**BOARD OF CIVIL AUTHORITY**

**PROPERTY TAX ASSESSMENT APPEAL HEARING**

**PLACE: WINDHAM MEETING HOUSE – In-Person and on Zoom**

**ASSESSMENT APPEAL HEARING OF ERIK MIALKOWSKI**

**DATE: JULY 11, 2024**

MEETING CALLED TO ORDER: At 6:34 PM at the Windham Meeting House by Ellen McDuffie, Town Clerk and Clerk of the BCA and the recording was started by Kord Scott.

BCA MEMBERS PRESENT: JP=Justice of the Peace; SB=Selectboard

Ellen McDuffie, BCA Clerk Kord Scott, SB

Marcia Clinton, JP George Dutton, SB

John Hoover, JP Michael Pelton, SB

Philip McDuffie, JP

Meredith Tips-McLaine, JP (on Zoom)

APPELLANT AND LISTERS PRESENT:

Erik Mialkowski, Appellant

William Casey, Lister

Ronald Cohen, Lister

Al Coonradt, NEMRC Appraiser and Listers’ Representative

MEMBERS OF THE PUBLIC PRESENT:

Carrie Tintle, Assistant Town Clerk, resident

Joyce Cumming, Assistant Town Clerk, resident (on Zoom)

Rebecca Eliastam, Webmaster, resident (on Zoom)

A quorum of the BCA was present. All members were present except for Michael Simonds, JP.

Changes to the agenda were distributed. See attached.

Ellen McDuffie stated that she is the Clerk of the BCA and therefore cannot be the chair of the hearing.

The first order of business was to elect a Chair. Kord Scott nominated Philip McDuffie; Michael Pelton seconded the motion; all BCA members present verbally voted in favor.

Philip McDuffie asked for a Vice-Chair to be elected and he nominated Kord Scott. Michael Pelton seconded the motion; all BCA members present verbally voted in favor.

BCA members took the special oath for the proceedings both verbally and written. “I do solemnly swear (or affirm) that I will well and truly hear and determine all matters at issue between taxpayers and listers submitted for my decision, so help me God (or under the pains and penalties of perjury).”

Rules of Procedure for this hearing were adopted by the BCA members present, a copy was provided to the appellant and those present, and all BCA members present signed the document. See attached.

The meeting was handed over to the newly elected chair, Philip McDuffie, whereupon the official Tax Assessment Appeal Hearing began. Phil stated that this is a Quasi-Judicial Proceeding and read the Vermont statute defining it (24VSA ss1203-1209).

The Clerk, Ellen McDuffie, was asked for a property description and stated the following:

Name of Appellant as it appears on the deed: Erik E. Mialkowski and Alexis Marie Johnson

Address: 1147 Harrington Road, on the corner of Windham Hill Road

Parcel # 040441 & 040440, House & 6.26 Acres

Previous Grand List Value: $90,000 Reappraisal Grand List Value: $323,300.

Ellen was corrected by Al Koonradt who stated that the current Grand List value is $272,600 following an appeal to the listers during the grievance process.

The Listers, Al Koonradt, and the appellant were administered the following oath by the clerk: “Under the pains and penalties of perjury, do you solemnly swear that the evidence you give in the cause under consideration shall be the whole truth and nothing but the truth?” They all took the oath and responded affirmatively.

The chair asked to disclose if there were any conflicts of interest for any BCA member. None were acknowledged.

Al Koonradt and the listers stated that in the prior Grievance Hearing with the listers, Erik stated that the interior of his house was not finished. Al had not had the opportunity to look inside when he did his appraisal and had to go on square footage and appearance from the exterior, coming up with a market value of $323,300. Al stated that this was normal practice in a town-wide reappraisal. The interior of all properties is not necessarily inspected. Estimates of the interior condition of the house are based upon age and general apparent upkeep of the exterior. After taking Erik’s testimony into consideration, the value was reset at $272,600. Bill Casey stated that Mr. Mialkowski was notified of that decision by certified mail following his initial appeal. This was a reduction of $50,700. The appraisal was submitted as Listers Exhibit #1.

The chair asked the appraiser to explain his process for evaluating properties. All properties town-wide were evaluated using the same state certified software and methodology. Microsoft CAMA software was used, quality of workmanship and finishes were assigned a value of 2.7 fair/average for this 2 ½ story house and a 90% depreciated outbuilding. At the previous hearing Erik had stated that the basement floor is a dirt floor, and this partially contributed to the appraisal reduction, along with Erik’s statement that the walls and floors are not finished. The value is based on fair market value. The number of bedrooms does not affect the value. Square footage is a major driver of value. Significant repairs (new roof and siding repairs) were made following a wind shear/tornado event which upgraded the value since the previous town-wide appraisal.

BCA members stated that they remembered that there had been a fire at the dwelling in the past. The listers were and appraiser were not aware of this.

The appellant testified that he had purchased the property in March 2014 after the rear part of the home had burned in a fire and that he rebuilt the damaged areas structurally but had not finished the interior walls and flooring. During the tornado referred to above, Erik stated that the house shifted; not on the foundation because it has no foundation, typical for its age. He testified that he had hired a licensed appraiser who came up with an estimated value of $250,000. This appraisal was not offered into evidence during the hearing. It was on Erik’s cell phone, and he verbally stated the value. Al Coonradt had had a quick look at it prior to the start of the hearing and verified the amount. The appellant also testified that he thought his own appraiser’s estimate was too high. He estimates his property is worth approximately $180,000 based on his purchase price and the materials he has purchased and installed to make the house livable. No supporting documentation was submitted into evidence.

The appraiser, Al Koonradt, stated that from the exterior he did not notice any old fire damage or a shifting of the structure. He provided two comparable property appraisals as justification for his appraisal of the Mialkowski property being a reasonable and fair market value. The properties presented were 1) 1338 Burbee Pond Road, Listers Exhibit #2 and 2) 4364 Windham Hill Road, Listers Exhibit #3. The appraiser stated that the quality/condition values in Windham ranged up to 5.5 based on a 10-point scale. He can only compare the property to other properties in Windham if it has a dwelling on it.

Following the final testimony of the appellant and the listers, there were a few questions posed by the BCA concerning the appraisal process and how Windham compares to other nearby towns. One BCA member called into question the validity of the reappraisal process used by the NEMRC appraiser in performing the town-wide appraisal. The chair replied that the current hearing was focused only on the specifics of Mr. Mialkowski’s appeal, and that we were not here to call into question the validity of the appraisal process used in determining the town-wide reappraisal of properties. The BCA member did not pursue his question, picked up his belongings and walked out of the hearing.

The appellant agreed to have three BCA members inspect his property and all improvements on it, both externally and internally. He also verbally indicated that the listers and NEMRC appraiser could observe the inspection. The three BCA members to carry out the inspection are John Hoover, Kord Scott and Philip McDuffie. They all volunteered and were designated by the chair to inspect the property. The chair indicated that he would like the inspection performed within two weeks, and the inspection committee will then be allotted one week to produce their written report and submit it to the entire BCA group when the hearing reconvenes. The chair asked the clerk to coordinate a time between the appellant and the BCA inspectors, with emphasis on conducting the inspection as soon as possible.

The chair explained that the inspection committee will present a written report of their observations when the hearing reconvenes. At that time the appellant and the listers will be allowed to update their testimony based on any pertinent changes that may affect the previous testimony. When that meeting is adjourned, the BCA will deliberate in private, and written notice of their decision will be sent by certified mail to the appellant within 15 days.

All exhibits presented were collected by the clerk.

The hearing was recessed at 7:44 PM and the recording stopped. It will reconvene on Thursday, August 1 at 6:30 PM at the Windham Meeting House.

Respectfully submitted,

Ellen McDuffie

Board of Civil Authority, Clerk

Attachments:

Amended Agenda

Rules of Procedure

Listers Exhibit #1 – Appraisal of 1147 Harrington Road

Listers Exhibit #2 – Appraisal of 1338 Burbee Pond Road

Listers Exhibit #3 – Appraisal of 4364 Windham Hill Road