

MEMORANDUM
IMPACT FEE REVIEW BOARD
June 26, 2019

The Zionsville Impact Fee Review Board (“Board”) met on June 26, 2019 to consider an Impact Fee Appeal filed by Zionsville Eye Care, LLC. Impact Fee Review Board members Jim Longest, John Demeree, and Emily Shilling reviewed the request.

Factual Background: Zionsville Eyecare LLC (“Petitioner”) has proposed development of a new office space (“Facility”) at 1120 West Oak Street, consisting of approximately 8,108 rentable square feet, and has been assessed a Road Impact Fee by the Town of Zionsville (the “Town”) in the amount of \$23,744.00.

Pursuant to Ind. Code § 36-7-4-1333, on May 3, 2019 Petitioner filed a Petition for Review of the amount of the Road Impact Fee. As required by Ind. Code § 36-7-4-1338(c), the Zionsville Impact Fee Review Board held a hearing on the Petition for Review on June 26, 2019, a quorum being present.

THE BASIS FOR THE APPEAL (IC 36-7-4-1334):

1. Whether a fact assumption used in determining the amount of an impact fee is incorrect.
2. Whether the amount of the impact fee is greater than the amount allowed under sections 1320, 1321, and 1322 of Indiana Code 36-7-4-1300 series.

DECISION

The grounds of the appeal, per the Petitioner, revolved around the fact that the Petitioner was an existing business in Town, and that the value of its current impact from its existing operation should be available to be transferred to the new facility (leaving the old facility with a zero balance as to Road Impact Fee as if it was a brand new building and the next tenant would be required to pay any Road Impact Fee due at the time of occupation of that existing space). The Board acknowledged the interest of the Petitioner, however, absent the authority to facilitate the Petitioner’s request, the Board must consider the merits of the Petition based on Indiana Code.

Upon consideration of testimony offered at a public hearing by Petitioner and the Town, it was the unanimous decision of the Board (based on a motion made by Jim Longest, Seconded by John Demeree) that Petitioner’s Road Impact Fee assessment in the amount of \$23,744.00 is AFFIRMED based on the findings, that 1) the fact assumptions used in determining the amount of the impact fee associated with the Facility were NOT incorrect; the total number of trips associated with the Facility as determined by the Town was correct, and 2) as stated in the above finding, the assessed Road Impact Fee is NOT greater than the amount allowed under sections 1320, 1321, and 1322 of Indiana Code 36-7-4-1300 series.

The Board concluded by indicating that the Road Impact Fee be payable upon issuance of the building permit. Further, it was indicated that the Board would encourage the consideration of inclusion, during the next adoption process associated with an update to the current Road Impact Fee, of language that acknowledged the transferring of Impact Fees from one location to another when associated with an occupant who was moving locations but remaining in Town. The Petitioner is hereby required to pay the assessed Road Impact Fee and may elect to enter into an installment payment plan as per Indiana Code 36-7-4-1324.