

**MUNICIPAL LAND USE BOARD MINUTES
BOROUGH OF EMERSON
JUNE 19, 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	Present
Mark Orecchio, Chairman	Present
Germaine Ortiz	Absent
Gary Schwinder, Vice Chairman	Present
Michael Wallace	Present
Richard Worthington, Council	Absent
Christopher Martin, Attorney	Present
Berge Tombalakian, Engineer	Present
Kevin Kain, Sub. Planner	Present
Michael Sartori, CCO/Zoning	Not Requested
Joseph Solimando, DPW	Not Requested
Kathy Rizza, Secretary	Present

The **minutes** of June 5, 2014 were approved on a motion from Mr. Schwinder, seconded by Mr. Goursky, and carried.

Vouchers:

Boswell Engineering – Zeller - \$153.00
Boswell Engineering – Hack. Golf Club - \$76.50

Boswell Engineering – Colin - \$306.00
Boswell Engineering – Valero - \$459.00
North Jersey Media – various publications - \$65.74

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

Correspondence:

A budget printout for 2014 was given to the Board submitted by the CFO.

A County letter regarding the Hackensack Golf Club and the receipt of the site plan was received.

A letter from Kathleen Morrissey of 86 Jefferson Avenue opposing the fence proposed at 90 Jefferson Avenue was received.

Resolutions:

**Valero Gas Station
Linwood Ave – diesel tanks and signs**

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

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

**Weise (Petruzzella)
15 Dorchester - deck**

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

Mr. Wallace	Yes
Mr. Callagee	Yes
Mr. Goursky	Yes
Mr. DeThomasis	Yes
Mr. Schwinder	Yes
Chairman Orecchio	Yes

The above resolutions will be published as required.

New Applications:

**Stephanie Clark
90 Jefferson Avenue
Fence**

Land Use Board member Bob Adams excused himself from this application because he lives within 200'. Stephanie Clark, the homeowner, was present. Notice and proof of publication was found to be sufficient by the Borough Attorney. Ms. Clark was sworn in by Board Attorney Christopher Martin. Ms. Clark is requesting a white PVC fence around the perimeter of her yard and on her side of an existing wall. She is looking for privacy and safety for her dog. Exhibit A-1 showed the 'Garfield' style of fence proposed. Mr. Schwinder confirmed that the fence will stop behind the garage and that there will be 10' of grass between the fence and the rear neighbor. Chairman Orecchio asked that the resolution be subject to the Police Department looking at the application.

A motion to approve was made by Mr. Schwinder, seconded by Mr. DeThomasis, subject to Police approval, and was carried by roll call vote as follows:

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

The resolution will be read at the July meeting.

The meeting was opened to the public on this issue on a motion from Mr. Schwinder, seconded by Mr. Grousky, and carried. With no one wishing to be heard, **the public portion was closed** on a motion from Mr. Schwinder, seconded by Mr. DeThomasis, and carried.

Liberty Subaru

39 Kinderkamack Road – Block 610 Lot 8

Minor site plan approval for certificate of occupancy

Antimo DelVecchio of Beattie Padavano was present as the Attorney for Subaru. The site is in a business zone and consists of 0.2898 acres. Mike Sartori issued a denial dated 5-29-14. Mr. DelVecchio stated that site plan approval is needed for a certificate of occupancy. Courtesy notice was submitted. Attorney Martin stated that the notice is sufficient. Mr. DelVecchio explained that the subject property was used as a service station for many years. Abandonment and cessation of work were discussed. Cessation of work does not mean abandonment. The owner was a tenant in 1969. In 1999 the tanks were removed – this was an abandonment of fueling. The present owner purchased the property in 1980 and kept it in use until 2003. It was leased to a tenant in 2006. Since 2006 the owner became semi retired. The building consists of 2 bays, lifts, compressor, and lubrication area. There has been no abandonment. There is no intent to abandon service use of property, just the fueling. Liberty Subaru would like to purchase the property and they wish to use the bays for oil changes, etc. This would be for Liberty Subaru customers, not the general public.

Mr. DeSilva the principal of Liberty Subaru stated that there is no footprint change and no height change. They are contract purchasers at this time. The issues are abandonment and the proposed use. Attorney Martin feels that there is no abandonment and that a use variance is not needed. Attorney Del Vecchio agreed. If fueling was done again then a use variance would be needed. Past history was discussed. No one was aware of a variance on this property.

The following testimony was given for site plan approval: Mr. LaPage performed auto repair and fueling. In 1989 there was contamination, which was cleaned. Mr. LaPage has the necessary documentation for this. In 2003

the property was rented to someone for auto service and repair. This lasted for 3 years. Mr. LaPage has since been performing work at the site for family and a few special customers. About 1.5 weeks ago he fixed a parking brake cable. There are 2 bays, a lift that is fully operational and equipment. There has always been a continuation of what he was doing at this site. Chairman Orecchio asked if business for profit stopped in 2006. He was told no that Mr. LaPage did work for profit, just not everyday. Mr. Wallace asked if there is any proof that he charged for labor and parts. He was told no. Mr. LaPage stated that he is not leasing space to a landscaping company anymore. Mr. Klein, the Borough Planner stated that the nature of the operation has changed – it is not as commercial. The Board would like documentation to that effect. The Mayor and Council changed the zone – the use is not permitted anymore. Mr. DelVecchio stated that the intensity does not mean use. Mr. Del Vecchio stated that it doesn't matter how many customers he saw in a day.

Mr. Richard DeSilva of 525 Campgaw Road in Mahwah was next to testify. He is the contract purchaser from Liberty Subaru. The property has been transformed nicely. He mostly leases cars and does quick oil changes and filter changes, windshield work and tire rotation. This is strictly for their customers. Mr. DeSilva stated that he is happy to be in Emerson and that this is one of the top dealerships in the country. This addition will only embellish what they have now. There are no special signs requested – no variances needed. Mr. DeSilva stated that they will clean up the site. Mr. Goursky asked if there will be any cars in the lot. Excess cars are parked in Oradell. Mr. Tombalakian, the Board Engineer, asked if the fascade will match the main building. He was told yes. It was stated that there will possibly be interior access in the rear from one building to another. Mr. DelVecchio was finished with this witness. Mr. Schwinder questioned the amount of lifts and bays. There will be 2 of each. He was also told there will be a waiting room and restrooms. There will be no expansion to the bays. There will be 2 curb cuts and the aprons are in good shape. There will be a planter area and the parking lot will be repaired. A streetscape plan will be required with approval. Service hours were discussed – 6 days a week 7:30 am to 6 pm, Tuesday till 8 pm and Saturdays from 9 am to 3 pm. The hours will match the dealership. Possible additional traffic was discussed. There may be an oil recycling truck since this is a green facility. This truck would arrive during normal business hours. The existing facility has a parts delivery at 8 pm. They are trying to control the delivery of new vehicles. The services provided at the new location include: tire rotation,

windshield wipers, prep of a new vehicle, and maybe a tire replacement. No brake work will be done. There will not be a dumpster at this location. All garbage will be at the original site. There will be no increase in parking spaces and the area will be restriped. There will be a security light. There is presently no signage. They will remove the pylon footings and will not want a variance in the future. There will be no increase in footprint.

A motion to open this matter to the public was made by Mr. Schwinder, seconded by Mr. Goursky, and carried by all.

Susan Liddy of 58 Kinderkamack Road Unit 10 – representing the condo association. Stated that the DeSilva's have been great neighbors. Asked about the construction duration. Was told approximately 2 months and that paving may take longer. Ms. Liddy is concerned with noise – now there are delivery trucks between the hours of 3:30 and 5:30 am unloading cars and they let them idle. Fumes had been an issue. Mr. DeSila addressed the neighbors concerns regarding noise. Mr. DeSilva stated that they may hear an air gun for tire rotation and drills. He vowed to work through any issues with the neighbors. Where the smoke goes when burning fuel was addressed. It goes up like your furnace. There will not be a toxic smell.

Annie Panaterie – 58 Kinderkamack Road –Stated that she never saw any repair work in this building in the last 7 years.

Circulation through both properties was discussed, along with ingress and egress. Any change in curb cuts would trigger a county review.

The public portion was closed on a motion from Mr. Schwinder, seconded by Mr. Adams, and carried by all.

Chairman Orecchio stated that abandonment did not take place so a use variance is not needed. There is a continued use of the same nature with minor site plan approval requested. The use is continuous with active machinery. The Chairman wants the Board Planner and Engineer to be satisfied with the work in progress.

A motion was made by Mr. Adams to approve the site plan approval subject to satisfaction of the Board Planner and Engineer. The applicant would have to come back for a signage variance if needed. There will be a connecting roadway to the main building and the hours of operation will be the same as

the dealership. They will be servicing customers of Subaru only. This is a grandfathering of a non conforming use. The motion was seconded by Mr. Schwinder, and carried by roll call as follows:

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

The resolution will be read at the next meeting.

Any Board Member/ Good and Welfare:

There is an OPRA request for information on the Emerson Golf Course. The Secretary will handle this.

The August meeting will be changed from the 7th to the 21st.

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

Mr. Billy Price of 9 Emwood Drive was present to discuss the traffic situation at the Valero Gas Station. Borough Engineer Berge Tombalkian explained the future plans for this intersection to Mr. Price.

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

A motion to adjourn was made by Mr. Goursky, seconded by Mr. Callagee and carried.

Respectfully submitted - Kathy Rizza, Secretary