

Town of Wilton, NH
Request for a Rehearing
(Revised May 2024)
Application, Page 1 of 3

Case Information

ZBA Case Number of the original application: # 3/10/2026-1

Date of the decision: May 12 2026

If the original application included more than one specific application, which ones does this request apply to? Dressage Area Rentals

Requestor

Information about the person who is requesting the rehearing.

Name Fabry Gagné and Luc Sirois

Mailing address 325 Burton Highway

Mailing address _____

Town, State, ZIP Wilton NH 03086

You are (check one):

- the original applicant
- the owner of the property
- the Board of Selectmen
- an abutter or other party who was required to be notified of the original application
- a party directly affected by the decision

If you checked the last box, explain how you are directly affected by the decision: _____

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

Signature Fabry Gagné Date 6/5/2026

(continued on the next page)

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

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Representative

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

Name Fougere Planning & Development, Inc. Mark Fougere

Mailing address 253 Jennison Rd

Mailing address _____

Town, State, ZIP Milford NH 03055

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

6/5/2026

Signature of requestor [Signature] Date _____

Contact Information

How can we get in touch with the applicant or the applicant's representative, if there are questions or problems about 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 603 315-1288

Evening phone _____

Work E-mail fougereplanning@comcast.net

Personal e-mail _____

(continued on the next page)

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Details of Request

You are requesting that the Zoning Board reconsider (check one):

- its approval of the application
- its denial of the application
- the conditions, restrictions, or modifications it imposed when it approved the application

Reasons for a Rehearing

A motion for rehearing made under RSA 677:2 shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the zoning board of adjustment, a board of appeals, or the local legislative body shall be taken unless the appellant shall have made application for rehearing as provided in RSA 677:2; and, when such application shall have been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by a court unless the court for good cause shown shall allow the appellant to specify additional grounds. (RSA 677:3)

Why do you believe that the Zoning Board should hold a new hearing?

Reasons for a rehearing usually fall into two categories:

- You have additional evidence or information that you believe might change the decision.
- The Zoning Board made mistakes in how it applied the law (state law, case law, or the Zoning Ordinance) to the facts of the case.

Parties to a zoning case are expected to have prepared their case before the hearing. Therefore, if you are requesting a rehearing to present new evidence or information, you should explain why you couldn't have presented that evidence or information at the original hearing.

The Zoning Board will usually not grant a rehearing to consider evidence that could have been presented at the original hearing.

Set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable (use this page; attach additional pages as necessary): _____

See attached

FOUGERE PLANNING & DEVELOPMENT, Inc.

Mark J. Fougere, AICP

Milford, New Hampshire 03055
603-315-1288 Fougereplanning@comcast.net

June 8, 2026

Mr. Neil Faiman, Chairperson
Zoning Board of Adjustment
Town of Wilton
42 Main Street
Wilton, NH 03086

Dear Chairperson Faiman and Board members,

On May 12th, 2026, the Wilton ZBA denied a Home Occupation request from Faby Gagne and Luc Sirois (Applicants) to rent out an existing Dressage Arena. We appeal this decision as the proposed use is not a Home Occupation, but rather a permitted use under Wilton's Zoning Ordinance, section 6.1 Permitted uses; All general farming and forestry activities.

Based upon the statutory provision of state law overseeing farming and agriculture uses in New Hampshire, a "right to farm state", it is my professional opinion that the Dressage Arena Rentals constitutes a farming (agricultural) use of the property and is not a Home Occupation and therefore is allowed by right without any ZBA special exception approval required. Wilton has chosen not to regulate farming activities. This opinion is supported as follows:

1. New Hampshire's land use statutory provisions make it clear the farming and agriculture uses are vital to the State. Under Title LXIV, Planning and Zoning, Purpose, RSA 672:1 Declaration of Purpose states:

"The general court hereby finds and declares that:

III-b. Agriculture makes vital and significant contributions to the food supply, the economy, the environment and the aesthetic features of the state of New Hampshire, and the tradition of using the land resource for agricultural production is an essential factor in providing for the favorable quality of life in the state.

Natural features, terrain and the pattern of geography of the state frequently place agricultural land in close proximity to other forms of development and commonly in small parcels. Agricultural activities are a beneficial and worthwhile feature of the New Hampshire landscape. Agritourism, as defined in RSA 21:34-a, is undertaken by farmers to contribute to both the economic viability and the long-term sustainability of the primary agricultural activities of New Hampshire farms. Agricultural activities and agritourism shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;

III-d. For purposes of paragraphs III-a, III-b, III-c, and III-e, "unreasonable interpretation" includes the failure of local land use authorities to recognize that agriculture and agritourism operations or activities as defined in RSA 21:34-a, forestry, renewable energy systems, and commercial and recreational fisheries, when practiced in accordance with applicable laws and regulations, are traditional, fundamental and accessory uses of land throughout New Hampshire, and that a prohibition upon these uses cannot necessarily be inferred from the failure of an ordinance or regulation to address them;

In addition, RSA 674:17 Purposes of Zoning Ordinances states:

I. Every zoning ordinance shall be adopted in accordance with the requirements of RSA 674:18. Zoning ordinances shall be designed:

(i) To encourage the preservation of agricultural lands and buildings and the agricultural operations described in RSA 21:34-a supporting the agricultural lands and buildings;

2. Under Section 6.1 of the Wilton Zoning Ordinance, Permitted Uses in the General Residence and Agriculture District, b. states "All farming and forestry activities". Farming is not defined in the Wilton Zoning Ordinance but is clearly provided for under State Statutes which prevail as they are not addressed locally:

*Agricultural Uses of Land, Section 674:32-a Presumption. – In accordance with RSA 672:1, III-d, whenever agricultural operations or activities as defined in RSA 21:34-a are **not explicitly addressed** with respect to any zoning district or location, such operations or activities **shall be deemed to be permitted there, as either a primary or accessory use**, so long as conducted in accordance with best management practices guidelines adopted by the commissioner of the department of agriculture, markets, and food and with applicable federal and state laws, regulations, and rules.*

Given Wilton's Zoning Ordinance does not regulate farming uses in any way that are applicable to this Application, the proposed use of the Dressage Arena rental by the Applicant is permitted by right and no Special Application is required. The

proposed Dressage Arena is not a Home Occupation but is a farm related use and is permitted by right.

3. The proposed Dressage Arena Rentals come under the State's definition of farming detailed in RSA 21:34, highlighted here. The training and riding instruction of equines is specifically noted under the definition of a Farm and these activities traditionally take place within a Dressage Arena. The proposed rental of the Arena is a low impact operation, with a maximum of two horses for practice activities and no competitions will be taking place.

21:34-a Farm, Agriculture, Farming. –

I. The word "farm" means any land, buildings, or structures on or in which agriculture and farming operations or activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock; in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in the operations or activities named in paragraph II(a) or (b) of this section or any combination of such individual operations or activities.

II. The words "agriculture" and "farming" mean all operations or activities of a farm, including:

(5) **The husbandry, boarding, training, or riding instruction of equines.**

(b) Any practice or activity on the farm incident to, ancillary to, or in conjunction with such farming operations, including, but not necessarily restricted to:

(1) *Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.*

(4) *Forestry or lumbering operations.*

(5) *Marketing or selling at wholesale or retail, regardless of the manner or form of the transaction, any livestock or products derived principally from the production of the farm, including, but not limited to items listed in subparagraph (a), whether on-site or off-site, provided that marketing such products is not specifically prohibited by local regulations. For the purposes of this section marketing shall include agritourism, which means attracting visitors to a farm to attend events or activities that are accessory uses to the primary farm operation, including, but not limited to, being provided a meal, making overnight stays, enjoyment of the farm environment, education which shall be instruction or learning about the farm's operations, or active involvement in the activities of the farm.*

4. Home Occupations cover many trades, dressmakers, plumbers, electricians and an accountant to name a few. The proposed rental Dressage Arena rental operation is NOT a Home Occupation as defined by the Wilton Zoning Ordinance, but a permitted agriculture use.
5. Agritourism is an allowed use under the State's definition of farming, and the proposed Dressage Arena meets that definition. Agritourism means **attracting visitors to a farm to attend...activities... active involvement in farm activities**. In the board's discussions on farm uses, the ZBA failed to discuss Agritourism as an allowed use for this application.

Given the foregoing facts, it is our professional opinion that the proposed use is NOT a Home Occupation and does not require special exception approval from the ZBA. The proposed Dressage Arena rental proposed by the Applicant falls under the State's definition of Farming/Agriculture. Farming is a permitted use under the Wiltons Zoning Ordinance for this property.

Sincerely,

Mark J. Fougere

Mark J. Fougere, AICP

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RW and PA Folz TTEES
109 Stiles Farm Road
Wilton, NH 03086

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Kevin V & Catherine R Gray TTE
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Wright, Heather & David
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Bacon, Eric A & Tracy-Jean
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C/O KENTON BLAGBROUGH
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Preston Revocable Trust
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