

Town of Wilton, NH
Application to the Zoning Board of Adjustment
(Revised August 2022)

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 C Lot Size 102

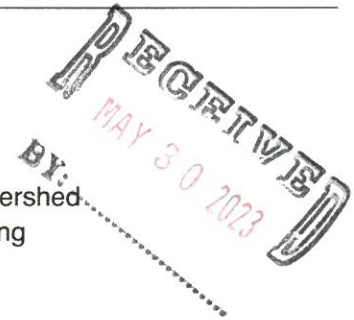
Street Address Gibbons Highway (N.H. Route 101)

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 North Farm LLC

Mailing address 395 Elm St

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 [Signature] Date 5/18/23

(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 Erich O. Mueller

Mailing address 395 Elm Street

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 5/18/22

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 Samuel R. Foisie, PE


Mailing address PO Box 118

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 (only if a representative is named)

Signature  Date 5/18/22

(continued on the next page)

Town of Wilton, NH
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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 603-673-1441 Evening phone _____

Work E-mail SRFoisie@meridianlandservices.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 (attach additional pages as necessary):

See attached.

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Application for a Special Exception

A Special Exception is a use which is permitted by the Zoning Ordinance, but requires approval from the Zoning Board. Every special exception is allowed by some section or subsection of the Ordinance. Most special exceptions have a list of requirements; the Zoning Board can only approve the special exception if it finds that all the requirements are satisfied.

Note that in addition to the specific requirements that may be listed for a particular special exception, all special exceptions are subject to the general requirements in Section 4.12 of the Zoning Ordinance.

What section of the Zoning Ordinance defines the Special Exception that you are applying for? 11

Explain why your proposed use satisfies the requirements of the Zoning Ordinance (attach additional pages as necessary):

See attached.



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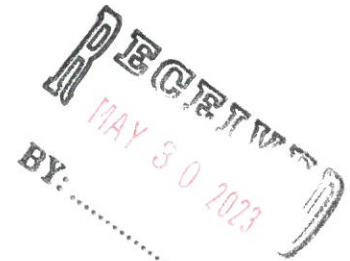
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ZBA Special Exception Attachment



Description of proposed use and need for ZBA approval:

The proposed use of the site is a greenhouse/farm stand and associated improvements is to be constructed within the front portion of the property and a landscaper's yard consisting of a building with warehouse/office space, outdoor material storage, outdoor equipment storage and other associated site improvements. For simplicity the greenhouse/farm stand will be here referred to as the farm stand.

The need for the requested Special Exception Approval from the ZBA can be broken up into two groups. The first being the improvements to access usable land where the farm stand will be constructed and the second being the improvements to access usable land where the landscaper's yard will be constructed.

The farmstand developable area is constrained by a front setback and the 50' wetland buffer associated by the channelized wetland that bisects the property into two areas. To access the farmstand an access drive needs to be constructed from the access from route 101 to this area. This access drive will stay out of the front setback but will be within the wetland buffer. When the project was presented to the planning board conceptually, the board preferred the access drive to stay out of the front setback and use the buffer instead. The rationale for this was the "buffer" is a field and not the standard buffer that the regulation is meant to protect. The other impact caused by this access road is due to a collection swale stormwater management pond required to treat the runoff from the improvements. The inclusion of stormwater improvements within the buffer are required due to the exiting topography causing the runoff to drain towards the wetlands. To comply with the Wilton Stormwater regulations these improvements must be implemented. The stormwater improvements meet the purpose and intent of the Ordinance by treating the water before it enters the wetlands and controlling the runoff, so it does not damage the wetlands.

The impacts to the wetland buffer caused by the construction of the landscaper's yard are required due to the main developable area is on the rear side of the channelized wetland that bisects the property. To access this area requires crossing the wetland and disturbing the buffer on both sides of the wetland. To minimize the disturbance to the buffer the access to Route 101 is proposed to be adjusted to avoid buffer impacts and the existing crossing is proposed to be utilized. Like the buffer disturbances caused by the farm stand access road this crossing also includes a stormwater pond to allow for the most impervious area to be collected and treated. Essentially the stormwater is pond is providing the same benefit that the buffer was meant to provide by preserving it.



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Explain why your proposed use satisfies the requirements of the Zoning Ordinance:

Per Section 11.4.a Streets, roads and other access ways are allowed within the buffer by special exception. The reason for both impacts is to install access ways to the developable area within the property. Both impacts need to happen to be able to construct the proposed improvements.

Along with both access ways stormwater improvements area proposed. These stormwater improvements protect the wetlands from pollution and damage by treating the stormwater and controlling the discharge rates and volumes. By protecting the wetlands with stormwater BMPs the project is meeting the requirements of the Zoning Ordinance.

Further explanation of compliance can be found within the attached documents:

- Compliance with Section 4.12 of the Zoning Ordinance
- Compliance with Sections 4.10 - 4.10.11 of the Zoning Ordinance



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General Requirements in Section 4.12 of the Zoning Ordinance

4.12 Special Exceptions. Any Special Exceptions permitted by this Ordinance may be granted by the Zoning Board of Adjustment only upon a finding that the proposed use, structure or activity:

- a. is not permitted by the Ordinance in the absence of a Special Exception;

Per Section 11.4.a

Streets, roads and other access ways and utility right-of-way easements including power lines and pipe lines if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands or water bodies. (Amended March 2020)

This allows a for the construction of an access way if a special exception is granted.

Per Section 11.4.b

The undertaking of a use not otherwise permitted in the Wetland Conservation District, which may include the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of the land, if it can be shown that the proposed use will not conflict with the purpose and intent of this section and if the proposed use is otherwise permitted by the zoning ordinance. Proper evidence to this effect shall be submitted in writing to the Zoning Board of Appeals and shall be accompanied by the findings of a review by a soil scientist certified by the New Hampshire Board of Natural Scientists selected the Planning Board and/or the Zoning Board of Adjustment. (Amended March 1999)

A special exception is required from this section for the construction of the stormwater improvements due to the “alternation of surface configuration of land”. Due to this section the stormwater is allowed by special exception and is integral in protecting the associated wetlands.

- b. is consistent with and will not substantially affect the character of the neighborhood in which it is proposed;

Due to the location of the proposed development, it will not affect the character of the neighborhood. The land is zoned for commercial and is an allowed use of the proposed. The proposed used fit the character of the surrounding developed properties.



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- c. will comply with Sections 4.10 - 4.10.11 inclusive of this Chapter and will not jeopardize the health or safety of anyone on or off the site;

See attachment that discusses Sections 4.10-4.10.11.

- d. will not cause diminution of surrounding area property values;

The proposed development will diminish the value of surrounding area property(s).

- e. will not have an unacceptable effect on traffic in the neighborhood or in the Town;

The proposed development of the project parcel will have a minimal effect on traffic in the town. The site is located on a state highway that has several thousand trips per day. The traffic generated from this site will be negligible compared to the capacity of the roadway.

- f. will have available adequate off-street parking, if required;

The proposed development meets the required 37 off-street parking spaces.

- g. will not be detrimental to the attractiveness of the Town;

The development will not be detrimental to the attractiveness of the town.

- h. is consistent with the spirit of this Ordinance; and

The proposed development is consistent with the spirit of the Zoning Ordinance as the ordinance allows for these uses by special exception. The installation of the stormwater improvements allows for the overall development to meet the spirit and intent of the ordinance.

- i. meets all other criteria enumerated in the Section that permits the particular Special Exception.

The proposed development meets all other criteria that permits the particular Special Exception.



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Compliance with Sections 4.10 - 4.10.11

4.10 Performance Standards.

The use or operation of any land, structure or equipment located in the Town of Wilton shall not produce conditions, including, without limitation, the following, that could (1) adversely affect the health or safety of the Wilton community, that of its neighbors, the quality or harmony of the environment, or the use, enjoyment or value of surrounding property, or (2) violate this Ordinance, the Building Code Ordinance or any other applicable local, State or Federal requirements. For purposes of these performance standards, the term “property line” means the boundary of the property on which a structure or equipment is located or on which a use takes place.

4.10.1 Vibration and Ground Motion.

Except in connection with permitted excavation activities or the demolition, construction or reconstruction of a structure, no activity shall generate any vibration or other aperiodic ground motion inherently and recurrently transmitted through the ground that is perceptible without the aid of instruments at any point beyond the property line.

With exception of potential vibration from construction activities, there is no reasonable expectation of ground vibrations.

4.10.2 Noise.

No activity, or failure to act, shall generate or result in the generation of noise that could interfere with the reasonable enjoyment of life and property or the conduct of business or that would exceed the limits established below or pursuant to any permit issued by the Town. No activity, or failure to act, shall cause the continuous sound level generated on a lot to exceed the following limits at the property lines of contiguous lots (receptor lots) in the following Land Use Zones, as measured in decibels by an acceptable instrument at the applicable property line:

<u>Land Use Zone of Receptor Lot</u>	<u>Daytime (7:00 am-7:00 pm, excluding Sundays/Holidays)</u>	<u>Nighttime (7:01 pm-6:59 am, and Sundays/Holidays)</u>
Residential	55	45
Residential/Agricultural	55	45
Commercial	65	55
Industrial	75	75



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For purposes of this section, the term “acceptable instrument” means one conforming to the specifications of the American National Standard (ANSI S1.4–1983) for Type 1 precision or Type 2 general purpose sound-level meters. Notwithstanding an ambient sound level at the receptor lot line as high as the limits set out above, no activity, or failure to act, shall cause the continuous noise level at any given time to exceed such limits, or the level of the ambient sound level, if it is higher. For purposes of this section, the term “ambient sound level” means the noise level at a location from time to time produced by transportation vehicles, natural phenomena and distant activity not related to a local sound source. No activity, or failure to act, shall cause an impulsive sound level that exceeds the following limits, as measured in decibels by an acceptable instrument at the property line in applicable locations:

<u>Land Use Zone of Receptor Lot</u>	<u>Daytime (7:00 am-7:00 pm, excluding Sundays/Holidays)</u>	<u>Nighttime (7:01 pm-6:59 am, and Sundays/Holidays)</u>
Residential	60	45
Residential/Agricultural	60	45
Commercial	75	55
Industrial	85	75

For purposes of this section, the term “impulsive sound” means a repeated sound of short duration characterized by an abrupt onset and rapid decay and occurring at the rate of less than one per second. The requirements of this section shall not apply to the operation or conduct of (1) temporary onsite generators providing emergency power during electrical outages; (2) customary equipment used during daytime construction of permitted structures, such as air compressors or generators; (3) power tools for intermittent residential use and maintenance, such as mowers, chainsaws, snow removal equipment, etc.; (4) permitted events conducted during the prescribed time period; (5) emergency vehicles or equipment or alarm systems; (6) customary agricultural activities during normal working hours; (7) school or church bells or chimes; and (8) blasting activity conducted in accordance with permit requirements.

It is understood that the site will comply with the requirements set forth in the Town Ordinances and Regulations. The site is well buffered from the abutting properties by the setbacks, buffers and the brook.



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4.10.3 Odors.

A non-agricultural activity shall not generate any odor that could reasonably be considered objectionable or offensive to persons of average sensibilities in concentrations perceptible at any point beyond the property line.

It is understood that the site will comply with the requirements set forth in the Town Ordinances and Regulations. There is no reasonable expectation of offensive odors.

4.10.4 Smoke and Airborne Particulates.

Subject to Section 4.10.5 below, no activity shall result in the emission or discharge, from any source whatever, of any smoke or particulate matter, such as dust, dirt or ash, that may become airborne, with a density greater than that described as No. 1 on the Ringelmann chart (available, along with directions on its use, in Information Circular 8333, or updates thereof, issued by the US Bureau of Mines), measured at the point of emission into the atmosphere or other point of discharge. Particulate matter shall not be visible to the human eye at any point beyond the property line. No person shall cause or permit any materials to be handled, transported, or stored in a manner that would allow any particulate matter to become airborne. These requirements shall not apply to (1) the operation of residential heating equipment and systems in accordance with applicable requirements and manufacturers' specifications, (2) permitted outdoor fires, (3) customary agricultural activities, or (4) use of residential fireplaces. (Amended March 2022)

It is understood that the site will comply with the requirements set forth in the Town Ordinances and Regulations. There is no reasonable expectation the site will cause or permit any materials to be handled, transported, or stored in a manner that would allow any particulate matter to become airborne.

4.10.5 Discharge of Hazardous or Toxic Materials, Gases or Liquids.

No (1) hazardous or toxic materials, liquids or gases, (2) hazardous radioactive materials or emission, or (3) other non-toxic substance that nevertheless could harm the public health, its safety or the environment in combination with other activities or substances, may be discharged or emitted into the air, soil or groundwater, the Town sewer system, any septic system or any stormwater system. These requirements shall not apply to (1) agricultural activities conducted in accordance with local, State and Federal requirements, and best management practices promulgated from time to time by State agricultural agencies; (2) smoke emitted in compliance with, or from sources excepted from, Section 4.10.4 above, or (3) customary residential chemical applications by licensed providers or in compliance with manufacturers' specifications and other best practices.



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It is understood that the site will comply with the requirements set forth in the Town Ordinances and Regulations. There is no reasonable expectation the site will discharge hazardous or toxic materials, gases, or liquids into the air, soil, groundwater, the town sewer system, any septic systems, or any stormwater system.

4.10.6 Lighting and Glare.

Lighting or structural elements installed on a private site shall comply with the requirements of this Ordinance, and in particular, Chapter 16A, and new or replacement residential lighting, including bulbs, shall be cut off so as not to cast direct light across property lines. These requirements shall not apply to emergency safety lighting. (Amended March 2022)

It is understood that the site will comply with the requirements set forth in the Town Ordinances and Regulations. Furthermore, a lighting plan will be provided to the town at the time of Site Plan approval demonstrating the compliance with lighting regulations.

4.10.7 Signage.

Signage installed on a private site shall comply with the requirements of this Ordinance, and in particular, Chapter 16, and shall not, in any event, detract from the visual environment of the Town of Wilton, endanger, confuse or mislead individuals, or obstruct vision necessary for traffic safety.

Any and all signage to be installed on the property will be compliant with the Town of Wilton Zoning Ordinance.

4.10.8 Electromagnetic Radiation.

Activity producing electromagnetic radiation that causes abnormal degradation, by reason of proximity, primary field, blanketing, spurious radiation, conducted energy in power or telephone systems or harmonic content, of other electromagnetic receptors of quality and proper design located beyond the property line is prohibited. "Abnormal degradation" and "of quality and proper design" shall be determined in accordance with standards established from time to time by the American Institute of Electrical Engineers or such other group that provides standards more specifically for the type of interference at issue.

It is understood that the site will comply with the requirements set forth in the Town Ordinances and Regulations. There is no reasonable expectation that the site will produce electromagnetic radiation.



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4.10.9 Materials Creating a Fire or Explosion Hazard.

Storage or use of flammable liquids or gases, or other explosive materials, shall be permitted only in compliance with this Ordinance and other applicable local, State and Federal requirements, including, without limitation, those imposed from time to time by the Fire Chief of the Town of Wilton.

It is understood that the site will comply with the requirements set forth in the Town Ordinances and Regulations, state, and federal requirements.

4.10.10 Stormwater Management.

All new construction, development, reconstruction and other activity that disturbs the soil shall be designed to minimize stormwater runoff from the site in excess of the natural preexisting conditions, including location and volume, and shall comply with the requirements of the Wilton Land Use Laws and Regulations and in particular, Section H, Stormwater Management and Erosion Control Regulations. Where activity is within the Watershed Protection District, the Aquifer Protection District, or any other aquifer or wellhead protection area, all surface stormwater shall be kept on-site and handled in such a manner as to allow the water to infiltrate into the ground before leaving the site. (Amended March 2022)

It is understood that the site will comply with the requirements set forth in the Town Ordinances and Regulations. The proposed site will receive a Wilton Stormwater permit and a State Alteration of Terrain Permit (State Stormwater Permit).

4.10.11 Structure Design.

Proposed structures shall relate harmoniously to the terrain and to existing structures in the vicinity, in keeping with the characteristics of the neighborhood. To the extent practicable, structures shall be designed based on existing topography, vegetation and drainage characteristics and the site shall retain significant and/or unique features, such as historic resources, existing ponds or streams, and mature trees.

It is understood that the site will comply with the requirements set forth in the Town Ordinances and Regulations. The above requirement is acknowledged. The proposed site will, to the extent practicable and required by regulations, structures shall be designed based on existing topography, vegetation and drainage characteristics and the site shall retain significant and/or unique features, such as historic resources, existing ponds or streams, and mature trees.