

Town of Bar Harbor

Board of Assessment Review

Thursday, March 17, 2022, Municipal Building Council Chambers

Meeting Minutes

1. **Meeting call to order:** Chair Kevin Knopp called the meeting to order at 3:30 p.m. The meeting was recorded. All board members were present: Mr. Knopp, Stewart Brecher and Charles Saul. Also in attendance were Finance Director Sarah Gilbert, Assessor Steven Weed, Tax Collector Jennifer Sawyer, Town Clerk Liz Graves, appeal applicants John O'Brien and Ruth Eveland.
 - a. Excused absences: None.
2. **Minutes:** Mr. Brecher, with second by Mr. Saul, moved to approve the minutes from the March 3, 2022 Meeting as presented. Motion passed 3-0.
3. **Adoption of the agenda:** Mr. Saul, with second by Mr. Brecher, moved to adopt the agenda as published. Motion passed 3-0.
4. **Chair to recap rules and procedures that are in place for the benefit of the BAR members, the appellants and the assessor:** Mr. Knopp reviewed the Hearing and Procedural Guidelines as adopted by the board and revised 4/15/2011.
5. **Hearing: Appeal of Assessor's Denial of Abatement Request, John S. O'Brien and Ruth A. Eveland, Land @Map 104, Lot 240, 22 Ash Place.** Mr. Knopp swore in the parties and witnesses. Mr. Saul noted that he formerly was employed at the Jesup Library. Ms. Eveland is the former Executive Director of the library and hired him, but she no longer works at the library. He said he feels he can be an impartial judge of the matter. The board agreed that this disclosure was helpful but recusal for conflict of interest was not needed.

Mr. Weed summarized his position on the application. Mr. Knopp asked if there was a requested amount of the original abatement. Mr. Weed said an abatement of \$45,000 was granted and he believes the applicants are asking for an additional \$45,000.

Mr. Saul asked why the reduction on the land value was 10%. Mr. Weed said that seemed to be standard for other properties that had a right of way that are encumbrances on the property. In other cases such as a public right of way it would be a greater reduction. It is an encumbrance, but it is also their access.

Mr. Knopp asked about the calculation of the right of way square footage mentioned in Mr. Weed's rebuttal memo. Mr. Weed said he did the calculation in the rebuttal to show what that would do in the current model. 10% is a larger abatement than it would have been if he had calculated the square footage of the right of way area.

Mr. Weed said he doesn't recall any other specific properties with similar right of way situations. Sometimes the reduction is nothing.

Mr. Saul asked about whether proximity to the Hannaford is an individual property factor, given sound impacts at all hours. Mr. Weed said that based on the sale of 12 Ash Place, which is between the applicants' property and Hannaford, that proximity didn't seem to affect the sale price.

Mr. Brecher asked about the "highest and best use of the property." Is it part of the state's criteria? Mr. Weed said in his opinion the highest and best use is as a single-family house, which is what it's assessed as. Mr. Brecher said it's arbitrary to determine because every property has different values. State law almost says it doesn't matter as long as everybody else is treated the same way. So something you might think is a better use could raise the value. It seems like it's a strange criteria to use.

Mr. Brecher said the board understands that the assessment system can be better and has talked about the possibility, for the future, of making a series of overlays which could be put into the program so that if you're a given distance from a noise-generating facility, you get a credit. If you can walk to all the facilities in town, you might have to pay more. He said he'd hope to find a way to make assessments more tuned to individual properties, "enriching" the formula or process to be fairer and to distinguish between individual properties and benefits. That would be up to the Town Council and the voters.

Mr. Weed said the "highest and best use" standard for assessment purposes is very general, for example residential vs. commercial. That measure has a lot to do with zoning, e.g. a farm in a commercial area would be assessed commercial. Mr. Saul noted that the town has the goal to increase housing. His own house, for example, is worth more if he sells it, but it's only worth more if he sells it. Mr. Weed said Bar Harbor does a good job of striking the balance between types of uses.

Mr. O'Brien and Ms. Eveland presented their argument.

Ms. Eveland said that part of their process has been trying to understand how the town is approaching taxation and the use of properties in the community. It's something she dealt with in the past when she was on the Council; she's currently serving on the Planning Board. Some of what they're trying to get at is greater understanding—her own home, in that sense, became a specific example to use to ask some questions on.

She asked whether, in the revaluation that was done, any valuations went down. Mr. Weed said some condominiums did seem to go down a bit. In 2008, when a lot of those assessments were done, there were not a lot of properties available so they were selling for a lot of money. He said downtown went up the most. Some of the subdivisions out of town didn't go up as much as the rest of the area, but they still went up.

She asked about the different kinds of property valuations. There's the tax valuation, there's the valuation that was used by the appraiser when they went to refinance, and then there's a sale valuation. She asked how they relate to or influence each other. Mr. Weed said for assessment purposes it's a mass appraisal. Assessments tend to be averages. A fee appraisal (for a sale) is a snapshot in time based on specific comparables. In theory they should come out to roughly the same amount. For a mortgage they tend to be on the conservative side. Sale prices are basically what everybody uses to come up with their opinion; there can be wide variation.

Ms. Eveland asked Mr. Weed why he believes vacation rentals had little to do with the increases in valuation in 2021; it seems to be different than the public understanding or that of some realtors. Mr. Weed said he did do a brief study. Looking at the sales, it's roughly a 50/50 split between properties that had active permits and ones that didn't. He said it didn't seem to be the driving factor. It's not enough of an effect to say that that is a 10% or 20% increase on a property. As of April 2021, the town didn't really have any limits on vacation rentals—everybody could do it. There's not enough quantitative evidence to say the fact that it's a vacation rental is a 20% or 30% bump. Ms. Eveland said she had spoken to a local realtor who said in the past year she had only been involved in transactions of two homes that sold for year-round occupancy and all the others were sold for seasonal use, whether as a summer home or vacation rental.

Ms. Eveland asked why the land valuation increased so much more than the building valuation. Mr. Weed said building valuations are primarily based on cost, less appreciation. That is less affected by the market because it's based on fixed costs. It's not driven by the market, but we're required to come up with a total market value, so the land is where you make up the difference. The rest is location. As far as state requirements go, what's most important is the total. Mr. Brecher said it's cheaper to try to buy an expensive house than it is to try to build a new house of a comparable size.

Ms. Eveland said there was a lot of discussion during the last revaluation was about how to make sure they happen more often. If there had been an interim step in here it wouldn't have choked property owners so much. Mr. Weed said there were segments done every couple years. At the current funding level in the CIP program, it will take until 2042 to raise the \$400,000 for a full reval. We will need one sooner than that.

Ms. Eveland said she and Mr. O'Brien are taking the proverbial opportunity in a small community like this to have their say; they wanted the town to have a chance to hear how they were impacted. She said she and Mr. O'Brien appreciate the process Mr. Weed sent through with the initial reduction.

She said her approach is from a lay perspective rather than a legal one. She believes there are two considerations that speak to their request:

1) Judgement unreasonable

- a. There is an additional ROW they believe should adjust their taxable area. It is shared space with neighbor; originally set up by Orlando Ash to be shared by his two children. They can't put a shed there or anything like that. The ROW is reflected in engineering maps for utility project, which included the process of installing storm drain and sewer. That project has substantially improved drainage issues.
- b. Highest and best use—She said there is a strong implication that their house should be seen for its potential as a vacation rental, rather than its actual use. Many of the comparables appear to be ones that have been or will be used as seasonal rentals. She and her husband have never in whole or in part rented out their home nor do they have any desire to do so. There is apparent encouragement to commercialize what had been residences; the town has acknowledged the difference with its new policy. She said the household includes the couple and one of their sons, who works at the hospital. There are no apartments available for someone in his income bracket. There is one full bathroom and only two of the three bedrooms actually have heat.

- c. Their property is 50 feet from where the trucks begin to back into the delivery bay at Hannaford, 24-7, making both vehicle and safety noises. Ash Place runs alongside the store and there are times when they cannot get in or out.

These factors resulted in their property being valued substantially higher than they believe is reasonable.

- 2) Unjust discrimination in how the method was applied regarding value of land for assessment vs. sale value. Ms. Eveland said she had spoken with a realtor about value of their backyard. What would be the value of one half of their backyard if they were to offer a parcel to each of the neighbors? Because of the extremely narrow use and marketability, the realtor said it would only be worth \$10,000 to \$20,000. It's assessed at \$75,000. She said she looked for other properties for comparisons. Asked Vision Government Solutions for other properties they had used; several of them are being used for seasonal rentals.

She said sales made at these prices during this period surely are not sustainable. It seemed not fair to base valuation on this hyper-inflationary phase in the real estate market.

She said they lived for 10 years out on Route 3 in a place that was perfect for an elderly mother and two rowdy little boys. They thought themselves very lucky to find their place in town. She said they are fully vested in continuing to live here; however with increase that is somewhat in question. She said they're asking for fairness and consistency.

Deliberations: Mr. Knopp said we are your neighbors and we feel your pain. It's nothing we haven't felt. He said everything the applicants have said rings true but it rings true of every house in town including his own. He said no new objective evidence has been presented that the assessor hasn't formally rebutted in his written response.

Mr. Weed has stated that from what he has seen values haven't gone down yet; they still are continuing to rise. The law requires that we follow the market whichever way it goes. He reiterated that the board can only make their decision based on facts and not opinions—without something in writing submitted as evidence, conversations with realtors, for example, have to be considered as opinion.

Mr. Brecher said the assessor is not permitted to assess certain parts of the property one way and other parts another. This is part of what we're trying to solve by having a richer assessment formula. If everybody suffers the same bad decision, it seems like it's perfectly legal and we can't do it otherwise. It meets what the state requires it to meet. There is very little that we could do unless there was a clear indication that it's a problem. There doesn't seem to be a lot here that we're permitted to change.

Mr. Saul said it's unacceptable to say that the town can't afford to improve assessments and do them more often. An additional person in the assessor's office or improvements to the formula, or both, are needed. Get the property values more in a line with each other. Assessments range from \$18/square foot all the way to \$10.

Mr. Brecher asked if there had been a physical inspection of the property. Mr. Weed said there wasn't, just a drive-by. He also noted that this wasn't a full revaluation; it was a statistical update. Mr. Brecher asked what category the building was put in. Mr. Weed said it was better than average for a 100-plus-year-old house. He offered to look at the house in person for next year.

Mr. O'Brien said when they first submitted their appeal they did not make that submission with a specific figure in mind; what they wanted to do was bring to Steve's attention the fact that Ash Place was included as part of their property and they didn't feel that was fair. They also pointed out in that initial appeal that their driveway is encumbered by the Orlando Ash deed and similarly they have no control over that parcel of land. In his written response, Mr. Weed did not address that second right of way that applied to the turnaround. He said the Ash Place ROW was acknowledged but there was no reference to their related claim about the ROW applying to our turnaround.

Mr. Weed said there was some confusion there; the deed he had on file did not specifically mention the turnaround. Rather than do a square footage reduction, he chose to do a 10% reduction on the whole lot. It gets very complicated to treat a portion of a lot separately.

Ms. Eveland said what they actually requested was changing the land valuation down to \$149,000. That was up from what it had been but not as much.

Mr. Knopp closed testimony at 4:45 p.m.

Mr. Brecher, with second by Mr. Saul, moved to deny the appeal based on the testimony, with regret. Motion passed 3-0.

Ms. Eveland said she will be happy to be supportive of any opportunity to improve the process going forward. She said the town has so many issues it's trying to confront, but this issue of the value of property in town is baked into many of them. She said it has been a steep learning curve.

6. **Other business:** None.
7. **Adjourn:** Mr. Knopp declared the meeting adjourned at 4:55 p.m.

Elizabeth Graves, Town Clerk