

MINUTES

Thursday, July 2, 2015 at 6:30 pm

Town of Springfield - Board of Tax Appeals

Selectmen's Hall - 96 Main Street - Third Floor

Board of Civil Authority Members Present:

Michael Knoras
Kathleen Stankevich
Alice Emmons
Steve Matush
Warren Cross
Walter Martone
Ernest Lamphere
Kristi Morris
Mark Greenvall
Dave Yesman
George McNaughton
Barbara A. Courchesne, Town Clerk

Others:

Maxine Aldrich, Assistant Town Clerk
Lee Murray, Lister
Terry Perkins, Lister
Nichole Knight

The meeting of the Board of Tax Appeals was called to order at 6:30 pm by Chairman Ernest Lamphere.

1. Requests for Tax Appeals

Robert and Caryl Cankes – 23 Highland Road

Chairman Lamphere stated owner's name, property address 23 Highland Road and parcel id 006/3/54. Appellants, Robert Cankes and Caryl Cankes, Listers Lee Murray and Terry Perkins, and Nichole Knight were sworn in by Clerk. Richard Bowen, Esq. was present with the Appellants.

Barbara Courchesne distributed Rules of Procedure to Appellants and introduced into evidence Appellants' letter to Board of Appeal and Town Clerk's letter of instructions and notice to Appellants. Copies were distributed to all parties. Chairman Lamphere confirmed Appellants received a copy of the Board's Rules of Procedure.

Chairman Lamphere questioned any conflict of interest. Hearing none, testimony proceeded.

Nichole Knight began description of property and current value. Ms. Knight introduced listers' evidence: Grievance Minutes, Change of Appraisal, Result of Grievance Appeal, Grand List Parcel Report, Cost Sheet dated May 8, 2015 and Cost Sheet dated July 1, 2015. No objection by Appellants: copies distributed to all parties. Ms. Knight restated and further described property as 23 Highland, current assessed value of \$676,000, 2 story, 6 baths, 2 half baths, 5 bedrooms, 12 rooms, 6,468 square

feet, 4.38 acres of land, tennis court, outbuildings, quality is 4, average home is 2.75, beautiful big house.

Mr. Bowen stated he entered an appearance on behalf of taxpayers to discuss with listers the reduction from \$862,000 originally assessed to \$676,000. Appellants hired Green Mountain Appraisals to do an appraisal. Douglas Lemire hasn't finished it, but has given his market analysis based upon market research and the history of the property. The property was originally purchased for \$600,000, very large and old home as noted by listers, decreasing in value because of the cost of heating and other expenses of maintenance and upkeep. Appellants' evidence suggests that the age and size of the property right now falls within a range of \$480,000 to \$520,000. Mr. Bowen stated it will be the highest value of assessed residential property in the Town of Springfield by some margin. Appellants feel the property should come down from \$858,000 to somewhere in that range, the median range would be \$500,000.

Chairman Lamphere asked for any evidence. Mr. Bowen stated no report to submit today. The house stands outside the norm, the Town was not able to find any comparable property within its boundaries and that would mean that this house would require a special buyer even to consider a purchase price of \$500,000 much less the \$676,000.

Ms. Knight explained market adjustment made by listers by increased depreciation on home 15%, 5% functional because of size and cost of heating, all outbuildings were lowered at 20%, total lowering of the property of \$186,000. Town's current CLA is at 109 from 3-year study. Listers see it more as 20% that town is overassessed in most values.

Kristi Morris asked if any other comparables in town.

Ms. Knight confirmed there are others with higher value but most have land that bring the homes more value. The size of this home is generating the value. The Krohn's put their home on market for years at \$800,000 and could not sell and reduced the last couple of years: Ms. Knight believed they are in the high \$400,000 but they are also smaller in square footage and those homes haven't been maintained as nicely. Ms. Knight stated it's hard to find comparable homes in Springfield and Appellants have kept their home maintained nicely. Ms. Knight stated there is not a lot listers can take off as far as that other than a market adjustment and by adding more depreciation that's how the listers did that.

George McNaughton asked if hearing can be continued until appraisal is done.

Barbara Courchesne explained inspection committee and this meeting recessed and comes back within 30 days so appraisal can be submitted then.

Ms. Knight expressed confusion as her minutes from grievance indicate Mr. Bowen stated Appellant was waiting for CMA from a real estate agent.

Mr. Bowen confirmed they are getting an appraisal not CMA.

Walter Martone asked when house was purchased and Alice Emmons asked if it was purchased by Appellants.

Mr. Cankes answered the house was purchased by Appellants 20 years ago.

Ms. Emmons asked the purchase price.

Mr. Cankes stated it was on the market for \$750,000, the house was just about in foreclosure, but purchase price was \$600,000.

Mr. Morris asked again about comparables.

Ms. Knight confirmed no good standing of comparables. Ms. Knight tried to find a like town with a comparable home on the market and could not find anything in a town like Springfield.

Mark Greenvall questioned market adjustment, are listers reappraising the whole town.

Ms. Knight confirmed town is working towards that. The town wide reappraisal was done at height of market. Listers have to do the job and take all properties into consideration and follow guidelines.

Ms. Courchesne asked if the appraisal can be ready before next meeting.

Mr. Bowen and Appellants hope to see it within 2 weeks.

Mr. Morris asked if appraiser is looking at comparables.

Mr. Cankes confirmed yes in this town and similar towns.

Ms. Emmons asked if this is Senator Flanders' house and if Appellants are full-time residents.

Mr. Cankes answered yes and Appellants have been residents since last year. Mr. Cankes gave additional background information on the purchase, ownership and maintenance of the property.

Chairman Lamphere asked for volunteers for the inspection committee. Walter Martone, Alice Emmons and Warren Cross agreed to be on the Inspection Team. Discussion ensued on how the Inspection Team would schedule the inspection and scheduling the next meeting. Chairman Lamphere stated July 29, 2015 at 5:30 pm as the next meeting date and time. Chairman Lamphere dismissed the Appellants and Mr. Bowen and the hearing on this appeal was recessed.

Keith Ferguson – 220 Spencer Hollow Road

Appellant, Keith Ferguson, Listers Lee Murray and Terry Perkins, and Nichole Knight were sworn in by Clerk. Chairman Lamphere stated owner's name, property address 220 Spencer Hollow Road and parcel id 001/1/68. Barbara Courchesne distributed Rules of Procedure to Appellant and introduced into evidence Appellant's letter to Board of Appeal and Town Clerk's letter of instructions and notice to Appellants. Copies were distributed to all parties. Chairman Lamphere confirmed Appellant received a copy of the Board's Rules of Procedure.

Chairman Lamphere questioned any conflict of interest. George McNaughton acknowledged a conflict, recused himself and left the hearing. Testimony proceeded.

Nichole Knight introduced lister's evidence: Grievance Minutes, letter of Cy Bailey, District Advisor, Vermont Division of Property Valuation & Review, Change of Appraisal, Result of Grievance Appeal, Computation of Land Cap Rate for Cellular/Wireless Management Sites Build Up Method, and Cost Sheet dated June 30, 2015. No objection by Appellant: copies distributed to all parties.

Ms. Knight described the property as a cell tower, stated that the State of Vermont is encouraging towns to add value onto land because of the lease with the cell tower, tower is located on Appellant's farm with over 300 acres of land. Ms. Knight stated this is new to the listers. The Town's Assessor last year spoke to Appellant and other residents being affected to let them know this would be implemented this year. Ms. Knight referred to the evidence to explain how value is arrived by the spreadsheet the State has given.

Appellant, Mr. Ferguson, introduced into evidence letter from Cathy Anderson, realtor. Mr. Ferguson made reference to the State's letter of assessment of the cell tower, but he did not provide that document. No objection by listers: copies distributed to all parties.

Mr. Ferguson stated how listers and State have come up with assessment by taking monthly revenue received from tower multiplied by 12 to get yearly, then take 10 years and added it to get assessment. He stated he pays federal tax and state tax on the income. Mr. Ferguson always thought property was valued by property not by income. Mr. Ferguson talked to Kathy Anderson, her letter states property values are sometimes decreased by towers. He stated if you assess \$216,000 to his property it would take a buyer 25 years to recoup \$216,000, paying a third of income to town in taxes each year. Mr. Ferguson stated there are other towers equal to his that are exempt and not paying a thing. He stated the letter states revenue you receive from tower increases value of your property. Mr. Ferguson believes other people receive revenue, their property should be assessed same as he is being assessed. He stated when the tower was put in he came before the board, asked Linda Rouse if property value would go up, Ms. Rouse said no. The value has not gone up in 10 years, but this year Towns and States are short of revenue, he can't carry all the burden. He appealed to the listers, the listers denied it. Mr. Ferguson stated cell tower helps everybody with cell service, how long will tower be on property, 5 years, 10 years, can't tell with modern technology.

Ms. Knight stated this is new, if there are two farms for sale and if one has the tower that generates the income, that farm is more valuable. Ms. Knight stated most people that have cell towers on land, the cell company is paying the increase in the tax bill.

Mr. Ferguson confirmed the cell tower does pay the bill but why tax him and not the others in town. Mr. Ferguson stated fire department and police department are on those other towers and they are not being charged. Mr. Ferguson stated his contract says he would not be charged to go on tower or any emergency people would not be charged. He is leasing small 100 square feet and assessed \$216,000 valued on 10 years revenue.

Michael Knoras asked if there are other cell towers in town that listers don't treat the same way.

Ms. Knight confirmed there are some that cannot be taxed that are on untaxable property, it's in their contract. Ms. Knight stated the other property is Mrs. Whitcomb's, the listers started process but were shut down because she has agreement with Town of Springfield because she carries the police and fire on her tower.

Mr. Knoras asked why Mr. Ferguson's is based on income and other people are also getting income.

Ms. Knight confirmed others are untaxable and Mrs. Whitcomb's is because of agreement with town for over 10 years.

Mr. Knoras asked if written or verbal agreement.

Ms. Knight confirmed verbal and listers have discussed getting something in writing, can't get any answers, have discussed how much would cost the Fire and Police Department to pay her each month. Ms. Knight stated Mr. Ferguson's and another property are being taxed this way.

Mark Greenvall asked if town taxes service providers for equipment tax.

Ms. Knight confirmed town does tax as personal property.

Walter Martone asked how long tower has been on Mr. Ferguson's property.

Mr. Ferguson stated 9 years, never taxed before, should be grandfathered. Mr. Ferguson stated he had verbal agreement with Linda Rouse.

Steven Matush asked if the cell tower pays the difference.

Mr. Ferguson confirmed the cell company will pay it and the State said the cell company will be there forever. Verizon has been bought out by American Tower.

Kristi Morris asked how many cell towers in Springfield and how many are taxed.

Ms. Knight confirmed 5 cell towers, 2 have taxable leases, others are taxed through personal property and then the untaxable ones.

Mr. Morris asked if personal property tax is assessed.

Ms. Knight confirmed all 5 are taxed as personal property to the company.

Walter Martone asked about towers located on land that is exempt.

Ms. Knight confirmed one at 80 Main Street, they have written contract with Town for tower to be tax exempt.

Barbara Courchesne questioned if cell tower were to be taken down or no longer in service would value come off.

Ms. Knight confirmed value would be removed.

Mark Greenvall asked about cell tower on Congo Church, how is that treated.

Ms. Knight confirmed the lease part is untaxable but they get charged personal property.

Chairman Lamphere questioned going back 10 years on Mr. Ferguson.

Ms. Knight confirmed listers are doing what State has told town should try to implement to gain revenue.

Alice Emmons asked if tower is on property that currently does not pay property taxes because they are exempt, like a school or church, then town cannot tax that tower for property taxes, so Huber building and Congo Church are exempt from paying property taxes.

Ms. Knight answered affirmatively.

Mr. Ferguson questioned which towers being taxed, his, Randall Hill and Skitchewaug Trail? Is Clinton Street being taxed?

Ms. Knight confirmed Clinton Street is an SBA property and is being taxed through personal property and SBA owns that piece of land.

Barbara Courchesne questioned if there is another property owner like Mr. Ferguson that has a cell tower.

Ms. Knight answered affirmatively.

Walter Martone asked if other two properties use same formula.

Ms. Knight answered affirmatively.

Walter Martone questioned if this is the first year authorized to do this but yet there is an agreement 10 years ago in anticipation of the fact that you can do it.

Ms. Knight stated listers cannot change that agreement. Ms. Knight stated State would like town to do this and the listers can only do what State has provided for values.

Michael Knoras questioned if Huber Building [80 Main Street] is on grand list.

Ms. Knight stated it is a non-taxable value on the grand list.

Mr. Knoras referred to letter from Cy Bailey encouraging towns to include value in cell tower leases in their grand list so if they are on the grand list how can listers exempt property.

Ms. Knight stated Mr. Bailey, the assessor at the time, set the ones that are taxed.

Mr. Knoras stated it encourages but doesn't mean you have to.

Ms. Knight acknowledged that fact, previous assessor started it and listers are dealing with it.

Chairman Lamphere questioned if board votes this down, Mr. Ferguson will not be taxed.

Ms. Knight answered affirmatively.

David Yesman stated this is like solar panels which are not taxed on what they cost to install but rather on the electricity that's generated so we're taxing the income on the solar panels. Mr. Yesman stated Cy Bailey has said the cell towers are taxed on the income it generates so this is not precedent setting.

Warren Cross questioned if American Tower pays personal property tax and Mr. Ferguson pays taxes, then it's taxed twice.

Ms. Knight stated she believes Mr. Ferguson is taxed on the income by state and federal.

Alice Emmons questioned that if the cell tower is going to be taxed for property tax purposes that company pays them, not the person who's leasing the property to the company. Warren Cross asked if the cell company pays both personal property and property tax.

Ms. Knight answered affirmatively to both questions.

Kristi Morris questioned if property tax assessment paid by cell company why is residential property tax increased.

Ms. Knight stated because it's Mr. Ferguson's land and it must be put on his property. When tax bill is issued the listers break out a value for the \$216,000. Listers cannot issue a separate tax bill with cell company's name but can issue a handwritten breakdown of the increase in taxes.

Kristi Morris questioned if Mr. Ferguson doesn't pay the \$216,000 value for taxes and the company doesn't pay it or are they billed that separately so that Mr. Ferguson doesn't go delinquent on his taxes.

Ms. Knight confirmed it is not billed separately.

Mark Greenvall questioned the SBA property on Clinton Street, they pay taxes and they pay equipment tax, do they pay equivalent to Mr. Ferguson.

Ms. Knight stated no because SBA owns the land and the cell tower and Mr. Ferguson owns the land only, not the tower.

Warren Cross asked if there is a guarantee the cell tower company will pay the difference.

Ms. Knight stated she can't say what will happen.

Michael Knoras asked how the listers implemented this without letting the taxpayers of Springfield know what's going on.

Nichole Knight stated it was implemented through the assessor which was encouraged by the State, some towns are doing it and some aren't.

Kristi Morris stated the assessor is hired by the Town of Springfield to do a job, if the citizens don't agree with that they go through the appeal process.

Alice Emmons questioned the contract Mr. Ferguson has with cell company, does it speak to company paying property tax on tower.

Mr. Ferguson confirmed the contract with Verizon does state that but Verizon has sold to American Tower. American Tower will not honor that contract, they want to amend half of it, if anybody else goes on tower they don't want to pay him, they don't have to ask him nothing. Mr. Ferguson has an attorney fighting them. Mr. Ferguson stated they won't agree to half of it and this piece is one of them and also people going on, they want to honor only the monthly rate and maintain around it, but limit people on the tower.

Walter Martone asked if Mr. Ferguson doesn't agree to terms can Mr. Ferguson say take the tower off my property.

Mr. Ferguson stated yes but would be stupid on his part because he's receiving income but he's not signing new contract. American Tower can decide there are other towers and pack up and leave.

Barbara Courchesne asked if lease agreement can be entered into evidence.

Mr. Ferguson stated he has the old lease with Verizon which is no good and he hasn't signed contract with American Tower although they have paid him monthly rent so they wouldn't be in default.

David Yesman asked if Mr. Ferguson had the new proposed lease agreement.

Mr. Ferguson stated George McNaughton has it, they wanted to add a few years and would give him X amount of dollars to sign but wanted to amend the original one.

Discussion ensued about the need for the inspection committee visiting the cell tower, reviewing the contract, tax appeal procedure, questions were asked about entering new evidence. Barbara Courchesne confirmed inspection team, appellant, listers and board return after inspection and any new evidence is presented then. Chairman Lamphere asked for volunteers for the inspection committee. Walter Martone, Kristi Morris and Mark Greenvall agreed to be on the Inspection Team. Discussion ensued on

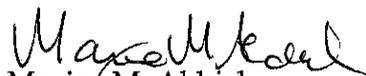
how the Inspection Team would schedule the inspection and scheduling the next meeting. Chairman Lamphere stated July 29, 2015 at 5:30 pm as the next meeting date and time. Chairman Lamphere dismissed the Appellant and the hearing on this appeal was recessed.

1. **Other Business**

Barbara Courchesne reminded Board of the tax appeal handbook on website, sample inspection reports and decisions, decisions should be more than the bare facts, a reminder of no ex parte discussions between Appellants and witnesses. Ms. Courchesne advised of a VLCT/BCA training available in Rockingham.

At 7:50 PM, the meeting was recessed until July 29, 2015 at 5:30 PM.

Respectfully submitted,



Maxine M. Aldrich
Assistant Town Clerk