



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA # 2013-52
Site: 28R Elmwood Street
Date of Decision: August 7, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 8, 2013

ZBA DECISION

Applicant Name:	Gwen Simpkins, Delaporte Development, Inc.
Applicant Address:	50 Longwood Avenue, Suite 1012, Brookline, MA 02446
Property Owner Name:	Gwen Simpkins, Delaporte Development, Inc.
Property Owner Address:	50 Longwood Avenue, Suite 1012, Brookline, MA 02446
Agent Name:	N/A

Legal Notice: Applicant and Owner, Gwen Simpkins, Delaporte Development, Inc., seek a Special Permit under SZO §4.4.1 to alter an existing two-family, nonconforming, dwelling by constructing an approximately 129 square foot second story addition over an existing roof within the existing non-conforming rear yard setback.

<u>Zoning District/Ward:</u>	RB zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	July 9, 2013
<u>Date(s) of Public Hearing:</u>	8/7,
<u>Date of Decision:</u>	August 7, 2013
<u>Vote:</u>	5-0

Appeal #ZBA 2012-52 was opened before the Zoning Board of Appeals at Somerville City Hall on August 7, 2013. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one (1) hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION:

Applicant and Owner, Gwen Simpkins, Delaporte Development, Inc., proposes to construct a second story addition above an existing roof in the rear of the dwelling. The new addition will increase the net floor area of the dwelling by approximately 129 square feet. The proposed new net floor area of the subject dwelling is 1,707 square feet and the net floor area will be 3,598 square feet for the two structures combined.

The second story addition will be used as a kitchen for Unit 2. The proposal also includes the movement of a staircase to the right side of the structure in Unit 2 and interior modifications to all three floors. Unit 1 will remain a one bedroom unit with a kitchen and mudroom in the rear, a bathroom, and a living room. Unit 2 will decrease from four bedrooms to three bedrooms and will consist of a kitchen in the rear, a living room, a dining room, a bath room, and a bedroom on the second floor. The construction of an as-of-right dormer on the right side of the dwelling will allow for the third floor to include a bathroom and two bedrooms. Although the proposed room in the front of the structure on the third floor is labeled as a bedroom, it does not include a door. The Applicant has chosen to identify this space as a bedroom in an effort to identify the most likely potential use of the space; however, even if this room is not used as a bedroom, the parking calculation would not change as there are 4 bedrooms existing and 3 proposed. The proposed dormer is as-of-right because it is 23.8 feet from the right lot line therefore it is conforming to the side setback requirement of 8 feet.

Lowering the bedroom count in Unit 2 of the rear structure will cause the property to become more conforming to parking requirements. However, if the current or future owner would like to add another bedroom on the site in the future they would have to seek parking relief.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.
2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal to construct an approximately 129 square foot second story addition in the rear of the property will allow the homeowner to expand the kitchen and modify the layout of the dwelling without a great deal of impact on neighbors. While the dormer on the right side would be as-of-right, the length of this dormer is less than 50% of the roof line which will keep the building a 2½ story structure. The overall height of the building will remain the same.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City."

The proposal is also consistent with the purpose of the district in which the residential building is located, (6.1.2. RB - Residence Districts), which is, "To establish and preserve medium density neighborhoods of one-, two- and three-



family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses.”

The proposed alterations will be compatible with the built and unbuilt surroundings. The proposal to construct a second story addition over an existing roof will not enlarge the foot print of the building. Additionally, while the dormer on the right side would be as-of-right, the length of this dormer is less than 50% of the roof line which will keep the building a 2½ story structure, which is the height of many buildings in the surrounding area.



DECISION:

Present and sitting were Members Herbert Foster, Richard Rossetti, Danielle Evans Elaine Severino, and Brandy Brooks. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Brandy Brooks seconded the motion. Wherefore the Zoning Board of Appeals voted **(5-0)** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes												
1	Approval is to alter an existing two-family, nonconforming, dwelling by constructing an approximately 129 square foot second story addition over an existing roof within the existing non-conforming rear yard setback. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.													
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(July 9, 2013)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>July 5, 2013</td> <td>Project Description, Zoning Narrative (A00)</td> </tr> <tr> <td>July 5, 2013</td> <td>Floor plans, elevations, and site plan submitted to OSPCD (A01, A02, A05, A06, A07, X09, X01, X02, X03, X04, X05, and X07)</td> </tr> <tr> <td>July 15, 2013</td> <td>Modified floor plans and elevations submitted to OSPCD (A03, X06)</td> </tr> <tr> <td>May 2, 2013 (July 25, 2013)</td> <td>Certified Plot Plan</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(July 9, 2013)	Initial application submitted to the City Clerk's Office	July 5, 2013	Project Description, Zoning Narrative (A00)	July 5, 2013	Floor plans, elevations, and site plan submitted to OSPCD (A01, A02, A05, A06, A07, X09, X01, X02, X03, X04, X05, and X07)	July 15, 2013	Modified floor plans and elevations submitted to OSPCD (A03, X06)	May 2, 2013 (July 25, 2013)	Certified Plot Plan
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May 2, 2013 (July 25, 2013)	Certified Plot Plan															
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.																
Design																
2	New siding type and color, roofing, trim, and materials of the addition shall match or be complimentary to the rest of the existing structure.	CO	Plng.													
Public Safety																
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP													
Final Sign-Off																
4	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.													



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Richard Rossetti
Danielle Evans
Elaine Severino
Brandy Brooks (Alt.)

Attest, by the Senior Planner:

Lori Massa

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

