



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 18, 2006

ORDERED:

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

In City Council
Order No. 06100-1279B

Application of:
Dominic J. Merloni
62 John Alden Rd.
Plymouth, Ma 02360

Locus:
69 Union Street
Parcels 77, Plate 43

DECISION

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

Decision filed: December 21, 2006

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 21st day of December, 2006.

APPEALS

Appeals, if any shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough, Ma.

ATTEST:

Acting City Clerk



IN CITY COUNCIL

Marlborough, Mass., _____ DECEMBER 18, 2006

PAGE 1

ORDERED:

**In City Council
Marlborough, Massachusetts
December 18, 2006**

Decision on a Special Permit Application

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Dominic J. Merloni having a usual place of business in Marlborough, Massachusetts, his successors or assigns as provided in this Decision and subject to the following Findings of Facts and Conditions:

- (1) Dominic J. Merloni has a usual place of residence in the Commonwealth of Massachusetts currently located at 62 John Alden Road, Plymouth, 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 69 Union Street, Marlborough, Massachusetts and further shown on the Marlborough Assessors Maps as Map 43, Parcel 77 hereinafter ("the Site").
- (3) The Site has been legally occupied as a 5 unit apartment building.
- (4) In connection with the special permit application, the Applicant filed on or about August 24, 2006, an original and two copies of the following: (a) Application to the City Council for Issuance of a Special Permit to expand/convert the 5 unit building into 6 units (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) Sketch Site Plan (later filed) and (f) filing fee in the amount of \$150.00 (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.



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 18, 2006
PAGE 2

ORDERED:

- (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. Laws, Ch. 40A, held a public hearing on October 16, 2006, which was concluded on that evening, concerning this application.
- (8) The Applicant presented testimony at the October 16, 2006 public hearing detailing the application, and describing its impact upon the neighborhood, parking, municipal services and traffic.
- (9) The primary subject of this Special Permit is for the conversion from 5 units to 6 units.
- (10) The Site is zoned in Residence A3 District and the proposed use is allowed with a special permit from the City Council as Special Permit Granting Authority pursuant to Chapter 200-12 paragraph B(2).
- (11) The proposed use will not be substantially more detrimental to the neighborhood than the existing nonconforming use. Further, no enlargement of the floor and/or ground areas is being proposed.
- (12) The Applicant stated that there will be no exterior changes to the building, except a landing and set of steps as noted. 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.
- (13) This Special Permit applies only to the Project. In the event the Applicant seeks to make other modifications that require a special permit to other areas of the Project, Applicant is required to seek prior approval from the City Council.



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 18, 2006
PAGE 3

ORDERED:

- (14) A secondary subject of the special permit is for lot coverage. The Applicant stated there will be no increased lot coverage.
- (15) The site has existing parking in the front and rear of the building which will be sufficient pursuant to Applicant's intended use.
- (16) The parking area is adequately shielded from the neighboring properties.
- (17) The property has already existing lighting on the existing buildings which lights the rear of the building and parking.
- (18) The parking spaces provided for and as shown on the sketch site plan are in accordance with the zoning ordinance requirements for number of spaces pursuant to Chapter 200-48 A(7) and for required size of spaces.
- (19) Neighbor and immediate abutter Debbie Flateau, 81 Union Street, Marlborough, Mass., spoke in favor of the Special Permit Application and requested that the Special Permit be granted.
- (20) No one spoke in opposition to the Special Permit Application.
- (21) Urban Affairs Committee review was conducted on October 17th and 24th, and November 21st, 2006.
- (22) 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.

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



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 18, 2006
PAGE 4

ORDERED:

the completion and adherence by the Applicant, its successors or assigns to the conditions more fully set forth herein.

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. Laws, Ch. 40A GRANTS the Applicant a Special Permit to convert the building from 5 units to 6 units, as per the application documents, the findings, and sketch plan 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 Property 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 Sketch Plan (attached hereto).

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 signage at the subject location shall comply with the existing City of Marlborough sign ordinance, without variance.

4) All parking shall comply with the existing City of Marlborough Parking requirements in Chapter 200-48.

5) 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 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.

6) 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



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 5, 2008

PAGE 5

ORDERED:

Urban Affairs Committee, Site Plan Review, if any, and in compliance with the Conditions of the Grant of the Special Permit.

- 7) Petitioner shall maintain landscaping pursuant to existing landscape conditions.
- 8) All lighting fixtures on the site shall be properly screened and shielded to protect abutting properties.
- 9) Petitioner shall provide adequate snow storage on site. Petitioner shall provide off-site snow removal as required by the City of Marlborough Commissioner of Public Works, if deemed necessary.
- 10) Any dumpster unit on the site shall be properly screened from neighboring properties as determined by the City of Marlborough Building Inspector.
- 11) There shall be no exterior changes to the building, other than the proposed landing and steps as noted.
- 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) Prior to the issuance of the occupancy permit for the sixth unit, the Applicant shall file a management plan and management contract to be incorporated and made a part of this Special Permit. The management plan shall outline the method and procedure for the management and maintenance of the building by a local person or company.
- 14) Prior to the issuance of the occupancy permit for the sixth unit, the Applicant shall post the building with a professional sign that identifies the management contact and telephone numbers of the responsible party.
- 15) All parking in the garage shall be allocated to the newly authorized sixth unit. All other parking shall be designated on the sketch plan (attached hereto) and shall be allocated pro rata to all other residential units. All parking shall be assigned by unit numbers and clearly posted.



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 18, 2006
PAGE 6

ORDERED:

16) There shall be no more than two (2) occupants allowed in the sixth unit. Applicant shall include this restriction in any lease agreement for the sixth unit.

17) Applicant shall identify and correct any outstanding code violations or maintenance work in progress prior to the exercise of any rights granted under this special permit.

18) 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.

Yea: 9 – Nay: 2

Yea: Katz, Ferro, Schafer, Juairé, Webster, Clancy, Towle, Ossing, Pope

Nay: Vigeant, Levy.

A large, stylized handwritten signature in black ink, appearing to read "Arthur G. Vigeant", is written over a horizontal line.

Signed by City Council President
Arthur G. Vigeant

ADOPTED:

In City Council

Order No. 06100-1279B

A TRUE COPY

ATTEST:

Acting City Clerk