

Board of Civil Authority

6/24/14

Board Present: Ed Read, Chair (Ed), Robert Vasseur (Robert), Ann Day (Ann), Tom Bisbee (Tom), Lisa Koitzsch (Lisa), Patti Lewis (Patti) and Rick Rayfield (Rick)

Listers Present: Gussie Graves (Gussie) and Tony Egan (Tony)

Appellants Present: Patricia and James Moynihan, Brian and Jill Nolan, and Marisa Munro

Guest Present: Charlie Munro and Liza Walker.

Ed opened the meeting at 9:00 a.m.

Patricia and James Moynihan  
54 Stage Coach Road  
Parcel Id#06-032

Each person around the table introduced themselves. Ed asked if the appellants had a copy of the Rules of Procedure which they had just received.

Ed asked if there were any conflicts of interest between any of the BCA and the Moynihans. He revealed that he as a working relationship with them and asked the Moynihans if they would like him to step back from their proceeding. They had no issue with him continuing.

Ed asked Gussie and Tony to introduce the property. Gussie handed out copies of the cost sheet, see attached. She explained that she had a letter from the Moynihan's attorney saying the Moynihans had no control of view from their property and that the property was perhaps listed for more than they could get for it on the market. She explained the Listers had denied their request for reduction in assessed value during grievance. She had reviewed other properties in that neighborhood (#18) (Finklestein, Mentasti and others) and found the 1.5 grade to be right in line. She also noted that the cost sheet showed four bedrooms/five baths when in reality the property has five bedrooms/five baths.

Ed asked what the multiplier for the grade is. Gussie explained that the grade started at one and could go as high as three or four.

Mrs. Moynihan asked what would make it go higher and Gussie responded the view. She noted her own property in neighborhood #15 graded at three.

Mrs. Moynihan asked if the Listers took into account sales data from just Fayston or the Valley as a whole. Gussie responded that if there were good comparables in Fayston they

used those first but yes, they do look at other properties in the Valley as well and looked at sales with the past two years.

Ed asked if the last assessments were done in 2010 and the answer was yes.

Mr. Moynihan asked about the grade for the old Vasseur Farm. Gussie did not know off the top of her head, thought probably higher and noted a road on two sides of the property.

Mrs. Moynihan stated that their problem is that they would love their property to be worth \$900,000 but in the current market it is just not. They used to be able to see Mt. Ellen parking lot but can no longer. They have tried to work out deals that would allow them to cut trees on other's property to regain the view (or purchase those lands) but it has not worked out. They know what the view is now.

Mr. Moynihan stated he knows of only eight houses that have sold in Fayston over the last two years and those in the \$150,000.00 range.

Ed asked Gussie if when doing a re-appraisal were they looking at the grade as a base line or looking at grading fresh. She replied they look at it fresh.

Lisa clarified that the discussion was about the view being obscured by someone else's land and that the line on the Cost Sheet (\$216,000.00) is the line that would be affected by any change. She asked if they have any dispute of the other values and Mr. Moynihan replied that is the total number that is too high.

Mrs. Moynihan noted that when they built the cost of construction was not as high as the assessed value.

Mr. Moynihan asked what the replacement cost per square foot was. Gussie explained the cost was derived out of the computer program but it was 5562 square feet at \$133.61/square foot, plus extra fixtures (10 fixtures over and above the standard), and quality. She noted an 18% depreciation already calculated. Bringing the home value in at \$656,100.00 and she did not believe that the house could be re-built for that amount today. Mrs. Moynihan agreed.

Rick asked Gussie if the 1.5 grade has been consistent over the past ten years and she answered that the Moynihans grieved their taxes in 2010 and the grade was lowered at that time.

Ed told the Moynihans that the BCA would schedule a site visit and asked if they had a picture of the view in 2010 vs. today. They were not sure they did.

They said that the BCA could contact Kelly Stedman at Tom Boyle's office (Integrated Properties) for a key to enter the property.

Robert said that everyone on Bragg Hill gets hit with the Bragg Hill view assessment. Gussie noted that those properties were also close to Town and GMVS.

9:28 a.m.

Brian and Jill Nolan  
641 Bragg Hill Road  
Parcel ID# 05-061.001

Ed administered the oath to Brian and Jill Nolan as well as the Listers. He asked if there were any conflicts of interest of which there were none. Everyone introduced themselves.

Ed asked Gussie and Tony to introduce the property and explain how they had come to the evaluation amount.

Gussie handed pictures of the Nolan's home taken by their appraiser. (See attached) She noted the drop from \$702,500.00 to \$499,800.00 during the grievance process. The reason behind the reduction was based on their appraisal and depreciation increase.

She also noted that she was knowledgeable about the comparables used by the appraiser and suggests that the BCA members carefully go through this report (See attached). She said too that as she reviewed the comps she noticed the appraiser did not pick out a specific property but averaged the whole. She noted some differences between the comps and the Nolan property.

She also does not agree with the appraiser's land value of \$90,000.00 when we have it listed at \$128,700.00.

Noted too was the selling price of \$420,000.00 in the independent appraisal. Mr. Nolan said they had considered the CLA and agreed it might be something a little higher than the \$410,000.00 they purchased it for.

Gussie feels the Lister did all they could do on lowering the value of this house.

BCA members discussed the Ann Burns and Dicky Foster property comparables used by the appraiser.

Mrs. Nolan addressed the BCA noting that they may know the Valley better than the BCA and therefore the comps, but that the court has said that the best way to value a property is based on the purchase price. They purchased for \$410,000.00 five months ago.

Mr. Nolan assured the BCA that they did not know the O'Briens, and stated that the property had been shown 40 times, that it had been on the market for four years. He

stated this was evident that it met the test of an arms length transaction which indicated fair market value.

He stated that an appraisal for a mortgage was always going to be, hopefully, higher than the sale price and again said that assessed value is supposed to be the market value if it is an arms length transaction. He also understood the CLA factor and found it reasonable to add that on.

Ed asked if there was any part of the itemized cost sheet that they were specifically asking about. The Nolans said no.

Tom asked about their address as Pittsford Vermont. Mrs. Nolan said yes they live there but that their children are going to GMVS and that she had graduated from there as well.

Ed asked again if their primary issue was with the methodology itself. The Nolans again stated that the Supreme Court has ruled that the best definition of value is market value. Mr. Nolan does not believe the market would bring a higher price for this house.

Gussie noted that the Nolans had brought up the issue of view at grievance and that that had been lowered. She is also concerned with the comparables in that the Nolan house has three master bedrooms were the others may or may not. She also questions the 40 showings number.

Mr. Nolan asked if Gussie was suggesting that this was not an arm length transaction and the answer was no she believed it was. She questioned too the O'Briens motivation to sell.

It was noted the decrease in value as a result of grievance from \$541,000.00 to \$499,000.00 Lisa asked if that was because of the decrease in grade and increase in depreciation and the answer was yes.

Tom asked the questions of if you had three houses in a row, all the same. Two sell for one price the third one sells for a terrific deal, does that mean the Town would have to appraise the property at the deal price?

Mrs. Nolan again noted a Supreme Court ruling and that was all they could go on.

Mrs. Nolan asked if they were out of line in the request and the BCA assured her no, this was the right process to question and debate. They thanked them for their research and assured the Nolan's the BCA would do its own research and get back to them with date of time of a site visit.

9:55 a.m.

Marisa Munro/Ploughgate Creamery  
2021 Bragg Hill Road

Parcel ID#06-052

Ed administered the oath to Marisa Munro, Charlie Munro and Liza Walker as well as the Listers.

He asked if there were any conflicts of interest of which there were none. Everyone introduced themselves.

Ed asked Gussie and Tony to introduce the property. Gussie explained that Ms. Munro had come in to grieve her assessment, the Listers had done their research, she provide the Letter of Transmittal from Richard Larson, and could find no statute that required them to lower an assessment from an appraisal, in this case to \$200,000.00. She noted that during the grievance process they had lowered the property to \$423,000.00 from \$680,000.00.

Ed asked what this reduction was based on. At this point Gussie suggested that the BCA carefully read the appraisal.

Ms. Munro asked for a break down of how the number dropped. She also referred to the Baseline Documentation Report by prepared by Vermont Land Trust (VLT) (see attached).

Gussie said that over and above the \$423,000.00 there is a deduction for current use enrollment of 11 acres in the amount of \$116,000.00, bringing the taxable value of the property down to \$307,000.00. And next year it will be more as Ms. Munro plans to add more acres into the current use program.

Ms. Walker said that they could only enroll open fields not the house and two acres. But they could also enroll the barn.

Gussie also noted that the milk house/creamery is not on this assessment yet either as it is not complete.

Gussie said she felt the Listers did everything they could on this property including bringing the neighborhood grade down to a one even though it is a tremendous site. She feels they bent over backwards to make this work at \$423,000.00

Gussie noted that Ms. Munro is also allowed to put in another septic and housing for farm hands. Discussion followed about that possibility and the siting of the additional home which would be within the farm complex itself vs. the open fields.

Gussie again stated there was no statute anywhere that said the Lister had to do anything with an independent appraisal.

Mr. Munro asked how the Town established farmland. Gussie responded that she had taken the view out of it.

Ms. Munro spoke about the Option to Purchase Agricultural Value (OPAV). This OPAV dictates how much she can sell the property for. In addition to restrictions on the land she is restricted on sale price. She purchased for \$165,000.00 and will be able to sell for \$165,000.00 plus improvements and inflation. If she did decide to put it on the market for say \$500,000.00 then VLT would step in and purchase the property in an attempt to keep it affordable for future farmers. She is not supposed to make a profit of the land/buildings on the farm.

Rick asked if VLT has ever stepped in in a case like this and Ms. Walker responded that they had.

Lisa stated that they had the land valued at \$73,000.00 and the Town has it at \$285,500 so what they were saying is that this is not comparable. (BCA needs a complete copy of the document that Ms. Walker was referring to.)

Rick asked Ms. Walker if there were other VLT transfer that the BCA could look at for comparison. Ms. Walker said there were and she would get them to the BCA.

Ed asked if VLT would get an independent appraiser to re-evaluate the property if VLT stepped back in to purchase. Ms. Walker said they would. She noted Section VII of the Grant of Development Rights, conservation Restrictions, Option to Purchase and Right of Enforcement of the United States which shows this OPAV in effect until 2018.

Gussie noted that if Ms. Munro becomes successful another approach to value could become the income approach and would they then say that was not possible either?

Rick agreed that if have a business for \$80,000.00 and develop it into a \$500,000.00 business then the property becomes more valuable.

Question was asked of Ms. Walker that should Ms. Munro list the property for \$800,000.00 would the VLT then step in and buy it for \$300,000.00?

Rick explained that every time taxes are reduced for one property other's peoples taxes go up.

Tom asked if the Town could tax business and Gussie replied the town can tax the property.

Mr. Munro said that Ms. Munro was not going to get wealthy but was more choosing a way of life.

Ms. Munro said that the processing facility she is building is specialized and a financial risk to herself.

Lisa asked again if the OPAV restriction runs out in 2018. Ms. Walker said that after 2018 VLT could not step in unless an offer comes in from someone other than a bonafide

farmer (described as a farmer who earns more than 50% of their income from the farm). Ms. Munro can sell to a bonafide farmer for whatever she wants.

Discussion followed about the barn and that fact VLT can step in if the barn deteriorates and decide to fix for tear down.

Ms. Walker said there had been studies done that showed the effects of removing land value from the Grand List for any given town is minimal and one had to consider cost of service savings to the Town as well.

Ed noted that site visits were usually conducted but in this case it may not be necessary.

Hearings ended at 10:25 a.m.

BCA decide to begin site visits Friday, June 27<sup>th</sup> at 3:00 p.m. beginning at the Nolans, moving to the Moynihans and not necessary for Ms. Munro.

Gussie noted that the BCA needed permission for the Listers to be at the site visits. She did not need to go to either of them but the BCA would like her to and will get permission from the property owners.

10:37 a.m. - Rick made a motion to adjourn, Lisa seconded, no further discussion, all in favor, motion carried.