

1. Call to Order / Attendance

Chair Afienko called the meeting to order at 6:00 P.M.

Members present: Joe Afienko, Chair; Mary Thron, Member; Alan Rindler; Member; and Kristin Collins, attorney from Preti-Flaherty.

Other people present not included in roll call, Karen Fortier, Kittery Contract Assessor; Paul McKenney, Kittery Contract Assessor; and Candace Morong, CM Appraisals, LLC.

2. New Business/Public Hearing: Appeal 1, 22 Captains Way (Tax Map 71 Lot 1-31). Owner/Applicant 22 Captains Way, LLC requests consideration of an application of appeal for real property assessment. Agent Candace Morong, CM Appraisals, LLC.

Chair Afienko asked Ms. Morong to proceed. Ms. Morong summarized her appraisal completed on April 1, 2020 for \$2,600,000. She reviewed the comparisons provided, stating that based on these her value was on the higher end. She reviewed the increase of the assessed value of the property since 2019, an increase of 209% which was higher than her comps.

The Board was asked if they had any questions of the applicant.

Mr. Rindler asked questions regarding her comparisons. Specifically, the inequitable characteristics of 79 Tower Rd., in regards to the bedroom count, room count, lack of pier and boathouse, and acreage.

Ms. Morong replied that there were no comparable sales. She responded that the market does not have a reaction they can calculate in regards to the bedroom discrepancies, so they do not adjust for it. The boathouse at the property was in bad shape, and the pier and dock were also not in great condition.

Mr. Rindler asked about the renovations done on the property. He asked if they were done prior to the sale of the property.

Ms. Morong replied they were done prior to the current ownership. She responded that she has appraised this property seven times and that the renovation was beautiful despite the quirks to the older property. Deficiencies she noted were settling, wet basement, and the shape of the boathouse.

Mr. Rindler asked if she was part of the appraisal for the prior owner's mortgage security of the property, specifically if the mortgage was for 80% of the value of the property.

Ms. Morong replied that did the appraisal but she was unclear of the terms of the financing.

Mr. Rindler asked if she knew the cost of the renovations.

Ms. Morong replied that she would have that information in another file, and that sometimes cost does not equate to value. She could not give Mr. Rindler an estimate.

Mr. Rindler moved on to the \$50,000 adjustment of the land appraisal for the 5.5 acre property compared to the .95 acre comparable property.

Ms. Morong replied that according to the Town, the property is considered a legally non-conforming property due to lack of adequate road frontage. She explained the limitations this puts on the property, such as inability to subdivide.

Ms. Thron asked the agent if she recalled what the appraised value was for the property in connection of the refinance from a few years ago.

Ms. Morong does not recall the value and that it would be immaterial to the value as of April 1, 2020.

Chair Afienko asked her to elaborate, asking if the value of the property has gone down since that mortgage.

Ms. Morong responded that she focused on the current appraisal and that prior appraisal for the mortgage was in a different time and scenario.

Chair Afienko asked if Ms. Morong has renewed her license, and she responded yes.

Ms. Fortier asked if the Board had any more questions at this time for the agent. They did not. Ms. Fortier continued with the Assessor's questions for the agent.

Ms. Fortier asked if the agent knew the estimated value of the furnishings included in the recent \$4,300,000 sale.

Ms. Morong replied that she was not part of that sale. He paid cash and she did not have a purchase and sales agreement since he paid cash. She is not a personal property appraiser so that is not part of her appraisal.

Ms. Fortier asked questions about the comparables and the leading factors of value.

Ms. Morong replied and described the difficulty finding comparable properties to the applicant. Her leading values are location, waterfrontage/views and condition of the property. She clarified that the property does indeed have a private beach, with association dues.

Mr. McKenney asked about the water views of the property to the comparable 4 Lawrence Lane, and Ms. Morong defended her appraisal.

Ms. Fortier asked Ms. Morong about the same \$50,000 site adjustment for the four comparable properties.

Ms. Morong responded in discussing site adjustments with real estate brokers and other appraisers, that it was a fair adjustment in light of a lack of true comps.

Mr. McKenney asked why she did not include the sale of 15 Bowen Road as a comp.

Ms. Morong replied that she wouldn't use a comp from 2018 in her report, and only focused on the prior year timeframe, 2019-2020. She stressed that they use the current market activity.

Ms. Fortier asked if the comparables she used best reflected the market value as of April 1, 2020 and Ms. Morong replied yes.

Chair Afienko asked the Assessors to proceed with their presentation as there were no more questions of Ms. Morong.

Mr. McKenney summarized that the applicant does not meet the burden of proof that the assessment is manifestly wrong or that the property was substantially overvalued, or that the Assessors discriminated against the property. The appraisal used for the appeal included inferior properties without appropriate adjustments. Mr. McKenney gave a brief summary of the circumstances and the sale of the property. He briefed the Board on the applicant's abatement to the Town requesting an adjustment. Mr. McKenney presented the Assessor's comparable properties used in determining the market value of the property. He explained to the Board the Assessor's process during the revaluation. Mr. McKenney discussed the two comps that the Assessor and Ms. Morong both used, and noted some inferior aspects of the two comps. Mr. McKenney elaborated on the other comps the Assessors used in their assessment. He explained the features similar and dissimilar to the subject property, and concluded that the adjustments the appraiser used were not sufficient.

Ms. Fortier explained to the Board the sales grid, which reviews pertinent sale data for the subject's property and the four comparables used by the Assessors. Property assessment adjustments were explained, as well as the property features that affect the value of the subject's property versus the comparables. The grid gave a range of assessed value for the properties and the market values.

Mr. McKenney then explained to the Board the State laws pertaining to the revaluation performed by the Town this summer. The Assessors revaluated the entire town based on a model generated from sales from the past two years. Preliminary hearings were held, and then the abatement process began after commitment. Mr. McKenney reported that the subject's property was adjusted at the informal hearing, and an abatement was granted for the property. Mr. McKenney reported on the town-wide property adjustments from the revaluation. He reviewed the statistics from the revaluation regarding the model and the assessments.

Mr. McKenney next reviewed the Town map and the locations of the subject's property and the comparable sale properties, to show the Board the locations of the waterfront properties.

The Board opened up questions to the Assessors.

Ms. Morong had a question regarding the time adjustments the Assessors made versus the time adjustments she made in her appraisal. Specifically, the property that sold in 2017 and how the adjustment was made since this is a niche market. Ms. Morong commented on some of the interior features and the disagreement with the condition or value adjustments.

Mr. McKenney replied on the uniqueness of the quality or construction of the building. Mr. McKenney and Ms. Fortier commented on the inability to go inside every property, and that the owner did not grant interior access. The property card was reviewed with the owner for accuracy. Ms. Morong did not agree with the Assessor's assessment of the value, and mentioned the fireplaces are non-functioning, the basement is wet, and there is settling. Fireplace value was discussed by the Assessors and Ms. Morong.

Mr. Rindler asked the Assessors what the property owner brought in for evidence that led to the reduction of the assessment by over \$600,000.

Mr. McKenney explained that the owner reported the personal property included in the sale price, and the repeated increases of the cash offer until the prior owner agreed to sell. Mr. McKenney reviewed the sale prices and agreed that he overpaid. The owner was more concerned with the increase of the taxes, and wanted a lower starting point of value on the property in case he wanted to do any future improvements.

Mr. Rindler asked Ms. Morong a follow up question regarding the renovations of the property in 2017-2018, confirming that the appraised value on her report was after the renovations. Ms. Morong confirmed.

Ms. Thron asked the Assessors to clarify the time value adjustment of 4% and how they came up with it.

Mr. McKenney reported that they try to use the Maine MLS for this data, and he used the NH MLS as they work in Southern Maine. He further explained the sales data was pulled town-wide for various years, and it included all residential properties.

Ms. Thron asked if there was a difference for the waterfront properties in this adjustment. Ms. Fortier replied that the time adjustment does not have a huge impact in this case and still reports the assessment is well above the appraiser's value. It was clarified again that the private sale for the property was not included in the data. Mr. McKenney noted that the proximity to Portsmouth also influences the value.

Ms. Thron also asked about the land adjustments, and the discrepancies on the property cards. Ms. Fortier explained to the Board the factors and the values, and what

is included in the land assessment. Mr. Mckenney clarified the process, explaining the house site of an acre, and the remaining acreage as excess acreage.

Ms. Thron referred the Board and the Assessors to look at the Ms. Morong's table of neighborhood properties and their assessed values over the years.

Mr. McKenney reported that the revaluation process increased the values in 2020. He commented this was to bring the values current with the market, and that this revaluation allowed the database to assess improvements on current value base rates and building costs.

Chair Afienko asked Mr. Mckenney about the State requirement of assessed values to be within 90-110 percent of the market. Mr. Afienko noted the differences of the appraiser's approach and the Assessors' approach. He reiterated the requirement of overturning the assessment, and did not believe that the evidence provided this.

Ms. Thron expressed her disagreement with the Chair, and that the value was overstated by the Town due to the inferior features. She questioned the "excellent plus" status of the building grade, and Mr. McKenney and Ms. Fortier replied that it wouldn't make much difference to lower this since the driving factor of the property is the site.

The Board requested closing remarks from both side before deliberation. Ms. Collins clarified that deliberation will be on public record.

Ms. Morong did not have any closing remarks.

Mr. McKenney reviewed the quality of the building, the uniqueness of the property, and the quality of the property. Mr. McKenney reported that the comp of 79 Tower Rd. has since had a second-floor addition not noted in the sale price and has since been completed and assessed.

Ms. Thron asked again about changing the grade factor from excellent plus to a lower grade and how that would affect the value. Ms. Collins agreed with the validity of the question, and understood that it was generated and derived from a computer-based system.

Ms. Collins asked the Assessors if there was a bump in assessment after the 2017 renovation. Mr. McKenney reported that there was but he did not have the figure. Discussion ensued around the potential of a bump in the assessment after the renovation. Building permit costs briefly discussed.

The Board closed the public hearing.

Ms. Collins reviewed the process of the findings of fact and notice of decision to the Board.

3. Deliberation

Mr. Rindler does not believe that the applicant has presented substantial evidence that the assessed valuation is manifestly wrong. He based this on: 1. It is one of the most unique properties in the town. 2. The appraisal's comparisons were not sufficient. Specific details from the comps were described. The renovation should have resulted in an interior inspection and an increased value should be available. The Assessor's comps were more reliable. He does not feel a further abatement is indicated.

Ms. Thron believes that the assessment prior to the abatement is irrelevant. She noted the comparable of 94 Goodwin as a more personal preference in the difference of some of the features. She believes the property's age would make it harder to sell in the market, and that based on the testimonies, the Assessor's overvalued the condition of property. She would like to see the property assessed with the change of the building condition to reach a new value.

Chair Afienko discussed the evidence provided does not prove the assessment as manifestly wrong.

Ms. Collins addressed Ms. Thron's question of the correct value, and the missing evidence of the interior renovation. The hearing could continue, with the Board requesting the Assessors to provide these values from the town database, however the burden is on the applicant to provide the values.

Mr. Rindler moved to deny the request for the appeal. Chair Afienko seconded the motion.

The motion passed 2-1 to deny the application for appeal.

The Board and Ms. Collins agreed to write, present and vote on the findings for the meeting.

The Board took a recess at 7:54 PM, and reconvened at 8:08 PM.

Ms. Collins read the findings of fact and the Board discussed each one as follows:

1. This is a very unique property which occupies the entire point, with a large lot, private beach, beach house and elevated location. None of the comparables presented by the Appellant had this same combination of features.
2. The adjustment of \$8,000 for lack of dock and boathouse which the appraiser made to the comparables was not sufficient to capture the value of those amenities.
3. The adjustment of \$50,000 made by the appraiser for the comparables to account for the differences in site did not properly account for the significant difference in uniqueness, quality and size of the subject site.
4. The range of comparables presented by the Assessor better captures the features of the subject property. The Goodwin Road property is a particularly good comparable and sold for \$3,475,000 in October 2017 though it does not have a dock or private beach. The Lawrence Lane property is a similar sized home with an

inferior view, which sold in 2018 for \$2,625,000. The Bowen Road property does have comparable siting and views and sold for \$2,650,000 in 2018. The Board finds the adjustments made by the Assessor to the sales price to account for time and property variations to be credible.

5. Although the Appellant presented credible evidence that there were some negative building conditions (inoperable fireplaces, settling, wet basement) it did not present clear evidence as to the impact of those specific conditions on the value of the property. Whereas the Assessor was not granted access to the interior of the property and the Board was not given interior photos of the comparables from either party, the Appellant has failed to meet its burden to show that a substantial change in the valuation due to interior quality is warranted.

Mr. Rindler moved to approve the findings of fact as written. Chair Afienko seconded. The motion passed 2-1.

Ms. Thron moved to authorize the Chair to sign a written notice of decision and findings. Seconded by Mr. Rindler. The motion passed 3-0.

4. Other Business

None.

5. Adjournment

Ms. Thron moved to adjourn at 8:30 P.M., seconded by Chair Afienko.

Motion Carried 3-0

Submitted by Carrie Varao on May 10, 2021.

Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort has been made to ensure the accuracy of the information, the minutes are not intended as a verbatim transcript of comments at the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website.