

**Kingston Planning Board
Public Meeting
March 5, 2013**

The Chairman called the meeting to order at 6:45 PM. There were no challenges to the legality of the hearing.

Members in attendance:

Richard Wilson, Chairman	Ernie Landry
Glenn Coppelman, V. Chair	Peter Coffin
Stanley Shalett	Adam Pope
George Korn, alternate BOS rep.	

Absent: Richard St. Hilaire, Alternate, Mark Heitz, BOS rep.

Also in Attendance: Glenn Greenwood, Circuit Rider Planner, Ellen Faulconer, Admin. Asst.

Bruce Mayberry
Impact Fees

Mr. Mayberry handed out paperwork with examples of fee schedules. He thanked Ms. Faulconer and the rest of the staff for being tremendously helpful and cooperative. He noted that the Ordinance was being voted on at the upcoming election and if adopted, the Board can adopt the fee schedule. He reviewed possible waivers including those for the school portion for elderly and like/in-kind contributions in place of an impact fee. He reviewed the “grandfathering” clause and explained that any development already approved had a five-year exemption starting from the date of the original approval. Mr. Mayberry added that since there is currently no fee schedule in place, even though an Impact Fee Ordinance does already exist, the fee is not retroactive. He did add that after the five-year period expired, any building permits still required for a particular development, from that date forward, would be subject to impact fees; if the development had not been built out, any new units would be subject to impact fees. Mr. Wilson asked if the Town could give a “break” to the Impact Fees; Mr. Mayberry stated that once they are set, “they are set”, otherwise it could be deemed to be disproportionate adding that waiving fees becomes a “slippery slope”; he clarified that the Town can discount the fee schedule itself but it should be done for everyone not just for a particular development or commercial development.

Mr. Mayberry stated that the Town was very fortunate in that it had no outstanding debt service at this point, not including the school. He noted that impact fees can allow recoupment costs; he explained that the new Library, as an example, currently has excess capacity at this point and a new development gets benefits from the new facility and therefore the Town can recover fees proportionate to the development that comes in to Town. He explained that most towns have long-term debt service. Ms. Faulconer explained the Trust Fund that the funds were withdrawn from, which required Town vote and used in place of a long-term debt service. He suggested that it might be prudent to get a legal opinion on whether the recouped funds could go back to the “Landfill Fund” since the Town did not need the recouped funds to offset an existing debt

service; it was clear that the recouped funds could not go back to the General Fund. Mr. Mayberry will try to find the legal answer on the recoupment from any impact fees for the building of the Library to return to the “Landfill” fund.

Mr. Mayberry explained that there is a 6-year window to use impact fees; any fees not used return to the current owner of record.

Mr. Shalett asked if impact fees could be used for the maintenance of the library, continuing to use that example. Mr. Mayberry said it could not be used for something termed “maintenance”; it would have to be used on an “improvement”. As a guide, he said to look toward items/equipment that would have a “long-term” life.

Mr. Korn asked to clarify that if a certain amount of fees was received, the total would need to be spent proportionately on how the fees were derived. Mr. Mayberry confirmed that the Town needed to keep the amount per item separate; it has to be spent on how it was raised.

Mr. Coppelman noted that, in the draft report, under Town Roads it says to be determined. Mr. Mayberry asked to return to that section after reviewing the others.

Mr. Mayberry spoke about the public schools explaining that this is the biggest type of fee. He suggested a dual impact fee for residential uses, one for SFR and one for everything else. He explained that the Town could chose to determine the fees by using square footage costs or bedroom-based fees but cautioned that bedroom-based fees often leads to issues in determining whether a room is or is not a bedroom. Mr. Pope asked if the fees were based on square footage, would it apply to expansions of existing units. Mr. Mayberry said it could if written that way in the ordinance adding that this type of fee was usually looked on unfavorably. Mr. Pope stated that he would also look on it unfavorably. Mr. Wilson said he preferred one fee for anything single-family regardless of the size. Mr. Mayberry clarified that any waivers for elderly units would only be on the school portion of the fee; after referring to the proposed Ordinance, he noted that the square footage fee would not apply to additions. He stated that most communities use the “average unit” method.

Returning to the school’s portion, he stated that there was plenty of debt service in the District that fees could be applied to; they can be applied annually to offset debt service costs.

Mr. Mayberry discussed impact fees specific to the Fire Department. He said that currently there is a specific Capital Improvement item listed: the Fire Station; the fees he came up with assumes the project is moving forward. He stated that he considers the FD’s major apparatus as able to be used to calculate impact fees. He was asked if the Town used “cash” to build that building, can the Town get recoupment for that and how it would work. Mr. Mayberry will check on that issue of the Town using its existing reserves instead of entering in long-term debt for major projects.

Mr. Mayberry reviewed the Police Department noting that there is nothing currently in the CIP for expansion and may not require an addition for another 10 years. He explained that Police Departments are traditionally lower on capital costs and higher in personnel costs, with the Fire Department being the opposite. Mr. Wilson said that the Police Department has capital expenses

every year. Mr. Mayberry said the Town could always decide to charge the fee and simply return it if not used in the six-year time period. Mr. Mayberry said that he does not add cruisers into the “mix” of establishing impact fees, and PD impact fees would have to be for a building project. Mr. Korn suggested finding a way to have a broader definition of “assessment” to determine a broader way of spending the money. Mr. Mayberry explained that “improvements and facilities” are the guiding language; standards need to be identified but it has to qualify as a capital facility. Mr. Wilson said that the PD was going to ask for a 2,000 sf addition for a regional radio dispatch. Mr. Mayberry agreed that if that was part of the facility expansion for a specific space need then it could be used to calculate cost; if it is a regional facility there would have to be pro rata for the other communities. He said the Town can’t lump all capital costs into facility costs; the Town would need to be careful not to go too broad in defining the costs. He continued that he feels more confident referencing something that is currently in the CIP. He said that it needs to be a proportionate share that the Town can defend.

Mr. Mayberry confirmed for Mr. Shalett that impact fees could be used for new fire department trucks as they are considered long-term use equipment, lasting 20 to 30 years.

Mr. Pope asked if there is a \$950 fee charged for the Fire Department, if it could all be spent on the Fire Department trucks. Mr. Mayberry said it could as long as everything within the fee is done, including the building. He cautioned that the Town must do what is promised.

Mr. Mayberry discussed “roads”. He said this is an “iffy” category for impact fees. The Town is required to keep roads up to standards and maintain them; the Town can’t do maintenance and not do improvements. Mr. Mayberry noted that currently, the funds in the Highway budget aren’t designated for specific items; there would need to be a plan for a series of improvements over time to have impact fees. He added that an Impact Fee schedule could be designed if the Town committed to an annual improvement program; there would need to have a baseline pavement inventory established to define the road impact fees; the Town would need to show actual road rebuilding. He clarified that the Town cannot do Highway Garages through impact fees per the Statute.

Mr. Wilson, returning to how impact fees will be determined for residential units stated that per Board consensus should be the type of unit instead of the square footage method.

Mr. Mayberry said that simplest method for non-residential was to go with the square footage instead of establishing several categories. He suggested anything non-residential should have just the one category, the same fee for commercial and industrial; anything non-residential. Mr. Coppelman stated his agreement that it would be easier to have just that one category. Mr. Greenwood noted the average fee in Brentwood adding that they’ve come up with a million dollars in impact fees which can then be removed from the tax rate. Mr. Mayberry discussed averages in other communities. After reviewing the charts, the Board agreed that the fees seemed reasonable and on average within the region.

Mr. Mayberry asked if the Board wanted all categories included when he determines the final formula, including highway and roads; he said that he may need to review past highway expenditures and would need to establish future goals for that department; it would be best to have linear footage of the roads and the amount expected for re-building. Mr. Mayberry noted

that even without impact fees for this category, the Town can still charge for off-site improvements for a development. The Board suggested that some of the information Mr. Mayberry needs to better define this category may actually be available through some research done with the Financial Officer. Mr. Mayberry will come up with the type of information needed and get back to Ms. Faulconer. Mr. Wilson will speak with Mr. St. Hilaire.

Mr. Coffin asked about the housing categories. Mr. Mayberry stated the grouped categories together that had similar enrollment capacity in the table on pp. 35-36 in the draft report. He added that it is important not to over-generalize but the Town could legitimately work with a split rate with Single Family being one category and all other residential units being another. The Board consensus was that the simpler way would be the best way. Mr. Coffin agreed that simpler was best as long as it is justifiable.

Mr. Mayberry had the input he needed from the Board. Mr. Wilson thanked him for his work and coming in to speak with the Board. Mr. Mayberry re-iterated his intention to send an email with the information he would need for impact fees for roads and will set up to meet with Mr. St. Hilaire, Ms. Faulconer and Mr. Greenwood.

Board Business

Correspondence:

- Letter from Gary Hammond; new owner of former “Lakeside”; work is currently under construction. Mr. Coppelman confirmed that there was a recorded plan on file. Board consensus was that as long as the new owner complied with the site plan, then no further review was necessary; if there are any changes in the future, he would need to come in for an amended site plan review before the Board.

ACTION ITEM: Ms. Faulconer to send Mr. Hammond a letter outlining the Board’s decision.

- Copies of new Notices of Violations sent from the BOS for the Board’s information.
- Invoice from Town Engineer for DOGC, approved and signed.
- Two ZBA decisions received.
- Notice of Stormwater Information meeting; Town Engineer will attend on the Town’s behalf. The Board did not have any specific questions for the Town Engineer. Mr. Coppelman asked if Mr. St. Hilaire was attending; Ms. Faulconer said that he expressed a desire to attend but it would depend on his schedule on Thursday.
- Notice of request for Liquor License at Country Store – no action required by the Board.
- PO for additional phone in the Planning Board office – approved by the Board.
- Follow-up re: Ms. Mooskian/Gun Club possible joint meeting request; not recommended by the ZBA due to being in the middle of the Board’s review.
- State driveway permit application for Shane McKeen received.
- Follow-up reminder for additional key for Planning Board, Mr. Korn will check with Mr. Heitz

- Conditional approvals reviewed for Shane McKeen and Wicked CAS; both had expired. Mr. Coppelman noted that the approvals had lapsed. Mr. Greenwood explained that they are no longer approved; the approval had lapsed.
- Mylar for Lot Line Adjustment okayed to sign.

ACTION ITEM: Ms. Faulconer to notify Mr. McKeen and the owner of Wicked CAS that the approvals have lapsed and in order to re-instate them, they would need to re-apply to the Board for site plan approval. The original motions to be included in the letter as a reminder of the conditions set by the Board.

Waiver Requests:

The Board received waiver requests for two applications for the March 19th public hearing. The Board approved the waiver request for Chase Street and the waiver request for the Elderly Housing Design Review for Marshall Road.

BOS discussion:

Mr. Korn noted that the BOS had a discussion when reviewing the proposal for the Design Review specific to the private road issue; the general idea was not to do it.

MM&S to approve the February 5, 2013 minutes as written. (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

Mr. Coppelman asked to set a date for the CIP to be presented to the Planning Board for its approval; the date was set for March 26th.

MM&S to adjourn at 8:35. (Motion by Mr. Pope, second by Mr. Coppelman) **PUNA**