

MUNICIPAL LAND USE BOARD MINUTES
BOROUGH OF EMERSON
July 12, 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 | Present |
| Michael DeOrio | Absent |
| Gary Goursky | Present |
| Louis Lamatina, Mayor | Present |
| Evan Kutzin | Present |
| Steven Malone | Present |
| Doug McKendry | Absent |
| 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 |
| Michael Sartori, CCO/Zoning | Not Requested |
| Perry Solimando, DPW Interim 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 June 21, hearing none he asked for a motion to accept the minutes, which was made by Mr. Goursky, second was made by Mr. Kutzin, all were in favor. The minutes were accepted.

Chairman Schwinder asked Ms. Shust if there was any correspondence. There was a memo from Lauren Roehr, the CFO which defined the Land Use Board Budget for 2018, which was read by Chairman Schwinder.

Ms. Shust then read the vouchers.

July 12, 2018

Land Use Vouchers

| | | | | | |
|--------|----------|-----------------------------|-------------------------|----|----------|
| 25-Jun | 18-00997 | Boswell Eng | 51 Vivian Ave. | \$ | 410.00 |
| 25-Jun | 18-00996 | Boswell Eng | 161 Kinderkamack Rd | \$ | 410.00 |
| 25-Jun | 18-00996 | Boswell Eng | 17 Furman Drive | \$ | 82.00 |
| 6-Jul | 18-01063 | Boswell Eng | 15 Arthur St | \$ | 57.02 |
| 3-Jul | 18-01049 | Boswell Eng | 17 Furman Drive | \$ | 632.00 |
| 26-Jun | 18-01005 | Bogart Planning | 161 Kinderkamack Valero | \$ | 975.00 |
| 9-Jul | 18-01066 | North Jersey Media Notice - | 17 Furman Dr, | \$ | 76.15 |
| | | | | \$ | 2,642.17 |

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 Folotico, second was offered by Mr. Kutzin, all were in favor. The vouchers were approved for payment.

Chairman Schwinder explained that he was taking the liberty of changing the order of the Agenda, since the only application being presented appeared to be straight forward, whereas the Resolution and Sub-Division discussions may take some time. The spectators were invited to stay for the rest of the meeting if they were interested in the matters before the Board, but the Application would be heard first.

Chairman Schwinder explained to the Board and spectators that the Berens application had been carried over as the newspaper notice had not been published prior to the previous meeting.

Application:

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

Mr. & Mrs. Berens were asked to approach the Board in regard to their application to replace a 4 ft. fence with a 6 ft. fence. Mr. Tortora reviewed the newspaper notices and the notices to the neighbors. There was no letter of rejection from the Building Dept., however Mr. Berens presented a receipt from a fence application several years ago, which had been rejected by the Building Dept. Mr. Tortora allowed the application to proceed as all other papers were in order. Mr. Berens explained that it was their intent to replace the four foot fence with a six foot fence which would match their neighbors along Kinderkamack Rd, as well as the fencing on the other three sides of the lot. He stated he wanted to do this for the safety of his children, since Kinderkamack Rd is such a busy thoroughfare.

Chairman Schwinder asked who owns the vinyl fencing to the rear of the property. Mr. Berens replied that the fencing on the three sides was owned by them and they were looking to complete the enclosure of the yard. Chairman Schwinder then confirmed with Mr. Berens that it was only the four foot fence on Kinderkamack Rd that was being replaced.

Chairman Schwinder asked Mr. Ascolese for his comments and recommendations. Mr. Ascolese replied that he had reviewed the site, the proposed fence would be in line with a neighbor's fence and would be in line with existing foliage. The existing foliage should be cut back as it is encroaching on the right of way for pedestrians along Kinderkamack Road. Mr. Ascolese stated that at the intended location, Kinderkamack Rd is 2 lanes wide on the northbound side, therefore, there is no line of sight interference. There would be a side yard setback shortage (12.7 ft. rather than 22 ft.), but that is a pre-existing condition due to the original 4 ft. fence. Mr. Goursky asked if there was a picture of the four foot fence. Mr. Berens provided photos of the property, the existing fencing and where they planned to install the new fencing if the application was approved. The photos were marked Exhibits A1, A2 and A3. Seeing no other hands from the Board, Chairman Schwinder asked for a motion to open the floor to the public on this matter only. Mr. Goursky made the motion, second by Mayor Lamatina, all were in favor. Since there were no spectators stepping forward, Chairman Schwinder asked for a motion to close the floor to the public, which was made by Mr. Goursky, second by Councilman Folatico, all were in favor. The floor was closed to the public on this application.

Chairman Schwinder asked for a motion on the Berens application. Mayor Lamatina made a motion to approve the application, which was seconded by Councilman Folatico, all were in favor. The application was approved, Chairman Schwinder advised Mr. & Mrs. Berens that at the next meeting of August 9, a Resolution would be memorialized. In the meantime, they could begin the process of applying for a permit, however, it would not be issued until the Resolution was memorialized and distributed.

Resolution:

Resolution accepting recommendations for the Housing Element and 3rd Round Fair Share Housing Plan.

Chairman Schwinder read the Resolution as prepared, and then asked the Board if there were any questions or comments. Mayor Lamatina advised Chairman Schwinder and the Board that in the third paragraph from the end the word "owned" should be deleted. The wording should be family units. Hearing no other comments from the Board, Chairman Schwinder asked for a motion on the Resolution which Mr. Goursky made with the change in wording, second was made by Mr. Kutzin. Mr. Bresa, Mr. Carlos, Mr. Cimino, Mr. Goursky, Mr. Kutzin, Mr. Malone, Mr. Sudano and Chairman Schwinder were in favor. The Resolution was passed. Mayor Lamatina and Councilman Folatico abstained from voting since they are members of the Mayor and Council.

Mayor Lamatina stated that the Council had acted based on the letter that had been presented to them and passed an Ordinance approving the recommendations for Housing Elements and 3rd Round Fair Share Plan. This Ordinance, as well as the Ordinance regarding the sale of marijuana would be presented to the Land Use Board at their next meeting. Chairman Schwinder directed Ms. Shust to forward the Ordinances to the Board Members for their review.

Board Business:

Chairman Schwinder advised the Board they had received a request for a special meeting to hear the application for the Wendy's planned for 411 Old Hook Rd (Shop Rite Plaza). Ms. Shust was asked for available dates. Ms. Shust replied that based on the information she had received from the Board Members the only Thursday that is available is the 23rd of August. She also suggested Wednesday the 15th of August, which appeared to be an acceptable date for most of the Board. Chairman Schwinder asked Ms. Shust to confirm the current scheduled applications for August 9. If the applicants could not confirm, perhaps that date could be offered to Wendy's. The special date is pending replies from the applicants currently scheduled for August 9th.

Sub-Division Code update:

Mr. Ascolese said he had reviewed local community regulations and believed Oradell was the best fit for Emerson. He told the Board that the State leaves the quantity of lots for determination up to the individual communities. Mr. Ascolese believes the 3 lot subdivision as used for Oradell would also be the best fit for Emerson.

Oradell regulations state that if a lot is divided into no more than 3 lots and there are no variances required, it is considered a minor sub-division. Once a variance becomes a part of the sub-division and/or it involves more than three lots, and/or new roadways and walkways are involved - it becomes a major sub-division. Mr. Ascolese stated these definitions are in line with the 1954 specifications.

Mr. Ascolese said that due to incomplete information he had 10-15 years ago, there were several lots along Arthur Street that did not have curbs and walkways. With this update, the specifications will be complete, and all sub-divisions will have curbs and walkways. Mr. Bresa didn't believe the Board could obligate property owners to install curbs and walkways at this point.

Mr. Malone asked if all future construction would require curbs and walkway with the updated recommendations. Mr. Ascolese replied yes.

Mr. Kutzin wanted to know if a resident could request a variance to eliminate walkways. As with all variance requests, they would be reviewed on a case by case basis.

Mayor Lamatina said the Borough was in the process of applying for a grant for "Safe Routes" for school children to install walkways where needed, in particular the area on Forest Ave. which not only has no walkway, but is overgrown.

Mr. Schwinder stated that there is an Ordinance on file requiring all residents to shovel their walkways. Those who have no walkway are not obligated to shovel anything/anywhere.

Hearing no other comments, Chairman Schwinder directed Mr. Ascolese to present a formal recommendation for the Board for the next meeting. Mr. Goursky wanted to confirm that a minor sub-division would be 3 lots or less with no variance required. Mr. Ascolese confirmed.

Chairman Schwinder asked Mr. Sudano about progress on the sign recommendations. Mr. Sudano replied he would have a report for the next meeting. Chairman Schwinder asked if lighting similar to the new house on Forest Ave in Paramus was being addressed. Mr. Sudano replied that it was.

Mr. Ascolese asked if the signage that was being requested by Wendy's would be addressed in the new recommendations. Mr. Sudano replied that it was, but the new Ordinance would not be in effect before the Wendy's application might be granted, therefore the Wendy's signs would require variances.

Mr. Tortora stated that the Ordinance in effect at the time of approval would apply.

Chairman Schwinder advised the Board that Mr. Obernauer would consult with Engineers and Attorneys to confirm date for appearance for the Valero application.

Chairman Schwinder asked Ms. Shust to contact the Board of Education to schedule their appearance for the first meeting of September.

Chairman Schwinder reminded the Board Members to advise Ms. Shust if they were unable to attend any scheduled meeting. Mayor Lamatina thought all of the Board should reply whether attending or not.

Chairman Schwinder asked for a motion to open the floor to the public which was made by Mr. Kutzin, second by Mayor Lamatina, all were in favor. There was one spectator and she stated that she was there in case Wendy's was discussed and said she would see the Board at the next meeting. Seeing no hands the Chairman asked for a motion to close the floor which was made by Mr. Kutzin, second by Mr. Goursky, all were in favor. The floor was closed to the public. Chairman Schwinder asked if there was any Good and Welfare or other Board Business. Hearing none he asked for a motion to adjourn the meeting.

Mayor Lamatina made a motion to adjourn the meeting, second was offered by Mr. Sudano all were in favor. The meeting was adjourned at 9:16 pm.

Respectfully submitted,
Marie Shust
Board Secretary