

Swansea Planning Board
Virtual Zoom Meeting
68 Stevens Road
Swansea, MA 02777



APPROVED

4/5/21
KH

Minutes
March 1, 2021

Members Present: Chairman: Scott Adams
Vice Chairman: Robert Medeiros
Clerk: Tim Cabral
Greg Denis

Staff: John Hansen – Town Planner

Chairman Adams opens the public meeting at 6:30 PM.

Roll Call:

Tim Cabral – Present
Robert Medeiros – Present
Greg Denis – Present
Scott Adams – Present

Chairman Adams reads the following:

The Swansea Planning Board will record the proceedings of its meeting via Zoom this evening. Any member of the audience who wishes to do so, also, should state his intention at this time.

Form A:

2135 GAR Highway – Map: 37 Lot: 2

Shawn Ainsworth of Insite Engineering was present to represent the applicant. This is an existing site that is currently being used as offices. The applicant has an encroachment in the rear of the property where he is looking to install garages. My client purchased property from Diamond Ledge to help with setbacks in the rear. Diamond Ledge still has 10-acres located in the rear of their site. This is a transfer of land only stated Shawn Ainsworth.

MOTION by Mr. Medeiros to APPROVE. SECONDED by Mr. Denis. Roll Call: Scott Adams Yes, Tim Cabral Yes, Robert Medeiros Yes and Greg Denis Yes. James Hanley Abstained.

James Hanley enters the meeting at 6:35 PM. He entered the meeting during the end of the Form A review for 2135 GAR Highway so that is why is abstained from the vote.

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Exhibit:

1. Form A Plan of property located at 2135 GAR Hwy (Map 37, Lot 2) prepared for George Khoury dated 2/16/21 prepared by InSite Engineering Services

Form A:

174 Swansom Road – Map: 67 Lot: 43:

Alex Gorodetsky was present to represent the applicant. This is part of the subdivision that the Planning Board has already approved. We are looking to separate this lot from the subdivision. This lot has the existing house located on it. There is a 40-foot right-of-way in place for Map: 67 Lot: 43 from 2002. Mr. Hansen stated that if the 40-foot right-of-way was not approved, the frontage would be considered non-conforming. The frontage would only be conforming with the 40-foot right-of-way recorded.

MOTION by Mr. Cabral to APPROVE. SECONDED by Mr. Hanley. Roll Call: Scott Adams Yes, Tim Cabral Yes, James Hanley Yes, Greg Denis Yes and Robert Medeiros Yes.

Exhibit:

1. Form A Plan of property located at Swansom Road (Map 67, Lot 43) prepared for Frederick Ducharme, Jr dated 1/25/21 prepared by Gorodetsky Engineering

Stormwater Management Permits:

Millers Lane ANR Parcels 2 & 3 – Map: 31 Lot: 3:

Dan Aguiar of SITEC Engineering was present to represent the applicant. This plan has been reviewed by the Planning Board's review consultant GPI and all comments have been addressed. This property was approved with two Form A lots by the Planning Board about one year ago. A drainage analysis was done. This is the first plan under this new bylaw stated Dan Aguiar. We analyzed both lots for existing and proposed runoff. Clean roof runoff will recharge into the ground with overflows at the downspouts. Soil analysis was also done. There were not good soils at this site. Large infiltration systems will be in place with all clean roof runoff running into the chambers from the roof drains. Drywells will also be in place stated Dan Aguiar. We feel that this reviews the guidelines of the new bylaw stated Dan Aguiar.

This was a very expensive review for two single-family homes to be constructed stated Dan Aguiar. Maybe moving forward, the board might want to come up with a more streamline process. Scott Adams stated that for these two ANR Plans, in my opinion, the stormwater review does not have to be this extensive. Tim Cabral stated that for a homeowner to go through this expense is crazy. We do need something boiler plate in place.

Motion by Mr. Medeiros to APPROVE as submitted. SECONDED by Mr. Denis. Roll Call: Scott Adams Yes, Tim Cabral Yes, Robert Medeiros Yes, Greg Denis Yes and James Hanley Yes.

MOTION by Mr. Cabral to RECESS the regular Planning Board meeting and OPEN the public hearings. SECONDED by Mr. Hanley. Roll Call: Scott Adams Yes, Tim Cabral Yes, Robert Medeiros Yes, James Hanley Yes and Greg Denis Yes.

Exhibits:

1. Letter from GPI to John Hansen – Re: Millers Lane ANR Parcels 2 & 3 – Peer Review (2nd Letter) GPI Project No. MAX-2018199.06 dated 2/17/21
2. Letter from CEC to John Hansen – Subject: Site Civil Engineering Peer Review; Millers Lane ANR Parcels 2 and 3 dated 1/27/21
3. Site Plan of Lane – ANR Parcel 3, APO Map 31 Lot 3 dated 1/29/21

Public Hearing:

Definitive Subdivision Arthur D. Sylvia, 211 Locust Street (AP 28, Lot 6A):

Tim Cabral reads the following:

In accordance with the provisions of MGL Chapter 41, Section 81T, the Swansea Planning Board will hold a virtual public hearing on March 1, 2021, at 6:45 PM, via Zoom, on the application of Arthur D. Sylvia, 211 Locust Street, Swansea, Massachusetts, for approval of a Definitive Subdivision Plan with a frontage waiver entitled “Division of Land Plan” located at AP. 28, Lot 6A, 211 Locust Street, Swansea, Massachusetts. The plan proposes the creation of one (1) lot. A copy of the plan and application may be requested via email from John P. Hanse, Jr., AICP, Town Planner at jhanse@town.swansea.ma.us. Any person wishing to be heard on the above application should request via email from the Town Planner the Zoom instructions for the hearing.

Bob Berube of Pro-Line Engineering was present to represent the applicant. Bob Berube stated that we are proposing to divide the property into two lots. In 1985 Mr. Silvia’s mom owned the property and the land was divided. Arthur Silvia bought Parcel 1 and in 1988 he bought Parcel 2 from his mom to build on but never did. The Zoning Board of Appeals granted the approved to recreate the lots with the reduction in frontage.

Mr. Silvia intends to build his house on Parcel 2 and his daughter will live at 211 Locust Street. Easement in place from the 1800’s located towards the left side of the property. This easement is to access the property located at 211 Locust Street. There is a stream and pond in place located on this property. Access will be from Locust Street over their own frontage. Perc tests were done with the Board of Health and passed stated Bob Berube. The state stated that 200-feet was determined where the stream starts with a large area they marked as a pond. Mr. Hansen stated this is a unique situation and stated the following: The above-mentioned applicant wishes to subdivide a lot whose frontage is less than that allowed by the Zoning Bylaw at the address above. In order to do so, a two-step process is required. A ZBA variance must be granted, which has already been done, and a waiver must be granted by this board. One approval does not imply that the second will be granted since they both require separate findings by the relevant boards. The Planning Board must find that the waiver would: 1. Be in the public interest and 2: Not be inconsistent with the intent and purpose of the Subdivision Control Law.

Questions to ascertain how this request meets these two findings include: How is this

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situation unique? What makes the circumstances different from every other piece of land in town? Why should it have any different consideration than every other parcel? How would granting this waiver not be unfair to every other property owner that still needs to follow the subdivision control law?

Bob Berube stated that we did the plan this way to meet the original approved plan from 1985. Mr. Cabral questioned if the lot is located in the Aquifer District? Bob Berube stated Parcel 1 is located in the Aquifer and Parcel 2 is outside of the Aquifer.

There were no public comments.

Mr. Hansen stated in 1991 this plan came before the Planning Board to eliminate the lot line and the board approved an ANR Plan.

MOTION by Mr. Medeiros to CLOSE the public hearing. SECONDED by Mr. Cabral. Roll Call: Scott Adams Yes, Tim Cabral Yes, Robert Medeiros Yes, James Hanley Yes and Greg Denis Yes.

MOTION by Mr. Cabral to APPROVE. SECONDED by Mr. Medeiros. Roll Call: Scott Adams Yes, Tim Cabral Yes, Robert Medeiros Yes, James Hanley Yes and Greg Denis. Yes.

Exhibits:

1. Memo from J Hansen to the Planning Board dated 2/5/21 – Re: Sylvia – 211 Locust St – Frontage Waiver
2. Plan for Arthur Sylvia @ 211 Locust Street (Map 28, Lot 6-A) created by Pro-Line Engineering dated 1/13/2021

Public Hearing:

Proposed Zoning Bylaw Amendments:

Mr. Cabral started to read the public hearing notice but the board made the following motion.

MOTION by Mr. Medeiros to WAIVE the full reading of the public hearing notice. Seconded by Mr. Hanley. Roll Call: Scott Adams yes, James Hanley Yes, Greg Denis Yes and Tim Cabral Yes.

Mr. Hansen stated that the town pulled this article from the town meeting warrant due to the pandemic and this article was a non-money article. The board has already reviewed and approved the changes to the bylaw. There were no public comments.

Exhibit:

1. Amendments to Zoning Provisions for Lot Irregularity

MOTION by Mr. Hanley to CLOSE the public hearing. SECONDED by Mr. Denis. Roll Call: Scott Adams Yes, Tim Cabral Yes, James Hanley Yes, Robert Medeiros Yes and Greg Denis Yes.

Motion by Tim Cabral to recommend approval of the articles. SECONDED by Mr. Hanley. Roll Call: Scott Adams Yes, Tim Cabral Yes, James Hanley Yes, Robert Medeiros Yes and Greg Denis Yes.

MOTION by Mr. Medeiros to REOPEN the regular Planning Board meeting. SECONDED by Mr. Hanley. Roll Call: Scott Adams Yes, Tim Cabral Yes, James Hanley Yes, Robert Medeiros Yes and Greg Denis Yes.

Deliberation and Decision:

Special Permit for Drive-Through Facility – 711 GAR Highway, Burger King:

Please refer to Site Plan Review discussion below.

Site Plan Review:

711 GAR Highway – Burger King Site Improvements:

Joey Fonseca of Bohler Engineering was present to represent the applicant. Joey Fonseca reviewed the following comments from the board that were addressed from comments at the last Planning Board meeting.

- Comment 1 – Increase the rear arborvitae plans to 7 to 8 feet and stagger.
Response: A revised landscaping plan was submitted showing Emerald Green Arborvitae plants at 7 to 8 feet in height being proposed to be planted. There has also been a note added that these shall be planted so that there is foliage contact.
- Comment 2 – Inspect Rear Fence to see if the fence needs to be replaced?
Response: Pictures of the existing fence were shown to the board showing the fence in good condition and only one board will need to be repaired.
- Comment 3 – Submit cut sheets for order board speakers and volume levels.
Response: Cut sheets and volume levels were provided to the board for their review. With the automatic volume control, audio levels are 36dB @ 16-feet. The rear fence is approximately 17.6 feet from the speaker.
- Comment 4 – Hours of Operation for the restaurant
Response: The hours of operation are as follows:
Monday – Thursday – 7:00 AM to 12:00 AM
Friday – Saturday – 7:00 Am to 1:00 AM
Sunday – 7:00 AM to 11:00 PM

Steven Vann, Operation Manager of Burger King was present via zoom. Mr. Vann stated that he encourages the board to visit the site. There will be no concern with the level of notice from these new menu boards. This operation

will not be open until 12:00 AM stated Mr. Vann. Hours of operation are Sunday thru Thursday 7:00 AM to 11:00 PM and Friday thru Saturday 6:00 AM thru 11:00 PM. Mr. Adams stated that usually there is a volume control located on the menu boards that can be lowered. We have to take what is being presented before us tonight under consideration. Mr. Hansen questioned if they considered closing the northerly order board at a certain hour? Steven Vann stated that Burger King would definitely have an issue with that. Volume of traffic after 8:00 PM is not high. Majority go to the inside isle anyway. We don't intend to shut down the second isle stated Mr. Vann. We won't move forward with the project with that restriction stated Mr. Vann.

- Comment 5 – Photometric plan showing new LED heads on the light poles along with shields where needed – along the rear of the property.
Response: Photometric Plan was submitted to the board prepared by EnergyWise Solutions. The existing light pole fixtures will be replaced with LED units and shielded at the rear. Due to the limitations in the software, the analysis at the rear of the parcel does not factor the shield being installed. The manufacturer mentions that the shields will drop the values by at least 50% along the rear parcel boundary.
- Comment 6 – Need to look at existing Pylon Sign. If it doesn't meet current zoning standards, will need to either apply for a sign variance or reface or you can propose a compliant sign to avoid zoning.

Response: Bohler Engineering has reached out to the sign vendor and will address the sign issues with the Building Department.

- Comment 7 – Can the cross-access curb cut be widened?
Response: The abutting parcel owner will only allow for a 10-foot wide opening. The plans have been revised to include sloped curbing.

Mr. Adams stated that I still have concerns regarding the curb cut. I am very uneasy about this. I did circulate this to other engineers and also requested the opinion of our Town Engineer. The Town Engineer mentioned in an e-mail that if the Planning Board would entertain, he would like to see a minimum of an 18-foot opening. My concern there is there is a lot of turning movements at this site stated Mr. Adams. Did McMann Associates review this opening and do they feel it would be an adequate opening questioned Scott Adams? Joey Fonseca stated that McMann Associates did review and did the traffic analysis and the 10-foot opening has always been proposed. A wider driveway opening would invite 2-way traffic and that in my opinion would worsen the situation stated Joey Fonseca.

Mr. Vann stated that I requested to have this opening. I spoke with the previous owner and during lunch hours cars got stuck at the drive-thru when cars were trying to leave the site and take a left. There was stacking at the drive-thru. This relief valve is a game

changer for us stated Mr. Hanley. This is the first that we are hearing about the issue with the drive-thru. Mr. Hanley questioned if this is the first that we are hearing of this? If we can't move traffic between 12:00 and 1:00 it is a game changer stated Mr. Vann. That is why they closed the last time. This is an escape lane for us especially between the hours of 12:00 and 1:00. We need another way for cars to escape stated Mr. Vann. Joey Fonseca stated that access was for two-way issues with the site. We have not run a truck turn through there. Slope curbing will assist and this is just a relief valve and not a lot of traffic will be passing through. We have to have the escape lane for the 12:00 to 1:00 lunch hour so we don't have the backlog of traffic stated Mr. Vann. You are saying, that vehicles can make this turn? We will angle the access towards the drive-thru opening still leaving the 10-foot opening. Our intention is to put in angle opening going towards the drive-thru with escape route. We need to direct the vehicles where to go stated Mr. Adams. Stripping should be added so they don't block the curb cut for the gas station.

Mr. Adams stated that he would like to have the following conditions placed on this site: The Swansea Planning Board reserves the right for one-year after the issuance of a Certificate of Occupancy if we receive a number of accidents from the Police Department have been happening in this area. We would have the right to revisit the approved site plan and close the opening. Mr. Vann stated that he would be in agreement to that condition. We have a mutual agreement with the gas station stated Mr. Vann. This opening is for our peak hours of business between 12:00 and 1:00 and the owner of the gas station can close off this cut through stated Mr. Vann.

Robert Medeiros stated that angling the entrance towards the drive-thru is a good idea and shifted to the north.

Motion by Mr. Hanley to APPROVE the Special Permit with the following CONDITIONS:

1. The Fence and landscaping along the rear property line is to be permanently maintained.
2. Vehicular connection to the western abutting property (737 GAR Highway) shall be re-configured to a 45-degree angle allowing an easier turning movement from the drive-thru. This connection shall be shifted to the north, if possible. These revisions shall be reviewed and approved by the Town Planner.
3. The Planning Board reserves the right to review said connection referenced in condition #2 above within the first year of operation if unsafe conditions exist, as evidenced by any accident reports from Town public safety officials.
4. The easterly ingress/egress of 737 GAR Highway shall be striped to demarcate safe entering and existing vehicular movements.
5. Decibels levels of the northerly order board shall not exceed 36 dBA.

SECONDED by Mr. Cabral. Roll Call: Scott Adams Yes, Tim Cabral Yes, James Hanley Yes, Robert Medeiros Yes and Greg Denis Yes.

MOTION by Mr. Hanley to APPROVE the Site plan with the following CONDITIONS:

1. Deliveries and dumpster pick-ups shall not be conducted during operational hours, which are Monday thru Thursday 7:00 AM to 12:00 AM; Friday 7:00 AM to 1:00 AM; and Sunday 7:00 AM to 11:00 PM.
2. No backing up of delivery/dumpster pick-up vehicles onto Route 6 are allowed.

SECONDED by Mr. Medeiros. Roll Call: Scott Adams Yes, Tim Cabral Yes, James Hanley Yes, Robert Medeiros Yes and Greg Denis Yes.

Exhibits:

1. Letter from Bohler to J. Hansen – Re: Public Hearing Comment Responses, Existing Burger King Site Improvements, 711 GAR Hwy, Swansea, MA – Map 75, Lot 28A
2. Plans from Bohler dated 2/17/21
3. Special Permit Decision - Draft

MOTION by Mr. Cabral to REOPEN the regular Planning Board meeting. SECONDED by Mr. Hanley. Roll Call: Scott Adams Yes, Tim Cabral Yes, James Hanley Yes, Robert Medeiros Yes and Greg Denis Yes.

Minutes:

February 1, 2021:

MOTION by Mr. Hanley to APPROVE the minutes of February 1, 2021. SECONDED by Mr. Medeiros. Roll Call: Scott Adams Yes, James Hanley Yes, Greg Denis Yes Robert Medeiros Yes and Tim Cabral Abstained.

Discussion:

Robert Medeiros Re-Election:

Mr. Medeiros stated that he has decided not to pull papers for re-election for the Planning Board. Mr. Medeiros stated that it has been a pleasure serving on the board for the past 11-years. Mr. Medeiros stated that he is also the representative for the Planning Board on the Waterfront Committee and has recently been nominated at Chairman. I would like to request that after the election I still be appointed on the Waterfront Board on behalf of the Planning Board to finishing out the project.

Patrick Higgins who was listening to the meeting via Zoom also thanked Mr. Medeiros for his years served on the Planning Board. Mr. Medeiros has always been a gentleman and professional person and I would have no issue with Mr. Medeiros continuing on the Waterfront Board representing the Planning Board. Patrick Higgins also stated that regarding the minutes, even if you don't attend the meeting, you can still approve the minutes for accuracy. You are voting on the official record. You can vote on the minutes; it is still a vote to accept the minutes as written. Mr. Higgins stated that it is a pleasure to listen and watch the Planning Board meetings. This board does a good job and are very professional. Patrick Higgins also stated to the board that the Board that the Chairman of the BOS in Sudbury was found in violation because the he did not mention

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participating remotely. The Chairman is required to note which members are present remotely. I just wanted to mention this to this board, I am not going to file an Open Meeting violation stated Mr. Higgins.

Mr. Cabral thanked Mr. Medeiros for his years of service on the board. Mr. Cabral stated that Mr. Medeiros is a true professional and will be missed. Mr. Adams also thanked Mr. Medeiros for his years of service on the board and stated that he will be greatly missed. Mr. Hanley and Mr. Denis also thanked Mr. Medeiros and stated that it was truly a pleasure serving on the board with Mr. Medeiros.

Meeting Adjourned:

Motion by Mr. Hanley to ADJOURN the meeting at 8:11 PM. SECONDED by Mr. Cabral. Roll Call: Scott Adams Yes, Tim Cabral Yes, James Hanley Yes, Robert Medeiros Yes and Greg Denis Yes.

Respectfully Submitted:



Jennifer Howard
Planning Minutes Clerk