



# BOARD OF APPEALS MEETING MINUTES

Wednesday April 29, 2015  
Town Hall Meeting Room  
6:30 p.m.

➤ Call to Order

Chair Russell Gagner called the meeting to order

➤ Pledge of Allegiance

➤ New Business

- Application for Variance –Ada Tanguay 177 Rochester St. (R-45, 6B)
  - Request for variance from road frontage requirements in R-2, Transition Residential Zoning District. Permit 146 feet of road frontage where 150 feet is required in order to make lot legally conforming.

Kerry Ashburn, listing agent for the property, represented the application. Ms. Ashburn stated that this process began as a site plan application for commercial storage units which required a site plan to be submitted. The site plan that was submitted by the applicant showed only 146 feet of road frontage, but the warranty deed for the property showed 150 feet of road frontage. Ms. Ashburn stated that the applicants were here to ask if this was a buildable lot and how they should proceed. Ms. Ashburn stated that she was unable to find both (property) pins.

Chair Gagner asked if the surveyor who provided the site plan had been back to the property to verify these measurements. Ms. Ashburn stated that she did not know.

Code Enforcement Officer, Joe Rousselle, stated that storage units were permitted in this zoning district. Mr. Rousselle explained that Town Staff had reviewed the existing deed and noted that the lot had 150 feet of road frontage, but a survey submitted as a component of a conditional use indicated that the lot did not have the 150 feet of required road frontage.

Chair Gagner stated that he believed that the Board had to move forward based on the lot sizes shown by the site plan created by Civil Consultants.

Ken Poirier stated that he found both property pins during a site walk and that one was lying prone. Mr. Poirier said that he had checked with the Berwick Police Department and that there was no accident at that location along Rochester Street.

John Campbell asked if any other costs had been incurred by the lot owners such as soil tests. Ms. Ashburn stated that there were no new costs that she was aware of.

Chair Gagner stated that the Board's position was that the lot had 146.6' feet of road frontage and that a variance would be necessary in order to proceed with any building plans. Chair Gagner stated that it would be up to the appellant to make their case based upon the four hardship rules.

Debra Warner of 175 Rochester Street addressed the Board at this time. Ms. Warner stated that she believed the lot was sold to the applicant as an "unbuildable" lot. Ms. Warner stated that the property was sold with a "dilapidated" camper on the site. Ms. Warner stated that the owner of the lot had attempted to purchase 4 feet of her land at some point in the past.

Joe Flannigan of 175 Rochester Street addressed the Board at this time. Mr. Flannigan stated that Mr. Tanguay had approached him to purchase four feet of his land in order to build a barn but that he had declined. Mr. Flannigan was concerned with potential flooding at this location.

Shelly Bar of 173 Rochester Street addressed the Board at this time. Ms. Bar had concerns over increased traffic along Rochester Street if a storage facility was built. Ms. Bar stated that storage units would have a negative impact on the neighborhood.

Chuck Bogdan of 6 Hubbard Road addressed the Board at this time. Mr. Bogdan said that commercial mini storage units would impact the neighborhood and that increased traffic would be a safety hazard.

Tim Bell of 173 Rochester Street addressed the Board at this time. Mr. Bell stated that proposed construction at 177 Rochester Street would create flooding issues.

Earl Baily of 180 Rochester Street addressed the Board at this time. Mr. Baily stated that headlights from vehicles leaving 177 Rochester Street would be a nuisance at his residence.

Matt Leblanc of 179 Rochester Street addressed the Board at this time. Mr. Leblanc stated that he believed the lot width of 177 Rochester Street also did not meet ordinance at 135 feet. Mr. Leblanc stated that he was concerned about his home's proximity to any proposed commercial storage units. Mr. Leblanc also expressed concern over storm water runoff and potential flooding.

Vicky Stone of 133 Rochester Street addressed the Board at this time. Ms. Stone asked if the lot splits had occurred before Planning Board. The Code Enforcement Officer stated that the lots were split outside of Planning Board. Ms. Stone stated that she believed that variances should not be granted in general.

Kerry Ashburn addressed the Board again. Ms. Ashburn asked if a condition of approval could be added that the variance would only be granted for single family homes at 177 Rochester

Street. Ms. Ashburn stated that the applicants had been paying taxes on a “buildable” lot since 1998.

Ms. Warner stated that any residential at this location would require a raised septic system and would not be cost effective for residential development.

John Campbell made a motion that the Board consider the applicable performance standards individually for this application. On a second from Chair Gagner the Board votes:

**VOTED – 3-0 in favor**

**Motion Passed**

**Standard Passed**

In favor: Russell Gagner; John Campbell; Ken Poirier

Opposed: None

Abstain: None

John Campbell made a motion that the land in question cannot yield a reasonable return unless a variance is granted. On a second from Chair Gagner the Board votes:

**VOTED – 3-0 in favor**

**Motion Passed**

**Standard Passed**

In favor: Russell Gagner; John Campbell; Ken Poirier

Opposed: None

Abstain: None

Russell Gagner made a motion that the need for a variance is not due to the unique circumstances of the property. On a second from Mr. Poirier:

Mr. Campbell asked for clarification on the way voting would affect whether the standard passed or failed. Mr. Stoll stated that due to the wording of the motion a no vote would pass the standard and a yes vote would fail the standard.

**VOTED – 3-0 Against**

**Motion Failed**

**Standard Passed**

In favor: None

Opposed: Russell Gagner; John Campbell; Ken Poirier

Abstain: None

Russell Gagner made a motion that the granting of a variance will alter the essential character of the locality. On a second from Mr. Campbell:

Mr. Stoll clarified that a no vote would pass the standard and a yes vote would fail the standard.

**VOTED – 2-1 in favor**

**Motion Passed**

**Standard Failed**

In favor: Russell Gagner; John Campbell

Opposed: Ken Poirier

Abstain: None

Russell Gagner made a motion that the hardship is the result of action taken by the prior owner. On a second from Mr. Poirier:

**VOTED – 3-0 in favor**

**Motion Passed**

**Standard Failed**

In favor: Russell Gagner; John Campbell; Ken Poirier

Opposed: None

Abstain: None

Chair Gagner stated that the application had failed required standards in order to be approved.

- Approval of Meeting Minutes
  - November 12, 2014

Chair Gagner made a motion to approve the meeting minutes from November 12, 2014. On a second from Mr. Campbell:

**VOTED – 3-0 in favor**

**Motion Passed**

In favor: Russell Gagner; John Campbell; Ken Poirier

Opposed: None

Abstain: None

➤ **Adjournment**

Chair Gagner adjourned the meeting at approximately 7:30 p.m.