

Board of Civil Authority Meeting Minutes
July 23, 2019 6:00 PM

Members Present: Heather Chase, Deborah Aldrich, Amie O'Brien, Lee Gustafson, Russell Monier, Kathy Pellett, Ruth Douglas, Arne Jonynas, Valerie Pantorno, Wanda Purdy

Public Present: Fred Greenwell, Randall Miles, Mary Jane Miles, Shannon Burbela, Sue Ellen Strange

Chairperson Heather Chase called the meeting to order at 6:06 p.m. and recited the Pledge of Allegiance. Chairperson Chase asked if there was any ex parte communications or conflicts of interest before the meeting. She also made it clear that Amie O'Brien has the oaths, and everyone that will be speaking needs to sign. Fred Greenwell's appeal will be heard first. Chairperson Chase asked if Mr. Greenwell had received the Rules of Procedure for the meeting and he stated that he had.

The Listers introduced the property located at 60 Colburn Road. Lister Valerie Pantorno explained that Fred Greenwell has 102.1 acres with a house and outbuilding. Ruth Douglas asked the date of the stone house and Lister Valerie Pantorno stated the building was built in 1852. Further questions will be asked after the Listers and Mr. Greenwell state their case. The Listers had no further comment at the time and all information was given to the board prior to the meeting.

Chairperson Chase asked Fred Greenwell to speak at this time. Mr. Greenwell asked the Listers why they used the Pennell property while comparing his property to others. Lister Valerie Pantorno answered and said the Pennell property is the only comparable property to Mr. Greenwell's size land that has sold in the last three years. She pointed out the Pennell property has a higher value per acre than Mr. Greenwell's.

Chairperson Chase then asked Mr. Greenwell to speak about the property and his case. Mr. Greenwell thanked the Listers for their efforts in this matter but stated that their summary has left out facts about his property. Mr. Greenwell handed out information to the Board for review just before the meeting started. Attached to these minutes is the letter Mr. Greenwell handed out and reviewed at this time during the meeting. Listed are a few main points he covered:

- He goes over the wetlands map and the decrease in value for wetlands and that the listers did not confirm the flood zone on his land
- He compares properties near him that have a different grade located in a flood plain
- William's River runs through his land and is a flood hazard area
- He requests that the board deems an adjustment for the flood plain and similar properties should be treated the same
- The preliminary aquifer located on his property restricts the use of his property. He compares his land to Wanda Purdy's and wants his land to be adjusted as hers was
- Property located in conservation and is prominently forest. He compares his property to the Tomasso property and others
- He compares his property to sales that he thinks are comparable to his property

- Conservation residential land assessment is far less than what the Listers have his set at
- Fair market value of the property should be lowered due to flood plain, aquifer restrictions, and other reasons
- Listers are incorrect because of price per acre and grade and he would like the land assessment to be lowered from \$226,800 to \$140,800
- He would like the grade reduced and restrictions placed on property use as compared to similar properties
- He states that the Lister do not understand scales, percentages and so on
- He would like the two fireplaces removed from the assessment because they are not functional or safe for use
- Functional depreciation is set in the amount of 10% and should be accounted for a different percent due to fair market value
- The Railroad passes through the land and the main road crosses in front of the house creating noise
- He compared his property to Wanda Purdy's and the Kennedy property that are nearby
- He is asking that the percent for functional depreciation be changed from 10% to 15-20%

Mr. Greenwell then thanked the board

Chairperson Chase asked if the Listers would like to counter his claims. Lister Valerie Pantorno responded to his claims. Regarding his flood zone concerns, Lister Valerie Pantorno pointed out that he would have to put in writing and submit an application to the Zoning Administrator for consideration before the Listers could consider this and he was sent a letter stating so. Lister Valerie Pantorno stated that he could do a lot of things with the land. He needs something from the Zoning Administrator and that it is not the listers responsibility to make a decision on flood zones. Lister Wanda Purdy points out he can have cows on the property and graze animals. Lister Valerie Pantorno states that Wanda Purdy and the Kennedys properties are not comparable to Mr. Greenwell's. Lister Wanda Purdy states that Mr. Greenwell bringing the information to the meeting instead of before the meeting is unfair and points out that he has had a lot more time to view the information submitted by the Listers. Lister Wanda Purdy says that the overall land is graded as the total property used by similar properties and that they already addressed Mr. Greenwell's concerns about wetlands, which they do not normally. The Listers, regarding the fireplaces, have set 65% depreciation to the value because the fireplaces have not been removed and he could have them fixed. Mr. Greenwell's land was compared to a comparable property sold within the last three years.

Chairperson Chase asked if there were any questions form the Board. Lee Gustafson asked if the flood plains, wetlands, and aquifer were in place when he purchased the property, Mr. Greenwell answered yes. Lee Gustafson points out that in that instance there was nothing that has changed to the functional aspect of the property and that the board should not change the value to the property just because he doesn't like the aquifer and flood plain areas. Lee Gustafson pointed out the fireplaces could be torn down, but they are there and add value whether they are useful or not. Lee Gustafson also thinks that an aquifer could be valuable, preventing construction of

certain businesses on the property. Arne Jonynas states that it's hard to ask questions when just given the information presented to the board by Mr. Greenwell the night of the meeting.

Chairperson Chase would like to now set a time for the visitation to Mr. Greenwell's property. Deborah Aldrich points out that there cannot be any discussion at the visitation. Chairperson Chase asks the Listers if they are all set for now and Lister Wanda Purdy refers the Board to the packet that they have already been given. Mr. Greenwell responds to Lee Gustafson's questions stating that zoning changed recently. He believes that his land is not being compared to other properties fairly. Kathy Pellet asked Mr. Greenwell how long he has owned the property, he stated 10 years.

Chairperson Chase asked who would like to be part of the inspection committee and that there needed to be three people. The inspection and next meeting needed to be completed within 30 days of today's date. Kathy Pellett, Lee Gustafson, and Russell Monier volunteered to be the committee and set a date and time for July 29, 2019 at 5 p.m.

Russell Monier asked about the flood zone and the Board determining where a flood zone is. Lee Gustafson stated that the state and federal government have regulations pertaining to flood zones, aquifers, and wetlands. The Board does not have a say in where they are located. The Board can give valuation to the property as to where the flood zones are. Chairperson Chase mentioned asking Michael Normyle, and Deborah Aldrich said she would check and make sure the Board could do so. Kathy Pellett asked how the inspection will go. Deborah Aldrich made it clear to the Board and the Appellants that they cannot ask questions or discuss the inspection the day of, and no more evidence can be presented at that time either. Arne Jonynas asked if the visitation was a comparison to what the Listers have submitted, compared to what Fred is claiming. That was confirmed.

Randall Miles and Mary Jane Miles

Chairperson Chase asked who wanted to speak first, Randall Miles or Mary Jane Miles. Mary Jane Miles stood and spoke about the appraisal from May 10 that she provided at the appeal of her tax assessment. The appraisal came out to \$280,000 where the town's assessment was \$310,000. The Listers agreed based on the appraisal to lower the town's assessment to \$280,000 at the appeal. Mary Jane Miles feels that this is fair.

Randall Miles addressed the board with a letter and statement withdrawing his appeal due to an order issued by the court concerning their divorce proceedings. Deborah Aldrich asked him if he was withdrawing his appeal and he stated yes.

Chairperson Chase discussed the next meeting date and wanted to be sure that enough time was given between the inspection and next meeting date for the Board to prepare their reports. The Board chose to reconvene on August 20, 2019 at 6 p.m. A motion was made by Lee Gustafson and seconded by Kathy Pellett to recess the meeting until then.

A true record.

Amie O'Brien
Assistant Town Clerk

To: Town of Chester
Civil Board of Authority

From: Fred Greenwell

Date: July 23, 2019

Subject: 60 Colburn Rd Chester VT Grievance

First, let me thank the Listers for such a concise summary of this current matter. Unfortunately, the summary is so concise some facts are left out. Let me fill you in.

In their letter dated July 3, 2019 to the Board of Civil Authority, Listers Wanda Purdy and Valerie Pantorno state beginning at line 4 of paragraph 1 "we require documentation for any changes we make to an assessment and wrote him a letter (dated May 31, –Attachment D).

In fact, upon receipt of the above referenced verbal request for documents, (prior to receipt of letter dated May 31, 2019), I gathered pertinent documentation relative to my "other land value concerns" and supplied the following Exhibits to the Listers the afternoon of May 31. Additionally, I followed-up with a memo dated Saturday June 1 and delivered to Listers on Monday June 3, to confirm their receipt of the additional documentation. The following additional documentation was submitted on May 31 to substantiate restrictions on my property in support of a decrease in grade from .7 to .5 for more acreage than just the wetlands.

Exhibit A-1	Hand written cover letter to Chester Listers dated 5-31-19; receipt acknowledged 5-31-19
Exhibit A-2	Excerpts from Town of Chester Zoning Regulations
Exhibit A-3	Flood Panel 0711E date 9-28-07 from Chester Town Hall naming Colburn Rd in flood zone (SFHA)
Exhibit A-4	Map –Zoning District Aquifer Overlay from Chester Website – NEMRE Listers Tool
Exhibit A-5	Excerpts from Chester Unified Development By Laws – Chester Website under Zoning

For the Listers to assert, in their letter of July 3 to the Board of Civil Authority, that documentation obtained through its own website and submitted to the Listers is not acceptable to substantiate a claim of restrictions on the use of my property at 60 Colburn Road is **mind boggling and inconsistent with their efforts to determine the presence of wetlands.**

The further assertion of Chester Zoning Administrator (**Attachment E**) that the determination of restrictions on a property (SFHA-special flood hazard area) can only be determined by the Chester Zoning Administrator is **stunning**. Lenders, title companies, paralegals and particularly **Field appraisers**, in the ordinary course of business, review zoning regulations, wetlands maps and flood maps routinely to determine presence of restrictions and make determinations regarding impact to property value.

Please note: *The Listers made the effort to validate my Wetlands claim by reaching out to the State of Vermont and obtaining a wetlands map, confirming a measurement of 5.4 acres resulting in a reduction of land grade change from .70 to .50 for those 5.4 acres, for which I am appreciative.*

However, the Listers did not undertake the same initiative or due diligence to confirm with employees in its own Town, to address the claim related to flood zone. **This is particularly stunning.** In her role of Lister, Wanda Purdy, knew or should have known of the Flood Maps in Town Hall and relevant land grade adjustments given the property in which she holds an ownership interest (**Exhibit B-1**), and the Kennedy property next door to her property (**Exhibit B-2**) and 32 Colburn Rd next to my property at 60 Colburn Rd (**Exhibit B-3**); Each reflect a grade of .5 for property located in a flood plain. – All related to the Williams River. Therefore a reduction in land grade from .7 to .5 for 13 acres in a SFHA at 60 Colburn Rd is appropriate based on the above referenced Market Data and the fact that the Williams River runs through a portion of land at 60 Colburn Rd and is in a special flood hazard area (Exhibit B-4). **Accordingly, I REQUEST THE BOARD OF CIVIL AUTHORITY DEEM THIS ADJUSTMENT (reduction in land grade from .7 to .5 for 13 acres in a SFHA) FAIR AND EQUITABLE, REASONABLE AND APPROPRIATE; SIMILARLY SITUATED PROPERTY SHOULD BE TREATED SIMILARLY.**

OTHER RESTRICTIONS ON LAND AT 60 COLBURN RD IN NEED OF ADJUSTMENT

Aquifer: An adjustment for grade is needed for the remainder of land at 60 Colburn Rd (81.7 acres) given its location almost entirely in a Primary/Secondary Aquifer, limiting use of property. See **Exhibits A-4 (Map), A-2 (Excerpts from Town of Chester Zoning Regulations), and A-5 (Excerpts from Chester Unified Development By Laws – Chester Website under Zoning)**. Prior restrictions for Aquifer Protection District 2 Jeffrey Well (APD2), adopted in 2007, limited agriculture to growing of crops only (**Exhibit A-2** page 28). Current restrictions adopted in 2017 allow agriculture/forestry by permit only (**Exhibit A-5**).

See also **Exhibit B-1** (Purdy property). In her role of Lister, Wanda Purdy, knew or should have known of aquifer limitations given that there is a pertinent comment on the assessment card for property in which she holds an ownership interest. The comment reads "Aquifer district restricts use of property". **ACCORDINGLY, I REQUEST THE BOARD OF CIVIL AUTHORITY DEEM A REDUCTION IN LAND GRADE (from .7 to .5 for the remaining 81.7 acres) FAIR AND EQUITABLE, REASONABLE AND APPROPRIATE DUE TO THE AFOREMENTIONED RESTRICTIONS PLACED ON PROPERTY USE; SIMILARLY SITUATED PROPERTY SHOULD BE TREATED SIMILARLY.**

LAND VALUE

Two recent resources are available to support a range of land value. **Attachment M** from the Listers (labeled as "land sale comparable") 0 Pennell Rd Chester August 4, 2017 indicates a value of \$1,975 per acre, as calculated by the Listers hand written note. The property is located within CR Zone Conservation-Residential and is predominantly forest.

Another resource is the recent appraisal of the Tomasso property. See **Exhibit C** page 56 of the appraisal (prepared for the Town of Chester) dated November 1, 2018 as of October 4, 2018. The range of value per acre based on 5 sales is reported as \$1,511 to \$1,599 per acre (sales between August 16, 2010 to July 25, 2017). A 6th sale (April 20, 2015) was analyzed, however its price per acre (\$2,099) given least emphasis by the appraiser due to a broker familiar with the sale (and current manager of the property) indicated his opinion the grantee (buyers) may have overpaid for the property. The conclusion of land value per the appraisal is \$1,600 per acre. The Tomasso property is also located in CR Zone Conservation-Residential and is predominantly forest.

ASIDE: Question: Did the Lister make any (upward) adjustment on the assessment cards of the Tomasso property

Applying the above mentioned land sales to the acreage at 60 Colburn Rd, land assessment at 60 Colburn Rd is far less than \$226,800 currently posted on its assessment card (**Attachment C** from listers).

EXAMPLE #1 60 Colburn Rd Assessment Card as of today: Listers Attachment C

Land	Size (acre)	Price per Acre		Grade	Assessment
Si Bldg Lot	2.0	\$30,000	\$ 60,000	1	\$ 60,000
AC Other	94.7	\$ 2,418	\$229,000	.7	\$160,300
Ac Other Wetlands	5.40	\$ 2,407	\$ 13,000	.5	\$ 6,500
Total	102.1				\$226,800

EXAMPLE #2 Assessment assuming the \$1,975 price per acre 0 Pennell Rd calculated by Listers Attachment M

Land	Size (acre)	Price per Acre		Grade	Assessment
Si Bldg Lot	2.0	\$30,000	\$ 60,000	1	\$ 60,000
AC Other	94.7	\$ 1,975	\$187,032	.7	\$130,922
Ac Other Wetlands	5.40	\$ 1,975	\$ 10,665	.5	\$ 5,332
Total	102.1				\$196,254

To be clear, in the above examples, I am not suggesting reduction in grade should not be made. I am illustrating the implications of the Listers assertion the fair market value of acreage is \$1975/acre and the resulting impact on the assessment of 60 Colburn Rd.

EXAMPLE #3 illustrates application of the \$1,975/acre **and** the reduction of land grade from .7 to .5 to reflect the location in flood plain/flood way and for aquifer/zoning restrictions:

Land	Size (acre)	Price per Acre		Grade	Assessment
Si Bldg Lot	2.0	\$30,000	\$ 60,000	1	\$ 60,000
AC Other 13.0 acres for flood plain/floodway 81.7 acres for aquifer/zoning restrictions	94.7	\$ 1,975	\$187,032	.5	\$ 93,516
Ac Other Wetlands	5.40	\$ 1,975	\$ 10,665	.5	\$ 5,332
Total	102.1				\$158,848

EXAMPLE #4 illustrates application of the \$1,600/acre conclusion in the Tomasso Appraisal (prepared for the Town of Chester) as of October 4, 2018 **and** the reduction of land grade from .7 to .5 to reflect the location in flood plain/flood way and for aquifer/zoning restrictions.

Land	Size (acre)	Price per Acre		Grade	Assessment
Si Bldg Lot	2.0	\$30,000	\$ 60,000	1	\$ 60,000
AC Other 13.0 acres for flood plain/floodway 81.7 acres for aquifer/zoning restrictions	94.7	\$ 1,600	\$151,520	.5	\$ 75,760
Ac Other Wetlands	5.40	\$ 1,600	\$ 8,640	.5	\$ 4,320
Total	102.1				\$ 140,080

I assert the value of land, as assessed by the Listers (Example #1) is not accurate in two respects 1. Price per acre and 2. grade. I assert the value of land and grade value should be **AS OUTLINED IN EXAMPLE #4** resulting in **assessment value of \$140,800. Accordingly, I REQUEST THE BOARD OF CIVIL AUTHORITY DEEM A REDUCTION IN ASSESSMENT VALUE FROM \$226,800 TO \$140,080** to reflect reduction of grade (from .7 to .5 for the 94.7 acres) and market value price per acre (of \$1,600) **FAIR AND EQUITABLE, REASONABLE AND APPROPRIATE DUE TO CURRENT LAND VALUE MARKET DATA and THE AFOREMENTIONED RESTRICTIONS PLACED ON PROPERTY USE; SIMILARLY SITUATED PROPERTY SHOULD BE TREATED SIMILARLY.**

BUILDING VALUE

Unit Cost: Let it be noted I continue to take exception to the **increase** in unit costs and adjusted base value from \$81.76 (2018) to \$99.35 (See Lister **Attachment F**). However, due to the Listers own admission (Lister **Attachment G**) the listers do not understand and therefore "cannot answer questions about scales, percentages, grades and formulas as we are not programmers" and in light of the software company's response (Lister **Attachment K**) demonstrating a demeanor lacking assistance to the listers, I am not going to use time to discuss this aspect further, at this time.

FIREPLACES: I continue to take exception to including \$\$\$ value of two fireplaces, one of which was the cause of the fire at 60 Colburn Rd in 2011. Both fireplaces were inspected after the fire and I was advised they are not functional and not safe to use. **Accordingly, I REQUEST THE BOARD OF CIVIL AUTHORITY DEEM a reduced value of 2 fireplaces from \$10,129 to 0 resulting in a REDUCTION IN REPLACEMENT COST NEW from \$215,126 to \$204,997 REASONABLE AND APPROPRIATE DUE TO THE AFOREMENTIONED CONDITION.**

FUNCTIONAL DEPRECIATION: There currently is an adjustment for functional depreciation in the amount of 10%; however functional depreciation for 60 Colburn Rd is not properly and fully accounted for at 10% when compared to market data.

Factors at 60 Colburn Rd:

- Located on busy State Route 103, noise and traffic 20 hours a day.
- Railroad tracks cut through land, impairing access of acreage in rear of property
- Railroad passes through the land multiple times per day contributing operational noise, and maintenance noise

Market data:

See Exhibit B-1 (Purdy Property) 157 VT Route 103 North. Assessment card notes : "added 15% functional depreciation for location on busy highway & view of CVPS substation across street"

See Exhibit B-2 (Kenedy Property) 87 VT Route 103 North. Assessment card notes: "added 10% functional depreciation due to location"

The two properties referenced above are less than a mile away from 60 Colburn Rd. **Functional Depreciation at 60 Colburn Rd should be greater at 15 - 20%** due to fixed location of land with characteristics (railroad and state highway) that cannot be changed.

Accordingly, I REQUEST THE BOARD OF CIVIL AUTHORITY DEEM AN increase in functional depreciation percentage from 10% to 15-20%, due to the above fixed unchangeable characteristics of land location, FAIR AND EQUITABLE, REASONABLE AND APPROPRIATE; SIMILARLY SITUATED PROPERTY SHOULD BE TREATED SIMILARLY.

Thank you for your time and I look forward to your visit to 60 Colburn Road to view the land and fireplace concern and resolve this matter to our mutual satisfaction.