



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

General Information, Page 1 of 3

TO ALLOW CONSTRUCTION OF A SHED FOR ANIMALS

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 Lot A-47-1 Lot Size 14.5 acres

Street Address 74 Stagecoach Road

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 Dawn Ryan

Mailing address 74 Stagecoach Road

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 *Dawn Ryan* Date 11/24/20

(continued on the next page)

clerk use only

Date and time received: _____

Received by: _____ Amount paid: _____

Case #: _____ ☐ 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 *David K. Pinsonneault* Date November 4, 2020

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 Atty. David K. Pinsonneault

Mailing address Winer and Bennett, LLP

Mailing address 111 Concord Street

Town, State, ZIP Nashua, NH 03064

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 *David K. Pinsonneault* Date November 24, 2020

(continued on the next page)



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General Information, Page 3 of 3

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 603-493-6304 (mobile) ☒ Evening phone 603-484-4623 (Direct dial at office)

☒ Work E-mail dpinsonneault@winerbennett.com ☐ 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):

See accompanying application for:

(1) a variance of §17.1(e) and §6.2.4 of the Zoning Ordinance to permit a 12' x 42' shed for animals to be attached to the northerly side of the garage; and

(2) a contingent application for a variance of §14.3.3 in the event the appeal in Case #11/10/21-1 is denied.



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Application for a Variance, Page 1 of 2

TO ALLOW CONSTRUCTION OF A SHED FOR ANIMALS

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: §17.1(e), §6.2.4 and §14.3.3

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

A non-conforming structure may not be extended or enlarged; no building permitted within 35 feet of all lot lines. Ms. Ryan wishes to build a 12' X 42' shed for animals on the northerly side of her garage that is a non-conforming structure because it lies within 35 feet of Stagecoach Road. Also, the garage/barn structure is allegedly non-conforming because it lies within 200 feet of a pond.

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.)

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

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

3. Granting the variance would do substantial justice: SEE ATTACHED

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

(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:

SEE ATTACHED

- ii. The proposed use is a reasonable one:

SEE ATTACHED

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

SEE ATTACHED

- 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:

Attachment to Variance Application (Shed)
74 Stagecoach Road – Lot A-47-1 – 14.5 acres (the “Property”)

Dawn Ryan – Applicant and Owner

This attachment is appended to the Variance application submitted by Dawn Ryan (Applicant and Owner) for a variance from the application of Zoning Ordinance §17.1(e) that provides: “A non-conforming building or structure may not be extended or enlarged.” This provision has been in force at least since 1981 (see former Article XII (A)(3)).

The garage/barn structure (“Structure”) on the Property is a grandfathered non-conforming structure because it lies within 35 feet of Stagecoach Road contrary to the Zoning Ordinance’s setback requirements set forth in §6.2.4. *See property plan attached as Exhibits 1 and 1-A.* In addition, the Building inspector has determined that the Structure is non-conforming because it allegedly encroaches upon the 200-foot setback called for by §14.3.3 of the Zoning Ordinance. Ms. Ryan has timely appealed this determination. See Case #11/10/20-1 that will likely be heard at the same time that this application.

Pertinent Background

Ms. Ryan’s home was built either during the late 18th or early 19th centuries. The barn on the Property was reportedly built around 1900. The garage that is attached to the barn was built sometime thereafter. *See Exhibit A.* Old houses were built quite close to the road before the age of modern cars presumably because it took effort to get to and from these houses, either by foot or horse and buggy.

Ms. Ryan wishes to build a 12’ x 42’ shed for animals that would be attached to the northerly side of the Structure. *See shed design attached as Exhibit B.* This shed would be located beyond the 35-foot setback from both Stagecoach Road and the Property’s northerly lot line. *See Exhibit C.*

Norma Ditri, the Building Inspector, denied Ms. Ryan’s application for a permit to build this shed because it would be attached to the northerly side of the Structure and therefor expand a non-conforming structure contrary to §17.1(e) of the Zoning Ordinance. *See Exhibit D.* She previously denied a permit to build the shed on the easterly side of the Structure because the Structure allegedly encroaches upon a 200-foot setback from open water contrary to §14.3.3 of the Zoning Ordinance. *See Exhibit E.* Ms. Ryan incorporates herein by reference the sum and substance of her appeal in ZBA Case #11/10/20-1.

The proposed shed will not increase the non-conformity of the Structure, either horizontally or vertically, whether it is attached to either the north or east sides of the Structure. In addition, there is no reason to believe that a building permit would not be issued if the shed would be built as a stand-alone structure.

Five Criteria for Granting a Variance

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

The Property is in a Residential/Agricultural District where the construction of a shed, whether as a stand-alone structure or attached to a conforming structure, is permitted. The construction of the additions will not have any impact on the public or on the owners of adjacent properties.

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

The spirit of the Ordinance is derived from the purpose of the ordinance. Among other things, the purpose of the Ordinance is “to promote and protect the health, safety, prosperity, convenience or general welfare” of Wilton’s inhabitants. See *Preamble at §1 of the Zoning Ordinance*.

Setbacks provide the public with aesthetic and functional benefits such as maintaining a safety zone between inhabitants and traffic. As mentioned above, the shed attached to the northerly side of the Structure will not bring the Structure any closer to Stagecoach Road. Assuming without conceding that the Structure is non-conforming because of §14.3.3, a further encroachment of 12 feet that would result from the construction of the shed will not cause any harm to public health or safety. Consequently, a variance will maintain the *status quo*, which most certainly is consistent with the spirit of the Ordinance.

3. Granting the variance would do substantial justice because:

The strict application of §17.1(e) unjustly interferes with Ms. Ryan’s reasonable use of the Property considering its unique setting and the character of her neighborhood.

The New Hampshire Supreme Court has said that substantial justice is done if the general public realizes no appreciable gain from the denial of the variance, but the applicant is adversely affected in a material manner if the variance is denied. In this case, the general public realizes no appreciable gain if the variance is denied. All a denial will do is prohibit Ms. Ryan from constructing ordinary outbuildings on the Property. Consequently, substantial justice is done if the variance is granted.

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

The proposed additions will in no way change the use of the Property or be a detriment to the neighborhood. Accordingly, the value of the surrounding properties cannot be diminished if the variance is granted.

5(a)(i). No fair and substantial relationship exists between the general public purposes of the setback requirements of §6.2.4 and the restrictions on expanding non-conforming structures found in §17.1(e) and the specific application of those provisions to the Property because:

The shed will not change the existing setback of the Structure from Stagecoach Road. Further, the shed can be built as a stand-alone structure in compliance with the 35-foot setback rule set forth in §6.2.4 of the Zoning Ordinance and the 200-foot setback rule set forth in §14.3.3. So, the enforcement of §17.1(e) in this case serves no public purpose. Accordingly, denying Ms. Ryan a permit to build the shed because the Structure is classified as a “non-conforming structure” elevates form over substance that on its face shows that enforcement of §17.1(e) would be unfair and does not bear a substantial relationship with general public purposes.

5(a)(ii). The proposed use is a reasonable one because:

Keeping animals is a permitted use in a General Residence and Agricultural District. *See* §6.1(b) of the Zoning Ordinance. Accordingly, the proposed use of a shed to accommodate animals is a reasonable use.

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

The Property is obviously suited to accommodate horses and other animals. It is illogical to prevent the construction of a shed to support animal husbandry merely because it would be attached to a non-conforming structure without causing any harm to public or private interests. This is especially true when the very same structure can be located a short distance from the non-conforming structure.

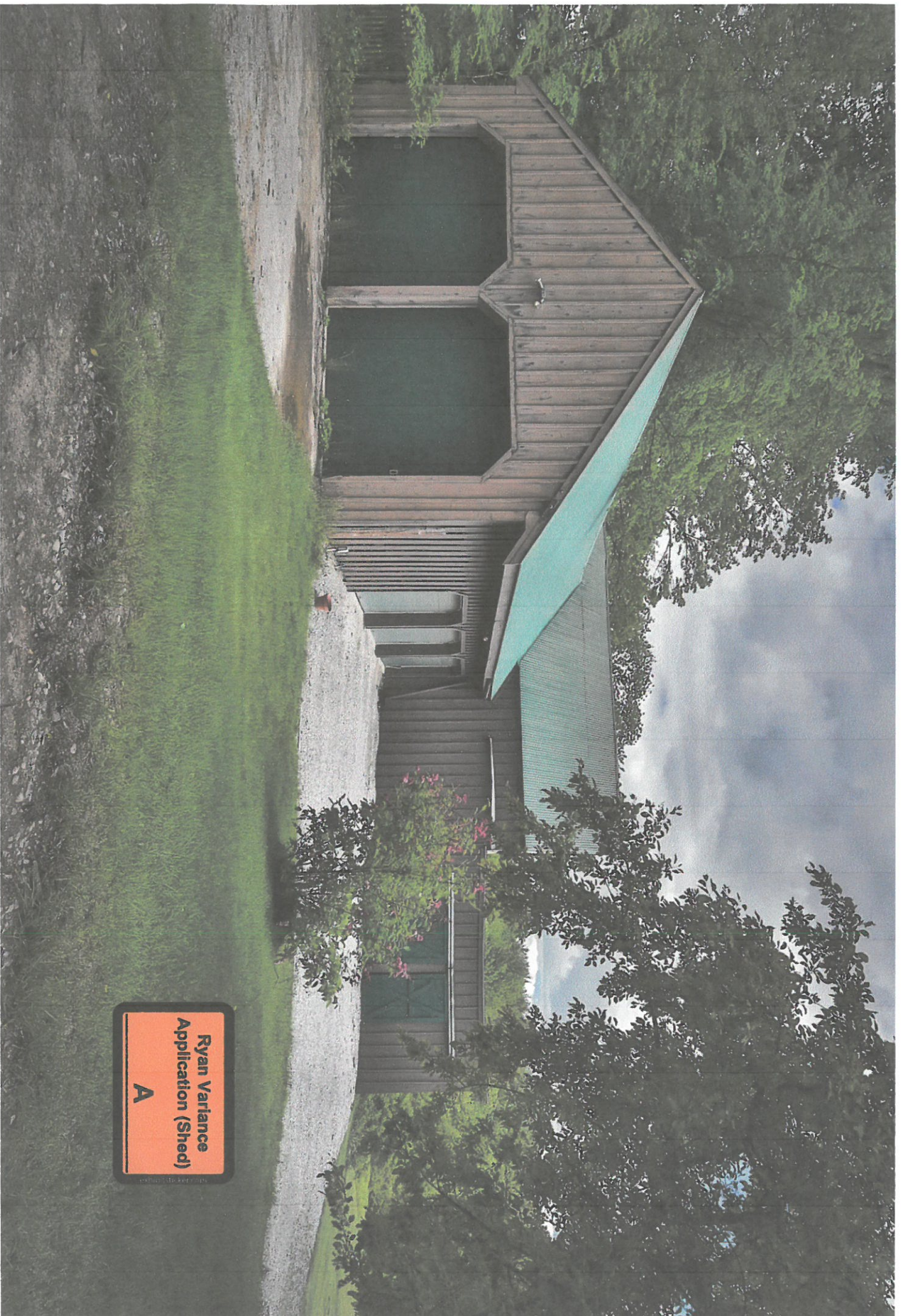
For all of the foregoing reasons, Ms. Ryan has established “unnecessary hardship.”

Conclusion

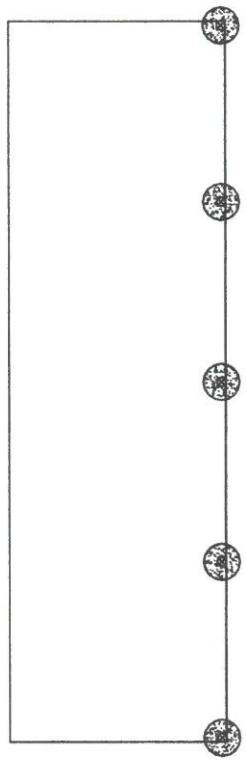
Ms. Ryan respectfully requests that the variance be granted:

1. regarding the Structure’s characterization as non-conforming because it is within the 35-foot setback from Stagecoach Road; and
2. regarding the Structure’s characterization as non-conforming because it is within the 200-foot setback from a surface water in the event Ms. Ryan’s appeal in Case #11/10/20-1 is unsuccessful.

Ms. Ryan reserves the right to supplement this application and provide additional testimony and information at the public hearing on this Application.



Ryan Variance
Application (Shed)
A



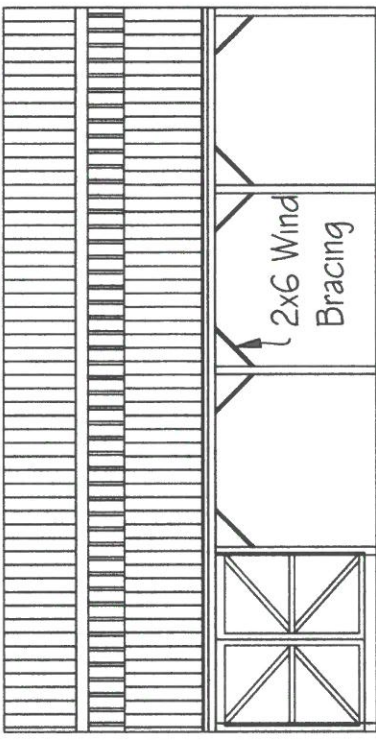
Exposed fastener painted steel roofing

2x4 Purlins, 24" O.C.
2x10 16" O.C.

2x6 top plate

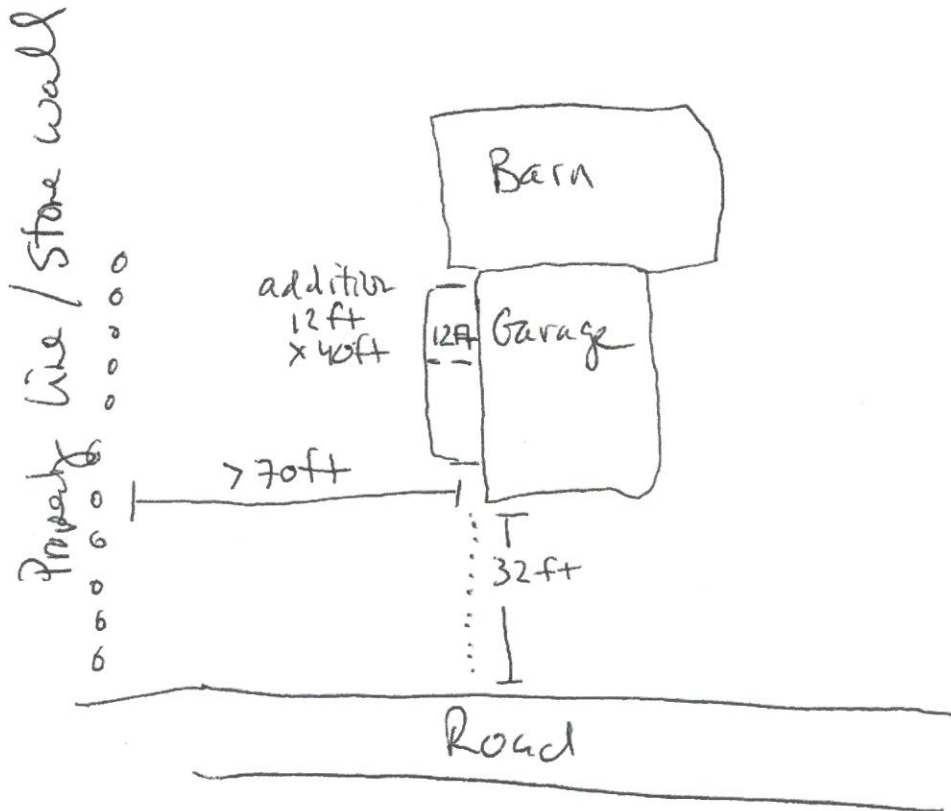
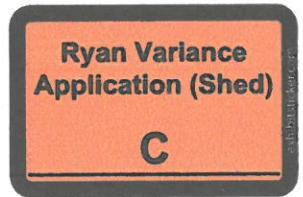
Pressure treated
6x6

Existing concrete footings
48" burial depth, maximum 10' spacing



Ryan Variance
Application (Shed)
B

Dawn Ryan
74 Stage Coach Rd



Ryan Variance
Application (Shed)

D

From: Norma Ditri <nditri@wiltonnh.gov>
Sent: Monday, November 16, 2020 2:55 PM
To: Ryan, Dawn <dryan@deloitte.com>
Subject: [EXT] 2nd barn permit

Dawn,

The permit #102020-2 for an addition to the north side of the existing garage has been denied for the following reason:

17.1 Non-conforming Buildings, Structures, and Uses. (Amended March, 2007, March 2015)

e. A non-conforming building or structure may not be extended or enlarged.

Please call me with any questions or concerns.

Sincerely,
Norma

--

Norma Ditri
Building Inspector
Town of Wilton NH
603-654-3960 office
603-801-1640 cell

Hours: **M&T 9-4 TH 11-6 PM**

Conformed copy of email from Norma Ditri dated 10/1/2020

Ryan Variance
Application (Shed)

E

From: Norma Ditri <nditri@wiltonnh.gov>
Sent: Thursday, October 1, 2020 4:47 PM
To: shawn@dream-barns.com
Cc: Ryan, Dawn <dryan@deloitte.com>
Subject: [EXT] 74 Stagecoach Road

Hi Shawn,

Dawn Ryan's property lies within Wilton's Watershed District and the Aquifer Protection Overlay District. Some of the property, particularly between the barn and the pond, contains the 100 year flood plain boundary line. There are stringent rules regarding what can be done or built within a certain distance to water. The barn is an existing nonconforming structure because it currently lies within 200 feet of open water (See Section 14.3.3 of our Zoning Ordinance). An addition to the back of the barn would be an addition to the non-conformity, which is in violation.

Dawn may want to go before the Zoning Board of Appeals to appeal my decision, which is to deny the permit at this time.

Please contact me with any questions.

Sincerely,
Norma Ditri

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Norma Ditri
Building Inspector
Town of Wilton NH
603-654-3960 office
603-801-1640 cell