



**MAURA HEALEY**  
GOVERNOR

**KIM DRISCOLL**  
LIEUTENANT GOVERNOR

**Commonwealth of Massachusetts**  
**Division of Occupational Licensure**

1000 Washington Street, Suite 710  
Boston, Massachusetts 02118

**EDWARD A. PALLESCHI**  
UNDERSECRETARY OF CONSUMER  
AFFAIRS AND BUSINESS  
REGULATION

**LAYLA R. D'EMILIA**  
COMMISSIONER, DIVISION OF  
OCCUPATIONAL LICENSURE

**BOARD OF STATE EXAMINERS OF  
PLUMBERS AND GAS FITTERS**

**BOARD MEETING MINUTES**

**Wednesday, February 1, 2023, starting at 9:00 a.m.**

**In accordance with the provisions of G.L. c. 30A § 20, the Board of State Examiners of Plumbers and Gas Fitters convened a regular monthly meeting via telephone/video conference:**

***Member and Staff Attendance***

<b>MEMBERS</b>	<b>APPOINTMENT</b>	<b>PRESENT</b>	<b>ABSENT</b>
Mr. Joseph McNamee	Member, Master Gas Fitter	X	
Mr. Harold Knight	Member, Journeyman Plumber		X
Mr. John Cruz	Member, LP Installer	X	
Mr. Bahig A. Kaldas, P. E.	Member, Plumbing Engineer	X	
Mr. Joseph V. Waskiewicz	Member, Master Plumber	X	
Mr. Wayne Thomas	Member Journeyman Gasfitter	X	
Ms. Ruth Alfasso	Member, Dept. of Public Health	X	
Ms. Sarah Badway	Public Member	X	
Mr. Dan Kilburn	Member, DOL Designee	X	
<b>STAFF</b>			
Mr. Charles Kilb	Board Legal Counsel	X	
Mrs. Jennifer Cargill	Board Legal Counsel	X	
Mike Guida	Board Code Consultant	X	
Ken Peterson	Executive Director	X	

**INFORMATIONAL NOTE: All votes were taken by roll call. Where each member voted in favor, the vote will be reported as unanimous.**

## **9:00 A.M. AGENDA REVIEW:**

By Chairman Joseph McNamee

## **APPROVAL OF PREVIOUS MEETING MINUTES**

### Board Meeting Minutes

December 7, 2022 – Open Session Vote: WT to approve, seconded by JC Results: Unanimously Approved

December 21, 2022 – Open Session Vote: JC to approve, seconded by RA Results: Unanimously Approved

December 21, 2022 – Executive Session Vote: RA to approve, seconded by JC Results: Unanimously Approved

## **Discussion**

None

## **Vocational School Commercial Project Applications**

### **22-VSP-765 – Commercial Project- Upper Cape Tech, 220 Sandwich, Road, Bourne**

The applicant, Plumbing Instructor Ernest Yeaw, is seeking permission to have students install the rough and finish plumbing for a gas generator on the school property.

Vote: WT to approve, JW seconded

Results: Unanimously Approved

## **Variance Applications**

### **23-PV-015 – Thomas Stretton, 20 Hill Street, Woburn**

The Petitioner is seeking relief from 248 CMR 10.09 Interceptors, Separators and Holding Tanks to allow for the installation of an existing gas, oil and sand separator with piping at incorrect heights- reducing the storage capacity, as noted by the MWRA's review of the installation. This is a post-installation variance. The local inspector and the Board of Health have been notified.

Vote: WT to approve with the conditions that the applicant provide documentation to the Board Office that the MWRA and the local inspector (Joe Rozzi) approve the installation. DK seconded

Results: Unanimously Approved

### **22-PV-016 – Nick Stephens, 1 -27 Boston Wharf Road, Boston**

The petitioner is seeking relief from 248 CMR 10.02 (26) Materials and Design, as well as 10.17 (8) (a) Material of Roof Drains, to allow the use of custom fabricated trench drains made out of 316 stainless steel

which the petitioner believes meets the corrosion resisting material requirements of 248 CMR 10.17 (8) (a). The local inspector and the Board of Health have been notified.

JM recused himself for this agenda item.

Vote: DK to approve, JW seconded

Results: Unanimously Approved

**23-PV-023 – Steven Hamilton, 16 Kent Square, #1, Brookline**

The petitioner is seeking relief from 248 CMR 10.08 (2)(b) Table 1, to install a clothes washer drain on an existing 1 /12 drain line. This is a post-installation variance. The local inspector and Board of Health have been notified.

The homeowner discussed why he removed a sink and is now using the undersized drain for a clothes washer. Members noted that there were code complaint ways to resolve this matter with minimal disruption.

Vote: JW to deny, JC seconded

Results: Motion to deny passed unanimously

**23-PV-027 – Andrew Woodward, 51 Vassar Street, Cambridge**

The petitioner is seeking relief from 248 CMR 10.10(18) Table 1 to allow for shared, gender-neutral lavatories in lieu of separate men's and women's lavatory facilities within a multi-use commercial space. This is a proposed 174,000 Sq. Ft. facility of eight stories on the campus of MIT to be used for educational, laboratory, assembly, and office spaces. The petitioner is seeking this variance request for 100% of the required fixtures. The local inspector and the Board of Health have been notified.

The applicant Andrew Woodward noted that the request has since been amended and the proposal is now to install four gender-inclusive toilet rooms instead of the originally requested eight.

The Board discussed the proposed changes, number of urinals, and clarification of hardship. The members were divided as to whether the changes were consistent with code changes the Board was proposing as well as whether urinals are or are not appropriate. Counsel noted that in January, the consensus was urinals were appropriate.

1<sup>st</sup> Vote: WT to approve, RA seconded

Results: Motion failed due to tie vote, 4 to 4.

In favor: WT, RA, DK, JM

Opposed: BK, JC, JW, SB

2<sup>nd</sup> Vote: DK moved to table until March meeting, JW seconded

Results: Unanimously approved

**23-PV-045 – Daryl Carter, 2 Monarch Drive, Littleton**

The Petitioner is seeking relief from 248 CMR 10.10 (j)(4), Employee Toilet Facilities for Industrial Buildings, to eliminate four single-user toilet rooms that are in remote areas of the warehouse. The building has one men's room and one women's room in the main office. They expect fewer than 10 employees present on a typical day, with two employees being forklift operators that are required to be intermittently working in remote areas. The remote toilet rooms were part of the original design to have toilet rooms less than 300' away from the regular workplace of daily work activity of any person. The local inspector and the Board of Health have been notified.

Vote: DK to approve, WT seconded

Results: Unanimously Approved

**23-PV-046 – Paul Dionne, 89 Broad Street, Boston**

The Petitioner is seeking relief from 248 CMR 10.10 (7) (c) (1) & 2 to allow the installation of a shower compartment that does not meet the minimum interior dimensions. This is a post-installation variance. The local inspector and the Board of Health have been notified.

JM recused himself from this agenda item.

The petitioner discussed his hardship of limited space in remodeling this hotel building from 1928, a clearance of 27 inches was measured.

Vote: JC to approve, DK seconded

Results: Unanimously approved

**23-PV-047 – Edward Farrington, 501 Main Street, Hudson**

The Petitioner is seeking relief from 248 CMR 3.04, Product, Design and Testing Standards, to install a freestanding soaking tub that is not on the product accepted list. The local inspector and the Board of Health have been notified.

The petitioner discussed his project to install a tub that had proper testing, but it is not on the product accepted list.

Vote: WT to approve, JC seconded

Results: Unanimously Approved

**22-PV-1020- Mark Baranski, 73 Pond Street, Waltham**

The Petitioner is seeking relief from 248 CMR 10.10 Table 1 Minimum Facilities for Building Occupancy and 10.10 (r) (1 & 2), Use of Gender-neutral Toilet Rooms to allow the petitioner to use fewer fixtures than the code requires throughout the new construction project, and on the first floor- a single unisex toilet room in lieu of two unisex toilet rooms. The local inspector and the Board of Health have been notified.

The Board discussed the proposed occupancy with the petitioner and the members noted that the project meets code requirements and does not need a variance.

NO ACTION TAKEN

**Correspondence**

Letter from Gail Ryan, Esq. on behalf of Jacobs Engineering Group, Inc. regarding the rejection of Variance 22-PV-995 on January 11, 2022.

Counsel Kilb presented a letter from Attorney Gail Ryan seeking the Board allow reconsideration of a denied variance. He indicated that the letter had some questionable legal conclusions, however, he indicated that the crux of the request was valid, where it just seeks further Board review based information not previously provided to the Board. Members generally agreed that if the applicant submitted a request in writing with information not previously presented, the matter should be placed on a future agenda.

No formal vote taken.

## **Inspector Appeals**

### **23-AID-26 – Walter Kenney – 132 Chief Justice Cushing Way, Scituate**

The parties giving testimony were sworn in, exhibits accepted, and each party was given an opportunity to present their positions. The Board engaged in no deliberation in open session. The chair notified the parties that a written decision would thereafter be issued explaining the Board's decision.

## **BOARD WILL CONSIDER ANY MATTERS NOT REASONABLY ANTICIPATED BY THE CHAIR**

Legal Counsel indicated that due to the repeated number of requests for multi-user bathrooms not defined by gender, it would be appropriate for the Board to hold a listening session. Members generally indicated that this would be an appropriate idea. Counsel indicated there is some dispute over what to call those bathrooms and requested the Board members define how the listening session should be labeled. WT suggested it be called bathrooms that are alternatives to traditional men's and ladies rooms. The other members generally agreed. The listening session will be scheduled for February 22<sup>nd</sup> at 9:00 a.m.

## **CLOSED SESSIONS**

The chair announced that the remaining agenda items would be in closed session and the Board did not anticipate any matters for open session and would be adjourning upon conclusion of Investigative Conference.

A motion was made by HK and seconded by JC at 11:00 AM to conclude the Open Session portion of the meeting and enter closed Quasi-Judicial Session, then the Executive Session portion of the meeting per M.G.L. c. 30A, §21 to discuss applicant's character, rather than competence and to discuss an applicant's mental health. Each member voted yes. The chair announced that the Board would adjourn at the end of Executive Session with no further open session items.

## **QUASI JUDICIAL SESSION**

**(Disciplinary decisions - Closed per M.G.L c. 30A, §18)**

The Board engaged in deliberations in the matter of 23-AID-26 – Walter Kenney – 132 Chief Justice Cushing Way, Scituate

Upon conclusion of deliberations, the Board identified its decision for the record:

Vote: WT voted in favor of the appellant, seconded by JC., reversing the Inspector's decision.

Results: WT, JC, BK, RA, SB, DK in favor of the appellant. JW voted against, and JM abstained.

A written decision will be sent to the parties.

At 11:15, the Board moved into Executive Session

## **Executive Session**

See separate minutes

## **Adjournment**

At 11:53 a.m. the Board returned to open session to adjourn the meeting. A motion was made to adjourn by WT, the motion was seconded by JC. Motion passed unanimously.

## **Items relied upon in Meeting**

Agenda

Correspondence

Variance Applications