

Zoning Board of Adjustment  
Approved Minutes of Meeting  
November 28, 2017

Members Present:

Kevin Scott (Scott), Vice Chair  
Courtney Cashman (Cashman)  
Jean Methot (Methot), Alternate  
Rick Snyder (Snyder), PB Rep/Alternate

Members of the Public Present:

Jerome Gesel  
Attorney John Cronin  
Attorney Bennett  
Terrence Fitzgerald  
Ms. Morneau

Agenda:

1. Meeting Convenes/Roll Call
2. Action on Minutes – October 17, 2017
3. Correspondence: None
4. New Business: New Ordinance Books
5. Applications and Hearings
  - a. Attorney John G. Cronin for Mary Gesel, Trustee of the Francis X. Gesel, Sr. Revocable Trust - appeal of administrative decision concerning the Center Scoop Ice Cream business located at 15 Chester Street, m/l 016-009-000 R1
  - b. Terrence Fitzgerald – variance for building setbacks at 164 Chester Turnpike, m/l 007-018-004 R1.
6. Other Business/Adjournment

1. Call to Order

Vice Chair Scott called the meeting to order at 7:01 pm and delayed roll call to go over the minutes of the last meeting and give other members additional time to arrive. Quorum was present with 2 members and 2 alternates. Vice Chair Scott advised those present that three members voting in the affirmative would be required to pass a decision.

2. Action on Minutes – October 17, 2017

Vice Chair Scott polled the members to see if they had read the minutes and all answered affirmatively. Mr. Snyder recommended a change to line 211 to add the word "buffer" to follow the word "wetland."

**Mr. Methot motioned to accept the minutes of October 17, 2017, as amended. Mr. Snyder seconded his motion, with all in favor, so moved.**

Vice Chair Scott called for roll call of those present which were: **Vice Chair Kevin Scott, Rick Snyder, Courtney Cashman and Jean Methot**, and reviewed the voting order of the agenda with alternates Methot and Snyder to vote for the absent members.

Vice Chair Scott read the public hearing notice into the record which was published in the Tri-Town Times and posted at the Chester Town Hall, the Chester Post Office and the Town's Zoning Board of Adjustment web page: [chesternh.org](http://chesternh.org). As both were continuances, abutters were previously notified by certified mail, return receipt requested. Mr. Gesel, Attorney Cronin and Mr. Fitzgerald were notified by first class mail of the hearing date.

3. Correspondence – None

4. New Business

Vice Chair Scott advised that the new Ordinance Books had come in. Ms. Hoijer advised that smaller copies could be made available. Mr. Snyder would like the smaller edition and Mrs. Cashman is fine with the larger volume and stated that her email address needed to be corrected on the contacts sheet. Ms. Hoijer will correct it and circulate copies to the other members.

5. Applications and Hearings:

a. Center Scoop Ice Cream, 15 Chester Street

Vice Chair Scott recognized Attorney Cronin, who appeared as counsel, and advised of the progress made on the outstanding items relative to the administrative appeal as well as their intention to seek permits that may be required to operate a wood shop hobby on the premises (non-retail) and a daycare where the hardware store had been. Attorney Cronin advised that they will be seeking further relief in the form of an application for a variance for the ice cream shop sign and fast food restaurant.

Attorney Cronin memorialized the fire, action plan, phasing, goals, fire safety issues, fire sprinklers, safety codes, sheet-rocking (residential and commercial two- hour rating), status of the building permit, concerns about septic and capacity. Attorney Cronin stated that Mr. Evans, former chair of DES subsurface who is with a consulting business now, advised that the existing system can carry/meet all regulations. The plan has been stamped, delivered to building inspector, who is satisfied according to

87 Attorney Cronin. The Ice Cream shop closed in early October and Attorney Cronin  
88 expressed concerns about the expiration of the temporary occupancy permit.  
89

90 Attorney Cronin requested a continuance for the Administrative Appeal hearing to  
91 February's regular meeting date of the Zoning Board of Adjustment.  
92

93 ***Mr. Snyder motioned to continue the hearing until February's regularly***  
94 ***scheduled meeting of the ZBA (February 20, 2018). Mr. Methot seconded his***  
95 ***motion, voting 4 in favor; motion carried.***  
96

97 b. Terrence Fitzgerald, 164 Old Chester Turnpike  
98

99 Vice Chair Scott indicated the members who would be voting on Mr. Fitzgerald's  
100 request for a variance: **Vice Chair Scott, Mr. Snyder, Mrs. Cashman and Mr.**  
101 **Methot.**  
102

103 Vice Chair Scott read from the minutes of the September meeting, and polled Mrs.  
104 Cashman who was not present at that meeting, to see if she understood the details of  
105 Mr. Fitzgerald's application and she indicated that she did. Vice Chair Scott presented  
106 a copy of the site plan drawn by Blaisdell dated October 13, 2017 and Mr. Fitzgerald  
107 provided an additional copy for viewing which depicted the proposed structure in the  
108 area which he indicated had the least impact to the setback requirements. Vice Chair  
109 Scott indicated that in his opinion these distances were far more acceptable as now  
110 they at least met the state's 50' requirements. Mr. Snyder summarized that the board  
111 had asked Mr. Fitzgerald to minimize the setback violations and show that on a plan  
112 and Mr. Fitzgerald has done that. Mr. Snyder stated that another concern had been  
113 not impeding access to the septic and this plan accomplishes that. Mr. Methot stated  
114 that this was at least within state standards by ten (10') feet. "The location is ok."  
115

116 Vice Chair Scott closed the public hearing at 7:20 pm and asked for deliberations and  
117 read the application into the record.  
118

119 Vice Chair Scott stated that he did not think it was contrary, it would add value and  
120 aesthetic enhancement to surrounding properties, which the board unanimously  
121 agreed with.  
122

123 Vice Chair Scott stated the he believed the spirit would be observed, reading Mr.  
124 Fitzgerald's answer "that he would be a good neighbor and build a structure with  
125 respect to existing buildings." Mr. Snyder stated that to put it differently, the spirit is to  
126 protect the wetlands. "After the site walk, and with moving the proposed structure to  
127 minimize the impact to wetlands, meeting state standards does meet with the spirit of  
128 the ordinance." Mr. Methot and Mrs. Cashman agreed.  
129

Substantial Justice. Mr. Fitzgerald answered that it would allow storage of his antique motorcycles.

Values. Mr. Snyder stated that “the structure is aesthetically pleasing and not an eyesore and doesn't harm anyone.”

Hardship. It would enhance the overall value and not negatively affect the surrounding environment.

Mr. Snyder stated that as to 1 and 2 they are satisfied already but for public purpose and so much wetland on the property, that presents a hardship by itself and there has been diligent effort to try to minimize that, which ties it back to the spirit of the ordinance. “There is fair and substantial relationship between public purpose.”

Mr. Methot stated that the hardship is the wetlands. “With the least amount of impact, he's done that, he's met the state standards. Because of the hardship of the land is the reason why it is to be sited where it is”

***Vice Chair Scott motioned to grant conditional approval of Mr. Fitzgerald's request for a variance from Article 5, Section 5.3.5 Table 2 as shown on a plan of Blaisdell dated 10/13/17. Mr. Snyder seconded his motion. With Vice Chair Scott, Mr. Snyder, Mrs. Cashman and Mr. Methot all voting yes, variance was GRANTED:***

***subject to the following conditions:***

***approval of a building permit by the Chester Building Inspector.***

Vice Chair Scott read the 30-Day Notice to Mr. Fitzgerald advising him that the BOS or any party to this action could file a request for a rehearing within 30 days.

Mr. Fitzgerald departed the meeting at 7:35.

## 6. Adjournment

***Mr. Methot motioned to adjourn the meeting. Mr. Snyder seconded his motion, all in favor; motion carried.*** The meeting of the Chester Zoning Board was adjourned at 7:35 pm on Tuesday, November 28, 2017.

Respectfully submitted,

Nancy J. Hoijer, Recording Secretary

USED POLE BARN DOES NOT  
OF CHESTER WETLAND

I HEREBY CERTIFY TO THE BUILDING INSPECTOR AND THE OWNER THAT THE  
EXISTING BUILDING OR ADDITION X DOES NOT CONFORM WITH THE  
TOWN OF CHESTER ZONING  
REGULATIONS REGARDING SETBACKS FROM STREETS AND LOT LINES.

CERTIFIED BY: Rose T. Blaisdell DATE: 10-13-17

PLAN REFERENCE:

PLAN TITLE: SUBDIVISION OF LOT #3 AS SHOWN ON PLAN LAND OF  
R. & J. JEANS IN THE TOWN OF CHESTER, NH DRAWN BY R. W. JEANS, SR."  
BY JOHN T. HILLS.

THIS PLAN DOES NOT CONSTITUTE AN ACTUAL SURVEY WITH RESPECT TO TITLE AND  
BOUNDARIES. ALL BEARINGS AND DIMENSIONS ARE FROM AN UNADJUSTED PRIOR  
MEASUREMENTS AND ARE BASED ON THE MOST RECENT RECEIVED AND PRIOR  
SURVEYS OF PLOT PLANS. THIS PLAN IS FOR CONSIDERATION TO BE A BOUNDARY  
ONLY AND NOT A REGISTERED SURVEY. THE SURVEY CONTROL ON THE SITE,  
BEFORE THE PLOT PLAN, IS PROPOSED ON THE PLOT PLAN DOES NOT VERIFY THE  
CORRECTNESS OF SAME.

THIS PLAN IS NOT TO BE USED FOR ESTABLISHING LOT LINES, THE ERECTION  
OF FENCES, WALLS, OR HEDGES.

## FOOTING CERTIFICATION

OF  
LOT NO. 4

ON

TAX MAP 7 BLOCK 18

PREPARED FOR

TERRENCE FITZGERALD

SITUATED IN THE TOWN OF

CHESTER, N.H.



PREPARED BY:

BLAISDELL SURVEY, L.L.C.  
22 SCRIBNER ROAD, RAYMOND, N.H. 03077  
DATE: 10-13-17  
JOB: 2555  
FB: 52  
DRAWN BY: RTB



