

**BOARD OF CIVIL AUTHORITY HEARING  
JOHNSON MUNICIPAL BUILDING  
JULY 7, 2014  
DRAFT/UNAPPROVED MEETING MINUTES**

BCA Members: Albert Thompson, Jan Perkins, Eric Osgood, Howard Romero, Nat Kinney, Martha Leonard, Geoffrey Corey, Rosemary Audibert.

Listers: Rose Warner, Jari Chevelier

Appellant: Kurt Hermann

Eric called hearing to order at 7:45 p.m.

Eric explained the process of a quasi-judicial hearing. Board members introduced themselves.

Kurt was sworn in. Listers, Rose and Jari were sworn in.

Kurt stated that he appealed his assessment two years ago, and is here again for the same reasons. Appreciates the opportunity to state his case again. Kurt's issue is with the solid waste ordinance for the Town of Johnson. Ordinance is not being enforced; he does not know why it is not being enforced. Neighbor, Margaret Halls has dump on the border of his property and he can see it from this house. Listers viewed the property last month Dan, Rose and Jari and they took pictures. When he goes to sell his house, the Board of Realtors will give you a form to fill out and one of the questions is there any private landfills, dumps, contactor or otherwise on the property or on any abutting property, have met with a realtor, who stated that he would have to say yes to that question. There is a risk of taking a loss on the sale of his property if he sells it, because they can use it as a negotiation tool. Also if he takes a loss on the property, anybody who has a comparably property in this town and other towns that is comparably to his property, may also lose money on the sale of their property, because comps are based on actual sales.

Went though this two years ago and withdraw the grievance, Eric insisted they needed to inspect the property. In the handbook of property appeals states may withdraw the appeal in writing or if the appellant refuses to allow inspection of the property. He wrote an appeal letter sent it to Rosemary. Howard, Nat and Eric came to the property, Nat called Kurt the next day to apologized, for what he had been going though, and Kurt appreciated that.

Listers viewed the property last month and they took pictures. Went to grievance day, Dan, Rose and Jari were there. Rose stated that they did not see the solid waste on the neighbor's property reducing your property value, and he asked for it in writing. Listers told him that his property is comparable to other properties, he told them that he does not care about anybody else's property he cares about his property as it affected his property value. Home is your biggest investment in life. Tried to get Duncan Hastings to come into the grievance meeting, but Duncan does not want to talk with Kurt. So he emailed Duncan and Duncan responded that this is over and done with, the Town has spent significant amount of money on this. When Kurt was on the solid waste board, told Duncan and Constable David Jones to keep writing tickets, because they are going to ignore them, needed that revenue to pay for attorney and court fees. David Jones only wrote 4 municipal tickets in three years. Duncan made it sound like it was his fault because the Town loss money. What about the two women

who filed a million dollar sexual harassment law suit against Duncan several years ago, who paid for that. The reason why David Jones stopped writing tickets was because one day in the spring of 2011; Margaret Halls put a restraining order against him. Duncan Hastings and David Jones were there this past fall and Margaret Halls told them to mind their own business and they did. Any neighbor on Grow Road will tell you the Margaret Hall runs the town, it's a big joke, which is sad. Duncan is not paying attention, he is liable to this town as municipal manager. This Board of Civil Authority should terminate his appointment immediately.

Eric stated that Duncan is not the issue here; this Board does not have authority over Duncan. You need to show comparables on why you think your property is worth less than what it is assessed at. Eric asked for comparables that the board could see. Kurt stated that would involve going around looking for solid waste on neighbors property and if that is comparable. Eric stated that the burden of proof is on you. Kurt stated that he is concerned as a taxpayer about what is going on in the town because things are not being done properly.

Eric asked do you have any evidence to submit. Kurt stated that would have to fill out the realtor's document, which would mean I would lose money on my property, if I checked yes. Howard asked how much the value would change. Kurt stated that he did not know.

Albert asked has there been a formal appraisal done on the property to see what the value would be. That is independent from the listers value. Kurt stated no.

Nat stated that he called Kurt as a Selectboard member on the enforcement of the ordinance. Kurt stated that he appreciated the phone call.

Eric asked is there any more testimony that you like to give. Kurt stated that the Board of Civil Authority should direct the Selectboard to enforce the solid waste ordinance or repeal it. Eric stated that it is not in the power of this board to direct the Selectboard to do anything.

Lister Rose handed out copies of the lister cards that can be shared among board members. Rose stated that Dan, Jari and herself did go to the property per request of Kurt. Did go down the embankment and showed us what he thought was a lot of debris. It was hard for the Board of Listers to see the debris, Jari did take pictures. The listers did not feel on what they saw, which was hard to see effective the value of the property; therefore they did not change it. They feel that the issue is not with them, but with the Selectboard. Listers did not have the current pictures available for the Board to see. Kurt provided pictures that were several years old. Jari stated that the property is more overgrown then what those pictures show, with leaves and natural growth. Kurt provided the appeal booklet that was used two years ago. Kurt stated that the photos are the same and the debris is the same. Jan asked is it construction debris. Kurt stated yes, decking material, cedar roofing.

Rose stated that have a letter from Manager Duncan Hasting regarding this issue on the solid waste on what the town did. Rose read letter which is attached.

Rose stated that the history of the property since 2004 is on the lister card. Looked at the value of the property to see if there were any areas that were overvalued, quality of the house is at 2.75 which is fair/average. Looked at the physical depreciation which is 12% for a house that was built in 1992. Gave a 5% functional depreciation for no upstairs bathroom. Looked at the land values on Grow road, grade on the building lot is 1.1 and the bulk acres is .60, which is comparable to other properties

on the road. 2 acres are at 1.1 land grade and 18.03 acres is at .60, which is 60% of average. Range of land grades are 7 at .8, 2 at .7 and 4 at .9. Kurt is the lowest on the road. Do not know where the value could be changed. In 2012 changed the land grade on site building lot from 1.2 to 1.1 and the grade on the bulk acres to .60

Kurt asked if the land grade change could go back to previous years, since the debris was there. Rose stated they cannot do that would have to changed many properties.

Kurt stated that he would like to know why the Town of Johnson is not enforcing the solid waste ordinance. Section 3 definition E as "Construction/Demolition Debris" means material resulting from construction, demolition, or renovation of building, roads, bridges and other structures in the Town of Johnson. State of Vermont section 24 VSA 2201 Prohibition. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, cause, or permit to be thrown, dumped, or deposited any solid waste in defined in 10 V.S.A. 6602, refuse of whatever nature, or any noxious thing outside a solid waste management facility certified by the Agency of Natural Resources. Lamoille Regional Solid Waste District has their own similar regulations. The waste is still sitting there. Runoff comes down Grow Road over the debris and goes down to the Lamoille River, which is over toxic material.

Eric stated that this all may be true, but has no bearing on this hearing, and this board has no authority to act on any of those items. Eric stated that this board needs to have comparables. Kurt stated that he has no comparables at this time. If the Town is not going to do anything about this will seek out a government agency or an environment group to look into this.

Martha asked Kurt what he feels his property is worth if not the \$174,200.00. Kurt stated 3% less. This is not necessary because the Town needs to follow the ordinance or the Selectboard should repeal it. Martha asked is the house going on the market in the immediate future. Kurt stated that he has not decided that.

Nat asked what is the procedure if a taxpayer is not happy with an ordinance what do they need to do. Eric stated that need to go to the Selectboard. Kurt stated that he has already done that.

Eric stated that need to have at least a three member committee to do a site inspection and set a time and date to reconvene this hearing. Jeff asked how can the BCA assess the value without the solid waste issue. Eric stated that when an appeal comes in the BCA is required by statute to do a site inspection of the property as like the listers would do. Kurt stated that last time you did not care about the solid waste because you were BCA members not Selectboard members. Eric stated the committee will be inspecting the property as a BCA member. This board does not have authority over solid waste issues. Kurt stated then what is the point of doing the inspection. Eric stated that you have started this process this is statutory requirement. Howard stated they have to follow state law. The listers can be present at the site inspection but there cannot be any more testimony given. Jeff stated that he is uncomfortable about viewing the property, as his view of solid waste may differ from another person's definition of solid waste. Jan stated that as a board member you are not there to view the solid waste, you are there to view his property. Eric stated that is the value a fair assessed value of the property is the role of the BCA. Eric stated that this is not a typical appeal, most people feel that there assessed value is too high.

Kurt stated that Rose stated at the grievance meeting that she thinks solid waste does not decrease the value of the property would like to attach a letter from Rose to the realtor form.

Eric stated that the three member committee goes and views the property and submits a written report to the BCA Board, will have the home and land to view. Inspection committee reports back to the BCA Board as to what they saw.

Jari stated the Kurt stated to the listers that he can see the debris from is dining room window. The listers did not go into the house; you should invite the inspection committee into your house to look. Rosemary stated that the inspection committee needs to look at the whole property they need to go into the house. Kurt stated that he is under oath and you can see the debris from the window.

Site inspection committee is Jeff Corey, Albert Thompson and Nat Kinney. Tried to set a date for the site inspection committee to view the property. People needed to look at their schedules. Have 30 day to report back in the BCA.

Kurt stated that he would like to withdraw his appeal, but would like a copy of the transcript of the meeting. Eric stated that in 2012 were told that we had to do a site visit, and then were denied access to the property. Kurt stated that last time withdraw in a letter to the Board. Eric stated they will look into this to see if a site visit is needed. Eric stated they need to have the withdrawal in writing. Kurt stated that he would do that. Eric stated they need to set a date and time for the Board to reconvene. If he withdraws why is a meeting necessary? Eric stated that this would end the hearing tonight.

Hearing adjourned at 8:25 p.m.

Submitted by

Rosemary Audibert, Town Clerk