

February 1, 2024

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Arlington Zoning Board of Appeals
51 Grove St
Arlington, MA 02476

Re: 53 Lansdowne Road

Members of the Board,

Based on a 1/30/24 email from the zoning office who stated “the applicant needs to provide evidence that the two lots have been combined into a single legal lot. They are relying on the entirety of the two parcels to have sufficient lot area, frontage, and usable open space. If there are separate lots, those conditions are not being met.”

In support of these conditions,

- 1) Starting with the definition of “Lot” in MGL Chapter 40A (The Zoning Act), "Lot", an area of land with definite boundaries that is used or available for use as the site of a building or buildings.

The current area of land, including both parcels 40 and 41 as the existing structure saddles the common line and has been used as the site of a building means the area of land may be two parcels but is one “lot” for zoning purposes.

- 2) The Zoning Act is clear and the portion that merges lots is commonly called the "Merger Doctrine". The DHCD document "GRANDFATHERED LOTS & PLAN PROTECTIONS" dated November 30, 2009, summarizes the doctrine with questions to ask in determining separate lot protection. Based on the research noted below the following is stated to show it is one lot.
 - a. Does the lot have at least 5,000 square feet and 50 feet of frontage? *Response: Yes, the lot has 110 feet of frontage and 7,061 s.f. of land*
 - b. Is the lot located in an area zoned for single or two-family use? *Response: Yes, the site is zoned R1*
 - c. Did the lot conform to existing zoning when legally created? *Response: Yes, the two lots conformed to existing zoning when legally created (the 1928 zoning bylaw did not have minimum frontage or area requirements.)*

- d. Was the lot separately described and separately held from any adjoining land at the time the more restrictive zoning requirement took effect? *Response: as noted above the two parcels #40 and 41 have been in common ownership for 78 years since 1947.*

3) Based on our research,

History

- The site was subdivided in 1902 as plan # 15 of plan book # 138. This was before there was any zoning bylaw in place.
- The house was constructed circa 1940 (source assessors' records). Most of the existing structure is on parcel 41 and partially (about 4 feet) onto parcel 40 as labeled on said plan.
- The Zoning Bylaw in effect at that time allowed for a 15-foot front yard setback.

Title Chain

- The two parcels came into joint ownership on April 18, 1947, with Mary Janet McDonald as the grantee. (book 7127 page 171 for parcel 40 and book 6827 page 280 for parcel 41)
- After 50 years, the estate of Mary Janet McDonald granted the two parcels to Heather Marie Jackson and Dave Thomas Boyle on September 4 ,1997 in book 27666 page 426
- After 2 more years Heather Marie Jackson and Dave Thomas Boyle granted the two parcels to Heather Marie Jackson on August 16,1999 in book 30567 page 32
- After 18 more years Heather Marie Jackson and granted the two parcels to Rebecca Senter and Timothy Senter on September 8, 2017, in book 69999 page 545.
- The Senters have now held the property for over 5 years.

As a comment, the Assessors Maps are only intended for assessment purposes only. And, even though there are two tax bills there is only one "lot" for Zoning purposes. The Arlington GIS assessors' maps include this disclaimer "Maps are for planning purposes only and may not be adequate for legal boundary definition, regulatory interpretation, or property conveyance purposes." As such they do not define lots for zoning purposes.

Therefore, due to the common ownership, (now lasting 78 years and having the existing structure straddle the common parcel line) the subject is subject to the above doctrine and the lots became merged when the 7,000 s.f. lot size was instituted.

Therefore, this letter is to offer my professional opinion as a Massachusetts Registered Professional Land Surveyor that the site clearly meets the definition of one "lot" for zoning purposes.

.Sincerely,

BSC Group, Inc.



David J. Crispin PE, PLS
Sr. Associate



