



# Town of Wilton, NH Zoning Board of Adjustment

## Notice of Decision

The request by Deborah and Richard Clutz for variances to sections 4.2(b)(3) and 6.2.5 of the Wilton Zoning Ordinance has been granted. It will allow replacement of a septic system which will be closer to wetlands and to a lot line than allowed by the Ordinance on Lot H-54-3, 47 Badger Farm Road.

This decision shall expire if the construction or use permitted by it has not begun by Friday, August 14, 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 Friday, September 13, 2024, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2)

### Condition

The septic system placement is to be in accordance with the plan submitted to the ZBA with the case application, which is included in the case file.

### Note

The proposed septic system also requires approval from the State of New Hampshire.

### Findings of Fact

- The lot size is 2.4 acres.
- The proposed system is to replace a failed existing system
- Location of wetlands and of the existing buildings and well on the property make it impossible to place a septic system which satisfies the lot-line and wetland setback requirements.

### Reasons for the Decision

- **Public Interest:** The requested variances allow for the installation of a new leach field to replace the failed one (which is much closer to the wetlands). Public interest is better served to allow the new EDA per design plan.
- **Spirit of the Ordinance:** The new proposed system is further from the wetland compared to the existing and placement of the EDA near the side lot line allows for the maximum wetland setback. Also, the spirit of the Ordinance is to protect health, safety and welfare, which is accomplished by this proposed upgrade.
- **Substantial Justice:** Granting the variance allows for the replacement of a failed septic system, which is reasonable & just.

- **Property Values:** There is no encroachment into the protective well radius and the proposed upgrade is environmentally beneficial to surrounding properties.
- **Hardship:**
  - **Special conditions:** The property is traversed by a wetland at the bottom of a steep slope at the rear of the building area. The setback reductions allow for the installation of a proper system and the mitigation of a potential health hazard.
  - **No fair and substantial relationship:** The zoning setbacks are general/random in nature and relief from the same does not compromise the wetland quality or affect the abutting property.
  - **Reasonable use:** Repairing a failed septic system (with surface breakout) is always a reasonable course of action.
  - **No reasonable use:** The property is traversed by a wetland at the bottom of the steep slope at the rear of the building area. Because of the site constraints caused by wetlands, house and well locations, the setback reductions allow for the installation of a proper system and the mitigation of a potential health hazard.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil Faiman", with a long, sweeping horizontal stroke at the end.

Neil Faiman, Chairperson  
Wilton ZBA  
August 15, 2024

Case #8/13/2024-6, decided Wednesday, August 14, 2024