

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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ZBA 2024-76

Petition of Jason & Jennifer Bassett
40 Kimlo Road

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, December 5, 2024, at 7:30 pm, on the petition of Jason & Jennifer Bassett requesting a Variance pursuant to the provisions of Section 5.3 and Section 6.2 of the Zoning Bylaw to create a new conforming lot (Lot 2) on Rockland Street, that will result in making the frontage of Lot 1 at 40 Kimlo Road nonconforming. The property is located in a 10,000 square foot Single Residence District.

On November 4, 2024, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Present at the public hearing was Frank Iebba, Land Surveyor, who said that the matter is before the Board because of insufficient frontage. He said that Lot 2 will be a 16,425 square foot lot in a 10,000 square foot Single Residence District (SR 10) with 105.67 feet of frontage on Rockland Street. He said that some areas of the lot are quite steep and there are some ledge outcroppings. He said that the existing conforming house on Lot 1, built in 1878, will remain as is. He said that the building envelope for Lot 2 will be compliant.

Mr. Iebba said that the topography is steep, with the slope in some areas 10 to 15 percent plus. He said that creation of the new lot was difficult. He said that the steepness is not relevant in other areas. He said that any house built on the new lot will bring the value of the neighboring properties up.

The Chairman said that the existing curved piece of frontage at 40 Kimlo Road complies with the bylaw. He said that once Lot 2 is created and recorded, the lots are subject to Table 3 of the Zoning Bylaw, where 90 feet of frontage is required. Mr. Iebba said that the existing lot on Kimlo Road has 60 feet of frontage and the proposed lot on Rockland Street will have 105.67 feet of frontage.

The Chairman said that at a previous public hearing, the Board heard testimony about an Advisory Report that discussed Table 3 and its intention to separate houses more. He said that the frontage requirement was increased to 90 feet in an SR 10 but the side yard setbacks were not changed. He said that the result

was that houses could be bigger, not that there will be more room in between them. He said that 60 versus 90 feet of frontage does not affect what is happening in this case on Lots 1 and 2. He said that there is plenty of room and it will not look crowded.

A Board member said that the bylaw says that any new lot that is created must comply with the frontage requirement. He said that it could be interpreted that the existing parcel that will remain at 40 Kimlo Road does not have to comply because it is an existing lot. He said that none of its dimensions will be made worse by the separation.

David Himmelberger, Esq., said that the Zoning Bylaw that created Table 3 and the Advisory Committee writeup for it spoke to increased lot frontage for new buildings and new structures. He said that in Section B of the Zoning Bylaw, it says, "there shall be provided for every building or structure hereafter erected or placed upon a lot at least the minimum frontage." He said that Table 3 really speaks to prospective lots upon which new buildings or structures are to be built. He said that in this case, the new lot created on Rockland Street will have the required frontage and will otherwise comply with Table 3. A Board member said that the building on Lot 1 has already been placed on the lot.

A Board member asked about replacing the structure on Lot 1. Mr. Himmelberger said that it may require a special permit or possibly a variance.

A Board member said that the property owner pursued a variance to subdivide the lots because Wellesley's Town Counsel was of the opinion that it could not be done by virtue of a special permit. He said that by granting a variance, the property owner can make better use of a portion of the lot that is currently not being used. He said that someone else will have the opportunity to have a house in Wellesley on the new lot. He said that the Zoning Bylaw doesn't seem to apply the extended dimensional requirements in Table 3 to the existing lot, only to the new lot.

A Board member said that shape of the lot, topography and soil condition, if ledge can be considered a soil condition, all contribute to the uniqueness of this lot.

No member of the public wished to speak to the petition.

Statement of Facts

The subject property is located at 40 Kimlo Road, in a 10,000 square foot Single Residence District.

The Petitioner is requesting a Variance pursuant to the provisions of Section 5.3 and Section 6.2 of the Zoning Bylaw to create a new conforming lot (Lot 2) on Rockland Street, that will result in making the frontage of Lot 1 at 40 Kimlo Road nonconforming.

A Plot Plan, dated 4/18/11, revised 3/3/24 & 4/16/24, stamped by Frank Iebba, Professional Land Surveyor #37734, was submitted.

On December 3, 2024, the Planning Board reviewed the petition and recommended that a Variance be approved.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to shape of the lot, topography and soil conditions of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section 5.3 and pursuant to the provisions of Section 6.2 of the Zoning Bylaw is granted to allow for creation of a new conforming lot (Lot 2) on Rockland Street, that will result in making the frontage of the existing Lot 1 at 40 Kimlo Road noncompliant with Table 3 of the Zoning Bylaw, in accordance with the submitted plan.

Except for good cause, this Variance shall expire one year after the date time stamped on this decision.

DEC 19 PM 12:26

ZBA 2024-76
Petition of Jason & Jennifer Bassett
40 Kimlo Road

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

J. Randolph Becker (LM)
J. Randolph Becker, Chairman

Walter B. Adams (LM)
Walter B. Adams

Peter Covo (LM)
Peter Covo

ZBA 2024-76
Applicant Jason & Jennifer Bassett
Address 40 Kimlo Road

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

RECEIVED
DEC 19 PM 12:26

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm

CURRENT OWNERS: JASON AND JENNIFER E BASSETT

N F GEORGE AND
COURTNEY E MOHLER

N/F RICHARD MILLMAN
AND YONGSON RHEE
HILLMAN TRS

N F KAREN K DONOVAN TRUSTEE
KAREN K DONOVAN FAMILY TRUST 2016

N F ALBERTO BETANCOUR AND
MARTHA ISABEL TOBAR HOYAS

ROCKLAND STREET

NF ZHONG WEN HUANG AND
YING ZENG

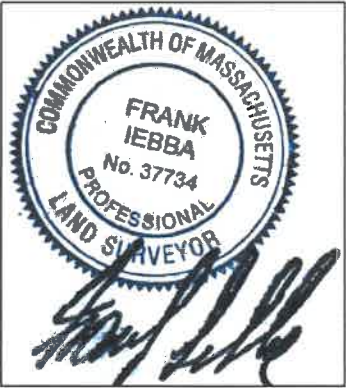
N F JASON CONNOLLY AND
CHRISTINA AHLBERG

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN
CONFORMANCE WITH THE RULES AND REGULATIONS OF THE
REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

APPROVAL UNDER THE SUBDIVISION CONTROL LAW
NOT REQUIRED.

_____	DATE
_____	DATE
_____	DATE
_____	DATE
_____	DATE
_____	DATE

THE ABOVE IS NOT A DETERMINATION AS TO
CONFORMANCE WITH ZONING REQUIREMENTS



ZONING REQUIREMENTS:
10,000 SF SR10 ZONE
SETBACKS
FRONT 30
SIDE 20
REAR 18
FRONTAGE 90
TOTAL LOT AREA: 46946 SF
EXISTING BUILD FACTOR: 3.3
PROPOSED BUILD FACTOR LOT 1: 5.1
PROPOSED BUILD FACTOR LOT 2: 13.6

40 KIMLO ROAD
WELLESLEY, MA
SCALE AS NOTED
APRIL 18, 2011
MARCH 3, 2024
APRIL 16, 2024

ESSEX ENGINEERING AND SURVEY
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