CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-166
Site: 118-124 College Avenue
Date of Decision: June 19, 2019
Decision: *Deny Administrative Appeal– Uphold ISD Decision*
Date Filed with City Clerk: July 3, 2019

ZBA DECISION

Site: 118-124 College Avenue

Applicant Name: Havurat Shalom Community Seminary, Inc. with Meredith Porter as Agent
Applicant Address: 113 College Avenue, Somerville, MA 02144
Agent: Meredith Porter
Agent Address: 104 Josephine Avenue, Somerville, MA 02144
Alderman: Lance Davis

Legal Notice: Applicant, Havurat Shalom Community Seminary, Inc., through their representative, Meredith Porter, seeks an Administrative Appeal per SZO §3.1.9, §3.2, and §3.2.3 of building permit No. B18-001184 issued by the Inspectional Services Department (ISD). The property for which the building permit was issued is owned by LaCourt Realty, LLC. RB zone. Ward 6.

Zoning District/Ward:	RB zone. Ward 6.
Zoning Approval Sought:	SZO §3.1.9, §3.2, and §3.2.3
Date of Application:	November 1, 2019
Date(s) of Public Hearing:	12/12/18, 1/23/19, 2/6, 2/20, 3/6, 3/20, 4/3, 4/17, 5/1, 5/15, 6/5, 6/19
Date of Decision:	June 19, 2019
Vote:	5-0

Case # ZBA 2018-166 was opened before the Zoning Board of Appeals in the 3rd Floor Community Room at the VNA located at 259 Lowell Street on December 12, 2019. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After numerous continuances by the Applicant, testimony was taken on June 19, 2019. On this date, the Zoning Board of Appeals took a vote.

BOARD NOTE: It is important to note at the outset of this decision that the Appellant's allegations in their appeal filing are moot. The points that the Appellant puts forth are not grounds upon which the issuance of a building permit can be challenged via an Administrative Appeal. The claims that the Appellant puts forth are those under which the ZBA decision to grant the SPSR could have been appealed in court. However, the Appellant failed to file an appeal in Court (Superior or Land) within the 20-day appeal period that is allowed by M.G.L. Chapter 40A after a ZBA decision is filed with the City Clerk.

The law (state and local) does not provide a mechanism for an aggrieved party to challenge a ZBA decision after this 20-day appeal period in any fashion, and certainly not through the Administrative Appeal process which is provided for the appeal of a Building Permit only.

The time for the Appellant to challenge the ZBA's decision in this case, and on the bases presented via the Administrative Appeal that is currently before the Board, ended at the close of business on **May 22, 2018**. Therefore, the entire Administrative Appeal application is invalid.

Despite the invalidity of the appeal, the Board will briefly go through the claims made by the Appellant.

I. GROUNDS FOR APPEAL

Havurat Shalom Community Seminary, Inc. is an abutter to the property at 118-124 College Avenue. Meredith Porter is their authorized agent representing the Seminary. Hereafter, both parties shall be referred to as the "Appellant." The property at 118-124 College Avenue, owned by Lacourt Realty, LLC, is the subject of the appeal.

The Appellant alleges that Building Permit No. B18-001184 issued by the Inspectional Services Department (ISD) on October 2, 2018, was wrongly granted and should be revoked. The Appellant contends that there are multiple reasons for which the building permit should be denied. The allegations are enumerated in section III "Appeal" of this staff report. The Board's responses to these allegations will be brief and are included only to counter erroneous claims. As the Board stated earlier in this report, the Appellant's allegations are moot as the appeal period of the ZBA's decision passed several months ago.

As an abutter to the property, the Appellant has standing to file this Administrative Appeal. However, as the Board noted earlier in this report, the Appellant's claims are not those under which a building permit can be appealed. These claims by the Appellant had validity for appeal within the 20-day appeal period after the ZBA decision was filed with the City Clerk. This appeal period ended at the close of business on **May 22, 2018**. The ZBA does not find that the Appellant's appeal is properly before the Board.

II. BACKGROUND

Subject Property

The subject property presents one structure that is comprised of two formerly independent residential structures that are now connected on the ground level with an office space. The property currently contains one commercial space and four residential dwelling units. The property is an 11,326 square foot parcel located in the RB zone.

History

The property owner, Lacourt Realty, LLC, submitted an application to increase the number of dwelling units on this site from four (4) to seven (7). The hearing for this project was continued numerous times to allow for neighborhood meetings, changes to plans, or updating of information regarding the proposal. Public hearings were scheduled for the following dates, most of which resulted in continuances to later hearing dates. Briefly, the general activity timeline for this project is as follows:

August 6, 2017 – Lacourt Realty, LLC submits zoning relief application to City Clerk's office

September 6, 2017 – ZBA hearing scheduled

September 19, 2017 – Lance Davis, Ward 6 alderman, sponsors a neighborhood meeting.

September 27, 2017 – ZBA hearing scheduled

October 4, 2017 – ZBA hearing scheduled

October 18, 2017 – ZBA hearing scheduled

November 8, 2017 – ZBA hearing scheduled

November 29, 2017 – ZBA hearing scheduled

December 13, 2017 – ZBA hearing scheduled

January 17, 2018 – ZBA hearing scheduled

January 31, 2018 – ZBA hearing scheduled

February 14, 2018 – ZBA hearing scheduled

March 6, 2018 – Alderman Davis sponsors a second neighborhood meeting.

March 7, 2018 – ZBA hearing scheduled

March 21, 2018 – ZBA hearing scheduled

April 4, 2018 – ZBA hearing scheduled

April 18, 2018 – ZBA renders decision of Conditional Approval for SPSR

May 2, 2018 – ZBA decision filed with City Clerk

May 22, 2018 – 20-day appeal period of ZBA decision ends at close-of-business

November 1, 2018 – Havurat Shalom Community Seminary, Inc. with Meredith Porter as agent, submits Administrative Appeal to City Clerk's office.

III. APPEAL

1. Role of the ZBA: In an Administrative Appeal hearing, the ZBA hears appeals of the decision of the Superintendent of Inspectional Services. The process for such appeals is set out in MGL 40A, Section 8 and Section 3.2 of the SZO. An appeal may be undertaken by any person aggrieved by an order or decision of the Superintendent of Inspectional Services. The ZBA must determine whether to affirm the ISD decision or to overturn it and why.

The Board believes that the Appellant has status as (an) aggrieved party in this circumstance due to their being a direct abutter or an abutter to an abutter of the project site as per M.G.L. Chapter 40A and as upheld by the Massachusetts Land Court in the spring of 2018 in the case *Claudia Murrow vs. Esh Circus Arts, LLC, & others.* The Appellant has submitted their Administrative Appeal to the City Clerk within the timeframe required (30 days) after the issuance of a building permit.

However, as stated earlier, the ZBA does **not** believe that this Administrative Appeal is properly before the Board. This is due to the fact that the Appellant has submitted an appeal that challenges the ZBA decision itself that was rendered on April 18, 2018. As the Board noted earlier in this decision, the timeframe for the Appellant to have appealed the original ZBA decision expired at the close of business on May 22, 2018. Further, the appeal of that ZBA decision is required to be a court appeal filed either in Land Court or Superior Court, not via an Administrative Appeal with the ZBA.

2. Analysis of the Appeal

The following was reviewed in this Administrative Appeal case:

1) the Administrative Appeal application from Havurat Shalom Community Seminary, Inc. with Meredith Porter as Agent;

2) the file for the property at Inspectional Services;

3) the zoning relief file for the original case ZBA 2017-88 for 118-124 College Avenue

In their appeal, the Appellant has put forth four (4) main arguments and myriad sub-claims. These arguments and sub-claims are discussed below. Due to the length of the statements submitted by the Appellant, the Board's responses to each of these arguments and sub-claims are addressed in red text within the body of the Appellant's claims enumerated below.

1 – The Appellant alleges that: Regarding 118-124 College Ave, Building Permit B18-001184, issued October 2, 2018, cites the ZBA Decision in Case #ZBA 2017-88 in giving Approval to add 3 units to the building and to renovate one pre-existing unit as per plans.

The permit is invalid since it violates provisions of the Somerville Zoning Ordinance and was issued in error on the basis of incorrect, inaccurate and incomplete information. The list below provides some examples of this. The permit should be suspended or revoked in accordance with 780 CMR 105.4 (Validity of Permit) and 780 CMR 105.6 (Suspension or Revocation).[1]

[1] At this point in their appeal statement, the Appellant cites the SZO as follows: *"SZO Section 7.3 (Maximum Dwelling Units Per Lot) states: In Residence A districts, the maximum number of dwelling units per lot shall be two (2) units, except where conversion for up to three (3) dwelling*

Board Response: The ZBA found at the time case # ZBA 2017-88 was before the ZBA for review and finds now that the information provided was sufficient in terms of plans and recommendations for the ZBA to make its determination in accordance with the SZO.

The Appellant continues as follows:
Affordable Housing Trust Fund Payment Omitted. The ZBA Decision in Case #ZBA 2017-88 states: Section 7.3 states that in Residence A and Residence B districts, where developments include a minimum of twelve and a half percent (12.5%) affordable housing units on-site, but in no case less than one (1) affordable unit, as defined by Section 2.2.4, the above standards may be waived by the SPGA through application for special permit with site plan review.

The Board finds that the Applicant meets the requirement of providing a minimum of one affordable unit as required by Section 7.3 of the SZO when proposing an increase in the number of units on a property beyond that which is typically allowed by zoning.

The Appellant further continues: Note that this citation of SZO §7.3 is incorrect. The "minimum of twelve and a half percent (12.5%) was changed to "minimum of twenty percent (20%) by Ordinance No 2017-06, approved by the Board of Aldermen on June 8, 2017.

Board Response: The Appellant is correct only in that the citation of 12.5% is inaccurate. The citation should read 20%. However, the fact remains that the owner of 118-124 College Avenue is providing the required number of affordable units on-site (one unit). The misquoted percentage in the Board decision does not change the fact that the proper number of affordable units (one) is being provided on-site.

The owner of 118-124 College Avenue was also required to work with the Housing Office to complete the requirements for affordable housing prior to the issuance of the building permit and/or Certificate of Occupancy. These requirements are covered by Conditions # 3, 4, and 5[2] of the ZBA decision.

In addition to the appeal period of these points having expired on May 22, 2018, a misquote of a percentage does not constitute grounds for a building permit to be withdrawn so long as the proper percentage or number of units of affordable housing is provided.

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units is authorized by special permit under Section 7.11. In Residence B districts, the maximum number of dwelling units per lot shall be three (3) units.

In Residence A and Residence B districts, where developments include a minimum of twenty percent (20%) affordable housing units on-site, but in no case less than one (1) affordable unit, as defined by Section 2.2.3, the above standards may be waived by the SPGA through application for special permit with site plan review, In all cases, the minimum lot size, the minimum lot area per dwelling unit and other dimensional and parking requirements of Article 8 and Article 9 shall be met. No incentives for provision of additional affordable housing units as set forth under Article 13, Section 13.5, shall be available for those applications requiring a special permit with site plan review under this section." (Ord. No 2006-07, 1-26-2006; Ord. No. 2017-06, 6-8-2017)

[2] **Condition #3:** The Affordable housing Implementation Plan (AHIP) must be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit. The affordable unit shall be provided on-site.

Condition #4: Written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the OSPCD Housing Division before the issuance of a Certificate of Occupancy (C.O.). No C.O. shall be issued until the OSPCD Housing Division has confirmed that the Affordable Housing Restriction has been approved and recorded and the developer has provided the promised affordable units on-site.

Condition #5: No Certificate of Occupancy shall be issued until the OSPCD Housing Division has confirmed that: (for Condominium Projects) the Condominium Documents have been approved and the Developer has agreed to a form of Deed Rider for the Affordable Unit(s), or (for Rental Project) the Develpoer has agreed to and executed a Memorandum of Understanding for Monitoring of the Affordable Unit(s).

The Appellant further continues: Compare this with the ZBA Decision in Case #ZBA 2018-64 on July 23, 2018 in the matter of 32 Glen St:

Also, 20% of the proposed seven units is 1.4; therefore the proposal includes one affordable housing unit and a payment of 0.4 units to the Affordable Housing Trust Fund.
In this case as in that case, a payment of 0.4 units to the Affordable Housing Trust Fund must be required in addition to the one affordable housing unit.

Board Response: As the Board has made it clear to the public before, every case that comes before the ZBA is taken individually on its own merits. Simply because the ZBA ruled one way in a particular case does not mean the ZBA will rule the same way in another (32 Glen Street).

Moreover, 32 Glen Street was an entirely different type of case than 118-124 College Avenue. 32 Glen Street started with one dwelling unit on the site and six (6) additional units developed. 118-124 College Avenue started off as non-conforming with four residential units on an RB lot (the RB zone allows a maximum of three (3) units).

Further, it is unclear to the Board why the Appellant asserts that a fractional payment is required. The updated version of §7.3 does not state that a fractional payment is required. §7.3 states that 20% of the units must be affordable when density is increased beyond the typically allowable limit in the RA and RB zones. §7.3 goes on to state that *no less than one affordable* unit in any case shall be provided. §7.3 has no requirement for a fractional payment to be provided, only that a minimum of one affordable unit be provided.

Article 13 of the SZO, Somerville's inclusionary zoning amendment, also does not require a fractional payment to be made for a development containing seven (7) units. Instead, the table in §13.3.4A of the SZO states that when seven (7) units are to be provided in a development reviewed under an SPSR, the requirement is that ONE affordable unit be provided on-site OR a fractional payment for 0.6 units be made, as illustrated below:

The percentage shall be as established in the Table 13.3.4.A, below:

Table 13.3.4.A: Required Inclusionary Units

Total Number of Units	Required Inclusionary Units
0 to 5 units	No inclusionary requirement
6 units	1 on-site unit OR fractional payment for 0.4 units
7 units	1 on-site unit OR fractional payment for 0.6 units
8 to 17 units	17.5%
18 or more units	20%

As the Board noted above, Conditions #3, 4, and 5 are what govern housing affordability in the case of 118-124 College Avenue. These conditions are managed and implemented by the OSPCD Housing Office. These conditions cover questions of number of affordable units and fractional payments.

In sum, neither §7.3 nor Article 13 of the SZO require a fractional payment to be made for a 7-unit development. By providing the one on-site affordable unit required by the SZO, the Board finds that the owner of 118-124 College Avenue met the requirements of the ordinance.

The Board also notes that the owner/agent for 118-124 College Avenue completed the AHIP (affordable housing and inclusionary payment) requirement for the affordable unit on September 20, 2018, prior to the issuance of the building permit, as per the conditions attached to the original ZBA approval.

2 – The Appellant alleges that: Landscaping and Permeability Not Adequately Addressed
The ZBA Decision in Case #ZBA 2017-88 relies on this provision of SZO Section 7.3:
…the above standards may be waived by the SPGA through application for special permit with site plan review. In all cases, the minimum lot size, the minimum lot area per dwelling unit and other dimensional and parking requirements of Article 8 and Article 9 shall be met.

Under this provision, the requirements must be met "in all cases." There is no exemption here for pre-existing non-conformity.

Board Response: The Appellant misunderstands this portion of the SZO and the manner in which non-conformities and special permits function. When there is a pre-existing non-conformity, an Applicant does not have to eliminate that non-conformity, even when applying for a Special Permit. Nor, for that matter, is an Applicant required to improve the existing non-conformity; an Applicant could, theoretically, maintain the same level of non-conformity. There is no requirement for the owner of 118-124 College Avenue to eliminate the non-conformities that exist with respect to pervious area or landscaping.

In the public hearings regarding this case, we expressed our concerns about the inadequacy of landscaping on the site. As we noted at the hearing on April 18, 2018, SZO Section 8.5 requires a minimum landscaped area of 25% of the lot, while the application showed landscaped areas at the site of 13% existing and 16% proposed, with numerous significant errors in the latter calculation and incomplete and incorrect landscaping plans:

The large amount of asphalt on this site is not addressed. [There is no] mention of the applicant considering replacement of any asphalt with pavers.

Board Response: Note the Board response immediately above regarding existing non-conformities. The owner of 118-124 College Avenue had noted that one of the current tenants in the commercial space is a podiatrist. Therefore, pavers in the parking and walking areas of the site would make ambulatory access to the office challenging.

The Appellant continues: I believe these plans should be considered preliminary since none of them are stamped except for the plot plan.

Board Response: An Applicant is not required by law to provide landscaping plans by a professional, landscape architect nor to have any landscaping plans they provide be stamped by a professional.

The Appellant continues: The plans were not prepared by a landscape architect, and it's unclear as to who prepared them.

Board Response: See the Board's response above. Again, there is no legal requirement for a landscape architect to provide landscaping plans. Further, there is no requirement for any Applicant to have the individual(s) preparing their landscaping plans to identify themselves. The ZBA will remember that individual homeowners often seek zoning relief and have been known to draw landscaping plans themselves.

The Appellant continues: The landscaped area does not meet the 25% required by SZO Section 8.5 without exceptions, which must be met in any case according to SZO Section 7.3

The pervious area does not meet the 25% required by SZO Section 8.5 and no provision has been made for a waiver.

Board Response: See the Board's response above regarding non-conformities.

The Appellant continues: Most of the area shown as landscaped on the existing plans is not landscaped per definition. The 222 sq. ft. of crushed stone and heat pumps on the left side of the building is obviously not landscaping, nor is the rubbish and dirt in the back of the building. There is a concrete apron around part of the building which, although covered with dirt, is clearly not permeable. Existing large trees, inside and outside the landscaped area, are not shown. Will any of those be removed? At least one tree should be addressed according to SZO Section 10.2.2.

Board Response: The Board reiterates once again that the time for appealing questions of landscaping and pervious area expired on May 22, 2018. The time to question the removal of trees passed during the public testimony portion of this case – in either verbal or written form. These are not points upon which a building permit can be appealed. The owner of 118-124 College Avenue must comply with the conditions of their special permit including landscaping. The outcomes of special permit cases are negotiated outcomes between a municipality and an Applicant.

Section 10.2.2, cited by the Appellant, calls for trees to be planted on pre-existing, non-conforming sites and reads as follows:

> *10.2.2. Application to Existing Nonconforming Sites.* Lawfully existing sites developed with uses and structures prior to enactment of this Ordinance, where such sites are nonconforming with respect to this Article 10, may continue to be used in such present condition provided there is no decrease in the amount of landscaped area, landscaping, screening, and trees from that existing as of this Ordinance's enactment. However, any expansion in gross floor area to uses and structures on such sites shall require the planting of at least one (1) tree under the guidelines of Section 10.6.2 herein, and shall require compliance with the parking lot landscaping and screening requirements of this Article (Sections 10.4 and 10.5) for any parking areas and access ways required to accommodate the expansion of the use and/or structure on such site.

The proposal for 118-124 College Avenue did not include an increase in the Gross Floor Area (GFA) of the buildings. Therefore, the suggestion that at least one tree must be planted is moot.

As a point of note, if the City were to take the Appellant's literal interpretation of 10.2.2 then, based on the following portion of this section of the ordinance, any small homeowner who added even 100 square feet of space to their house in the form of an addition would no longer retain the residential use of their property if they didn't provide additional landscaping somewhere on their site:

> Lawfully existing sites developed with uses and structures prior to enactment of this Ordinance, where such sites are nonconforming with respect to this Article 10, may continue to be used in such present condition provided there is no decrease in the amount of landscaped area, landscaping, screening, and trees from that existing as of this Ordinance's enactment.

The Board contends that this is not the intent of this portion of the ordinance and, consequently, does not interpret it as such.

The Appellant continues: The only new conditions in the area are a modification to #20 calling for a review of landscaping by by [sic] Planning staff and to #21 calling for compliance with American Nurserymen's Association standards. As far as I can tell, those standards only provide common terminology and establish some techniques regarding measurements but they don't provide any assurance of adequacy of landscaping.

Board Response: The Board reiterates once again that the time for appealing questions of landscaping and pervious area expired on May 22, 2018.

Condition #20 requiring Staff review of all hardscaping and planting to be used on the site is a standard condition written into nearly all zoning approvals. Condition #21 regarding Nurserymen's standards is for installation and maintenance of landscaping, not for design or type of vegetation planted.

The Appellant continues: The current conditions don't address landscaped area, pervious area, and so on. The deleted condition #18 [which was included in the original Staff Report] also required that implementation would be perpetual rather than relying only on a review before installation.

Board Response: Disagreement with a condition applied to a zoning approval is not a basis on which a building permit can be appealed. It is not uncommon for Staff and the Board to update conditions (add and eliminate) as a project morphs. It is an iterative process and if the Staff Planners or the Board reassess and find that a condition fails to meet the tests of rational nexus or rough proportionality, then Staff can alter those conditions accordingly prior to the ZBA making a determination on a case.

The Appellant continues: The ZBA proceeded to approve the applicant's request without any consideration of these points, many of which had not been addressed previously.

Board Response: The meaning of the Appellant's statement of "…these points, many of which had not been addressed previously" is unclear to the Board. Regardless, the ZBA discussed landscaping and pervious versus impervious area during their hearings on this matter. That the ZBA was satisfied with their discussion is their right as a Board. That the Appellant wishes [the Board] had spent more time discussing this matter is not a point on which an appeal of a building permit can be made.

3. The Appellant alleges:
Floor Area Ratio (FAR)
As we noted at the hearing on April 18, 2018: No plan has been provided for the basement. One reason why that's relevant is that existing areas claimed are significantly less than those shown on assessors [sic] records, and from the plans provided, it's unclear whether the project exceeds the FAR limit of 1.0 [the maximum allowed in the RB District under SZO Section 8.5].

The ZBA proceeded to approve the applicant's request without any consideration of this point, which had not been addressed previously.

Board Response: The Board reiterates once again that the time for appealing the ZBA decision, including this on FAR, expired on May 22, 2018.

4. The Appellant alleges:
The Legal Notice as published and as cited in the ZBA Decision and the Zoning District/Ward field in the ZBA Decision indicate Ward 4. The property is located in Ward 6.

Board Response: The Appellant's point is taken that the legal notice and decision contain the incorrect ward number. The purpose of a legal notice is to provide adequate information to the public about a proposed project. The legal notice includes the correct street address. It was upon this street address that abutters received the legal notification of the project proposal.

Further, the Ward 6 alderman, Lance Davis, held neighborhood meetings on this project. These neighborhood meetings are called out in the "History" section of this staff report. It is clear that, in light of the neighborhood meetings, the abutter's list, and the presence of abutters at the ZBA hearings that they were properly noticed. The scrivener's error regarding the incorrect ward number included in the ZBA decision can be corrected with a memo to the City Clerk's office. However, the incorrect ward number does not constitute grounds for revocation of a building permit.

IV. DETERMINATIONS

- After review of the issues raised in the appeal, the Board concludes that, due to the fact that the time for appealing the ZBA's decision on the grounds stated by the Appellant expired on May 22, 2018, the Appellant's Administrative Appeal is moot. The Appellant should have filed an appeal with either Superior or Land Court within the 20-day appeal period allowed after the filing of a ZBA decision.
- Moreover, as explained throughout this staff report, the allegations put forth by the Appellant have do not constitute a basis for overturning the decision from ISD to issue a building permit.

- The ZBA **DENIES** the Appellant's Administrative Appeal and **UPHOLDS** the issuance of the building permit by ISD.

V. DECISION

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Drew Kane and Anne Brockelman and Josh Safdie. Upon making the above findings, Susan Fontano made a motion to deny the Administrative Appeal. Elaine Severino seconded the motion. Susan Fontano made a motion to uphold the ISD decision. The Zoning Board of Appeals voted **5-0** to **DENY** the request for **ADMINISTRATIVE APPEAL** and to **UPHOLD** the issuance of the building permit by ISD.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Elaine Severino
Anne Brockelman
Josh Safdie
Drew Kane (Alt.)

Attest, by the Planner: _____
Sarah White

Copies of this decision are filed in the Somerville City Clerk's office. Copies of all plans referred to in this decision and a detailed record of the SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and
FOR VARIANCE(S) WITHIN
_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.
FOR SPECIAL PERMIT(S) WITHIN
_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed_____ City Clerk Date_____