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Subcommittee on Regulations Meeting Minutes -July 24, 2024
Teams Meeting

This meeting was open to the public and began approximately at 10:04 AM.

Subcommittee member attendance:

Jeff Dougan (JD)- Chairperson
Carol Steinberg (CS), Vice Chairperson
Michael Kennedy (MK)
Patricia Mendez (PM)
Deborah Ryan (DR)
Ana Julian (AJ)
Joe Prochilo (JP)
Paul Logan (PL)
Elizabeth Myska (EM)

Division of Professional Licensure Employees attendance:

William Joyce – AAB Executive Director (WJ)
Richard Holtz- Board Counsel (JaD unavailable) (RH)
Molly Griffin – Program Coordinator (MG)

JD opened the meeting for Roll Call:

CS, AJ, MK, PM, EM, JP, DR, PL (arrives at 10:28AM)

1. 10:06 AM 206.7

- JP: Going back for a minute, (203.2) I see we're exempting trailers; I had a concern about sales office trailers that are normally on construction sites. I think we should make those accessible.
- WJ: I'm not sure that would count as a construction trailer. The exception is specifically to construction trailers
- JD: Can we add this as a guideline
- CS: I think that's a good point JP
- WJ: I think this is best handled in the advisory booklet and we can clarify that advertising spaces or hiring trailers would not be considered construction trailers

Motion to add clarifying language to the advisory booklet for 203.2 by JP
2nd by MK
By Acclamation/Carried

- JP: The next thing I had was in 206.2.3 (Exception 1), the language is confusing, if the paragraph remains as is it makes no sense
- WJ: explains what the exception would read once edits are made that the subcommittee worked on last time
- JP: The last thing I had 205.1 general, why do we have “duplexes” in there?
- WJ: That’s in the advisory. The duplex is a double outlet, not housing in this case
- WJ: Okay we left off at 206.7. Most of this section is redundant based off of what we did with 206.2.3; this is setting up the scoping for platform lifts
- CS: Don’t the dimensions have to be somewhere?
- WJ: This is scoping, not technical
- JD: So 206.7, what have we included above
- WJ: Some of these might have to go up based off of how we did 206.2.3. I These ones down here are largely not dealing with multi-story features
- DR: But a press box is not really a building
- WJ: It has 4 walls and a roof
- DR: But it might not; it’s not a multi-story building
- WJ: I think we can leave most of 206.7 intact, I think we can look at 206.7.5
- WJ: We kind of have this in the existing regs, but limitingly
- JP: Do we want to strike it from here
- WJ: It might be worthwhile to use the language from the draft regs which is in red
- CS: Why put that in if it is already in the variance language?
- WJ: 206.7.5 is like the catchall other section, the language from the draft decision clarifies and explicitly says it is the building official who is making the call and not leaving it vague; I was just going to add to it buildings and facilities- language should always say “and facilities” when we talk about buildings
- WJ: My recommendation would be to adopt the red language
- CS: Just for 206.7.5?
- WJ: Yes

Motion to Adopt red language by PL
2nd by CS
By Acclamation/Carried

- CS: So, the blue language 206.7.3 and 4 is adopted?
- WJ: We should, I would do that for 3, 4, and 9

Motion to Adopt 206.7.3, 206.7.4, and 206.7.9 by CS
2nd by JP
By Acclamation/Carried

- WJ: 207, we need to circle back on, it needs to be its own meeting


Motion to Table 207 by PL
2nd by CS
By Acclamation/Carried

2. 10:36 AM 208 Parking Spaces

- WJ: The one place we are required to change, by our enabling statute is adding 15-25
- JD: I want to make sure we focus on how the ADA presents parking as 11x5 with exceptions of 8x8, because 11x5 is so much more usable
- WJ: This is just scoping
- CS: Doesn't the ADA say if you have 1 parking space it has to be accessible?
- WJ: It does
- CS: I would recommend, we table this discussion until the next meeting
- WJ: If and when the statute changes, we will need a bigger rewrite
- CS: I know that, but this is really easy to table,

Motion to Table 15 versus 1 in 208 until the end of the legislative session by CS
2nd by PL

- WJ: What if we sidestep this entirely and say the "lowest permitted by statute" for the minimum number? If it went to 1 would anyone argue, or would people just have it be the lowest we are permitted to set it?

Motion to Declare a Dilatory by JD 
2nd by DR
By Acclamation/Carried

Original motion dismissed

- WJ: There aren't many other differences with the rest of 208
- CS: Can you explain
- WJ: In the current edition when we talk about medical facilities, we have it under a special section call specialized medical facilities, and this just does away with that, and then the advisory booklet very helpfully defines the outpatient facility
- WJ: I believe any place with conflict is in location 208.3.1. This is somewhere I think generally speaking, the ADAAG language is clearer. I do think something worth importing is the 200ft rule
- JD: So, the black language would replace the red and adding the exception as part of the language here
- PL: My only problem with that is if someone is driving their own vehicle, the drop off area would mean nothing
- WJ: It would be extremely difficult for us to impose maximum differences before the accessible spaces, so they always have to locate the space on the shortest accessible route, but if the shortest route is more than 200ft away they have to provide a drop off area
- CS: I think with that exception, is the "can not be located" who gets to decide that? I think that would be better if it said it would be "infeasible for parking spaces..."
- WJ: But infeasibility is also a subjective matter; some of this is work that does not require the building inspector to be involved
- DR: Where this may come in is if you have a very steep site, or you have a lot that is far away from a building

- WJ: In the 10 years I have been with the Board, I have not seen anyone use this section to play games
- JD: If we strike out the more than 3 spaces, do we want that there?
- WJ: It's much cleaner to use the ADAAG language

Motion to Adopt ADAAG language for 208.3.1 by PL

2nd by DR

By Acclamation/Carried

3. 11:08 AM 209 Passenger Loading Zones and Bus Stops

- WJ: I think the only thing that we need to talk about is 209.2.3- On-street bus stops
- JD: Where a sign is put up on a sidewalk
- WJ: Yes, ADAAG says it must comply with 810.2 and 521 says { red section }
- DR: I think the reason you don't see this in ADAAG is because if you have a bus stop on a hill, you won't have an accessible route to the bus stop
- CS: I think that's a variance thing if that's impossible, I think the presumption should be that they are accessible. The ADAAG language is very vague
- WJ: It's pointing to 810.2 which has a lot of specific requirements
- CS: Our standard is infeasibility
- WJ: It's impracticable
- DR: I agree CS, but it doesn't make sense, you're requiring things above and beyond what the work is. You're defining where the limit of these are
- CS: What's the presumption
- WJ: Didn't we adopt PROWAG's language on sidewalk's accessible routes? How much of this already covered in PROWAG
- CS: Could we change the word nearby?
- JD: It's already said in 810
- WJ: I think ADAAG is more descriptive pointing to the sections with the rules, but we usually like to have oversight over that over designers
- JD: I am hearing is that 209.2.3 is as is
- WJ: So 209.2.3 says bus stops should comply with 810, 810 lays out rules and points to 402, and 402 notes the pedestrian access routes section that we lifted from PROWAG. So just like the current 521 we have an exception
- CS: I don't see the words curb cuts and crosswalks in 810
- WJ: It is implied
- JD: I think this is cleaner with 810, the real hiccup is the language from ADAAG

Motion to adopt language for 209.2.3 by CS

2nd by DR

By Acclamation/Carried

- WJ: 209.5 is on the list for things we have to discuss once legislative session ends. The 4 big things we have are EV charging stations, mechanical garages, adult changing tables, and trails

Motion to Table 209.5 by DR

2nd by JP

By Acclamation/Carried

4. 11:26 AM 210 Stairways

- WJ: Big difference is that ADAAG only lists stairs that are part of a means of egress; which stair do we apply to
- CS: Remind me what 504 says
- JD: 521 covers all stairs
- WJ: 504 is very short, basically the same thing 521 has
- CS: So why shouldn't it cover all stairs like we do?

Motion to have 201.1 to comply with 504 by CS

2nd by PM

Roll Call Vote

JD- yes

CS- yes

AJ- yes

MK- yes

PL- yes

PM- yes

EM- yes

JP- yes

DR- no

8 yes, 1 no, 0 abstention Motion Passes

- WJ: Exceptions- 1 is redundant, 2
- DR: I was going to suggest keeping exception 2
- DR: You see a ton of existing buildings with existing stairs with winders, and then they install an elevator, but then go to the Board to get a variance for the stairs
- JD: Typically, in the variances we get with the winders, you would have to rebuild the entire staircase, do we want the nosings and other current requirements to be a part of this or just the tread depth?
- WJ: If we do the handrail exception in 505, are we risking not being substantially equivalent?
- DR: No, because ADAAG has a lot of outs, this says alters but doesn't define it
- WJ: An alteration is defined in ADAAG, is essentially the same as ours
- DR: In our regs if the existing stairs are not being worked on, they have to comply if you're over 30%
- CS: I just feel like the variance process takes care of this. This is not only about people in wheelchairs, isn't this a matter of safety for people?

- JD: I know the Board is diligent about looking at the stairs. I was only offering up a consolidation to get rid of stuff that the Board always pretty much grants, but the variance process does pretty much cover this
- CS: Are tread depths a question of safety?
- WJ: Sort of, but this is a variance the Board will never fail to grant, because to get it into compliance you would have to alter the core of the building
- CS: I think they are a matter of safety
- WJ: I cannot think of an instance where the Board won't grant this where there is an elevator in the building.
- JD: We have also been adding signage more
- WJ: I question the effectiveness of that. Carol, the cost to make winder stairs to regular stairs is double the cost or technologically infeasible
- CS: What are winder stairs? Are they spiral?
- WJ: Anywhere a tread is pie-shaped, or not straight
- WJ: If the outcome is a foregone conclusion, why are we wasting the Board's time and the petitioner's time
- CS: Can we add the word "adjacent" accessible route
- WJ: What does adjacent mean in this context
- JD: But stairs are located throughout the building, so the elevators are further away
- DR: They have to be further away
- WJ: The only time we have made people mess with winder stairs is in new construction
- JD: I would like to move more towards what language is here and if we want to change it

Motion to Adopt proposed language for 210.1 Exception 2 by DR

2nd by PL

Roll Call Vote

DR- yes

JP- yes

EM- yes

PM- yes

PL- yes

MK- yes

AJ- yes

CS- no

JD- yes

8 yes, 1 no, 0 abstention Motion Passes

- WJ: Okay, so Exception 1 we don't have this because this is talking about a stair that is not in a public-use area
- JD: Is this something we need
- WJ: You can strike it because it is redundant

Motion to Strike Exception 1 by CS

2nd by PM

By Acclamation/Carried

- WJ: I am not 100% sure why exception 3 exists
- DR: In assembly areas, some of the stairs are not uniform treads
- WJ: We've usually considered those landings, not stairs
- WJ: We would look at these as 10 sets of 3 stairs
- JD: IS there a way we can write this more clearly?
- WJ: My problem is that it is exempting them from all of 504, should we narrow this to 504.2's requirements on treads
- JD: Do people feel good about that?
- DR: You're exempting them from the handrail on the aisle side as well
- WJ: We require handrails but not continuous handrails
- WJ: Social stairs are assembly areas under our regs
- CS: Are we talking about a different section or 504?
- WJ: 504.2
- DR: I am thinking about theaters, if you need handrails on both sides of aisle stairs
- CS: I think we only did it on one side
- DR: That makes sense to me, one side
- JD: Why don't we come back to this next session?

Motion to Table 201.1 Exception 3 until the next meeting by DR

2nd by CS

CS: Can you send us the minutes from when we talked about 504?

By Acclamation/Carried

- WJ: Okay, so next would be exception 4, I don't think this is in significant dispute
- CS: What does 521 say about that
- WJ: In the draft edition, it was lifted right from ADAAG
- CS: So, this is in a playground?
- WJ: Yes, on play equipment. The regular stair rules don't apply because they are under another set of rules and regulations
- DR: They are usually open risers as well
- WJ: They may have un-uniform treads due to the enrichment/play activity

- JD: They just don't have the standard handrails. So is this something that needs to be adopted or just stays
- WJ: We can always be stricter than ADAAG
- CS: Is that clear? I'm just wondering about a visually impaired child
- JD: I don't have an answer. How are they impacted by the other stuff? Do we need a motion?
- WJ: They are practically identical, we don't really need one

5. 12:09 PM 211 Drinking Fountains

- WJ: There's a bunch of stuff in here about detention facilities that we have been grappling with
- JD: So what is this saying
- WJ: It's saying prison cells that don't have to comply also, don't have to comply with the drinking fountain requirements
- CS: Why would this be true?
- DR: It's saying only the fountains that are not in the accessible cells do not have to comply
- CS: Not the ones in the common areas?
- DR: No these are just the holding areas
- JD: This is specifically about holding and housing cells, not common spaces, not accessible cells
- PL: The housing cells I can understand, but the holding cells, does this mean accessible ones also?
- JD: If the cells are not required to be accessible, they do not need the accessible fountain
- CS: People switch cells,
- WJ: A holding cell is temporarily used during a trial or awaiting a sentence
- CS: Ok but a disabled person can use that temporary holding cell, so why wouldn't the default be an accessible drinking fountain just in case
- WJ: We're getting hung up on holding and housing, that is just describing all of the cells that can happen
- JD: So in a way it is kind of stating the obvious

Motion to Adopt the Exception to 211.1 by PL

2nd by JP

By Acclamation/Carried

- WJ: Next conflict zone is more than a minimum number (211.3), which we don't have, but we should have
- DR: Just a comment they don't build these as much anymore
- WJ: We get water fountains in front of us all the time, for schools. We don't consider the bottle fillers to be water fountains, but a lot of them are combined

- CS: I just want to agree with WJ, these are all over the Arboretum, and it is hard for me to always carry my water bottle
- MK: I have surveyed many new buildings, and there are a lot of combo devices just like WJ said

Motion to Adopt 211.3 and its exception by PM
 2nd by PL
 By Acclamation/Carried

6. 12:21 PM 212 Kitchens, Kitchenettes, and Sinks

- WJ: The only difference is ADAAG exempts mops and service sinks from the sink requirement (212.3)
- JD: Will this affect anything big
- WJ: There's no real way to construct a mop sink that is effective that meets the knee space requirements and same with service sinks
- JD: Are we defining service sinks?
- WJ: I think they are common in this industry
- CS: I'm not sure what they mean

Motion to Adopt 212.3 exception by PM
 2nd by DR
 By Acclamation/Carried

- JD: Can we possibly in the advisory define service sinks?
- WJ: Again, this is only in kitchens
- JD: Okay, thank you
- WJ: They tend to be low-floor sinks or very deep sinks for large pots

7. 12:30 PM 213 Toilet Facilities and Bathing Rooms

- WJ: Here we have to do a little bit of snipping due to the changes we made to 206.2.3. We need to strike the reference to 206.2.3 because we effectively eliminated it.
- JD: So we require all bathrooms to be on accessible levels

Motion to Strike the second sentence of 213.1 by PM
 2nd by PL
 By Acclamation/Carried

- WJ: Okay, so 213.2. The new regs were contemplating single-user rooms once you reach a certain size, and ADAAG does not have anything similar. All of these sections basically say you can use a single-user in lieu
- WJ: The intention here is that this is on top of your other requirement in 30.1
- DR: In a building or on a floor?
- WJ: In a building

- CS: Should that be clarified then?
- JD: Why are we only doing this for the larger buildings?
- WJ: Because we are making you put in another toilet room
- WJ: This is the first time we are telling you what type of toilets you have to have. We are seeing people move towards single-user toilets
- CS: I feel like this is unclear if the single-user is instead, so I think it should say “in addition to the accessible toilet room ...” something should make it clear
- JD: It does say that
- CS: But it’s not clear to me
- WJ: So this needs to get rewritten into its own section
- WJ: I want you to vote on if you want this provision in here because I have to rewrite this anyway
- PL: Could that number (6) be reduced?
- WJ: The original subcommittee intended to cover large buildings, and didn’t want to impose this requirement on small facilities
- DR: I think there should be more accessible stalls in larger facilities
- WJ: Do we want to change 213.3.3 to 5%?
- PL: Why not 10%?
- PL: When I hear that, I think of restaurants where high tops are increasing and I think we need a drastic change from 5-10%
- WJ: I’m not sure we have evidentiary basis to increase it
- PL: I totally disagree, and 5% is garbage right now, between the high tops and booths. I think now is the time
- WJ: I am not disagreeing with you in theory, but I am talking about evidence on the record
- PL: I am providing evidence right now
- CS: I agree
- DR: I agree, it’s not a big deal to make an accessible table

- RH: Is there any other evidence besides anecdotal evidence that we can point to? So we can provide a basis for why that is a good percentage
- PL: What would you suggest?
- JD: I think this discussion would be good for next month, because we are on toilet rooms, and we can task staff to research this for us
- PL: I think it's a great idea. In 2018 when the AAB went around the state, one of my initial suggestions was to increase from 5-10%
- WJ: The types of things you might want to look for are surveys, compilations of reports who are not able to be seated, similar decisions by other bodies in other states, countries, and governments
- JD: I disagree, I think that puts a lot of work on us
- WJ: If we get appealed, we need to show by substantial evidence, and the courts have bounced us before for relying on one or two people saying a thing. We need some kind of wider evidence
- JD: Okay, that's a lot of work for us to figure out
- MK: I'm going back to the high tops. I wholeheartedly agree with everyone because this has happened to me and my wife many times. Numerous times we would sit in the dining room all by ourselves. It sucks.
- JD: We need to listen to WJ, or we may need some help finding it, but we will see
- CS: I have a suggestion
- WJ: Do we want to postpone some of this discussion when we talk about restaurants
- MK: agree
- JD: we are going to stop doing 213 and finish with comments for the day, we will pick up with 213 next time
- CS: What is the percentage of bathrooms right now?
- JD: One and one
- CS: Okay, I agree with something like that then. The restaurant association would know about trends.
- JP: The American Community Survey will probably have everything that we need
- WJ: The ILs might have more info, and if we get testimony from like 25 people that could work
- CS: I'll go to the restaurant association

- JD: We will pick up on 213 next month and people can do their own research. We may want to think about wherever it says 5% in the regs, and I agree we need justification.
- WJ: I suggested 5% just because we use it everywhere else

Motion to Approve June 26, 2024, Minutes by PL
2nd by MK
By Acclamation/Carried

Motion to Adjourn by PL
2nd by CS
By Acclamation/Carried