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COMMISSIONER, DIVISION OF  
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**Minutes**

**Meeting of the**  
**Board of Elevator Regulations**  
**December 20, 2022 at 1:00 p.m.**

**Microsoft Teams Meeting**

**Board Members Present:**

Eric Morse, Acting Chair  
Neil Mullane  
David Morgan  
David Gaudet  
Thomas McDermott  
Christopher Towski

**Division of Occupational Licensure Staff:**

Peter Kelley  
Sarah Wilkinson  
Ruthy Barros

**Board Members Absent:**

Brian Ronan

Call to Order 1:02 p.m.:

**1. 8 Colonial Drive Westborough**

**State IDs: 328-P-6 and 327-F-7 [Exhibit 1]**

**Petitioner: Daniel Scotto**

Petitioner is requesting a variance from 524 CMR 35:00 § 2.8.3.3 “Sprinklers shall not be permitted in power passenger or freight elevator hoistways pits, machine rooms or control spaces.”, to allow the installation of sprinkler coverage in the elevator machine room. Payments have been stopped since April for new admissions. A motion was made by Neil Mullane to grant the petitioner’s request with the justification being hardship resulting from the withholding of federal funding due to an inspection by the Centers for Medicare & Medicaid Services (CMS) for non-compliance with NFPA 13 – 1999 Edition of the Standard for the installation of

Sprinkler Systems. Specifically, that sprinklers are not installed in the elevator machine room, hoistway and pits. Established guidelines will be issued with the variance decision. The motion was seconded by Thomas McDermott.

**Motion: Neil Mullane**

**Seconded: Thomas McDermott Vote: 6-0; Granted.**

**2. 44 North Road, Bedford [Exhibit 2]**

**State ID: 24-P-163**

**Petitioner: Stephen Kazarian**

Petitioner is requesting a variance from A17.1-1987,1989, 1996 § 211.3c(1)(c) – Firefighter Phase II Emergency In-Car Operation. The petitioner has neither confirmed nor attended all three previously-scheduled meeting invitations. A motion was made by David Gaudet to dismiss due to failure to prosecute.

**Motion: David Gaudet**

**Seconded: Christopher Towski**

**Vote: 6-0; Dismissed.**

**3. Approval of meeting minutes from October 5, 2022 [Exhibit 3]**

A motion was put forth by Thomas McDermott to accept as amended. The motion was seconded by Dave Gaudet. Neil Mullane and Christopher Towski abstained.

**Vote:4-0: Granted**

The Board recessed at 1:29p.m. and resumed at 1:40 p.m.

**4. 26 Court Street, Boston [Exhibit 4]**

**State IDs: 1-P-314, 1-P-3015, and 1-P-3016**

**Petitioner: Gregory Rideout**

Petitioner is requesting a variance from 524 CMR § 11.02(3) to keep the same three elevators out of service for an additional six months until June 6, 2023. There are five elevators in total, but the Petitioner is only looking for these 3 cars. The Petitioner is currently in the process of receiving bids from the Elevator Company, who will do the modernization. Petitioner seeks a 6-month extension for the start of the modernization with no impact to the other elevators. The out of service expires on 1/6/2023, i.e., one year original out of service time period, the modernization will be permitted by 6/6/2023. All three cars will be modernized at once. Then the other two cars will follow. The Elevator Company to have asbestos awareness training to make the shaft safe. The Elevator Company and the abatement contractor for the make safe work to have the Elevator Company proceed with the modernization. David Morgan stated that 524 CMR § 11.02(3) indicates you can place an elevator out of service for 365 days, after that it must be decommissioned, unless a variance is sought. There is no intention of placing these elevators back into service until the modernization is completed. The modernization permit will be pulled prior to 6/6/2023. Davie Morgan stated that if this goes past 6/6/2023, the Petitioner must come back in front of the board. A motion was made by David Morgan to Grant for the purpose of proper and safe removal of asbestos, with the expectation that the elevators will not be used and/or put back into service prior to the modernization, other than for the modernization process. Dave Gaudet, proposed to add the 524 CMR 11.02(3) citation and the new expiration date 6/6/2023. Amendment accepted.

**Motion: David Morgan**

**Seconded: Christopher Towski**

**Vote: 6-0; Granted.**

5. **7-9 Newbury Street, Boston [Exhibit 5]**  
**State ID: TBD**  
**Petitioners: Gary West of Gillespie Corp**  
**and David Silverman of AIA Principle, STA Design Inc.**

The Petitioner, Gary West, is seeking a variance from 524 CMR 35:00 – Shallow pit, ASME A17.1-2013 § 3.4: Bottom and top clearances and runbys for car and counterweights, and ASME A17.1-2013 § 2.15: Car frames and platforms. David Silverman, (AIA Principle, STA Design, Inc) originally proposed a LULA and the building owner is happy to go with a full-size elevator. David Morgan inquired: Will the system have the pads in the pit? Gary Silverman: Yes, the safety bumper will be deployed, and elevator cannot come down into the pit. David Gaudet: Dept. question – are Gillespie systems being installed across the state. Has the state ever received any complaints? Thomas McDermott: We have not received any complaints of this system from either owners or inspectors. David Morgan: Reached out to multiple Elevator Contractors and received nothing but praise on this system. All positive responses. A motion made by David Morgan to grant variance as requested for the Gillespie shallow pit safety system with appropriate signages and padding in the pit, reason being all options have been exhausted but digging out a regular pit is not possible at this location.

**Motion: David Morgan**  
**Seconded: Neil Mullane**  
**Vote: 6-0; Granted.**

6. **37 Temple Place, Boston [Exhibit 6]**  
**State ID: 1-P-7108**  
**Petitioners: Sara Elaissoud Sr. Project Manager 3Phase Elevator, Neil Johanson**  
**and Stuart Pratt Construction Management, and Michael Coughlin of 3Phase**  
**Elevator**

The Petitioner is seeking a variance from ASME A17.1-2013 §§ 17.30.8 and 17.30 due to not having enough clearance for the controller if a door is added.

Modernization will result in no changes in speed, capacity or travel. Machine room will remain in the same location. Passenger classification will remain the same. Neil Mullane shared computer screen with packet. The pocket is recessed with the rails. Current depth of the counterweight unascertained. The sleight board controller with a lot of relays (original) no documentation but guessing in the 80's, no occupiable space in the elevator. Eric Morse: Depending when it was modernized. 4 ¼ inch pocket into the wall, 25" total, running clearance is within 3". NM: Any cab work being completed during mod? Any weight concerns? Thomas McDermott indicated in 2013, a modernization permit was pulled but it does not show a record of a completed modernization. David Morgan: Pics of the MR? Neil Johanson: Wood rails and maintaining door. Neil Johanson: Presented pictures (not in packet). Eric Morse: Based on the drawings it looks like they will be rebuilding the penthouse Issue with approval from the historical society. Neil Johanson: Will not have the 7' clearance in the entire machine room. Neil Mullane: It would be helpful to see it on a plan. David Morgan: Code, code citation, proposed plans?? 1. What would the code citations that you are not meeting and 2. Backup document on why you can not meet the code, wooden counterweight rail layout. Eric Morse: the Board would need more information. We need to see a drawing of the hoistway with the equipment layout.

There is not enough clear information to decide. Christopher Towski requested more info shifts ladder and access to the roof, historical evidence, clarity. Eric Morse: Question to 3Phase Team, how much time would you need? Neil Johanson: We can have documentation by the end of next week. A motion was made by Eric Morse to place the variance request on hold until 1/19/23 for further information, specific code citations you are looking for, detailed drawings.... Justification not enough is before the board to decide right now. Motion was seconded by Thomas McDermott. Neil Mullane: the more information for the resubmission is better, cutsheet, pictures etc. that will assist the board.

**Motion: David Morgan**

**Seconded: Neil Mullane**

**Vote: 6-0; On Hold**

The Board recessed at 3:22 p.m. and resumed at 3:27 p.m.

The Board continued discussing the FS90 repairs and permit filing.

Thomas McDermott: Since December 1, 2022 our office received 903 alteration permit requests, as of August 2021 9,053 violations were cited with 7,861 still outstanding. Neil Mullane stated that Constant Contact would help clarify. Thomas McDermott the department is sending back permits issued-as of 12/1/22 903 alteration (14) permits that are resubmissions requiring most because proof of contract value is underestimated.

New business: Christ Towski a new fire code went into effect on 12/9/22 will share the section that mentions automated parking devices. Thomas McDermott: site visit update to the Board-Johnny Rubyck was there with another supervisor.

**Motion to Adjourn: Christopher Towski**

**Seconded: Dave Morgan**

**Vote: 6-0; Adjourned at 3:47 p.m.**

Prepared by: Terry Ascì

**Exhibit List:**

- Exhibit 1: Variance packet for 8 Colonial Drive, Westborough
- Exhibit 2: Variance packet for 44 North Road, Bedford
- Exhibit 3: Meeting minutes October 5, 2022
- Exhibit 4: Variance packet for 26 Court Street, Boston
- Exhibit 5: Variance packet for 7-9 Newbury Street, Boston
- Exhibit 6: Variance packet for 37 Temple Place, Boston