



IN CITY COUNCIL

Marlborough, Mass., NOVEMBER 19, 2018

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ORDERED:

IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT

Application of:
Raphael Fischetti

Locus:
89 Spring Street, Marlborough, MA 01752
Assessors Map 68, Parcel 316

DECISION ON A SPECIAL PERMIT ORDER NO. 18-1007387C

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, Raphael B. Fischetti is an individual with a principal address of 617 Pawtucket Boulevard, Unit 3, Lowell, MA 01834 (the "Applicant").
2. The location of the proposed project is 89 Spring Street, Marlborough, MA and more particularly identified on the City of Marlborough Assessor's Maps as Parcel 68 on Plate 316, and furthermore particularly described in deeds recorded with the Middlesex South District Registry of Deeds, Book 70255, Page 444 (the "Site").
3. The owner of the Site is the Applicant. The Site is located in the Residence A-3 zoning district.
4. The single-family dwelling previously located on the Site was built in 1890 and updated in 1975. The house was built prior to the establishment of a residential zoning district. The property was subsequently taken by the city for non-payment of taxes, in 2012, the City demolished the existing house in 2013, the property as vacant land was sold at City of Marlborough Tax Title Auction and purchased by the Applicant on October 18, 2017.



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5. The Applicant proposes to build a single-family dwelling on the Site consisting of a 30' x 24' two-story house. The Applicant plans to use the same driveway that currently exists on the property and the stone wall in the front of the property. The prior structure was 25' x 36', while the proposed structure will be 24' x 30'. The width of the proposed structure is one (1') foot narrower than the prior structure.
6. The Building Commissioner has determined the new structure seeks to expand a lawful pre-existing nonconforming structure. Based on a photo of the prior structure, the Building Commissioner has determined that the prior structure had approximately the same side yard setbacks as is now proposed for the new structure, namely, setbacks of 12.2' on the left side and 8.3' on the right side. However, Chapter 650-41 of the City Code of Marlborough, entitled "Table of Lot Area, Yards, and Height of Structures" (the "Table"), states that the minimum side yard setback in the Residence A-3 zoning district is 15'. Thus, the prior structure was non-conforming as to side yard setbacks. Since the Applicant proposes to increase the height of the prior structure from 1½ to 2 stories, the Applicant is proposing to intensify the pre-existing side yard setback nonconformity, as the proposed additional ½-story would be a further encroachment into the side yard setbacks. The Building Commissioner has determined that such intensification requires that the Applicant request zoning relief in the form of a special permit from the Marlborough City Council.
7. A public hearing was held on October 15, 2018, 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 Marlborough Assessors office. The time for the City Council to take final action on the Application is January 13, 2019.
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 Plot Plan # 3 of land in Marlborough, MA (Middlesex County); Prepared for Raphael B. Fischetti of 617 Pawtucket Boulevard, Unit 3, Lowell, MA 01834;" Prepared by Hancock Associates 315 Elm Street, Marlborough, MA 01752, scale 1" = 20', dated June 29, 2018 (the "Site Plan"), and is attached hereto as "Attachment A."



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ORDERED:

10. The architectural drawings submitted with the Application are labelled "89 Spring Street, Marlborough, MA," by Clark Architectural, North Chelmsford, MA, scale 1" = 10' (the "Architectural Plans") 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 as 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").
- B. The City Council find 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 find that the legally nonconforming residential use of the Site, as increased or intensified by the proposed construction of a 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 dwelling will complement the nature of the abutting properties and surround neighborhood.
- D. In particular, the proposed construction of the single-family dwelling, with sidelines of 12.2' on the left and 8.3' on the right is not more detrimental to the neighborhood than the prior 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 40 and the City of Marlborough Zoning Ordinance, Chapter 650, **GRANTS** the Applicant a special permit (the "Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS:**

- A. Construction of the building of a 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 and in accordance with the proposed Site Plan and Architectural Plans submitted to the City Council.



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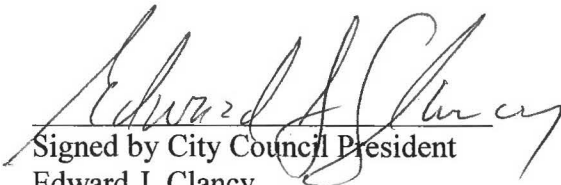
ORDERED:

- B. All work performed at the Site shall be in compliance with this Special Permit decision.
- C. The stone wall in the front of the lot shall be repaired and maintained by the Applicant.
- D. The driveway shall remain the same length as it currently is or smaller.
- E. The house shall contain no more than a total of six (6) finished rooms, including no more than three (3) bedrooms.
- F. No additions shall be added to the proposed house or the Site, and the deck shall be attached only in the rear of the house.
- G. In accordance with the provisions of MGL c. 40A, § 11, the Applicant at his 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 has applied to the Building Commissioner for a building permit concerning the proposed expansion. The 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.

Yea: 9 – Nay: 0 – Absent - 2

Yea: Delano, Doucette, Dumais, Irish, Clancy, Landers, Juairé, Oram, & Ossing.

Absent: Tunnera & Robey


Signed by City Council President
Edward J. Clancy

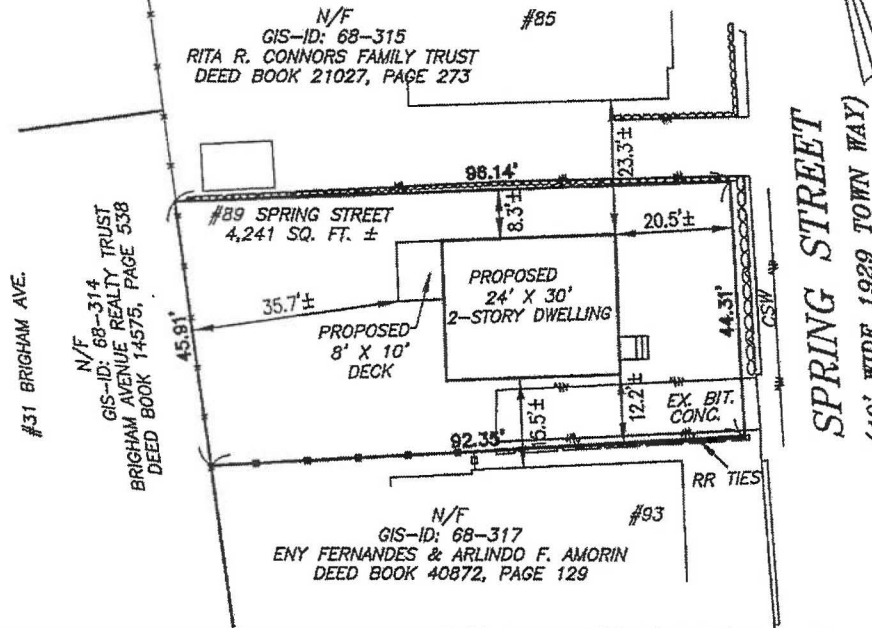
ADOPTED
In City Council
18-1007387C

NOTE:

1. THIS PLAN IS NOT TO BE CONSIDERED AN ALTA/ACSM LAND TITLE SURVEY, NOR IS IT TO BE USED FOR RETRACEMENT OF PROPERTY LINES.
2. DIMENSIONS DEPICTED ARE FROM PHYSICAL EVIDENCE AND BEST FITTING CENTER OF PAVEMENT TO RELATE 1929 UN-MONUMENTED ROAD LAYOUT AND 1940 TAKING.
3. CURRENT DEED CARRIES FORWARD A PROBABLE TYPOGRAPHICAL MADE IN THE BACK LINE OF THE LOT. IN DEED BOOK AND PAGE 2386/206 AND PRIOR, REAR LOT LINE WAS LISTED AS 45 FEET. IN 3-19-1898, IN DEED BOOK AND PAGE 2643/314 (AND FORWARD), THE DISTANCE WAS LISTED AS 40 FEET. PHYSICAL EVIDENCE AGREES BETTER WITH 45'.

ASSESSORS:
MAP 68 LOT 316
ZONING:
RESIDENCE A-3

REFERENCES:
BOOK 70255, PAGE 444
PLAN BOOK 274, PAGE 19
PLAN 873 OF 1940
PLAN 1652 OF 1960
PLAN 274 OF 1985
LAYOUTS 9/1929 & 10/1929



John D. Sprenger 6-29-18

MARLBOROUGH ZONING: RESIDENCE A-3

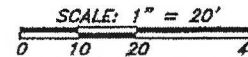
PROPOSED PLOT PLAN #3
OF LAND IN
MARLBOROUGH, MA
PREPARED FOR:
RAPHAEL B. FISCHETTI
617 PAWTUCKET BLVD., APT. 3, LOWELL, MA

LEGEND

	EDGE OF PAVEMENT
	CHAIN LINK FENCE
	WOOD FENCE
	RETAINING WALL
	STONE RETAINING WALL
	CONCRETE SIDEWALK

	REQUIRED	PROPOSED
FRONT YARD SETBACK	20'	20'±
SIDE YARD SETBACK	15'	12.2'± & 8.3'±
REAR YARD SETBACK	30'	35.7'±
MAXIMUM BUILDING HEIGHT	2.5 STORIES	2 STORIES
MAXIMUM LOT COVERAGE	30%	28.5%

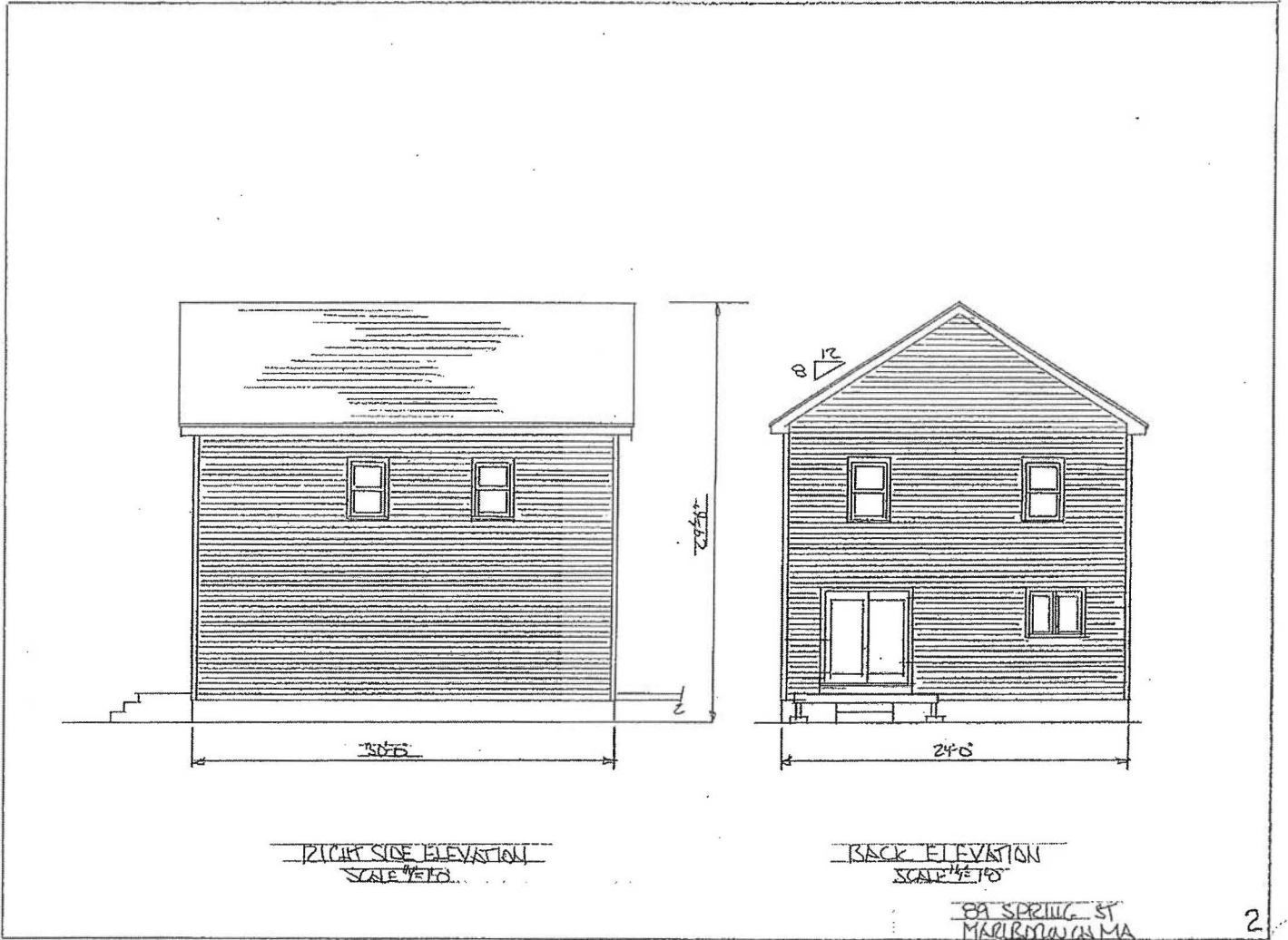
HANCOCK
Associates
315 Elm Street, Marlborough, MA 01752
VOICE (508) 460-1111, FAX (508) 460-1121

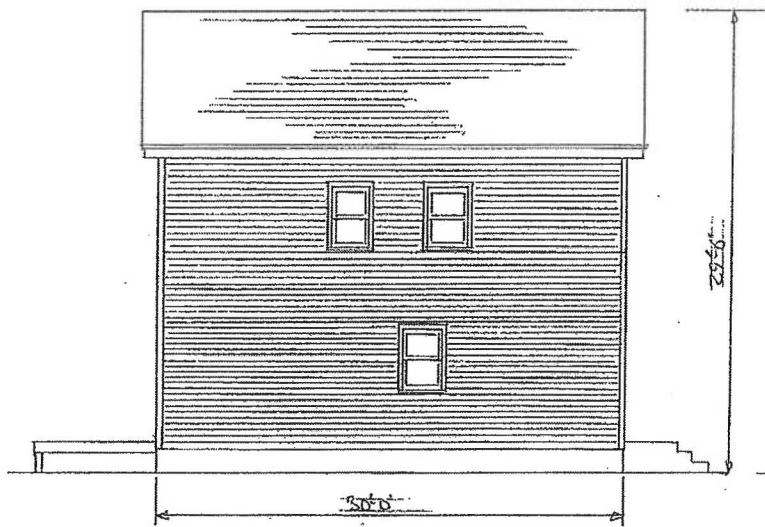


JOB 20936	DATE 6/29/18	CHK. BY: JOB
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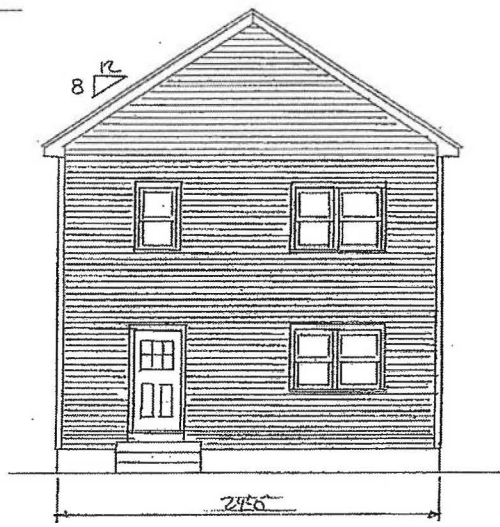
EXHIBIT A

EXHIBIT B





LEFT SIDE ELEVATION
SCALE 1/4" = 1'-0"

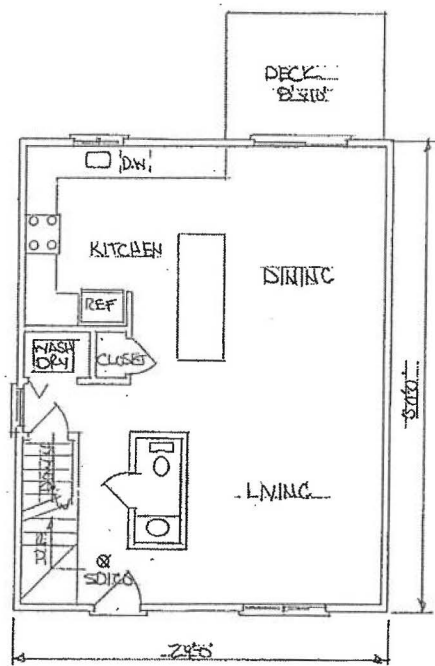


FRONT ELEVATION
SCALE 1/4" = 1'-0"

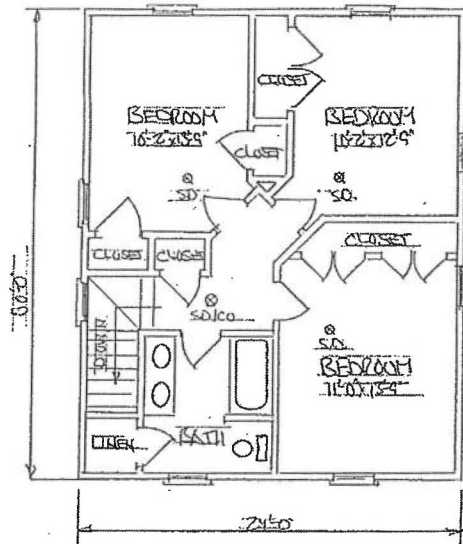
CLASKE ARCHITECTURAL
NO CHELSEA MA 978-251-7025

JUNE 26, 2018

89 SPRING ST
MARLBOROUGH MA



FIRST FLOOR PLAN
SCALE 1/4" = 1'-0"
720 SQ. FT.



SECOND FLOOR PLAN
SCALE 1/4" = 1'-0"
720 SQ. FT.

89 SERRILL ST
MARLBOROUGH MA