

Town of Wilton, NH **Zoning Board of Adjustment** Minutes

Masks are requested to be worn at all Town of Wilton ZBA meetings.

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2. Minutes

October 4, 2025, Site Visit

- The Board made the following changes to July 8, 2025, Minutes as follows:
- Line 3: insert the phrase "Site Visit" before the word "Minutes";
 - Line 30: replace the phrase "back yard" with the word "backyard"; and

Tuesday, October 14, 2025 **Zoning Board of Adjustment Minutes**

Board Members Present: Neil Faiman (Chairperson); Joanna Eckstrom (Vice-chairperson); Jeff Stone;

Judith Klinghoffer; Linda Jennings; Peg Duggan (Alternate) Board Members Absent: n/a

Board Secretary: Caryn Case (Land Use Administrator)

Attendees: Stephanie Kirsh (Applicant); Nicholas Kirsch; Ken Cadrain; Casey Cadrain;

Stephanie Evans; Michael Bronson **Remote Attendees:** none

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1. Call to Order

testimony, and meeting time.

1. Call to Order 2. Minutes

October 4, 2025, Site Visit

- b. September 9, 2025
- 3. Stephanie Kirsch, 68 Burns Hill Road Case No. 09/09/2025-01 Adjournment
 - **MINTUES**

Chairperson Faiman called the public meeting to order at 7:05 p.m. He reviewed protocols on masking,

- The Board introduced themselves.

Line 41: insert the phrase "Approved October 14, 2025". 36 37 Vice-chairperson Eckstrom made a MOTION to amend October 4, 2025, Site 38 Visit minutes as discussed. 39 J Stone SECONDED the motion. 40 There was no further discussion. 41 **VOICE Vote:** ayes 42 6 0 43 nays 0 44 abstentions 6/0/0 45 Motion was CARRIED. 46 47 b. September 9, 2025 48 The Board made the following changes to July 8, 2025, Minutes as follows: 49 50 Line 9: add Judith Klinghofer to the list of "Board Members Present" Line 29: replace the phrase "on August 25, 2025" with the phrase "in early August" 51 Line 75: replace the phrase "that are made" with the word "presented" 52 Line 83: insert the word "at" after the word "is" 53 - Line 85: insert the word "is" after the word "she', and replace the word "requested" with the word 54 "requesting" 55 Line 92: replace the word "instead" with the phrase "as well" 56 Line 94: replace the word on-going" with the word "ongoing" 57 - Line 113: insert the phrase "Burns Hill Road" after the word "actual", and replace the word "was" 58 with the word "is": 59 Line 130: replace the phrase "where in her" with the word "which", and insert the phrase "in her 60 home" after the word "room"; 61 - Line 145: replace the phrase "the States" with the phrase "New Hampshire", and replace the 62 63 phrase "State cites" with the phrase "state cite"; Line 146: replace the word "Salsa" with the word "salsa"; 64 Line 147: replace the word "Peaches" with the word "peaches"; 65 Line 178: replace the word "applicants" and replace with the word "applicant's"; 66 Line 189: replace the word "Abutter" with the word "abutter"; 67 Line 191: inert the word "to" after the word "business"; 68 69 Line 198: replace the phrase "Site Plan" with the phrase "site plan"; Line 202: remove the word "had"; 70 Line 203: insert the phrase "questions," after the word "many"; 71 Line 218: replace the phrase "Road Agents" with the phrase "road agents" 72 73 Line 230: replace the phrase "request(s) of" with the phrase "request for";

- 74 Line 236: replace the word "it" with the word "in";
 - Line 237: insert a comma after the word "land";
 - Line 242: replace the word "prohibited" with the word "permitted", and replace the phrase "permissive as a traditional rule" with the phrase "permissive";
 - Line 243: replace the phrase "yes," but not for agriculture." with the phrase "yes, but not for agriculture."
 - Line 245: insert the phrase "or what is not" after the word "is"; and
 - Line 272: replace the phrase "Month, day, Year" with the phrase "October 14, 2025".

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Vice-chairperspn Eckstrom made a MOTION to amend September 9, 2025, minutes as discussed.

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I Stone SECONDED the motion.

There was no further discussion.

VOICE Vote: ayes 6

nays 0

abstentions 0

90 **Motion was CARRIED.**

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3. Public Hearing, continued from a previous meeting

Stephanie Kirsch

(Case #09/09/2025-01)

Stephanie Lingley- Kirsch has requested a special exception under section 5.3.1 of the Wilton Zoning Ordinance and/or variances to sections 5.1 and 5.2.3 of the Wilton Zoning Ordinance to allow a home-based farmstead business as a home occupation, including producing and packaging items such as canned goods, infused oils, baked goods, and handmade crafts (e.g., candles, leather journals), and selling these goods from the home and elsewhere, and to allow the growing of herbs, vegetables, and fruit, and the keeping of small farm animals such as chickens, on Lot L-4, 68 Burns Hill Road, where agricultural uses, including the keeping of livestock, are not a permitted use in the Residential District, and a proposed farm stand would be closer to Burns Hill Road than allowed by the Ordinance.

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Chairperson Faiman opened the hearing by reading the public notice. He recognized the sitting board J Klinghoffer, L Jennings, N Faiman, JC Eckstrom, and J Stone.

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Chairperson Faiman noted the hearing was a continuation from Tuesday, September 9, 2025, and a site visit on Saturday, October 4, 2025, the latter having allowed the board and anybody else present to observe the things being talked about at the hearing. He said the premise for the case does not need to be reiterated, except that a new element was being introduced, which is the request for a setback variance for the farmstand shed.

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S Kirsch, applicant, said she had a surveyor locate her side property line. As a result of this location, the surveyor said that two vehicles could park in the gravel turnout area to satisfy the 15-foot sideline setback, but not the 35-foot frontline setback.

Chairperson Faiman noted the applicant's intention, as she described at the previous meeting, to service only one customer at a time, and asked the applicant if she was going to schedule pick-up times, or if she was expecting that the number of customers would be such that there would not be multiple visitors to the farmstand.

S Kirsch said she would not be scheduling appointments, instead the farmstand would operate on the honor system with a cash box.

Chairperson Faiman asked for clarification on the pickup of items for specific individuals, such as "Mary's eggs" or "John's cucumbers," and how that would be managed. S Kirsch reiterated it is her intent to avoid reservations and appointments for the pickup of product she produces.

Vice chairperson Eckstrom asked if there would be signage and if signage would include where and how many vehicles could be parked at one time. S Kirsch said she would accommodate that request pursuant to the sign requirements. N Faiman noted that signage, and lighting, is a requirement of site plan review from the Planning Board.

J Stone raised concern about the proposed parking of two vehicles, suggesting some way to show customers what is expected, such as a white line in the middle of the gravel turnout. He additionally said that the turnout would be safer if customers would back in and drive out forward. This would allow customers to see vehicles coming down Burns Hill Road, which cannot be seen if they back out of the gravel turnout. P Duggan noted that a stone pillar and hedgerow currently obstruct the sight distance looking North up Burns Hill Road. Vice chairperson Eckstrom also noted a large Maple tree. S Kirsch said that the driveway agent helped them scope out the location of the gravel turnout because you could see vehicles approaching both directions on Burns Hill Road, when backing out.

Vice chairperson Eckstrom asked the applicant how the gravel turnout is currently used, noting that a previous Zoning Board of Adjustment application permitted use of the gravel turnout to access a first-floor dwelling unit from the street level. S Kirsch said she uses the gravel turnout to access her home, while her husband parks in the driveway off Seagroves Street. Chairperson Faiman asked the applicant if she would now be dedicating the gravel turnout entirely to use by the farmstand. There was no response to this that was recognized.

Vice chairperson Eckstrom asked the applicant to describe the size of the farmstand and other details. S Kirsch said she would build or purchase a structure less than 100 square feet in area with a window. She added it was not her intent to connect utilities to the structure but would provide solar lighting. She noted the structure would be open year-round during daylight hours and locked at night.

Chairperson Faiman opened the discussion to the public.

M Bronson, abutter, shared an exhibit¹ on the keeping of sheep and public health relative to the applicant's request to keep small farm animals. He said his wife is asthmatic and this would be a problem.

K Cadrain, abutter, said the applicant, has had yard sales in the past where people have parked parallel to Burns Hill Road along the front of the applicant's yard. He suggested this parallel car park would improve the driver's ability to see traffic on Burns Hill Road in lieu of the gravel turnout. He said the applicant would need to remove the vegetation and relocate the mailbox in the front yard to assure the parallel parking would be in the applicant's setback and not on the asphalt of the right-of-way. J Klinghoffer said this would eliminate the gravel turnout. Chairperson Faiman noted this would also eliminate use of Seagroves Street as it is unclear if the applicant has permission to use the private way. Chairperson Faiman asked if there was a practical way to locate the farmstand so as not to access the farmstand from Burns Hill Road. J Klinghoffer and others noted the parcel is sloped indicating a different location would not be convenient.

S Kirsch said her intent is to avoid having customers park within the setback. C Case cited subsection 5.3.2 Setbacks, citing that an abutter to the applicant's parcel is in the General Residence & Agricultural District and therefore the sideline setback is 35 feet not 15 feet as the applicant noted.

Vice chairperson Eckstrom mentioned that Burns Hill Road was once Route 101. Chairperson Faiman confirmed that was true and the width of the roadway was greater than four roads, which is wider than expected. J Stone remarked that the parallel car park suggestion by K Cadrain, would be a viable solution that would answer a lot of safety concerns for farmstand customers, and drivers on Burns Hill, however, noting that the zoning ordinance does not permit additional parking spaces in the front yard or in the setback. C Case noted that the paved portion of Burns Hill Road, the travel way, is predominately in the northerly portion of the right-of-way, suggesting this was deliberate based on surface and sight conditions. Vice chairperson Eckstrom suggested that since Burns Hill Road was once a state highway it added something unique to the applicant's parcel. Chairperson Faiman said that is a fact to be considered, however, he said you are not allowed to build things on the right-of-way or to impinge on the right-of-way in a way which would obstruct it use.

Stone requested that the Board take a five-minute break.

The Board resumed the discussion at 8:44 p.m.

¹ Google document on the effects of sheep dander and health.

Chairperson Faiman summarized the applicant's proposal as a request for the agricultural use of her land, and the production and sale of farm and other related products. He said relief requires a variance to allow agricultural use, specifically small farm animals; a variance to allow the construction of the farmstand in the setback as well as parking within the right-of-way; and a special exception to allow the home occupation, the latter being a requirement.

Vice chairperson Eckstrom asked the applicant if she had documentation from the road agent on the gravel turnout. S Kirsch said she has the original application that she believed was submitted but does not have any confirmation of that. C Case noted that she could not locate a driveway permit application in either the land use or building files. S Kirsch said that when the ZBA granted her request for a variance for the two-family dwelling unit, parking had been designated in the driveway off Seagroves Street for six vehicles. Vice chairperson Eckstrom recalled a gravel pull-off in the location of the gravel turnout years prior to the applicant's ownership of the parcel. C Case confirmed evidence of the gravel pull-off from Google Earth imagery dated 2017, and evidence of the gravel turnout from Google Earth imagery dated after 2018; a second curb cut that should have been reviewed by the Planning Board. Vice chairperson Eckstrom asked the applicant if her deed describes where her parking and driveway access might be. S Kirsch said the language in her deed is old and unclear.

Chairperson Faiman advised the Board to deliberate on the request for a variance to subsection 5.1 Permitted Uses. He said he received advice from the Board's Counsel to deny the request for a Variance to subsection 5.1, Permitted Uses, of the Town of Wilton's Zoning Ordinance without prejudice and then read RSA 674:32-a Presumption. – "In accordance with RSA 672:1, III-d, whenever agricultural operations or activities as defined in RSA 21:34-a are not explicitly addressed with respect to any zoning district or location, such operations or activities shall be deemed to be permitted there, as either a primary or accessory use, so long as conducted in accordance with best management practices guidelines adopted by the commissioned of the department of agriculture, markets, and food and with applicable federal and state laws, regulations, and rules." He summarized by saying the use is permitted, and a variance is not required.

Chairperson Faiman made a MOTION to close the public hearing and deliberate on the applicant's request for a Variance to subsection 5.1, Permitted Uses, of the Town of Wilton's Zoning Ordinance, to allow the keeping of small farm animals such as chickens, on Lot-4, 68 Burns Hill Road. Vice-chairperson Eckstrom SECONDED the motion.

There was no DISCUSSION.

223 VOICE Vote: ayes 5
224 nays 0
225 abstentions 0
226 **Motion was CARRIED.** 5/0/0

Chairperson Faiman said the statue trumps the Town of Wilton Ordinance which does not address the keeping of livestock and poultry in the residential district. Therefore, the applicant's proposal to keep small farm animals such as chickens, rabbits and sheep on her property is permitted use. As a result, when a use is permitted, as of right, there is no hardship, and therefore a variance cannot be granted to allow the use. He referenced the case of Bartlett versus City of Manchester, and suggested the Board deny the request to subsection 5.3 Permitted Uses without prejudice.

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The Board understood that any issue (health, nuisance, odor, noise, etc...) arising from the keeping of small farm animals in the Residential District would be a private/civil matter. The Board also understood that if the Town of Wilton Zoning Ordinance were to be amended and the keeping of farm animals prohibited in the Residential District the applicant would be grandfathered if the use had not been abandoned.

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J Klinghoffer made a MOTION deny the applicant's request for a Variance to subsection 5.1, Permitted Uses, of the Town of Wilton's Zoning Ordinance, to allow the keeping of small farm animals such as chickens, on Lot-4, 68 Burns Hill Road, without prejudice as the use is permitted by RSA 672:1, III-d, and therefore a variance is not required.

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L Jennings SECONDED the motion.

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Vice-chairperson Eckstrom made a MOTION to re-open the public hearing L Jennings SECONDED the motion.

There was no discussion.

250 VOICE Vote: ayes 5
251 nays 0
252 abstentions 0
253 **Motion was CARRIED.** 5/0/0

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Chairperson Faiman opened the discussion to attendees.

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M Bronson argued that the matter of health was an issue the Board should be addressing. Chairperson Faiman said it is not the Board's decision whether the applicant should have animals or not; the state has passed laws the Town cannot regulate, albeit lengthy and unclear, so unless the town takes legislative action regarding the ordinance, we basically have no authority to regulate it.

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K Cadrain expressed concern on the number of predators the chickens will have and how the applicant will protect them. He is concerned that they will construct a fence with a lean-to, to which Chairperson Faiman said the applicant would have that right to protect her chickens within the limitations of the law.

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Chairperson Faiman called for a vote on the Motion.

ROLL Call Vote: 267 | Klinghoffer aye L Jennings 268 aye N Faiman 269 aye 270 **JK Eckstrom** aye Stone 271 aye Motion was CARRIED. 5/0/0 272 273 Chairperson Faiman asked the applicant if she would be willing to allow another site visit so a firm 274 determination of where the edge of the right-of-way is. S Kirsch agreed and would have her surveyor mark 275 276 the front and side lot lines. Chairperson Faiman added that if the proposed parking required a variance the 277 application, as presented, could be amended without additional public notice. 278 J Klinghoffer made a MOTION to continue the public hearing by request of the 279 280 applicant until November 11, 2025, and to schedule a site visit for Sunday, November 2, 2025 at 9 a.m. 281 282 L Jennings SECONDED the motion. 283 There was no discussion. **VOICE Vote:** 5 284 ayes 0 285 nays 286 abstentions 0 Motion was CARRIED. 5/0/0 287 288 4. Old Business 289 There was no Old Business discussed. 290 291 292 5. New Business 293 There was no New Business discussed. 294 295 6. General Business 296 P Duggan and JK Eckstrom announced that the Select Board appointed L Jennings as a regular member of the Zoning Board of Adjustment. 297 298 299 7. Adjournment 300 JK Eckstrom made a MOTION to adjourn at 9:30 p.m. 301 J Stone SECONDED the motion. 302 303 There was no discussion. **VOICE Vote:** 304 ayes 6 305 nays 0

306		abstentions	0
307		Motion was CARRIED.	6/0/0
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311	APPROVED		

