

**WILLIAM SHEPHERD vs. TOWN OF BURNHAM**  
**TAX ABATEMENT HEARING PETITION #329**  
**FEBRUARY 6, 2007**  
**9:00 A.M.**  
**(TAPE 1 A)**

**PRESENT:** Waldo County Commissioners John M. Hyk, Chairman; Amy R. Fowler and Donald P. Berry, Sr. Also present were Petitioner William Shepherd along with Defendants Town of Burnham Selectmen Luke Goodblood, Stuart Huff and Ricky Basford and Town of Burnham Assessors Agent, Matthew Caldwell. Also present were Burnham citizens Francis Grignon and Francis Grignon, Jr, County Clerk Barbara Arseneau and Deputy County Clerk Veronica Stover.

Commissioner John Hyk opened the hearing by having all introduce themselves and then read rules of the hearing. The Petitioners and Defendants were then sworn in. The Petitioners were allowed to speak first.

**PETITIONER:**

W. Shepherd: I have a piece of cut over woodland, 132 acres, with no frontage on any accessible road. It's 6/10 of a mile from the nearest town road through a woods road. The value of my land is excessive because the neighbor's land has over 3,000 feet of frontage of right of way that is accessible by an automobile. My 6/10 of a mile is accessible by only a four-wheel-drive vehicle, and that's not twelve months a year. I asked the question of the value of tillable farmland and I did not get an answer, because the piece of property next to me has 52 acres of tillable farmland according to the Soil Conservation map. Their land and my land border each other. The only answer I got was they have an excessive amount of back-land. So I figured if their land is back, mine is further back, 'because they're on a town road and I'm 6/10 of a mile. That is all that I have to go on. I think it's not being accessible; only by a four-wheel-drive, it should not be valued in the same ratio as somebody who can drive to it with an automobile, has electric power...That's all I have for an argument. There is a piece of land that is just behind mine and it is 77 acres and it's only valued at \$10,000.00. Mine is 130 acres that is valued at \$52,800.00. Theirs can be driven to with a car off a town road in Detroit.

J. Hyk: Questions? [To the Commissioners] Gentlemen? [Defendants] Do you have questions of the Petitioner?

M. Caldwell: Which lot are you talking about, Bill, the one that's neighboring to you?

W. Shepherd: Mark Booth's. It's on Map 10, Lot 10.

L. Goodblood: Which road from Detroit can you drive to Mark Booth's with a car?

W. Shepherd: You can go off the Basford Road; you can go in the little side road that goes into that little woodlot, and he might have 300 feet to his line, but that's it. You can drive right to that turnaround in there.

L. Goodblood: But his legal right of way is through the Spring Road.

W. Shepherd: Yes and you can drive in there. They're hauling wood out of there right now.

M. Caldwell: And you don't have any access off the Dodge Road at all?

W. Shepherd: I have no access on the Dodge Road. That was settled in a court case years ago, that that is a closed right of way to Percy Goodblood's property.

A. Fowler: Could I just ask if the assessor could clarify because I am not familiar with the roads. Were you just asking about an abandoned town road that has lost its right of way?

M. Caldwell: Well, I've got a set of the tax maps here, actually, and I think Bill has a set, too.

(All looked at maps of properties and discussed the adjacent properties.) W. Shepherd identified the Dodge Road and his woodlot. He also showed the only way he could access the property, which was to go up to the end of the Cookson Road. He explained that there were two properties that were all on one deed.

W. Shepherd: Originally it was two lots; and now it's one deed.

J. Hyk: Where is the lot that you are comparing this to?

W. Shepherd: (Referring to the map.) It is on 10. He has 52 acres of tillable farm land with 1250 feet of frontage on this road and 1250 feet on that side, which is open field land, and this is woods, which is the same as I've got down here. But I have no access from here to here and when I first complained about it, they told me that I had all of this frontage, but I have no frontage. I have frontage that's 20' right of way right here, that's it.

J. Hyk: What is this property valued at and what is that property valued at?

W. Shepherd: That is why I asked what the value of tillable farm land was. Because if you take that fifty acres out, if it's \$900.00 an acre or \$600.00 an acre, there's got to be a difference between a cutover woodlot and a tillable farm land.

L. Goodblood: (Referring to tax assessment sheets.) This here is 280 acres of Lloyd Hunt's; his tax over the years and this is William Shepherd's 132 acres. There is a difference. The comparison that we should be making, though, is Alfred Varney's land

to Bill's. Alfred Varney's is stripped and clear cut, which Bill's legal right of way comes through. He has no frontage on anything and he is paying more per acre on that, but that's land that's side by side – kind of 'apples and oranges' too because Bill's isn't cut like this is. This is stripped, basically. And Alfred Varney owns no right of way on this road, either. He comes in from the back of the Cookson Road, the back of the Cookson Road.

M. Caldwell: The valuation on the Hunt lot is on the land only is \$106,200.00 and, of course, Bill's, as he as stated earlier, is \$52,800.00. They are both assessed similar; the same method. Basically, he's talking about tillable land, well, the way that we assess is you have your one acre base lot and your next 4 acres are "rear-one" at a certain price and the next 45 acres are rear-two at a certain price, and so forth and so forth down the line. The only difference between the two lots is that we've actually have taken 50% off for access to Bill's lot and we have reduced his rear-end-one by 65% for access. And he also had a smaller base lot – a less valuable base lot, as a rear-base lot, then Mr. Hunt. Mr. Hunt has a \$9,500.00 base lot and Bill had a \$5,000.00 base lot; meaning that the further away that we got away from development the less valuable those lots are going to be, but they are set up the same way.

J. Hyk: I think that inadvertently we are getting into your presentation without you having made a presentation yet. So, just to try to keep things on track, I want to go back to asking this question; do we have anymore questions for the petitioner before we move on to the defendants' presentation? (There were none.) (J. Hyk explained to the Petitioner that he would be able to ask questions to the defendants after they make their presentation.)

#### **DEFENDANTS:**

M. Caldwell: Basically, we have reviewed the lots and the valuation set-up in the process, as I stated earlier in conversation the method of arriving at the valuation is the same method; the same methodology used through out the town. You have your first one-acre house lot valued at so much and then you have your next four acres valued at so much and your next 45 acres valued at so much, and it goes on down through the line. The method that we use is every lot doesn't have a certain one-per-acre value on that lot. As I stated earlier, we have recognized that it [Mr. Shepherd's property] does have an access problem and we have reduced that by 50%. We've also reduced his base lot value, not similar to his neighbor's, to Hunt's property that he was speaking of earlier. The woodland, tillage – all which is all valued the same way. There is no difference between mixed wood, soft wood, out of tree growth state programs, farm land programs - things like that. Land is land as far as we are concerned. Waste and topography issues - things like that – that is something we do take into account. I have copies of the neighbors around Bill, and you can see, there are similar situations to his with the exact same issues with access taken off and the same depreciation is used on the neighbors, besides the couple of lots that are neighboring his lots that are in tree growth. Obviously those are at a lower value.

J. Hyk: Is there anything else that you guys would want to say in your presentation?

L. Goodblood: (To M. Caldwell) Do you have Alfred Varney's? Did you compare that with his? It's right across...

M. Caldwell: I thought I did have; no, I just took the King Lot. I did not bring out the Varney's.

L. Goodblood: The Varney lot is basically the same acreage as Bill's. It is a little smaller, and the same methodology is applied, basically. It is a little more per acre but it is probably because the Cookson Road, albeit bad, touches it.

A. Fowler: For clarification - the Varney lot that you are speaking of is the one across from Bill's that has been clear cut?

L. Goodblood: Yes, it has been. Lot 24, Map 9.

D. Berry: What I understand right now is you are taking a piece and not treating any difference between the land that has been clear cut and Bill's land, as such?

M. Caldwell: That is correct.

A. Fowler: Is Mr. Shepherd in tree growth or open space?

M. Caldwell: No, he is not.

J. Hyk: (To the Petitioner) Did you have a question for these people? You can ask them any question you want.

W. Shepherd: I guess I have been answered because I cannot believe that tillable farmland is valued at the same rate as a cut-over woodlot. He can tell me that I have trees there; I do have trees. I cut firewood there. If I put a skidder in there, in two weeks I'd be out of business, because that lot was completely cut over ten years ago. I bought it five years ago and I will tell you right out front that I got \$20,000.00 for it and the reason is you have to be a descendant of Charles Cookson to use the right of way. So you cannot sell that to someone out of state unless they have a helicopter to get there with it because they cannot cross Varney's lot unless they are a descendant of Charles Cookson. My wife, she must be a grandchild or niece, and that's the only reason I can cross it, is because my wife is related to Charles Cookson.

J. Hyk: If that is so, that is certainly odd. Wouldn't that be an issue of some kind of economic obsolescence or some kind of obsolescence? Am I using the right word?

M. Caldwell: It could be. Again, I asked him to show me that at the time that we spoke in October.

W. Shepherd: I did not have the deed with me.

M. Caldwell: And I was never shown that. We never even considered it because it was never shown, proven to us.

J. Hyk: That's a fair enough answer.

W. Shepherd: The town has a copy of this deed. All they'd have to do is go to their book. I was standing there in the room, I mean; he's questioning my word...

J. Hyk: That's a fair enough answer...

M. Caldwell: Where does it state it, Bill? I'm just asking.

W. Shepherd: Right here. I went to a lawyer and he said it would cost me \$20,000.00 to get that out of the deed, that this couldn't be used by anybody other than Charles Cookson's relative. There's another paper...

(M. Caldwell and W. Shepherd looked at the deed.)

M. Caldwell: Is this what you are speaking about right here?

W. Shepherd: Yes. That is a lawyer's thing in there and you would have to get that out of there to be able to sell that to anybody except an heir to Charles Cookson. Well, you could sell it to them, but...

M. Caldwell: It states that it is "also hereby conveyed as a right of way to and from the land hereby conveyed over the former home place of Charles Cookson and more fully described in warranty deed Charles E. Cookson to Alfonzo Cookson dated March 31, 1961. I don't really see where it states about being a direct descendant of Mr. Cookson.

W. Shepherd: Well, I don't know if it's on this paper, but I do have another...

J. Hyk: Can I ask you [Matt Caldwell] a question? You are the assessors' agent, is that right?

M. Caldwell: That is correct.

J. Hyk: Is it true that in the State of Maine you are not allowed to assess taxes based on services provided?

M. Caldwell: Services meaning...?

J. Hyk: Services; like roads.

M. Caldwell: Basically, when we come up with these values, this directly comes from the market. We use the sales over the last four years; we perform a sales analysis and that is where we determine throughout the town what these land lots and what these

things are going for. As you probably know, we are required by the State to follow the market. This year we happened to update the values in Burnham because we were slipping standards down there.

J. Hyk: Then let me ask you another question. There are sometimes certain aesthetic standards that are applied to, having a tremendous view, etc., but in general there is only so much going around you can do in classifying pieces of land in terms of are they farmable, are they this, are they that or are they the other thing. If its ledge, its all ledge, if it's a bog, it's a bog. But short of that, some people may say that a good woodlot is more valuable than tillable acreage, today. Who's tilling anything? It is all very subjective. What I am trying to get at is you don't particularly go around and say, "Well this is good farmland, so we are going to charge this much for it. This is a good woodlot so we are going to charge this much for it." You generally don't do that.

L. Goodblood: No, we don't.

J. Hyk: Does that make sense? I thought it might do us all some good to try to understand the basis upon how you are doing this in Burnham, so that there is equity. I understand that different towns do things a little differently, but as long as there is equity between the properties, then it makes a certain amount of sense.

L. Goodblood: Matt and his companions in this business are not just doing Burnham. They are licensed by the State and they are doing numerous towns all over the State, as far as the assessing goes. As he stated at first, is tillable farmland/woodland is land and they are going by a formula of a front lot, and then next four acres and the acres behind that, just to clarify that.

J. Hyk: I was a selectman of Prospect for 16 years and I also worked for Hamlin Associates for a while, working on some revaluations in and around the County. So I have some minimal appreciation for what an impossible job it is. It can be very subjective. [To the Commissioners] What are you guys thinking? Do you have any more questions for these guys? Do we want to close this hearing? [To Petitioner] Do you have more questions of these gentlemen [Defendants]?

A. Fowler: May I see your deed, Sir?

W. Shepherd: I cannot find the statement in there, but I will get a letter from my lawyer because it is in there. I have already sworn that I am telling the truth. It does not specifically say that in there but I know that is part of that right of way. You have to be a descendant of Charles Cookson.

J. Hyk: I would probably feel different about that if you could produce that language in the document. I think it's an amount of economic obsolescence. I think I would have a serious issue with that.

W. Shepherd: I know the fellow that I bought the land off of; Corey Cookson, he had two different people from out of state that were all set to buy this piece of property for over \$50,000.00 but when they found out they could not get to it, that was the end of the sale. He wouldn't have sold me 130 acres for \$20,000.00 if he could have sold it to somebody for \$50,000.00, I don't believe, just because I'm a relative. I will get a letter.

A. Fowler: If that is a stipulation in the deed, then it would be recorded. Obviously it is recorded somewhere.

J. Hyk: Here is what we could do. Let me ask one final question, if that were, in fact, case, what Mr. Shepherd is saying, would you think that would effect the value of that property?

M. Caldwell: Yes, to a certain extent. I mean, you are not talking total non-valuable land; it is probably worth a little more depreciation, I will agree with that, because it will take the next person to write up deeds; cost them a little bit of money to try to get a right of way to that property, if that is the case.

J. Hyk: My only thought was, ladies and gentlemen, is we can deliberate this now. We could also delay it, giving Mr. Shepherd an opportunity to produce that language, and if he does produce that language, have him meet with the Selectmen and see if they can come to some accommodation between themselves; and if they can't then we would close the hearing and deliberate it and make a decision. (To the County Clerk) Is that a bad idea?

L. Goodblood: Not bad at all.

D. Berry: So moved.

A. Fowler: Second.

B. Arseneau: What are we moving to?

J. Hyk: We are going to adjourn the meeting, what, thirty days? Barbara, can we adjourn the hearing?

B. Arseneau: You have 60 days, I think, to make a decision.

J. Hyk: We're going to adjourn the hearing for thirty days or to, not our next meeting, but the following, because that's [the next meeting] next week.

B. Arseneau: So not February, but March.

J. Hyk: At our regular March meeting. That will give you four or five weeks to pull this together.

A. Fowler: But if, in the meantime, Mr. Shepherd can gain access to it [the language in the deed stipulating that only a relative of Charles Cookson can access the property] and present that to the Selectmen and the Assessor, and they can work something out amongst themselves and let us know, then I don't see why we couldn't then come back to our meeting and make a motion to take no action.

J. Hyk: That gives you two bites at the same apple.

L. Goodblood: Yes. It sounds great. And like Matt said, if the paperwork had been presented, he would have taken it into consideration and we wouldn't have been here today.

J. Hyk: Well, let's try to move forward, then. Let's see what we can do. Let's see if we can all end up on a happy note. Thank you so much.

(B. Arseneau asked all to be sure they had signed in and made sure she had the names correct.)

J. Hyk: So we're going to adjourn the hearing; we're not going to close the hearing. We're just going to adjourn it to our regular meeting in March. O.K. gentlemen, thank you so much.

Respectfully submitted by *Barbara L. Arseneau*  
Waldo County Clerk