

MINUTES
TOWN OF GORHAM
GORHAM BOARD OF ASSESSMENT REVIEW MINUTES
Meeting of March 28, 2023 – 5:30pm
Gorham Municipal Center, Burleigh Loveitt Council Chambers

Present: Craig Stirling, Chair; Marilyn Amoroso, and Corey Noel.

Also present: Mark Bower, Esq. - Jensen Baird Gardner & Henry; Tom Poirier, Director of Community Development; Ben Thompson, Assessor.

1. Call to Order.

Craig Stirling called the meeting to order, and said the first order of business was to appoint a chairperson.

A motion was MADE by Corey Noel, SECONDED by Marilyn Amoroso, and VOTED to elect Craig Stirling as the board's chairman. Unanimous vote.

A discussion ensued in which the Town Attorney Mark Bower advised on the process of providing time for the appellant or applicant to present their case, and then turn the discussion over to the Assessor to respond.

Attorney Bower clarified that he was representing the board to serve as their counsel, and not the needs of the Town Assessor Ben Thompson.

Chairman Stirling said that he and the other members were there as volunteers so that the appeal process can take place, and the board has to operate within what the law says.

2. 43 Mighty Street - Clinton Pearson (Map/lot 0066-0016)

Citizen Clinton (Charlie) Pearson identified himself, and presented evidence that he sent to the Town and Assessor supporting his case. He provided historical information regarding his property on which there is a 218-year old Cape farmhouse, a barn, and 27 acres.

Mr. Pearson asserted that he is appealing the 2022 revaluation assessment of his farm. He indicated that there was an error on the Town's BAR application, which references repetitive language at the bottom of the second page regarding the judgement of the Assessor.

Mr. Pearson said that he submitted a Town of Gorham application for property abatement on October 17, 2022, which consisted of a six-page brief with 19 exhibits requesting a total abatement of \$111,836, listed as exhibit D in the application. He asserted that the assessment resulted in an unjust over-evaluation of the property because of 1.) the assessment was not entitled to a presumption of correctness, 2.) that a dirt floor crushed rock crawlspace was erroneously assessed at \$1,736 as an unfinished basement, and 3.) the balance of the assessment should be reduced by a factor of 15 percent, because the house, barn, and land are all subject to a Town historic preservation easement.

Mr. Pearson said he was issued a notice of action on December 14, 2022 by the Assessor on which the abatement was denied for reasons relating to the crawlspace point and historic easement, and there was no mention regarding the presumption of correctness.

Mr. Pearson asked the board to determine whether the Assessor's denied abatement is entitled to a presumption of correctness, whether the Assessor erred in determining that a dirt floor crushed rock crawlspace in a 218-year old farmhouse should be assessed as an unfinished basement, and whether the Assessor erred in determining that he was not entitled to a 15 percent reduction of his assessment, because it was subject to the Gorham historic preservation easement.

A discussion ensued regarding whether the presumption of correctness applied to the denial of the appeal in which Attorney Bower said that the rule under Maine law is that the municipal assessment is entitled to a presumption of validity, and that the burden is therefore on the taxpayer to show that the assessment is manifestly wrong.

Mr. Pearson said that the Assessor's subcontractor Vision Government Solutions' (VGSi) data collectors, not trained assessors, obtained the assessment data and fed it into a computer algorithm.

Mr. Pearson questioned the original assessment of a dirt floor crushed rock crawlspace as an unfinished basement, which has an obstructed ceiling height. He said that VGSi noted the correction for it to be assessed as a crawlspace.

Regarding the historic easement, Mr. Pearson said that he applied for that, and that under the Gorham Historic Preservation's recommendation, the Gorham Town Council designated 43 Mighty Street as a historic structure, with the farmhouse, barn and 27 acres, while then-Councilor Hager had voted against it citing that the designation could result in a burden for future landowners.

Mr. Pearson read a statute applying to historic designated properties and taxation, and that the Assessor recommended that he go to the Town to ask for some sort of reimbursement for the taxation on his historic home. He added that under the statute, the Town can reimburse or rebate all the taxes if someone agrees to keep a historic property or house.

Regarding the requested 15 percent reduction of the assessed value, Mr. Pearson recommended that the board look at Maine's open space tax law.

Mr. Pearson said he is not asking for a rebate, but a determination of a proper fair market value to conclude that under the circumstances presented, the Assessor's judgement was manifestly wrong resulting in a substantial overvaluation of the property, and an injustice to the taxpayer in the amount of \$111,836.

Mr. Pearson encouraged that towns across the country should consider preserving historic homes and land.

Regarding the unfinished basement, Chairman Stirling asked if Mr. Pearson has to crawl to get around to which Mr. Pearson said – no, and referred to the related exhibit, and that the average crawlspace is five feet or less.

Chairman Stirling asked if Mr. Pearson was aware of the restrictions of homes designated as historic to which Mr. Pearson said – yes.

Board member Corey Noel asked if Mr. Pearson spoke with any other homeowners or persons outside of the historic preservation regarding ownership of a historic home/property to which Mr. Pearson said – no.

A discussion ensued regarding how improvements can be made to historic homes under the historic preservation ordinance in which Director of Community Development Tom Poirier explained the provisions of the ordinance.

Assessor Ben Thompson addressed the board and Mr. Pearson, and offered to provide copies of additional information.

Mr. Pearson objected to Mr. Thompson providing new information to the board since he himself was restricted to submitting eight copies of his supporting information no more than 10 days prior to the meeting. He said that the Assessor should follow the same rules that he had to follow.

Marilyn Amoroso agreed with the applicant that the additional evidence presented by Mr. Thompson should not be accepted into the administrative record as evidence to which Corey Noel also agreed that the evidence should not be accepted.

Chairman Stirling said that he would support allowing the evidence to be heard as is allowed under law as there could be a member of the public bringing something forward. In favor of expediting things, he would like to see the evidence, but continue the discussion at another meeting so that the applicant would have time to review it as well.

Mr. Pearson objected on the grounds of fundamental fairness.

Mr. Thompson said that there were errors that were picked up during the evaluation that would have changed the assessed value regardless. He noted that it was assessed as a colonial by the prior assessor, although it is not, so a correction in style was made that would affect the overall value.

Mr. Thompson said that he reviewed the property card when the information was presented to him. He addressed the questions regarding the identification of an unfinished basement. He said that he does not dictate unfinished basements in historical homes – the market determines values. He said that not many interior inspections were done during the revaluation because of Covid, so it came down to the taxpayer reaching out to schedule appointments for an interior inspection.

Mr. Thompson said that Mr. Pearson's house is not different from other homes in the area in terms of how the unfinished basement was categorized.

Regarding the historical discount, Mr. Thompson said that assessing is reactionary to a rule, determination, or to the market. He said that regarding open space exemptions, he said that someone has to apply for that and assessing does not have an application on file for the subject property. He added that the Town is currently giving all of the excess land on this property a 60 percent discount on the land value, which does not alter the buildable lot.

Mr. Thompson apologized and said that the abatement application has since been corrected, and is now accessible on the Cumberland County Regional Assessing website.

Mr. Thompson said that it was stated in the abatement denial letter where Mr. Pearson could appeal the decision, which is required under law.

Regarding equity, Mr. Thompson said that several properties are falling in line with the same style and same codes as the unfinished basement. He added that everything looks right on Mr. Pearson's property.

Mr. Thompson also analyzed the revaluation data for Mr. Pearson's property in a software program that supported his determination.

Mr. Pearson asked if the sales that Mr. Thompson discussed were other antique homes to which Mr. Thompson said – yes.

Mr. Pearson asked if any of the other antique homes were burdened by the historic designation to which Mr. Thompson said – no, because that was Mr. Pearson's question and not the board's question, but all of those homes had a date of 1850 or prior.

A discussion ensued regarding a crawlspace, and if there is any other basement designation other than finished or unfinished to which Mr. Thompson said no.

A discussion ensued regarding the state's open land law.

Mr. Pearson said that he has a right of rebuttal, and that when Mr. Thompson says that a list of other houses are like his, and if everyone had unfinished basements, everyone would have been treated equally. He said that everything that Mr. Thompson did was wrong, and that he never knew that expediency replaced the right thing.

Marilyn Amoroso asked Mr. Pearson if he thought that Mr. Thompson took the route of expediency, to which Mr. Pearson said – yes, algorithms and data sheets were used instead.

Marilyn Amoroso said that the board should not deliberate tonight in all fairness.

Attorney Bower said that if the board would like to see the additional evidence presented tonight, the board could table the discussion to review at the April meeting. He added that the board needs to keep in mind the timing as the statute requires that the board issue a decision within 60 days from the application, which may have been extended due to vacation plans. He advised that the board should be cognizant, because the application is deemed to be denied after 60 days.

The board reviewed that the applicant requested, in the submitted materials, and agreed to an extension without an end date.

Mr. Pearson said that he will be unavailable from April 15 through April 22, 2023.

Attorney Bower asked if Mr. Pearson has any objection to an extension date to which he said that he did not want to burden the board based on his availability as listed on his materials submitted, so he did not specify an end date.

A motion was MADE by Marilyn Amoroso, SECONDED by Craig Stirling and VOTED to table the application until the April meeting. Unanimous vote.

Corey Noel said that he wanted to give the taxpayer the board's due diligence, and understand how to discuss and deliberate.

Attorney Bower said that another refresher training could be scheduled.

Marilyn Amoroso said that a training may not be necessary, but to summarize the process would be helpful.

The board discussed having another meeting this time in April.

Chairman Stirling said that he would like to limit the next meeting to review the new materials, and not review the entire appeal.

Mr. Thompson said that where this a de novo case, the applicant can present anything he wants to the board and the board could review.

3. 97 Weeks Road – Erin Pryor & Joshua Gatling (Map/lot 0020-0006-0001)

Mr. Poirier and Attorney Bower recommended tabling this item until the April meeting since there was uncertainty that the applicant was notified of the meeting.

A motion was MADE by Craig Stirling, SECONDED by Marilyn Amoroso and VOTED to table the application until the April meeting. Unanimous vote.

4. Other Business.

The board will look at draft rules provided.

5. Adjournment.

A motion was MADE by Craig Stirling, SECONDED by Marilyn Amoroso and VOTED to adjourn. Unanimous vote.