



Town of Nottingham

P.O. Box 114, 139 Stage Road, Nottingham, NH 03290

•Office 603-679-9597 x1 •Fax 603-679-1013 •E-Mail plan.zone@nottingham-nh.gov

To: Nottingham Planning Board
CC: Dawn Fernald

From: JoAnna Arendarczyk
Land Use Clerk, Town of Nottingham

Date: June 10, 2019

Re: Waiver Request: Article IV Section 9b
Received by Planning and Zoning Office June 10, 2019

This memo outlines details pertinent to the request as well as the history of the project(s).

- May 18, 2005- Approval of Subdivision plan #D-32652-
Map 64 Lot 1 creating Lots 1-1 & 1-2
And Approval of Subdivision plan #D-32653
Map 66 Lot 1 creating Lots 1-1 & 1-2
- August 3, 2005- Approval of Subdivision plan #D-32908-
Map 64 Lot 1-2 creating Lots 1-3 & 1-4
- September 28, 2005-Approval of Subdivision plan #D-33068-
Map 64 Lot 1-4 creating Lot 1-5
- March 2011- Impact Fee Schedule approved at Town Meeting \$4,887.00 per SF dwelling
- Nottingham Zoning Ordinance Article IV Section W.9.a- b:
 - A. *Where subdivision or site plan approval is required for new development, impact fees shall be assessed at the time of Planning Board approval of a subdivision plat or site plan. The amount of such assessment shall be applicable to subsequent building construction within the approved subdivision or site plan for a period of four years from the date of Planning Board approval. Once this four-year period has expired, remaining construction for which no building permit has been obtained shall be subject to the adopted fee schedule in force at the time of the building permit application.*
 - B. *With the exception of those plats and site plans meeting the conditions in (a) above, and when no other Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit. The impact fee schedule in force at the time of the building permit*
- RSA 674:39: Five-Year Exemption. –
 - I. *Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board*

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Planning Board

**Subdivision Plan
Waiver Request Form**

Under Subdivision Plan Regulations 5.4- Request for Waivers, 8.1 – Waivers for Specific Plan Submission Requirements and 11.1- General Waiver Provisions

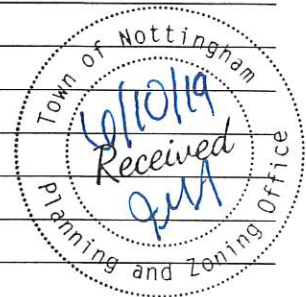
If there is more than one waiver requested, each waiver request is to be individually listed and described, as each waiver is considered individually by the Town of Nottingham Planning Board. A petition for waiver shall be submitted in writing by the applicant with the application for review. The request shall fully state the grounds for which the waiver is requested and all facts supporting this request with reference to the applicable Nottingham Subdivision Regulations article, section and paragraph. **Each waiver granted shall be listed on the approved subdivision plan which is to be recorded at the Rockingham County Registry of Deeds.**

Name of Subdivision Plan:

| | | | | | |
|--|---|--------|-----------------------------|---------|--|
| Tax Map | 64 (+ 66) | Lot | 5 | Sub-Lot | |
| Site Location: | 112 Raymond Rd (+ 116 + 118 + 102 Raymond) | | | | |
| Zoning District(s): | | | | | |
| Owner(s): | JAMES S. REVOCABLE TRUST (LINDA R. FERNALD REVOCABLE TRUST) | | | | |
| Address of Owner(s): | P.O. Box 450 NOTTINGHAM, NH 03290 | | | | |
| Name of Applicant (if different from owner): | OWLPIDEE BUILDERS DAWN FERNALD | | | | |
| Phone Number: | 603-679-1539 | Email: | OWLPIDEEBUILDERS@G-MAIL.COM | | |
| Land Surveyor: | RICHIE LADD | | | | |

I, DAWN FERNALD Seek the following waiver to the Town of Nottingham Subdivision Regulations, Article IV Section 9b, for the above case submittal:

IMPACT FEE (SEE ATTACHED FORM)



Dawn M. Fernald
Signature of Owner/Applicant

5/31/2019
Date

We are, for the second time, having to request an impact fee waiver for a lot within the same subdivision. The first appeal was granted, based on the lots being "grandfathered" (106 Raymond Rd). Despite no changes having been made to the subdivision, it is now being enforced as a condition for building permit/Occupancy permit for 112 Raymond Road.

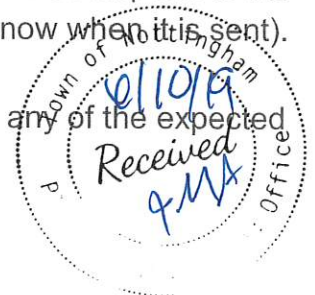
While we understand that there is much debate in many towns, in Nottingham when impact fees were put on the ballot, it was openly presented that all "lots of record" would be protected under the RSA 674:39, this further seems to be supported in how our town ordinance is written slightly different than other towns/state references, with the added verbiage " 9b. With the exception of ... (or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed...as a condition for, the issuance of a building permit)." The added/different wording in our ordinance makes an already gray ordinance, even grayer, and actually seems to support the "grandfathering" clause, and why we were told the fee was waived when we contested it for back in 2017.

However, if the above is somehow now null and void for the remaining lots in this subdivision, we would like to request a waiver for the remaining lots based on the Capital Improvements already made to the town. Prior to this 8 lot subdivision being brought to the planning board for approval, the town/fire department had pre-determined in the Master Plan where they would like to have cisterns. Due to this subdivision's proximity to where the cistern was desired/planned, the town required that the applicant (James S. Fernald Trust/Linda R. Fernald Trust) cover the full costs of this cistern despite it not being a necessity/requirement of an 8-lot, all with state road frontage and easily accessible to emergency vehicles/apparatus/personnel, but rather as a Capital improvement request for the town's overall use.

The cost of this cistern was approximately \$90,000.00. Divided by the 8 lots in the approved subdivision equates to an \$11,250.00 per lot investment in the town's Master Plan/Capital Improvement which is currently more than double the current per lot impact fee.

And while not necessarily pertinent it should also be noted that every lot in this subdivision has also been subjected to an overestimated/over assessed Land Use Change Tax, despite that the negotiated price we have paid for these is based on Market Value coupled with the inability of the land owner to sell the lots over the course of 12yrs based on the difficult terrain. We have only been able to recoup those overages on one of those lots, as we were inadvertently informed of the amount due to a larger mistake made by the Town's Administrative Assistant that cost us an unplanned \$7k (typically we have to escrow 2% higher than whatever the town administrative assistant reports to the buyer's title company as the LUCT and so we never see the actual bill or even know when it is sent).

We also cannot seem to locate the Annual Expenditure Report for Impact fees in any of the expected places and requested one several weeks ago with no response.



Nottingham Planning and Zoning

From: Nottingham Planning and Zoning <plan.zone@nottingham-nh.gov>
Sent: Thursday, May 23, 2019 9:33 AM
To: 'Dawn Fernald'
Subject: RE: Impact Fee Expenditure Report Request
Attachments: Impact Fees.xlsx

Here is the document from Betsy.

I hope this is all you were in need of.

~JoAnna

From: Dawn Fernald [mailto:fernfam6@live.com]
Sent: Wednesday, May 22, 2019 10:58 AM
To: plan.zone@nottingham-nh.gov
Subject: Impact Fee Expenditure Report Request

Hello--I am wondering where I might find the report listing all expenditures of impact fee revenue for the last fiscal year? I can't seem to find it in the town report or on the town website.

Thank you,
Dawn Fernald
104 Raymond Road
Nottingham, NH 03290

Sent from Mail for Windows 10

