

TOWN OF HIGHGATE

Board of Civil Authority

Thursday, June 21, 2018 @ 5:30pm

NOTE: All actions taken are unanimous unless otherwise stated.

A. Nominations

Wendi Dusablon, Town Clerk, began by asking for nominations for Chair of the BCA. Motion by Anne Harper to nominate John Ferland. The motion was seconded by Connie Beyor. There were no other nominations. The motion to nominate John Ferland as Chair of the BCA – **APPROVED**.

B. Call to Order & Roll Call

The meeting was called to order by John Ferland @ 5:30pm.

Present for this meeting were:

Board of Civil Authority (BCA) Members: Wendi Dusablon; Anne Harper, John Ferland, Connie Beyor, Dennis Nolan, Steve LaFar, Clarence Miller (arrived @ 5:43pm)

Listers: Aimee Reynolds & Peter St. Germain

Appellants: Anna-Maria Yates (property owner) & Christopher Yates (husband of the property owner)

C. BCA Hearing – Anna-Maria Yates – 62 Sandy Acres

John Ferland went over some basic information and explained the process of this hearing, which will be followed by an inspection committee site visit and a follow up meeting to deliberate. Any evidence needs to be presented tonight or when the BCA reconvenes after the site visit. No additional evidence or testimony will be allowed at the site visit. The BCA can also not look at any lister cards that are not presented at this meeting. It was also noted that the BCA can increase, decrease or sustain the appraised value set by the town listers. The members of the BCA have taken and signed their oaths already. All parties that would be giving testimony (Aimee, Peter, Anna and Chris) were sworn in by John Ferland, Chair.

Listers testimony and presentation of evidence: Aimee and Peter explained that Mr. & Mrs. Yates had filed a grievance and had a meeting with the listers back on 5/18/18 @ 9:30am. Following the grievance, the listers did lower the grade of the land to .68, which resulted in the overall value of the property going down \$12,100.00. The property is currently valued (total) by the listers at \$283,400.00. The appellants feel their property is only valued at \$37,500.00 total, which is a very large gap. This is due to sink holes on the property. This is a single family home located in a small development off Lamkin Street that was built in 1997 on a one acre lot. The home is 2,232 square feet, 4 bedrooms, 2.5 bathrooms, and is a two story dwelling with a two car garage. It was noted that the Yates did grieve their assessment in 2017 as well and the land grade was lowered from 1.0 to 0.9 at that time. In 2017 the listers visited the property and viewed it inside and out. They did not see anything they felt was more than average wear and tear on their home. Aimee contacted the district manager for the State of VT Property Valuation and Review Division and as far as they are aware, there are no similar situations with reports of sink holes in Highgate or Swanton. The reply Aimee received from the State was that making a minimal reduction in the land value would be appropriate. Until more proof was given, the listers feel that the Yates have not proven their case, which is how they came to their determination following the grievance hearing process. The Yates did provide an estimate to fix (cost of cure) the sink holes, which was a rough estimate of \$25,000.00. In the end, the listers strongly feel that there was not enough evidence to support the entire assessment being reduced from \$283,400.00 (now) down to \$37,500.00, which is what the Yates are requesting. The listers entered ten documents as supporting evidence for the file, which were labeled as L1, L2, L3, L4, L5, L6, L7, L8, L9, L10. These documents included a current property card, property sketch card, photos of the home (front, side, rear), results of the grievance hearing letter dated 5/25/18, minutes from the grievance hearing on 5/18/18, the sink hole repair estimate, a letter and report from Lincoln Applied Geology, a statement from Safeco Insurance, email correspondence with Christie Wright from the State of VT Property Valuation and Review Division, and a letter from Anna-Maria Yates dated 5/15/18 requesting a grievance hearing.

M/M Yates testimony and presentation of evidence: Chris began by saying this all started when they contacted a real estate agent to see what their home was worth if it was listed. He showed the realtor the sink holes, as they needed to be disclosed. He

asked everyone present to consider if they would purchase a property knowing these sink holes were there, even if they had been repaired. The realtor's expert opinion was that the home is unsaleable. He further stated that sink hole insurance cannot be purchased in VT and insurance companies won't cover any damage caused by sink holes. He and his wife contacted Mike Spillane to appraise the property. He showed him the sink holes. Mr. Spillane calculated that the value of the land is worth half the value unimproved but the improvements done to the property are worth zero, because it is unsaleable. So his appraisal is valued at half the value of one acre of land unimproved, which is where the \$37,500.00 number comes from. The Yates also hired a geologist to look at the issues. They have drilled a monitoring well and there are flowing sands, which means the property is still sinking. The sandpit behind their property is what caused the issue and the property has since changed hands and a development is being put in. At first a graded filter was going to be used to stop the flowing sands and if they could certify that the sands have stopped they could repair their property. Since the property has changed hands that is no longer possible. There was also the idea of installing a grout curtain which would entail boring down 50' and as they pull out they would inject grout all across the back of the property. Cost estimates for that are unknown. Appraisers in the State of Vermont do not know how to appraise properties with sink holes. In states like Florida, they do. The Yates had submitted six attachment documents as evidence, which were sent via email to Wendi earlier this afternoon. Wendi printed them out and they were entered as supporting evidence by the appellants and labeled as A1, A2, A3, A4, A5, A6. Included were depositions from Maurice (Mike) Spillane and realtor Stacie Callan, a statement from Safeo Insurance, the appraisal from Mike Spillane, an analysis from Stacie Callan, and a written statement from Stephen Revell, Senior Hydrogeologist. Mr. & Mrs. Yates are currently involved in a law suit with the former owner of the sand pit, ST Griswold. A structural engineer has come to look at their house and he can't certify one way or another if the house is in danger. He doesn't want to put his name on it one way or the other not knowing what is under the floor. All he can say is that looking at it structurally today there is nothing he can point to that says imminent failure. Their insurance company has not dropped them, but also won't cover them if anything were to happen. They are basically living in a home that has no resale value. Their property is the only one on the road that backs all the way up to the sand pit property. When the home was built the sand pit was not that large. It was eventually expanded. The determination from the geologist is that when they dug the sand pit and hit the water table it changed the direction and rate of flow of the water. So now as rain water becomes surface water and filters to ground water it is taking the fine sand with it causing the land to sink. The fine dusty sand is ultimately going into the water table and eventually to the river. Mr. Yates was asked if any neighbors are experiencing these issues - no, they are not, but some of the sink holes have progressed off of their property. Mr. Yates stated that ST Griswold did not maintain proper clearance of the water table when they dug. They went too deep at the sand pit which has caused all of these issues.

There is a lot of paperwork to review with regard to this hearing and could be time consuming for the inspection committee. John opened it up to the BCA members for questions. There were questions about the Riverview Lane properties that were torn down a few years ago and how they compare to this situation. The Riverview Lane homes (two) were torn down due to a natural disaster situation. Those two homes were in danger of falling down the embankment. One home remains there, and that was the decision of the homeowner. FEMA funding was accessed to reimburse the town for buying back the homes. That was a very long process. Both sets of homeowners moved on to purchase new homes, but in other towns, not Highgate. This situation is not a natural disaster, nature did not excavate the sand pit, people did. There were questions about the new development going in, which will be twelve lots. The board asked about any structural damage to their home. There are minor cracks in the foundation, in the floor of the basement and also some cracks in the drywall. The house did not open up in the normal settling period of a home, it was years later. There are a total of seven sink holes in the yard, all in a straight line. They range in depth and width, and some are still growing. The closest one to the house is about 25' - 30' away. Steve LaFar asked Mr. & Mrs. Yates what their intentions were as far as the house and if they intended to stay there. They can't sell it so they have to stay there. If they were to stop paying their mortgage the bank would take it back and their credit would go bad. But they can't sell it either, so the Yates are in a very tough spot either way. They put their children to bed every night in a home they aren't sure will be there in the morning. John asked if they hear any noises at night - no, they do not. There is an ACT250 permit on the sandpit property that runs with the property. Mr. Yates feels if ACT250 wanted to do the right thing they would have the sand pit raised by 4' and put in a monitoring well to prove they are 4' away from the water table. They have rules but nobody to enforce them. ST Griswold has handed the lawsuit off to their insurance

company, so it's basically the Yates vs. their insurance company, and they don't want to pay. The insurance also can't authorize a fix on the property. John asked about comparable properties. The Yates did not present any comps, other than what is in the appraisal. The members of the BCA are not appraisers. Steve LaFar noted that cracks on a home and foundation are normal and it's impossible to know if there is anything going on under the house. Steve added that with the house itself it doesn't appear that anything major is going on. It's an unfortunate situation, but putting it in perspective, Steve isn't sure that this is the town's problem with regard to the value of the house. Steve went on to say that he filed a grievance with the town about fifteen years ago with regard to his 30' x 30' garage that had lifted 1.5' off the ground. He said nobody came to his rescue and he did not get any relief from the town with regard to his value. He was told to tear the garage off and start over. Mr. Yates asked him, that given the testimony he just gave, if Steve could be objective in this case. Steve said that yes, he could. Connie asked the listers for some background on how homes and land are assessed. Aimee explained that everyone in town is assessed in the same manner, and that it is fair across the board. They have a land schedule that they follow, which is set by the State of VT for our town. And the structures are based on a program that they use in NEMRC. This program and land schedule are used for everyone. There was discussion on market value appraisals vs. town appraisals. Aimee further explained that the listers making changes to an appraised value based on a market appraisal is called "market chasing" and you cannot do that. During a town wide reappraisal market values are used to put everyone on an even playing field. Mrs. Yates noted that one of their comps in their appraisal are properties in Burlington that were removed on the river's edge due to a natural disaster.

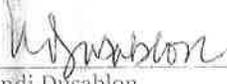
Inspection Committee: Connie Beyor, Clarence Miller and Dennis Nolan have stepped forward to visit the property as the inspection committee. The Yates will allow them full access to the inside and outside of the property located at 62 Sandy Acres. The inspection will take place on Monday, July 9, 2018 @ 3pm. The inspection committee and the appellants exchanged phone numbers in case something comes up. Following that, the BCA will meet back here as a group on Monday, July 16, 2018 @ 5:30pm to deliberate and hear the report of the inspection committee. Mr. Yates asked if the BCA would like to see a copy of the monitoring well log. The BCA will allow the Yates to submit this for the site visit, because it is being disclosed now that they want to provide this document to us. This document is not their work so it will be allowed and they will not be providing anything other than that.

Clarence and Steve exited the meeting @ 6:33pm to attend a phone conference in the front office.

John Ferland adjourned the hearing (he did not close it) until July 16th @ 5:30pm.

The BCA hearing was adjourned @ 6:34pm.

Minutes respectfully submitted by,


Wendi Dusablon
Highgate Town Clerk
June 22, 2018

Approved by the BCA 7/16/18

