

Sherrill H. Peterson

v.

Town of Goshen

Docket No.: 7666-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$33,750 (land only) consisting of a .22-acre lot on Rand Pond Road (the Property). The Taxpayer owns, but did not appeal, a developed lot identified as Map 209, Lots 43 and 42.1. For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) the Property is a 100' x 100' lot;
- 2) the Property was purchased for a leach field, if needed, for Lots 43 and 42.1;
- 3) the Property has only a 25' right-of way to Rand Pond Road;
- 4) the Property will not support a septic system;

5) over one-half of the Property is wetlands;

Sherrill H. Peterson v. Goshen

Docket No.: 7666-89

Page 2

6) a comparable submitted for an unbuildable lot indicates a reduction is warranted; and

7) the Property is only worth \$2,500.

The Town argued the assessment was proper because:

- 1) Lot 22 has access to water;
- 2) septic approval was denied, but the Lot was later given a building permit;
- 3) water access is inherent in the \$500.00 front-foot price; and
- 4) it was calculated using the sales analysis used throughout the Town.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$24,000.

This assessment is ordered because:

- (1) the topography adjustment should be reduced to .60 due to the wetness of the Lot and its limited development potential; and
- (2) the undeveloped factor should be increased by -10% due to septic issues.

The Town submitted an analysis of the seven Rand Pond sales from which the base, land values were derived (Exhibit TN-A). The three sales of undeveloped lots required substantial adjustments for size, condition or buildability and were not heavily relied upon by the Town. The four sales of developed properties were of cottages or dwellings with operating septic systems and varying water supplies. From those four sales, residual land prices of \$1,000 for waterfront and \$500.00 for rear lots were derived, using the New Hampshire Department of Revenue Administration's (DRA) land tables.

The DRA land tables allow a minimum of 5% to a maximum of 10% for the difference between a developed lot and an undeveloped lot. Additionally, for developed lots, \$4,500 was added for a septic system or \$1,000 for a holding

Sherrill H. Peterson v. Goshen
Docket No.: 7666-89
Page 3

tank.

The consistent evidence submitted in the 30 Rand Pond appeals was that septic systems were difficult and expensive to construct due to the small size of many of the lots and limiting soil conditions. Those with modern systems are of the expensive "pump up" design. Many developed lots have only holding tanks because the lots cannot support septic systems. Some of the small undeveloped lots have such severe ledge or drainage conditions or abut existing water supplies, that installing a septic system would be impossible or economically infeasible.

Based on these facts, the board finds the DRA undeveloped factors and the septic and holding tank values do not adequately account for the difference in market value between properties with septic systems and those that are undeveloped or have only a holding tank. These value differences should reflect not only the "cost to cure" but also any uncertainty the market would perceive in valuing such properties when compared with properties with septic systems. Therefore, the board reduced the undeveloped factor by the additional -10%.

If the taxes have been paid, the amount paid on the value in excess of \$24,000 shall be refunded with interest at 6% per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Sherrill H. Peterson v. Goshen
Docket No.: 7666-89
Page 4

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Sherrill Peterson, Taxpayer; Department of Revenue Administration; and Chairman, Selectmen of Goshen.

Dated: January 27, 1993

Valerie B. Lanigan, Clerk

004