TOWN OF SWANZEY

OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT

Phone: 603-352-7411 ext. 108
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Address: 620 Old Homestead Hwy

Swanzey Zoning Board of Adjustment
Meeting Agenda for June 16, 2025
7:00 p.m.

The regular meeting of the Swanzey Zoning Board of Adjustment will be held on Monday, June 16, 2025 at 7:00 p.m. at Whitcomb Hall, 17 Main Street, Swanzey. The public may also access the meeting via Zoom by going to www.zoom.us, using the Zoom App, or by calling (929) 205-6099 and entering Meeting ID number 235 370 4380. More information on public access to the meeting is available on the Town's website at: www.swanzeynh.gov.

1) Call to Order

2) Approval of Minutes

   a. May 19, 2025

3) Public Hearings

   a. **ZBA 25-008: Variance (PENDING REQUEST FOR REHEARING DECISION)** – Nathan Jacobs has requested a Variance pursuant to Section VIII, Article C of the Town of Swanzey Zoning Ordinance to build a structure within the Shoreland Protection District at 71 Wilson Pond Road. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District.

   b. **ZBA 25-009: Variance –** Nathan Jacobs has requested a Variance pursuant to Section IV, Article B.3 of the Town of Swanzey Zoning Ordinance to build a structure 8' into the front setback at 71 Wilson Pond Road. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District.

4) Other Business

5) Adjournment

Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment (ZBA)
Meeting Minutes – **May 19, 2025**
Whitcomb Hall, Main Street, Swanzey, NH

Note: Draft Minutes are subject to review, correction, and approval by the Board. Review and approval of Minutes generally takes place at the next regularly scheduled meeting of the Board.

CALL TO ORDER:
Chair Adam Mulhearn called to order the meeting at Whitcomb Hall at 7:00 p.m. Other members present were Vice Chair Jay Ward, Ann Karasinski and Lisa Thorne and Alternates Pete Delaney, Jessica Ramsey-Sanchez and Joe Parisi. Also present were Town Planner, Adam Paquette and Recording Secretary, Susan Ells.

ABSENT:
Bryan Rudgers, Wayne Lechlider

OTHERS PRESENT:
Danielle and Nathan Jacobs

SEATING ALTERNATES:
The chair seated Parisi for Rudgers and Delaney for Ward, who recused himself.

MINUTES:
The meeting minutes of **April 21, 2025,** were considered. **Motion** was made by Ward to approve the minutes as presented. There was a second made by Delaney. All were in favor. ***Motion passed.***

PUBLIC HEARING:
ZBA 25-008: Variance – Nathan Jacobs has requested a Variance pursuant to Section VIII, Article C of the Town of Swanzey Zoning Ordinance to build a structure within the Shoreland Protection District at 71 Wilson Pond Road. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District.

Paquette read the variance application and the Conservation committee comments. He said that the Planning office generally agreed with the Conservation committee. He gave two options the board should review:

1. Attach a condition of approval requiring state permits prior to building permit, which is the practice Swanzey has followed for previous applications of this nature.
2. Follow Conservation Commissions suggestion and deny without prejudice citing lack of state feedback on a DES shoreland permit.

Thorne made the motion to deny **ZBA 25-008: Variance** without prejudice until the applicant has received the shoreland permit. No second. **Motion failed**.

Public Hearing:
Nathan and Danielle Jacobs spoke – they strongly believe in the importance of giving back and have been very involved in the community. They are licensed foster parents but only have room for one child

at a time – sometimes there is a need for siblings to be together, and they can't currently provide that. They purchased their current home in severe disrepair, and they have rebuilt it, adding storm water drainage and driveway improvements to protect Wilson Pond. They are active in the Wilson Pond Association and have removed trash, etc. that would have polluted Wilson Pond. They bought their neighbor's property in 2013, and they have already removed Japanese Knotweed which is an invasive species. They removed 448 sq ft of outbuildings that were unnecessary and detrimental to the shoreline; a wooden deck, an 8'x8' shed, and a 12'x20' car port. They have provided better drainage and have planted shrubs and plants which improved the shoreline. The existing building is beyond repair, so they want to remove it and rebuild a home bringing the property up to modern standards with updated insulation, windows and a modern furnace which will reduce the carbon footprint. They will implement drainage and wastewater mitigation which will benefit the pond. This project will support Swanzey economically by raising the value of the property and therefore the taxes they pay. They expect to spend $500K locally on this property. They have been working with the State DES and intend to meet the State's requirements. They will submit drawings which will include all details that will comply with building code requirements. The home will be in keeping with the styles of the homes in the neighborhood. They provided updated preliminary plans. They read an opinion of Craig Day, NH DES who feels it will comply with requirements.

- Mulhearn asked for clarification on the driveway which Nichols provided.
- Mulhearn asked for comments from the board.
- Karasinski asked if the abutter responded. Negative. Questioned whether 22 feet is enough. Jacobs feels that it is. Asked if the balcony would have stairs to the ground. Negative.
- Paquette reminded the board to focus only on the shoreland application.
- Parisi clarified square footage of new building. In the package he noticed that the applicant did not address one of the questions regarding shoreland protection. Why is it not contrary to the public interest? Nichols stated they will be building a property that is better for the pond.
- Ramsey-Sanchez – public comment – Has a new perspective after hearing the presentation; wished it had been in the packet. Thanked them for the clarification.
- Delaney – asked for a clarification which Jacobs provided.
- Parisi asked Paquette for a clarification on the zoning ordinance which Paquette read aloud.
- Karasinski asked for clarification of the water mitigation under the decks.
- Mulhearn also thanked the Jacobs for the thorough presentation. Asked Paquette if they could build if the State had not approved. Negative. Why make it a condition if the State will only approve it after the Town approves it. Paquette said it is just extra assurance.
- Ramsey-Sanchez asked if he had already removed the deck; affirmative. It was better for the pond if they removed it.
- Delaney clarified with Paquette that if they are provided with conditional approval and if the State approves, they are all set to continue.
- Mulhearn closed the public hearing.
- Thorne echoed Ramsey-Sanchez's comment – appreciated the presentation.
- The board discussed the merits of the application.

The Board deliberated the checklist for granting a variance:

1. **Could the variance be granted without being contrary to the public interest?**

- Karasinski – **Yes** based on the information and because the applicants will need to get State approval.
- Thorne – **Yes** agree with Karasinski
- Mulhearn – **Yes** – feels it is in the public interest to better the area
- Parisi – **No** – preexisting nonconforming
- Delaney – **Yes** – due the amount of structure that will be in the protected area

2. Would the spirit of the ordinance be observed if the variance were granted?

- Thorne - **Yes** – spirit of the ordinance
- Parisi – **No** – too substantial
- Delaney – **No** – agrees with Joe
- Karasinski – **Yes** – evidence in proposal and thoughtfulness; State will give guidance; they have already made improvements
- Mulhern – **Yes** – agrees with Karasinski

3. Would granting the variance do substantial justice?

- Parisi – **Yes** – no additional comment
- Delaney – **Yes** – doing a lot of modernizing
- Karasinski – **Yes** – they have made improvements since they've moved there
- Thorne – **Yes** – thinks it will do substantial justice to the property
- Mulhearn – **Yes** -consensus

4. Could the variance be granted without diminishing surrounding property values?

- Delaney – **Yes**
- Karasinski – **Yes** – no testimony that it would diminish the values
- Thorne – **Yes**
- Parisi – **Yes**
- Mulhearn – **Yes**

5. Do special conditions of the property exist that distinguish it from other properties in the area?

- Karasinski – **No** since it is so like other properties (changed from Yes after hearing others)
- Thorne – **No** – all properties are nonconforming
- Parisi – **No**
- Delaney – **No** – can't identify any special conditions
- Ramsey-Sanchez – commented about topography – does that make it a special condition?
- Mulhearn – **No** –
  A.i. **Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?**
  - Thorne – **No** due to previous answer
  - Parisi – **No** there were no special conditions
  - Delaney – **No**
  - Karasinski – **No**

DRAFT

- Mulhearn – **No**

A.ii. Is the proposed use a reasonable one?

- Parisi – **Yes**
- Delaney **– Yes**
- Karasinski **– Yes** for property owner to use their property and the State's permits to be followed
- Thorne **– Yes**
- Mulhearn **– Yes**

If the criteria in subparagraph A.i. and A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. **Owing to the special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance is necessary to enable a reasonable use of the property:**

- Delaney – **Yes**
- Karasinski – **yes**
- Thorne – **No**
- Parisi – **Abstain**
- Mulhearn – **No**

- Mulhearn asked Paquette for clarification.
- **Thorne** made a motion to deny without prejudice. No second. Motion failed.
- **Parisi** made the motion to **deny ZBA 25-008: Variance** without prejudice due to lack of information provided, citing State DES review and approval. **Thorne** seconded the motion. All approved. **Motion carried.**

Mulhearn opened the Public Hearing:
Jacobs responded by asking what recommendations the board can make; Mulhearn responded that the board cannot make recommendations. Jacobs asked why should he spend the money to get the State to approval if he has no assurance the board would approve? Mulhearn said he couldn't make promises.

ZBA 25-009: Variance – Nathan Jacobs has requested a Variance pursuant to Section IV, Article B.3 of the Town of Swanzey Zoning Ordinance to build a structure 8' into the front setback at 71 Wilson Pond Road. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District.

Applicants withdraw this application.

OTHER DISCUSSIONS

The board discussed possible next steps for the applicant. Paquette interjected and informed the applicant staff will meet later in the week to provide the next steps.

ADJOURNMENT
Motion to adjourn was made by Parisi and seconded by Delaney and all were in favor. ***Motion passed.*** Adjournment occurred at 8**:52** p.m.

Respectfully Submitted,

Susan Ells, Recording Secretary

DRAFT

TOWN OF SWANZEY

OFFICE OF PLANNING AND ECONOMIC DEVELOPMENT

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Memorandum – Office of Planning & Economic Development

TO: Zoning Board of Adjustment

FROM: Adam Paquette, Town Planner

DATE: **June 9, 2025**

RE: ZBA **25-008** & **25-009** – Variances – Tax Map 106 Lot 18

Background:

Nathan Jacobs has requested a **Variance** pursuant to **Section VIII, Article C** of the Town of Swanzey Zoning Ordinance to **build a structure within the Shoreland Protection District** at **71 Wilson Pond Road**. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District. Notice of Public Hearing was mailed to abutters on June 6 and notice was published in the Keene Sentinel on June 14.

Nathan Jacobs has requested another **Variance** pursuant to **Section IV, Article B.3** of the Town of Swanzey Zoning Ordinance to **build a structure 8' into the front building setback**.

Discussion:

The applicant requests two variances from:

- Section VIII, Article C of the Zoning Ordinance.

> **C. PRIMARY BUILDING LINE/SETBACK:** No primary structure as defined by RSA 483-B, shall be built, placed or erected within one hundred twenty-five feet from the reference line as defined by RSA 483-B:4, XVII as may be amended.

- Section IV, Article B.3 of the Zoning Ordinance.

> **3.** All lots shall be of at least one (1) acre in size with one hundred fifty (150) feet of frontage on a Town or State maintained road. The front setback is 30 feet from the front property line and 20 feet from the side and rear property lines. (Amended March 11, 2008)

Other land use regulations that apply to these variances are:

Section XI, Article C:

> **C. Non-conforming Lot:** A non-conforming lot may be developed for the uses permitted in the district in which it is located provided that the use proposed for such lot will comply with all health and sanitary regulations for water and sewage systems as required by the State and Town and provided that it complies with all other requirements of this Ordinance or amendments thereto, including but not limited to Sections III.E. and III.M
>
> **1.** In addition to the above requirements, a non-conforming lot located in the Shorelands Protection Overlay District shall comply with the current regulations of the Department of Environmental Services without waivers as of the date of application for a building permit.

Department Head and Staff Review (SHORELAND):

Department Heads were notified of the application on May 1. The Conservation Commission has submitted the following comments regarding the shoreland variance:

1. The applicants should first obtain a required shoreland permit from the state.
2. This is a nonconforming lot, and the proposed home is much larger than the original one, with a proposed deck closer to the shore. There are no plans offered to mitigate an increase in impervious surface and the resulting runoff to the pond. The entirety of the property is also in a more restrictive part of the Shoreland District, within 125' of the pond. A variance for this project, as proposed, would not seem to support the spirit of the ordinance or the public interest of protecting the pond.

After a thorough review, the Planning Department has reassessed its position and now recommends that applicants seek local (Swanzey) approval before pursuing state-level permits. This recommendation is based on the following considerations:

- State permits usually take longer and cost more than local approvals. Asking applicants to start with the more complex process can lead to unnecessary delays and added expenses.
- Swanzey's process is quicker and more affordable, which helps applicants move forward with more confidence and less financial pressure.
- Swanzey often has stricter standards than the state when it comes to environmental and land-use regulations. So, getting local approval first ensures the project meets the highest bar from the start.
- If someone gets state approval first, they might still have to go back and make changes to

satisfy Swanzey's tougher requirements, leading to extra work and frustration.

- Starting with the more restrictive approval helps reduce the risk of investing time and money into a plan that might not pass at the local level.
- Local approval can also strengthen the case when applying for state permits, making the overall process smoother.

Requiring applicants to obtain Swanzey approval first is not only more practical and cost-effective, but it also aligns with principles of sound planning, regulatory logic, and applicant support. This approach minimizes risk and reduces redundancy.

Department Head and Staff Review (SETBACK):

Planning staff have the following comments:

1. The proposed structure is in alignment with other structures within the community, or even further back in some cases. While it could theoretically be built to satisfy setback requirements, staff believes the applicant meets the threshold for variance **approval**.

Department Head and Staff Review (GENERAL COMMENTS):

2. The height of the structure is not indicated on the site plan. If approval is given, it should be conditional upon receiving architectural drawings prior to building permit.

Attachments:

A. Variance Application
B. Site Plan
C. Tax Map

APPLICATION FOR VARIANCE
TOWN OF SWANZEY (New 1/10; Revised 8/22)

MAP: 106 **LOT:** 18

RECEIVED
JUN 05 2025
TOWN OF SWANZEY

Shoreland

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
Nathan Jacobs and Danielle Jacobs	69 Wilson Pond Rd North Swanzey NH 03431
Contact phone number: 860-885-4849 email: 4755650@gmail.com	
OWNER OF PROPERTY: (If same as applicant, write "same")	**MAILING ADDRESS OF OWNER:** (If same as applicant, write "same")
Same	Same
LOCATION OF PROPERTY (Give Zoning District in which located & current street address) 71 Wilson Pond Rd North Swanzey NH 03431	

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☑ **SITE PLAN –** The site plan need not be done professionally, but **must** be to scale; the scale should be appropriate for the size of the project & the plan must be readable. Plans must indicate the size of the lot in acres or square feet, show the placement of all **existing** and **proposed** buildings on the lot and include setbacks required by the zoning ordinance. The plan must include a written and visual depiction of the scale used.

2. ☑ If applicable, indicate on the Site Plan the location of:
   - septic system and/or leach field
   - water supply
   - curb cuts
   - parking area (and size of parking spaces)
   - waterways
   - wetland areas
   - tree lines
   - drainage ways
   - loading docks
   - underground tank locations
   - impervious surfaces

It is the applicant's responsibility for including all information on the plan that is pertinent to their application and proposed project.

3. ☑ Attach completed and up-to-date listing of ALL abutters with addresses.

4. ☑ Provide a brief description of the project/request.

A Variance is requested from the terms of Section VIII, Article C of the Zoning Regulations of the Town of Swanzey.

FACTS IN SUPPORT OF GRANTING THE VARIANCE:

1. Granting the variance would not be contrary to the public interest because:

See attached; facts and supporting of granting the variance page

2. Granting the variance would observe the spirit of the ordinance because:

See attachment; facts of supporting of granting the variance page

3. Granting the variance would do substantial justice because:

See attachment; facts of supporting of granting the variance page

4. Granting the variance would not diminish the values of surrounding properties because:
See attachment; facts of supporting granting the variance page

5. Unnecessary Hardship
Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

The "Special Conditions" of this property that distinguish it from other properties in the area are as follows:
See attachment; facts in support of granting the variance page

A. Owing to the special conditions of the property as set forth above that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:
See attachment; facts, in support of granting the variance page

and

ii. The proposed use is a reasonable one because:
See attachment facts in support of granting the variance page

If the criteria in subparagraph A.i. **and** A.ii. are not established, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to special conditions of the property as set forth above that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of the property because:

See attachment, fax, and supportive, granting the variance.

Note: The definition of "unnecessary hardship" set forth in subparagraph 5 shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Signature of Applicant Date: 6/5/2025

Signature of Property Owner Date: 6/5/2025

THIS VARIANCE IS HEREBY:

☐ **GRANTED** ☐ **DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

CHECKLIST FOR GRANTING A VARIANCE
(for use by Swanzey Zoning Board of Adjustment)

1. Could the variance be granted without being contrary to the public interest?

_____ Yes _____ No

2. Would the spirit of the ordinance be observed if the variance were granted?

_____ Yes _____ No

3. Would granting the variance do substantial justice?

_____ Yes _____ No

4. Could the variance be granted without diminishing surrounding property values?

_____ Yes _____ No

5. Do special conditions of the property exist that distinguish it from other properties in the area?

_____ Yes _____ No

A.i. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?

_____ Yes/Agree

_____ No

And

A.ii. Is the proposed use a reasonable one?

_____ Yes

_____ No

If the criteria in subparagraph A.i. **and** A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance is necessary to enable a reasonable use of the property:

_____ Yes

_____ No

If the answer to questions 1, 2, 3, 4 and 5 (5A or 5B) is "yes," the variance should be granted.

If the applicant fails to meet any one of the five variance requirements (1, 2, 3, 4 and/or 5), it cannot be legally granted and should be denied. Note: The applicant only needs to meet either 5A or 5B to satisfy criteria 5.

Swanzey Zoning Board of Adjustment – Variance Application

Property Address: 71 Wilson Pond Road

Owner(s): Nathan and Danielle Jacobs

Request: Variance from Shoreland Protection Area requirement to construct a single-family home with an attached garage on a nonconforming lot in.

1. Granting the variance would not be contrary to the public interest because:

This proposal does not violate the basic zoning objectives of the Town of Swanzey, as it will not alter the established residential character of the neighborhood, nor will it threaten public health, safety, or welfare. Instead, it enhances neighborhood aesthetics and conforms to the general development patterns already in place around Wilson Pond.

The proposed structure replaces an aging and deteriorating building that has existed for decades and currently occupies a nonconforming footprint. The project will modestly expand the existing footprint The new construction will allow for improved setbacks from both the north and south property lines, providing greater conformity than the existing structure. Furthermore, stormwater management systems will be integrated into the design, supporting water quality objectives and preserving the natural character of the shoreline.

2. Granting the variance would observe the spirit of the ordinance because:

The purpose of the Shoreland Protection ordinance is to preserve water quality, limit erosion, and maintain the scenic and environmental integrity of the pond. The proposed project adheres to these goals. It will include erosion control, a stormwater collection system, and site-sensitive design that minimizes tree removal and vegetation disruption. The new footprint is centrally located on the lot and positioned farther from the shoreline than portions of the current structure.

Additionally, the house will comply with all current building codes and include environmental safeguards that did not exist with the original building. The improvements will promote health, safety, and environmental protection while respecting the residential nature of the area and the goals of the Shoreland ordinance.

3. Granting the variance would do substantial justice because:

Granting this variance enables the property owners, Nathan and Danielle Jacobs, to make reasonable residential use of their land while enhancing the neighborhood. Also, approving the variance helps balance the rights of individual property owners with the interests of the public, especially where the project replaces an unsightly, deteriorated structure with new, attractive, home that enhances the neighborhood. The Jacobs have owned the property for 12 years and are active members of the community — including fostering children through New Hampshire DCYF and participating in town committees.

Denying the variance would render the lot effectively unusable under current standards, creating an unfair hardship without meaningful benefit to the public. The proposed improvements are carefully designed to reduce environmental impacts and enhance the value and appearance of the lot and surrounding area. Approving the variance honors the intent of the ordinance while allowing the Jacobs to remain in their home and continue their positive role in the community.

4. Granting the variance would not diminish the values of surrounding properties because:

Rather than diminishing surrounding property values, this project will likely enhance them. The current structure has long been in disrepair and is considered an eyesore by neighbors. Its replacement with a modern, attractive, and well-maintained home will elevate the curb appeal and perceived value of the area. High-quality construction materials, responsible landscaping, and thoughtful design will contribute positively to the neighborhood aesthetic.

The new home will be similar in size and use to nearby homes, and its siting is respectful of neighbors' privacy, and enjoyment of their properties, and will not create any visual or functional detriment to the surroundings. The investment in redevelopment signals continued commitment to maintaining and improving property values around Wilson Pond.

5. Unnecessary Hardship

Literal enforcement of the ordinance would result in unnecessary hardship because:

The "Special Conditions" of the property that distinguish it from other properties in the area are as follows:

The lot is approximately 100 x 100 feet — just under 1/4 acre — and is fully located within the 125-foot Shoreland setback zone. This condition makes strict adherence to the ordinance impossible without rendering the entire lot unbuildable. This situation is not self-created, as the lot predates the adoption of current setback requirements.

Additionally, when the town installed sewer lines years ago, the road was repositioned closer to the property, reducing the practical buildable area and exacerbating the challenge of siting a structure outside the setback.

Unlike larger or more regularly shaped lots that allow full setback compliance, this lot is uniquely constrained. Granting the variance will allow the owner to reasonably use their property for residential purposes while incorporating modern environmental safeguards.

5A. owing to the special conditions of the property as set forth above that distinguish it from other properties in the area:

(i). No fair and substantial relationship exists between the general public purpose of the ordinance provisions and the specific application of that provision to the property because:

The ordinance's intent is to protect water quality and natural resources. However, applying a 125-foot shoreline setback to a lot that is only approximately 100 feet deep makes compliance physically impossible. The result would be a complete prohibition of any use of the property — a burden that is neither fair nor consistent with the ordinance's public goals.

The proposed design meets the spirit of the regulation by including improved stormwater controls, minimizing shoreline disturbance, and positioning the home as far from the water as practicable. The setback restriction, as applied to this specific lot, does not advance public goals and instead imposes an unreasonable and disproportionate hardship.

A(ii). The proposed use is a reasonable one because:

The use — a single-family residence — is clearly consistent with the zoning and neighborhood context. All surrounding lots support similar residential structures, many of which are closer to the pond than the proposed new home. The new construction will not introduce any commercial or intensive use, nor will it negatively impact the environment or neighboring properties.

The new home will provide safe, functional housing for a local family while maintaining the integrity of the neighborhood. A reasonable, environmentally conscious residential use is the best and most compatible use for this nonconforming lot.

5B. Owing to special conditions of the property as set forth above that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of the property because:

This lot is subject to unique physical conditions that make strict conformance with the ordinance impossible. The entire parcel — which measures approximately 100 feet by 100 feet — lies fully within the 125-foot Shoreland Protection setback from Wilson Pond. As a result, we request relief from the ordinance, even though the lot is legally created, residentially zoned, and surrounded by year-round homes.

This hardship is not self-created. The lot was established prior to the adoption of the current Shoreland setback requirements. Years ago, when the town installed municipal sewer infrastructure, the road was relocated closer to the lot, further reducing the effective buildable area and increasing the difficulty of complying with modern regulations.

Strict enforcement of the ordinance would leave the property unusable for any reasonable residential purpose, amounting to a total loss of practical use. The only way to use the property for its intended and permitted purpose — a single-family home — is through the granting of a variance.

The proposed home is a reasonable and modest use of the lot that has been carefully designed to minimize environmental impact, maintain respectful setbacks from the side lot lines and shoreline, and incorporate modern stormwater controls. Without the variance, the property would be functionally undevelopable — a disproportionate hardship that would serve no meaningful public purpose.

This variance is necessary to allow the owners to make reasonable residential use of their land in a manner consistent with the surrounding neighborhood and in harmony with the spirit and intent of the ordinance.

Good evening, Members of the Swanzey Zoning Board.

My name is Nathan Jacobs, and I appreciate the opportunity to speak with you tonight. My wife Danielle and I are lifelong New Hampshire residents who are proud to call Swanzey our home.

We strongly believe in the importance of giving back to the community. Danielle works locally with the United Way, supporting afterschool programs at Mount Caesar Elementary School. I serve as an alternate on the Keene Airport Economic Advisory Committee and have been involved with the committee for many years. We are also licensed foster parents through NH Division for Children, Youth and Families.

In 2008 we purchased our current home, 69 Wilson Pond Road directly on the shore of Wilson Pond, a foreclosed property in severe disrepair. We undertook a full renovation—completely rebuilding the home from the inside out. In doing so, we went above and beyond what was required by adding stormwater drainage to help protect the pond, and designing a driveway that contains contaminants and prevents runoff from reaching the water. We're proud of the improvements we've made to that property—not just for ourselves, but for the Wilson Pond community and the town of Swanzey.

Several years after finishing our home at 69 Wilson Road we were approached by the owner of the neighboring property at 71 Wilson Pond Road asking if we would be interested in buying this property. They were great neighbors. She is a single mom with her daughter and unfortunately they decided to move out of town. They tried renting out the property with a no pets clause. After she was bit by a dog that she did not know was living there she decided to sell. We purchased the home in 2013 with the intention of eventually improving that lot as well. We're now seeking your approval to move forward with rebuilding a home at 71 Wilson Pond Road.

My wife and I are active in the Wilson Pond Association, an informal but dedicated group committed to protecting the pond's water quality. Danielle and I have supported this group through donations and hands-on participation—including water testing efforts and beach cleanups at the public boat launch, where we've spent 2 Sunday afternoons the last two years removing trash and debris from the shoreline and parking area. It's definitely not a fun job and I'll spare you from describing some of the trash we have removed. Its truly disgusting and if it wasn't for the work of the Wilson Pond Association, the garbage would eventually get blown into the pond.

We are here tonight to respectfully request two variances:

1. A variance from the town's shoreland protection setback for the new construction at 71 Wilson Pond Road. We fully support the intent of the shoreland ordinance and have already demonstrated our commitment to protecting the environment through our work at 69 Wilson Pond Road, and with the Wilson Pond Association. We intend to apply the same level of care at 71 Wilson Pond Road, including best practices in stormwater management and landscaping that will support healthy runoff filtration and pond

protection.

2. Our second variance is the ordinance for a 30-foot street setback, allowing for a 22-foot setback. This request is due to the constraints of the nonconforming lot and our plan is made in a way that will remain consistent with the character of the neighborhood and safe in terms of access and visibility. We believe this adjustment is reasonable and minimally impactful. It also continues with the character of the neighborhood as most properties are within the 30 foot setback.

We take our responsibility as stewards of this land seriously. These variance requests are not being made for convenience, but to allow thoughtful, environmentally conscious development that will continue the improvements we have already made on this part of Wilson Pond Road.

So what have we done with 71 Wilson Pond? We've made environmental improvements.

After purchasing the property at 71 Wilson Pond Road, even before having concrete plans to rebuild, my wife and I took immediate steps to improve the land with the long-term health of the pond in mind.

One of our first efforts was the complete removal of invasive plant species, most notably Japanese knotweed—commonly mistaken for bamboo—which had spread throughout parts of the property. This invasive species is aggressive and damaging to local ecosystems, and we're proud to have fully eradicated it from the lot.

We also removed 448 square feet of outbuildings which were 3 existing structures that were not only unnecessary, but detrimental to the health of the land and shoreline. These included and were listed on the property tax. My wife and I removed them just after we bought the property:

- A 10.5' x 14' wooden deck built directly on the ground between the house and the pond, which prevented any natural growth or water filtration beneath it.

- An 8' x 8' shed without drainage, which served no essential purpose and contributed to a lot of clutter.

- A large 12' x 20' carport that was placed up against the lot line on the north side of the property, very close to both the road and our other property at 69 Wilson Pond Road. This carport had been wrapped in plastic and converted into a makeshift garage, which we felt was unsightly and potentially harmful to the landscape due to the fact that there was no drainage.

Although we didn't yet have a timeline to rebuild, we knew that these structures weren't in keeping with our vision for the property or for the health of the pond. By removing these, we opened space for better drainage and allowed the land to begin to recover.

In place of those items, we planted grass, flowering plants, and shrubs—all carefully chosen for their low impact on runoff and their contribution to a healthier shoreline environment. These small changes made a meaningful difference in restoring the lot, both visually and environmentally.

These early actions reflect the same principles that guide our current variance request We believe in improving our property in a way that respects the natural setting and enhances the pond for everyone in the community.

Why We're Requesting to Rebuild

Our vision is to build a new home on 71 Wilson Pond Road— larger than our current home—to better accommodate our family, visiting relatives, and especially the foster children we welcome into our home. Right now, we're only able to care for one child at a time. We're often asked to take in siblings to help keep families together, but we simply don't have the space.

The existing structure on the property is beyond repair and lacks any so stormwater mitigation. The current driveway offers no protection against runoff or contaminants. Rebuilding allows us to bring the property up to modern environmental standards while creating a home that serves our needs and continues to protect the pond.

We are not seeking these variances for convenience—we are doing it with care, intention, and a long-term commitment to this community and to environmental responsibility.

We respectfully ask the Board to consider our request in light of the stewardship we've shown, and the positive impact this project will have on Wilson Pond and our surrounding neighborhood.

How This Project Benefits the Community

Rebuilding a new home at 71 Wilson Pond Road is not just an investment in our future—it's a benefit to the Town of Swanzey, the Wilson Pond ecosystem, and the broader community in several meaningful ways.

First and foremost, building a new home gives us the opportunity to implement a state-approved stormwater drainage plan. Right now, the existing home and driveway have no wastewater or runoff mitigation in place. Our new construction will include modern drainage systems that are designed to filter and slow runoff, helping keep fuel, oil, and other contaminants out of the pond. This is a significant environmental improvement that benefits all who use and enjoy the water.

Additionally, new construction allows us to use energy-efficient materials and systems throughout the home. The new structure will include updated insulation, windows, and a modern furnace—all of which reduce energy consumption and improve air quality. These upgrades reduce our carbon footprint and are far less impactful on the environment than continuing to maintain an outdated, inefficient structure.

Beyond the environmental benefits, this project also supports Swanzey economically. A new home increases the assessed property value, which contributes more in property taxes—helping relieve the overall tax burden on other residents. We estimate that our project will require approximately $500,000 in local spending. This money will go directly into the community by hiring local builders, tradespeople, and contractors, and by sourcing materials from local building supply stores.

Finally, rebuilding will improve the visual aesthetics of the neighborhood, by replacing an aging, neglected structure with a clean, attractive home that fits the character of Wilson Pond and adds value to surrounding properties.

These community-wide benefits—from better stormwater control to energy efficiency to local economic support—are central to why we believe this project is a responsible and forward-looking investment into our community.

Response to Conservation Commission Comments – Variance Request for 71 Wilson Pond Road

Thank you to the Conservation Commission for taking the time to review our request and for offering thoughtful recommendations. My wife and I are deeply committed to the long-term health of Wilson Pond and to being responsible stewards of our property. I'd like to briefly address several points raised by the Commission and provide clarification for the Zoning Board.

1. Stormwater Drainage and State Permitting

We understand the recommendation to obtain state-level permits. However, this creates a bit of a catch-22 situation. Proceeding with state permitting involves a substantial investment of both time and money—upwards of $4,000—without knowing whether our project will be approved at the town level.

To avoid that risk, I respectfully request that the Zoning Board consider approving our variance contingent on receipt of state permits. This approach ensures that all proper regulatory steps are followed, while also allowing us to move forward responsibly.

I have already initiated communication with Craig Day at the NH Department of Environmental Services and shared our proposed plans for pre-application review. Craig advised that we first secure local approvals before advancing to the state permitting phase. So I am not avoiding this responsibility—I simply want to follow the proper sequence, as advised by DES.

2. Concerns About Lot Size and Structure Size

It's true that our proposed home is larger than the previous structure. However, this property has always been a non-conforming lot, like many others around the pond. Our request is consistent with what has been approved for other property owners in Swanzey. Ill touch on this shortly

More importantly, I've removed significant impervious structures from the property—such as a carport, a shed, and a wooden deck—which, in total, is about 450 sq feet so while we are asking for a slightly larger footprint, the overall environmental impact is reduced, not increased.

My wife and I are simply looking to build a more functional home that meets our family's needs—including space for fostering siblings—while still respecting the lot's limitations and natural surroundings.

---

3. Mitigation Plans for Increased Runoff

While I did not include a final stormwater mitigation plan with the original application, I want to make it very clear that we will absolutely be implementing stormwater mitigation systems.

These systems are required by the state because our proposal falls within 20–30% lot coverage, and we are committed to full compliance with the Shoreland Protection Act. I've already begun working with a licensed land surveyor to ensure that a proper, approved plan is developed as part of the state permitting process.

This commitment is why we are requesting a variance that mirrors RSA 483-B, with the intent to follow it to the letter.

It's also important to note that no mention was made in the Commission's comments about how rebuilding this home, with modern stormwater management systems, will significantly improve the environmental conformity of the property compared to its current condition, which lacks any formal drainage or mitigation.

---

4. Public Interest and the Spirit of the Ordinance

Lastly, I respectfully disagree with the idea that this project does not meet the spirit of the ordinance or the public interest.

In fact, this proposal does exactly that:

- It brings a neglected property into compliance with state environmental standards.
- It introduces stormwater controls that will improve water quality and reduce runoff into Wilson Pond.
- It replaces outdated infrastructure with energy-efficient materials that will improve air quality and reduce our carbon footprint.
- It enhances the neighborhood both aesthetically and economically.
- And it supports the local economy through the use of local builders and suppliers, with an estimated $500,000 investment in the community.

This is not a request to expand recklessly, but to rebuild responsibly. We believe this project reflects both the letter and the spirit of the town's ordinances—by improving our property, protecting the environment, and contributing positively to the town of Swanzey.

Response to Department Heads and Staff Review Comments

I'd also like to respond to the comments made by town staff and department heads regarding our application. We take these comments seriously, and we intend to fully comply with the requirements laid out. That said, we also believe some of the concerns raised are not as applicable when considered in the context of this specific neighborhood.

1. Front Setback Variance Request

> Planning staff comment: "The proposed structure does not need to encroach into the front setback to be functional. The home can be reduced in size, built up higher to reduce the footprint, or reconfigured in a way that conforms with all setbacks."

We're requesting a variance for the front setback because a strict 30-foot setback doesn't work well with the topography and layout of this property, especially when trying to incorporate a garage in a practical way.

It's also important to understand that a 30-foot setback doesn't reflect the established character of the Wilson Pond neighborhood. Most homes in this area were built long before that requirement existed, and many actually are much closer to the road—some are within just a few feet of the edge of the asphalt. In fact, many of them may technically sit on the town's right-of-way.

Furthermore, when the town installed the public sewer system around Wilson Pond, the road was realigned and moved closer to our property. Had the road remained in its original location, we likely wouldn't even be requesting this variance today. So this request is not about ignoring zoning rules—it's about recognizing that those rules were designed for new subdivisions, not for long-established neighborhoods like this one. Most towns provide relief within the ordinance to acknowledge this and to not take away from the character in the neighborhood.

2. Height of the Proposed Structure

> Staff comment: "The height of the structure is not indicated on the site plan. If approval is given, it should be conditional upon receiving architectural drawings prior to the building permit. The applicant should state the height during the ZBA meeting, at least."

We understand and agree with the recommendation that prior to applying for a building permit, we will submit drawings that are consistent with town requirements for the building permit to the town, just as we did when we built our home at 69 Wilson Pond Road. These plans will include all necessary details—structure height, plumbing, electrical, and construction materials—and will fully comply with building code requirements. We will provide normal town required drawings.

As for the height: we are planning a two-story home, and we do not intend to exceed 35 feet in height. This will be a typical residential structure in keeping with the surrounding homes and the scale of the neighborhood.

We appreciate the town staff's thoughtful input, and we want to emphasize again that we are not looking to skirt regulations. Rather, we are asking for reasonable accommodations based on the history of this property, the nature of the neighborhood, and our commitment to improving our neighborhood and town.

Neighborhood Precedent and Positive Improvements

I also want to take a moment to acknowledge the thoughtful improvements made by some of our neighbors on Wilson Pond—improvements that not only received town and state approval but helped raise the overall quality and appearance of the neighborhood.

One such example is the property owned by Jay Ward and Ann Heffernan, who received a shoreland variance to add square footage and redesign their existing home. I believe their project was a real catalyst for positive change. Since their improvements, many other properties along that stretch of the pond—heading toward Route 32—have been repaired, cleaned up, and significantly improved.

Another property owner on Wilson Pond Stephen and Ginger Hill did beautiful work updating and improving their property after receiving proper approvals.

Another example is the property owned by Bill Hattendorf and Sheila Heffernan, who also received town and state approval to expand their home . Their projects show that thoughtful, well-executed improvements can be supported by the town and appreciated by the community.

These properties added square footage to their homes, some of that within 30 feet of the road. I would like to point out that these properties have buildings closer than 30' from the road, actually closer to 5-10 feet from the road which matches the other properties and adds to the character of the neighborhood.

We believe our proposed project fits in that same spirit. We're not looking to overbuild or change the character of the area—we're looking to continue this wave of improvement in a way that respects both the neighborhood and the environment.

The neighborhood now looks better than ever, and I want to thank Those neighbors for helping set that example!

Closing Statement

In closing, I want to sincerely thank the Zoning Board, the department heads and the Conservation Commission for your time, your thoughtful review, and your dedication to protecting the character and integrity of the Town of Swanzey.

Throughout this process, my wife and I have remained committed to doing things the right way—not just for ourselves, but for the long-term health of Wilson Pond, the neighborhood, and the broader community. We've approached this project with careful consideration for the environment, for our neighbors, and for the town's values.

We're hopeful that you'll see our request not just as a matter of needing variances, but as a meaningful opportunity—to improve the property, to support the neighborhood's growth, and to contribute positively to the future of Swanzey. We look forward to continuing to be good stewards of the land and good neighbors in this town we care deeply about.

Thank you again for your time, your guidance, and your consideration.

Abutters:

Andrea M. Packard
72 Wilson Pond Rd
Swanzey NH 03431

Nathan Jacobs
69 Wilson Pond Rd
Swanzey NH 03431

From: **Nathan Jacobs** nathangjacobs@gmail.com
Subject: **Re: Nathan Jacobs 71 Wilson Pond Road Swanzey NH lot 106-18 proposed new home**
Date: **May 21, 2025 at 9:19:36 AM**
To: **Craig Day** craig.w.day@des.nh.gov
Cc: **Burke York** b.york@yorklandservices.com

Dear Mr. Day,

Thank you so much for taking the time to review my proposed plan and for providing your thoughtful feedback and guidance as I've pursued this project. Your input was incredibly helpful throughout the process, and I know the Zoning Board also appreciated the clarity and insight you provided regarding Shoreland requirements.

Unfortunately, I wanted to let you know that the Zoning Board has denied our variance application. While this was a disappointing outcome, I'm grateful for your support and the detailed comments you offered — they were instrumental in helping me present a well-informed proposal.

I'll be taking some time to consider next steps, but I truly appreciate all the help you've given me so far. Please know how much I value your assistance.

Sincerely

Nathan Jacobs

> On May 19, 2025, at 4:13 PM, Day, Craig <craig.w.day@des.nh.gov> wrote:
>
> Mr. Jacobs,
>
> I looked over your proposed plan to expand the nonconforming structure and it appears the project meets RSA 483-B:11 for the expansion and modification of the structure. The expansion appears to be mostly outside of the 50 primary building setback with a slight increase of living space within the waterfront buffer. The deck and porch meet the 12 foot allowance toward the water. The proposal includes a second floor, but that has no bearing on the requirements by Shoreland Department. Shoreland doesn't have a height restriction.
>
> The impervious area on the lot could not be calculated accurately but the plan does show stormwater being proposed. Once an application has been submitted, Shorelands will determine if

additional stormwater management will be necessary.

Other items will be necessary to be provided on the plan such as the tree count within the waterfront buffer and cross section of the underground stormwater collection when your Shoreland Application is submitted but as proposed I see no issues with the proposal of the new structure. Please let me know if you have any questions

Looking forward to seeing your application.

Craig Day, Shoreland Specialist
Shoreland Program, Land Resources Management
Water Division, NH Department of Environmental Services
P.O. Box 95
Concord, NH 03302-0095
Phone: (603) 271-0649

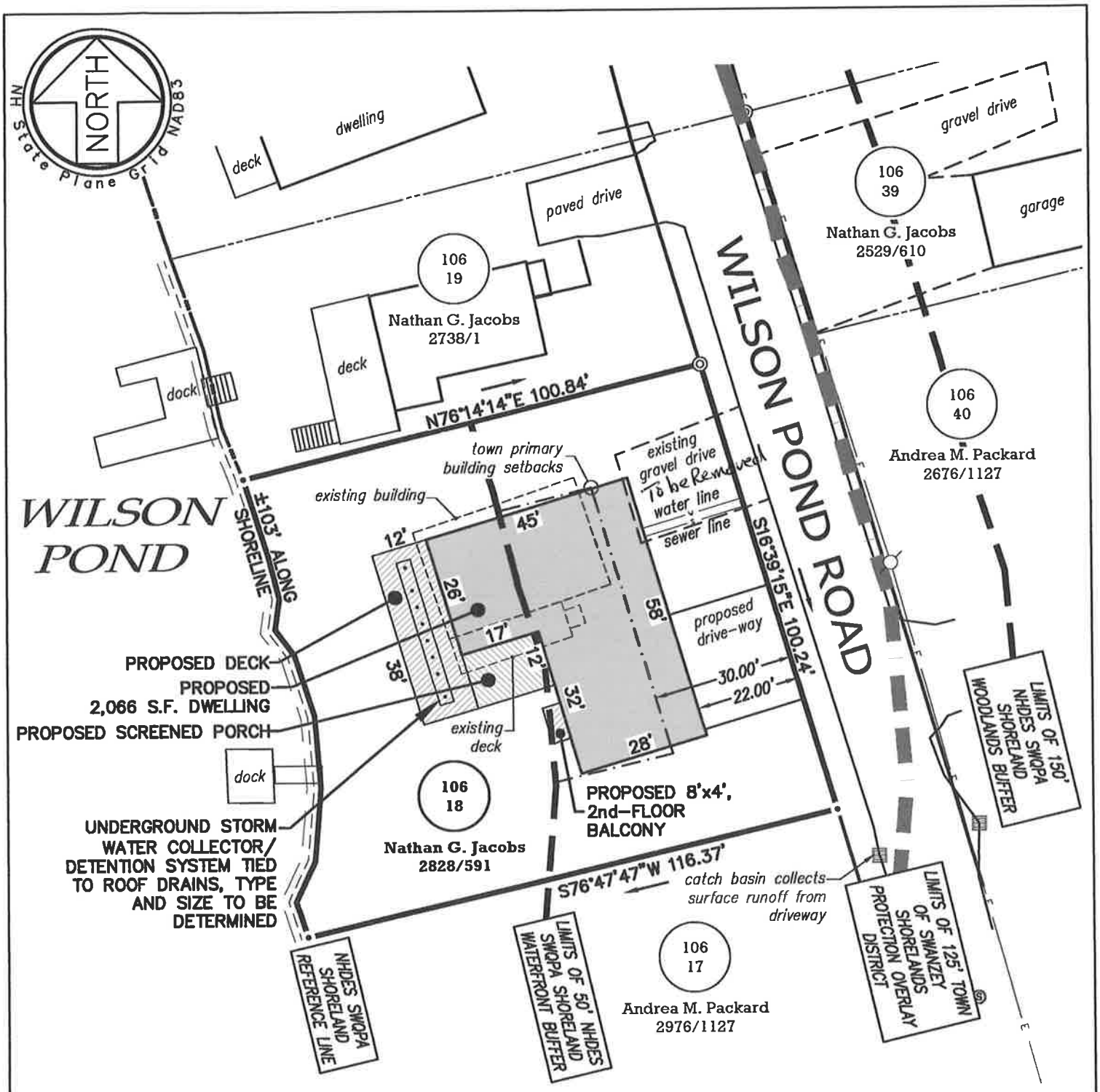
From: Nathan Jacobs <nathangjacobs@gmail.com>
Sent: Monday, May 19, 2025 8:53 AM
To: Day, Craig <craig.w.day@des.nh.gov>
Cc: Burke York <b.york@yorklandservices.com>
Subject: Nathan Jacobs 71 Wilson Pond Road Swanzey NH lot 106-18 proposed new home

EXTERNAL EMAIL WARNING! This email originated outside of the New Hampshire Executive Branch network. Do not open attachments or click on links unless you recognize the sender and are expecting the email. Do not enter your username and password on sites that you have reached through an email link. Forward suspicious and unexpected messages by clicking the Phish Alert button in your Outlook and if you did click or enter credentials by mistake, report it immediately to helpdesk@doit.nh.gov!

Hello Craig, thanks for taking the time both the other day and today to discuss an upcoming application to the NH DES, regarding a Shore land permit for my property at 71 Wilson Pond Road Swanzey NH 03431 (lot 106-18).
Please review our preliminary plans for the property.
I am hopeful that the town of Swanzey will approve my requested variances contingent on State

permitting. As soon as we receive town approval we will be submitting and working through the State DES Shore Land permitting.
If you have any pre permitting advice please share!

Kind Regards
Nathan Jacobs
1-860-885-4849
71 Wilson Pond Rd
Swanzey NH 03431



SKETCH TO ACCOMPANY VARIANCE APPLICATION

Prepared For

NATHAN G. JACOBS

Tax Map 106 Lot 18

#71 Wilson Pond Road

Swanzey, Cheshire County, New Hampshire

YORK LAND SERVICES, LLC

3 TWELFTH STREET, BERLIN, NH 03570 (603) 752-7282

Scale	1 INCH = 30 FEET
Date	MAY 16, 2025
Drawn By	CSL, SAM
Job/Sketch No.	20-120

STATE OF NEW HAMPSHIRE — No. 939 BURKE J. YORK — LICENSED LAND SURVEYOR

SIGNATURE

NOTE: THIS SKETCH WAS PREPARED FOR SWANZEY ZONING APPLICATION.
A PERMIT IS REQUIRED FOR A NHDES SHORELAND WATER QUALITY PROTECTION ACT APPLICATION.

APPLICATION FOR VARIANCE
TOWN OF SWANZEY (New 1/10; Revised 8/22)

Setback

MAP: 106 **LOT:** 18

RECEIVED
JUN 05 2025
TOWN OF SWANZEY

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
Nathan Jacobs and Danielle Jacobs	69 Wilson Pond Rd North Swanzey NH 03431
Contact phone number: 860-885-4849 email: 4755650@gmail.com	
OWNER OF PROPERTY: (If same as applicant, write "same")	**MAILING ADDRESS OF OWNER:** (If same as applicant, write "same")
Same	Same

LOCATION OF PROPERTY (Give Zoning District in which located & current street address)
71 Wilson Pond Rd
North Swanzey NH 03431

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☑ **SITE PLAN** – The site plan need not be done professionally, but **must** be to scale; the scale should be appropriate for the size of the project & the plan must be readable. Plans must indicate the size of the lot in acres or square feet, show the placement of all **existing** and **proposed** buildings on the lot and include setbacks required by the zoning ordinance. The plan must include a written and visual depiction of the scale used.

2. ☑ If applicable, indicate on the Site Plan the location of:
   - septic system and/or leach field
   - water supply
   - curb cuts
   - parking area (and size of parking spaces)
   - waterways
   - wetland areas
   - tree lines
   - drainage ways
   - loading docks
   - underground tank locations
   - impervious surfaces

It is the applicant's responsibility for including all information on the plan that is pertinent to their application and proposed project.

3. ☑ Attach completed and up-to-date listing of ALL abutters with addresses.

4. ☑ Provide a brief description of the project/request.

A Variance is requested from the terms of Section IV, Article B.3 of the Zoning Regulations of the Town of Swanzey.

FACTS IN SUPPORT OF GRANTING THE VARIANCE:

1. Granting the variance would not be contrary to the public interest because:

See attached; facts and supporting of granting the variance page

2. Granting the variance would observe the spirit of the ordinance because:

See attachment; facts of supporting of granting the variance page

3. Granting the variance would do substantial justice because:

See attachment; facts of supporting of granting the variance page

4. Granting the variance would not diminish the values of surrounding properties because:
See attachment; facts of supporting granting the variance page

5. Unnecessary Hardship
Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

The "Special Conditions" of this property that distinguish it from other properties in the area are as follows:
See attachment; facts in support of granting the variance page

A. Owing to the special conditions of the property as set forth above that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:
See attachment; facts, in support of granting the variance page

and

ii. The proposed use is a reasonable one because:
See attachment facts in support of granting the variance page

4. Granting the variance would not diminish the values of surrounding properties because:
See attachment; facts of supporting granting the variance page

5. Unnecessary Hardship
Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

The "Special Conditions" of this property that distinguish it from other properties in the area are as follows:
See attachment; fax in support of granting the variance page

A. Owing to the special conditions of the property as set forth above that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:
See attachment; facts, in support of granting the variance page

and

ii. The proposed use is a reasonable one because:
See attachment facts in support of granting the variance page

If the criteria in subparagraph A.i. **and** A.ii. are not established, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to special conditions of the property as set forth above that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of the property because:

See attachment, fax, and supportive, granting the variance.

Note: The definition of "unnecessary hardship" set forth in subparagraph 5 shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Signature of Applicant Date: 6/5/2025

Signature of Property Owner Date: 6/5/2025

THIS VARIANCE IS HEREBY:

☐ **GRANTED** ☐ **DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

CHECKLIST FOR GRANTING A VARIANCE
(for use by Swanzey Zoning Board of Adjustment)

1. Could the variance be granted without being contrary to the public interest?

_____ Yes _____ No

2. Would the spirit of the ordinance be observed if the variance were granted?

_____ Yes _____ No

3. Would granting the variance do substantial justice?

_____ Yes _____ No

4. Could the variance be granted without diminishing surrounding property values?

_____ Yes _____ No

5. Do special conditions of the property exist that distinguish it from other properties in the area?

_____ Yes _____ No

A.i. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?

_____ Yes/Agree _____ No

And

A.ii. Is the proposed use a reasonable one?

_____ Yes _____ No

If the criteria in subparagraph A.i. **and** A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance is necessary to enable a reasonable use of the property:

_____ Yes _____ No

If the answer to questions 1, 2, 3, 4 and 5 (5A or 5B) is "yes," the variance should be granted.

If the applicant fails to meet any one of the five variance requirements (1, 2, 3, 4 and/or 5), it cannot be legally granted and should be denied. Note: The applicant only needs to meet either 5A or 5B to satisfy criteria 5.

Swanzey Zoning Board of Adjustment – Variance Application

Property Address: 71 Wilson Pond Road

Owner(s): Nathan and Danielle Jacobs

Request: Variance from the 30-foot front setback requirement to construct a single-family home with an attached garage on a nonconforming lot in a Shoreland Protection Area.

1. Granting the variance would not be contrary to the public interest because:

The property is located on a lightly used town road within a quiet residential neighborhood, where the proposed reduction in the front setback will not interfere with traffic flow, pedestrian safety, or emergency vehicle access. There is no sidewalk or heavy foot traffic on this portion of the road, and the proposed structure will not encroach into the traveled way or create any sight-line issues.

The property is a **pre-existing nonconforming lot**, with approximate dimensions of **100 x 100 x 103 x 116 feet**, which limits the buildable area under current zoning standards. Strict enforcement of the 30-foot front setback would create an undue hardship by pushing the structure closer to the pond, which is contrary to the goals of the **New Hampshire Shoreland Water Quality Protection Act**. The proposed design instead seeks to **maximize the distance from the pond** and minimize environmental impact while still allowing reasonable residential use of the property.

Additionally, **many homes in the immediate neighborhood are within 30 feet of the road**, and several appear to be located either **on or very near the edge of the town right-of-way**, reflecting a longstanding pattern of development prior to current zoning rules. The requested variance is therefore **in line with the existing character and layout** of the neighborhood and will not introduce any visual or functional disruption.

The proposed new home and garage will significantly improve the appearance of the property compared to the existing outdated and deteriorated structure, enhancing the overall character and aesthetics of the neighborhood. The design has been carefully considered to complement surrounding homes and maintain appropriate scale and placement.

The project remains consistent with the residential nature of the area and is likely to be welcomed by neighbors who prefer a modern, well-maintained home to replace the current

condition. Informal discussions with nearby property owners have revealed no objections to the proposed plan.

Additionally, the road was repositioned closer to this property when town sewer was installed years ago, further reducing the buildable depth of the lot. Granting the variance supports a reasonable and attractive redevelopment that benefits the neighborhood. The variance will allow reasonable use of the lot without causing any negative impacts on public health, safety, or welfare. Granting this variance will not alter the essential character of the neighborhood, nor threaten public rights, infrastructure, or environmental resources. In fact, by enabling the structure to be sited further from the shoreline, the proposed plan supports both **zoning objectives and environmental protection goals**, aligning with the public interest and the spirit of the ordinance.

2. Granting the variance would observe the spirit of the ordinance because:

The intent of the front setback requirement is to promote safety, maintain orderly development, preserve neighborhood character, and ensure that homes are not crowded too close to the public way. The proposed project respects and upholds those goals.

Although the new home and garage would be set closer to the road than the current ordinance allows, they will still be located at a safe and reasonable distance from the traveled way, with no impact on traffic flow, pedestrian safety, or emergency vehicle access. The road is lightly traveled and residential in nature, and the proposed setback is consistent with many existing homes in the neighborhood—**many of which are already located within 30 feet of the road or even on the town right-of-way**. This variance would simply allow the applicant to **match the existing development pattern**, rather than disrupt it.

Furthermore, the property is a **nonconforming lot** with limited depth (approximately 100 x 100 x 103 x 116 feet), making strict compliance with both front and shoreline setbacks unduly restrictive. Requiring a full 30-foot front setback would push the structure closer to the shoreline, which would conflict with the spirit of the **Shoreland Water Quality Protection Act**. By allowing this variance, the town supports **both the zoning ordinance's spirit and environmental protection goals** by helping keep development as far from the pond as reasonably possible.

Finally, the project will improve the overall appearance and quality of the property, replacing a deteriorated structure with a well-designed, appropriately scaled home that fits the neighborhood. It will enhance—not undermine—the established character of the area, and honors the ordinance's purpose without rigidly enforcing standards in a way that would cause greater harm than good.

3. Granting the variance would do substantial justice because:

Substantial justice would be done by allowing the property owner to make reasonable and beneficial use of a legally existing, nonconforming lot that would otherwise be impractically restricted by current setback requirements. Denying the variance would result in a hardship to the homeowner that is not outweighed by any meaningful benefit to the public—especially given that the proposed front setback encroachment is modest, poses no risk to public safety, and is entirely in keeping with the established pattern of development in the neighborhood, where many homes are already located within 30 feet of the road.

The variance allows for the replacement of an outdated and deteriorating structure with a new, well-designed home that enhances both the appearance and value of the property and the surrounding area. The proposed location of the home further protects public environmental interests by keeping the building **farther from the pond**, which lies within a **Shoreland Protection Area**—a goal clearly aligned with the public interest and broader environmental regulations.

Beyond the zoning and environmental considerations, this variance supports the wellbeing of the property owners and their continued contributions to the community. The Jacobs have lived on the property for over 16 years and are active, law-abiding residents. They are also licensed **foster parents**, working with **New Hampshire DCYF** to provide a safe and supportive home for children and families in need. The additional bedrooms in the new home will provide necessary space for their family and for the care of future foster children.

Granting this variance imposes **no harm to the general public**, while denying it would deprive the applicants of a fair and reasonable use of their land, limit their ability to continue living in the town they've long called home, and potentially reduce their ability to serve children in the foster care system. The balance of equities clearly favors granting the variance, as it enables positive outcomes for both the individual and the community, with no corresponding public loss.

4. Granting the variance would not diminish the values of surrounding properties because:

The proposed new home and garage will replace an outdated, deteriorating structure with a modern, well-designed residence that significantly improves the visual appeal and overall character of the property. This improvement will not only enhance the appearance of the lot itself but will also contribute positively to the neighborhood's curb appeal and desirability—factors that tend to support or increase property values, not reduce them.

The slight reduction in the front setback will have **no adverse effect on the use, enjoyment, privacy, or value** of neighboring properties. The structure will remain at a safe and respectful distance from the road and from abutting homes. There will be **no increase in traffic or noise** as a result of the proposed construction.

In fact, many nearby homes are located within 30 feet of the town road, and in several cases even closer—some appear to encroach onto the town right-of-way. The proposed setback is **entirely consistent with the existing development pattern** in the area and will not appear out of place or disruptive.

Buyers and appraisers tend to value well-maintained, attractive homes over deteriorated or outdated structures. Replacing a visibly worn and aging building with a newly constructed, energy-efficient, code-compliant residence is likely to have a **positive influence on surrounding property values**, particularly in a stable residential neighborhood such as this.

In short, granting this variance will not diminish surrounding property values—in fact, it will likely do the opposite by contributing to the continued improvement and long-term appeal of the neighborhood.

5. Unnecessary hardship

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

The "Special Conditions" of this property that distinguish it from other properties in the area are as follows:

This property is a **pre-existing, nonconforming lot** with irregular dimensions—approximately **100 x 100 x 103 x 116 feet**—which is significantly smaller and more constrained than many surrounding lots. Due to its limited depth and proximity to a protected shoreline, the lot offers only a narrow band of buildable area when both the **30-foot front setback** and **Shoreland Protection requirements** are strictly applied.

Unlike larger or more regularly shaped lots in the area, this parcel does not allow for the construction of a modern, reasonably sized home and attached garage while still complying with all required setbacks. Enforcing the full 30-foot road setback would push the structure further toward the pond, **contradicting the environmental intent** of the Shoreland Protection Act and increasing potential impacts to water quality.

The site conditions make it uniquely difficult to place a home in a manner that is both functional and environmentally responsible. The construction of an attached garage is a practical necessity for year-round use in New Hampshire and also promotes **environmental protection** by reducing the risk of vehicle-related runoff directly onto the soil.

Strict enforcement of the ordinance would prevent the owners from making **reasonable use of their property**, despite the fact that the proposed development is consistent with neighborhood character and poses no harm to public interests. Many nearby homes are **closer than 30 feet to**

the road—in some cases even located within or near the town right-of-way—which means that enforcing the full setback on this lot would impose a **disproportionate burden** not shared by others.

Additionally, years ago, the road was repositioned closer to this property during the installation of town sewer lines, further reducing the distance between the buildable area and the roadway.

There is **no fair and substantial relationship** between the purpose of the 30-foot front setback and its application to this specific property, given its size, shape, location within a Shoreland Protection Area, and the pattern of existing development in the neighborhood. The requested variance allows for reasonable, functional, and environmentally sound use of the lot, while still preserving public safety, neighborhood character, and environmental quality.

5A. Owing to the special conditions of the property as set forth above that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

The general purpose of the 30-foot front setback requirement is to promote public safety, maintain open space near roadways, and preserve neighborhood character. However, **strictly applying that requirement to this particular lot does not meaningfully advance those goals**—and would actually prevent a reasonable and responsible use of the property.

This is a **pre-existing, nonconforming lot**, approximately 100 feet by 100 feet, which is further constrained by its location in a **Shoreland Protection Area**. Enforcing the full 30-foot setback from the road would force the new home closer to the shoreline, **undermining both zoning and environmental goals**. The lot's limited depth makes it **impractical to comply with all required setbacks** and still construct a safe, functional home with a garage.

The proposed home will still be **set back a safe and appropriate distance from the roadway**, maintaining visual openness, emergency access, and the quiet, residential feel of the neighborhood. The road is lightly traveled and has no sidewalks or heavy pedestrian use. Many homes in the area already sit within 30 feet of the road, some even on the town right-of-way, so the proposed setback is **fully consistent with the existing neighborhood pattern**.

In short, there is **no fair and substantial relationship** between the public purposes of the front setback and the hardship that enforcement would create for this specific lot. The proposed use is **reasonable, environmentally responsible, and in harmony with the surrounding**

neighborhood, while strict enforcement would impose an unnecessary and disproportionate burden.

5A (ii). The proposed use is a reasonable one because:

- **It matches the zoning and long-established character of the neighborhood**. A single-family dwelling with an attached garage is exactly what the R-residential district anticipates for this street. Nearly every nearby lot is already improved with a home of similar scale, so the use itself presents nothing unusual or intensive.
- **It replaces a deteriorated, non-energy-efficient structure with a modern, code-compliant, and attractive home**. Up-to-date construction materials, proper insulation, and a thoughtfully designed façade will improve the look of the property, raise overall neighborhood appeal, and reduce energy consumption—outcomes that benefit both the owners and surrounding residents.
- **The attached garage is a customary and practical feature in rural New Hampshire**. It offers safe year-round parking, reduces on-site clutter, and—because vehicles will be under cover—minimizes the risk that oil, antifreeze, or road salt will drip directly onto the ground, thereby supporting storm-water quality goals in this Shoreland Protection area.
- **Environmental and public-safety objectives are still met**. By granting the front-setback variance the house can be located farther from Wilson Pond, increasing the shoreline buffer, protecting water quality, and reducing erosion—outcomes fully aligned with the New Hampshire Shoreland Water Quality Protection Act. Emergency-vehicle access, sight lines, and roadway clearance remain ample on this lightly traveled road.
- **Setback relief is modest and consistent with the built pattern**. Many existing homes on the same road already sit within—or even on—the 30-foot setback. Allowing this lot the same latitude simply brings it into harmony with neighboring properties; it does not create crowding or a precedent for denser development.
- **It allows the long-time owners to continue contributing to the community**. The Jacobs have lived here for 16 years and are active foster parents working with NH DCYF. Adequate bedroom space in the new home will enable them to keep providing a safe, stable environment for foster children—an undisputed public benefit that cannot be realized if the lot remains functionally unbuildable.

Taken together, these factors show that the proposed single-family home with an attached garage is a normal, compatible, environmentally responsible, and socially beneficial use of the property. It achieves the ordinance's purposes far better than a literal application of the front-setback requirement would, making the proposed use plainly reasonable.

5B. Owing to special conditions of the property as set forth above that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of the property because:

This property is a legally existing, nonconforming lot of limited size—approximately **100 x 100 x 103 x 116 feet**—and is further constrained by its location within a **Shoreland Protection Area**, which restricts development near the pond. These combined limitations create a narrow and unusually restricted building envelope when the full **30-foot front setback** and shoreland requirements are strictly enforced.

Unlike larger or more regularly shaped lots in the neighborhood, this property lacks the physical depth necessary to situate a modest, functional single-family home and attached garage while remaining in full compliance with all setbacks. Enforcing the ordinance literally would either force the house too close to the pond—conflicting with environmental regulations and best practices—or require an unreasonably small, impractical design that does not support modern living.

Without setback relief, the owners would be effectively denied **any reasonable or beneficial use of the lot**, despite its location in a residential zone where single-family homes are both expected and encouraged. **A modest reduction in the road setback** is the only practical way to make the lot usable for its intended residential purpose—especially given that many nearby homes already sit within or even on the 30-foot setback, and that the proposed design will not create any visual, safety, or environmental impacts.

The requested variance is not an attempt to overbuild or seek special treatment—it is simply the minimum relief necessary to allow the owners to make **reasonable, responsible, and customary use** of their land. The resulting home will be consistent with the surrounding neighborhood, improve the appearance and function of the property, and protect the shoreline by keeping construction farther from the pond.

For all these reasons, the property **cannot be reasonably used in strict conformance with the ordinance**, and a variance is therefore essential to enable a lawful and appropriate use that aligns with both the zoning ordinance's intent and the public interest.

Good evening, Members of the Swanzey Zoning Board.

My name is Nathan Jacobs, and I appreciate the opportunity to speak with you tonight. My wife Danielle and I are lifelong New Hampshire residents who are proud to call Swanzey our home.

We strongly believe in the importance of giving back to the community. Danielle works locally with the United Way, supporting afterschool programs at Mount Caesar Elementary School. I serve as an alternate on the Keene Airport Economic Advisory Committee and have been involved with the committee for many years. We are also licensed foster parents through NH Division for Children, Youth and Families.

In 2008 we purchased our current home, 69 Wilson Pond Road directly on the shore of Wilson Pond, a foreclosed property in severe disrepair. We undertook a full renovation—completely rebuilding the home from the inside out. In doing so, we went above and beyond what was required by adding stormwater drainage to help protect the pond, and designing a driveway that contains contaminants and prevents runoff from reaching the water. We're proud of the improvements we've made to that property—not just for ourselves, but for the Wilson Pond community and the town of Swanzey.

Several years after finishing our home at 69 Wilson Road we were approached by the owner of the neighboring property at 71 Wilson Pond Road asking if we would be interested in buying this property. They were great neighbors. She is a single mom with her daughter and unfortunately they decided to move out of town. They tried renting out the property with a no pets clause. After she was bit by a dog that she did not know was living there she decided to sell. We purchased the home in 2013 with the intention of eventually improving that lot as well. We're now seeking your approval to move forward with rebuilding a home at 71 Wilson Pond Road.

My wife and I are active in the Wilson Pond Association, an informal but dedicated group committed to protecting the pond's water quality. Danielle and I have supported this group through donations and hands-on participation—including water testing efforts and beach cleanups at the public boat launch, where we've spent 2 Sunday afternoons the last two years removing trash and debris from the shoreline and parking area. It's definitely not a fun job and I'll spare you from describing some of the trash we have removed. Its truly disgusting and if it wasn't for the work of the Wilson Pond Association, the garbage would eventually get blown into the pond.

We are here tonight to respectfully request two variances:

1. A variance from the town's shoreland protection setback for the new construction at 71 Wilson Pond Road. We fully support the intent of the shoreland ordinance and have already demonstrated our commitment to protecting the environment through our work at 69 Wilson Pond Road, and with the Wilson Pond Association. We intend to apply the same level of care at 71 Wilson Pond Road, including best practices in stormwater management and landscaping that will support healthy runoff filtration and pond

protection.

2. Our second variance is the ordinance for a 30-foot street setback, allowing for a 22-foot setback. This request is due to the constraints of the nonconforming lot and our plan is made in a way that will remain consistent with the character of the neighborhood and safe in terms of access and visibility. We believe this adjustment is reasonable and minimally impactful. It also continues with the character of the neighborhood as most properties are within the 30 foot setback.

We take our responsibility as stewards of this land seriously. These variance requests are not being made for convenience, but to allow thoughtful, environmentally conscious development that will continue the improvements we have already made on this part of Wilson Pond Road.

So what have we done with 71 Wilson Pond? We've made environmental improvements.

After purchasing the property at 71 Wilson Pond Road, even before having concrete plans to rebuild, my wife and I took immediate steps to improve the land with the long-term health of the pond in mind.

One of our first efforts was the complete removal of invasive plant species, most notably Japanese knotweed—commonly mistaken for bamboo—which had spread throughout parts of the property. This invasive species is aggressive and damaging to local ecosystems, and we're proud to have fully eradicated it from the lot.

We also removed 448 square feet of outbuildings which were 3 existing structures that were not only unnecessary, but detrimental to the health of the land and shoreline. These included and were listed on the property tax. My wife and I removed them just after we bought the property:

- A 10.5' x 14' wooden deck built directly on the ground between the house and the pond, which prevented any natural growth or water filtration beneath it.
- An 8' x 8' shed without drainage, which served no essential purpose and contributed to a lot of clutter.
- A large 12' x 20' carport that was placed up against the lot line on the north side of the property, very close to both the road and our other property at 69 Wilson Pond Road. This carport had been wrapped in plastic and converted into a makeshift garage, which we felt was unsightly and potentially harmful to the landscape due to the fact that there was no drainage.

Although we didn't yet have a timeline to rebuild, we knew that these structures weren't in keeping with our vision for the property or for the health of the pond. By removing these, we opened space for better drainage and allowed the land to begin to recover.

In place of those items, we planted grass, flowering plants, and shrubs—all carefully chosen for their low impact on runoff and their contribution to a healthier shoreline environment. These small changes made a meaningful difference in restoring the lot, both visually and environmentally.

These early actions reflect the same principles that guide our current variance request We believe in improving our property in a way that respects the natural setting and enhances the pond for everyone in the community.

Why We're Requesting to Rebuild

Our vision is to build a new home on 71 Wilson Pond Road— larger than our current home—to better accommodate our family, visiting relatives, and especially the foster children we welcome into our home. Right now, we're only able to care for one child at a time. We're often asked to take in siblings to help keep families together, but we simply don't have the space.

The existing structure on the property is beyond repair and lacks any so stormwater mitigation. The current driveway offers no protection against runoff or contaminants. Rebuilding allows us to bring the property up to modern environmental standards while creating a home that serves our needs and continues to protect the pond.

We are not seeking these variances for convenience—we are doing it with care, intention, and a long-term commitment to this community and to environmental responsibility.

We respectfully ask the Board to consider our request in light of the stewardship we've shown, and the positive impact this project will have on Wilson Pond and our surrounding neighborhood.

How This Project Benefits the Community

Rebuilding a new home at 71 Wilson Pond Road is not just an investment in our future—it's a benefit to the Town of Swanzey, the Wilson Pond ecosystem, and the broader community in several meaningful ways.

First and foremost, building a new home gives us the opportunity to implement a state-approved stormwater drainage plan. Right now, the existing home and driveway have no wastewater or runoff mitigation in place. Our new construction will include modern drainage systems that are designed to filter and slow runoff, helping keep fuel, oil, and other contaminants out of the pond. This is a significant environmental improvement that benefits all who use and enjoy the water.

Additionally, new construction allows us to use energy-efficient materials and systems throughout the home. The new structure will include updated insulation, windows, and a modern furnace—all of which reduce energy consumption and improve air quality. These upgrades reduce our carbon footprint and are far less impactful on the environment than continuing to maintain an outdated, inefficient structure.

Beyond the environmental benefits, this project also supports Swanzey economically. A new home increases the assessed property value, which contributes more in property taxes—helping relieve the overall tax burden on other residents. We estimate that our project will require approximately $500,000 in local spending. This money will go directly into the community by hiring local builders, tradespeople, and contractors, and by sourcing materials from local building supply stores.

Finally, rebuilding will improve the visual aesthetics of the neighborhood, by replacing an aging, neglected structure with a clean, attractive home that fits the character of Wilson Pond and adds value to surrounding properties.

These community-wide benefits—from better stormwater control to energy efficiency to local economic support—are central to why we believe this project is a responsible and forward-looking investment into our community.

Response to Conservation Commission Comments – Variance Request for 71 Wilson Pond Road

Thank you to the Conservation Commission for taking the time to review our request and for offering thoughtful recommendations. My wife and I are deeply committed to the long-term health of Wilson Pond and to being responsible stewards of our property. I'd like to briefly address several points raised by the Commission and provide clarification for the Zoning Board.

1. Stormwater Drainage and State Permitting

We understand the recommendation to obtain state-level permits. However, this creates a bit of a catch-22 situation. Proceeding with state permitting involves a substantial investment of both time and money—upwards of $4,000—without knowing whether our project will be approved at the town level.

To avoid that risk, I respectfully request that the Zoning Board consider approving our variance contingent on receipt of state permits. This approach ensures that all proper regulatory steps are followed, while also allowing us to move forward responsibly.

I have already initiated communication with Craig Day at the NH Department of Environmental Services and shared our proposed plans for pre-application review. Craig advised that we first secure local approvals before advancing to the state permitting phase. So I am not avoiding this responsibility—I simply want to follow the proper sequence, as advised by DES.

2. Concerns About Lot Size and Structure Size

It's true that our proposed home is larger than the previous structure. However, this property has always been a non-conforming lot, like many others around the pond. Our request is consistent with what has been approved for other property owners in Swanzey. Ill touch on this shortly

More importantly, I've removed significant impervious structures from the property—such as a carport, a shed, and a wooden deck—which, in total, is about 450 sq feet so while we are asking for a slightly larger footprint, the overall environmental impact is reduced, not increased.

My wife and I are simply looking to build a more functional home that meets our family's needs—including space for fostering siblings—while still respecting the lot's limitations and natural surroundings.

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3. Mitigation Plans for Increased Runoff

While I did not include a final stormwater mitigation plan with the original application, I want to make it very clear that we will absolutely be implementing stormwater mitigation systems.

These systems are required by the state because our proposal falls within 20–30% lot coverage, and we are committed to full compliance with the Shoreland Protection Act. I've already begun working with a licensed land surveyor to ensure that a proper, approved plan is developed as part of the state permitting process.

This commitment is why we are requesting a variance that mirrors RSA 483-B, with the intent to follow it to the letter.

It's also important to note that no mention was made in the Commission's comments about how rebuilding this home, with modern stormwater management systems, will significantly improve the environmental conformity of the property compared to its current condition, which lacks any formal drainage or mitigation.

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4. Public Interest and the Spirit of the Ordinance

Lastly, I respectfully disagree with the idea that this project does not meet the spirit of the ordinance or the public interest.

In fact, this proposal does exactly that:

- It brings a neglected property into compliance with state environmental standards.
- It introduces stormwater controls that will improve water quality and reduce runoff into Wilson Pond.
- It replaces outdated infrastructure with energy-efficient materials that will improve air quality and reduce our carbon footprint.
- It enhances the neighborhood both aesthetically and economically.
- And it supports the local economy through the use of local builders and suppliers, with an estimated $500,000 investment in the community.

This is not a request to expand recklessly, but to rebuild responsibly. We believe this project reflects both the letter and the spirit of the town's ordinances—by improving our property, protecting the environment, and contributing positively to the town of Swanzey.

Response to Department Heads and Staff Review Comments

I'd also like to respond to the comments made by town staff and department heads regarding our application. We take these comments seriously, and we intend to fully comply with the requirements laid out. That said, we also believe some of the concerns raised are not as applicable when considered in the context of this specific neighborhood.

1. Front Setback Variance Request

> Planning staff comment: "The proposed structure does not need to encroach into the front setback to be functional. The home can be reduced in size, built up higher to reduce the footprint, or reconfigured in a way that conforms with all setbacks."

We're requesting a variance for the front setback because a strict 30-foot setback doesn't work well with the topography and layout of this property, especially when trying to incorporate a garage in a practical way.

It's also important to understand that a 30-foot setback doesn't reflect the established character of the Wilson Pond neighborhood. Most homes in this area were built long before that requirement existed, and many actually are much closer to the road—some are within just a few feet of the edge of the asphalt. In fact, many of them may technically sit on the town's right-of-way.

Furthermore, when the town installed the public sewer system around Wilson Pond, the road was realigned and moved closer to our property. Had the road remained in its original location, we likely wouldn't even be requesting this variance today. So this request is not about ignoring zoning rules—it's about recognizing that those rules were designed for new subdivisions, not for long-established neighborhoods like this one. Most towns provide relief within the ordinance to acknowledge this and to not take away from the character in the neighborhood.

2. Height of the Proposed Structure

> Staff comment: "The height of the structure is not indicated on the site plan. If approval is given, it should be conditional upon receiving architectural drawings prior to the building permit. The applicant should state the height during the ZBA meeting, at least."

We understand and agree with the recommendation that prior to applying for a building permit, we will submit drawings that are consistent with town requirements for the building permit to the town, just as we did when we built our home at 69 Wilson Pond Road. These plans will include all necessary details—structure height, plumbing, electrical, and construction materials—and will fully comply with building code requirements. We will provide normal town required drawings.

As for the height: we are planning a two-story home, and we do not intend to exceed 35 feet in height. This will be a typical residential structure in keeping with the surrounding homes and the scale of the neighborhood.

We appreciate the town staff's thoughtful input, and we want to emphasize again that we are not looking to skirt regulations. Rather, we are asking for reasonable accommodations based on the history of this property, the nature of the neighborhood, and our commitment to improving our neighborhood and town.

Neighborhood Precedent and Positive Improvements

I also want to take a moment to acknowledge the thoughtful improvements made by some of our neighbors on Wilson Pond—improvements that not only received town and state approval but helped raise the overall quality and appearance of the neighborhood.

One such example is the property owned by Jay Ward and Ann Heffernan, who received a shoreland variance to add square footage and redesign their existing home. I believe their project was a real catalyst for positive change. Since their improvements, many other properties along that stretch of the pond—heading toward Route 32—have been repaired, cleaned up, and significantly improved.

Another property owner on Wilson Pond Stephen and Ginger Hill did beautiful work updating and improving their property after receiving proper approvals.

Another example is the property owned by Bill Hattendorf and Sheila Heffernan, who also received town and state approval to expand their home . Their projects show that thoughtful, well-executed improvements can be supported by the town and appreciated by the community.

These properties added square footage to their homes, some of that within 30 feet of the road. I would like to point out that these properties have buildings closer than 30' from the road, actually closer to 5-10 feet from the road which matches the other properties and adds to the character of the neighborhood.

We believe our proposed project fits in that same spirit. We're not looking to overbuild or change the character of the area—we're looking to continue this wave of improvement in a way that respects both the neighborhood and the environment.

The neighborhood now looks better than ever, and I want to thank Those neighbors for helping set that example!

Closing Statement

In closing, I want to sincerely thank the Zoning Board, the department heads and the Conservation Commission for your time, your thoughtful review, and your dedication to protecting the character and integrity of the Town of Swanzey.

Throughout this process, my wife and I have remained committed to doing things the right way—not just for ourselves, but for the long-term health of Wilson Pond, the neighborhood, and the broader community. We've approached this project with careful consideration for the environment, for our neighbors, and for the town's values.

We're hopeful that you'll see our request not just as a matter of needing variances, but as a meaningful opportunity—to improve the property, to support the neighborhood's growth, and to contribute positively to the future of Swanzey. We look forward to continuing to be good stewards of the land and good neighbors in this town we care deeply about.

Thank you again for your time, your guidance, and your consideration.

Abutters:

Andrea M. Packard
72 Wilson Pond Rd
Swanzey NH 03431

Nathan Jacobs
69 Wilson Pond Rd
Swanzey NH 03431

From: **Nathan Jacobs** nathangjacobs@gmail.com
Subject: **Re: Nathan Jacobs 71 Wilson Pond Road Swanzey NH lot 106-18 proposed new home**
Date: **May 21, 2025 at 9:19:36 AM**
To: **Craig Day** craig.w.day@des.nh.gov
Cc: **Burke York** b.york@yorklandservices.com

Dear Mr. Day,

Thank you so much for taking the time to review my proposed plan and for providing your thoughtful feedback and guidance as I've pursued this project. Your input was incredibly helpful throughout the process, and I know the Zoning Board also appreciated the clarity and insight you provided regarding Shoreland requirements.

Unfortunately, I wanted to let you know that the Zoning Board has denied our variance application. While this was a disappointing outcome, I'm grateful for your support and the detailed comments you offered — they were instrumental in helping me present a well-informed proposal.

I'll be taking some time to consider next steps, but I truly appreciate all the help you've given me so far. Please know how much I value your assistance.

Sincerely

Nathan Jacobs

> On May 19, 2025, at 4:13 PM, Day, Craig <craig.w.day@des.nh.gov> wrote:
>
> Mr. Jacobs,
>
> I looked over your proposed plan to expand the nonconforming structure and it appears the project meets RSA 483-B:11 for the expansion and modification of the structure. The expansion appears to be mostly outside of the 50 primary building setback with a slight increase of living space within the waterfront buffer. The deck and porch meet the 12 foot allowance toward the water. The proposal includes a second floor, but that has no bearing on the requirements by Shoreland Department. Shoreland doesn't have a height restriction.
>
> The impervious area on the lot could not be calculated accurately but the plan does show stormwater being proposed. Once an application has been submitted, Shorelands will determine if

additional stormwater management will be necessary.

Other items will be necessary to be provided on the plan such as the tree count within the waterfront buffer and cross section of the underground stormwater collection when your Shoreland Application is submitted but as proposed I see no issues with the proposal of the new structure. Please let me know if you have any questions

Looking forward to seeing your application.

Craig Day, Shoreland Specialist
Shoreland Program, Land Resources Management
Water Division, NH Department of Environmental Services
P.O. Box 95
Concord, NH 03302-0095
Phone: (603) 271-0649

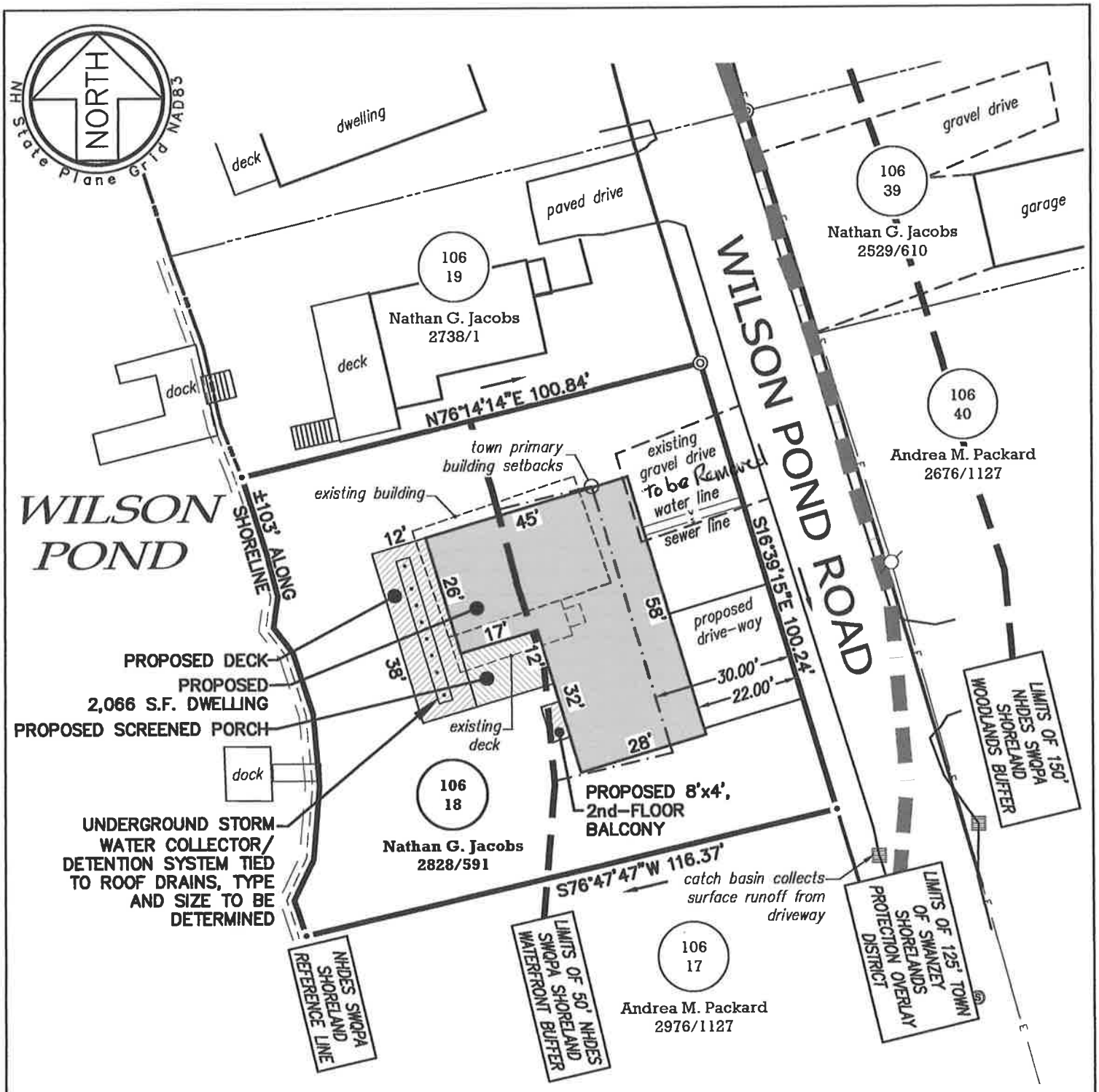
From: Nathan Jacobs <nathangjacobs@gmail.com>
Sent: Monday, May 19, 2025 8:53 AM
To: Day, Craig <craig.w.day@des.nh.gov>
Cc: Burke York <b.york@yorklandservices.com>
Subject: Nathan Jacobs 71 Wilson Pond Road Swanzey NH lot 106-18 proposed new home

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Hello Craig, thanks for taking the time both the other day and today to discuss an upcoming application to the NH DES, regarding a Shore land permit for my property at 71 Wilson Pond Road Swanzey NH 03431 (lot 106-18).
Please review our preliminary plans for the property.
I am hopeful that the town of Swanzey will approve my requested variances contingent on State

permitting. As soon as we receive town approval we will be submitting and working through the State DES Shore Land permitting.
If you have any pre permitting advice please share!

Kind Regards
Nathan Jacobs
1-860-885-4849
71 Wilson Pond Rd
Swanzey NH 03431



SKETCH TO ACCOMPANY VARIANCE APPLICATION

Prepared For

NATHAN G. JACOBS

Tax Map 106 Lot 18

#71 Wilson Pond Road

Swanzey, Cheshire County, New Hampshire

YORK LAND SERVICES, LLC
3 TWELFTH STREET, BERLIN, NH 03570 (603) 752-7282

Scale	1 INCH = 30 FEET
Date	MAY 16, 2025
Drawn By	CSL, SAM
Job/Sketch No.	20-120

STATE OF NEW HAMPSHIRE — No. 939 BURKE J. YORK — LICENSED LAND SURVEYOR

SIGNATURE

NOTE: THIS SKETCH WAS PREPARED FOR SWANZEY ZONING APPLICATION.
A PERMIT IS REQUIRED FOR A NHDES SHORELAND WATER QUALITY PROTECTION ACT APPLICATION.