



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 F-3-2 Lot Size 8.85 Acres

Street Address Lot F-3-2 Isaac Frye Highway, Wilton NH

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 Isaac Frye Holdings, LLC

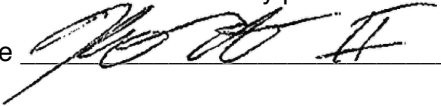
Mailing address 586 Turnpike Road, New Ipswich NH 03071

Mailing address 586 Turnpike Road, New Ipswich NH 03071

Town, State, ZIP New Ipswich, NH 03071

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  Date 04/16/2021

(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



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

General Information, Page 2 of 3

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 Kenneth Lehtonen, Member - Isaac Frye Holdings, LLC

Mailing address 586 Turnpike Road

Mailing address _____

Town, State, ZIP New Ipswich, NH 03071

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  Date 04/16/2021

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 Jon Rokeh, Rokeh Consulting, LLC

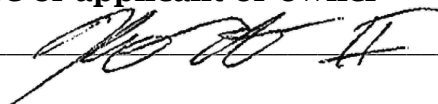
Mailing address PO Box 204

Mailing address _____

Town, State, ZIP Epsom, NH 03234

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  Date 04/16/2021

(continued on the next page)



Town of Wilton, NH

Application to the Zoning Board of Adjustment

(Revised January 2011)

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 603-387-8688 Evening phone 603-387-8688

Work E-mail jon@rokehconsulting.com Personal e-mail n/a

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):

A single family home is proposed to be constructed on the site. The site has a great deal of elevation change and a long narrow area to get into the building area. Because of these constraints the site is proposed to be excavated down to a more reasonable grade that will create a more usable building site and area around the house that the homeowner will be able to enjoy for years to come. It would be unsafe to try to 'perch' the house on top of the hill that exists right now. The driveway would be very steep and require extra maintenance to make it safe to travel on during the winter.



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

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 4.1 , Section 12.4

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

We are seeking a variance the excavate outside of the Gravel Excavation District
due to the excavation being incidental to the construction of a single family dwelling as
described in RSA 155-E:2-a.

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)



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

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:

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:

TOWN OF WILTON ZONING BOARD OF ADJUSTMENT

APPLICATION FOR VARIANCE

Applicant/Owner: Isaac Frye Holdings, LLC

Property: Tax Map F, Lot 003-02

Relief Requested:

The above-referenced Applicant respectfully requests a variance from Article 4.1 (General Provisions and Performance Standards, Excavation, Drilling and Removal of Materials) and Article 12.4 (Aquifer Protection District, Prohibited Uses) of the Town of Wilton's Zoning Ordinance ("Ordinance") governing the excavation of earth materials and the excavation of earth materials in the Aquifer Protection District, to allow for the incidental excavation necessary for the construction of a driveway and single-family dwelling on the property known as Tax Map F, Lot 003-2 ("Property").

RSA 674:33, (I)(2's) Variance Criteria:

- 1. Granting the variance will not be contrary to the public interest.
(RSA 674:33(I)(2)(A))**

As the courts have said, to be contrary to the public interest, the variance must unduly and in a marked degree conflict with the ordinance such it violates the ordinance's basic zoning objectives. See Grey v. Seidel, 143 NH 327 (1999).

Here, the Applicant seeks a variance from Article 4.1 and Article 12.4 of the Ordinance to allow for the incidental excavation necessary for the construction of a driveway and single-family dwelling. The goal of these two particular provisions is to protect the Aquifer and commercial excavation operations from taking place in an area not zoned for excavation.

This is a unique situation, given that the site can not support a driveway or house lot without excavating material from the site. The intent of the zoning restriction is to protect more residential areas from noise and dust associated with long term gravel excavation operations. The proposal for the excavation incidental to the residential house is extremely limited and will only take a short amount of time to complete. Once completed and the single-family home is constructed there will be no other excavation required.

**2. The spirit of the ordinance is observed.
(RSA 674:33(I)(2)(B))**

This discussion mirrors the above analysis in that a variance request does not violate the spirit and intent of the Ordinance. Again, the rationale for the Town limiting the excavation of earth materials is to protect both the aquifer and neighboring residences.

As noted above, in this case, the denial of this particular variance would result in a non-buildable lot as this lot can not support a home without the excavation of some materials. This lot could not support driveway access without the excavation of materials.

Granting the variance would be consistent with the spirit of the Ordinance because the public would be protected from a long-term excavation project by limiting the allowed excavation to what is proposed for the house construction. A certain amount of land reforming is done with almost any single-family home construction. The topography of this lot requires extra reshaping to make it a more usable site for the long term.

Moreover, this request does not seek to change the character of the neighborhood, particularly as it will ultimately contain a single-family home.

As such, the spirit of the ordinance is observed in granting the requested variance.

**3. Granting the variance would do substantial justice.
(RSA 674:33(I)(2)(C))**

Substantial justice is done when the loss of denying a variance exceeds the gain to the public in strictly enforcing the Ordinance.

Here, granting the variance would achieve substantial justice by allowing the developer to excavate the materials needed to make a safer, more compliant driveway and house site. This would provide for more safety and useability now and in the future. Without the excavation the future homeowner would face difficult terrain and driveway maintenance in perpetuity.

In light of the above, the loss of denying the variance exceeds any public gain and warrants granting the application, and substantial justice weight in favor of this request.

**4. The values of the surrounding properties will not be diminished.
(RSA 674:33(I)(2)(D))**

If the variance were granted the values of the surrounding properties would not be diminished since the construction of a new, single family residence can only enhance the value of surrounding properties. This variance will not negatively change the character of the neighborhood. The incidental excavation is only temporary, and all single-family home construction has at least some time during construction that the land is actively being excavated and reshaped for the house, driveway and septic. Taken together, it is clear that this variance will not result in the diminution of value of the surrounding properties.

**5. Unnecessary Hardship
(RSA 674:33(I)(2)(E))**

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

- (i) no fair or substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

The Property is special and distinct from other properties in the area given its large amount of gravel and steep slopes that need to be eliminated in order to make the land a more usable site location for a single-family home. This lot has a 30 foot area to enter the property and has a 8 foot rise within 50 feet off the road. Once into the main part of the property there is a hillside that rises 45 feet higher than Issac Frye Highway. The lot in its unaltered state is unbuildable compared to any lot that we have located in our research in the Town of Wilton. Moreover, the Property is special in that the incidental excavation is needed just to create the driveway, building site, lawn area and septic area for a house. All these things are standard items in new home construction.

Given these special features, the provision of the Ordinance at issue which aims to protect the Aquifer and residential neighborhood by limiting excavation within those zones, has no fair or substantial relationship between its policy and the Property. As such, requiring strict compliance with the Ordinance would result in unnecessary hardship because it would not advance the purpose of Article 4.1 or Article 12.4 of the Ordinance in any fair or substantial manner.

Rather, given that the spirit of the ordinance is to prevent gravel pits being permitted in residential areas as long term hauling sites. This is not the case for this lot. The developer need to excavate to create a safe and maintainable building site for a new construction home and denying the variance would result in an unnecessary hardship. In other words, this variance is warranted because the practical purpose of the Ordinance is not furthered as a result of the Property's unique conditions.

and

- (ii) The proposed use is reasonable because:

It seeks to allow the incidental excavation for a new construction home site, which is permitted under RSA 155-E:2-a. It is also reasonable given the alternative, which would result in site issues and extensive driveway maintenance for the future homeowner.