

**C|W|B**  
CLEVELAND, WATERS AND BASS  
ATTORNEYS AT LAW

TIMOTHY E. BRITAIN, ESQUIRE

BRITAIN@CWBPA.COM

July 8, 2026

**VIA HAND DELIVERY**

Ms. Jane K. Farrell  
Town Clerk  
42 Main Street  
P.O. Box 83  
Wilton, NH 03086

**Re: Zoning Board of Adjustment Motion for Rehearing of Case No. 03/10/2026-01**

Dear Ms. Farrell:

Please find enclosed for filing in the above-captioned matter a *Motion for Rehearing* submitted by Kenton Blagbrough, Trustee of the Blagbrough Family Realty Trust. Also enclosed are a check for the required filing fee and two sets of adhesive abutter labels.

Very truly yours,

  
  
*for* Timothy E. Britain

Enclosures  
cc: Client (via email)

RW and PA Folz, Trustees  
109 Stiles Farm Road  
Wilton, NH 03086

Luc Sirois & Faby Gagne  
325 Burton Highway  
Wilton, NH 03086

Heather & David Wright  
323 Burton Highway  
Wilton, NH 03086

Blagbrough Family Realty Trust  
C/o Kenton Blagbrough  
P.O. Box 670  
Wilton, NH 03086

Preston Revocable Trust  
HA Preston & EM Keenan, Trustees  
21 Frye Mill Road  
Wilton, NH 03086

Gray Revocable Trust 2012  
Kevin & Catherine Gray, Trustees  
81 Outlook Drive  
Wilton, NH 03086

Eric & Tracy-Jean Bacon  
P.O. Box 1260  
Wilton, NH 03086

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Fry & Son, E.B.  
12 Frye Mill Road  
Wilton, NH 03086

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## Printing tips

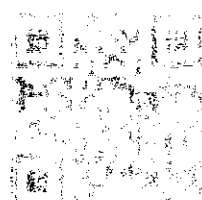
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## Printing tips

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# **Town of Wilton, NH Request for a Rehearing (Revised May 2024)**

## **Instructions**

The Zoning Board cannot consider a request for a rehearing unless it is received in the Town Office, complete, with all fees paid and abutter labels included, no later than the deadline date. A Zoning Board decision cannot be appealed in court if a proper rehearing request has not been submitted.

If you have any questions about how to complete this application, please contact the Zoning Board chairperson or clerk, whose names and phone numbers you can get at the Wilton Town Office.

We will be happy to help you understand the Zoning Board application process and legal requirements, but we cannot advise you on your personal situation. If you are uncertain about how the zoning laws apply to your case, we recommend that you obtain professional advice.

## **Instructions**

Use this form to ask the Zoning Board to hold a new hearing to reconsider a decision that it made at a previous meeting.

## **Appeals process**

**Anyone who wants to appeal a decision of the Zoning Board must begin by requesting a rehearing.**

If the Zoning Board denies your request for a rehearing, or if it holds a rehearing but reaffirms its original decision, then you can appeal the decision to Superior Court or the Housing Appeals Board.

If the Zoning Board holds a rehearing and changes its original decision, then anyone who disagrees with the changed decision can start the process over by requesting a new rehearing.

See RSA 677:2-677:4 for more details on the rehearing and appeals process.

## **Who can request a rehearing?**

The following people can request a rehearing:

- The original applicant
- The owner of the property involved in the application
- The Board of Selectmen
- An abutter, or anyone else who was legally required to be notified of the original hearing.

- Anyone who is directly affected by the decision. (Economic competition does not count as being "directly affected.")

## **Kinds of decisions**

If the Zoning Board denied the original application, then someone in favor of the application might appeal the decision.

If the Zoning Board approved the original application as submitted, then someone opposed to the application might appeal the decision.

If the Zoning Board approved the original application with restrictions, conditions, or modifications, then someone in favor of the application might appeal the restrictions, conditions, or modifications, while someone opposed to the application might appeal the decision to approve the application at all.

## **Deadline**

**The request must be filed in the Town Office no later than 30 days after the day on which the Zoning Board made its decision.**

If the minutes of the meeting at which the decision was made are posted more than five business days after the meeting, then you can amend your request any time up to 30 days after the minutes are posted.

**(continued on the next page)**

**Town of Wilton, NH**  
**Request for a Rehearing**  
**(Revised May 2024)**  
**Instructions, Page 2**

**Fees**

The original applicant, owner, or selectmen may request a rehearing without paying any additional fee.

The fee for a rehearing requested by anyone else is the same as the original application fee (\$125, plus \$10 for each abutter). This fee must be paid when the request for a rehearing is submitted, but will be refunded if the Zoning Board decides not to hold a rehearing.

**Abutters**

You must provide two sets of adhesive mailing labels, no larger than 1½ × 3¼ inches, for all the abutters on the list that was submitted with the original application.

**Town of Wilton, NH**  
**Request for a Rehearing**  
(Revised May 2024)  
**Application, Page 1 of 3**

**Case Information**

ZBA Case Number of the original application: 03/10/2026-01

Date of the decision: June 9, 2026

If the original application included more than one specific application, which ones does this request apply to? Request No. 2, A special exception to permit a home occupation on the real property located on Tax Map A, Lot 30, said home occupation is to host Fiber Arts Workshops.

**Requestor**

Information about the person who is requesting the rehearing.

Name Kenton Blagbrough, as Trustee of the Blagbrough Family Realty Trust

Mailing address 293 Burton Highway

Mailing address \_\_\_\_\_

Town, State, ZIP Wilton, NH 03086

You are (check one):

- ☐ the original applicant
- ☐ the owner of the property
- ☐ the Board of Selectmen
- ☒ an abutter or other party who was required to be notified of the original application
- ☐ a party directly affected by the decision

If you checked the last box, explain how you are directly affected by the decision: \_\_\_\_\_

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

Signature Kenton Blagbrough, Trustee Date 7/2/2026

(continued on the next page)

**clerk use only**

Date and time received: \_\_\_\_\_

Received by: \_\_\_\_\_ Amount paid: \_\_\_\_\_

☐ Abutter labels included

**Town of Wilton, NH**  
**Request for a Rehearing**  
(Revised May 2024)  
**Application, Page 2 of 3**

**Representative**

Fill out this section if the application is being submitted by a realtor, surveyor, engineer, attorney, etc., on behalf of the applicant.

Name Timothy E. Britain, Esq

Mailing address Two Capital Plaza

Mailing address Fifth Floor

Town, State, ZIP Concord, NH 03301

I authorize the above-named representative to submit this application and to speak before the Zoning Board on my behalf.

Signature of requestor Kate G. Blaylock, Trustee Date 7/2/2026

**Contact Information**

How can we get in touch with the applicant or the applicant's representative, if there are questions or problems about 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 603-224-7761

☐ Evening phone \_\_\_\_\_

☒ Work E-mail Britaint@cwbp.com

☐ Personal e-mail \_\_\_\_\_

(continued on the next page)

**Town of Wilton, NH**  
**Request for a Rehearing**  
(Revised May 2024)  
**Application, Page 3 of 3**

**Details of Request**

You are requesting that the Zoning Board reconsider (check one):

- ☒ its approval of the application
- ☐ its denial of the application
- ☐ the conditions, restrictions, or modifications it imposed when it approved the application

**Reasons for a Rehearing**

A motion for rehearing made under RSA 677:2 shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the zoning board of adjustment, a board of appeals, or the local legislative body shall be taken unless the appellant shall have made application for rehearing as provided in RSA 677:2; and, when such application shall have been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by a court unless the court for good cause shown shall allow the appellant to specify additional grounds. (RSA 677:3)

Why do you believe that the Zoning Board should hold a new hearing?

Reasons for a rehearing usually fall into two categories:

- You have additional evidence or information that you believe might change the decision.
- The Zoning Board made mistakes in how it applied the law (state law, case law, or the Zoning Ordinance) to the facts of the case.

Parties to a zoning case are expected to have prepared their case before the hearing. Therefore, if you are requesting a rehearing to present new evidence or information, you should explain why you couldn't have presented that evidence or information at the original hearing.

**The Zoning Board will usually not grant a rehearing to consider evidence that could have been presented at the original hearing.**

Set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable (use this page; attach additional pages as necessary): See attached Motion for Rehearing.

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THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

TOWN OF WILTON  
ZONING BOARD OF ADJUSTMENT  
CASE NO. 03/10/2026-01

In the Matter of Faby Gagné and Luc Sirois seeking a Special Exception for a home occupation  
at Tax Map A, Lots 21-1 and 30, 325 Burton Highway, Wilton, New Hampshire

**MOTION FOR REHEARING**

NOW COMES, Kenton Blagbrough, as Trustee of the Blagbrough Family Realty Trust (the “Abutter” or “Movant”), owner of Tax Map A-22, with a mailing address of 293 Burton Highway, in Wilton, New Hampshire (“Lot A-22”), by and through its attorneys, Cleveland, Waters, and Bass, P.A., and respectfully moves, pursuant to RSA 677:2 and the Town of Wilton Zoning Ordinance (the “Ordinance”), for a rehearing of the June Decision (as defined below) of the Town of Wilton Zoning Board of Adjustment (the “Board”), approving, in part, the application of Faby Gagné and Luc Sirois (collectively, the “Applicant”) requesting a special exception to have a home occupation, hosting Fiber Arts Workshops, in connection with the real property located at Tax Map A, Lot 30 (“Lot A-30”). In support thereof, the Movant states as follows:

**BACKGROUND**

1. The Applicant owns certain real property in Wilton, New Hampshire, identified as Tax Map A-30 and Tax Map A-21-1 (“Lot A-21-1”) (collectively the “Properties”).
2. Lot A-30 has been improved by a house and a barn.
3. Lot A-30 has frontage on Old County Road (aka Stiles Farm Road, Frye Mill Road, and Old Peterborough Road), a Class VI road. It has no frontage on Burton Highway.
4. Lot A-21-1 has been improved with a fenced area for horses. There is no house on Lot A-21-1.

5. Access to Lot A-21-1 is from Burton Highway over a Private Drive (as defined below) created pursuant to the Subdivision Plan referenced below.

6. Movant owns Lot A-22, which is adjacent to Lot A-21-1 and near Lot 30.

7. Movant owns a well on Lot A-21-1 ("Movant's Well") pursuant to easement rights originally granted by John Dimelling and Anne M. Dimelling to William P. Blagbrough and Corinne F. Blagbrough by deed dated September 16, 1963, and recorded in the Hillsborough Registry of Deeds (the "Registry") at Book 1757, Page 254. William P. Blagbrough and Corinne F. Blagbrough later conveyed their real property to the Blagbrough Family Realty Trust by deed dated January 22, 1996, and recorded in the Registry at Book 5689, Page 542.

8. There is a historic canal which traverses the Movant's land and Lot A-21-1 (the "Canal").

9. Lot A-21-1 was created as part of a two-lot subdivision pursuant to a plan approved by the Town of Wilton Planning Board on June 19, 2002, and subsequently recorded in the Registry as Plan 31825, later amended by a plan dated June 10, 2003, and recorded in the Registry as Plan 32547 (collectively the "Subdivision Plan"). The Subdivision Plan approved only two lots, with access to be via a "driveway" from Burton Highway that terminates within Lot A-21-1 (the "Private Drive"). *See* Note 12 of the Subdivision Plan.

10. The Subdivision Plan does not authorize the intersection of the Private Drive with Old County Road, nor does it permit the owners of Lot A-30 to access Burton Highway over the Private Drive. On information and belief, there has never been a permit or approval further amending the Subdivision Plan or authorizing the Private Driveway to intersect Old County Road and extend to Lot A-30.

11. Moreover, the Private Driveway is subject to the Declaration of Covenants, Restrictions, Conditions and Reservations Pertaining to the Status of Certain Private Ways, recorded in the Registry at Book 6997, Page 292, which expressly states that the Private Drive is “not a Town approved or accepted road and shall not become a Town-approved or accepted road at any time in the future.”

12. Accordingly, Old County Road provides the only lawful means of access to Lot A-30 and the residence and barn located on that parcel. *See* Stipulation and Release Regarding Building Permit for Class VI Highway, recorded in the Registry at Book 7133, Page 939.

13. By all accounts, Old County Road is a single-lane roadway with steep grades, poor visibility, no designated pull-off areas for oncoming traffic, numerous large potholes, and, on information and belief, insufficient width or safety features to accommodate emergency vehicles reliably.

14. Lot A-30 is located in the General Residence and Agricultural District as defined by Section 6.0 of the Ordinance (the “R/A District”).

15. Additionally, Lot A 21-1, Lot A-22, and Lot A-30 are all located within the Watershed Protection District (the “Watershed District”).

16. Residential uses, as described in Section 5.1 of the Ordinance, and all general farming and forestry activities are permitted uses within the R/A District. The Ordinance does not further define farming and forestry activities.

17. On February 24, 2026, the Applicant submitted an application to the Board requesting a special exception pursuant to §§ 5.3.1, 6.6.1, and 4.10 of the Ordinance. The Application seeks approval for a home occupation involving the cultivation of lavender and Christmas trees, hosting Fiber Arts Workshops (“Workshop(s)”) on Lot A-30 and renting their

dressage arena on Lot A-21-1 (the “Application”). As of the date of this Motion, the Board has only granted a special exception permitting the Applicant to operate their Workshops in and around the barn on Lot A-30.<sup>1</sup>

18. The Applicant nominally submitted the Application, but, in substance and effect, filed it on behalf of Touching Grass, LLC, a domestic, for-profit limited liability company engaged in professional, scientific, and technical Services. The principal business purposes of Touching Grass, LLC do not include farming or agricultural business, and it is not the owner of record for Lot A-30.

19. As described in the Application and in testimony presented to the Board on March 10, 2025, the Workshops are curated, fee-based instructional events focusing on fiber arts such as knitting, spinning, and weaving, using animal fibers produced on site, including cashmere from goats raised on the Properties.

20. The Applicant represented that each Workshop would accommodate up to fifteen (15) participants and estimated that a single Workshop could generate between twenty-four (24) and thirty (30) vehicle trips during busy periods. They identified 4,975 square feet of parking (approximately eight to ten spaces) on Lot A-30 for Workshop participants and proposed overflow parking on the Private Driveway.

21. The Applicant failed to submit a plan that depicts the location or configuration of proposed parking areas, wetlands, water bodies, or current conditions. Additionally, the Application lacks a septic design plan, a plan to address animal waste, and a traffic study.

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<sup>1</sup> The Board denied the Applicant's request for a special exception relating to the cultivation of Christmas trees and lavender due to their permitted agricultural nature. The Board has denied the Applicant's request to rent their dressage arena.

22. Upon receiving notice of the Application, the Movant submitted written objections to the Board for its consideration.

23. On March 10, 2026, the Board held its first meeting to address the merits of the Application. After the Applicant's initial presentation, the Movant presented testimony, photographs, historical property records, and other materials in opposition to the Application.

24. Specifically, the Movant's objections addressed various issues with the Application, including but not limited to the following: (a) the incompatibility of a commercial operation with the Ordinance's home occupation standards; (b) excessive traffic and safety impacts on Old County Road; (c) threats to groundwater and drinking water supplies from manure, runoff, and soil disturbance; (d) encroachment into wetlands and well protection areas; (e) stormwater flow toward Preston Pond and ultimately Mill Brook, a Class A water supply; (f) the lack of compliant frontage and lawful access to the Properties and (g) the deteriorating condition of the Private Driveway and the impact thereof on the Canal.

25. After the Movant's presentation, three other individuals objected to the Application, expressing concerns about the deteriorating condition of Old County Road, the Private Driveway, encroachments on various easements and protected wetland areas, the lack of a traffic study, the lack of stormwater management, and pollution issues.

26. At the conclusion of the March 10 hearing, the Board voted to schedule a public site visit, which was conducted on April 2, 2026.

27. During the site visit, Board members, the Applicant, multiple abutters, and representatives of the Wilton Conservation Commission and Wilton Planning Board observed firsthand the condition and limitations of Old County Road, the location of the dressage arena

relative to wetlands and wells, areas of visible pooling water and drainage, and the proximity of the proposed activities to existing drinking water sources.

28. The Movant identified wetlands, protective easement areas, runoff patterns, and the Private Drive's location within the protected well radius of Movant's Well and the Canal.

29. The Board expressly acknowledged during the site visit that access was via Old County Road and that drainage and environmental concerns were present.

30. A second public meeting was convened on April 14, 2026, during which the Board resumed deliberations concerning the Application. At that meeting, Chairperson Faiman engaged in further discussion with the Movant, referencing prior New Hampshire Supreme Court appeals involving Lot A-22 and the Town that are irrelevant to the Application.

31. Additionally, the Chairperson incorrectly stated that the Movant's concerns regarding the proposed home occupation, environmental impacts, relevant state and local requirements, frontage, and access were immaterial to the Board's consideration of the Application.

32. Upon the Movant's oral request that the Chairperson recuse himself due to apparent bias, the Board took no vote, held no discussion on the request, and proceeded with the hearing and deliberations without the Chairperson's recusal.<sup>2</sup>

33. The Board partially approved the Application, granting the Applicant's request to host their Workshops. The Board issued a written Notice of Decision on April 15, 2026 (the "April Decision"). The April Decision establishes certain conditions upon that the Applicant's proposed use in hosting their Workshops; however, the April Decision did not adequately make findings of fact, address or acknowledge the absence of frontage on a Class VI road, nor did the April Decision

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<sup>2</sup> These events appear to not have been accurately recorded in the March 10, 2026, Meeting Minutes.

sufficiently consider the potential environmental impacts, the adverse effects of the Workshops on the surrounding community, traffic concerns, or other safety issues raised by the abutters.

34. The April Decision did not include findings of fact pursuant to RSA 676:3, nor does it discuss compliance with §§ 4.10, 4.12(d), 4.12(e), 4.12(h), 6.2.3, or § 14.3.2 of the Ordinance.

35. Further, the April Decision did not analyze Touching Grass, LLC's role as the operating entity or the commercial nature of the proposed use.

36. On or about May 11, 2026, the Movant filed his first Motion for Rehearing, fully incorporated by reference herein, asking the Board to reconsider its decision due to the Chairperson's refusal to recuse himself, for the Board's failure to consider the commercial implications of the home occupation, for permitting the home occupation on a Class VI road, and for failing to adequately assess the home occupation's effect on the health and safety of the residents in the neighborhood.

37. On May 21, 2026, the Board granted the Motion for Rehearing on the basis that the April Decision did not include specific findings of fact.

38. On June 9, 2026, the Board held a rehearing on the Application. The Chairperson, *sua sponte*, requested an advisory vote asking the members of the Board whether he should recuse himself. The remaining members of the Board unanimously concurred that the Chairperson was acting impartially and exhibited no bias. Consequently, the Chairperson stated that recusal was unnecessary.

39. The Applicant began its presentation by representing to the Board that it did not need a special exception, stating that the proposed home occupation is an agricultural use and thus permitted by right under the Ordinance. However, after a brief discussion, the Applicant recanted

that position and instead opted to move forward with the request for a special exception for a home occupation.

40. After the Applicant presented the Application, the Movant, through counsel, presented testimony, photographs, property records, and other materials in opposition to the Application.

41. Specifically, the Movant's objections addressed various issues concerning the Application, including but not limited to the following: (a) the incompatibility of a commercial operation with the home occupation standards of the Ordinance; (b) excessive traffic and safety impacts on Old County Road; (c) threats to groundwater and drinking water supplies from inadequate septic plans; (d) the lack of compliant frontage and lawful access to the Properties and (e) the deteriorating condition of the Private Driveway and the impact thereof on the Canal adjacent thereto.

42. During the June 9, 2026, public meeting, the Board turned its attention away from the commercial nature of the proposed home occupation. Rather than acknowledging that Touching Grass, LLC is a commercial entity whose stated purpose does not include agriculture, the Board conflated the discussion to focus on whether Lot A-30 could be used for any non-residential purpose permitted in the district pursuant to §17.2(b) of the Ordinances.

43. The Movant agreed that a home occupation is permitted in the R/A district, but that to be a lawfully permitted use, it must meet all the requirements of a home occupation, specifically, that it not be commercial in nature, have the appropriate frontage on a Class V road or better, and that it not threaten the health and safety of the neighborhood.

44. During the discussion of the Application, the Chairperson appeared to be focused on his phone and engaged in an argumentative exchange with the Movant's counsel. Over the

Movant's objection and despite the Movant's disagreement with his interpretation of the ordinance, the Chairperson incorrectly asserted that the requested home occupation was a permitted non-residential use and further incorrectly declared that the proposal lawfully satisfied the requirement that a home occupation be located on a Class V road or better because the Applicant had access from Lot A-30 to Burton Highway via the Private Driveway over Lot A-21-1.

45. The Board partially approved the Application, granting the Applicant's request to host their Workshops. The Board added a condition from its April Decision that, if used, the portable facilities are to be placed behind the barn. The Board issued a written Notice of Decision on June 16, 2026 (the "June Decision"). The June Decision establishes certain conditions upon which the Applicant's proposed use in hosting their Workshops; however, the June Decision incorrectly interprets the lack of frontage on a Class V road, or better, nor does the June Decision sufficiently consider the commercial nature of the home occupation, the potential environmental impacts, the adverse effects of the Workshops on the surrounding community, traffic concerns, or other safety issues raised by the abutters.

46. The June Decision does not correctly interpret §17.2 of the Ordinance, nor does it discuss requirements for compliance with §§ 4.10, 4.12(d), 4.12(e), 4.12(h), 6.2.3, or § 14.3.2 of the Ordinance.

47. Further, the June Decision did not analyze the role of Touching Grass, LLC as the operating entity or the commercial nature of the proposed use.

48. For the reasons stated herein, the Movant's Request for a rehearing must be accepted, and ultimately, the Application should be denied.

## Discussion

### **I. The Chairperson's refusal to recuse himself renders the Decision invalid.**

49. The pre-judgment remarks made by the Chairperson regarding Movant's prior court cases, as well as the willful disregard of other provisions of the Ordinances pertaining to the Application, coupled with the Chairperson's argumentative disposition during the Movant's testimony through the various hearings thus far, clearly demonstrate bias against the Movant, thereby invalidating the Decision.

50. Board proceedings are quasi-judicial in nature and therefore subject to heightened standards of impartiality and due process. *See Winslow v. Town of Holderness Planning Bd.*, 125 N.H. 262, 267 (1984). Where a board member exhibits bias or pre-judgment, that member must recuse, and failure to do so renders the resulting Decision invalid, as it is impossible to estimate the influence one member might have on his associates. *See Id.* at 268.

51. During the April 14, 2026, deliberations, Chairperson Faiman referenced prior New Hampshire court cases involving Movant and the Town, matters wholly unrelated to the Application before the Board. These comments were not based on the record, were irrelevant to the statutory and Ordinance criteria governing the Application, and improperly suggested pre-judgment against the Movant.

52. Compounding this error, the Chairperson asserted that the Board could not consider the Movant's concerns regarding environmental impacts, frontage, access, traffic safety, and compliance with state and local requirements, even though those issues are central to the Ordinance's provisions governing home occupations and special exceptions.

53. When the Movant orally requested the Chairperson's recusal due to apparent bias, the Board failed to take a vote, held no discussion on the request, and proceeded with deliberations with the Chairperson continuing to participate fully.

54. The Chairperson's *sua sponte* request for an advisory vote by the Board at the June 9, 2026, public hearing does not mitigate his apparent bias against the Movant.

55. Under *Winslow*, the Board committed a procedural error in reaching the April Decision. The Chairperson's apparent pre-judgment required disqualification. After the Movant requested recusal, the Board failed to act, underscoring the Chairperson's undue influence over the proceedings. By continuing to participate in deliberations and vote on the Application, the Chairperson compromised the integrity of the decision-making process.

56. During the June 9, 2026, public hearing, the Chairperson's conduct further demonstrated his lack of impartiality toward the Movant, necessitating recusal pursuant to *Winslow*.

57. Throughout the discussion, the Chairperson appeared distracted by his phone and engaged with the Movant in an unduly argumentative manner, rather than serving as a neutral and impartial decision-maker.

58. Instead of objectively considering the Movant's position and the relevant ordinance provisions, the Chairperson repeatedly advanced his own interpretation of the law, dismissed the Movant's objections, and insisted on the correctness and lawfulness of his interpretation, despite a legitimate reading of the ordinance.

59. The Chairperson has a duty not only to remain impartial but also to avoid conduct that creates a reasonable appearance of prejudice or pre-judgment. By repeatedly rejecting the Movant's interpretation of the ordinances without meaningful consideration and by engaging in

confrontational exchanges over disputed legal issues, the Chairperson ceased to act as a neutral presiding officer and became an advocate for the Application. This conduct undermines public confidence in the fairness and integrity of the proceedings and deprived the Movant of a fair and impartial hearing.

60. The Chairperson's obligation to recuse himself should not be solely contingent upon the Board's advisory vote. The requirement of impartiality applies whenever a public official participates in a governmental decision-making process affecting the rights and interests of parties before the Board. Accordingly, the Chairperson should have voluntarily recused himself from the discussion, deliberations, and vote to preserve the fairness and integrity of the proceeding.

61. The Chairperson's failure to recuse himself tainted the proceedings and raises serious concerns as to whether the Board's recommendation resulted from fair and impartial consideration of the issues presented, or from the undue influence of a Chairperson who had already adopted and advocated a predetermined position adverse to the Movant. Accordingly, the Decision is invalid and must be vacated.

**II. As a matter of law, the Board erred in finding that a commercial operation is a permissible home occupation.**

62. The Decision rests on the erroneous legal conclusion that the Workshops constitute a lawful home occupation under the Ordinance. New Hampshire law provides that home occupations "do not adversely affect or undermine the residential character of the neighborhood." *Town of Milford v. Bottazzi*, 121 N.H. 636, 639 (1981).

63. Home occupations must be customarily incidental and subordinate to the residential use of the property. *See Id.*; Ordinance §5.3.1(a). The home must remain the primary use of the premises, and the activity must resemble **ordinary residential behavior**, not a destination-based business that draws the public onto the property on a recurring basis. (emphasis added.)

64. Courts consistently recognize that generally accepted home occupations are minor, low-impact activities such as dressmaking, hairdressing, or tutoring, uses that typically involve one-on-one interactions, minimal traffic, little or no exterior evidence of commercial activity, and create impacts no greater than those associated with ordinary social visiting. *See Town of Milford v. Bottazzi*, 121 N.H. at 639.

65. These examples stand in stark contrast to the commercial Workshops proposed by the Applicant, which convene large groups, generate significant traffic and activity, involve non-resident instructors, and introduce members of the general public into residential neighborhoods. The factual record conclusively demonstrates that these Workshops are not merely incidental residential activities; rather, they constitute a commercial enterprise operated by Touching Grass, LLC, a for-profit limited liability company that neither owns nor resides at Lot A-30. The involvement of a non-resident business entity further distinguishes these Workshops from the traditional, narrowly defined category of home occupations.

66. The Application seeks approval for curated, fee-based instructional events open to the public. Estimates indicate that each Workshop could produce up to 30 vehicle trips, with parking capacity for only 8 to 10 vehicles and overflow parking on the private drive. Such characteristics are indicative of a commercial use rather than a subordinate residential activity.

67. Moreover, the Applicant failed to establish that it has adequate Accessible Parking Spaces as required by the Americans with Disabilities Act, and §10.8.3 of the Town of Wilton Site Planning Ordinances.

68. The Applicant's proposed uses also introduce considerable traffic congestion, parking demands, and noise that extend well beyond the limits of ordinary residential use. Furthermore, the Applicant did not submit a site plan detailing easements, well radii, wetlands,

parking arrangements, or traffic circulation, underscoring the incompatibility of the proposed uses within a residential setting.

69. Failure to adequately address and plan for additional parking may result in restricted emergency vehicle access, ultimately endangering the Applicant's patrons.

70. This activity clearly falls outside the scope of a lawful home occupation. Unlike traditional home occupations, which are minimally intrusive, these Workshops are expressly designed to attract members of the public on a recurring basis for commercial purposes. They operate on a fixed schedule, depend on group attendance, require dedicated parking, and significantly increase the use of the Properties and reliance on the Class VI road. In doing so, they fundamentally alter both the character and intended use of the Properties and the surrounding neighborhood, which cannot be justified within the residential zone.

71. By approving the Workshops as a home occupation, the Board failed to recognize and apply the express limitations set forth in Ordinance § 5.3.1. That failure constitutes an error and renders the Decision unlawful and unreasonable.

### **III. Permitting a home occupation on Old County Road is unlawful.**

72. The Board may permit a home occupation only upon a finding that the proposed use complies with the performance standards of the Ordinance as set forth in Section 4.10. *See* Ordinance § 6.6.1. Section 4.10 expressly requires that the use and operation of property not violate the Zoning Ordinance, Building Code, or other applicable local, state, or federal requirements. Lots within the R/A District must have at least 200 feet of frontage on a Class V road or better. *See* Ordinance § 6.2.3. Lots within the Watershed District must have at least 300 feet of frontage or better. *See* Ordinance § 14.3.2 (emphasis added).

73. These requirements are mandatory conditions precedent, not discretionary considerations for the Board to willfully ignore.

74. The frontage of Lot A-30 is entirely along Old County Road, a Class VI highway. The undisputed record establishes that Old County Road is the only lawful public means of access to Lot A-30. Neither the Subdivision Plan nor any subsequent approval authorizes the Private Drive from Burton Highway to intersect with Old County Road, and the Board did not identify any alternative lawful public access in its Decision.

75. Class VI roads are, by statutory definition, roads that are not maintained by the municipality for public travel and are therefore often unsuitable for intensive or non-residential use. *See* RSA 229:5, VII.

76. Old County Road is a narrow, single-lane roadway with steep grades, poor sight distances, numerous large potholes, and no designated pull-offs or turnarounds. The narrow width and alignment of the road raise serious concerns regarding the safe passage of two-way traffic and the ability of emergency vehicles to access properties along the road.

77. Board members personally observed these conditions during the April 2, 2026, site visit and expressly acknowledged on the record that access to the site was via a Class VI highway with existing safety and drainage concerns. Nonetheless, the Decision fails to meaningfully address how the approved Workshops can be safely accommodated under these conditions.

78. Contrary to the Chairperson's statements during the June 9, 2026 public hearing, the private driveway, located on Lot A-21-1, cannot be declared as lawful frontage on a Class V road or better without a variance.

79. As previously addressed, a prerequisite to establishing a home occupation is that the subject lot possess frontage on a Class V road or better. "Frontage" is not synonymous with

“access.” See *Belluscio v. Town of Westmoreland*, 139 N.H. 55, 56 (1994). Had the electorate intended to permit a home occupation on a lot that merely has access to a Class V road or better, it could have explicitly done so. It did not.

80. Accordingly, the existence of a driveway or other means of access over Lot A-21-1 is immaterial and irrelevant to whether a home occupation may be permitted on Lot A-30. The Ordinance requires frontage along a Class V road or better, not just access to it.

81. In considering whether to grant a special exception, zoning boards are not permitted to vary or waive any of the ordinance’s express requirements. *Tidd v. Town of Alton*, 148 N.H. 424, 427 (2002) (internal citation omitted). Rather, “there must be sufficient evidence...to support favorable findings on all of the ordinance’s requirements.” *Id.* (internal citation omitted) (emphasis added).

82. To obtain a special exception for a home occupation, the Applicant must demonstrate compliance with §§ 5.3.1 and 4.10 of the Zoning Ordinance. Section 4.10 expressly provides that “[t]he use or operation of any land...shall not produce conditions...that violate this Ordinance...or any other applicable local, State or Federal requirements.”

83. The Ordinance unambiguously requires that lots within the R/A District have a minimum of 200 feet of frontage on a Class V road or better. See Ordinance § 6.2.3. Lots within the Watershed District are subject to an even greater requirement of 300 feet of such frontage. See Ordinance § 14.3.2.

84. It is therefore insufficient for the Board to assert that Lot A-30 merely having access to a Class V Road or better over a private driveway is sufficient to satisfy the frontage requirement. The Ordinance mandates frontage as a condition precedent to the permitted use. Because Lot A-30 does not and cannot satisfy this frontage requirement, the Applicant cannot meet the threshold

criteria of the ordinance. As a matter of law, the requested special exception must be denied. Moreover, § 17.2 of the Ordinance does not operate to authorize the proposed home occupation.

85. Section 17.2(b) provides, in relevant part, that “[w]here a lot of record at the time of the effective date of this Ordinance has less...frontage than herein required in the district...the lot may be used for any non-residential use permitted in the district in which it is located....”

86. A home occupation, however, is not a principal use; rather, it is inherently subordinate and incidental to a residential use. Although Lot A-30 may qualify for development as a single-family dwelling pursuant to § 17.2(a), that provision does not confer an automatic right to establish a home occupation; rather, it is an expansion of a nonconforming use and requires a variance. The Ordinance further requires that any proposed home occupation independently satisfy all applicable provisions, including the criteria for a special exception and all threshold requirements discussed herein.

87. Similarly, § 17.2(b) does not advance the Applicant’s position. While this subsection permits non-residential uses otherwise allowed in the district, such uses remain subject to the full panoply of the applicable ordinance requirements. Although home occupations are conditionally permitted uses within the R/A District, they are only permissible upon full compliance with each condition precedent imposed by the Ordinance. In the absence of such compliance, a home occupation does not constitute a “permitted” use within the meaning of § 17.2.

88. Specifically, a home occupation cannot be approved where it would violate other mandatory provisions of the Ordinance. Here, the proposed home occupation fails to satisfy the minimum frontage requirements set forth in §§ 6.2.3 and 14.3.2, and contravenes the general compliance mandate of § 4.10. These deficiencies are dispositive and preclude approval as a matter of law.

89. This conclusion is further underscored by the distinction between the Applicant's existing activities, namely, lavender cultivation and tree harvesting, and the proposed home occupation Workshops. The former are purely agricultural uses, which are treated separately under the Ordinance and are not subject to the same special exception requirements or condition precedents applicable to home occupations such as the Workshops.

90. The Ordinance further requires that a home occupation not create safety hazards and not generate traffic volume substantially greater than would normally be expected in the neighborhood. *See* Ordinance § 5.3.1(g). Despite uncontroverted evidence that a single Workshop could generate up to 30 vehicle trips concentrated over a short time period, the June Decision contains no findings addressing traffic safety, sight distance, emergency access, or the ability of Old County Road to safely accommodate the increased traffic. Conversely, the June Decision ignores the frontage requirement and instead states that the vehicle trips will not create a substantially greater volume than is expected on a town road, such as Burton Highway. Again, Lot A-30 has no frontage on Burton Highway or on any other road classified as Class V or better. Access can only be achieved by crossing Old County Road, a Class VI Road.

91. This omission is particularly significant given that the Workshops will introduce scheduled, recurring traffic by members of the general public onto a road historically used only for low-intensity residential and agricultural purposes.

92. The home occupation on a Class VI road raises significant concerns about emergency vehicle access. The Applicant's predecessors explicitly waived the Town's liability for any injury, damage, or death resulting from their inability to access the property for only a single-family house. Now, the Applicant requests that the Town overlook this potential risk and further restrict emergency access by permitting increased vehicle and pedestrian traffic to Lot A-30.

93. The Board also failed to consider the cumulative traffic impacts of the Workshops in conjunction with other uses already contemplated on the Properties, including pick-your-own Christmas tree and lavender operations. Even if agricultural uses are permitted, the Ordinance requires the Board to assess whether a proposed special exception, when combined with existing and reasonably anticipated uses, will adversely affect public safety or neighborhood conditions.

94. Approving fee-based Workshops that draw groups of participants to the site markedly increases the intensity of use and compounds traffic impacts during peak seasons, when agricultural visitation is also likely to occur.

95. By approving the Workshops without lawful frontage, adequate access, or an address of these compounded safety concerns, the Board failed to act in harmony with the purpose and intent of the Ordinance and exceeded its authority under RSA 674:33. The June Decision is therefore unreasonable and unlawful.

**IV. The Board incorrectly approved the home occupation without properly reviewing its effects on the neighborhood's health and safety.**

96. As previously explained, § 4.10 of the Ordinance requires that any use of land not adversely affect the health and safety of the community, degrade the quality of the environment, or violate applicable state laws or regulations.

97. These standards are not discretionary conditions that the Board may waive or ignore; they operate as threshold requirements that must be satisfied before a special exception may be lawfully granted. Read together, sections 4.12(d), 4.12(e), and 4.12(h) of the Ordinance, along with §4.10, form a scheme governing waste management, stormwater runoff, well protection, wetlands, and watershed impacts to protect the Town.

98. The approved Workshops involve both goats producing manure and an increase in the number of humans on the property, creating waste. However, the Application contains no septic

design, capacity analysis, or disposal plan demonstrating that this waste can be safely managed on site.

99. At the public hearing held on June 9, 2026, the Movant articulated these concerns. In response, the Applicant merely stated that their septic system was approved for operation in 2022, without providing any supporting documentation to substantiate that claim.

100. Without such information, the Board had no basis to conclude that increased human use would not overburden existing waste systems or create a risk of contamination to nearby wells or surface waters, including, without limitation, Movant's Well.

101. The hazards associated with animal waste and human waste are cumulative. Goat manure and human sanitary waste both carry pathogens and nutrients that, if improperly managed, can migrate through soil into groundwater or be transported by runoff into surface waters. Here, the Board heard evidence and observed during the site visit that runoff from the Properties flows toward Preston Pond and downstream waters, which serve as critical drinking water resources. § 4.10 prohibits land uses that create such risks absent demonstrated safeguards, yet the June Decision contains no findings that the Board evaluated, much less mitigated, these hazards. Rather, it expressly ignores these concerns, stating that "[t]here is no reason to believe that the proposed use would jeopardize the health and safety of anyone on or off the site." *See* June Decision at pg. 5.

102. Even if, *arguendo*, the Applicant intends to utilize portable sanitation facilities, the Board has neglected to consider the foreseeable consequences associated with the use of temporary sanitation solutions. Should the Applicant rely on a portable toilet to serve Workshop participants, such action would violate the Ordinance § 4.10.3, which prohibits objectionable or offensive odors. A portable toilet, even located behind the barn, will produce putrid odors to pedestrians, abutters,

and passersby during warmer months, creating a nuisance inconsistent with the character of the neighborhood.

103. In addition, the placement and maintenance of a portable toilet would constitute exterior storage of equipment in violation of §5.3.1(e).

104. Furthermore, the Application fails to sufficiently address the environmental deficiencies present in contrast to the relevant state regulations. Section 4.10 stipulates that the use and operation of land within the Town must comply with applicable state requirements.

105. The Applicant submitted plans that do not clearly delineate or adhere to the mandated well protective radius of approximately seventy-five (75) feet with respect to Movant's Well, as required by New Hampshire Rules of Administrative Procedure Env-Wq 1008.07. Despite observing these wells during the site walk and considering the testimony of abutting property owners, the Board appeared to overlook these environmental concerns, instead suggesting that abutters can always file a complaint with the Building Enforcement Office.

106. The New Hampshire administrative rules exist to prevent land uses from introducing contaminants within zones where groundwater is most vulnerable. Where local zoning incorporates compliance with state environmental regulations, the Board may not approve a use without evidence of such compliance and shift the burdens of enforcement thereof to the abutters.

107. Despite extensive testimony and documentary evidence raising these specific concerns, and despite the Board's own acknowledgment during the April 2, 2026, site visit of drainage and environmental sensitivity, the June Decision contains no findings addressing waste disposal, septic adequacy, odor impacts, well protection, runoff pathways, or compliance with the standards set forth in New Hampshire Rules of Administrative Procedure Env-Wq *et seq.*

108. Rather than address these deficiencies, the Board proceeded to approve the workshops while disclaiming responsibility for compliance with other applicable laws and regulations. Specifically, the Board stated that “[t]he remainder of [Section 4.10] cannot reasonably be interpreted to mean that the Zoning Board is expected to be familiar with and to enforce all local, State, or Federal requirements... rather [it is] an acknowledgment that land uses in Wilton are subject to other regulations outside of the Zoning Ordinances.” See June Decision at pg. 6.

109. This interpretation impermissibly adds limitations and qualifications to the Ordinance that do not exist. Again, had the electorate wanted a section limiting the Board’s review, including a catchall statement that it may not know or enforce the other applicable sections of the Ordinance or applicable law, it could have done so. It did not.

110. Section 4.10 does not merely acknowledge the existence of other regulatory frameworks; it imposes an affirmative requirement that proposed land uses comply with all applicable laws and regulations. In plain terms, the Ordinance prohibits the approval of any use that would contravene those requirements. The Board’s contrary interpretation is therefore legally erroneous.

111. While the Board is not expected to possess exhaustive knowledge of every potentially applicable law or regulation, it remains obligated to enforce the provisions of its own Ordinance. Moreover, where, as here, substantial evidence of noncompliance with applicable legal requirements is presented, the Board cannot disregard such evidence or approve a use in the face of clear regulatory violations. Instead, the Board seemingly approved the Workshops without analyzing how these interrelated risks would be avoided or managed. Reversal is therefore required.

112. For these reasons, the June Decision is erroneous and must be overturned.

### **CONCLUSION**

113. The record clearly shows that the Board failed to make findings on material facts and ignored mandatory provisions of the Ordinance and state law. A zoning board may not lawfully approve an application that bypasses controlling ordinance requirements or fails to address essential health, safety, and environmental standards. Any valid decision must include specific findings that demonstrate how the Board properly applied the governing law to the facts presented. *See* RSA 676:3.

114. In this case, the Board issued its June Decision without making accurate findings regarding compliance with critical performance standards, including road frontage, the commercial nature of the Application, traffic safety, waste management, water protection, stormwater runoff, wellhead protection, access, and adherence to incorporated state regulations. The Board disregarded these issues as immaterial, despite extensive evidence in the record and clear ordinance provisions that demand their consideration. When the Board neglects these mandatory criteria, it produces a decision unsupported by the record and insulates its actions from meaningful judicial review.

115. Accordingly, the Board's June Decision and its evaluation of the Application are in direct contravention of both the factual record and the governing law. By abdicating its duty to conduct the required analysis of the Ordinances and to make the material findings necessary to support approval, the Board acted unlawfully and unreasonably.

116. On the basis of the foregoing, the Board should grant this Motion for rehearing and schedule a new public hearing regarding the Application.

## RESERVATION OF RIGHTS

117. The Movant reserves the right to seek attorneys' fees upon any appeal of the June Decision.

WHEREFORE, Kenton Blagbrough, as Trustee of the Blagbrough Family Realty Trust, respectfully requests that the Board:

- A. Grant the foregoing Motion and schedule a rehearing on the Application; and
- B. Upon rehearing, deny the Applicant's request for a home occupation.

Respectfully submitted,  
KENTON BLAGBROUGH, AS TRUSTEE OF  
THE BLAGBROUGH FAMILY REALTY TRUST

By and through its attorneys,  
CLEVELAND, WATERS AND BASS, P.A.

Dated: July 8, 2026

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