

BOARD OF ASSESMENT REVIEW
June 26, 2013

Chairman Richard Currier called the meeting to order at 6:33 p.m. Board members present included David Stansfield, Nora Irvine, John Stirling and Richard Currier. Smilie Rogers and Brian Kunkle were not available. Also present were the applicants, Jean and Stephen Harrington, and the Board of Assessors, represented by John Kareckas, David Webster, Gerald W. MacPherson, Sr., and Russell Abel. Other interested members of the public were also in attendance.

Organizational The members of the Board of Assessment Review discussed the process to hear this case. Mr. Kareckas clarified for the Board of Assessment Review that the Assessors were in attendance to present their case, The Assessors' Agent is not present. It was clarified that there would be no legal representation for the Assessors. At 6:41 p.m., the Chairman recessed the meeting until 7:00 p.m.

Harrington Hearing Oath Mr. Currier offered instructions to those present. He requested they present their case in its entirety, and then there would be time for questions and rebuttal for each side. There were no questions from the audience.

Mr. Currier outlined the specifics of the hearing. Assessed Value: \$268,500 Abatement Requested: \$89,600 Property Value \$178,900 Owners of record: Stephen Harrington Map/Lot: 027-079 Mr. Currier confirmed the Board of Assessment Review has a quorum present. He confirmed there are no conflicts of interest. The board reviewed the denial letter from the Assessors' Agent dated March 26, 2013. Mr. Currier confirmed the application for Assessment Review was filed in a timely manner.

Mr. Currier asked all present to stand (Jean Harrington, Stephen Harrington, Jack Kareckas, David Webster, Gerald W. MacPherson, Sr. and Russell Abel) to swear an oath. Jean Harrington, Stephen Harrington: XXX Main Street, the appellant Jack Kareckas, Assessor, 15 Parent Street (Town of South Berwick) David Webster, Assessor, 15 Pond Road (Town of South Berwick) Gerald W. MacPherson, Sr., Assessor, 19 Brattle Street (Town of South Berwick) Russell Abel, Assessor, 30 High Knoll Drive (Town of South Berwick) Mr. Harrington highlighted the most relevant points of the application for assessment review. He discussed his opinion the Assessors' decision was arbitrary. Mrs. Harrington discussed the inspection by the Code Enforcement Officer and the Assessors' Agent and made reference to the Assessors' Agent's notes. Mr. Stansfield asked if the Harrington's were invited to the Board of Assessors' meeting for their abatement request. The Harrington's confirmed they were not. Mr. Stirling asked how many units are currently in the building. The Harrington's replied 2. The Assessors had no questions for the Harringtons. Mr. Kareckas spoke on behalf of the Assessors. He referenced the minutes from the meeting on March 26, 2013. He responded to the Harrington's assertion the decision was arbitrary by stating it is not the role of the Assessors to be helpful. He further stated the Board of Assessors acted on the information that was presented. Mr. Kareckas stated there was no competing evidence presented to support the abatement request. Mr. Kareckas entered the following items into evidence: BOA2: 4/23/13 Agenda w/notations BOA3: 4/9/13 Draft minutes BOA4: Copies of Town assessing records for Map/Lot 25/7, 27/16, 25/55, 25/56, 25/82, 7/17, 28/36, & 27/52 Mr. Stansfield asked Mr. Kareckas how much weight was given to the Assessors' Agent's suggestion. Mr. Kareckas responded by stating the Board of Assessors denied the application, they didn't have the benefit of added information. Mr. Kareckas was asked if they had the Assessors' Agent's opinion that night, he responded yes. Mr. Stirling asked if they considered the condition of the property. Mr. Kareckas responded by stating it was a summary judgment. The Harrington's did not have any questions however, they stated they were not notified of the meeting, nor did they believe they were welcome to the meeting when their request would be discussed and decided by the Board of Assessors. Mrs. Harrington reminded the Board of Assessment Review, the Assessors' Agent's professional recommendation is not an opinion. Mrs. Harrington stated the comparisons are not equal. Mr. Harrington stated he believes other properties are over inflated. He further noted the reason for denial was not given and it is required by law.

Mr. Kareckas responded to comments that were pertinent to the case. Mr. Kareckas sated noise as a factor should be off the table. Further discussion included notice of the original Board of Assessors meeting, the lack of invitation to the meeting, and the ability for the applicant to attend the meeting. Jack Kareckas made a closing statement requesting the Board of Assessment Review affirm the decision of the Board of Assessors to deny the abatement.

On a motion by David Stansfield, seconded by John Stirling it was unanimously voted to close the hearing at 8:15 pm. Chairman Currier asked the board members if they would like to deliberate now or adjourn and deliberate later. The board decided to begin its deliberations. Chairman Currier accepted into the record the tax cards presented by the Assessors (BOAR4), not included in the packets. **FINDINGS OF FACT:**

Property owner: Property address: Map/Lot Abatement requested: Denied by Board of Assessors Permanent Issues Present Test & Evidence
Stephen Harrington 153 Main Street 027/079 \$89,600 3/26/2013

I. Letter and Exhibits from Harrington Appellant's application for Assessment Review received 05/28/213 Exhibit A1: Appellant's Application for Abatement dated 2/12/2013 Exhibit AA1: Letter dated 3/15/13 from the Assessors'

Agent to the Appellant Exhibit AA2: Letter dated 4/1/13 from the Assessors' Agent to the Appellant Exhibit AA3: Assessing Agent's notes from the property walk through

1. Exhibits from the Assessors

BOAi: Board of Assessors' Minutes 03/25/13 BOA2: 4/23/13 Agenda w/notations BOA3: 4/9/13 Draft minutes BOA4: Copies of Town assessing records for the following properties 025/007, 027/016, 025/055, 025/056, 025/082, 007/017, 028/036, 027/052 John Stirling made a motion to accept the findings of fact. Seconded by Nora Irvine, motion carried.

The Board discussed the merits of this case:

- The Board of Assessors denied the request
 - No clear reason was given by the Board of Assessors
 - The appellant was not present for the Board of Assessors' Meeting
 - It was noted the Assessing Agent's letter to the appellant did not include an invitation to the meeting of the Board of Assessors
 - Burden of proof is on the appellant
 - Summary judgment is not reasonable
 - Condition was not considered, decision is not reasonable

John Stirling made a motion that the Board of Assessors were so irrational or unreasonable in light of the circumstances, that the property is substantially overvalued, second by David Stansfield, motion carried.

John Stirling made a motion that the Board of Assessors' decision did not result in unjust discrimination, second by David Stansfield, motion carried.

John Stirling made a motion that the Board of Assessors' decision was not fraudulent, dishonest or illegal, second by David Stansfield, motion carried.

CONCLUSION:

1. There is no evidence of fraud, dishonest or illegal assessment.
 1. There is no evidence the assessment resulted in unjust discrimination.
 2. There is evidence the assessors were irrational or so unreasonable in light of circumstances, that the property is substantially overvalued and an injustice results.

John Stirling made a motion to accept the conclusion, David Stansfield second, motion carried.

Davis Stansfield made a motion that the Harrington's application to the Board of Assessment Review be granted in the amount of \$89,600, second John Stirling, motion carried.

Chairman Currier requested the results of this meeting be sent to Mr. & Mrs. Harrington.

David Stansfield made a motion to adjourn the hearing, Nora Irvine second, motion carried.

The hearing was adjourned at 8:55 p.m.

Attest:

Roberta L. Orsini