

**TOWN OF WILMINGTON
BOARD OF CIVIL AUTHORITY
MONDAY, JULY 18, 2018 at 5:30pm
MINUTES**

The meeting of the Board of Civil Authority was convened by the Town Clerk at 5:32pm.

IN ATTENDANCE: A quorum was achieved with 9 members present. Selectboard – Tom Fitzgerald (also as JOP), John Gannon, Vince Rice, Sarah Fisher & Ann Manwaring; Justices of the Peace – Elizabeth McEwen, Fred Houston, & Tom Consolino; Town Clerk Susie Haughwout.

Absent: Marcia Dorey, Peter Barton, Scott Moore

Also Present: Lister Len Chapman & Jerry Osler; Consulting Appraiser – Brian DeCesare; Lister Administrator – Deb Kingsley; Appellant – Josh Lane

1. **CHANGES TO AGENDA** – delete Item 2; **PUBLIC INPUT** - none
2. **APPROVE MINUTES OF JULY 9, 2018:** Deleted – will be on agenda for August 8, 2018
3. **INTRODUCE BCA:** BCA members introduced themselves
4. **BRIEF EXPLANATION OF QUASI-JUDICIAL HEARING:**

Chair gave brief explanation on composition of the BCA and its duties during tax assessment appeal hearings. Instructed that all testimony be given to the BCA, questions of any party should be directed to the Chair, and no cross-talk is allowed among parties.

5. **CONFLICT OF INTEREST DECLARED:** none
6. **ADMINISTER OATHS TO BCA, LISTERS, CONSULTANT, APPELLANT/AGENT:**

Chair swore in the BCA. Chair swore in the Listers, Administrator, Consultant and Appellant for the hearing.

7. **HEARING OF TAX ASSESSMENT APPEALS:** Joseph & Kimberly Willen gave notice on July 12, 2018 that they withdrew their appeal. The BCA heard the following appeal of Josh Lane.

Property Owner	Street Address	TaxID#	Span#	Value	Hearing Time
LANE JOSH	121 FANNIE HILL RD	002-01-040.000	762-242-10281	\$800,000	5:30pm
WILLEN JOSEPH & KIMBERLY	64 FANNIE HILL RD	HSRUSHIN.300	762-242-13886	\$1,700,000	WITHDRAWN

APPELLANT TESTIMONY: Appellant Lane submitted a booklet of evidence. He first referred to Tab-1 noted a number of errors on his lister card which he states have an impact on the value which has been assigned. Tab 6 – shows each error highlighted on his lister card. (1) lister card under zoning compliance

says “legal” - should say “legal non-conforming grandfathered use”, the property is 0.55 acre; (2) lister card says “typical of size” – should say “smallest plot by 27% on average on Fannie Hill Rd”; (3) lister card says (3) “effective age 1 year” – when you pull all the lister cards you have properties that are brand new construction have effective age of 1 year, whereas those that are renovations and significant renovations have effective ages of 5 years – he testified that his property should be considered a renovation, not brand new construction; (4-5) lister card says basement area finished percentage is listed as 0 which is inaccurate – it’s correct on the second page; (6) lister card says 2 fireplaces – there is actually only 1 fireplace; (7) lister card says above grade room count is 3 bedrooms & 2 baths – there are 2 bedrooms & 2 baths above grade; (8) the above grade square footage is inflated by about 130sf on the lister card;

He stated that of most importance in identifying value are items A-E listed under Tab 1. (A) Quality of Construction Error/Discrepancy – Listers’ comparable property 127 Fannie Hill Rd is listed as “Average” on Appellant’s card causing a \$65,000 upward Value Adjustment to the Appellant’s property, while on the subject card for 127 Fannie Hill Rd Quality of Construction is listed as the higher quality of “Average/Good.” He testified that \$65,000 adjustment to his property is an error. (B) Actual Age Error/Discrepancy – listers’ comparable 118 Fannie Hill Rd is listed as Actual 33:Effective 2 on the Appellant’s card causing a \$65,000 upward Value Adjustment to Appellant’s property, while on the subject card for 118 Fannie Hill Rd it’s listed as Actual 39:Effective 1. He testified that this second \$65,000 adjustment to his property is an error. (C) Condition – 118 Fannie Hill Rd is listed as “Average” on the Appellant’s card, causing a \$65,000 upward Value Adjustment to Appellant’s property, while on the subject card for 118 Fannie Hill Rd it’s listed in better condition as “Average/Good.” He testified that this third \$65,000 adjustment to his property is an error. (D) Room Count Above Grade – he stated that his property has 2 bedrooms/2 baths above grade (not 3 bedrooms) and he requested that a credit be applied for the extra bedroom count. He testified that the American National Standard Institute defines bedroom as “a room with adequate size, with a closet, window and door” the “bedroom” in question is in the loft, no closet, no door. It’s a loft with a wall. (E) Square Footage Above Grade – listers are correct that basement square footage is 1634sf. First floor shares same footprint and should be listed as 1634sf not 1760sf resulting in total square footage above grade of 2370sf not 2496sf and requested a credit be applied against the incorrect overage in sf. His summary is that items A-E have an impact of valuing his property at over \$200,000 too much.

He explained that it’s difficult to understand what does “good”, “average/good”, and “average” mean. He asked Deb Kingsley what do these terms mean. Tab-3 is an emailed answer from Kingsley stating “...there are no definitions in the Appraise-It program. The quality of construction and value adjustments are based on the knowledge of the appraiser.” He says that he looked deeper and found that there are associated standards for quality and condition on a Q1-Q6 scale and C1-C6 scale which he included under Tab-4, as Brian DeCesare provided it to Kingsley who provided it to him. He then asked Listers for the numerical codes that they apply to C1-C6 or Q1-Q6, he was unable to get that information from the Listers.

Comparables: He argued that Listers’ comparable 118 Fannie Hill Rd is defective because (1) it was sold over 39 months ago in March 2015 (2) based on all the value adjustments applied by the Listers, the weighted gross adjustment is almost 47%, which makes it an unreliable comparable. Fannie Mae doesn’t accept anything over 15% and common practice in appraisals is that anything over 20% is considered suspect. His presented comparables to substitute that he argued are more appropriate – 109 Fannie Hill Rd sold 24 months ago in June 2016 rather than 39 months ago, and 117 Fannie Hill Rd sold 17 months ago in January 2017. Listers’ comparable 11 East Village Circle - the Listers’ Card effectively said that 11 East Village Circle is the most similar dwelling in terms of quality of construction, that Appellant’s property was originally purchased on 2015 and completely rebuilt, only the original first floor frame remains, everything else is new. He then presented a letter from his builder (Tab-2) that clearly

states that his property is "...approximately 50% of the existing infrastructure of the original home was maintained and integrated into the renovation. This includes foundation, electrical, plumbing, framing, etc. As such 121 Fannie Hill Rd would not be comparable to a new construction project nor have the same effective age of a new home." He stated that when looking at 109 Fannie Hill Rd and 117 Fannie Hill Rd, those comparables are recent, comparable, and proximate, and when you look at the weighted adjustments values, they would be far below the current assessment.

He used the sales comparison approach and with correcting the defects he asserted, he argued the yielded value would be just below \$600,000. The Listers are effectively saying he bought the home, tore it down and put a new home up. He asserted this is just not accurate and not supported by the evidence he submitted. He stated that the land value of \$400,000 is not accurate and is inflated by half. He requested a total value of \$600,000 broken down as House \$350,000/Land \$200,000/Site Improvement \$50,000.

EXHIBITS: Evidence booklet

LISTER TESTIMONY: Listers submitted a packet of evidence. Brian DeCesare addressed the testimony regarding the Fannie Mae guidelines and read from the first sentence under analysis of adjustments, "...Fannie Mae does not have specific limitations or guidelines associated with net or gross percentages." He pointed out that when he viewed the bedroom in question, it is on the third level, he observed a bed and a wall, though the area was not fully enclosed. Appraisers are trained by the Appraisal Institute that if a wall can be placed across, and it is a functioning bedroom, then it can be counted as a bedroom. Site value .55 acre but his understanding the under the Haystack Development plan there is common land that makes up the additional acreage criteria. Regardless, it's meaningless, the house is there.

All the comparables were based upon DeCesare's inspection of the comparables and made adjustments based on his perception. He presented the blue and red floor plan (Addendum H-9) contained in the Listers' evidence packet. The red represents the existing footprint and blue is the addition. He explained in the lower level he took one foot off the perimeter for the concrete foundation. Therefore, the second level is a little bit bigger, because of the deduction for the wall thickness in the bottom level. He asserted that the Listers' square footage calculations are correct. He argued that in terms of quality and condition it is effectively a new house. Regardless of appellant's builder's statements, there couldn't have been remaining more than three walls of the foundation and a concrete slab, and that a 20'x40' addition was added to the lower level. A full floor was added to the next level, being the third level. There are new rafters, new roofing, insulation, some mechanicals may have been retained and integrated with the new system. Quality is effectively new in the bathrooms, kitchen, all windows and big components.

He explained the basis for the Land value via following comparables: 109 Fannie Hill Rd sold for \$490,000 in 2016 – house was completely rebuilt. 90 Fannie Hill Rd was purchased for \$492,500 in 2017 – house was completely rebuilt. 118 Fannie Hill Rd sold for \$532,000 in 2015 – house completely rebuilt. 127 Fannie Hill Rd was bought for \$560,000 – house was partially rebuilt. Subject was purchased in 2016 for \$467,500 – and in Listers' opinion not more than 25% of the house is original after renovation. He argued that Addendum H-1 in the Listers' evidence should be used for extracting land value because clearly these properties were being purchased for the site on which they sat. Fannie Hill does not have much remaining area to be developed, there was a demand for this area, and buyers were paying a lot of money for the location and building effectively new houses. He presented Addenda H-2 through H-8 showing sales of new houses in the neighborhood. He explained that the definition of the land valuation process includes the price paid for the property, plus the cost of demolition and removal of debris which are attributed to the land value and site improvement value. This property is not an isolated case, there were a bunch of properties that sold and were torn down or substantially renovated, therefore supporting the land value. He referred to Addenda H-7 & H-8 showing land only sales in the neighborhood showing

sales starting at \$500,000 closest to the ski trails, while Fannie Hill is a step down in location and price, and the value diminishes as you go downhill. Step across the street from the ski area to Village East and value goes down again.

He said that the Listers did not receive Appellant's evidence before the hearing and believed that there things that were misstated in the testimony. For instance the fireplace issue was corrected and adjusted properly. 118 Fannie Hill Rd and another comparable that was cited by Appellant, were renovated though not to the degree of the subject.

EXHIBITS: Lister information sheet; Lister appraisal report; map with abutter values; photos; Lane Appeal Memo; Addenda H1-H10

8. Listers requested a continuance of the hearing on another date to allow them to review Appellant's exhibits and to offer further testimony in defense, and to submit information on definitions. Appellant argued that he had not received information he requested from the Listers prior to the hearing with regard to definitions used in Value Adjustment categories. He referred back to an email submitted in his evidence, from the Listers' Administrator, which stated "there are no definitions..."

MOTION to CLOSE HEARING made by John Gannon, seconded by Tom Fitzgerald.
Voice Vote – All in Favor – So Voted.

9. ASSIGN INSPECTION TEAM:

Elizabeth McEwen, Fred Houston, Sarah Fisher, Vince Rice and Ann Manwaring will visit the property on July 30, 2018 at 1:00pm. Appellant refused permission for the Listers to attend.

10. HEAR INSPECTON COMMITTEE REPORTS:

John Gannon presented the report for 265 Old Mill Lane. Board members inquired whether the Inspection Team had seen evidence of the deficiencies testified to by Appellant. Inspection Team reported that they did not see substantial issues that would negatively affect the value of the property. Most items mentioned on the list either were not apparent or seemed to be routine maintenance rather than severe defects.

Tom Fitzgerald presented the report for 288 Old Mill Lane.

Both inspection reports indicate that a total of three members visited each property across two different dates, which is legally acceptable practice.

MOTION TO ENTER DELIBERATIONS made by Tom Consolino, seconded by Fred Houston.
Voice Vote – All in Favor – So Voted.

11. DELIBERATIONS – ENTER CLOSED SESSION 7:00pm

12. DECISIONS – RETURN TO OPEN SESSION 7:40pm

MOTION to DENY the appeal made by Tom Fitzgerald, seconded by Elizabeth McEwen, and to set the total value of the property owned by PALMITER, BRADLEY & COLLEEN – 265 Old Mill Lane – TaxID#00901048.000 at **\$900,000**.

Breakdown as follows: **House \$625,000/Site \$50,000/Land \$225,000**

Property Owner	Street Address	TaxID#	Span#	BCA Decision
BRADLEY & COLLEEN PALMITER	265 OLD MILL LN	009-01-048.000	762-242-12510	DENIED

MOTION to DENY the appeal made by John Gannon, seconded by Tom Consolino, and to set the total value of the property owned by SHAUGHNESSY-PALMITER, COLLEEN – 288 Old Mill Lane – TaxID#00901053.000 at **\$385,000**.

Breakdown as follows: **House \$265,000/Site \$30,000/Land \$90,000**

Property Owner	Street Address	TaxID#	Span#	BCA Decision
COLLEEN SHAUGHNESSY-PALMITER	288 OLD MILL LN	009-01-053.000	762-242-10025	DENIED

13. OTHER BUSINESS – Chair reminded Board that Inspection Teams must have minimum of three members. If a member doesn't show please call Chair or Clerk as soon as possible.

14. RECESS:

7:45pm - CHAIR RECESSED the BCA meeting to hear further tax appeals on August 8, 2018.

TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THESE MINUTES ARE A TRUE AND OFFICIAL RECORD OF ALL ACTION TAKEN AT THE BOARD OF CIVIL AUTHORITY MEETING HELD, JULY 18, 2018.

MINUTES PREPARED ON FRIDAY, JULY 20, 2018 & SUBMITTED TO WEBMASTER ON FRIDAY, AUGUST 17, 2018 AT 3:15PM.



ATTEST:

Susan Joy Haughwout

DATE: July 20, 2018