



Town of Wilton, NH Zoning Board of Adjustment

Notice of Decision

The request by Edyta and Steven Weighart for a variance to section 5.3.1.1(a) of the Wilton Zoning Ordinance and/or special exceptions under sections 6.6.1 and 5.3.1 of the Wilton Zoning Ordinance has been granted. It will allow a single-employee electronic manufacturing business as a home occupation in an existing barn on Lot H-83-1-1, 20 Stephens Road, where the area of the barn that will be used exceeds 20% of the heated floor space of the house.

The decision was made by a vote of five in favor, none opposed, on a motion to approve at the Tuesday, September 8, 2026 hearing on the application.

This decision will expire if the construction or use permitted by it has not commenced within two years of the decision date. See Wilton Zoning Ordinance section 17.4.2

The selectmen, any party to the action or proceedings, or any abutter may request a rehearing of this decision. See N.H. RSA 677:2. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment using the form which is available on the Zoning Board web site at <wiltonzba.org/how_to_apply.html> or in the Wilton Land Use Office.

Findings of fact

- Lot H-83-1-1 is located in the General Residence and Agricultural District.
- The lot is approximately 4.7 acres and has 315 feet of frontage on Stephens Road.
- There are a 2000 sq. ft. house and a 3000 sq. ft. barn on the property.
- The applicants propose to conduct a light electronics manufacturing operation using 1500 sq. ft. of the barn.
- The proposed use would satisfy all the requirements of a Wilton Zoning Ordinance Section 5.3.1.1 for a home occupation requiring neither a special exception nor site plan review, except for subsection (a), which requires that it “occupy an aggregate area no greater than 20% of the existing gross heated floor area of the primary residence.”
- Further details of the property and the proposed use are found in in the narrative attachment to the application.
- The applicants have requested a variance to subsection 5.3.1.1(a) of the Wilton Zoning Ordinance, to allow the proposed use notwithstanding the floor space discrepancy. Failing that, they have requested a special exception under sections 6.1.1 and 5.3.1.1 to allow the proposed home occupation.

Decision

The variance was granted, subject to the condition that the home occupation continue to meet requirements (b)–(e) of Section 5.3.1.1 and that it not expand beyond the permitted 1500 sq.ft. of the barn.

Reasons for the Decision

The Zoning Board completely agrees with the reasons for granting the variance submitted by the applicants' attorney, and has chosen to adopt them verbatim.

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

Granting the variance would not be contrary to the public interest, nor would it violate the spirit of the ordinance. The relief requested would not alter the essential character of the neighborhood or threaten public health, safety, or welfare. The proposed home occupation will be conducted entirely within an existing barn. It will not involve customer or client visits, non-resident employees, signage, exterior storage, exterior operations, retail sales from the premises, new construction, or material traffic impacts.

Furthermore, it does not seek relief from the Ordinance's substantive protections for neighborhood character, traffic, parking, exterior appearance, or performance impacts. The use will remain residentially subordinate and will be effectively invisible from off-site. Under New Hampshire law, mere conflict with the ordinance text is not enough; the question is whether the variance would "unduly, and in a marked degree" conflict with the ordinance's basic zoning objectives.

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

The spirit of the Ordinance is observed because the proposed use remains a home occupation in substance. Section 5.3.1.1 allows certain home occupations without special exception approval where they remain small, indoor, resident-operated, and free of customer traffic, employee traffic, signs, and exterior operations. The spirit of the particular requirement from which applicants seek a variance has to do with the space requirements compared to total heated floor area of the residence. The intention of this requirement is to ensure that residences remain primarily residential in character. The Town does not want a residence in name only, that is used more for business than family affairs. Here, the variance concerns only the amount of existing interior barn space that may be used. No portion of the actual residence itself will be used for the Home Occupation. The proposed use satisfies those substantive protections. The only relief requested is from the numerical 20% floor-area cap.

Strict application of the 20% cap to this property would not advance the Ordinance's purpose where the proposed activity will occur inside an existing barn, will be operated by the resident owner, will not be visible from the road, and will not create the external impacts the home-occupation rules are designed to prevent. The variance therefore preserves the Ordinance's basic zoning objectives while allowing reasonable use of an existing associated structure.

3. Granting the variance would do substantial justice

Granting the variance would do substantial justice because denial would impose a substantial burden on Applicant without a corresponding benefit to the public. "Perhaps the only guiding rule on this factor is that any loss to the individual that is not outweighed by again to the general public is an injustice." *Malachy Glen Assocs. v. Town of Chichester*, 155 N.H. 102, 109 (2007). Denial would prevent Applicant from using existing barn space for a quiet, enclosed, low-impact home occupation, even though the use will have no customer traffic, no non-resident employees, no signage, no exterior storage, no exterior operations, and no material effect on abutters.

The public would gain little or nothing from requiring this particular use to be limited to the 20% floor-area cap, because the proposed use does not implicate the traffic, visibility, noise, safety, or neighborhood-character concerns addressed by the home-occupation rules. New Hampshire's substantial-justice test asks whether the loss to the individual is outweighed by again to the general public. Here, there is no appreciable public gain from denial.

4. The proposed use will not diminish surrounding property values

The proposed use will not diminish surrounding property values because it will be conducted indoors, inside an existing barn, and will have no outward commercial appearance. There will be

no customer or client visits, no retail sales from the premises, no non-resident employees, no signage, no exterior storage, no exterior operations, and no new structure.

The use is also represented as complying with the applicable performance standards: no detectable vibration beyond the property line, no excessive noise, no odors, no smoke or airborne particulates, no hazardous or toxic discharge, no lighting or glare beyond ordinary residential use, no signage, no meaningful fire or explosion hazard beyond ordinary residential use, no soil disturbance, and no proposed new structures. Because the use will be enclosed, quiet, and residentially subordinate, there is no reasonable basis to conclude that surrounding property values will be diminished.

5. Literal enforcement of the provision of the ordinance would result in unnecessary hardship.

5(a)(i). Owing to special conditions of the property that distinguish it from other properties in the area

The property contains an existing three-story barn with approximately 3,024 square feet of interior space. The proposed home occupation would use approximately 1,500 square feet of that existing barn space, consisting of all of the second floor and approximately one-half of the first floor, while the third floor remains personal use only. The primary residence remains the principal use of the property.

The special condition is the presence, size, and configuration of the existing barn in relation to the residence and the proposed indoor, low-impact use. The barn allows the home occupation to be separated from the family's living space and conducted in a contained interior area without exterior commercial effects. That condition distinguishes the property from atypical residence without a substantial existing associated structure suitable for this type of home occupation.

5(a)(ii). 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

The general public purpose of Section 5.3.1.1(a) is to ensure that a home occupation remains incidental and secondary to residential use and does not become a commercial or industrial use with off-site impacts. That purpose is fully satisfied here without strict application of the 20% cap.

The proposed home occupation will remain resident-operated, indoors, and subordinate to the residence. It will involve no customers or clients at the property, no non-resident employees, no signs, no exterior storage, no exterior operations, and no meaningful increase in traffic. Applying the 20% cap to prohibit use of existing barn space would not materially advance the purpose of the provision, because the proposed use does not create the visibility, traffic, parking, noise, or neighborhood-character impacts the provision is intended to prevent.

RSA 674:33 expressly allows this hardship analysis where, owing to special property conditions, no fair and substantial relationship exists between the public purpose of the ordinance provision and its application to the property, and the proposed use is reasonable.

5(a)(iii). The proposed use is a reasonable one

The proposed use is reasonable. It is a home occupation conducted by the resident owner within an existing barn. It involves small, specialized, low-voltage electronic sensing and monitoring devices, with remote sales only. There will be no customer or client visits to the property, no non-resident employees, no signage, no exterior storage, no exterior operations, no retail sales from the premises, and only limited small-scale deliveries.

The use is also reasonable because Wilton's Ordinance expressly allows qualifying home occupations without special exception approval. The requested variance does not seek to avoid the home-occupation rules generally; it seeks relief only from the numerical area cap, while

leaving all substantive protections in place. Under New Hampshire law, the applicant does not have to prove the proposed use is necessary to the operation, only that it is a reasonable use of the property given its special conditions.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil Faiman", with a stylized, flowing script.

Neil Faiman, Chairperson
Wilton ZBA
September 9, 2026

Case #9/8/2026-1, decided Tuesday, September 8, 2026