

**MUNICIPAL LAND USE BOARD MINUTES
BOROUGH OF EMERSON
January 26, 2017**

This meeting of the Emerson Land Use Board was held in the Municipal Building. Chairman Schwinder opened the meeting at 8:04 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
Thomas Callagee	Absent
Michael DeOrio	Absent
Gary Goursky	Present
Louis Lamatina, Mayor	Present
Evan Kutzin	Absent
Steven Malone	Present
Doug McKendry	Present
Thomas Sudano	Present
Gerry Falotico, Councilman	Absent
Gary Schwinder, Chairman	Present
Christopher Martin, MLUB Attorney	Present
Gary Ascolese, MLUB Engineer	Present
Bridgette Bogart, Borough Planner	Present
Nelson Fullam, Zoning Official	Present
Perry Solimando, DPW Interim Super.	Not Requested
Robert Hoffmann, Borough Admin.	Not Requested
Marie Shust, Interim Secretary	Present

After roll call was taken, Mr. Schwinder asked for a motion to approve the minutes of the meeting of January 5, 2017. Mr. Chris Martin, Borough Attorney, requested corrections to the minutes, on pages 4, 5 and 6.

Mr. Goursky made a motion to accept the minutes with the corrections made by Mr. Martin, the motion was seconded by Mr. Mc Kendry. Aye votes were cast by Mr. Goursky, Mr. Malone, Mr. Mc Kendry, Mr. Sudano, Mayor Lamatina and Chairman Schwinder. Ms. Shust was directed to correct the minutes as requested.

Mr. Schwinder asked for the vouchers.

Vouchers		26-Jan-17			
1/6/17	Morrison Mahoney	\$	392.00	23 Pavonia	16-02026
1/9/17	Morrison Mahoney	\$	434.00	118 Eagle Dr.	16-02029
1/9/17	Boswell Eng	\$	316.00	6 Palisade Ave.	16/02028
1/9/17	Boswell Eng	\$	79.00	174 Chestnut St.	16/02028
1/17/17	Boswell Eng	\$	711.00	246 Kinderkamack Rd	17-0078
1/17/17	Boswell Eng	\$	395.00	23 Pavonia	17-000748
1/10/17	Shust	\$	150.00	LUB meeting 1/5/17	17-00019
1/6/17	Shust	\$	150.00	LUB meeting 12/20/16	16-02023
1/19/17	Boswell Eng	\$	2,450.00	322 Kinderkamack (Starbuck's)	17-00111
1/23/17	Boswell Eng	\$	2,479.40	324 Main (American Legion)	17-00123
1/23/17	Boswell Eng	\$	158.00	38 First St.	17-00123
		\$	7,714.40		

Mr. Goursky made a motion to approve the vouchers, second by Mr. Mc Kendry. Aye votes were cast by Mr. Goursky, Mr. Malone, Mr. Mc Kendry, Mr. Sudano, Mayor Lamatina and Chairman Schwinder.

Mr. Schwinder asked if there was correspondence. Ms. Shust replied there was none. Mr. Martin stated that he had received correspondence from Elm LLC, looking for the signed deeds for their subdivision. Mr. Martin then stated that he and Mr. Ascolese had reviewed the deeds and found them to be in order. Mr. Martin said he would send the deeds to the Chairman and asked that the Chairman and Board secretary sign the deeds and forward them to Elm, LLC. as soon as possible.

Re-Organization Carry-over:

Chairman Schwinder asked Mayor Lamatina to administer the Oath of Public Office to Mr. McKendry, who was absent from the January 5, 2017 Re-organization meeting. Mr. McKendry complied.

Mr. Schwinder asked for motions to reappoint the professionals:

Boswell Engineering: Mr. Malone made a motion to reappoint Boswell Engineering as the Land Use Board Engineering firm. Second was made by Mr. McKendry. There was no discussion from the Board. Aye votes were made by Mr. Goursky, Mr. Malone, Mr. Mc Kendry, Mr. Sudano, Mayor Lamatina, Chairman Schwinder.

Bogart Planners: Mr. Sudano made a motion to reappoint Brigette Bogart Planning as the planning firm for the Land Use Board, Second was made by Mr. Goursky. Aye votes were made by Mr. Goursky, Mr. Malone, Mr. Mc Kendry, Mr. Sudano, Mayor Lamatina, Chairman Schwinder.

Morrison Mahoney Attorneys: Mr. Goursky made a motion to reappoint Morrison Mahoney, LLP as the Land Use Board attorneys. Second was made by Mr. McKendry. Aye votes were made by Mr. Goursky, Mr. Malone, Mr. Mc Kendry, Mr. Sudano, Mayor Lamatina, Chairman Schwinder.

19 Broad Street – Informal Discussion:

Mr. John J. Lamb of Beattie Padovano, LLC , 50 Chestnut Ridge Rd, Montvale, NJ 07645 approached the Board on behalf of the owner of the property located at 19 Broad Street for an informal discussion regarding a question as to whether of the property should be considered an interior lot or a corner lot.

Originally there was a right of way behind the property, which was vacated in 1953 and by ordinance was transferred to the owners of the properties located along the right of way, half going to each side of the vacated right of way. The owners of the property have been paying taxes on the additional land since the right of way was vacated.

Mr. Martin confirmed that in the condition of vacated right of ways, the property is divided equally among the bordering properties.

The owners of 19 Broad St, Mr. & Mrs. Lauderbach, applied to have work done on their home and were refused a building permit due to the right of way issue. According to the Borough Map, the right of way is still in existence which would make 19 Broad Street a corner lot and not an interior lot.

Mr. Ascolese, of Boswell Engineering, was sworn in to testify. He explained that the 40 foot right of way was vacated as there was no need to extend the adjacent street, Belmont Avenue. Utilities and sewers were never installed in the right of way. The right of way had never been paved and it was for the best interest of the borough that the property be transferred to the bordering properties, which was done in 1963.

Mr. Ascolese stated that the borough had no infrastructure through the right of way, and since it had been vacated the lot is an interior lot.

Mr. Schwinder stated that he had driven past the property and saw that the lot was indeed an interior lot and could not be considered as a corner property as there was no access to the lot except from Broad Street.

Mr. Martin then swore in Ms. Bogart, of Bogart Planners, who agreed with the testimony Mr. Ascolese. She had reviewed all the materials and documentation and

found that the right of way had been vacated. She also stated that a corner property is one that is accessible from two streets, and this was definitely not the case.

Emerson Zoning Official Nelson Fullum was called to testify. Mr. Martin asked Mr. Fullum if the forgoing information enabled him to proceed with the building permit.

Mr. Fullum replied that he had referred this matter to the Land Use Board since the maps of Emerson still show the right of way, and that 19 Broad is a corner lot. He was not comfortable making the decision that 19 Broad St. was an interior lot.

Mr. Fullum replied that he would accept the testimony of the Borough Engineer and Borough Planner and approve the application for a building permit.

Mr. Martin told Mr. Fullum that the Land Use Board would not have to issue a variance, as nothing had been presented that would qualify for one unless the site plan for the addition required a variance.

Mr. Fullum stated that he had not seen a site plan as yet.

Mr. Ascolese stated that he had not yet received a site plan.

Mr. Lamb stated that the site plan would be presented now that the definition of the lot had been clarified.

Mr. Schwinder asked if there were there were any questions from the Board.

Mr. Goursky asked if the determination had not been made that it was an interior lot, would a variance be required. Mr. Martin replied a variance would only be required if it was determined that the lot was a corner lot and since it was not, there was no further action required by the Land Use Board.

Mr. Schwinder asked for a motion to open the floor to the public which was made by Mr. Mc Kendry and seconded by Mr. Sudano.

Ms. Jill McGuire of 154 Linwood Ave. inquired about the ordinance regarding the dissolution of the Historic Preservation Commission. She wanted to know the procedures that would be implemented by the Land Use Board and how the Landmark status would be determined.

Mr. Schwinder replied that this was "uncharted territory" for this board and he was unfamiliar with the procedures. She wanted to know how the change would impact procedures, and how the historic evaluation would be determined.

Mr. Martin advised Ms. McGuire that this was a Governing Board matter and at the moment, not a matter for the Land Use Board.

Ms. McGuire wanted to know what the role of the Land Use Board would be. Mr. Schwinder replied that the matter was before the Mayor and Council.

Mayor Lamatina suggested Ms. McGuire attend the Mayor and Council meeting on February 7 for further information. He stated that the change would be from a Commission to a Committee as the "Commission" was not working properly.

Seeing no other hands, Mr. Schwinder asked for a motion to close to the public, which was made by Mr. McKendry, second by Mr. Goursky, all were in favor.

Mr. Schwinder then asked if Board members had anything they would like to discuss. Mayor Lamatina stated that he had driven by the Starbuck's construction and noticed that there were four parking spaces about to be constructed, which he thought had been eliminated from the approved building plans. He e-mailed Mr. Santori and asked him to put a stop work order in place until the matter was rectified.

Mr. Ascolese stated that the plans he had still showed the four parking spaces. That the curbing would be 2 feet from the existing trees, which would require significant trimming and probably cause the death of the trees. He stated that he had spoken with the Project Engineer, who stated that they would not be able to keep the two trees and that the project needed the four parking spaces.

Mr. Schwinder stated that he had envisioned four lanes of traffic on the drive thru window side of the building, including the drive thru lane, two lanes of traffic and one lane for four parking spaces. He stated that the Starbucks property actually extended to the telephone poles and that grassy area south of the bank would need to be eliminated to allow for the four parking spaces.

Mr. Ascolese again stated that the trees would have to be severely trimmed with the curb at the location indicated on the plans.

Ms. Bogart asked for a moment to review the plans with Mr. Ascolese.

After discussion, Mr. Ascolese stated that he thought Mr. Alampi had agreed to keep the easement, reduce it to 22 ft, eliminate the four parking spaces, keep the grass and trees.

Mr. Bogart stated that she thought at the original meeting they agreed to keep the grass and trees, with a provision for a "parking review" in 6 months.

Mr. Martin asked if the engineer had reviewed the safety issues.

Mr. Schwinder stated that his major concern was the safety issue and that he preferred elimination of the grassy area and trees to provide adequate space for four lanes in order for traffic to move safely.

Ms. Bogart replied that with four lanes for traffic, there was no room for trees, however, trees could be planted in another area on the property, per the Borough regulations, in replacement of the trees being removed.

Mr. Ascolese stated that the trees are approximately 7-1/2 ft behind the current curb. He reviewed the plans with the Board

Mr. Martin stated that the Board could not act upon the situation since it was not on the agenda for this meeting.

Mr. Ascolese asked if we were able to give direction to the builder.

Mr. Schwinder suggested that the lane widths, removal of the trees, installation of the curb all be done at the same time, as well as provision for tree planting in another area.

Ms. Bogart reached out to the owner and was told they wanted and needed the four parking spaces.

Mr. Schwinder suggested that a "columnar hornbeam" type tree, which is narrow at the base, be planted elsewhere on the property.

Mr. Ascolese asked if the contractor can continue with the plans as submitted.

Mr. Martin replied yes, that elimination of the four spaces as at the discretion of Starbucks, however they must replace the two trees.

Mr. Schwinder asked if Board Members had anything else to discuss. Hearing no reply, he asked for a motion to close the meeting. Mr. Sudano motioned to close the meeting, seconded by Mr. McKendry, all were in favor.

The meeting was adjourned at 9:03 pm.
Respectfully submitted.

M. Marie Shust
Interim secretary