

## BCIL opposes variance request: 2 Story Mixed Use, D'lites Emporium, 414 Highland Ave., Somerville (V21-186)

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Cc: Bill Henning <bhenning@bostoncil.org>; Colin Killick <colinjkillick@gmail.com>; Thomas Peterman <tcp@petermanarchitects.com>; Frank Saia <frankie0079@aol.com>; Nicholas Antanavica <nantanavica@somervillema.gov>

Dear Board Chair Dawn Guarriello and Members of the Architectural Access Board ("AAB" or "Board"):

On behalf of the Boston Center for Independent Living (BCIL), I am writing to express our opposition to the AAB variance application submitted on or about November 3, 2021, by Thomas Peterman, Peterman Architects ("Petitioner") regarding the 2 Story Mixed Use, D'lites Emporium ("Facility"), 414 Highland Avenue, Somerville (Docket V21-186). BCIL respectfully requests the Board to fully consider the comments in this email correspondence as part of its Incoming Case Review for this docket number on November 29, 2021.

It should be noted that, while Petitioner requests relief from 521 CMR § 25.1, Petitioner may also need relief from § 24.1, with respect to accessible routes. BCIL respectfully asks the Board to consider whether this additional relief is necessary, and if so, would it be impracticable to achieve.

As you know, BCIL is a frontline civil rights organization led by people with disabilities that advocates to eliminate discrimination, isolation, and segregation by providing advocacy and services, to enhance the independence of people with disabilities.

It is noteworthy that the Petitioner is performing \$275,000 in renovation work to this Facility, triggering the requirement for an accessible public entrance and accessible toilet room found under 521 CMR § 3.3.1.b. There would be substantial and long-lasting benefits to customers with disabilities in having a permanent accessible entrance to this Facility. Among these benefits are allowing people with mobility disabilities to enter and exit the facility independently and safely, with dignity and pride. This is especially true considering that residents of the greater Boston area are demographically growing older, and the incidence of mobility disabilities increases with age.

Petitioner has not proven that impracticability exists in this case, consistent with the definition of impracticability provided at 521 CMR §§ 4.1, 5. More specifically, the Petitioner has neither 1.) proven that compliance with 521 CMR is technologically infeasible; nor 2.) proven that it would result in excessive and unreasonable costs without any substantial benefit to people with disabilities, to achieve compliance with 521 CMR §§ 24.1 or 25.1. The burden of proof rests with the Petitioner to prove impracticability and explore all possible options for providing accessibility to this Facility.

Petitioner has not adequately explored, nor provided engineering studies, test drawings and cost estimates for various options for making the Facility's front entrance accessible. These options include but are not necessarily limited to 1.) constructing an interior ramp parallel or perpendicular to the Facility's façade; and 2.) installing a wheelchair lift adjacent to the exterior entrance. BCIL respectfully requests the Board require the Petitioner to provide such engineering studies, test drawings and cost estimates.

Please note that, to the extent that BCIL gives examples or makes recommendations for accessibility approaches or solutions in our correspondence, these examples or recommendations are made in the spirit of creative problem-solving and should not be construed as the only approaches or solutions acceptable to BCIL. Nor should they be construed as a willingness on the part of BCIL to accept anything less than full and integrated accessibility for people with disabilities.

For these reasons, we respectfully request that the AAB deny this variance request, and instead require that the Petitioner provide meaningful permanent accessibility to this Facility. Thank you very much for your attention to this matter. If you have any questions or need any additional information, please don't hesitate to contact me.

Best regards,

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