



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2011-54
Site: 343, 345, 349 & 351 Summer Street
Date of Decision: December 7, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 9, 2011

ZBA DECISION

Applicant Name:	Strategic Capital Group, LLC
Applicant Address:	1264 Main Street, Waltham, MA 02451
Property Owner Name:	George Dilboy, VFW Post #529/The Dakota Partners, LLC
Property Owner Address:	371 Summer Street, Somerville, MA 02144
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, Strategic Capital Group, LLC and Owners George Dilboy VFW Post #529 and The Dakota Partners LLC, seek a Special Permit with Site Plan Review under SZO §7.3 and §7.11.1.c to establish a 31 unit residential use, a Special Permit under §7.11.5.B.6.a to establish an approximately 8,300 gross square foot private, non-profit club, a Special Permit with Site Plan Review under §7.11.11.10.b to establish a 15-space commercial parking lot, and a Special Permit under §9.13.b to modify parking design standards, in order to develop a new two to three story mixed-use building consisting of a VFW hall and 31 residential units as well as parking for commercial use and for on-site activities. CBD and RA zones. Ward 6.

<u>Zoning District/Ward:</u>	CBD & RA zones/Ward 6
<u>Zoning Approval Sought:</u>	§7.3, §7.11.1.c, §7.11.5.b.6.a, §7.11.11.10.b & §9.13.b
<u>Date of Application:</u>	June 30, 2011
<u>Date(s) of Public Hearing:</u>	8/3, 8/17, 8/24, 9/6, 9/7, 10/5, 10/19, 11/2 & 12/7/11
<u>Date of Decision:</u>	December 7, 2011
<u>Vote:</u>	4-1



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Appeal #ZBA 2011-54 was opened before the Zoning Board of Appeals at Somerville City Hall on August 3, 2011. 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 seven hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

General Description: The current proposal consists of one, mixed-use building on a single lot¹ that lies in two zoning districts. There would be a residential portion of the building that would be 2½ to 3 stories in height and include 29 residential units, and a two story high portion that would contain a new VFW Hall for the George F. Dilboy Post #529. The VFW Post portion of the building would contain approximately 8,300 square feet. There would also be underground parking for the structure totaling 45 spaces underneath the residential portion of the building, along with 30 surface spaces under the upper floors of the residential portion, and 33 more spaces in the open air to the east of the VFW Post portion of the building. The building would consist of wood-frame and masonry construction (Type 5A). The below-grade parking garage underneath the residential portion of the building would be concrete and steel, classified as a Type 2 construction.

1. Residential Portion: The Applicant proposes to construct a 2½ to 3-story, 29 unit residential portion of the building including an underground parking garage and first-floor at-grade parking in the back. Of the 29 units, 4 will be affordable in perpetuity under the City’s Inclusionary Housing Ordinance. Pursuant to the Affordable Housing Implementation Plan, the affordable units will consist of one studio, two 1-bedrooms, and one 2-bedroom.

The underground parking garage would have 45 parking spaces. The building would have a U-shape as the residential portion would wrap around and connect with the VFW Post portion of the proposed building. The building would use fiber-cement and solid cellular PVC materials. The main entrance would be clearly identified by a large modern canopy. The first-floor has fewer units, as the rear of the first floor would be a surface parking area that is accessible from the adjacent parking lot. Two first-floor units are proposed to have patios. The residential portion of the building would have the following breakdown of units by floor:

	Studio	1-Bedroom	2-Bedroom	Total
1st Floor	0	3	2	5
2nd Floor	1	1	10	12
3rd Floor	1	1	10	12
Total	2	5	22	29

Along the far side of the building, the structure slightly crosses the CBD zone line into the RA district. In this location, the building roof-line changes to a gambrel style roof, and the building becomes 2.5 stories so that it complies with height and story requirements of the RA district. A mansard style roof is continued around from the east portion of the residential portion of the building along the entire rear of the structure, and it also wraps around slightly to the west side of the building. In addition, bays are implemented onto the west façade of the residential portion of the building to help break up the façade and add interest.

The residential portion of the building would have 29 individual air condenser units located at the center of the roof, a minimum of ten feet from the roof edges. The Applicant has indicated that these would not be visible from the street because they will be shielded by the two-foot high parapet and will be tucked back from the

¹ Under the state zoning act, (per extensive case law interpreting MGL 40A Section 6) when two vacant adjacent parcels are held under the same ownership and are developed in a manner where a structure or structures need both lots in order to meet zoning requirements, these lots are merged for zoning purposes (even if they are not merged onto a single deed). Upon entering into this development, these lots would be merged for zoning purposes.



building edge. The Applicant proposes individual AC units, rather than a central AC unit, as a noise reduction strategy, i.e., when individual residents are not using their air conditioners, they will be turned off, as opposed to a large central system which would be operating continuously for most of the year.

There are no roof decks in the current proposal. Earlier proposals included roof decks that have been removed to address neighborhood concerns.

The residential portion of the building is equipped with an elevator and two stairwells. This portion of the building has 45 underground parking spaces, 22 of which are set in 11 tandem pairs. These spaces will be assigned as pairs to units seeking two parking spaces. The entrance to the underground residential parking area will be from a driveway located in the middle of the U-shape at the same location as an existing curb cut. The Applicant has indicated that bike storage will be provided for each unit at the back of each parking space, but this storage area is not presently indicated on the plans.

- G.F. Dilboy Post #529 Portion: The proposed George F. Dilboy Post #529 portion of the building would be two stories containing approximately 8,300 gross square feet of floor area. The proposed design connects the VFW Post portion of the building with the residential portion forming a U-shaped structure. The proposed VFW Post portion has a neo-colonial design. The front entrance of the Post portion of the building will face the surface parking spaces to the east of the building and a landscaped entry area around the current shaft. The asymmetrical alignment of the prominent front entrance adds a modern element to the design. The south façade of the VFW Post portion of the building that fronts directly onto Summer Street is proposed to be a War Memorial. The memorial wall will include five plaques representing each branch of the military service. The plaques will be bronze or a similar material and applied directly to the wall and framed with lattice work. This south façade will be setback from the sidewalk approximately six inches to allow for a bed of ivy to be planted along the base of the wall. The front entrance to the Post on the east side of the building is clearly marked by two columns that support an arched canopy over a landscaped patio. The façade on both sides of the front door would protrude slightly from the front face of the building maintaining the appearance of columns from the ground to the truncated turret above the main entrance. The balance of the construction material would be a panel block (Nichiha panel) for the first story and red brick for the top story. Other notable design elements include an oversized cornice throughout and double windows on the second story. The first floor will have trellises under the high windows on the east façade. The upper right corner of the building along Summer Street will include all mechanical equipment in an interior room, as evidenced by the louver panels that mimic windows on the front elevation above the War Memorial. These louvers will provide air intake and exhaust for the mechanical systems. Keeping these systems interior to the building will minimize visual and noise impacts for abutters in the neighborhood as well as occupants of the residential portion of building. A small notch is cut out of the Post portion of the building in the southwest corner to help provide better visibility of pedestrians to cars exiting from the underground parking garage. The Board and the Traffic and Parking Department feel this small notch is not sufficient enough for the necessary visibility and included a condition that the entire front façade of the Post portion of the building, including the notch, be set back an additional two feet from the Summer Street streetscape.

The first floor includes a 2,478± square foot function hall with a bar, men's restroom, women's restroom, a storage room, a kitchen, and the lobby.² First floor windows will be 7 feet above the ground for privacy. To reduce noise emanation, the only first floor windows are located on the east façade of the building away from the main hall. At 2 feet x 4 feet in dimension, they are quite small and will be inoperable. No first floor windows are proposed along the front, left side, or rear elevations which means that there will be no windows on any side of the main hall. Emergency exits are proposed on the east side and south façade of the building. An elevator and stairwell are located near the front entrance of the building south of the lobby.

The second floor includes an office, a bar, game area, men's and women's restrooms, card room and lounge, as well as storage and cooler areas and the mechanical room. The game area is located in the center and adjoins the

² The Board recommended that an interior trash/recycling storage area be provided on this floor.

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lounge area in the right center of the building. Windows on the east side of the second floor enter the office, lounge and mechanical area. Windows on the south side enter into the bar, while the card room has three small windows on the west side of the structure. There are no second floor windows on the rear elevation.

Windows on the first floor of the building will be inoperable, so as to limit noise escaping the building. Windows in the card room and 2nd floor bar are awning windows that only open slightly. Windows located on the east elevations, closest to the MBTA shaft will also be inoperable to help prevent the shaft exhaust from entering into the building³. The remaining windows are double-hung windows.

The proposed VFW Post portion of the building would offer the same activities as the existing Post at 371 Summer Street. The VFW Post has a license to operate until 1:00 AM. In 2009, the VFW Post hosted approximately 170 events. Most of these events had 80 guests or fewer, but attendance did range from 20 guests to over 100. Planning Staff has worked with the Post Commander and his Board to understand the occupancy limits and needs of the existing Post operations. To ensure that the operations in the new building do not exceed the extent of operations in the existing building, Planning Staff proposed, the Board concurred, and Post leadership agreed to condition any approval of this project on a similar level of activity to that of the current building, even if this is below legal occupancy for fire code. Upon review of the proposed plans, the Fire Department has determined that the total allowed occupancy for the 2009 version of the VFW Post building would be 355. Permitted occupancy on the first floor would be 180 and the second floor would be 175, and it is expected that a similar occupancy would be allowed in this current design, although the Fire Department will need to determine occupancy based upon their standards.

A neighbor has questioned the status of some of the licenses of the existing VFW Post. The Post requires a variety of licenses to operate its existing facility, and it is expected that the same licenses will be required for the new facility. A letter submitted on July 28, 2011 from an abutter indicated that that the existing VFW at 371 Summer Street does not have a valid entertainment license, may not have a common victualler license, and may lack appropriate fire inspection certificates. The City investigated these complaints, as well as a complaint that the existing commercial parking lot at 351 Summer Street (see #3 below) does not have a required license.⁴ While the Board is aware of these complaints and the related investigation of them, they do not directly impact the proposed uses and activities in the Special Permit application.

Staff has spoken with the City Clerk's Office regarding the licenses of the existing VFW Post and found that the existing Post has a valid Club License (# C-5) which permits them to serve alcoholic beverages, but does not have a victuallers license or entertainment license. But, the same is true of the other four Veterans Posts in Somerville (American Legion East Somerville Post 388, Inc., Somerville Post 19 American Legion Department of Massachusetts, Inc., Disabled American Vets of W.W., Chapter 27 of Somerville, Inc., and the Somerville, Memorial Post 447 The American Legion, Inc.). All only have Club Licenses. None of these Posts have entertainment or victuallers licenses.⁵ Planning Staff worked in conjunction with the Licensing Commission as the Applicant moved forward to acquire the necessary permits to operate the private, non-profit club, to ensure that the club received the license or licenses that are required to operate their facility.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §5.2.5):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

³ The Applicant indicated that this is the case, and it will be reflected in condition.

⁴ As has been reported in the press, the State Fire Marshall has determined that the existing Post must be closed until safety issues are addressed

⁵ The Post applied for victuallers and entertainment licenses in recent months.



1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits with Site Plan Review and 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 with site plan review.”

6.1.5. CBD - Central Business Districts.

All developments within the CBD district that require a Special Permit with Design Review or Special Permit with Site Plan Review should comply with the following guidelines to the highest degree practicable.

1. Across the primary street edge, the building should complete the streetwall.

The building completes the streetwall with an attractive building and a green edge along the sidewalk. Two curb cuts are proposed which is compliant with City regulations and is one fewer than the existing site.

2. At the street level, provide continuous storefronts or pedestrian arcade which shall house either retail occupancies, or service occupancies suitably designed for present or future retail use.

Ground floor retail use previously was considered by the Applicant but public comment at the first community meeting led to the elimination of the commercial component. Further, given the fact that the site is transitioning to a lower density portion of Summer Street and much of the opposite side of the street contains residential buildings, it is unlikely that ground floor retail in this area would be actively used.

3. Massing of the building should include articulation which will blend the building in with the surrounding district. At the fourth floor, a minimum five-foot deep setback is recommended.

The entire building has a ten-foot setback and the entire building has no fourth floor or roof deck.

4. Locate on-site, off-street parking either at the rear of the lot behind the building or below street level; parking should not abut the street edge of the parcel.

Off-street parking in the CBD is located in the rear of the building and an underground garage is provided.

5. Provide access to on-site, off-street parking from either a side street or alley. Where this is not possible, provide vehicular access through an opening in the street level facade of the building of a maximum twenty-five (25) feet in width.

Access to the underground parking garage is provided through a 28.2 ft wide ramp with a garage door. Access to the surface parking is provided by a single curbcut in the RA district.

3. Purpose of District: The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6”.

The proposal is consistent with the purposes of the districts, which are:

6.1.1. RA - Residence Districts: “To establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

6.1.5. CBD - Central Business Districts: “To preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the districts is to provide environments that are safe for and conducive to a high



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volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses.”

The project is a transit-oriented development in close proximity to the core of Davis Square, with a building along Summer Street that will activate the sidewalk and replace a parking lot and weed-filled lot with an attractive building along safe sidewalks and uses that can support the retail activity in the core of the square. It protects the RA zone by moving much of the development out of that zone except for ancillary activities and a small portion of the building. It provides a new option for housing near Davis Square, supports city-wide and regional smart growth policies and scales down from the taller buildings in the Square to the residential streets adjacent to the site.

4. Site and Area Compatibility: The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.

The proposal includes a building that will be within the existing built-out area around Davis Square, within ¼ mile of the MBTA station, and served by adequate services.

Davis Square has historically incorporated mid-rise residential buildings on corner lots and on the main streets that come in and out of the square. These buildings have peacefully co-existed with adjacent two- and three-family homes for many years. Within approximately one-half mile of the subject property are 7 long standing apartment buildings of four or more stories, which exceed the FAR and unit density of the proposed project and do not comply with off-street parking requirements. These buildings are among the earliest buildings in the neighborhood. The residential project is consistent with this site scale and massing, but meets current parking and bulk requirements.

The Dilboy Post has been a part of the Davis Square neighborhood for generations, and the new building would continue the use in a structure that complements the residential portion of the building and improves the streetscape along Summer Street.

5. Functional Design: The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”

The structure functions well as a residential and private club building. Each portion has required facilities and design features to meet their required functions. The Board recommended a condition to add an internal trash/recycling storage in the VFW Post portion of the building to limit any need for outdoor garbage storage.

6. Impact on Public Systems: The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”

The building meets required standards for public systems.

7. 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 proposed residential portion of the building will not result in any environmental impacts beyond activities that are typically associated with residential units. The impacts of the VFW Post portion of the building are not anticipated to be any different than the impacts of the existing location. But, to address the new location closer to the residential neighbors, the Board recommended a set of conditions to address noise impacts from the new structure. The Board also proposed conditions to address soil testing and review of the drainage documents. The Board recommended that the Applicant be required to provide a sound resistant construction, and that a tall fence with a sound barrier be placed along the rear lot line. On the east



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facade, the windows will not be operable. No other impacts from the VFW Post portion of the building are anticipated.

8. Consistency with Purposes: “Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”

The proposal is consistent with the general purposes of the Ordinance as set forth under Section 1.2, which includes, but is not limited to providing for and maintaining “the uniquely integrated structure of uses in the City, adequately protecting the natural environment (through green building design) and encouraging the most appropriate use of land throughout the City.” The project provides an accessible modern location for the Dilboy Post to continue to serve veterans, and the residential portion provides a transit-oriented design in a location close to the amenities of Davis Square and the MBTA station.

9. Preservation of Landform and Open Space: The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”

The proposal is consistent with the purpose of the Central Business District, which is, “[t]o preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the district is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses.” The project places the residential portion of the structure with a front-door on the street, locates residential parking underneath the building and all other parking behind the building, and provides an attractive façade along Summer Street that contributes to the pedestrian orientation of the street. The project replaces a surface parking lot that serves as an open gap in the urban streetscape with an attractive building. Where parking is exposed along the street, a landscape buffer is provided. The project provides a direct connection from the commercial parking to the Summer Street sidewalk. The project also widens the sidewalk along Summer Street.

The proposal is consistent with the purpose of the RA district, which is, “[t]o establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” Within the RA district, the project mainly includes uses accessory to the activities in the CBD, including parking, landscaping and a section of the residential portion of the building. This is as allowed in the SZO. The adjacent neighbors are buffered by a fence and landscaping. These activities provide a buffer from the more extensive activities in the CBD to the residential properties in the adjacent RA and RB districts. The shaft site benefits from limited development under this plan, protecting the nearby residences by shifting the intensity of development towards and into the CBD. Within the RA district a small portion of the residential section of the building with a gambrel style roof that is 2.5 stories tall, the typical size of other RA zoned structures.

10. Relation of Buildings to Environment: The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”

The project is located harmoniously with the surrounding features, placing an attractive building along Summer Street to replace surface parking and enhance the pedestrian experience. The project is buffered from the smaller adjacent residential structures with a significant rear yard setback along the entire property. The residential portion of the structure is lower than the adjacent Winter Hill Bank, and the height steps down with the two-



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story Post section of the building, and a 2.5 story corner and rear façade of the residential portion of the building behind the Post. Therefore, the project as a whole provides a reasonable balance to bridge the scale of Davis Square with the scale of the adjacent neighborhood. While the site allows for a four-story building comparable to Davis Square development, the Applicant is proposing three stories to transition from the intensity of the square to the quite neighborhood beyond.

11. Stormwater Drainage: The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and paved area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”

All stormwater will be retained on site. This will be a net improvement from the existing lot that sheet flows into the street.

12. Historic or Architectural Significance: The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”

There is no removal, alteration or other impact on historic properties on the site.

13. Enhancement of Appearance: The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”

The proposal replaces a surface parking lot and a vacant weed-filled lot with an attractive building along Summer Street. The proposal includes associated landscaping and buffers into the residential neighborhoods that will serve to reduce the impact of the development on adjacent structures. The Board recommended a fence and sound barrier along the rear property line. The combination of these design elements will enhance the natural character and appearance of the city. The project is also providing more than the minimum amount of required landscaping in both the RA and CBD districts. The minimum required percentage of landscaping in the RA district is 25% and 39.6% is provided. The minimum percentage in the CBD is 10% and the project provides 14.2%. Overall, the project has 24.6% landscaping over the entire project site.

14. Lighting: With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”

All lighting shall be directed downward to light the parking areas and site without spilling onto adjacent properties and the night sky. The Board recommended that the project be conditioned to ensure that this issue is addressed.



15. Emergency Access: The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”

Per review by the Fire Department, the site offers adequate access for emergency equipment. The project will be reviewed by the MBTA to ensure that the shaft is adequately protected and maintained.

16. Location of Access: The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”

Traffic design has been improved by the location of the two proposed driveways. Vehicular traffic will have access from a garage entrance in the residential portion of the building and single driveway entrance on Summer Street. The Traffic and Parking Department has approved this design.

17. Utility Service: The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”

All utilities will be underground.

18. Prevention of Adverse Impacts: The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development.”

The Applicant has taken care to address adverse impacts. The most significant potential impact - noise from the Dilboy Post - has been addressed through a proposed design established by a sound engineer. This plan will provide a double wall in the Post portion of the building, and a concrete ceiling on the first floor to keep sound from escaping that level. Sound at the property line is expected to be well below the level allowed in the noise ordinance and will be conditioned as such. Extensive operating conditions were recommended by the Board.

19. Signage: The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”

No outdoor signs are proposed with the exception of some simple wording on the entrance overhang to the VFW Post portion of the building. This proposed text that will be affixed to the overhang respects the scale and character of the proposed and existing buildings in the area.

20. Screening of Service Facilities: The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”

This has generally been addressed, but the Board recommended a condition to require internal trash storage for the Post portion of the building.

21. Screening of Parking: In cases of buildings on stilts, the parking area should be screened or partitioned off from the street by permanent structures except in the cases where the entrances to the parking area is directly off the street.

Surface parking is located under the residential portion of the building in the rear. This area is screened from the street by design, as the building meets the street in the front. Vehicle access to this area is along the side, behind the Post section of the building. This area is also screened by the design with limited openings along the



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rear and side of the structure. A pedestrian walkway along the side allows access to the commercial parking for pedestrians without exposing the parking along this side of the structure.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Scott Darling recused. 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 **4-1** to **APPROVE** the request with Danielle Evans voting in opposition. In addition the following conditions were attached:



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes																				
Application and Plans																								
1	<p>Approval is for the establishment of a 29 unit residential use, an approximately 8,300 gross square foot private, non-profit club, a 15-space commercial parking lot, and modification of parking design standards. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (OSPCD Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(June 30, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>July 9, 2009 (August 18, 2011)</td> <td>Existing Conditions Plan</td> </tr> <tr> <td>November 18, 2011 (November 18, 2011)</td> <td>Landscape Plan</td> </tr> <tr> <td>November 17, 2011 (November 18, 2011)</td> <td>Permit Layout and Grading Plan (C1) and Permit Utility Plan (C2)</td> </tr> <tr> <td>June 24, 2011 (November 18, 2011)</td> <td>Details Sheet 1 (C3) and Details Sheet 2 (C4)</td> </tr> <tr> <td>November 18, 2011 (November 18, 2011)</td> <td>Zoning Site Plan (AZ-010)</td> </tr> <tr> <td>November 18, 2011 (November 18, 2011)</td> <td>Floor Plans, Elevations, Perspective Views, and Shadow Studies (A-100 to A-104, A-300 to A-302, A-901, and A-904)</td> </tr> <tr> <td>(August 18, 2011)</td> <td>Construction Management Plan</td> </tr> <tr> <td>(December 1, 2011)</td> <td>Exhibit 3: Memorial Wall Design</td> </tr> </tbody> </table> <p>Any changes to the approved plans, elevations, or associated documents that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (OSPCD Stamp Date)	Submission	(June 30, 2011)	Initial application submitted to the City Clerk's Office	July 9, 2009 (August 18, 2011)	Existing Conditions Plan	November 18, 2011 (November 18, 2011)	Landscape Plan	November 17, 2011 (November 18, 2011)	Permit Layout and Grading Plan (C1) and Permit Utility Plan (C2)	June 24, 2011 (November 18, 2011)	Details Sheet 1 (C3) and Details Sheet 2 (C4)	November 18, 2011 (November 18, 2011)	Zoning Site Plan (AZ-010)	November 18, 2011 (November 18, 2011)	Floor Plans, Elevations, Perspective Views, and Shadow Studies (A-100 to A-104, A-300 to A-302, A-901, and A-904)	(August 18, 2011)	Construction Management Plan	(December 1, 2011)	Exhibit 3: Memorial Wall Design	BP/CO	ISD/PIng.	
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2	The Applicant shall properly protect and shall not disturb any street tree on Summer Street. Damaged or destroyed trees will be replaced as follows: 1) The Applicant shall replace the tree with a tree of similar size and caliper and a species chosen by DPW in the same location; and 2) the Applicant will be required to provide to DPW two additional street trees of a minimum 3 inch caliper and a species to be selected by OSPCD, for DPW to plant at a suitable location in Somerville.	During Const.	DPW	
3	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.) if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standards, including the approximately one (1) foot expansion of the sidewalk on the Applicant's property as shown on the plan.	During Const./CO	DPW	
4	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. Construction vehicle parking and staging shall be operated per the construction plan provided with the application.	During Const.	T&P	
5	The Applicant shall undertake appropriate rodent control measures. This should include baiting for rodents before the start of construction, and additional rodent baiting as needed in advance and while the project is ongoing. Baiting should occur on the property and in the neighborhood in the vicinity of the property. Additional baiting shall be required as deemed necessary by ISD.	BP – through construction	ISD	
6	The Applicant shall conduct a survey of foundations and buildings adjacent to the site and across Summer Street prior to construction, and shall address concerns about the impact on structures from project construction.	BP	ISD	
7	The Applicant shall identify an on-site owner project manager to be a primary point of contact from ISD for all questions or concerns about quality of construction. The project manager shall be available at all times during construction and at all inspections.	BP – through construction	ISD	
8	The Applicant shall provide to OSPCD for review and approval a temporary parking plan to provide adequate parking arrangements within the Davis Square area for events held at the current Post building during construction, which may include construction of the new Post parking prior to removal of the existing lot.	BP	Plng.	
9	Project must be designed to have only one (1) electrical service because it is one (1) building.	Electrical Permits & CO	Wiring Inspector	



Design				
10	The Applicant shall replace the entire sidewalk immediately abutting the subject property with a concrete sidewalk. All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. All sidewalks and driveway aprons shall be concrete. The sidewalk on Summer Street shall extend onto the private property as shown on the plan, and the Applicant shall agree to provide an easement for public use of this sidewalk extension.	CO	Plng.	
11	Trash and recycling storage for the Post shall be inside of the structure. The Applicant shall not move any trash or recycling to an outside location for any period of time except to empty it directly into a truck. Applicant shall provide adequate space and facilities both trash and recycling at the Post building.	BP/ Cont.	Plng.	
12	The location and design of transformers will be subject to review and approval of Planning Staff prior to installation and will be screened as allowed by NStar and the MBTA.	Electrical Permits & CO	ISD	
13	All on-site lighting shall be downward directed and shall not illuminate adjacent residential parcels or the night sky.	CO/Cont.	Plng.	
14	There shall be no roof deck or general roof access on the residential portion of the building, except to provide for maintenance of the roof and associated mechanical equipment.	CO/Cont.	ISD	
15	If the Applicant chooses to use a fence and gate system along the front setback where the VFW parking lot meets Summer Street, the system design and materials shall be subject to review and approval of Planning Staff.	CO	Plng.	
16	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards. The landscape plan shall require final review by OSPCD. All trees that are to be installed at the site shall have a minimum of a 3 inch caliper.	CO/Cont.	Plng./ ISD	
17	At the request of the ZBA, the Applicant shall install an eight (8) foot high wood fence along the rear of the property line with a design to be approved by Planning Staff.	CO	Plng.	
18	The Applicant shall install professionally designed sound mitigation on the parking lot side of the rear fence. This shall be in the form of an acoustic fence or fence attachment. The Planning Director shall approve the specifications prior to installation.	CO	Plng.	
19	Applicant shall maintain and provide snow removal along the walkway between the parking lot and Summer Street along the left elevation of the residential portion of the structure to provide shortest access to Davis Square.	Cont.	ISD	



20	Any utility units on top of the residential portion of the building shall not be visible from on top of the building parapet at the street or from the 2 nd story elevation of surrounding properties, shall be set back a minimum of ten (10) feet from all sides of the building and shall be designed as individual systems for each unit.	CO	Plng.	
21	The Applicant shall specify the design and materials for the louvers on the front (south) elevation of the Post portion of the building and provide this design to Planning Staff for review and approval.	BP	Plng.	
22	The Post portion of the building shall be designed with the sound-resistant wall system in the function hall that was presented to the Planning Staff in the sound engineer's September 2010 memo and concrete between the first and second floor to reduce sound impacts outside the building.	BP	ISD	
23	The Applicant shall setback the entire wall of the Post portion of the building that parallels Summer Street two (2) feet, including the notch, from what is shown on the plans submitted on November 18, 2011 to provide adequate visibility for cars exiting the underground parking garage. Updated plans showing the design of the landscape/hardscape of the 2 foot area shall be provided to Planning Staff for review and approval.	BP	Plng.	
24	The Applicant shall present material and color samples for all siding, trim, windows, mansard roof elements, doors, railings, stairways, walkways, and other elements of the building and hardscape to the Design Review Committee for review and comment and for Planning Staff final approval.	BP	Plng.	
Public Safety				
25	Separate, code compliant, fire alarm systems and sprinkler systems shall be installed in the both the residential section and the VFW Post section of the building. Additionally, each system shall contain a radio master box.	CO	FP	
26	A Class 1 Stand Pipe System shall be installed in the residential portion of the building.	CO	FP	
27	In the landscaped area at the rear of the property, eight (8) feet of vegetative clearance from the rear of the building shall be maintained to allow the Fire Department to walk and carry equipment behind the building.	CO	FP	
28	If a fence is erected along the rear of the parking lot that prevents access to the rear of the building, that fence shall have a gate of sufficient size and be approved by Fire Prevention.	CO	FP	
29	Signage shall be posted along the twenty (20) foot wide parking lot driveway from Summer Street to the residential portion of the building to ensure the driveway is kept clear of parked vehicles. Signs shall be placed at locations along the length of this driveway to be seen from any point, subject to the approval of Fire Prevention, and shall read "Driveway Must Be Kept Clear For Emergency Vehicles".	CO	FP	



30	The Applicant shall provide written notification from the MBTA that the proposed design raises no concerns for operation of the shaft and emergency exit stairs. Any substantive modifications to the design (those not deemed de minimis) to address MBTA concerns must be approved by the ZBA, per the SZO.	BP	ISD	
Affordable Housing				
31	The Applicant shall complete an Affordable Housing Implementation Plan (AHIP). Affordable units shall be provided on-site. Four (4) affordable units shall be provided.	Prior to vote on SPSR	SPGA/ Housing	
32	Written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the Housing Department before the issuance of a Certificate of Occupancy (C.O.).	CO	Housing	
33	Units # 13 and # 14 as indicated on the approved plans shall NOT be permitted to be designated as any of the affordable units for the project.	CO	Housing	
Traffic and Parking				
34	Bike racks shall be provided as shown by the shaft. Bike rack design shall be subject to review and approval of Planning Staff. No bike racks shall be provided in the rear landscape area.	CO	Plng.	
35	Snow plowed from the development shall be limited to the on-site storage area as shown in plan, and any snow unable to be stored in the storage area shall be removed from the site within 48 hours of the conclusion of a snowstorm.	Cont.	ISD	
36	The Applicant shall identify one (1) parking space in the surface lot to be permanently dedicated to the use of a car share program. To encourage reduced automobile dependence, the Applicant shall be required to offer new buyers either a one-year MBTA pass or one-year shared car membership upon purchasing a residential unit.	Cont.	Plng.	
37	All parking spaces shall be clearly labeled as to their purpose. Residential visitor spaces shall not be used for commercial parking or for VFW Post events. The fifteen (15) spaces used for commercial parking shall be clearly labeled and identified. Tandem parking spaces in the garage shall be deeded as a pair to a residential unit and shall not be divided so that one tandem space is owned or used by a different unit than the other tandem space.	Cont.	ISD	
38	Bike storage/parking shall be provided for each unit on the wall behind the unit's assigned parking space.	Cont.	ISD	
Environmental				
39	The peer review consultant, Nangle Consulting Associates, Inc., shall be retained by the City to monitor the on-site environmental work by the Applicant. The Applicant shall incur and pay all costs associated with the peer review consultant's work.	Prior to Building Permit	Plng.	



40	The Applicant shall develop a work plan that includes all of Nangle Consulting Associates' work plan task recommendations and that work plan shall be reviewed by Planning Staff and Nangle Consulting Associates to ensure that it meets the intent of Nangle Consulting Associates' recommendation.	BP	Plng.	
41	The Applicant shall complete all of the work plan tasks as identified in the work plan in Condition # 40.	BP	Plng.	
42	Nangle Consulting Associates shall monitor all on-site testing, report how that testing remains compliant with the work plan, and shall review all test results. Test results and the Nangle Consulting reports shall be submitted to Planning Staff.	BP	Plng.	
43	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, the Board of Health, and Nangle Consulting Associates, Inc. shall also be notified. The Applicant shall continue to provide copies of all environmental reports regarding soil and groundwater conditions to the Planning Staff upon their completion.	CO	OSE/FP/ BOH	
44	The Applicant shall submit to Planning Staff their submittal for LEED certification for the residential portion of the building and energy star certification for the building.	CO	Plng.	
45	A drainage report shall be prepared by the Applicant and submitted to the City Engineer for review.	BP	Eng.	
46	The Applicant shall complete soil testing for drainage at the site. Testing shall be conducted at the proposed location for the infiltration system. Soil analysis shall be completed using methods outlined and approved within the Massachusetts Stormwater Regulations. Results shall be provided to the City Engineer's office for review. Should soil conditions vary from those assumed in the drainage report, a revised drainage plan and report will be required prior to issuance of a foundation or building permit.	BP	Eng.	
47	Lot drainage shall also be reviewed by MBTA Engineers to ensure that there is no impact on the MBTA shaft and tunnels. Evidence of the MBTA Engineers review shall be provided to the City Engineer.	BP	Eng.	
Site Operations				
48	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
Post Operations				



49	The VFW Post use shall be restricted to members, auxiliary members and guests of members. The second floor of the building shall be private members quarters. Sponsored events including non-members are not allowed on the second floor.	Cont.	ISD	
50	Sponsored events are allowed in the first floor hall, but all events shall be sponsored by the VFW Post or one of its members.	Cont.	ISD	
51	No events shall continue past 1:00 AM Friday, Saturday and Sunday nights and 12:00 AM Monday through Thursday nights.	Cont.	ISD	
52	The VFW Post shall only have one event in the hall, whether post sponsored, member sponsored or community service, occurring at any given time.	Cont.	ISD	
53	The occupant load for the first floor of the VFW Post shall not exceed the seated capacity of the largest room in the current VFW Post building (125 with tables and chairs), except that four events per year may reach the standing capacity of the largest room (190).	Cont.	ISD	
54	The VFW Post shall make best efforts to maintain the existing 50/50 split between community service and post or member sponsored events.	Cont.	ISD	
55	The average number of guests per event in 2009 was approximately 80. In future years, the VFW Post shall make best efforts to adhere to this average number of guests per event over the course of a year.	Cont.	ISD	
56	Amplified performance music within the VFW Post shall only be ancillary to other events (i.e. DJ or band for a reception). No amplified music concerts shall be allowed.	Cont.	ISD	
57	An acoustical engineer shall design the wall systems of the Post building to assure compliance with the Somerville noise ordinance. The wall system shall at a minimum include the elements described in Exhibit D – updated, as attached to the supplemental information memo and dated September 24, 2010. The Applicant or VFW Post shall survey the noise outside of the building for the first three amplified performances to measure sound levels at predetermined locations and to submit a report to OSPCD. If complaints are received, the Applicant shall retain the acoustical consultant for further sound study as required by OSPCD. Sound measurements shall not exceed levels set by the Somerville Noise Control Ordinance.	BP/ Cont.	ISD / Plng.	
58	There shall be no amplification at any time in any room on the second floor of the building.	Cont.	ISD	
59	Security cameras shall be installed in both VFW Post parking lots and entry areas and connected with the central security system within the Post building. Cameras shall record activity in the lots and entry areas. Recordings shall be maintained for a minimum period of 7 days and upon request made available to the Somerville Police Department.	Cont.	ISD	



60	The alcohol within the VFW building shall remain in locked cabinets when a bartender is not at the bar. The first floor function area shall remain locked when functions are not underway or being set up or cleaned up.	Cont.	ISD	
61	The VFW Post shall secure the required license for any commercial parking in the lot. The commercial parking license for the VFW Post shall not exceed 15 vehicles.	Cont.	ISD	
62	The commercial parking area, if approved, shall only operate between the hours of 6:00 AM and 6:00 PM. All vehicles that rent space to park in this facility must vacate by 6:00 PM allowing all VFW Post spaces to be used for event parking.	Cont.	ISD	
63	When events are expected to have greater than 100 patrons the VFW shall request a police detail or private security detail.	Cont.	ISD	
64	The first-floor windows in the Post portion of the building shall not be operable.	Cont.	ISD	
65	The Applicant shall work with the owner at 353 Summer Street to provide legal access from the rear egress door to Summer Street. The Applicant shall provide a permanent easement across his property from the abutter's door to Summer Street.	BP/Cont.	ISD	
66	The Post shall inform patrons that loitering in the parking area is strictly prohibited. The Post shall be responsible for clearing any visitors and their vehicles from the parking area 30 minutes after the conclusion of any event.	Cont.	ISD	
67	The courtyard area to the east of the Post portion of the building shall be a passive landscaped area, and shall only be used for small gatherings. No outdoor Post events are allowed, and no events, setup for events, storage of equipment or any other organized activity or use is allowed in this area or any other outdoor area on the lot.	Cont.	ISD	
Zoning Compliance				
68	Construction shall commence within two years of the end of the appeal period of this application but may be tolled for a time period during which an appeal is active. No additional extensions shall be allowed unless granted by the ZBA. The Applicant shall construct the building in an expeditious manner, and shall not allow more than one year to elapse between completion of either the residential or commercial portion of the structure and the start of construction of the other portion of the structure.	-	Plng.	
69	The Applicant shall establish adequate parking for any future use of the existing Post building at 371 Summer Street, and shall not use the site as a function facility. Upon completion of the new Post, the Post shall surrender the Certificate of Occupancy on the current Post site, and shall establish through a covenant with the City that any use requiring more than fifteen parking spaces shall seek relief from parking requirements through the appropriate permit granting authorities.	CO	Plng.	



70	Per this approval, the lots at 343, 345, 349, and 351 Summer Street shall become permanently merged for zoning purposes upon the closing combining these lots No building permit shall be issued until the Applicant provides evidence that all land is in common control. The Applicant shall establish a deed restriction indicating that the parcels cannot be sold independently and the control of the land shall remain with a single legal entity. This restriction shall be reviewed and approved by the Law Office and OSPCD.	BP/Cont.	Plng.	
Final Review				
71	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.	
72	The Applicant shall submit updated project plans to Planning Staff to correct labeling and non-represented doorway errors.	BP	Plng.	
73	Gas and electrical meters for the project shall be installed on the rear wall of the garage.	CO	Plng.	
74	Gas, electrical, or other utility meters for the project shall not be visible from the street.	CO	Plng.	
75	Electrical equipment for the project shall be located in the mechanical room of the basement, adjacent to the elevator machine room.	CO	Plng.	
76	Mailboxes for the residential units shall be located in the front vestibule of the residential portion of the building, recessed into the wall.	CO	Plng.	



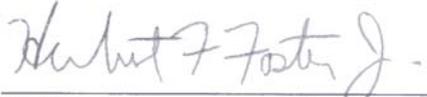
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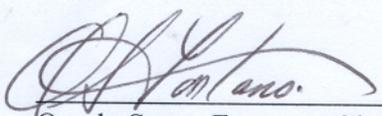


Attest, by the Zoning Board of Appeals:

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



Herbert F. Foster, Jr., Chairman



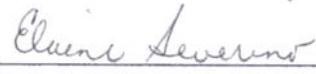
Orsola Susan Fontano, Clerk



Richard Rossetti



Danielle Evans



Elaine Severino, (Alt.)

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.



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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 _____



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