



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***

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DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2010-58**  
**Site: 26 Weston Avenue**  
**Date of Decision: December 15, 2010**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: December 22, 2010**

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**ZBA DECISION**

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<b>Applicant Name:</b>	26 Weston Avenue Devco, LLC.
<b>Applicant Address:</b>	477 Concord Avenue, Cambridge, MA 02138
<b>Property Owner Name:</b>	Reune, Inc.
<b>Property Owner Address:</b>	26 Weston Avenue, Somerville, MA 02143
<b>Agent Name:</b>	Terrence P. Morris, Esq.
<b>Agent Address:</b>	57 Elm Road, Newton, MA 02460-2144

<u>Legal Notice:</u>	Applicant 26 Weston Avenue Dev Co LLC & Owner Reune, Inc. seek a special permit with site plan review (SZO §5.2) to allow the construction of a 17 unit multi-family dwelling with required affordable housing component (per SZO §7.3), and a special permit to use tandem parking spaces to meet parking requirements and provide a reduction in on-site visitor parking spaces (SZO §9.13).
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<u>Zoning District/Ward:</u>	RB zone/Ward 7
<u>Zoning Approval Sought:</u>	§5.2, §7.3 & §9.13
<u>Date of Application:</u>	September 28, 2010
<u>Date(s) of Public Hearing:</u>	12/1 & 12/15/10
<u>Date of Decision:</u>	December 15, 2010
<u>Vote:</u>	4-0

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Appeal #ZBA 2010-58 was opened before the Zoning Board of Appeals at Somerville City Hall on December 1, 2010. 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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## **DESCRIPTION:**

The applicant is proposing to demolish the existing commercial structure and replace it with seventeen (17) units of housing. Eleven (11) of the units are generally in a townhouse style, although they do not have party walls that run from top to bottom. The remainder of the units are stacked flats in a three-story configuration at the point where Weston Avenue turns a corner. In general, the project is designed to reflect the design of the Weston Manor Condominiums across the street.

Parking is provided on the site with 22 spaces underground in tandem garage spaces thereby providing two spaces for each of the eleven townhouse units and eight surface parking spaces to provide parking for the six other units. Two of the eight surface spaces are for handicap parking and it is expected that the other six will be assigned to the six flats in the center of the building. The project does not provide the required on-site visitor parking spaces and therefore needs relief from this requirement. The applicant seeks relief from the visitor parking requirement. Instead of providing visitor spaces on-site, the applicant proposes to use parking across the street at Weston View Condominiums by modifying the agreement that was established in 2000. However, since no SZO provision allows an applicant to use parking across the street to meet on-site parking requirements, the applicant is seeking a straight waiver of the visitor parking requirements, but expects this waiver to be conditional upon providing the off-site spaces. The applicant is working to secure an agreement with Weston View Condominiums that will specify the number of spaces and circumstances under which they will be used to meet parking needs for Weston Manor.

Two dwelling units have been identified by the OSPCD Housing Division, with agreement from the development team, to be designated as affordable housing. Payment will be made for the additional 1/8 of a unit required.

## **FINDINGS FOR SPECIAL PERMIT (SZO §5.2.5):**

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

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.
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."

§5.2.4 of the SZO provides design guidelines for developments within residential zones seeking a special permit with site plan review. This section of the report goes through the various design guidelines to determine the compatibility of the proposed project.

1. *"Buildings should be generally of the same size and proportions as those that exist in the neighborhood".* The new building proposed takes many design elements, including size, massing and scale, from the townhouse building directly across the street. While this is not a typical design in Somerville, it has worked well across the street and mirroring it will help complete this streetscape.
2. *"Use of traditional and natural materials is strongly encouraged".* The applicant has not identified a material to be used on the proposed buildings. Cedar or cementitious siding would be acceptable as it is visually consistent with the neighborhood. Staff recommends a condition to address siding.
3. *"Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines, etc".* The existing structure is an industrial building that will be demolished.



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4. *"Additions should not clash with the existing structure, but it is desirable for new construction to be distinguishable from existing buildings."* The existing structure will be demolished.
5. *"New infill building construction should share the same orientation to the street as is common in the neighborhood."* The new townhouses are essentially the same style and design as buildings directly across the street. While the buildings across the street are not otherwise typical in the neighborhood, the development of townhouses on this site will allow Weston Avenue to have a residential character that is completed by having similar buildings facing each other.
6. *"Driveways should be kept to minimal width (perhaps 12 ft)".* The two-way driveway is 18 feet wide, which is adequate to support the 30 parking spaces that are accessed from the driveway.
7. *"Transformers and HVAC systems should be located so they are not visible from the street or screened."* HVAC units are provided in two locations on the roof of the structure and are screened by the angle of the roof. Staff recommends a condition to address location of transformers.
8. *"Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within".*  
The subject property is located within a RB zoning district. Guidelines set forth under Article 6 of the Ordinance are addressed below.

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 conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City. The project is located in a Residence B (RB) zoning district. The RB district seeks "to establish and preserve medium density neighborhoods of one, two and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."

The Board finds that the residential nature of the development is consistent with the predominantly residential character of the surrounding neighborhood. There are several multi-unit structures in the area including the townhouse development directly across the street, a new development on Broadway that shares a rear lot line with the project, and a mid-rise structure owned by the Somerville Housing Authority. The townhouse-style design is therefore consistent with the neighborhood.

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 project is compatible with the characteristics of the area. The project is very similar to the project directly across the street. The proposal will open up more green space and provide more space between buildings than is provided by the current industrial property on the site. It provides front yards on Weston Avenue opposite similar townhouses on the other side of the street.

5. Impact on Public Systems: The development will not create adverse impacts on the public services and facilities serving the development.

The applicant has stated that drywells will be installed in the parking lot in the rear to secure storm water on-site and enable the run-off to seep into the ground. Landscaping planted around the parking lot and building will capture the storm water that does not flow to the catch basins. The overall site will have less lot coverage and more pervious



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surface than the existing condition. Impact on other public services is minimal, and the project creates no additional traffic delay in the neighborhood.

6. Environmental Impacts: The development will not create adverse environmental impacts.

The residential nature of the proposal would not create adverse environmental impacts. Total pervious area on the site will be increased.

7. Functional Design: The development meets accepted standards and criteria for the functional design of facilities, structures, and site construction.

As conditioned the development meets functional design standards.

8. Historic or architectural significance: With respect to Somerville's heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable.

The existing structure has stood for some time, but it is a utilitarian one-story industrial structure that does not contribute significantly to the historic nature of the neighborhood. The proposed project does not create adverse impacts on other older buildings in the vicinity.

9. 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. Stormwater shall be removed from all roofs, canopies, and powered area, and routed through a well-engineered system designed with appropriate stormwater 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."

While additional review is required of drainage plans, any approval of the SPSR should be conditional upon the City Engineer's approval of such plans and determination that no adverse impact will result to the drainage system from the project's design. It should be noted that underwater stormwater storage will be provided, and that total impervious area on the site will be decreased through this redevelopment. The applicant has completed a drainage plan and submitted it to the Planning and Engineering divisions for review.

10. 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 applicant has proposed a landscaping plan that will use a combination of trees and shrubs to screen the proposed structure from the street and the neighbors to the front, side and rear of the project. Conditions are recommended to maximize the quality and impact of the landscaping and work to match the landscape design of the project across Weston Avenue.

11. 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;"



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The Fire Prevention Bureau is reviewing the proposal. Emergency access is similar to the design of the structure across Weston Avenue, with accessible frontage along the street and additional access through a rear driveway.

12. 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."

The Applicant is proposing to tie into the existing services for electric, telephone and cable. Any new lines would be placed underground in accordance with the SZO and the policies of the Superintendent of Lights and Lines.

13. 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;"

No such impacts are anticipated. The project will replace an industrial structure in a residential neighborhood with a residential development.

14. 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."

Any exposed dumpster or transformer must be located in areas that are not visible from the street and surrounding structures so as to allow for full screening. The applicant has identified a location for transformers, along the side lot line.

15. Parking under SZO 9.13: SZO §9.13 provides required findings for modification of parking. The applicant is proposing using tandem parking spaces for individual units in the basement level of 11 units and waiving the requirement for three on-site visitor spaces. The applicant is proposing to provide visitor parking in the parking lot directly across Weston Avenue.

*The SPGA may grant such a special permit only when:*

1. *Consistent with the purposes set forth in Section 9.1:* OSPCD Staff finds that the tandem parking has worked successfully in the condo complex across the street from the proposed development. Staff also finds that the off-site visitor parking provides no significant inconvenience that is inconsistent with the intent of the parking regulations.
2. *Upon reaching findings and determinations set forth in 5.1.4:* As outlined in the remainder of this section of the staff report, staff finds that the project is consistent with the findings and determinations of Section 5.1.4.
3. *Upon determination that the relief does not cause detriment to the surrounding neighborhood through any of the following applicable criteria: 1) increases in traffic volumes; 2) increased traffic congestion or queuing of vehicles; 3) change in the type of traffic; 4) change in traffic patterns and access to the site; 5) reduction in on-street parking; and 6) unsafe conflict of motor vehicle and pedestrian traffic:* The staff finds that the modified parking will not cause detriment to the neighborhood through any of the criteria.



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**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Richard Rossetti made a motion to approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
Application and Plans				



1	Approval is for the construction of a seventeen-unit building, with associated parking.	BP/CO	Plng.																			
	This approval is based upon the following application materials and the plans submitted by the Applicant:																					
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>10/7/10</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>10/7/10 (Layout/Grading updated 11/30/10) (STAMPED 12/15/10)</td><td>Engineering plans 1 of 4 through 4 of 4. (Layout/Grading, Utility, Detail Sheets 1 and 2)</td></tr><tr><td>8/24/10 (12/15/10)</td><td>Existing Condition Plan</td></tr><tr><td>10/6/10 (12/15/10)</td><td>Initial Plans: A-000, L-1, Plant Palette (2 sheets) , A-001, A-100 to A-108) (superseded as noted below)</td></tr><tr><td>10/2010</td><td>Traffic Analysis</td></tr><tr><td>11/29/10 (12/1/10)</td><td>Construction Management Plan</td></tr><tr><td>11/12/10 (12/15/10)</td><td>Drainage Plan</td></tr><tr><td>11/16/10 (12/15/10)</td><td>Plans submitted to OSPCD with updated after DRC meeting (A-000, L-1, Plant Palette (2 sheets) , A-001, A-100 to A-108)</td></tr></table>				Date (Stamp Date)	Submission	10/7/10	Initial application submitted to the City Clerk’s Office	10/7/10 (Layout/Grading updated 11/30/10) (STAMPED 12/15/10)	Engineering plans 1 of 4 through 4 of 4. (Layout/Grading, Utility, Detail Sheets 1 and 2)	8/24/10 (12/15/10)	Existing Condition Plan	10/6/10 (12/15/10)	Initial Plans: A-000, L-1, Plant Palette (2 sheets) , A-001, A-100 to A-108) (superseded as noted below)	10/2010	Traffic Analysis	11/29/10 (12/1/10)	Construction Management Plan	11/12/10 (12/15/10)	Drainage Plan	11/16/10 (12/15/10)	Plans submitted to OSPCD with updated after DRC meeting (A-000, L-1, Plant Palette (2 sheets) , A-001, A-100 to A-108)
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Any changes to the approved use or elevations that are not <i>de minimis</i> must receive ZBA approval.																						





2	The applicant's drainage report must establish how the drainage design meets the city's zoning regulations with respect to storm drainage. Also, an "Inspection and Maintenance" plan for the drainage system must meet the needs of the City Engineer. The report must be prepared and stamped by a registered professional civil engineer, and be reviewed and approved by the City Engineer.	BP	Eng.	
<b>Traffic and Parking</b>				
3	The applicant shall re-label all of the parking spaces under their control in the lot at Weston View Condominiums, indicating that at least three spaces will be used for visitors to 26 Weston Avenue, removing time restrictions for Weston View visitors to use the spaces with current time limits, and providing other parking arrangements as may be agreed upon between the parties. The parking space signage shall be subject to review and approval by Planning Staff	BP	Plng	
4	The applicant shall provide OSPCD with a deed showing transfer of both the REUNE property and the rights for at least three parking spaces in the Weston View lot to the same entity, and they shall remain under the same ownership.	BP	Plng.	
5	Three spaces in the off-site lot shall be labeled for visitors and shall not be assigned or deeded to individual units in the 26 Weston Avenue development.	BP	Plng.	
6	The applicant shall mark out parking along Weston Avenue across from Weston Manor as shown on the Layout and Grading Plan updated 11/30/10. This parking shall be available to visitors for 26 Weston and/or Weston Manor under agreement that must subsequently be reviewed and approved by Planning Staff.	BP	Plng./ Eng.	
<b>Impacts of Completed Project</b>				
7	Applicant shall update the plan, indicating screening of the outdoor dumpster with wood fencing that blocks any view of the dumpster itself. The dumpster screening shall be subject to review and approval of Planning staff.	CO	Plng.	
8	Any exposed transformers should be located in areas that are not visible from the street and surrounded with landscaping. Transformer location shall be submitted to Planning for Review and approval.	Electrical permits & CO	Plng.	
9	Any fencing installed shall not be chain link or vinyl.	CO	Plng.	





10	Applicant shall supply a minimum of four bicycle parking spaces, which could be satisfied with two u-type bicycle racks. Location of bike parking shall be subject to review and approval by planning staff.	CO	Plng.	
11	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	
<b>Construction Impacts</b>				
12	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 meet DPW standards.	CO	DPW	
13	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	
14	The applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
15	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any discovery of hazardous materials, or regulated hazardous substances at the site. The City's OSE office and the Board of Health shall also be notified.	CO	Housing	
16	To the maximum extent feasible applicant will utilize strategies during construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program for the removed debris.	During Construction	OSE/ISD	
17	The applicant shall comply with the provisions of the construction management plan submitted to OSPCD on, and stamped, December 1, 2010.	During Construction	ISD	



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18	The applicant shall maintain a sidewalk clear, clean, and free of obstruction between Weston Manor and Broadway during the construction process to allow convenient pedestrian access from the Somerville Housing Authority property to the bus stop.	During Construction	T&P	
<b>Quality of Design</b>				
19	The applicant shall construct the concrete sidewalk on Weston Avenue using the same materials and size standards used at Weston View on the opposite side of the street. Applicant shall provide accessible ramps to the sidewalk at the driveway edge and by the path to the rear of the site. The sidewalk shall extend along the side of the house at the corner of Weston and Clarendon as shown on the plan if permission from the owner can be secured. The curb material shall be as required by the City Engineer. Shoveling of this sidewalk shall be the responsibility of the applicant and its successor condominium association.	CO	Eng./Plng.	
20	Front walks shall be brick, to match the walks for the Weston Manor Condominium.	CO	Plng.	
21	The sloped driveway from Weston Avenue to the back end of the adjacent unit shall be finished with permeable pavers or brick unless the City Engineer deems that a different surface would be appropriate to meet drainage requirements. Material samples shall be provided to Planning Staff for approval prior to construction.	CO	Eng.	
22	The applicant shall update the landscape plan for review and approval showing one tree in the front lawn of each townhouse-style unit. Size and species of the tree shall be subject to review and approval of Planning Staff.	BP	Plng.	
23	The applicant shall update the detailed landscape plan for review and approval showing the design and use of the common open space behind the project to include a sitting area on or near the lawn.	BP	Plng.	
24	The applicant shall provide a lighting plan showing type and location of lights to Planning Staff for review and approval. Lighting shall match the type of lighting at Weston View and shall be downward directed and shall, to the extent possible, not spill onto adjacent properties.	BP	Plng.	



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25	The applicant shall use materials similar and of equal quality to building materials used in the townhouse project at Weston View Condominiums and shall provide a color scheme that complements the colors at Weston View. The applicant shall submit color and material samples for siding, trim, windows, doors and garage doors to Planning Staff for review and approval.	BP	Plng.	
<b>Final Review</b>				
26	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	CO	Plng.	
27	Unit #6 in the building will be fully adaptable for handicapped use and occupancy including designated space for a future Limited Use/Limited Access (LU/LA) elevator a if required.	CO	Plng.	
28	The Applicant shall make best efforts to design and mark one of the on-street parking spaces closest to the southwest corner of the site as a handicapped accessible parking space.	CO	Plng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*  
Richard Rossetti, *Acting Clerk*  
T.F. Scott Darling, III, Esq.  
Danielle Evans

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 \_\_\_\_\_



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