near the Hill Building Entrance

- both CB and MF have visited and examined the facility

CB - five complaint locations that are being addressed by variances sought from the hospital

- walkway and roadway near the Hill Building (cross slope at parking surface exceeds 2%)
- cross slope in some locations exceeded 4%

MF - getting out of my van in a wheelchair, entered onto surface that was uneven with potholes within the parking lot

- would be hazardous in inclement weather to other persons with disabilities
- would like to see the surface leveled

HR - parking cross slope is very dangerous

SM - EK president of Milford, PK and VB, JB, and KH all present

- the hospital appreciates the advocacy of the complainant
- addition was to add new ER and ICU
- nonprofit full-service hospital that serves 20 towns
- had a discussion with Executive Director of the Board, are aware of the work that needs to be done in accordance of 521 CMR
- building permit issued in March of 2014 and Sullivan Code Group hired in March of 2014, and survey regarding 521 CMR done in April of 2014
- HR participated on behalf of the Commission on Disability and Mass. Office of Disability (MOD)
- at a meeting conducted with the hospital personnel, HR and MOD, and the building inspector
- building inspector is fully aware of the procedure of the hospital trying to comply with 521 CMR
- need to do survey work and specifications for the required work
- before the Local Commission on July 15, 2015 and presented work plan for the hospital, noting that the plans were public documents with the building department, and provided copies of the building work plan to the commission at that time
- date for completion for all the work to be done by March 31, 2016, that has always been the scheduled completion
- at the meeting with the commission, HR made a motion at the meeting to file the complaint as the Commission, the motion was not seconded or approved by the other members of the commission on disability; HR filed the complaint as an individual
- complaint did not prompt to seek variances, taking the issue of compliance with 521 CMR very seriously
- to date, approximately 60% of what is identified in the complaint has been completed or is about to be completed
- entered change order with Consigli (contractor for the project) to address the remaining issues
- hope that the Board finds that the timeline is reasonable

KH - updated work plan chart with corresponding item numbers for the complaints

- all the items in green have been completed anything that is not numbered is part of the project that the hospital found to not be in compliance and was not part of the complaint

WW - accept submittal as EXHIBIT 5 (chart), and corresponding response EXHIBIT 6

DM - agree that all violations are valid (27 plus), not contesting

DM - find in favor of the complainant for the original items cited at the time that the complaint was filed, with the understanding that a variance was sought for five areas and the other areas may be already corrected per Exhibit 5 and 6 as submitted by the hospital

DD - second – carries unanimously

MF - ask to deal with the five variances in question first

KH - variance #1, slope at the parking lot
- three primary entrances to the hospital, Hill Center, Main Entrance and new Emergency Room
- the area in question is outside of the Hill Center (an outpatient facility)
- parking slopes down to the entrance, overall slope is 4%; maximum of 5% cross slope at some of the spaces; also running slope of 7%
- in order to correct, the whole area would need to be regarded
- adjacent wetlands
- proposing to put accessible spaces in the former ambulance area that is completely accessible and was the former emergency room entrance
- the Hill Center also has valet service that is provided for free
- all five variance requests are based on the excessive cost without substantial benefit to persons with disability
- \$500,000 to do the work to correct the slopes at this area
- AAB 164, identified the different entrances

HR - 150 feet from parking to existing Hill Center entrance
- measured by associate as 5.5% running slope
- have seen an elderly woman in bad weather trying to negotiate the area
- valet is only 7 a.m. to 5 p.m. on weekdays, not a benefit for people to that visit the center outside of those hours
- there is a substantial benefit to creating accessing the entrance with a compliant slope
- therefore the amount of the cost should not be relevant, per the court's decision that cost of correction would not be considered since there is a benefit

DS - object to granting of all five variance requests, due to the fact that they are not technologically infeasible or an excessive cost without substantial benefit to persons with disabilities
- 4 of the 5 are for cross slopes and running slopes

MK and DC

MK - been to the site twice
- agree with the findings done by CB when he worked for MOD and KH of Sullivan Code Group
- have been a patient at the hospital as well
- access aisles were closer to 4 feet wide than 5 feet as required

DC - there is accessible beyond the spaces in question that were provided and level, but did not have proper signage
- but did also find that the valet were parking cars in the access aisles

MK - the valet is a great service
- valets moved the cars to the accessible parking spaces, instead of parking them further away, therefore making the spaces close to the hospital inaccessible for those that want to drive and park themselves
- definitely a valid complaint and usability is an issue

DC - there are 6 spots that are beyond the area of the entrance in question

MN - former chair of Milford Commission
- valet service hours do not match the hours that the entrance is open
- very busy entrance
- there is a passenger drop-off area, but people often park in the drop-off pickup zone

- that drop-off area must be enforced
- 15-20 minutes during visit, the cars remained parked in the drop-off area

WW - proposing parking at the ambulance entrance?
KH - yes the former ambulance entrance

CS - direct entrance to the building, how long to get to the Hill Center

KH - entrance is into the hospital, but then change of level within the building to get to the Hill Center, via an elevator

Pam Daley (PD)

PD - valet parking often does not work very well, valets often cannot use hand controls, or a seat is not present, since they sit in their wheelchair while driving

CB - combination of cross slope and running slope makes getting out of a vehicle using a mobility device very difficult

WW - what happens when the parking is provided at the former ambulance entrance, still maintain the existing noncompliant parking

KH - yes, will maintain for those that want to use it

DM - definitely an issue with the valet parking in the accessible parking spaces
- if you can move some of the spots at the “top” of the parking lot, if you added them closer to the entrance, and then remove that number from the noncompliant areas and restripe the parking spaces to be compliant

- need to also coordinate the valet hours and how the valets park the car
- there has to be a really good faith effort for the parking situation near this entrance

SM - issue is the reuse of what was the former emergency room, requires programming decisions

- KH - worst slopes can be eliminated
- the valet issue has been actively reviewed

WW - are all of the spaces provided as accessible required

KH - they have more than the minimum number required

HR - no indication as to when the new area will be open

- if there is parking here, the entrance would require going up and then down to the Hill Center
- disagree that the parking spaces in question are required to meet the minimum of the requirements for the number of spaces, if they are removed need to be replaced at other locations

RG - can they extend the hours of the valet service, with the understanding that some vans cannot be driven by valets

KH - the hospital can extend the hours of the valet service to meet the hours of the Hill Center entrance

DD - all of the variances are for the existing and not the new addition

KH - yes, all of the variances are for the existing building, all work in the new building complies

DD - what is the amount that the hospital has for yearly spending?

- SM - standard is excessive cost without substantial benefit to persons with disabilities,
- DD - why wasn't the work for the variances part of the addition project
- SM - items were identified for variances based on the qualifications of the work required
- there are no incident reports of any incidents in any of the five areas in question over the past year
- submittal of e-mail from Peggy Novak, VP of Clinical and Support Services, regarding injuries at the five variance locations at the 5 past years
- WW - accept e-mail as EXHIBIT 7
- SM - submittal of certification of qualification submitted by Consigli
- WW - accept as EXHIBIT 8
- DD - did you take into account persons with other disabilities other than mobility issues
- KH - intent of review was a full review of all applicable requirements of 521 CMR
- JH - how many accessible parking spaces are proposed to be provided at the new location
- KH - four in the former ambulance location
- remove the noncompliant accessible spaces?
- KH - original intent was to leave all of the spaces, but could take out the noncompliant spaces that had the most egregious slopes
- AB - working with valet staff about where the cars are parked and training of the valet staff
- KH - the hospital can work with that
- CS - the slightest change in a slope makes a huge difference to people in a manual wheelchair
- don't think putting the spots in the proposed location would help, due to the length of travel to the area in question
- ask MK or PD about the slope...are the first 5 spaces okay and the others are not?
- KH - every space does have at least a cross slope of over 2% for all of the 10 spaces in question
- CS - parking is crucial for an outpatient center
- spent \$55 million on this project
- is the \$500,000 for the entire lot?
- KH - would have to raise the grade where the entrance is, and would have to regrade the path to the entrance, and bound by retaining wall and adjacent wetlands
- WW - any further comments from the audience that has not been said yet
- JM - when I exit my van (chair with me in is 600lbs), power chairs can fly if hit something wrong
- it seems like a large liability for the hospital
- DS - cross slope for me (ambulatory and use a cane), is especially hazardous in bad weather conditions
- PD - people expect a truly compliant accessible parking space when they get out of the car
- DM - motion was going to be give the petitioners 30 days to work something out with the advocates to come up with a plan, and then at that point, can make an alternate decision

DM - continue this variance request, to have the parties meet to come to a decision to rectify this issue (slopes, routes, and valet issues), with plans to be submitted within 30 days of the decision of the Board

AB - second –

HR - issue of slope is always going to remain, has to be level for the health and welfare of others
- knowledge of the complaint has been known to the hospital for a very long time, and have offered to meet with them; appreciate the sensitivity, but want to take a vote and move on

DM - a lot more issues than slope

WW - want to hear if the hospital thinks this would be feasible

SM - appreciate the time to submit additional information

- motion carries with DD and CS opposed and RG abstaining

DM - expedite the decision

AB - second – carries unanimously

WW - will have to schedule a further hearing for the remaining variance items

- apologize for having to reschedule the hearing, but need additional time to review the last four variances

MF - other issue is from the parking lot down to the entrance for the same Hill Center Entrance

CS - motion to include the cross slope of the ramp surfaces issues (variance #4, ramp at hill center entrance) to be part of the report due within 30 days and talked to with all parties involved

DM - second – carries unanimously

MR - does the talking include working with Mr. Rhodes

HR - was told that if not a medical issues, cannot enter the hospital

SM - that is not the case, it was a misunderstanding

Break for lunch

DD left for the day; Jeffrey Dougan, MOD Designee now present (JD)

18) Hearing: Diner, 3 Washington Street, Somerville (V15-314)

WW - called to order at 1 p.m.

- introduce the Board

Chung Lee, Owner (CL)

Dominic Valente, Architect (DV)

Sibin Chen, observer (SC)

WW - CL and DV sworn in

- EXHIBIT 1 – AAB1-48

DV - not feasible for a ramp at this property

- there is one entrance at the sidewalk (on the property line)

- another entrance at the right side of the building, and an existing means of egress at the left side

- there are two entrances shown on the exhibit plan
- previously a restaurant
- there are steps at the right hand side
- Washington Street is level
- there is an accessible toilet room within the building
- previous owners added the toilet room

CL - used to be Seven Sons Diner, but fire in 2010

DM - when did you purchase the diner?

CL - purchased in May of 2015

- all renovations already done within the building prior to owning

CL - yes, but doing some work to change to a Chinese food restaurant

TH - previous owner spent over 30%, triggered full compliance

CL - yes, own the building and proposing to rent to a Chinese food restaurant

RG - what about lift at stairs?

DV - building is basically on the property line

TH - no space at the driveway?

DV - the driveway is a shared driveway

RG - why not a lift from the sidewalk directly into the building

JH - how many stairs from sidewalk into restaurant

CL - three steps

CS - what about the driveway

DV - belongs to the adjacent owner of the property, and there is no easement for use of the driveway

WW - assessor's map shows that the property is right on the Boston/Somerville property line

- what is the distance from the left side of the property

DV - 3-4 feet

CS - can the restaurant do take out and have accommodation policy for those that cannot access the restaurant

TH - the left side of the building seems to have more space

DV - there are currently stairs there to the side of the building

DV - ramping at those stairs to the left of the building would have to cover approximately 24 inches of rise

- the ramp would be more than 25 feet of ramp to get to the building, but the area in question rises a total of approximately 4-5 feet from the sidewalk to the rear of the restaurant

WW - have you done any studies about cutting into the building and installing a lift at the Washington Street entrance

DV - have not

WW - would need to have another lift to get to the rear dining area

AB - continue for more information, with more detailed architectural plans and a civil engineer site plan; showing possible solutions for access, and what the cost of potential solutions would be, to be submitted

CL - stuck with a building that cannot open

TH - did your attorney know about the problems with the building?

CL - not sure

CS - do you have a perspective tenant for the restaurant

CL - have a deposit, but if this variance is not granted will have to give the money back

- a lot of companies and hotel in the area, so need a Chinese takeout restaurant

AB - withdrawn

AB - take the matter under advisement

DM - second – carries unanimously

19) Advisory Opinion: Location of Elevator Hall Call Buttons (521 CMR 28.3.1)

TH - EXHIBIT – Noel Herchell, Van Duesen Associates, e-mail January 4, 2016

- seeking a variance for the hall call button location, proposed are located on the door jam

DM - does not comply as proposed at the elevator door jam

JD - second – carries unanimously

JH left for the day

20) Hearing: Gym, 14 Tyler Street, Somerville (V15-282)

WW - called to order at 2 p.m.

- introduce the Board

Jill Maio, Owner of Aircraft Aerial Arts (JM)

Tom Connery, Property Manager for the building (TC)

WW - both sworn in

- EXHIBIT 1 – AAB1-73

TH - contacted by resident of Somerville months ago, Claudia Morrow

- so the Board Staff did some research and contacted Paul Nonni and Al Bargoot was the inspector that signed off on the opening of the aerial arts gym

- the space was previously an employee only space and then opened as a gym open to the public

- in discussions with Somerville Building Department, they did admit that the occupancy change should have required access to the space

- submittals from Ms. Morrow are all regarding the building

- when initially reviewed, voted to deny the request and schedule a hearing and require the submittal of building permits for the building

- an issue that remains is the construction of a brewery within the building

- gym is on the second floor and no accessible route to it

- it is a 3 story building

TC - brewery is accessible at the first floor
- been the property manager at the business park since 2012
- Ames Business Park was previously owned by one entity, and went out of business in 2010
- using the space to re-tenant the space

Claudia Morrow (CM) – now present and sworn in by Chairman

TC - alleyway in question has a ramp at the end of it and creates access into the first floor of 14 Tyler Street
- at the top of the ramp is a separation between 30 Park Street and 14 Tyler Street
- trying to do an engineering study in that space between the two buildings
- attempted to design an elevator with only one door on it
- impossible to put it at the front lobby (AAB63) due to the set of immovable stairs that are a construction issue to overcome and present floor plan issues at the upper levels
- seeking variance for the completion of construction level documents and bid for and budget for a compliant custom elevator build-out
- requesting 24 months to complete the project
- also made a records request for the permits on the building, work was under 30% (since work from tenants was not applicable)

WW - three-year period on the spending
- jurisdiction is the change in use (521 CMR 3.4) from employee only space to a space that is open to and used by the public
- interested in the spending to determine if other pieces of the building had done work to trigger the requirements of 521 CMR
- all of these properties are under the control of one owner
- need a copy of the parking location plan as EXHIBIT 2
- elevator will create access to the three story building?

TC - yes, to the second and third floors, all of the other buildings are single story buildings
- finished with an elevator install within 2 years?

TC - yes

RG - variance application states that they would like two years to submit a study for access
DM - but the current testimony is that the work will be completed is two years

TC - also need to evaluate if the electrical services need to be updated for the elevator installation
- propose to create new elevator entrance lobby
- third floor has finished office spaces, which will need to be converted to lobby area for the elevator

RG - is there a level landing at the top of the ramp?
TC - yes there is

AB - spoken with elevators companies yet?
TC - yes, but no price proposal submitted

TC - third floor is two small private businesses that are not open to the public
- second floor is vacant, with the exception of the aerial arts business

CS - AAB42 and 43 states that there are 14 businesses

- TC - aeronaut brewery is a tenant on the first floor; occupies a portion of the first floor in two buildings
 - occupies first floor of 30 Park Street and the first floor of 14 Tyler Street, connected by a walkway between the buildings
 - sublease a portion of the spaces for Aeronaut Brewery, three tenant spaces that help with the brewery
 - Dell Realty Associates are on the third floor
 CS - they are required to be accessible, they are open to the public
- TH - need to address the worry of the aerial arts owner to stay open during this time
- TC - do have the ability to withdraw the lease for any tenant space that is open to the public to come into compliance
- WW - don't go down that road, not a feasible option
- CS - work was more than 30%, noted as just under 27.8%
- KS - TC previously stated that tenant work is exempt, that is not the case; tenant work has to comply
- WW - change in use from one warehouse use of the buildings to a use that is open to and used by the public would have triggered access
- TC - proposing to build an elevator lobby at the first floor, and cutting into adjacent utility space, one door from the exterior and then doors opening to the second and third floors
- CS - are there plans to spend money on the other floors
 TC - no changes to the plans currently, but are planning to rent the spaces
 - all of the first floor spaces are accessible
- WW - the second and third floors should have been made accessible at the time of the change in use
- WW - CM sworn in
- CM - TC is not the property owner, he is a manager
 - this is a very wealthy development
 - 7.2 acres of what used to be used as industrial use
 - JWF LLC now owns Ames Business Park
 - split up the property to rent to tenants
 - there is also more space that is being broken up to be rented
 - the area that he spoke of, Barismo, Somerville Chocolate are not accessible
 - used to have someone that they had to lift into the brewery, the stairs were removed and the ramp was created
 - secondary egress is not accessible
 - would recommend site visit, since there may be other tenant spaces that have high thresholds and steps, making the spaces inaccessible
 - the work is all relatively new
 - the first time that they opened to the public, should have had access
 - there are separate certificates of occupancies for the "sublease" spaces at the first floor, and there are issues with access at those tenant spaces (Barismo, Somerville Chocolate, and Bloombrick Urban Agriculture, etc.)
 - two more years is "flabbergasting to me" for creating access to the building

- supposed to be an urban mall, dangerous with only one accessible entrance
- issue with Brooklyn Boulders as well

TH - Brooklyn Boulders came before the Board and they were granted a variance

CM - 8, 10 and 12 Tyler Street are all marked as 14 Tyler Street
 - numbers do not correspond with those on the assessor's map
 - would like a board site visit to be conducted
 - entire facility lacks access to one degree or another, and not just an elevator
 - if that cannot be before the Board, then will have to go to another agency

WW - there are more than just the gym that would have triggered access to the building (specifically at the third floor); need to understand why there was a lack of access to the building at these changes of use
 - need to have someone do a full review of the building and determine what does and does not comply with 521 CMR
 - can deal with the matter at hand, but obviously other issues need to be reviewed

TC - are reviewing the entire facility and creating a master plan with the City of Somerville for review

JM - been in business for 6 years
 - don't make a lot of money, and need structurally sound roof structures for the aerial silks and trapeze
 - have been looking for other spaces, when notified by TC that may not be able to continue lease

CS - *elevator to all three floors be completed and inspected by February 1, 2017, progress reports every 6 months, starting August 1, 2016, Aircraft Aerial Arts shall remain in business at the second floor tenant space*

JD - *18 months?*

CS - *withdraw 1 year, change completion date to August 1, 2017*

AB - *second – carries unanimously*

CS - *entire facility shall be reviewed by a registered architect to review compliance with 521 CMR and submit review by June 1, 2016*

JD - *second – carries unanimously*

CS - *submittal of all building permits since 2010 for all buildings on the property owned under JWF, LLC, June 1, 2016*

AB - *second – carries unanimously*

DM left for the day

21) Incoming: Congregation Kehillath Israel, 384 Harvard St., Brookline (V15-331)

TH - EXHIBIT – variance application and supplemental information
 - sent in packet at the request of the Board at the January 4, 2016 meeting

CS - extensions will comply unless they are a hazard

CS - *grant the variances for 1a-1d, on the condition that compliant wall side handrails and extensions (if not a hazard) will be provided*

JD - *second – carries unanimously*

CS - grant on 2a
 JD - second – carries unanimously

JD - grant 2b as proposed
 RG - second – carries with CS opposed

JD - grant 2c, 2d, 3 and 4 as proposed
 RG - second – carries with CS opposed

CS - grant 5a-5d (children's sinks) as proposed
 JD - second – carries unanimously

CS - grant 6 as proposed
 JD - second – carries unanimously

CS - grant 7b, on the condition that automatic door opener installed
 JD - second – carries unanimously

JD - grant 7c and 7d, as proposed
 CS - second – carries unanimously

CS - is the wedding preparation accessible toilet room instead of providing an accessible toilet room at another location within the sanctuary?

JD - understand the issue with having to go through a wedding suite

CS - grant on the condition not used as wedding suite or make an accessible stall within the women's room
 - no second – motion fails

JD - continue for more information regarding the use of the unisex toilet room, identified in Variance #8, submitted by February 3, 2016
 RG - second – carries unanimously

JD - grant #9, on the condition that a policy is submitted regarding use of the balcony is only used for overflow
 AB - second – carries with CS opposed

JD - grant 10a-10c as proposed
 AB - second – carries unanimously

22) Advisory Opinion: Agawam High School, Auditorium Access Handrails, 760 Cooper Street, Agawam (V09-134)

TH - EXHIBIT – January 5, 2016 letter from Raymond Casella of Casella Design Associates, LLC
 - reduced the clear width at the accessible seating location and companion seat

AB - grant a variance
 JD - second – carries unanimously

23) Incoming: Retail and Offices at 125 Newbury St., Boston (V16-003)

- TH - EXHIBIT – variance application and supplemental information
- spending over 30%
- seeking 19 variances

RG - motion to put in packet for February 8, 2016

AB - second – carries unanimously

24) Incoming Discussion: Father Bill's MainSpring House, 54 North Main Street, Brockton (V14-230)

- TH - EXHIBIT – submittal of status report on January 12, 2016 from Nicole Fitzgerald, Executive Director
- progress is prepared schematics for year 1-3 of accessibility upgrades, contacted 5 contractors for bidding process, sought funds from multiple sources
- total funds for LULA project to date is \$15,000

RG - accept status report submittal

JD - second – carries unanimously

25) Incoming Discussion: Boston Park Plaza Hotel, 50 Park Plaza, Boston (V14-359)

- TH - EXHIBIT – amendment request by Stephen Preble on January 21, 2016, seeking variance to install an incline lift at the exterior terrace space, off of the garden suite at the hotel
- three stairs

CS - grant as proposed

AB - second – carries with RG opposed

26) Discussion: Minutes from January 4, 2016

CS - accept the minutes

AB - second – carries unanimously

- End of Meeting -

EXHIBITS:

- Community Christian School, 39 South Broad St., Westfield (V10-101) - January 11, 2016 letter from Tim Sheranko, Administrator for the school, noting that they have been operating
- Association to Preserve Cape Cod, 482 Main St., Dennis (V15-329) - Allison Alessi, A3 Architects, January 19, 2016 submittal of affidavit that the second floor will be employees only
- Pond Plain Improvement Association, 330 Pond St., Weymouth (V13-020) - January 21, 2016, letter from Patricia Fisher of Fisher Associates, seeking an extension to install the lift by March of 2016
- Rolling Green Apartments, 1A Rolling Green Drive, Amherst (V15-236) - January 15, 2016 letter from Dominic Marinelli seeking an extension to the appeal period; December 1, 2015 letter from Commission on Disability for Amherst in support of the variance
- Roxbury Tenants of Harvard, 81 Dwelling Units, Boston (V14-192) - e-mail from Laura Mowatt, with additional pictures regarding continuous surface of handrails
- First Congregational Church of Truro, 3 First Parish Lane, Truro (V14-056) - Mark Almeda, Architect, January 16, 2016; seeking an amendment for alternate handrail profile

- Location of Elevator Hall Call Buttons (521 CMR 28.3.1) - Noel Herchell, Van Duesen Associates, e-mail January 4, 2016
 - Agawam High School, Auditorium Access Handrails, 760 Cooper Street, Agawam (V09-134) - January 5, 2016 letter from Raymond Casella of Casella Design Associates, LLC
 - Father Bill's MainSpring House, 54 North Main Street, Brockton (V14-230) - submittal of status report on January 12, 2016 from Nicole Fitzgerald, Executive Director
 - Boston Park Plaza Hotel, 50 Park Plaza, Boston (V14-359) - amendment request by Stephen Preble on January 21, 2016, seeking variance to install an incline lift at the exterior terrace space, off of the garden suite at the hotel
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- One Franklin Tower, One Franklin St., Boston (V15-341) - variance application and supplemental information
 - Mixed Use Building, 50 Water Street, Worcester (V16-001) - variance application and supplemental information
 - Winthrop House, Harvard University, 32 (Gore Hall) and 48 (Standish Hall) Mill Street, and 101 and 11 Plympton St., Cambridge (V15-339) - variance application and supplemental information
 - Constantine Place, 111 Elm Street, Cambridge (V15-339) - variance application and supplemental information
 - Seaport Dental, 588 Randolph Street, Milton (V15-338) - variance application and supplemental information
 - Weston Woods, 1330-1342 West Central St., Franklin (V16-002) - variance application and supplemental information
 - Performing Arts Center, 51 Walden Street, Concord (V16-004) - variance application and supplemental information
 - Congregation Kehillath Israel, 384 Harvard St., Brookline (V15-331) - variance application and supplemental information
 - Retail and Offices at 125 Newbury St., Boston (V16-003) - variance application and supplemental information
 - Rolling Ridge Retreat and Conference Center (Moses Hall), 660 Great Pond Rd., North Andover (V15-335) - variance application and supplemental information