



Town of Wilton, NH
Application to the Zoning Board of Adjustment
 (Revised January 2010)

RECEIVED

General Information, Page 1 of 3

MAR 30 2010

Property Information

TOWN OF WILTON NH

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 SEE Exhibit A
 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. All Lots are owned by

Name MARIE L. SIROIS AND PATRICIA BABINEAU TRUSTEE, T. ARTHUR BABINEAU 1997 TRUST
 Mailing address % CHEEVER AND SULLIVAN, P.A. 17 MAIN ST. P.O. Box 360
 Mailing address _____
 Town, State, ZIP Wilton, NH. 03086

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 Patricia M. Babineau trustee Date 3/30/10
Marie Sirois by her attorney C. Sullivan
 (continued on the next page)

clerk use only	
Date and time received: <u>3/30/10 12:06</u>	
Received by: <u>D. Miller</u>	Amount paid: <u>199.00 ch 1087</u>
Case #: _____	<input type="checkbox"/> Abutter list and labels included



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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 *Patricia M. Sabuean* Date *3/30/10*

C/Sullivan, attorney for Maria Seroi

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 *C. Wilson Sullivan* + Samuel G. Proctor, Jr***

Mailing address ** Box 360, 17 Main Street, Wilton, NH 03086*

Mailing address *** P. Box 95, Wilton, N.H. 03086*

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 *Patricia M. Sabuean* Date *3/30/10*

C/Sullivan, attorney for Maria Seroi
 (continued on the next page)



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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. C. Wilson Sullivan

Daytime phone 603 654-2031 Evening phone 603 672-1304

Work E-mail cws@tellink.net 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):

The Applicant currently owns six (6) separate lots of record as set forth on Exhibit A.

The Applicant proposes to reconfigure the property lines so the end result will be that the Applicant still has six (6) lots of record.

At the present time, two (2) of the Applicant's lots have Class V Road frontage (40 feet and 80 feet) on Holt Road and one (1) lot has Class VI Road frontage on Putnam Hill Road. The plan submitted with this application, if approved by the Zoning Board of Adjustment and subsequently approved by the Wilton Planning Board would result in one lot with Class V Road frontage on Holt Road, one lot with Class VI Road frontage on Putnam Hill Road and the remaining lots would have no Town Road frontage and would be serviced by a private drive.

The Applicant asks for a variance from the provisions of Paragraph 6.2.3 which requires each lot to have 200 feet of Class V Road frontage.

The Applicant is willing to stipulate as a condition to any approval that five (5) out of the six (6) lots may never be further subdivided. The Applicant is further willing to stipulate and agree that the 56.284 acre lot which abuts the Wilton-Lyndeborough Co-Operative High School cannot be sold for a period of five (5) years, unless it is to be sold to the Town of Wilton and added onto the existing school property.



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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: Section 6.2.3

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

We are seeking approval to allow lots without the
Required CLASS V ROAD Frontage

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.) SEE Attachment for explanations

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:

ii. The proposed use is a reasonable one:

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

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

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

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:

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

EXHIBIT A
TAX MAP AND LOT NUMBERS

The Variance Application being submitted involves the following Tax Map and Lots, namely:

- Map D, Lot 20, containing 51.160 acres
- Map D, Lot 71, containing 12.881 acres
- Map D, Lot 70, containing 61.789 acres
- Map D, Lot 83, containing 1.990 acres
- Map D, Lot 22, containing 1.465 acres
- Map D, Lot 21, containing 2.057 acres (this lot is owned by Patricia Babineau, Trustee of the T. Arthur Babineau 1997 Trust only)

All property is off Holt Road and/or abutting Putnam Hill Road.

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

The New Hampshire Supreme Court has opined on what it means to be contrary to the public interests. The Court has said, “Thus, to be contrary to the public interests or injurious to the public rights of others, the Variance must unduly and in a marked degree conflict with the Ordinance such that it violates the Ordinance’s basic zoning objectives.”

If the Board granted the Variance requested to the Applicant, it would not alter the essential character of the neighborhood, it would not threaten the public health, safety or welfare, and, therefore, would not be contrary to the public interest.

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

One of the primary reasons for a frontage requirement, is to spread out housing and density. The proposal of the Applicant is consistent with this purpose. The distance between any houses on the lots shown on the submitted plan is truly substantial. In fact, the re-configured lots are more spread out than those currently owned by the applicant.

3. Granting the variance would do substantial justice:

Substantial justice can be determined as to whether the benefit of the variance to the Applicant when weighed against the harm to the general public is great. With the lots so configured and with their size, no reasonable person could claim that there was a harm to the general public. Substantial justice is done if the granting of the variance would not cause a harm to the general public that outweighs the benefit to the property owner. This is the case in this instance.

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

The Applicant proposes to create six (6) residential lots ranging in size from 8.239 acres, four (4) lots with at least fifteen (15) acres, and one (1) lot with approximately fifty-six (56) acres. Such a use could not diminish surrounding property values.

5(a)

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

In the case at hand, the Applicant could substantially create a reconfiguration of lots by lot line changes submitted to the Planning Board. Since the requests for relief involves permission to reconfigure and not create lots and since the lots will be large in size, there is no fair and substantial relationship between the purposes of requiring two hundred (200) feet of frontage and the proposal hereby submitted.

ii. The proposed use is a reasonable one:

Allowing for a reconfiguration of six (6) lots into six (6) lots with acreage ranging from a minimum of eight (8) acres to fifty-six (56) acres is a reasonable use.

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

The special conditions in this Application is that the Applicant has six (6) lots of record, containing a total of one hundred thirty-one (131) acres, more or less. This is a unique situation. The existing lots came into being before zoning was adopted and the applicant believes that the lots are legally buildable under current town ordinances. However, the historical layout and configuration of the lots, as well as a physical location of some of the individual lots present a hardship relative to their use and does not reflect good planning, as the configuration, layout and physical location of some of the lots are not ideal, and are both difficult to access and utilize. Another hardship is that some of the existing lots would require long private drives and the proposal being submitted reflects a logical reconfiguration with no increase in the number of lots and substantially lessens any future impact to the land itself, the area and the Town.