

**MUNICIPAL LAND USE BOARD MINUTES  
BOROUGH OF EMERSON  
August 9, 2018**

This meeting of the Emerson Land Use Board was held in the Municipal Building. Chairman Gary Schwinder opened the meeting at 8:19 PM. In compliance with the Open Public Meeting Act, the Clerk has notified The Record and The Ridgewood News of this meeting and notice has been posted in the Municipal Building.

**Pledge of Allegiance**

**Roll Call:**

Robert Adams	Absent
Alban Bresa	Present
Mike Cimino	Present
Tom Carlos	Absent
Michael DeOrio	Absent
Gary Goursky	Absent
Louis Lamatina, Mayor	Present
Evan Kutzin	Absent
Steven Malone	Absent
Doug McKendry	Present
Norman Rieger	Absent
Thomas Sudano	Present
Gerry Falotico, Councilman	Present
Gary Schwinder, Chairman	Present
Christopher Martin, LUB Attorney	Absent
Neil Tortora, LUB Attorney	Present
Gary Ascolese, LUB Engineer	Present
Bridgette Bogart, Borough Planner	Absent
Autumn Sylvester Sylvester, For Brigette Bogart	Present
Michael Sartori, CCO/Zoning	Not Requested
Perry Solimando, DPW Super.	Not Requested
Robert Hoffmann, Borough Admin.	Not Requested
Marie Shust, Secretary	Present

Chairman Schwinder asked the Board if there were any comments or corrections on the minutes of the meeting of July 12, hearing none he asked for a motion to accept the minutes, which was made by Mayor Lamatina, second was made by Mr. Sudano, all were in favor. The minutes were accepted.

Chairman Schwinder asked Ms. Shust if there was any correspondence. A letter from Bergen County was given to Chairman Schwinder which he deferred until the next meeting.

Ms. Shust then read the vouchers.

Vouchers

9-Aug-18

18-01107	17-Jul	Boswell Eng	21 Sullivan Bl 327, Lot 14	\$	574.00
18-01137	23-Jul	Boswell Eng	2 Hartland, Bl 217, Lot 35	\$	410.00

18-01137	23-Jul	Boswell Eng	17 Furnam Dr. B124 Lot 6	\$	246.00
18-01126	18-Apr	North Jersey Media	17 Furnam Dr. B124 Lot 6	\$	119.50
18-01168	27-Jul	Morrison Mahoney	214 KK vs Emerson	\$	1,288.00
18-00172	30-Jul	Boswell Eng	166 Palisade Ave.0	\$	123.00
18-00172	30-Jul	Boswell Eng	118 Eagle Dr Kim	\$	82.00
18-00172	30-Jul	Boswell Eng	411 Old Hook Wendy's	\$	1,066.00
18-01179	30-Jul	North Jersey Media	3RD Round Fair Share Plan	\$	54.75
				\$	3,963.25

Chairman Schwinder asked if there were any comments or questions about the vouchers. Hearing none he asked for a motion to approve the vouchers, which was made by Councilman Folatico, second was offered by Mr. Sudano, all were in favor. The vouchers were approved for payment.

**Board Business:**

Ordinance 1561-18 Amending and supplementing Chapter 290, Article IV, Section 13D, "AHO Affordable Housing Overlay zone" of the Borough code to establish a Borough-wide set-aside ordinance and to set forth the standards and criteria applicable thereto.

The Ordinance specifies that any multi family unit over 5 units, must set aside 1 unit for affordable housing.

Since there were no comments from the board, Chairman Schwinder asked for a motion to open the floor to the public, which was made by Mr. Mc Kendry, a second was made by Councilman Folatico. Seeing no hands, the Chairman asked for a motion to close the floor, which was made by Councilman Folatico, second by Mr. McKendry. All were in favor. Chairman Schwinder then asked for a motion from the Board regarding the Ordinance. Mr. McKendry made a motion that the Board endorse the Ordinance and pass our recommendation on to the Mayor and Council, which was seconded by Mr. Cimino. Mr. Bresa, Mr. Cimino, Mr. Mc Kendry, Mr. Sudano and Chairman Schwinder all voted in favor. Mayor Lamatina and Councilman Folatico were not eligible to vote on the Ordinance recommendation.

Ordinance 1560-18 amending the revised General Ordinances of the Borough of Emerson, Chapter 290, Article III, Section 9, entitled "General Use Restriction".

Due to pending State legislation regarding the sale of marijuana, the Ordinance restricts the sale, distribution, growth and medicinal and recreational manufacture of marijuana, and/or paraphernalia that facilitates the use of such marijuana.

Mr. Mc Kendry wanted to know if there were any exclusions, and was told there were not. Chairman Schwinder said Emerson could control the sale, but if medicinal marijuana were purchased elsewhere, we could not control its use.

Mr. Mc Kendry then asked if medical marijuana would be available through a local drug store, again was told not in Emerson. Mr. Tortora stated that at this time, CVS, Walgreen type pharmacies were not allowed to sell marijuana, only State licensed facilities.

Mr. Bresa wanted to know if this included derivatives and synthetics and was told yes.

Chairman Schwinder asked for a motion to open the floor to the public, which was made by Mr. McKendry, second by Councilman Folatico, all were in favor, since there were no hands, the Chairman asked for a motion to close the floor which was made by Mr. McKendry,. Second by Mayor Lamatina, all were in favor.

Mr. Sudano made a motion to endorse the Ordinance and recommend it to the Mayor and Council, second was made by Mr. Mc Kendry. All were in favor, the Mayor and Councilman were not eligible to vote on the Ordinance recommendation.

**Resolution:**

**Berens Residence, 2 Hartland Ave., Block 107A, Lot 6**

Chairman Schwinder asked if there were any questions or comments on the Resolution for the fence application for the Berens residence.

Hearing none, he asked for a motion to accept which was made by Mayor Lamatina, second by Mr. Sudano. Eligible board members Mr. Bresa, Mr. Cimino, Mr. Sudano, Mayor Lamatina, and Chairman Schwinder voted to approve the Resolution.

**Board Business:**

**Board of Education:**

**Expansion at Memorial School, the Junior Senior High School and modifications to Villano School**

Chairman Schwinder asked Mr. Tortora to make a statement in regard to the presentation being made by the Board of Education.

Mr. Tortora explained that the Board was hearing the application only to make recommendations on the plans. The Board was not voting on a referendum. Mr. Tortora further stated that since this was an informal presentation no formal notice was required and publication of the Agenda was sufficient.

Mr. Mark Glessen of Environectics Group Architects, 180 Sylvan Ave., Englewood Cliffs, NJ came before the board to present the preliminary drawings of the expansions.. Mr. Tortora reviewed his qualifications and asked him to proceed.

Mr. Glessen began with the proposals for Memorial School, since that would be the bulk of the expansion recommendations. He stated the expansion would allow for the third grade to return to Memorial School. Currently the Pre-K is being housed in temporary classrooms.

The proposed expansion would allow the gym to be re-purposed into a media center, music room, conference room, and storage. There would be a small addition to the front for administrative offices, which would also help in security control. Mr. Tortora asked Mr. Glessen to mark the proposed plans for Memorial School as Exhibit A-1.

Chairman Schwinder asked Mr. Glessen what the percentage of increase would be, to which Mr. Glessen replied approximately 30%.overall, however the increase in actual usable space would increase more due to the repurposing of current rooms.

Mr. Glessen then referred to the site plan, which Mr. Tortora had marked as Exhibit A2. Mr. Glessen said the red schoolhouse would be removed, as well as the temporary classrooms, which would allow for expanding the playground.

Chairman Schwinder asked if there was any resale value to the temporary classrooms. Mr. Glessen replied they had not gotten that far, but of course would research it, as the project progressed.

Mr. Glessen also stated there would be an upgrade to the front parking, which would allow for better traffic flow for drop off in the mornings.

Chairman Schwinder asked how many additional spaces would be available. Mr. Glessen replied 20.

Mr. Glessen also stated that these changes would allow for better adherence to A.D.A. requirements.

Mr. Bresa asked about the blacktop in the rear. Mr. Glessen replied that most of the area would be covered by the new building. This usage of that area would not increase the impervious coverage. He stated that once the project progressed, the engineers would be looking into methods of controlling the water issue. He wanted to be sure the neighbors were aware that this concern was being addressed.

Chairman Schwinder then asked if the new addition would be air conditioned and the plans for the older section. Mr. Glessen stated the new building would have central air, however the older classrooms would still have window units. Chairman Schwinder asked if there were any plans to install AC into the older section. Brian P. Gattens, Superintendent, replied that there was a Capital Improvement Project in place, which over the next 5 years, would put air conditioning in the entire building.

Mr. Glessen also stated that the work at Memorial allows for the revamping of 5 classrooms in Villano, since the third grade will return to Memorial. He stated that the plans also include fire alarm upgrades.

Mr. Glessen then proceeded to the upgrades for the Junior/Senior High School. There would be an addition for the science department, since the current classrooms are not large enough. The smaller rooms would be repurposed for music and arts. The new addition would also allow for better access to the gym, since currently there is no direct route, except to go outside and around the building. Extra locker rooms would also be added. Plans for asbestos abatement are also included in the proposal.

Chairman Schwinder asked if there were to be any changes to the entry. Mr. Glessen stated that currently you enter the building and go to the left for the Administration Office. The new entry would create a holding area, rather than direct entry to the school.

Councilman Folatico asked if there was to be increased parking and was told it was not in the plans at this time.

Councilman Folatico asked about the science rooms at the back of the school. Mr. Glessen replied that at approximately 800 sq. ft., they were really too small for science, but would be converted into classrooms for music and arts.

Chairman Schwinder asked about the projected population over the next five years. Mr. Philip Nisonoff, Assistant Supervisor and Business Administrator replied that they expected it would be stable. When asked the number of students, Mr. Nisonoff replied that currently in the high school there were 500 students and that may increase to 550. Memorial School has 300 students, which may increase to 330.

Chairman Schwinder asked Mr. Ascolese if he had any questions. Mr. Ascolese stated his main concern was the possibility of flooding. Mr. Glessen stated the site plan was directing the water toward the south and playground where there would be drainage and seepage pits to collect the rainfall. He stated there was no change in the impervious coverage, but there was better water management. Chairman Schwinder was happy to see the flooding was being addressed.

Mr. Glessen assured Chairman Schwinder that the engineers would continue to work on correcting the problem, and asked Mr. Ascolese for his input. Mr. Ascolese mentioned an underground storage chamber for storage of water runoff. Chairman Schwinder emphasized that as a part of the site plan, the water pooling and flooding must be addressed.

Mr. Bresa asked if there were any variances. Mr. Ascolese replied the schools are exempt. Mr. Bresa then asked about trees and the neighbors. Mr. Glessen stated that they were not exceeding the current blacktop in back and there was a downgrade in front. Chairman Schwinder stated a detailed landscape plan must be presented which shows protection for the neighbors. He also said the Board of Education should consider and implement green barriers, solar panels to control costs. He wanted to know if there was any "green thinking" in the plans.

Mr. Glessen stated solar panels had not been researched, but there were other recyclable products that might be possibilities. He stated that as the planning proceeds further, they will investigate more green and solar.

Chairman Schwinder then asked about the difference in this concept and what the final plans might be, and was the budget a reality? Mr. Glessen replied the presentation had been vetted closely to meet State standards, and there was not much flexibility due to requirements and budget.

Chairman Schwinder asked about the new structure, the elevations, and facade to match old or change old to new.

Mr. Glessen replied that due to age (built in 1957) they could not match the existing but would create a flow from the old to the new.

Councilman Folatico asked that they consider additional parking. Chairman Schwinder noted that many cars are parked on the side streets.

Chairman Schwinder then asked for a motion to open the floor to the public on this matter only. The motion was made by Mr. Mc Kendry, second by Mr. Sudano, all were in favor.

Councilwoman Daniel DePaulo of 91 Union Ave., asked about the location of the election booths. Mr. Gattens replied they would be in the new section as it would have better and direct access.

Chairman Schwinder then asked for a motion to close the floor, which was made by Mayor Lamatina, second by Mr. Cimino, all were in favor.

Chairman Schwinder asked for a motion on the proposal. Councilman Folatico made a motion to endorse the proposal in concept due to the limited information. He would like to see the recommendations made by the Board incorporated in the plans, including "green thinking," flooding and water management and landscaping. The motion was seconded by Mr. Sudano. Mr. Bresa, Mr. Mc Kendry, Mr. Sudano, Councilman Folatico, Mayor Lamatina, Chairman Schwinder and Mr. Cimino were in favor.

Chairman Schwinder assured the Board that the project would come before the Board before any construction begins. But this process is necessary to get the referendum on the ballot. Chairman Schwinder also stated that there was a question as to how the Board Professionals would be paid, if there would be an Escrow account, or direct billing to the Board of Education

Mr. Ascolese stated that normally there is an escrow account, however, if the Board of Education has a different procedure, the professionals should be advised.

Application:

Valero, 161 Kinderkamack Rd, Block 616, lots 1 & 2,  
New mixed use construction

Russ Huntington of Huntington Bailey, Westwood, NJ - Representing Robert Obernauer and the Valero station at 161 Kinderkamack Rd, offered revised plans for the Board to review, which were marked as Exhibit A-1, page C-1.

Chairman Schwinder asked Mr. Huntington if this was a new application, to which Mr. Huntington replied they were enhanced based on the Board and Engineer's requests at the previous meeting.

Mr. Neil Tortora, sitting in for Mr. Chris Martin, advised the Board that the notices were satisfactory and they could proceed.

Mr. Bruno Cividini of 17 Wierimus Lane, Hillsdale, who had been qualified at the previous meeting, was asked to describe the site plan revisions. Mr. Cividini explained that there were additional fuel pumps, a 3 story building, the first floor being retail and the upper two stories for residential units. He further explained that the walkway would be widened to meet ADA requirements and bollards would be placed at the intersection for the protection of the pedestrians. They would also be planting trees along Linwood Ave.

Mr. Huntington asked if there were any changes in the garages. Mr. Cividini replied there were no changes to the garages, but changes to the landscape plans, per Exhibit A-3, page L-1, which removed some trees on Lot #2 and added trees along Linwood Ave. Mr. Cividini also explained that decorative balconies and rails had been added to the façade.

He further noted the difference in depth at the windows to break the flat surface. He said there was no change in the materials to be used for the exterior from the previous meeting. Mr. Bresa asked if there was to be an awning/canopy at the retail entrance and was told yes.

Chairman Schwinder asked if the traffic design had been changed and was told there was no change, and an island of shrubs had been added, per Exhibit A4- page L2.

Mr. Huntington asked Mr. Cividini if there were any variances being requested to which he replied no. When asked about any engineering problems, Mr. Cividini replied there were none.

Chairman Schwinder wanted to know if there would be an air dispensing machine on site. Mr. Obernauer of 161 Kinderkamack Rd, Emerson, replied that there were no plans at this time, however, it might be revisited depending on the traffic and demand. Chairman Schwinder wanted to know if there was a compressor involved. Mr. Obernauer replied it was a stand-alone unit, which is also being used at his other locations. Chairman Schwinder wanted to know if there would be a vacuum station, Mr. Obernauer replied no. Mr. Huntington asked Mr. Obernauer how many coin operated machines would be on site, to which Mr. Obernauer replied one maximum which would be the air station.

Chairman Schwinder then addressed the traffic problems when making a left onto Linwood Ave from the current driveway location. He stated he thought there would be a queue in the lot and wanted a six month look back into that situation. Mr. Huntington agreed it is a learning curve. Mr. Obernauer stated that the driveway had been moved further east on Linwood to help the flow.

Chairman Schwinder noted that the exit was opposite Boston Market. Councilman Folatico suggested that the first driveway heading east on Linwood should be a right turn only so that drivers exiting would not block eastbound traffic. Mr. Obernauer stated that they were still tweaking the traffic flow plans. Chairman Schwinder asked the applicant to keep an open mind on the right turn only suggestion.

Mr. Huntington went on to address the signage. Chairman Schwinder wanted to confirm there were no motion signs. Mayor Lamatina suggested that the entry to the eastbound driveway exit have a stop sign to allow for incoming traffic. Mr. Cividini stated there could be additional stop signs on the site itself.

Councilman Folatico asked about delivery hours. Mr. Obernauer replied they were off hours, not to interfere with peak business hours. Chairman Schwinder noted that the plans had been adjusted to allow for better truck access, which was marked exhibit A2.

Councilwoman DePaulo asked to be shown where the second exit is located. Mr. Huntington stated that the additional driveways allow for better circulation. Mr. Cividini stated that the County determined the curb cuts. Chairman Schwinder suggested the easternmost driveway be two way traffic. Mr. Obernauer said that driveway was in line with the easement through the Germinario project.

Chairman Schwinder then asked Mr. Ascolese if he had any questions. Mr. Ascolese referred to his letter of April 30, he noted that the Zoning table was incorrect as to building coverage, which should be 30% not 19.2%. He noticed the lot line had been removed but wondered about a single address for the site. Mayor Lamatina said only the residential unit would be 161 Kinderkamack Rd. Mr. Huntington stated they could investigate a second address for the location, one for the station and one for the 3 story building, as it had not been considered previously, perhaps 111 Linwood for the residential building. Chairman Schwinder also suggested an 'A' and 'B' designation.

Mr. Ascolese then directed his question to the time and frequency of deliveries. Since he was expanding from 4 pumps to 10, would there be more fuel deliveries? Mr. Obernauer said he was not expecting a large increase in fuel sales. Mr. Ascolese asked if there was a possibility there would be more than one fuel delivery per day. Mr. Obernauer said no.

Mr. Ascolese went on to the new entry, the landscape island, no bollard and an 8 inch high curb. He wants a six month look back at the traffic pattern and safety.

Mr. Ascolese told the Board he had visited the Oakland site, which is a similar layout, and had received a listing of sales by hours, which was extremely helpful. He noticed that 60 – 65% of the traffic was pass-by traffic not destination.

Mr. Ascolese said that based on the information he had received and his experience, he was satisfied with the numbers. He also stated he was meeting with the County to adjust the timing of the lights at Kinderkamack and Linwood.

He also said he was concerned with the driveway in front of the three story building. He also thought the planters and trees along the walkway would eventually narrow the access and a better plan could be designed, perhaps incorporating the trees and planters into one.

Chairman Schwinder suggested the driveway next the building on the easterly side have arrows showing one way. He then asked Mr. Ascolese if he was satisfied with the storm water management plan and how was the macadam pitched?

Mr. Ascolese stated that the placements and management of the storm water system would be inspected during construction to be sure there would be no standing water or flooding.

Chairman Schwinder then asked if the designation snow storage area had been addressed. Mr. Cividini replied it would be located on the southeast side between the parking and the trash bins for 17 ft. along the property line. Chairman Schwinder instructed Ms. Shust to provide the language used in previous resolutions regarding the removal of snow.

Mr. Obernauer stated it would be to his best interest to manage snow and its removal to minimize loss of parking spaces.

Chairman Schwinder suggested that as a safety measure, bollards be placed in front of the storefront windows to prevent accidents similar to that at Trader Joe's several years ago. To which Mr. Obernauer agreed.

Chairman Schwinder asked about sanitation removal and the timing. He was told there are two dumpsters on site, which would be removed by a front loader. Mr. Obernauer said he would try to control the timing to off hours. Mr. Huntington agreed there was an Ordinance that controlled the hours of collection.

Autumn Sylvester of Bogart Planning asked about the hours of operation for the retail outlets. Mr. Cividini confirmed the hours as 6 am to 11 pm for gas and retail. Mr. Bresa asked if there were plans for a 24 hour operation and was told no by Mayor Lamatina according to Borough Ordinance.

Autumn Sylvester then asked about the red maples and other landscape. Mr. Cividini replied they were adhering to the Borough's streetscape plans and ADA requirements.

Autumn Sylvester then asked about the exterior elevations. Mr. Cividini said the building was brick with cobblestone hardy plank as trim. Autumn Sylvester then asked about the Affordable Housing set aside and was told there two units being allocated.

Chairman Schwinder said he had hoped for a report from the Fire Dept., but did not have it at this time. He asked about public restrooms. He was told there are two; one inside the retail unit and one on the outside. He was told the restroom would be locked once the employees left, but would remain open for their use if they stayed later than the store hours for cleanup, etc.

Autumn Sylvester then asked about employee parking. Mr. Huntington said it had not been designated, but the employees could not park in front of the retail, and did not foresee a problem with customer parking.

Chairman Schwinder wanted to know if the entire building was sprinklered and was told yes by Mr. Cividini.

Mayor Lamatina asked if there was a parking variance required, Mr. Huntington replied there was none needed. There were actually additional spaces provided.

Councilman Folatico was concerned with the sight line around the building, as well as turning ratio. Chairman Schwinder wondered if a guardrail could be installed. Mr. Cividini said it would be difficult to do so. Chairman Schwinder then asked about bollards being placed at the corner of the building or planters. Mr. Cividini and Mr. Obernauer agreed that bollards would be placed at the corner to prevent damage to the building. Mr. Tortora said he would add this as part of the Resolution.

Mayor Lamatina questioned a statement made that the streetscape was not being continued. Mr. Huntington stated they would do whatever was necessary to conform to the streetscape specifications, including stamping of the sidewalks, as well as a bollard and stop sign at the corner of the building.

Autumn Sylvester also asked about signage. Mr. Cividini stated it was according to plan, Mayor Lamatina wants a one year look back on the signage around the site.

Chairman Schwinder asked if there were any more questions from the Board, seeing no hands he asked for a motion to open the floor to the public on this application only, which was made by Mayor Lamatina, second by Councilman Folatico, all were in favor.

Councilwoman De Paulo of 91 Union asked for clarification on the entries to the site. Mr. Cividini showed her the current curb cuts and where the new curb cut would be.

Ms. De Paulo then asked about the easement from Emerson Grand, which the Board had fought so hard for during that application. She noticed there was a "No Through Traffic" sign and wondered who had posted it. Chairman Schwinder stated it was a deterrent to non-resident traffic. Mr. Obernauer stated the sign had been put up by Emerson Grand. Chairman Schwinder stated that the easement cannot be blocked.

Chairman Schwinder asked about the configuration of the 10 pumps. Mr. Obernauer replied there is one island with two pumps and another with three pumps; each pumping on both sides; Chairman Schwinder wanted to know if there were any other multiple island pumping stations in the area and was told there was the Exxon across from Becker and the Shell in Oradell.

Ms. De Paulo wanted to know about curbs rather than bollards. Mr. Ascolese told her that wheel stops and curbs had been eliminated for safety reasons and ADA compliance.

Seeing no other hands, Chairman Schwinder asked for a motion to close the floor, which was made by Councilman Folatico, second by Mr. McKendry, all were in favor.

Chairman Schwinder asked for a motion on the application, which was made by Mayor Lamatina, with the stipulations as stated during the proceedings.

Mr. Tortora reviewed the stipulations:

1. 1 year sign look back
2. 6 month site look back
3. Linwood Ave., CBD streetscape
4. Stop sign and bollard at building corner
5. 2 Affordable Housing units
6. Snow storage signs
7. Snow removal when designated height is reached
8. Lots to be merged
9. Addresses to be addressed for clarification
10. County to review and recommend corner protection
11. Fuel delivery between 12 am and 5 am
12. Garbage collection per ordinance
13. Fuel delivery once per day (per Mr. Obernauer, 8500 gallon tanker)
14. Maximum 1 coin operating machine, which will be a self-contained air dispenser
15. There will be no mechanical work.
16. Bollards in front of retail
17. One way arrows on easterly driveway
18. Stop sign at easterly exit to allow for incoming traffic.

The motion was seconded by McKendry. Since Mr. Tortora declared this a new application, all present were eligible to vote. Mr. Bresa, Mr. Cimino, Mr. McKendry, Mr. Sudano, Councilman Folatico, Mayor Lamatina, Chairman Schwinder all voted in favor.

Chairman Schwinder asked for a motion to open the floor to the public, which was made by Mr. McKendry, second was made by Mr. Sudano, all were in favor. Councilwoman De Paulo approached the podium and complimented the Board on the thoroughness of their questions.

Seeing no other hands, Chairman Schwinder asked for a motion to close the floor, which was made by Mayor Lamatina, second by Councilman Folatico, all were in favor.

Since there was no other business to discuss, Chairman Schwinder asked for a motion to close the meeting, which was made by Councilman Folatico, second by Mr. McKendry, all were in favor. The meeting was adjourned at 10:47 pm.

Respectfully submitted,  
Marie Shust  
Board Secretary