

# **BOARD OF ASSESSMENT REVIEW MEETING MINUTES**

**DATE: Thursday, December 17, 2009**

**LOCATION: Municipal Court Room**

**MEMBERS PRESENT: Maryilyn Sciarillo, Dana Horton, & Cornelius Collins**

**TOWN ASSESSOR: Charles E. Vacca**

**Jennifer Misto, Account Clerk III**

**This was a court ordered meeting held to rehear the original petition # 32, filed December 29, 2005. (Also referred to as docket # 2006-0246). A stenographer was there to tape the minutes of the meeting as there was no recorded back up at the original meeting held January 18,2006.**

**PETITION #32, DOCKET #2006-0246; Fiske, Marsha & Eric 55 Watch Hill Rd. A/P 127/002**

**Eric Fiske present with Attorney Kelly Fracassa and Stephen McAndrew.**

**Eric Fiske was sworn in and the following testimony was presented:**

**Exhibit 1: trustee's deed of subject property**

**Fiske gave a brief description of the property. House was built in 1790, last renovations done in about 1960. Homeowners did renovations in 2001: roof, siding, windows, extensive renovations to right side, core of house remained the same. (footprint of building remained the same) Fiske stated it was an older house, they painted, reshingled etc.- dressed it up.**

**Exhibit 2: Field card of subject property.**

**Fiske reviewed several times- accurately describes property as of 2004.**

**Exhibit 3: letter from Division of Agriculture dated 06/02/04 indicating approval of Farm Land designation. (NOT OPEN SPACE)**

**Exhibit 4-1: aerial photo depicting overlay of assessor map onto GIS photo- Cherenzia plotted house site with road frontage, rear setbacks, zoning, etc. (House is between 300-400 ft back from Pawcatuck River)**

**Exhibit 4-2: Assessor's Plat 127 – depicts lot 2**

**Has a green paper cut out of farmland site to house site. Fiske said there's the farmland area with livestock and also hilly area with trees. View from house to water during summer is very limited due to trees along rivers edge (western boundary of property). There's also 2 forests planted many years ago in the 20's and 30's towards the south and north.**

**Exhibit 5: photo of farmland along riverfront taken from their deck facing west. (facing peninsula far left corner, access way to dock)**

**Exhibit 6: photo northwest corner of property- taken standing with back to house looking down to river- far right northwest direction**

**Exhibit 7: winter view photo- defoliated, taken with back to house, looking out**

**Exhibit 8: water view from home looking directly west**

**Exhibit 9: winter view from house to northwest corner**

**During 2004, harvested 20,000 board feet of lumber, which was the first agricultural activity after designation of farm land- northern portion of property. They planted 300-400 Christmas trees, also have sheep (5 mothers and their offspring). They also started an apiary (honey bees).**

**Exhibit 10: 2 photos taken from river looking towards house (gated way to dock) Large veg. garden, Christmas tree area, sheep pasture.**

**Exhibit 11: photo showing floating dock with 2 boats- shared with neighbor who has easement to use the dock (neighbor is Anthony Bryan)**

**Exhibit 12: deed of ROW – depicts right to access dock**

**Fiske stated he used dock for commercial fishing purposes in 2004- no recreational fishing from dock. Coastline along western portion of property inaccessible due to steep sloping hill with boulders and overgrowth. Shoreline not suitable for swimming because of it...couldn't fish from shore- water is shallow, in filled with dredge material over the years.**

**Exhibit 13: photo from west to east looking at house depicting steep rise and obstructed view from house**

**Exhibit 14: view from peninsula looking northeast- showing incline and inaccessibility to house**

**Exhibit 15- field cards of subject's abutting properties as of 12/31/03  
12 properties in total with lists of land values of 30,000 sq. ft house lots (as of 12/31/03)**

**Homeowner mentioned Keefe property- which if standing on Watch Hill Rd is to the right of subject property. (# 43 Watch Hill Rd....next driveway to subject property)**

**Under FFOS act- 10 acres into program with conservation easement- requires exclusion of house site to be assessed as its full value**

**Exhibit 16: property record card for Keefe property- value on Keefe card: \$448,440**

**Exhibit 17: title card showing date of transaction for Keefe property**

**Exhibit 18: homeowners insurance policy – indicates dwelling value and total replacement cost. Attorney Levanti noted his objection to this document.**

**The home inspection dated 08/03/02 noted renovation of premises almost complete, occupancy here in one month - will live year round.**

**Exhibit 19: letter from Fiske to Theresa at Schonning Insurance about homeowners policy**

**Exhibit 20: The adjusted base rates of neighboring waterfront homes prepared by Mr. Fiske**

**Exhibit 21: field cards to support the above data**

**Noted for the record: there is no formal agreement between Fiske & neighbor regarding maintenance of dock. Marilyn wanted to erase vision that there's a 30,000 sq.ft block around house. There is not a definition of the above, it's a legal fiction addressing FFOS statute.**

**The Assessor noted the FFOS was written for entire state of RI. When dealing with a house lot, you need to look at its attributes as well. The intent of the statute is to encourage farming and preservation of land.**

**Mr. Fiske does not have a problem with the value of farmland.**

**The appraisal done by Ray Lueder took out 49,000 sq.ft contrary to commission's recommendation of 1 acre.**

**The assessor noted his responsibilities when dealing with the house site:**

- What are the views?**
- Amenities that come with a house site in a seaside community**
- Access to boating**
- Rights and amenities that come with the fire district**
- Right to a mooring**

**If he neglects the above then he'd be giving them a tax benefit that is transferable.**

**The following was brought forth by the Assessor:**

**Exhibit A: addendum- methodology used in determining intent of statute FFOS**

**land use change tax- penalty if developing property that was put in FFOS**

**Transferable without change in use- not liable to additional taxes**

**Attorney Fracassa stressed the Judge's ruling that the Fiske property cannot be taxed as waterfront property. The Judge said 30,000 sq. ft. is a "fictional easement" to water and has to tax it as such. As a result, best manner is to consider it as an Easement to water access.**

**Issues at hand:**

**Attorney Levanti stated: the 30,000 sq.ft house lot and what it enjoys relative to its surroundings.**

**Attorney Fracassa: house site has to be viewed as "easement site"**

**Assessor: potential of several buildable lots; land value w/o change in use**

**Mr. Stephen O. McAndrew was sworn in. The following exhibits were brought forth:**

**Exhibit 22: McAndrew's qualifications. He was asked to review land value assessment as of 12/31/03. (date of reval period to which it's relevant)**

**Needed to review potential value of the portion of the site within the umbrella of FFOS act.**

**Exhibit 23: Land appraisal report**

**noted the following:**

- 1. Site reflects zoning of R30**
- 2. Site has water features, view and access to water via dock**
- 3. Judge's ruling that subject property is to be viewed as having certain water attributes NOT waterfront property**
- 4. Certain land sales around 12/31/03 relative to subject site**

**Fiske noted that there was a time lapse between when the State designated them as Farmland and when it was classified by the Town as such. The assessor stated it was due to the timing of the filing of the application...that was the reason for the lapse.**

**Exhibit 24: Appraisal done by Ray Lueder. (Mr. McAndrew said it had no impact on his appraisal)**

**The Assessor was sworn in and stated the following:**

**He had the opportunity to access an inland property with easements/access to water with dock access...and that's what he did. (ROW, accessibility and benefits)**

**Fracassa asked if a property with easement to a shared dock was valued less than that with exclusive dock ...Assessor answered YES.**

**Also posed other questions about value of a property with access to waterfront via a rocky slope and rough terrain verses one without such.**

**Board will make an appointment to visit the subject property and make arrangements through Attorney Fracassa.**

**The Assessor brought forth the following:**

**Exhibit B: picture of house as it is now**

**Exhibit C: analysis done by Assessor and senior field appraiser**

**Exhibits D & E: pictures of subject property prior and subsequently**

**Mr. Fiske noted the following corrections: The subject property is in Westerly Fire District and is in the Farm program, not open space.**

**There is no further business before the Board at this time. Ms. Sciarillo adjourned the meeting. Decisions from today's meeting are pending.**

**Respectfully submitted,**

**Marilyn Sciarillo**

**Chairperson**