

**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, Erich Mueller

Mailing address 395 Elm Street

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  Date 1/10/24

(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 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 1/10/24

**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 1/10/24

(continued on the next page)

**Town of Wilton, NH**  
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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 603-673-1441  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.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Town of Wilton, NH**  
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**(Revised August 2022)**

**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):

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See attached.

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# MERIDIAN

## LAND SERVICES, INC.

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**January 12, 2024**

Caryn Case  
Land Use Administrator  
(603)-654-9451 x309  
[landuse@wiltonnh.gov](mailto:landuse@wiltonnh.gov)

**Re: Northern Lights Landscaping  
Gibbons Highway (N.H. Route 101)  
Map C Lot 102  
Wilton, NH  
Site Plan Permit # SP04-0623**

### **Response to Additional Special Exception Request by Town**

#### Case Facts

- Special Exception Approval received for the improvements to the existing culvert to allow for access to the rear of the property. See Case #6132023-5
  - A special exception was required to replace the existing culvert to support the increase in vehicle traffic.
  - Submitted to the ZBA on 5/30/23, initial presentation on 6/22/23 with the second presentation on 7/11/23.
- The initial submittal to the planning board on 6/21/23 showed utilities (Water and Sewer) within the driveway disturbance limits. Presented to the planning board on 7/19/23.
- Utilities removed from the plans and presented to the planning board on 8/16/23.
  - Utilities removed only due to the applicant did not expect the front Greenhouse/farmstand to require water or a bathroom.
- Utilities added to the plan and presented to the planning board on 9/20/23.
  - Utilities added only due to the applicant now expecting to require water or a bathroom in the Greenhouse/farmstand.
- Received email from Caryn Case on 10/11/23 stating “The special exception North Farm received last month does not cover the water and sewer lines through the wetlands crossing. A special exception to section 11.4(a) would be required.”
- Presentation to planning board on 10/18/23.
  - Regarding the special exception covered the utilities
  - Furthermore, that the utilities were not within the Wetlands Conservation District Boundaries as defined in Section 11.2
  - If the board was concerned with a septic force main crossing under the culvert pipe, sleeving to the same standard as sewer crossing a waterline was offered.
- Received Second email from Caryn Case on 11/13/23 stating “the Planning Board requires another special exception from the Zoning Board of Adjustment in regard to the water and sewer crossing through the wetlands.”
- The area where the utilities are crossing are not within the Wetlands Conservation District Boundaries



Northern Lights Landscaping  
Response to Additional Special Exception Request by Town

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The Appeal to Administrative Decision is clearly defined in section 11.2 of the Wilton NH Zoning Ordinance.

11.2 District Boundaries.

The Wetlands Conservation District comprises all wetlands and water bodies, as defined by this ordinance, located wholly or partially within the Town of Wilton.

In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Wilton, the more restrictive regulations shall apply.

(Amended March 2002, March 2003, March 2020)

This section plainly defines the district boundary as wetlands and water bodies. Meaning it begins and ends at the edge of the wetlands and/or waterbody. The section then refers to the definitions within the Zoning Ordinance. The definition for wetlands and water body can be found in section 3.1.34 and 3.1.34-a respectively.

3.1.34 Wetlands. An area that is defined from time to time by RSA 482-A:2, X and which shall, unless RSA 482-A:2, X indicates otherwise, include land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands shall be delineated as set forth time to time in the rules adopted under RSA 482-A. (Adopted March 2002, Amended March 2020)

3.1.34-a Water body. Any pond, lake, river, stream or similar area up to its Mean High Water Level. (Adopted March 2020)

The Town definition defers to the states definition for wetlands established in RSA 482-A:2. This definition essentially establishes three criteria for determining the limits of wetlands; hydrology, soils, and vegetation. The wetlands shown on the plan were delineated in accordance with these parameters. The lands between the inverts of the culvert pipe do not meet the criteria to be classified as a wetland. Therefore, the area between the inverts is not a wetland and is not within the Wetlands Conservation District as defined by the Wilton NH Zoning Ordinance.

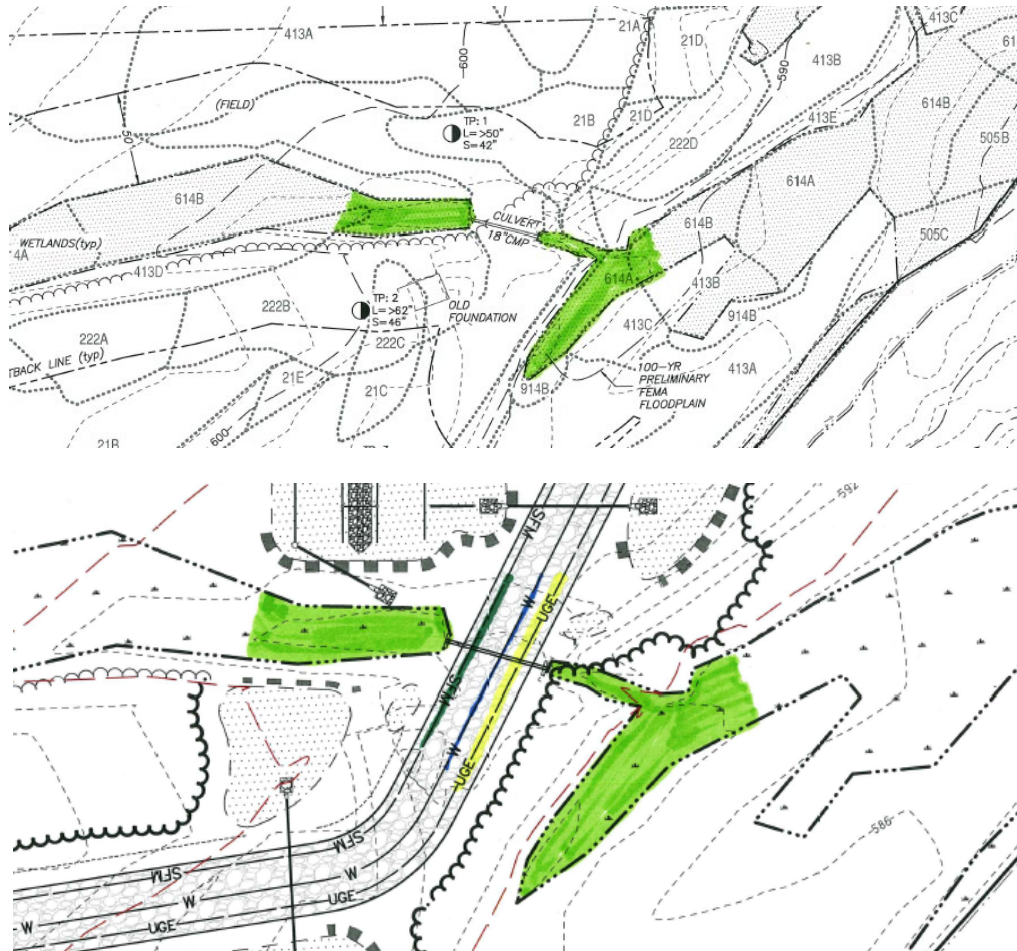
It was presented to the planning board on 10/18/23 that the location of the sewer, water, electric (and other underground utilities) are outside the limits of the wetland conservation district; therefore, special exception is not necessary. Below are the exhibits that were presented to the board



Northern Lights Landscaping  
Response to Additional Special Exception Request by Town

January 12, 2024  
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demonstrating where the wetland conservation district is located and how it relates to existing culvert and the improved culvert. It also shows how the proposed utilities are outside the district boundaries.



In conclusion, the special exception was required for the improvements to the culvert because the ends of the culvert are at the district boundary and temporary impacts will occur during construction. There are no further impacts to the wetlands caused by the installation of the utilities. Lastly, the utilities are proposed outside of the wetland conservation district boundary and no special exception is required.





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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 is to allow for the construction of an access way with associated utilities such as but not limited to water, sewer/septic, power, and cable/ internet, if a special exception is granted. A special Exception has already been granted for the construction of the upgraded access crossing and culvert (**See Case #6132023-5**). This special exception request is to allow associated utilities such as but not limited to water, sewer/septic, power, and cable/ internet.

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

Per Section 11.4.a Streets, roads and other access ways, and power lines and pipe lines are allowed within the Wetland Conservation District 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. The 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 with associated utilities such as but not limited to water, sewer/septic, power, and cable/ internet, 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 an access way with associated utilities such as but not limited to water, sewer/septic, power, and cable/ internet.**

**A special Exception has already been granted for the construction of the upgraded access crossing and culvert. This special exception request is to allow associated utilities such as but not limited to water, sewer/septic, power, and cable/ internet.**



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- 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. The associated utilities are proposed to be under ground.**

- 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 not 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. A NHDOT Driveway permit has already been granted.**

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

**The proposed development meets the required 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.**



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- 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.**