



Town of Wilton, NH

Zoning Board of Adjustment

Notice of Decision

The request by Bill and Deb Abrahams-Dematte for a variance to section 14.3.1 of the Wilton Zoning Ordinance has been granted. It will allow a lot line adjustment that will reduce the area of Lot A-40, 72 Barrett Hill Road, which is already smaller than required for a residential lot in the Watershed District.

Findings of Fact

- These facts are derived from the application, the “Lot Line Adjustment” plan which was attached to the application and is included in the case file, and from testimony by the Applicants and their engineer at the public hearing.
- Lot A-40 was created with an area of 5.333 acres by a subdivision in 1988.
- An amendment to the Zoning Ordinance in 1989 created an overlay Watershed District which contained Lot A-40 and required a minimum of 15 acres per dwelling unit (subsequently reduced to 6 acres), thus rendering Lot A-40 non-conforming.
- The applicants purchased the Lot A-40 in 2001. Under a misapprehension regarding location of the boundary line, they developed a substantial garden on land belonging to abutting Lot A-41. The error was not discovered until a survey of Lot A-41 for an unrelated lot line adjustment in 2024.
- The applicants negotiated a agreement with the owners of Lot A-41 (now known as Lot A-41-1 subsequent to the 2024 lot line adjustment) which would transfer an area of 5,692 sq. ft. (identified as Parcel “B” on the “Lot Line Adjustment” Plan) containing the garden area from Lot A-41-1 to Lot A-40, and an area of 13,030 sq. ft. (identified as Parcel “A” on the “Lot Line Adjustment” Plan) from Lot A-40 to Lot A-41-1.
- The proposed lot line adjustment would result in a net reduction of 7,338 sq. ft. to the area of Lot A-40, thus increasing the magnitude of its nonconformity from Zoning Ordinance section 14.3.1.
- The proposed lot line adjustment would not increase the number of developable lots, nor the number of permissible dwelling units, nor the permissible uses of either lot, nor would it result in any existing structure or use on either of the lots being closer to a lot line than would otherwise be allowed by any provision of the Zoning Ordinance.

Reasons for the Decision

- Property Values
 - The proposed lot line adjustment would not modify, or enable any future modification, of either lot in any way that would even be perceptible to other properties in the neighborhood.
- Spirit of the Ordinance, Public Interest:
 - The proposed lot line adjustment would not modify, or enable any future modification, of either lot in any way that would be inconsistent with the general purposes or specific restrictions of the Watershed District.

- Hardship
 - The inadvertent, substantial use of a neighbor's property over a period of years creates special conditions of the property.
 - For the reasons discussed above, no public purpose attributable to the six acre lot size requirement of Section 14.3.1 will be injured by the reduction in the size of Lot A-40 from 5.333 to 5.164 acres.
 - Good neighbor relations are an intangible but very real value to a neighborhood and a town. An amicable resolution to a situation that could easily have led to acrimony, and even litigation, should be encouraged.
- Substantial Justice
 - Granting the variance will no have effect on any interest of other property owners or of the Town generally, while denying the variance, and thus preventing the proposed lot line adjustment, would impose a heavy burden on the applicants, who would lose their rights to improvements which they have created over many years.

This decision shall expire if the construction or use permitted by it has not begun by Thursday, May 13, 2027. (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, June 12, 2025, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2)

Sincerely,

A handwritten signature in black ink, appearing to read "Neil Faiman", with a stylized, flowing script.

Neil Faiman, Chairperson
Wilton ZBA
May 14, 2025

Case #5/13/2025-1, decided Tuesday, May 13, 2025