



Town of Wilton, NH Zoning Board of Adjustment

Notice of Decision

The request by Mark Haman and Lee Muir-Haman for variances to sections 8.1 and 8.5 of the Wilton Zoning Ordinance has been granted. It will allow the construction of a single-family dwelling on Lot F-24, 369 Gibbons Highway, where residential uses are not permitted in the Industrial District.

This decision shall expire if the construction or use permitted by it has not begun by Thursday, June 11, 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, July 11, 2024, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2)

Conditions and Comments

The variance is granted **subject to the condition** that any necessary easement be obtained to allow the use of the existing driveway on Lot F-23 for ingress, egress, and utilities for the benefit of the proposed residential use on Lot F-24.

The Zoning Board observes that the use of the existing driveway on Lot F-23 for access to the proposed residential use on Lot F-24 is an expansion of the use of the driveway, and as such will require a driveway permit in accordance with the Wilton *Driveway Regulations*.

Findings of Fact

- These facts are based on testimony from and plans submitted by the applicants and by Dan Higginson, land surveyor and septic designer, observations made by the Zoning Board members during a site visit on June 8, 2024, and the Town tax map and assessor's database.
- The applicants own adjoining lots F-23 and F-24, both in the Industrial District on the west side of Gibbons Highway (NH Route 101).
- Lot F-24, the subject of this application, has 12.5 acres and 700' of frontage on Gibbons Highway and is undeveloped.
- Lot F-23 has more than 50 acres and a historic house. It is land-locked, except for a driveway which runs along the north side of Lot F-24 to Gibbons Highway.
- Residential uses are not permitted in the Industrial District. The house on Lot F-23 is grandfathered, as it predates zoning by about 250 years.
- The applicants propose to build a home on Lot F-24, accessed by the driveway on Lot F-23.
- Variances to allow a use similar to use proposed by the applicants were granted in 2004 and 2007, but in each case expired unused.

Reasons for the Approval

- **Public Interest and Spirit of the Ordinance:** A single-family home on a wooded twelve acre lot will not affect the public health, safety, or welfare. Notwithstanding the Industrial Zoning of the area, the proposed development is as consistent with the existing character of the area as a permitted industrial or commercial use would be.
- **Property Values:** There is no evidence or reason to believe that the proposed house would have any effect on property values in the area.
- **Hardship, Substantial Justice:** The purpose of the prohibition on residential use of Industrial District lots is presumably to preserve Wilton's limited stock of land suitable for industrial use and to avoid making industrial lots less suitable for industrial use by placing residential uses in close proximity to them. But the combination of slopes, wetlands, and lot dimensions makes Lot F-24 relatively unsuitable for industrial development, while the wide buffers between the proposed house location and adjoining industrially zoned property minimizes any conflict between the residential use and hypothetical future abutting industrial uses. Furthermore, the history of Lots F-23 and F-24 as two tracts conveyed by a single deed, which have always been in common ownership, combined with F-23's agricultural and residential heritage, and the availability of its driveway to F-24, makes the proposed residential use particularly reasonable.

Sincerely



Neil Faiman, Chairperson
Wilton ZBA
June 12, 2024

Case #5/14/2024-2, decided Tuesday, June 11, 2024