

**MUNICIPAL LAND USE BOARD MINUTES  
BOROUGH OF EMERSON  
May 16, 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 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                     | Present       |
| 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                       | Present       |
| Paul Hulburt                        | Absent        |
| Michael Timmerman                   | Present       |
| Mike Cimino                         | Present       |
| Christopher Martin, LUB Attorney    | Present       |
| David Atkinson, LUB Engineer        | Not Requested |
| Michael Sartori, CCO/Zoning         | Not Requested |
| Perry Solimando, DPW Interim Super. | Not Requested |
| Borough Admin.                      | Not Requested |
| Marie Shust, Secretary              | Present       |

Chairman Bischoff asked if there were any comments or changes in regard to the minutes of the meeting on May 2<sup>nd</sup>. Hearing none he asked for a motion to approve, which was made by Vice Chairman Schwinder, second was made by Mr. Myers. Mayor DiPaola, Ms. Clark, Councilwoman McGuire, Chairman Bischoff, Vice Chairman Schwinder, Mr. Pierro, Mr. Myers, Mr. Loschiavo and Mr. Timmerman were in favor. Mr. Kutzin, Mr. McKendry, Mr. Cimino were not eligible to vote as they were not present at the meeting of May 2.

Chairman Bischoff asked if there was any correspondence. There was none. He asked for a reading of the Purchase Orders for approval.

Ms. Shust advised the Board there were two

|   |             |
|---|-------------|
| 5/16 from Neglia Engineering for 129 Palisade Ave       | \$ 75.00    |
| 5/09 from Morrison Mahoney, for second quarter retainer | \$ 3,000.00 |
| Total   | \$ 3,075.00 |

Mr. Myers made a motion to approve the Purchase Orders, second was made by Mr. Schwinder. All were in favor.

## **Resolutions:**

### **Flannelly Residence, 160 Eagle Drive, Block 326, Lot 11**

Chairman Bischoff asked if there were any comments in regard to the Resolution for the Flannelly residence. Seeing no hands he asked for a motion to approve, which was made by Mr. Loschiavo, second by Mr. Myers. Mayor DiPaola, Ms. Clark, Councilwoman McGuire, Chairman Bischoff, Vice Chairman Schwinder, Mr. Pierro, Mr. Myers, Mr. Loschiavo and Mr. Timmerman were in favor. Mr., Kutzin, Mr. McKendry, Mr. Cimino were not eligible to vote as they were not present at the meeting of May 2.

Chairman Bischoff asked the Mayor why this Bond Ordinance was being brought before the Land Use Board. Mayor DiPaola replied that all Bond Ordinances will be brought before the Land Use Board as a requirement to be sure the Ordinance does not affect the Master Plan or Land Use Procedures. Mr. Martin confirmed the Mayor's description and advised the Board to submit a memo that the Ordinance had been reviewed and there were no comments or recommendations. Chairman Bischoff asked if there were any comments from the Board members in regard to the Bond Ordinance 1592-19. Since there were none, Chairman Bischoff signed the memo stating the Board had no comment for the Governing Body.

Vice Chairman Schwinder advised the Board that Ms. Clark's name had been omitted from the attendance list in the minutes of the May 2 meeting. Ms. Shust was directed to correct the omission before posting to the website.

Chairman Bischoff continued on to the revised Land Use Application and asked Mr. Martin to comment. Mr. Martin advised the Board that the current application has several confusing and conflicting areas, as well as some omissions. He said the proposed revised application was user friendly. Ms. Shust asked if the direct mailing to the Professionals had been removed. Mr. Martin replied the revised application states all distribution is to be done by the Secretary, not the applicant. Mayor DiPaola asked if all the Board members had received the emailed application from the Secretary. There was some confusion by the members in regard to the proposed application and a new variance application that had been distributed.

Mayor DiPaola asked Mr. Martin if he had created the proposed application, to which he replied yes. The Mayor made a motion that the discussion on the proposed application form be tabled and that a hard copy of the document be made available for all members of the Board. Mr. Myers made the second, all were in favor. Ms. Shust was directed to have the hard copies delivered to Borough Hall for pick up by the members.

Chairman Bischoff then went on to the discussion of the correspondence received at the meeting of May 2 from the residents in the area of Clinton and Palisade Ave in regard to sidewalks on the Clinton Ave side of 129 Palisade Ave. Mr. Martin advised the Board that this matter could not be discussed as there was no application in front of us. And that the Board had reviewed and approved the application and specifically addressed the Ordinance in regard to sidewalks on new construction during the application hearing. The Board could not alter that decision.

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

Councilman Ken Hoffman, 61 Emwood Dr., approached the podium. He addressed the sidewalk issue at Clinton and Palisade and referred to the Ordinance 248-38A. He directed his questions to Mr. Martin. He said the Ordinance was not definite in regard to frontages on a corner property. Mr. Martin said it was possible that the frontage would be on the side street. He could not reply definitely without reviewing the entire Ordinance, which he did not have with him at the time. He did note there were several areas that should be defined fully,

Chairman Bischoff stated it was very possible there could be two frontages on a corner property. He stated the setbacks were defined for both sides of the property.

Mr., Hoffman stated he would bring the matter before the Mayor and Council at the upcoming meeting. Mr. Martin replied he was not sure there would be any effect on an approved application. The Ordinance in effect at the time of approval would remain.

Mr. Martin stated he could not see an exception for certain areas. He thought the Engineer's report should cover any adverse effect on neighboring properties. Perhaps down the road the Master Plan and Environmental endangerments should be considered. Mr. Martin told the Board that he and Mr. Hoffman had been reviewing several issues.

Vice Chairman Schwinder suggested that the Board review the Ordinance to eliminate any ambiguity regarding "frontage" on a corner lot, which currently is not fully defined.

Mr. Loschiavo stated there may be instances where the standard rules would not apply and would have to review on a case by case basis. Mr. Loschiavo asked about effect of two frontages or whether the resident would have to change his address.

Chairman Bischoff stated that the frontage on a corner lot in the R75 zone is 85 ft. wide.

Mr. Martin stated there are several items in the Ordinance which should be reviewed. Chairman Bischoff said the Board should finalize the Land Use Application form, and then proceed with the Ordinance review.

Mayor DiPaola asked Ms. Shust to start a "tickler file" of items to follow-up and be in touch with the Chairman as to adding the item to the Agenda.

Vice Chairman Schwinder wanted to know how the correspondence regarding the sidewalks would be handled. Mr. Martin said, there was no application before them, there would be no change to the decision made on the application. Vice Chairman Schwinder wanted to know if we were obliged to respond to the correspondence. Mr. Martin said the correspondents had an opportunity to speak at the meeting where the application had been reviewed.

Chairman Bischoff asked for a motion to close the floor to the public, which was made by Mr. McKendry, second by Mayor DiPaola, all were in favor.

Chairman Bischoff asked if there was any other matter the members of the Board would like to discuss. Ms. Clark brought up the work being done by PSE&G and the way equipment was being left and the effect it was having on the neighborhoods, particularly where they were leaving equipment which blocked the storm drains.

Mr. Martin stated PSE&G could not leave equipment where it would cause any type of hazard. This was a matter for the Police Dept. or the Construction Manager. He also stated the town Engineer should review the sidewalks under the Master Plan. Ms. Clark stated this was a concern for the future. Mr. Martin said it was for the Borough to review. Chairman Bischoff stated it was not a Board issue.

Vice Chairman Schwinder brought up the Armenian Home construction. He stated there had been a ground breaking ceremony several weeks ago, but he did not see any progress in construction and wondered if they were not adhering to the extension terms that had been granted. Vice Chairman Schwinder wanted to know if the Board was policing. Mr. Martin stated there had been extension granted to the end of April 2017 and then to the end of April 2019. He continued that most of the previous holdup was due to State regulations. Mr. Loschiavo thought that ground breaking and installation of a fence was not a start to construction

Mr. Martin replied that legally they have until the date on the Resolution. The Engineer should check to see what was done and if it was sufficient as a start to construction. Chairman Bischoff stated the Armenian Home was in the midst of perc testing, as there were water issues which had to be resolved.

## **Good and Welfare**

Mayor DiPaola said the perc testing would probably take about 3 weeks at the Armenian Home.

She continued that there had been a meeting with PSE&G, the Borough Administrator and herself in regard to the staging of equipment. She told the Board there was a phone number for PSE&G construction on the Borough website and if anyone is experiencing any problem with PSE&G equipment please reach out to them,

Mr. Loschiavo stated that while walking his dog on Palisade Ave, he noticed during a recent rain storm that there was pollution (equipment oil/grease) draining into the storm drains and wondered if there could be some type of protection put up in front of the drains while PSE&G is working. Chairman Bischoff asked if was possible it was coming from neighborhood vehicles and not all PSE&G. Mr. Loschiavo replied the drains needed to be protected, maybe small dunes of sand in front. Mr. Martin suggested that he contact the DPW and have them investigate. Mayor DiPaola stated she would have DPW check the run off for chemicals, sand, etc.

Mr. Martin stated that the traffic back up on Ackerman Ave is becoming worse. The backup goes all the way to the top of the hill. Mayor DiPaola said this issue had been brought up at the last Mayor and Council meeting and the County was to return and reassess the situation. She continued that councilman Falotico had concern in regard to the trains, which was an issue of the County and NJT. She said that the Borough Administrator would be in contact with the County to see how this could be resolved. She is concerned that during the redevelopment the situation will worsen.

Chairman Bischoff wanted to know why when driving northbound a left hand turn onto Ackerman is not allowed when the gates are down. Ms. Shust asked about a left hand turn southbound on Kinderkamack at Linwood during the same time period.

Mr. Kutzin stated that during school access hours, traffic heading west on Linwood and making a left southbound onto Kinderkamack Rd. could wait three lights due to the crossing of students. Mayor DiPaola said she would have the Borough Administrator listen to the tape to review these issues.

Vice Chairman Schwinder asked if the Board could do a look back at the Starbuck's and the left hand turn out of their right of way onto northbound Kinderkamack Rd. Mayor DiPaola advised the Board she would have the County review the area.

Mr. Martin suggested that the review of Ordinance 248.38 be placed on the Mayor and Council agenda for review and referral to the Land Use Board.

Having no other business to discuss chairman Bischoff asked for a motion to adjourn the meeting, which was made by Vice Chairman Schwinder. Mr.Kutzin made a second, all were in favor.

The meeting was adjourned at 8:29 pm.

Respectfully submitted,

Marie Shust  
Board Secretary