

3/18/2019	19-00475	Morrison Mahoney	Legal Services	\$	1,61.88
3/15/2019	19-00464	Morrison Mahoney	Obernauer Application	\$	924.00
3/15/2019	19-00464	Morrison Mahoney	ERUR Redevelopment	\$	290.20
TOTAL				\$	3,905.45

A motion to accept the vouchers was made by Councilwoman McGuire, second was offered by Mr. Kutzin, all were in favor.

Mayor DiPaola swore in the newest member of the Land Use Board, Mr. Michael Timmerman.

RESOLUTION:

**Antonio Ramos
19 Sycamore Ave.
Block 505, Lot 8**

Chairman Bischoff asked if there were any comments on the Resolution for Antonio Ramos, 19 Sycamore Ave. Hearing none he asked for a motion to approve the Resolution, which was made by Mr. Loschiavo, second was offered by Mr. Myers. Mayor DiPaola, Councilwoman McGuire, Chairman Bischoff, Vice Chairman Schwinder, Mr. Pierro, Mr. Myers, Mr. Loschiavo all voted to approve the Resolution.

Ordinance 1582-19

Chairman Bischoff introduced Caroline Reiter of Christopher Statile Planning. Mr. Martin verified Ms. Reiter's credentials. Ms. Reiter told the Board she has done research on the proposed Ordinance 1582-19. The intent of which is to reverse Paragraph 4 of the original Ordinance approved in 2015, permitting conditional drive through's in the RC (Retail/Commercial) zones. She continued that the Master Plan dated 2015 contains a paragraph which prohibits drive through in the CBD.

She did note apparent conflicts in the revised and original Ordinance. One stating there are possible attributes to drive throughs and the new Ordinance stating drive throughs are not beneficial to the community. In the 2017 Reexamination, there is a statement promoting good relationships between business and adjacent residential properties, however drive throughs are not appropriate near residential areas. the noise and litter being prime reasons. She recommends defining the businesses prohibited if that is the direction the Board decides to go.

Chairman Bischoff wanted to know if the Board members had any questions. Mr. Schwinder stated he believed the overwhelming opinion of those he has spoken with is to eliminate eatery drive through. He said drive throughs should be limited to banks. Mr. Mc Kendry stated drug stores should be allowed to have drive throughs. It was unfair to ask a senior citizen to get out of their car, particularly in inclement weather, to pick up a prescription. Mr. Loschiavo asked if defining hours of business would make drive throughs unappealing to the food industry. Mayor DiPaola stated there is a noise ordinance as well as an Ordinance covering hours of operation.

Ms. Reiter stated there is no mention of hours of operation in the Ordinance. Perhaps the Land Use Board could include it in their recommendations.

Mr. Martin stated that the Land Use Board could guide bank and pharmacies based on Land Use Board Ordinance, rather than noise.

Mr. Loschiavo wanted to know if an applicant could apply for a variance if they wanted a drive through. Ms. Reiter replied anyone can apply for a variance, it is up to the Board to make the determination. Mr. Martin said the variance being applied for would be a 'D' variance, which would be totally prohibited by Land Use Recommendations.

Chairman Bischoff asked if everyone agreed allowed all except eateries. Vice Chairman Schwinder stated the recommendations for the Ordinance should be specific, not leave anything to interpretation.

Mr. Martin stated the Ordinance must be consistent with the Master Plan, but in the end it was up to the Borough Attorney to determine the final language.

Mr. Kutzin stated he thought there were no drive throughs allowed at all except as conditional used in the RC zone. Ms. Reiter replied it was covered under Section 2920C. Mr. Kutzin asked if the purpose of Ordinance 1582-19 was to remove drive throughs entirely. Ms. Reiter presented the zoning map, indicating where the RC zones were located, which is at Old Hook and Main, as well as Kinderkamack Rd from the rail line to Chestnut. The Ordinance is specific to the RC zone.

Mr. McKendry asked how car washes and drive through oil change business would be affected, Ms. Reiter replied that by the nature of the business they are not considered drive throughs, but rather auto service. Mr. McKendry thought the businesses permitted, such as banks, pharmacies, and Post Office to be defined in the Ordinance. Ms. Reiter replied the Ordinance could include the definitions of permitted as use, as well as prohibited use. Mr. Martin stated again it was up to the Borough Attorney for the final language, but thought it best to define permitted use only, so there were no loop holes.

Chairman Bischoff asked for a motion to open the floor to the public, which was made by Mr. Loschiavo, second by Mr. McKendry.

Ira Weiner, attorney in the firm of Beattie Padovano, who represents Citizens of Main Street. He stated the Board should define drive through use, as down the road there may be a yet to be developed business that could be a drive through, which might be allowed because the businesses

permitted were not fully defined. He also suggested the word “bank” should be used, rather than “financial institution” as that would be a “broad” definition.

Mr. Raymond Madura of 10 Grossbeck, asked that the Board to consider the various setbacks when allowing drive throughs. He said that with the current setback, drive throughs could abut against the neighboring property, as the side set backs are only set at approximately 27 feet. Mr. Martin replied that the Board was addressing the Ordinance 1582-19 at this time, not general specifications. Mr. Madura thought for the protection of residents, the setback should be a part of the Ordinance. He said with the drive through being close to residences, there is the problem of noise, headlight glare, fumes, etc., as well as the reduction of value of property.

Chairman Bischoff thanked Mr. Madura for his input. Seeing no other hands, Chairman Bischoff asked for a motion to close the floor on this subject, which was made by Mr. Schwinder, second was made by Mr. Myers, all were in favor.

Mr. Martin thanked Ms. Reiter for all her research into the areas and marked the zoning map as Exhibit III.

Mr. Schwinder agreed with Mr. Weiner that the businesses allowed should be fully defined, not vaguely described which could lead to possible problems in the future. He continued that a business applicant has the right to apply for a variance, but specific definitions would deter nuisance applications.

Vice Chairman Schwinder made a motion to recommend the Ordinance to prohibit drive through businesses in the RC zone with full definition of allowed drive through businesses of banking, pharmacy and Post Office be included in the Ordinance. Mr. Martin stated he would include the specifics in his recommendation to the Governing Body. Mr. Myers seconded the motion. Aye votes were cast by Ms. Clark, Chairman Bischoff, Vice Chairman Schwinder, Mr. Myers, Mr. Kutzin, Mr. Loschiavo and Mr. McKendry., Mr. Pierro voted nay, Mayor Di Paola was not eligible to vote since the matter would come before the Governing /Body,

RESOLUTION MINISTERIAL CORRECTION

Pauline Gikas, Lisa Nemeroff, and Teresa Gressinger
156 Ackerman Ave., Block 501.01, Lot 14

Mr. Martin explained to the Board that this Resolution was being issued to correct an error on the original Resolution of April 5, 2007, which on page two states that any structure on Lot 14.01 shall not exceed the footprint of 25 ft. x 50 ft., whereas according to the minutes of the meeting of March 15, 2007, the correct footprint is 35 ft. x 50 ft.

Mr. Martin continued that the only members of the Board that are eligible to comment/vote on the Resolution are Mayor DiPaola and Chairman Bischoff as they were on the Board at the time of the original application.

Mayor DiPaola made a motion to approve the correction to the original Resolution, which was seconded by Chairman Bischoff. Mayor DiPaola and Chairman Bischoff voted yes to approve.

Vice Chairman Schwinder made a motion to open the floor to the public on any subject, second was made by Mayor DiPaola, all were in favor.

Katherine Cornwell of 78 Grand Ave approached the podium to discuss the Armenian Home. She wanted to know if the change in management/ownership of the Armenian Home by Hackensack University Medical Hospital would require they apply to the Land Use Board again.

Mr. Martin told Mrs. Cornwell that the Armenian Home had not presented any changes in the structure or ownership since their last appearance in January. Ms. Cornwell also wanted to know if there was a Statute of Limitations that would apply to the completion of the construction. Mr. Martin advised Ms. Cornwell that the Board was not aware of any changes and could not address something that was not before them. As far as the Board knew the applicant was abiding by the requirements of the Borough, the County and the State.

Councilman Hoffman of 61 Emwood Terrace approached the podium and stated that if there was a new developer, they would need approval. Chairman Bischoff replied that as far as the Board was aware, HUMC is partnering as management. Councilman Hoffman wanted to know if HUMC was an original member. Since the matter and the records were not before the Board, the question could not be answered.

Mr. Martin advised Councilman Hoffman, that the Armenian Home must follow the approvals and regulations of the State. No information has been given to the Board other than what was offered in January when the plans had to be changed slightly.

Councilman Hoffman wanted to know how a new developer would be handled in other situations. Mayor DiPaola replied that due change of percentage of ownership to 51% of new developer in Block 419, they had to appear before the Board.

Mayor DiPaola asked where the plans for the Armenian Home were stored, as they were not in the Clerk's office. Ms. Shust did reply that there was a set of plans in the file room in the basement and she thought she might have an extra set at home. Ms. Shust also stated that since there was no current application there were no plans kept in the Clerk's office.

Ms. Shust was request to contact Mr. Ascolese to have plans transferred to Dave Atkinson of Neglia Engineering.

Vice Chairman Schwinder stated that at the first meeting of the year, there were changes to the plans due to State requirements of a bathroom in every room. Mr. Cimino added that the number of rooms was reduced in order to accomplish that requirement and a courtyard was added.

Mayor DiPaola asked Mr. Martin for clarification as to who votes and if Alternates had to attend every meeting. Mr. Martin replied Alternates should attend all meetings. If it is not a zoning matter, 9 votes are required, Class I and Class III are not eligible to vote on zoning matters, which means 7 votes would be required.

Mayor DiPaola asked Ms. Shust for consistency in roll call voting.

Vice Chairman Schwinder asked Mr. Martin of the status of the updates of the zoning/planning Ordinances.

Mr. Martin replied this was a two pronged program, and he felt the updating of the Land Use Application was of a higher priority. And his team was working on that first.

Mayor DiPaola asked for protocol if a member is applying for a variance. Mr. Martin replied the member would step down for the application.

Chairman Benchhoff asked if there was any Good or Welfare to be discussed. There was none.

Mayor DiPaola welcomed Mr. Timmerman as an Alternate and Ms. Clark as Class II. She apologized to the Board as she had told Mr. Timmerman that Alternates did not need to attend all meetings.

Seeing no other hands, Chairman Benchhoff asked for a motion to adjourn the meeting which was made by Vice Chairman Schwinder, second by Mr. Kutzin, all were in favor.

The meeting was adjourned at 8:54pm.

Respectfully submitted,
Marie Shust
Board Secretary