

AREA VARIANCE _____
USE VARIANCE _____
SPECIAL PERMIT _____

NEXT ZBA MEETING _____
DEADLINE TO FILE _____

ZONING BOARD OF APPEALS
TOWN OF WILTON
GUIDE FOR APPLICANTS

This guide is intended to provide brief instructions for filing an application and preparing a case before the board. It should not be construed as legal advice. No guarantee of success is implied if the guideline is followed, nor is denial implied if it is not.

Application Procedures

To be an applicant before the Zoning Board of Appeals, you must own, lease or be a prospective owner with a purchase contract for the premises that is the subject of the appeal. A representative of the owner may apply, as long as a written statement, signed and dated by the owner, is submitted with the application.

Your application must consist of the following items:

1. **Two (2) ORIGINAL** copies of the application form, **completely** filled out as indicated.
2. One (1) copy of a site plan of the property, drawn to scale. The site plan should show the proposed structure, if any, its location on the lot, together with dimensions and boundaries of the lot. Adjacent landowners should be indicated. The drawing should show proposed or existing connections to utility, water and septic or sewer facilities. Any natural or man-made features, which may affect this Property, such as drains, ponds or easements must be noted.
3. **ONE (1) 11" X 17" COPY OF SITE PLAN OF THE PROPERTY**, drawn to scale.
4. Purchase contract or statement from the owner that applicant has a right to represent him/her, if applicant is not the owner of the property.
5. Filing fee. See attached fee schedule for filing fee.

Items 1 through 4 must be submitted with the application. Otherwise, your application will not be considered complete. In addition to these items, other information may be submitted that the applicant would like consider. This may include photographs, statements from adjacent landowners, building plans or any other information that will explain and/or enhance the applicant's request. If an Environmental Assessment Form has been prepared for another agency, a copy of that should be submitted to the board. The board retains the right to require this Environmental Assessment Form if it is considered appropriate. All information that the applicant wishes considered should be submitted at the time of filing. **It is the applicant's responsibility to be sure that the application is complete and that it is filed on time.**

Advertisements for Public Hearing

The board is required to set a public hearing date in the "reasonable future" once an application is filed with the board and, in most cases if the application has been filed on time, the appeal will be on the next ZBA agenda. The secretary or clerk will prepare the legal notice of the public hearings and will forward it to the newspapers designated by the Wilton Town Board for notices. This legal ad will be printed at least ten (10) days prior to the date of the public hearing.

Notification of Adjacent Landowners

Town policy requires that the applicant must forward a notice of the public hearing by certified mail, return receipt requested, to the following: All persons owning property contiguous to the affected parcel and across any street or public roadway from the affected parcel and any other property owners specifically designated by any Town Board or agency. If all return receipt cards (green cards) are not returned to the applicant as a result of a landowner not accepting the certified notice, the Town may, at its discretion, go ahead with the hearing. **All white receipts should be saved to prove the mailings were sent out in case the landowner refuses the certified notice.** The **original** certified receipts are to be submitted to the Zoning Board of Appeals' office along with a sample of the notice sent. This notice must contain a brief description of the request, the date, time and place of the public hearing and a notation that additional information can be obtained from the Zoning Board of Appeals office. A sample letter is available that can be used for the notification, but any letter or statement containing the necessary information is acceptable. I would advise you to have a member of the zoning staff review the letter to be sure that all information is included. This can be done by fax at (518)587-2837, email, mail, or in person. A staff review may avoid the need for additional mailings. Applicants will be given the necessary information in order that they may obtain the names and addresses of those to be notified from the tax maps and computer lists in the assessor's office.

Notifications should be sent out two weeks to ten days prior to the date of the hearing, but not prior to the date the application is filed.

Review Criteria

In judging an application for relief, the Zoning Board of Appeals is charged by statute and precedent with certain requirements. An application may present a case in any manner, but at some point, the board must hear commentary on the following points:

- A. Use Variance. A variance to allow a use within a district other than a use allowable as a permissible use or by site plan review may be granted if the conditions are not self-created and only in the event that all of the following circumstances are specifically found to exist by the Zoning Board of Appeals, and are each so stated in the board's finding and no such variance shall be valid unless all of the following circumstances are so found:
 - 1. That a reasonable return cannot be realized, provided that lack of return is substantial as demonstrated by competent financial evidence.
 - 2. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - 3. The requested use will not alter the essential character of the neighborhood.
 - 4. The alleged hardship was not self-created.

- B. Area Variance. A variance to allow land use or development on a lot or property which does not conform to the dimensional requirements for that district may be granted only in the event that all of the following circumstances are specifically found to exist by the Zoning board of Appeals, and are each so stated in the board's findings, and such a variance shall not be valid unless all of the following circumstances are so found:
 - 1. That no undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of the area variance.
 - 2. The benefit sought cannot be achieved by some other method feasible for the applicant to pursue, other than an area variance.
 - 3. The requested area variance is not substantial.

4. The requested area variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood district.
 5. The alleged difficulty is not self-created. Consideration of this issue shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- C. Special Permit. A Special Permit can be granted for a use in a specific district if it is permitted by the Zoning Ordinance's District Regulation and Use Schedule and if it meets the following circumstances.
1. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it and the location of the site with respect to the existing or future streets giving access to it shall be such that they will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
 2. Operations in connection with any special use shall not be more objectionable to nearby properties by reasons of noise, fumes, vibration or in any manner than would be the operation of any permitted use.

In granting any Special Permit, the board may specify its terms of validity. Three (3) types of permits allowed are described as Follows:

1. Permanent: Allows a specific use to continue indefinitely.
2. Temporary: Provides that the use shall be discontinued at a given date. This type shall not be extendable.
3. Extendable: Provides that the permit be extended periodically as requested by the Board for a period of time designated by the Board.

Procedure

After filing your application with the board secretary or clerk, you will be given a date to appear before the Wilton Planning Board, if required, for a recommendation to the Zoning Board of Appeals on your request. You will also be given the date and time of

the Zoning Board of Appeal hearing. This hearing date is the one you will indicate in your adjacent landowner notification. The Saratoga County Planning Board will review applications as deemed appropriate. You must appear before the Zoning Board of Appeals at the hearing or have a representative appear for you. If you have someone represent you, he/she must have a written statement from you allowing such representation. Meetings of the Zoning Board of Appeals are scheduled for the fourth Thursday of each month. The deadline for submission of application is generally the Tuesday two weeks prior to the meeting. You should contact the board secretary or clerk for the exact date. The deadline for submission is **NOON** of that Tuesday. Since the November meeting falls on Thanksgiving Day, a combined November/December meeting will be held on a date chosen by the board.

Decisions by the Board

The Zoning Board of Appeals is required to issue a decision on your application within sixty-two (62) days of the date of the public hearing. In most cases, the board will discuss and render a decision on your application on the same night as the hearing. However, the final decision of the board must be made by written order and will be signed by the chairman and the secretary/clerk and filed with the Wilton Town Clerk's office within five (5) business days of the decision date. Copies of the written order relating to your application can be obtained from the Zoning Board of Appeals office. The written decision shall state any conditions imposed and/or safeguards deemed necessary by the board to protect public interest.

Information

Please contact me with any questions or to request additional information at 587-1939 ext. 224 or lclosson@townofwilton.com

Lisa Closson
Zoning Clerk