

**MUNICIPAL LAND USE BOARD MINUTES
BOROUGH OF EMERSON
February 21, 2019**

This meeting of the Emerson Land Use Board was held in the Municipal Building. Land Use Chairman Bischoff opened the meeting at 7:38 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 was taken:

Mayor DiPaola	Present
Stephanie Clark	Absent
Councilwoman Jill McGuire	Present
Chairman Jeff Bischoff	Present
Vice-Chairman Gary Schwinder	Present
Don Pierro	Present
Evan Kutzin	Present
Mike Myers	Present
Bill Loschiavo	Present
Doug McKendry	Arrived Late
Paul Hulburt	Present
Michael Timmerman	Absent
Mike Cimino	Absent
Christopher Martin, LUB Attorney	Present
David Atkinson, LUB Engineer	Not Requested
Michael Sartori, CCO/Zoning	Not Requested
Perry Solimando, DPW Interim Super. Borough Administrator	Not Requested
Marie Shust, Secretary	Present

Chairman Bischoff asked if there were any comments or corrections on the minutes of February 7th meeting. Vice-Chairman Schwinder stated that on page 4, paragraph 3, there were two errors. Instead of diesel station the sentence should read diesel pump. In the same paragraph he stated the existing station and two-story house on the lot next door would be demolished. Mr. Myers made a motion to accept the minutes with the corrections made by Mr. Schwinder, the second was made by Mr. Schwinder, and all were in favor.

The only correspondence was a letter from the Bergen County Department of Planning and Engineering advising they had received a Site Plan Application from Emerson Redevelopers Urban Renewal, LLC in regard to Block 419, construction of Emerson Station.

Mr. Mangano stated this was a simple application which involves the construction of a new home on a pre-existing non-conforming lot. Since the lot is on a corner, the Ordinance requires 85 foot width, however, this is a pre-existing lot, which cannot be expanded.

Mr. Martin asked Mr. Mangano if he was looking for a C2 bulk variance or a C1. Mr. Mangano replied whichever the Board deemed best.

Mr. Duane Stubaus, of Molinari Stubaus Architects, PA , 26-02 Broadway, and Fair Lawn, NJ 07410 approached the podium Mr. Stubaus confirmed there was no feasible way the width of the lot could be increased without causing non conformity with adjacent properties. He further stated that pre-existing non-conforming lots were not grandfathered into the Ordinance, which specifies 85 ft. for a corner lot. He continued there were no variances required for side or rear yard setbacks,

Vice Chairman Schwinder asked where the mechanicals would be located. Mr. Stubaus replied they would be located at the rear of the house, toward the side street rather than closer to the neighbors on the west side. Vice Chairman Schwinder asked if the HVAC units could be placed on the Clinton St. side which would lessen the noise for the rear neighbor. Mr. Stubaus replied that they would prefer not to. Chairman Bischoff stated there would be 2 frontages on the home, and the HVAC on the street side could be unappealing. Mr. Martin asked if the units could go on the rear. Mr. Stubaus replied yes. Vice Chairman Schwinder repeated he was trying to reduce noise for the neighbor to the rear. Ms. McGuire asked if the rear of the proposed house faces the side of the house to the rear, and how far was the placement of the units from the neighbor. Mr. Stubaus replied the units would be at the rear of the house which is approximately 60 ft. from the side of the house to the rear. Mayor DiPaola wanted to confirm the placement and was told it would be to the rear of the proposed house, against the garage, facing the side of the house to the rear. Vice Chairman Schwinder stated that on a past application, the home owner placed the units on the side street and surrounded them by shrubbery. Mr. Stubaus repeated that the units would be approximately 50 ft. from the house to the rear. Chairman Bischoff asked if they would be placed closer to the Clinton St. side than to the neighbors on the west side of the home.

Mr. Kutzin asked if there had ever been a structure on that lot and was told it was many years ago. Mr. Kutzin asked about sidewalks and curbing. Chairman Bischoff replied there was sidewalk on Palisade Ave and would be required on Clinton St. Vice Chairman Schwinder stated that sidewalks and curbing are required on both Clinton and Palisade by Ordinance. Mayor DiPaola and Councilwoman McGuire both agreed sidewalks and curbing need to be installed and should be part of the Resolution.

Mr. Pierro asked about the trees on the lot. Mr. Mangano replied that subject to the location of the construction, one tree may be removed, but replaced by another on the lot. Mr. Lodge confirmed that one tree was in the way. Vice Chairman Schwinder wanted to know the girth of the tree to be removed as a guide to the Shade Tree Committee. Mr. Lodge thought the tree was approximately 4" in diameter. Mr. Pierro estimated 4 – 6 inches. He thought the tree on the side of the lot might be okay, but the one in front was not in good shape, it was a matter for tree management.

Chairman Bischoff asked for a motion to open the floor to the public which was made by Mayor DiPaola and second was made by Councilwoman McGuire, all were in favor.

Ron Kayan of 18 Clinton wanted to know how the water problem was being addressed. He said when the previous structure was there the water settled in curb to curb and at times there was an ice rink there. Once the house was removed, the flooding problem was lessened; He wanted to know how this would be addressed with so much dirt being removed. Chairman Bischoff replied there were retention pits being installed. Mr. Martin reminded the applicant that the NEA letters must be met. Chairman Bischoff stated it was illegal to direct sump pumps into the sewer system. Mr. Stubaus added there are 4 seepage pits being installed underground based on a calculation of 2 inches of rain per hour. Mr. Mangano stated there were French drains directing water to the seepage pits. Mr. Stubaus also said there were sump pumps directing into the seepage pits.

Mr. Kayan wanted to know what the option was if these arrangements did not work. What recourse do the residents of the area have? Mayor DiPaola wanted to know if there could be additional look backs incorporated into the Resolution regarding the flooding issue.

Mr. Martin replied it is difficult to predict a “should of/would of/could of situation. The best that can be done is conformance to the NEA letter.

Mr. Kutzin wanted to know if oversized seepage pits would help. Chairman Bischoff replied the proposed system looks good. Mr. Martin asked Mr. Mangano if his client intended to abide by the terms of the letter from the NEA. Mr. Mangano replied yes.

Vice Chairman Schwinder referred to the Engineer’s report, dated February 18, page 4, item #6. “The Applicant shall ensure that storm water runoff does not negatively affect neighboring properties. Any damages caused by an increase in runoff or improper drainage shall be restored by the Applicant.” Mr. Kayan wanted to know who he would have to chase. Mr. McKendry noted there are two items involved, run-off and the underground spring.

Mr. Martin confirmed that the contractor would be responsible for any damages, and again asked Mr. Mangano if his client would stipulate to the NEA requirements. Mr. Mangano replied yes. Chairman Bischoff stated the drainage pits look sufficient and the Board has to rely on the statements of the professionals. Mr. Martin stated the installation/construction will be inspected in stages by the Borough Engineer.

Mayor DiPaola advised Mr. Kayan that the Borough Engineer would be monitoring the construction to help prevent any problems. Mr. Mangano noted that all new construction must have seepage pits and French drains. Mayor DiPaola also noted the area has a high water table.

Mrs. Horniak of 123 Palisade Ave thought the structure was rather dense for the area. She was told there are other homes in the area of similar or larger density.

Mr. Horniak of 123 Palisade Ave said he has been maintaining the property, the stream and storm drain that his father in law installed. Chairman Bischoff reminded the Board that the additional sidewalk on Clinton and the curbing would increase the pervious coverage. Mr. Horniak wanted to know what happens if the seepage pits overflow. Mr. Stubaas stated they did not want to disturb the natural runoff of the land and would work with the Engineer. He continued that the pit overload is controlled to flow back toward the house.

Councilman Ken Hoffman of 61 Emwood Drive, referring to the Tree Management, said the existing trees are dead or dying. There are conditions of the Ordinance which would apply differently, depending on the number of trees removed. The Land Use Board would have to appoint a tree care inspector.

Seeing no other hands, Mayor DiPaola made a motion to close the floor, second was made by Mr. Kutzin, all were in favor.

Vice Chairman Schwinder referred to the Engineer’s report, the amount of soil movement and how much it would restrict water seepage. Mr. Stubaas replied that they would be doing a topology survey. Chairman Bischoff commented the movement would be approximately 400 yards and therefore, subject to Borough and County Soil Movement. Mr. Stubaas stated that originally they thought the soil would be taken off site, but wondered if filling in the lot would be a better idea. Vice Chairman Schwinder commented filling in the lot could lead to flooding of neighboring lots. Mr. Stubaas said they did not want to disturb the current topography and runoff and would consult with the ‘Borough Engineer.

Mr. Mc Kendry asked if there would be any signage on the structure. Mr. Stubaus replied it would be a single family home, not a home office. Mr. Lodge confirmed that.

Chairman Bischoff asked if there were any other comments or questions, Hearing none he asked for a motion on the application. Mr. Myers made a motion to approve the application with the stipulations made during the meeting. Mr. Kutzin offered a second. Mayor DiPaola, Councilwoman McGuire, Mr. Schwinder, Mr. Myers, Mr. Pierro, Mr. Kutzin, voted to approve. Mr. Loschiavo had recused himself.

Mr. Martin said he would create a Resolution with the variance for a pre-existing non-conforming lot, with the stipulations recommended by the Board.

Chairman Bischoff asked for a motion to open the floor to the public, which was made by Vice Chairman Schwinder and second was made by Councilwoman McGuire, all were in favor. Seeing no hands Chairman Bischoff asked for a motion to close the floor which was made by Vice Chairman Schwinder, second was made by Councilwoman McGuire, all were in favor. Chairman Bischoff asked if there was any Good or Welfare – no comment from anyone. Chairman Bischoff asked about other Board business. Mr. Martin asked for a motion to hold an executive session.

Mr. Myers made a motion to close the meeting to the public, second was made by Mr. Kutzin, all were in favor. The chambers were emptied and doors closed at 8:38 pm.

At 8:48 Mayor DiPaola made a motion to resume the regular meeting, second was made by Mr. Schwinder, all were in favor.

Seeing there were no other hands or other business, Chairman Bischoff asked for a motion to adjourn the meeting, which was made by Councilwoman McGuire, second was made by Mr. Myers, all were in favor. The meeting was adjourned at 8:52 pm

Respectfully submitted,
Marie Shust
Board Secretary