

Town of Fayston
Lister's Office
866 North Fayston Road | North Fayston VT 05660

2018 Grievance Hearings

Friday May 25, 2018

1:00pm 2849 Mill Brook Rd LLC - Parcel ID 08-072.009

Heather Lynds (owner) & Ron Shems (attorney) present. Hearings opened at 12:49pm. Heather opened this discussion by arguing that both the State and the Town of Fayston have been unfriendly to their business and that had they had known they would have been so significantly restricted they would have purchased a business in another State. Heather stated that they were limited to 23 events, 1 per week from mid-May to mid-October; stating that these severe restrictions have led to a miniscule increase in revenue.

Doug spoke to mass appraisal and that the process was not perfect but that in that method all standards are applied equally across all properties. Heather argued that it was not equitable; that the 42% increase in overall value of their property due to the value placed on the Pavilion was only offset by a gross revenue increase of 19% (see documents attached presented by owner and her attorney).

Doug spoke to the fact that the value assessed on the Pavilion was not based on income. Ron spoke to the issue that the income which can be generated by the Pavilion is limited based on constraints placed by the Town and the State. Heather interjected that the town was worse in their restrictions than the State (town allows 23 events, state allows for 24 events).

It was suggested that the listers review how the assessed value was achieved so that the owner could see how the Lister's took the restrictions on the property into account. Several attempts were made by the Listers to clarify, but Heather was not willing to hear any of the explanations. Ron agreed that listening to the way the listers got to the assessed value is worthwhile.

Doug spoke to quality of post and beam structure, which is the construction of the Pavilion, would normally be a "6" quality, which would have cost the building at around \$700K, which the Listers believed was likely the cost of construction. Doug then went on to explain that depreciation and a reduction in quality were applied together to take into account the restriction on the number of events and specific function of the building. Ron argued that since it is a commercial property quality is irrelevant and that the lowered quality and depreciation is arbitrary. Doug did not argue that these two factors are arbitrary numbers, however depreciation of this nature (accounting for restrictions) is somewhat subjective.

It was asked what owner believed was a fair value increase, Heather stated that she felt 20% overall increase in the assessment (\$175 - \$180K value was estimated - without calculating the numbers). Ron argued that while depreciation doesn't make sense in this case, he suggested

that it could be tied to days of use. It was suggested by Ron that an income approach may be a more appropriate way to assess the value, citing his work with Washington Electric Company as a property that is assessed on the income approach. Sarah stated that the given that there is no precedent in Fayston for using the income approach for valuation, that they will have to educate themselves on how that is done and that if they need further income information from the owner is that something that could be obtained? Ron said yes. It was stated by the Listers they would be as discreet with any information obtained while still following State Law for public documents.

1:30pm Mishkulin - Parcel ID 07-043

Dick King, attorney for owner, present.

Dick introduced the property by stating that it was a sale in a true arm's length transaction, and that the sales price is significantly less than the assessed value, \$497,628 vs \$573,400 respectively.

Dick stated that Fair Market Value in statute is defined as willing buyer and willing seller who have gone through some level of a negotiation process. Supreme Court addressed how do you determine Fair Market Value - one standard is price paid in a sale between a buyer and seller with no relation, no side deals etc. - the sale price presumptively reflects the Fair Market Value. Dick argues that this sale meets those qualities. Dick then went on to describe a piece of land in Duxbury as an example. See attached documents provided by Dick.

This house was a distressed sale, the seller was a bankruptcy trustee, but was not a foreclosure sale. Dick explained that the bankruptcy trustee went to court to present the sale price and then had to go back for approval of the price under contract for the house. Dick argued that the Trustee is a) motivated to get best price & b) has the court looking over his shoulder to get the best price and that this again supports the argument that this is an arm length transaction.

Doug asked if we could go have a site visit. Dick was ok with that.

Doyle - Parcel ID 14-014

Owner not in attendance, sent in email as evidence.

Baringer - Parcel ID 14-026.001

Owner not in attendance, sent in email as evidence.

Deliberative session started at 1:55pm

- **07-043** - No decision made. Scheduled site visit with owner for Friday June 1st.
- **08-079.009** - No decision made at this point. Listers will request help from PVR District Advisors with regard to income valuation on the Pavilion
- **14-014** - No decision made. Schedule site visit with owner for Friday June 1st
- **14-026.001** - Site grade lowered to 0.8 to reflect that lots are un-improved and removed value of the shed. Bulk land remained 0.8 to reflect that the property is subdivided.
New Value: \$157,100

Deliberative session closed at 5:55pm, continued to Friday June 1st, 2018 after site visits.

6:00pm Close of 2018 Grievance Hearings.

2018 Grievance Hearings Continued Deliberations

Friday June 1, 2018

Went into deliberative session at 12:15pm

- **07-043** - Reduced site grade to 1.1, increased functional depreciation to 8
New value: \$541,900
- **08-079.009** - No decision made.
- **14-014** - Lowered grade on land to 0.7 to reflect poor access and site. Deck in very poor condition - removed value. Increased Functional depreciation to offset value of loft and to reflect basement bedrooms. Reduced landscaping. Flooring currently removed - 96% complete on renovations.
New value: \$161,700

Deliberative session closed at 1:15pm, continued to Wednesday June 6, 2018 at 10:00am

2018 Grievance Hearings Continued Deliberations

Wednesday June 6, 2018

Went into deliberative session at 10:15am

- **08-079.009** - Income approach to assessment was researched at the request of the owner. After discussing this method with PVR District Supervisors and multiple assessing officials throughout the State no precedent was found for utilizing the income approach. Changes made in the assessment are as follows – changed quality grade to reflect construction quality, removed 28% of base value of structure to reflect open side of pavilion; increased economic depreciation to 50% to reflect restrictions of amplified events at the site.
New value: \$1,157,200

Deliberative session closed at 12:45pm

Respectfully submitted,

Doug Mosle

Sarah Stavraky

Leo Crain

Fayston Listers
June 6, 2018