

DEPARTMENT OF PLANNING & LAND MANAGEMENT

Definitive Subdivision Plan #241 Modification
McCaller Ln. (formerly Keuka Rd) off Main Street

Report Date: August 10, 2021
Prepared by: Elizabeth Hughes, Town Planner

GENERAL INFORMATION

Owner: Keuka Trust
P.O. Box 752
Littleton, MA 01460

Applicant: Steve Marsh
c/o Westchester
289 Great Road, Suite 304
Acton, MA 01720

Engineer: Markey & Rubin
P.O. Box 957
Acton, MA 01720

Requested Action: **Render a decision on a Modification to the Hosmer Meadows Definitive Subdivision Plan pursuant to MGL Ch. 41, Section 81 and the Planning Board Subdivision Rules & Regulations. Decision is required to be filed with the Town Clerk before October 15, 2021.**

Location/Project Site: The Site is located at the end of McCaller Lane off Main Street approximately 75 feet west of the intersection of Main Street and Florio Drive and is known as Assessor Parcels #3837. The Site has a total of 2.48 acres

Zoning/Existing Land Use: The property is in the Residence B Zoning District and is undeveloped. The northern portion of the Site is located within the Wetland Conservancy District, wetland, and wetland buffer and a small portion of the northeast corner of the lot is also located within the Flood Plain Conservancy District.

Surrounding Land Uses/(Zoning): The property is surrounded by parcels within the Residence B Zoning District. To the south across McCaller Lane is a non-jurisdiction isolated wetland and to the east are dwellings currently under construction as part of the approved subdivision. To the west is undeveloped land and to the north is undeveloped land and the Fitchburg Commuter Rail Line.

I. Proposed Project

The Applicant is proposing a modification Condition #2 of the Hosmer Meadows Definitive Subdivision that limits access from the improved roadway to four lots until the Board grants a Definitive Subdivision Modification to extend the road and improve the stormwater drainage and a modification to the approved Subdivision Plan for the creation of a fifth building lot at the terminus of the road.

The Board’s Subdivision Decision limited the number of lots that can be served off McCaller Lane (formerly Keuka Road) to four lots in part because of the waivers to the Subdivision Rules and Regulations to allow a modified T-turnaround at the end of the road instead of making the road go all the way through back out to Main Street and the stormwater drainage report did not take into consideration a fifth building lot.

The Applicant is not making any modifications to roadway or stormwater drainage associated with the subdivision road other than to extend a new driveway from McCaller Lane. The road has been completed to binder course and gas, water and electric are installed to the terminus of the road. Only private house services are required to be extended onto the proposed lot. The dwelling will be served by an on-site sewage disposal system that requires the construction of a 4-foot retaining wall adjacent to the road right-of-way. All runoff from roof area, driveway and a portion of the front lawn is collected and fed to an infiltration bed (Cultec Chambers) located on the lot.

II. Zoning Bylaw Lot Requirements

The property is located within the Residence B Zoning District, which requires:

1. Minimum Lot Area = 20,000 SF – **The lot has 108,028.8 s.f.**
2. Minimum Lot Frontage = 125 LF – **The lot has approximately 425 ft of frontage along the road right-of-way with approximately 153 ft of existing pavement in front of an existing stormwater detention basin and 25 ft. of existing pavement to the buildable portion of the lot.**
3. Minimum Lot Frontage Exception = 160 LF (if width is 125 LF at building line) – **not being utilized**
4. Minimum Lot Width = 100 LF – **The lot meets the minimum lot width.**
5. Minimum Front Yard Setback = 20 feet – **The plans show building envelopes which are in compliance with the required setback.**
6. Minimum Side Yard Setback = 15 feet – **The plans show building envelopes which are in compliance with the required setback**
7. Minimum Rear Yard Setback = 30 feet – **The plans show building envelopes which are in compliance with the required setback.**
8. Minimum Corner Clearance = 10 feet – **Not applicable.**
9. Maximum Height = 35 feet – **At the time a building permit application is made for the construction of a dwelling on each lot, the Applicant will be required to submit plans that show the height calculation for the proposed dwelling from existing grade.**

III. Subdivision Rules and Regulations Requested Waivers

The Applicant is not requesting any additional waiver or proposing any modifications to the subdivision roadway, utilities within the road right-of-way or the stormwater drainage system. Under MGL c. 41§ 81R, the Planning Board granted the following waivers to the construction of McCaller Lane:

Section 6.8.1 Table IA Minimum Design Standards for Local Streets

1. *Minimum Right Of Way Width:* A minimum road right-of-way width of 40 feet instead of 50 feet. The road right-of-way was laid out in 1913 with a 40-foot right-of-way. The Board found that the Applicant was not able to modify the road right-of-way layout to 50 feet due to the transfer and development of two lots where the road intersects with Main Street and granted this waiver.

2. *Minimum Radius of Curve:* A minimum centerline radius of curve of 51.71 feet instead of 225 feet. The road right-of-way was laid out in 1913 with a 50-foot radius curve. The Board found that the Applicant was not able to modify the road right-of-way layout to meet this requirement because of the ownership and development of two lots adjacent to the curve. The Fire Department and Town Engineer did not express any concern with the 50-foot radius curve and the Board granted this waiver.
3. *Cul-de-Sacs:* The road layout and construction does not meet the required standards for a cul-de-sac turnaround and the T-turnaround is not within the road right-of-way. The Board found that the T-turnaround was designed to accommodate the current fire truck standards and the Fire Department did not express any concern with the T-turnaround design. The Board granted this waiver.

Section 6.8.9 Intersections

4. *Intersections:* A minimum intersection offset of 150 feet is required. The road was laid out in 1913. The Florio Drive Subdivision was approved and developed in 1987; an offset waiver for Florio Drive was not considered at that time because the road had not been constructed. The Board found that the Applicant was not able to relocate the road intersection due to the ownership and development of lots along Main Street and that the Police Department and Town Engineer did not express any concern with the reduced offset. The Board granted this waiver.

Section 6.9, Curbing

5. *Curbing:* As a minimum, a continuous, low-profile, modified Cape Cod berm shall be provided as an integral part of all new streets. The curb on the western side of the proposed road is removed from STA 1+00 to STA 3+ 25 to reduce grading along the shoulder. The road has been shifted three feet northerly from STA 1+00 to STA 3+25 to eliminate the need for a retaining wall on the southern side of the road and a 1:1 rip rap slope is proposed. The Board found this was an improved road design and granted this waiver.

Section 6.10, Sidewalks

6. *Sidewalks:* A sidewalk on one side of the street is required. The road does not have any sidewalks. The Board found that a sidewalk was not required due to the limit of four dwellings, the reduced right-of-way width limits the available room for a sidewalk to be separated from the roadway, the increase in impervious surface and stormwater drainage needed for the construction of a sidewalk, and the need for additional grading and retaining walls that would be required. The Board granted this waiver.

Section 6.17, Street Trees

7. *Street Trees:* A minimum of one street tree every 50 feet is required. The Board found that due to the limited space available for trees within the 40-foot right-of-way and with the offset of the pavement within the road right-of-way, only a limited number of trees are proposed every 50 feet. The Board granted a waiver to allow the remaining required trees to be planted in alternative locations within the road right-of-way.

Although a waiver to the Subdivision Rules & Regulations was not required, the Board discussed and approved the shifting of the pavement three feet within the road right-of-way northerly from STA 1+00 to STA 3+25 to eliminate the need for a retaining wall on the southern side of the road and allow for a 1:1 rip rap slope.

IV. Town Department Comments on Modification Request

A. Fire Department

The Fire Department conducted a test run of the T-turnaround on McCaller Lane, which is now physically on the ground at this site. The ladder truck can adequately turnaround under ideal conditions (i.e., no obstructions whatsoever – any vehicles parked in or adjacent to the turnaround, dumpsters in place there, snow accumulation, and the like). If this turnaround is appropriately maintained in perpetuity as a turnaround, there will be no safety issues. If the area is used as a parking area or something similar, then emergency response will be compromised. The approved subdivision requires a “No Parking” sign at the end of the T-turnaround. However, with the inclusion of the fifth lot at the terminus of the roadway, it is recommended that “No Parking This Side of the Street” signs be placed on the northern side of the street prior to the driveway entrance to the fifth lot.

B. Police Department

The Police Department did not have any issues or concerns with the proposed project.

C. CPW Engineering Division

In an August 9, 2021, memo, the Engineering Division did not raise any issues and concerns and recommends four conditions of approval.

D. CPW Water/Sewer Division

CPW-Water/Sewer Division does not have any issues and concerns with the project and the water service shown on the plan appears acceptable. The construction of the new dwelling will be handled as a typical lot with a new single-family dwelling requesting a water service connection from water main in McCaller Lane, which the Town will eventually own once the Town and developer of the original subdivision execute appropriate easements. Once a water service application is submitted, the Applicant will be required to provide more detail on the service size and location of a meter pit.

E. Concord Municipal Light Plant

The Concord Municipal Light Plant does not have any issues or concerns with the project

F. Building Inspections Division

The Building Commissioner does not have any issues or concerns with the proposed plan and recommends conditions of approval regarding final grading, roof and perimeter drains and a final plot plan.

G. Health Division

In a July 26, 2021 letter to the Planning Board, the Board of Health voted to approve the Definitive Subdivision Plan Modification subject to five conditions of approval.

H. Natural Resources Division

The Natural Resources Commission has issued an Order of Conditions on April 23, 2021 for the development of the proposed fifth lot.

I. Planning Division

The Town Planner does not have any issues or concerns with the proposed project but notes that a required street tree for the approved Subdivision will need to be relocated due to the location of the proposed driveway for this lot. Additionally, the Modification Plans need to be amended to show the extension of the gas service from McCaller Lane to the proposed lot.

VI. Planning Board Action

Section 5.5.5 Action by the Board: After the Public Hearing, the Board will approve, modify and approve, or disapprove the plan as submitted. Criteria for action by the Board shall be the following:

- (a) Completeness and technical adequacy of the plans and supporting materials; In an August 9, 2021 memo, the Engineering Division did not raise any issues and concerns and recommends four conditions of approval. The Town Planner notes that the Applicant should amend the Plan to include the location of the gas service from McCaller Lane.*
- (b) Determination that development at the proposed location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others because of possible traffic hazards, or environmental degradation which could be avoided or ameliorated through an alternative plan; The Applicant has received an Order of Conditions from the Natural Resource Commission and Town Staff has recommended conditions of approval to mitigate any potential unwarranted hazard to safety, health and convenience of future residents of the development or of others because of possible traffic hazards, or environmental degradation.*
- (c) Conformity with the design and construction standards described in these Rules and Regulations and practices, specifications and standards required and approved by Concord Public Works; In an August 9, 2021 memo, the Engineering Division did not raise any issues and concerns and recommends four conditions of approval.*
- (d) Conformity with all applicable zoning requirements; The proposed lot conforms to all applicable zoning requirements.*
- (e) Consistency with the purposes of the Subdivision Control Law as described in G.L.c. 41, section 81-M. The purpose of Subdivision Control Law is to protect the safety, convenience, and welfare of the inhabitants by regulating the laying out and construction of ways in subdivisions providing access to the several lots, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The roadway has already been laid out and constructed to binder course. The original subdivision includes the dedication of approximately 10.35 acres into a conservation restriction. The Applicant is not requesting any additional waivers to the previously approved Definitive Subdivision Plan or modifications to the road layout. The Engineering Division has found that the roadway stormwater drainage and proposed drainage for the fifth lot is adequate. The Board of Health has approved the subdivision modification with conditions to ensure adequate sanitary conditions.*

VI. Town Planner Recommendation

The Town Planner believes that the Board can make the required findings for approval to the Hosmer Meadows Definitive Subdivision Plan to allow a fifth lot subject to the following conditions:

1. Approval of the Definitive Subdivision Modification is based on the following plans prepared for Keuka Trust, 311 Great Road, Littleton, MA 01460 as amended by Condition #6:
Markey & Rubin, P.O. Box 957, Acton, MA 01720
 - a. Modification of Subdivision Plan; Keuka Road, Concord MA, Sheet S1 dated August 4, 2021
 - b. Site Plan; Sheet NOI dated May 11, 2021
 - c. Erosion & Sediment Control Detail Plan; Sheet ES dated May 11, 2021
2. This Modification to the Hosmer Meadows Definitive Subdivision filed with the Town Clerk on February 14, 2018, amends Condition #2 to allow a fifth lot to be access off McCaller Lane (formerly Keuka Rd.).
3. Any wells for domestic water, irrigation purposes, or heat pump use, shall be designed, permitted and constructed in accordance with the Concord Board of Health regulation, Minimum Sanitation Standard for Private and Semi-Public Water Supply.
4. No underground fuel storage systems shall be installed without a variance granted by the Board of Health in accordance with Section 4 of the Underground Storage Tank Bylaw adopted by the April 1993 Town Meeting.
5. Tree stumps and wood wastes generated by land-clearing operations shall not be buried on site. DEP's solid waste regulations 310 CMR 16.05(3)(d) and 310 CMR 19.013(1)(h) prohibits stump dumps on lots being developed for sale.
6. **Prior to Endorsement of the Definitive Subdivision Modification Plan**, the Applicant shall provide the Town Planner a revised plan:
 - a. A note stating that the property owner shall be required to comply with all requirements for the stormwater system maintenance as referenced in the Long-Term Operation and Maintenance Plan, dated June 1, 2020, and submit the require annual reports to the Concord Public Works Engineering Division.
 - b. Show the extension of the gas service from McCaller Lane to the proposed lot.
 - c. Amend the road labeled as McCaller Lane (f/n/a Keuka Road) and Plan title as Modification of Hosmer Meadows Subdivision Plan; McCaller Lane (f/n/a Keuka Road)
7. **Prior to the commencement of any site work**, the Applicant shall record with the Middlesex South Registry of Deeds the Definitive Modification Plan and this Decision. The Applicant shall provide the Town Planner, Town Engineer, Natural Resources Director and Building Inspections Division a complete full size set of prints of the recorded Plan and Decision. If at any time the construction of the fifth lot is not in compliance with this Certificate of Approval and/or the Subdivision Rules and Regulations, the Board may order that work on the subdivision be stopped and request that the Building Commissioner defer the issuance of any Building Permits or Certificates of Occupancy until the non-compliance is corrected.

8. **At each of the following phases or steps in the construction**, the Applicant shall be required to have inspected by the design engineer with a stamped certification letter submitted to the Engineering Division stating that the work has been completed within substantial compliance with the approved design and specifications:
 - a. Following installation of all underground drainage and utilities, prior to backfilling;
 - b. Following completion of all improvements and installation of bounds.
9. **Prior to the issuance of a Building Permit**, the Applicant shall submit to the Engineering Division and the Building Inspections Division a grading and drainage plan stamped by a professional engineer that shows the grading, roof drains and subsurface infiltration system required to prevent runoff to adjacent properties. Roof Drains shall be connected to the infiltration system per stormwater calculations.
10. **Prior to the issuance of a Building Permit**, the Applicant shall submit to the Health Division for review and approval an individual sewage disposal systems designed, permitted and constructed in accordance with :
 - a. Title 5 of the State Environmental Code, 310 CMR 15.000, Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage, and;
 - b. Concord Board of Health Regulation, Minimum Requirements for the Disposal of Sanitary Sewage in Unsewered Areas.
11. **Prior to the issuance of a Building Permit**, the Applicant shall receive approval from the CMLP Meter Supervisor for the proposed metering location.
12. **Prior to the issuance of the Certificate of Occupancy**, the Applicant shall provide CMLP a suitable utility easement for the proposed electrical underground distribution system including Town fiber communication system. The easement shall be reviewed and approved by CMLP prior to recording. The Applicant shall record all easements with the Middlesex South Registry of Deeds and provide copies of the recorded documents to CMLP and the Building Inspections Division. It is noted that the individual underground electric services are owned and maintained by the property owner and will require approval from the Town of Concord Electrical Inspector
13. **Prior to the issuance of the Certificate of Occupancy**, the Applicant shall install to the satisfaction of the Fire Department "No Parking This Side of the Street" signs on the northern side of the street prior to the driveway entrance to the fifth lot.
14. **Prior to the issuance of the Certificate of Occupancy**, the Applicant shall provide to the Building Inspections Division and Engineering Division for review and approval a final grading plan for the lot showing it has been completed in accordance with the Definitive Plan, and the entire lot recovered with topsoil for an average depth of at least six (6) inches, except for that portion of the lot where the grade has not been changed or the vegetation seriously damaged. The topsoil shall be stabilized by seeding and/or sodding.
15. **Prior to issuance of the final Certificate of Occupancy**, the Applicant shall submit to Engineering, CMLP, Building Inspections Division and the Town Planner an As-Built Plan showing all the constructed site improvements including, bounds and monuments, utilities and all drainage system components such as but not limited to pipe sizes, slopes and inverts, detention volumes and structures,

roof leader locations, perforated pipe/sub drain information, etc. To ease review, a written narrative certified by a Professional Engineer shall be submitted with the As-Built Plan outlining all variations between the permitted plan and as-built conditions. One hard copy and one electronic copy, in the form of both CAD and PDF Files, shall be provided.

16. The Board reserves the right to make modifications and amendments to the Plans and specifications approved herein, after written notice to the applicant and to owners of lots in the subdivision, provided that in the opinion of the Board any such modifications and amendments are consistent with the character of the land being subdivided and with the Town generally. However, if the Board determines that the modifications and amendments represent a substantial change, the Board's approval will not be granted prior to a noticed public hearing.