



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ MAY 22, 2017

PAGE 1

ORDERED:

## DECISION ON AN APPLICATION FOR SPECIAL PERMIT

**ROYCE ROAD MUSEUM REALTY TRUST**  
**91 Royce Road, Marlborough, MA**

**CITY OF MARLBOROUGH**  
**CITY COUNCIL ORDER No. 17-1006869B**

The City Council of the City of Marlborough hereby GRANTS the Application for Special Permit of Applicant (the "Application"), as provided in the Decision and SUBJECT TO THE FOLLOWING FINDINGS OF FACT AND CONDITIONS:

### EVIDENCE

1. The Applicant, David C. Mauro, Mary Ann Mauro and Patrick Mauro, Trustees of Royce Road Museum Realty Trust, u/d/t dated May 24, 2001, is a duly organized and existing Massachusetts real estate trust with a principal mailing address of 379 South Street, Marlborough, MA 01752 (the "Applicant").
2. The location of the proposed project is 91 Royce Road, Marlborough, MA and more particularly identified on the City of Marlborough Assessor's Maps as Parcel 28 on Plate 72, and furthermore particularly described in deeds recorded with the Middlesex South District Registry of Deeds, Book 33194, Page 214 (the "Site").
3. The owner of the Site is the Applicant.
4. The single-family dwelling located on the Site was constructed in 1955, when the Site was situated within a residential zoning district and thus satisfied the provisions of the then-applicable zoning ordinance as to use. The single-family dwelling later went out of compliance as to use when the zoning district in which it was situated was changed in 1985 from residential to Business, which does not allow any residential uses; see Marlborough City Council Order No. 85-451E. Thus, the use of 91 Royce Road as a single-family dwelling became legally nonconforming in 1985. The existing dwelling itself conforms to the dimensional requirements of the Zoning Ordinance of the City of Marlborough.
5. The Applicant proposes a building addition to the existing single-family dwelling that will more than double the dwelling size, while remaining dimensionally conforming. The Building Commissioner has determined that the proposed increase or intensification of the legally nonconforming use of the Site requires a special permit from the City Council.



# IN CITY COUNCIL

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PAGE 2

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6. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for permission to construct an addition to the existing single-family residence on the Site. Specifically, the Application filed on March 23, 2017 with the City Clerk's office consisted of an original and two copies of the following: (a) Application to the City Council for Issuance of Special Permit; (b) Special Permit-Summary Impact Statement; (c) filing fee check; (d) plan delivery certification; (e) tax payment certification; (f) abutters list; (g) the proposed site plan and architectural plans, further described hereinbelow; (h) and the certification of the Building Commissioner on behalf of the Planning Director as to the Application's having complied with the provisions of Section 650-59, C. (7) (a), (b) and (c) of the City's Zoning Ordinance.
7. A public hearing was held on May 8, 2017, in compliance with the requirements of the City's Zoning Ordinance and the provisions of MGL Chapter 40A, as amended. All necessary abutters were provided notice as required by law, as certified by the Office of the Marlborough Assessors office. The time for the City Council to take final action on the Application is August 6, 2017.
8. The Applicant presented oral testimony and demonstrative evidence at the public hearing, and represented that the Project meets all applicable special permit criteria provided by MGL Chapter 40A, as amended, and the City's Zoning Ordinance.
9. The site plan submitted with the Application is entitled, "Proposed Site Plan in Marlborough, Massachusetts (Middlesex County); Prepared for Royce Road Museum Realty Trust, 91 Royce Road, Marlborough, MA;" Prepared by Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, MA 01772, scale 1" = 50', dated February 27, 2017 (the "Site Plan"), attached hereto as "Attachment A."
10. The architectural plans submitted with the Application are entitled "Mauro Residence, 91 Royce Road, Marlborough, MA," by Daniel J. Wezniak, Architect, dated February 28, 2017 and are attached hereto as "Attachment B."

**BASED ON THE ABOVE, THE MARLBOROUGH CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS:**

- A. The City Council finds that it may grant a Special Permit (Special Permit) subject to such terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the "City").



# IN CITY COUNCIL

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PAGE 3

## ORDERED:

- B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough, or MGL c. 40A.
- C. The City Council finds that the legally nonconforming residential use of the Site, as increased or intensified by the proposed expansion of the existing single-family dwelling, is an appropriate use, and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The construction of the addition will complement the nature of the abutting properties and the surrounding neighborhood.
- D. In particular, the proposed expansion of the existing single-family dwelling is not substantially more detrimental to the neighborhood than the existing dwelling.
- E. The Applicant has complied with all the procedural rules and regulations of the City Council of the City of Marlborough and Chapter 650 (Zoning Code) of the City of Marlborough and MGL Chapter 40A, Sections 9 and 11.

## GRANT OF SPECIAL PERMIT WITH CONDITIONS

The City Council, pursuant to its authority under MGL Chapter 40A and the City of Marlborough Zoning Ordinance, Chapter 650, **GRANTS** the Applicant a Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS:**

- A. Construction of the building addition to the existing single-family residence is to be done in accordance with all applicable building codes in effect in the City of Marlborough as of the time when the building permit application is submitted to the Building Commissioner.
- B. All work performed at the Site shall be in compliance with this Special Permit decision.
- C. At no time shall the proposed addition be rented out as a separate unit, and the proposed addition must remain as an open floor plan integrated with the existing single-family dwelling.
- D. In accordance with the provisions of MGL c. 40A § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South District 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, and before the Applicant shall apply to the Building Commissioner for a building permit concerning the proposed expansion. Applicant shall provide a copy of the recorded Special Permit to the City Council's office, to the Building Department, and to the City Solicitor's office.



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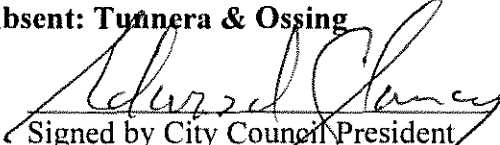
PAGE 4

**ORDERED:**

**Yea: 9 – Nay: 0 – Absent: 2**

**Yea: Clancy, Delano, Doucette, Elder, Irish, Landers, Juaira, Oram, & Robey**

**Absent: Turnera & Ossing**

  
Signed by City Council President  
Edward J. Clancy

ADOPTED  
In City Council  
17-1006869B