

**MUNICIPAL LAND USE BOARD MINUTES  
BOROUGH OF EMERSON  
JULY 17, 2014**

This meeting of the Emerson Land Use Board was held in the Municipal Building. Chairman Orecchio opened the meeting at 8:15 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 fire you will be instructed to follow the fire exit signs above the doors to the right and left of the Chambers, and exit calmly.

**Pledge of Allegiance**

**Roll Call**

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

**Minutes** of June 19, 2014 were approved, as amended, on a motion from Mr. Schwinder, seconded by Mr. Wallace, and carried.

**Vouchers**

North Jersey Media – Kesilyas \$23.90

Zeller \$23.90

Colin \$23.90

Gramco - \$75.00 - Land Use Board portion

Boswell Eng. - \$207.55 - Zoning Map preparation

Morrison Mahoney - \$2,000.00 - 2<sup>nd</sup> and 3<sup>rd</sup> qtr. Retainers

The above vouchers were approved on a motion from Mr. Adams, seconded by Mr. DeThomasis, and carried by all.

### **Correspondence**

none

### **Resolutions:**

**Stephanie Clark**  
**90 Jefferson Avenue**  
**Fence**

**A motion to approve the resolution** was made by Mr. Schwinder, seconded by Mr. Callagee, and carried by roll call vote as follows:

Mayor Colina	Yes
Mr. DeThomasis	Yes
Mr. Wallace	Yes
Mr. Callagee	Yes
Mr. Schwinder	Yes
Chairman Orecchio	Yes

**Liberty Subaru**  
**39 Kinderkamack Road**  
**Minor site plan approval for certificate of occupancy**

**A motion to approve the resolution** was made by Mr. Schwinder, seconded by Mr. DeThomasis, and carried by roll call vote as follows:

Mr. Adams	Yes
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Mr. Callagee	Yes
Mayor Colina	Yes
Mr. Wallace	Yes
Mr. Schwinder	Yes
Mr. DeThomasis	Yes

**The above resolutions will be published as required.**

**New Application:**

**Emerson Affordable Housing, LLC  
For Veteran Housing – 324 Main Street  
Block 304 Lot 3**

Holly Schepisi of Schepisi and Associates was present as the Attorney for the applicant. All notice and proof of publication was found to be satisfactory by Board Attorney Martin. The applicant is proposing 14 units of veteran/senior housing at 324 Main Street. The applicant is bifurcating this application in order to meet funding deadlines. At this meeting a use variance is requested. The Architect, the Engineer/Planner and the Sponsor are in attendance. Campus style housing is proposed with 7 single story units on 1.6 acres. The units will be 1,296 sq. ft. each with 2 residences each – 648 sq. ft. each residence. There will be 1 bedroom, 1 bathroom and a shared patio for each residence. The Legion building in the front of the property will remain and will be deemed historic. The parcel is oversized and tax exempt at this time. There will be no children so there will be no impact to the school system. Attorney Martin stated that if single-family housing is requested then a use variance is not required.

The first witness was John Biale of the County Housing Development Corp. He was sworn in by Attorney Martin. Mr. Biale is the Director of Development of the Bergen County Housing Authority and he has served as Commissioner and Trustee in the past. The principal use will be for veterans or seniors with services being provided if needed. Disabled veterans will also be included. If not enough veterans apply then the process will be opened up to seniors. The applicants do not have to be senior veterans. There will be an income requirement. Regarding deed restrictions the Board was assured that it would be in

writing that the land is to be used for senior/veteran housing forever. The property will be owned by the Housing Authority not the American Legion. The local DPW will not have to take care of the roads in snow – the Housing Authority has their own staff for this purpose. Mr. Schwinder asked if there would be help for the residents with grocery shopping and doctor appointments. Mr. Biale stated that Social Services would be involved along with Meals on Wheels, and other organizations. Mr. Schwinder also asked if there are any other similar facilities in the area. Mr. Biale stated that this is a first for this area of Bergen County. Mr. Biale stated that the Housing Authority picks the residents. The Authority will enter into a pilot agreement with the Borough for payment in lieu of taxes. There will not be a preference to Emerson residents. Everything goes by COAH regulations. Mr. Schwinder asked if Section 8 housing people would qualify. This will be checked with COAH. There will be one person per unit, although a couple could live in one unit. Mr. Adams asked if the deed restriction would state no children. Mr. Biale stated that you cannot deed restrict children, but there probably will not be any children. If any mental help is needed for the residents that Catholic charities will be utilized. Mr. Schwinder asked the formula for payment in lieu of taxes. He was told 6.28% of revenue for the year is the standard. This money is paid by the Housing Authority to the Borough. The American Legion will still have access to the main building and the membership will grow and preservation will be done. If the building were rented out the money would be separate from the town money and would go to the American Legion. Garbage will be taken care of by the Housing Authority. The only municipal services needed would be emergency and sewer.

The Architect, Edward Arcari, was next to speak. He is from One Katherine Street in Little Ferry. Mr. Arcari is a licensed Architect in NJ and has previously testified in front of many boards. He has been an Architect for 25 years. Mr. Arcari was accepted as an expert witness and sworn in by Attorney Martin. Exhibit A-1 dated 7-7-14, the site plan, was shown to all. This exhibit shows the floor plans, elevations and renderings of the outside of the units. There will be clapboard siding, asphalt roofs, and Anderson windows. The buildings possibly will be sprinkled, although not required. The units will be wood frame on a slab. There will not be basements or crawl spaces. All units will be ADA accessible. Mr. Schwinder asked if a fire truck could maneuver the

site. The Fire Dept. will have to comment in the future. The development will fully comply with rear and side yard setbacks. Chairman Orecchio stated that a variance would have to be requested for garages. Mr. Schwinder stated that each unit cannot look the same and that he would like each unit to look differently. There will be a 16 foot roof height with 18-19 linear feet of closets. There will be no attic storage. There will be a dumpster from which the garbage will be picked up.

The next witness was Mr. Harry N. Tuvel of 629 Ridge Court in Ridgefield, NJ. He is a licensed Engineer/Planner. Mr. Tuvel was sworn in by Attorney Martin. He has been a Planner since 1987 and an Engineer since 1980. Mr. Tuvel was accepted as an expert witness. He submitted Exhibit A-2 – a colorized version of the site plan. There will be 20 parking spaces including 7 handicapped spaces. All bulk and yard requirements were reviewed. A variance for parking is requested for 20 spaces where 26 would be required in a single-family zone. A use variance under D-1 is requested. The site is suitable and compliments and preserves the existing use. Mr. Tuvel stated that the proposed is consistent with the Borough ordinance. Regarding negative criteria, Mr. Tuvel stated that there is no detriment. The development maintains residential use and there will be no traffic impact. Mr. Tuvel stated that this development might satisfy the Borough's COAH obligation. Chairman Orecchio is concerned with parking. The public building may need parking. Mr. Tuvel stated that his count of 20 spaces includes spaces for the main building. He also stated that this type of development does not demand the same parking as other developments. Mr. Adams asked if there are enough residential spaces. Attorney Schepisi stated that this could be reconfigured. Borough Engineer Tombalakian asked if there is enough parking if there is something going on at the American Legion building. It was suggested to add parking to the northwest side of the property. This will be considered since Mr. Schwinder stated that the site gets congested with an event.

Mr. Troast, the Borough Planer, stated that the multiple use on one property is allowed due to the overlay zone. The Housing Authority will own the property and the American Legion will utilize the building as a

clubhouse. Attorney Chris Martin advised the Board that the proposed use is allowed.

Mr. Adams is concerned with the sanitation truck accessing the site – is there enough room for a turnaround. This issue will be dealt with when the site plan is reviewed. Parking and the turn around will also be looked at again.

Exhibit A-3 was the site overlay and aerial photo. This shows the distance between homes on the surrounding streets to the units. There is a plan for a long area of natural greenery or fences or both. There is 10' between the units. There will not be any pole lighting and no objectionable lighting to the neighbors. All utilities will be buried. The development is inherently beneficial, positive criteria has been met, there are no bulk variances being contemplated and there are no noise issues. There should be a condition stating that when submission is made to COAH the Housing Authority will work with the town to see that these proposed units are counted.

**A motion to open the meeting to the public** was made by Mr. Schwinder, seconded by Mr. Adams, and carried.

Edward Fehre  
231 Eagle Drive

Asked if the residents would be seniors, vets, disabled vets, and/or income deprived. He would prefer 55 and older. He was told all will residents will be low income with disabled vets getting priority. Mr. Fehre does not want people with bad behavior.

Chairman Orecchio asked if 55 and older residents was a possibility. Ms. Schepisi stated that the Housing Authority may lose its funding if 55 and older residents are allowed. This could be looked into. Mr. Fehre wants the age restriction at 62. Mr. Schwinder stated that our veterans deserve whatever we can give them! He is against age restriction. Mr. Fehre is worried about future degeneration. He was told that the deed is forever. It was stated that applicants with severe behavior problems may not be able to live here, they may have to be independent. It was

stated that applicants with PTSD (Post Traumatic Stress Disorder) may be allowed.

Mr. Fehre would also like more green space instead of parking.

Gerald Ratner  
101 Emwood Drive

Attorney Schepisi explained the funding process and time limits to Mr. Ratner. There is a 95% chance of receiving the funding if approval is granted from this Board. It was also stated that this property could be developed as private homes if this development is not approved. Mr. Ratner was concerned with drainage and dumpster accessibility.

Kevin Mayer  
236 Eagle Drive

Stated that two of the proposed units will be behind his home. Thanked the Board for their efforts and reminded them that they don't have a gun to their heads because of the possible money loss. Mr. Mayer would like more space between the units. Prefers a 6' privacy fence as opposed to arborvitae due to the deer population in the area. Mr. Mayer asked who will control the outdoor lighting. He was told the resident. It was also stated that there will not be any floodlights. Mr. Mayer agrees with Mr. Fehre regarding age restriction, but has a lot of respect for our veterans, disabled or not.

At this time Board attorney Martin explained that tonight a decision needs to be made as to whether or not to allow the use. Design issues will be discussed at the site plan stage. Mr. Troast added that at this time trees and landscaping will be discussed.

Ruth Starkens  
21 Ridge Road

Stated that she is not against veterans. Would prefer the buildings in the middle of the property. Ms. Starkens is concerned with grading, lighting and sound travel.

Martha Schear  
98 Emwood Drive

Concerned with how the residents will be transported to shopping and doctors. Ms. Schear was told that Social Services and Meals on Wheels will be provided. Ms. Schear feels this development will impact traffic. Added that this town needs children. Mayor Colina stated that he has recently spoken with Mr. Nisenoff of the Board of Education who told him that there has been an unexpected rise in the amount of children in town.

Michael Schear  
98 Emwood Drive

Stated that the traffic flow is getting worse. Mr. Schear clarified who was who at this hearing. He was told that there are 6000 people on a waiting list for this kind of housing and that the Housing Authority is on a mission to supply housing, not to make a profit. Mr. Schear stated that he is not happy with the testimony given here and would like it all in writing. He asked if there are any leases involved and if there will be a manager present onsite. He was told that there will be a property manager assigned to the site.

Deb Fehre  
231 Eagle Drive

Asked for clarification on the 50% COAH benefit requirement and whether the Housing Authority will own or lease the property for 99 years. It will be a lease.

Dave Kramer  
27 Ridge Road

Concerned with parking – everyone has a car. Asked is the variance will permanently change the property. He was told yes.

Ken Hoffman  
61 Emwood Drive

Spoke in favor of the development. Feels that the restoration of the American Legion building is great and as a member of the Historical Committee he is encouraged by this restoration.

**The public portion of the meeting was closed** on a motion from Mr. Adams, seconded by Mr. Callagee.

Attorney Martin stated that there has been sufficient testimony for this use variance application. The Board Planner also gave valid information. Mr. Martin referenced the Borough code 290-13 Affordable Housing overlay zone that states that this can be done. This development is allowed by code already but the applicant wanted all on the record.

**A motion to approve the use variance** was made by Mr. Adams, seconded by Mr. Schwinder, and carried by roll call vote as follows:

Mr. Callagee	Yes
Mr. DeThomasis	Yes
Ms. Ortiz	Yes
Mr. Wallace	Yes
Mr. Schwinder	Yes
Mr. Adams	Yes
Chairman Orecchio	Yes

The approval is subject to deed restrictions and qualifications. The resolution will be read at the next meeting.

### **Any Board Member/ Good and Welfare**

Reminder – The next meeting is August 21<sup>st</sup>.

**The meeting was opened to the public** on a motion from Mr. Adams, seconded by Mr. Callagee, and carried.

No one wished to be heard

**The meeting was closed to the public** on a motion from Mr. Adams, seconded by Ms. Ortiz, and carried.

**A motion to adjourn** was made by Mr. Orecchio, seconded by Mr. Schwinder, and carried.

Respectfully submitted,

Kathy Rizza, Secretary