

**MUNICIPAL LAND USE BOARD
MINUTES
EMERSON, NEW JERSEY
SEPTEMBER 5, 2013**

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	Absent
Thomas Callagee	Present
Carlos Colina, Mayor	Present
John DeThomasis	Present
Gary Goursky	Present
Mark Orecchio, Chairman	Present
Germaine Ortiz	Present
Matthew Ryan	Absent
Gary Schwinder	Absent
Brian Todd	Present
Neil Tortora	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

Correspondence:

A letter from Town and Country Developers informing the Borough that they are submitting an application for a letter of Interpretation regarding 70 Patrick Avenue.

A letter from Russell Huntington, Esq. dated 8-19-13 regarding the tree house at 175 Forest Avenue. It was determined that Attorney Martin will review this application. There are back taxes due and the applicant is not the owner of the property. Attorney Martin will discuss this application with Attorney Huntington.

Vouchers:

Boswell Engineering - \$312.00 for the Armenian Home application
Morrison Mahoney - \$175.16 for the Siddigi application

Vouchers and correspondence were approved on a motion from Mr. Goursky, seconded by Mr. Callagee, and carried.

Isaac Degenars Company – 17 Chestnut Street – Block 405, Lot 14 – Site Plan Approval with Variances

This application is being carried to the October 3rd meeting with no prejudice to the Board.

Larry Hage/Stickeys BBQ Restaurant – 381 Kinderkamack Road – Block 215, Lot 1 – Use Variance

This application will be carried to the agenda of September 19th with no prejudice to the Board. The 1993 resolution pertaining to this property has been located.

Ghougas – 215 Ackerman Avenue – Addition – Block 507, Lot 2 – Variance required for expansion of footprint.

There was an error in notification to the neighbors. The application must be re-noticed to all on the 200' list provided by the borough. This matter will return at a future meeting.

**Emerson Real Estate – Emerson Golf Club – Palisades Avenue
Block 617.01 Lots 7.01, 7.03, 9 and 10
In Oradell – Block 1105, Lot 17**

Mayor Colina exited the meeting since he is not eligible to vote on this application. Attorney Louis Lamatina was present on behalf of the applicant. Attorney William Smith was present on behalf of the resident objectors.

Mr. Lamatina addressed the issue of deed restriction. Block 16.01 lots 7.01 and 7.03 are not deed restricted as per the SWAN Agreement. A letter dated July 3, 2013 was originally submitted with the application. A letter from Mr. Lamatina dated September 5, 2013 was given to all present explaining the situation. Attorney Smith stated that after analyzing the deeds he agrees with Mr. Lamatina that there is no deed restriction on these lots. Mr. Smith stated that indirectly there are other restrictions concerning the other lots on the golf course. These lots are on the fairways, not where building is proposed. Mr. Smith feels that what exists on the site is an intense commercial use and will be compounded by the 35 townhouse units. Board Attorney Martin spoke to the Board about the 1993 SWAN agreement. Several cases were cited to support Mr. Lamatina's case. He feels that Mr. Smith's argument fails. His recommendation to the Board is to move forward with the application beyond the SWAN agreement. A motion was made

by Mr. Goursky, seconded by Mr. Tortora, to accept the opinion of the Board Attorney that the deed restrictions do not apply and to proceed with the application as presented. This motion was carried by roll call vote as follows:

Mr. Callagee	Yes
Mr. DeThomasis	Yes
Ms. Ortiz	Yes
Mr. Todd	Yes
Mr. Tortora	Yes
Mr. Goursky	Yes
Chairman Orecchio	Yes

New plans were submitted by Mr. Lamatina at the last meeting. The application was deemed complete by the Board Engineer and the Board Planner. Mr. Smith did not review the application for completeness. Mr. Lamatina will provide Mr. Smith with all information. Attorney Martin requested a list of all exhibits from Mr. Lamatina for the record. It was decided that a special meeting on this application will be held on September 18th at 7 p.m. All costs relating to this special meeting will be paid by the applicant.

Mr. Alexander Lapatka of 12 Rte 17 North in Paramus was the first witness in the new application. Mr. Lapatka, a professional Engineer, was accepted as an expert witness by the Board and was sworn in by Attorney Martin. Mr. Lapatka spoke regarding the lots involved and pointed out to all the locations of the club house and the parking lot. Most of the development will be on lots 7.01 and 7.03 of which is 7.2 acres approximately. There are 20.8 acres in Emerson and 113.5 acres in Oradell. Mr. LaPatka described the property to all present. Streams and wetlands were also shown. A Department of Environmental Protection (DEP) letter was applied for. A flood hazard application has also been made.

Exhibit A-3 is a NJ DEP constraints map consisting of one page, dated 6-25-13 – sheet 4 of 11 of the site plan. This one is a colored version. This map shows the stream to the reservoir and the drainage ditch. Mr. Lapatka stated that the DEP set up conditions under which you can develop these areas. The applicant wishes to develop areas that are not restricted. There are thirty-five (35) units proposed in four (4) buildings and also a new driveway. A new parking lot will consolidate two (2) driveways. There will be a 4-way intersection at High Street. A new road will service the townhouses. Exhibit A-4, the site plan, was referred to. This is a color exhibit dated 6-25-13 revised 8-14-13, sheet 2 of 11. Mr. Lapatka explained all revisions. There will be one (1) driveway for the golf course parking lot and a new roadway for the townhouses. The height of the units has been lowered. The Board is still waiting for the response from the Volunteer Fire Department. There will be one hundred and forty (140) parking spaces, including five (5) handicapped spaces. The parking pattern was shown by Mr. Lapatka. Drainage was discussed. Any flooding in the parking lot currently is due to the construction not the location. All units except three (3) will have garages and a driveway. For the three (2) units without spaces there will be spaces available in the street. There will be eleven (11)

common spaces near Palisades Avenue. There will be seventy-eight (78) spaces in the townhouse area, one hundred and forty (140) spaces in the big lot for the golf club and eleven (11) spaces in the maintenance building area – totaling two hundred and twenty nine (229) spaces. Eighty-two (82) spaces are required for the golf club and the RSIS says eighty-one (81) spaces for the townhouses – total required one hundred and sixty three (163) parking spaces. There will be visitor parking along the aisle of the golf club lot.

Required – 163 parking spaces

Proposed – 229 parking spaces

The buildings will be 40' from Palisades Avenue. All setbacks were discussed. Privacy fences are proposed. On lot 10 the pavement will be removed between the cart building and the stream and restore the area to a natural condition. They will be keeping 12' of pavement for access purposes. Mr. Lapatka stated that a flood study has been done and flood elevations were discussed. Land buffers were discussed – 15' is proposed along the west side consisting of evergreens and arborvitaes. Along the street it will be two (2) double rows deep with evergreens, triple rows in some areas. The applicant will request of the DEP to plant in DEP controlled area.

Lighting was the next topic of discussion. There are three (3) existing pole lights that will remain. The applicant is proposing new LED fixtures 18'6" high that can be dimmed. Regarding drainage there will a large underground retention basin under the parking lot – 54' wide x 165' long. This will provide good water infiltration. The applicant is proposing two (2) water quality fixtures. Regarding bulk criteria, Mr. Lapatka stated that townhouse use is not addressed in the code. They are using the 'single family' or 'other' code. Plans marked as Exhibit A-5, sheets 1-11 were referenced.

Variances required were stated as the following: front yard, side yard, both side yards, rear yard, height, buffer – planting treatment, dumpster location, parking stall size and aisle width. All detail is listed on the plans.

The letter dated September 4, 2013 from Berge Tombalakian of Boswell Engineering was discussed in detail item by item. All items will either be addressed by a future witness or will be complied with. Mr. Lapatka stated that the applicant is seeking preliminary and final site plan approval inclusive of the variances requested.

Board Planner Brigitte Bogart's report dated 9-1-13 is mostly directed at the applicant's planner. Ms. Bogart would like shade trees planted in the parking lot and along cluster A. The applicant will try to comply with this request. Ms. Bogart feels that the site is over parked and they need to replace trees.

Chairman Orecchio asked Mr. Lapatka to explain the roadway system to the residents. Signage was also discussed. There will be a homeowners association that will maintain the internal road. Regarding sewers the DPW will be asked to comment. The town will

pick up the garbage from the development as per state law. Mr. Tombalakian from Boswell Engineering, the Board Engineer, stated that the town must reimburse the homeowners association for snow removal and lighting costs.

Board questions:

Mr. Schwinder asked if there will be a performance bond for landscaping. Mr. Tombalakian stated that yes there will be a bond for two (2) years, and then the homeowners association will take over. Mr. Tombalakian asked about the golfer bag drop location and the signage for the pathway to the handicapped parking spaces. He was told that the traffic consultant will discuss this. Ms. Bogart asked if the three (3) bedroom units meet the RSIS standards. Ms. Bogart feels that the buildings are too close to each other.

Attorney Smith asked about the DEP approvals. These have not been obtained as of yet. The applicant has only obtained approval establishing wetlands and buffers. Front yard setback location was discussed. Chairman Orecchio asked for clarification on the front yard measurement. The chart will be adjusted to show 40' to the street.

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

Theresa Wallace – 114 Palisades Avenue – Questioned where the cars will go from the three (3) units without garages. Handicapped spaces were shown as requested. Mrs. Wallace asked if there will be an emergency exit on Randolph. She was told possibly. A Fire Department response is needed to answer that question. Mrs. Wallace is concerned with flooding in the area.

Marinos Loukeris – 124 Palisades Avenue - Mr. Loukeris asked if there will be less parking for golfers during the construction. He was told yes. Mr. Loukeris had parking questions that will be answered by the traffic engineer in the future. Lighting was discussed. Lighting will be less intrusive than existing and will have no glare. Mr. Loukeris questioned the zoning of this property and if it is zoned for single family. It is zoned single family in the open space zone – that is why a variance is needed.

Michael Wallace – 113 Palisades Avenue - Mr. Wallace is concerned with traffic control on Palisades Avenue. He is also concerned with lighting – this is not a problem now but could be with three (3) stories of lights.

Tom Kelly – 86 Palisades Avenue – Mr. Kelly was concerned with exterior lighting. Mr. Kelly also asked for comparable developments that he could visit. Mr. Lamatina will comply.

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

This matter will be carried to the meeting of September 18th at 7:00 p.m. The next witnesses will be the Planner and the Architect.

Note: There is a transcript of this application that was provided by Mr. Lamatina that will be kept in the file.

Any Board Member: none

Good and Welfare: The meeting was opened to the public on a motion from Mr. Tortora, seconded by Mr. Goursky. With no one wishing to be heard the meeting was closed to the public on a motion from Mr. Todd, seconded by Ms. Ortiz, and carried.

A motion to adjourn was made by Mr. Todd, seconded by Mr. Tortora, and carried by all.

Respectfully submitted,

Kathy Rizza, Secretary