



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2013-67
Site: 235 Lowell Street
Date of Decision: January 22, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: January 23, 2014

ZBA DECISION

Applicant Name:	Edward Doherty
Applicant Address:	35 Doty Avenue, Danvers, MA 01923
Property Owner Name:	John A. Ternullo
Property Owner Address:	235 Lowell Street, Somerville, MA 02144
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, Edward Doherty, and Owner, John Ternullo, seek a Special Permit under SZO §7.11.1.c to construct six residential units; a Special Permit under SZO §4.4.1 to alter an existing nonconforming structure; a Variance under SZO §9.5.1.a for parking relief; and a Variance under SZO §9.9.b for a reduced driveway width. In addition, a Special Permit under SZO §9.13.b is also sought to modify parking design standards.

<u>Zoning District/Ward:</u>	RC zone/Ward 5
<u>Zoning Approval Sought:</u>	§7.11.1.c, §4.4.1, §9.5.1.a, §9.9.b & §9.13.b
<u>Date of Application:</u>	September 23, 2013
<u>Date(s) of Public Hearing:</u>	1/8 & 1/22/14
<u>Date of Decision:</u>	January 22, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2013-67 was opened before the Zoning Board of Appeals at Somerville City Hall on January 8, 2014. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L.



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c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to construct a residential development that will implement the soon to be released Magoun Square Station Area Plan, which recommends alternate zoning regulations that are more appropriate to a transit-oriented neighborhood. The development would be a three-story, six-unit residential structure with a footprint of approximately 2,500 square feet. Six parking spaces will be located at the rear of the parcel. Closing 43' of the existing curb cut along Lowell Street will add two additional on-street parking spaces to the neighborhood while still maintaining 12' of the existing curb cut for the one-way driveway use. The project will comply with maximum ground coverage at 45%, pervious area at 38%, a floor area ratio of 1.3 with a net floor area of 7,637 square feet, and a height of 39.9 feet. The landscape will continue to be non-conforming; however, the landscape will greatly improve from zero to 20% or 1,136 square feet. The driveway will be stamped concrete with a parking area composed of pavers and a two-story cantilever above the maneuvering aisle. There will be two 1-bedroom units and four 2-bedroom units, each with their own patio, balcony or roof deck, and storage for all six units will be located in the basement. Condensers are located on the rooftop while trash and bike parking are located within the parking area behind the structure. The exterior cladding will consist of metal siding and fiber cement clapboard with fixed casement and awning windows, metal trim, and metal screening for the balconies.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.1.c, §4.4.1 & §9.13.b):

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.

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."

Under SZO §7.11.1.c, a Special Permit is required in a Residence C district to construct 4-6 housing units. A portion of the existing concrete slab will be retained as the lot is undersized; therefore, a Special Permit is required to alter a non-conforming structure under SZO §4.4.1. A third Special Permit is required to alter parking design standards under SZO §9.13.b, but currently there are no compact spaces proposed. However, as the best circulation of the site has not yet been determined, spaces may be necessary to be compact.

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

Alterations to the existing non-conforming structure enable the use of the parcel to change from auto-oriented to residential. This use is more appropriate for the neighborhood than the existing use and is in accordance with the soon to be released Magoun Square Station Area Plan, which calls for a mix of residential and artist space, such as lofts or workspace.

In considering a Special Permit under §9.13 of the SZO, the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;



- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

If compact parking stalls were utilized, these would not cause detriment to the surrounding neighborhood as each residential unit would be provided with one dedicated parking space, two additional on-street parking spaces will be provided by closing up 43' of the existing curb cut along Lowell Street, and the use of compact parking spaces may help provide better site circulation. While the type and pattern of traffic will change, due to the change in use from service automotive to residential, the type of traffic would be more appropriate to the residential structures that predominantly surround the development. Traffic patterns will also likely change as the driveway will access the rear of the site during residential hours (in the morning and in the early evening) as opposed to business hours (8 a.m.-5 p.m.). Pedestrians will have safer access along the sidewalk and a more urban appropriate streetscape due to the reduced curb cut, the landscape wall and street lighting. However, the best circulation for the site has not yet been determined, which is necessary to ensure there is no increased traffic congestion or unsafe motor vehicle conflict.

Staff has been working with the Applicant for the proposed project as well as the Applicant of an adjacent parcel at 231 Lowell Street to devise a combined site plan. While 231 Lowell Street is not ready to be presented to the Board at this time, Staff continues to encourage both applicants to work together and devise a combined site plan that will help implement the Magoun Square Station Area Plan and create a better pedestrian experience. Due to the independent timeline for each project, they are not able to be presented together; however, Staff has added a condition that requires the subject Applicant to continue to work with Staff and the Applicant for 231 Lowell Street to devise a combined site plan that will address the current circulation concerns at 235 Lowell as well as general recommendations in accordance with the Magoun Square Station Area Plan.

Under SZO §9.5.1.a and §9.9.b, Variances are required for parking relief and a one-way driveway. See Section III for additional details.

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 promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City."

The proposal is consistent with the purpose of the Residence C district, §6.1.3, which is, "To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

The proposal is to construct a residential development that will implement the soon to be released Magoun Square Street Station Area Plan, which recommends alternate zoning regulations that are more appropriate to a transit-oriented neighborhood. This project will create additional housing near transit, a landscape wall with street lighting that will enhance the pedestrian quality of the streetscape, and two additional on-street parking spaces which will close up a majority of the existing curb cut and serve to increase the pedestrian quality of Lowell Street. Together, these improvements will enhance the neighborhood near the Magoun Square Green Line Station to be more pedestrian friendly and appropriate to a transit neighborhood.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1.



The subject proposal promotes traffic safety through on-site parking, additional on-street parking, and enhanced pedestrian safety through less pedestrian conflict. As the proposed use is more appropriate to the site, the carrying capacity of Lowell Street would become more efficient while the additional on-street parking would increase and be available to the larger community. Reducing the existing curb cut by more than 40' would also reduce the level of pedestrian hazard. The proposed use, as well as driveway, is considerate to the nearby residential structures. The proposal also includes bike parking spaces toward the rear of the lot.

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 parcel is located in a Residence C district between Highland Avenue and Medford Street, adjacent to the Visiting Nurses Association and, upon completion of the new Magoun Square Green Line Station, will be less than 500 feet from a transit station. The surrounding neighborhood is predominantly residential; however, some the surrounding structures on Lowell Street are similar auto oriented or commercial warehouse uses.

The use, site plan and building design will not be detrimental to the Lowell Street neighborhood and have been devised to be compatible with the built and unbuilt surrounding area. The proposed six-unit residential use is more appropriate for this corridor and adjacent residential neighborhood than the existing auto service use as the proposed structure is located closer to the sidewalk to create pedestrian interest in a transit-oriented area. The site plan provides for a one-way access drive, six on-site parking spaces, bike parking, and a trash area while closing up a majority of the existing curb cut to add on-street parking. The building design proposes hardy materials and a contextual building design that is compatible with the adjacent residential neighborhood, continues the Lowell streetwall, develops the character of the streetscape, and enhances the pedestrian quality of Lowell Street and the transit-oriented nature of this station area.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

The proposal would not result in an adverse impact on the surrounding area as the proposed use is more appropriate than the existing use and the site plan enhances the streetscape. The building design proposes quality materials and a contextual building design that is compatible with Lowell Street and the mix of auto, commercial and residential uses.

6. 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.

The subject proposal promotes traffic safety through on-site parking, additional on-street parking, and enhanced pedestrian safety through closing curb cuts and the addition of street lighting. The proposed use, as well as access drive and on-site parking, is considerate to the nearby residential structures. The proposal also includes bike parking spaces toward the rear of the lot.

The Traffic and Parking Assessment concludes that the development proposal would have an insignificant impact on the permitted parking supply for the surrounding area. Weekday mid-day, weekday evening, and Saturday midday hours show between 92 and 110 permit parking spaces available within approximately 500 feet of site. Census data indicates that nearly 50% of Lowell Street residents travel to work by alternate transportation modes. This is anticipated to increase with the coming transit line. The site is served by a four minute walk to bus routes 88 (Clarendon Hill to Lechmere Station) and 90 (Davis Square to Wellington Station). The development site is one mile from the Porter Square Transit Station and the Davis Square Transit Station. This project would have an



insignificant impact on the available parking supply due to the creation of six on-site parking spaces and six on-site bike parking spaces, proximity to existing bus transit and the future Green Line Station, current on-street parking availability, and additional on-street parking as a result of closing up a majority of the existing curb cut. While the added on-street parking does not reduce the need for parking relief, looking at these contributing factors together, the proposed redevelopment is expected to encourage and fit the lifestyle and goals of the local community and the City of Somerville. The on-site parking, additional on-street parking, proximity to public transit, mode choice precedent, and existing parking conditions illustrate that the proposal is appropriate for the site and will not be detrimental to this transit area nor the surrounding residential neighborhood.

FINDINGS FOR VARIANCE: (SZO §9.5.1.a & §9.9.b):

Under SZO §9.5.1.a, a Variance is required for parking relief. The project requires ten spaces for the residential use which includes one additional space for visitor parking, making the total requirement 10 spaces. Six parking spaces will be located on-site; therefore, relief for four spaces is necessary. A Variance is also required under SZO §9.9.b for a one-way driveway, as a two-way drive is required for driveways that serve parking for more than three dwelling units.

In order to grant a variance under the SZO for §9.5.1.a for parking relief and §9.9.b the SPGA must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”

The shape of the lot, due to being undersized in accordance with the SZO, is a special circumstance that does not affect other properties in the zoning district, but causes a hardship to the development of the subject parcel. This undersized parcel makes a Variance for space dedicated to vehicle storage and maneuverability necessary as dedicating additional space to parking and/or to create a two-way driveway significantly impacts the feasibility of this project. In order to maintain an appropriate amount of street frontage, which enhances the pedestrian quality of the streetscape, the width of the driveway cannot be increased. Similarly, the proposed structure has a two-story cantilever at the rear of the building to make this six-unit project feasible. Further reducing the building footprint to provide more than one parking space per unit will either reduce the number or size of units, neither of which will maintain the feasibility of this project.

2. “The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

The variances for parking relief and a one-way driveway use are the minimum necessary to grant reasonable relief of the parcel. Locating any additional parking on-site significantly reduces the footprint of the structure further, to a point where the project is no longer feasible for the Applicant. The best site circulation is still being determined due to the minimum variance being requested; however the site is able to function with six parking spaces. The one-way drive access is also the minimum relief necessary. A two-way drive reduces the building footprint so as to no longer be a viable project while eliminating the entire curbcut also, meaning there is no driveway, no longer produces a viable project as the six unit development must include one parking space per unit.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

Granting the requested Variances would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or detrimental to the public welfare. The proposal is in keeping with the soon to be released Magoun Square Station Area Plan and the SomerVision Comprehensive Plan in that while one space per residential unit is being provided, this is more than adequate for a neighborhood with a coming transit



station. In addition, due to the mode choice and proximity to existing transit as well as the Magoun Square Station, the one-way driveway will be adequate for six vehicles. Likely, due to the location of the development site, residents may not have a vehicle to store on-site and/or several of these vehicles will not enter/exit on a daily basis.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Variance. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. 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 for Special Permits to construct six residential units, to alter an existing nonconforming structure, and to modify parking design standards. Approval is also for Variances for parking relief and a reduced driveway width. This approval is based upon the following application materials and plans submitted by the Applicant:	BP/CO	ISD/PIng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(September 23, 2013)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 31, 2013</td> <td>Modified plans submitted to OSPCD (T1, Z1.1, Z1.2, A1.0, A1.1, A1.2, A1.3, A1.4, A2.1, A2.2, A2.3, & A2.4)</td> </tr> <tr> <td>July 23, 2013</td> <td>Plot plan submitted to OSPCD</td> </tr> <tr> <td>November 25, 2013</td> <td>Civil plans submitted to OSPCD (C-1, C-2, C-3, C-4, C-5, C-7, & C-8)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(September 23, 2013)	Initial application submitted to the City Clerk's Office	December 31, 2013	Modified plans submitted to OSPCD (T1, Z1.1, Z1.2, A1.0, A1.1, A1.2, A1.3, A1.4, A2.1, A2.2, A2.3, & A2.4)	July 23, 2013	Plot plan submitted to OSPCD	November 25, 2013	Civil plans submitted to OSPCD (C-1, C-2, C-3, C-4, C-5, C-7, & C-8)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
Pre-Construction														
2	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.											



3	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
Construction Impacts				
4	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.	
5	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
6	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
Design				
7	Applicant shall provide final material and color samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
8	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
Site				
9	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
10	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
11	New sidewalks along the entire 63' of frontage shall be installed by the Applicant in accordance with the specifications of the Highway Superintendent.	CO	Plng.	
12	All new driveway aprons shall be concrete.	CO	Plng.	
13	Applicant will screen the dumpster with fencing that blocks any view of the dumpster itself.	CO	Plng.	
14	Applicant will supply 6 bicycle parking spaces, which can be satisfied with U-type bicycle rack.	CO	Plng.	
15	Snow plowed from the development shall be limited to on-site storage.	Cont.	ISD.	



16	The Applicant shall strive to install three street trees in front of the development; however, dependent upon the species, there shall be no less than two trees installed.	CO	Plng.	
17	There shall be a landscape wall located along at the front of the parcel along Lowell Street, which should extend the length of the frontage, except for the driveway and entrance walk.	Co	Plng.	
18	The Applicant shall install four lights at the sidewalk; two shall be located at the end of the driveway and two shall be located at the sloped walk, atop the landscape wall. Each pair of lights shall have an illumination that sufficiently lights the sidewalk and be of a durable quality, subject to Staff approval.	CO	Plng.	
19	The Applicant shall be permitted to complete the site and circulation plan as shown. However, with Staff assistance and through coordination with the adjacent developer of 231 Lowell, the Applicant shall make best efforts to establish a more efficient and combined site plan that achieves the goals of the Magoun Square Station Area Plan as well as to provide better circulation and landscape design, while retaining the location and elevations of the 235 Lowell St structure. The combined site plan shall be subject to Staff review and approval, but if approved, the combined plan shall not require the Applicant to return to the Board.	Perpetual until 231 Lowell has a CO	Plng.	
20	The Applicant shall work with Staff and the 231 Lowell Street Applicant to determine if a transformer should be shared between both development projects. Any transformers should be located as not to impact the landscaped area and shall be fully screened.	Electrical permits & CO	Plng.	
Traffic & Parking				
21	Replenish all pavement markings on Lowell Street, between Medford Street and Highland Avenue, to Traffic and Parking standards.	CO	Traffic/Pkg.	
22	The Applicant shall submit a final site plan that includes circulation details for Staff approval prior to obtaining a building permit.	BP	Plng. & Traffic/Parking	
Public Safety				
23	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
24	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	CO	OSE/FP/BOH	
25	The suspected underground fuel tanks on this site must be removed under the supervision of the Fire Prevention Bureau. Permits will be required for these removals.	CO	FP	
26	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Final Sign-Off				



27	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	
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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Elaine Severino

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 _____

