

TOWN OF LITTLETON
BOARD OF APPEALS

37 Shattuck Street
P.O. Box 1305
Littleton, MA 01460
Tel: 978-540-2420



APPLICATION FOR PUBLIC HEARING

Pursuant to MGL Chapter 40A, 40B and 41 and the Littleton Zoning Bylaws

TOWN USE ONLY

Received by the Town Clerk Office

received
9/4/2014 140 PM
D

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 300 Check # 3795
75 3796

Pursuant to the provisions of Chapter 40, §57 of the Massachusetts General Laws as adopted by Town Meeting 2003, this document must be signed by the Tax Collector verifying payment of taxes.

Alana Cioy
Signature of Tax Collector

The undersigned hereby submits this petition for the following action (check all that apply):

- ☐ Appeal of Decision of Building Inspector or other administrative official (see page 2)
☒ Special Permit (40A) (see page 2)
☐ Variance (see page 3)
☐ Comprehensive Permit (40B) Complete additional application (see page 2)

PETITIONER: Signature Joseph Zagarella Date: 8/19/14
Joseph Zagarella
Print Name 123 King St
Address Littleton MA 01460
Town, State, Zip
Phone # 978 486 0350
Email Address Joezag@dslxtreme.com
Deed Reference: Bk 3021 Page 133

PROPERTY OWNER: include authorization of Owner for Petitioner to represent Owner, if unsigned

Joseph Zagarella 8/19/14
Signature Date
Phone #
Print Name (if different from petitioner)
Email
Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER U38-12

ZONING DISTRICT: (R) VC B IA IB (Circle all that apply)

Check box if
applicable

☒ AQUIFER DISTRICT

☒ WATER RESOURCE DISTRICT

FILING FEES
Residential Property \$200 to Town of Littleton
Commercial Property \$350 to Town of Littleton
Comprehensive Permit \$1000 + \$100/unit over 10 units

ADDITIONAL FEES (all applications)
\$ 75 to Comm of Mass-recording fee
\$25 to Town of Littleton-abutter list
Legal Notice publication fee due prior to opening hearing

ZBA Case 838H

Appeal

Under MGL c. 40A §. 8

The undersigned hereby appeals a written order or decision of the Building Commissioner / Zoning Officer or other administrative official alleged to be in violation of the provisions of MGL c. 40A or the Zoning By-laws to the Board of Appeals for the Town of Littleton.

1. From what Town Official or Board is the appeal being sought?

Mandatory: Attach copies of written order or decision under appeal

Administrative Official _____

Date of order / decision _____

2. Which statute or Zoning Bylaw do you rely for your appeal?

MGL c.40A § _____ Zoning Bylaw § _____ Code of Littleton § _____
You may also consider whether you qualify for relief under any other authority of the Board to grant a Special Permit or Variance.

3. I hereby certify that I have read the Board of Appeals Instructions for Appellants and that the statements within my appeal and attachments are true and accurate to the best of my knowledge and belief.

Signature _____

Print name _____

Special Permit 40A

Under MGL c. 40A §. 9

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to grant a Special Permit for the reasons hereinafter set forth and in accordance with the applicable provisions of the Zoning By-law.

1. Special Permits are expressly permitted in the Zoning Bylaws. Which Zoning Bylaw section do you rely for your appeal?

Zoning Bylaw § 173-68

2. Why are you applying for a Special Permit? Attach a written statement that specifically describes existing conditions and your objectives, along with necessary exhibits as listed in the filing instructions. *You may also consider whether you qualify for relief under any other authority of the Board to grant a variance.*

3. I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my petition and attachments are true and accurate to the best of my knowledge and belief.

Joseph Zagarella
Signature

Joseph Zagarella
Print Name

Special Permit 40B

Under MGL c. 40B

See supplemental instructions: Littleton Zoning Board of Appeals Rules for the Issuance of a Comprehensive Permit under M.G.L.c.40B

RECEIVED
7-2-14

Dear members of the Board of Appeals,

I am petitioning for a special permit to convert my single family home at 123 King St to a two family home.

In 1999, I bought this property under the belief that it was indeed a legal two family. The previous owner and his realtor marketed it as such and the Town of Littleton Assessor even had it listed as a two family. The Assessor has continued to consider it a two family throughout my ownership and I have operated on the same belief.

The house was built in 1950 which satisfies the requirement in Zoning Bylaw 173-68 that it was in existence prior to March 5, 1951.

The outside appearance will not change. The only change that is required is to add more sheet rock to achieve a fire resistive separation of one hour between the two units. The previous owner converted this property from a restaurant to a two family house approximately 17 years before I bought it. Adding that to my 15 years of ownership makes 32 years that it has existed in this state.

A special permit to convert to a two family was granted for this property in 1999, but the previous owner failed to complete the conversion. This was not disclosed to me when I purchased the house. I first learned of this in July of this year and it has long since expired.

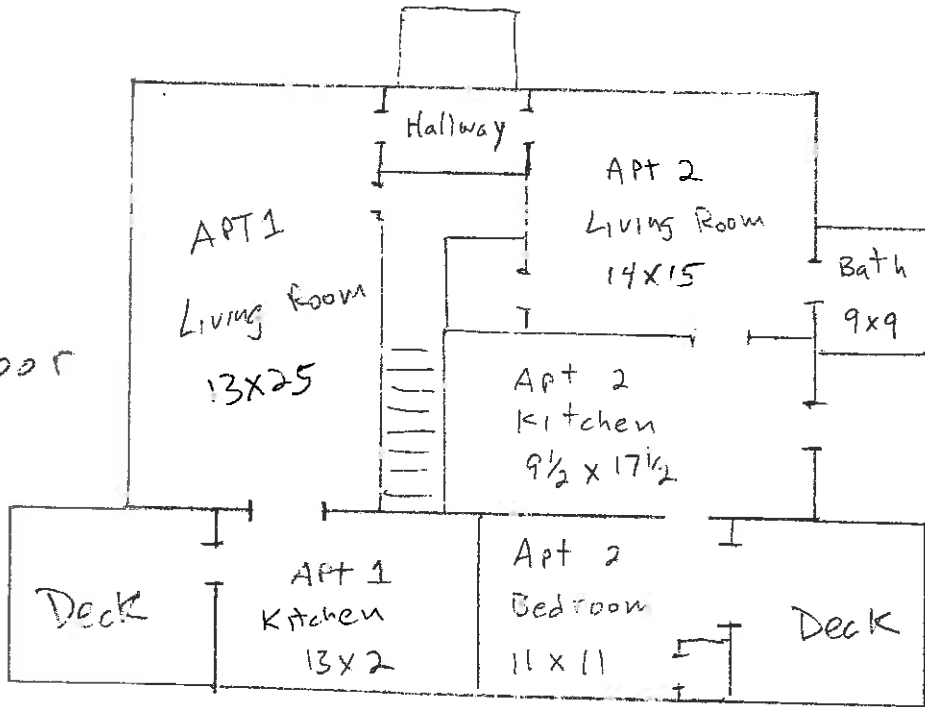
Please consider granting this special permit once more so that I may convert this home to the two family that I always believed it was.

Thank You,
Joe Zagarella

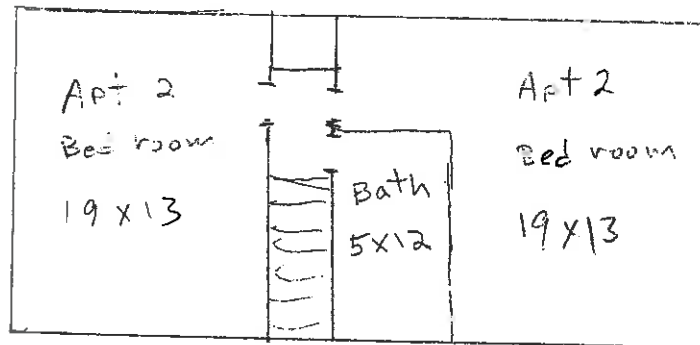
123 King St

RECEIVED
9-2-14

N ↑
1st Floor



2nd Floor



Quitclaim Deed

I, Gunars Indars, of Littleton, Middlesex County, Massachusetts,

For full consideration of \$155,000.00 paid

Grants to Joseph S. Zagarella of 123 King Street, Littleton, Middlesex County, Massachusetts

With quitclaim covenants

The land, with the buildings thereon, located in Littleton, Middlesex County, Massachusetts, shown as Lot 2 on plan of land entitled "Plan of Land in Littleton, Massachusetts", scale 1 in = 40 ft., April, 1999, prepared for: Gunars and Rita Indars, Dillis and Mische, Inc., CE, recorded with said Middlesex South District Registry of Deeds herewith.

Said Lot contains 49,897 square feet of land, more or less, according to said plan.

Subject to easements and restrictions of record.

Being a portion of the premises conveyed in deed to Grantor from Amrevest Incorporated to John Indars and Gunars Indars recorded with said Deeds at Book 14235, Page 379. See also Affidavit Regarding Federal Estate taxes recorded herewith.

Witness my hand and seal this 25th day of May, 1999.

Gunars Indars
Gunars Indars

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

May 25, 1999

Then personally appeared the above named Gunars Indars and acknowledged the foregoing instrument to be her free act and deed, before me

Stefan M. Nathanson
Notary Public:
My Commission Expires:

STEFAN M. NATHANSON
NOTARY PUBLIC
MY COMMISSION EXPIRES MAY 19, 2008

0015 MAR. EXCISE TAX: 765.00 000

REC 05/25/99 09:27:51 045 25.00

05/25/99 14:28:00 01
BOOK 14235

765.00 000

05/25/99 09:27:51 045 25.00

CANCELLED
CAMBRIDGE
DEEDS REGISTRY
MIDDLE SOUTH

PLAN No 4541
30211 - 133
SEE PLAN IN RECORD BOOK PAGE

Prop: 123 King St. Littleton

NASHOBA ASSOCIATED BOARDS OF HEALTH

ENVIRONMENTAL HEALTH DIVISION
AYER, MA 01432 772-3338

SEWAGE DISPOSAL WORKS CONSTRUCTION PERMIT

- ☒ To install a new Sewage Disposal system
☐ To repair existing Sewage Disposal system this permit is issued under the
Emergency Section 11.06 of 310 CMR 11.00 Environmental Code, Title 1

ISSUED FOR THE Littleton BOARD OF HEALTH

OWNER Gunn's Land

(NOT TRANSFERABLE - FORMAL PERMIT TRANSFER MUST BE REQUESTED UPON CHANGE OF OWNERSHIP)

LOCATION OF LOT OR INSTALLATION 123 King Street

LOT NO. 2-A

DATE PERMIT ISSUED August 19, 1999 8/21/99

LOT SIZE 1.27 acres

SOIL DESCRIPTION 0-47" A, B & 1111, 42"-126" C sandy gravel GNC 0123*
ESWT 0123 ON 8/2/98

PERC. RATE 2 min/inch

ENGINEERING OR SPECIAL PREPARATION: ☒ System to be installed according to engineered plan No. 1017
by Celtech Engineering & Associates

SYSTEM DESIGNED FOR: Existing 4 bedroom dwelling

WATER SUPPLY: ☒ Town ☐ Well

PRIMARY INSTALLATION 1,500 gallon septic tank

SECONDARY INSTALLATION 30' long x 20' wide leach bed

PERMIT PREPARED FOR BOARD BY NASHOBA HEALTH DEPARTMENT: ONS

BOARD OF HEALTH

BOARD OF HEALTH

BOARD OF HEALTH

I agree upon accepting this PERMIT to comply with all Board of Health regulations and the State Environmental Code during all phases of installing the septic system; and if I am the contractor installing this system, I further agree to correct any fault caused by defective material or workmanship appearing in this system within one year from date of occupancy.

SIGNED [Signature]

☒ Owner ☐ Contractor ☐ Licensed Installer

CERTIFICATE OF COMPLIANCE

INSPECTIONS REQUIRED:

- ☒ Bed ~~excavation~~ excavation, before fill / stone by eng./NABH
☒ Fill in place by eng./NABH
☒ Completed system prior to backfill
☐ Final fill and grading by eng./NABH
☒ Engineer certification in writing of completed system
☒ As built plan ☒ By Design Engineer ☒ By Installer
☐ Water supply (if well)*
☐ Recorded deed easements
☒ Eng to Stake SDS
☐
☒ Inspection completed

Installer Nichols

Date: <u>4/99</u>	By: <u>BJS</u>
Date: <u>4/99</u>	By: <u>BJS</u>
Date: <u>5/9/99</u>	By: <u>BJS</u>
Date: _____	By: _____
Date: <u>5/6/99</u>	By: <u>BJS</u>
Date: <u>5/6/99</u>	By: <u>BJS</u>
Date: _____	By: _____
Date: _____	By: _____
Date: <u>✓</u>	By: <u>✓</u>
Date: <u>5/6/99</u>	By: <u>BJS</u>

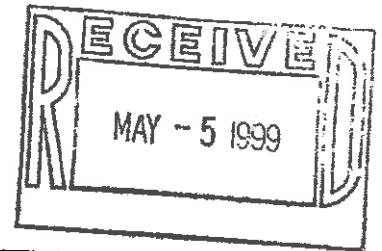
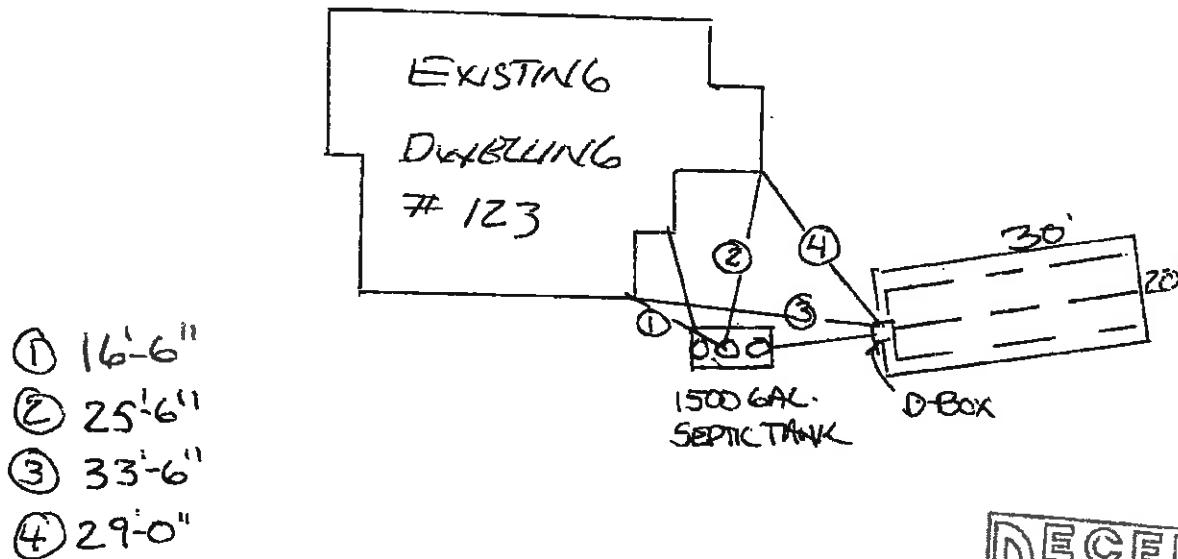
A NEW HOUSE CANNOT BE OCCUPIED OR SOLD UNTIL THIS CERTIFICATE IS COMPLETED.

IMPORTANT NOTES

1. THE ISSUANCE OF THIS CERTIFICATE SHALL NOT BE CONSTRUED A GUARANTEE THAT THE SYSTEM WILL FUNCTION PROPERLY.
2. INSTALLATION OR REPAIR MUST BE PERFORMED BY NASHOBA LICENSED INSTALLER.
3. FAILURE BY INSTALLER TO CONFORM TO ALL REQUIREMENTS OF THIS PERMIT MAY LEAD TO SUSPENSION OR REVOCATION OF INSTALLER'S PERMIT.
4. THE OWNER SHOULD BE AWARE OF WETLANDS PROTECTION REQUIREMENTS OF THE LOCAL CONSERVATION COMMISSION.
5. THE SYSTEM IS NOT DESIGNED FOR GARBAGE DISPOSAL.
6. THE SYSTEM IS DESIGNED FOR USE STATED ABOVE.
7. _____
8. LEACH SYSTEMS MUST BE KEPT 100 FEET FROM ALL WELLS.
9. PROPER MAINTENANCE OF A SYSTEM REQUIRES ANNUAL PUMPING.
- *10. COLIFORM BACTERIA TEST REQUIRED, COMPLETE POTABILITY TEST RECOMMENDED.

INSTALLER'S AS-BUILT AND CERTIFICATION

KING STREET



I LON NICHOLS CERTIFY THAT ON 4-30-99 I
(Date)

INSTALLED THE ABOVE SYSTEM FOR GONARS INOARS AT
(Owner's Name)

LOT #2-A) 123 KING ST. IN ACCORDANCE WITH THE APPROVED DESIGN
(Street)

BY CELTECH ENGINEERING 1017 5/27/98
Eng. or San. Plan # Revised

AND PERMIT ISSUED BY THE LITTLETON BOARD OF HEALTH.
(Town)

[Signature] 4-30-99
Installer's Signature & Date

133
License Number

Thursday, May 06, 1999

Spoke w/ Mr. Indas this date regarding 123 King street as a followup to a letter dated 5 May 99. I told him zoning has been satisfied, however as far as the building code is concerned, I could not verify that the conversion into a two family was legally done...ie; I have no record in my files showing that it was a permitted process...

Furthermore, I stressed that the board of assessors have been accessing the building as a single family up until two years ago suggesting that the conversion was fairly recent, maybe within the past six or so years.

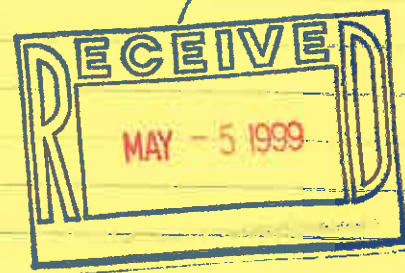
Therefore I would not verify that the conversion from a single family into a two family was legal since I had no record or hard evidence that it took place

(Statute of limitations only applies to real property that was improved in accordance with a building permit)



5 May 99

Building Commissioner / Zoning Officer
 37 Shattuck St
 Littleton Ma 01460



Dear Mr. Roland Bernier,

Because 123 King St. property was for sale, in Oct. 1998 Ms. Seymour, a real estate broker, called you and asked for information on how to find out if the property was a legal two family dwelling.

You asked three questions:

- ① When was the property built? Ans: Prior to 1950
- ② How long used as two family? Ans: Approx 17 1/2 years
- ③ How assessed? Ans: As two family.

At that time you said that it would be grandfathered and because no one argued the fact that it was used as a two family and statute of limitations, the property now would be considered a two family dwelling.

Later, upon your physical inspection of the property, you asked ~~if~~ ^{after the Board of Appeals hearing} if it was converted over 15 years ago. When told that it was, you said that at that time the code was non-existent and everything was O.K. even though the property was not up to today's building code.

Upon the request from one of the buyers, for something in writing concerning the legality of 123 King St. being two family, you said that in order to give anything in writing, a special permit from Littleton Board of Appeals was needed, but ~~it~~ it was only a formality.

At the Littleton Board of Appeals hearing a determination was made that the interior alterations were done over 15 years ago.

This is contrary to your assumptions that interior alterations have taken place within the past 10 to 15 years.

The Littleton Board of Appeals made a determination that in 1951 this building was still used as a restaurant. In this determination at least one board member had personal knowledge that this was true.

In the Littleton Board of Appeals hearing, the reasons and legal issues were heard and a Special permit for a two family conversion was issued.

I respectfully request that you issue a document in support of the two family configuration because upon reliance of your previous statements, the real estate agent made representations based on your statements, a new septic system was installed and the buyer has bank financing for a firm closing date of Friday, May 7, 1999.

Refusal to issue the appropriate document will cause great harm to all parties concerned.

Gunars Indlans

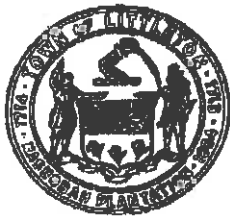
Gunars Indlans

119 King St.

Littleton CO 80120-3338

Tel. Home 978-486-4756

Work 978-692-1971



FROM THE OFFICE OF THE
BUILDING COMMISSIONER
ZONING OFFICER

37 SHATTUCK STREET, P.O. BOX 1305
LITTLETON, MA 01460
VOICE (978) 952-2308
FAX (978) 952-2321

Tuesday, April 27, 1999

Diane Seymour
339 Boston Post Road
Sudbury, MA 01776

Re: 123 King Street

Dear Ms. Seymour,

The present owners of 123 King Street wish to sell the structure as a two family dwelling. Review of a recent Assessor's card indicates the structure has been listed as a two family dwelling for only the past two years. The owners petitioned and received from the Littleton Board of Appeals a Special Permit for a two family conversion allowing the use to legally exist under Littleton's Zoning By-laws.

A site inspection was recently conducted by this office at the request of the broker as a follow-up to the Special Permit. The interior finish is dated supporting the assumption that alterations have taken place within the past ten to fifteen years.

Review of the assessors files indicate the structure was built as a single family dwelling in 1946. There are no records on file in the Littleton Town Hall indicating the single family status had changed, until noted on the assessors record 1998. It therefore must be assumed modifications took place to convert the single family dwelling into a two family use without the benefit of permit or inspections.

Although there are two independent dwelling units, neither unit is in compliance with the State Building Code, including those codes dating back fifteen years. Specifically, the absence of a fire resistive wall and ceiling assembly between the two units as specified under edition six of the Massachusetts State Building Code, § 3603.4. This is not a new requirement, having been incorporated in past versions of the Building code. In addition, plumbing and electrical work installed to support the new use configuration has not been permitted or inspected.

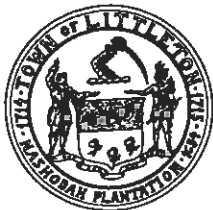
Therefore, this department can not issue any document in support of the two family configuration for failure to secure the proper permits for the change in use, failure to have the work inspected, and for failure to comply with past and current codes.

Sincerely,

A handwritten signature in black ink, appearing to read "Roland Bernier". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

ROLAND BERNIER
Building Commissioner
Zoning Officer

CC: C:\QAWIN\1899\LETTER\U38-12.QW



OFFICE OF THE
APPEAL BOARD
LITTLETON, MASSACHUSETTS 01460

Petitioner: Gunars Indars
Case No: 509 A
Date Filed: February 23, 1999

The Littleton Board of Appeals conducted a public hearing on April 15, 1999 at 37 Shattuck Street on the petition of Gunars Indars for a Special Permit under Section 173-68 of the Littleton Zoning Code to allow sale of dwelling at 123 King Street as a two-family dwelling. Mr. Indars was represented by his realtor, Diane Seymour. Mr. Indars has owned the property for fifteen years, during which it has been used as a two-family dwelling. He now wishes to sell the property and would like to have it designated two-family. A special permit is necessary because the property has not always been so designated.

FINDINGS: The Board determined that the property meets the criteria for the conversion of a dwelling from one to two family. It was built prior to 1951. Further, it conforms to the character and type of residences in the surrounding area.

DECISION: The Board voted unanimously to GRANT a Special Permit under Section 173-68 to allow the property at 123 King Street to be a two-family dwelling.

Appeals, if any, shall be made pursuant to G.L. 40A, Section 17 and shall be filed within twenty days after the date of filing of this notice in the office of the Town Clerk.

Signed: Sally Bowers
Sally Bowers, Clerk

Dated: April 23, 1999

Book: 14235, Page: 379

I hereby signify that twenty days have elapsed since the filing of the above decision by the Board of Appeals and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

_____, 1999

True Copy Attest: _____

Town Clerk
Littleton, Massachusetts

THE COMMONWEALTH OF MASSACHUSETTS

LITTLETON

City or Town

BOARD OF APPEALS

Date: April 23, 1999

Certificate of Granting of Variance or Special Permit
(General Laws Chapter 40A, Section 11)

The Board of appeals of the City or Town of Littleton

hereby certifies that a ~~Variance~~ or Special Permit has been granted

To Gunars Indars

Address 119 King Street

City or Town Littleton, Massachusetts 01460

affecting the rights of the owner with respect to land or buildings at 123 King Street

Littleton, Massachusetts Book: 04235; Page: 379

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said ~~variance~~ — special permit, and that copies of said decision, and of all plans referred to in the decision, have been filed with the planning board and the city or town clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town 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 registry of deeds for the county and district in which the land is located 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 fee for such recording or registering shall be paid by the owner or applicant.

Raymond M. Cornish
Chairman

Sally Bowens
Clerk