

FILE

**TOWN OF EAST KINGSTON, NH
PLANNING BOARD MEETING MINUTES
October 11, 2001**

WORK SESSION

Members Attending: Richard A. Smith Sr. - Chairman, John L. Fillio – Ex-officio, Dr. Robert Marston, David G. Morse and Alternate J. Roby Day, Jr.

Others Attending: RPC Planner Maura Carriel.

Absent: Beverly A. Fillio.

Chairman Smith opened this October 11, 2001 Planning Board Work Session at 7:04 p.m.

Capital Improvements Plan: Ms. Carriel distributed updated pages to be added to the current CIP. The board reviewed table #9 (a list of all projects submitted as well as ones from the current CIP). Also reviewed were narratives describing the CIP process as well as road improvements and where town would apply for funding. Page 31 of the CIP received a minor update which would show it extending through the year 2007. Table #10 reflects the proposed/recommended breakdown of projects over the next six years. The Road Agent was key to the proposed road improvements as well as its funding breakdown. Other projects noted included the Elementary School and the Exeter Cooperative School District (broken down into growth and non-growth projects). It was noted that the school narrative would need clarification – Ms. Carriel will do so. Members reviewed the tax rate breakdown for both municipal and school projects as well as the forecast valuation figures. Table #11 shows the 2002 recommended projects.

Discussion then transpired over the proposed project of the construction a salt shed. Members agreed that since no specific time frame was submitted for its completion, it might be more palatable to break up the cost over a six-year period and present it as a capital reserve fund before the voters in March 2002. Further discussion included whether or not the road overlay projects are maintenance items that belong in the highway department's annual budget, or whether they could be categorized as capital improvements. At the recommendation of the Board of Selectmen, they would be considered a capital improvement. Mr. Morse stated his disagreement.

Members then conversed about whether the salt shed should be considered a highway department project, or a safety complex project. Members noted that the town would be in need of a salt shed before a safety complex would be built.

Ms. Carriel will present a final draft of the CIP at the next meeting (October 18) where members can vote to hold a public hearing on it in November.

Growth Management Chapter (GMC): Mr. Day noted that the GMC still has unfinished portions. Chairman Smith stated that he felt the GMC is needed prior to an Impact Fee Ordinance (IFO). Mr. Day stated because significant holes remain in the GMC it is unlikely it would be ready before the IFO – police, fire, road agent, vehicle registration, library, and waste collection text need to be collected and written first. He stated he is still working on the school as well. How these department's needs and services change in relationship to the Town's growth must be researched and incorporated into the document - narratives, figures, and justification are needed. Though it is impossible to finish this project within a two-week timeframe, they can aim on getting it done in time for the January public hearings.

Impact Fees: Mr. Day distributed updated copies of an impact fees ordinance draft he prepared using Bruce Mayberry's model ordinance as well as other town's ordinances. He noted that impact fees would be enacted at the building permit stage and are functionally retroactive. Members reviewed the ordinance and discussed whether or not barns or additions to barns would be considered "nonresidential" and applicable to impact fees or whether only commercial nonresidential uses would be.

Mr. Day then explained how he developed a methodology to determine what impact a single dwelling would have on the police department. He also noted the future needs of the police department. He noted that figures within the methodology need to be updated annually. Impact fees can not be charged for current deficits, only for future needs. A different methodology must also be used for commercial and non-residential buildings. Dwellings can be calculated using population, commercial and nonresidential can be calculated using square footage. He stated that he is still working with the school and fire department.

More discussion transpired on barns and their impact. It was noted that every structure has an impact, though they could calculate agricultural buildings differently from commercial.

The board talked about when and who would pay an impact fee. The building permit applicant would pay the fee, and no permit would be issued until the project is assessed and a fee is assigned and paid for. Members agreed this draft ordinance be submitted to Town Counsel for review.

Discussion then entailed on whether impact fees contradict a growth control ordinance. Mr. Day stated they did not and that impact fees are assigned to try and keep up with the impact created. If provisions for that fee are not used or dedicated to a specific improvement within six years, it must be returned to the applicant. Impact fees are used to help defray costs, but not to fund an improvement completely. Members suggested they get Town Counsel advice on this issue. Ms. Carriel would also seek advice from RPC planners. Mr. Day stated that one ordinance limits growth so town can absorb it, and the other one helps pay for it.

He reiterated that he has completed drafting the impact fee ordinance, but he is not complete with the methodology or fee schedule. Mr. Filio stated that now he has a better idea of what information he needs to collect for his contribution to the Growth Management Chapter.

Elderly Housing: Members discussed the possibility of capping the growth of elderly housing developments constructed in a year. There is currently a cap on how many units per development. It was noted that applications currently before the board might be exempt (Ms. Carriel will research). It was noted that the board might just be "shooting themselves in the foot" by capping the growth, as such a cap would cancel out any incentives for developers to build elderly housing in town at all. Members agreed to table discussion for a later date.

Article III-A – Growth Control Ordinance: At an earlier meeting, members discussed amending Article III-A to include provisions for rebuilding conforming homes within a specific time frame. Members reviewed Article XVIII, which covers rebuilding nonconforming buildings. They agreed that Article XVIII needed clarification. New language would be drafted by Mr. Day. Language to include provisions for conforming buildings was submitted by Ms. Carriel as follows: (New text in bold)

D. Allocation of Permits

1. This Article to building permits for new dwellings. Building permits for non-dwelling construction or for expansion, alteration or replacement of existing dwellings will not be affected by this article. **In the event of damage, destruction or demolition of any building; said building may be rebuilt provided construction is started within two years of its damage, destruction or demolition, or it will need to comply with the Growth Control Ordinance.**

Member approved this language and asked that it be placed on the October 18th agenda. Mr. Day would have his recommended text for Article XVIII ready for that meeting as well.

Deed Restrictions: Ms. Carriel presented language to clarify deed restrictions within elderly housing developments by adding the following as Section 12.5 and subsequently renumbering sections 12.5 and 12.6:

- 12.5 Residency restrictions for residential projects approved under the Elderly Housing ordinance shall be accomplished by restrictions recorded in deeds, Condominium Declarations, Restrictive Covenants, and/or other documents recorded in the Rockingham County Registry of Deeds. All deeds and covenants shall be subject to review by Town Counsel at the sole expense of the developer/builder, and shall be approved by the Planning Board. Covenants shall include enforcement provisions in favor of the Town. Covenants shall be signed by the Planning Board, and shall contain language specifying that Board approval is required for any subsequent changes to the covenants.

Members approved the language and requested that it be submitted to Town Counsel for review and then placed on the October 18th agenda.

Site Plan Review and Subdivision Regulations: Ms. Carriel noted that the Subdivision Regs and the Site Plan Review Regs do not have provisions for waiver requirements like the Zoning Ordinance. She recommended the following language be added to both regulations:

Waiver Procedure:

1. General. Where the Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing regulations or the purposes of these regulations would still be served, it may approve waivers to these regulations. The purpose of granting waivers under provisions of these regulations shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by said regulations. Such waivers will be entertained and acted upon by the Board only at a properly noticed public hearing, or for a lot line adjustment, at a duly noticed public meeting. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:
 - a. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
 - b. The waiver will not, in any manner, vary the provisions of the East Kingston Zoning Ordinance, Master Plan or Official Maps.
 - c. Such waiver(s) will substantially secure the objectives, standards and requirements of these regulations.
 - d. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver.
2. Conditions. In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
3. Procedures. A petition for any such waiver shall be submitted in writing by the applicant with the applicant for Board review. The petition shall state fully the grounds for the waiver and all the facts relied upon by the applicant. Failure to submit petition in writing shall require an automatic denial.

Ms. Carriel recommended that both the Site Plan Review Regs and the Subdivision Regs have their own waiver paragraph. Members agreed. Ms. Carriel will draft another amendment for the Site Plan Review Regs. This item was then placed on the October 18th agenda.

Lot Line Adjustments: As discussed at an earlier meeting, provisions for lot line adjustments were not clearly written in the Subdivision Regs. It has been the practice of the recording secretary to advise applicants seeking lot line adjustments to comply with the Subdivision Regulations where applicable. Ms. Carriel offered the following wording to clarify this procedure:

Minor lot line adjustments or boundary agreements which do not create additional lots or increase the development potential of a lot require subdivision application and approval in the same manner as ordinary subdivisions, except that a public hearing shall not be required. However, notices to abutters shall be given prior to approval and any abutter may be heard on the application upon request. RSA 676:4 1(e)(1)

Members directed this amendment to be placed on the October 18th agenda.

Elderly Housing Development Layouts: Discussion entailed on an issue that was raised at the last meeting regarding the layout of buildings within an elderly housing development. One member was confident that during the drafting of the elderly housing ordinance, it was the board's expressed wishes that all elderly housing developments be designed in a manner where they would be separate from other types of housing. The provisions for a buffer as outlined within the ordinance supports this. Elderly housing units were to be placed in a development of its own, and not along the main road. The former Circuit Rider was contacted who further supported this position. The provisions for homeowner association of the road also supports this intent – all homes within that development should be accessed on their own association-owned road.

Members reviewed the ordinance and responded that though that may have been the intent, the language of the ordinance does not clearly state that. Further discussion would be needed on this matter.

With no further business,

MOTION: Dr. Marston motioned to adjourn. Mr. Morse seconded. The motion passed 5-0 and this October 11, 2001 Planning Board Work Session ended at 10:04 p.m.

Respectfully submitted,

Catherine Belcher
Secretary

Minutes completed and on file October 18, 2001.

Approved: 11-8-01