



**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 M-73 Lot Size 1.20  
 Street Address 41 GREENE STREET

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 WIRBAL, DAVID G  
 Mailing address 41 GREENE STREET

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 David Wirbal Date 6-12-23

(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 DA. Winkler \_\_\_\_\_ Date \_\_\_\_\_

**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 \_\_\_\_\_

Mailing address \_\_\_\_\_

Mailing address \_\_\_\_\_

Town, State, ZIP \_\_\_\_\_

*N/A*  
*N/A*

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 DA Winkler \_\_\_\_\_ Date 6-12-23

(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 603-325-1991  Evening phone                     -

Work E-mail DAVID.WIRBAL@fmr.com  Personal e-mail DCWIRB@aol.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):

See attached - Page 1 of 8

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**David Wirbal**

41 Greene Street  
Wilton, NH 03086  
(603) 325-1991

**Description of proposed use and need for ZBA approval**

A small utility shed (10 x 12) to be constructed for the purpose of brewing craft beer. No transactions will occur on the property. Exchange of product will occur off premises. The NH Liquor Commission requires a NH Liquor License to transport any home-made alcohol products outside of a homestead. Further, the brewing area must be fully accessible to the Commission for any inspection, at any time, which is why the shed must be separate and distinct from the homestead.

Wilton ZBA approval is required because the property (Map M-73) is zoned 'Residential'.

*Please note that as I believe my proposed use satisfies Section 5.3.1.1., I am not applying for a special exception. Pages 2 thru 4 of the attachment are for explanatory purposes only.*

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

**5.3.1 Home Occupations.**

Any home occupation shall be permitted as a special exception provided it complies with the requirements of this section. When considering an application for a home occupation, the ZBA shall consider the location of the proposed use, the area of the lot, the type and density of surrounding development, existing buffers and screens between the proposed use and surrounding development, and the compatibility of the proposed use with the surrounding neighborhood.

- a. The home occupation shall be incidental and secondary to the use of the dwelling unit as a residence.
  - ✓ The residence will be unchanged and remain in its' current state.
- b. Home occupations shall be carried on by the resident owner, resident members of the owner's family, a resident tenant, or resident members of the tenant's family.
  - ✓ There will be no employees of the business aside from the home owner.
- c. Two (2) non-family employees are permitted on the premises.
  - ✓ There will be no employees of the business aside from the home owner.
- d. No additions or changes shall be made to the residence that will make it impractical to revert the building to purely residential use.
  - ✓ The residence will be unchanged and remain in its' current state.
- e. Exterior storage of materials or equipment is prohibited.
  - ✓ Exterior storage of materials will not be necessary or required.
- f. In addition to the parking area required for the primary residential use, sufficient off-street parking shall be provided for any non-resident employees, customers and suppliers who may normally be expected to need parking at one time. Driveways may be used for client parking. Where additional space is desired, a maximum of two (2) parking spaces is permitted; however, those spaces shall not be located in the front yard. Parking spaces shall be a minimum of nine feet by eighteen feet (9' X 18') per space.
  - ✓ Additional parking will not be required as there will be no external employees and the business will not be a traditional retail establishment. It will not be necessary for consumers to visit the property; the product will be exchanged off-premise. There will be no retail foot traffic on the property.
- g. Traffic generated by the home occupation shall not create safety hazards or be substantially greater in volume than would normally be expected in the neighborhood.
  - ✓ There will be no impact to traffic on the town, neighborhood or abutters.
- h. Home Occupations shall be conducted in accordance with all Town regulations, state laws and licensing requirements.
  - Business Registered in the State of NH as "Brew for You, LLC" d/b/a "Dudley Brewing". State ID number: 798281. Date of Incorporation was June 29th, 2018. Business listed in good standing with all fees current.
  - Building Permit obtained from the Town of Wilton.
  - Electrical Permit obtained from the Town of Wilton and coordinated with Alternate View Landscaping for conduit run from residence to shed and electrical work performed by JP Richards & Son. Electrical work and insulation installation approved by Dawson Gray.
  - Fire Department Chief Don Nourse approved safety standard on May 30th, 2023.
  - Shed placed in location directed after site visit by Wilton ZBA prior to granting original variance.
  -
- i. When a business outgrows the standards established for a home occupation, it must relocate into a commercial or industrial district.
  - ✓ There is no intention to grow the business beyond what would be considered an advoation.



### **5.3.1.1 Special Exception Not Required (Adopted March 1998.)**

A home occupation may be conducted without a special exception from the Zoning Board of Adjustment and without site plan review by the Planning Board provided that, in addition to the requirements of the preceding section (5.3.1), it also satisfies the following standards:

- a. The home occupation shall occupy no more than 20% of the existing, gross heated floor area of the primary residence or the structure in which the home occupation is operated.
  - ✓ The building dimensions are 10 feet x 12 feet; 120 square feet in total. Because of the size of the property (1.20 acres), the structure would occupy less than 1% of the total square footage of the property (calculated as 120 square feet structural footprint / 43,650 feet in an acre).
  
- b. There shall be no customer or client visits to the premises and commercial traffic for the delivery or pick-up of materials associated with the home occupation shall be limited to five visits per week. (excluding regular US Postal Service residential service).
  - ✓ Commercial delivery of production materials is not necessary; grains are retrieved from area distributors & mills.
  - ✓ Delivery of finished product will be done by business owner to recipients via personal vehicle.
  - ✓ Retail vehicle and foot traffic will not exist.
  
- c. The home occupation shall not employ any non-resident full time or part time employees on the premises.
  - ✓ There will be no employees of the business aside from the home owner.
  
- d. No signs are allowed to advertise a home occupation.
  - ✓ Neither street side nor structure signage exists nor is it required or needed.
  
- e. There shall be no outside operation(s) related to the home occupation.
  - ✓ All materials and components will be housed within the structure.
  - ✓ All production will be conducted within the confines of the structure.
  - ✓ There will be no noise, odor or other interferences to the current residential environment.
  - ✓ Structure will have the same appearance as a standard utility shed (see photos attached).

#### **4.4 Special Exceptions**

Any Special Exceptions permitted by this Ordinance may be granted by the ZBA only upon a finding that:

- a. *The proposed use is not permitted by the Ordinance in the absence of a Special Exception.*
  - ✓ The property located at 41 Greene Street, is labeled as Map number M-73, which is identified as a 'Residential District'. As such, a structure for brewing would not be allowed without a Special Exception.
- b. *The proposed use is consistent with and will not substantially affect the character of the neighborhood.*
  - ✓ Externally, the utility shed appears identical to the many other utility sheds scattered throughout the neighborhood which shelter lawn and garden equipment from the elements.
- c. *The proposed use will comply with section 4.6, Performance Standards.*
  - ✓ (See below for responses to Section 4.6, 'Performance Standards')
- d. *The proposed use will not cause any unreasonable diminution of surrounding area property values.*
  - ✓ The proposed shed features a finished trim and decorative landscaping is planned to maximize external appeal. As with any quality structural addition, (i.e. garage, sun room, etc.), the addition of the utility shed should only increase property valuations.
- e. *The effect of the proposed use on traffic in the neighborhood and in the Town will generally be acceptable.*
  - ✓ There will be no impact to traffic from both a neighborhood as well as Town perspective as the product exchange will be conducted off-property. Further, product delivery for manufacturing is not required.
- f. *Sewer, water and other public facilities are adequate for the proposed use.*
  - ✓ Wilton Town water transported from an external home faucet via potable hose to the shed will be used. Equipment used in the manufacturing process will be sanitized with a combination of normal tap water and a cleaning agent (Star-Sans) which is non-toxic to the environment and bio-degradable. Spent grains are donated to Unity Farm Sanctuary in Sherborn, MA, of which David Wirbal is a Board Member).
- g. *Adequate off-street parking is available for the proposed use.*
  - ✓ Off-street parking will not be required as foot-traffic and patron visits are not a component of the proposed use.
- h. *The proposed use will not be detrimental to the attractiveness of the Town.*
  - ✓ The location of the brew shed in accordance with original Town requirements is such that it has minimal, if any, street side visibility. It is shielded from immediate abutters by thick forestry and existing tree line. Since original construction in August of 2018, additional perimeter growth further shields the shed from abutters.
- i. *The proposed use is consistent with the spirit of the Zoning Ordinance.*
  - ✓ The spirit of the ordinance is to remain intact and leave unchanged a residential feel and flavor to the neighborhood and minimize any deviation from the current culture and aesthetics of the neighborhood. The ordinance seeks to limit intrusion into the quiet enjoyment of abutters. As the structure will have the appearance of a utility shed and because the manufacturing process is quiet and will not generate any odors noticeable to the neighborhood, vibrations, etc. the proposed use is consistent with the spirit of the ordinance.
- j. *The proposed use meets all other criteria enumerated in the section of the Ordinance which permits the particular Special Exception.*
  - ✓ See sections 5.3.1 'Home Occupations', 5.3.1.1 'Special Exception Not Required' and 4.4 'Special Exceptions' which address the proposed use and confirm that it suffices all said requirements.

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

5.3.1(e): *Exterior storage of materials or equipment is prohibited.*

- ✓ Exterior storage of any kind is not necessary.

5.3.1.1(e): *There shall be no outside operation(s) related to the home occupation.*

- ✓ Continuing with the theme set-forth in 5.3.1(e), in the proposed scenario, the manufacturing & packaging of all products will occur 100% within the confines of the shed.
- ✓ In summary, because the proposed structure will have the appearance of a common utility shed, and because all production will be within the confines of the structure and will have no impact to the neighborhood, and more specifically abutters, it is my belief a variance would be in order.



## Application for a Variance – Responses

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

- ✓ Because there would be no negative impact to home valuations, the environment, traffic patterns or volumes, neighborhood characteristics, noise levels, or other factors generally associated with home businesses, the proposed use would not be contrary to the public interest in any form. Conversely, since the construction of the shed, the property has appreciated over 25% which inherently increases surrounding property values.

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

- ✓ As the spirit of the ordinance intends to maintain a tranquil, quiet and residential feel to neighborhood, the proposed use may actually increase the intended spirit, as a utility shed is a common and welcome feature to the property.

### *3. Granting the variance would do substantial justice:*

- ✓ a. Because transporting home craft brews outside of the homestead is a Federal felony, granting the variance would allow the construction of a structure separate and distinct from the primary residence in which to initiate the brew process.
- ✓ b. The NH Liquor Commission would have unencumbered access to the building for inspection, a requirement for state and federal licensing. This ensures adherence to a clean, high quality standard.
- ✓ c. Because proceeds are taxable at federal and state levels, licensing ensures that all federal, state and local taxes are remitted to the respective entities, benefitting groups at all levels.
- ✓ d. The structure will increase property value when re-assessed which, in turn, increases its' tax liability.
- ✓ e. The proposed small business is perfectly aligned with the goal of the Economic Development Leadership Team which states "to protect its rural environment, historic charm, and natural resources while promoting opportunities for residential and business growth that are compatible with, responsive to and supportive of the needs of the community and local economy."
- ✓ f. Although a small avocation at this time, in the event the need to expand to a small brew-pub type operation, there are many spaces in Wilton's downtown, main street area which would be ideal for development, further enhancing the effort to build-up Wilton's business climate.

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

- ✓ To the contrary, a well built, painted and landscaped utility shed adds value to the existing property and neighborhood in general.

### *5(b) i. The property cannot be reasonably used in strict conformance with the ordinance:*

- ✓ This is a unique situation in that the variance is a necessity as a result of Federal and State regulations mandating the crafting of retail alcohol products outside of the homestead. If these regulations did not exist, crafting could continue within the primary residence as it has been for 13 years. Adhering to the strict terms of the ordinance would require the brew process to be confined within the home which is in conflict with State and Federal regulations. As such, and to comply with Federal, State and Town regulations, this variance is being sought.

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

- ✓ The hardship is not associated with the conditions of the property. Rather, the regulations set forth by the NH and Federal licensing commissions in themselves present business requirements which are unique to the craft brewing process.