

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/136 Lot Size .8

Street Address 37 Burns Hill Road

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 Please see attached signature pages, for multiple owners.

Mailing address _____

Mailing address _____

Town, State, ZIP _____

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 Please see attached owner authorization pages. Date _____

(continued on the next page)

clerk use only	
Date and time received: <u>7/23/2024</u> <u>3 am</u>	
Received by: <u>[Signature]</u>	Amount paid: <u>\$215</u>
Case #: <u>08/13/2024-04</u>	<input checked="" type="checkbox"/> Abutter list and labels included

RECEIVED
JUL 23 2024

Town of Wilton, NH

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 Wetlands Conservation Aquifer Protection Elderly Housing

Owner

If the application involves multiple lots with different owners, attach additional copies of this page.

Name Megan L. Robinson


Mailing address 11 Stone Lane

Mailing address _____

Town, State, ZIP Temple, NH 03084

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 7/22/24
Megan L. Robinson

(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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- Watershed
- Wetlands Conservation
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- Elderly Housing

Owner

If the application involves multiple lots with different owners, attach additional copies of this page.

Name Hannah M. Pratt

Mailing address 11 Stone Lane

Mailing address _____

Town, State, ZIP Temple, NH 03084

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 *Hannah M. Pratt* Date 7/22/24
Hannah M. Pratt

(continued on the next page)

clerk use only	
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Case #: _____	<input type="checkbox"/> Abutter list and labels included

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- Wetlands Conservation Aquifer Protection Elderly Housing

Owner

If the application involves multiple lots with different owners, attach additional copies of this page.

Name Kristy M. Pratt

Mailing address 11 Stone Lane

Mailing address _____

Town, State, ZIP Temple, NH 03084

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 *Kristy Pratt* Date 7/22/24

Kristy M. Pratt

(continued on the next page)

clerk use only

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Received by: _____ Amount paid: _____

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Town of Wilton, NH
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General Information, Page 2 of 3

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 _____ Please see attached signature pages, for multiple owners. 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 John G. Cronin, Esq. _____

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 See, attached owner authorizations for multiple owners. Date _____

(continued on the next page)

Town of Wilton, NH
Application to the Zoning Board of Adjustment
(Revised August 2022)
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 jcronin@cbzlaw.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.

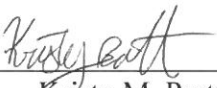
Description of proposed use and need for ZBA approval (attach additional pages as necessary):
Relief under Section 17.1, Non-conforming Uses, for Relief from 5.01, Permitted Uses.

Please see attached narrative, or in the alternative, a Special Exception.

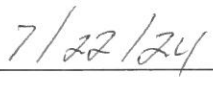
LETTER OF AUTHORITY/PERMISSION

The undersigned, being the owners of the property known as 37 Burns Hill Road, Wilton, Map J, Lot 136, hereby grants authority and consent to attorneys at Cronin, Bisson & Zalinsky, P.C. to sign and file ZBA and Planning Board applications and any related materials on my/our behalf and deliver the same to the Town of Wilton, represent me/us at any hearing(s) concerning these applications, and perform all other necessary actions in connection with such applications.

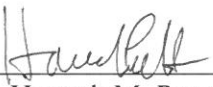
I/we certify that to the best of my/our knowledge and belief, all information provided in this application is accurate.



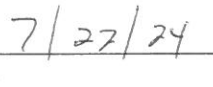
Signature Kristy M. Pratt



Date



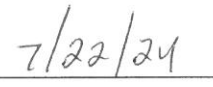
Signature Hannah M. Pratt



Date



Signature Megan L. Robinson



Date

Town of Wilton, NH
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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: 5.01, Permitted Uses.

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

Relief under Section 17.1, Non-conforming Uses, for Relief from 5.01, Permitted Uses.

Please see attached narrative.

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 narrative.

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

Please see attached narrative.

3. Granting the variance would do substantial justice: _____

Please see attached narrative.

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

Please see attached narrative.

(continued on the next page)

Town of Wilton, NH
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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 narrative.

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 narrative.

iii. and the proposed use is a reasonable one:

Please see attached narrative.

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 narrative.

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 narrative.

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

Please see attached narrative.

Variance Attachment: 37 Burns Hill Road

**Hannah M. Pratt, Kristy M. Pratt and Megan L. Robinson (“Owners”)
37 Burns Hill Road, Wilton, New Hampshire (“Property”)**

BACKGROUND

Kristy Pratt, Hannah Pratt and Megan L. Robinson acquired title of 37 Burns Hill Road, Wilton, New Hampshire (the “Property”) from their father, Daniel J. Pratt following his sudden death. At the time of his death and for over a decade preceding, Daniel J. Pratt occupied and operated the Property as a rooming house.

The Property is home to nine residents who call the Property home. The Owners seek to convey the Property to a purchaser who is willing to maintain the status quo and operate the property consistent with its historical use. During due diligence it was determined that the property record card reflects the Property as a two-family residence. The property records conflict with the historical use of the Property. During Daniel J. Pratt’s ownership, building permits were issued for improvements and inspections of the improvements were completed by town officials. Upon information and belief, it was well known in the community that the Property was being used and occupied as an owner-occupied rooming house. The structure is of a traditional colonial design and was constructed in or near 1880. The property record card indicates the Property is located in the Residential District (“RD”) zone.

The purpose of the RD zone is to provide mixed, high density, residential opportunities. The Owners seek to maintain the use of the Property for the benefit of the current residents.

BARTLETT ANALYSIS

The Owners request that the Honorable Zoning Board of Adjustment (“ZBA”) undertake a “Bartlett” analysis to determine whether zoning relief is required. The Zoning Ordinance, specifically Section 17.1, “Non-Conforming Uses” provides: “any non-conforming building, structure or use of land or buildings may continue in existence.” The Property is a non-conforming use and has been in existence for more than a decade. The plain meaning of the words in the Ordinance provide that the existing use may continue in existence. Thus, zoning relief should not be required.

RELIEF REQUESTED

If the ZBA requires relief from the Zoning Ordinance, relief is requested from Section 5.01, “Permitted Uses”, to allow the existing rooming house to continue in the same manner as the historical use, specifically nine rooms and an owner’s apartment.

CRITERIA

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

The “public interest” element is related to the requirement that a variance be consistent with the spirit of the ordinance and not unduly violate the ordinance. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 514 (2011) (internal quotations and citations omitted). In order for a variance to unduly violate a zoning ordinance, it must, “alter the essential character of the neighborhood” or “threaten public health, safety or welfare.” Id.

There is a public interest in providing housing of all types and kinds to support the living needs of the community. The Ordinance does not provide for rooming houses in any zone. The Property has been used in the current manner for over a decade providing clean, safe and affordable housing to nine members of the public. The public interest also rewards consistency. The current use has been in existence for many years and the test of time has established the use has not created any harm to the health, safety and welfare of the community. The use does not alter the essential character of the neighborhood because the house has ample space for the residents.

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

The test for the spirit of the ordinance is the same as the public interest prong. As stated above, allowing the historical use of the Property will not alter, in a marked degree, the essential character of the neighborhood. The Property is large enough to service the residents. The Zoning Ordinance allows for multi-families in the RD and this will have a similar impact. The RD also allows for Bed and Breakfasts, by special exception, which attract transient guests. The current use is less burdensome and allows for long-term residents to enjoy the community.

3. Granting the variance would do substantial justice.

Substantial justice is measured by whether the loss to the Applicant, in the event that the variance is denied, outweighs any gain to the general public from denying the variance.

The balancing test falls in favor of the Owners. The general public, which has become accustomed to the current use over an extended period of time, will not suffer in any respects if the variance is granted. The status quo will be maintained. On the other hand, the Owners, and more significantly the Tenants, will be harmed by the displacement of nine residents that call the Property home. In the current housing market, forcing people out of the Property and likely out of the community will result in substantial harm. Conversion of the Property to a two family will not be feasible for the owners and will result in economic waste.

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

The Property has been used in the current manner for over a decade while neighboring properties increased at or beyond price increases in the general market. There have been no incidents, problems or concerns with the operation of the Property. The test of time is the best indicator that market values of surrounding values will not be diminished.

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 is constructed and operated in a manner to provide homes to nine residents. The building structure, which has been repaired and maintained in that manner, with government approval, is physically appropriate for the current use based on its size, location and configuration. The house was built around 1880 and used as a duplex at one point in its history. The Property is no longer viable for a duplex but the size of the house, and age, make it a viable rooming house. Forcing residents to vacate the Property and forcing the physical modifications to the Property to make it a single family or two-family structure will result in economic hardship.

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:

The purpose of the Ordinance is to provide a mix of housing opportunities with high density in the zone. The current use is consistent with the goals of the Ordinance. The location and configuration of the building are appropriate for the use. Due to the nature of the neighborhood and the district, the drafters of the Ordinance did not likely consider the benefits to the community by allowing, as of right, rooming houses in the zone. Opportunities for uses like the current use are limited in the community and difficult to establish. Allowing the use by variance allows the community to consider such uses and allow them where appropriate. Based on the history of the Property, the location, and its size, the Property is an appropriate location for such a use.

iii. And the proposed use is a reasonable one:

As demonstrated by the long-term use, the request is reasonable and provide a necessary housing option for the community. In the alternative, it is not feasible to modify the building to single-family or two-family status as the construction costs far outweigh any benefit. The home is also not configured for single family or two-family living.

Alternatively, an unnecessary hardship will be deemed to exist if, and only if, 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 is the only property in the area used as a rooming house. The Property was once a duplex but that is no longer a viable use because of prior work done to the house. The house would need substantial renovations to be used as duplex again. The Property cannot be used in strict conformance with the Zoning Ordinance but it can no longer be a duplex. The residents currently residing at the Property are existing and need housing. The use is reasonable

because the house is large enough to safely house the residents. The Property provides for parking for the residents and the historical use of the Property shows it is a reasonable location for a rooming house.

CONDITION OF APPROVAL

The Owner met with the Fire Chief to discuss life safety improvements for the current use. The Fire Chief recommended an upgrade to the alarm system and installation of a new panel system. The Owner agrees to install the alarm system upgrades agreed upon as a condition of approval.