



**Town of Wilton, NH**  
**Request for a Rehearing**  
 (Revised January 2010)  
**Application, Page 1 of 4**

**RECEIVED**  
 JUL 10 2018  
 TOWN OF WILTON NH

**Case Information**

ZBA Case Number of the original application: #6/12/18-3<sup>2</sup>

Date of the decision: Tuesday, June 12, 2018

If the original application included more than one specific application, which ones does this request apply to? \_\_\_\_\_

**Requestor**

Information about the person who is requesting the rehearing.

Name: Gareth Dimery

Mailing address: 142 Intervale Road

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:

Date: 7/9/18

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



**Town of Wilton, NH  
Request for a Rehearing  
(Revised January 2010)  
Application, Page 2 of 4**

## Representative

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

Name: NOT APPLICABLE \_\_\_\_\_

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 requestor  Date 7/9/18

## 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

Daytime phone: (609) 760-2215

Evening phone: (609) 760-2215

Work E-mail: gareth.dimery@faa.gov

Personal e-mail: gareth@dimery.net

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**Town of Wilton, NH**  
**Request for a Rehearing**  
**(Revised January 2010)**  
**Application, Page 3 of 4**

## 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?

**You have additional evidence or information that you believe might change the decision.**

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): \_\_\_\_\_

Additional evidence has come to my attention. It did not become known to me until after the original hearing that a variance to Zoning Ordinance 4.6.7 - Wetlands Conservation District Setback, had been granted to the original land owner, Thomas A. Holmes, to reduce the setback from 50 feet to 32 feet to allow room for a house with a deck, and to facilitate the use of the existing barn on the property (Case 10/11/16-1 with application granted Oct 11, 2016). The variance was granted because it was determined to have no negative impact on the public, the proposed construction was to be set back further than the existing barn structure, the wetlands was to be protected with appropriate erosion control measures, the lot was to be developed in a way comparable to the surrounding property, and that construction of a new house on the lot would increase surrounding property values. Even with this variance, the size of the wetlands setback created a hardship in that instead of building an attached 2 car garage onto the new structure, the builder would have to utilize the existing barn structure as a detached garage.

It was pointed out in the original variance that the configuration of the wetland on the property precludes most of the  $\frac{3}{4}$  acre parcel from development creating a hardship on the land owner. This hardship deprived the owner the ability to build a 2 car garage onto the new dwelling as is normal for new homes in this area. Additionally, it was pointed out that other properties in the area are of similar size, but have much larger building envelopes and/or were developed prior to the wetland setback being created also creating



## **Town of Wilton, NH Request for a Rehearing (Revised January 2010)**

### **Application, Page 4 of 4**

a hardship to the property owner. That is still the case.

In order for me to create an attached living space for my parents, in accordance with section 5.5.3b, (requirement for a common wall between dwellings), I would also have to seek a greater variance to the original Ordinance 4.6.7 due to the size of the lot and the required setback for the wetlands, a hardship on the property owner. The configuration of the wetland continues to preclude building on most of the  $\frac{3}{4}$  acre parcel and the lot size being smaller than most others in the development further constrains my use of the property, also a hardship on the property owner.

However, allowing me to reconfigure the upper floor of the garage with a variance from section 5.5.3b would allow me to develop the property with the least risk of damage to the wetlands while not affecting other property owners. The construction would require minimal erosion protection from the building of the deck, but would otherwise be internal to the barn. The space would not be visible from the road and would be almost imperceptible from my neighbors and abutters.

The granting of this variance for section 5.5.3b would be in the public interest in that it would increase the value of the property and surrounding properties. My parents, as residents of Wilton, would bring increased spending in the town of Wilton and would increase the tax rolls, thus increasing the town value. My stepfather is a retired Navy Officer, active in the VFW and American Legion, organizations which bring value to the surrounding area. My mother volunteered to work with the Navy Relief Society, helping young families budget and attain financial independence as well as showing them how to obtain aid when a family crisis caused them issues, especially when the primary sponsor was deployed. Their presence in Wilton would be a boon to the town and local community.

Based on the above,

I am requesting a variance from section 5.5.3b to create a living space in the existing garage due to the limitations of the zoned property which preclude building a dwelling with an attached wall without an extension to the existing variance and which would benefit the town of Wilton. I am not requesting an increased variance from section 4.6.7 at this time since approval of a variance from section 5.5.3b would overcome the lot and zoning hardship created by the minimal setback requirement for the wetlands. Building an attached dwelling space onto the existing dwelling would require significant construction which puts the wetlands at risk and would require an even larger variance than that originally granted. Other properties in the area are larger with fewer restrictions and have larger building envelopes, a hardship that comes with the zoning of this parcel of land. Granting the variance to section 5.5.3b would not be contrary to the public interest since it would not be visible to the abutters. Granting the variance would be consistent with the spirit of the ordinance in that it would be minimally invasive to the wetlands yet consistent with the setback requirements and allowing use of the existing barn structure for the good of the town. The proposed variance would not diminish property values. The variance from section 5.5.3b would provide the township with a larger tax roll, increased spending and individuals interested in giving back to their environment though participation in veterans'



**Town of Wilton, NH**  
**Request for a Rehearing**  
**(Revised January 2010)**  
**Application, Page 5 of 4**

programs and civic organizations.