

**MUNICIPAL LAND USE BOARD MINUTES
BOROUGH OF EMERSON
SEPTEMBER 19, 2019**

This meeting of the Emerson Land Use Board was held in the Municipal Building. Land Use Chairman Bischoff opened the meeting at 7:40 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	Absent
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	Arrived late
Caroline Reiter, Planner	Not Requested
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

Chairman Bischoff asked if there were any questions or comments on the minutes of September 5th. Vice Chairman Schwinder said there was a spelling error on page 3. The attorney's name is incorrectly spelled. Since there were no other comments the Chairman asked for a motion. Mr. Myers made a motion to accept the minutes with the spelling correction, second was made by Councilwoman McGuire, by roll call vote all were in favor.

Chairman Bischoff asked for correspondence. Ms. Shust read an email from Margaret Boyce the newly elected Chairperson of the Shade Tree Commission. In the email she introduced herself to the Board and advised the Board that the Shade Tree Commission would be making corrections to Chapter 266, Article II, the Ordinance regarding the Tree Management Plan. The email was passed around to the Board.

There were no vouchers to be read.

APPLICATIONS:

**Maietti Residence, 5 Munsey Rd., Block 1022, Lot 1
Roof over rear deck, Pre-existing non-conforming rear setback.**

Chairman Bischoff welcomed Mr. & Mrs. Maietti before the Board to explain their application.

Chairman Bischoff asked Mr. Maietti if the purpose of this application was for a hard roof over the existing deck. He asked if there was any additional land coverage or increase in pervious coverage. Mr. Maietti replied there were none, and no changes to the existing setbacks.

Chairman Bischoff asked the Board if there were any questions, Hearing none he asked for a motion to open the floor to the public.

Mayor DiPaola made a motion to open the floor to the public, second was offered by Vice Chairman Schwinder, all were in favor. Seeing no hands from the public the Chairman asked for a motion to close the floor, which was made by Vice Chairman Schwinder, second by Mr. Hulburt, all were in favor.

Chairman Bischoff asked for a motion on the application. Mayor DiPaola made a motion to approve the application, second was made by Mr. Myers, by roll call vote, all were in favor.

The application was approved. Mr. & Mrs. Maietti were advised a formal Resolution would be available at the next meeting, which would be October 3.

Chairman Bischoff asked if there were any questions on the updated Land Use Application. Ms. Shust had questions regarding the number of copies required as listed on page 16. Mr. Martin replied that would be the minimum quantity required. On page 6, she asked about the fee schedule, Mr. Martin replied that would be a matter for the Board, not his office.

Mr. Myers made a motion to approve the new application, second was made by Mayor DiPaola, by roll call vote, all were in favor. Mayor DiPaola asked Ms. Shust to be sure a copy was sent to the Construction Office and the Zoning Official.

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

Councilman Ken Hoffman, of 91 Emwood Dr. came before the Board. He said he was representing Ms. Boyce, Chairperson of the Shade Tree Committee as she was unable to attend. He wanted to speak about the Tree Management Plan for the property at Union & Palisade. He told the Board that the builder had removed many trees without a Plan in force and without the approval of the Shade Tree Committee, which at the time was under the Environmental Commission. He wanted to know what steps the Land Use Board was going to take to have the builder replace trees or pay the calculated fees for replacement trees. He said there was no penalty involved at this time. But the value was calculated in accordance with the formula that was on file.

Chairman Bischoff told Mr. Hoffman that the Land Use Board has no authority in this instance.

Mr. Martin advised Councilman Hoffman, that this is a matter for the Construction Official. He said that a C/O should not be issued until the Resolution has been satisfied, which falls under the Construction Official/Building Dept. responsibility. This is an enforcement issue, not a Land Use issue.

Councilman Hoffman told the Board that there is no record of a Tree Management Plan on file with the Building Dept., nor was there one as part of the variance application. He said the only reason that the ShadeTree Commission is aware of the number of trees removed and to be replaced is that Perry Salimondo happened to pass by as the trees were being removed.

Again, Mr. Martin said this was an enforcement issue. He said the Land Use Board is not an enforcement agency. But the Shade Tree Commission does have the power to issue penalties.

Mayor DiPaola wanted confirmation as to which department is responsible for the enforcement of the Land Use Resolutions. Mr. Martin replied it was under the Construction Official, who could withhold the Certificate of Occupancy until the terms were met. Chairman Bischoff advised the Board that the new home was already occupied.

Chairman Bischoff said the trees that are in the footprint of the new construction do not count toward the replacement requirements. Councilman Hoffman replied that since there is no Tree Management Plan, there is no way to determine how many trees were or were not in the footprint.

Mr. Martin said that had there been any material changes, they would have had to reappear before the Board. Not having the Resolution in front of him, Mr. Martin said he could not comment on the requirements. He did note that usually his Resolutions cover the Tree Management as being overseen by the Land Use Engineer. Since the Land Use Engineer and the Construction Official of record are no longer a part of the Borough, Mr. Martin was not sure how to verify the information or find a Tree Management Plan.

Mr. Martin did say, if the Shade Tree Commission would like, he would reach out to the attorney for the builder, to see how the situation could be rectified. Councilman Hoffman thanked Mr. Martin and the Board. He told Mr. Martin he would get back to him if necessary.

Mr. Myers made a motion to close the floor to the public, second was made by Mr. Timmerman, all were in favor.

Chairman Bischoff asked the Board if there were any comments or questions. Mayor DiPaola advised the Board that the meetings for the Governing Body were now being televised, and she had received positive comments from the residents. She said she hoped the meetings for the Land Use Board would also be televised in the near future.

Chairman Bischoff reminded the Board of the Municipal Building's birthday celebration coming up on September 22nd. A flyer was distributed.

Mr. Martin asked about the application that had been distributed that evening and when it would appear before the Board. Ms. Shust advised the Board that the applicant wanted to meet with her on Monday the 23rd, therefore, it would not be heard until the 17th, since they would not be able to meet the 10 day notice.

Seeing no other hands, Chairman Bischoff asked for a motion to adjourn the meeting, which was made by Mayor DiPaola, second by Mr. Myers, all were in favor.

The meeting was adjourned at 8:15 pm.

Respectfully submitted,

M. Marie Shust
Board Secretary

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