

**BOARD OF CIVIL AUTHORITY MEETING**  
**February 22, 2022**  
**Minutes**

Present:	Lee McClenny Dave Baczewski Dennis Angiono	Nanette Rogers Becky Roy (arrived at 7:23 p.m.) Martha Heath
Guests:	Calef Letorney Callie Hamdy Andrea Letorney Cori Hill	Jean Wilson Caroline Brown Bill Hill

The Board of Civil Authority met on Tuesday, February 22, 2022 at 7:00 p.m. The meeting was held in person and via Zoom.

Nanette Rogers made a motion to nominate Lee McClenny as Chair, seconded by Martha Heath. Motion passed: 5-0.

**CHANGES TO THE AGENDA**

The appeal filed by Bill and Cori Hill was withdrawn; the item was removed from the agenda.

**PUBLIC COMMENT**

There was no public comment.

**CALEF LETORNEY PROPERTY TAX ASSESSMENT APPEAL**

Lee McClenny explained that the purpose of this hearing is to hear a property tax assessment appeal filed by Calef Letorney. Nanette Rogers administered the oath to Calef Letorney (appellant) and Jean Wilson (assessor).

Jean Wilson submitted a written statement (labeled Testimony) along with exhibits 1-4. Jean explained that Calef Letorney purchased 7.2 acres from an abutting property owner. She noted that this is a unique situation because the 7.2 acres was part of a larger parcel that is enrolled in the Current Use program. When acreage is withdrawn from the Current Use program and developed, it is subject to a 10% penalty of the fair market value of the land. The acreage withdrawn is considered a separate parcel. When determining fair market value, the assessor looks at several elements such as price on the open market, if the sale is an arm's length transaction, the highest and best use of the property, and the equity to the whole town by using the same criteria used in assessing other properties in town. In this case, the highest and best use was for an abutter to purchase the 7.2 acres. The assessor looked at what value it added to Calef Letorney's existing lot. They did this by adding the 7.2 acres to the 1.4 acres. The assessed value on the 1.4 acres prior to the purchase was \$69,000 (see Exhibit 1). When the 7.2 acres were added to the 1.4-acre assessment per the land tables that are in the system, the land value increased to \$103,900, a difference of \$34,900 (see Exhibit 2). This is the contributory value that the 7.2 acres added to the existing parcel and therefore considered the fair market value. Jean pointed out that the first two acres of property with a dwelling is considered the house site. Per the existing land tables, the standard value for a two-acre house site is \$75,000 (see Exhibit 3). Since Calef Letorney owned less than two acres, a portion of the 7.2 acres went toward the house site value. The remaining acreage is considered residual land and assessed using the land schedule.

Lee McClenny asked why the 7.2 acres was combined with the 1.4 acres when the 7.2 acres is considered a separate parcel. Jean Wilson explained it's because combining the property is the highest and best use of the land because it adds equity to the 1.4 acres. If the property was purchased by a person who did not own an abutting parcel, the value would be determined differently, probably as backland if the parcel could not be developed. Jean reiterated that the assessor must look at the highest and best use when determining a value. Neighboring parcels were reviewed with regard to land grades to determine the land grade for Calef Letorney's land. The two-acre house site was graded at 1.0 and the backland was graded at a 0.7 or 0.6 for the neighboring parcels. The grades used for Calef Letorney's property were 1.0 for the two-acre house site and 0.7 for the residual land, which is 6.6 acres. Jean referred to Exhibit 4 of the land schedule with regard to the value assigned to the 6.6 acres.

Martha reviewed the calculation of how the assessor arrived at the \$34,900. Jean confirmed the calculation and reviewed Exhibit 1 and Exhibit 2 with regard to the difference in the land value when the 7.2 acres were added. Martha asked if the CLA (Common Level of Appraisal) plays a role. Jean advised that it does. Once the contributory value was determined it was divided by the CLA (85.54%) to determine the fair market value as defined and required by Current Use, which is \$40,800. This is the amount used to determine the penalty. It was pointed out that the acreage on Jean's testimony had a typo. The acreage was listed as 1.2 acres, but it should read 1.4 acres. Jean confirmed that the calculations were based on the actual acreage of 1.4 acres.

Calef Letorney asked if the value for the 7.2 acres needs to be the same. He was under the impression that there would be two values; one would be the assessment of what was sold, and one would be the value as combined with the 1.4 acres. Jean advised that in this case the value is the same because it is the highest and best use of the 7.2 acres.

Lee McClenny asked how the penalty represents the lost value of the land being in Current Use. Jean believes that the State is not looking at the loss value, the State looks at the fair market value.

Jean referred to Exhibit 4, which is the residual land schedule which is used for backland. The value for 7 acres on this schedule is \$43,750. This is the starting value but can be adjusted by reducing the grade for criteria such as being landlocked.

Calef Letorney read and submitted a written statement which included comparables and maps (labeled Exhibit 6). Calef advised that when neighbors were having the land surveyed for a boundary line adjustment, it was discovered that Calef's septic system was located on the Schultz's property not his. During discussions, Calef proposed purchasing more land than needed for his septic system to protect the land behind his 1.4 acres from potentially being damaged from logging efforts. After negotiating with the Schultz, an agreement was reached for Calef to purchase 7.2 acres. Acquiring the land would result in his septic system being located on his property and would provide additional acreage for Calef behind his current parcel. The purchase price negotiated was \$11,956 and was based on Mr. Schultz's research of woodland lots, which he found to be around \$1,400 to \$1,600 per acre. Mr. Schultz had told Calef that he wanted to avoid creating lot that would result in additional residential construction. Calef and the Schultz were aware there would be a penalty for withdrawing the land from the Current Use program. Their agreement was for Calef to pay 10% of the sale price and if the penalty was more, the Schultz would pay the difference.

Calef stated that he is not arguing to reduce his tax in a way that shifts the burden to other Westford residents. The assessment in question only affects a one-time payment to the State. Calef said he was advised during his grievance with the assessor that the assessment on the 7.2 acres can be different than the assessment he would receive later. He expects the assessment to be different and acknowledged that combining the 7.2 acres to his existing property increases the value of his property. He is arguing what the fair market value of the 7.2 acres is. Further, he is not appealing for his own benefit but that of his elderly neighbor who is contractually obligated to pay the tax. Calef referred to the first map in his exhibit. The map shows his existing lot and an outline of the 7.2 acres he purchased. Calef advised that he has written the Town several times to request an explanation of the valuation method used. He has not received the information.

Calef believes the assessor used a "value to buyer" method rather than "fair market value" when determining the value for the 7.2 acres. He feels the assessor's calculation does not reflect what the market should be willing to pay but rather the change it has on the buyer's property value. To support this, he stated that his neighbors, William and Cori Hill, purchased 12.4 acres from the Schultz. The same formula was used resulting in an added value of \$39,000 or \$3,145 per acre to their property versus \$40,000 or \$5,555 per acre to Calef's property. He pointed out that some of the increase is due to the fact that the Hills had over 2 acres to begin with whereas he had under two acres. Calef stated that if the Hills had purchased 7.2 acres, the value would be lower than what his value is due to the difference of the starting acreage. He feels this method is flawed and should be based on what the market is willing to pay not by who purchases the property.

Another point raised by Calef, is the quality of what was sold. He feels based on zoning restrictions, the lot can and should only be considered and valued as a woodland lot not a residential lot. In his opinion this goes against the State Statute where zoning regulations should play a factor in determining the value of a parcel. In this case, the 7.2 acres is smaller than the 10-acre minimum requirement and should have been taken into consideration. With regard to being valued at highest and best use, Calef disagrees stating that this method needs to take into consideration zoning and that the interest in this lot is restricted to an abutter. He feels the highest and best use for the 7.2 acres is a woodland lot.

Calef furnished sales that occurred between 2014 and 2021 that he feels are comparable to his purchase. The sales, which are shown as examples on pages 6-11 of Exhibit 6, range from \$781 per acre to \$2,201 per acre. A couple of the sales were landlocked parcels, and some were building lots with road frontage. Calef feels these sales support his case for the purchase price of \$11,956 to be used for the value on the 7.2 acres and ultimately determining the penalty for withdrawing the land from the Current Use program.

Calef stated that no one in the Town of Westford has anything to stand if Westford defends the assessment or anything to lose if the appeal is upheld. He understands completely how his home assessment will change and feels it is unrelated to this sale.

Martha Heath asked why the assessor relied on the land schedule and not comparable sales. Jean advised they are supposed to look at valid sales which means the property needs to be on the open market with exposure. A sale between family members or distressed sales are not valid sales, nor are boundary line adjustments. When the land schedule was created during the 2009 reappraisal, only valid sales were used. Martha Heath asked if the assessor

looked at sales or did they rely on the land schedule. Jean advised that sales were not used, only the land schedule.

Martha Heath asked how the BCA can determine if the comparables provided are the result of a valid sale. Jen advised one way is to look at the State's Equalization Study which is based on valid sales within the last three years to arrive at the CLA.

Jean stressed that the definition of fair market value does not normally apply to what an abutter pays for land. Fair market value is the highest and best use on the open market. The assessor determined the value of the 7.2 acres by viewing the parcel coming from a larger parcel, considering fair market value, and treating it equitably across the whole town.

Dave Baczewski asked for clarification. Calef is arguing for the Schultz. How much the land should be valued at against the penalty that is being assessed for withdrawing the 7.2 acres from the Current Use program. He's not arguing his property assessment. Calef agreed adding that he was told the 7.2 acres would be valued separately for the purpose of determining the penalty. He's not arguing the value to him and does not plan on appealing his assessment but is arguing how the concept of fair market value was used to arrive at the assessment for the penalty for a lot that can't be built upon.

Jean advised that if the BCA changes the assessment value, it will not affect what the assessors will use for the April 1, 2022 Grand List for which Calef will receive a Change of Appraisal for. She added that the assessors used the same methodology for the parcel purchased by the Hills from the Schultz through a boundary line adjustment. The Hills had more than two acres so the value per acre did not increase as much. She added that the highest and best use for this parcel is for the abutter to purchase it for his septic system and to protect the woodland.

Lee asked that Jean clarify that the argument is about the penalty that the Schultz need to pay for withdrawing the land from the Current Use program. Statute establishes how the assessor values the property so the penalty can be determined on the land that had been presumably undertaxed for the years in the program. Jean advised that is correct. Martha asked if the assessor could have used comparable sales instead of the land schedule. Jean advised that they could have.

### **INSPECTION COMMITTEE**

Lee McClenny, Martha Heath, and Becky Roy were assigned to the inspection committee. They will work with Calef to determine a date. It was noted that the inspection committee needs to report back to the BCA within thirty days from the date of this meeting.

Becky Roy requested a list of the qualities that the assessor looks for when they value the property. Jean will send what they use. The document will be labeled as Exhibit 5 when received.

### **ADJOURN**

The meeting adjourned at 8:43 p.m.

Respectfully Submitted,  
Lee McClenny, Selectboard Chair

Nanette Rogers  
Town Clerk