

MUNICIPAL LAND USE BOARD MINUTES

BOROUGH OF EMERSON
October 4, 2018

This meeting of the Emerson Land Use Board was held in the Municipal Building. Chairman Gary Schwinder opened the meeting at 8:16 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
Alban Bresa	Present
Mike Cimino	Present
Tom Carlos	Absent
Michael DeOrio	Absent
Gary Goursky	Absent
Louis Lamatina, Mayor	Present
Evan Kutzin	Absent
Steven Malone	Present
Doug McKendry	Absent
Norman Rieger	Absent
Thomas Sudano	Absent
Gerry Falotico, Councilman	Present
Gary Schwinder, Chairman	Present
Christopher Martin, LUB Attorney	Present
Gary Ascolese, LUB Engineer	Present
Bridgette Bogart, Borough Planner	Present
Michael Sartori, CCO/Zoning	Not Requested
Perry Solimando, DPW Super.	Not Requested
Robert Hoffmann, Borough Admin.	Not Requested
Marie Shust, Secretary	Present

Since Chairman Schwinder had not been present at the meeting of September 20, he asked the Board if there were any comments or corrections on those minutes, hearing none he asked for a motion to accept the minutes, which was made by Councilman Falotico, second was made by Mayor Lamatina, Mr. Bresa, Mr. Cimino, Mr. Malone, Councilman Falotico and Mayor Lamatina were in favor. The minutes were accepted.

Chairman Schwinder read a letter from the applicant for the Chow Wow K-9 Resort, advising the Board of a postponement of their application.

Ms. Shust then read the vouchers.

Vouchers 4-Oct-18

9/21/2018	18-01450	Morrison Mahoney	90 Jefferson Ave	\$	231.00
9/21/2018	18-01450	Boswell Eng.	17 Furman Dr.	\$	234.00
9/21/2018	18-01450	Boswell Eng.	166 Kinderkamack Rd.	\$	222.00

9/21/2018	18-01450	Boswell Eng.	118 Eagle Dr.	\$	79.00
9/21/2018	18-01450	Boswell Eng.	166 Palisade Ave.	\$	908.50
9/21/2018	18-01450	Boswell Eng.	9 Lee Ct.	\$	474.00
9/21/2018	18-01450	Boswell Eng.	13 Birch St.	\$	158.00
9/24/2018	18-01453	Morrison Mahoney	Chow Wow Resorts Application	\$	253.50
9/24/2018	18-01453	Morrison Mahoney	Application of Robert Oberbauer	\$	2,418.00
9/24/2018	18-01453	Morrison Mahoney	Application of Wenesco	\$	1,501.50
9/25/2018	18-01454	Boswell Eng.	Memorial School	\$	632.00
9/25/2018	18-01454	Boswell Eng.	Jr. & Sr. High School	\$	158.00
9/25/2018	18-01468	BrigetTe Bogart Planning	Planning Services for LUB	\$	2,482.50
				\$	-
			TOTAL	\$	9,752.00

Ms. Shust was directed by Chairman Schwinder to be sure payment is received from the Board of Education for expenses incurred for the Engineer and Attorney's fees. He then asked if there were any comments or questions about the vouchers. Hearing none he asked for a motion to approve the vouchers, which was made by Mr. Adams with the inclusion of the Board of Ed notification, second was offered by Councilman Falotico, all were in favor. The vouchers were approved for payment.

Application:

Giunta/Crago residence, 166 Palisade Ave, Block 715, Lot 1.01
Fence application

Ms. Jacqueline Crago and Mr. Andrew Giunta approached the dais to give testimony regarding their application to install a 6 ft. high privacy fence along the perimeter of their property to provide privacy and eliminate students from using their property as a short cut. The applicant provided proof of notification to their neighbors. They explained that they had plans to get a dog and the 6 foot fence would prevent the dog from jumping over it. They also stated they planned to have a hot tub installed and thought the fence would provide some privacy.

Chairman Schwinder asked about the street which was on the easterly side of the property. He was told it was a paved, dead end street, with no sidewalk.

Ms. Crago provided a letter from the Board of Education, stating that there was no objection if they (Crago and Giunta) were to extend their fence an additional six feet to the existing Board of Education fence along the athletic field. Mr. Giunta stated that they were currently maintaining that piece of property which extends beyond their property line.

Mr. Ascolese advised them that the fencing on the westerly side of the property could be located at the property line, rather than 3 feet from it. He also stated that if the fence were installed 3 ft. from the easterly property line, there would still be approximately 13 feet for pedestrians to walk.

Mr. Adams thought there was a problem with the Board approving a fence on someone else's property.

After reviewing the letter from the Board of Education, which was marked Exhibit A-1, Mr. Martin explained there were some legal matters that require additional information and confirmation before the Board would be able to vote on the fence extension to the field fence. He stated a letter of agreement

from the Board of Education attorneys would be required, as the Land Use Board does not have the authority to rule on property belonging to another entity. He clarified that the letter the applicant had received indicates the Board of Education would allow a "license" but would not be issuing an "easement." This is why a letter of clarification and authorization would be required. He suggested the applicant ask the BOE for a legal document, and return with that document, so the Board could vote on the amended application. Mayor Lamatina wanted to know if the Board could vote on the original application as presented and perhaps have the applicant return at a later date to install the balance of the fence. Ms. Crago stated it would be too costly to reapply for the balance of the fence, with the application fees, escrow and mailing expense. She said they would like to have the application voted on tonight. Mr. Ascolese suggested they speak with the BOE and perhaps make arrangements with them to install the extension at the applicants' expense. Ms. Crago stated that all of their neighbors have extended their fences to the field on their own. Ms. Crago and Mr. Giunta wanted to do it correctly.

Mr. Giunta stated that the property was being maintained by the applicants and that the Board of Ed did not maintain the property at all. He said that if they did not maintain the property, there would be weeds and an influx of mosquitos and other insects. He also stated there were two large trees on the property line, which created an additional challenge.

Councilman Falotico stated the BOE was responsible for the maintenance of their property. Mayor Lamatina stated he would be in contact with the BOE and have them reach out to the applicants.

Chairman Schwinder asked for clarification in regard to the other property owners and the rear fencing. He was told the neighbors either installed fencing or shrubbery to the field fence line.

Mr. Martin advised the applicants that if they proceeded with the application tonight, they would not be able to install their fence to the field fence. The Board could only vote on the 3 foot setback and the 6 foot height of the fence. The additional area between their property line and the field fence would have to remain open until they had an agreement with the BOE.

Chairman Schwinder asked for a motion to open the floor to the public which was made by Mr. Adams, second by Mr. Malone, all were in favor. Seeing no hands, Mr. Adams made a motion to close the floor, which was seconded by Mayor Lamatina, all were in favor.

Mayor Lamatina made a motion to approve the original application of a 6 foot fence to the end of the westerly side property line and a 3 foot setback on the easterly property line. Councilman Falotico seconded the motion. Mr. Adams, Mr. Bresa, Mr. Cimino, Mr. Malone, Councilman Falotico, Mayor Lamatina and Chairman Schwinder were all in favor. The application was approved.

Board Business:

Borough of Emerson, Proposed Ordinance Amending Chapter 101, Zoning of the Code of Existing Signage Regulations.

Ms. Bogart stated that as had been suggested at previous reviews by the Land Use Board, she had made changes on pages 4 (defining a public sign); page 5 (rewording Real Estate signs); page 7 (exempt signs requiring permits, but no fees); page 8 (regarding wrapped truck signs); page 8 (regarding elimination of A-frame and sidewalk signs).

There were questions in regard to the legality of forbidding wrapped trucks being parked in front of their business after hours, as well as the percentage of coverage. Mr. Malone asked if there should be an inclusion of painted trucks. He stated that his business trucks had been painted rather than wrapped. Ms. Bogart thought that painted trucks were rare, and, if necessary, could be addressed and amended at a later date, if needed. Ms. Bogart said she would leave it as a wrapped truck, Councilman Falotico and Mr. Adams both commented it should state wrapped with a commercial message, Ms. Bogart agreed.

Chairman Schwinder asked for a motion to open the floor to the public which was made by Councilman Falotico, second by Mr. Malone, all were in favor. Seeing no hands Mr. Adams made a motion to close the floor, second by Councilman Falotico, all were in favor. The floor was closed.

Councilman Falotico made a motion to proceed with the Ordinance, including the changes as discussed. The motion was seconded by Mr. Adams. Mr. Adams, Mr. Bresa, Mr. Cimino, Mr. Malone, Councilman Falotico, Mayor Lamatina and Chairman Schwinder were in favor.

Chairman Schwinder asked if there was any other Board Business. Mr. Ascolese asked the members to please pick up the envelopes addressed to each of them. Chairman Schwinder asked Mr. Ascolese if there was a name change for his firm due to the recent change in ownership. Mr. Ascolese replied the name Boswell Engineering would remain. The brothers were to remain with the company for a minimum of five years.

Mayor Lamatina asked Mr. Martin if he and Councilman Falotico could now sit on the Wendy's application since the use variance is being deleted. Ms. Bogart said there was still a "D" variance due to the driveway. Therefore the Councilman and Mayor were not eligible to vote on the project.

Mayor Lamatina asked Mr. Ascolese about the safety issues on Kinderkamack Rd., Lincoln Blvd. and Ackerman Ave, and the possibility of installing crosswalks and other safety measures to reduce the speed on these streets. Mr. Ascolese replied that according to Section 39, every intersection where the speed limit is less than 35 mph (and not a County road) is eligible for a crosswalk.

The Mayor said he would bring the matter before the Council to decide about pedestrian crossings, signs and striping. Mr. Bresa stated that at times it seems there are drivers going over 50 mph on Ackerman.

Mr. Ascolese advised the Board that the developers of Block 419 will have to make some adjustments to their plans due to the turning ratio from Lincoln to southbound Kinderkamack after the accident which damaged some of the Cinar Restaurant building on the corner.

Chairman Schwinder asked about the stop signs in the area behind the Starbuck's between the easement, old Post Office road and the main shopping plaza. Mr. Ascolese stated that he contacted the parties involved and was waiting for a response. Mayor Lamatina provided the information for the representative of the Stop n Shop plaza property, Mr. Ryan Nelson, 914-447-1629. Mr. Ascolese advised the Board that he had been told the property is owned by Urstadt Biddle.

Chairman Schwinder asked for a motion to open the floor to the public, which was made by Mayor Lamatina, second by Councilman Falotico, all were in favor. Seeing no hands, Mayor Lamatina made a motion to close the floor, which was seconded by Councilman Falotico, all were in favor, the floor was closed to the public.

Since there was no other business to discuss, Chairman Schwinder asked for a motion to adjourn the meeting, which was made by Councilman Falotico, second by Mayor Lamatina, all were in favor. The meeting was adjourned at 10:10 pm.

Respectfully submitted,
Marie Shust
Board Secretary