



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 B Lot Size 97

Street Address 317 FOREST 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 Gregory Marshall Allen

Mailing address 11 Singer Brook Road

Mailing address _____

Town, State, ZIP Milford, NH 03055

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 *Gregory Marshall Allen* Date 08/25/2022

(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 Gregory Marshall Allen

Mailing address 11 Singer Brook Road

Mailing address _____

Town, State, ZIP Milford, NH 03055

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

08/25/2022

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 Fieldstone Land Consultants, PLLC

Mailing address 206 Elm Street

Mailing address _____

Town, State, ZIP Milford, NH 03055

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

08/25/2022

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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 (603) 672-5456 ☐ Evening phone _____

☒ Work E-mail _____ ☐ Personal e-mail _____
CAGuida@FieldstoneLandconsultants.com

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):

Variance to allow for the construction of a single family
home and septic of residential use within the Industrial
District; Please See Attached



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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: 4.2(b), 4.6, 8.2.1, 8.2.4, 8.5, 12.3(c), and 17.1(c) 8.1

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

Application is to request variances that would allow for the construction of a 3 bedroom single family dwelling with updated septic system within the Industrial District; please see attached.

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:

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:

See Attached

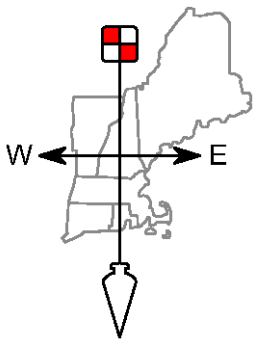
ii. The hardship is a consequence of special conditions of the property that distinguish it from other properties in the area:

See Attached

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:



FIELDSTONE

LAND CONSULTANTS, PLLC

Surveying ♦ Engineering
Land Planning ♦ Septic Designs

206 Elm Street, Milford, NH 03055 - Phone: 603-672-5456 - Fax: 603-413-5456
www.FieldstoneLandConsultants.com

Variance Criteria

Variance from Sections

- 4.2(b) – General Provisions and Performance Standards,
Sanitary Waste Disposal
- 4.6 – General Provisions and Performance Standards,
Snow Storage and Removal
- 8.1 – Industrial District, Permitted Uses
- 8.2.1 – Industrial District, Lot Requirements, Area
- 8.2.4 – Industrial District, Lot Requirements, Setbacks
- 8.5 – Industrial District, Prohibited Uses
- 12.3(c) – Aquifer Protection District, Permitted Uses
- 17.1(c) – Non-Conforming Uses and Buildings,
Non-Conforming Buildings, Structures, and Uses

Tax Map Parcel B-97

317 Forest Road, Wilton, NH 03086

August 30, 2022

Prepared For:

Gregory Marshall Allen
11 Singer Brook Road
Milford, NH 03055

On Tuesday, August 14, 2012 variances were granted for sections 4.2.1(c), 12.3(c), and 17.1(d) as per Case #8/14/12-1. Since the granting of the variance, a 4 bedroom state approved septic system was installed but was not issued operational approval from NHDES since the foundation for the proposed replacement dwelling had not yet been constructed at the time of inspection. The existing dwellings were razed but for reasons unknown, the house was not constructed and the variance timeframe expired which resulting in the property reverting back to the underlying Industrial Zone. The property was previously listed as being completely within the 100 year flood zone, but a recent survey was conducted and a Letter of Map Amendment (LOMA) request was submitted and approved by FEMA which determined that the proposed building area and septic system is in fact outside of the 100 year flood zone. A copy of the LOMA and elevation certification has been included in this application. Based on a property inspection and discussions and guidance from Town of Wilton officials, we have compiled the above list of zoning ordinances that we are seeking relief from; it is our intent to request the necessary relief to allow for the construction and use of a single family residential dwelling within the Industrial Zone. It is our understanding and belief that that the subject lot has inherent characteristics that make it inappropriate to support industrial usage due to the location of Brook transecting the property and associated wetlands and flood zone which encompasses the majority of the property. Due to the Industrial use Zone setbacks requirements and the location and small

Gregory Marshall Allen

Variance Criteria – Variance from Sections 4.2(b), 4.6, 8.1, 8.2.1, 8.2.4, 8.5, 12.3(c), and 17.1(c)

Tax Map Parcel B-97 – 317 Forest Road

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size of the area outside the flood zone (0.5 ac), any use would require extensive zoning relief of some type. Industrial zoning setbacks are also more restrictive than residential / agricultural zone/use setback requirements so even greater relief would need to be provided for industrial use than a single family residential / agricultural type of use.

Based on previous discussions with the Town it is our belief and understanding that we will need relief from

4.2(b) – General Provisions and Performance Standards,

Sanitary Waste Disposal

-b, sanitary systems shall be setback from wetlands, water bodies, open water bodies and perennial streams as follows:

1. systems located entirely or partially in highly permeable soils (a permeability of six (6) inches per hour throughout as indicated in the *USDA Soil Survey of Hillsborough County, New Hampshire, Western Part*) — 125 feet

- Requesting 78 feet from wetlands for the construction of approved ISDS at 2 MPI permeability.

4.6 – General Provisions and Performance Standards,

Snow Storage and Removal

- Requesting Zoning to be allowed for Residential Dwelling (single family residence, waiver to this requirement)

8.1- Permitted Uses.

A building or structure may be erected, altered or used, and a lot may be used or occupied for any of the following purposes, provided the use meets the performance standards of this ordinance:

- a. Light Manufacturing, as that term is defined in Section 9A.2.2 of this ordinance;
- b. research and/or testing laboratory; and
- c. offices; and
- d. non-residential commercial uses subject to all the requirements of this Industrial District ordinance. (Adopted March 2001, Amended March 2020)

-Requesting relief to allow single family residential use in the Industrial Zone.

8.2.1 – Industrial District, Lot Requirements, Area

Two (2) acres of land excluding wetlands, water bodies and land contained within the one hundred (100) year floodplain. (Amended March 1992, March 2004, March 2020.)

Gregory Marshall Allen

Variance Criteria – Variance from Sections 4.2(b), 4.6, 8.1, 8.2.1, 8.2.4, 8.5, 12.3(c), and 17.1(c)

Tax Map Parcel B-97 – 317 Forest Road

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-Existing lot of record and allow for development within buildable area less than 2 acres

8.2.4 – Industrial District, Lot Requirements, Setbacks

- a. less than seventy-five (75) feet from the edge of the public right-of-way for all other public roads;

-Requesting Relief from Industrial Zoning Setbacks (75ft) and allow for Residence & Agricultural Zone setbacks (35ft). House will be located no closer than 40 ft to the front setback while observing all side and rears setbacks.

8.5 – Industrial District, Prohibited Uses

Neither residential uses nor Heavy Manufacturing, as that term is defined in Section 9A.2.1 of this ordinance, is permitted in the Industrial District. (Amended March 2020)

-Requesting relief that allows for the lot to be used for single family residential dwelling.

12.3(c) – Aquifer Protection District, Permitted Uses

c. residential development under the following conditions

1. if serviced by Town water and sewer, at densities permitted in the underlying district;
2. if serviced by on-site water and/or sewer, at fifty (50) percent of the density of the underlying District (i.e. double the acreage requirement of the underlying District); however, this does not increase the minimum dry area requirement of the underlying District;
3. if developed under the Alternative Lot Requirements set forth in Section 6.3, the area of the reduced frontage lot does not have to be increased;
4. areas located in the Watershed District at the density of the underlying district;

-Requesting Development of single family residential dwelling within this overlay district without proper density – meets all NHDES Subsurface Systems Bureau requirements

17.1(c) – Non-Conforming Uses and Buildings,

Non-Conforming Buildings, Structures, and Uses

- c. A non-conforming use may not be re-established after discontinuance for more than one (1) year.

-Requesting non-conforming use of lot be re-established as residential use if applicable.

These variances would allow the construction of a septic system in high permeable soils 78 feet from wetlands, where the ordinance would require a 125 foot setback and the construction of a 26 foot by 40 foot single-family home within the Industrial District with a 24 foot by 24 foot attached garage (new dwelling will be equal to or less than the original domicile that was demolished), on a lot with only 0.5 acres of non-wetland

Gregory Marshall Allen

Variance Criteria – Variance from Sections 4.2(b), 4.6, 8.1, 8.2.1, 8.2.4, 8.5, 12.3(c), and 17.1(c)

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area outside of 100 year flood zone on 4 acre lot of record.

The numbered items below correlate to the questions asked in the Town Application for a Variance.

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

Granting these variances would allow for the construction of a modest 3 bedroom single family home with state approved septic system (eCA2022080212) which would replace the previous 4 bedroom residential dwelling and septic system which pre-existed the current Industrial zoning. The proposed development is within the cleared area of the previous dwelling and is outside the 100 year flood plain. According to NRPC GIS map of land usage, there are at least 10 residential uses listed within the Industrial Zone District in close proximity to the subject parcel. Many of these lots also appear to have irregular shapes and small acreage which would also not meet Industrial setback requirements for Industrial use. Based on the inherent physical characteristics of the land within the subject lot, and industrial use would not be feasible or even appropriate given the proximity of Blood Brook and associated wetland and flood zone areas. Approving the variances would allow for reasonable use of a very restrictive lot of record. Allowing for single family residential use within the Industrial zone would not be contrary to the public interest since it will be in keeping with the historical existing non-conforming residential uses within the same zone and in close proximity to the subject parcel, will be same use as previously approved, will be outside of the 100 year flood zone and will not require any additional impact to wetlands or Blood Brook which are present on the lot. Denial of the variances would not provide any substantial benefit to town and would not outweigh the benefit to the land owner for reasonable use of the property.

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

Allowing these variances would be consistent with the original decision from August 14, 2012 which allowed for the continued residential use prior to the lot being rezoned to the Industrial District. Even though the original dwelling has been removed, allowing the construction of a single family home with updated septic system would provide the most productive and low impacting use of this existing non-conforming lot of record. The presence of Stony Brook and associated wetlands and floodplain make Industrial use of the property inappropriate and unfeasible. The building area is outside 100-year flood plain and approved Letter of Map Amendment (LOMA)-FEMA 22-01-0795A-330102 dated July 18, 2022. Additionally, erosion controls would be implemented to minimize water pollution and protect wildlife habitat along Stony Brook and flood plain areas. Septic system approved eCA2022080212 and is partially installed by previous owners but not approved yet for operation. For all of these reasons we believe that granting the variance would observe the spirit of the ordinance.

3. Granting the variance would do substantial justice because:

Granting this variance would allow for a single family residential dwelling which is the only feasible reasonable use of the ½ acre of non-wetland and non-flood plain area on a 4 acre lot of record. The available land area has been documented to be able to support a single-family

Gregory Marshall Allen

Variance Criteria – Variance from Sections 4.2(b), 4.6, 8.1, 8.2.1, 8.2.4, 8.5, 12.3(c), and 17.1(c)

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home in accordance with NHDES Subsurface Systems Bureau, is outside of the 100 year flood zone and utilizes the existing access drive from state road and does not adversely impact wetlands or environment. Granting this variance would do substantial justice because it would allow for the only productive use of the property, allow for the owner to build a modest home and have no negative effect on the environment or the general public.

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

Granting these variances allows for the continuation of the original residential use of the property within the Industrial District. The construction of a new single family dwelling with updated, state approved septic system to current standards would increase the surrounding property values and be within keeping with the other residential dwellings of neighboring properties along Forest Road. Since the lot characteristics inherently prevent any reasonable Industrial use and a single family residential dwelling is the highest and best use for the property, we do not believe that this proposal would have any negative impact on the surrounding property values. Our experience has been that new home construction, similar to what is proposed, will typically have a positive impact on surrounding properties.

5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

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

The currently vacant non-conforming lot of record consists of Stony Brook and associated wetlands and floodplain to the South and East of the lot making the only buildable area (approximately 0.5 acres of a 4.0 acre lot) in the Northwest corner. The required property line and wetland setbacks within the Industrial Zone are overlapping and provide for no available area for industrial development without significant zoning relief. The proposed residential dwelling meets building setback requirements for Residential / Agricultural Zoning with only minor relief requested for the underlying zoning and the setback to wetlands in highly permeable soils. The characteristics of the land within this property prevent any improvement of the lot without some type of zoning variance granted by the town.

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

As previously stated, the inherent natural features and characteristics of this historical lot of record prevent any reasonable use without relief from current zoning regulations as follows:

Stony Brook and associated wetlands and 100 year flood plain transects the lot and encompasses about 3.5 acres of the 4 acre lot. The remaining 0.5 acre of dry

Gregory Marshall Allen

Variance Criteria – Variance from Sections 4.2(b), 4.6, 8.1, 8.2.1, 8.2.4, 8.5, 12.3(c), and 17.1(c)

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usable land is located in the northwest corner of the property. Industrial Zone front and side building setbacks and wetland setbacks on the easterly side overlap the available dry land thus preventing any improvements or buildings without zoning relief. The configuration and location of the 0.5 acre of available dry land is not realistically viable for any industrial usage. Granting the variances requested would allow for the lowest impacting development alternative, single family residential use, which is in keeping with historical use and uses on nearby similar historical lots of record with existing non-conforming residential uses. Potential for any viable future industrial use of the property is essentially non-existent given the inherent hardships created by Stony Brook and associated wetlands and flood zones. Granting the variances would allow for limited reasonable use of the property and provide the town and community with needed housing and tax income while maintaining natural conditions of the wetlands and wildlife habitat along and within Stony Brook. Denial of the variance would prevent the reasonable use of an existing lot of record and cause an undue hardship to the land owner while providing no realistic benefit to the town or overall community.