

*Terrence P. Morris, Esq.*  
*Law Offices of Terrence P. Morris LLC*  
*57 Elm Road*  
*Newton, MA 02460*  
*617 202-9132*

April 2, 2019

**By electronic transmission: [dolson@newtonma.gov](mailto:dolson@newtonma.gov)**

David A. Olson, Clerk of the Board  
City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02459

RECEIVED  
Newton City Clerk  
2019 APR -2 PM 12:26  
David A. Olson, Clerk  
Newton, MA 02459

Re: Council Order #362-18: 21-25 Gardner Street  
Special Permit Conditions 19(a) and 5(b)

Dear Mr. Olson:

Enclosed please find a certified copy of the recorded Council Order in accordance with Condition 2 of the above-referenced special permit, which states that no building permit shall be issued "until the petitioner... has recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County."

This filing, with copies to ISD and Planning, will also satisfy Condition 2(b), which states that no building permit shall be issued until the petitioner "has filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development."

Thank you for your attention to this matter.

Sincerely,

*Terrence P. Morris*

Terrence P. Morris

Enclosure

Cc: Barney Heath, Director *via email*  
Planning and Development  
John Lojek, Commissioner *via email*  
Inspectional Services  
Michael Gleba, Senior Planner *via email*  
Planning and Development

Middlesex South Registry of Deeds  
Electronically Recorded Document

This is the first page of the document - Do not remove

RECEIVED  
NEWTON CITY CLERK  
2019 APR -2 PM 12:26  
DAVID A. OLSON, CMO  
NEWTON, MA 02459

Recording Information

Document Number	: 40695
Document Type	: DECIS
Recorded Date	: April 02, 2019
Recorded Time	: 10:03:16 AM
Recorded Book and Page	: 72409 / 331
Number of Pages(including cover sheet)	: 5
Receipt Number	: 2308780
Recording Fee	: \$75.00

Middlesex South Registry of Deeds  
Maria C. Curtatone, Register  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

#362-18  
21-25 Gardner Street

CITY OF NEWTON

IN CITY COUNCIL

August 13, 2018

DAVID A. OLSON, CHC  
Newton, MA 02459

2018 AUG 15 PM 12:09

RECEIVED  
Newton City Clerk

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to

allow four single-family attached dwellings and grant exceptions to dimensional requirements for front, side and rear setbacks and lot coverage, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for the proposed four attached single-family dwellings in two structures as it is located in a neighborhood with a mix of single-, two- and multi- family dwellings and the project will preserve three existing dwellings and create a new accessible dwelling unit (§7.3.3.C.1);
2. The proposed project as developed and operated will not adversely affect the surrounding neighborhood (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to site is appropriate for the number and types of vehicles involved (§7.3.3.C.4).
5. Granting the required exceptions to the dimensional standards for front, side and rear setbacks and lot coverage is in the in the public interest as they will allow for the preservation of three existing dwellings in two structures with nonconforming setbacks and the addition of a one-story, accessible attached dwelling unit (§3.2.4)

PETITION NUMBER: #362-18

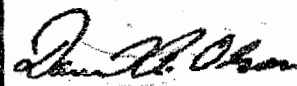
PETITIONER: Olimpia Fusco and Guiseppe Bove

LOCATION: 21-25 Gardner Street, Ward 1, on land known as Section 11, Block 25, Lots 7 and 8, containing approximately 18,717sq. ft. of land

OWNER: Olimpia Fusco and Guiseppe Bove

TITLE REF. Recorded Book 25114 Page 226 (21 Gardner Street)  
Recorded Book 72402 Page 123 (25 Gardner Street)

A True Copy  
Attest



City Clerk of Newton, Mass.

Property Address: 21-25 Gardner Street, Newton

ADDRESS OF OWNER: 25 Gardner Street  
Newton, MA 02458

TO BE USED FOR: Four single-family attached dwellings

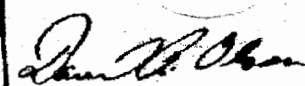
EXPLANATORY NOTES: Special permit as per §7.3.3 to:

- allow four attached single-family dwellings in an Multi-Residence 2 (MR2) zoning district (§3.4.11)
- reduce the side setback requirement for attached single-family dwellings in an MR2 zoning district (§3.2.4)
- reduce the front setback requirement for attached single-family dwellings in an MR2 zoning district (§3.2.4)
- reduce the rear setback requirement for attached single-family dwellings in an MR2 zoning district (§3.2.4)
- reduce the lot coverage requirement for attached dwellings in the an MR2 zoning district (§3.2.4)

ZONING: Multi-Residence 2 (MR2) district

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
  - a. A set of plans prepared by VTP Associates, Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor:
    - i. "Topographic Site Plan, Newton, Massachusetts, Showing Existing Conditions at #21 and #25 Gardner Street, Sheet 1 of 1," dated December 30, 2015 as revised through May 15, 2017;
    - ii. "Topographic Site Plan, Newton, Massachusetts, Showing Proposed Conditions at #21 and #25 Gardner Street, Sheet 1 of 2," dated June 8, 2018;
    - iii. "Detail Sheet, Newton, Massachusetts, Showing Proposed Conditions at #21 and #25 Gardner Street, Sheet 2 of 2," dated June 8, 2018.
  - b. Architectural plans entitled "New Residence for 21b Gardner St.," prepared by C.D. Calhoun & Associates Incorporated, dated January 10, 2018 as revised through March 6, 2018, signed and stamped by Charles D. Calhoun, Registered Architect on April 24, 2018:
    - i. Floor Plan for 21b (A-1);
    - ii. Front & Left Elevations for 21b & 21a (A-2);
    - iii. Rear & Right Elevations (A-3).
2. Prior to the issuance of any building permit issued pursuant to this special permit, the petitioner shall: record at the Registry of Deeds for the Southern District of Middlesex County a lot plan showing the lots known as Section 11, Block 25, Lots 7 and 8, and subject to this special permit combined into a single lot, and

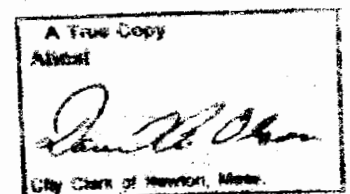
A True Copy  
 Attest  


- b. file certified copies of such recorded document(s) with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
3. The petitioner shall comply with the Tree Preservation Ordinance.
4. All lighting fixtures shall be residential in scale.
5. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
  - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - e. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
6. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. Provided a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, and recorded at the Registry of Deeds for the Southern District of Middlesex County. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
  - c. Submitted to the Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in paper and digital format.
  - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.

Under Suspension of Rules

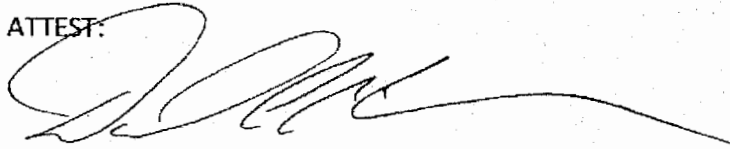
Readings Waived and Approved

21 yeas 0 nays 3 absent (councilors Cote, Krintzman, and Rice)



The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on August 15, 2018. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

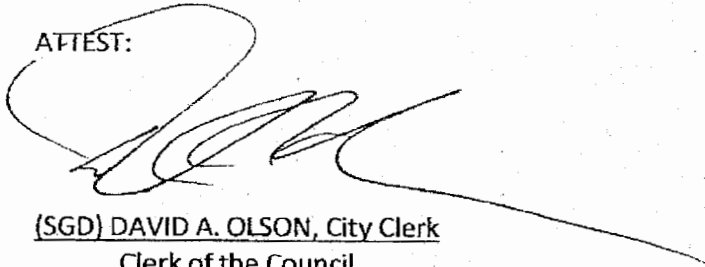
ATTEST:



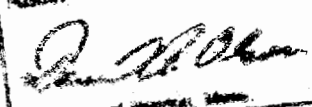
(SGD) DAVID A. OLSON, City Clerk  
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on 8/15 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk  
Clerk of the Council

A True Copy  
Subscribed  
  
City Clerk of Newton, Mass.