

**MUNICIPAL LAND USE BOARD  
MINUTES  
EMERSON, NEW JERSEY  
JANUARY 9, 2014**

This meeting of the Municipal Land Use Board was held in the Municipal Building. Chairman Orecchio opened the meeting at 8:00 p.m. In compliance with the Open Public Meetings Act, the Clerk has notified all officially published newspapers of this meeting, and notice has been posted in the Municipal Building. In the case of a fire, please follow the Fire Exit signs above the doors to your right and left in the Council Chambers, and exit calmly.

**Pledge of Allegiance**

**Roll Call:**

Robert Adams	Present
Thomas Callagee	Present
Carlos Colina, Mayor	Present
John DeThomasis	Present
Gary Goursky	Present
Mark Orecchio, Chairman	Present
Germaine Ortiz	Present
Gary Schwinder	Present
Richard Worthington, Council	Absent
Christopher Martin, Attorney	Present
Berge Tombalakian, Engineer	Present
Brigette Bogart, Planner	Present
Michael Sartori, CCO/Zoning	Not Requested
Joseph Solimando, DPW	Not Requested
Kathy Rizza, Secretary	Present

**2014 REORGANIZATION**

A motion to appoint Christopher Martin, Esq. as **Board Attorney** for the year 2014 was made by Mr. Goursky, seconded by Ms. Ortiz, and carried with all in favor.

A motion to adopt the **By Laws** of the Emerson Land Use Board as they presently exist, was made by Mr. Goursky, seconded by Ms. Ortiz, and carried with all in favor.

A motion to appoint Mark Orecchio as **Chairman** of the Land Use Board was made by Mr. Schwinder, seconded by Mr. Adams, and carried with all in favor, except for Mr. Orecchio who abstained.

A motion to appoint Gary Schwinder as **Vice Chairman** of the Land Use Board was made by Mr. Goursky, seconded by Mr. Adams, and carried with all in favor.

A motion to appoint Kathy Rizza as **Board Secretary** of the Land Use Board was made by Mr. Adams, seconded by Mr. Schwinder, and carried with all in favor.

A motion to appoint Berge Tombalakian and Boswell Engineers as the Land Use Board **Engineers** was made by Mr. Goursky, seconded by Mr. Schwinder, and carried with all in favor.

A motion to appoint Brigette Bogart Planning and Design as the Land Use Board **Planner** was made by Mr. Adams, seconded by Ms. Ortiz, and carried with all in favor.

Mr. Thomas Browne (Class 2 member) and Germaine Ortiz (class 4 member) were sworn in by Attorney Martin. A motion was made to have the Mayor and Council move Mr. DeThomasis up to Alternate 1. This motion was made by Mr. Adams, seconded by Ms. Ortiz, and carried by all.

The 2014 **Schedule of Meetings** was accepted by a motion from Mr. Goursky, seconded by Mr. Adams and carried by all.

The 2014 Reorganization Meeting was adjourned on a motion from Mr. Schwinder, seconded by Ms. Ortiz, and carried.

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The application for Town and Country Developers will be carried to the next meeting with no further notice required. This was accepted on a motion from Mr. Adams, seconded by Mr. Goursky, and carried by all.

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### **Correspondence:**

A letter dated 12-10-13 from Goldian Realty, LLC regarding 205 Ackerman Avenue was received regarding an extension of time. This will be forwarded to Mike Sartori, CCO.

### **Vouchers:**

Morrison Mahoney, LLP - \$403.92 – Becker, Ghougas, and Northern Valley Developers

Morrison Mahoney, LLP - \$285.96 – DiAmbrosia and Bella's Beauty Salon

Morrison Mahoney, LLP - \$500.00 – Emerson Golf Club

North Jersey Media - \$45.01 – Bella's Beauty Salon

B. Bogart Planning and Design - \$217.50 – 20 Highland

B. Bogart Planning and Design - \$217.50 – 30 Highland

B. Bogart Planning and Design - \$253.75 – 17 Chestnut

B. Bogart Planning and Design - \$108.75 – Bella's Beauty Salon

All vouchers were approved on a motion from Mr. Schwinder, seconded by Mr. DeThomasis, and carried by all.

**Resolution:**

**Elm Terrace, LLC  
82 Locust Street  
Minor Subdivision  
Block 42, Lots 7-10**

The resolution had been read by all present. A motion to approve the resolution was made by Mr. Goursky, seconded by Mr. DeThomasis, and carried by all members listed:

Mr. Adams	Yes
Mayor Colina	Yes
Mr. DeThomasis	Yes
Ms. Ortiz	Yes
Mr. Callagee	Yes
Mr. Goursky	Yes
Mr. Schwinder	Yes
Chairman Orecchio	Yes

This resolution will be published and distributed as required. Elm Terrace, LLC is required to appear before the Mayor and Council regarding making Arthur Avenue a one-way Street.

**Houda Kesilyas  
30 Highland Avenue  
Minor Subdivision  
Block 219, Lot 23**

The resolution was read by all present. A motion to approve was made by Mr. Goursky, seconded by Mr. Adams and carried by roll call vote as follows:

Mr. Adams	Yes
Mayor Colina	Yes
Mr. DeThomasis	Yes
Mr. Goursky	Yes
Mr. Callagee	Yes
Ms. Ortiz	Yes
Mr. Schwinder	Yes
Chairman Orecchio	Yes

This resolution will be published and distributed as required.

**Continued hearing –  
Issac Degenaars  
17 Chestnut Street  
Block 405, Lot 14  
Site Plan approval with variances**

Attorney Gerald Salerno was present on behalf of the applicant. Notice has been submitted and was found to be satisfactory. The revised drawing of October 16<sup>th</sup> was received. The 2.8 acres of this property is in the IM zone. From 1956 – 2010 the building was occupied by Bell Atlantic and its successors. The building has been vacant since 2010. There will be no structure or lighting changes. They wish to occupy the building with tenants. Three tenants have backed out. There are two tenants interested in occupying the building: Charlie Blessing, a realtor with no employees and Sal Dinardi Landscape and Design. Mr. Dinardi will have offices inside and a parking area for his vehicles and equipment. Other tenants will be sought. The following variances are requested: use variance for multi tenants in an IM zone and for uses not permitted. Testimony will be presented to state that Mr. Dinardi and his business do not require a variance. A use variance for the real estate office is also requested. There is a pre-existing C variance for front and rear yard setbacks and parking.

The first witness was Charlie Blessing who was sworn in by Attorney Martin. Mr. Blessing stated that the existing structure was built in 1956 and that he has been trying to sell or rent the building since 2011. He will occupy one office to continue to sell space. Additional tenants will come back to the Board for approval. Mr. Blessing will not have any employees and will only be at this site 1-2 days a week. He will have one vehicle. Chairman Orecchio asked Mr. Blessing if he will be the leasing agent. He was told yes and also he will be the building manager and will also still try to sell the building. Mr. Tombalakian from Boswell Engineering was concerned with an email he saw from Mr. Sartori, the CCO, regarding repairs that are being done. There was a roof collapse that is being repaired. Ms. Bogart, the Board Planner spoke regarding the parking requirements. She stated that a circulation zone is needed. And should be depicted in the plans.

The second witness was Sal Dinardi of 99 Kinderkamack Road in Emerson. Mr. Dinardi was also sworn in by Attorney Martin. Mr. Dinardi has been in business for 25 years. He does landscaping and property maintenance, pavers and walls, ponds, and snow plowing. Mr. Dinardi has 19 employees – 3 in the office plus himself. The hours of operation are as follows: 9 am to 5 pm in the office, 7 am to 6 pm for outside workers and 7 am to 4pm in the summer. Mr. Dinardi has 13 trucks – a F350 a 26,000 lb. roll off. Photos were submitted as follows:

- A-1 preliminary and final site plan dated October 16, 2013
- A-2 photo of roll off truck and dump bodies
- A-3 photo of excavator, bobcat, F350, snow pusher and storage container
- A-4 photo of dump trucks and F550's with trailers
- A-5 photo of clipper and 2 storage containers
- A-6 photo of ladders and mini excavator

A-7 photo of mini excavator and sprayer

The parking layout and flow of traffic was shown to all by Mr. Dinardi. Mr. Dinardi stated that minor maintenance would be done during the day. He cuts the lawn at 17 Chestnut in addition to weeding and blowing out the lot. No chemicals will be stored at this location even though Mr. Dinardi is licensed. He will buy the chemicals as needed. All waste is removed from the site on a weekly basis. There will be no salt stored at the site – this is kept at the job sites. Snow blades are stored at the site in the summer. Mr. Dinardi plans to purchase another truck or two in the future. The containers on site will be moved inside. There will be one mechanic working inside. Mr. Goursky asked if there will be any lifts on the site. He was told no. Chairman Orecchio asked Mr. Dinardi how long he has been working from this site. He was told since June of 2012. There is a pending citation pending this decision. Noise issues were discussed. Mr. Dinardi stated that his equipment is used to clean up the site. He is not present at this location 85% of the time. Mr. Schwinder questioned the storage of the 2 transport containers in the winter. They will be stored in the trailers. It was stated that employees do not take company vehicles home. Mr. Schwinder asked if the parking lot is paved. He was told yes. Ms. Ortiz confirmed that gas is locked in the trailers. Mr. Tombalakian asked if vehicles will be in the building at night. Mr. Dinardi stated maybe a small truck or some equipment. Mr. Tombalakian requested a stripping plan, and that circulation be laid out. Mr. Schwinder asked if employees could park on Chestnut Street. This is permissible. Mr. Tombalakian stated that the debris container area should be designated. Parking was discussed in detail. Mr. Goursky asked Mr. Dinardi if he had a lease now. Mr. Dinardi stated no, just a letter of intent. He also has a letter of citation for the parking of vehicles.

The third witness was Mia Petrou, a professional Planner for the applicant. Ms. Petrou works from Fair Lawn and was sworn in by Attorney Martin after her background was given to all present and she was accepted as an expert witness. Ms. Petrou is licensed (#5694) and has been a planner for over 15 years. Ms. Petrou visited the site today and one day in June. The location of the site was described by Ms. Petrou. The following exhibits were shown:

A-9 page 1

A-10 page 2

Both are photo exhibits of surrounding properties taken in June of 2013.

The allowable uses in the IM zone include furniture repair, woodworking and wholesale sales. Ms. Petrou feels that landscaping could fit in. The size of the lot was discussed. This site is the biggest property in this zone. Ms. Petrou spoke regarding the Master Plan and the land use objectives. Lot frontages, front and rear yard setbacks and C variances were discussed. Ms. Petrou feels that 53 parking spaces are required not 55. Ms. Bogart stated that we are not sure what variances are needed. Ms. Bogart asked Ms. Petrou if, in her opinion, a use variance can be granted with the MLUL regulations. Ms. Petrou responded yes. Other questions included – can 55 spaces fit? Yes. Can the landlord give as many spaces to a tenant as he wants? Yes. The Police Department and the Fire Department will review the plans. Ms. Bogart feels that the site could be suited for this

use. Ms. Bogart feels that more buffering is needed, more fencing and landscaping also. Ms. Petrou didn't feel that would be effective. There is all macadam to the edge of the property leaving no room for landscaping. Ms. Schwinder suggested slate fencing for a sound barrier. Chairman Orecchio asked if there is a gate in the fencing on Lozier Avenue. Mr. Dinardi stated that there is an opening on Lozier Avenue. Mr. Schwinder feels access should be avoided from Lozier Avenue. There are no drainage changes proposed. Flood lights are proposed for protection. The garbage/dumpster area will be shown on the next plans. Chairman Orecchio stated the following is needed - parking and circulation plan, fire hydrants locations, and a list of variances. Mr. Adams asked if the site could be accessed during the day. Mr. Dinardi will be available to let any board member in to observe.

A motion to open the meeting to the public was made by Ms. Schwinder, seconded by Mr. Callagee, and carried by all.

Janet Schultz – 157 Hasbrouck Avenue - concerned with noise. Mr. Dinardi bangs on the dumpster with loader. Her husband is ill and the sound bothers him. Stated that the town does have a noise ordinance. Sometimes Mr. Dinardi is outside the noise ordinance limitations.

Jeanne Bovella – 155 Hasbrouck Avenue - Confirmed that new tenants would have to come back to the Board, but not a change in ownership of the same type of business. Stated that the noise can be considerable and annoying.

A motion to close the meeting to the public was made by Mr. Callagee, seconded by Ms. Ortiz, and carried by all.

This matter will be continued to February 20<sup>th</sup> with no further notice needed.

### **Any Board Member:**

All members welcomed Tom Browne as a new member of the Land Use Board.

### **Good and Welfare:**

Nothing at this time.

**The meeting was opened to the public** on a motion from Mr. Goursky, seconded by Ms. Ortiz, and carried. With no one from the audience wishing to be heard, **the meeting was closed to the public** on a motion from Mr. Adams, seconded by Ms. Ortiz, and carried by all.

**The meeting was adjourned** on a motion from Mr. Adams, seconded by Mr. Goursky, and carried by all.

Respectfully Submitted,

Kathleen S. Rizza, Secretary