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UNDERSECRETARY OF CONSUMER
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REGULATION

LAYLA R. D'EMILIA
COMMISSIONER, DIVISION OF
PROFESSIONAL LICENSURE

Minutes

Board of Elevator Regulations

**This meeting was held remotely via GoToMeeting
April 28, 2020 at 9:00 a.m.**

Board Members Present:

Stephen Sampson, Chairman
Eric Morse
David Gaudet
Jacob Nunnemacher
David Morgan
Cheryl Davis
Brian Ronan

Division of Professional Licensure Staff:

Charles Kilb
Ruthy Barros

Guests Present:

James Riley (City Elevator, Inc.)
Todd Martin (Thayer Academy)
Colin P. Smith (Colin Smith Architecture, Inc.)
David Jensen, Esq. (Walters, Shannon & Jensen LLC)

The Board discussed the following:

1. **173 Alford Street – Everett, MA [Exhibit 1]**
State ID: 93-P-167
524 CMR 3.19.4.7.3
Petitioner: Debbie George

The petitioner's representative James Riley was in front of the Board seeking a variance from an Inspector's Report dated November 27, 2019 citing, "Remove Victaulic fittings between jack and rupture valve and replace with solid pipe – 3.19.4.7.3". Mr. Riley stated that the above listed unit is a Schindler elevator that was installed approximately

on April 4, 2009 (acceptance inspection date according to OPSI records). City Elevator, Inc. has maintained the unit for the past 2 years and believes that at the time of installation, Victaulic fittings between the jack and rupture valve were allowed by code. Board member David Morgan stated that on July 25, 2008 a modification to 524 CMR was made to include the following: “Requires that the piping between the overspeed valve and the hydraulic jack on all hydraulic elevators be welded or threaded”. A motion was placed by Jacob Nunnemacher to take no action because the appeal deadline requirement has expired. The Chairman indicated, on behalf of the Inspector, that the report will be revisited. The motion was seconded by Cheryl Davis.

Motion: Jacob Nunnemacher

Seconded: Cheryl Davis

Vote: 7-0; No action taken.

Roll Call Vote:

• Stephen Sampson, Chairman	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Jacob Nunnemacher	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Gaudet	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Cheryl Davis	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Morgan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Brian Ronan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Eric Morse	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay

2. **19 Hobart Avenue – Braintree, MA [Exhibit 2]**

State ID: 40-W-20637

524 CMR Section 35.00 2000-10(a)

Petitioner: Todd Martin

The petitioner was in front of the Board seeking a variance from 524 CMR Section 35.00 2000-10(a). The petitioner stated he is seeking a variance to secure both elevator doors to an exterior lift that has recently been installed. The lift is located on the exterior front side of the business office and the public sidewalk is in front of the building and the concern is this lift not being secured. The petitioner stated that having this lift secured minimizes any potential accidents due to unauthorized personnel accessing the lift. Thayer Academy is looking to install card readers on both doors, which could also be programmed to unlock the lift during business hours for use without a need for an ID card. Board member David Gaudet stated that back in March of 2012, the Department of Public Safety (DPS) was instructed by the Federal Government to remove all key switches, so that we will meet equal access to buildings. The exact verbiage on the notice that was sent out by DPS that Mr. Gaudet was referring to is, “The removal of the key switch for

all non-residential wheelchair lifts is a federal mandate. The DPS has no authority to override this decision. The Architectural Access Board may allow a variance in order to gain security through the use of other devices such as touch pads, card swipes or similar means. Shutting down the unit is always an allowable option when the building is not in use (no variance necessary)". A motion was placed by David Gaudet to deny the variance as requested on the justification that there is a federal mandate and this request does not fall under the jurisdiction of the Board of Elevator Regulations. The motion was seconded by Brian Ronan.

Motion: David Gaudet

Seconded: Brian Ronan

Vote: 7-0; Denied.

Roll Call Vote:

• Stephen Sampson, Chairman	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Jacob Nunnemacher	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Gaudet	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Cheryl Davis	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Morgan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Brian Ronan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Eric Morse	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay

3. Approval of meeting minutes from March 3, 2020 [Exhibit 3]

A motion was put forth by David Gaudet to accept the minutes as written. The motion was seconded by David Morgan. **Vote: 5-0; Granted.** Cheryl Davis and Brian Ronan abstained.

Roll Call Vote:

• Stephen Sampson, Chairman	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Jacob Nunnemacher	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Gaudet	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Cheryl Davis	ABSTAINED	
• David Morgan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Brian Ronan	ABSTAINED	
• Eric Morse	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay

4. **16 Hawes Street – Brookline, MA [Exhibit 4]**
New Installation
ASME A17.1-2013 Section 5.3.1.10.1
Petitioner: David Jensen, Esq.

The petitioner was in front of the Board seeking a variance from ASME A17.1-2013 Section 5.3.1.10.1 – Maximum floor area of a residence elevator being 15 square feet. The petitioner stated that due to a severe birth condition, his client's child is confined to a large 400 lbs. motorized, self-operated wheelchair and needs someone with her at all times. The 15 square feet residential elevator requirement is too small to accommodate the family's needs. The petitioner stated that his client has purchased a new long-term home and wishes to install a residential elevator that is 20 square feet in floor area, measuring 4'x5' to accommodate the child and her nurse. The Board suggested the possibility of installing a LULA in lieu of the proposed elevator. The petitioner stated that as the child grows, her needs may change and he along with the mother and Architect believe the proposed elevator is the best option. The proposed lift would have a capacity of 1,250 lbs. The Board members had concerns that the proposed unit would roughly exceed the residential required square footage by 25% and capacity by 80%. A motion was placed by Stephen Sampson to grant the variance request under the circumstances and hardships the petitioner presented to the Board. The petitioner must submit supporting documentation to OPSI, along with the permit application, that states that the proposed elevator does meet all aspects of the code, other than the requested variance, and that the elevator is designed to this specification. The petitioner agreed to provide the required documentation to OPSI within 1-2 weeks. The motion was seconded by Brian Ronan.

Motion: Stephen Sampson

Seconded: Brian Ronan

Vote: 4-2; Granted. David Gaudet abstained.

Roll Call Vote:

• Stephen Sampson, Chairman	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Jacob Nunnemacher	<input type="checkbox"/> yea	<input checked="" type="checkbox"/> nay
• David Gaudet	ABSTAINED	
• Cheryl Davis	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Morgan	<input type="checkbox"/> yea	<input checked="" type="checkbox"/> nay
• Brian Ronan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Eric Morse	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay

5. **Approval of meeting minutes from April 21, 2020 [Exhibit 5]**

A motion was put forth by Cheryl Davis to accept the minutes as written. The motion was seconded by Jacob Nunnemacher. **Vote: 7-0; Granted.**

Roll Call Vote:

• Stephen Sampson, Chairman	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Jacob Nunnemacher	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Gaudet	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Cheryl Davis	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Morgan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Brian Ronan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Eric Morse	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay

Exhibit List:

Exhibit 1: Variance packet for 173 Alford Street – Everett, MA

Exhibit 2: Variance packet for 19 Hobart Avenue – Waltham, MA

Exhibit 3: Meeting minutes from March 3, 2020

Exhibit 4: Variance packet for 16 Hawes Street – Brookline, MA

Exhibit 5: Meeting minutes from April 21, 2020

Motion to Adjourn: Jacob Nunnemacher

Seconded: Brian Ronan

Vote: 7-0; Adjourned.

Roll Call Vote:

• Stephen Sampson, Chairman	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Jacob Nunnemacher	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Gaudet	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Cheryl Davis	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• David Morgan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Brian Ronan	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay
• Eric Morse	<input checked="" type="checkbox"/> yea	<input type="checkbox"/> nay

Hearing concluded at 10:28 a.m.

Prepared by: Ruthy Barros