

ARCHITECTURAL ACCESS BOARD- HEARING PACKET

Name	Restaurant	Docket #	V 26 - 071
Address	550 Tremont Street	Docket #	C -
City	Boston	Hearing	8/24/2026
Bldg Type		Time of hearing	2:00 PM
Complaint's Name		Plans on file?	
Complaint ?	Variance ?	Request for continuance?	
Jurisdiction:	3.3.2	If the work performed amounts to 30% or more of the full and fair cash value of the building, the entire building is required to comply with 521 CMR.	
Building Permits:	SF174664 7/29/2025 \$4,500 E1680623 1/7/2025 \$800		
Assessed Value:	Anticipated construction cost: \$333,217.50 for base project \$390,111		

Exhibit: 1
V26-071
AAB 1-60

Variances to be addressed:

Petitioner seeks relief from 25.1: All public entrance(s) of a building or tenancy in a building shall be accessible.

30.1: Each public toilet room provided on a site or in a building shall comply with 521 CMR.

On April 22, 2026 the Board received an application for variance and at the May 11, 2026 meeting the Board voted to Schedule a hearing. (See AAB 4-60)

On May 18, 2026 the Notice of Hearing was sent to all parties. (See AAB 2-3)

550 Tremont Street, Boston

From Griffin, Molly (DPL) <Molly.Griffin@mass.gov>

Date Mon 5/18/2026 2:00 PM

Bcc carl@metrestaurantgroup.com <carl@metrestaurantgroup.com>; kbutler@mqmhlaw.com <kbutler@mqmhlaw.com>; Mayors Office on Disability <ada@boston.gov>; wireland83@gmail.com <wireland83@gmail.com>; disability@boston.gov <disability@boston.gov>; Michael Muehe <Mmuehe@bostoncil.org>; david.johnson <david.johnson@boston.gov>; Brigid.kenny@boston.gov <Brigid.kenny@boston.gov>

 2 attachments (1 MB)

Restaurant, 550 Tremont Street, Boston (V26-071) - Notice of Action.pdf; Notice of Hearing.pdf;

Good afternoon,

Please find attached the Notice or Decisions for the above referenced case.

If you require a paper copy of a Notice or Decision, you may contact me to request one but be aware that the delivery of physical copies may be delayed.

If you wish to appeal the decision made in this case, you can fill out and send in an Adjudicatory Hearing Request form available [here](#).

If you have any questions, please do not hesitate to get in touch with the Board's staff.

Thank you,
Molly

Molly Griffin
Program Coordinator
She/Her/Hers
Architectural Access Board
Office of Public Safety and Inspections
Division of Occupational Licensure
1 Federal Street, 6th Floor
Boston, MA 02110-2012
www.mass.gov/AAB
617-727-0660



MAURA HEALEY
GOVERNOR

KIM DRISCOLL
LIEUTENANT GOVERNOR

ERIC PALEY
SECRETARY, EXECUTIVE OFFICE
OF ECONOMIC DEVELOPMENT

**Commonwealth of Massachusetts
Division of Occupational Licensure
Office of Public Safety and Inspections
Architectural Access Board**

1 Federal St., 6th Floor
Boston, Massachusetts 02118

LAYLA R. D'EMILIA
UNDERSECRETARY OF CONSUMER
AFFAIRS AND BUSINESS REGULATION

SARAH R. WILKINSON
COMMISSIONER, DIVISION OF
OCCUPATIONAL LICENSURE

VARIANCE HEARING

Docket Number **V 26 071**

RE: Restaurant, 550 Tremont Street, Boston

You are hereby notified that an informal adjudicatory hearing before the Architectural Access Board has been scheduled for you to appear on Monday, **August 24, 2026** at **2:00 PM**. Remote meeting information will be sent out prior to the hearing date.

This hearing is upon an application for variance filed by: Carl Goldberg for modification of or substitution of the following Rules and Regulations: 25.1 & 30.1. A copy of the request is available for public inspection during regular business hours.

You should be aware that the burden of proof is upon the applicant requesting a variance to prove that compliance is either: 1. technologically infeasible or; 2. the cost of compliance is excessive without substantial benefit to a person with a disability.

This hearing will be conducted in accordance with the procedures set forth in M.G.L., c. 30A, and 801 CMR 1.02, the Informal/Fair Hearings Rules. At the hearing, each party may be represented by counsel, may present evidence and may cross examine opposing witnesses.

PLEASE NOTE: Requests for the continuance of a hearing must be received no later than fourteen (14) days prior to the scheduled hearing date. Continuances are granted at the Board's discretion only.

ARCHITECTURAL ACCESS BOARD

Chairperson

Date: May 18, 2026

cc: Local Building Inspector
Independent Living Center
Local Disability Commission



MAURA HEALEY
GOVERNOR

KIM DRISCOLL
LIEUTENANT GOVERNOR

ERIC PALEY
SECRETARY, EXECUTIVE OFFICE
OF ECONOMIC DEVELOPMENT

Commonwealth of Massachusetts
Division of Occupational Licensure
Office of Public Safety and Inspections
Architectural Access Board

1 Federal St., 6th Floor
Boston, Massachusetts 02118

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UNDERSECRETARY OF CONSUMER
AFFAIRS AND BUSINESS REGULATION

SARAH R. WILKINSON
COMMISSIONER, DIVISION OF
OCCUPATIONAL LICENSURE

NOTICE OF ACTION

Docket Number **V 26 071**

RE: Restaurant , 550 Tremont Street , Boston

On April 22, 2026 the Architectural Access Board received an application submitted by Carl Goldberg .
This application and all attached documentation were reviewed by the Board on May 11, 2026 .
At that meeting, the Board voted as follows:

<u>#</u>	<u>Section</u>	<u>Result</u>
1	25.1 & 30.1	SCHEDULE a hearing for this request. See attached Notice of Hearing.

PLEASE NOTE: All documentation (written and visual) verifying that the conditions of the variance have been met must be submitted to the AAB Office as soon as the required work is completed.

Any person aggrieved by the above decision may request an adjudicatory hearing before the Board within 30 days of receipt of this decision by filing the attached request for an adjudicatory hearing. If after 30 days, a request for an adjudicatory hearing is not received, the above decision becomes a final decision and the appeal process is through Superior Court.

Date: May 18, 2026

cc: Local Disability Commission
Local Building Inspector
Independent Living Center

Dawn Guarnello WT

Chairperson
ARCHITECTURAL ACCESS BOARD

AAB 4

Variance Application - 550 Tremont Street, Boston

From Kevin J. Butler <kbutler@mqmhlaw.com>

Date Wed 4/22/2026 4:46 PM

To Griffin, Molly (DPL) <Molly.Griffin@mass.gov>; Joyce, William (DPL) <William.Joyce@mass.gov>

Cc Joseph Hanley <jhanley@mqmhlaw.com>; marc.joseph@boston.gov <marc.joseph@boston.gov>; disability@boston.gov <disability@boston.gov>; Michael Muehe <Mmuehe@bostoncil.org>

 1 attachment (10 MB)

Variance Application - 550 Tremont Street, Boston.pdf;

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello Molly and William,

cc: Marc Joseph (ISD), Boston Disabilities Commission, Michael Muehe (Boston Center for Independent Living)

Please find attached the Variance Application for 550 Tremont Street, Boston, submitted in advance of Friday's deadline for the May 11 AAB meeting.

I will send the \$50 filing fee by mail tomorrow.

Thanks,

Kevin

Kevin J. Butler, Esq. – Associate

McDermott, Quilty, Miller & Hanley LLP

(617) 946-4600

kbutler@mqmhlaw.com

www.MQMHLAW.com

McDERMOTT, QUILTY, MILLER & HANLEY LLP

WWW.MQMHLAW.COM

28 STATE STREET, SUITE 802
BOSTON, MA 02109

April 22, 2026

Via Electronic Mail

Architectural Access Board
1000 Washington St., Suite 710
Boston, MA 02118
william.joyce@mass.gov; molly.griffin@mass.gov

**Re: Application for Variance
The Shell Bar, LLC d/b/a The Shell Bar
550 Tremont Street, Boston, MA 02116**

Dear Architectural Access Board:

This office represents The Shell Bar, LLC d/b/a The Shell Bar in its application for certain variances from the Architectural Access Board pursuant to 521 CMR for a restoration/upgrade of the existing restaurant at building, as well as supplemental documentation and plans in order to meet the standard of impracticability laid out in 521 CMR 4.1 that such compliance is technologically infeasible and/or would result in an excessive and unreasonable cost without any substantial benefit for persons with disabilities. In this regard, attached hereto please find application materials regarding the above-referenced matter:

1. Application for Variance;
2. Landlord Authorization Letter;
3. Photos of Existing Conditions;
4. Memorandum in Support of Application for Variance;
5. Reasonable Accommodation Policy for Customers with Disabilities;
6. Revenue Impact Analysis;
7. Plans; and
8. Accessible Construction Price Study.

As always, thank you for your time and consideration. Please do not hesitate to contact me with any questions or requests for additional information.

Thank you,



Joseph P. Hanley, Esq.

JPH/kjb

Enclosures

cc: Marc Joseph – Boston Inspectional Services Department

marc.joseph@boston.gov

Boston Commission on Persons with Disabilities

disability@boston.gov

Boston Center for Independent Living

mmuehe@bostoncil.org

Application for Variance



**Commonwealth of Massachusetts
Division of Occupational Licensure
Office of Public Safety and Inspections
Architectural Access Board**

1 Federal St., Suite 0600 • Boston • MA • 02110-2012
V: 617-727-0660 • www.mass.gov/aab

Docket Number

(Office Use Only)

APPLICATION FOR VARIANCE

INSTRUCTIONS:

- 1) Answer all questions on this application to the best of your ability.
 - a. Information on the Variance Process can be found at:
<https://www.mass.gov/guides/applying-for-an-aab-variance>.
- 2) Attach whatever documents you feel are necessary to meet the standard of impracticability laid out in 521 CMR 4.1. You must show that either:
 - a. Compliance is technologically infeasible, or
 - b. Compliance would result in an excessive and unreasonable cost without any substantial benefit for persons with disabilities.
- 3) Sign the certification on Page 8.
- 4) If the applicant is not the owner of the building or his or her agent, include a signed letter from the owner granting permission for you to apply for variance.
- 5) Serve copies of the completed application and all attachments via electronic or physical delivery based on the recipient's preference to:
 - a. Local Building Department,
 - b. Local Commission on Disability (if applicable in the town where the project is located) (A list of all active Disability Commissions can be found at:
<https://www.mass.gov/commissions-on-disability>), and
 - c. The Independent Living Center (ILC) for your area.
(Your ILC can be found at: <http://www.masilc.org/findacenter>.)
- 6) Complete the Service Notice included with the Application and sign it.
- 7) Deliver the completed Application and all attachments to the Board via electronic or physical delivery:
 - a. Electronic:
 - i. Applications should be sent via email to william.joyce@mass.gov & molly.griffin@mass.gov.
 - ii. The email submission must have the subject line: Variance Application - <Address>, <City>
 - iii. The application and all attachments must be in .pdf format
 - iv. The application and all attachments should be included in a single email, except where that email would exceed 15 megabytes in size.
 - v. Please submit the \$50 filing fee via check or money order via mail to the mailing address listed above with either a cover letter or, "Variance - <Address>, <City>" in the memo line.
 - b. Physical
 - i. Applications should be sent to the mailing address listed above and must include:
 1. The completed application and all attachments.
 2. A copy of the application and all attachments on a CD/DVD (Thumb Drives will not be accepted),

3. The completed and signed Service Notice.
 4. A check or money order in the amount of \$50 dollars, made out to the Commonwealth of Massachusetts.
- ii. Please ensure that all documents included are no larger than 11" x 17".
 - iii. Incomplete applications will be returned via regular mail to the applicant with an explanation as why it was unable to be docketed.

In accordance with M.G.L., c.22, § 13A, I hereby apply for modification of or substitution for the rules and regulations of the Architectural Access Board as they apply to the building/facility described below on the grounds that literal compliance with the Board's regulations is impracticable in my case.

1. State the name and address of the building/facility:

550 Tremont Street, Boston, MA 02116

2. State the name and address of the owner of the building/facility:

FAEM PROPERTIES XI LLC - SIMCHA J. WELLER, LLC Manager
220 Boylston Street, #1003
Boston, MA 02166

E-mail: simchaweller@gmail.com

Telephone: (617) 448-0013

3. Describe the facility (i.e. number of floors, type of functions, use, etc.):

The building is a five-story masonry structure with a full basement. The facility is a restaurant with its dining area and open kitchen/bar on the first floor below grade, with support spaces including a prep kitchen, back-of-house areas, and restrooms located on the basement level. From Tremont Street, the main entrance is accessed by descending six steps. Within the dining area, the floor is split into two levels separated by two interior steps. A secondary entrance is located at the rear of the restaurant off Waltham Street. Access to this door requires descending two steps from the sidewalk, followed by an additional two steps down into the restaurant once inside. Please see attached plan for reference.

4. Total square footage of the building/facility: 7,280sf

Per floor: ~1,213sf

a. Total square footage of tenant space (if applicable): ~1,690sf

5. What was the original year of construction for the building/facility: 1905?

6. Check the nature of the work performed or to be performed:

☐

New Construction

☐

Addition

☒

Reconstruction/Remodeling/Alteration

☐

Change of Use

7. Briefly describe the extent and nature of the work performed or to be performed (use additional sheets if necessary):

The work to be performed falls into two general categories: first, the work required to repair flood damage which occurred within the space over one year ago, and second, minor functionality and cosmetic upgrades to prepare the space for a new restaurant. The flood-related scope includes removal and replacement of damaged flooring, ceilings, drywall, and finishes; cleaning, sealing, and repainting affected areas; and localized reconstruction of interior elements such as portions of the bar, steps, and wall assemblies. Mechanical, electrical, and plumbing systems impacted by the flooding -- including ductwork, electrical components, and equipment connections -- will be repaired or replaced. Work also includes restoration of lower-level prep and support spaces where water damage affected walls, ceilings, and finishes. The cosmetic upgrades include minor improvements to finishes, equipment, and fixtures to support the new restaurant operation while maintaining the existing layout and overall configuration of the space.

8. Is the building or facility historically significant? ☒ Yes ☐ No

a. If yes, check one of the following and indicate date of listing:

☐

National Historic Landmark

☐

Listed individually on the National Register of Historic Places

☒

Located in a Registered Historic District

1983

☐

Listed in the State Register of Historic Places

☐

Eligible for listing

(In which registry?)

b. If you checked any of the above **and** your variance request is primarily based upon the historical significance of the building, you *must* complete the ADA Consultation Process of the [Massachusetts Historical Commission](#), located at 220 Morrissey Boulevard, Boston, MA 02125.

9. Which section(s) of the Board's Jurisdiction (*see Section 3 of the Board's Regulations*) has been triggered?

2.6 ☒ 3.2 ☐ 3.3.1(a) ☐ 3.3.1(b) ☐ 3.3.2 ☒ 3.3.4 ☐ 3.4 ☐

10. List **all** building permits that have been applied for within the past 36 months, include the issue date and the listed value of the work performed:

<u>Permit #</u>	<u>Date of Issuance</u>	<u>Value of Work</u>
SF174664	7/29/25	\$ 4,500.00
E1680623	1/7/25	\$ 800.00
_____	_____	_____
_____	_____	_____

(Use additional sheets if necessary.)

11. List the anticipated construction cost for any work not yet permitted or for any relevant work which does not require a permit:

\$333217.50 for base project.

12. Has a certificate of occupancy been issued for the facility? ☒ Yes ☐ No

If yes, state the date it was issued: 8/29/03

13. To the best of your knowledge, has a complaint ever been filed with the AAB on this building or facility relative to accessibility? ☐ Yes ☒ No

a. If so, list the AAB docket number of the complaint _____

14. For existing buildings or facilities, state the actual assessed valuation of the **BUILDING/IMPROVEMENTS ONLY**, as recorded in the **Assessor's Office** of the municipality in which the building or facility is located: \$390,111.00

Is the assessment at 100%? ☒ Yes ☐ No

If not, what is the town's current assessment ratio? 0%

15. State the phase of design or construction of the facility as of the date of this application:
Plan layout complete.

Please list specific technical sections, not 521 CMR 3.**Request #1**Section(s) for which you are seeking relief: 25.1Are you seeking temporary relief: ☐ Yes ☒ No

If yes, what date do you propose to be in compliance by: _____?

Types of Attachments for this Request:

- ☒ Floor/Site Plans, ☒ Cost Estimates,
☒ Photographs, ☒ Test Drawings,
☐ Other(s): _____

Please describe in detail why compliance with the Board's regulations are impracticable (as defined in 521 CMR 5) for the subject of this request, and attach whatever documents are relevant to support your argument that compliance is impracticable (attach additional pages if necessary, please identify which request each attachment is in support of):

Section 25.1 GENERAL. All public entrance(s) of a building or tenancy in a building shall be accessible...

The primary entrance on Tremont Street is too constrained to accommodate either a ramp or a lift, so the team studied providing accessible access via the rear entrance off Waltham Street (see attached drawings). Achieving this would require removing the existing exterior stairs and landings from grade to the patio, as well as the interior stairs at the rear entry. A portion of the site wall along Waltham Street would also need to be demolished to create a new opening, and the façade adjusted so the rear entry door can be lowered to align flush with the interior floor.

To construct a new, lower landing platform at the entry while maintaining code-compliant head height below, the existing basement stairs from the patio, along with the associated door and enclosure, would also need to be removed. The area beneath the new ramp and landing would then require excavation to achieve the necessary clearance for basement egress. This work would likely impact both the site wall and the building foundation, potentially requiring underpinning. In addition, trash access would need to be relocated to accommodate the new configuration. The proposed solution includes a new accessible ramp and stair, revised entry doors, and associated wall modifications at both the rear entry and basement egress. The existing opening through the site wall on Waltham Street would be infilled due to the new grade change at the landing.

These modifications would result in approximately \$471,903 in additional construction costs and the loss of 8 patio seats and their projected annual revenue of \$592,282.72. Given the small size of the existing restaurant, the combined impact of these costs and revenue losses demonstrates that strict compliance is economically infeasible and therefore impracticable.

Request #2Section(s) for which you are seeking relief: 17.2, 17.5, 20.1Are you seeking temporary relief: ☐ Yes ☒ No

If yes, what date do you propose to be in compliance by: _____?

Types of Attachments for this Request:

- ☒ Floor/Site Plans, ☒ Cost Estimates,
☒ Photographs, ☒ Test Drawings,
☐ Other(s): _____

Please describe in detail why compliance with the Board's regulations are impracticable (as defined in 521 CMR 5) for the subject of this request, and attach whatever documents are relevant to support your argument that compliance is impracticable (attach additional pages if necessary, please identify which request each attachment is in support of):

Section 17.2 SEATING. At least 5% but not less than one, of the tables shall be accessible, and be on an accessible route.

Section 17.5 DINING AREAS. All dining areas, including raised or sunken dining areas, mezzanines, loggias, and outdoor seating areas, shall be accessible.

Section 20.1 GENERAL. An accessible route shall provide a continuous unobstructed path connecting accessible spaces and elements inside and outside a facility ... Accessible routes may not include stairs, steps, or escalators, even if the stairs and steps are required to be accessible under 521 CMR.

In addition to the work required to provide an accessible entrance, as outlined in the response to Section 25.1, compliance with this section would also require construction of a new accessible restroom within the existing space, reducing the current seating count. It would further necessitate installation of an accessible lift between the two interior levels, resulting in additional seating loss within an already limited 38-seat restaurant. Based on a detailed study, the design team does not believe it is feasible to provide accessible access to the sunken exterior patio while retaining any meaningful seating in that area.

Together with the ramp, these modifications would result in approximately \$569,809 in additional construction costs, along with the loss of 8 patio seats and 14 interior seats and their projected annual revenue of \$1,628,777.48. Given the small size of the existing restaurant, the combined impact of these costs and revenue losses demonstrates that strict compliance is economically infeasible and therefore impracticable.

Request #3Section(s) for which you are seeking relief: 30.1, 30.2Are you seeking temporary relief: ☐ Yes ☒ No

If yes, what date do you propose to be in compliance by: _____?

Please describe in detail why compliance with the Board's regulations are impracticable (as defined in 521 CMR 5) for the subject of this request, and attach whatever documents are relevant to support your argument that compliance is impracticable (attach additional pages if necessary, please identify which request each attachment is in support of):

Section 30.1 GENERAL: Each public toilet room provided on a site or building shall comply with 521 CMR.

Section 30.2 LOCATION: Accessible toilet rooms shall be on an accessible route.

In addition to all the requirements to provide an accessible entrance outlined in the response to Section 25.1, achieving the requirements of this Section would include the construction of a new accessible bathroom within the space, reducing the existing seating count. These modifications would result in approximately \$520,092 in additional construction costs and the loss of 8 patio seats and 7 indoor seats and their projected annual revenue of \$1,110,530.10. Given the small size of the existing restaurant, the combined impact of these costs and revenue losses demonstrates that strict compliance is economically infeasible and therefore impracticable.

Types of Attachments for this Request:

- ☒ Floor/Site Plans, ☒ Cost Estimates,
☒ Photographs, ☒ Test Drawings,
☐ Other(s): _____

Request #4

Section(s) for which you are seeking relief: _____

Are you seeking temporary relief: ☐ Yes ☐ No

If yes, what date do you propose to be in compliance by: _____?

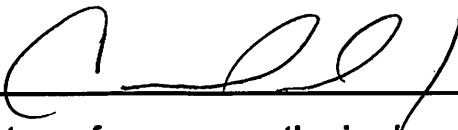
Please describe in detail why compliance with the Board's regulations are impracticable (as defined in 521 CMR 5) for the subject of this request, and attach whatever documents are relevant to support your argument that compliance is impracticable (attach additional pages if necessary, please identify which request each attachment is in support of):

Types of Attachments for this Request:

- ☐ Floor/Site Plans, ☐ Cost Estimates,
☐ Photographs, ☐ Test Drawings,
☐ Other(s): _____

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE INFORMATION PROVIDED IN THIS APPLICATION AND SUPPORTING DOCUMENTATION IS TRUE AND CORRECT

Date: 4/20/26


Signature of owner or authorized agent (required)

PLEASE PRINT:

Carl Goldberg
Name

The Shell Bar, LLC
Organization (If Applicable)

143 NEWBURY STREET, 3RD FLOOR
Address

Address 2 (optional)

BOSTON, MA 02116
City/Town State Zip Code

carl@metrestaurantgroup.com
E-mail

Telephone

SERVICE NOTICE

I, Kevin J. Butler, Esq., as Applicant's Attorney
(Name) (Relationship to the applicant)

HEREBY CERTIFY UNDER THE PAINS AND PENALTIES OF PERJURY THAT I SERVED OR CAUSED TO BE SERVED, A COPY OF THIS VARIANCE APPLICATION ON THE FOLLOWING PERSON(S) IN THE FOLLOWING MANNER:

	<u>NAME AND ADDRESS OF PERSON OR AGENCY SERVED</u>	<u>METHOD OF SERVICE</u>	<u>DATE OF SERVICE</u>
1 Building Department	Boston Inspection Services Dept. Marc Joseph, Commissioner marc.joseph@boston.gov	EMAIL	4/22/26
2 Local Commission on Disability (If Applicable)	Boston Commission on Persons with Disabilities disability@boston.gov	EMAIL	4/22/26
3 Independent Living Center	Boston Center for Independent Living, Michael Muehe mmeuhe@bostoncil.org	EMAIL	4/22/26

Kevin Butler
Signature

04/22/2026
Date

Landlord Authorization Letter

FAEM PROPERTIES XI LLC

April 14, 2026

Commonwealth of Massachusetts
Division of Occupational Licensure
Office of Public Safety and Inspections
Architectural Access Board
1000 Washington St., Suite 710
Boston, MA 02118

RE: Landlord: FAEM PROPERTIES XI LLC
Address: 550 Tremont Street, Boston, MA 02116
Purpose: Architectural Access Board Application for Certain Variances

To Whom It May Concern:

On behalf of the owner of the above-referenced property, I hereby provide authorization for Shell Bar LLC d/b/a The Shell Bar, through their attorneys and agents, including but not limited to, McDermott, Quilty, Miller & Hanley LLP, 28 State Street, Suite 802, Boston, MA 02109, and Prellwitz/Chilinski Associates, Inc., 221 Hampshire Street, Cambridge, MA 02139, to file for and obtain any and all required permits and approvals necessary from the Architectural Access Board for certain variances at the above-referenced property.

Sincerely,

By: *Simcha Weller*
Simcha Weller (Apr 15, 2026 00:24:30 EDT)
Simcha J. Weller, LLC Manager
FAEM Properties XI, LLC
Duly Authorized

February 22, 2006

Final Audit Report

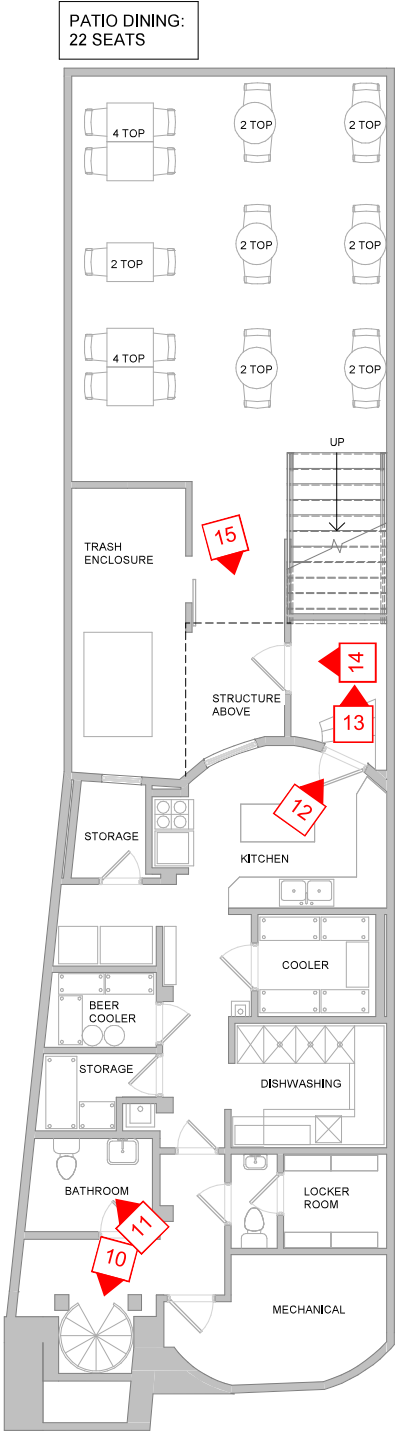
2026-04-15

Created:	2026-04-14
By:	Kevin Butler (kbutler@mqmlp.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAALG5_1sFHuZEj4m4iWzOeDeqSJ83nC2rI

"February 22, 2006" History

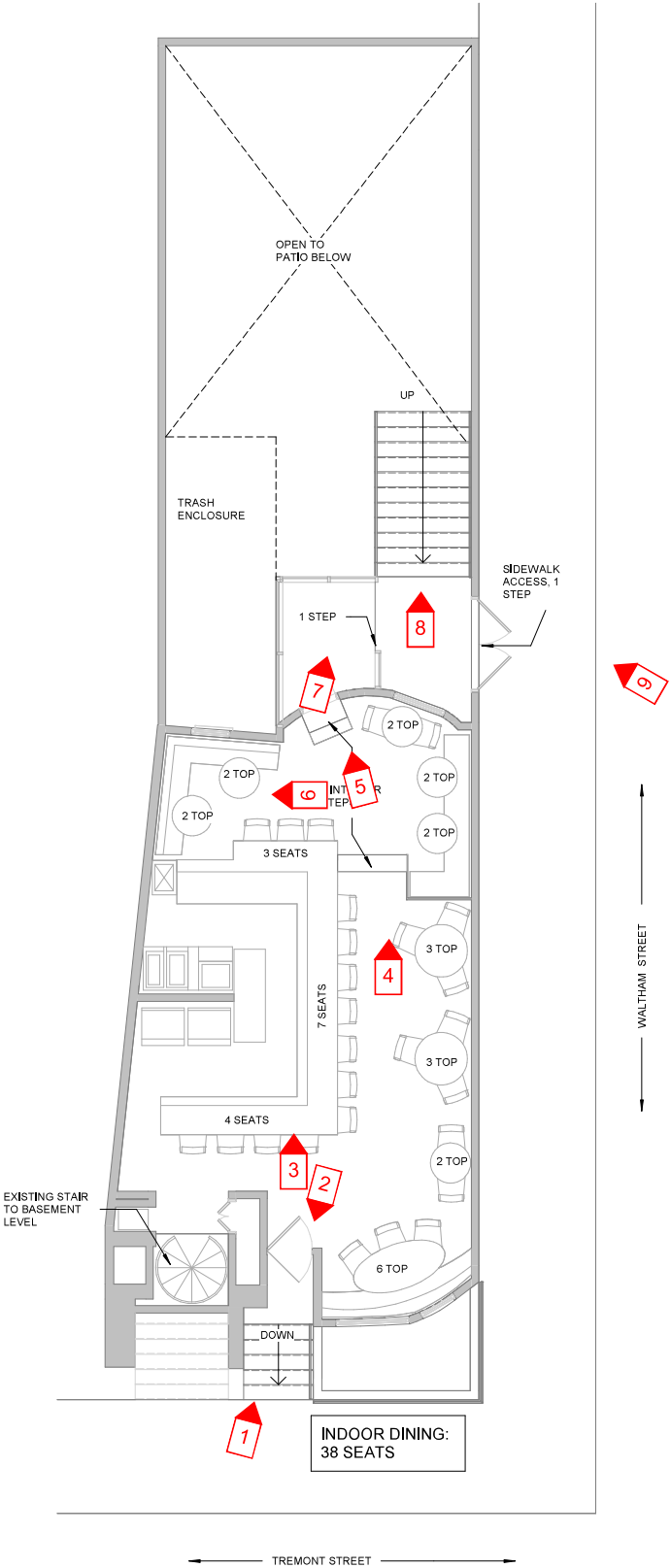
-  Document created by Kevin Butler (kbutler@mqmlp.com)
2026-04-14 - 9:06:19 PM GMT
-  Document emailed to Simcha Weller (simchaweller@gmail.com) for signature
2026-04-14 - 9:06:22 PM GMT
-  Email viewed by Simcha Weller (simchaweller@gmail.com)
2026-04-14 - 9:46:14 PM GMT
-  Document e-signed by Simcha Weller (simchaweller@gmail.com)
Signature Date: 2026-04-15 - 4:24:30 AM GMT - Time Source: server
-  Agreement completed.
2026-04-15 - 4:24:30 AM GMT

Photos of Existing Conditions



2 BASEMENT LEVEL

SCALE: 1/8" = 1'-0"



1 GROUND LEVEL

SCALE: 1/8" = 1'-0"

Please use Entrance
on Waltham Street

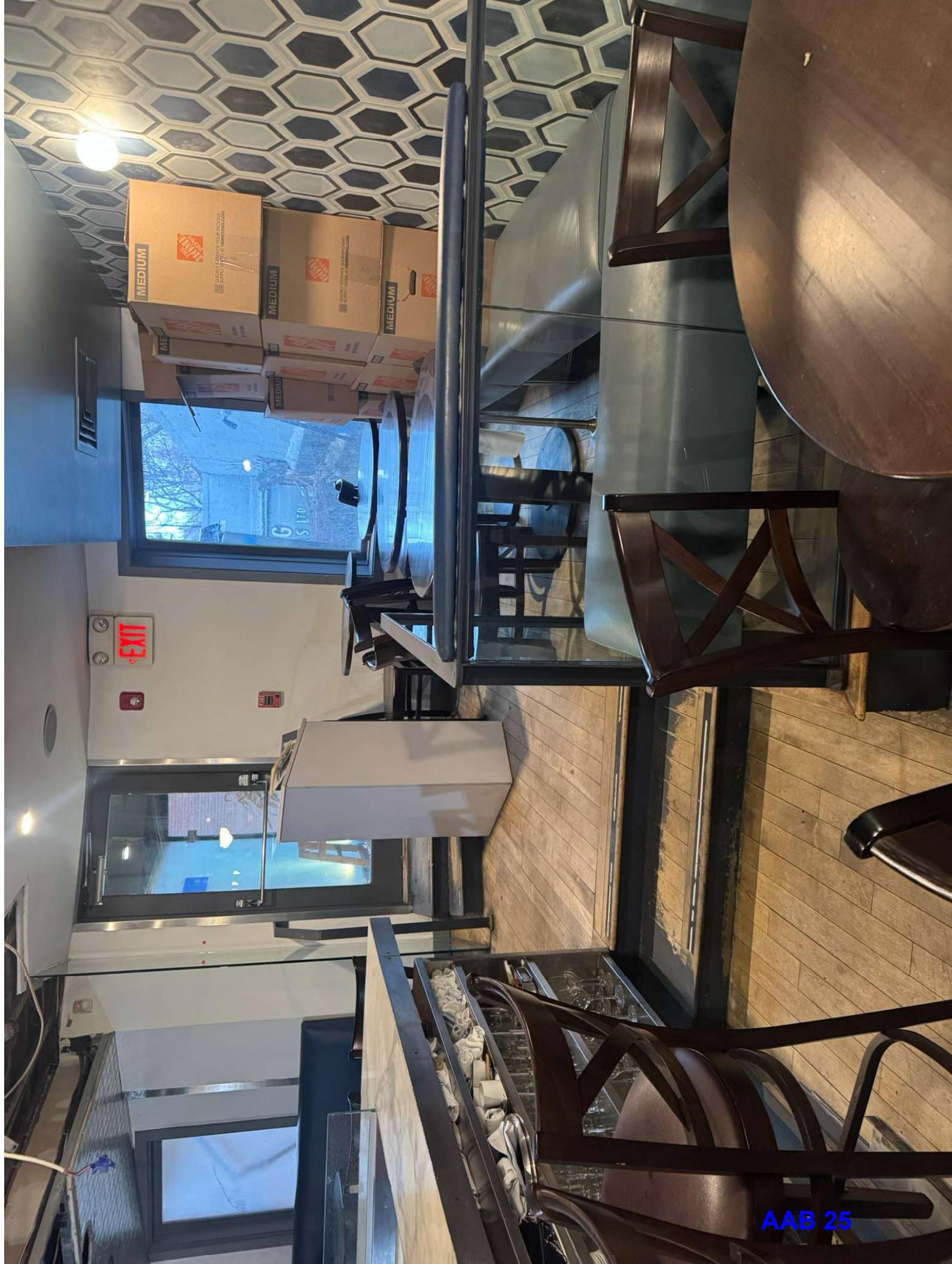


Thank you

B&G OYSTERS
This is only a
service entrance.
Please use our main
entrance on Waltham Street.
Thank you.







FIRE
Alarm
Call Point



AAB 27





B & G
OYSTERS LTD







AAB 32



Hi-Neighbor!

HARPOON

LOBSTER TASTES SOOOOO GOOD!

Slippery !!
Watch your
Step!
Cuidado!!
Muy Liso
Pasar Despacio!

FIRE

PUSH IN
PULL DOWN

FIRE LITE







AAB 36

Memorandum in Support of Application for Variance

McDERMOTT, QUILTY, MILLER & HANLEY LLP

WWW.MQMHLAW.COM

28 STATE STREET, SUITE 802
BOSTON, MA 02109

April 22, 2026

Via Electronic Mail

Architectural Access Board
1000 Washington St., Suite 710
Boston, MA 02118
william.joyce@mass.gov; molly.griffin@mass.gov

**Re: Memorandum in Support of Application for Variance
The Shell Bar, LLC d/b/a The Shell Bar
550 Tremont Street, Boston, MA 02116**

In Support of its application for certain variances with regard to the restoration and upgrade of the existing restaurant use on the first floor, basement level and patio of the property at 550 Tremont Street, Boston, MA 02116 (the “Facility”), the tenant, The Shell Bar, LLC d/b/a The Shell Bar (the “Applicant”), respectfully submits that the Massachusetts Architectural Access Board (the “Board”) should grant the variances for the reasons outlined in this memorandum and further supported by its application for certain variances and related supporting materials provided to the Board.

In particular, the Applicant submits that full compliance with Section 521 of the Code of Massachusetts Regulations is impracticable for three main reasons: (1) compliance with the pertinent regulations would require major structural alterations which would significantly and unnecessarily impact the Facility’s small size of approximately 1,690 square feet for its existing restaurant use; (2) compliance with the pertinent regulations would require major structural alterations which would result in excessive cost; and (3) compliance with the pertinent regulations would not result in a substantial benefit to those in need of access.

By way of background, the subject building is a five-story masonry structure with a full basement. The Facility is a thirty-eight (38) seat, 1,690 square feet restaurant with its dining area and open kitchen/bar on the first floor below grade, with support spaces including a prep kitchen, back-of-house areas, and restrooms located on the basement level. From Tremont Street, the main entrance is accessed by descending six steps. Within the dining area, the floor is split into two levels separated by two interior steps. From Waltham Street, the secondary entrance is accessed by descending two steps from the sidewalk, followed by an additional two steps down into the restaurant once inside. Additionally, there is a rear entrance to sunken exterior patio seating. The subject building and Facility were significantly impacted by flood damage, necessitating substantial restoration. The Applicant notes that \$257,717.50, or approximately 83% of the \$333,217.50 in anticipated construction costs, is attributable to restoration, with the remaining \$57,500.00 allocated to upgrades. Standing alone, the upgrades would not have triggered the Board’s jurisdiction pursuant to 521 CMR 3.3.2(a).

I. Excessive Structural Impact

The Applicant submits that strict compliance with the Board's regulations for accessible public entrances at the facility is impracticable based on the excessive structural impact on the Facility's small size of approximately 1,690 square feet. In this regard, the primary entrance off Tremont Street is too constrained to accommodate either a ramp or lift. Accessible access via the secondary entrance off Waltham Street would require excessive structural alterations to install a ramp, which would result in the loss of eight (8) patio seats and their projected annual revenue of \$592,282.72.

The Applicant further submits that strict compliance with the Board's regulations for accessible seating, accessible dining areas, and an accessible route within the facility is impracticable based on the excessive structural impact on the Facility's small size. This would require extensive structural alterations to install a lift between the two interior levels, resulting in the loss of seven (7) interior seats and their projected annual revenue of \$518,247.38. Additionally, it is unfeasible to provide access to the sunken exterior patio while retaining any meaningful seating.

The Applicant also submits that strict compliance with the Board's regulations for an accessible toilet room within the facility is impracticable based on the excessive structural impact on the Facility's small size. This would require the construction of a new accessible bathroom, resulting in the loss of an additional seven (7) interior seats and their projected annual revenue of \$518,247.38.

II. Excessive Cost

The Applicant further submits that strict compliance with the Board's regulations for accessible public entrances at the facility is impracticable based on the excessive cost to install a ramp. In this regard, it would cost an estimated \$471,903 to install a ramp at the secondary entrance. The combined impact of these costs and the revenue losses outlined above demonstrate that strict compliance is economically unfeasible and therefore impracticable.

The Applicant also submits that strict compliance with the Board's regulations for accessible seating, accessible dining areas, and an accessible route within the facility is impracticable based on the excessive costs to install a lift. In this regard, it would cost an estimated \$49,717.30 to install a lift between the two interior levels. The combined impact of these costs and their revenue losses outlined above demonstrate that strict compliance is economically unfeasible and therefore impracticable.

Additionally, the Applicant submits that strict compliance with the Board's regulations for an accessible toilet room within the facility is impracticable based on the excessive costs to construct a new accessible bathroom. In this regard, it would cost an estimated \$48,189.35 to construct a new accessible bathroom. The combined impact of these costs and their revenue losses outlined above demonstrate that strict compliance is economically unfeasible and therefore impracticable.

III. No Substantial Benefit for Compliance

In addition to the above circumstances, the Applicant also submits that compliance with the Board's regulations would not result in any substantial benefit to persons in need of access, as such compliance would render the restaurant financially infeasible and prevent it from operating. Additionally, Applicant will abide by its Reasonable Accommodations Policy, submitted to the Board in support of this application for certain variances. Examples of accommodations include the following:

- Providing an illuminated menu board and intercom system at the corner of Waltham and Tremont Streets to allow customers with disabilities to order food from the restaurant and provide curbside service of takeout items to customers with disabilities;
- Any employee will help a customer who uses a mobility device, or someone with limited use of his hands or arms, by carrying their items to the establishment's checkout counter;
- Any employee will assist a customer who is blind, low-vision, or who has an intellectual disability in reading and understanding menus or product labels;
- Maintaining clear pathways throughout the establishment;
- Welcoming customers with service animals to enter the establishment and fully use and enjoy the premises;
- Providing seasonal outdoor seating at grade along Waltham Street for customers with disabilities (subject to obtaining necessary permits and approvals); and
- Providing alternate accommodations at nearby fully accessible affiliate restaurants, including Stephanie's On Newbury located at 190 Newbury Street, Boston, MA 02116 and Saltie Girl located at 279 Dartmouth Street, Boston, MA 02116.

In further support of this application for certain variances, the Applicant submitted the Revenue Impact Analysis, Plans and an Accessible Construction Price Study to the Board, which include the plans for and outline the anticipated construction costs of the base project to restore/upgrade the facility, and include plans for and anticipated construction costs of the following:

1. Installation of an accessible ramp at the secondary entrance ("Access Study 1");
2. Installation of an accessible ramp at the secondary entrance and construction of a new accessible bathroom ("Access Study 2"); and
3. Installation of an accessible ramp at the secondary entrance, installation of a lift between the two interior levels, and the construction of a new accessible bathroom ("Access Study 3").

Taken together, this evidence strongly supports that full compliance with the Board's regulations would result in excessive and unreasonable cost for the Appellant, and strict compliance would not result in any substantial benefit to persons in need of access.

Finally, the Applicant submits that denial of the requested variances would result in significant hardship to the Applicant while serving no benefit to the persons whom the Board's regulations seek to protect. Rather, the Applicant submits that its proposal to restore and upgrade

the existing restaurant while providing reasonable accommodations including an illuminated menu board, intercom and seasonal outdoor seating at street level and providing alternate accommodations at fully accessible affiliate restaurants for customers with disabilities is consistent with the spirit of the pertinent regulations.

Thus, for the reasons detailed herein and further supported by the application for certain variances and its related supporting materials provided to the Board, the Applicant respectfully requests that the Board grant the requested variances.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph P. Hanley". The signature is fluid and cursive, with the first name "Joseph" being more prominent and the last name "Hanley" following in a similar style.

Joseph P. Hanley, Esq.

JPH/kjb

Reasonable Accommodation Policy for **Customers with Disabilities**

REASONABLE ACCOMMODATION POLICY FOR CUSTOMERS WITH DISABILITIES

The Shell Bar, LLC d/b/a The Shell Bar located at 550 Tremont Street, Boston, MA 02116 (“The Shell Bar”) is committed to providing a full and equal experience and reasonable accommodations to customers with disabilities. The Shell Bar complies with the Americans with Disabilities Act and all other applicable federal, state, and local laws regarding disability discrimination and accommodation.

The Americans with Disabilities Act prohibits businesses from discriminating against customers based on disability and requires businesses to provide reasonable accommodations for customers with disabilities.

Reasonable accommodations are available for the known physical or mental limitations of all customers with disabilities. For purposes of this policy, a *disability* is any physical or mental impairment that substantially limits a major life activity.

A *reasonable accommodation* is a modification or adjustment that enables a disabled customer to enter, participate and enjoy the same privileges as other customers without disabilities.

Examples of accommodations include:

- Providing an illuminated menu board and intercom system at the corner of Waltham and Tremont Streets to allow customers with disabilities to order food from the restaurant and provide curbside service of takeout items to customers with disabilities.
- Any employee will help a customer who uses a mobility device, or someone with limited use of his hands or arms, by carrying their items to the establishment's checkout counter.
- Any employee will assist a customer who is blind, low-vision, or who has an intellectual disability in reading and understanding menus or product labels.
- Maintaining clear pathways throughout the establishment.
- Welcoming customers with service animals to enter the establishment and fully use and enjoy the premises.
- Providing seasonal outdoor seating at grade along Waltham Street for customers with disabilities (subject to obtaining necessary permits and approvals).
- Providing alternate accommodations at nearby fully accessible affiliate restaurants, including Stephanie’s On Newbury located at 190 Newbury Street, Boston, MA 02116 and Saltie Girl located at 279 Dartmouth Street, Boston, MA 02116.

ACCOMMODATION PROCESS

Customers can request accommodations by contacting The Shell Bar by phone, by email or in person. Once the establishment receives a request for a reasonable accommodation, the manager on duty will designate staff to assist the customer as needed.

CONFIDENTIALITY

Any information obtained by The Shell Bar concerning medical conditions or history of customers, including genetic information, is maintained and treated as confidential records that are disclosed only as permitted by law.

Visit www.ada.gov/topics/title-iii/ for more information.

Revenue Impact Analysis

**Economic Impact per seat.
555 Tremont St**

Data

Seats

inside 38 seats
Exterior 22 seats (seasonal 5 months)

Sales projections

Assumptions: All seats are filled/ no rain days on exterior

	Per Week	Per Month	No seats
January	40,000	160,000	38
February	50,000	200,000	38
March	60,000	300,000	38
April	68,000	272,000	38
May	80,000	320,000	60
June	90,000	450,000	60
July	90,000	360,000	60
August	87,500	350,000	60
September	75,000	375,000	60
October	65,000	260,000	38
November	55,000	220,000	38
December	45,000	225,000	38
			47.17 Ave seats
		\$3,492,000	

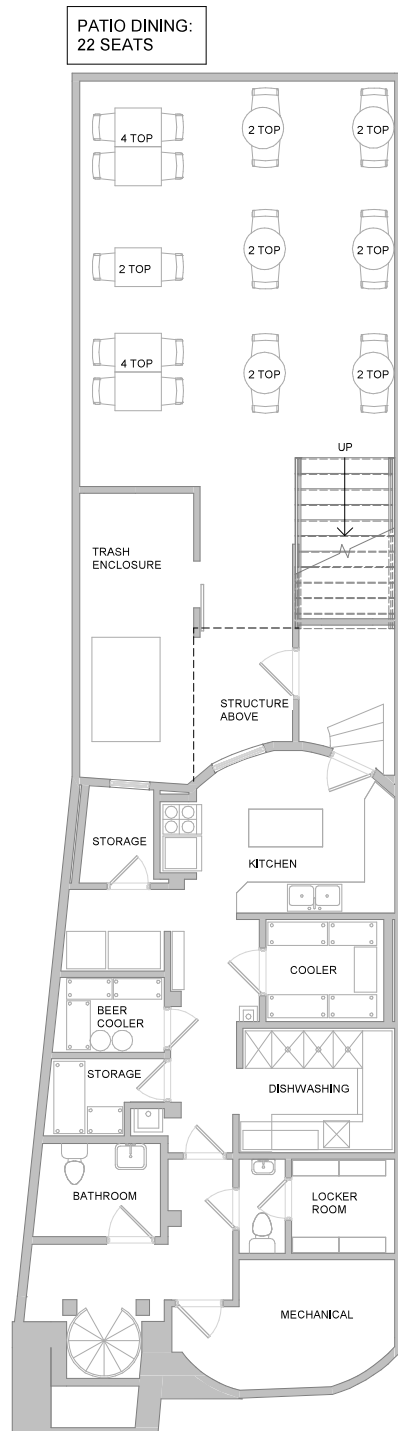
Per seat sales / year **\$74,035.34**

Profoma Analysis

Sales 3,500,000

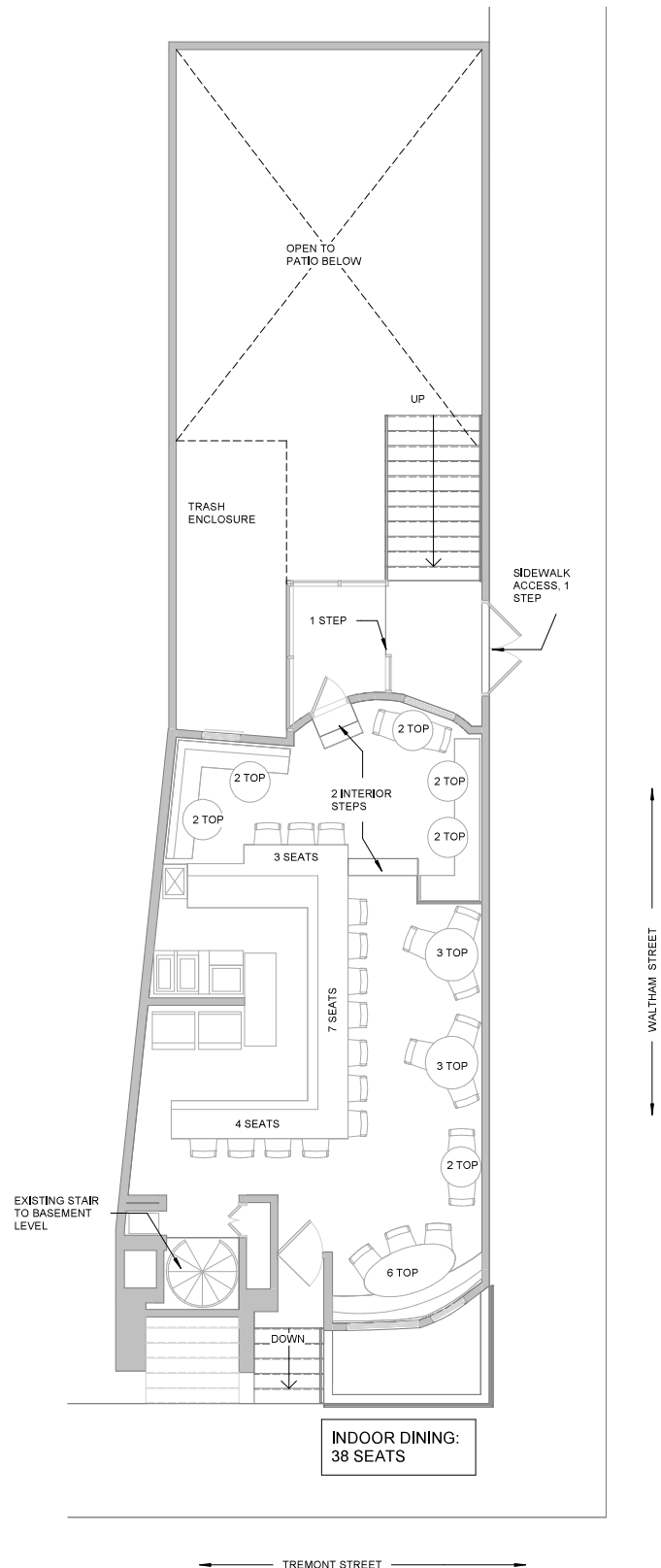
Plans

EXISTING CONDITIONS



2 BASEMENT LEVEL

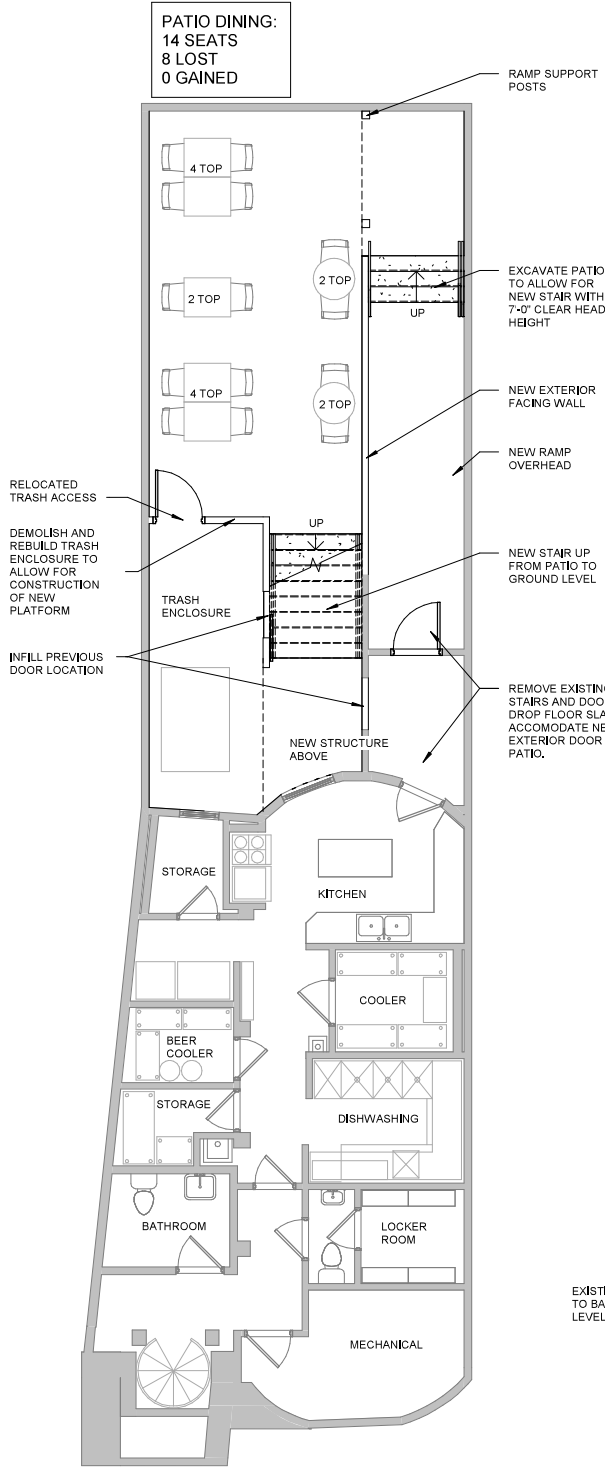
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1 GROUND LEVEL

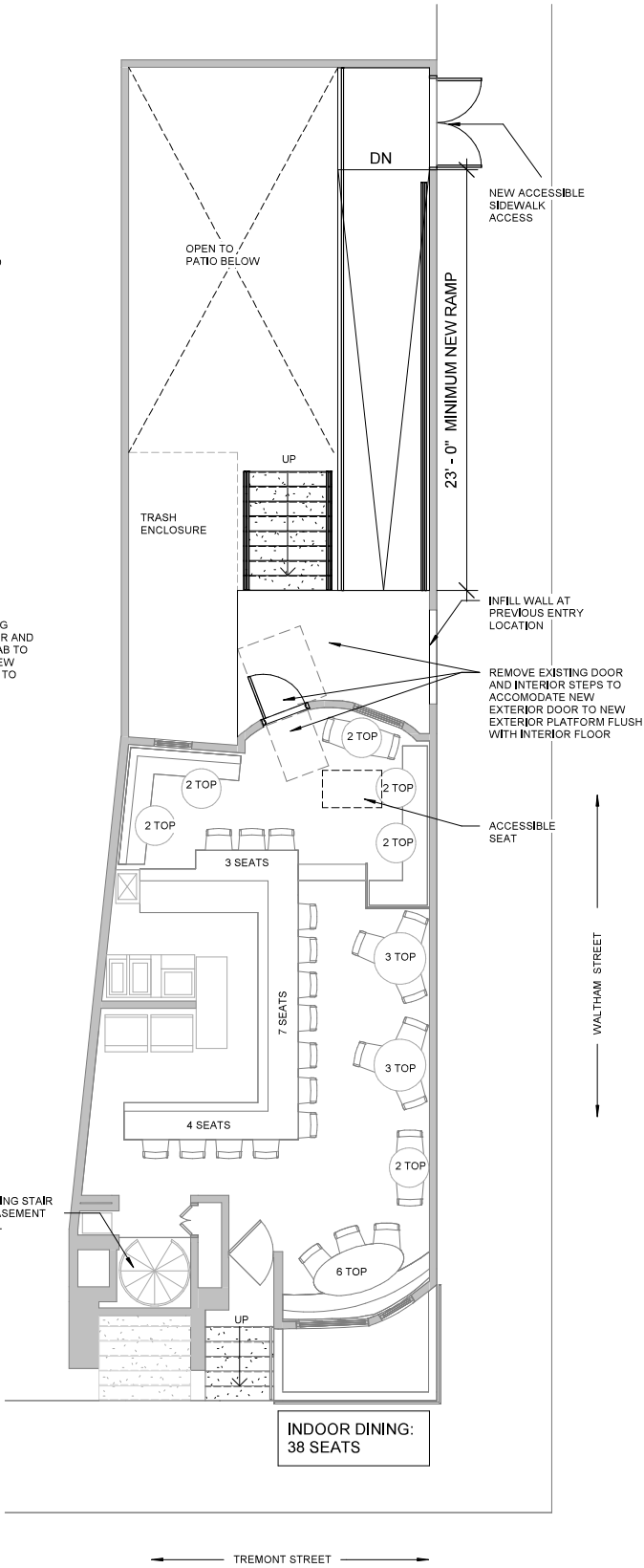
SCALE: 1/8" = 1'-0"

OPTION 1 - ACCESSIBLE RAMP



2 BASEMENT LEVEL OPT 1

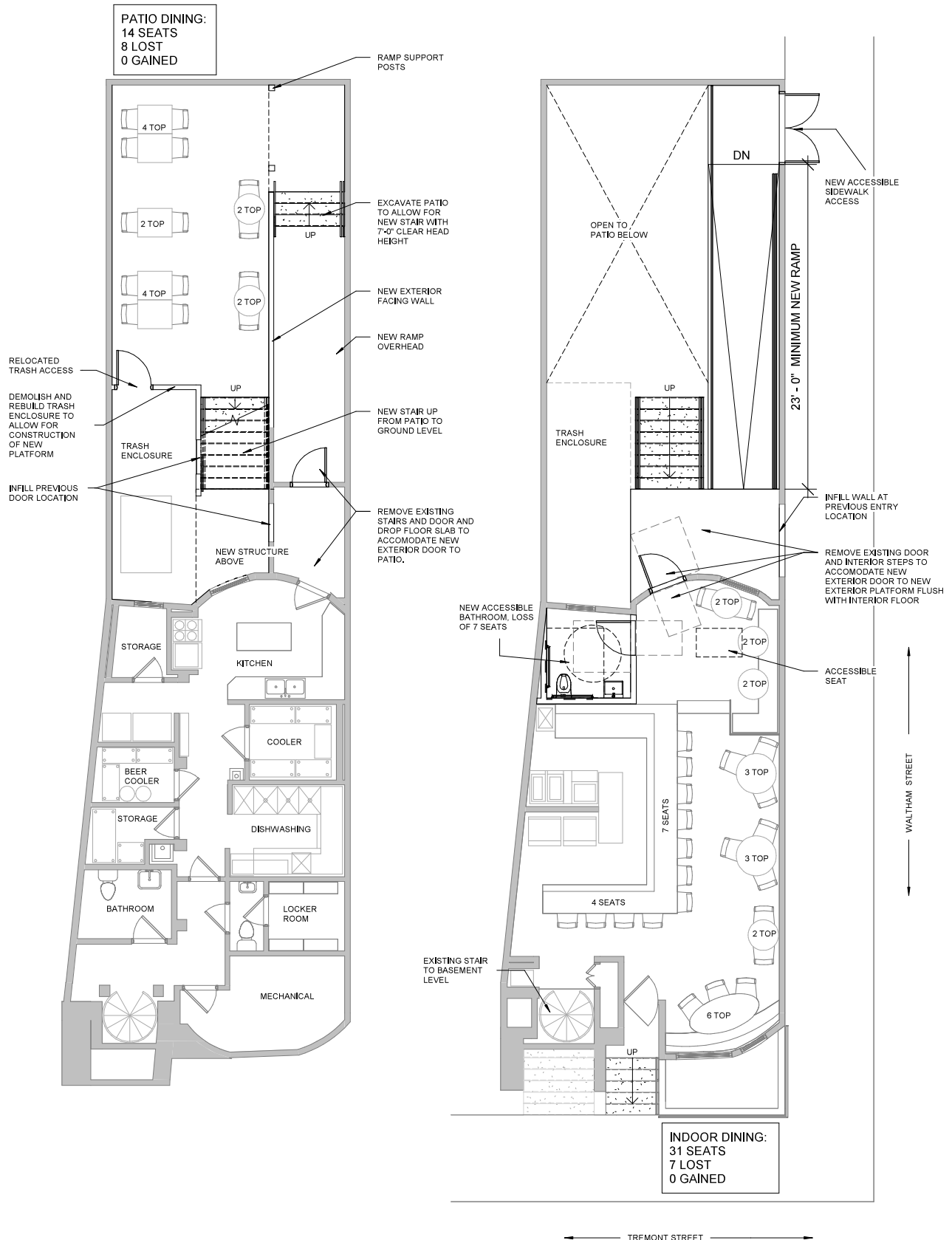
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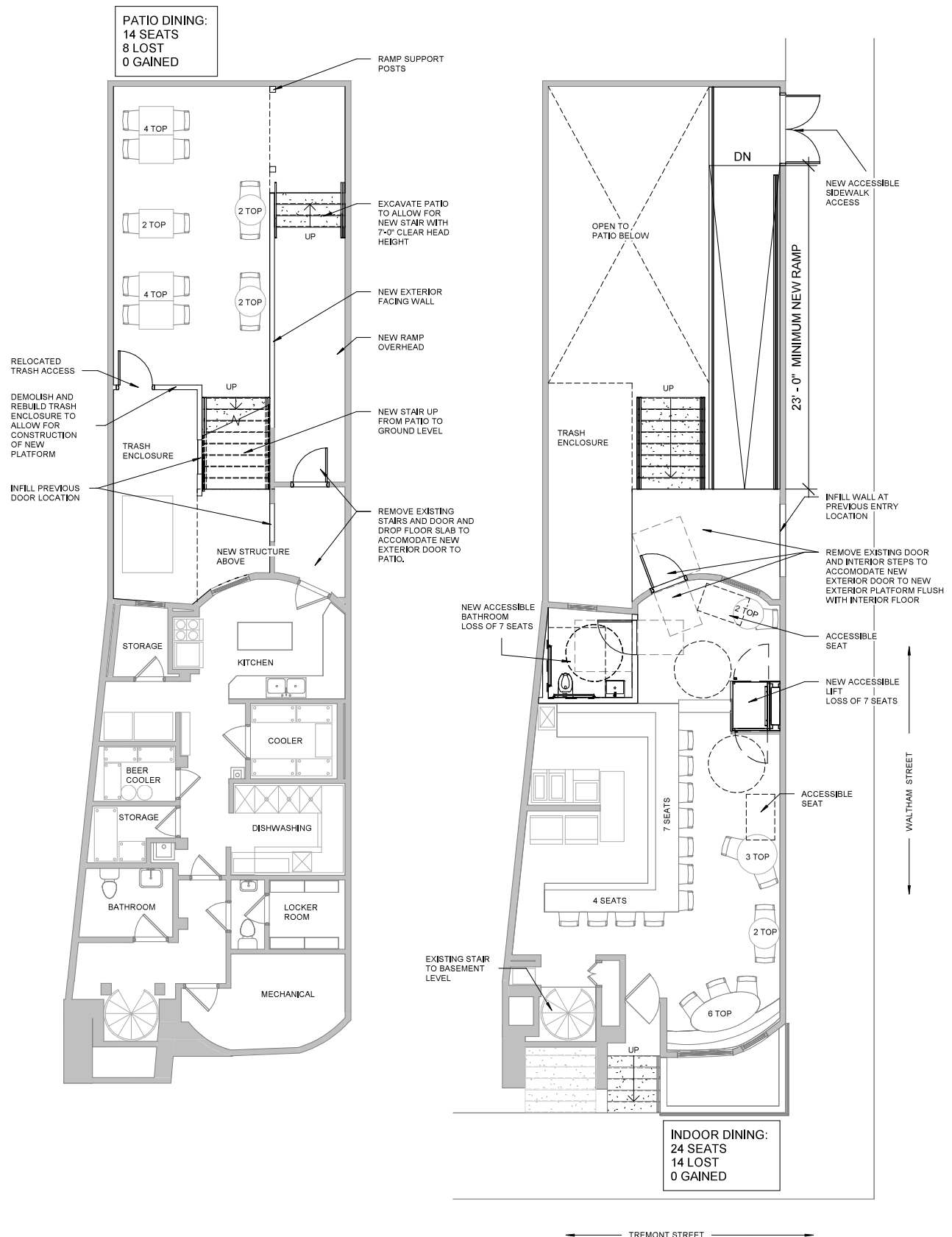
1 GROUND LEVEL OPT 1

SCALE: 1/8" = 1'-0"

OPTION 2 - ACCESSIBLE RAMP + BATHROOM



OPTION 3 - ACCESSIBLE RAMP + BATHROOM + LIFT



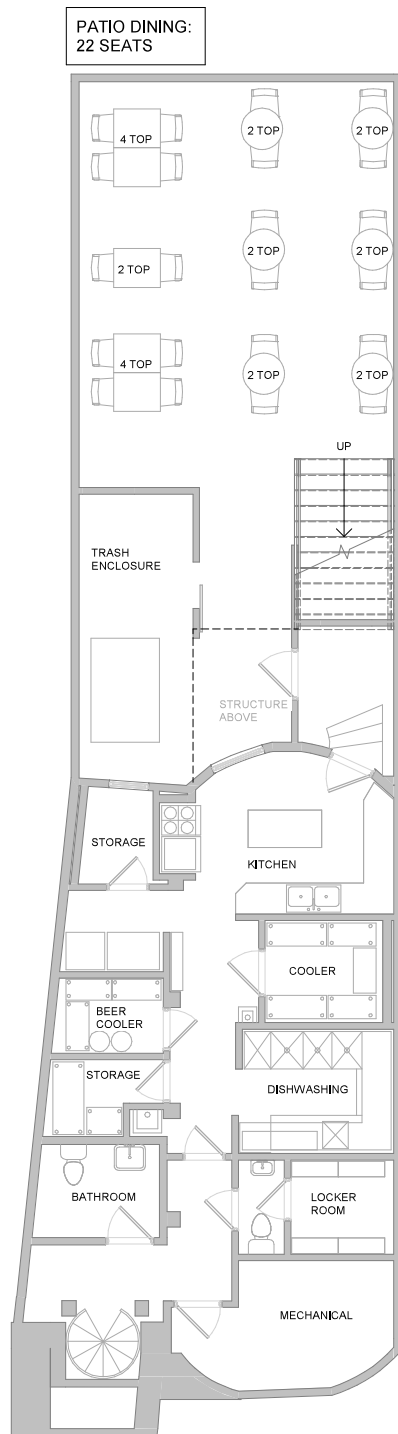
2 BASEMENT LEVEL OPT 3

SCALE: 1/8" = 1'-0"

1 GROUND LEVEL OPT 3

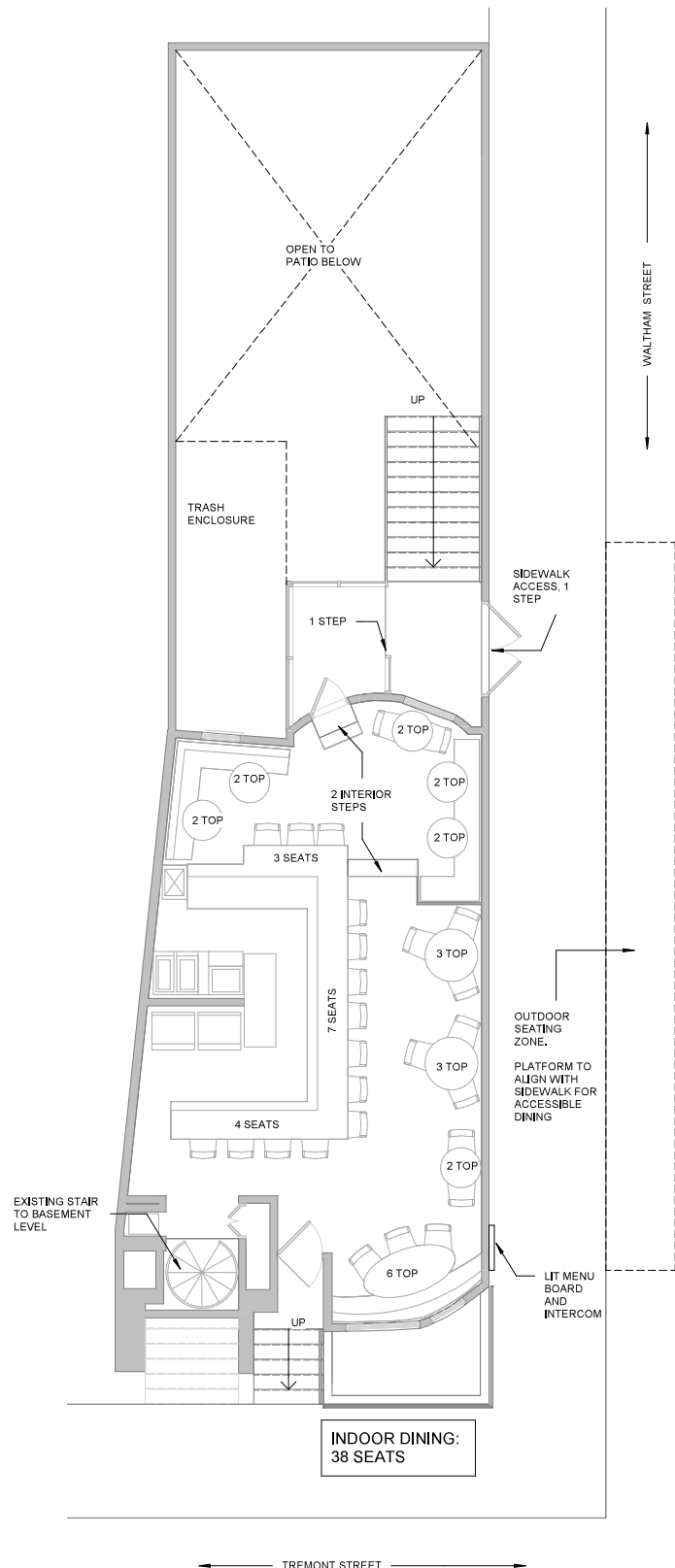
SCALE: 1/8" = 1'-0"

OPTION 4 - MENU BOARD, INTERCOM, EXTERIOR DINING, AND SALTIE GIRL/STEPHANIE'S ACCESS



2 BASEMENT LEVEL OPT 4

SCALE: 1/8" = 1'-0"



1 GROUND LEVEL OPT 4

SCALE: 1/8" = 1'-0"

Accessible Construction Price Study

Project: B&G Oysters - 550 Tremont St. Boston, MA

Base Project Scope

Scope	Repairs - Water Damage	Cosmetic/Functional Upgrades
Project Requirements	\$ 16,000.00	
Demo	\$ 5,000.00	\$ 2,500.00
Drywall	\$ 40,000.00	
Flooring	\$ 13,500.00	
Paint	\$ 10,000.00	\$ 5,000.00
Cleaning	\$ 7,500.00	
Electrical	\$ 30,000.00	
HVAC	\$ 10,000.00	\$ 5,000.00
Plumbing	\$ -	\$ 10,000.00
Tile	\$ 10,000.00	\$ 10,000.00
Millwork	\$ 25,000.00	\$ 15,000.00
Patio Improvements	\$ -	\$ 10,000.00
General Conditions	\$ 64,000.00	
OH&P	\$ 14,425.00	
Contingency (10%)	\$ 30,292.50	
Total Project Costs	\$ 333,217.50	

Brakdown	Value	Percentage of Overall Costs
Reairs	\$ 275,717.50	83%
Upgrades	\$ 57,500.00	17%

B&G Oysters - 550 Tremont St. Boston MA**ADA Upgrades**

ACCESS STUDY 1 - ACCESIBLE RAMP (PCA A1.0 - 3/6/26)	
Scope/Description	Est. Value
Project Requirements:	\$ 8,000.00
Additional (4) weeks onsite	
Demo:	\$ 21,500.00
Cut new opening @ Existing CMU Wall for Ramp Access	
Demo existing concrete/stone stairs to patio	
Remove exterior Door & Vestibule @ Rear Entry	
Demo existing platform @ rear entry	
Basement Door & New Opening	
Rough Carpentry:	\$ 8,000.00
Misc Floor patching @ Interior where stairs removed	
Rework Trash enclosure to accommodate new stair, etc.	
Sitework:	\$ 115,000.00
Demo & Excavate for New Ramp Footings	
Demo & Excavate for New Stair Footings	
Excavate basement stair area to create head height	
Grade/Sub base @ new basement entry slab	
Grade/Sub Base at Patio Infill where Stairs removed	
Underpinning of existing patio foundation/retaining wall (Allowance of \$50,000 - exact scope TBD)	
Concrete:	\$ 43,750.00
New Ramp Footings	
New Stair Footings	
New Stair from Patio to Ground Level	
New Slab @ Basement Entry	
New Stair @ Basement entry to Patio	
Masonry:	\$ 16,500.00
CMU Infill at Exterior Wall (Old Rear Access)	
New Patio at existing stair location	
Infill @ Exist Basement Door location	
Modify existing wall below stair to accommodate egress door @ basement	
Misc. Metals:	\$ 115,000.00
New Gate @ Rear Entry	
Ramp & Support Posts	
Ramp Railings	
Extiero Entry Platform w/ Supports - flush w/ interior floor elev.	
New Stair @ Patio to Grade Level	
Stair Railings (x3 stair)	
Entrances:	\$ 17,250.00
New Rear Entry Storefront Door	
New auto operator w/ remote push button	
New Rear Entry Door (Hollow Metal)	
Relocate Trash Enclosure Door & Hardware	

<u>Electrical:</u>	\$ 24,500.00
Egress lighting @ Ramp	
Power to Auto Operator	
Demo & Reinstall of existing heaters and conduits at CMU Wall @ Waltham	
Egress Lighting at Basement entry corridor	
<u>General Conditions:</u>	\$ 32,000.00
Additional (4) weeks onsite	
<u>OH&P/ Insurance:</u>	\$ 27,502.75
<u>Contingency (10%):</u>	\$ 42,900.28
	Total: \$ 471,903.03

B&G Oysters - 550 Tremont St. Boston MA

ADA Upgrades

ACCESS STUDY 2 - ACCESIBLE RAMP + BATHROOM (PCA A2.0 - 3/6/26)	
Scope/Description	Est. Value
Project Requirements:	
Additional (4) weeks onsite	\$ 8,000.00
Demo:	
Cut new opening @ Existing CMU Wall for Ramp Access	\$ 25,000.00
Demo existing concrete/stone stairs to patio	
Remove exterior Door & Vestibule @ Rear Entry	
Demo existing platform @ rear entry	
Basement Door & New Opening	
Demo low ceilings at Interior for New bathroom	
Rough Carpentry:	
Misc Floor patching @ Interior where stairs removed	\$ 15,500.00
Rework Trash enclosure to accommodate new stair, etc.	
Cut/Patch at basement ceiling to accommodate restroom plumbing	
Bar Modifications (to accommodate bathroom)	
Sitework:	
Demo & Excavate for New Ramp Footings	\$ 115,000.00
Demo & Excavate for New Stair Footings	
Excavate basement stair area to create head height	
Grade/Sub base @ new basement entry slab	
Grade/Sub Base at Patio Infill where Stairs removed	
Underpinning of existing patio foundation/retaining wall (Allowance of \$50,000 - exact scope TBD)	
Concrete:	
New Ramp Footings	\$ 43,750.00
New Stair Footings	
New Stair from Patio to Ground Level	
New Slab @ Basement Entry	
New Stair @ Basement entry to Patio	
Masonry:	
CMU Infill at Exterior Wall (Old Rear Access)	\$ 16,500.00
New Patio at existing stair location	
Infill @ Exist Basement Door location	
Modify existing wall below stair to accommodate egress door @ basement	
Misc. Metals:	
New Gate @ Rear Entry	\$ 115,000.00
Ramp & Support Posts	
Ramp Railings	
Exterior Entry Platform w/ Supports - flush w/ interior floor elev.	
New Stair @ Patio to Grade Level	
Stair Railings (x3 stair)	
Drywall:	
Bathroom framing, drywall & finish	\$ 12,500.00
Bathroom ceilings	
Flooring:	
Bathroom floor & wall finishes	\$ 3,500.00
Plumbing/Mechanical:	
Bathroom piping, fixtures & finish	\$ 10,500.00
Toilet accessories	
Toilet exhaust fan	
Entrances:	
New Rear Entry Storefront Door	\$ 17,250.00
New auto operator w/ remote push button	
New Rear Entry Door (Hollow Metal)	
Relocate Trash Enclosure Door & Hardware	

B&G Oysters - 550 Tremont St. Boston MA**ADA Upgrades**

ACCESS STUDY 3 - ACCESSIBLE RAMP + BATHROOM + LIFT (PCA A3.0 - 3/6/26)	
Scope/Description	Est. Value
<u>Project Requirements:</u>	\$ 8,000.00
Additional (4) weeks onsite	
<u>Demo:</u>	\$ 25,000.00
Cut new opening @ Existing CMU Wall for Ramp Access	
Demo existing concrete/stone stairs to patio	
Remove exterior Door & Vestibule @ Rear Entry	
Demo existing platform @ rear entry	
Basement Door & New Opening	
Demo low ceilings at Interior for New bathroom	
<u>Rough Carpentry:</u>	\$ 15,500.00
Misc Floor patching @ Interior where stairs removed	
Rework Trash enclosure to accommodate new stair, etc.	
Cut/Patch at basement ceiling to accommodate restroom plumbing	
Bar Modifications (to accommodate bathroom)	
<u>Sitework:</u>	\$ 115,000.00
Demo & Excavate for New Ramp Footings	
Demo & Excavate for New Stair Footings	
Excavate basement stair area to create head height	
Grade/Sub base @ new basement entry slab	
Grade/Sub Base at Patio Infill where Stairs removed	
Underpinning of existing patio foundation/retaining wall (Allowance of \$50,000 - exact scope TBD)	
<u>Concrete:</u>	\$ 43,750.00
New Ramp Footings	
New Stair Footings	
New Stair from Patio to Ground Level	
New Slab @ Basement Entry	
New Stair @ Basement entry to Patio	
<u>Masonry:</u>	\$ 16,500.00
CMU Infill at Exterior Wall (Old Rear Access)	
New Patio at existing stair location	
Infill @ Exist Basement Door location	
Modify existing wall below stair to accommodate egress door @ basement	
<u>Misc. Metals:</u>	\$ 115,000.00
New Gate @ Rear Entry	
Ramp & Support Posts	
Ramp Railings	
Exterior Entry Platform w/ Supports - flush w/ interior floor elev.	
New Stair @ Patio to Grade Level	
Stair Railings (x3 stair)	
<u>Drywall:</u>	\$ 12,500.00
Bathroom framing, drywall & finish	
Bathroom ceilings	
<u>Flooring:</u>	\$ 3,500.00
Bathroom floor & wall finishes	
<u>Plumbing/Mechanical:</u>	\$ 15,000.00
Bathroom piping, fixtures & finish	
Toilet accessories	
Toilet exhaust fan	
<u>Entrances/Glazing:</u>	\$ 20,050.00
New Rear Entry Storefront Door	
New auto operator w/ remote push button	
New Rear Entry Door (Hollow Metal)	
Relocate Trash Enclosure Door & Hardware	
Modify Glass Railings to accommodate ADA lift	
<u>Conveying Systems:</u>	\$ 30,000.00
ADA Chair Lift	
<u>Electrical:</u>	\$ 33,000.00
Bathroom power & lighting	
Egress lighting @ Ramp	
Power to Auto Operator	
Demo & Reinstall of existing heaters and conduits at CMU Wall @ Waltham	
Power to ADA Lift	

B&G Oysters - 550 Tremont St. Boston MA
ADA Upgrades

ACCESS STUDY 4 - ACCESSIBLE RAMP + BATHROOM + LIFT (PCA A4.0 - 3/6/26)	
Scope/Description	Est. Value
Project Requirements:	\$ -
No additional time onsite (work to be completed during base scope duration)	
Signage:	\$ 5,000.00
Menu Board	
Drywall/Paint:	\$ 3,500.00
Misc. Patching for power feeds to menu board	
Electrical:	\$ 8,500.00
Power/lighting @ Menu Board	
Intercom System	
General Conditions:	\$ -
No additional time onsite (work to be completed during base scope duration)	
OH&P/ Insurance:	\$ 1,164.50
Contingency (10%):	\$ 1,816.45
Total:	\$ 19,980.95