

**MUNICIPAL LAND USE BOARD MINUTES  
BOROUGH OF EMERSON  
JULY 11, 2019**

This meeting of the Emerson land Use Board was held in the Municipal Building. Land Use Chairman Bischoff opened the meeting at 7:30 p.m. 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	Absent
Stephanie Clark	Present
Councilwoman Jill McGuire	Present
Chairman Jeff Bischoff	Present
Vice-Chairman Gary Schwinder	Present
Don Pierro	Present
Evan Kutzin	Absent
Mike Myers	Present
Bill Loschiavo	Present
Doug McKendry	Absent
Paul Hulburt	Present
Michael Timmerman	Present
Mike Cimino	Present
Christopher Martin, LUB Attorney	Absent
Neil Tortora, Esq. sitting in for Mr. Martin	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

**Approval of Minutes – June 6, 2019**

Chairman Bischoff asked if there were any comments or changes in regard to the minutes of the meeting held on June 6, 2019. Since there were no comments, the Chairman asked for a motion to approve the minutes, which was made by Vice Chairman Schwinder, second was made by Mr. Myers. By roll call, all voted to accept.

## Vouchers, Correspondence and Communications

Chairman Bischoff asked if there was any correspondence. There were several letters from the County in regard to soil movement, which Chairman Bischoff passed along to members of the Board.

Chairman Bischoff asked for a reading of the Purchase Orders for approval.

The secretary read the purchase orders:

11-Jul-19

<u>Date</u>	<u>PO#</u>	<u>Vendor</u>	<u>DESCRIPTION</u>	<u>Amount</u>
4/4/2019	19-005485	Morrison Mahoney LLP	Legal Services for Application of International Construction, LLC	\$ 693.00
6/10/2019	19-00955	Kokowski, Sylvia	LUB Interim Secretary	\$ 150.00
6/20/2019	19-01027	Morrison Mahoney LLP	Keeler Appl.	\$ 253.50
6/20/2019	19-01026	North Jersey Media	Keeler Resolution	\$ 184.33
6/26/2019	19-01088	Neglia Eng.	9 Dogwood Lane, Zinder	\$ 300.00
6/26/2019	19-01088	Neglia Eng.	160 Eagle Dr., Flannelly Residence	\$ 300.00
6/20/2019	19-01028	Boswell Eng.	Keeler Res, 137 Linden Ave. (Nov. 8, Dec. 6 2018)	\$ 79.00
5/9/2019	19-00780-01	Morrison Mahoney LLP	Land Use Board Retainer	\$ 1,000.00
5/24/2019	19-00881	WB Mason	Office Supplies	\$ 44.09
6/10/2019	19-00955	Kokowski, Sylvia	Interim Board Secretary	\$ 150.00
	19-00585	Morrison Mahoney LLP	International Construction	\$ 693.00
			Total	\$ 3,846.92

Chairman Bischoff asked if there were any questions in regard to the Purchase Orders, Vice Chairman Schwinder asked about two vouchers that were not read. Chairman Bischoff advised the Board, they would be covered separately. Vice Chairman Schwinder then asked about the Purchase Order for legal work for International Construction. Chairman Bischoff stated that was the contractor for the construction on Palisade Ave at Clinton.

Mr. Loschiavo made a motion to approve the Purchase Orders for payment, second was made by Councilwoman McGuire, all were in favor.

Chairman Bischoff then asked the secretary to read the remaining vouchers which were related to litigation.

Ms. Shust read:

<u>Date</u>	<u>PO#</u>	<u>Vendor</u>	<u>DESCRIPTION</u>	<u>Amount</u>
6/25/2019	19-01080	Morrison Mahoney LLP	General Matters vs LUB	\$ 1,428.00
6/25/2019	19-0108/0	Morrison Mahoney LLP	Tanveer Hassan vs Emerson	\$ 300.00
				\$ 1,728.00

Vice Chairman Schwinder asked what the vouchers covered. Chairman Bischoff advised the Board the matters could not be discussed during the meeting and if additional information was required they should reach out to the Board Attorney, Chris Martin. Chairman Bischoff asked for a motion to approve the Purchase Orders for payment. Mr. Myers made that motion, Mr. Hulbert seconded the motion. A roll call vote was taken. Ms. Clark, Chairman Bischoff, Mr. Myers, Mr. Pierro, Mr. Hulbert, Mr. Cimino, Mr. Timmerman voted to approve the Purchase Orders. Councilwoman McGuire, Vice Chairman Schwinder and Mr. Loschiavo abstained.

Chairman Bischoff announced that he was rearranging the Agenda to allow for the vote on the Resolution and the presentation of an application before proceeding onto discussion of Ordinance 248 update.

**Resolution:**

Zindel Residence, 9 Dogwood Lane, Block 325, Lot 12 – Rear Yard Setback, Oversized Deck Construction

Chairman Bischoff asked if there were any questions or comments in regard to the Resolution. Hearing none he asked for a motion to approve the Resolution which was made by Mr. Loschiavo, second was made by Vice Chairman Schwinder, by roll call vote, all were in favor. The Resolution was approved.

**Application:**

**93 Seneca St, Block 217, Lot 18, 6 ft. fence on corner property.**

Mr. Xavier Chavez, owner of 93 Seneca St., approached the podium to present his application and respond to the Board's questions.

Chairman Bischoff told the Board he had visited the site, and had sent several pictures for the Board's review. He stated there was a temporary fence around the yard for safety precautions. He asked Mr. Chavez to confirm there was a pool in the yard, which was for his family's use. Councilwoman McGuire stated the installation was similar to the one she had in her back yard, with the pool partially in ground.

Ms. Clark asked about any openings in the fencing. Mr. Chavez replied the new fencing would meet with the existing fence in the rear of the yard.

Chairman Bischoff advised the Board that there was no visual obstruction for traffic. He asked the Board if there were any additional questions. Hearing none he asked for a motion to approve the application. Vice Chairman Schwinder interjected that formally, even though there was no public, the floor had to be opened. A motion was made by Mr. Myers, second by Councilwoman McGuire, all were in favor there was no public, Councilwoman McGuire made a motion to close the floor, second was made by Vice Chairman Schwinder, all were in favor.

Mr. Myers made a motion to approve the application, second was made by Councilwoman McGuire, by roll call vote, all were in favor.

Chairman Bischoff advised Mr. Chavez that the formal Resolution would be available at the meeting of August 8.

Ms. Zindel thanked the Board and asked if she could apply for her building permit. Chairman Bischoff told her the Resolution would be signed and a copy given to the Building Dept., therefore, she could start her paperwork.

## **BOARD BUSINESS:**

### **Update to Ordinance 248: Streets and Sidewalks, Article IV, Construction of Concrete Curbs, Sidewalks, and Driveways.**

Chairman Bischoff told the Board that Chris Martin and his staff had revised certain areas of Ordinance 248, in particular sections of item 38, regarding sidewalks, curbing and driveways. Chairman Bischoff said these items should be under the jurisdiction of the Planning Board and not the Mayor and Council, and decisions regarding the section should be done on a case by case basis. For instance if there are existing sidewalks on the side of the street where new construction is being done, sidewalks need to be added. If the site is prone to flooding and there are no walks or curbing in the area, curbing and walks would not be necessary, particularly if they would increase the possibility of flooding.

Vice Chairman Schwinder said he was curious as to why the paragraph referring these questions to the Mayor and Council was included in the revision. Chairman Bischoff and the Board reviewed the paragraph in question and agreed it should be eliminated.

Mr. Tortora reminded the Board that they do not pass Ordinances they only make recommendations, but agreed that Paragraph 'B' should be removed.

Vice Chairman Schwinder then questioned the paragraph referring to safety and health of the neighborhood and wanted to be sure there was no loophole where a contractor need not install sidewalks, curbing etc. Mr. Tortora replied that this would pertain in particular to an area similar to Memorial School, where there is no place for the children to walk during drop off and pick up. It is an area where there are no walks, and the safety and health of the children needs to be considered. Future construction in this area should include walkways for the children.

Mr. Pierro asked about construction which would not require a variance. Who would govern/watch if a sidewalk, driveway or curbing were installed or not. Chairman Bischoff replied this would be the Construction Official, who would have the authority to hold up the C/O.

Vice Chairman Schwinder asked about rehabs or knock downs. Chairman Bischoff reminded the Board that sidewalks are the property of the Borough. They cannot be removed, but are maintained by the homeowner. If there is rehab construction done, an existing walkway must be replaced. He further stated that an area like Centennial Woods where there are no walkways would not require any, but Palisade Ave would.

The lack of walkways on McArther Ave was brought up. Vice Chairman Schwinder advised the Board that this had been an oversight by the previous Engineer, however, the Engineer and Board had requested the roadway be widened by at least one foot, which had been done.

Vice Chairman Schwinder also stated that the Board had suggested the street be indicated as a one way, which has not been done to date. Chairman Bischoff stated only the Mayor and Council could make that designation.

Chairman Bischoff told the Board that in areas of high water tables, i.e. Clinton Ave, it may be prudent not to increase pervious coverage, but again must be determined on a case by case application.

Mr. Pierro questioned the paragraph second from the bottom on page 5, and the Paragraph on page 6 beginning, "when construction". Mr. Tortora replied that in areas such as Crest Rd to Memorial School, there is currently no sidewalk, but there should be as the children have nowhere to walk due to the parking on both sides of the street. This is a safety and health issue. Mr. Pierro asked about Centennial Woods. Mr. Tortora replied there is much less traffic through Centennial Woods, therefore, the same rules might not apply.

Mr. Loschiavo wanted to know how do you tell a homeowner that he has to install a sidewalk. Chairman Bischoff replied that it is a matter for the Mayor and Council. Vice Chairman Schwinder thought there might be Grants that can be obtained to cover the situation. Mr. Tortora said this area was outside of the Board jurisdiction and should probably be omitted.

Chairman Bischoff asked if there were any more comments questions. Hearing none, he asked Mr. Tortora to have the recommendations updated and brought before the Board at the next meeting.

Chairman Bischoff asked for a motion to open the floor to the public which was made by Vice Chairman Schwinder, second by Councilwoman McGuire, all were in favor. Since there was no public, Vice CCChairman Schwinder made a motion to close the floor, second was made by Mr. Loschiavo, all were in favor.

Since there was no other Board Business, nor any Good and Welfare, Chairman Bischoff advised the Board the next meeting was on August 8, at which time they would vote on the Resolution for the Chavez residence and hear an application on the Ciolino residence.

Mr. Myers made a motion to adjourn the meeting, second was made by Mr. Loschiavo, all were in favor. The meeting was adjourned at 8:14 pm.

Respectfully submitted,

Marie Shust  
Board Secretary