

TOWN OF WEST BATH
Board of Assessment Review (BAR)
Appeal Hearing Decision

Subject of Appeal: Residential land (site improved) located at 40 Fosters Point RD and identified as Tax Map U11 Lot 015 (AC#762). Subject owned by Joel D and Cheryl C White.

Jurisdiction of West Bath BAR to hear and decide appeal:

- West Bath date of True Commitment 08-24-10.
- Taxpayer Application for Abatement dated 10-07-10 / received 10-12-10.
- The taxpayer filed a written application for abatement to the proper body within the 36 MRSA 841 deadline.
- Elected Assessors' granted a partial abatement 11-22-10.
- Notice of Decision dated 11-29-10.
- The elected assessors responded within the 36 MRSA 842 deadline.
- The tax payer was properly informed of partial denial of the request.
- The tax payer application for appeal of denial received by town 01-24-11.
- The taxpayer filed a timely appeal of denial under 36 MRSA 843.

Preliminary requirements for filing appeal were understood as having been met.

Date of Site View: Thursday, March 10, 2011 at 5:30 PM
Location of Site View: 40 Fosters Point RD, land (only) view
Site View Attending: Joel D White, Appellant
Juanita Wilson-Hennessey, BAR Chair
Richard Totten, BAR Secretary
James Williams, BAR Regular Member
Peter Oceretko, BAR Alternate

Date of Hearing: Thursday, March 10, 2011 called to order at 5:52 PM
Location of Hearing: West Bath Town Hall Lower Level
Hearing Participants: Joel D White, Appellant
Ronald Beal, West Bath Assessing Agent
Juanita Wilson-Hennessey, BAR Chair
Richard Totten, BAR Secretary
James Williams, BAR Regular Member
Peter Oceretko, BAR Alternate
(Rob Morris, BAR Recording Secretary)

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Continued re: Tax Map U11 Lot 015 (AC#762)

Exhibits:

Appellant Submittal:

Appeal Application received by Town 01-24-11
Exhibit 1 – Notice of Decision dated 11-29-10
Exhibit 2 – Market Value Opinion dated 11-18-09
Exhibit 3 – CMA Memo to Selectboard dated 11-15-10
Exhibit 4 – Abatement Application dated 10-07-10
Exhibit 5 – Subject Property Card
Reviewed, but not submitted – PB43 PG3 Lot Survey

Town Submittal:

No documentary evidence presented;
Oral testimony by Ron Beal, CMA as Assessors' Agent

Summary of Findings of Fact:

- Appellant and Town mutually agreed that the aggregate value of the real estate as currently assessed, after partial abatement granted is \$43,600.00.
- Appellant confirmed abatement sought is to lower assessed value as of April 1, 2010 to \$30,000.00.
- Neither party (appellant and town) represented at hearing by legal counsel.
- The town's Assessing Agent Ron Beal stated that he has reviewed values assessed on all lots in the subject's immediate area and that has confirmed that all parcels reflect equal assessing methodology.
- Ron Beal also stated that he has discussed the subject property in detail with Ellis Reed, Code Enforcement Officer (CEO) on multiple occasions concerning both the continued existence of a functional septic system and the specific application of West Bath's land use ordinance to the substandard lot of record's status to accept new structures since a catastrophic fire on 02-23-2010 resulted in the total loss of all buildings that had existed prior to the current land use ordinance implementation.
- Though no copy of the building permit was presented by either the appellant or the town, it was mutually agreed by Joel White, Appellant and Ron Beal, CMA that the building permit issued as of 01-20-11 is primarily to protect the Whites' right to rebuild on the former dwelling's footprint within one year of the fire.
- Ron Beal and Joel White also mutually agreed to a common understanding that any significant start will be acceptable to Ellis Reed as CEO, though neither party submitted any written statement from Ellis, nor was any relevant segment of the actual land use ordinance presented as documentary evidence.
- Ron Beal further testified that the CEO had stated that the placement of a manufactured home up to 56' in length was feasible if the dwelling's placement was oriented east to west since it would lessen existing non-conformity with the current 35' set back requirement. Joel White was unable to comment since he had not had shared the discussion with Ellis Reed.
- Joel White confirmed that the residence had been occupied by tenants at the time of the fire and clarified that lack of fire insurance had deterred immediate reconstruction.
- In response to a question from the BAR, Ron Beal discussed that a parcel within sight of the subject lot is under court order to remove visible items improperly stored there. Ron added that the overall neighborhood's lack of use conformity precluded any further value adjustment to subject for economic depreciation.

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Summary of Decision:

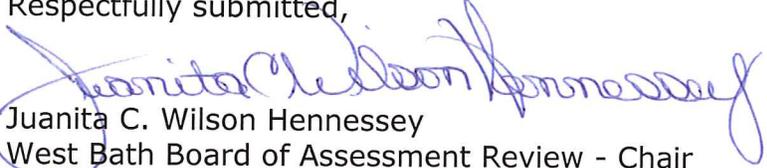
The Board of Assessment Review deliberated and concluded that the appellant did not meet the necessary burden of presenting compelling evidence that the assessment is so flawed that it should be deemed manifestly wrong, rather than merely imperfect. One member expressed that though the evidence was insufficient for him to quantify a value reduction he remained convinced that the assessed value was higher than open market value. It was also restated that though the subject land was a substandard lot of record at the time the current land use ordinance was enacted and as such may be in future peril of value loss as the direct result of inability to meet required setbacks if the destroyed buildings are not replaced within ordinance time limitation, the current assessed value is effective as of April 1, 2010 when the land remained fully vested with the right to accept replacement structures.

Accordingly, it was the vote of the Board of Assessment Review by a margin of two to one that the Town of West Bath's current assessed value of \$43,600.00 should stand as a reasonable just value on April 1, 2010.

The West Bath Board of Assessment Review hearing was adjourned at 6:55 PM.

On this 14th day of March 2011

Respectfully submitted,


Juanita C. Wilson Hennessey
West Bath Board of Assessment Review - Chair

NOTE: Title 36 M.R.S.A. 843 states that the decision of a local Board of Assessment Review may be appealed by either party directly to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure. Appeal must be filed within 45 days of the date of the vote on the original decision and this time period may be extended by the court upon motion for good cause shown.