

TOWN of WILTON
Zoning Board of Adjustment
Minutes



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

DATE: July 11, 2023
TIME: 7:00 PM
PLACE: Wilton Town Hall, Courtroom, 42 Main Street
PRESENT: Neil Faiman (chairperson); Joanna K Eckstrom (co-chairperson); Judith Klinghoffer (member); Andy Hoar (member); Jeff Stone (member)
ABSENT: n/a
STAFF: Caryn Case (Board Secretary)
ATTENDEES: David Wirbal (applicant); Bill Gagan (applicant); Sam Foisie (Meridian land Services); Claudia Pelkey (abutter); Robert Vorbach (applicant); Lisa Gibbons (abutter)

I. Call to Order

N Faiman called the meeting to order at 7:01 PM. He reminded the public to sign-in and wear masks. N Faiman introduced the Board members and announced that alternate Board members P Howd and P Levesque resigned on principal and personal reasons, respectively. He explained that the Board would not hear any new case after nine-thirty (9:30) PM and would terminate the meeting at ten (10) PM unless the Board unanimously votes to continue. He asked speakers to introduce themselves by name, address, and relationship to the case when it was called.

Upon the request of JK Eckstrom N Faiman queried the Board for reasons anyone would step down from any case in case a 4-member board was needed.

N Faiman stated zoning can be an interesting issue and asked if the audience if they or anyone they knew might find interest in becoming an alternate Board member.

2. Minutes

1. June 13, 2023

JK Eckstrom MOVED to accept the minutes from June 13, 2023 with changes to lines #16, #94, #96, #98, #101, and #192. J Stone SECONDED.

There was no discussion.

Voice vote: 5: ayes, 0: nays; 0: abstain

Motion was carried.

2. June 22, 2023

JK Eckstrom MOVED to accept the minutes from June 22, 2023 with changes to lines #12, #46, #58, #113, #116, and #121. J Stone SECONDED.

42 There was no discussion.
43 Voice vote: 5: ayes, 0: nays; 0: abstain
44 Motion was carried.

45
46
47
48
49
50
51
52
53
54

3. July 8, 2023 (site visit)

A Hoar MOVED to accept the minutes from the July 8, 2023 site visit with changes to line #49. J Stone SECONDED.

There was no discussion.
Voice vote: 5: ayes, 0: nays; 0: abstain
Motion was carried.

3. Case #06/13/2023-05, North Farm, LLC - Public Hearing continued

- North Farm LLC (owner) and Erich O. Mueller (applicant) have requested a special exception under section 11.4(a) of the Wilton Zoning Ordinance to allow the improvement and enlargement of an existing wetland crossing, in order to allow a driveway to access a proposed business on Lot C-102, Gibbons Highway. (Case #6/13/2023-5)

60
61 N Faiman read the applicants request.

62
63 S Foisie said the facts of the case demonstrate how they meet the intent and spirit of the ordinance and special exception requirements. He said the site walk allowed the Board to stand on top of the wetlands crossing that was going to be replaced. He said a total of 300 square feet of area would be impacted by the replacement of the 18" corrugated metal pipe with the 24" reinforced concrete pipe.

64
65
66
67
68 N Faiman stated the relevant facts and said the proposed access way, including the wetland crossing, is essential to the productive use of the dry land south of the wetland. The proposed location minimizes the impact of the crossing on the wetland. Because the access reuses the existing wetland crossing, the actual new impact on the wetland is negligible, and the improved culvert technology functionally improves the wetland impact:

- Lot C-102 is an 8.1 acre lot on the south side of NH Route 101 in the Commercial District.
- The lot is bounded by Route 101 on the north and by Blood Brook on the south.
- The lot is bisected by an east-west wetland system which drains to Blood Brook.
- The dry portions to both the north and south of the wetlands are potentially usable, but the southern portion is inaccessible without crossing the wetlands.
- An old access road at the east end of the lot crosses a narrow portion of the wetlands, essentially a seasonal runoff stream, over a corrugated 12" iron culvert.
- The applicant proposes to cross the wetland at the existing crossing, replacing the iron culvert with a larger 24" RCP culvert.
- The total wetland impact would be 100 square feet, and 200 square feet of temporary impact.

72
73
74
75
76
77
78
79
80
81
82
83
84 **JK Eckstrom made a MOTION to grant the request for a special exception. J**
85 **Klinghoffer SECONDED.**

86

87 **N Faiman called for a roll call vote to the MOTION to grant the request for a**
88 **special exception.**

89 Roll Call Vote:

90 J Klinghoffer: aye

91 A Hoar: aye

92 JK Eckstrom: aye

93 J Stone: aye

94 N Faiman: aye

95 Motion was carried.

96

97 N Faiman instructed the applicant that a Notice of Decision would be forthcoming, and that the Select
98 Board, abutters, and any person directly involved in the hearing affected by the decision has the right to
99 ask the Zoning Board of Adjustment to reconsider their decision by way of written request no more
100 than 30 days after the decision was made explaining the reasons why the decision should be changed. He
101 stated that any activity/progress by the applicant during that period on the request could be at risk if the
102 decisions is overturned at a rehearing.

103

104 **4. Case #07/11/2023-01, David G Wirbal - Public Hearing New**

- 105 • David G. Wirbal has requested variances to sections 5.3.1(e) and 5.3.1.1(e) of the Wilton
106 Zoning Ordinance to allow the use of a 130 square foot utility shed on Lot M-73, 41 Greene
107 Street, for the purpose of brewing craft beer as a home occupation, where the Zoning
108 Ordinance does not allow exterior storage of materials or equipment, or outside operations,
109 for a home occupation that is permitted without a special exception under section 5.3.1.1 of the
110 Ordinance. (Case #7/11/2023-1)

111

112 N Faiman read the applicants request.

113

114 D Wirbal said in order to secure his New Hampshire State Liquor License the Commission is required
115 to have full unannounced access to his brewing and production environment in a structure that is not
116 adwelling unit. He said he applied for a variance about five (5) or six (6) years ago to construct a shed
117 for this purpose. He said the non-heated shed had been completed in 2019 but he never followed
118 through on the licensing not realizing the two (2) year expiration on the granting of the variance.

119

120 **JK Eckstrom made a MOTION to close the public hearing for the Board to**
121 **deliberate. J Stone SECONDED.**

122 There was no discussion.

123 Voice vote: 5: ayes, 0: nays; 0: abstain

124 Motion was carried.

125

126 N Faiman said he spoke with Counsel who felt sections 5.3.1(e) and 5.3.1.1(e) were not applicable. The
127 Board discussed heated (or non-heated area) and J Stone remarked the language of the zoning oradiance
128 was not clear. N Faiman read a proposed statement of facts:

- 129 • Lot M-73 is a fully conforming 1.2 acre lot.
- 130 • The applicant proposes to brew craft beer for sale as a home occupation, which requires
131 state and federal licensing.

- 132 • In order to satisfy the licensing requirements, the brewing needs to take place in a structure
133 distinct from the residence.
- 134 • The applicant proposes to do the brewing in a small shed.
- 135 • The applicant believes that the proposed occupation essentially satisfies section 5.3.1.1 of the
136 Zoning Ordinance, which allows certain home occupations without special exception or site
137 plan review, but requests variances to two ordinance provisions prohibiting “exterior storage of
138 materials or equipment” and “exterior operation(s) related to the home occupation.”
- 139 • Essentially the same variance was granted in January, 2018 in ZBA Case #12/12/17-1, but
140 expired unexercised in 2020 (Zoning Ordinance section 17.4),
- 141 • The shed was built in 2019; but the shed itself is a conforming structure. It is its use in
142 conjunction with the home occupation which is problematic.
143

144 **J Klinghoffer made a MOTION to deny the request for a variance without prejudice**
145 on the grounds that the proposed use is permitted by the zoning radiance and no variance is
146 needed. **N Faiman SECONDED.**
147

148 **J Klinghoffer made a MOTION to re-open the public hearing. JK Eckstrom**
149 **SECONDED.**

150 There was no discussion.
151 Voice vote: 5: ayes, 0: nays; 0: abstain
152 Motion was carried.
153

154 D Wirbal said he understood what the Board had deliberated and stated the State needs a letter
155 acknowledging that the home occupation complies with all of Wilton’s Zoning Ordinances.

156 **N Faiman called for a roll call vote to the MOTION to deny the request for a**
157 **variance without prejudice.**

158 Roll Call Vote:
159 J Klinghoffer: aye
160 A Hoar: aye
161 JK Eckstrom: abstain
162 J Stone: abstain
163 N Faiman: aye
164

165 Motion was carried.
166

167 **5. Case #07/11/2023-02, Bill Gagan - Public Hearing New**

168 Bill Gagan has requested a special exception under section 17.3 of the Wilton Zoning
169 Ordinance to build a new house (on the foundation of the existing house, which is to be
170 demolished), which will be closer to one or more lot lines than allowed by the ordinance
171 on Lot J-118, 27 Island Street. (Case #7/11/2023-2)
172

173 N Faiman read the applicants request.

174
175 B Gagan said he purchased the property about two (2) years ago with the intent to rehab it. He hired a
176 contractor who began the renovation. He learned that unrecorded damage to the interior of the
177 structure eventually led to the structure being condemned. He said he hired an historical architect to

178 design a new structure in the existing footprint. He learned the concrete poured by the contractor
179 hired to renovate was not compliant and has to be removed. Additionally, L Gibbons said concrete had
180 been poured expanding the existing foundation and encroaches on her property.

181
182 N Faiman since it's been more than a year since the structure had been condemned, the lot has lost all
183 its status. He said it is a lot of record which basically sets aside the area and frontage requirements but
184 requires a special exception from the setbacks. He said the Zoning Board cannot waive wetland
185 setbacks, N Faiman advised the applicant get a property line survey to address the easement concern of
186 C Pelkey and the shared property corner with L Gibbons. A Hoar concurred that the location of the
187 easement needed to be addressed.

188
189

190 **J Klinghoffer made a MOTION to continue the hearing to August 8, 2023. JK**
191 **Eckstrom SECONDED.**

192 There was no discussion.

193 Voice vote: 5: ayes, 0: nays; 0: abstain

194 Motion was carried.

195

196 **6. Adjournment**

197

198 **JK Eckstrom made a MOTION to adjourn at 9:18 PM. A Hoar SECONDED.**

199 There was no discussion.

200 Voice vote: 5: aye 0: nay 0: abstain

201 Motion was carried.

202

203 Approved 09.12.2023