



MINUTES

MERCHANTVILLE JOINT LAND USE BOARD

Borough Hall Council Chambers
1 West Maple Avenue, Merchantville, NJ 08109
Tuesday, March 12, 2019, 7:30pm

1. **CALL TO ORDER.** The Chairman called the meeting to order at 7:30pm.
2. **OPEN PUBLIC MEETINGS ACT.** The chairman noted that the meeting is being held in accordance with the Open Public Meetings Act.
3. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE.** All persons present stood for the pledge of allegiance and moment of silence.
4. **OATH.** Mr. Madden swore-in Mr. Daniel Licata as a Class IV Board member.
5. **ROLL CALL.** The following Board members were present: Chairman Brennan, Mr. DeSimone, Councilman Fitzgerald, Mr. Fiume, Mr. Licata, Ms. Stewart, Mr. Woods, Mr. Uricchio, and Ms. Wuebker. Mr. Benjamin was absent. Board Solicitor, Matthew Madden, Esq., and Jeff Hanson, Board Engineer, were also present. Mr. Lammey arrived at the meeting at approximately 7:45pm.
6. **OLD BUSINESS. Approval of February 12, 2019 Meeting Minutes.** Ms. Stewart made a motion to approve the February 12, 2019 meeting minutes as proposed. Mr. Fiume seconded the motion. All eligible members present voted in favor of the motion. Mr. Licata, Mr. Uricchio and Mr. DeSimone abstained as they were not eligible for voting on the minutes.
7. **NEW BUSINESS. Application for Change of Use for Multiple Permitted Uses, Site Plan Waiver, and Parking Variance for 22 North Centre Street, Block 57, Lot 30.** Mr. Ryan Middleton, the Applicant, was sworn in. He lives at 21 North Centre Street, Apartment B in Merchantville.

Mr. Middleton's goal is to bring North Centre Street back to life. He bought 21 North Centre Street where he lives with his family; he purchased an abandoned building at 27 North Centre Street and rehabbed it. He then purchased 24 North Centre Street, which was formerly a dentist office that had been turned into apartments. He eventually wants to convert the first floor to commercial to balance the commercial activity on the street. Most recently, he purchased 22 N Centre Street, the former post office, with the intent of creating a space that would provide a benefit to the community.

The Applicant has been using the former post office as a pop-up for retail of goods. Only the small front room, which is 500± SF, is used for retail through the week. About 2/3 of the building is used for merchants on Saturday and Sunday. It is a unique space that is being underutilized for its size and layout. Over 3,000 SF sits unused five days per week.

He is proposing a flex space that utilizes permitted uses in the zoning district. Pop-ups and flex space are becoming more common and offer a lot of advantages, as the article submitted by Ms. Wuebker points out. In addition to retail of goods, he is requesting to add the following permitted uses to the interior floor space:

- physical fitness studio, yogo studio, martial arts studio;

- art studio and art gallery: art studios, displays and/or art galleries for artistic endeavors and production, including painting, sculpting, ceramics, jewelry, photography, and hand-made furniture;
- retail sale of services, such as arts and crafts instruction, makeovers and face painting, and small item repair; and
- office and professional office.

He is not proposing some permitted uses that he feels would not be a good fit, such as glass blowing. He proposes to rotate the schedule of merchants and activities so the building will act as a constant pop-up shop that rotates the different areas of the floor space day to day, week to week, or month to month. It would operate similar to other current and past businesses in town, such as Station and Eiland Arts (short-term sublease on the first floor, large room upstairs that transitions between craft classes, music classes, art gallery space, retail pop-ups, etc.). He mentioned other former and current businesses in Merchantville that had pop-up and mixed use features. He has a larger vision for the building that will take years to develop due to cost constraints, but this request today is a big step toward his vision of the space.

The proposed uses are equal to, or less intensive than, the current use on Saturdays and they will be used at alternating times. Occupancy, seating and parking will not be impacted beyond the current peak activity for the building, which has been on Saturdays. Currently, the occupancy is dispersed throughout the day with 15-18 customers at the most in the building at one time. Merchants for the pop-up retail are advised that it is currently strictly a location for pop-up retail; that it cannot be advertised an event. He asks that he be allowed to have occasional events at the property, especially in conjunction with town wide events. The building won't normally be used as an event space or place of assembly.

The occupancy total for the building is a max of 45 persons. The proposed occupancy numbers identified in his application include merchants, instructors, employees, and potential customers. The front room has between 2-4 retailers with 10 people max in the space. The Big room, which at most holds 10 to 12 retailers in the room or could hold an art or fitness class (which would not occur at the same time) would have 30 people max. The back area will be used for private artisans or mobile office space so that would correlate to about 5 people max. There was a discussion about the number of tables and chairs in the building, which are not permanent and vary.

Ms. Wuebker asked about the separation and protection of the back area from the "Big Room," given the proposed potentially hazardous or sensitive uses in the back area. Mr. Middleton replied that there is no separate room and/or locking door. There are panels that separate the space. Ms. Wuebker questioned how a furniture maker, for example, who is using a table saw or other tools, would be separated from customers who are walking around visiting the retail shop in the building. There was a discussion by the Chairman that Mr. Middleton's property insurance will be dictating the requirements of that.

With regard to parking, Mr. Middleton requests a parking variance to allow 4 parking spaces, rather than 12 off-street parking spaces (based upon the 1 off-street parking space per 250 SF used or open to the public, which corresponds to the applicant's 3,000 SF of space open to the public). He is proposing 4 parking spaces, 2 parked back to back. Mr. Middleton states there has not been any complaints about parking. Like most buildings in the downtown, there is no way to add parking on the site. Employees do not park on-site since they live across the street. Merchants and instructors will be required to park around the block to leave Centre Street open for customers of all the local businesses. The only time that parking gets tight is on Sundays due

to church; that day is also a hard day to attract merchants and retail customers to the building, even when church is over and there is a lot of parking available. He will work around the church schedule to avoid competing for parking. He likens his building to the Factory in Collingswood that is a multi-use space in Collingswood that doesn't have parking on-site. There are other businesses in town that do not have parking onsite, so he wants to be treated similarly.

He is not proposing any site alterations or exterior changes at this time. Therefore, he also asks that the Board waive the site plan requirement. According to the ordinance, site plans related to drainage are only required for parking lots with 5 or more parking spaces.

Mr. Middleton responded to questions that were in Ms. Wuebker's staff memo.

Lighting in parking lot – Mr. Middleton distributed photos of other parking lots in the downtown, identified as Exhibit A-1. He feels the site lighting is as good, or better, than most lighting on existing parking lots in town. There are lights that overhang the dock that don't appear to have been considered. Ms. Wuebker clarified that the Engineer raised about 5 questions in correspondence to her and she evaluated them and discussed them in her staff memo. Though there is a pedestrian oriented street light in front of the building, the parking lot is dark. If the Applicant is inviting the public to the building, there needs to be an adequate level of parking lot lighting so that people are safe (free from crime and free from potential hazards). The lighting should be adequate to provide lighting for parking lot users, but not obtrusive to the neighbors. Mr. Middleton stated that the dock lights were not on at the time of her visit. He can put the lighting on a timer or sensor and make sure their direction doesn't have negative effects on neighboring properties. The Board Engineer would like the dock lights to have shields on them that just focus on the lot.

Vegetative Screening in Parking Lot/Loading Dock Area - Mr. Middleton said he'd be happy to add as many planters as requested, but not sure it changes the view from the street. He suggests installing plants on the dock edge that has vegetation that can hang over, and that way would not prevent use of the loading dock, if ever needed to use in the future. He will not keep any trash cans or storage on the loading dock. It will all be held inside the building. He can remove some of the rubber bumpers, which are the least attractive part, though he thinks it adds a cool industrial feel to the building and helps to remind people of the building's post office roots. Ms. Wuebker explained that the Zoning Ordinance requires there to be screening of loading docks and parking areas. It is recommended that planters be installed to soften some of the impact of the loading dock area. Ms. Wuebker advised the Board that she will work with the applicant on landscape planters for screening.

ADA Requirements for Parking Lot. Mr. Middleton believes he is exempt from ADA requirements; he does not want to diminish the availability of parking as there already is limited parking on the site. The building isn't currently accessible and there are no major renovations happening that would trigger the requirement for creating accessibility in a historic building. He believes there is an exception for parking lots of 4 or fewer spaces. The parking lot measures 27 feet by 43 feet. The Applicant referred to other commercial parking lots in the town that do not have ADA parking spaces identified. He plans to add an ADA ramp to the building in the future, but needs to work out an existing easement with the neighbor to the south. Ms. Wuebker advised that it is her understanding that even retail parking lots with 4 parking spaces need to have one accessible space. It is a federal law that the Board does not have the power to waive. However, she advises that she is not an ADA expert and defers to the Board Engineer on this matter. The Board Engineer

said he would need to research this issue further, if the application is approved. It can be a condition of approval.

Driveway Apron Condition - The road widens in the driveway apron area because of former mailbox area. Ms. Wuebker advised that the County will be working on Centre Street over the next year. Mr. Middleton requests that the roadway widening be eliminated at that time. The Chair advised that it's within the County's control, but the Borough will relay request to the County.

Building Plans for Maximum Occupancy Load Determination. Mr. Middleton requests that he not be required to submit architectural floor plans with maximum occupancy load at this time. He would like to request that his maximum occupancy load stay below the life hazard state registration threshold of 49 persons in order to avoid submitting professional architectural plans at this time. He anticipates making renovations to the building over the next 2-4 years, but he needs to be able to operate the building in order to have money to hire an architect. It is his understanding that the 49 person threshold is the same maximum number of persons allowed in other smaller retail shops in town that only have one means of entry/exit, whereas his building has several points of entry and egress with exit signs, emergency lighting, etc.

The following members of the public were sworn in and spoke in favor of the application.

1. Otto Harris Edkstut lives upstairs at 13 North Centre Street. He is 100% is supportive of Mr. Middleton's application. He is a quasi-urban planner. He is a former restaurateur in Philadelphia and started a BID there. The popularity of flex space is due to the nature of the economy. Mr. Middleton is bringing back life to North Centre Street. He fully supports Mr. Middleton's application.

2. Jeannie Francis lives at 804 S Bellevue Avenue in Cinnaminson. She is Mr. Middleton's tenant at 23 North Centre Street. She owns Spirit to Soul, which does reflexology, reiki, and herbalogy. The applicant's pop up shop is helping to bring people into her shop and is helping small businesses who are using his space. She previously had her business located in Riverton, and was involved with historical organizations. She is an expert on ADA in historic buildings and does not think that he is required to provide any ADA parking spaces. She is so glad that she moved her business here in Merchantville and is looking forward to working with the other wellness businesses in town. She fully supports Mr. Middleton's application.

3. Paul Stridick, lives at 112 E Walnut Avenue, and is currently moving to another location in town. He has owned various residences and commercial buildings in Merchantville. He has served on the Joint Land Use Board before. He is supportive of Mr. Middleton's application. He believes in renovating, revitalizing, rehabilitating old buildings and not throwing them away. Years ago he lived near the post office. The post office was very active, starting at 4am. Lots of people in and out of the post office. A lot of vehicular traffic was generated. He can't wait for it to be bustling again. Pop ups bring human activity to otherwise underutilized spaces, which is an important part to having a sense of place. Merchantville meets a lot of boxes (pedestrian friendly, tree-lined streets, shops and places to eat), despite the mall and suburban development. Now, it's even more challenging to compete because of on-line retail. Mr. Middleton's proposed pop-up multi-use space will bring more activity to the downtown and enhance the pedestrian friendly nature of it. It creates more street level activity and creates more synergy between storefronts and provides risk-friendly business incubator space. Mr. Middleton is taking real ownership of

this property and others he owns along the street; he cares about the future of Merchantville. He asks that the Board vote favorably on the application.

4. Shawn Waldron, 118 E. Park Avenue. He was previously the main street coordinator in Merchantville and continues to be very active in the Borough; he's a school teacher in the district, he volunteers on the Task Force, assists with many public events, and is a Scout master. He lived next door to the post office for years. It was more dangerous when it was a post office there because of the in and out traffic. This will be a safer use for the site. The traffic will be more fluid. The proposed uses are desired uses in downtowns; they will be a good addition to draw people to the downtown. The proposed uses are in line with the nature of what the Borough is trying to achieve in the downtown with special events and activities - - to draw people to the downtown.

After the public comments ended, Ms. Wuebker discussed that she is in favor of the application. It is a unique building and she applauds Mr. Middleton's efforts to adaptively reuse the historic building. It is consistent with the Master Plan, as it creates synergy between land uses and adds more vitality to the street segment. However, Mr. Middleton has approached her with various questions and some issues have arisen over the past couple of months so she recommends the Board consider some parameters.

Ms. Wuebker stated that outside activities (such as food trucks or vendors set up outside) need to be first approved by the Board, unless it is part of an occasional special event. She said that businesses are allowed to have occasional special events, such as Art Walk, Mystical May, etc. She asked the Board to define "occasional." There has been some uncertainty as to what 'occasional' means. She would interpret it to be 2-3 times per year. Mr. Urrichio thinks that 2-3 times per year is on the low side. Mr. Madden stated that this issue is not within the purview of the Board, as it goes beyond this application and applies to other businesses, as well, so the Board should not define how many events would be permitted.

Ms. Wuebker stated that she has met with the Fire Official, Kevin Patti, and Construction Official, Chris Mecca, to discuss the existing and proposed uses for the site. The Borough's number one concern is public health and safety. The maximum occupancy load has not been determined for the building and neither have the number of needed bathrooms, or other minimum requirements, been determined. It is her understanding that there is only one bathroom operating for the site at this time. The Applicant is currently operating a pop-up retail of goods and is looking to hold some periodic events at the site. The Construction Official has requested that the Applicant provide professionally prepared plans, based upon the approved uses, identifying a maximum occupancy load as well as appropriate number of bathrooms.

Ms. Wuebker asked Mr. Patti, who was sitting in the audience, to discuss the occupant load matter with the Board. Mr. Patti was sworn in. He explained that life hazard uses need to be registered with the State; they fall within certain types of categories, such as assembly uses. He said that it has been tricky evaluating the applicant's proposed uses from the fire code perspective, as it's a hybrid use. He is inclined to classify the applicant's use as an exhibit hall under A3. There was a discussion between Mr. Lammey and Officer Patti about the appropriate classification. Mr. Lammey feels that it is more likely Mercantile use category. There was discussion by Board members that if there are multiple uses and that public health and safety requirements have to be designed for the most stringent of the uses. Occupancy is determined by particular use and the number of plumbing fixtures. Mr. Lammey noted that if there is office use then it will trigger more plumbing fixtures than mercantile use. There was a discussion that an assemble use (A) with 49 people or less correlates to a Business (B) use. There was a discussion about B uses, which

equate to 100 SF per person, would correlate to a maximum of 45 persons, based on the square footage, instead of 49 persons. The Chairman discussed his opinion that the max should be 45 persons.

Ms. Wuebker also suggested that any Board approval be subject to several retail limitations. Board members said that they have confidence in Mr. Middleton that he would not allow junk to be sold on the site. Ms. Wuebker explained that used and yard sale items are currently sold on the site. She said it would be a safety net – while used and second hand items are acceptable, a junk store would not be acceptable. Board members raised concerns about the site turning into a flea market. Ms. Wuebker reiterated suggested language that she proposed in her staff memo to the Board, which is:

“no retail ‘junk store’ or vendors that sell previously used merchandise or goods the majority of which 1) have not been maintained, repaired, restored or reconditioned to a functional condition; or 2) consist of salvaged or disassembled parts of merchandise, equipment or objects no longer in their original assembled configuration. This definition excludes secondhand stores, consignment stores, thrift stores and art work made from recycled or previously used materials incorporated into artwork.

Board members agreed with this language.

In the past, there has been instances where food is being kept warm on site in crock pots. Mr. Middleton said that it is within the purview of the County Health Department. She suggested that there can be no sale of food to be consumed on site, unless and until the applicant has received approval from the Board for restaurant uses or mobile food vendors on the site. The sale of pre-packaged food to be consumed off-site is permissible.

Mr. Middleton provided the Board attorney with a written copy of his presentation that he read to the Board, as Exhibit A-2.

Mr. Uricchio made a motion to approve the applicant’s change of use, site plan waiver, and parking variance, subject to the following: 1) not to exceed 45 occupants; 2) the dock lights will have shields on them; 3) food for sale must be pre-packaged; no food preparation will take place on-site, unless and until the applicant receives Board approval for such use in the future; 4) Mr. Hanson will confirm whether ADA requirements for parking is triggered; the applicant will comply, if needed; 5) the applicant shall submit plans for the planters which shall be subject to the review and approval of Ms. Wuebker; 6) no retail ‘junk store,’ as outlined by Ms. Wuebker.

Ms. Stewart seconded the motion. The following members voted in favor of the application: Mr. Brennan, Mr. DeSimone, Mr. Fiume, Mr. Fitzgerald, Mr. Licata, Ms. Stewart, Mr. Urrichio, and Mr. Woods. Mr. Lammey and Ms. Wuebker abstained from the vote.

- 8. PROFESSIONAL COMMENTS.** Stormwater Training for Board Members will take place in the future.
- 9. ADJOURNMENT.** Mr. Fitzgerald made a motion to adjourn at approximately 9:40pm. Ms. Stewart seconded the motion. All persons present voted in favor of the motion to adjourn.