

Kenneth and Beverly Dorrance

v.

Town of Pelham

Docket No.: 8461-90PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 adjusted assessment of \$76,600 (land \$24,500; buildings \$52,100) on a 1.06-acre lot with a house (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying an unfair and disproportionate share of taxes. See RSA 76:16-a; TAX 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried their burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) a November, 1990 appraisal estimated a \$141,000 value;
- (2) based on the assessors' poor performance and the numerous changes to the assessment card, the Taxpayers lacked confidence in the assessment; and
- (3) the Property was worth \$130,000.

The Town argued the assessment was proper because:

- (1) it was arrived at after visits to the Property;

- (2) the Taxpayers' appraisal did not substantiate the locational or external obsolescence adjustments;
- (3) the site value used in the appraisal's cost approach was unsubstantiated and lower than any sale; and
- (4) no adjustment was warranted for the gravel road.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$71,200 based on the inspector's \$145,300 market value x .49 equalization ratio. After receiving all of the information from the parties at the hearing, the board decided to get the inspector involved to address certain specific concerns. First, the board wanted its inspector to review the Taxpayers' assertion that the assessment should be adjusted due to the gravel road in front of the house. Secondly, at the hearing and during deliberations, the board concluded the Taxpayers' appraisal had certain errors in it that required the inspector to visit the Property and the comparables to correctly review the appraisal. Mr. Bartlett, the inspector, did both of these, and he filed a report with the board, which both parties were given an opportunity to respond to.

The board finds Mr. Bartlett's report to be the best evidence of the proper assessment. The report itself is sufficient in its explanation, and the board will not reiterate the report here. Mr. Bartlett did amend his report after reviewing the parties' submissions. The amendment is attached to this decision.

If the taxes have been paid, the amount paid on the value in excess of \$71,200 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:16-a (Supp. 1991), RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1991, 1992 and 1993. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

Note: The board's ordered assessment is based on the addition not being complete. If the addition has been completed, the Town shall adjust the assessment consistent with this decision.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within twenty (20) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Kenneth and Beverly Dorrance, Taxpayers; and Chairman, Selectmen of Pelham.

Dated: September 16, 1994

Valerie B. Lanigan, Clerk

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it is a necessary portion of the house and must be included in the cost approach. It must also be included in the market approach; since, the three comparable properties also have split entry foyers and no similar adjustment has been made to their footprint.

- 2)The appraiser has used 36% depreciation in the cost approach. Based on my inspection and my review of the file, it is my opinion that 30% depreciation would be more appropriate.
- 3)The appraiser made an adjustment to the comparable properties for gross living area (first floor area) of approximately \$16.00 per square foot. It is my opinion that an adjustment of \$30.00 per square foot would be more appropriate.
- 3)The appraiser made a negative adjustment to comparable #1 and #2 for site; however, based on my view of the sites, it is my opinion that the subject site is superior to the sites of both of these properties.
- 4)The appraiser made no adjustment to comparable #1 and #2 for design and appeal; however, it is my opinion that the subject property is superior in design and appeal to all of the comparable properties.
- 5)Based on the property record cards, comparable #1 was built in 1983 and comparable #2 was built in 1970; however, the appraiser estimated that comparable #1 had an effective age of 8 years and comparable #2 had an effective age of 6 years. It appears that these should have been reversed.
- 6)The appraiser made no adjustment for basement size. Comparable #1 and #3 have smaller basements and comparable #2 has a larger basement.
- 7)The appraiser classified the subject and comparable #1 as 1-car garages; however, both have two garage doors. Since, a second car cannot fit in the second space, I have classified these as 1½-car garages.

Listed below is a recalculated cost approach, using 1,300 square feet for the footprint of the building, 432 square feet for the garage, and 30% depreciation.

1,300 sf @ \$48.30	=	\$ 62,790
1,300 sf @ 16.60	=	21,580
Base partitioned	=	14,000
Fireplaces	=	6,500
Deck & Building	=	6,000
Garage 432 sf @ \$11.00	=	<u>4,752</u>
Total Estimated Cost New	=	\$115,622
Less 30% Depreciation	=	<u>(34,687)</u>
 Depreciated Value	 =	 \$ 80,935
Plus Site & Site Imp. Value	=	<u>71,000</u>
 INDICATED VALUE BY COST APPROACH	 =	 \$151,935

Listed below is an adjustment grid of the subject property and the three comparable properties, using the taxpayer's appraisal as a guide, but making adjustments with the above concerns in mind and time adjusting to April 1, 1990:

	SUBJECT	COMP #1	COMP #2	COMP #3
LOCATION	7 ST MARGARET	28 GORDON AV	12 SAW MILL	70 TALLANT
SALE PRICE		\$140,000	\$141,000	\$118,000
SALE DATE		6-20-90	2-26-90	5-8-90
		+\$3,700	-\$1,600	+\$1,500
LOCATION	Average / Dirt Road	Good/Paved	Good/Paved	Avg/Paved
		-\$4,000	-\$4,000	-\$1,000
SITE/VIEW	Good	Good/Average	Good/Average	Average
		+\$1,000	+\$1,000	+\$2,000
DESIGN / APPEAL QUALITY	Good/Average	Average	Average	Average
		+\$2,000	+\$2,000	+\$2,000
AGE / CONDITION	1972 17% - 1990 Good	1983 - Good	1970 - Good	1966 - Avg
		---	+\$3,500	+\$8,000
GROSS LIVING AREA - 1st Floor	1,300 sf	1,080 sf	1,132 sf	1,000 sf
		+\$6,600	+\$5,000	+\$9,000
BATHROOMS	one	one	one & a half	one
		---	-\$1,000	---
BASEMENT	Average 800± sf	Avg 612 sf	Avg 1056 sf	Fair 672 sf
		+\$2,000	-\$2,500	+\$2,500
GARAGE	Basement 1½-car	Bsmnt 1½-car	Att. 2-car	Bsmnt 1-car
		---	-\$2,000	+\$500
HEATING	Electric Radiant	El. Bsbrd	El. Rad.	FHW/Oil
		+\$500	---	-\$2,500
PORCHES / PATIOS POOL	Deck	Deck	Deck/IG Pool	Small Deck
		---	-\$2,000	+\$500
FIREPLACE WOOD STOVE	3 Fireplaces	1 fpl, 1 wd	1 fpl	none
		+\$1,000	+\$3,000	+\$4,500

OTHER	Wet Bar	Wet Bar	None/hdwd flr	None
		---	+\$5,500	+\$2,500
NET ADJUSTMENT		+\$12,800	+\$6,900	+\$29,500
ADJUSTED SALE PRICE		\$152,800	\$147,900	\$147,500

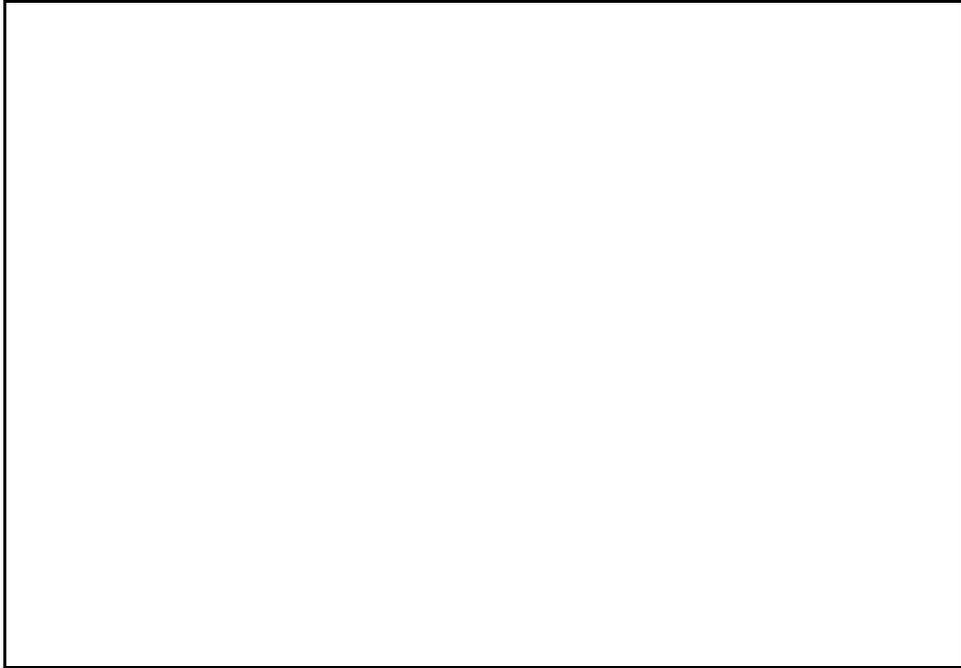
The cost approach and the three comparable properties indicate a range of value as of April 1, 1990 of \$147,500 to \$152,800. The median is \$149,900 and the average is \$150,000¹. Comparable #1 and comparable #2 are the most comparable properties as #1 has the least number of adjustments (8) and #2 has the least dollar amount of adjustments (+\$6,900).

Very truly yours,

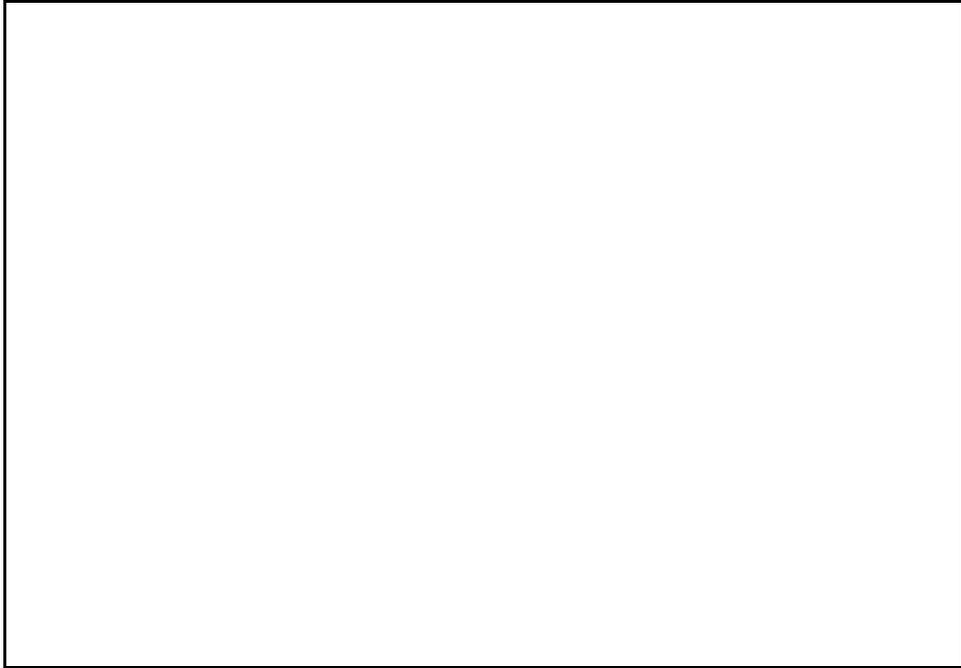
Scott W. Bartlett
Board of Tax and Land Appeals
Review Appraiser

¹ Rounded to the nearest \$100.

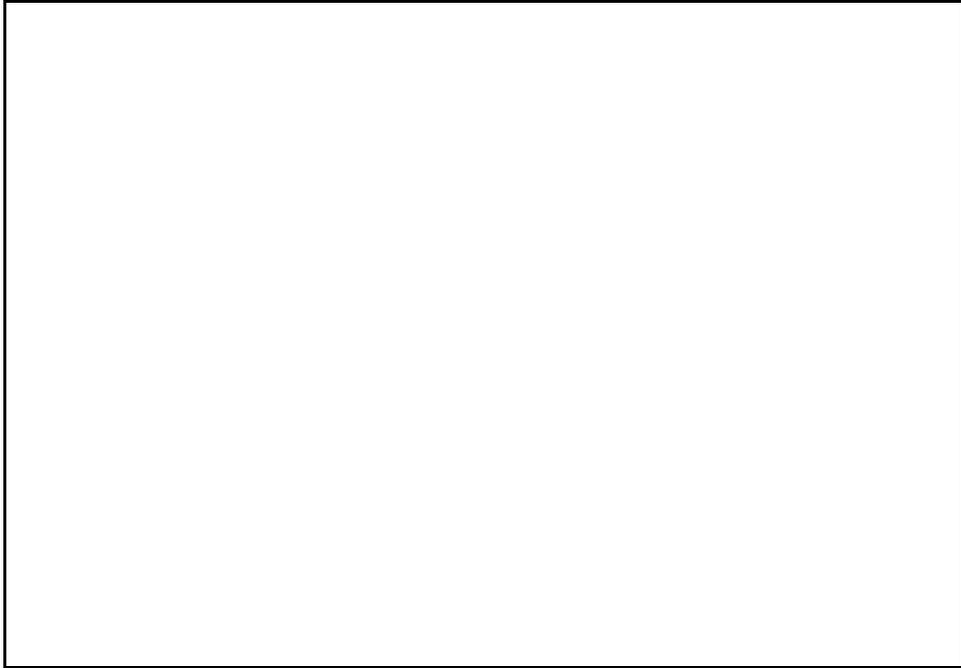
ADDENDUM A - PHOTOGRAPHS OF SUBJECT AND COMPARABLE PROPERTIES



FRONT VIEW OF SUBJECT PROPERTY



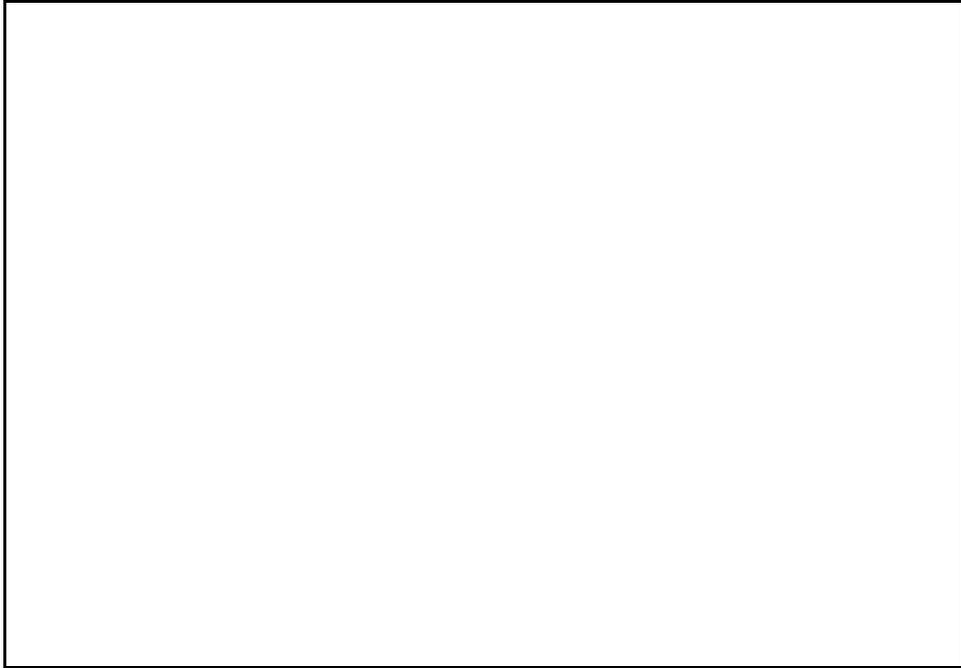
FRONT VIEW OF SUBJECT PROPERTY



SIDE VIEW OF SUBJECT PROPERTY



REAR VIEW OF SUBJECT PROPERTY



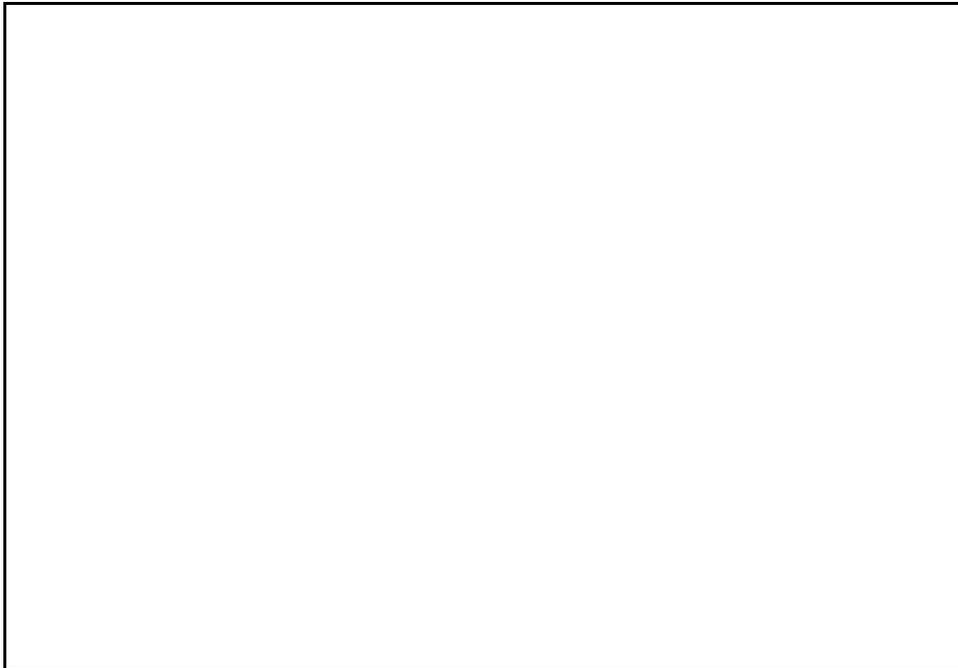
REAR VIEW OF SUBJECT PROPERTY



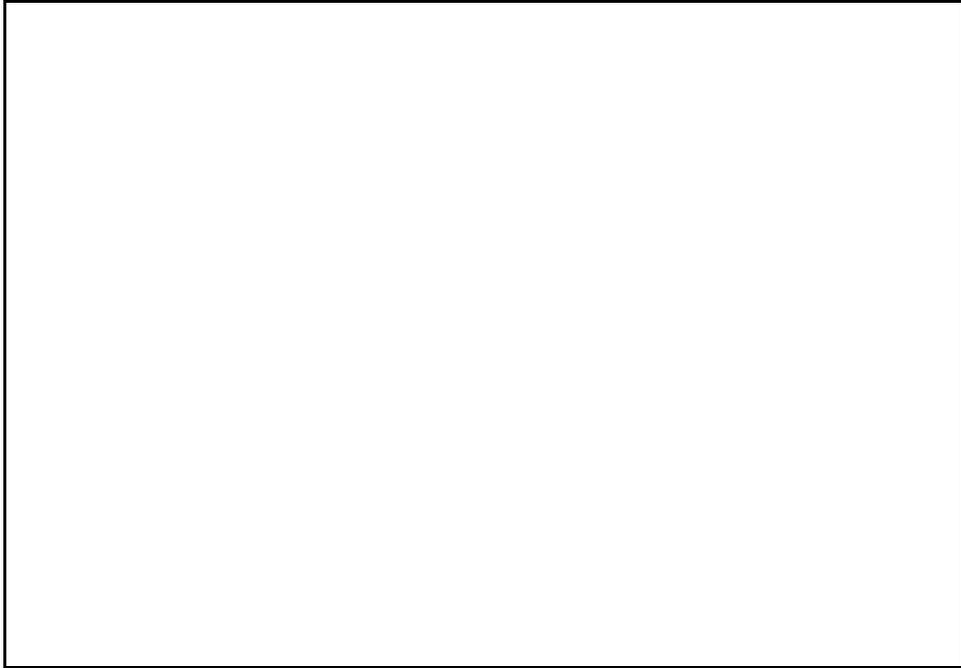
SIDE VIEW OF SUBJECT PROPERTY



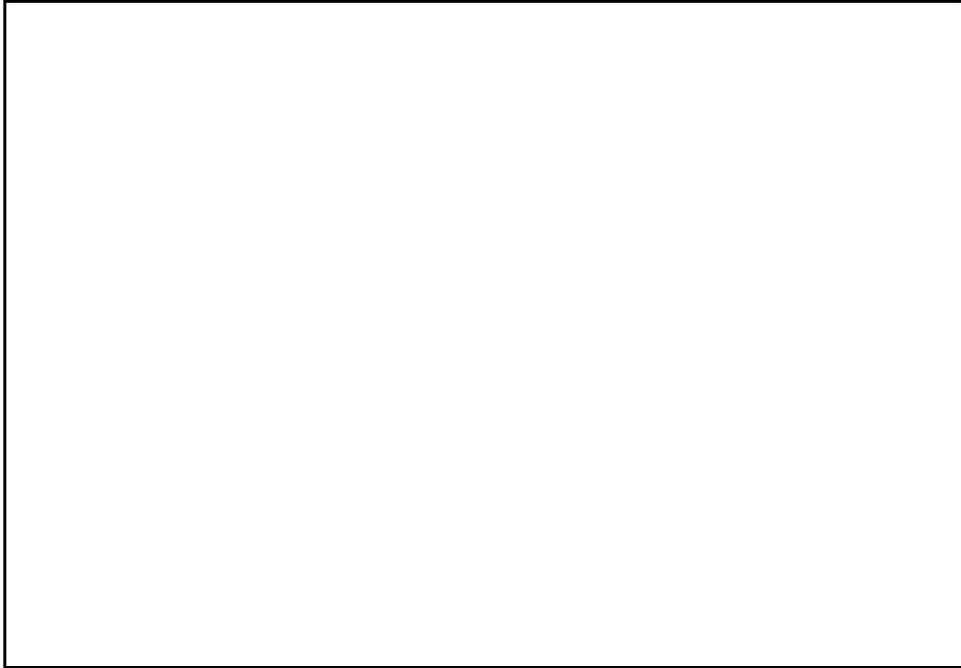
SIDE VIEW OF SUBJECT PROPERTY



COMPARABLE #1 - 28 GORDON AVENUE

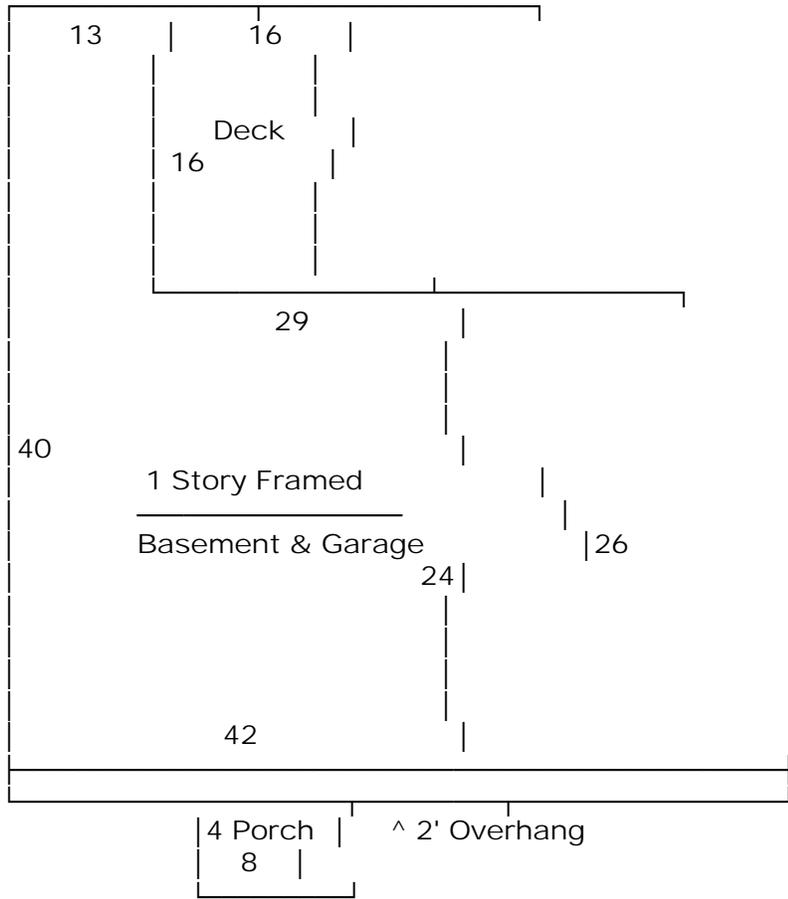


COMPARABLE #2 - 12 SAW MILL ROAD



COMPARABLE #3 - 70 TALLANT ROAD

ADDENDUM B - SKETCH OF SUBJECT PROPERTY



ADDENDUM C - QUALIFICATIONS

SCOTT W. BARTLETT

CURRENT POSITION:

06/93 - Present: BOARD OF TAX AND LAND APPEALS
CONCORD, NH

Review Appraiser

Responsible for preliminary and final reports for reassessment petitions, appraisal reports on consolidated appeals and special requests from the Board.

MASS APPRAISAL EXPERIENCE:

07/86 - 05/93:M.M.C., INC.
CHELMSFORD, MA

07/86 - 10/86:Residential Data Collector

11/86 - 11/87:Commercial Data Collector

12/87 - 05/89:Commercial Staff Appraiser

06/89 - 05/93:Senior Commercial Appraiser -Responsible for Commercial, Industrial and Utility Appraisals in the New Hampshire, Maine and Vermont.

OTHER EMPLOYMENT:

01/85 - 06/86:Boghosian Contracting - Painter/Carpenter Trainee.

02/83 - 12/84:Massachusetts Casualty Insurance Company - Claims Adjustor.

APPRAISAL EDUCATION:

International Association of Assessing Officers:

- Course I: Fundamentals of Real Property Appraisal
- Course II: The Income Approach to Valuation
- Course 301: Mass Appraisal of Residential Property
- Course 302: Mass Appraisal of Income Producing Property
- Course 3: Development & Writing of Narrative Appraisal Reports

Valuation of Railroad and Utility Properties Workshop

SPECIAL QUALIFICATIONS:

State of New Hampshire: Real Estate Appraiser Supervisor

State of Vermont: Certified Project Supervisor

State of Massachusetts: Registered Real Estate Salesperson

State of Maine: Certified Maine Assessor

IAAO - Subscribing Member, CAE Candidate

EDUCATION:

Hamilton College, Clinton, New York - Bachelor of Arts: Economics/Mathematics

University of Massachusetts, Roxbury, MA - Intro to COBOL, Computer Science

ADDENDUM D - COPIES OF PROPERTY RECORD CARDS

BOARD OF TAX AND LAND APPEALS
REVIEW APPRAISER'S FOLLOW-UP WORKSHEET

Town Name: Pelham Docket #: 8461-90

Owner's Name: Kenneth & Beverly Dorrance

Property Address: 7 St. Margaret Drive
Property Type: Single Family Residence

Total Assessment: \$76,600

Date Submitted: August 2, 1994

In accordance with the Board's request, I have updated the sales comparison grid based on the information submitted by the taxpayer and the town. The indicated values dropped by \$250 as a result of adjustments for 1.75 baths as opposed to 1 bath, 2 fireplaces as opposed to 3, and a row of cabinets instead of a wet bar. The indicated range, rounded to the nearest \$100, of the three adjusted sales prices and the cost approach is \$147,250 to \$152,550, with a median and an average of \$149,800.

The above figures do not reflect any adjustment for the incomplete addition as of April 1, 1990. Based on the taxpayer's description, the addition was 65% complete or 35% incomplete as of April 1, 1990. The addition represents 16% of the gross building area²; therefore, the building value would need to be reduced by 5.6%³. Based on the cost approach in the original worksheet, the building value represented 53.3% of the total value of the property⁴; therefore, the total value of the property needs to be reduced by 2.98%⁵ to represent the level of completion as of April 1, 1990. The indicated range, rounded to the nearest \$100, would be \$142,900 to \$148,000, with a median and an average of \$145,300.

According to the municipality's checklist, which was received by the Board on April 17, 1991, and also included in the taxpayer's exhibit no. 1, the subject property was originally assessed at \$80,100 and then abated to \$76,600. Using the DRA's equalization ratio of 0.49 indicates an equalized assessment of \$156,300 as of April 1, 1990.

Very truly yours,

² $13 \times 16 = 208 \text{ sf} \div 1,300 = 16\%$.

³ $16\% \times .35 = 5.6\%$.

⁴ $\$80,935 \div \$151,935 = 53.3\%$.

⁵ $5.6\% \times .533 = 2.98\%$.

Scott W. Bartlett

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BASEMENT	Average 800± sf	Avg 612 sf	Avg 1056 sf	Fair 672 sf
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GARAGE	Basement 1½-car	Bsmnt 1½-car	Att. 2-car	Bsmnt 1-car
		---	-\$2,000	+\$500
HEATING	Electric Radiant	El. Bsbrd	El. Rad.	FHW/Oil
		+\$500	---	-\$2,500
PORCHES / PATIOS POOL	Deck	Deck	Deck/IG Pool	Small Deck
		---	-\$2,000	+\$500
FIREPLACE WOOD STOVE	2 Fireplaces	1 fpl, 1 wd	1 fpl	none
		+\$250	+\$2,250	+\$3,750

OTHER	Cabinets	Wet Bar	None/hdwd flr	None
		-\$1,000	+\$4,500	+\$1,500
NET ADJUSTMENT		+\$12,550	+\$6,650	+\$29,250
ADJUSTED SALE PRICE		\$152,550	\$147,650	\$147,250