



## MINUTES MERCHANTVILLE JOINT LAND USE BOARD

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

1. **CALL TO ORDER.** The meeting was called to order at 7:30pm.
2. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE.** All persons present stood for the pledge of allegiance.
3. **OPEN PUBLIC MEETINGS ACT.** The Chair advised that the meeting was being held in accordance with Open Public Meetings Act.
4. **ROLL CALL**

<u>Class IV</u>	<u>Class IV</u>	<u>Class I</u>	<u>Class IV</u>	<u>Class III</u>	<u>Class IV</u>	<u>Class II</u>				
Benjamin	Brennan	DeSimone	Fiume	Fitzgerald	Lamney	Licata	Stewart	Uricchio	Woods	Wuebker
X	X			X	X	X	X	X	X	X

The Board Attorney, Mr. Madden, and the Board Engineer, Mr. Hanson, were also present.

### 5. OLD BUSINESS

Approval of Meeting Minutes - October 22, 2019. Mr. Woods made a motion to approve the meeting minutes, which was seconded by Mr. Fitzgerald. All persons present and eligible to vote voted in favor of the motion as follows:

<u>Class IV</u>	<u>Class IV</u>	<u>Class I</u>	<u>Class IV</u>	<u>Class III</u>	<u>Class IV</u>	<u>Class II</u>				
Benjamin	Brennan	DeSimone	Fiume	Fitzgerald	Lamney	Licata	Stewart	Uricchio	Woods	Wuebker
				X	X				X	X

The chair advised that he would like to change the order of the agenda, so that the applicants will not have to wait until the end of the meeting to have their matter heard.

### 6. NEW BUSINESS (cont.)

# 2019-4 Amy Rominiecki and Marshall Downing, 28 South Cove Road, Block 32, Lots 11, 11.01  
Application for a Variance to Install a 6' Fence in the Rear Yard of the Property.

Mr. Benjamin recused himself from participation; he received public notice of the application.

The Applicants, Amy Rominiecki and Marshall Downing, were sworn in. Ms. Rominiecki explained they recently purchased 28 South Cove Road. They moved in six (6) days prior. The Applicants adopted a dog one and a half years prior and were advised of the dog's proclivity for escape and, as a pre-condition to the adoption, promised that the dog would be contained behind a six-foot (6') fence. The Applicants have maintained a six-foot (6') fence at their home in Cherry Hill but learned of the height restrictions on fencing in Merchantville during the course of their acquisition of the subject property. The Applicants have analyzed the Master Plan of the Borough of Merchantville and believe their proposal is consistent with its goals and objectives.



Ms. Rominiecki asked whether they could proceed with the fence installation. Mr. Madden advised that Board decisions are appealable after 45 days of the decision being published in the newspaper and it would probably go into January, so if the applicant proceeds they are doing so at their own risk.

## **7. CONTINUATION OF OLD BUSINESS.**

Master Plan Re-examination. The chair explained that it is an intense document and takes a lot of time to read it all; there are a number of pieces to it. He wants to hear what other Board members think before he provides his input.

Ms. Wuebker gave a brief recap of what was discussed at the last meeting. At that meeting, she went through the draft that she had prepared at that point. The reexam is supposed to occur every 10 years. The primary focus of a reexam is on the land use element, however, there are some other sections that are also touched upon. She has added more information into the document since the last meeting. Mr. Hanson reminded her that the stormwater management plan has to be reexamined. Mr. Hanson explained why it has to be reexamined. Since the adoption of the master plan, the municipal stormwater permit requirements and stormwater plan requirements have changed. Ms. Wuebker advised that the last plan was prepared in 2005 and it was fairly basic. Therefore, one of the new recommendations in this Reexam is to update the Stormwater Management Plan Element or prepare a new one (if needed). It is not clear whether it would be the Board Engineer or Borough Engineer who prepares the plan, as it's a document that is adopted by the Planning Board as an Element of the Master Plan, but the Borough Engineer has been involved with stormwater matters. The Board will have to ask council to advise who is going to prepare it.

The chair noted that the Reexam Report focuses on anything that has changed since the adoption of the master plan or regulations that need fine tuning. A Board member suggested going through the document page by page - - that way members can voice if they have any concerns on particular subjects or want to add something. There were no comments on the introduction or the statutory requirements. For section 3, the Board discussed the major problems and objectives relating to land development at the time of the adoption of the Master Plan. 5 issues were identified for analysis at that time.

The first topic is downtown revitalization. The Borough is in the same position with downtown revitalization as before – it continues to be a goal for the Borough. The Borough is now on the cusp of significant investment in the downtown with the proposed redevelopment. With regard to significant changes in assumptions forming the basis of the master plan on this issue, technology has had a significant impact on land use assumptions. Ms. Wuebker discussed the Amazon effect – i.e., harder to get retail businesses to locate and be successful in downtown. Malls, strip malls, big box retailers, and now more challenging because can now buy something online and have it delivered to your door.

There was a discussion about the reference to pop-ups and the recent approval in the document. The Chair discussed that the recent approval was given to see how it would work since it's new to us, and it was site- specific and decided to try it out to see if it works, still trying to determine if is good for the community. Some board members are not convinced that we should state in our master plan re-exam that pop ups are the type of uses we want to encourage at this time. We want to make sure that decisions are not tied to the people who are doing them, rather than the concept. There are concerns about not having control on what is going on for pop-ups. There was a discussion about whether would want more oversight. Ms. Wuebker explained as the Board gets further into the Re-exam document, you'll see recommendations for fine-tuning the Zoning Ordinance.

As the focus of that section is really about the change that technology has caused in land use since the last master plan, removing the pop up aspect would not take away from the overall purpose of that section – technology. The Board decided to keep narrative about the changes that technology has caused with

retail, office, and anticipated changes in traffic and circulation, but stay silent with regard to pop ups.

With regard to the section in report that discusses specific changes in the master plan (if any), the Chair would like to see less rigidity in what zoning ordinance allows on first floors. In a lot of towns, restaurants are doing well, but the retail is really rotating frequently (Haddonfield, Collingswood, etc.). Currently, the Master Plan recommends restricting office uses on the first floor. The idea behind it was to create ideal atmosphere for foot traffic between retailers. Ex. West Park Avenue has gaps that make it harder for retailers to do well b/c there is less foot traffic between businesses. There was a discussion about wanting to consider allowing more flexibility, including office uses that have some traffic, to be a permitted use or a conditional use on the first floor, particularly given more challenges for having successful retail in downtowns. There was a discussion about the existing lawyer's office and accounting office in town – how there is a benefit of having them in town, even though on first floor – they go to eateries during the day when not much other people are in the town. There was a discussion that if add more people to the town, it will help retail and restaurants be successful. Need a lot of different types of layers of activity for downtown. The Chair suggested that we don't want to hog tie ourselves so that we are not flexible enough to bring people to town.

A board member discussed that people are going out for experiences, more so than shopping. The demand for retail is low. He feels the importance of experiential destination, like restaurants, is important to attract people. There was a discussion about having flexibility, but still some control because if the land use doesn't go well, don't want to be stuck with it, particularly as approvals run with the land. One way of having more control is requiring zoning permits for pop up temporary tenants. However, it is tricky because they could be there for an hour, a week, a month, or a year. Perhaps there is a threshold period to require zoning permit review and business registration for tenants.

The Chair suggests that as we look at streetscape, need to look at having more things on first floor as conditional uses. Can't force parking on a facility that can't accommodate it. People park a few blocks away in other communities to go to restaurants. Need to be somewhat more flexible with parking issues. Need to be aggressive with soliciting restaurants, a lot of people go out to dinner as a form of socializing and entertaining.

There was a discussion of whether Borough can restrict certain uses to a percentage or maximum number in the downtown. For instance, if first floor office use is identified as a conditional use, what type of conditions would be imposed? Could there be a max ceiling of same types of uses, i.e., to protect the economic vitality and diversity of businesses in the downtown to make the town work. Mr. Madden doesn't think so. There was a discussion about what is considered 'office.' Doctors and dentists get more traffic than say an engineer or travel agent. There was a discussion of whether there is a way to incentivize retail space on the first floor. Need to do some research whether can impose a maximum ceiling number in order to ensure a variety of uses. An alternative discussed is to be more vague in the Master Plan goals to provide more leeway. There was a suggestion to water down the restrictions that are currently in place in Master Plan to allow more flexibility. Ms. Wuebker will try to come up with some language to address some of the flexibility to have a healthy mix of housing, shopping, offices, restaurants, services, and civic uses and take out sections that could be misinterpreted.

There was some confusion about the role of the Board vs. the role of Council. Mr. Madden clarified that only the Board, not Borough Council, adopts the Master Plan. The Master Plan doesn't get sent to Council for input. Ms. Wuebker explained that the Board, by adopting the Reexam, is drafting the actual land use planning policy for the Master Plan. Council will presumably adopt regulations down the road that will have to be analyzed by the Board for consistency with the Master Plan (though Council is not required to go with Board's recommendations). The Master Plan is also used by the Board to make determinations of whether applicants have met their proofs (i.e., whether variance would not substantially thwart the intent and purpose of the master plan).

With regard to proposed changes to the Zoning Ordinance, the first recommendation is to eliminate all change of permitted uses requiring site plan approval. The approval process can be costly, cumbersome, and time consuming. New businesses see it as deterrent. Some people aren't comfortable coming before a board and time is money, and don't want to spend money on a process if not sure going to get approved or not. For example, restaurants with less than 10 seats would just be permitted uses, If more than 10 seats, need to come to Board b/c need to see how handling trash, etc. (This would coincide with current parking regulation cut off). Other neighboring townships: Moorestown, Haddonfield, Haddon Heights, Pennsauken do not require every change of permitted use to come to the Board for site plan review. Collingswood will soon be changing it to no longer require every change of permitted use to go to the Board for site plan approval. Maple Shade and Haddon Township do require every change of permitted use to come to the Board for site plan approval.

A board member asked what about uses that are not that desirable. Ms. Wuebker responded that you would either make them a conditionally permitted use with specific conditions, or a 'not permitted' use. The bottom line is that our ordinance is too general and inadvertently allowed things that was not deemed desired (gun shops, massage parlors, tattoo, etc.) and as a response, that is why they are now called out in the ordinance as either conditionally permitted uses or prohibited uses. We need to tighten it up a little bit. The Chair suggested that if any board members have suggestions, give it to Mara. Ms. Wuebker explained that we don't really need specifics until we actually propose zoning ordinance changes. It's going to be an arduous multi-step process. First step is setting the policy in the Master Plan and then the second step will be proposing specific language changes to the Zoning Ordinance that will be more detailed. Matt, Jeff, and Mara will probably work together on coming up with some proposed language for the Board to consider recommending to Council - - that being said, if someone has any specific suggestions in the meantime, feel free to send it to her.

The Chair feels that proposed uses that are desired and we think would be easy decisions for the Board to approve shouldn't have to go through all of the hoops of coming to the Board for approval. On the other hand, but he feels still need to have some level of control for some uses, particularly if there is intensification (which does fall under parking requirements). Our parking requirements is the same parking requirement for a whole host of different uses. We are looking to relax some of the parking requirements and to clarify others.

The Chair feels food handling and preparation and distribution should require some review even if it's a permitted use. County Health Department should be a prior approval condition prior to certificate of occupancy being issued by Construction Office. Can we put that into our ordinance? Ms. Wuebker explained that it is already required by law, but yes, we can ask Council to spell it out in the construction section of the ordinance so it is clear.

Borough Council tried to relax the sign ordinance; though well-intentioned, it was too vague and hard for zoning officer and Historic Preservation Commission to interpret; it needs to be tightened up. The ordinance is pretty good, it just needs some tweaking. For example, some desired signs, like sign bands, need to be allowed (with some restrictions). Signs, like CPA Solutions and McFarlan's, would not be allowed under existing ordinance, even though most would agree that is what is desired. The ordinance just needs to be tightened up and add an element of reasonableness.

HPC has proposed some changes in the past. They are the ones who are interpreting the sign ordinance inside and out and have some good suggestions on improving the ordinance. The HPC's arms are somewhat tied; they do not have the authority to grant variances from the ordinance. Therefore, we just need to tweak the ordinances. Any changes to ZO for signs would come to the Planning Board for review for consistency with master plan and recommendations.

The biggest enforcement problem recently is that businesses are having supplemental events and activities; on the one hand want to encourage them to participate and benefit from downtown events,

