



Town of Wilton, NH
Application to the Zoning Board of Adjustment
 (Revised January 2011)

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 L-7 Lot Size 12300 sq.ft ±

Street Address 5 Gregoire Circle

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 Denis R. Viens

Mailing address 37 Shasta Drive

Mailing address _____

Town, State, ZIP Londonderry, NH 03053

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 Denis R. Viens Date June 20, 2011

(continued on the next page)

clerk use only	
Date and time received: _____	
Received by: _____	Amount paid: _____
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 Dennis R. Vento Date June 20, 2011

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

Mailing address P.O. Box 360

Mailing address _____

Town, State, ZIP Wilton, NH 03086

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 Dennis R. Vento Date June 20, 2011

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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.

Daytime phone 654-2031 Evening phone _____

Work E-mail cwslaw@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):

1) On the issue of an appeal of an Administrative decision, the applicant takes the position that the existing structure, erected in the 1930's as a duplex, Remains A duplex + the use as a duplex has never been abandoned. The building inspector takes the position that the use as a duplex has been Abandoned.

2 In the event that the ZBA agrees with the building inspector that the use has been Abandoned, the applicant requests An equitable waiver allowing for a duplex use. The lot does not have the acreage required under Section 5.2.1 of the Wilton Zoning Ordinance.



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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? Decision of the building inspector denying an electrical permit application on the grounds that the duplex use has lost its status of a non-conforming use. The zoning ordinance requires .5 acres per dwelling unit

What Town official or board made the decision? John Shepardson, Building inspector

What sections of the Zoning Ordinance was the decision based on? 5.1.3 + 17.1c

Why do you believe that the decision was incorrect? The applicant states that a duplex building was constructed in the 1930's. The position of the applicant is that there was never an intent to abandon the use as a duplex. Although for a period of time the building was not actually used as a duplex. One door way was constructed on the second floor to gain access from one side to the other but the living area on first floor + basement are still separated by walls.



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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? See Exhibit A

What section of the Zoning Ordinance is the requirement in? See Exhibit A

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: See Exhibit A

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: _____

See Exhibit A

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. _____

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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. See Exhibit A

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. See Exhibit A

**EXHIBIT A TO
APPLICATION FOR AN EQUITABLE WAIVER
IN THE MATTER OF DENIS R. VIENS**

What requirement of the Zoning Ordinance is violated?

That provision that requires a minimum of one-half (½) acre per dwelling unit.

What section of the Zoning Ordinance is the requirement in?

Section 5.2.1.

Answer to Question 1:

(a) The violation was not noticed or discovered by any owner or former owner, agent or municipal officer until June of 2011. At that point, the applicant had just purchased the property.

(b) The violation was not an outcome of ignorance of the law or ordinance or failure to inquire and the like. The purchase and sale agreement for the property stated that it was a duplex building. The tax cards (see 4 attachments attached hereto) all indicate that it was a mixed use two family building. A visual inspection of the property, both from the inside and from the outside, would cause any potential purchaser of the property that the building itself was a duplex. There are separate outdoor entrances for each unit, there is a brick firewall separating the units in the basement, and there is no access between the units on the first floor. The only common access between the units is one door on the second floor.

Answer to Question 2:

There is no public or private nuisance nor a diminishment of the property value or an adverse affect on any other property by virtue of the duplex being in existence. The outside of the building has ample parking for both units within the building, there will be no changes to the outside of the building, and the building itself has existed appearing as a duplex since the 1930's. There are duplexes in the area of the location of this property and in fact the adjacent property is a duplex. There is also a mobile home located on an adjacent property and one lot almost adjacent to this property contains only a four car garage and nothing else. No reasonable person would believe that there would be a diminishment of property value or an adverse affect on adjacent properties.

Answer to Question 3:

The building is amply suited for a duplex use, and in fact was created for a duplex use. There are separate kitchens, separate bathrooms, separate first floor, and a separate basement. There will be no public benefit and a great burden and injustice inflicted upon the applicant should this application for equitable waiver not be granted.