



## TOWN OF NOTTINGHAM

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

[www.nottingham-nh.gov](http://www.nottingham-nh.gov)

Planning & Zoning

Tel (603) 679-9597 Fax (603) 679-1013

### APPLICATION FOR A VARIANCE

To: Zoning Board of Adjustment  
Town of Nottingham

#### FOR OFFICE USE ONLY

Case No. \_\_\_\_\_  
Date Filed \_\_\_\_\_  
Meeting Date \_\_\_\_\_  
Fee Amount \_\_\_\_\_  
Date Paid \_\_\_\_\_  
Outcome \_\_\_\_\_

Name of Applicant Caroline J. Szafran Revocable Trust

Mailing Address 47 Cherrywood Drive, Dover, NH 03820

Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_ Cell \_\_\_\_\_

Name of Owner(s) Same  
(if same as applicant, write "same")

Owner's Address \_\_\_\_\_  
(if same as applicant, write "same")

### PROPERTY INFORMATION

Location of property Raymond Road, Nottingham, NH Tax Map 68 Lot 10

Lot Dimensions: Front unknown Rear unknown Side unknown Side unknown

Lot Area: Acres \_\_\_\_\_ Square Feet \_\_\_\_\_

Present Use of Property Approximately 149 acres of undeveloped land

Proposed Use of Property The applicant intends to subdivide two (2) lots from the lot, with each lot containing approximately 12 (twelve) acres

**NOTE: This application is not acceptable unless all statements following have been completed. Additional information may be supplied on a separate sheet if needed.**

### VARIANCE REQUEST

A variance is requested from Article II Section (C)(1)(a) of the zoning ordinance to permit:

SUPPORTING INFORMATION

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

See attached narrative.

2. If the Variance were granted, the spirit of the ordinance would be observed because:

See attached narrative.

3. Granting the variance would do substantial justice because:

See attached narrative.

4. If the variance is granted, the values of the surrounding properties would not be diminished because:

See attached narrative.

5. Unnecessary Hardship

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

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 attached narrative.

**-AND-**

ii. The proposed use is a reasonable one because:

See attached narrative.

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B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to 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 therefore necessary to enable a reasonable use of it.

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See attached narrative.

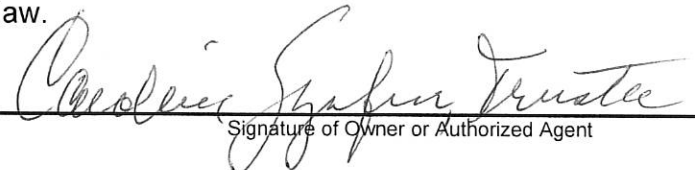
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I hereby certify that I am the owner in fee or the authorized agent of the owner in fee of the property upon which this variance is sought and that all information provided by me is true under penalty of law.

  
\_\_\_\_\_  
Signature of Owner or Authorized Agent

1-6-17.  
\_\_\_\_\_  
Date

Please Print Name Caroline J. Szafran, Trustee of the Caroline J. Szafran Revocable Trust

Town of Nottingham  
P.O. Box 114  
139 Stage Road  
Nottingham NH 03290



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## OWNER'S AUTHORIZATION FOR REPRESENTATION

I, the undersigned owner of the property at Raymond Road, Nottingham, NH,  
hereby verify that I have authorized Francis X. Bruton, III, Esquire of Bruton & Berube, PLLC to  
represent me/us and apply for the required approval(s) from the Planning Board in the Town of  
Nottingham, New Hampshire for the following:

- |   |   |
|---|---|
| <input type="checkbox"/> Subdivision/Lot Line Adjustment  | <input type="checkbox"/> Site Plan Review |
| <input type="checkbox"/> Backlot Subdivision              | <input type="checkbox"/> Design Review    |
| <input checked="" type="checkbox"/> Other <u>Variance</u> |   |

FOR: relief from the frontage requirement, as advised by the Town's Code Enforcement Officer, Paul Colby

NAME OF OWNER (Typed or printed) Caroline J. Szafran, Trustee of the Caroline J. Szafran Revocable Trust

Address of Owner 47 Cherrywood Drive, Dover, NH 03820

Signature of Owner *Caroline J. Szafran* Date 1-6-17

NAME OF OWNER (Typed or printed) \_\_\_\_\_

Address of Owner \_\_\_\_\_

Signature of Owner \_\_\_\_\_ Date \_\_\_\_\_

NAME OF OWNER (Typed or printed) \_\_\_\_\_

Address of Owner \_\_\_\_\_

Signature of Owner \_\_\_\_\_ Date \_\_\_\_\_

NAME OF OWNER (Typed or printed) \_\_\_\_\_

Address of Owner \_\_\_\_\_

Signature of Owner \_\_\_\_\_ Date \_\_\_\_\_

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## AUTHORIZATION TO ENTER UPON SUBJECT PROPERTY

The property owner(s), by the filing of this application, hereby give permission for the members of the Nottingham Planning Board and such agents or employees of the Town as the Nottingham Planning Board may authorize, to enter upon the property which is the subject of this application at any reasonable time for the purpose of such examinations, surveys, tests and/or inspections as may be appropriate to enable this application to be processed.

I/We hereby waive and release any claim or right I/we may now or hereafter possess against any of the above individuals as a result of any examinations, surveys, tests and/or inspections conducted on my/our property in connection with this application. This authorization expires in one year from date of signature

Caroline J. Szafran Revocable Trust

Property Owner(s) BY:

Caroline Szafran 1-6-17  
Signature Date  
Caroline J. Szafran, Trustee

Signature

Date

Property Owner(s)

Signature

Date

Signature

Date

Property Owner(s)

Signature

Date

Signature

Date

Property Owner(s)

Signature

Date

Signature

Date

**Caroline J Szafran Revocable Trust**  
**Tax Map 68, Lot 10**  
**Raymond Road**  
**Nottingham, New Hampshire**

**BOARD OF ADJUSTMENT APPLICATION**

**INTRODUCTION**

Caroline J. Szafran, Trustee of the Caroline J. Szafran Revocable Trust, the Applicant, is the owner of the property located at 121 Raymond Road in Nottingham, New Hampshire. The lot is depicted on the Nottingham tax maps as Map 68, Lot 10. The lot is comprised of approximately 149 acres and is adjacent to, and runs along, Shore Drive, a private road located in Nottingham. The owner intends to subdivide two (2) lots from the lot, with those lots both comprised of approximately twelve (12) acres, running adjacent to Shore Road. The lot is located in the Residential - Agricultural Zoning District. As a private road, Shore Drive is not considered a Class V road. Article II (C) (1) (a) of the Nottingham Zoning Ordinance requires a minimum continuous frontage of two hundred (200') feet. The Zoning Ordinance defines "frontage" as existing on a Class V Road. The Town's Code Enforcement Officer, Paul Colby, has advised that in order to proceed with the subdivision of the lots, a variance to the frontage requirement must be first obtained.

It is the intent of the Applicant that a single-family resident by constructed on each of the two (2) new lots, with each lot containing approximately twelve (12) acres, where only two (2) acres are required. In addition, each lot will contain approximately seven hundred (700') feet of "frontage" along Shore Drive, where only two hundred (200') feet of frontage is required. A copy of the plan depicting the existing use and proposed subdivision is attached hereto. Almost all of the lots similarly situated are small "camp" lots, typically comprised of 1/4 to 1/3 of an acre, mostly along the waterfront of Pawtuckaway Lake. Although Shore Drive is considered private, it is consistently maintained by the Town, either by plowing or by regrading.

Based upon the following, it is respectfully submitted that granting the variance is reasonable in light of the circumstances set forth herein.

**FACTS SUPPORTING THIS REQUEST**

**1. The variance will not be contrary to the public interest.**

In Chester Rod & Gun Club, Inc. v. Town of Chester, 152 N.H. 577, 581 (2005), the Supreme Court held that to be contrary to the public interest or injurious to public rights of others, the variance must unduly, and in a marked degree, conflict with the ordinance such that it violates the ordinance's basic zoning objectives. The Court went on to note that to determine whether a variance would violate the basic zoning objectives, it was appropriate to examine whether the

granting of the variance would alter the essential character of the locality or threaten the public health, safety or welfare. It is respectfully submitted that the essential character of the locality will not be changed or altered by the granting of the variance, and will not be contrary to the public interest. Specifically, permitting the lots on Shore Drive would serve to preserve the rural and existing aesthetic characteristics of the area given the size of the lots and given the amount of "frontage" utilized along Shore Drive which, if used as proposed, will not be used for future smaller lots along the same are.

**2. The variance will not be contrary to the spirit of the ordinance.**

The Applicant respectfully submits that if the variance is granted, the spirit of the ordinance would be observed as the use in question is suitable, considering the amount of land subject to the request. Granting the variance would result in an encouragement of the most appropriate use of the land. As to frontage traditionally, the basic purpose of requiring on a class V road is to ensure that a dwelling may be reached by the fire department, police department, and others that are to protect the safety and welfare of the public. See *Blevins v. Manchester*, 103 N.H. 284 (1961). In this case, Shore Drive provides such safe access, and the excessive amount of "frontage" for each lot ensured such access to each lot itself.

Within its general purpose and intent clause, the Nottingham Zoning Ordinance indicates that its intent is to protect the rural character and natural resources of the Town; to insure that the land use is consistent with the capability of the land to support such use; to promote the health and general welfare of Nottingham; to provide for orderly growth; and to assure that the land use does not have a deleterious effect of other property. The Applicant respectfully submits that the general purposes and intent of the Zoning Ordinance will be maintained, to the extent that the variance requested herein is granted. The size of the lots and the distances utilized along Shore Drive are intended to address the concerns and purposes raised in the Town's Zoning Ordinance.

**3. Substantial justice is done.**

In *Malachy Glen Associates v. Town of Chester*, 155 N.H. 102, 109 (2002), the New Hampshire Supreme Court held that "the only guiding rule [in determining whether the requirement for substantial justice is satisfied] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." The Court also noted that it would look at whether a proposed development was consistent with the area's present use. The grant of the variance would result in substantial justice as it would allow the property to be utilized in a similar, but far less intense manner, than any surrounding property use that already utilizes Shore Drive for its access. In addition, the aesthetic quality of the surrounding area will be enhanced by creating such large lots. The denial of the variance would result in a loss to the Applicant that is not outweighed by any gain to the general public. Thus, granting of the requested relief would result in justice.

**4. Value of surrounding properties will not be diminished.**

The creation of the lots along Shore Drive, with such large lot size, will protect other uses

from being overcrowded, and would result in such a limited use on a per acre basis. There are no negative aspects of the project from a surrounding property owner view. It is respectfully submitted that all of the surrounding properties have a value associated with them which is premised upon the existence of the existing buildings and uses located upon the properties. In this instance, it is believed, and therefore averred, that the aesthetic benefit to the area by utilizing a singular use on such large parcels will not result in a diminution of surrounding property values.

**5. Denial of the variances by literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

- (i) Explain how no fair or substantial relationship exists between the general purposes of the Sections of the ordinance from which relief is sought and the specific applications of the Sections to the property:**

The general purposes of the ordinance are to promote the health, safety, convenience and general welfare and to thus encourage the most appropriate land uses in various parts of the Town. In addition the zoning ordinance seeks to preserve the rural character of the land. For the reasons set forth above, the Applicant respectfully submits that the restriction to create a lot on a class V road that cannot be met is not necessary to be met in order to protect the purpose of the ordinance. Thus, there is no conflict between the general public purpose of the ordinance, and enforcing the restriction for which the Applicant seeks the variance.

All of the lots within the area safely utilize Shore Drive for access and ingress. Given the Town maintenance of Shore Drive, and the benefits to the surrounding area is to protecting the rural character of the area, the relief requested by Applicant is reasonable as the general purposes of the ordinance already achieved. Thus, requiring the frontage be located on a Class V road is unnecessary, and would result in an unnecessary hardship to the Applicant. Thus, it is respectfully submitted that the granting of the variance would not result in a conflict with the general purpose set forth within the Zoning Ordinance, but would rather promote the general purpose of the ordinance, for the reasons noted above.

- (ii) Explain how the proposed use is a reasonable one:**

The Applicant believes, and therefore avers, that, given the size and location of the proposed new lots, and existing use of Shore Drive, that the creation of the two twelve (12) acre lots, as a result of a subdivision as described herein, is reasonable.