



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2012-63
Site: 191 Highland Avenue
Date of Decision: October 17, 2012
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 24, 2012

ZBA DECISION

Applicant Name:	Highland Armory Realty Trust
Applicant Address:	472 Massachusetts Avenue, Cambridge, MA 02139
Property Owner Name:	Highland Armory Realty Trust
Property Owner Address:	472 Massachusetts Avenue, Cambridge, MA 02139
Agent Name:	Adam Dash, Esq.
Agent Address:	48 Grove Street, Suite 304, Somerville, MA 02144

Legal Notice: Applicant/Owner Highland Armory Realty Trust seek special permits establishing the public assembly use (§7.11.6.4.a), altering a nonconforming structure (§4.4.1), and for shared parking (§9.13.e). The special permits are the same as those granted and revised by zoning decisions numbered # ZBA 2004-57, 2005-70, 2004-57a, 2005-70-R0209, 2005-70-R1-0409, & 2005-70-R2-0409, however, several conditions are to be changed related to occupancy, hours of operation, cooking on the premises, outdoor cafe seating and the ability to seek a full liquor license. Applicant/Owner also seek a special permit to establish outdoor seating for the café (SZO §7.11.10.2.a).

<u>Zoning District/Ward:</u>	RC/RA zone/Ward 5
<u>Zoning Approval Sought:</u>	§7.11.6.4.a, §4.4.1, §9.13.e & §7.11.10.2.a
<u>Date of Application:</u>	July 17, 2012
<u>Date(s) of Public Hearing:</u>	8/15, 9/15, 9/19, 10/3 & 10/17/12
<u>Date of Decision:</u>	October 17, 2012
<u>Vote:</u>	5-0



Appeal #ZBA 2012-63 was opened before the Zoning Board of Appeals at Somerville City Hall on August 15, 2012. 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to establish outdoor seating for the café and change conditions of approval in order to increase the occupancy, extend the hours of operation, allow cooking on the premises, allow for the ability to seek a full liquor license, and clarify that accessory functions are allowed. The changes are requested because with the current conditions the arts center and café are having difficulty staying in business.

The Applicant states that the survival of the Arts at the Armory in the auditorium and café as well as the entire premises is contingent upon the proposed change in conditions. The Applicant/Owner has invested a lot of money in the building to use it as a community arts space and the conditions must be adjusted to meet the reality of doing business there. The Applicant, who leases the auditorium to the Arts at the Armory, believes that the revisions being sought will allow for future success of the non-profit Arts organization.

The condition references are from the decision document for case # ZBA 2005-70. The order of conditions has since changed to group them by subject.

Increased Occupancy:

Condition 36 limited the occupancy of the Armory. *It stated: The assembly performance space for "at capacity" events shall not exceed 395 occupants based on an allowance of 15 square feet per person. "Other events" occupancy shall not exceed 325 occupants for the assembly performance space.*

The proposal is to increase the occupancy allowed from 395 to 495 for "at capacity" events.

"At Capacity" Events were defined as any event where the full capacity of the Armory performance hall (former drill hall) is requested or needed for dance performances, theater performances, music concerts (classical, baroque, world music, flamenco, folk), and film openings, and other related activities that pertain to the mission of the Center for Arts at the Armory. "At capacity events" could also have been community events depending on the type of event that is being planned or requested to address a community need. The application includes clarifying that weddings, parties and bar mitzvahs, can be held in the auditorium as accessory events to the main use of the auditorium for arts-related activities.

These "At Capacity" events were limited to up to 10 times per month with each event to end no later than 11PM at weekends and 10PM weekdays. Weekends were defined as Thursday, Friday, and Saturday, with the exception of holiday weekends, which shall include Sunday. Weekdays were Sunday through Wednesday (with the exception of holiday weekends). The number of "At capacity" events were limited to up to three times per week for no more than 10 events per month. "At capacity" events may include one or more Community Events. The limit to the number of events per week or month is not requested to change.

"Other Events" were smaller in attendance than "at capacity events." Examples of "other events" included but were not limited to artist openings, dance and music recitals, arts and crafts fairs, film screenings, poetry readings, artist in residence lectures, and book fairs. Proposed "other events" not specified above were required to pertain to the mission of the Center for Arts at the Armory. These events were limited by the hours of operation of the Armory which was 8am to 10pm on weekdays and 8am to 11pm on weekends.

The auditorium is 4,682 sf and the mezzanine is 1,650sf. The State Building Code limits occupancy to one person per 7 sf when non-fixed chairs are set-up and one person per 15 sf when tables and chairs are set-up. The regulation limits the Armory's occupancy to 422 to 904 depending on the set-up of the space. The proposed occupancies of



395 for “other events” and 495 for “at capacity events” continue to be within the building code occupancy limit, although, “at capacity” events with tables and chairs are limited to 422 due to the code.

The increased capacity will allow Arts at the Armory to rent the auditorium to a larger range of groups and organizations that are looking to have more than the 395 people at an event. The types of events and the frequency of the events will not change.

The parking calculation is based on floor area of the space, not on occupancy so the parking requirement does not change and the parking lot is not proposed to change. There are 44 parking spaces onsite that are shared among the uses in the building and a special permit was received for this parking situation. Also, there are 40 leased parking spaces at 75 Belmont Street and 112 Central Street that are available for patrons of the Armory to use.

The shared parking situation which is currently in place will not change. The gallery and office uses which are not changing as a result of this application are closed when the auditorium and café are used most often.

Hours of Operation:

Conditions 20 and 21 restrict the hours of operation of the facility.

Condition 20 was revised by the March 2009 decision and states, “the hours of operation shall be: 8AM-10PM weekdays and 8AM-11PM weekends.

Condition 21 states, “At Capacity” Events - Up to 10 times per month with each event to end no later than 11PM at weekends and 10PM weekdays. Weekends are defined as Thursday, Friday, and Saturday, with the exception of holiday weekends, which shall include Sunday. Weekdays are Sunday through Wednesday (with the exception of holiday weekends).

The revised hours of operation for the auditorium and for the café is 7am to 11:30pm on weekdays (Sunday through Thursday) and 7am to 1am on weekends (Friday and Saturday).

The change to the hours of operation would allow the Arts at the Armory to rent out the auditorium to a wider range of groups and organizations that currently turn away from the opportunity because they require using the building earlier than 8am and later than 11pm. The earlier timeframe would allow yoga, pilates and other similar classes to be offered in the morning before people go to work. Having the café open at this time would allow for increased business from patrons going to early morning classes at the Armory or people on their way to work.

The proposed changes are necessary in order for the Armory to compete with similar businesses in the City and the surrounding area which have longer hours of operation.

Cooking on Premises:

Onsite cooking is limited by two conditions.

Condition 27c states that, “There is to be no cooking of food in the café, with salads and sandwiches the only meals to be prepared at the cafe. All other food served in the café must be either served raw, or have been cooked or pre-packaged off-site and be ready for direct consumption. The only exception to this rule will be for those cooked foods that require reheating. No commercial grills or fryolaters are allowed in the cafe.”

Condition 31 states, “All “at capacity” events must be catered by offsite restaurants and caterers. The on-site café may provide limited catering for events in the Armory, but only within the limits defined in Condition #27c.”

The Applicants are requesting that cooking be allowed on the premises for events at the auditorium. The existing chimney would be utilized such that no changes are needed to the exterior of the building. The kitchen for the café



would be altered to accommodate cooking and the Board of Health regulations. The Arts at the Armory loses business because cooking is not allowed. The logistics of bringing cooked food to the site and keeping it warm can be difficult and limits the number of events in the space.

The request does not include allowing cooking in the café other than what is currently allowed. Cooking would only occur for events that do not occur every day.

Allow for a full Liquor License:

Condition 23 states that, *“The parties, within six months of the completion of construction of the Armory, will meet and review an application by the Owner/Applicant or designee for a full beer and wine license. The Owner/Applicant agrees that should a permanent beer and wine license be granted, beer and wine would only be served at performance space events and for those performances in the café space.”*

The Applicant is requesting that the condition change to allow the Applicant to apply for a full liquor license to be able to serve alcohol in the auditorium and in the café for performances. The Applicants would have to go before the Somerville Licensing Commission and the Massachusetts Alcoholic Beverages Control Commission in order to get the license.

The Premises currently has a beer and wine license and there have not been any violations reported to the Somerville Licensing Commission. The full liquor license would allow the Armory to compete with other venues in the City and would allow the café to be more successful. Liquor would only be served when an event is taking place, which is not every day.

Outdoor Seating:

The Applicant seeks a special permit to establish outdoor seating for the café (SZO §7.11.10.2.a). Twenty seats would be in the front yard along Highland Avenue on pervious pavers seasonally. The seats would be removed from the café that currently has 52 seats such that there would be 32 inside and 20 outside. There would not be table service. Patrons would buy food inside and bring it outside to use the outdoor seating. The tables and chairs would have flat bottoms such that they would be able to function on pavers.

The café is having trouble staying in business and the increased visibility and desirability of the outdoor seating should help to attract patrons to it.

Accessory Functions:

The application also includes clarifying that accessory functions are allowed to be held in the auditorium. These functions include weddings, parties and bar mitzvahs. The application also seeks to clarify that yoga and pilates classes can be held in the auditorium in the morning.

The purpose of having accessory functions is so that the non-profit Arts at the Armory Organization can survive financially. It is customary in the arts field to rent arts spaces for private functions and classes to supplement arts programming. The Applicant provided examples of other arts-related venues that hold private functions, which include the Museum of Fine Arts, the Cambridge Multicultural Arts Center, Symphony Hall, and the Decordova Museum and Sculpture Park.

The income from private functions will help to financially support the Arts at the Armory and allow them to reduce the rental fees for arts related events in the future. A reduced rental fee will increase the number of artists and arts organizations who will be able to rent the space.



FINDINGS FOR SPECIAL PERMIT (SZO §5.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail. Since special permits have previously been issued for the use of the space, alterations to the structure, and shared parking, the findings will focus on the requested changes and request for outdoor seating.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

Outdoor Seating

The design guidelines for residence zones relate to building form, architectural elements, and site elements that are not changing as a result of adding outdoor seating for the café. The patio will conform to the City standards of not adding increased impervious surface to the site because the patio will be made of pervious pavers.

Changes to Conditions

The standards that were established in the conditions of prior approval have proposed to be altered so that the Arts at the Armory can survive financially and stay in business. The conditions relate to increased occupancy and hours of operation, cooking on premises, and allowance for a full liquor license and to hold accessory functions. The neighborhood's concerns with the existing operations have been heard and will be mitigated by changes to and additional conditions attached to the approval.

In addition, the Board changed the conditions to address concerns raised at the public hearings and in written testimony about the future use of the space with the proposed revised conditions. The hours of operation are limited to 7AM to 11PM except that when Arts at the Armory are operating the performance hall and café, this Organization would be allowed to hold events until 11:15PM on Sunday through Thursday with a close time of 11:30PM and 12:45AM on Friday night/Saturday morning and Saturday night/Monday morning and on holiday weekends on Sunday night/Monday morning with a close time of 1AM. The list of the types of activities that are allowed as part of the public assembly use was pulled out of the definition section and explicitly listed as a condition. Finally, the number of amplified music concerts was prohibited except that when Arts at the Armory are operating the performance hall and café, this Organization could hold up to 15 amplified music concerts per month of which no more than 10 may be "at capacity events". These conditions should address concerns that the public assembly use will become a nightclub if the requested changes to conditions are approved.

Other conditions were edited for clarity or added to address other concerns:

- The ability to cook on site and apply for a full liquor license is limited to the Arts at the Armory Organization or successors or assigns provided that the successor or assignee is operating the performance hall and café and is a nonprofit arts organization. The groups' organizational documents must be submitted to Planning Staff for review and approval prior to operating under this approval.
- The reference to the types of music concerts was removed because the array of possible genres that would be appropriate to allow in an Arts space is extensive and one or more genre would likely be excluded when trying to list them all. Simply listing music concerts and limiting the number of at capacity amplified music concerts will allow for all types of concerts while limiting the number of large scale events that are amplified.
- The number of private functions was limited to 25% of the total number of events in the café and performance hall per year with an upper number of 50 events per year.



- Soundproofing of the Armory roof “as needed” was expanded upon to include what will determine if soundproofing is necessary.
- Providing double pane, sound insulating windows must be documented as complete prior to being able to exercise the revisions allowed for in this approval.
- Window treatments that absorb sound will be required to cover the windows in the café and hall during amplified events.
- The Center for Arts at the Armory is able to have an unlimited number of amplified music concerts in the café space since the impacts of these events are limited by the size of the space. If there is another operator of the space besides the Arts at the Armory in the future, amplified events are not allowed.
- A police detail or private security is required for “at capacity events”.
- Beer and wine can be served in the café but other liquor may only be served during events.
- A list of events and estimated attendance is submitted to the Planning Department annually to ensure that the types of events held meets the conditions of approval.
- No outside events are allowed in the parking lot except for the farmers market.
- Trash must be taken out to the dumpster by hand after 8pm.
- The neighbors’ need for privacy hedges/screens must be revisited.
- Alcohol may not be served in the outside patio.
- Patio must close at 8PM.
- Armory staff person must be onsite at all times when there is an event in the hall or café.
- Neighbors who are interested in being on the Advisory Committee should be allowed to join and as conditioned information about joining will be posted on the Armory’s website.
- Operators of the performance space shall email the neighbors that provide contact information to them and to a member of the Planning Staff before each “at capacity” event so that they are aware of upcoming events.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles.”

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to providing for and maintain the uniquely integrated structure of uses in the City, conserving the value of land and buildings, preserving the historical and architectural resources of the City, and preserving and increasing the amenities of the municipality.

The Armory provides a venue for arts and community related events, which is loved by a large part of the community as expressed in the numerous letters of support that the Board has received as part of the application. The facility and programming is an asset for the City. The building has historical significance and it has been refurbished and well maintained. The site’s continued success and upkeep is important for the neighborhood and the community.

The proposal is consistent with the purpose of the Residence C district in providing a community space that is convenient to the residents of the district.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses.”

The patio will be in the front yard and where it will add visibility of the café and vibrancy of the building and be least impactful to neighbors. The patio will be constructed of pervious pavers such that rainwater runoff from the site will not increase. There will be landscaping around the patio that will be attractive and will physically contain the tables and chairs in the designated area. The café chairs and tables will be removed during the seasons when they are not in use.



5. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

Several conditions of approval address vehicular and pedestrian circulation. They include the following:

- The driveway will be marked as a fire lane.
- A shuttle to Davis Square will be provided for “at capacity” events.
- Information about non-vehicular transportation to the site will be posted for patrons.
- A TDM plan will be prepared and followed.
- Shared parking is available at off-site parking lots and staff direct people to these lots when the lot onsite is full.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans, and Josh Safdie. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is to establish the public assembly use (§7.11.6.4.a), alter a nonconforming structure (§4.4.1), and for shared parking (§9.13.e). The special permits are the same as those granted and revised by zoning decisions numbered # ZBA 2004-57, 2005-70, 2004-57a, 2005-70-R0209, 2005-70-R1-0409, & 2005-70-R2-0409, however, several conditions below have changed related to occupancy, hours of operation, cooking on the premises, and the ability to seek a full liquor license. Approval is also to establish outdoor seating for the café (SZO §7.11.10.2.2.a). The by-right uses (which are not changing) include two units of artists’ housing, craft studios, offices, an art gallery, and a non-profit dance studio. This approval and its related conditions replace and supersede the previous approval which shall become void after this special permit is approved and any appeals exhausted. This approval is based upon the following application materials and the plans submitted by the Applicant:			
	Date (Stamp Date)	Submission	Cont.	ISD/ PLNG
	Application materials stamped in at the City Clerk’s Office on July 17, 2012.	Initial application submitted to the City Clerk’s Office		
	July 16, 2012	Existing Building Conditions: Site Plan S.1, Basement Plan 1.0, 1 st fl plan 1.1, 2 nd fl plan 1.2, 3 rd fl plan 1.3, roof plan 1.4, section elevations, 3.0		
July 16, 2012	Proposed Change in Occupancy and Making a New Outdoor Café. Proposed Occupancy 1.0,			



	Condition	Timeframe for Compliance	Verified (initial)	Notes				
	<table border="1" style="width: 100%;"> <tr> <td data-bbox="280 331 527 436"></td> <td data-bbox="527 331 841 436">Outdoor café 1.1, Proposed Pavers 1.2</td> </tr> <tr> <td colspan="2" data-bbox="280 436 841 541">All documents submitted for previous approvals are incorporated by this reference.</td> </tr> </table> <p>The Applicant may make interior design modifications to facilitate the full kitchen buildout without additional ZBA approval although Massachusetts Historical Commission approval may be required. Any changes to the approved site plan, elevations, or uses including exterior changes needed for a kitchen expansion that are not <i>de minimis</i> must receive ZBA approval.</p>		Outdoor café 1.1, Proposed Pavers 1.2	All documents submitted for previous approvals are incorporated by this reference.				
	Outdoor café 1.1, Proposed Pavers 1.2							
All documents submitted for previous approvals are incorporated by this reference.								
Operations								
2	<p>The public assembly use in the performance hall (former drill hall) shall be limited to the following:</p> <ul style="list-style-type: none"> • dance performances • theater performances • music concerts • film openings • artist openings • dance and music recitals • arts and crafts fairs • film screenings • poetry readings • artist in residence lectures • book fairs • artist openings • yoga and pilates classes • non-profit activities that are consistent with arts and cultural programming including but not limited to arts after school programming for children and youth ages 5 – 18 and art adult education classes • community events - any event of citywide interest such as high school plays, proms, high school scholarship fundraisers, Farmers' Market, Taste of Somerville, Somerville Open Studios, etc. • other related activities that pertain to arts and cultural programming • private functions such as weddings, parties and bar mitzvahs as accessory events. The maximum number of private functions is limited to 25% of the total number of café and performance hall 	Cont.	ISD/ Plng.					



	Condition	Timeframe for Compliance	Verified (initial)	Notes
	events and shall not exceed 50 events in a calendar year.			
3	Amplified music concerts shall not be permitted except as follows: The Center for Arts at the Armory (Center), as well as the Center's successors and assigns, provided that the organization acquiring, merging with or being assigned rights by the Center remains a non-profit organization with advancement of the arts as the primary mission shall be permitted to host in the performance hall up to 15 amplified music concerts per month of which no more than 10 may be "at capacity events". If an amplified music concert is a private function it shall be included in the number of amplified events per month. The Center for Arts at the Armory (Center), as well as the Center's successors and assigns, provided that the organization acquiring, merging with or being assigned rights by the Center remains a non-profit organization with advancement of the arts as the primary mission may host an unlimited number of amplified music events in the café space. The exception to the condition is not transferrable to another entity except as noted herein. Should the Center for Arts at the Armory (Center), or the Center's successors and assigns, provided that the organization acquiring, merging with or being assigned rights by the Center remains a non-profit organization with advancement of the arts as the primary mission no longer be the tenant for the café and/or performance hall, the new operator of the café and/or performance hall shall be prohibited from hosting amplified music concerts unless this condition is modified by the ZBA at a public hearing.	Cont.	ISD	
4	There shall be no outside events in the parking lot except for the farmers market which shall end by no later than 5pm.	Cont.	ISD	
5	The assembly performance space shall not exceed 495 occupants with a chairs only arrangement and 422 occupants with a tables and chairs configuration.	Cont.	ISD	
6	"At capacity Events" are any events where the occupancy of the Armory performance hall (former drill hall) is expected to be between 325 and 495 people at one time. "At capacity events" are limited to up to three times per week and no more than 10 events per month.	Cont.	ISD	
7	The hours of operation shall be 7AM-11PM except as follows. The Center for Arts at the Armory (Center), as well	Cont.	ISD	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
	<p>as the Center's successors and assigns, provided that the organization acquiring, merging with or being assigned rights by the Center remains a non-profit organization with advancement of the arts as the primary mission shall be permitted to hold public assemblies in the performance hall and the café until:</p> <ul style="list-style-type: none"> • 11:15PM on Sun-Thurs with full performance hall and café empty by 11:30PM, and • 12:45AM on Fri night/Sat morning and Sat night/Sun morning and on holiday weekend on Sun night/Mon morning with performance hall and café empty by 1AM. <p>The exception to the condition is not transferrable to another entity except as noted herein. Should the Center for Arts at the Armory (Center), or the Center's successors and assigns, provided that the organization acquiring, merging with or being assigned rights by the Center remains a non-profit organization with advancement of the arts as the primary mission no longer be the tenant for the café and/or performance hall, the new operator for the café or performance hall shall be subject to the 11PM closing unless this condition is modified by the ZBA at a public hearing.</p>			
8	The patio shall close at 8pm. A sign shall be posted that is visible from the patio that states that the patio is closed for use after 8pm.	Cont.	ISD	
9	The Center for Arts at the Armory (Center), as well as the Center's successors and assigns, provided that the organization acquiring, merging with or being assigned rights by the Center remains a non-profit organization with advancement of the arts as the primary mission shall be allowed to seek a full liquor license. If obtained, liquor could be served only during performance space events and café space events except that beer and wine could be served in the café when an event is not occurring. Beer and wine shall not be served or consumed outside of the building. Should the Center for Arts at the Armory no longer be the tenant for the café and/or performance hall, the new operator for the café and performance hall shall be prohibited from applying for a liquor license unless this condition is modified by the ZBA at a public hearing.	Cont.	ISD	
10	The Owner/Building Manager shall work with tenants of the café and auditorium to ensure that if there are overlapping events in the two spaces,	Cont.	ISD/ Advisory	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
	starting and ending times are staggered. Where possible, event schedules should be coordinated to encourage smaller-scale or pass-through (instead of ticketed or sit-down) events in the café when an auditorium event is anticipated to approach capacity.		Cmte	
11	There is to be no cooking of food in the café, with salads and sandwiches the only meals to be prepared at the cafe. All other food served in the café must be either served raw, or have been cooked or pre-packaged off-site and be ready for direct consumption. The only exception to this rule will be for those cooked foods that require reheating. No commercial grills or fryolaters are allowed in the cafe. This condition shall not limit cooking for events in the performance hall as allowed herein.	Cont	ISD	
12	The Center for Arts at the Armory (Center), as well as the Center's successors and assigns, provided that the organization acquiring, merging with or being assigned rights by the Center remains a non-profit organization with advancement of the arts as the primary mission, and those renting the hall from them may cook onsite during events in the performance hall. Should the Center for Arts at the Armory (Center), or the Center's successors and assigns, provided that the organization acquiring, merging with or being assigned rights by the Center remains a non-profit organization with advancement of the arts as the primary mission no longer be the tenant for the performance hall, the new operator shall not be allowed to cook and shall be limited to catering by offsite restaurants and caterers unless this condition is modified by the ZBA at a public hearing.			
13	The owner/applicant agrees to inform all occupants of any rules and regulations, including but not limited to; the hours of operation, number of occupants, and uses related to the interior and exterior space. This language should be posted throughout the offices, halls and in plain sight throughout the facility.	Cont.	ISD/ T&P	
14	The recording studio located in the basement level must not be used as rehearsal space.	Cont.	PLNG	
15	The Applicant/Owner shall work with the abutters to determine the least harmful area where smoking will be permitted outside the building.	Met - Smoking will take place in the front of the building	ISD	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
16	Applicant/Owner or his/her designee shall post a sign that is visible when exiting the Armory that states "This is a residential neighborhood. Please be respectful by leaving quickly and quietly. Thank you." The Applicant shall require that those renting the auditorium announce this message at the end of events.	Signoff/ Continual	PLNG /ISD	
17	The Arts at the Armory or those renting the auditorium for "at capacity" events shall request a police detail or private security detail that is present during the event and for at least a half an hour after the event ends.	Continual	ISD	
Operation Impacts / Maintenance				
18	Trash receptacles shall be contained in a screened enclosure in a location shown on plans approved by Planning Staff. The trash receptacles shall have lids to mitigate the potential for airborne waste. Trash shall be carried to the dumpster by hand after 8pm so that the dumpster or barrels do not need to be moved late at night. Recycling bins shall remain in the building except for the day that they will be emptied.	Cont.	ISD	
19	Maintenance of the building, both inside and out, is of the high concern. The owner shall therefore maintain regular trash pickups, not to be less than twice a week, and to ensure that such pickup does not commence before 7AM. The owner agrees to use either trashcans or a rolling container and to explore the possibility of using a room in the basement for trash storage.	Met	ISD	
20	Exterior lighting must not impact neighbors. Any glare shall be directed onto the site and away from the abutting properties.	Cont.	PLNG/ Lights and Lines	
21	Maintenance of the building, both inside and out, is of the high concern. The owner shall therefore maintain all perimeter areas of the property including Highland Avenue and Hudson Street for snow removal and litter.	Cont	ISD	
22	The Applicant/Owner or his/her designee shall provide a contact name and telephone number for someone onsite during events. The Applicant/Owner or his/her designee shall provide a contact name and telephone number for neighbors to contact with 24 hour access for emergencies and other concerns.	BP/ Cont	ISD	
23	Applicant/Owner or his/her designee shall provide a list of events annually to the Planning Department for each café and performance hall event including	Continual	PLNG	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
	estimated attendance.			
24	Operators of the performance space shall email the neighbors that provide contact information to them and to a member of the Planning Staff before each “at capacity” event so that they are aware of upcoming events.	Continual	Applicant or Designee (PLNG)	
25	The operators of the performance hall shall convene the Advisory Committee of three neighbors, the Ward Alderman, a representative from the City’s Office of Strategic Planning and Community Development Department (SPCD), the Director of the Arts Council, and the Center’s personnel in charge of facilities and programming when requested by any party of the Committee. This Committee shall meet to address community impact issues such as parking, traffic, noise, litter, crowd control, and public safety. The Advisory Committee shall establish concise, clear operating procedures for itself. The neighbor representatives shall appoint one point of contact for the larger community to contact and to serve as a liaison between the neighborhood and the Center, as needed. The operators of the performance hall shall include a “neighborhood update” page on their website that lists the operating procedures for the Committee, meeting agendas and minutes, and a list of 12 months of past events and two months of scheduled forthcoming events including the type of event and the designation of ‘at capacity’ events.	Cont.	PLNG.	
26	When requested by any party of the Advisory Committee or City Staff the Committee shall meet to discuss traffic, parking, and noise, in particular as it is related to “at capacity” events. These meetings shall include representatives from the City’s Board of Health, the Director of Traffic and Parking or designee, the Community Police Officer, the Superintendent of Inspectional Services or designee, the Ward Alderman, and a representative from the City’s Office of Strategic Planning and Community Development Department (SPCD). Should concerns be raised, all parties will work in good faith to resolve differences. Should the Advisory Committee not come to resolution after sufficient and reasonable time to reconcile issues, enforcement action may be brought against the Center, either under the jurisdiction of ISD and/or the City’s Licensing Board.	Cont	PLNG	
27	The number of café seats inside and outside on the patio shall not exceed 52. The tables and chairs on	Continual	ISD	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
	the outside patio will be removed during the seasons when they are not in use.			
Building Design / Site Design / Sound Impacts				
28	The Applicant must receive the approval of Massachusetts Historical Commission prior to the installation of the pavers and outdoor seating prior to the commencement of the newly proposed alterations to the Armory.	Installation of patio	Mass Historic	
29	<p>The Owner/Applicant shall provide for a general sound proofing of the entire structure, which includes:</p> <ul style="list-style-type: none"> a) Replacing windows with double pane, sound insulating windows while maintaining the wooden sash in accordance with the historical preservation requirements. b) Provide all exits with double doors to prevent the escaping of sound into the community. c) Provide exit alarm hardware known as panic hardware to activate a local alarm, where appropriate. Panic hardware will be installed on all emergency egress doors along with signage. d) Soundproof the roof of the Armory as needed. Item D will be determined to be needed if the sound during an “at capacity” amplified music concert is detected to be over the decibel level allowed in the Somerville Noise Ordinance. Monitoring shall occur in the abutting residential homes if allowed by the home owners and at the property line. The line of site from the roof shall be considered in choosing homes in which to monitor. 2nd floors of these homes need to be considered. Monitoring should be conducted by the City, if the resources are available. If not, the Owner shall pay for monitoring by a third party. If there is a violation, the roof will be soundproofed until the Armory is in compliance with the Noise Ordinance. e) Investigate and remedy all other possible areas of the structure and openings in the structure where sound might emanate from the building. f) Provide and design a system of sound dampening or baffles to enclose air conditioning and heating units that are placed on the Armory roof. The proposed electrical transformer and HVAC units to be located on the ground must also be fully screened and baffled to be in compliance with the City’s Noise Ordinance. g) All exterior doors must remain closed when the 	<p>Item A must be completed in order to exercise the revisions allowed for in this approval (ZBA 2012-63).</p> <p>Other items must remain in continuous compliance.</p>	ISD/ PLNG	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
	<p>building is occupied.</p> <p>h) The Owner/Applicant must meet with members of the community to test and determine that sound does not exceed generally accepted decibel levels as provided in the Somerville Noise Ordinance.</p> <p>i) The windows in the café and hall shall be covered during amplified events by acoustical absorbing material such as fabric covered (fire rated) fiberglass, mineral wool, etc. with a sound absorption coefficients in the .7 or higher range.</p>			
30	All signage dimensions, materials and proposed lighting, including the height of any proposed signs, must be submitted to the Inspectional Services Department prior to installation, to determine compliance with Article 12 of the SZO. Neon or internally illuminated signage must not be used at the site.	Sign Permit	ISD/ Plng	
31	The Applicant shall work with the immediate abutters to select the proper fencing and/or shrubs to install along the sides of the subject property. If needed, the fencing should be made of sound attenuating material and installed at a height that provides the neighbors with a reasonable amount of privacy, even if the fencing is higher than the maximum six feet (6') height of the SZO. The Applicant shall submit a plan indicating the location, elevation, and material of the proposed fencing to the Planning Staff for review.	CO	Plng	
32	The Applicant shall submit to the Planning Staff a detailed landscape plan for the area around the outdoor seating indicating the location and type of planting materials for review and approval. All landscaping on site shall be installed and maintained according to National Nurseryman's Standards.	Use of outdoor seating	ISD/ PLNG	
33	Audible and/or light alarm/buzzers will be placed in each unit within the building so that each space will be able to be individually contacted at the exterior entrance.	Met	PLNG	
34	All roof top mechanical equipment shall be screened for visual and sound impacts. The Applicant shall submit a plan indicating the location and elevation of roof top mechanical equipment and screening to Planning Staff for review.	11/1/12	PLNG	
35	The patio area shall be constructed of a pervious material that meets accessibility code requirements.	Construction of Patio	PLNG	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
Traffic and Parking				
36	All construction vehicles and equipment shall be located on-site or in the rear parking area, but not on the public right-of-way. If the Applicant requires on-street (including encumbrance of the sidewalk) workspace for the renovations, the Applicant shall seek the approval of the Traffic & Parking Department prior to occupancy of the street layout in any way. All on-street work zones shall conform to the Manual on Uniform Traffic Control Devices (MUTCD).	Construction	T&P	
37	The Applicant shall provide bicycle parking at the site. Bicycle parking shall be designed and located in consultation with the City's bike coordinator.	Met	Bike Co.	
38	Two parking spaces must be designated as parking spaces for the two third floor live work units.	Met	T&P	
39	For "at capacity" events, the Applicant/Owner or his/her designee must promote walking and public transit, and shall require that the Center for Arts at the Armory (Center), as well as the Center's successors and assigns, provided that the organization acquiring, merging with or being assigned rights by the Center remains a non-profit organization with advancement of the arts as the primary mission, and those renting the auditorium provide shuttle operations to the Armory from a public transit hub such as Davis Square. In order to encourage occupants of the building to walk, take public transit, ride-share, or use shuttle-buses; the Applicant must post a notice and provide flyers close to the main entrance of the building giving information on these alternative means of transport.	Cont.	PLNG	
40	Unused parking spaces (e.g. office parking spaces after office hours) must be made available for other users in order to reduce on-street parking impacts. Parking spaces should be clearly marked as to their uses (e.g. "Reserved for residents," "Reserved for office tenants 8AM – 6 PM").	CO/Cont.	T&P/ PLNG	
41	To ensure that parking spaces required for "at capacity" events are available, the Applicant/Owner must have written agreements with the office, art/craft work studios, and gallery employees that their parking spaces will be vacated one hour prior to an "at capacity" event in the general assembly area of the former drill hall. Any special events in any other spaces are also subject to this parking arrangement in order to help accommodate the	Cont.	PLNG	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
	anticipated occupancy.			
42	<p>Within six months of receiving an occupancy permit the Applicant must submit to the Planning Department and Traffic and Parking Department a report, prepared by a professional traffic engineer, that outlines the measures taken to comply with the traffic and parking related conditions attached to this approval. This report must include at a minimum details on the following:</p> <p>a) Periodic monitoring and recording of parking occupancy in the Armory parking lot for a period of six months after the Armory is fully operational.</p> <p>b) Turning movement counts at the Armory driveway during evening hours (5 PM to 8 PM) on two week nights without “at capacity” events and two week nights with “at capacity” events.</p> <p>c) Turning movement counts at the Armory driveway during evening hours (5 PM to 8 PM) on two weekend nights without “at capacity” events and two weekend nights with “at capacity” events.</p> <p>d) Monitor and record parking occupancy in the Armory parking lot, the Belmont Street parking lot, and on adjacent streets, for three “at capacity” events within the first six months of Armory operation. This also requires conducting a parking occupancy survey of the adjacent streets when there is no “at capacity” events in order to establish a baseline.</p>	11/1/12	T&P/ PLNG	
43	<p>Prior to the first “at capacity” event in the General Assembly space in the former Drill Hall, the Applicant/Owner must have his traffic engineer review the anticipated trip generation to determine whether the number, or the timing of the traffic demand, would affect traffic operations in the immediate area.</p> <p>Within six months of receiving an occupancy permit the Applicant must submit to the Planning Department and Traffic and Parking Department a Transportation Demand Management (TDM) plan, prepared by a professional traffic engineer that outlines the measures taken to reduce single occupancy vehicle trips to the site. This TDM plan should include, but not be limited to; car pooling/ride sharing, bicycle and pedestrian encouragement, mass transit subsidies for employees, shuttle bus services and zip car provisions. A similar TDM plan will then be required annually to ensure the Applicant is fulfilling his obligations to help offset on-street parking</p>	11/1/12	PLNG	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
	pressures that might be experienced in the neighborhood.			
44	Off street loading or unloading of goods adjacent to any abutting properties must not occur. The loading/unloading zone for the Armory is to be located on the street (Highland Avenue). Trucks shall be prohibited from idling on the property or on the street in front of the property. When not in use this loading zone shall serve as a 10-minute drop off parking area for anyone using the Armory building. Passenger drop-off is however encouraged to occur at the rear of the building, whenever possible. An Arts Program or building maintenance staff person will be present during events until the doors are locked after the events to ensure that the condition is met.	Cont	ISD/ T&P	
45	The operators of the performance hall will have 44 parking spaces on site with the existing mature tree buffer between the site and Hudson Street left intact. The operators will also maintain at least 40 spaces at a satellite lot available to them for events, with a signed lease to be the indication of said additional parking.	Cont	ISD	
46	The operators of the performance hall will provide appropriate signage and parking management with necessary personnel to manage parking and traffic at the entrance/exit during events. During "at capacity" events local area directional maps must also be provided to help direct people to the satellite parking locations. Also, to help ensure parking primarily for patrons, the operators will provide help such as commuter/bus passes, car pooling and other means, to keep employee parking free during "at capacity" events.	Cont Lease submitted to Planning.	ISD/ PLNG	
Construction Impacts				
47	Any damage to the public right-of-way caused by the renovation of the site shall be repaired or replaced by the Applicant (eg. sidewalks, signage, curbing, street trees), meeting the standards of the Traffic & Parking Department and Highway Department.	CO	DPW/ T&P	
48	Upon receipt of permits the Applicant/Owner shall provide neighbors with the following information; the construction schedule, and location of dumpsters and construction and equipment, and the hours of construction.	Met	Advisory Cmte.	
	Maintenance of the building, both inside and out, is	Met	ISD	



	Condition	Timeframe for Compliance	Verified (initial)	Notes
49	of the high concern. The owner shall therefore, prior to construction, install bait boxes and other devices on the interior and exterior to eliminate activity such as rats, roaches, bats and other animals. After construction a regularly scheduled pest control management program must be implemented to clean and treat for rats, mice, and other rodents.			
Public Safety				
50	A Certificate of Compliance for the building must be obtained from the Fire Prevention Bureau. The fire alarm system may need to be upgraded to provide a shut off to the audio system. The driveway from the street to the parking lot shall be marked with appropriate fire lane stripping and signage to prevent people from parking on it.	CO for inc number of occupants	FP	
51	Prior to the issuance of a Certificate of Occupancy for the café/performance space use the Owner/Applicant must receive all relevant licenses/certificates from the various City departments.	Met	Clerk	
52	Prior to the issuance of a Certificate of Occupancy for the café use the Owner/Applicant must submit to Traffic and Parking Department, Inspectional Services Department and the Planning Department, a description of the tenant and the number of employees.	Met	T&P/ ISD/ PLNG	
Final Signoff				
53	The Applicant is responsible for notifying the Planning Staff at least five (5) working days in advance of a request for a Certificate of Occupancy from Inspectional Services, in order to ensure that the conditions of this Special Permit have been met. Issuance of a C.O. shall be contingent upon a satisfactory inspection of site work by the Planning Staff to ensure consistency with the submitted proposal and with the conditions attached to this special permit approval.	Final signoff for a revised CO or a new alteration subject to additional review	PLNG	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Josh Safdie (Alt.)

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

