

Clayton A. Button and Diane T. Button

v.

Town of Plaistow

Docket No. 4118-87

DECISION

A hearing in this appeal was held, as scheduled, on June 30, 1989. The Taxpayers were represented by Clayton A. Button, one of them. The Town was represented by Mary E. Pinkham, Appraiser, State of New Hampshire Department of Revenue Administration.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$543,800 placed on their land located off Sweet Hill Road, for the 1987 tax year. The subject property consists of approximately 72 acres of undeveloped land. The Taxpayers also own a parcel of approximately .41 acre at 5 Timberlane Road which is assessed at \$17,400 for the 1987 tax year.

Neither party challenged the Department of Revenue Administration's assessment-sales ratio of 100 percent for the 1987 tax year. Based on that ratio the Taxpayer's assessment on the 72-acre parcel of land equates to a market value of \$543,800, as of April 1, 1987.

The Taxpayer argued the subject property was in the planning process as of April 1, 1987. Mr. Button testified test pits had been dug and his first public hearing was February of 1987. The Taxpayer stated the hearing was continued as an abutter raised a boundary-line issue and the second hearing

was scheduled for September of 1987.

The Town argued the first plan in the Taxpayer's planning file was dated October 7, 1986, and showed 21 lots. Ms. Pinkham acknowledged the problems with the approval process and reiterated on April 1, 1987, the zone encompassing the subject property required 40,000-square-foot lots and a usage of 25 percent wetlands to achieve the minimum square-footage requirement. Ms. Pinkham testified the zoning change was effective in June of 1988 and required 80,000-square-foot lots with no use of wetlands for achieving minimum area requirements.

Ms. Pinkham testified the parcel was appraised as a whole, not for approved lots, and that a unit value of \$20,000 an acre was used in determining the value for the parcel. Ms. Pinkham also stated the frontage should have been calculated as 265 feet and an excess frontage depreciation should have been calculated at 84 percent.

Ms. Pinkham presented sales of smaller parcels to substantiate the \$20,000-an-acre unit price for the rear acreage used in the revaluation of the Town of Plaistow. Ms. Pinkham also stated finished lots had sales prices of \$50,000 to \$75,000 as of April 1, 1987.

The Taxpayer stated the climate in Plaistow was hostile towards subdivision projects during that period of time. Mr. Button stated planning moved very slowly and cited the formation of the Citizens for Orderly Growth and the Selectmen's indicated policy of no new streets.

The Board finds the Town's assessment indicates substantial adjustments to the \$20,000-an-acre unit price in arriving at the assessment for the subject property. The Board further finds the Town did not substantiate the \$20,000-an-acre unit price for equivalent-sized parcels in its presentation of

comparable sales. The Board finds the preponderance of the evidence indicates a unit value for the subject parcel of \$4,000 an acre.

The Board therefore rules the proper assessment for the 1987 tax year for the 72-acre parcel was \$288,000. The Board rules the proper assessment for the .41-acre parcel is \$17,400.

If the taxes have been paid, the amount paid on the value in excess of \$288,000 for the 72-acre parcel identified as Map 89, Lot 3, is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

April 27, 1990

Anne S. Richmond, Chairman

George Twigg, III

Peter J. Donahue

(Mr. Franklin did not sit)

Paul B. Franklin

I certify that copies of the within decision have been mailed this date, postage prepaid, to Clayton A. and Diane T. Button, the Taxpayers, to the Chairman, Board of Selectmen, Town of Plaistow, and to Richard Young, Director, Property Appraisal Division.

Michele E. LeBrun, Clerk

April 27, 1990
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