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GOVERNOR

**KIM DRISCOLL**  
LIEUTENANT GOVERNOR

**YVONNE HAO**  
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**Commonwealth of Massachusetts**  
**Division of Occupational Licensure**  
**Office of Public Safety and Inspections**

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REGULATION

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COMMISSIONER, DIVISION OF  
OCCUPATIONAL LICENSURE

**Minutes**

**Meeting of the  
Board of Elevator Regulations  
February 6, 2024, at 1:00 p.m.**

**1000 Washington Street  
Boston, MA 02118  
1<sup>st</sup> Floor-Room 1D  
Hybrid Meeting via Microsoft Teams**

**Board Members Present:**

Eric Morse, Acting Chair  
David Gaudet  
Tim Morgan (remote)  
Brian Ronan  
Anthony Buonopane  
Christopher Towski

**Division of Occupational Licensure Staff:**

Peter Kelley  
Gayle Richardson  
Jay Ryan  
John Rubyck (remote)  
Walter Zalenski (remote)  
Martin Guidod (remote)  
Thomas Lacey (remote)

**Board Members Absent:**

Neil Mullane

**Guests Present Remotely unless otherwise indicated:**

Gary West | Gillespie Corporation  
Richard Bosse | Bosse Pickle LLC  
Bryan Dunkelberger | S3 Design, Inc.  
Megan Fitzgerald | 3 Design, Inc.  
Mike Saba | MJ Development, Inc.  
Greg Thompson | Gillespie Corporation  
John Linsley | Gillespie Corporation  
Tracey Nicholson | BXP  
Christa Fagone | BXP  
Joe Bertoni | BXP  
Mike Dobbins | BXP  
Greg Dawe | BXP  
Dan Shanahan | BXP



Nick Pezzella | BXP  
Kendall Pelletier | Schindler Elevator  
Robert Nocher | Schindler Elevator  
Earl Baker | National Elevator Industry Educational Program (NEIEP)  
Joe Parks | jparksv@200newbury.com  
Brian Anderson | Kone | Installation Manager  
Phil Christopher | Kone | Modernization Superintendent  
Donald Bjork | Kone | Modernization Manager  
Jorge Salamanca | Kone | Project Manager  
Michael LaRiviere | Kone | Sales Executive – in person  
S. Mark Price | United Parish of Winchendon  
Rob Day | Fontaine Brothers  
Steve Feminos | feminos@sebrsd.org  
Nick Pimentel | nick.pimentel@collierseng.com  
Christine Parnell | Otis Elevator  
Patrick Sampson

Call to Order: 1:02 p.m.:

1. Roll call.

2. **VAR23-0080**

**[Exhibit 1]**

**310 Speen Street Natick**

**State ID #: 198-P-260**

**Code:** 524 CMR Chapter 35.00 – ASME A17.1-2013 §§ 2.15.9.2(b), 3.4.1.1, 3.4.1.6, 3.4.4, and 3.4.7

**Petitioner:** Gary West

Following December 5, 2023, and December 19, 2023, appearances before the board, the petitioner returns to provide the Board’s requested information, including allowing the tenant to discuss additional options with the mall, working with the elevator company and manufacturer to review the specific code that cannot be met, and providing any detailed documentation showing hardship from relevant parties involved, including the landlord of the space. The petitioner is requesting a variance from code 524 CMR Chapter 35.00 – ASME A17.1-2013 §§ 2.15.9.2(b), 3.4.1.1, 3.4.1.6, 3.4.4, and 3.4.7, requesting the use of a Gillespie Shallow Pit Safety System for an elevator located over occupied space.

Gary West provided an overview of the request for a variance and referenced the submitted documentation to the board [Exhibit 1]. Richard Bosse indicated that he had spoken to Brookfield Properties and that they will not allow any penetration of the 1<sup>st</sup> floor, the blocking of any existing space or common space within the mall to accommodate an elevator.

Anthony Buonopane requested verification that the rupture valve will be located in the hoistway as the drawing provided indicated that it would be located in the machine room. Gary West clarified that the drawing had not been updated and that the rupture valve would be located in the hoistway.

David Gaudet made a motion to grant the petitioner’s request for a variance from 524 CMR Chapter 35.00 – ASME A17.1-2013 §§ 2.15.9.2(b), 3.4.1.1, 3.4.1.6, 3.4.4, and 3.4.7 allowing for a shallow pit with the conditions that the board previously issued for installation of the Gillespie Shallow Pit Safety System with the justification that the petitioner has proven hardship and this will be a safe alternative to the code. Anthony Buonopane seconded the motion. Vote: 5-0-1.

**Motion:** David Gaudet

**Seconded:** Anothony Buonopane

**Vote:** 5-0-1 Granted with conditions

**Roll Call Vote:**

- |                     |   |
|---------------------|---|
| • Eric Morse        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • David Gaudet      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Chris Towski      | <input type="checkbox"/> aye <input type="checkbox"/> nay <input checked="" type="checkbox"/> abstain |
| • Brian Ronan       | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Tim Morgan        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Anthony Buonopane | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |

3. **APP-BER24-0001 – Appeal of Inspector’s Report**

**[Exhibit 2]**

**800 Boylston Street Boston**

**State ID: 1-P-1449, 1-P-1450, 1-P-1451, 1-P-1458, 1-P-1459, 1-P-1460, 1-P-1461, 1-P-1465, 1-P-1466, 1-P-1467, 1-P-1471, 1-P-1472 and 1-P-1473**

**Code:** 524cmr35.00 2.11.6.2(f) – Confined Space Egress

**Petitioner: Nicholas Pezzella**

Eric Morse took no part in the discussion of, or the deliberation upon, this matter and left the room. The Board then by unanimous consent approved David Gaudet to serve as the acting Chairman.

Petitioner is appealing from Inspectors’ Reports against various units, all dated January 2, 2024, and all cited for violations of 524 CMR 35.00 2.11.6.2(f). (“Confined Space Egress. No elevator landing shall comprise of, or lead to, a confined locked space of over four inches without either:

- the installation in the space of a means to recall the elevator, or
- provision of a means to keep the elevator at the landing with the car and landing doors in the open position until egress from the confined locked space is achieved.”)

The petitioner is seeking the reversal of the violations contained in the citations and for issuance of the elevator certificates.

Dan Shanahan gave a summary of the request providing the reasons for the Appeal of Inspector’s Report and reiterated the request to reverse the violation cited during the inspection and to issue the certificate. Anthony Buonopane requested that for future Fire Service inspections that the inspector on site have the ability to view the Fire Safety test report, indicating the section of the report indicating compliance with 524 CMR 35.00 section 2.11.62(f) . Dan Shanahan verified that for future Fire Service inspections the inspector on site will be shown the Fire Safety test report, and where to find in that report verification of section 2.11.6.2(f) compliance.

Anthony Buonopane moved to grant the appeal with the condition that for all future Fire Service inspections an up-to-date Fire Safety test report be available to the inspector to review. Brian Ronan seconded the motion. Board Counsel, Peter Kelley suggested the wording of the motion be modified to state: The appeal will be allowed, the violation will be reversed, the certificates will be issued and with the condition that for all future Fire Service inspections the inspector on site will be shown the Fire Safety test report, and where to find in that report verification of section 2.11.6.2(f) compliance. Anthony Buonopane and Brian Ronan agreed to the amended wording of the motion. Vote: 5-0-0

**Motion: Anthony Buonopane**

**Seconded: Brian Ronan**

**Vote: 5-0-0**

**Roll Call Vote:**

- |                     |   |
|---------------------|---|
| • David Gaudet      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Chris Towski      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Brian Ronan       | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Tim Morgan        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Anthony Buonopane | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |

4. Eric Morse rejoined the meeting at 1:35 p.m.
5. The board took a recess from 1:38 p.m. until 1:47 p.m.
6. **Request for approval of continuing education program pursuant to G. L. c. 143, § 71C(1), ¶ 4. [Exhibit 3]**

Tim Morgan took no part in the discussion of, or the deliberation upon this matter, removing himself from the Teams meeting.

Earl Baker from National Elevator Industry Educational Program (NEIEP) seeks Board approval of a new on-line 8-hour Continuing Education program, which curriculum includes Harassment and Discrimination in the Workplace, Introduction to Conveyance Codes, and 2013 Elevator Freight Door Code.

Earl Baker gave an overview of the new on-line course curriculum. The board then reviewed the Massachusetts General Law c. 143, § 71C(1), ¶ 3 and discussed whether this course would approved as an 8-hour or 6-hour Continuing Education course, based on the curriculum.

Eric Morse moved to approve the NEIEP online course, MRO24, to be utilized for the Continuing Education of Elevator Mechanic's as a 6-hour course. Chris Towski requested that the motion specify that the 2-hour Harassment and Discrimination in the Workplace section of the course will not be considered Continuing Education, as it does not meet the standard for continuing education in § 71C(1), ¶ 3. Eric Morse agreed with the modified language of the motion. Chris Towski seconded the motion. Vote 5-0-0.

Earl Baker indicated that he would request that the online continuing education program, MRO24, be modified by the NEIEP to add an additional 2-hour industry technology standard section, so that it can be utilized as an 8-hour Continuing Education program in MA.

**Motion:** Eric Morse

**Seconded:** Chris Towski

**Vote:** 5-0 Granted with conditions

**Roll Call Vote:**

- |                     |   |
|---------------------|---|
| • Eric Morse        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • David Gaudet      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Chris Towski      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Brian Ronan       | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Anthony Buonopane | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |

7. Tim Morgan rejoined the Teams meeting at 2:45 p.m.

8. **VAR24-0003** **[Exhibit 4]**  
**142 Berkeley Street Boston**  
**State ID #: 1-F-949**

**Code:** 524 CMR 35 Section 2.2

**Petitioner:** Timothy Sheehan

The petitioner is seeking a variance from 524 CMR 35 Section 2.2 – Minimum Pit Depth, as they will be modernizing the unit, and the existing freight elevator has a 3-foot-deep pit. They would like to retain the existing condition with a variance.

Michael LaRiviere indicated that there will be an Elevator modernization and that he brought the variance request before the board to be sure that they are meeting code. After a discussion of the board and questions being asked, it was determined that there is not enough information to verify if the construction will comply with the refuge space requirements.

Eric Morse moved to table the variance for 30 days, to 3/7/24, to allow the petitioner to supply more information to the board, specifically to verify the bottom clearance and refuge space in the pit. The motion was seconded by Chris Towski. Vote 6-0-0 Deadline March 7, 2024.

**Motion:** Eric Morse

**Seconded:** Chris Towski

**Vote:** 6-0-0 Tabled for 30 days

**Roll Call Vote:**

- |                     |   |                              |                                  |
|---------------------|---|------------------------------|----------------------------------|
| • Eric Morse        | <input checked="" type="checkbox"/> aye | <input type="checkbox"/> nay | <input type="checkbox"/> abstain |
| • David Gaudet      | <input checked="" type="checkbox"/> aye | <input type="checkbox"/> nay | <input type="checkbox"/> abstain |
| • Chris Towski      | <input checked="" type="checkbox"/> aye | <input type="checkbox"/> nay | <input type="checkbox"/> abstain |
| • Brian Ronan       | <input checked="" type="checkbox"/> aye | <input type="checkbox"/> nay | <input type="checkbox"/> abstain |
| • Tim Morgan        | <input checked="" type="checkbox"/> aye | <input type="checkbox"/> nay | <input type="checkbox"/> abstain |
| • Anthony Buonopane | <input checked="" type="checkbox"/> aye | <input type="checkbox"/> nay | <input type="checkbox"/> abstain |

**9. VAR24-0005**

**[Exhibit 5]**

**39 Front Street Winchendon**

**State ID #:** 343-W-38

**Code:** 524 CMR 3.1.2.2

**Petitioner:** S. Mark Price

Petitioner is seeking a variance from 524 CMR 3.1.2.2, as the existing chair lift they have requires a retrofit of the drive control system, which currently has a travel clearance less than what is stated in code, and they would like to keep the existing travel clearance for the retrofit.

S. Mark Price gave an overview of the request for variance indicating that the manufacturer, Garaventa, required that he submit the request for a variance. After a discussion by the board, the board indicated this request should require a repair permit, as it will be a direct replacement with no reduction of space.

Eric Morse moved to table the variance for 30 days, to March 7, 2023, to allow the petitioner to request a repair permit or, if the manufacturer requires a variance to do the work, then to provide further details citing the specifics of the variance request. The motion was seconded by Chris Towski. Vote 6-0-0 Deadline March 7, 2024.

**Motion:** Eric Morse

**Seconded:** Chris Towski

**Vote:** 6-0-0 Tabled for 30 days

**Roll Call Vote:**

- |                |   |                              |                                  |
|----------------|---|------------------------------|----------------------------------|
| • Eric Morse   | <input checked="" type="checkbox"/> aye | <input type="checkbox"/> nay | <input type="checkbox"/> abstain |
| • David Gaudet | <input checked="" type="checkbox"/> aye | <input type="checkbox"/> nay | <input type="checkbox"/> abstain |

- |                     |   |
|---------------------|---|
| • Chris Towski      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Brian Ronan       | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Tim Morgan        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Anthony Buonopane | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |

10. The board took a recess from 3:19 p.m. until 3:26 p.m.

**11. VAR24-0006 [Exhibit 6]**

**302 Main Street Spencer**

**State ID #: 280-P-11**

**Code: ASME 2013 17.1 Section 2.26**

**Petitioner: Christine Parnell**

Petitioner is seeking a variance from ASME 2013 17.1 Section 2.26, specifically from FS90 work through June 2025, as the elevator will be decommissioned.

Christine Parnell gave a summary of the situation and stated that the elevator is scheduled to be decommissioned in June of 2025, as there is a project to build a new school and demolish the existing school. Steve Feminos provided additional information about the current elevator, which runs between 3 floors with an open staircase beside it and is sprinkled; there is full access to the elevator for staff, guests and student body; the usage of the elevator is minimal, no more than once per day, but could increase if the situation was needed. The current annual inspection is tentatively scheduled for March 19, 2024. When asked about previous Fire Safety Inspections, Christine Parnell stated the elevator had failed the 2022 and 2023 inspections but did not know what they had been failed for and, following the department's FS90 notification, a permit request was never submitted, given the possibility of the decommissioning of the elevator in 2025.

After discussion by the board, Chris Towski moved to deny the request for variance of ASME 2013 17.1 Section 2.26, specifically from FS90 work, with the justification that there was time from the 2022 FS90 notification to complete required repairs and there was not enough evidence to establish hardship. The motion was seconded by Brian Ronan. Vote 6-0-0

**Motion: Chris Towski**

**Seconded: Brian Ronan**

**Vote: 6 -0-0 Denied**

**Roll Call Vote:**

- |                     |   |
|---------------------|---|
| • Eric Morse        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • David Gaudet      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Chris Towski      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Brian Ronan       | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Tim Morgan        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Anthony Buonopane | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |

**12. Approval of May 16, 2023, meeting minutes. [Exhibit 7]**

Christopher Towski moved to accept the minutes as written. Brian Ronan seconded the motion. Vote 5-0-1

**Motion: Chris Towski**

**Seconded: Brian Ronan**

**Vote: 5-0-1 Accepted as written**

**Roll Call Vote:**

- |                     |   |
|---------------------|---|
| • Eric Morse        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • David Gaudet      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Chris Towski      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Brian Ronan       | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Tim Morgan        | <input type="checkbox"/> aye <input type="checkbox"/> nay <input checked="" type="checkbox"/> abstain |
| • Anthony Buonopane | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |

**13. Approval of meeting minutes from May 23, 2023, and January 23, 2024. – tabled.**

The minutes were tabled for a future meeting. No action was taken on this item.

14. Eric Morse indicated that he is still awaiting verification from 1 Post Office Square Boston to allow a visit of the fully automated parking system on February 27, 2024, at 12:00 noon. He will notify Gayle Richardson by email when he receives further details.

15. Anthony Buonopane provided the following updates:

- a. FS90 testing has started and so far, there have only been a few units that have had a 90-reinspection required.
- b. Notified the board that the department will be discontinuing the use of the 60-day attestation letters and moving forward, will utilize only a 90-day attestation letter.

16. Matters not reasonably anticipated 48 hours in advance of meeting.

- a. Anthony Buonopane informed the board of a situation that he had been made aware of before the meeting that involved a Semi-Automated Parking System. The system did not line up as expected and a woman tried to drive onto the platform whereupon her car became stuck. She was not injured, but the car was damaged. Mr. Buonopane indicated he would gather more information about the situation and provide it to the board at the next code meeting.

17. Chris Towski moved to Adjourn. Motion was seconded by Brian Ronan.  
Vote 6-0-0.

**Motion: Chris Towski**

**Seconded: Brian Ronan**

**Vote: 6-0-0 Granted**

**Roll Call Vote:**

- |                     |   |
|---------------------|---|
| • Eric Morse        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • David Gaudet      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Chris Towski      | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Brian Ronan       | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Tim Morgan        | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |
| • Anthony Buonopane | <input checked="" type="checkbox"/> aye <input type="checkbox"/> nay <input type="checkbox"/> abstain |

Meeting adjourned at 4:04 p.m.

Prepared by: Gayle Richardson

**Exhibit List:**

Exhibit 1: Variance packet for 310 Speen Street Natick

Exhibit 2: Appeal of Inspector's Report packet for 800 Boylston Street Boston

- Exhibit 3: NEIEP Continuing Education Course Packet
- Exhibit 4: Variance packet for 142 Berkeley Street Boston
- Exhibit 5: Variance packet for 39 Front Street Winchendon
- Exhibit 6: Variance packet for 302 Main Street Spencer
- Exhibit 7: Meeting Minutes for May 16, 2023