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Minutes

Meeting of the
Board of Elevator Regulations
August 27, 2024, at 1:00 p.m.

1000 Washington Street
Boston, MA 02118
1st Floor-Room 1D
Hybrid Meeting via Microsoft Teams

Board Members Present:

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

Board Members Absent:

Brian Ronan

Guests Present:

Jason Speeckaert
Brian Jenkel
Michael Cobe
Nancy Zraizaa
Joe Roppolo
Rajat Sheth
Derek Marchand

Division of Occupational Licensure Staff:

Peter Kelley
Gayle Richardson
John Rubyck (remote)

Guests Present:

Christine Parnell
Julia Messenger
Ken Carpenter
Michael Murdzia
Michelle L. Watson

Call to Order: 1:00 p.m.:

1. Roll call.



2. VAR24-0028

[Exhibit 1]

545 Commonwealth Avenue Boston

State ID#'s: 1-P-22490, 1-P-22491 & 1-P-22492

Code Reference: A17.1 2013 2.7.5.3.3 Section 2.7- Machinery Spaces, Machine Rooms, Control Spaces, and Control Rooms

Petitioner: Frantzer Michel

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

The petitioner is seeking a variance from A17.1 2013 2.7.5.3.3 Section 2.7 for a safety railing on an elevated work platform more than 12" as a fall hazard, as the railing will interfere with the T cable on units 1-P-22490, 1-P-22491 and 1-P-22492.

Brian Jenkel indicated that the is landing 15'-10" from grade below and the service platform is 6'-1" below the sill, the toe guard is in front, and the T cable is in the corner, platform to platform is 3 feet, and it is steel.

Based on the pictures provided the board suggested multiple options for the petitioner to mitigate fall hazard, including lowering the platform, while still working on the bottom of the car; in-filling holes so no one can fall; and changing the pit depth

After a discussion by the board, a motion was made by Eric Morse to deny the variance with the justification that the platform presents a fall safety hazard, the platform can be reconfigured or lowered and extended to mitigate the fall hazard, and no hardship has been shown. The motion was seconded by David Gaudet. Vote 5-0-0

Motion: Eric Morse

Seconded: David Gaudet

Vote: 5-0-0 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 |
| • Christopher Towski | <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. Neil Mullane rejoined the meeting at 1:31 p.m.

4. VAR24-0068 & VAR24-0069

[Exhibits 2 & 3]

888 North Main Street Brockton

State ID#'s: 44-P-174 & 44-P-175

Code Reference: 524 CMR 35.00 Section 2.8.3.3

Petitioner: Nancy Zraizaa

The petitioner is seeking a variance from code 524 CMR 35:00 §2.8.3.3, to install sprinklers in the elevator shafts and control rooms, to comply with CMS mandate and avoid denial of payment for admissions.

Nancy Zraizaa gave a summary of the request and explained that The Guardian Center c/o Genesis Healthcare, had a Life Safety Survey conducted on June 13, 2024, and was

found not in compliance with the requirements for participation in Medicare/Medicaid, 42 CFR, 483.90(a-d), by failing to provide sprinkler protection for the elevator and hydraulic elevator machine room. Without the requested variance the funding from Medicare/Medicaid will be cutoff as of November 7, 2024.

Chris Towski moved to grant the petitioner's request for a variance from 524 CMR 35:00 §2.8.3.3 to allow the installation of sprinkler coverage in the elevator shaft and machine room with the justification being hardship resulting from the withholding of federal funding due to waiver issued by CMS. The written variance should contain the Board's previous provisions related to safety restrictions and compliance. The motion was seconded by Tim Morgan. Vote 6-0-0

Motion: Chris Towski

Seconded: Tim Morgan

Vote: 6-0-0 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
• Christopher Towski	<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
• Neil Mullane	<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

5. The board took a recess from 1:43 p.m. until 1:55 p.m.

6. VAR24-0070 & VAR24-0071

[Exhibits 4 &5]

233 Middle Street Braintree

State ID#'s: 40-P-91 & 40-P-90

Code Reference: 524 CMR 35.00 Section 2.8.3.3

Petitioner: Rajat Sheth

The petitioner seeks variance from code 524 CMR 35:00 §2.8.3.3, to install sprinklers in the elevator shafts and control rooms, to comply with CMS mandate and avoid denial of payment for admissions.

Rajat Sheth gave a summary of the request and explained that Bane John Scott LLC dba John Scott House Nursing & Rehabilitation Center, had a Life Safety Survey conducted on June 11, 2024, and was found not in compliance with the requirements for participation in Medicare/Medicaid, 42 CFR, 483.90(a-d), by failing to provide sprinkler protection for the elevator and hydraulic elevator machine room. Without the requested variance the funding from Medicare/Medicaid will be cut off as of November 9, 2024.

Chris Towski moved to grant the petitioner's request for a variance from 524 CMR 35:00 §2.8.3.3 to allow the installation of sprinkler coverage in the elevator shaft and machine room with the justification being hardship resulting from the withholding of federal funding due to waiver issued by CMS. Written variance should contain prior provisions related to safety restrictions related to compliance. The motion was seconded by Tim Morgan. Vote 6-0-0

Motion: Chris Towski

Seconded: Tim Morgan

Vote: 6-0-0 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 |
| • Christopher Towski | <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 |
| • Neil Mullane | <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. The following items were not reasonably anticipated 48 hours in advance of the meeting and were addressed out of order from the meeting notice:

- a. Eric Morse addressed the board with the suggestion of making the variance applications regarding 524 CMR 35:00 §2.8.3.3 to become an administrative process.

After a discussion by the board, the following criteria must be achieved in order for the variance request to be considered in good order and processed administratively:

- i. A completed and signed application, which clearly indicates the code reference (524 CMR 35:00 §2.8.3.3).
- ii. The variance fee.
- iii. A copy of the letter from the Centers for Medicare & Medicaid Services (CMS) showing the date of the safety survey and the fact of the loss of funding for non-compliance.
- iv. A copy of the Statement of Deficiencies, showing under code K351, showing the sprinkler requirement under section 8.15.5 of the NFPA 13, Standard for the Installation of Sprinkler Systems.

The board then agreed that any application that is not provided in good order or that needs additional review will be escalated to the board through the regular docket process for review by the board.

Neil Mullane moved to delegate to administrative staff, in consultation with board counsel, the ability to approve variance applications related to 524 CMR 35:00 §2.8.3.3 upon a showing of a complete application as stated in the above-reference criteria. The motion was seconded by Chris Towski. Vote 6-0-0

Motion: Neil Mullane

Seconded: Chris Towski

Vote: Delegation of variance approval in certain circumstances

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 |
| • Christopher Towski | <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 |
| • Neil Mullane | <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 |

- b. Gayle Richardson provided a reminder that the September 24, 2024, Board of Regulations meeting would be held in Conference Room 1C at 1000 Washington Street Boston MA.
 - c. Tim Morgan informed the board that he will be out of the office and unavailable for the October 15, 2024, BER meeting. Neil Mullane informed the board that he will be out of the office and unavailable for the September 24, 2024, BER meeting.
 - d. Chris Towski let the board know that there is an opportunity for them to attend any or all the four days of watching an extrication from a blind hoistway environment, from September 17th through September 20, 2024, with times to be determined. Interested persons should contact Mr. Towski directly.
8. VAR24-0064, VAR24-0065 & VAR24-0066 [Exhibits 6, 7 & 8]
271 Carew Street Springfield
STATE ID#'s: 281-P-119, 281-P-120 & 281-P-121
Code Reference: A17.1 - 2.27.3.3.31d
Petitioner: Christine Parnell

The petitioner is back in front of the board after appearing on July 16, 2024, for VAR24-0029 and VAR24-0030, substantially similar petitions which were withdrawn at the request of the petitioner after the board requested the signed modernization proposal and a timeline of the work to be done including the start and stop dates, with the duration of time for each unit. The petitioner is now, again seeking a variance from A17.1 – 2.27.3.3.31d for the postponement of the FS90 work, because the work will be addressed during the modernization, to begin early 2025 (Feb).

Christine Parnell gave a summary of the request for an extension of the FS90 work requirement so that the updates can be made during the modernization project, which is currently estimated to start in December 2024 or January 2025, depending on when the materials are ordered and delivered. Christine Parnell also requested that the elevators be allowed to continue to run, as each unit is being modernized one at a time, as this is a hospital, and the elevators are needed for life safety.

Michael Murdzia reiterated that they are planning on the modernization project taking three months per unit and will be done one at a time so that the other elevators can be used during the modernization project. Ken Carpenter further explained that they had attempted to fix the FS90 issue on 4 separate attempts but were unable to achieve the fix.

After a discussion by the board, Neil Mullane moved to grant the variance request to extend the deadline for FS90 repair compliance until September 1, 2025, which will allow for all three (3) elevators to be either modernized and fully code compliant or be placed out of service. Mr. Mullane stated that the justification that Otis has tried to resolve the issues through attempted repairs, but having any elevator out of service is a significant hardship for the hospital. The motion was seconded by David Gaudet. Vote 6-0-0 Deadline September 1, 2025.

Motion: Neil Mullane
Seconded: David Gaudet
Vote: Granted with a deadline of September 1, 2025
Roll Call Vote:

- Eric Morse ☒ aye ☐ nay ☐ abstain
- David Gaudet ☒ aye ☐ nay ☐ abstain
- Christopher Towski ☒ aye ☐ nay ☐ abstain
- Tim Morgan ☒ aye ☐ nay ☐ abstain
- Neil Mullane ☒ aye ☐ nay ☐ abstain
- Anthony Buonopane ☒ aye ☐ nay ☐ abstain

9. Approval of meeting minutes from July 16, 2024, and July 23, 2024. – tabled.

The minutes were tabled for a future meeting. No action was taken on these items.

10. Chris Towski moved to Adjourn the meeting. Motion was seconded by Anthony Buonopane. Vote 6-0-0.

Motion: Chris Towski

Seconded: Anthony Buonopane

Vote: Granted

Roll Call Vote:

- Eric Morse ☒ aye ☐ nay ☐ abstain
- David Gaudet ☒ aye ☐ nay ☐ abstain
- Christopher Towski ☒ aye ☐ nay ☐ abstain
- Tim Morgan ☒ aye ☐ nay ☐ abstain
- Neil Mullane ☒ aye ☐ nay ☐ abstain
- Anthony Buonopane ☒ aye ☐ nay ☐ abstain

Meeting adjourned at 3:49 p.m.

Prepared by: Gayle Richardson

Exhibit List:

- Exhibit 1: Variance packet for 545 Commonwealth Avenue Boston
- Exhibit 2: Variance packet for 888 North Main Street Brockton
- Exhibit 3: Variance packet for 888 North Main Street Brockton
- Exhibit 4: Variance packet for 233 Middle Street Braintree
- Exhibit 5: Variance packet for 233 Middle Street Braintree
- Exhibit 6: Variance packet for 271 Carew Street Springfield
- Exhibit 7: Variance packet for 271 Carew Street Springfield
- Exhibit 8: Variance packet for 271 Carew Street Springfield