

Minutes of the Planning Board Meeting of June 28th, 2022

Pursuant to a notice and agenda filed with the Town Clerk, the Planning Board met at 7:00 p.m. on June 28, 2022, in-person and virtually via <https://zoom.us>. The meeting was recorded and will be available on the Minuteman Media Network.

At 7:00 p.m. Vice Chairman Bosdet opened the meeting. Members present in person were Mr. Bosdet, Ms. Miller, Ms. Felshin, Mr. Boardman, Ms. Orvedal and Mr. Giddings. Town Planner Hughes was present.

Public Hearing, Definitive Subdivision Plan, Sunnyside Lane

The Chair reconvened the Public Hearing for the application of AWMW, LLC for a Definitive Subdivision Plan for the improvement of Sunnyside Lane and the creation of four new lots, parcels 2088, 2089, 2092, 2092-1, and 2093. Ms. Felshin recused herself from this hearing on the grounds that she is an abutter to the property.

The Applicant Mark White and Molly Obendorf of Stamski and McNary appeared for the hearing. Ms. Obendorf gave an overview of the revised plans and stormwater drainage that have undergone review and a draft decision was provided. Town Planner Hughes reviewed the draft decision, the revisions made by Town staff and the conditions. The Engineering Division requested information regarding the peak rate of traffic on Laws Brook Rd. The Natural Resources Division has requirements regarding native plantings and a mowing schedule for infiltration basin. The Fire Department requires that the applicant submit a 241 Construction Fire Safety Plan. The Health Division requires an as-built plan for the on-site sewage disposal system for review. The Building and Inspections Division requires a final grading plan for each lot. The Town Planner requires copies of all executed Trustee training affidavits.

Mr. Bosdet asked for clarification on the requirements made by the Natural Resource Division and the Town's Tree Preservation Bylaw. Town Planner Hughes provided clarification and stated that the areas under the jurisdiction of Natural Resources Commission are not subject to the Tree Preservation Bylaw.

Mr. Giddings asked how the trustees are appointed for the homeowner's association. Ms. Hughes stated that it was up to the Applicant when he creates the association documents. Mr. White stated that the homeowner's association will be represented by the eleven homeowners on Sunnyside Ln. and that initially, the trustees will be volunteers, not elected members. Until the subdivision roadway is complete, Mr. White will serve as the trustee.

With no further comments from the Board, the Chair asked for public comment.

Ms. Felshin of 19 Sunnyside Ln had questions concerning the future of the road remaining a private way. Town Planner Hughes and the Board discussed the language in the decision concerning this matter. The Board determined that they would adjust the language in the decision so as not to discourage future owners from undergoing the process of making the road a public way.

Ms. Felshin asked for clarification on the matter of the maintenance responsibilities of the on-site and off-site drainage system. Mr. White clarified that the responsibility falls to the trustees

of the homeowner's association of the six lots that he owned, and the existing abutting property owners would not be required to pay for the maintenance of the stormwater drainage, other than to mow the swale in their front yard. Town Planner Hughes confirmed that the responsibilities for the drainage systems will be outlined in the homeowner's association document. Ms. Felshin asked if there would be anything in the homeowner's association document binding the owners to transfer responsibilities to future owners. Ms. Hughes stated that the homeowner's association documents are recorded with the deed on the property and are transferred with the sale of the lot.

Ms. Miller moved to endorse the Definitive Subdivision Plan application of AWMW, LLC for the improvement of Sunnyside Lane and the creation of four new lots, parcels 2088, 2089, 2092, 2092-1, and 2093 based on the Board's findings, and conditions of approval in the decision as amended. Mr. Boardman seconded the motion with all voting in favor (Ms. Felshin had recused herself).

Approval Not Required Plan, 361 & 383 Simon Willard Road; #1793-2 & 1793-3

The Town Planner gave an overview of the proposed changes to the property boundary lines that divide 361 and 383 Simon Willard Road. She noted that both lots are conforming as to area and frontage.

Mr. Giddings asked if there was a requirement to notify abutters about an ANR plan. Ms. Hughes confirmed there was none.

Mr. Boardman moved to endorse the plan by Snelling and Hamill Associates Inc. titled "Plan of Land of Concord Massachusetts for Alexander and Nichole Keeley and Thomas and Joan Darcy" dated April 27, 2021 as Approval Not Required because the plan is not a "subdivision" because it shows a proposed conveyance which changes the size and shape of the lots in such a manner that frontage is not affected and authorize the Chair, Clerk or Town Planner to endorse the Plan. Mr. Bosdet seconded the motion with all voting in favor.

Planning Board 2022-2023 Goals & Projects Discussion

Town Planner Hughes stated that she was not able to finish the list of goals for the Planning Board and was therefore unable to present them for discussion at this time.

Thoreau Depot Business District Zoning Discussion

Ms. Hughes noted the public comments they received in the past concerning the Thoreau Depot Zoning Bylaw Amendment and the combined business residence section. The Board discussed the combined business residence provision of the Zoning Bylaw amendment as it pertains to the existing combined business residence section.

Mr. Giddings asked about zoning to meet the MBTA Communities requirement. Town Planner Hughes stated that is a separate conversation that will have to take place after DHCD releases the final guidelines. She noted that depending on the requirements, the Town may not be able to meet them due to sewer capacity and/or the community may not want to change zoning to comply.

Ms. Miller asked when information regarding the new housing production plan and their 40B requirements would be released as both would give the Board a rationale for moving ahead with something in housing. Ms. Hughes stated that the update to the Housing Production Plan update was still on-going but thought it would be done by the end of the year; however, it was contingent on the final 2020 Census information and the Subsidized Housing Inventory updated being released.

Ms. Felshin stated that the Board should not wait for the updated HPP because it would take some time for a new article on the warrant to pass and modify the ability to build affordable housing and even longer before it was permanently built. Mr. Bosdet felt that having the mixed-use component as a standalone for all business districts would eventually lead to a situation where it is the worst of both worlds as these districts do not have any of the setback guidelines that were part of the previous year's Thoreau Depot Zoning Bylaw Amendment warrant article.

The Board and Town Planner Hughes discussed the comments they received concerning the Thoreau Depot Zoning Bylaw Amendment such as height, traffic analysis and the fiscal impact of the amendment. Town Planner Hughes noted that these would be difficult for the Board to address since it would require the hiring of a consultant. She noted there was a lack of public understanding that zoning is a framework and allows for many different uses which makes performing any type of analysis difficult. The Board discussed having a rendering created to show the public what the land use could be right now under current zoning. They also discussed the open space requirement and the possibility of proposing an overlay district. Town Planner Hughes confirmed the Board could do so, but they would be starting from scratch. The Board addressed the component of building in the potential for more affordable housing and the permitting issues concerning site plan review versus special permits.

The Board agreed to have Town Planner Hughes create a mockup amendment that would incorporate the open space and the affordable housing components from the TDB District Zoning Amendment into the current provision of the Combined Business Residence section.

Don Kupka of 39 Devens St. stated that a large component of the value of any land is its zoning and the difference between Thoreau Depot and other parcels is that it currently has a low valuation. However, if you zone it for three to four stories of market rate housing the value of the land increases. He asked the Board to consider if they are helping by multiplying the value costs of the land to the point that no affordable housing can be built.

Mr. Bosdet thanked Mr. Kupka for his comments and added that under the current zoning there is no potential for any affordable housing to be built. The goal is to find the balance between the value of the property and the costs associated with building affordable housing.

Rich Feeley of 347 Lexington Rd. stated that he is president of the Concord Housing Foundation and member of the Municipal Affordable Housing Trust. He offered suggestions on the issues surrounding the proposed amendments as they relate to the historical aspect of the railroad tracks, traffic, and the height requirement. He asked the Board if the Concord Housing Foundation could hold a meeting and discuss Thoreau Depot with members of the public.

Ms. Miller stated it would be helpful at the next Town Meeting to show that they have the support of the Affordable Housing groups in Town.

Scott Robinson of 143 Elsinore Street asked why anyone purchasing the property in the Thoreau Depot would move to mixed use where they stand to make more money as a commercial property.

Town Planner Hughes stated that a mixed-use business residence can be financially viable and there are examples of that all over the Commonwealth. The issue with Thoreau Depot is the existing Zoning Bylaw and its requirements which make it financially infeasible.

Planning Board Liaison/Town Planner Updates

Town Planner Hughes stated that they received notification from the Governor and the Lieutenant Governor that the Town of Concord was awarded \$407,000 in MassTrails Grant funding for the Assabet River Bridge and Trail Project. The project can now be scheduled in a specific year in the Transportation Improvement Program for construction funding, which due to the pandemic is now estimated at \$6 million.

General Public Comment

The Chair asked for public comment and there was none. With no further business, the Chair adjourned the meeting at 9:03 p.m.

Documents presented which are on file in the Planning Division Office at 141 Keyes Road, Concord, MA.

- Definitive Subdivision Plan application of AWMW, LLC for the improvement of Sunnyside Lane and the creation of four new lots, parcels 2088, 2089, 2092, 2092-1, 2093.
- Approval Not Required Plan, 361 & 383 Simon Willard Road; #1793-2 & 1793-3

Approved by the Board: August 23, 2022