

Town of West Windsor  
Board of Civil Authority  
July 17, 2014

BOARD OF CIVIL AUTHORITY – July 17, 2014 – 6:30 PM

PRESENT:

Justices: Nancy Gaynor, Shannon Harrington, Polly Ouelette  
Selectboard: Tom Kenyon  
Town Clerk: Cathy Archibald

The meeting was called to order by Chair, Nancy Gaynor at 6:40 PM.

Nancy said the first item of business was the election of Chair and Vice-Chair.

A motion was made by Tom Kenyon to keep the Chair and Vice-Chair the same. This motion was seconded. Shannon said you're Chair Nancy but who's Vice-Chair. Tom responded Gary Burke. This motion was passed.

Nancy said the next item of business is our grievance hearing.

Cathy said there were three letters from MFW Associates so rather than have the Chair read the three letters I made copies for everyone to read individually. The letters were handed out for everyone to read.

Letter 1 said that they appeal the appraised value of the old base lodge and the land that it sits on and the value of the Cunningham's Ski Services building and the land that sits on. The letter states that the old base lodge has not been in operation or occupied in any way since July 2010. He has affectively sold the base lodge, and the immediate land on which it sits, for \$1.00 to Esab, LLC. To avoid the large expense and delay of subdivision, the transfer was done in the form of a perpetual lease (a 99-year lease). The base lodge in its current condition is not usable in any way. It is not habitable and is not insurable in its current condition. The current appraised value of the old base lodge is \$72,230.00. Dan Purjes continued saying in his letter that the appraised value for Cunningham's is \$201,636.00. Although Cunningham's is usable as a building, this is still too high of a valuation for this building for the following reasons. Cunningham's has been unoccupied and unused since July 2010, it's in a state of considerable disrepair, the heating and mechanical systems may not be operational and the building is not habitable or usable in its current state.

Letter 2 said they hereby appeal the assessed value of \$1,250,600.00 for the acreage consisting of approximately of 731 acres. Dan states that all the ski lifts have been dismantled and have either been removed or are in the process of being removed from Ascutney. Hence, the acreage has no value other than as raw land. Dan states in his letter that Ascutney will never again operate as a ski area for the simple reason that snowmaking has become essential for ski resorts, and Ascutney would require a very expensive pond to provide snowmaking water. Also stated in his letter was

that a substantial portion of the acreage cannot be developed. This includes the 319 acres that comprised the former ski area labeled Conservation Area on the map attached to the letter drawn by Farnsworth Surveys dated September 17, 2010. The undevelopable land also includes the parcel labeled Mile Long Field of 44 acres on the same map and a substantial portion of the 230 acres labeled Resort Residential. Thus, approximately 500 acres of MFW's acreage, or more than 75%, cannot be developed, and has no value beyond raw acreage. Much of it cannot even be harvested for timber because of the difficulty of getting to it.

Letter 3 states he hereby appeals the assessed value of \$549,000.00 for the lifts and snowmaking equipment. The chairlifts and snowmaking equipment have a combined value of \$196,500.00. Attached to letter 3 was a Chairlifts and Snowmaking Equipment Purchase and Sale Agreement between MFW Associates, LLC and Pats Peak Skiing, LLC dated **May 27, 2014** for \$196,500.00. Dan states in his letter that he understands that tax assessments are made as of April 1<sup>st</sup>, so it is only asking that the assessment be lowered to \$196,500.00 for the year, reflecting its actual fair market value.

Nancy gave the oath to the Listers and to Dan Purjes.

Nancy explained that the way this works is the board hears from the Listers' first and then we will hear your presentation.

Annie spoke and introduced herself and Susan Hines to Dan Purjes. Annie said that Susan would be handing out the Listers' handout. Annie continued saying the first property is proepty ID 03-003 which is all the land (731 acres) and two buildings (the base lodge and Cunningham's). The second one is the snowmaking and the ski lifts which is property ID A3-003.001. Annie said so on the 03-003 the assessment is \$1,530,500.00 and the breakdown is the building cost which is the base lodge and Cunningham's together is \$273,900.00. The land is \$1,256,600.00. The property description is a commercial parcel, consisting of two buildings and 731.29 acres of land. The property was assessed for \$1,713,800.00 in the 2013 Grand List. The grievance request was granted. The value was lowered from the \$1,713,800.00 to the current \$1,530,500.00 and an adjustment was made on the physical depreciation on the buildings. Annie continued saying they have looked at other large tracks of land. The biggest one is Armstrong's which is off of Route 44. He has 313 acres and its' \$2,280.00 per acre and this is in a neighborhood of 10. Now these are all residential land and the subject property is commercial. Those cost tables are different but it's just we were looking for big acres of land. The closest would be the Town of West Windsor which owns Cross Woodlot which is abutting the subject property and has 911 acres and that's at \$2,161.00. This is in neighborhood 20 which is the same as the subject property. The last one was Rojek which is on north western side of West Windsor with 459 acres at \$2,338.00 per acre. This is just the other acreage and doesn't include the 2 acre house site so that's why on the subject property we showed 729 acres. It is the Listers' opinion, since this is a unique property, valued less per acre than any other large tracks in town and a large adjustment was made to the buildings already, it is fairly assessed at \$1,530,500.00.

Annie continued saying now we will go onto the lifts and the snowmaking which is property ID A3-003.001. The assessment at this time is \$549,000.00. This parcel is commercial and its' under special exemptions. It consists of ski lifts and snowmaking. There is no value on the snowmaking

so it's just the ski lifts. The special exemption is a State Statutes and they are exemption from paying any educational tax. The property was assessed for \$707,800.00 in the 2013 Grand List. The grievance request was granted. The value was lowered from \$707,800.00 to the \$549,000.00. An adjustment was made for physical depreciation. It is the Listers' opinion, that it is fairly assessed at \$549,000.00.

Annie continued saying we gave you all the commercial cost reports for 03-003 and we hi-lited section one which is the main base lodge and section two is Cunningham's. We gave you the old and the new cost reports. Next are the cost reports for the land that we gave as comparables. The last batch are the cost sheets for the ski lifts and the snowmaking. We gave you the old and the new ones. The olds sheets are the ones before grievance and the new ones are after grievance.

Tom asked what the lines drawn through the sheets were.

Annie said that means those are the old cost sheets.

Annie said that's it unless somebody has questions.

Nancy asked the board members if anyone had questions for the Listers'.

Susan Hines said I'd like to say just one more thing. The snow lifts were still on the mountain as of April 1<sup>st</sup>.

Shannon said that was going to be my question. So this assessment value is based on April 1, 2014.

Annie said April 1<sup>st</sup> is the cutoff date and that's for everything in town.

Shannon said so that's April 2013 to April 2014.

Annie replied yes.

Nancy said so the fact that the lifts are no longer there has no bearing on this hearing.

Annie replied correct. The quad was taken off because that was removed before April 1<sup>st</sup>.

Dan Purjes asked if he was allowed to ask the Listers' a question.

Nancy said it was okay.

Tom said you should present your findings first and then you can go back and forth.

Dan Purjes said first I apologize for my error in my letter. I guess I got confused in reading some of these documents and I thought the base lodge was valued at \$273,900.00. The \$72,230.00 valuation on the base lodge I feel is erroneous for the simple reason that it has no value. I can't give it away let alone sell it. I've been fortunate enough to sell it for \$1.00 to a gentleman who has signed a contract to buy the water system. Since the water system is in the base lodge it only makes since for

him to buy the base lodge but he wouldn't pay more than a \$1.00 for it. He said if he had to pay anything for the base lodge he just as soon move the water equipment out. The base lodge needs a tremendous amount of work. The roof needs to be replaced. None of the systems in the building function. There's all sort of work that needs to be done so it's a huge expense. I can provide the board with a copy of the purchase and sales agreement for \$1.00. I should point out that the sale of the base lodge is being done as a perpetual lease rather than an actual deed. The reason for that is that in the view of the buyer there's not enough value there to even justify the expense of a subdivision process. To subdivide the property and issue a deed would require some expense surveying and other expenses in paying lawyers to do that. It's not worth it for anybody to even spend that money to do that. The easiest solution was to do a perpetual lease for \$1.00. It has all the legal impact of a transfer for conveyance. It will be sent to the Town Clerk within the next few days for recording as a perpetual lease. The buyer doesn't want to go through a subdivision process and spend the money on that not at this time. In the contract there is a provision that says at any time he wants to actually get a deed then the seller or the seller heirs has to provide such a deed if he pays all the expenses involved in doing a subdivision or whatever is required in getting that done. Right now he doesn't want to do it it's not worth it to him to go through that. In addition to this MFW Associates the owner sent a letter to the Town saying that it would undertake to demolish the base lodge so it clearly has no value. I was hoping that this fellow buying it will find some way to put it to good use. He's not sure yet what he will do with it. In fact we just came from Glenn's house and we were talking about that. I introduced him to Glenn. I wanted Glenn to meet him and Glenn asked him what he was going to do with the base lodge and he said I don't know. I haven't figured that out yet but I'm hoping to find some use to put it to so my petition to the board is that this thing today has no value. If he puts it to some use than it will have value and you can increase the taxes on it but right now it has no value. Nobody wants it I can't give it away. So that's the base lodge.

Cunningham's is a more difficult issue. Cunningham's clearly has value. I won't dispute that. It is also in a state of disrepair. It's not inhabitable. Oh one other thing. I couldn't even get insurance on the base lodge. I tried but no insurance company would provide insurance of any kind. It has been looked at and every insurance company would not issue a policy. Their response was this thing should be torn down. Cunningham's has value but it has I think depressed value because of its condition. It's been vacant for four years. It's in sure need of repair. There's a question as to whether the various systems in the building even work and I think it has lower value that what it is listed for.

Dan said I have two more things. Let me get to the lifts. I understand that as of April 1<sup>st</sup> the lifts were there and so therefore as of April 1<sup>st</sup> there should be a tax. The question is what is the value of the lifts? It is not logical or possible that on April 1<sup>st</sup> the lifts had a value of \$549,000.00 and six weeks later they were sold for \$196,500.00. The true market value on April 1<sup>st</sup> as at the end of May was clearly \$196,500.00. Let me put it another way. There's nothing that happened between April 1<sup>st</sup> and May 27<sup>th</sup> which is when Pat's Peak bought the lifts that reduced the value of the lifts. There's no event no change in market value in that seven week period that would account for a reduction in value of about \$352,500.00. There's no event that occurred. No damage no market event nothing. The true value of a property is what it sells for. Correct me if I'm wrong but when a property is sold the assessed value of that property is pegged to that price. If the property goes up in value than the Listers' put a higher value on it. It sold for a higher value than the assessment for

that property is adjusted to reflect a higher value. The lifts were sold seven weeks later for \$196,500.00 so that should be the true assessed value of this asset.

With regard to the land I see how the Listers' valued it. May I ask the Listers' a question now?

Nancy replied yes.

Dan said my question would be for the land that you have here listed I'm not familiar with them.

Annie said you probably wouldn't be but the Town property abuts the mountain.

Dan said that is the Town lot. Does the Town pay itself taxes?

Annie replied no but it's assessed.

Dan said so it assessed. I was wondering about that.

Dan said my question is these parcels that you listed here are they undevelopable?

Annie said parts of them. They have easements on some of them. The Town is very much so.

Dan said so it's not developable.

Annie said unless the Town sells it.

Dan said if they sell it then it's developable.

Annie said I don't know. A lot of it won't be.

Dan said because I noted in my letter about two-thirds of the property at Ascutney is not developable. You know that Mile Long Field is not developable because that was a zoning restriction that the Town placed on it.

Annie said there is some development that can be done on that Mile Long Field.

Dan said I was told that there isn't. No development is permitted on Mile Long Field. That is my understanding.

Annie said I think it can but I don't know that for sure.

Dan said there could be development around it but not on the Mile Long Field itself so that is 44 acres are not developable. The land that comprises the ski area which is about 300 acres is not developable and a good chunk of the remaining land by its physical characteristics is not developable like the ravine. So I would ask that the board take that into consideration that two-thirds of the property at Ascutney is not developable. Now I understand that its' zoned commercially and perhaps that has some value but Ascutney's days as a ski resort are over. I would

wonder what if any kind of commercial development is – whether any value it has as a commercial property. Maybe it does.

Annie said well my crystal ball isn't working today and I don't think it's working tomorrow.

Dan said I'm basically done with my presentation.

Tom Kenyon said I'd like to make one comment. When he talked about a selling price being the value that it's set at.

Dan said I'm sorry what.

Tom said you talked about when a property sells that the new value is what it sold for. The State revised the law. It's an indication of the fair market value it isn't necessarily the fair market value. They changed that.

I do have a couple of questions if I may chair.

Nancy said sure absolutely.

Tom asked what the status of AT&T using the base lodge. Don't they have a cell phone tower there? Tom said so who owns that.

Dan replied AT&T owns the cell phone tower.

Tom said are they paying to have it in the building.

Dan said yes they pay to have it in the building and that's going to be a problem when the building is going to be demolished. If this gentleman doesn't – he's buying it if he doesn't change his mind this will be recorded hopefully next week but it's possible that he doesn't.

Tom said you talked about Cunningham's and being vacant for four years. Is the power connected?

Dan said let me answer your first question. AT&T pays rent to Snowdance. Snowdance still exist. AT&T pays rent to Snowdance and that is who the lessor is Snowdance LLC and MFW Associates is not the lessor of the antenna. You need to understand that. AT&T entered into a lease agreement to place an antenna on the base lodge with Snowdance LLC. It pays Snowdance and Snowdance has a bunch of debt that's it's buried under and that is paying off various creditors.

Tom said Cunningham's so the utilities are all off.

Dan said correct there is no power.

Tom said you talked about the lifts. When was the last time the lifts were used?

Dan said 2009 and 2010 and it's not clear that they are operable. I was told that one or two of the lifts were not operable and a significant amount of work had to be done to them.

Tom said so they haven't been used since 2009 or 2010.

Dan said I don't know. You live here you would probably know better than me.

Tom said I'm not a skier.

Dan said I believe I was told that the triple chair was not operational but I don't know.

Tom said so the lifts were sold as is.

Dan said yes as is.

Shannon said you mentioned that you weren't sure if any of the systems worked in Cunningham's. I know you just said to Tom the water and sewer are shut off but you mentioned you didn't know if they worked.

Dan said at the time the utilities were shut off the heating system was not working. The heating system was not functioning so it was put into a condition where hopefully it would not cause freeze ups to the extent that it would shut down.

Shannon said have all the lifts been sold?

Dan said all four lifts are being sold for \$196,500.00 and the snowmaking equipment. They took pumps, pipes and such. That was part of the deal.

Nancy asked the board members if there were any other questions.

Tom said give me just a second chair. I had something circled. It had to do with a sentence that didn't make sense. Tom said of here it is. It's on the letter dated July 2<sup>nd</sup> and it's the first paragraph like the third sentence. It reads this appeal concern the just the chairlifts so I think it's just an extra the in there.

Dan said yes your right. It should read this appeal concern just the chairlifts. I found that after I had sent the letter but it was too late to rectify.

Nancy said are there any other questions from the board.

Tom said so we have all the evidence.

Nancy told Dan that basically you can only submit testimony tonight. We will then form an inspection committee who will come up and view the property. If you allow it the Listers' will accompany us.

Dan said I would ask you that you coordinate with Dennis Brown who will provide you access to the buildings.

Nancy said we should set the inspection committee right here right now and we're try to have a date so that you will also know and yes we will definitely contact Dennis.

The inspection committee will be Nancy Gaynor, Shannon Harrington, Tom Kenyon and Polly Ouelette.

The inspection will be on Friday, July 25<sup>th</sup> at 2:00 PM.

Dan suggested wearing good footwear.

The committee will meet at the base lodge.

Dan said he would like to thank the board and the Listers' for taking the time and hopefully it will be resolved.

Nancy said the next item of business is the approval of the November 4, 2013 minutes.

Cathy reviewed the minutes with the board members and read who was present and said it was a quick meeting just to approve the September 18<sup>th</sup> and October 8<sup>th</sup> minutes.

Tom made a motion to approve the minutes. Polly seconded the motion and it passed unanimously.

Nancy asked if there was any other business.

Tom said I assume that when we do the inspection we'll decide who will write the report.

Nancy said yes.

Nancy made a motion to adjourn the meeting at 7:20 PM. The motion was seconded by Cathy and passed unanimously.

Respectfully submitted,

Cathy Archibald  
Town Clerk