

▶ RECEIVED ◀
OCT 24 2023

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 J-112-1 Lot Size .25

Street Address NH Route 31 and Mill 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 Fait's Property Maintenance LLC

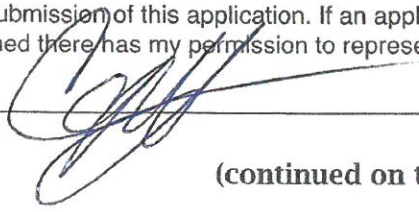
Mailing address 118 Amherst Street

Mailing address _____

Town, State, ZIP Amherst, NH 03031

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 _____

(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  _____ Date 10/13/23

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 **Attorneys at Cronin, Bisson & Zalinsky** _____

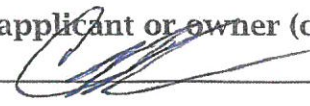
Mailing address **722 Chestnut Street** _____

Mailing address _____

Town, State, ZIP **Manchester, NH 03104** _____

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 10/13/23

(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 **603-624-4333** Evening phone _____

Work E-mail **sdunphy@cbzlaw.com** Personal e-mail _____
rmunson@cbzlaw.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 (attach additional pages as necessary):

Please see attached narrative

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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: 5.2.1

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

Please see attached

To grant a variance, the Zoning Board must find that it will satisfy each of the following five conditions. Please explain why you believe that each of the following statements is true (attach additional pages as necessary).

These five conditions come from the New Hampshire statutes and decisions of the state Supreme Court. Unless you are familiar with Zoning law, the language of these conditions probably does not mean what you think it means. If you have not applied for a variance before, we recommend that you consult with the Wilton Land Use Administrator or obtain professional advice.

1. Granting the variance would not be contrary to the public interest: Please see attached

2. Granting the variance would be consistent with the spirit of the Ordinance: Please see attached

3. Granting the variance would do substantial justice: Please see attached

4. The proposed use will not diminish surrounding property values: Please 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 section 5(a), 5(b), OR 5(c):

5(a) i. Owing to special conditions of the property that distinguish it from other properties in the area:
Please see attached

ii. 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:

Please see attached

iii. and the proposed use is a reasonable one:

Please see attached

5(b) Owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it

Please 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:

Please see attached

ii. The variance is in harmony with the general purpose and intent of the zoning ordinance:

Please see attached

VARIANCE NARRATIVE

Fait Property Maintenance, LLC (the “Applicant”) requests a variance from Section 5.2.1 of the Wilton Zoning Ordinance (the “Ordinance”) for its property identified on Tax Map J as Lot 112-1 and commonly referred to as 16 Island Street, Wilton, New Hampshire (the “Property”). The Applicant plans to build a single-family for the Fait family on the Property which is .25 acres when the Ordinance requires a buildable lot to be .50 acres. The Property is within the Residential Zone.

The Wilton Zoning Board of Adjustment (the “ZBA”) heard about this property and the proposed home at the June 22, 2023 hearing. As the ZBA members likely remember, the Property is a nonconforming lot that existed before the Ordinance was implemented. *See Exhibit A.* The Property was first conveyed to Abbott Worsted Mill, Inc. in 1933 as described in the deed recorded at the Hillsborough County Registry of Deeds (the “Registry”) at Book 919, Page 577. *See Exhibit B.* The property described in the deed is larger than the Property in its current state but it is part of the larger parcel. The deed uses ‘rods’ and identifies trees, rocks and businesses that have since been removed so it is difficult to follow.

A more particular description comes later on the 1950s plan identified as No. 988. *Exhibit C.* The Property is surveyed on Plan No. 988 but it is not given an identification number. In 1972, the Property finally had its own description and was identified as Parcel #3 at the Registry in the deed recorded at Book 2269, Page 268. *See Attached Deed marked as Exhibit D.* The history of this Property caused confusion and was finally settled prior to the special exception hearing.

The ZBA granted a special exception for setback relief on June 22, 2023 on the Property. In the notice of decision for the special exception, the ZBA noted a variance for lot size is

required. The Applicant is now seeking the exact variance noted by the ZBA. The plans and application are the same as what was presented during the special exception meeting. The ZBA implemented conditions of approval for the special exception that can and will be followed. This variance request does not alter the plans for this Property. The single-family home will stay within the parameters outlined by the ZBA in the special exception approval. The Fait family is seeking to build a home that matches the character of the neighborhood and will not overburden the area. The Applicant believes that this request complies with the variance criteria which are described below:

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

Granting this variance to allow construction of a single-family home on the Property would not be contrary to the public interest because the highest and best use if the Property is a home. The Property is in the Residential Zone and cannot be used for anything but a residential use. The Applicant plans on constructing a modest home that will match the current character of the neighborhood and minimally impact the current residents of the neighborhood. The home will stay within the size limitations stated in the conditions of approval for the special exception. The Faits designed their house to fit within the size of the Property and simply wish to live on the Property and raise their family. In sum, a variance to allow for one single-family home will not alter the essential character of the neighborhood nor will it negatively impact the health, safety, and welfare of the community.

2. Granting the variance would be consistent with the Spirit of the Ordinance.

The Preamble of the Ordinance states that “[t]he purpose of this ordinance is to promote and protect the health, safety, prosperity, convenience or general welfare of the inhabitants...” The variance request does not negatively impact any of these purposes of the Ordinance. The

Property is in the Residential Zone and the Applicant hopes to build a single-family home on the Property. The home will be modest in size and fit within the size parameters set by the ZBA in the conditions of approval for the special exception. The Property is large enough to service the proposed home without negatively impacting the health and safety of its future occupants and the neighbors. The proposed home was designed with to minimally impact the neighbors and meet the purpose of the Ordinance.

3. Granting the variance would do substantial justice.

Substantial justice is measured by whether the loss to the individual is outweighed by the gain to the general public in denying the variance. Here, if the variance is denied, the Applicant would lose the only use of the Property and the general public would gain nothing. The Property is large enough to hold a single-family home and that that is the only use allowed under the Ordinance in the Residential Zone. The Facts would be unable to build their family home if the variance was denied.

The public would gain nothing by denying this variance. The Property holds no lawful or legitimate value to anyone else other the Applicant. The one issue members of the public have had with the Applicant's proposed home is that the Property is used by neighbors for parking. As stated at the special exception hearing, this is neither a lawful or legitimate use. The neighbors who park on the Property do not have permission or a right to park on it. Besides the complaint about parking, the public has no other interest in keeping the Property undeveloped.

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

The proposed single-family home will not impact surrounding property values because the home will match the surrounding homes. The single-family home will not change the character of the neighborhood or cause a noticeable increase in traffic. The home will also not

cause a substantial or unreasonable increase in density. The Property is large enough for a home and a driveway. The proposed home will not have a negative impact on any of the surrounding homes.

- 5. Literal enforcement of the provision of the ordinance would result in unnecessary hardship.**
 - i. Owing to special conditions of the property that distinguish it from other properties in the area.**

The Property has been a recognized lot in Wilton since it was shown on a plan in the 1950s. The Property was subdivided before the minimum lot requirements of the Ordinance mandated a .50-acre buildable lot minimum. The special condition is the reason a variance is required and that is the size of the Property. A .25-acre lot is not a buildable lot under the Ordinance without a variance. If the Applicant's variance is denied, then the Applicant will be without any use of the Property because it is a residential lot.

- ii. No fair and substantial relationship exists between the general public purposes of the ordinance provisions and the specific application of that provision to the property.**

As states in prong two above, the purpose of the Ordinance is to protect the health, safety, and general welfare of the residents of Wilton. The variance not negatively impact of these purposes because the Property can service a single-family residence. The Property and the surrounding neighborhood will not be overburdened. A single-family home can be built safely and in compliance with the conditions already set forth by the ZBA in the special exception approval. The single-family will comply with the spirit of the Ordinance.

5B. Owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The Property has existed in its current state since the 1950s and has always been below the minimum lot requirements of the Ordinance. The Property has no use under the Ordinance

and a variance is required to use the Property. The Applicant is seeking the variance with least impact to the neighborhood. A single-family home on the Property is a reasonable use because it is in the Residential Zone and the use will not negatively impact the neighbors.