



## **TOWN OF GILFORD**

BOARD OF SELECTMEN  
47 Cherry Valley Road  
Gilford, NH 03249

Gus Benavides, Chair 603.527.6507  
J. Kevin Hayes, Vice-Chair 603.527.6508  
Dale Channing Eddy, Clerk 603.527.6509  
FAX 603.527.4711  
[selectmen@gilfordnh.org](mailto:selectmen@gilfordnh.org)

### **GILFORD BOARD OF SELECTMEN**

#### **PUBLIC HEARING NOTICE**

**Barn Preservation Easement  
16 Potter Hill Road  
(Per RSA 79-D)**

Wednesday, September 22, 2021  
7:00pm  
Gilford Town Hall – 1<sup>st</sup> Floor Conference Room

The Gilford Board of Selectmen will hold a public hearing to consider input on an application for a discretionary barn preservation easement for an historic structure situated within the Gilford Village Historic District. If approved, the property owner would be eligible for a property tax discount for 10 or more years ranging from \$2,502 to \$7,507 per year, which is 25% to 75% of the assessed value of the barn.

Under NH law, a discretionary preservation easement shall be considered to provide a demonstrated public benefit if it provides at least one of the following:

- (a) There is scenic enjoyment of the structure by the general public from a public way or from public waters;
- (b) The structure is historically important on a local, regional, state, or national level, either independently or within an historic district;
- (c) The structure's physical or aesthetic features contribute to the historical or cultural integrity of a property listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or locally designated historic district.

Any interested person may attend this public hearing and submit testimony or opinions related thereto.

Town of Gilford  
47 Cherry Valley Road  
Gilford, NH 03249-6827



Appraisal Office  
(603) 527-4704  
FAX (603) 527-4714

### Recreation Center of New Hampshire

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#### MEMORANDUM

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RECEIVED

TO: Board of Selectmen  
FROM: Susan Henderson, Assessing Assistant

JUL 08 2021

RE: Discretionary Preservation Easement– Parcel #226-062-000  
16 Potter Hill Rd

BOARD OF SELECTMEN  
TOWN OF GILFORD

DATE: 07/08/2021

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For this program, **per RSA 79 D:3** "historic agricultural structure" is defined as a barn or other structure, including the land on which it is built, which was or is used for agricultural purposes and is at least 75 years old. The test of demonstrated public benefit is met if the structure complies with one or more of the following:

- (1) it provides scenic enjoyment to the general public from a public road or waterway,
- (2) it is historically important on a local, regional, state or national level, or
- (3) it contributes to the historic or cultural integrity of a property listed on or eligible for the New Hampshire State or National Registers of Historic Places, or is in a locally designated historic district.

The subject property is a 1840 barn in average condition. The total size of the barn is 40 x 45.

In this case, Potter Hill Rd is located in Gilford's Historic District and is visible from the road. It is attached to the 1840 Benjamin Weeks Greek Revival House. The homeowners intention for application to this program is help with cost of maintenance. They have submitted a list of impending repairs, a map, and exterior photographs of the barn. After an interior inspection of the barn by an Assessing Agent, we have determined that 728 square feet of it have been converted into living space with heat which are inconsistent with the Discretionary Preservation Easement Program. The remaining portion of the barn, 1072 square feet, is still unfinished.

The 1072 square feet of the barn and the land under it as well as 3 feet around it (for maintenance) = 1387 square feet of land may qualify for the easement.

Per **RSA 79 –D:5** The Town of Gilford is responsible for holding a Public Hearing to weigh the public benefit to be obtained versus the tax revenue to be lost if such an easement is granted. The governing body shall have no more than 60 days to act upon the application (application date 6-10-2021).

In the event the Discretionary Preservation Easement is approved, the applicant will be responsible for the recording costs. The minimum term for this easement will be 10 years.

Town of Gilford  
47 Cherry Valley Road  
Gilford, NH 03249-6827



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### Recreation Center of New Hampshire

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**Per RSA 79-D:7** The assessment shall fall within a range of 25 to 75 percent of full value assessment. The local governing body shall have the discretion to set the value of the preservation easement at a level within this range which it believes reflects the public benefit. The assessment shall not be increased because the owner undertakes maintenance and repairs designed to preserve the structure.

25% VALUE	\$2502
50% VALUE	\$5005
75% VALUE	\$7507

Land discount - .03 ac (1387 sq ft) impacted area \$3550.00

Once a date for a Public hearing is set, please notify Marsh McGinley so she may notify the homeowner. They will want to be present at the Hearing.

Cc: Scott Dunn, Town Administrator  
Marybeth Walker, Assessor

FORM

PA-36-A

NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION

## DISCRETIONARY PRESERVATION EASEMENT APPLICATION

## STEP 1 PROPERTY OWNER (S)

PLEASE TYPE OR PRINT	LAST NAME	STOWE, DAVID & ELIZABETH		FIRST NAME	2017 TRUST	
	LAST NAME			FIRST NAME		
	STREET ADDRESS	16 POTTER HILL ROAD				
	STREET (continued)					
	TOWN/CITY	GILFORD	STATE	NH	ZIP CODE	03249

## STEP 2 PROPERTY LOCATION OF LAND AND HISTORIC AGRICULTURAL STRUCTURE BEING CLASSIFIED

PLEASE TYPE OR PRINT	STREET 16 POTTER HILL ROAD					
	TOWN/CITY GILFORD			COUNTY BELKNAP		
	NUMBER OF ACRES 0.559	MAP # 226-062-000	LOT #	BOOK # 3099-0946	PAGE #	
	CHECK ONE: Original Application <input checked="" type="checkbox"/> Renewal <input type="checkbox"/>			Tax Year 2021		

## STEP 3 REASON FOR DISCRETIONARY PRESERVATION EASEMENT APPLICATION

Describe how the Historic Agricultural Structure meets one of the tests of public benefit per RSA 79-D:3. Submit additional sheets, if necessary. *The barn is attached to a 1840 GREEK REVIVAL HOUSE in the historic village of GILFORD, originally owned by Benjamin Weeks. It is visible from the road & familiar to all who vote, use the community center Church & Library. The relief will help with cost of maintenance.*

How many square feet will be subject to the easement?  
*48' x 40' = 1920 square feet*

## STEP 4 SIGNATURES OF ALL PROPERTY OWNERS OF RECORD

TYPE OR PRINT NAME (in black ink) DAVID B. Stowe, Trustee	SIGNATURE (in black ink) <i>[Signature]</i>	DATE 3/10/21
TYPE OR PRINT NAME (in black ink) Elizabeth W. Stowe, Trustee	SIGNATURE (in black ink) <i>[Signature]</i>	DATE 3/10/21
TYPE OR PRINT NAME (in black ink)	SIGNATURE (in black ink)	DATE
TYPE OR PRINT NAME (in black ink)	SIGNATURE (in black ink)	DATE



NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION  
**DISCRETIONARY PRESERVATION EASEMENT APPLICATION**  
 (CONTINUED)

**STEP 5 TO BE COMPLETED BY THE LOCAL ASSESSORS**

<input type="checkbox"/> APPROVED	Pending approval of Discretionary Preservation Easement Agreement by landowner and assessing officials.
<input type="checkbox"/> DENIED	
Comments:	

**STEP 6 APPROVAL OF A MAJORITY OF SELECTMEN/ASSESSORS**

TYPE OR PRINT NAME (ink black ink)	SIGNATURE (in black ink)	DATE
TYPE OR PRINT NAME (ink black ink)	SIGNATURE (in black ink)	DATE
TYPE OR PRINT NAME (ink black ink)	SIGNATURE (in black ink)	DATE
TYPE OR PRINT NAME (ink black ink)	SIGNATURE (in black ink)	DATE
TYPE OR PRINT NAME (ink black ink)	SIGNATURE (in black ink)	DATE

**STEP 7 DOCUMENTATION**

Is a map of the entire parcel showing the property location, orientation, overall boundaries and acreages clearly showing easement area requested submitted?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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**DISCRETIONARY PRESERVATION EASEMENT APPLICATION****GENERAL INSTRUCTIONS**

<b>WHO MUST FILE</b>	Form PA-36-A, Discretionary Preservation Easement Application, shall be used by owners of historic agricultural structures applying for a discretionary preservation easement in accordance with RSA 79-D:3.
<b>WHAT TO FILE</b>	Land owners submitting a completed application, Form PA-36-A, shall also: Submit a map showing: (a) The location of the historic agricultural structure; and (b) The number of square feet to be included in the discretionary preservation easement.
<b>WHEN TO FILE</b>	A completed Form PA-36-A, and a map of the land to be subject to the discretionary preservation easement must be filed on or before April 15 of the tax year the easement is to be granted.
<b>WHERE TO FILE</b>	Once completed and signed in black ink, this form and attachments shall be filed as follows: Original: Register of Deeds Copy: Local Assessing Officials Copy: Land Owner
<b>APPEALS</b>	If an application for a discretionary preservation easement is denied, an applicant may appeal within six months of any such action by the assessing officials in writing to the New Hampshire Board of Tax & Land Appeals or the County Superior Court in accordance with RSA 79-A:9 or RSA 79-A:11.  Forms for appealing to the Board of Tax and Land Appeals may be obtained from the NH Board of Tax and Land Appeals, 107 Pleasant Street, Concord, NH 03301 or by calling (603) 271-2578 or by visiting their web site at <a href="http://www.state.nh.us/btla">www.state.nh.us/btla</a> . Be sure to specify that you are appealing a Discretionary Preservation Easement Application denial.
<b>ADA</b>	Individuals who need auxiliary aids for effective communication in programs and services of the department are invited to make their needs and preferences known to the NH Department of Revenue Administration.
<b>NEED HELP</b>	Contact your local municipality or the Property Appraisal Division at (603) 271-2687

**LINE-BY-LINE INSTRUCTIONS**

<b>STEP 1</b>	Enter the complete name(s), address, municipality, state and zip code of the property owner(s) requesting a discretionary preservation easement under RSA 79-D:3.
<b>STEP 2</b>	Enter the location information of the land and Historic Agricultural Structure being classified in the spaces provided. Check whether original application or renewal and enter the tax year the easement is to be granted.
<b>STEP 3</b>	Describe how the Historic Agricultural Structure meets the requirements of RSA 79-D:3 and how many square feet will be subject to the easement. Submit additional sheets, if necessary.
<b>STEP 4</b>	All owners of record must type or print their full name, sign and date in black ink on the lines provided. If there are more than four owners, submit a supplemental list of all additional owners names and signatures.
<b>STEP 5</b>	To be completed by the local assessing officials, indicating approval or denial pending final approval of selectmen or assessors.
<b>STEP 6</b>	Signatures of a majority of the local selectmen or tax assessors on the lines provided indicates final approval.
<b>STEP 7</b>	Indicate whether a map has been included as described. <b>If the map is missing or this application is incomplete, this application shall be denied in accordance with RSA 79-D:4,II.</b>

Step 3 continued:

repair + maintenance include/needed

New roof \$14,000-

Refin/replace  $\frac{6}{6}$  windows \$1,000-

Replace rot wood (fascia & "A" supports)  
& painting, cost unknown

The barn/property is across the street  
from the community church & community center.  
I have attached photos of barn & the view  
from the barn.

RE: Application for 16 Potter Hill Rd, GILFORD, NH  
The "Benjamin F. Weeks House"

I am enclosing copies of articles in 2 Historic Books about GILFORD VILLAGE, which includes a descriptive paragraph of the history of the barn and its unusual architectural features.

In 2020, we re-roofed the barn at a cost of \$14,000.00. In 2021, we plan to replace the rotted fascia boards, including the "A" support at rear of barn. We will also be repairing the 6/6 windows that are broken. <sup>(\$700)</sup> This is all an incredible expense, but price is unknown for wood & labor, which will be done by local contractor on hourly base.

The house and barn are located in the historic District of Gilford Village. ~~and~~  
Thank You, Egan W. Stowe



Route 11A was built, this road was the main route from Gilford Village to the lake.

### 39. BENJAMIN F. WEEKS HOUSE c. 1840

This Greek Revival style house is laid out around a sidehall plan, a configuration that proved to be very popular in the later 1800's throughout New England. The early 20th c. porch was recently enclosed. The barn is one of two adjacent barns with unusually sophisticated architectural features: corner pilasters, 6/6 gable windows, sliding doors, and clapboard siding. The barn at one time had scales large enough to weigh a carriage and team.

Benjamin Weeks was a trader whose father was one of the original settlers of Gilford. Between 1858 and 1861 the house was occupied by the minister of the Free Will Baptist Church across the road, before it was purchased by John P. and Sarah Smith, who were prominent in the Grange and other local affairs.

### 40. TOWN HALL 1841

The old Town Hall, originally built in the Greek Revival style, had a single large room with a north gallery. Interior walls had wainscot consisting of two horizontal boards, later covered or replaced by matchboard, and the ceiling was gently arched. The original builders knew their trade: extra reinforcement was built into the floor under the aisles. Later additions included a stage, brick vault with an elaborate cast iron door, several offices, and openings and partitions that came and went through the building's history. While all of the building's original architectural features, except for the timber framing and recessed front entry, have been lost over the years during various remodelings, it has regained its position with relationship to the adjacent church. In 1990, it was moved back from its original granite foundation near the road and annexed to the Community Church with a 1 story connector.

Before 1841, town meetings were held in the meeting house on Gunston Hill.



may have added the front house in 1849. The early twentieth century porch was enclosed in the late 1980s.

Benjamin Franklin Weeks was a trader, son of one of the original settlers of Gilford. Around 1850 Dr. Tebbetts and his family rented the house. Dr. Tebbetts was partial to Ayer's Cherry Pectorial as a treatment for the common cold. Between 1858 and 1861 the house served as parsonage for Ezekiel True, the minister of the Free Will Baptist Church across the road, before he sold it to John P. and Sarah Smith, who were prominent in the Grange and other local affairs.

The barn is one of two adjacent barns with unusually sophisticated architectural features: corner pilasters, 6/6 gable windows, sliding doors, and clapboard siding. The barn had scales large enough to weigh a carriage and team. A cow, horse, and chickens were kept here, replaced in the 1930s and 40s with a ski and cabinet-making shop. Gordon Langill, who eventually became a fire chief, hired Gus Pitou and Walker Weed to manufacture skis and furniture in his barn. As the barn was handy to the old fire station, Walker and Gus were scooped up to help out with a fire more than they might have wished. (16 Potter Hill Road)

### *David Hale Munsey House*

The original part of this house, a small cape erected c. 1812 by Dr. George W. Munsey, is now the ell. Munsey built

elegant barn featuring 9/6 sash, sliding its clapboard siding (Road)

### *Old Town Hall*

This site has longer than most. Blaisdell, one of blacksmiths, coming out hoes and before the church replaced his shop.

The old town 1841 in the Green the Free Will Baptist sites close to the this building collapse activity in Gilford Village. be greatly improved Benjamin Jewell lage, and voted building committee Joseph Thing, the house can Brick that the Brick." While original architecture the timber frame entry, have been ing various reposition with cent church. It from its origin the road and a Church, which with a one-story



this road was the main route from Gilford Village to the lake and eastern parts of the town.

### *Benjamin F. Weeks House*

This c. 1840 Greek Revival house is laid out around a sidehall plan, a configuration that proved to be very popular in the later 1800s throughout New England. Because Gilford Village grew very little during that period, only three houses of this design appear here, although they are very numerous elsewhere in Lake Village and Meredith Bridge, which grew precipitously at that time. The earliest part of the house may be the section that now connects the front with the barn. A string of mortgages to Daniel Gilman suggest that he

## SAWYER

The house at the intersection of Potter Hill and Tannery Hill Roads appears to have been built circa 1840. The house was sold with 1+ acre of land in 1844 and had been part of a larger parcel that was the Weeks family homestead.

1840 Benjamin F. Weeks built the house and occupied it

1844 B. F. Weeks



Book 5 p 255 for \$500, weeks financed \$300.

Daniel Gilman

1849



28/80

28/81

} mortgage to Jeremiah Gilman \$600

858



36/211

\$1200

Ezekiel True

861



134/23

John P. Smith

906



Sara P. Smith (estate)

928



173/430

Albert Clark



194/302

Harry Moss



259/187

Langill



Lucile Allen



Richard Dixey

56

371/481

Shirlee Dawson



567/255

Peter Sawyer



Recreation Center of New Hampshire

Dear Friend of an Old House:

Congratulations on a successful search for your house's "roots".

Your date plaque will go along way toward underscoring the value of Gilford's historic buildings as educational resources as well as essential contributors to the character of our Town.

We request that you locate the plaque on the front left side of your house just inside the corner board. Plaques may be placed on the right side if plantings obscure the view of the left side. The best height is near the top of the first story, for one-story structures, or no closer than 4' from the eaves for larger buildings. If we are reasonably consistent in placing the plaques, the interested passerby will be able to locate them with ease.

Thank you for participating in this special celebration of Gilford's 175th Anniversary. If you have any questions, please do not hesitate to call (524-7454).

Best wishes,

*Adair Mulligan*

Adair Mulligan  
Gilford Anniversary Committee

*We thought you might be interested in what we discovered - please let me know if you can add to this information. With your house so centrally located in the district and so highly visible, we do hope that you will wish to display this date plaque. Thank you!*

















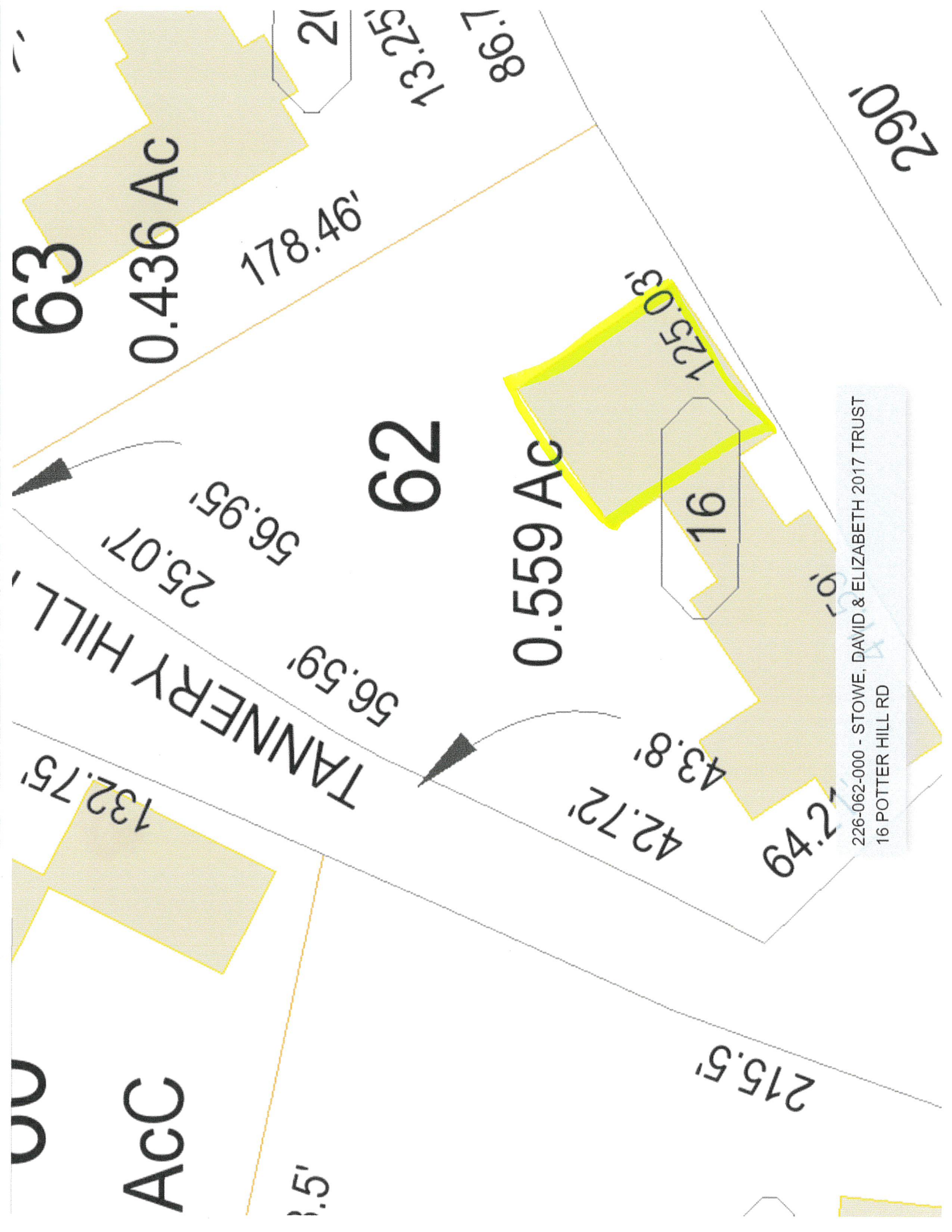












226-062-000 - STOWE, DAVID & ELIZABETH 2017 TRUST  
16 POTTER HILL RD







# TITLE V TAXATION

## CHAPTER 79-D DISCRETIONARY PRESERVATION EASEMENTS

### Section 79-D:1

**79-D:1 Declaration of Public Interest.** – It is hereby declared to be in the public interest to encourage the preservation of historic agricultural structures which are potentially subject to decay or demolition, thus maintaining the historic rural character of the state's landscape, sustaining agricultural traditions, and providing an attractive scenic environment for work and recreation of the state's citizens and visitors. It is further declared to be in the public interest to prevent the loss of historic agricultural structures due to property taxation at values incompatible with their preservation. The means for encouraging preservation of historic agricultural structures authorized by this chapter is the acquisition of discretionary preservation easements by town or city governments to assure preservation of such structures which provide a demonstrated public benefit.

**Source.** 2002, 86:1, eff. July 2, 2002.

### Section 79-D:2

#### **79-D:2 Definitions.** –

In this chapter:

- I. "Discretionary preservation easement" means a preservation easement of an historic agricultural structure, including the land necessary for the function of the building, granted to a city or town for a term of 10 or more years.
- II. "Public benefit" shall have the meaning described in RSA 79-D:3, II.
- III. "Historic agricultural structure" means a barn or other structure, including the land necessary for the function of the building, currently or formerly used for agricultural purposes and as further defined by the advisory committee established under RSA 227-C:29.

**Source.** 2002, 86:1, eff. July 2, 2002.

### Section 79-D:3

#### **79-D:3 Qualifying Structures.** –

- I. Any owner of an historic agricultural structure who wishes to maintain the structure in a use consistent with the purposes of this chapter may apply to the governing body of the municipality in which the property is located to convey a discretionary preservation easement to the municipality.
- II. A discretionary preservation easement shall be considered to provide a demonstrated public benefit if it provides at least one of the following public benefits:
  - (a) There is scenic enjoyment of the structure by the general public from a public way or from public waters.
  - (b) The structure is historically important on a local, regional, state, or national level, either independently or within an historic district.
  - (c) The structure's physical or aesthetic features contribute to the historic or cultural integrity of a property listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or locally designated historic district.
- III. In determining whether an historic agricultural structure demonstrates the necessary public benefit to qualify



for a discretionary preservation easement, the governing body shall have reference to guidelines adopted by the advisory committee established under RSA 227-C:29.

**Source.** 2002, 86:1, eff. July 2, 2002.

## **Section 79-D:4**

### **79-D:4 Application Procedure. –**

- I. Any owner of an historic agricultural structure which meets the tests of public benefit in RSA 79-D:3, II may apply to the governing body to grant a discretionary preservation easement to the municipality, agreeing to maintain the structure in keeping with its historic integrity and character during the term of the easement.
- II. No owner of an historic agricultural structure shall be entitled to have a particular structure classified for any tax year under the provisions of this chapter unless the owner has applied to the governing body on or before April 15 of the tax year on a form provided by the commissioner of the department of revenue administration. Such application shall include a map showing the location of the structure to be subject to the discretionary preservation easement, and a description of how the property meets the tests of public benefit in RSA 79-D:3.

**Source.** 2002, 86:1, eff. July 2, 2002.

## **Section 79-D:5**

### **79-D:5 Approval, Denial. –**

- I. If, after a duly noticed public hearing, the governing body finds that the proposed preservation of such historic agricultural structure is consistent with the purposes of this chapter, it may take steps to acquire a discretionary preservation easement as provided in this chapter. In exercising its discretion, the local governing body may weigh the public benefit to be obtained versus the tax revenue to be lost if such an easement is granted. The governing body shall have no more than 60 days to act upon the application.
- II. If the governing body denies the application to grant a discretionary preservation easement to the municipality, such denial shall be accompanied by a written explanation. The local governing body's decision may be appealed by using the procedures of either RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and shall not be set aside by the board of tax and land appeals or the superior court except for bad faith, discrimination, or the application of criteria other than those set forth in RSA 79-D:3 and paragraph I of this section.
- III. The easement shall be a burden upon the property and shall bind all transferees and assignees of such property. An easement granted pursuant to this subdivision shall not be assigned, transferred, or released by the municipality without the consent of the owner, except as provided in RSA 79-D:8.

**Source.** 2002, 86:1, eff. July 2, 2002.

## **Section 79-D:6**

**79-D:6 Terms; Recording. –** Any preservation easement acquired by the municipality pursuant to this chapter shall be for a minimum of 10 years. The easement terms shall include the method of assessment pursuant to RSA 79-D:7 and the terms of renewal pursuant to RSA 79-D:8, III. The local governing body shall provide for the recording of such easements with the register of deeds. Any costs of recording shall be the responsibility of the applicant.

**Source.** 2002, 86:1. 2007, 27:2, eff. Jan. 1, 2008.

## **Section 79-D:7**

### **79-D:7 Assessment of Property Subject to Discretionary Preservation Easement. –**

- I. The method of assessment of discretionary preservation easement structures shall be included as a term of the

agreement in any discretionary preservation easement acquired by a municipality. Assessment shall fall within a range, one end of which shall be 75 percent of the full value assessment; the other end of the range shall be 25 percent of said full value assessment.

II. The local governing body shall have the discretion to set the value of the discretionary preservation easement at a level within this range which it believes reflects the public benefit conferred by the property under the criteria set forth in RSA 79-D:3, II. The assessment shall not be increased because the owner undertakes maintenance and repairs designed to preserve the structure.

**Source.** 2002, 86:1, eff. July 2, 2002.

## **Section 79-D:8**

### **79-D:8 Release of Easement, Expiration, Renewal, Consideration. –**

I. Any property owner who has granted a discretionary preservation easement to a municipality pursuant to the terms of this chapter, after the effective date of this chapter, may apply to the local governing body of the municipality in which the property subject to a discretionary preservation easement is located for a release from such easement upon a demonstration of extreme personal hardship. Upon release from such easement, a property owner shall pay the following consideration to the tax collector of the municipality:

(a) For a release within the first half of the duration of the easement, 20 percent of the full value assessment of such structure and land under RSA 75:1.

(b) For a release within the second half of the duration of the easement, 15 percent of the full value assessment of such structure and land under RSA 75:1.

II. [Repealed.]

III. Upon the expiration of the terms of the discretionary easement, the owner may apply for a renewal, and the owner and local governing body shall have the same rights and duties with respect to the renewal application as they did with respect to the original application; provided, however, that at the time of the original granting of the discretionary preservation easement, the parties may include, as a term of the agreement, a provision for automatic renewal for the same term as the original. Such a provision may include the specification of the manner in which the tax assessment on the property for the next term is to be determined at the time of renewal.

IV. The tax collector shall issue a receipt to the owner of such property and a copy to the local governing body for the sums paid. The local governing body shall, upon receiving a copy of the above-mentioned consideration, execute a release or renewal of the easement to the owner who shall record such a release or renewal. A copy of such release or renewal shall also be sent to the local assessing officials if they are not the same parties executing the release or renewal.

V. In the event that the structure is destroyed by fire, storm, or other unforeseen circumstance not within the control of the property owner, the preservation easement shall be released without penalty.

VI. If, during the term of the preservation easement, the owner shall fail to maintain the structure in conformity with the agreement, or shall cause the structure(s) to significantly deteriorate or be demolished or removed, the preservation easement shall be terminated and a penalty assessed in accordance with RSA 79-D:8, I(a) and (b).

**Source.** 2002, 86:1. 2007, 27:1, eff. Jan. 1, 2008.

## **Section 79-D:9**

### **79-D:9 Payment; Collection. –**

I. If a consideration is due under RSA 79-D:8, I, the assessed value shall be determined as of the actual date of the release or expiration. Any consideration is in addition to the annual real estate tax imposed upon the property, and shall be due and payable upon the release or expiration.

II. Any consideration shall be due and payable by the owner at the time of release or expiration to the municipality in which the property is located. If the property is located in an unincorporated town or unorganized place, the tax shall be due and payable by the owner at the time of release or expiration to the county in which the property is located. Moneys paid to a county under this chapter shall be used to pay for the cost of services provided in RSA 28:7-a and RSA 28:7-b. Any consideration shall be due and payable according to the following procedure:

- (a) The commissioner shall prescribe and issue forms to the local assessing officials for the consideration due, which shall provide a description of the property, the discretionary preservation easement, the full value assessment under RSA 75:1, and the amount payable.
- (b) The prescribed form shall be prepared in quadruplicate. The original, duplicate, and triplicate copy of the form shall be given to the collector of taxes for collection of the consideration along with a special tax warrant authorizing the collector to collect the consideration under the warrant. The quadruplicate copy of the form shall be retained by the local assessing officials for their records.
- (c) Upon receipt of the special tax warrant and prescribed forms, the tax collector shall mail the duplicate copy of the tax bill to the owner responsible for the tax as the notice of tax. Such bill shall be mailed within 12 months of the release or expiration.
- (d) Payment of the consideration shall be due not later than 30 days after the mailing of the bill. Interest at the rate of 18 percent per annum shall be due thereafter on any consideration not paid within the 30-day period.

**Source.** 2002, 86:1. 2007, 27:3, eff. Jan. 1, 2008.

### **Section 79-D:10**

**79-D:10 Exemption for Eminent Domain.** – If any of the property which is subject to a discretionary preservation easement is condemned by any governmental agency or is acquired through eminent domain proceedings, the local governing body shall execute a release of the easement to the owner. None of the liquidated consideration provisions of RSA 79-D:8, I shall be applicable to releases granted pursuant to this section.

**Source.** 2002, 86:1. 2007, 27:4, eff. Jan. 1, 2008.

### **Section 79-D:11**

**79-D:11 Local Preservation Easement Programs.** – This chapter shall not be construed to limit the development of any other state, county, town, or city easement program for preservation, conservation, or other purposes.

**Source.** 2002, 86:1, eff. July 2, 2002.

### **Section 79-D:12**

**79-D:12 Lien for Unpaid Taxes.** – The real estate of every person shall be held for the taxes levied pursuant to RSA 79-D:8.

**Source.** 2002, 86:1, eff. July 2, 2002.

### **Section 79-D:13**

**79-D:13 Enforcement.** – All taxes levied pursuant to RSA 79-D:8 which are not paid when due shall be collected in the same manner as provided in RSA 80.

**Source.** 2002, 86:1. 2004, 203:14, eff. June 11, 2004.

### **Section 79-D:14**

**79-D:14 Rulemaking.** –

I. The commissioner of the department of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to:

- (a) The application procedures under RSA 79-D:4.

(b) The payment and collection procedures under RSA 79-D:9.

II. The commissioner of the department of natural and cultural resources shall adopt such rules as may be applicable under the authority of RSA 227-C:5.

**Source.** 2002, 86:1, eff. July 2, 2002. 2017, 156:38, eff. July 1, 2017.

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N.H. Historic Agricultural Structures Advisory Committee  
c/o N.H. Division of Historical Resources  
19 Pillsbury Street  
Concord, N.H. 03302 - 2043

**RSA 79-D  
Frequently Asked Questions**

Q. I want to work on my barn now. Should I wait until next spring to do it and get the easement in place first?

A. The earliest that tax relief under this law can now be effective in the tax year 2004; for that purpose, applications must be submitted on or before April 15, 2004. Unless your town is about to have a reevaluation of its property, the current assessment of your barn is what will be used in calculating tax relief at the time you enter into the easement agreement. Any repair or maintenance work done subsequently to preserve the structure while your preservation easement is in effect will not result in an increase in the assessment.

Q. What if there is an antique shop in the barn? Is it eligible?

A. It is up to the local town or city governing body to decide. [See separate Q & A on "Use of the Structure".]

Q. How much money are we talking about saving? \$100? \$500 per year?

A. That depends on the individual structure and town. In many cases, the amount may only be a few \$100, but it is intended to encourage the owner to maintain and save the barn. And the guarantee against the assessment being increased due to repair and maintenance work on the barn can be significant.

Q. What if the barn has been moved from another location?

A. That, in itself, should not rule out eligibility. In the past, barns were often moved. In meeting one or more parts of the test of public benefit, an important question would be whether the historic integrity and character of the structure have been maintained. Another question is whether the barn looks and "feels" historically appropriate in its present location.

Q. What if it has been necessary to replace the siding and roofing materials? What percentage of the building needs to be at least 75 years old to qualify?

A. It is not uncommon for barns to have had roofing, siding, or other materials replaced over the years. In so doing, has the character and historic integrity of the barn been maintained? Does it continue to contribute to the general public's scenic enjoyment or meet one of the other tests of public benefit? Input from the local Heritage Commission, Historic District Commission, or historical society may be helpful in making this judgment.

Q. What should be included in the completed application? Can the selectboard ask for more information ?

A. Identification of the property and its owner(s), a map showing the location of the structure, and a description of how the property meets the test of public benefit spelled out in the law. Photographs of the structure in its setting, including old photographs, and other supporting materials may be attached to the application. The selectboard may ask for additional information in order to be satisfied that the application is complete.

Q. Who will check on the barns to see if people are maintaining/improving them? What is the process for penalizing them if they are not?

A. It will be up to the local town or city authority to review compliance. It is possible that a local Heritage Commission or historical society can assist in this regard, such as by providing an annual report on compliance. If an owner fails to maintain the structure in accordance with the preservation agreement he has entered into with his town, or causes it to significantly deteriorate or be demolished, a penalty is to be assessed in accordance with terms spelled out in the law.

Q. Why should I support tax relief for my neighbor who just bought the place and is well off while I live in a modest home with no barn ? How is it fair that everyone else has to make up the difference ?

A. Historic barns are important and much appreciated parts of our landscape and our history. Taxes on barns, which often are no longer used, frequently cause owners to put off making repairs or even tear them down.

Granting some tax relief to an owner is intended as the town's part of an agreement in which the owner commits to maintain the barn for ten years or more.

The town government will have to decide whether the benefit to the community of helping to save the old barn outweighs the loss of tax revenue. Just as with locally granted exemptions and tax credits, such as for the blind or disabled, or for solar powered energy systems, any reduction in taxes would be made up by apportioning the amount among all town taxpayers, including the owner of the barn under easement.

Of course, if the barn owner demolishes the barn or sells it to a parts dealer, the town forfeits all future tax revenue on the structure.

Q. Who draws up the easement? What will it look like?

A. The property owner should work with the Selectboard or their representative in drawing up the easement document. A model easement has been prepared by the Advisory Committee. An easement should include the commitment of the owner to maintain the property, the entity which will be responsible for monitoring that commitment, the percentage of tax reduction to be applied, the commitment that the assessment will not increase due to repair and maintenance, and provisions covering renewal, release, expiration, and enforcement.



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What happens at the end of the easement term? Can my taxes be raised even if I reapply to the program?

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\*\*\*\*\* A. If a barn owner chooses not to continue to offer an easement at the end of the term, the agreed amount of tax relief comes to an end. The agreed terms of the easement may, but do not have to include the specification of an amount up to 10 percent of fair market value to be paid upon expiration of the easement.

If no provision for automatic renewal under the same terms is included in the easement, the owner may apply for a renewal, with the owner and the selectboard having the same rights and duties as they did with the original application. Thus, under the new terms, the degree of tax relief could be reduced, increased, or stay the same.

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**Determining Eligibility for RSA 79-D  
Use of the Structure**

**Question:** What about an old barn or other historic agricultural structures which has been converted into single or multiple-family dwelling, or into a farm stand, restaurant, or other commercial facility? Is it eligible for consideration for a discretionary preservation easement under the provisions of RSA 79-D ?

**Answer:** It is the responsibility of the local town or city governing body to determine whether such structures qualify for consideration. In making the determination, the following factors are relevant:

-- Eligibility is to be determined by applying the test of public benefit specified in the law (79-D:3.II.) and by considering the Guidelines adopted by the Advisory Committee.

-- Particular attention should be given to the question in the Guidelines under "Use of the Structure" which asks, "If the structure has been adopted for other use, has the historic character of the structure been maintained?" Furthermore, each property owner applying for a preservation easement is required to agree "to maintain the structure in keeping with its historic integrity and character during the life of the easement" (79-D:4.I.).

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**RSA 79-D**  
**Improvements vs. Maintenance and Repair**

Question: What if I want to make improvements to my barn ?

Answer: The intent of RSA 79-D is to encourage the preservation of historic agricultural structures by reducing the full value assessment of the buildings under easement and also by protecting the property owner from increases in the assessed value as a result of maintenance and repair work done on the building while the easement agreement is in effect. RSA 79-D:7 II specifically provides: "The assessment shall not be increased because the owner undertakes maintenance and repairs designed to preserve the structure". The law does not refer to improvements and is not intended to extend to them the same treatment, for the purpose of assessment, as that given to "maintenance and repairs designed to preserve the structure".

Question: What is the difference between "improvements" and "maintenance and repairs" ?

Answer: What constitutes valid maintenance and repairs will depend on the circumstances of the individual structure. Newly introduced features which were not present before the effective date of the preservation easement, such as extensive lighting systems and other electrical work, heating, insulation, and air conditioning, presumably should be classified as improvements rather than maintenance and repairs. However, the replacement of a stone foundation under a barn with concrete footings could be considered to be repairs, given that animals are no longer housed in that particular structure, thereby no longer providing sufficient heat to keep foundation stones from heaving during winter. The

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**RSA 79-D**  
**Potential Effect of Revaluations**

Question: Is the assessed value of a barn or other historic structure under a RSA 79-D preservation easement "protected" from the effect of a town-wide revaluation ?

Answer: No. While the law does not specifically address the question of a town-wide revaluation, the operative phrase is contained in RSA 79-D:7 II, namely, "The assessment shall not be increased because the owner undertakes maintenance and repairs designed to preserve the structure." Therefore, it is possible in a time of generally increasing property values, that the full value assessment of a barn under easement could be increased as a result of a town-wide revaluation. However, the *percentage reduction* of the full value assessment which has been granted in the preservation easement *shall remain the same* for the duration of the easement.

Question: On what basis would the new full value assessment be determined during a town-wide revaluation ?

Answer: Logically, such a revaluation would have to be based on the condition of the structure at the time the easement was accepted by the local town or city governing body, plus any subsequent improvements which have been made in addition to "maintenance and repairs designed to preserve the structure".



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**Solar Panels and RSA 79-D Preservation Easements**

**Question:** Would solar panels on the roof of an old barn make the structure ineligible for a RSA 79-D preservation easement. Or, if added to a structure already under an easement, would that result in it no longer being eligible?

**Answer:** Barn owners who participate in RSA 79-D preservation easements agree to maintain their barn "in keeping with its historic integrity and character during the term of the easement" (RSA 79-D:4.I). While solar panels can help maintain a historic barn by producing low cost power, a large array of solar panels installed on a highly visible side of a barn in a manner that harms its historic building materials and construction would not be in keeping with the barn's historic integrity and character. Local officials may want to consider a number of factors before deciding on whether a solar panel(s) affects a barn preservation easement. These include the scale of the installation, its location and visibility, its effect on the building's structural system, long-term maintenance and overall appearance, and whether the installation could be reversed in the future with no harm to the building. Solar panels are a rapidly evolving technology, with less intrusive installations being introduced on a regular basis. If the panels are not in use or are no longer viable as a means of producing power during the easement period, best practices recommend removing the solar panels from the structure.

## Tax Implications of HB 522

Discretionary easements, including the preservation easements proposed in HB 522 to encourage the preservation of historic New Hampshire barns, are, for tax purposes, treated in the same way as current use property, with everyone sharing in the benefits or burdens that come with them.

It will be up to each Selectboard or City Council, in deciding whether or not to accept a preservation easement, to weigh the public benefit to be gained by helping to save an historic barn against the disadvantage of reducing taxes received from it. The proposed incentive mechanism would not be a state mandate. Instead, it would be strictly discretionary, with the governing body of each town or city considering, case by case, whether the building would be eligible for tax relief, and, if so, how much. Relief would be granted by reducing the assessed value of the building by between 25 and 75 percent of the current full value assessment.

Question: Would HB 522 reduce the amount of taxes raised to pay for municipal expenses?

Answer: No. Since the municipality's expenses to be paid by property taxes would remain the same, any reduction in taxes resulting from discretionary preservation easements would need to be made up by apportioning that amount among all of the town's taxpayers, including the owners of the barns under easement. The amounts involved are likely to be small. This is the same "burden-sharing" process used in New Hampshire to offset tax credits or exemptions that are granted locally for veterans and blind or disabled resident or for the use of wind-powered, solar and wood heating systems.

Question: Would HB 522 decrease the amount of property tax revenue collected by towns and then sent to the State as their share of the education property tax?

Answer: Yes, but not significantly. A town's total equalized value of property, as used to calculate its statewide education property tax obligation, would be reduced by the amounts granted in any preservation easements. The amounts can be expected to be very small, especially when compared to the millions of dollars of total assessed values of today's town and city "grand lists" of taxable property, and to the total amount of

education tax due. In many cases, annual property taxes on old barns, often only marginally used, are only a few hundred dollars. But frequently that can be enough to prompt the owner -- looking for ways to make ends meet and faced with the prospect of an increased assessment if he or she repairs the building -- to decide to let a salvage dealer tear it down. And in those cases, it is lose/lose for the town and for the state: a part of the town's heritage disappears and so do any future tax revenues to be derived from it.

A real-life example: a large, 19th century former dairy barn in Orford, N.H., which is an appreciated local landmark and has essentially been unused for over 50 years, is currently assessed at \$20,600 and pays a local property tax of \$467. The additional education property tax on the building, payable to the State, is \$119.48. If, as a result of a preservation easement, the Selectboard were to reduce the assessed value of the building by 50%, the state education tax portion of the barn owner's tax bill would be lowered by a little under \$60. Since the total equalized value of all property in Orford is \$65.7 million, the town's payment to the education property tax is \$381,060. Therefore, the impact of this preservation easement on the town's payment to the state would be to reduce it by .015%.

## Scott Dunn

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**From:** Scott Dunn  
**Sent:** Wednesday, July 21, 2021 3:13 PM  
**To:** 'preservation@dn-cr.nh.gov'  
**Subject:** Discretionary Preservation Easement (per RSA 79-D))  
**Attachments:** Town of Gilford\_20210721\_140214.pdf

Town Whom it May Concern,

The Board of Selectmen for the Town of Gilford has received an application for a discretionary preservation easement for a barn situated at 16 Potter Hill Road – see attached.

We are forwarding this application to you for review by an Advisory Committee pursuant to the provisions of RSA 227-C:29 as referenced in RSA 79-D:2, III. More specifically, the Selectmen would welcome a recommendation by the advisory committee or DHR staff as to whether this particular structure meets the preservation easement criteria as set forth in RSA 79-D:3.

The Selectmen have scheduled a public hearing on this matter for Wednesday, August 11 at 7pm at which time the Board would consider any input offered by your agency.

In addition, the Town is inquiring if you would have a template (or example) available of a discretionary preservation easement that may have been used by some other NH municipality, in addition to any written guidelines that are applicable to this situation.

Any assistance you can provide would be appreciated. Thank you for your consideration.

Regards,

Scott J. Dunn, Town Administrator  
Town of Gilford  
47 Cherry Valley Road  
Gilford, NH 03249  
603-527-4706