



Town of Wilton, NH Zoning Board of Adjustment

Notice of Decision

The request by Bill Gagan for a special exception under section 17.3 of the Wilton Zoning Ordinance and a variance to section 4.8 of the Wilton Zoning Ordinance has been granted. It will allow the construction of a new house (on the foundation of the existing house, which is to be demolished), which will be closer to one or more lot lines and closer to the Souhegan River than allowed by the ordinance on Lot J-118, 27 Island Street.

This decision shall expire if the construction or use permitted by it has not begun by Friday, January 9, 2026. (Wilton Zoning Ordinance section 17.4)

The selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing of this decision. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Thursday, February 8, 2024, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2)

Conditions of Approval

- The location of the house is to be as shown on a plan labeled “Proposed Plot Plan / 27 Island Street / Lot J-118 / as prepared for Side By Side Enterprises, Inc.” dated August 2023, which was enclosed with the application to the Zoning Board and is part of the case file. In particular, some of the existing foundation at the rear will be removed and replaced with soil and grass, so that the new house will be 14' from the edge of the Souhegan River.
- The appearance of the house is to conform substantially, although not necessarily exactly, to a plan labeled “Project: Single Family Home / 27 Island Street / Wilton, New Hampshire / East Elevation / North Elevation / West Elevation” identified as Sheet DD-4 and dated January 8, 2024, which was presented to the Zoning Board at the hearing and is part of the case file.

Findings of Fact

1. These findings are based on the testimony of the applicant and of the applicant’s architect, Robert J. Vorbach, and on plans submitted by the applicant with the application and at the hearing, which are included in the case file.
2. Lot J-118 is 0.078 acres. It is approximately 46 feet wide and 73 feet deep.
3. The lot is assessed / classified for residential use by the Town.
4. The Souhegan River runs directly along the back edge of the lot.
5. The lot contains a 1076 square foot two-story wooden house, which was condemned by the Town in 2021.
6. The house is less than one foot from the southwest side lot line.
7. The applicant proposes to demolish the existing house and build a new house on most of the existing foundation.

8. The applicant proposes to remove existing foundation at the rear of the existing house and replace it with soil and grass, so that the new house will be 14' from the edge of the Souhegan River.
9. The applicant proposes to leave the existing foundation along the west side of the house, but to increase the setback of the house from the west lot line to 3–4 feet at the front of the house and to 12' at the rear of the house.
10. Because of the condemnation of the house, the proposed reconstruction is not permitted by section 17.1(d) of the Zoning Ordinance.
11. Section 17.2 of the Ordinance relieves the applicant of the necessity of complying with the 0.5 acre minimum lot size for a dwelling in the Residential District.
12. The 35 foot front setback and 15 foot side and back setbacks in the residential district leave a 16' x 23' building envelope.
13. The applicant has therefore requested a special exception under section 17.3 of the Ordinance to allow reduced setbacks for the proposed new house.
14. Section 4.8 of the Zoning Ordinance requires that all structures be set back 50 feet from all water bodies, which includes the Souhegan River. This includes all of the lot except approximately 25 feet at the front.
15. The applicant has therefore requested a variance from section 4.8.
16. Requests by the applicant for similar relief were denied on September 12, 2023 in ZBA cases #7/11/2023-2 and #9/12/2023-1, “without prejudice to the right of the applicant to submit a request for the same [variance and special exception] for a new proposal with different setbacks.”

Reasons for the Decisions

- **Special Exception:** The Board found that the proposal satisfies all of the requirements for a Special Exception under Section 17.3 of the Zoning Ordinance.
- **Spirit of the Ordinance:** The proposed use is a permitted residential use which is consistent with the character and density of the neighborhood.
- **Public Interest:** The proposed use does not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public. The 14' setback will provide reasonable protection to the river, in the context of the historical land use in the neighborhood, and will be a significant improvement over the existing conditions of the lot.
- **Property Values:** The proposed use is consistent in character and scale with the existing residential development of the neighborhood. It will be a benefit to the neighborhood in all regards by comparison with the existing house.
- **Substantial Justice:** Strict adherence to Section 4.8 would deprive the owner of any reasonable use of the property in exchange for a limited addition protection for the river.
- **Hardship:** The lot has no economically viable use other than for a home. Its exceptionally small size means that a home cannot reasonably be constructed on it in conformity with the 50' river setback of section 4.8.

Sincerely,



Neil Faiman, Chairperson
Wilton ZBA
January 10, 2024