



# Town of Wilton, NH

## Application to the Zoning Board of Adjustment

(Revised January 2010)

### Instructions, Page 1 of 2

This application must be complete and filed in the Wilton Town Office, along with an abutter list, and with all fees paid, 14 days before the meeting at which the application is to be considered. If it is filed a week before that deadline, then we will try to contact you for additional information if it is incomplete. Otherwise, an incomplete application may result in your application being delayed until the following month.

If you have any questions about how to complete this application, please contact the Zoning Board chairperson or clerk, whose names and phone numbers you can get at the Wilton Town Office.

We will be happy to help you understand the Zoning Board application process and legal requirements, but we cannot advise you on your personal situation. If you are uncertain about how the zoning laws apply to your case, we recommend that you obtain professional advice.

## General Instructions

Use this form for all applications to the Wilton Zoning Board, except:

- If the Selectmen, Planning Board, Building Inspector, or any other town board or official has made a decision to allow someone else to do something that you don't think they should be allowed to do, use the *Third-Party Appeal of Administrative Decision* form.
- To ask the Zoning Board to hold a new hearing to reconsider a decision that it made at a previous meeting, use the *Request for Rehearing* form.

## Contents of an Application

Your application must include the "General Information" section and at least one application for a special exception, variance, equitable waiver, or appeal of administrative decision. You may include more than one application section, as long as they are all for the same proposed use.

For example, you might appeal an administrative decision, and also apply for a variance that would permit the same use, in case the appeal is denied; or you might have a proposed use that would require several variances and special exceptions.

## Fee

The fee is \$100 for the application, plus \$6 for each abutter.

## Abutter List

The abutter list must include the name and mailing address of

- the applicant,
- the property owner or owners,
- every person who owns property which touches any lot involved in the application (even at a corner) or is directly or diagonally across a road, stream, river, or railway right-of-way from a lot involved in the application, and
- the holders of any conservation, preservation, or agricultural preservation restrictions on any of the lots involved in the application.

Include the lot numbers of the all the abutting lots owned by each abutter.

You must also provide the abutter list (without the lot numbers) on two sets of adhesive mailing labels, no larger than 1½ × 3¼ inches.

(continued on the next page)



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### Instructions, Page 2 of 2

**It is your responsibility to provide an accurate abutter list. A Zoning Board decision that is made without notifying all abutters may not be valid, and an abutter who was not properly notified may be able to have the decision overturned.**

There are three ways to prepare an abutter list.

1. To be absolutely sure of getting it right,
  - a. Go to the Hillsborough County Registry of Deeds. Start with the deed, survey, or plot plan for the lot or lots involved in the application, and find the abutting lots.
  - b. Find the owners of all the abutting lots. Some of them might have been subdivided, so you should also check their site plans. You can also check whether there are any conservation, preservation, or agricultural preservation restrictions on any of your lots.
  - c. Go to the Wilton Town Office to check whether the town has a record of any of the abutting lots having been sold more recently than the records in the Registry were updated.
2. The town tax maps are not really designed to be used for abutter information, and there is no guarantee that the abutters shown on the tax maps are correct. However, if you want to take the risk,
  - a. Find the lots you're interested in and their abutting lots from the tax maps in the Town Offices.
  - b. Find the owners of those lots from the printed owner lists in the Town Offices.
  - c. Since the printed owner lists might not be up to date, check the owner information with the Town Clerk, who can look up the latest information in the Town's tax database.
  - d. The Town of Wilton only has lot and owner information for lots in Wilton, so if the lot you are interested in has abutting lots in a neighboring town,

you will have to go to the Town Hall in that town or to the county registry.

- e. The Town doesn't have any information about conservation, preservation, or agricultural preservation restrictions (unless they are held by the Town), so you are on your own there.
3. You can use the abutter list web tool at [abutters.wiltonzba.org](http://abutters.wiltonzba.org) to prepare your abutter list and submit it to the ZBA right from your web browser.

### Burden of Proof

The applicant shall have the burden of proving any historical facts relevant to an appeal before the Board. Such relevant historical facts include, but are not limited to, the date on which a lot, structure, or use came into existence.

Proof that a lot existed as a Lot of Record (Zoning Ordinance Section 3.1.19) on a particular date shall require signed certification to that effect by an attorney or licensed land surveyor, accompanied by copies of the deed or deeds from the Hillsborough County Registry of Deeds that support that conclusion.

The existence of a structure or use on a particular date may be established by testimony or by documentary evidence.

### Alternative Applications

If you are applying for a variance for reduced setbacks, frontage, or lot size, please read sections 17.2 and 17.3 of the Zoning Ordinance to see if they apply to your situation.

If you are applying for a variance from dimensional requirements for a building or structure that has already been built, please look at the "Application for an Equitable Waiver" in this package to see if it applies to your situation.



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**General Information, Page 1 of 3**

**Property Information**

Describe the lot involved in the application (the lot that you want to build a building on, subdivide, conduct a business or other activity on, etc.). If more than one lot is involved, then describe them all in this space if it is convenient, or attach additional copies of this page.

Tax Map and Lot Number \_\_\_\_\_ Lot Size \_\_\_\_\_

Street Address \_\_\_\_\_

Zoning District (check one):

- Residential     General Residence and Agricultural  
 Commercial     Industrial     Office Park

Relevant Overlay Districts (check any that apply):

- Research and Office Park     Floodplain Conservation     Watershed  
 Wetlands Conservation     Aquifer Protection     Elderly Housing

**Owner**

If the application involves multiple lots with different owners, attach additional copies of this page.

Name \_\_\_\_\_

Mailing address \_\_\_\_\_

Mailing address \_\_\_\_\_

Town, State, ZIP \_\_\_\_\_

**This application must be signed by the owners of all lots involved in the application.**

I approve the submission of this application. If an applicant or representative is named on the next page, the person named there has my permission to represent me before the Wilton Zoning Board.

Signature \_\_\_\_\_ Date \_\_\_\_\_

(continued on the next page)

|                               |   |
|-------------------------------|---|
| <b>clerk use only</b>         |   |
| Date and time received: _____ |   |
| Received by: _____            | Amount paid: _____  |
| Case #: _____                 | <input type="checkbox"/> Abutter list and labels included |



**Town of Wilton, NH**  
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**General Information, Page 2 of 3**

**Applicant**

The applicant is the person who actually wants to build the building, conduct the business, etc. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, etc. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.

Same as owner

Name \_\_\_\_\_

Mailing address \_\_\_\_\_

Mailing address \_\_\_\_\_

Town, State, ZIP \_\_\_\_\_

**Signature of Applicant or Owner**

**I certify that to the best of my knowledge and belief, all information provided in this application is accurate.**

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Representative**

Fill out this section if the application is being submitted by a realtor, surveyor, engineer, attorney, etc., on behalf of the actual owner or applicant.

Name \_\_\_\_\_

Mailing address \_\_\_\_\_

Mailing address \_\_\_\_\_

Town, State, ZIP \_\_\_\_\_

**I authorize the above-named representative to submit this application and to speak before the Zoning Board on my behalf.**

**Signature of applicant or owner**

Signature \_\_\_\_\_ Date \_\_\_\_\_

(continued on the next page)



# Town of Wilton, NH

## Application to the Zoning Board of Adjustment

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### General Information, Page 3 of 3

### Contact Information

How can we get in touch with the applicant or the applicant's representative, if there are questions about or problems with the application? Provide at least one of the following. If you provide more than one, please check your preferred form of contact.

This information is for:  the applicant  the representative.

Daytime phone \_\_\_\_\_  Evening phone \_\_\_\_\_

Work E-mail \_\_\_\_\_  Personal e-mail \_\_\_\_\_

### Proposed Use

**Explain what you want to do with the property.** (Do you want to build a building, subdivide a lot, have a business, ...).

**Explain why you need the Zoning Board to let you do it.** (The building will be too close to the lot line; the Planning Board wouldn't approve your subdivision; your lot is in a zoning district where businesses aren't allowed; ...).

**Be specific.** Identify the section or sections of the Zoning Ordinance that apply. If lot sizes or configurations or building placements are relevant, provide a scale drawing or plan showing all relevant information, such as lot lines, setbacks, present and proposed structures on your lot and neighboring lots, etc.

Description of proposed use and need for ZBA approval (use this page; attach additional pages as necessary):

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**Town of Wilton, NH**  
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**Application for a Special Exception**

A Special Exception is a use which is permitted by the Zoning Ordinance, but requires approval from the Zoning Board. Most special exceptions have a list of requirements; the Zoning Board can only approve the special exception if it finds that all the requirements are satisfied.

**Note that in addition to the specific requirements that may be listed for a particular special exception, all special exceptions are subject to the general requirements in Section 4.4 of the Zoning Ordinance.**

What section of the Zoning Ordinance defines the Special Exception that you are applying for? \_\_\_\_\_

Explain why your proposed use satisfies the requirements of the Zoning Ordinance: \_\_\_\_\_

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**Town of Wilton, NH**  
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**Application for a Variance, Page 1 of 2**

When, because of the specific characteristics of your property, the Zoning Ordinance unreasonably restricts your use of your property without a corresponding public benefit, the Zoning Board may grant a Variance, which modifies or sets aside particular requirements of the Ordinance.

The specific section of the Zoning Ordinance to be varied: \_\_\_\_\_

The requirement in that section that you want to change, and how you want it changed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To grant a variance, the Zoning Board must decide that it will satisfy each of the following five conditions. Please explain why you believe that each of the following statements is true. (Use additional sheets of paper if necessary.)

1. Granting the variance would not be contrary to the public interest: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Granting the variance would be consistent with the spirit of the Ordinance: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Granting the variance would do substantial justice: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The proposed use will not diminish surrounding property values: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(continued on the next page)**



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**Application for a Variance, Page 2 of 2**

5. Literal enforcement of the provision of the ordinance would result in unnecessary hardship.  
**Complete just one of sections 5(a), 5(b), or 5(c):**

**5(a)** i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:

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ii. The proposed use is a reasonable one:

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iii. The hardship is a consequence of special conditions of the property that distinguish it from other properties in the area:

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**5(b)** i. The property cannot be reasonably used in strict conformance with the ordinance:

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ii. The hardship is a consequence of special conditions of the property that distinguish it from other properties in the area:

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**5(c) Hardship resulting from a physical disability.**

i. The variance is necessary to make reasonable accommodations to allow a person with a recognized physical disability to reside in or regularly use the premises:

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ii. The variance is in harmony with the general purpose and intent of the zoning ordinance:

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**Town of Wilton, NH**  
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**Application for an Equitable Waiver, Page 1 of 2**

When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by the Zoning Ordinance, the Zoning Board can grant an "Equitable Waiver" from the requirement. See RSA 674:33-a.

What requirement of the Zoning Ordinance is violated? \_\_\_\_\_

\_\_\_\_\_

What section of the Zoning Ordinance is the requirement in? \_\_\_\_\_

It is your responsibility to prove each of the following facts to the Zoning Board. Please explain why you believe that each of the following statements is true. (Use additional sheets of paper if necessary.) See the note on "Burden of Proof" in the "General Information" section at the beginning of this application.

1. Either:

(a) The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

and

(b) The violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Or:

(c) The violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**(continued on the next page)**



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**Application for an Equitable Waiver, Page 2 of 2**

2. The physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property. \_\_\_\_\_

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3. Due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected. \_\_\_\_\_

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**Town of Wilton, NH**  
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**Appeal of an Administrative Decision**

If any Town official or board has denied you permission to do something, refused to issue you a permit or other approval, or has taken enforcement action against you, and the decision or action is based on what you believe to be an incorrect interpretation or application of the terms of the Wilton Zoning Ordinance, you may appeal that decision to the Zoning Board.

The Zoning Board does not have any authority to review a discretionary decision to commence formal or informal enforcement proceedings, or a decision based on any law or regulation other than the Wilton Zoning Ordinance.

If you wish to appeal an administrative decision to grant a permit or other approval for the use of property not belonging to you, please use the *Third-Party Appeal of Administrative Decision* Form.

For more information, please refer to RSA 674:33, I(a) and RSA 676:5.

**An appeal of an administrative decision must be filed within 30 days of when the decision was made.**

You must attach a copy of the decision notice with this appeal. If the decision was made by a board, you should also attach a copy of the minutes of the meeting at which the decision was made. **The Zoning Board cannot review an informal or verbal decision.**

What is the decision that you are appealing? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What Town official or board made the decision? \_\_\_\_\_

What sections of the Zoning Ordinance was the decision based on? \_\_\_\_\_

Why do you believe that the decision was incorrect? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_