



# Town of Middleton

182 Kings Highway, Middleton, New Hampshire 03887

OFFICE OF THE PLANNING BOARD

## PLANNING BOARD REGULAR MEETING AND PUBLIC HEARING MINUTES

May 25, 2023  
Middleton Old Town  
200 Kings Highway  
Middleton, NH 03887

**Call to Order:** Meeting Called to Order at 6:31 p.m. by J. Kalar

**Pledge to the Flag**

**Roll Call:**

**Members present:** Janet Kalar (Chair), John Mullen (Vice Chair), Scott Ferguson (Selectboard Rep.), Christine Maynard (SLVD rep.), Ken Kalar (Alternate)

**Opening Remarks:** None

**Invited Guests:** Mark Fougere, Jeffrey Hertel

**Review Minutes:**

**Motion to approve minutes of April 13, 2023**

**Motioned by:** J. Mullen

**Seconded by:** C. Maynard

**Vote:** Unanimous

**Motion Carried**

**Review Minutes:**

**Motion to approve minutes of May 11, 2023**

**Motioned by:** J. Mullen

**Seconded by:** C. Maynard

**Vote:** Unanimous

**Motion Carried**

**New Business:**

**Subject:** Impact Fees

**Discussion:** Mark Fougere from Fougere Planning and Development, Inc. introduced himself and talked about his credentials which include 11 years in the private sector and over 20 years consulting private and public. He also does work helping towns with impact fee programs.

M. Fougere said impact fees are authorized by State Statute RSA 674:21 (attached.) This gives the town authority to adopt an impact fee ordinance. After that it goes to Town Meeting and the town needs to come up with calculations to support the impact fees.

M. Fougere went over a document "Impact Fee Basics" (attached), explaining what impact fees are and criteria required, highlighting examples from his experiences with various towns. He also discussed "A Handbook for Local Officials November 2020" (attached) and Demystifying Impact Fees (attached).

J. Mullen asked can you have impact fee ordinances without calculating fees. Can you put in your ordinance "upon it's acceptance". In other words, we don't know what the calculation would be.

M. Fugere said yes.

J. Mullen said so we don't know what the calculation is going to be. We define who would be affected, for example single family homes or commercial and we'll decide later as to whether there is a fee.

M. Fugere said You adopt an ordinance, and you list in that document the types of projects you think you would need and explain details like what kind of waivers you would give, but no calculations. That goes to the voters. If that gets passed, it becomes part of your zoning ordinances. It just sits there because you have to calculate the fees. Then a project comes along, or the school gets built, and the fees are calculated. That doesn't go to Town Meeting. That's done through the Board of Selectmen so you don't have to wait until March to get that approved by the voters.

M. Fougere said you would adopt ordinances like other cities and write up a list of types of projects including waivers.

J. Mullen said the methodology requires a lot of data. Who does that. We don't have the knowledge to do that.

M. Fougere said that's why you hire me.

J. Mullen said we can do that without calculations. For example, a large development comes to town that will affect the infrastructure, the Fire Department or whatever it is. On a commercial development, we have in our ordinances already that we can impose impact fees and the developer would pay.

M. Fougere asked do you mean for on-site improvements. M. Mullen said yes, that's a negotiated thing. You can continue to do that. You don't need an impact fee ordinance. For example, if there's a blind intersection because there's a big curve, and you want to put a shopping center there, Mr. Developer, you need to fix that because it's unsafe. If you don't want to fix it, you have to wait until we fix it and that may be eight years away. The advantage of having it on the zoning books is that you have to impose the fee at a Planning Board meeting, so you want to have that ordinance in place sooner than later. J. Kalar said in this town, the size we are, I know there is one project that may becoming for over 55 mobile homes. We also have a capital reserve fund for a complex for the Fire Department and Police Department. How would this affect?

M. Fougere said that type of project is going to generate a lot of ambulance calls. Any development impacts fire and police at different degrees, no matter what it is. Schools are different. For example, you can't charge a shopping center an impact fee for schools. You would have a road impact fee for a shopping center. It depends on the project.

J. Kalar asked is it worth having impact fees in a town of this size. We don't have a lot of businesses coming in. We don't have the infrastructure for it.

M. Fougere said you haven't had a lot of growth. You had a good spurt from 2000 to 2010 the population increased 33%, but in the last eleven years only by 40 people. The building permits in the last ten years were for 19 more single family homes, five duplexes and two mobile homes.

J. Kalar said that doesn't take into consideration a year ago when we had a moratorium on building.

J. Mullen said the demographics have changed. The seniors are downsizing and moving out and families are moving into existing buildings, not building new homes. I don't know how many projects there are going on, but I see there are four or five on the lake where I live. Let's say we do a \$3,000 impact fee for the school. That would mean 12 to 15 thousand dollars we would raise and that would go for capital improvements for the school.

M. Fougere said for example if there are fifteen years left on a 20 twenty-year bond, that money (if it's for a school impact fee), goes to the general fund to pay the existing bond.

J. Mullen said as far as commercial development, we only have three large businesses. There have been proposals for a mobile park, another commercial venture for twenty units for retail and rental units up above. Is it worth the administrative accountability. Hudson is no small town. They have staff to do a lot of things. We are on a teeny weeny budget and staff here and it changes.

M. Fougere said if you are going to collect three or four hundred thousand dollars a year, that would be one thing, but that's not going to happen. From that standpoint, it's just basic accounting, keeping track of the funds.

J. Mullen said he sees some towns with a simple spreadsheet. It's not difficult.

M. Fougere said I wouldn't worry about that. It's not hard to do. Milton was one of the first in the state to charge impact fees back in the early 90's. I would not, not do it because of that. I mean, you have to have a good project.

J. Kalar said it's something to look at.

M. Fourgere said adopting the ordinance is simple. There are 50 online.

J. Mullen said Farmington has impact fees, but I'm told they don't impose them. They have a lot of community development there. I've seen ordinances all over the place. There are about 88 towns that have impact fees out of 250 towns. 80% of them are south of Concord. We are surrounded by towns that have impact fees.

M. Fourgere said Henniker adopted an ordinance years ago and paid off a school bond, got rid of fees, but still have the ordinance on the books. Having it on the books protects you and if you never use it, so what.

J. Mullen said if we hire a consultant to do the calculations and the formula, there are a lot of things you need from town, what would be the range of the fee.

M. Fouere said what's the impact fee. Is it school, fire, library.

J. Kalar said school, fire, and police.

M. Fourgere said we're doing a library impact fee Greenland now for \$6,500 for a library and our contract with Dover is \$ 30,000 for police, fire, school, recreation. Pretty complicated situation over there.

C. Maynard asked have you seen other small towns that have chosen alternatives. Are there other options.

M. Fourgere said the only other option that you're allowed to do is negotiate an on-site improvement on a case by case basis.

J. Mullen asked what's your opinion on growth management. I've seen a couple of communities that have both an impact and fee and growth management.

M. Fourgere said it's not a fee. It's restricting permits that has to be backed up by statistics that you'd be harmed in some way. For example, school is at capacity. It's a temporary solution. The town has to be committed and actively trying to fix whatever that problem is. You can't just pass it and sit on it. You're looking at a lawsuit if that happens.

J. Kalar Let's say you put a restriction on building permits for 12 a year and then you have a mobile home park that wants to put in 75 homes. How do you handle that.

M. Fourgere If you have a GMO that says twelve, you can only have twelve. For the approval process for that project, you can also have phasing.

J. Kalar asked what about bonds for impact fees. Can we impose a bond for a certain percent of the project. How does that work.

M. Fourgere said if you are looking to have security for a development, usually that's to protect something that you're concerned with. For example, a town road. You could have a bond to make sure it's built properly. If they bail, you could call it in or if there is erosion, that's when you want a bond. In case something happened.

J. Mullen asked if anyone in the audience had any questions.

Carl Roy asked If for example converting from one bedroom to three bedroom is that something controlled in an ordinance.

M. Fourgere said yes, you can impose fees based on square footage.

C. Roy asked about how you can legally ask people if they are planning on having children. Last year there was a moratorium on building.

M. Fourgere said when the application comes to the board, that's when those questions get asked.

J. Kalar said those things don't come to the board. They're up to the Building Inspector.

M. Fourgere said that only comes into play if a project comes to the board for development that is being approved as an over 55 community. If you have a building lot and I come in and say I'm over 55, I'm exempt from the fee, the answer is no. You would pay the fees because that building could be sold. I don't know if you have 55 or over ordinance. That would be part of the ordinance that all occupants must be 55 or over.

J. Kalar said the reason for the moratorium was for the school. People were pretty good about it. We weren't stopping all buildings; we were stopping buildings that would cause the school to suffer. That was the reason for the moratorium.

J. Mullen said thank you for taking the time out of your busy schedule.

J. Kalar called a five-minute recess.

J. Kalar said okay, Jeff, you're up.

J. Hertel introduced himself. I'm here to propose a subdivision on Pinkham Road. It was originally going to be an eight-lot division. It's a total of 53 acres. We went out and had all the wetlands flagged and due to that we went down from eight to seven lots. I have a topo plan as well, but I gave you this one so it's easier to look at.

J. Hertel referred to the plans he brought.

Parcel A, 3.12 acres off Auen Way, the abutter, Meghan Wellman is looking to purchase that so we made a note on plan that parcel A is to become part of Map 1, Lot 46-1 so we're not creating a new lot, it's going to be merged with her lot.

J. Hertel went over the plans describing the lot sizes. All of the lots, with the exception of Meghan's lot, will have access to Pinkham Road. They met with the Road Agent today.

J. Mullen asked if lot 6 was buildable.

J. Hertel said yes and showed the board on the plan.

J. Mullen pointed out a culvert that is collapsing.

J. Kalar said they would go through the checklist and then open it up for questions.

Judy Larivee from 269 Pinkham Road asked for clarification are we talking about the right hand or the left hand.

J. Mullen said the left hand.

J. Mullen went through each item on the checklist on the application for subdivision with The Board. All answers were confirmed and clarified as necessary. J. Mullen said the application is complete. There are 12 abutters.

***J. Kalar opened the Public Hearing at 7:15 pm.***

J. Kalar asked if there are any questions. Please state your name and address when asking your question.

J. Larivee from Pinkham Road asked can you state again the size of the lots.

J. Hertel showed her the plan and explained the acreage of each lot.

J. Larivee asked how far in does the three acres go?

J. Hertel showed her the lot on the plan.

J. Kalar said Charles Therriault asked if they could get help with the zoning ordinance.

J. Mullen asked the building inspector if he sees the zoning ordinances.

The Planning Board has decided to have work sessions in between regular meetings. They will be posted. The last time we did the zoning ordinances we started at page one and went through them. There are some errors in there and they need to be checked.

J. Mullen said in my view the most important is the impact fees or some kind of growth management. We did approve the updated ordinance on the Aquifer and now it has to go before the town. Any ordinance change has to go before the town. They start sometime in November. You think you have a lot of time, but you don't.

J. Mullen said get your group together and if something is wrong put a note in.

J. Kalar said our next meeting is June 8.

J. Mullen said June 22 would be the first working meeting.

J. Mullen talked about the summary he put together that includes a lot of data.

J. Mullen said the most important thing is to get an impact fee ordinance in place and Mark reiterated that. There are not too many people in the state that do that type of work. I've heard fees anywhere from 20 to 30,000 for someone to do that. Not just the ordinance, you can copy that from any place. It's the calculation and method and accumulation of data.

C. Therriault asked is that to back up the fee if challenged.

J. Mullen said you bet. Need to back up so you won't be sued by property owner commercial or otherwise. Impact fees need to be updated on a regular basis. There are accountability issues. You have to have someone on some system so that if the person leaves, the system is there.

J. Mullen said the difficulty is someone builds, for example, a house on the lake and they are only there for two years. If they paid an impact fee, how do we find them. Maybe we

have something in the ordinance that says you need to tell us where you go, or you lose the fee.

C. Therriault said we need a full-time person. There's not enough in impact fees to pay a salary.

J. Mullen said it's usually the Treasurer. We need someone with the knowledge to do that. There is a lot of information available. Need someone who knows about spreadsheets and a system of checks and balances.

C. Therriault said we can use data from Building Permits.

J. Mullen said formulas are published in the ordinance. Some towns do per structure, some per square foot.

J. Kalar said she was asked to pay a \$2500 nonrefundable impact fee when she was going to buy a piece of land in another town years ago.

J. Mullen asked how long does a Building Permit last.

C. Roy said up to two years; need to have a good reason to not complete within one year.

C. Therriault said if spending as much to administer as take in it's not worth it.

J. Mullen said it's an up-front expense.

C. Maynard asked about alternatives like negotiation. Could we negotiate if we did would there be a timeframe.

J. Mullen when there is a major subdivision per our ordinance, we can put requirements in to negotiate between the town and development.

C. Maynard said if we negotiated would we have time.

J. Mullen said you mean a capital reserve fund.

J. Kalar can't put in capital reserve.

J. Mullen you can for infrastructure. For example, we have to do Pinkham Road improvement. If the development doesn't go through, we can change with a town vote.

J. Mullen said with an offsite negotiation, shorter time stamp, you can do it in phases. You can move money from the capital reserve fund with a town vote.

***J. Kalar closed out the Public Hearing at 7:45***



**Motion:** To accept the subdivision application as presented for the J. Hertell Family Trust Lots 8-6.

**Motioned by:** J. Mullen

**Seconded by:** C. Maynard

**Vote:** Unanimous

**Motion carried**

**Action Items:** J. Hertel to send pdf of plans to Administrative Clerk to add to minutes.

**Adjournment:**

**Motion** to adjourn

**Motioned by:** C. Maynard

**Seconded by:** J. Mullen

**Vote:** Unanimous

**Motion carried:** meeting adjourned at 7:56

Respectfully submitted by:

Robin Willis