

**MUNICIPAL LAND USE BOARD MINUTES
BOROUGH OF EMERSON
May 18, 2017**

This meeting of the Emerson Land Use Board was held in the Municipal Building. Chairman Schwinder opened the meeting at 8:12 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	Present
Thomas Callagee	Absent
Michael DeOrio	Present
Gary Goursky	Present
Louis Lamatina, Mayor	Present
Evan Kutzin	Present
Steven Malone	Present
Doug McKendry	Absent
Norman Rieger	Present
Thomas Sudano	Absent
Gerry Falotico, Councilman	Present
Gary Schwinder, Chairman	Present
Christopher Martin, LUB Attorney	Present
Gary Ascolese, MLUB 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, Interim Secretary	Present

Mr. Schwinder asked if there were any comments on the minutes of April 20th meeting, hearing none he asked for a motion to approve, which was offered by Mr. Goursky, second by Mayor Lamatina. All eligible members, Mr. Goursky, Mr. Rieger, Mayor Lamatina and Mr. Schwinder voted aye to accept the minutes.

Mr. Schwinder asked if there was any correspondence, hearing none, he asked for the vouchers to be read to the Board for payment approval.

Vouchers 18-May-17

4/28/2017	17-00650	Boswell	260 Main St.	\$	83.38
4/28/2017	17-00650	Boswell	322 Kinderkamack Rd, Starbucks	\$	389.00
4/21/2017	17-00612	Shust	LUB Meeting 4/20	\$	150.00
4/24/2017	17-00619	Boswell	322 Kinderkamack Rd, Starbucks	\$	169.52
4/24/2017	17-00619	Boswell	322 Kinderkamack Rd, Starbucks	\$	1,976.00
5/1/2017	17-00673	Boswell	324 Main St. Am Legion	\$	1,216.00
5/9/2017	17-00725	Bogart	161 Kinderkamack Rd, Valero	\$	675.00
5/10/2017	17-00737	Boswell	161 Kinderkamack Rd, Valero	\$	1,264.00
5/10/2017	17-00737	Boswell	118 Eagle Drive, Kim	\$	39.50
5/8/2017	17-00708	Boswell	147 Chestnut Ave.	\$	39.50

5/16/2017	17-00765	Boswell	122 Colonial	\$	790.00
5/16/2017	17-00765	Boswell	73 Sullivan	\$	566.14
5/16/2017	17-00765	Boswell	39-41 Chestnut	\$	794.38
5/16/2017	17-00765	Boswell	118 Eagle Drive, Kim	\$	158.00
5/16/2017	17-00765	Boswell	495 & 411 Old Hook	\$	158.00
5/16/2017	17-00765	Boswell	495 & 411 Old Hook	\$	1,106.00
5/16/2017	17-00765	Boswell	324 Main St. Am Legion	\$	152.00
				\$	9,726.42

Mr. Schwinder asked for a motion to approve the vouchers, which was made by Mr. Malone, seconded by Mr. Falotico, all were in favor.

Mr. Schwinder asked Mayor Lamatina to swear in the newest member of the Land Use Board, Mr. Alban Bresa. Mr. Bresa was then marked present for the roll call.

RESOLUTIONS:

**Ciuppa Residence, 73 Sullivan Ave, Block 324, Lot 1
Variance, side yard and rear yard setbacks.**

Hearing no comments or questions from the Board, Mr. Schwinder asked for a motion to approve the Resolution for the Ciuppa residence. A motion was made by Mayor Lamatina, second by Mr. Rieger. Eligible members: Mayor Lamatina, Mr. Rieger, Mr. Goursky and Mr. Schwinder voted to approve the Resolution.

**Bollbach Residence, 122 Colonial Rd., Block 1012, lot 5
Variance rear yard setback**

Hearing no comments or questions from the Board, Mr. Schwinder asked for a motion to approve the Resolution for the Ciuppa residence. A motion was made by Mr. Rieger, second by Mayor Lamatina. Eligible members: Mayor Lamatina, Mr. Rieger, Mr. Goursky and Mr. Schwinder voted to approve the Resolution.

Retention of a conflict land use board attorney

Mr. Schwinder asked Mr. Martin to explain the reasoning for this Resolution. Mr. Martin replied that there might be occasions where applicants and/or opposition could feel that the Board attorney, through past experience or friendship, may not be able to render an impartial recommendation. This Resolution would allow the Board to avoid such possible situations since it would have the authority to appoint an impartial attorney. Mr. Martin stated that at an upcoming application meets this criteria and an impartial attorney should be sought.

Mr. Schwinder asked if Mr. Martin would appear at the meeting, to which the reply was yes, but would have to step down when that particular application was brought before the Board.

Mr. Schwinder asked if there were any questions and/or comments from the Board, hearing none he asked for a motion to approve the Resolution, which was made by Mr. Goursky, second by Councilman Falotico. Mr. Kutzin and Mr. Bresa abstained, Mr. Adams, De Orio, Goursky, Malone, Rieger, Schwinder, Councilman Falotico and Mayor Lamatina voted to approve the Resolution.

APPLICATIONS:

Urstadt Biddle Properties, Inc.

495 & 411 Old Hook Rd, Block 1301, Lots 1.01 & 1.02

Shop Rite Plaza – Demolition of corner building, improvements to the parking lot, as well redesigned entrances and exits.

Mr. Schwinder recused himself from the application due to possible business conflicts, and to ensure the integrity of the application. Mr. Goursky took over the meeting by inviting James Jaworski Esq. of Wells, Jaworski & Liebman, LLP to the podium to present the application. Mr. Jaworski stated that this was a clean application for preliminary and final site plan approval as required by the Codes of Emerson. He then turned the floor over to his Engineer, Mr. Jeffrey Martell, PE, PP, CME, LEED AP, NJ PEA License No. 47290, employed by Stonefield Engineering and Design, LLC, 92 Park Avenue, Rutherford, NJ 07070. Mr. Martin accepted the credentials of Mr. Martell.

Mr. Martell stated that the purpose of the application was to redesign the entry and exits to Block 1301, Lot 1.01 and 1.02, commonly known as 495 and 411 Old Hook Rd. Before he continued, he clarified the confusion in the address known as 425 Old Hook Rd, which is used by Shop Rite and not a part of the design. Mr. Martell stated that the plans included the demolition of the building on the southeast corner of Old Hook Rd at Main Street, and would allow for the addition of 18 net parking spaces. There are actually 22, but 4 are to be used as cart corrals.

Mr. Martell stated that they filed the soil conservation forms with the County, and reviewed the packet of plans that had been provided to each member of the Board. He exhibited enlarged photos of A3, aerial view and A4 overlay. Mr. Martell then presented drawings of the new two-way (entrance and exit) “S” curve driveway with elongated slope on Main St., as well as the new entrance on Old Hook Rd.

Exhibit A3 is a layout of the two lots in the northwest quadrant involved in the redesign which represent approximately two acres of the total area of 7.85 acres. The removal of the two story building on the corner of Old Hook and Main St would reduce the impervious coverage from 88.3% to 85.9% and would reduce runoff. The new design would add an additional entry on eastbound Old Hook Rd. Currently there is one entrance and it is at the bottom of the shopping area tract.

When asked about the lighting design, Mr. Martell responded that they were using LED lights which would be adjusted to the current light color temperature of existing fixtures, and that they expect to convert all fixtures at some future date to LED.

Mr. Martell then explained the proposed retaining wall along the driveway which would have a height rising from 2 – 10 ft. along the ‘S’ curve.

Mr. Martell stated that they are in contact with the Shade Tree/Environmental Committee to ensure all the plantings meet with the current specifications, and if the proposed planting did not meet with approval, the plantings would be changed to conform. Plantings will be designed so as not to obstruct drivers’ sightlines.

Mr. Jaworski asked Mr. Martell to respond to the points of Mr. Ascolese’s letter of April 17, 2017 (attached).

Mr. Martell replied:

1. Clarification of the address of 425 on some documents and 411 & 495 on others.
 - a. 425 is the mailing address for the Shop Rite, however, the subject lots are known as 495 & 411. All documents have been changed to show the correct numbers.
2. Mr. Martell confirmed Mr. Ascolese statements regarding reconfiguration as described previously.
3. Mr. Martell confirmed Mr. Ascolese statements regarding parking and zones.
4. Mr. Martell advised that the design for the lanes had been widened slightly, Mr. Ascolese replied that with the two way traffic on the entrance outgoing traffic would be a traffic hazard to incoming emergency vehicles. Mr. Martin replied that outgoing traffic would have to pull over the same as on roadways. Mr. Ascolese replied he would like the Police and Fire Departments to review the new drawings submitted. Mr. Martin stated that the Resolution would include a condition subject to Fire Department approval. Ms. Shust was asked to forward drawings to the Fire and Police Departments for review. Ms. Shust requested the driveway drawings be emailed to her for distribution.

Mr. Ascolese also expressed his concern in regard to the left turn at the entry/exit on Main Street. He feels there is a safety issue as well as a traffic hazard which would involve Westwood residences. He would like to see this exit as a right turn only. He suggested that the plans be sent to the Westwood Police for review and input. Ms. Shust was asked to take care of this.

Mr. Jaworski replied that he would like to have the "left-hand turn prohibition" matter remain for a "look back" no later than 6 months after completion, to see if Mr. Ascolese's concerns are justified.

Mr. Martin thought there might be a similarity to the roadway at East Ridgewood Ave. eastbound at the Fashion Center, where an inlet road and turn around had been constructed.

Mr. Ascolese expressed concern about the left hand turn on Main St into the Plaza. The entry is not that far from the corner and could cause a backup of traffic. Mr. Ascolese stated he would also like to check this with the County Planning. Mr. Jaworski stated that he would agree to the Resolution being subject to the County's approval, which was accepted by Mr. Martin and the Board.

5. Referring to the entry on Old Hook Rd. This entry quickly intersects with an east-west aisle, which could cause traffic backing up onto Old Hook Rd as drivers wait for a clearance to turn left. Mr. Martell replied there were no plans to make alterations in that area. Mr. Ascolese asked the width of the driveway at the entrance and was told it was 32 ft. at entry and narrowing as it entered the parking area. There were no plans to block the left turn into the aisle. Mr. Ascolese suggested additional plantings or a wall to eliminate the possibility of left turns at that location. No further comment or action was made on the subject.
6. As for staging, Mr. Martell did not have that information since no contractor had been authorized to date, but thought the new entry on Old Hook Rd. would be constructed first.
7. Mr. Martell agreed with the comment.
8. Drainage and impervious coverage, were covered in earlier testimony
9. Consolidation of lots is not on the table at this time, for economic reasons in particular due to how the triple net fees would be affected
10. County Approvals: Applicant is working with the County, and Mr. Ascolese will also obtain County recommendations.
11. Removal and replacement of trees as per previous testimony will be coordinated with Shade Tree/Environmental Committee. All plantings will be made so as not to obstruct traffic sightlines.
12. Lighting - was covered in earlier testimony

13. Walkways. Mr. Ascolese wanted to know if a walk/don't walk sign had been considered for the corner of Main Street and Old Hook Road, east and west bound. To which Mr. Martell replied, "No."

Mr. Ascolese mentioned there were no handicap ramps or crosswalks and stated he would meet with the County to discuss.

Mr. Ascolese asked if the cyclone fence along Main St. was to remain or be removed. Mr. Jaworski said there were no plans to remove the fence at this time. The fence is not in a sight line and is tapered at the end to enable drivers to see in the southerly direction.

Mr. Goursky stated that the left-hand turn from the southernmost driveway on Main St. did not appear to cause a problem for traffic on Woodland Ave.

Mr. Martell continued with the walkway explanation on Old Hook Rd., stating that the walkway would include a buffer curb area.

Mr. Kutzin asked if there was anyway of creating a walkway into the lot and/or a pedestrian safety zone at the exit at the southernmost point of the tract on Main St. He said it is a safety hazard as drivers do not give right of way to pedestrians and there is nowhere for pedestrians to wait for a clear path.

Mr. Ascolese replied that the area was too narrow to install a "safety island" but there is the possibility of creating a striped area and he would research the matter. Mr. Malone wanted to know if the southernmost Main Street exit could be an appropriate pedestrian pathway in and out of the shipping center. Mr. Ascolese replied that the slope was too steep for pedestrians.

Mayor Lamatina stated there was concern by Mr. Browne and the Environmental Committee, as well as the community, in regard to the dumpster area, overflow and litter. Mr. Jaworski replied they are in the process of installing a fence around the area. Mr. Lamatina wanted to know if this could be included as a condition to the Resolution.

Mr. Adams asked if there were any additional ADA parking spaces provided in the new design. The answer was "no". There are currently 8 spaces and the new design provides for 8. Mr. Ascolese was asked to review the required number of spaces based on the new design.

Mr. Goursky inquired as to lighting, signals and signs at the new entry on Main St. Mr. Martell replied there was no signal light to be installed, there was signage at the mouth of the driveway and lighting would be similar to that in the parking lot area, which will be shielded to avoid glare into residences in the area.

Mr. Goursky asked for confirmation of previous tenants of the building to be demolished to be sure there was no contamination problem to be considered. Mr. Martell replied that as far as he knew the building had always been used for offices and a bank, and did not think contamination would be an issue.

Mr. Martin stated that the construction permits would cover this situation

Mr. Malone asked how long the construction period would be. Mr. Martell replied he expected construction period to be 3 – 4 months after appointing a contractor.

Mr. Goursky then asked for a motion to open the floor to the public, which was made by Mr. Adams and second by Mayor Lamatina. All were in favor.

Mr. Gary Schwinder of 99 Linden Ave approached the podium, as a resident. He stated he totally agreed with Mr. Ascolese that the exit onto Main St should be a right-hand turn only. He thought the intersection of Old Hook Rd being so close to the entry would cause a backup and safety hazard both in the parking lot on the roadways.

Mr. Schwinder suggested that in-coming traffic at the new entrance from Old Hook Rd, be given the right-of-way by vehicular traffic already in the parking lot to avoid back-ups onto eastbound Old Hood Rd.

He also agreed with the Board members that the pedestrians had been completely ignored in the new design. There are no walkway entrances into the parking lot. Formerly there had been a stairway for pedestrians to use, but that was being eliminated. Mr. Jaworski replied that the stairway could not be rebuilt. Mr. Ascolese inquired as to whether an adjacent sidewalk could be incorporated into the plan for the new 2-way driveway. The applicant's engineer promised to look into the possibility.

Mr. Schwinder also wondered if the Shop Rite was considering expansion. Mr. Jaworski replied that at this time it was not on the table, but was a possibility.

Mr. Goursky then asked for a motion to close the floor to the public, which was made by Mr. Adams, second by Mayor Lamatina. All members voted yes to close to the public.

Mr. Goursky then asked if there were any comments from the Board. Mr. Martin stated that the Board would have the opportunity to review the traffic flow within 6 month period. Mr. Malone agreed there should only be a right hand turn from the new Main Street driveway. Mr. Adams wants comments from the Westwood Police.

Mr. Jaworski asked that the design be considered as is with a 6 month or less look back, depending on the response from the Emerson Fire and Police Departments as well as the Westwood Police Dept.

Hearing no other comments Mr. Goursky asked for a motion on the application by Urstadt Biddle Properties, Inc.

Mr. Malone made a motion to approve the application with the conditions stated throughout the meeting, including ADA compliance, sidewalks, County, Emerson and Westwood approvals/recommendations, dumpster fencing, 6 month or less look back. The motion was seconded by Mayor Lamatina. Mr. Adams, DeOrio, Goursky, Kutzin, Malone, Rieger, Councilman Falotico and Mayor Lamatina all voted yes to approve.

Mr. Schwinder returned to his seat on the Board, after which he asked for a motion to open the floor to the public, which was made Mr. Adams, second by councilman Falotico, all were in favor. Seeing no hands from the floor, Mr. Schwinder asked for a motion to close the floor, which was made by Mr. Adams, second by Mayor Lamatina, all were in favor.

Mr. Schwinder then opened the floor to the Board for comments. Mayor Lamatina explained the progress of the sidewalks and curbing and stated the county was paying for most of it, and that is why it is being completed at this time. The cost to Emerson is \$2,130.00, rather than the \$65.00 per square yard, if it were done separately. Mr. Ascolese stated that some changes had been authorized by the Mayor and Council, which expedited walks and reduced costs. He also stated that PSE&G had picked up the entire tab of \$112,000.00 to remove the poles, which would be done on Sunday May 21.

Mr. Kutzin asked about the curbing at the Valero. Mr. Ascolese replied that Valero had not resubmitted their application, so a decision had to be made without it. Two curb cuts were made for Valero customers and curbing was installed around that.

Mr. Kutzin then asked about the pole in front of Boston Market. Mr. Ascolese replied that an error had been made when the replacement power drop was made, however, there is ample room for the replacement sidewalk to meet ADA compliance.

Mr. Schwinder asked about the cut-out in front of Kuiken Brothers. Mr. Ascolese replied that this was a bus stop location designated by the County. Mayor Lamatina wanted to know if any additional cut-outs would be required. Mr. Ascolese mentioned that there is a formula that is used, but does not feel the County will apply it to Kinderkamack Rd, as there is a stop in Emerson Plaza West and on Kinderkamack Rd. south of the cleaners.

Mayor Lamatina then wanted to know about any lost parking spaces. Mr. Ascolese stated that the parallel parking has resulted in lost spaces, however, he recently saw a parking plan which was based on reversed parking, which he would like to investigate as it would provide additional parking spaces.

Mr. Schwinder asked about the enclosure in the front of Starbucks. Mr. Ascolese stated that it is a service entrance storage area. Mr. Ascolese stated there was a final inspection scheduled for that afternoon, and expected a list of items to be clarified.

Mr. Adams asked if there were going to be any shelters at the new bus stops. Mr. Ascolese responded that the NJ Transit Authority will install shelters if requested, however, they will not maintain them. Any repairs or upkeep must be done by the municipality.

Mr. Kutzin made a statement about the lighting at Starbucks. He thought there was to be a shield. Mr. Schwinder stated that the LED lights were amazing in the way they can be directed to avoid glare into neighboring homes/businesses.

Mayor Lamatina updated the Board on the pending contracts for properties in Block 419. He said contracts had been signed with Cutz & Stylz (\$600,000), Sorbet store (\$1.3 million), the apartments (\$745,000), 19 Lincoln Blvd, (\$500,000). A contract had been signed with Cork & Keg but they reneged. There are some lawsuits pending.

Mayor Lamatina also mentioned that he had been advised that the business owners in town had the feeling they were being ignored. He, therefore, did a walking tour of the businesses, handed out business cards, shook hands, listened to their concerns and accepted their compliments.

Hearing no other comments, Mr. Schwinder asked for a motion to pause the General Meeting at 10:17 pm to go into Executive Session (closed to the public) which was made by Mr. Goursky, second by Mr. Kutzin, approved by all.

At 10:45 the General Meeting was resumed.

Mr. Martin stated there was pending litigation by 214 Kinderkamack, LLC and Del Volpe against the Borough and the Board.

Mr. Martin also instructed Mr. Schwinder to reach out to Mr. Hoffman in regard to advertising for a Conflict Board Attorney.

At 10:50 pm Mr. Schwinder asked for a motion to adjourn the meeting, which was made by Mr. Malone and seconded by Mr. Adams, all were in favor.

Respectfully submitted,
Marie Shust
Interim Board Secretary

