

**BOARD OF CIVIL AUTHORITY MEETING MINUTES
SEPTEMBER 16, 2010
RANDOLPH TOWN HALL
CONFERENCE ROOM B**

Present: **Justices of the Peace:** Pam Stafford, Bill Brigham, John Jackson, Richard Burstein, Tom Harty, Barbara Angell, and Ruth Lutz
Selectboard: Stephen Webster and Larry Townsend
Board of Listers: Donald Sweetser and Polly Frankenburg
Town Clerk & Treasurer: Joyce Mazzucco
Others: Patrick French, Town Assessor; Mary Porter; Eric Benson; Doris Sherman; Fay Sherman; and Peter Nowlan

The Board of Civil Authority meeting was called to order at 6:00 p.m. by board chair Richard Burstein. The first order of business was to swear in the board members before proceeding with the tax appeal hearings. The following oath was administered to and signed by the board members: "I solemnly swear (or affirm) that I will well and truly hear and determine all matters at issue between taxpayers and listers submitted for my decision. So help me God (or under the pains and penalties of perjury)."

Mr. Burstein told the board that he needed to recuse himself because he is Town Agent for the Town of Randolph. He told the board he would be willing to moderate the hearing if everyone was agreeable to this, otherwise he would step aside. Everyone agreed to allow Mr. Burstein to moderate the hearing.

The first tax appeal to be heard was the appeal of Dwight and Mary Porter, parcel #106004-000, property described as 10.53 acres and museum and dwelling and shop. The Porters are appealing the value on the log house and 5.1 acres. Town Clerk Joyce Mazzucco administered the following oath to Eric Benson, Mary Porter and Patrick French: "Do you solemnly swear (or affirm) that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth so help you God (or under the pains and penalties of perjury)?"

Mr. Burstein asked Mrs. Porter to present her case for the appeal. The Porters are seeking a reduction in value on a portion of the parcel, a sub-parcel described as 5.1 acres and log house. The town has the sub-parcel valued at \$362,200.00, and the Porters would like the value reduced to \$355,000.00. Mr. and Mrs. Porter hired Eric Benson, an independent appraiser, to appraise the log house. Mr. Benson's appraisal was completed on July 7, 2010. It is Mr. Benson's opinion that the fair market value for the log house and 5.1 acres is \$355,000.00. Mr. Porter was unable to attend this meeting, and had written a letter to the board explaining his request that the value be lowered by \$7,200.00. The following documents were submitted into evidence:

- Exhibit #1: Dwight and Mary Porter's letter appealing the Listers' Grievance Decision to the Board of Civil Authority
- Exhibit #2: Dwight and Mary Porter's September 16, 2010 letter to the Board of Civil Authority

Exhibit #3: The independent appraisal completed by Eric Benson of Eric Benson Appraisal Company, dated July 7, 2010

Mrs. Porter told the board that the log house has been on the market for awhile and that they recently lowered the asking price to \$345,000.00. Mr. Benson told the board that the property was originally put on the market in 2005, with an asking price of \$499,000.00. The property was taken off the market for a time, and was later put back on the market in 2008 with an asking price of \$485,000.00. The asking price was then lowered to \$410,000.00, and lowered again in February of 2009 to \$389,000.00. The current asking price is \$345,000.00. The property has had adequate market exposure. A major deterrent affecting the sale of the property is the steep bank that was rip-rapped. Other deterrents are the small amount of level ground, and constant traffic noise. There are some nice views. Mr. Benson told the board about two comparable properties located in Randolph, one on Hebard Hill Road, which sold for \$390,000.00, and one on Fish Hill, which sold for \$420,000.00. He said the location is the biggest deterrent affecting the property. Mrs. Porter told the board that they have not had problems with the bank since the work was done to fix the problem.

The following individuals participated in the discussion of the information provided and asked questions for clarification: Ruth Lutz, Stephen Webster, Patrick French, Larry Townsend, Richard Burstein, John Jackson, Tom Harty, Mary Porter, Eric Benson, and Barbara Angell. The Porters had appealed to the Listers at Grievance to reduce the assessment on the 5.1 acres and log house. The Listers' Grievance decision was to reduce the value for the entire parcel from \$972,700.00 to \$926,100.00 (\$46,600.00 less). A question was asked about how the economy has affected the sales prices for properties. Mr. Benson told the board that values in Randolph have held up pretty well. Mrs. Porter submitted a document that showed the value for the log house and 5.1 acres to be \$424,100.00. This document was entered into evidence and labeled as Exhibit #4. Mr. French told the board that this document was probably prepared by Rich Lewis from Vermont Appraisal in 2006 during the reappraisal, and was a contributory value.

Mr. French, Town Assessor, provided information on the Town's position on this appeal. He told the board that he had been watching what was happening with this property and welcomed the opportunity to look at the property again. He submitted a copy of the itemized property cost sheet for the entire property. This was entered into evidence and labeled as Exhibit A. Mr. French said there wasn't a big difference between Mr. Benson's appraisal and the Town's assessment for the property, a difference of 2% between the Town's assessment and the independent appraisal. It is not usual to have a 5% difference of opinion in value between two appraisers. Mr. French submitted another document which showed the breakdown for the value on the 5.1 acres and log cabin, and which indicated a contributory value of \$362,200. This document was entered into evidence and labeled Exhibit B.

The evidence was closed. An Inspection Committee was appointed. The following board members volunteered to serve on the Inspection Committee: Pam Stafford, Larry Townsend and Bill Brigham. Arrangements were made to hold the site inspection on Tuesday, September 21, 2010 at 9:00 a.m. The Porter hearing ended at 6:43 p.m.

The next tax appeal to be heard was the appeal of Fay and Doris Sherman, parcel #238044-000, property described as 1.75 acres, located on South Pleasant Street. Mr. Burstein

called the hearing to order at 6:59 p.m. Stephen Webster recused himself because of his previous ties to the property. Present at the hearing was Attorney Peter Nowlan, representing Mr. and Mrs. Sherman. Mr. Nowlan asked that Mr. Burstein step down and not moderate this hearing. He also asked Mr. Brigham to recuse himself because one of the comparables Mr. Nowlan would be using as evidence is property owned by Mr. Brigham.

The floor was opened to nominations for a Chair Pro Temp. Larry Townsend nominated Pam Stafford to act as Chair Pro Temp. Ruth Lutz seconded the nomination. A motion was made to close the nominations and was seconded. A voice vote was taken and Pam Stafford was elected Chair Pro Temp.

Before hearing evidence, the following oath was administered to Fay and Doris Sherman, and to Patrick French: “Do you solemnly swear (or affirm) that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth so help you God (or under the pains and penalties of perjury)?”

Patrick French presented a copy of the Town’s assessment for the property under appeal. This document was labeled as Exhibit A. Mr. French told the board the parcel was purchased in 2 separate lots. One parcel, 1.42 acres, was purchased in 2008 for \$75,000.00, and the second parcel, .33 acres, was purchased in 2009 for \$5,000.00. He told the board the property abuts the Catholic Cemetery.

Attorney Peter Nowlan presented the Shermans’ position for this appeal. Mr. Nowlan began by questioning Don Sweetser, chair of the Board of Listers. Town Clerk Joyce Mazzucco administered the following oath to Mr. Sweetser: “Do you solemnly swear (or affirm) that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth so help you God (or under the pains and penalties of perjury)?” Mr. Nowlan asked Mr. Sweetser a series of questions, which included questions about how long Mr. Sweetser has served as a Lister, the Grievance process, land value schedules, types of factors that affect value, about the parcel under appeal, and if the Board of Listers considered any of the comparables the Shermans presented at Grievance. Mr. Sweetser has served as a Lister for the Town of Randolph for 2 ½ years and is currently the chair of the Board of Listers. The land value schedules were set at the last reappraisal, which was completed in 2006. Some of the factors affecting value include the accessibility/availability of water, sewer and electric, the type of lot and views.

Mr. Nowlan also questioned Polly Frankenburg, Lister. Town Clerk Joyce Mazzucco administered the following oath to Mrs. Frankenburg: “Do you solemnly swear (or affirm) that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth so help you God (or under the pains and penalties of perjury)?” Mr. Nowlan asked Mrs. Frankenburg a series of questions, which included how long she has served as a Lister, if she has had any training for the position, if there was any discussion about the comparables the Shermans presented at Grievance, and what factors were considered in determining value. Mrs. Frankenburg has served as a Lister for four years. She said she has attended several lister trainings. She commented about one of the properties mentioned as comparable to the Sherman property. She said that the Peth Road property is not similar to the

Sherman property because it is not in the village, has no road frontage, and no utilities (water, power). The Stedman lot, while larger than the Sherman lot, is more similar. It is a village lot with access to water, sewer and power.

Mr. Nowlan then questioned Patrick French, Town Assessor. Mr. Nowlan asked about the lister card or itemized property cost sheets and what various items on the sheet mean. In particular, Mr. Nowlan asked about the “Nbhd Mult” and “Grade”. He also asked about how much input Mr. French has in Listers meetings. Mr. French said he provides information at the Lister meetings and participates in the discussion. He said he provides the information to the Listers and they take that information to make a decision. Some of the factors that are used in determining value are the accessibility of water, sewer, and power, and how the property is zoned. How a property is zoned can determine what type of development is allowed. The “Nbhd Mult” stands for Neighborhood Multiplier and the standards for determining how to assign a number value for this code was set at the time of the 2006 reappraisal in the Land Schedules. The “Grade” is another factor used to adjust the value and some of the items considered under “Grade” are the view, accessibility of utilities and other items that might be needed to improve the property for development. Zoning does have an impact. The Sherman property can potentially have seven houses built based on how the area is zoned.

Mr. Nowlan submitted a number of items into evidence and asked a series of questions to Mr. French. The following are the items entered into evidence:

- Exhibit 1: Subject Property, Fay & Doris Sherman, 1.75 acres, South Pleasant Street
- Exhibit 2: Brigham Parcel, 3.75 acres, Pearl Street
- Exhibit 3: Lunde Parcel, 2.8 acres, Weston Street
- Exhibit 4: Tewksbury Parcel, 4.10 acres, South Main Street
- Exhibit 5: Easton Parcel, 3.02 acres, South Main Street
- Exhibit 6: Laprade Parcel, 10.1 acres, South Main Street
- Exhibit 7: Davis Parcel, 2.5 acres, Crab Apple Ridge
- Exhibit 8: Krakowski Parcel, 8.88 acres, Crab Apple Ridge
- Exhibit 9: Gaidys Parcel, 1.43 acres, Route 66 (Main Street), Randolph Center
- Exhibit 10: Dodge Parcel, 1.5 acres, Fish Hill Road
- Exhibit 11: Burnham Parcel, 3.6 acres, TH #40, East Randolph
- Exhibit 12: Woodin Parcel, 10.2 acres, Partridge Hill

Mr. Nowlan asked Mr. French about each of the exhibits and what the “Nbhd” and “Grade” was for each of them, comparing and contrasting each property.

Mr. Nowlan also submitted a copy of 32 V.S.A. § 4467 which deals with determination of appeal. Mr. Nowlan asked Fay Sherman to describe the process Mr. Sherman went through to appeal the assessed value. Mr. Sherman said he talked to Mr. French a couple of times. He said the price he paid for the property should not matter. Mr. Sherman talked about what he would need to do to bring power to the property and to hook up to sewer. The sewer would have to be a pumped system because of the grade of the land, and two poles would need to be set to bring electricity to the site. There is a gully and would need a lot of fill. Mr. Sherman said he has no plans to build more than one home on the site.

A discussion followed with the following people participating: John Jackson, Fay Sherman, Patrick French, Doris Sherman, Larry Townsend, Ruth Lutz, Tom Harty and Pamela Stafford. Board members asked questions to clarify points of information provided. Mrs. Sherman said she and her husband bought the lot because she wanted to get off the hill and live in town where it would be easier to take a walk. She said they paid more than what the property was worth and that they do not intend to build seven homes on the site. Mr. Sherman told the board he thinks the value of his property should be no higher than the Brigham property, which is assessed at \$53,500.00. No professional appraisal was done on the property.

Mr. French told the board the property was purchased as two separate lots, one lot being 1.42 acres and the second lot being .33 acres. He submitted copies of the Vermont Property Transfer Tax Returns (PTTR) that were filed when the Shermans purchased the properties. The PTTR for the .33 acre sale was labeled as Exhibit B, and the PTTR for the 1.42 acre sale was labeled as Exhibit C. Mr. French told the board that the assessed value for the property if it were assessed as seven lots would be \$189,000.00, which is indicated in the "Grade" to indicate the potential for development. He said a comparable sale in the village was the sale of a .2 acre lot on Mountain Avenue, which sold for \$33,000.00. Mr. French also submitted a copy of the "Itemized Property Costs" sheet for the Stedman property on Hargrace Drive into evidence and this was labeled as Exhibit D. The Stedman property is level and can be subdivided into four lots. Access fees would need to be paid to connect to the water and sewer.

Mr. Nowlan summarized the Shermans' argument to reduce the value of their property. He talked about the appearance of fairness and transparency of the process. There appears to be a lot of subjectivity when applying values to different criteria such as "Grade".

Mr. French told the board the job of the Lister is to be consistent when assigning values to properties. The law is clear that equalization in value is important. Mr. French submitted a copy of the PTTR for the sale of the .2 acre lot from Butterfield to Central Vermont Habitat for Humanity into evidence and labeled as Exhibit E. Mr. Nowlan and Mr. Harty objected to entering this document into evidence. Mr. French said that the State does not tell you what to do to determine the criteria used in assigning values for grade. Each town must set up a system that is fair. Just because a property was purchased with the intent to build one home does not mean that the property won't be sold to someone else who may develop it and build seven homes. In this particular case, view was not a factor in determining the value for the lot. The goal for the Listers is to assign values that reflect fair market value and to be consistent in how they do this. Sales of comparable properties are helpful in determining value and being consistent.

The evidence was closed. An Inspection Committee was assigned. The following board members volunteered to serve on the Inspection Committee: Tom Harty, John Jackson and Larry Townsend. The site visit will be made on Wednesday, September 22, 2010 at 8:30 a.m. The next Board of Civil Authority Meeting will be held on October 14, 2010 at 6:00 p.m. at the Randolph Town Hall, Conference Room B.

There was no further business to consider. Ruth Lutz made a motion to adjourn the meeting. Larry Townsend seconded the motion. A voice vote was taken and the motion carried by majority vote. The meeting adjourned at 9:26 p.m.

Attest: _____, Town Clerk
Joyce L. Mazzucco