

**TOWN OF JERICHO
BOARD OF CIVIL AUTHORITY
OCTOBER 27, 2016**

MEMBERS: Michael Weinberg, Chair; Debbie Rackliff, Vice Chair; Don Messier, Ann Messier, Jessica Alexander, Mary Coburn, Wayne Howe, Sarah Joslin, Jim Gallagher, Janet Gallagher, Bert Lindholm, Mary Jane Dickerson (arrived 5:59 p.m.). **ABSENT:** Tim Nulty, Catherine McMains, Donna Boiney, Peter Booth.

LISTERS: Sandra Costes, Assessor/Lister; Lori Dykema, Lister, Andrew Levi, Lister.

OTHERS: James Clark, Eleanor Clark, Judy Conners, Donald Majercik, Patricia Nolin, Chuck Bolton, David Barra, Philip Sharpsteen, Susan Morse.

AGENDA ITEMS:

Hear Tax Appeals:

- Donald Majercik and Patricia Nolin – SO004
- Susan Morse – BL055A

Hear Inspection Committee Reports

CALL TO ORDER

Mr. Weinberg, Chair, called the meeting to order at 5:45 p.m.

MINUTES: October 13, 2016

MOTION by Mr. Joslin, seconded by Ms. Messier, to approve the Jericho BCA minutes of October 27, 2016, as written with corrections as noted.

VOTE: 11 ayes, 5 absent (Mr. Booth, Ms. McMains, Ms. Boiney, Mr. Nulty, Ms. Dickerson); motion carried.

Mr. Weinberg reported that an appeal by Jim Carroll, PMC Trust located at 22 Bolger Hill Road, was heard on October 13th.

Ms. Alexander read Mr. Carroll's e-mail into the record, noting that Mr. Carroll has not given reasons supporting his statement that the hearing minutes were inaccurate and a request for a new hearing. Mr. Weinberg explained that the appellant can file an appeal to the state as a next step.

Mr. Weinberg reported that the Jericho Fire Department, 275 Brown's Trace Road, appeal had been withdrawn. The Fire Department has decided to donate the land to the town and wanted to complete the process by October 1st. The donation is still undergoing a Selectboard review process and now the Fire Department has decided to withdraw their withdrawal and would like to reinstate the appeal, explained Mr. Weinberg. Ms. Alexander said that there are special circumstances to consider. The land donation by October 1st hasn't happened. The town has consulted with the Vermont League of Cities and Towns, the Vermont Department of Taxes, and the Town Attorney regarding a new

hearing, or not. All organizations have agreed that the Fire Department appeal has gone through the appeal cycle for this year. The Fire Department would need to go through the grievance cycle next year, said Ms. Alexander.

Mr. Lindholm said that an appellant has two chances to appeal to the BCA – a first set date and time, and if there was an issue then the appellant could reschedule for a second date and time. The BCA could consider it as a rescheduled date, suggested Mr. Lindholm. Mr. Weinberg pointed out that there have been 10-20 withdrawals. Do we give those people the same option, asked Mr. Weinberg.

Mr. Howe recused himself from the Jericho Fire Department discussion.

(NOTE: Ms. Dickerson joined the meeting at 5:59 p.m. Mr. Weinberg explained a motion regarding the Jericho Fire Department.)

MOTION by Mr. Lindholm, seconded by Ms. Messier, to hear an appeal by the Jericho Fire Department, for a property located at 275 Brown's Trace , due to extenuating circumstances in tax year 2016.

VOTE: 8 ayes, 3 nays (Ms. Alexander, Ms. Coburn, Ms. Joslin), 1 abstention (Mr. Howe), 4 absent (Mr. Booth, Ms. McMains, Ms. Boiney, Mr. Nulty); motion carried.

APPEALS WITHDRAWN

- Brandon and Amanda Smith – PA113
- Barbara Tonn – GAR007
- Simon and Christina Thingvold-Dutcher – JC011
- Kendra Wallace - OF009
- Christopher Luczynski - M1083
- Canine Run Road Homestead, LLC - CA021
- Susan Harritt and William Butler - NV254
- Underhill Jericho Fire Department - BT275
- Cathy and Paul Davis - CH307
- Jessica Whitney - MR026
- Raymond and Leonora Belair - BK011A
- Ann Broekhuizen - GL004
- Danny Myers and Stacey Cheney-Myers - PN047
- Philip Sharpsteen – NV085
- Gabriel Handy – VT372
- Paul Beliveau and Constance Beliveau – MI088
- F J VonTurkovich – OP006 and OP008 (pending)

HEAR TAX APPEALS

Donald Majercik and Patricia Nolin – SO004

Ms. Alexander recused herself.

Mr. Weinberg explained the oath and tax appeal process.

Donald Majercik and Patricia Nolin, owners, David Barre, attorney, and Chuck Bolton, appraiser, appeared before the BCA. Mr. Majercik, Ms. Nolin, Mr. Barra and Mr. Bolton were sworn in, and signed a Witness Oath document.

Ms. Costes, Assessor/Lister, and Ms. Dykema, Lister, and Mr. Levi, Lister, were sworn in, and signed Witness Oath documents

The BCA members present were sworn in, and signed Oath documents.

Ms. Rackliff handed out copies of the Assessor's informational packet for review.

ASSESSOR'S REPORT

Ms. Costes introduced the subject property located at South Hill Road that consists of 6 lots that were a part of a larger Packard Heights Extension subdivision. These are 6 individual parcels, said Ms. Costes.

APPELLANT COMMENTS

Mr. Barra handed out copies of a written informational packet and an independent real estate appraisal for BCA review.

Mr. Barra said that there is a dispute regarding the number of lots. There are not 6 lots. There is only 1 lot since Donald Majercik and Patricia Nolin have owned the subject property. The Listers' classification of 6 individual lots is in error and is based on an expired ACT 250 permit dating from the original subdivision. Vermont law requires towns to treat similar parcels the same. There is a similar 4-lot property, 59 Pratt Road, which has no valid ACT 250 permit and is treated as 1 lot by the town. The appellants want the same treatment. Charles Bolton, an independent appraiser, has submitted comparison sales of similar properties and has concluded that the FMV of the subject property is \$130,000, which is what the Listers' told his clients the value would be if it is 1 lot, said Mr. Barra.

Mr. Barra reviewed a letter from Richard Fox, attorney, dated October 24, 2016, regarding title and state land use permit requirements related to saleable and buildable lots. The subject property does not have the proper state ACT 250 permits in place to allow for subdivision of the property into 6 individual lots. Until the property owners work on acquiring the necessary state and town permits the subject property is a single unimproved and undeveloped lot. The 'lots' can not be sold individually and are not buildable. It is unlikely that title insurance carriers would find the lot a saleable lot for the purposes of obtaining institutional financing. The original ACT 250 permit has expired as a matter of law, said Mr. Barra.

Mr. Barra reiterated that the 59 Pratt Road CAMA card lists the property 1 lot. It is contended that the subject property value is \$130,000. If the town treats 59 Pratt Road as 1 lot then the town should treat the subject property that way as well, stated Mr. Barra.

Mr. Levi, Lister, recused himself.

ASSESSOR COMMENTS

Ms. Costes reviewed Exhibit 1, a history of the subject property, the Lister grievance appeal and notices; Exhibit 2A, a spread sheet of recent purchases of approved lots by speculator/contractors at a discount on the purchase price, a Direct Market Approach used by the Listers to determine a value for the South Hill Road lots; Exhibit 2B, the subject property's CAMA card that shows a change from a 20 percent to 30 percent developers discount in the notes and a value of \$77,000 for each lot and a total value of \$462,000; Exhibit 2C, a definition of a subdivision development and how to value subdivided lots using the Income Approach and a Direct Sales Approach; Exhibit 2D a notice that the Vermont Supreme Court agrees and backs a municipality's method of assigning a higher value on a permitted lot; Exhibit 2E, an example of developer's subdivision discounts in town; Exhibit 3A, B, and C, maps depicting the location of 6 individual lots via yellow dots, a lot with a blue dot of an 8.79 acre parcel that is independent of the 6 lots and owned by Donald Majercik that is bulk land and not under appeal; and Exhibit 4, a copy of the state District Environmental Commission #4, ACT 250 permit approved on August 25, 1977 when the 20-lot subdivision went through.

Mr. Barra pointed out that the 1977 ACT 250 permit expired April 13, 1999 and doesn't apply to the 6 lots. Those 11 acres have not been under that specific permit since the property has been owned by Donald and Patricia, and they have not taken any steps or movement to permit or sell a lot, or extend permitting, said Mr. Barra. Ms. Costes replied that she understands it is a question of people who say they "have a lot and they were not going to sell it". She believes that "a lot is a lot" and if the appellant has a lot that is in conformance with the ACT 250 permit issued and the 10 criteria then it can be permitted again, said Ms. Costes

Mr. Barra asked for clarification of a "70 percent" grade as noted on Exhibit 2E. Ms. Costes replied that the .70 grade is a discount value at 70 percent of the cost listed.

Mr. Barra said that the lot lines on the town exhibit maps are not any different then placing an overlay with lines on any parcel. The lines are not specific legal lines of a lot. It would take a valid ACT 250 permit to make a lot legally saleable and developable. To say the subject property could be permitted calls for speculation. Exhibit 2C relates to the original subdivision that has gone through the subdivision approval process. The subject property "lots" are not 3-acre lots as per the current zoning. The property owners have no current town or state approvals to turn around and sell the property. The court case cited in Exhibit 2C has no bearing on this a parcel that has no valid permit. Exhibit 4, the ACT 250 permit application for the 20-lot Packard Road subdivision is not valid for this parcel. There is no valid permit related to the subject property, stressed Mr. Barra.

BCA QUESTIONS/COMMENTS

Mr. Weinberg asked, hypothetically, if he wanted to make an offer on a lot could the appellant sell him one. Mr. Barra replied that there are no sellable or buildable lots as per the submittal packet.

Ms. Costes said as per her notes Patricia Nolin contacted her and they talked with her on the process to reverse subdivision lot lines. The original subdivision went through the DRB approval process and the subdivision is completely built out on the Morgan Road side. It is her opinion that the appellant has not produced any evidence that the lots do not exist. The final plat Mylars exist and are filed with the town. The lots are discounted 30 percent due to the cost of development. The developer said he would sell those 6 lots and didn't want to vacate those 6 lots, said Ms. Costes.

Ms. Joslin said that she would abstain from further discussion regarding the subject property.

Mr. Lindholm asked if it is the original final plat Mylar filed with the town, or a Mylar with just these 6 lots. Ms. Costes replied that both Mylar plats are filed with the town. That is what produced the green lots lines, which are hard to see on the maps, said Ms. Costes.

Mr. Lindholm asked if there have been changes in the lot lines. Mr. Barra said that the survey map is on record. And yes, the lot lines are in the town records. The legal effect is that no, they are not separate lots; the lots merged when the state permit expired. There is no ACT 250 permit and therefore the 'lines' are gone as per 10 VSA §6091(b)(1) and (2), if there is a lack of "substantial progress toward completion" of a permitted project within a three-year period that "shall constitute an abandonment of the development...and the permit shall be considered expired" as a matter of law, said Mr. Barra.

Mr. Barra asked why 59 Pratt Road is treated as 1 lot when there are 4 lots. Ms. Costes replied that the Listers talk with Mr. Lewis with every year. He is an elderly gentleman and lives in Arizona. Mr. Lewis is broke and when the engineer drew up the lots he couldn't pay the bill and didn't take it through the ACT 250 permit process, said Ms. Costes.

Mr. Barra stated that the 1977 ACT 250 permit expired in 1999. Ms. Costes said that the property owner has to prove that they can't go through the permit process.

Ms. Messier asked if the land had been assessed as 6 lots previously. Ms. Costes replied that previously all the yellow dots on the map were listed as one lot, except the blue dot. That lot consists of 8.79 acres and is listed to Donald only. The 6 lots are on South Hill Road. There is a lot with a riding ring next to the house lot that might be a separate lot, said Ms. Costes.

Ms. Messier asked what the lots were assessed at as 1 lot. Ms. Costes said that she didn't have that information with her.

Mr. Barra said that the property owners have always used the house and riding ring parcel as 1 lot. The Listers' took it upon themselves to make it 2 individual lots, said Mr. Barra.

Mr. Bolton said that this is a unique situation. This is a raw unapproved parcel. There is 1 improved lot with a house. The permits went stale. In real estate appraisal practice, value is assigned on a highest and best use. For example, Lot 3, the appraisal value is not there individually because the title is not there. What was, is no longer there, said Mr. Bolton.

Ms. Costes said that the property deed is included in the informational packet.

Mr. Weinberg asked if the appellant would like to continue his appeal. A three member BCA Inspection Committee would visit the property. The committee is independent from the BCA and Listers. No new testimony can be taken at the inspection visit, said Mr. Weinberg. Mr. Majercik replied yes.

Mr. Messier recused himself as a potential Inspection Committee member due to a friendship with Mr. Barra.

INSPECTION COMMITTEE ASSIGNMENT:
Jim Gallagher, Mike Weinberg, Bert Lindholm.

Date: Saturday, October 29, 2016, at 9:30 a.m.

Ms. Rackliff handed a copy of the Inspection Committee schedule to the appellant.

Susan Morse – BL055A

Mr. Weinberg explained the oath and tax appeal process.

Susan Morse, owner, appeared before the BCA. Ms. Morse was sworn in, and signed a Witness Oath document.

Ms. Costes, Assessor/Lister, and Ms. Dykema, Lister, and Mr. Levi, Lister, were sworn in, and signed Witness Oath documents

The BCA members present were sworn in, and signed Oath documents.

Ms. Rackliff handed out copies of the Assessor's informational packet and appellant's written testimony packet for review.

ASSESSOR'S REPORT

Ms. Costes introduced the subject property as a single family house, barn and camp located at 55A Bentley Lane.

APPELLANT COMMENTS

Ms. Morse said that she would like to high light that when an appraiser appeared unannounced at her property she was within one hour of a non-profit board meeting. She had invited him to come back at a later date, but that never happened. Her house is not a normal house. It was a horse barn that was turned into a house by the Bentley's when the Bentley house burned down. There is no basement, and no central heat. It is heated with a

wood stove. There is no bathroom as such. It is a $\frac{3}{4}$ bath that is 3.5' wide, 6'-7' long and 6' in height. There is a 2'x2' 6' high shower stall. She does have an outhouse. The back shed is not a part of the house and is a liability. It needs to come down. Her plan is to tear down the shed and use the shed footprint to add a kitchen onto the back of the house. The shed is patched with old roofing and tar on it, said Ms. Morse.

Ms. Morse handed out copies of a colored photograph of the shed.

Ms. Morse said that a shed is listed by the town as having a basement/garage. It has neither. It is a part of an old shed, not a garage, and functions as a dog kennel and feed storage. It is not insulated or heated. The house upstairs functions as an attic built with spruce board and spilt lath. The ceiling is collapsing with the weight of the board. She put in a ceiling and reinforced the floor. She stores scientific collections there. The kitchen is small (Ms. Morse indicated a space by spreading her arms out) with a half-fridge and small oven. There are no closets in the house. It is a studded building that was originally a 19th century post and beam barn. It is a 'fixer-upper, not a tear-er-downer.'" She uses heat tape to keep the pipes from freezing, said Ms. Morse.

ASSESSOR COMMENTS

Ms. Costes reviewed Exhibit 1, the Lister grievance sheet, and a photograph of the barns. The barns, shown in Exhibit 4 have never been listed to Susan and now are. They were listed to the Simpson's High Meadow, 55 Bentley Lane property. This is the first year the barns are listed to Susan's CAMA card, which is a \$37,400 assessment increase. Exhibit 1 addresses concerns outlined in Susan's letter and have been addressed in the assessment. For example, the shed behind the house has been removed. Exhibit 2, is the assessment record. A grade of "3" is average. The subject property is a grade "2.25" as a camp quality. There is a 37 percent depreciation for no heat. The house is assessed at \$84,600. There is no land as it is on leased land with a life tenancy for Susan. Page 3, a house sketch shows a 340 square foot shed. Page 2 of the sketch is the lambing shed and gambrel barn. Exhibit 3, has no land, and Susan has the right to sell the property with a "right of first refusal" to the Simpson's. The legal document outlining the arrangement is included in the packet. The exhibits include photographs of the structures and barns, said Ms. Costes.

BCA QUESTIONS/COMMENTS

Mr. Weinberg asked for clarification of Exhibit 2, page 2. If the house value is \$84,600, the question is what the \$130,000 value. Ms. Costes replied that additional values are added for water, septic and \$37,400 on the barns and detached camp.

Ms. Morse said that she was not aware that the barns were a part of her property.

Mr. Weinberg asked what value would Ms. Morse like. Ms. Morse replied that she didn't know what value her house should be at. She had been troubled that her house would be compared to her neighbor's grander house.

Ms. Dykema asked what Ms. Morse has insured her property for. Ms. Morse replied that she could not remember. When she had looked for insurance the insurance companies were concerned that she heated with wood. It is her library that is valuable and the exterior liability is a concern, said Ms. Morse.

Mr. Weinberg asked if the appellant would like to continue the appeal. A three member BCA Inspection Committee would visit the property. The committee is independent from the BCA and Listers. No new testimony can be taken at the inspection visit, said Mr. Weinberg. Ms. Morse stated that she had no complaint regarding the outbuildings. She would like to go forward with an inspection of the house, said Ms. Morse.

INSEPTION COMMITTEE ASSIGNMENT:
Wayne Howe, Don Messier, Ann Messier.

Date: Saturday, October 29, 2016, at 10:00 a.m.

Ms. Rackliff handed a copy of the Inspection Committee schedule to the appellant.

OTHER BUSINESS

Mr. Weinberg noted that there are 6 appeals scheduled for the next BCA hearing, of which 4 are by Randy Clark. There may be BCA members who might recuse themselves from the Clark appeals – does that affect any BCA member here, asked Mr. Weinberg.

Mr. Howe said that Selectboard members who are also BCA members might be affected.

HEAR INSPECTION COMMITTEE REPORTS

Underhill Jericho Fire Department Inc – 288x Brown's Trace

Inspection Committee:

Mary Jane Dickerson, Donna Boiney, Sarah Joslin

Ms. Dickerson reported that an inspection of the subject property was conducted on Monday, October 17, 2016, at 4:30 p.m. The committee walked the property and inspected the interior of the building. One issue the committee noted has to do with a neighborhood multiplier of 1.5. The subject property is surrounded by single family houses. The 2016 assessment is \$526,300, which is almost doubled the previous assessment. No improvements were made to the property. The building is not two stories. There is a partial loft for storage of turnout gear and some supplies. You couldn't stand up in the loft. The property is not a conventional commercial property, although it is an attractive property. The Inspection Committee has no recommendations, said Ms. Dickerson. Ms. Joslin said that the committee has left it up to the BCA to decide.

PMC Trust - 22 Bolger Hill Road

Inspection Committee:

Donna Boiney, Jim Gallagher, Don Messier.

Mr. Messier reported that the Inspection Committee conducted a site visit on Friday, October 22, 2016, at 10:00 a.m. The subject property consists of 87.5 acres and the committee viewed a good portion of the land. It is beautiful land. Bolger Hill Road has deep gullies on both sides and is narrow, however, there are three houses located on the road. The committee walked to the cliff area. It is assumed that a driveway could be built for \$140,000, a septic for \$40,000, and \$140,000 to develop the land for a house. There are many water springs on the land that limits what you can put near the springs, and you can't build anything on the highest point of land as per state law. The owner mentioned there is wet land, noted as two words. Wetland, one word, is defined by the state. The committee did not find wetlands on the land. There are many springs. The owner produced a map of the springs and the committee said we couldn't look at the map at the inspection. The town assessed the parcel at a 1.4 neighborhood multiplier (NBHD). A 2005 Inspection Committee report notes a recommendation for a 1.3 neighborhood multiplier. That results in a 10 percent reduction of assessment value. The current Inspection Committee recommends a decrease in the NBHD, which should be considered by the BCA. Changing the 1.4 to 1.3 is a 10 percent reduction of assessment value, 1.2 is a 20 percent reduction of assessment value, and a 1.1 is a 30 percent reduction of assessment value. For comparison, Jericho Green is 1.0, which is the best you can get. Jericho Green is a community that has amenities, such as being within sight of the Post Office, library, general store and gas pump, and churches. You can go out of a driveway onto a state highway - that is a community. The Inspection Committee recommends a 1.3 NBHD as noted by 2005 Inspection Committee, said Mr. Messier.

Konczal Trust - 301 Cilley Hill Road

Inspection Committee:

Bert Lindholm, Wayne Howe, Jessica Alexander.

Mr. Howe reported that the Inspection Committee conducted a site visit on Saturday, October 15, 2016, at 10:30 a.m. The Inspection Committee walked the subject property and found that the parcel is split by a ravine. The land above the ravine is steep rendering it not workable. The land between the ravine and road might possibly support a house site. There were test wells found 25' in from the road. The soil is boney. The committee saw remnants of an old house and an out house about to fall in. The best use for the property is as a wood lot, or you live next door and use the parcel as a wood lot. The subject property is assessed at \$105,000 for 6 acres located in Jericho, and there is another 6 acres[±] in Essex. The committee had a discussion on how best to value the parcel. The committee felt that the current assessment is overvalued if the best use is as a wood lot, said Mr. Howe.

DELIBERATE SESSION

Ms. Coburn departed the meeting.

MOTION by Mr. Howe, seconded by Mr. Lindholm, to recess the BCA hearing and enter Deliberative Session for the purpose of approving Inspection Committee Reports related to 2016 tax assessment appeals. (BT288x, BH022 and CH301)

VOTE: 11 ayes, 5 absent (Ms. Boiney, Mr. Nulty, Mr. Booth, Ms. Coburn, Ms. McMains); motion carried.

The BCA recessed the hearing and entered Deliberative Session at 7:23 p.m. A written decision will be mailed to the appellants within 15 days.

MOTION by MS. Messier, seconded by Ms. Rackliff to adjourn Deliberative Session and reconvene the BCA hearing.

VOTE: motion carried

Deliberative Session was adjourned and the BCA hearing reconvened at 8:05 p.m.

NEXT MEETING:

- Thursday, November 10, 2016, at 5:45 p.m.
- Thursday, December 8, 2016, at 5:45 p.m.

The BCA hearings were recessed at 8:05 p.m. and will reconvene at the next meeting.

Minutes respectfully submitted, Kathlyn L. Furr, Recording Secretary.

These minutes were approved at the BCA meeting held November 10, 2016.