



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## DECISION

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**ZBA CASE NO. 13-11**

**PROPERTY LOCATION: 62 Oak Avenue**

**PETITIONER & PROPERTY OWNER: Peter Simoneau**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 24533 Pg: 188**

This document is the DECISION of the Northborough Zoning Board of Appeals for the petition of Peter Simoneau for a Special Permit to allow the expansion of an existing kitchen and the addition of a family room with an unfinished basement that together will exceed 80% of the gross floor area of the existing home on a lot with less than the required minimum lot area on the property located at 62 Oak Avenue, GIS Map 76, Parcel 30.

### APPLICATION

1. On June 20, 2013, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit per Section 7-08-040A(6), Non-Conforming single-family and two-family residential structures, of the Northborough Zoning Bylaw, to allow the expansion of an existing kitchen and the addition of a family room with an unfinished basement that together exceed 80% of the gross floor area of the existing home on a lot with less than the required lot area, on the property located at 62 Oak Avenue.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on July 8, 2013 and July 15, 2013, and was mailed to abutters and other parties in interest on June 26, 2013.

### EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

1. Application for Hearing before the Zoning Board of Appeals including:
  - a. A Quitclaim Deed for 62 Oak Avenue, Northborough, recorded at the Worcester District Registry of Deeds on July 31, 2001, BK: 24533, PG: 188;
  - b. A set of 5 architectural drawings entitled "Simoneau Addition, 62 Oak Ave, Northboro, and identified as: Left Side Elevation; Right Side Elevation; Rear Elevation; Foundation Plan; and an untitled floor plan.
  - c. A "Calculation Sheet for Gross Floor Area" for a nonconforming single-family and two-family residential structure for 62 Oak Avenue;
  - d. A certified abutters list of parcels 300 feet from 62 Oak Avenue, with a cover sheet dated June 18, 2013, signed by Mary E. Carey for the Board of Assessors, and including a Northborough, MA GIS Viewer map entitled "62 Oak Avenue, Northborough", dated 6/14/13, and a Residential Property Record Card for 62 Oak Avenue, Map 76, Parcel 30; and
  - e. An 11"x 17" plan entitled "Mortgage Inspection Plan of Land in Northborough, Mass, dated September 22, 1995, signed and stamped by Jack Costedio, Professional Land Surveyor, Highland Land Surveyors, Inc.

## **HEARING**

The Applicant, Peter Simoneau, presented the Application at a duly noticed public hearing of the Board on July 23, 2013, in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Fran Bakstran, Dick Kane, Mark Rutan, Bob Berger, and Brad Blanchette were present.

Mr. Simoneau explained he wants to expand his existing kitchen and family room in the rear of his home at 62 Oak Avenue. The original 4-bedroom single-family home with attached garage was built in 1995. Approximately 10 years ago, he replaced the existing garage with a 2-car garage and added a master bedroom above it. The original master bedroom became a master bathroom and the home remains a 4-bedroom single-family home. He stated the first addition and the proposed addition together are more than 80% of the gross floor area of the original home, and therefore he is seeking a Special Permit from 7-08-040A(6) of the Zoning Bylaw.

No one spoke in opposition to the project and the Board did not receive any letters in opposition to the project.

The hearing was closed on July 23, 2013.

## **FINDINGS OF FACT**

1. The subject property at 62 Oak Avenue is located in the Residential C District and Groundwater Protection Overlay District Area 2.
2. The subject property is 20,054 square feet in area, which meets the required minimum lot size of 20,000 square feet in the Residential C District. However, the subject property is also located in Groundwater Protection Overlay District Area 2, which requires a minimum lot size of 40,000 square feet. Therefore, the subject property is non-conforming due to its location in a Groundwater Protection Overlay District.
3. Section 7-08-040A(6) of the Northborough Zoning Bylaw states: *Nonconforming single-family and two-family residential structures may be reconstructed, extended, altered, or structurally changed as a matter of right if such proposed reconstruction, alteration, or change does not increase the nonconforming nature of said structure, there is no change in use of the structure and the gross floor area of the proposed reconstruction, extension or alteration does not exceed 80 % of the existing gross floor area. If the Zoning Board of Appeals determines that such reconstruction, extension, or alteration will increase the nonconforming nature of said structure, they may grant a special permit to allow such reconstruction, extension or alteration, provided that it determines the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.*
4. The existing home on the subject lot was built in 1995 and was a 24' x 34' Garrison Colonial with a 22' x 22' attached garage foundation poured and backfilled for parking (1080 square feet), a first floor (1080 square feet) and a second floor (884 square feet). The total gross floor area of the house was 3044 square feet.
5. An addition to the subject house (10 years ago) added a 720 square-foot garage and 656 square feet to the second floor, which together 1376 square feet.
6. The proposed addition to the subject house includes an expansion of the existing kitchen and a new family room, along with an unfinished basement, which total 1568 square-feet.
7. The allowable increase to the original 3044 square feet of gross floor area of the single-family home built in 1995 is 2435 square feet. The proposed addition to the subject house of 1568 square feet, and the previous addition to the subject house of 1376 square feet, total 2944 square feet,

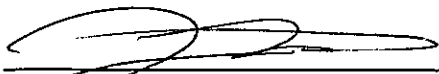
which is a 97% increase to the gross floor area of the original single-family home built in 1995. Therefore, a Special Permit is required per Section 7-08-040A(6) of the Northborough Zoning Bylaw.

8. The proposed addition is in substantial harmony with the Northborough Master Plan because the home remains a single-family home in a residential neighborhood.
9. The proposed site is an appropriate location for such use because the home remains a single-family home in a residential neighborhood.
10. The use as developed will not adversely affect the neighborhood because the addition is located in the rear of the home and is inside the footprint of the existing deck and pool (to be removed).
11. There will be no nuisance or serious hazards to vehicles or pedestrians because the home will remain a single-family home without the need for additional parking and without added traffic.
12. Adequate and appropriate facilities will be provided for the continued use of a single-family home which is serviced by private water and sewer.
13. The proposed use of a single-family home will conform to any conditions imposed by the Zoning Board of Appeals.

#### **DECISION**

1. **On July 23, 2013**, after due consideration of the Application, the Board voted unanimously to **GRANT** a **SPECIAL PERMIT** per Section 7-08-040A(6) of the Northborough Zoning Bylaw to allow the proposed expansion to a nonconforming single-family residential structure to be up to 600 square feet over 80% of the gross floor area of the original single-family home built in 1995, on the property located at 62 Oak Avenue.
2. Appeals, if any, from this decision shall be made pursuant to Massachusetts General Laws, Ch. 40A, Sec. 17 and shall be filed within twenty (20) days after the date of filing of this decision in the office of the Town Clerk.
3. The **SPECIAL PERMIT** shall not take effect until a copy of the decision bearing the certificate of the Town Clerk is recorded with the Worcester District Registry of Deeds in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 11 and 15 stating that "twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed it has been dismissed or denied."
4. If the rights authorized by the **SPECIAL PERMIT** are not exercised within two years from the time of granting, it shall lapse in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 10.

#### **TOWN OF NORTHBOROUGH, MASSACHUSETTS ZONING BOARD OF APPEALS**



**FRAN BAKSTRAN, CHAIRMAN**