



IN CITY COUNCIL

Marlborough, Mass., MAY 21, 2007

ORDERED:

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

In City Council
Order No. 07-1001491C

Application of:
Gerson C. DeAlmeida
55 Wilson St.
Marlborough, Ma 01752

Locus:
55 Wilson St.
Plate 60, Parcel 28

DECISION

The City council of the City of Marlborough hereby **GRANTS** the Application Gerson C. DeAlmeida as provided in the DECISION and subject to the following FINDINGS OF FACTS AND CONDITIONS.

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this 21st day of June, 2007.

Given Under Chapter 40A Sec. 11 of the General Laws.

A TRUE COPY
ATTEST:


City Clerk



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Marlborough, Massachusetts

May 21, 2007

Decision on a Special Permit Application

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Gerson C. DeAlmeida having a place of residence in Marlborough, Massachusetts, his successors or assigns as provided in this Decision and subject to the following Findings of Facts and Conditions:

- (1.) Gerson C. DeAlmeida has a usual place of residence in the Commonwealth of Massachusetts currently located at 55 Wilson Street, Marlborough, Massachusetts and is hereinafter referred to as the "Applicant".
- (2.) Applicant is the owner of a certain parcel of real property with improvements thereon located at 55 Wilson Street, Marlborough, Massachusetts and further shown on the Marlborough Assessors Maps as Plate 60, Parcel 28 hereinafter ("the Site").
- (3.) On or about January 19, 2007, the Applicant filed with the City Clerk of the City of Marlborough, an application for a special permit to expand an existing non-conforming use from a residential dwelling in a Business Zone to a two(2) family residential dwelling.
- (4.) In connection with the special permit application, the Applicant filed on or about January 19, 2007, twenty(20) sets of the following: (a) Application to the City Council for Issuance of a Special Permit (b) Special Permit Application Certification by Planning Department (c) Certified Copies of Abutter's Lists for the City of Marlborough (d) Summary Impact Statement (e) Site Plans and (f)



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filing fee in the amount of \$300.00 (collectively, the "Documents") and which Documents are incorporated herein and become part of this Decision.

(5.) The Applicant's Petition was certified by the City Planner for the City of Marlborough as having complied with Rule 7 of the Rules and Regulations promulgated by the City Council for the issuance of a special permit.

(6.) Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing for the special permit application and the City Clerk caused to be advertised said date in the MetroWest Daily News and sent notice of hearing to abutters entitled to notice under law.

(7.) The Marlborough City Council pursuant to Mass. Gen. L. Ch. 40A, held a public hearing on March 12, 2007, which was concluded on that evening, concerning this application.

(8.) The Applicant, through its Attorney, presented testimony at the March 12, 2007 public hearing detailing the application, describing the existing conditions, the proposed use and its impact upon the neighborhood.

(9.) The primary subject of this Special Permit is for the conversion from one(1) residential dwelling to two(2) residential dwelling units.



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(10.) The Site is zoned in a Business [B} District and the proposed use is allowed with a special permit from the City Council as Special Permit Granting Authority pursuant to Article IV, section 200-12, paragraph B of the City of Marlborough Zoning Ordinance.

(11.) The Applicant stated that there will be no exterior changes to the building. All terms, conditions, requirements, approvals, plans and drawings required hereunder are made a part of and incorporated herein as a condition to the issuance of this Special Permit.

(12.) In accordance with the provisions of Mass. Gen. Laws c. 40A, §11, the Applicant at his expense shall record this Special Permit in the Middlesex South Registry of Deeds after the city clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed.

(13.) The site has existing parking in the front of the building which will be sufficient pursuant to applicant's intended use as demonstrated on the submitted plans showing separate driveways for each dwelling unit.

(14.) A neighbor and immediate abutter, spoke at the public hearing requesting clarification of Applicant's Special Permit Application. Applicant's attorney answered all te abutter's questions.

(15.) No one spoke in opposition to the Special Permit Application.



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(16.) Urban Affairs Committee review was conducted on March 27, 2007 and April 24, 2007.

(17.) Applicant provided further oral testimony and written documentation to the City Council and the City Council's Urban Affairs Committee regarding the Site, traffic impacts of the proposed project, the adequacy of the proposed parking at the Site, proposed building and site modifications, landscaping, drainage, lighting, and other improvements to the Site.

(18.) The City Council determines that the proposed expansion or alteration of the nonconforming use at 55 Wilson Street is not substantially more detrimental to the neighborhood than the existing nonconforming use, and otherwise satisfies the requirements of Chapter 200-12B of the City of Marlborough Zoning Ordinance.

BASED UPON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS:

A.) The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.

B.) The City Council finds that the proposed use of this site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The City Council makes this determination subject to the completion and adherence by the Applicant, its successors or assigns to the conditions more fully set forth herein.



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C.) The City Council finds that it may issue the Special Permit, subject to such terms and conditions, as it deems necessary, to encourage the most appropriate use of the Site and promote the health and general welfare of the citizens of the City of Marlborough.

D.) The City Council, pursuant to its authority in Mass. Gen. L. Ch. 40A GRANTS the Applicant a Special Permit to convert the building from one(1) residential dwelling unit to two(2) residential dwelling units, as per the application documents, the findings, and plans submitted to the City Council and the City Council's Urban Affairs Committee, and SUBJECT TO THE FOLLOWING ADDITIONAL CONDITIONS:

1) All parking on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and Commonwealth of Massachusetts. The Project shall be constructed, maintained and operated according to the specifications, terms, and conditions of the Applicant's Special Permit Application and Site Plan as submitted to the Marlborough City Council Urban Affairs Committee.

2) All terms, conditions, requirements, approvals, plans, and drawings and renderings required hereunder are made a part of and incorporated herein as a condition to the issuance of this Special Permit.

3) All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit Application and as amended during the application/hearing process before the City Council and/or the City Council's



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Urban Affairs Committee are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

4) The Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Special Permit Application, as amended, during the application/hearing process before the City Council and/or the Urban Affairs Committee, Site Plan Review, and in compliance with the Conditions of the Grant of the Special Permit.

5) The Applicant shall erect and maintain a 6 foot wood panel fence along the common boundary between the property at 67 Wilson Street and the subject property, subject to and in accordance with all applicable building codes and zoning requirements.

6) In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at his expense shall record this Special Permit in the Middlesex South Registry of Deeds after the city clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed.

7) Each of the two (2) dwelling units shall be owner occupied.

8) Parking shall be limited to the two (2) paved driveways and garage only. Extension of paved areas and parking on greenspace, including the backyard, is strictly prohibited.



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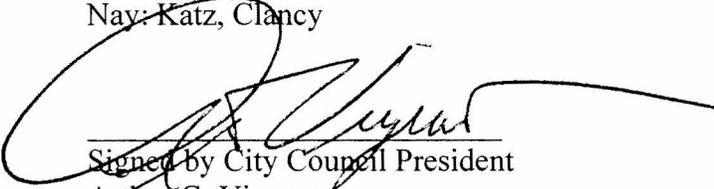
9) Sub-first level (basement) bedrooms are prohibited without specific approval of the Building Department and the City Council.

10) Each dwelling unit shall be equipped with separate electric and water meters.

Yea: 9 – Nay 2

Yea: Ferro, Schafer, Juairé, Webster, Towle, Ossing, Pope, Vigeant, Levy

Nay: Katz, Clancy


Signed by City Council President
Arthur G. Vigeant

ADOPTED

In City Council

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