

**TOWN OF JERICHO
BOARD OF CIVIL AUTHORITY
NOVEMBER 10, 2016**

MEMBERS: Michael Weinberg, Chair; Debbie Rackliff, Vice Chair; Don Messier, Ann Messier, Jessica Alexander, Mary Coburn, Bert Lindholm, Donna Boiney, Mary Jane Dickerson, Sarah Joslin, Peter Booth, Jim Gallagher, Janet Gallagher, Catherine McMains (departed 6:26 p.m.). **ABSENT:** Tim Nulty, Wayne Howe.

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

OTHERS: James Clark, Eleanor Clark, Randy Clark.

AGENDA ITEMS:

Hear Tax Appeals:

- Randy Clark and Emily Clark – BT023
- Randy Clark – BT027
- Randy Clark – OR006

CALL TO ORDER

Mr. Weinberg, Chair, called the meeting to order at 5:47 p.m.

Mr. Weinberg thanked Jessica Alexander for her hard work and efforts on behalf of the BCA, and Debbie Rackliff for all the hard work preparing informational packets for the BCA and appellants.

MINUTES: October 27, 2016

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

VOTE: 11 ayes, 3 abstentions (Catherine McMains, Donna Boiney, Peter Booth), 2 absent (Mr. Nulty, Mr. Howe); 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APPEALS WITHDRAWN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)
- Judy Conners – HP002
- Gardner Construction – BK017
- Steven Bereback – SC136 (pending)
- Brian and Catherine Stevens – RW063 (pending)
- Joan and George Safford - VT298 and VT302 (pending)
- Cooley Trust – LE033 (pending)
- Burke & Sarah O'Brien – FZ028, FZ034, FZ047 (pending)
- Randy Clark – OR093

HEAR INSPECTION COMMITTEE REPORTS

Susan Morse – BL055A

Peter Booth, Donna Boiney and Catherine McMains recused themselves.

Inspection Committee:

Wayne Howe, Don Messier, Ann Messier

Ms. Messier reviewed an Inspection Committee report, dated October 29, 2016. Susan Morse was present. The subject property located at 55A Bentley Lane consists of a house, barns and camp. The house inspection discovered an open floor plan downstairs consisting of two rooms and a walkway leading into a very small galley kitchen and a half-bath. There is a narrow staircase to the upstairs, which has a small room with no door and one window that is more like a closet. A second room is a walk through to a larger area that could be considered a bedroom with a window and door. Mr. Howe thought that a single bedroom could be made out of the two areas. There are not three bedrooms. The area is used for storage. Regarding a "basement/garage"; it turned out to be a crawl space and the "garage" appears to be an outdoor basement. The Inspection Committee recommends reducing the house value to \$80,000 for an overall assessment of \$126,000 for the whole property, said Ms. Messier.

Mr. Messier said that Ms. Morse had mentioned an outhouse during the appeal hearing. It is used in her business. Ms. Morse has a functioning toilet with a leach field for personal use. There are two barns that Ms. Morse had built that are not income producing. There is a cottage located up on a hill where she writes. Ms. Morse does not pay the property taxes, which are paid by the Simpson's. Ms. Morse wants to be sure that the taxes are equitable for the Simpson's, said Mr. Messier.

Donald Majercik and Patricia Nolin – SO004

Inspection Committee:

Bert Lindholm, Mike Weinberg and Jim Gallagher

Mr. Lindholm reviewed an Inspection Committee report, dated November 5, 2016. The subject property located at 4 South Hill Road was inspected on October 29, 2016 at 9:30

a.m. Donald Majercik and Patricia Nolin were present. The subject property consists of 11.12 acres off the back side of Morgan Road. Previously the 30 and 32 Morgan Road lots were combined with the 11.12 acre lot. This year the Listers' separated the 30 and 32 Morgan Road lots out and assigned a value for the 6 lots that total 11.12 acres. The appellants are appealing the 11.12 acre 6-lot assessment. The South Hill Drive property is undulating land used as a horse pasture for the owners' two horses. The appellants have owned the property 34 years and when they purchased it the property consisted of 6 lots as part of a subdivision. The subdivision's ACT 250 permit expired on April 13, 1999. The subject property was never on the tax records as 6 lots, but as one open lot. The land needs to be brush hogged. The committee examined the appellant's argument that this is a property of 11 acres without a permit and has concluded that it should be considered as a single lot. Potentially, as per the current Jericho zoning, there could be three lots. A Supreme Court case ruled that without current permits it can't be considered as a 3-lot appraisal. The committee is split on a recommendation: either as a single lot appraised at \$13,093.37 per acre for a total of \$145,600, or as three lots for a total value of \$231,000. The committee has left it up to the BCA to decide a value, said Mr. Lindholm.

Peter Booth, Donna Boiney and Catherine McMains rejoined the meeting.

DELIBERATIVE SESSION

Mr. Booth, Ms. McMains, and Ms. Boiney recused themselves regarding the 55A Bentley Lane and 4 South Hill Road deliberations. Ms. Alexander, Ms. Joslin and Mr. Messier recused themselves regarding the 4 South Hill Road deliberation.

MOTION by Ms. Coburn, seconded by Ms. Messier, to recess the BCA hearing and enter Deliberative Session for the purpose of approving Inspection Committee Reports related to 2016 tax assessment appeals.

VOTE: 11 ayes, 3 recused (Mr. Booth, Ms. McMains, Ms. Boiney), 2 absent (Mr. Nulty, Mr. Howe); motion carried.

The BCA recessed the hearing and entered Deliberative Session at 6:02 p.m. A written decision will be mailed to the appellants within 15 days.

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

VOTE: 8 ayes, 6 recused (Mr. Booth, Ms. McMains, Ms. Boiney, Ms. Alexander, Ms. Joslin, Mr. Messier), 2 absent (Mr. Nulty, Mr. Howe); motion carried.

Deliberative Session was adjourned and the BCA hearing reconvened at 6:20 p.m.

Mr. Weinberg called a break at 6:20 p.m. to 6:30 p.m.

Mr. Booth, Ms. McMains, Ms. Boiney, Ms. Alexander, Ms. Joslin and Mr. Messier rejoined the BCA meeting.

HEAR TAX APPEALS

Ms. McMains recused herself from the Randall Clark appeals and departed the meeting at 6:30 p.m. Ms. Rackliff recused herself from the hearings.

Randall Clark and Emily Clark – BT023

Randall Clark, owner, appeared before the BCA. Mr. Clark was sworn in, and signed a Witness Oath document. Mr. Weinberg asked Mr. Clark if Emily Clark would appear. Mr. Clark replied no.

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.

Mr. Weinberg asked if the appellant needed to be reminded of the BCA tax appeal hearing process. Mr. Clark replied no.

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

ASSESSOR'S REPORT

Ms. Costes introduced the subject property that consists of 218 acres and a cell tower site located on those acres. Ms. Costes handed out copies of an exhibit related to the cell tower.

APPELLANT COMMENTS

Mr. Clark pointed out that he owned several properties in town and all of his property assessments have increased. The subject property assessment has gone up 400 percent. He has lived in town 75 years and the increases are disheartening. He contacted Andrew Levi to go over the assessment for one of his properties. Andrew was excellent to work with and answered all of his questions. Mr. Clark stated that he realizes that he should not be expecting special treatment but he thinks that anybody that is a large land owner in this town and their appraisals are raised this much that they deserve a little extra special treatment. He thinks that is what this board is for. Every large land owner in Jericho should receive this attention. At the first grievance hearing he was expected to talk about all of his properties in 15 minutes. He had suggested that he return for a one-on-one appointment and go over the assessments to work things out. He met with Ms. Costes and discussed the property next to the truck property and resolved the issues. He appreciates the BCA time. He has owned the land 40+ years. You can't discuss this property even in one-half hour - it is complex. He would like to work out the issues like he did with Andrew. The Listers' have made a mistake. The land was under contract with the town for 5 years. He did not receive a notice that the town program was discontinued. He has applied to the state's Current Use Program now, said Mr. Clark.

ASSESSOR COMMENTS

Ms. Costes stated that the Listers' do work to treat everyone equitably. The Jericho Tax Stabilization Program discontinuance notices were sent out two years before contracts were due to expire, a Town Hall meeting was held to discuss the discontinuance of the program, and the state contact people were introduced. Last year a notice was mailed out regarding a sunset deadline, explained Ms. Costes.

Ms. Costes agreed that the subject property is complex. Seventy percent of the Clark property taxes related to this property have been paid by the town for the last 30-35 years through the tax stabilization program, which has been abused. She believes that the program has been an "IRA" for property owners, and is a duplication of a state program to preserve land through a Current Use program. She brought a plan to sunset the town program to the Select Board. Regarding the subject property, Randy and she met, but he did not keep two other appointments. The 218 acre parcel has two facets: 1. there is a cell tower easement that runs to the tip-top of the property, and 2. there is one other cell tower property in town and it is taxed, said Ms. Costes.

Ms. Costes reviewed a sales grid of near-by properties. There is a value for cell tower easements, which are renewal leases and produces an income stream from the calls going to the towers. Exhibit 1, are properties in Waterbury and Bolton that have sold and a deed for a one-acre sale where the owner retained the income stream. These are all separate elements. Then there are bulk acreage values. The comparable sales mostly about the subject property, said Ms. Costes.

BCA QUESTIONS/COMMENTS

Mr. Lindholm asked for clarification of the 218 acres on the site map. Ms. Costes said that it is labeled as BT023 on the map and has the cell tower on it. Mr. Clark has benefited by the town tax stabilization program. The town is not forgiving 70 percent of his taxes now, said Ms. Costes.

Mr. Weinberg asked if the discussion with Andrew involved this property. Mr. Clark replied no.

Mr. Clark pointed out the cell tower location on the site map, and said that the town's location of the cell tower on the site map is incorrect as shown. There is very little of the right-of-way to the tower on the BT023 property. The easement starts on Brown's Trace. There is a straight section that is an in-ground power line and the cell tower people drive in on his property, cross over another person's property to the tower. It is a logging road that you need a four-wheeler to access the tower. Mr. Guay has no access to his property and has received a reduction due to that. He unlocks a gate and goes up there. His property is by the tower, said Mr. Clark.

Mr. Weinberg asked for clarification of the town tax stabilization contract – as he understands it the appraised values, or taxes are reduced. Ms. Costes replied that 70 percent of the assessment is exempt from taxes. The whole assessment value is recorded in the town records, on the tax contract and tax bill, said Ms. Costes. Mr. Weinberg asked

if the \$127,500 assessment in the previous year is 100 percent of the assessed value. Ms. Costes replied no.

Mr. Booth asked if the 406 percent increase was due being out of town tax stabilization program. Ms. Costes replied no; there is also \$250,000 placed on the cell tower easement, which had no value before the 217 acres reappraisal. She had to do a lot of research to come up with a legitimate assessment. For example, how a town tax stabilization done by other towns, said Ms. Costes.

Mr. Booth said so nothing has changed. Ms. Costes replied yes, and explained that there is another cell tower site in town that is also assessed the same amount of money.

Ms. Boiney asked if the cell tower site includes the right-of-way. Ms. Costes replied that the lease value is paid by the cell tower company for the last 6 years. This is the first time the physical ground and tower site has been assessed. There is a structure and equipment shed that is taxed to the cell companies and that holds the lease. There are cell tower sales and she has included the current information on those sales, said Ms. Costes.

Ms. Boiney asked what the appraisal is on the tower site and acreage. Ms. Costes said that there is a 40'x40' piece of land in the lease that is encumbered.

Mr. Booth asked Mr. Clark if he had any information to contest the town's assessment. Mr. Clark said yes. He didn't feel that he should pay income taxes to Jericho, stated Mr. Clark.

Mr. Weinberg said he was not sure how to go about assessing the property. An Inspection Committee would visit the property, said Mr. Weinberg. Mr. Clark suggested waiting until after deer hunting season to go up to the cell tower site, and it would take a four-wheeler to do that. The Inspection Committee is welcome to go up. He can't offer anything more other than what is in his binder, which includes income information, said Mr. Clark.

Mr. Weinberg said that the BCA would read all the binder and town materials. A site visit is required by law. A three member BCA Inspection Committee would visit the property. It is up to the committee to decide how much to look at, said Mr. Weinberg. Ms. Alexander explained that by law the committee has 30 days to report back to the BCA.

Mr. Lindholm said he had a procedural question; this is an unusual property and there is significant material submitted. Can the committee sit and discuss the material with Mr. Clark, asked Mr. Lindholm. Mr. Weinberg replied no further testimony can be taken.

INSPECTION COMMITTEE ASSIGNMENT:
Donna Boiney, Don Messier, Jessica Alexander.

Date: Saturday, December 3, 2016, at 9:00 a.m.

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

Randall Clark – BT027

Randall Clark, owner, appeared before the BCA. Mr. Clark 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. The appellant had already submitted a binder with written testimony for review.

ASSESSOR'S REPORT

Ms. Costes introduced the subject property located at 27 Brown's Trace that consists of 115 acres and abuts the 23 Brown's Trace property owned by Randy and Emily Clark. The 27 Brown's Trace property is solely owned by Randy Clark and is a separate property, clarified Ms. Costes.

APPELLANT COMMENTS

Mr. Clark said that an adjoining property to 27 Brown's Trace owned by Steven Guay was reduced during the grievance process. The subject property's assessment increased by 145 percent. The property is ledge and should be reduced, said Mr. Clark.

Mr. Clark stated that his dad gave him the property when he was 10 years old to 'cut the timber' from. He never cut the timber, and has paid taxes on it. Other people's per acre cost is \$420-430 versus his assessed cost per acre of \$1,991 This land is not a sugar bush, or anything else, said Mr. Clark.

ASSESSOR COMMENTS

Ms. Costes noted that on the site map the subject property says it is 100 acres. She researched a history of bulk land sales, and compiled a comparison sale price per acre. All the comparison sale properties have challenges to them. These are the prices people are paying. BT029 with 196.74 acres sold last year for \$1,675 per acre and is next door to BT027. BT029 is located at the end of the Range Road and one seasonal house or camp is all that can be built there. BT065 sold for \$2,024 per acre and includes a land locked piece as shown on the site map. BT077 is a 48 acre parcel and BT111 both have a narrow to no access and have a price per acre of \$2,060 and \$1984 respectively. The land is ledge and goes uphill to a sugar bush. One other sale is agricultural land that had the development rights transferred and only an agricultural structure could be built. The 72 acres sold for \$2,054 per acre. There is no house, only one barn can be built and the state retains rights along the river. People are willing to pay for land. All are valid sales, stated Ms. Costes.

BCA QUESTIONS/COMMENTS

Mr. Weinberg asked for clarification on the acreage. At the introduction Ms. Costes said it was 115 acres and then said it was 100 acres later, said Mr. Weinberg. Ms. Costes said that it is 100 acres on the transfer document and the property record card says it is 115 acres. It is assessed at 115 acres, said Ms. Costes.

Ms. Costes said that every piece of property comes with a bundle of rights. For example, you can sell the development rights, or sell some rights, or none. Even if you sell the development rights it is still \$2,070 per acre paid, said Ms. Costes

Mr. Clark said that two unnumbered properties to the left of BT023 on the site map had the assessments lowered by 154 percent and 160 percent by not coming to a meeting. He went to grievance and was denied, said Mr. Clark. Ms. Costes explained that the nearby properties mentioned are a 4-lot subdivision that was assessed as building lots. The lots are not improved and the values were reduced. Those lots can't tap into the power or fiber optic lines that are buried and go all the way to the cell tower on BT023. It takes money to build a driveway, put in power, etc to improve a building lot. It is the improvements that increase a property's value, said Ms. Costes.

Ms. Messier asked if the subject property's increased assessment from \$81,000 to \$199,100 is based on the sales grid. Ms. Costes replied yes. All four lots on the grid have a problem. One is in Underhill and is encumbered with only 1 access. The lots are not subdivision material with the exception of one. Randy didn't give the lot owners a right-of-way, but allows them to cross his land. She researched the cost per foot for putting in a road. Randy's land could be developed. It is not financially feasible to build on the comparison sales lots and she lowered those values due to that fact, said Ms. Costes.

Mr. Weinberg asked if the appellant would like to continue his appeal. Did the appellant have a value of what the subject property should be, asked Mr. Weinberg. Mr. Weinberg noted that he should have asked Mr. Clark that question at the previous hearing. Mr. Clark replied that he hadn't thought about a value. He wrote a letter to the Listers' in July, said Mr. Clark.

Mr. Lindholm asked if there was a road access to BT027. Mr. Clark replied no. He owns the adjoining lot, BT023, said Mr. Clark. Ms. Boiney asked if the access to BT027 was through BT023. Mr. Clark replied that because he owns it he can get to it.

Ms. Costes said she was not sure when each parcel was purchased. Mr. Clark clarified that his dad gave him the property only for the removal of timber.

Ms. Alexander asked if the green lot on the map had additional land in Underhill and if BT027 is only in Jericho. Ms. Costes said yes. Mr. Clark stated no. It is the Mill's Riverside Park in Underhill that shows on the town's site map. Mr. Guay doesn't own any land in Underhill - it is all in Jericho, said Mr. Clark.

INSPECTION COMMITTEE ASSIGNMENT:
Jessica Alexander, Don Messier, Donna Boiney.

Date: Saturday, December 3, 2016, following the BT023 inspection.

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

Randall Clark – OR006

Randall Clark, owner, appeared before the BCA. Mr. Clark 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. The appellant had handed out a binder of written testimony for review at the BT023 hearing.

ASSESSOR'S REPORT

Ms. Costes introduced the subject property located at 6 Orr Road that consists of 7.10 acres and has a commercial building. It is the truck center, said Ms. Costes.

APPELLANT COMMENTS

Mr. Clark said that he has presented his reasons for a lower assessment in the binder. His family has had the business for 89 years located in Jericho. The older building was on the Jericho Underhill town line. He is the largest employer in Jericho and that doesn't mean that he should be the largest tax payer in town. The Listers tried to assign a value based on sales of land, such as the old Charlebois property. He checked tax values for all the truck companies in Chittenden County. The R. R. Charlebois has a \$13 million building assessed at \$3 million. Bread Loaf Construction, which built his building, suggested a value for that building today of \$987,359. His business is the highest assessed. There should be consideration for the people in this town that are trying to do business here. There is no reason to over assess a Jericho property based on properties in Winooski or elsewhere, said Mr. Clark.

ASSESSOR COMMENTS

Ms. Costes stated that it is challenging work. It is not personal. Exhibit 1 is the subject property history; Exhibit 2 includes the property record card, building sketch, and land survey of 7.1 acres. Exhibit 3 outlines the basis of comparable sales of the same type of commercial buildings, such as storage units, to come up with a value based on sales of those properties, said Ms. Costes.

Ms. Costes read the Exhibit 3 narrative into the record, and displayed a copy of the Marshall-Swift manual that is used to make adjustments to a sale.

Ms. Costes noted that the location of the comparison sale property is superior and she used Jericho land sales to come up with a value. In Colchester there is a sale of an

identical business with a large parking lot. She used the valuation of sold land to extract a land value of that sale. Exhibit 3, 4th bulleted item illustrates how Marshall-Swift was used to adjust Randy's building. Exhibit 4, property transfers of sales of commercial land in Jericho is 6.78 acres sold for \$494,000 directly across from the Jeri-Hill hardware store, said Ms. Costes.

BCA QUESTIONS/COMMENTS

Ms. Alexander asked if the \$447,600 difference in values last year to this year reflects the building or land value. Ms. Costes replied that she didn't have that information with her; she is not sure. It is that total value that the BCA should look at, said Ms. Costes.

Mr. Clark pointed out that you should be looking at sales in the Jericho market as of April 1st, 2016, which is when the properties were reassessed. The former building on the Villeneuve property was 168'x80' with 12,000 square feet and was assessed \$29,000. It was a shop with overhead doors, etc. and was similar to his building, said Mr. Clark.

Ms. Costes said that regarding the sale of the grocery store lot, you have to consider two points:

1. From the perspective of what it's become it has massive costs to cure. It is not negative or not positive values.
2. All the planning and designing, including permitting, were paid for by the company. The parcel and building is no comparison to Clark's Truck Center.

Mr. Booth said that he hears Mr. Clark's frustration regarding taxes. What of the Listers' presentation do you question, asked Mr. Lindholm. Mr. Clark said that he realized that there are few truck centers in Chittenden County. He feels that the Listers are grasping at straws for a value. His is a steel building versus a concrete building for the Charlebois structure. His assessment is up 40 + percent. Where will it end, asked Mr. Clark.

Mr. Weinberg asked if the appellant would like to continue his appeal. Mr. Clark replied yes. It is worth the effort. Bread Loaf Construction used historical cost indexes to base the value of \$987,359 for the building they built. The Listers' didn't do anything regarding the land his building sits on. He has spoken about 'beaver' land. His lot isn't 7 acres of prime building land. The BCA should consider that there are three acres and then you have to cross the brook to the back land. It should be easy enough to figure out an assessment using the general store or the property across from Jeri-Hill, said Mr. Clark.

INSPECTION COMMITTEE ASSIGNMENT:

Mike Weinberg, Mary Jane Dickerson, Peter Booth. Donna Boiney volunteered as a substitute.

Date: Sunday, November 27, 2016, at 9:00 a.m.

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

Randy Clark – OR093

Mr. Clark said that he has withdrawn his appeal regarding 93 Orr Road. He had worked with Mr. Levi to resolve the issues.

OTHER BUSINESS

NEXT MEETING:

- Thursday, December 8, 2016, at 5:45 p.m.
- Thursday, December 22, 2016 at 5:45pm– Inspection Committee Reports

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 by the Board of Civil Authority on December 8, 2016