

**Minutes
Swanton Board of Civil Authority
Property Tax Appeals
Thursday, July 24, 2014
6:00 p.m.
Swanton Town Office
1 Academy Street
Swanton, VT 05488**

PRESENT: BCA: Richard Thompson, Chairman; John Hubbard, Vice Chairman; Cathy Fournier, Town Clerk; Kathy Lavoie, Warren Fournier, Brian Savage, Steve Pike, Randy Brock, Marianna Gamache, and Ed Daniel.

Listers: Jim Pratt, Amy Giroux, Jack Paige

NMRC Assessor: James “Jim” DeShone

Other: Leigh Smith, Recording Secretary

Appellants: Gary Langlois & Edward Novicki ; Kyle Carpenter & Chelsey (Sicotte) Carpenter

Purpose: To hear property tax grievances of : Edward Novicki and Gary Langlois – 40 Maquam Shore Road (MQ0040-0008); and Kyle Carpenter & Chelsey (Sicotte) Carpenter - 2 Lakeview Drive (LW00020003); Appoint Inspection Committees; Any Other Business.

1. Call to Order: BCA Chairman Dick Thompson called the meeting to order at 6:03 p.m. after having noted a quorum of BCA members, and that all listers and all appellants were present.

2. Pledge of Allegiance. Those present participated in the national Pledge of Allegiance at the invitation of BCA Chairman Dick Thompson.

3. Administer Oaths: Mr. Thompson swore in the Town Listers and sets of appellants regarding their respective testimonies for the above-cited hearings.

Public notice for the grievance hearings was noted as dated and posted by the Town Clerk on July 14, 2014.

Mr. Thompson explained the process of the property tax appeal hearings as quasi-judicial in nature. He further explained the successive process of establishing inspection committees and a further decision-making meeting of the BCA.

4. Hear Tax Appeals:

TAX APPEAL #1 – JULY 24, 2014 [SUBSEQUENTLY WITHDRAWN ON 7/25/14]

Edward Novicki and Gary Langlois – 40 Maquam Shore Road (MQ0040-0008) – 6:06 p.m.:

NMRC Assessor James “Jim” DeShone verbally introduced the property as a single-family dwelling of 2812 square feet with 100 feet of frontage. The property was purchased on 2/8/11 for \$315,800 and has a dwelling value of \$381,600 and land value of \$165,000 with site improvements of \$10,000 calculated, totaling a valuation of \$556,600.

All appellants’ and listers’ exhibits are attached and considered incorporated in these Minutes.

APPELLANTS’ TESTIMONY: **Appellant Exhibit #1** was entered as the appellant’s letter requesting appeal, received on July 7, 2014 along with listers’ card copies as comparables (Bellrose, Haas, Koldy, Sargent, Thomas/Begnoche, Lavoie, Boissoneault, Hungerford, Shapiro, and Sargent Family Living Trust, respectively); and Realtor® listing pages for: 94 Maquam Shore Road, 490 Maquam Shore Road, 50 Maquam Shore Road, and 210 Maquam Shore Road, respectively.

Both appellants Langlois and Novicki were present. Gary Langlois spoke for the pair, and said he had not received an attachment in their notice of the hearing (see Town Clerk’s letter dated 7/11/14, **Appellant Exhibit 1**), with such attachment stating that 20 copies of evidence must be presented to the BCA at the time of hearing. (Attachment added to **Appellant Exhibit 1** for clarification by recording secretary at time of hearing.)

Mr. Langlois said that the lot next to the subject property had been a small camp. The lot has since been sold, allegedly to party Robtoy, and a new house is under construction, he said, the placement for which is near the appellants’ back yard. He offered photos as evidence (**Appellant Exhibit 2**). The proximity of the new house has compromised the appellants’ privacy, he complained, and should therefore lower the subject property’s value. Following a question from Ed Daniel, Mr. Langlois confirmed that the Robtoy property is north of the appellant property. The appellants have erected a hedge between their property and Robtoys (see pictures, **Appellant Exhibit 2**).

Mr. Langlois said that the adjacent lot owners (Robtoy) have also built a boat ramp next to the appellants’ ramp (see also **Appellant Exhibit 2** photos), compromising the desirability of the subject property.

The adjacent lot owners (Robtoy) are also allegedly due to build a second garage on the Robtoys’ front yard, adjacent to the appellants’ front yard, which will act as an additional detriment to the latter’s property value, Mr. Langlois asserted.

Mr. Langlois said that he had tried to find comparables, but that it was hard. His

Appellant Exhibit 1 includes various lister cards and Realtor® listing descriptions which he felt were relevant to the appeal.

The appellant contests the square footage quoted by Assessor DeShone and shown on the listers' card. Mr. Langlois said that the building is actually 2400 square feet, not 2812.

Mr. Langlois said that if he divided his actual square footage (2400) into the dwelling value (\$381,600), the latter should yield \$159/sf. He said his neighbor, Frank Bellrose [26 Maquam Shore Road], has a building 1760 square feet and a dwelling value of \$167,200, which would yield \$95/sf.

Mr. Langlois offered Boissoneault property [194 Maquam Shore Road] at \$617,600 dwelling value, and building 4,489 square feet, yielding \$137/sf, which is less than appellant's, he said.

Additionally compromising their property value, the appellant said that the so-called "Trombley apartment across the street" [no address stated] allegedly houses a convicted sex offender. Mr. Langlois offered **Appellant Exhibit 3** ("Megan's Law Hits Local Property Prices", two pages) to substantiate that property values should fall by 10% for properties within one quarter (1/4) of a mile of a sex offender's dwelling. Following a question for clarification from BCA member Ed Daniel, Mr. Langlois acknowledged that "Megan's Law" is what "someone else calls a law," and is not the law's formal name. Mr. Langlois said that he had no pictures of the subject apartment.

LISTERS' TESTIMONY: Listers Jim Pratt, Amy Giroux, and Jack Paige were all present, along with NMRC Assessor James "Jim" DeShone. Mr. DeShone spoke for the listers.

The Listers' evidence was entered as **Listers' Exhibit 1**. This package included the listers cards and attached itemized property cost pages for the following: Appellant property Novicki Life Estate, Thomas/Begnoche, Holzsheiter Rev. Trust, Marvin, Haas, and Boissoneault. Mr. DeShone said that the other properties were offered as comparables in the same area as the appellants', also on Lake Champlain.

Mr. DeShone said that he did not know how the appellants' building measurement was factored at less than 2812, which is what the listers have on record, offering a per-foot dwelling value of \$135.

The assessor repeated that the subject property is on one-half (1/2) an acre with 100 feet of frontage, with a grading consistent with all the comparables offered with it. The appellants' property has a grade of 1.0 while Thomas and Begnoche properties actually show a 1.5.

Mr. DeShone said that as far as the proximity of the sex offender's dwelling, there was no market data available for listers to calculate under the current scenario, and that consequently there was nothing in Swanton they could locate to offer as a comparable. Mr. DeShone said that there are allegedly 31 sex offenders currently registered in Swanton, and warned the BCA that if it lowered the assessment value of the subject property due to the sex offender allegation, it would set a precedent for property owners near the other sex offenders to appeal, creating a potentially unwieldy number of future hearings.

Appellant Langlois asked for and received permission to query Mr. DeShone about the latter's square footage calculation; was it "before an [inside] flood" to the premises, he asked? Mr. Langlois went on to note that damage to the property had prompted remodeling in 2007, for which the appellants had allegedly received a building permit. The remodeling had scaled down the dimensions outlined on the listers card property sketch. Lister Jim Pratt contested that the listers never saw a building permit which would have changed the listers' calculations.

Assessor DeShone stressed that the assessment had been performed under current, accepted Marshall & Swift standards. Assessors had measured the outside of the building and "rounded up," he said.

INSPECTION COMMITTEE APPOINTMENT: An Inspection Committee was called for, noting the need for at least three persons minimum and the terms by which they must abide during inspection of the property.

BCA members Randy Brock, Kathy Lavoie, and Ed Daniel offered to serve on the inspection committee. The inspection was scheduled for Monday, July 28, 2014, at 3:30 p.m. The appellants advised they would be present. Lister Jim Pratt asked to attend for observation's sake, and was granted permission. BCA Chairman Thompson advised the appellants that the inspection team could not take any more evidence at their site visit.

ADJOURN NOVICKI/LANGLOIS EVIDENCE HEARING. BCA Vice Chairman John Hubbard moved to adjourn the appellants' hearing, seconded by Ed Daniel and carried unanimously. The appeal was adjourned at 6:28 p.m.

[NOTE: ON JULY 25, 2014, APPELLANTS WITHDREW THEIR APPEAL, WITH EVIDENCE ON RECORD AT THE SWANTON TOWN CLERK'S OFFICE.]

TAX APPEAL #2- JULY 24, 2014

Kyle Carpenter & Chelsey (Sicotte) Carpenter-- 2 Lakeview Drive (LW00020003) – 6:30 p.m.

NMRC Assessor James “Jim” DeShone presented the property as a single-family property with a dwelling value of \$167,100, which with site improvements had risen to \$177,100. The subject property is currently assessed for a total of \$237,200.

APPELLANTS’ TESTIMONY: Both Mr. and Mrs. Carpenter were present. Mr. Carpenter spoke on their behalf. The couple had appealed their property value for this parcel in 2013, following which the BCA had adjusted their valuation to \$199,700, based on the Common Level of Appraisal (CLA) approach. The listers subsequently removed that valuation and assessed the property at \$237,200, a raise of over 18% Carpenter alleges, despite there being no changes to their property or its structures since last year.

Appellants’ Exhibit 1 was entered, which includes: The appellants’ letter requesting appeal received 7/9/14 and Town Clerk’s notice of hearing with enclosure dated 7/11/14; “Board of Civil Authority Meeting Notes” – 7/24/14; comparable lister cards for Mosher, Stanley/Fletcher, and Koldys; Realtor® listing sheet for 103 Middle Road; “Equalized Education Grand List Effective January 1, 2014 (Franklin)”; “Property Tax Assessments Over 100% of Fair Market Value Not Legal” – article from “Law and Taxes” section of Vermont Property Owners Report, December 2008-January 2009; and Vermont Statutes Online – Title 32: Chapter 121, Sub-Chapter 002, 32 VSA §3431, Lister’s oath.

Mr. Carpenter read the points from his “Board of Civil Authority Meeting Notes” (see **Appellants Exhibit 1**), which list three comparables that allegedly sold within the last three years: Comparable #1 is 5 Andersen Lane. Comparable #2 is 101 Hog Island Road. Comparable #3 is 103 Middle Road. Mr. Carpenter said that standing against his comparables, the subject property is 37% over-appraised from their (previously) appraised price and 50% over their purchase price. He continued reading from his notes (last point, first page, attached), arguing that his property should be assessed at \$191,234, if based on the 2014 CLA for Swanton. Also from his notes, he pointed to another method for determining current assessment value – the Coefficient of Dispersion (COD) (second page of notes). Using the COD method, considering the appellant’s fair market appraisal, the property should be assessed at \$198, 396 – which is “almost exactly in line with the decision made by the BCA [in 2013],” he argued. He pointed also to Vermont Statutes also in his Exhibit, defining appraisal value and that citing the “Lister’s oath.”

LISTERS’ TESTIMONY: NMRC Assessor James “Jim” DeShone testified on behalf of the listers, all of whom were also present. **Listers’ Exhibit 1** was entered, which includes: site property listers and assessor pages; Uniform Residential Appraisal Report for site property highlighting cost approach value of \$238,366; and comparable lister and assessor pages for properties Chevalier, Slack, and Charbonneau, respectively.

Mr. DeShone noted that what was not brought up in the appellants’ testimony is that the site property enjoys deeded access to Lake Champlain, which adds to the

property value. He said that the Listers' comparables do not include such a feature. He cited his exhibit's copy of an appraisal showing a cost approach of \$238,366, and emphasized that the Town uses a Cost Approach in calculating property values.

In response to a question posed by Mr. Fournier, Mr. DeShone said that the value for access to the lake depends on the nature of the access and its proximity: Is it an easement, or a right-of-way; is it public, privately shared? Is it a "mile down the road"?

Mr. DeShone said that the subject property's access received 15% as part of its total grade of 1.15. He acknowledged that for him to explain to the BCA exactly how this percentage is figured would take a significant amount of time, as it was quite complicated. He said he would be willing to brief the BCA on it in the future if they asked him to prepare such a thing.

Mr. DeShone said that the appellants had a "deeded right-of-way." It is not public access. It is not just for the homeowners, however; they share it with others in the deed.

Lister Jim Pratt said that all the properties down on the "east side of Lakewood Drive" receive half-access to the Lake. If properties receive such access, the listers have raised their grades to a 1.15 from a grade of 1 on the land. Mr. Pratt read the right-of-way terms from his copy of the Carpenters' Warranty Deed, which allegedly stresses that the Carpenters share a right-of-way to the Lake with others who are given same rights. Mr. Pratt conjectured that the original owner [Norman] Lussier owns the right of way, but the applicants could not confirm this. Mr. Pratt said that the right-of-way could also have come off of the [Ron and Collette] Case farm.

BCA Member Ed Daniel asked about the Carpenters' assertion in their letter requesting appeal (see **Appellant Exhibit 1**), that "the property has a class IV non-maintained town right of way running through the property...." The couple confirmed to the BCA that they access their home via the said right-of-way, and not from Lakewood Drive. The property is part of "Lakeview Drive," a development off Lakewood Drive.

The appellants are noted to be "about 150 feet up" said right-of-way. The development has a potential for additional houses to be constructed.

Mr. Carpenter asked how a cost approach could be used to assess the property (at \$237,200) when the fair market value (Sales Comparison Approach, listed in appraisal) is \$173,000. Mr. DeShone replied that the Town uses a "cost approach less depreciation" formula under "CAMA" ("cost approach to market value") and that no depreciation had been factored as the subject property is a "brand new house." The system uses a cost approach and applies a certain amount of depreciation based on age – which has occurred with the comparables that listers offered. A new house won't have any depreciation on it under CAMA, DeShone repeated. He offered the full appraisal, available in the listers' office, if the BCA wanted to inspect it and discuss computing formulas further. The assessor assured that the cost approach to market value calculation for the subject property is in balance "with every other new house in town [Swanton]."

INSPECTION COMMITTEE APPOINTMENT : BCA Chairman Thompson stressed that no one serving on the subject property's site inspection from the 2013 appeal could serve this year. (In 2013, the site team had included Brian Savage, Warren Fournier, and Kathy Lavoie). Steve Pike, Marianna Gamache, and Richard Thompson volunteered to serve as inspection committee for this year. With the appellants, they agreed to schedule the site visit for Wednesday, July 30, 2014, at 2:00 p.m. With the permission of the BCA and homeowners, lister Amy Giroux will be present for observation.

ADJOURN CARPENTER/SICOTTE EVIDENCE HEARING. BCA Vice Chairman John Hubbard moved to adjourn the evidence portion of the Carpenter/Sicotte hearing, seconded by Warren Fournier and carried unanimously.

ESTABLISH INSPECTION COMMITTEES' REPORTING AND DECISION-MAKING ON APPEALS: Under Chairman Dick Thompson, the BCA agreed to pursue their decision making on the 2014 tax appeals at a 6:00 p.m. meeting on Monday, August 4, 2014.

Mr. Thompson advised all appellants present of their appeal rights and procedures following receipt of decisions from the BCA.

ADJOURN:

Vice Chairman John Hubbard made the motion for the BCA to adjourn the 2014 tax hearing process until 8/4/14, at which time they will hear the results of the inspection teams and make decisions on the appellants' properties. Mr. Daniel seconded the motion, which was carried unanimously. There being no further business at hand, Chairman Thomspon adjourned the meeting at 6:52 p.m.

Minutes by Leigh Smith
Typed on July 25, 2014
Received and filed by:

Richard Thompson
Chairman, Board of Civil Authority

Cathy Fournier, Town Clerk

Attachments, included and incorporated into these Minutes:

Novicki/Langlois – 1) Appellants Exhibits 1, 2, 3; 2) Listers Exhibit 1
Carpenter/Sicotte – 1) Appellants Exhibit 1; 2) Listers Exhibit 1