



Town of Wilton, NH Zoning Board of Adjustment

Notice of Decision

The request by Denise Berrigan for a variance to section 17.1(e) of the Wilton Zoning Ordinance has been granted. It will allow the construction of a 15' porch roof on the north and north-west of the existing house on Lot A-48-2, 77 Stagecoach Road, where the house does not satisfy the setback requirement from the road.

This decision shall expire if the construction or use permitted by it has not begun by Thursday, November 12, 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, December 12, 2024, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2)

Findings of Fact

- Lot A-48-2 is a 2.28 acre lot on the west side of Stagecoach Road (with frontage also on the northeast side of Davisville Road), in the General Residence and Agricultural District.
- The lot contains a large historic house which at its closest is only 33' from its lot line on Davisville Road, where the ordinance requires a 35' setback. Thus, the house is nonconforming.
- The applicant proposes to build a porch roof extending 13' from the north 17' of the west side of the house, and 15' from the entire north end of the house, as shown on a plan submitted with the application and which is part of the case file.
- No portion of the addition would be less than 35' from any lot line.
- Section 17.1(e) of the Zoning Ordinance prohibits the extension or enlargement of a non-conforming building.

Reasons for the Decision

- **Public interest:**
 - The proposed use does not threaten the public health, safety, or welfare, or change the character of the neighborhood.
 - The porch roof addition over patio will not have any impact on the public or abutters. Porch roof and patio will be an improvement and increase outdoor living space and property value.
- **Spirit of the ordinance:**
 - The use is consistent with the residential zoning, and does not offend the setback restrictions.
 - Ordinances such as set backs provide the public with aesthetic and functional benefits such as maintaining a safety buffer between inhabitants and traffic. Some houses were built before the time of these precautions and therefore may require a

variance to the ordinance in order to maintain or improve the property/living space. The proposed structure will not encroach on these set backs thus not causing any public harm or safety issues. Therefor granting this variance would be in the spirit of the Ordinance.

- **Substantial justice:**

- Preventing the owners from making a minor and reasonable improvement to their property because of decisions that were made generations before anyone had ever imagined zoning would be a substantial injustice.
- The zoning ordinance application of 17.1(e) negatively affects home owners who have purchased older homes that are grandfathered in. Granting this variance would do substantial justice in giving Ms. Berrigan the luxury of more outdoor living space and a possible increase in property value. Denial of this variance would be no gain to the public. Unjustly restricting Ms. Berrigan's reasonable use of the property considering the neighborhood and house's old characteristics.

- **Property values:** The proposed addition makes no tangible difference to the character of the property or the neighborhood.

- **Hardship:**

- The hardship arises from the special condition of the property, that it has a historic house which would have been consistent with the character of the neighborhood when it was built, and still is consistent with the character of the neighborhood notwithstanding a subsequently imposed setback requirement.
- As a consequence, strict adherence to the requirements of section 17.1(e) would not do anything to advance its purpose.
- Ms. Berrigan's house was built before a time where trucks and automobiles were part of society. In those times it made sense to build homes closer to the road in order for easier access by horse/foot/buggy. Structures and neighbors like this should be preserved and cherished. These antique qualities of the home distinguish it from others built circa mid-1900s. On the other hand the owners of these such properties should not be penalized when they want to make reasonable improvements to their property that do not harm the public or impede on the set backs.

Sincerely,



Neil Faiman, Chairperson
Wilton ZBA
November 14, 2024

Case #11/12/2024-2, decided Tuesday, November 12, 2024