

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

**REGULAR MEETING
FEBRUARY 8, 2011: 7:00 P.M.**

1 This meeting was held at the Berlin Township Hall, 3271 Cheshire Road, Delaware, Ohio
2 43015.

3
4 **CALL TO ORDER**

5
6 The meeting was called to order by Chairperson Rick Sedlacek at 7:00 P.M.

7
8 Mr. Valentine led the meeting attendees in the recitation of the Pledge of Allegiance.

9
10 BZC Members Present: Rick Sedlacek, Kristin Yorke, Jerry Valentine, Jim Hahn; Rae
11 Ann Kerlin

12 Also present: Betty Bringardner (1st alternate member), Toni Korleski (2nd alternate
13 member)

14
15 Mr. Sedlacek read the adopted BZC policy statement for the meeting as printed in the
16 meeting agenda.

17
18 **LEGAL NOTICE AND PROOF OF LEGAL NOTICE PUBLICATION**

19
20 Zoning Clerk Lisa Knapp provided proof of publication for the legal notice for this
21 meeting, which was published on January 27, 2011, in the Delaware Gazette, providing
22 notification of the meeting date, time, and items for discussion as follows:

23
24 *BERLIN TOWNSHIP ZONING COMMISSION NOTICE OF PUBLIC MEETING*

25
26 The Berlin Township Zoning Commission will hold a public meeting February 8, 2011 at
27 7:00 p.m. at the Berlin Township House located at 3271 Cheshire Road, Delaware, OH
28 43015. The purpose of the meeting is to continue discussions on wind turbines as well as
29 potential signage changes. The person responsible for giving notice of the public hearing
30 by publication is Cathy Rippel. Township residents are encouraged to attend.

31
32 *BERLIN TOWNSHIP ZONING COMMISSION*

33 *Rick Sedlacek, Chairman*

34
35 **APPROVAL OF MINUTES**

36
37 Mr. Valentine made a motion to approve the minutes from the January 11, 2011 BZC
38 meeting as presented in their final draft form. Ms. Yorke seconded the motion. All in
39 favor say, "aye," all opposed signify with same sign. No opposition, motion carried,
40 minutes approved.

41
42 **AGENDA ITEM: MEETING ATTENDEES**

43
44 The following people were in attendance:

- 45
46 ○ Joe Thomas, general manager with Village Communities
47 ○ Joe Korleski, Berlin Township BZA member
48 ○ Dale Underwood, a resident of Piatt Meadows, 2848 Weyant Street, Lewis Center,
49 Ohio, 43035
50 ○ Dave Leahy, 1484 Dale Ford Road, Delaware, Ohio 43015

51
52 **AGENDA ITEM: REQUEST FROM VILLAGE COMMUNITIES, INC., TO EXTEND THE**
53 **FINAL DEVELOPMENT PLAN FOR THE RAVINES AT MEADOW RIDGE DEVELOPMENT**

54
55 Mr. Sedlacek said that Mr. Armstrong has provided a copy to the Commission of a
56 request from Village Communities for an extension of the final development plan for the
57 Ravines at Meadow Ridge Development. Also provided to the Commission were copies
58 of the two meetings held by the Delaware County Regional Planning Commission
59 (DCRPC) that a representative from Village Communities attended. Mr. Sedlacek asked

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

60 Mr. Thomas to provide some background regarding the history of the property and also
61 the result of the DCRPC meetings.

62
63 Mr. Thomas said he has been employed by Village Communities for about 17 years, and
64 came before the BZC when the subject community, Ravines at Meadow Ridge, was
65 rezoned. It is located on Africa Road, just south of the former Jerry Greer RV sales
66 property. The property is about 55 acres, and it was zoned for 176 ranch-style
67 condominiums.

68
69 Mr. Thomas said that the topography of the property is rolling in nature with ravines and
70 some farmland on the southern part of the property. Village Communities plans to build
71 a public access road through the northern part of the site.

72
73 Mr. Thomas said the property was rezoned in about 2005 and the applicant came back in
74 2008 to submit a final development plan. During the time period between 2005 and
75 2008, the real estate market had one of the biggest adjustments in history and the
76 situation has been very difficult for developers.

77
78 Mr. Thomas said that Village Communities entered into contract in 2005 to purchase the
79 property and went through the rezoning and engineering process. Times were good
80 during 2005, but in 2006 the market abruptly dropped and from that time on it has
81 continued to adjust. Village Communities owns about 3500 lots to be developed all over
82 Central Ohio. In southern Delaware County there are about 2500 lots to be developed.

83
84 Mr. Thomas said that during the rezoning process, preliminary and final plats were filed
85 with Delaware County. Last year, he went back to the DCRPC in an attempt to obtain an
86 extension of the final plat. Including the cost of the land and the engineering, Village
87 Communities has so far spent over \$1 million on just the Ravines at Meadow Ridge
88 development.

89
90 Mr. Thomas said that due to the difficult topography of the site, including having many
91 ravines and varying topography, the engineering cost alone for the site is about
92 \$250,000.00. The regulations for the Ohio Environmental Protection Agency (OEPA)
93 and the Army Corp of Engineers also resulted in a lot of permit fees paid. The applicant
94 had to obtain an Individual Permit because some natural characteristics of the site will be
95 disturbed, etc. That was all part of the process and the applicant's request was finally
96 approved.

97
98 Mr. Thomas said that because of these difficulties, the applicant has ended up spending
99 an enormous amount of money on the project. During the past year, he attempted to have
100 the final plat extended by the DCRPC so there would be something in the official record
101 that the platting actions the applicant took earlier still mattered. The DCRPC denied the
102 extension, but he is here to request a final development plan extension.

103
104 Mr. Thomas said in 2008, the applicant submitted all documents, about 235 pages in 15
105 binders for the final development plan. To have the final development plan done, he
106 spent a considerable amount of money on various fees including those for a zoning
107 attorney, land planner, engineers, etc.

108
109 Mr. Thomas said that as of today, the development plans continue to meet the standards
110 of Berlin Township and the standard of buildings within southern Delaware County, and
111 nothing has changed in regards to the characteristics of the type of product Village
112 Communities builds, landscaping plans, engineering plans, etc. Because of this, he didn't
113 feel it would be necessary to change and update the existing plans. He stated that the
114 preceding reasons are why the applicant has requested the extension.

115
116 Mr. Sedlacek asked BZC members to review the letter written and signed by Mr. Thomas
117 requesting the extension to the final development plan, and also the first page of the

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

118 4/22/10 DCRPC minutes that were submitted, page 1, item II, where DCRPC staff
119 recommended denial of the 1-year extension.

120

121 Mr. Sedlacek said that page 2 of those minutes includes copies of pages from the 6/24/10
122 DCRPC minutes, and the bottom of page 3 of those minutes includes the following staff
123 comments:

124

125 *“Staff agrees that this is an unprecedented market, at least when compared to the*
126 *previous decade. With this project receiving preliminary approval in June 2005,*
127 *extending it for another year would bring the preliminary plan’s time period after this*
128 *extension to six years. The subdivision regulations have established time periods for*
129 *the purpose of ensuring that any changes in other regulations, such as storm water,*
130 *zoning, road connectivity, in any surrounding development can be accommodated if*
131 *necessary in a future amendment to the original preliminary plan.*

132

133 *A number of permits have been approved related to this project, and the applicant is*
134 *likely concerned that allowing the preliminary to lapse could impact these approvals.*
135 *An additional variance would set a precedent that would suggest that deadlines have*
136 *no purpose.*

137

138 *It should be noted that expiration of this preliminary does not impact its current*
139 *zoning, which is valid until February of 2011. Expiration also does not require re-*
140 *engineering of the site, including engineering costs associated with the current*
141 *approved plan. Staff noted in the 2008 variance review that the developer is not truly*
142 *out of options. If a final plat of one section were to be approved and signed today,*
143 *the applicant would have 15 months, or until September of 2012, to record the final*
144 *plat. During that time, improvements could either be made or bonded through the*
145 *county engineer.*

146

147 *Once that plat was recorded, the remainder of the project would be considered active*
148 *for 5 years.”*

149

150 Mr. Sedlacek noted that the minutes continued on to recommend that the request be
151 denied. He asked Mr. Armstrong whether they have been changes to the Berlin
152 Township Zoning Resolution during the time period from when the zoning was originally
153 approved until now that could affect Village Communities’ application.

154

155 Mr. Armstrong said there have been two changes to the zoning resolution that would
156 affect the application. One change was made 2-3 years ago for multi-family
157 condominiums from the Planned Commercial zoning district, but the, “future use,”
158 language was moved to the TPUD (Transitional Planned Unit Development). However,
159 there are still some sites in Berlin Township that are zoned Planned Commercial and have
160 condos approved.

161

162 Mr. Armstrong said that this change was made so that multi-family condominiums had
163 their own zoning designation and wouldn’t need to be mixed in with Planned
164 Commercial districts. They are intended now strictly for the purpose of transitional
165 zoning.

166

167 Mr. Armstrong said that currently, if the plan does expire, the Planned Commercial
168 portion would expire, as commercial development was not actually the intended use;
169 residential use of the property was intended. The change was a result of DCRPC staff
170 working with the BZC to accomplish that change. He said as a result of Berlin
171 Township’s modification to the zoning resolution in that area, other area townships
172 subsequently modified their own zoning regulations.

173

174 Mr. Armstrong said that the second change, which also occurred at around the same time,
175 was a decision by the BZC and Berlin Township Trustees to change the maximum

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

176 density to 4 units/acre in the TPUD. Prior to that, the Planned Commercial District
177 allowed a maximum density of 5 units/acre.

178

179 Mr. Armstrong stated that these are the only two changes which have occurred since
180 2005 relevant to the subject application.

181

182 Mr. Sedlacek said that if the BZC were to grant the extension, Village Communities
183 would continue to work under the original PCD zoning and a maximum of 5 units/acre.

184 Mr. Armstrong said that was correct.

185

186 Mr. Sedlacek said if the BZC wished to bring the application into compliance with the
187 current zoning resolution, that could be accomplished by denying the request and the
188 applicant would have to come back before the BZC with a new plan which conforms to
189 the existing zoning resolution. Mr. Armstrong said that was correct.

190

191 Mr. Sedlacek asked whether the BZC members had questions or comments for Mr.
192 Thomas.

193

194 Mr. Hahn asked how the current 4 units/acre designation could affect the application.

195 Mr. Thomas said he wasn't certain whether the density it was calculated on net density or
196 gross density. Mr. Hahn confirmed that the density was calculated using net density. Mr.
197 Thomas wasn't sure what the net density would be because areas are removed from the
198 site when determining its net density.

199

200 Mr. Thomas noted that the DCRPC considers sites in terms of usable acres and if the 4
201 units/acre maximum was required, it would negatively impact the relative net density of
202 the development. He stated that Village Communities developed the site with the
203 intention of constructing through the site a public access road called Altamont Road that
204 will connect Africa and 3 Bs and K Roads. Installing the road will reduce the density of
205 the development as well (because the buildable space will be reduced by the area of the
206 road).

207

208 Mr. Hahn said he recalled discussions regarding that and he said that if Village
209 Communities reapplies for this site, they would be required to pay the application fees
210 again and those would be costly. Mr. Armstrong said that was correct, and in order to
211 have the fees waived, it would require action by the township trustees. He noted that the
212 rezoning fees were quite substantial at the zoning, DCRPC, and county levels.

213

214 Mr. Hahn said that the difference in the density from 4 units/acre to 5 units/acre doesn't
215 bother him, and commented that the parties worked very hard on the subject community.
216 He is concerned, however, that the current economic decline may continue for longer
217 than expected, and whether it could be attractive to develop the property for permitted
218 commercial uses instead.

219

220 Mr. Hahn said he would probably approve of allowing the subject property to be
221 developed with 5 units/acre, but he would like to discuss the issue first with legal counsel
222 and the township trustees to see whether somehow it could be required that the subject
223 property could only be developed as condominiums. He would like to ensure that the
224 applicant or any future property owner cannot use the Planned Commercial designation
225 for other uses originally approved for the property.

226

227 Mr. Sedlacek asked if Mr. Hahn was referring to the differences regarding permitted uses
228 in the Planned Commercial district and the TPUD. Mr. Hahn said that was correct, and it
229 would be necessary to get the trustees and township legal counsel involved because it
230 doesn't make sense for the BZC to ask the applicant to reapply now, due to the costs
231 involved. The increase in density didn't bother him, but the potential alternative uses for
232 the property did.

233

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

234 Mr. Sedlacek said he felt the same way, and he asked Mr. Thomas if it was possible for
235 him to predict the real estate market. He asked what Village Communities intended to do
236 with the property and when.

237

238 Mr. Thomas said that residential use continues to be the most logical use of the property.
239 Village Communities has no desire to use the property commercially. From the
240 standpoint of the topography of the site, it couldn't be easily used commercially and it
241 would require substantial and costly modifications on most of the site. He noted that
242 Village Communities doesn't develop commercial sites. Mr. Sedlacek said it would be
243 possible to sell the property to a developer who wished to develop it commercially. Mr.
244 Thomas noted that the current commercial market is even softer than the residential
245 market and he didn't foresee the property being used commercially.

246

247 Mr. Thomas said that he predicted that the residential property market will improve prior
248 to the commercial property market. He noted that Village Communities has seen an
249 increase in its condominium sales; it has inventory which has been standing empty for
250 several years and it has finally been able to sell some of that inventory.

251

252 Mr. Hahn said he wasn't very concerned about Mr. Thomas' intent, but there are ongoing
253 discussions regarding that interchange and there is talk in Berkshire Township about
254 large commercial development on property that is practically across 3 Bs and K Road
255 from the subject property. That situation could improve the potential commercial
256 development of the site and it is impossible to predict what type of development that
257 would be.

258

259 Mr. Thomas said he understood that he would not be able to develop the site for any other
260 use other than for the residential designation for which it was approved, unless a new
261 final development plan was approved. Mr. Sedlacek said that if the BZC does not grant
262 this extension, the applicant will need to come back for the approval of a new plan. Mr.
263 Thomas agreed, but noted that the currently-approved final development plan is in effect
264 at this time with or without the requested extension.

265

266 Neither Ms. Yoroko nor Mr. Valentine had comments or questions for Mr. Thomas.

267

268 Ms. Kerlin said that she was not serving on the BZC when the applicant's original request
269 was brought before the BZC, and she asked how long approval took from the time the
270 original application was submitted and the final development details were ready.

271

272 Mr. Thomas said that when the plan was originally approved in 2005, it would have been
273 done via a 2-step process; a preliminary and then a final plan were completed. The
274 preliminary plan was approved, but in order to have final approval, the final engineering
275 of the site had to be completed. Delaware County required that the permits from the
276 Army Corp of Engineers had to be put in place.

277

278 Ms. Kerlin asked about the current sanitary sewer situation. Mr. Thomas said that sewer,
279 storm water, and other water details are all tied together from the requirement that the
280 Delaware County Engineer will not approve any of those until an individual permit has
281 been issued by the Corp. He noted that it is a very extensive process, taking a minimum
282 of a year to complete. He explained that he did obtain permits for all of those items, and
283 also the final engineering from the Delaware County Engineer.

284

285 Ms. Kerlin asked whether any of that work has been done on the site. Mr. Thomas said
286 that none of the work on the site has been done. Mr. Sedlacek added that nothing has
287 been done on the site. Mr. Thomas noted that the market collapsed very quickly and
288 Village Communities saw no purpose in bringing more condominiums online; that would
289 only serve to soften the market and they would have to be sold below cost just to move
290 them out from inventory. Village Communities thought that it would be best to hold onto
291 the land and not develop it; the applicant is currently paying interest on the money it

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

292 borrowed to have the final engineering done, and it is also paying county property taxes
293 and for maintenance of the property.

294

295 Ms. Kerlin asked whether Mr. Thomas has an expected time frame for moving forward
296 on the development. Mr. Thomas said he did not, and said that Village Communities is
297 waiting to see what happens within the market. Some experts believe that demand for
298 such properties will rise in 2011, but others believe that it will not rise.

299

300 Mr. Thomas said that he read an article in the newspaper this past weekend where the
301 opinions of two experts were in direct conflict with each other regarding home sales in
302 Central Ohio. One of the experts predicted an increase of 3% in sales, and the other
303 predicted a 3% decrease.

304

305 Mr. Sedlacek noted that such statements are relative and the article said that the
306 improvement over past markets is not very much. Mr. Thomas said that market growth
307 in any substantial manner is good for the building business.

308

309 Ms. Kerlin said that the DCRPC comments do indicate that it feels the applicant has
310 options other than extending the currently-approved development plan, and she is
311 attempting to determine how realistic the options are. Mr. Thomas said that from a
312 standpoint of recording final plats, developing property, and obtaining bonds, it is all a
313 matter of cost. It costs a substantial amount of money to develop the final plat with the
314 engineer, plus the county filing fees, the cost of reviewing the plan by the various
315 Delaware County Engineer's office and tech review, other filing fees, etc. and this will all
316 ultimately increase the property taxes with the final plat approval.

317

318 Mr. Thomas said the final completion dates are important and if the expiration dates are
319 imminent, it will be necessary to file a bond, and that is yet another cost. Traditionally it
320 is required to put money in the bank, and only then the bond will be issued. Any
321 improvements on any one section of the plats can cost \$500,000.00 and that amount has
322 to be bonded or placed in a bank, resulting in more cash that is not available to Village
323 Communities.

324

325 Mr. Sedlacek asked whether the audience had any comments or questions for Mr.
326 Thomas.

327

328 Mr. Underwood asked what the "swag" cost was regarding all the items Mr. Thomas had
329 mentioned as being required for a final development plan. Mr. Thomas said that for
330 example, if a plan was filed and a plat was approved over a period of 15 months, it would
331 cost about \$500,000.00 cash. In essence it would just be a bond in place, but the
332 developer still has to reserve that amount of money in a bank account. Also, the
333 engineers would still need to be paid and that would be an out-of-pocket expense of about
334 \$50-60,000.00.

335

336 Mr. Sedlacek asked Mr. Thomas if he understood Mr. Armstrong's comments earlier in
337 this meeting that if tonight's request is denied by the BZC, Village Communities would
338 be required to come up with a new plan. He noted that neither the BZC nor Mr.
339 Armstrong has any influence on township fees, so the applicant would have to pay the
340 fees and then submit a request to the township trustees to refund the fees, although he has
341 never seen that occur during his time in the township.

342

343 Mr. Armstrong agreed with Mr. Sedlacek and said that he has only seen fees refunded by
344 the trustees once during the past five years. He said he agreed with Mr. Hahn that he
345 didn't have any problem with the density of the development. He did wish to point out
346 that if the plan is not approved, the property remains zoned PCD; however, that does not
347 actually mean that it could be used commercially by Village Communities or a future
348 owner.

349

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

350 Mr. Armstrong explained that even though the zoning was completed with the intended
351 purpose of condominiums, the applicant would still be required to prepare a plan that
352 would be approved by the BZC. He said that an examination of the Berlin Township
353 Comprehensive Land Use Plan (CLUP), which the BZC has spent over a year revising,
354 indicates that, with the exception of the frontage portion of the property, the rest of the
355 property remains in a residential district and that is an advantage.

356
357 Mr. Armstrong said another option would be to table the application while the applicant
358 considers other changes and then comes back before the BZC at a future date. Mr.
359 Sedlacek liked that idea; he has heard thus far the following information 1) a change from
360 the PCD to TPUD, 2) a change in density, and 3) the DCRPC denials. He noted that the
361 indicated expiration date for the final development plan is 2/12/11, and he asked whether
362 the extension needed to be approved before then. Mr. Thomas said that was his
363 understanding.

364
365 Mr. Armstrong said that Mr. Thomas has met the legal deadline for applying for the
366 request, prior to termination of the plan, and even if the application is tabled it will still
367 be, "in play," until a decision is reached by the BZC.

368
369 Mr. Hahn said that it may help make it easier to work with legal counsel and trustees to
370 see whether, in the approval for an extension, a clause could be added that states that if
371 the property will revert to the TPUD zoning if it is not developed as condos or as
372 otherwise approved unless another extension is approved.

373
374 Mr. Sedlacek said that such a condition have to be submitted to the Delaware County
375 Prosecutor's office to see whether it was legal. He noted that it would seem to be similar
376 to a condition for an application. Mr. Hahn agreed and said it would be similar to a
377 conditional extension of the application. Mr. Sedlacek said that in his experience, the
378 BZC doesn't typically grant conditional approvals.

379
380 Mr. Sedlacek said the BZC has three options: 1) a motion to approve the application, 2) a
381 motion to deny the application, or 3) a motion that includes the condition suggested by
382 Mr. Hahn.

383
384 Ms. Yorke asked what Delaware County actually denied; was it the preliminary plan, or
385 the final plan? Mr. Armstrong said that under the subdivision regulations, as far as
386 DCRPC is concerned, the preliminary plan is a dead issue, and that happened back in
387 June 2010.

388
389 Mr. Armstrong said that if the project goes forward and the plan remains on track, etc., at
390 some point, the applicant would need to reapply and go through the subdivision platting
391 process. Ms. Yorke asked what would happen if the township were to approve an
392 extension of the zoning. Mr. Armstrong said that the final development plan would still
393 be in place.

394
395 Mr. Thomas said that he would be fine with either of the options. He said that Village
396 Communities won't develop the property as anything other than what is planned for it
397 now. The only variation would be any conditions placed by the BZC upon the extension
398 approval.

399
400 Mr. Hahn said that he is not concerned about Mr. Thomas' good intention. However, to
401 avoid future miscommunication, everything should be in writing and should be clearly
402 documented.

403
404 Ms. Korleski agreed and said that some type of conditional approval could be placed
405 upon the application. She didn't think that the Commission wanted to outright deny the
406 application, but a simple approval of it wouldn't be sufficient. She wanted to give the
407 applicant a chance.

408

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

409 Mr. Sedlacek said that to clarify, the Commission has three options at this time: 1) a
410 motion to approve the application, 2) a motion to deny the application, or 3) to table the
411 application, rather than the original third option to conditionally approve the application.
412

413 Ms. Korleski said that it was her understanding that the application could be recessed to
414 determine the legality of placing conditions upon the approval of the request. Mr.
415 Sedlacek said that was correct.
416

417 Mr. Hahn said that the application could also be approved with the notification that this is
418 the last extension to be approved by the Commission, and that would put the onus on the
419 applicant to ensure that the property is platted in time. He felt that conditional could be
420 legally imposed. Ms. Yorke asked whether the applicant was seeking a one-year
421 extension. Mr. Hahn said that was correct.
422

423 Mr. Sedlacek asked whether the application specified that. Mr. Thomas said that he
424 thought that was stipulated by the zoning resolution.
425

426 Mr. Korleski asked if the applicant doesn't follow through and decides to change the
427 application, would the process with the township have to begin all over again? Mr. Hahn
428 said that if the applicant submits a request for a different use but that is still a permitted
429 planned commercial use, it would be hard for the Commission to deny it. That is where
430 the issue lies, he said.
431

432 Mr. Hahn went on to say that if the property was zoned for condos only, the applicant
433 would not be able to propose a commercial use for the property. Mr. Sedlacek said that
434 the Commission believes the applicant's intentions are good, but everything needs to be
435 specified in writing. Mr. Thomas agreed and said that he would like all details to be
436 specified in writing as well.
437

**Resolution 2011.02.08.#1: Approve 1-year Extension of the Final Development Plan
for the Ravines at Meadow Ridge Development**

438
439
440
441 Mr. Hahn made a motion to approve a one-year extension of the Final Development Plan
442 for the Ravines at Meadow Ridge development, as requested, with the following
443 condition:
444

- 445 ➤ This is the last extension that the BZC will grant for this development.
446

447 Ms. Yorke seconded the motion. Vote: Hahn, yes; Yorke, yes; Kerlin, yes; Valentine,
448 yes; Sedlacek, no. Motion carried, extension granted.
449

AGENDA ITEM: REVIEW OF NOVEMBER 2011 MEETING DATE DUE TO ELECTION DAY

450
451
452 Mr. Sedlacek said that when the 2011 BZC meeting date schedule was set by resolution
453 at the last meeting, the Commission didn't realize that 11/08/11 is Election Day. Voting
454 is held in this building, so that date will need to be moved via resolution.
455

Resolution 2011.02.08.#2: Move BZC Meeting Date from 11/08/11 to 11/15/11

456
457
458 Mr. Hahn made a motion to move the meeting set for 11/08/11 to 11/15/11. Ms. Yorke
459 seconded the motion. All in favor say, "aye;" all opposed signify with same sign. No
460 opposition, motion carried, meeting date changed.
461

**AGENDA ITEM: REVIEW PROPOSED CHANGES FOR
ARTICLE 22: SIGN AND BILLBOARD REGULATIONS**

462
463
464
465 Mr. Sedlacek asked Ms. Kerlin to review and summarize the proposed changes to Article
466 22. He noted that Ms. Kerlin has been sending out information regarding this to the BZC
467 via email.

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

468

469 Ms. Kerlin said that Robert Rice, of the Delaware County prosecutor's office, reviewed
470 the proposed changes to Article 22 and has provided his comments for the Commission's
471 review. She provided a copy of her notes and the revised draft language, and reviewed
472 the information.

473

474 Ms. Kerlin said that on page 4, under 22.02 Permitted Signs - No Permit Required, item
475 W. there was one paragraph regarding Historic Village of Cheshire Informational and or
476 Directional Signage that Mr. Rice asked be split into two sections to make the language
477 clearer, and she agreed with that suggestion. After the split, the content remained the
478 same, she noted, and she asked for comments from the Commission regarding this.

479

480 There were no comments, questions, or objections. Ms. Kerlin said that changing the
481 language didn't result in the loss of any information, and instead served to make the
482 language more direct. She felt as though the meaning of the language still meant the
483 same as it was intended to by the Commission.

484

485 Ms. Kerlin said that Mr. Price also pointed out that he didn't know if the language
486 actually belonged in the Permitted Signs - No Permit Required section. He thought
487 perhaps it should be included in Permitted Signs – Permit Required, but without a fee
488 being charged. However, Ms. Kerlin thought that would be up to the township trustees to
489 determine whether no fee would be required.

490

491 Mr. Sedlacek that was correct and that the board of trustees is the only entity permitted to
492 set or eradicate zoning fees. Ms. Kerlin asked whether the Commission would need to
493 speak to the trustees to determine whether they agreed. Mr. Sedlacek suggested that the
494 BZC submit the language and the trustees will consider it at that time.

495

496 Ms. Kerlin said that she chose the proposed location in the zoning resolution for the
497 language because it is directional signage, and most of the township's directional signage
498 doesn't require a fee. The BZC would like to see this signage produced in conjunction
499 with the township so the trustees will have some oversight regarding what is installed,
500 and that will be in tandem with other improvements to the area such as improving it and
501 looking for a brand for the area. This will allow the township to have some control over
502 what is placed there.

503

504 Ms. Kerlin said that it is most likely that changes to that area won't happen quickly, and
505 the language clearly states that the township would like to see it produced in conjunction
506 with the township.

507

508 Mr. Sedlacek agreed, and said that assuming that the language is formatted and a clean
509 copy is provided at the next BZC meeting, and also that the BZC initiates the language at
510 that meeting, the proposed changes to the zoning resolution language still need to go
511 through the entire process, and changes can be made to the language at that time if
512 desired. He noted that the BZC has worked on this issue for a long time and has had
513 plenty of time to provide input.

514

515 Ms. Yorko asked whether the directional signs are to be in designated areas only or
516 whether that has yet to be determined. Ms. Kerlin said that regarding actual placement,
517 she had thought when the BZC was working with the Neighborhood Design Center that
518 the BZC may have help with that, but that is no longer occurring in the near future.

519

520 Ms. Yorko was concerned about such signage being located too close together on a
521 property, such as every 50' or so. Ms. Kerlin said that the signage will be monument-
522 style. Ms. Yorko said there would only be one on each property and the location would
523 not be specified immediately. Ms. Kerlin said that was correct, and that is why the
524 language indicates that the signage will be developed in conjunction with the Zoning
525 Commission and the trustees. Ms. Yorko agreed.

526

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

527 Ms. Kerlin said that Mr. Rice suggested that the BZC check on the legality of the
528 township regulation of school pride signs; this language is located on page 2, letter E.
529 However, she had been confused by Mr. Rice's comment and did not understand what he
530 meant by that. His comments indicated that the signs are usually produced commercially
531 and the sales are usually held by the schools.

532
533 Ms. Kerlin said it seemed to her that Mr. Rice thought perhaps the BZC was denying the
534 signage instead of allowing it. However, she felt that the Commission intended to
535 indicate by the proposed language that such signage is allowed so that other large banner-
536 type signs other than school pride signs wouldn't start appearing on homes in the
537 township.

538
539 Ms. Kerlin said that for that reason, the Commission had defined school pride signs,
540 thereby excluding other signs. She read staff comments as follows:

541
542 *"Permitted without a permit - school pride signs: These signs seem to be numerous*
543 *and are usually professionally-produced on behalf of the school or school district. If*
544 *there has been a problem with them, it has been official to have a definition with the*
545 *code. Check on the legality of this regulation."*

546
547 Ms. Kerlin said that it was stated that it is beneficial to have a definition within the code;
548 however, that is what the Commission is doing now by the proposed language. Mr.
549 Sedlacek said that also, the township hasn't had a problem with school pride signs in the
550 past.

551
552 Ms. Kerlin said that Mr. Rice's comments seemed contradictory, because the township
553 hasn't had a problem with the signage in the past. Mr. Rice has proposed that a definition
554 of, "school pride signs," be added to the zoning resolution; perhaps what he was
555 intending to tell the Commission was if there has been no problem with such signage in
556 the past, is it necessary to even include the new language proposed in this revision? She
557 thought perhaps he miswrote the language, although it is not like prosecutors to make
558 mistakes.

559
560 Ms. Kerlin said she thought that the language was fine as written. Ms. Yoroko and Mr.
561 Sedlacek agreed.

562
563 Mr. Armstrong said that Mr. Rice's intent was probably that a definition of a school pride
564 sign should be included in the definitions section of the zoning resolution, to include
565 details such as size, what they will be used for, etc. Ms. Kerlin asked whether it should
566 be added to the definitions list.

567
568 Ms. Knapp asked what a school pride sign really is. Mr. Armstrong said that, for
569 example, a school pride sign could also be used for a school spaghetti dinner, etc., if the
570 term is not defined in the zoning resolution.

571
572 Ms. Kerlin said that she had misunderstood and had thought that Mr. Rice was suggesting
573 that school pride signs should be mentioned, and they are. However, now she
574 understands that a definition should be created.

575
576 Mr. Armstrong suggested that the Commission create language including possible details
577 such as that the sign is professionally-developed, a maximum size, etc. Mr. Sedlacek
578 asked whether Mr. Armstrong felt that the definition should be added as part of the entire
579 resolution. The Commission could make a motion to initiate Article 22 and one
580 definition to be included in Article 4. Mr. Armstrong agreed.

581
582 Mr. Leahy asked whether Mr. Rice had been concerned about legally defining a school
583 pride sign, as there may be issues with doing that. Mr. Armstrong explained that if no
584 definition of a school pride sign is included, then one person's idea of a school pride sign
585 may be different than another's.

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

586

587 Mr. Leahy said that if the term is legally defined in the zoning resolution, but a company
588 mass-produces a school pride sign that doesn't meet that definition, there may be
589 problems. Mr. Armstrong said that could happen, but in that case the Commission could
590 modify the definition if desired. Another option would be to make the language general
591 enough that it is not too restrictive and include specifications such as that it must be under
592 a certain size, etc. For example, most school pride signs are about 4-6 SF, etc.

593

594 Mr. Hahn noted that cheerleader pride signs can be a lot bigger than that.

595

596 Mr. Leahy said that he thought that Mr. Rice was concerned about the legality of defining
597 school pride signage; or, can the Commission legally place a limit on the signage?

598

599 Mr. Armstrong said that the township can legally restrict such signage, as it restricts other
600 signage throughout the township using very specific terms. However, he didn't think the
601 BZC wished to be so restrictive as to cause problems later for something like a school
602 pride sign.

603

604 Ms. Kerlin said she would create a definition during this meeting and she hoped that the
605 Commission could come to a consensus at this meeting so the initiation of this language
606 would be delayed and discussed at another time.

607

608 Mr. Sedlacek asked that Ms. Kerlin briefly review the rest of the changes and then
609 attempt to write the language while the rest of the agenda items are reviewed.

610

611 Ms. Kerlin said that Mr. Rice also mentioned that a long menu board at 10 SF seemed to
612 be excessive, particularly because the language would allow such without a permit. He
613 said that it seemed like these would be a standard item to be requested other than
614 commercial signage during the permitting stage of a building permit.

615

616 Ms. Kerlin said she could see why Mr. Rice said that, because he probably assumed that
617 this would mostly apply to building permits obtained for new buildings. However, so
618 many buildings in the Cheshire area are old, and new ones aren't being built, so they
619 aren't getting permits. Thus if somebody wants to add a menu board to the entry of their
620 building, they should be able to do that in her opinion.

621

622 Ms. Kerlin said that most businesses in that area which may want to have an additional
623 menu board that patrons can read when they walk up probably don't already have such a
624 sign at this time. She also thought that perhaps Mr. Rice misunderstood the intent of the
625 menu board, although the language specifically states that it is not for a drive-up or a
626 drive-thru menu board. She recommended that this comment be disregarded, and Mr.
627 Hahn and Mr. Sedlacek agreed.

628

629 Ms. Kerlin said that the last comment from Mr. Rice questioned why, "right-of-way" was
630 changed to, "ROW," in the language and he asked whether that would actually be
631 helpful. Mr. Sedlacek said it saves space. Ms. Kerlin said that doing so made it a lot
632 easier. She asked whether there was any problem with using, "ROW."

633

634 Mr. Sedlacek said that anybody in the business should understand that word. Mr. Hahn
635 noted that it was included in the definitions section. Ms. Kerlin noted that the term was
636 also spelled out at the beginning of the article.

637

638 Ms. Yorko asked about item P. on page 3, regarding ribbons and streamers. Mrs. Kerlin
639 said that Mr. Rice commented that ribbons and streamers don't fall under the definition
640 of a sign. She said that the BZC specifically put those items in the language because
641 moving banner, signs, etc. are prohibited, and the BZC wanted to permit them. They are
642 not signs, but could be used as a sign.

643

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

644 Ms. Kerlin asked whether the BZC wished to remove that or leave it in. Mr. Hahn
645 suggested allowing the language to remain. Ms. Kerlin read the language as follows:

646
647 *“Ribbons and streamers used solely for decoration and outdoor seating or garden*
648 *areas are allowed. These signs must be maintained in good condition or replaced*
649 *when their condition deteriorates, becomes worn, faded, or tears.”*

650
651 Ms. Kerlin said that the word, “signs,” is used in this text and perhaps that is why Mr.
652 Rice questioned it. Mr. Sedlacek and Mr. Hahn liked the language as proposed.

653
654 Mr. Hahn said that item Q. states that the only flags and insignia permitted are United
655 States or State of Ohio flags. However, he has seen service flags flown in the township,
656 such as for the Marine Corp, MIA or POW or others such as for sports teams, etc. He
657 asked whether the language is intended to prohibit such flags. Ms. Kerlin noted that is
658 existing language, and that the only flags that can legally fly in Berlin Township are the
659 United States flag and the Ohio flag.

660
661 Mr. Armstrong said that to his knowledge, the only place that has been an issue in the
662 past has been at commercial establishments, where company flags have been flown. The
663 township has had to ask the owners of model homes located along S.R. 36/37 to remove
664 such signs.

665
666 Mr. Armstrong said that some rezoning applications have requested three flagpoles at a
667 property, including the United State flag, a State of Ohio flag, and a corporate flag, and
668 they have been turned down by the BZC. It was agreed to leave the language as
669 proposed.

670
671 Ms. Yorko said that regarding item T., should, “drive-through,” actually be spelled,
672 “drive-thru?” Ms. Kerlin said that technically, “thru,” is not a word. Mr. Sedlacek
673 commented that it is just an abbreviation that really isn’t a word.

674
675 Mr. Underwood said that, “drive-thru,” is used in the sign industry. Ms. Kerlin said that
676 because it is the common vernacular she would change the word in the language.

677
678 There was a discussion regarding how the changes should be submitted. Mr. Armstrong
679 said that the township has 25 hours left of paid dues time with the DCRPC, and he
680 suggested working with its director, Scott Sanders, to ensure that the language is
681 formatted properly.

682
683 Ms. Kerlin read her proposed definition of school pride signs: “School pride signs are
684 considered to be for the purpose of supporting or encouraging students regarding their
685 activities and education. Such signs may vary in size and their content is generally
686 governed by the school district.” She asked if leaving details up to the school would be
687 too vague. Mr. Sedlacek didn’t think that it would be.

688
689 Ms. Kerlin said that every year parents receive order forms for the signs, and if the
690 languages states that the signs are governed by the school, it wouldn’t be possible for
691 people to make their own signs that may not be appropriate.

692
693 Mr. Hahn said that he liked the concept of the signage indicating that they must be
694 specific to an occupant/student or their accomplishment. That would exclude events such
695 as spaghetti dinners, etc. Ms. Kerlin asked if this would cover everything.

696
697 Ms. Yorko wanted to ensure that the definition included activities. Ms. Kerlin noted that
698 the language included both activities and education. Mr. Hahn said that activities would
699 include sports, band, cheerleading, etc.

700
701 Ms. Kerlin said she would also insert language that indicates that the signs must pertain
702 to the student who resides at the home.

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

703

704 Ms. Bringardner said that using the term, "school district," could be too exclusive. Mr.
705 Sedlacek said that everybody in Berlin Township attends Olentangy Schools. Ms. Kerlin
706 noted that there are also private schools. Ms. Kerlin said she would change the language
707 to simply indicate, "school."

708

709 Mr. Hahn said that Ms. Kerlin did a great job working on the language, and Mr. Sedlacek
710 said that she worked very hard.

711

712 Mr. Sedlacek asked that Ms. Kerlin revise the language as requested and then forward it
713 to Mr. Armstrong, who could take it to Mr. Sanders for review, and to ask him to have
714 the language ready for initiation at the next BZC meeting in March 2011.

715

716

AGENDA ITEM: WIND TURBINES

717

718 Mr. Armstrong said there is no update regarding wind turbines because the weather has
719 been too cold to visit area wind turbines as planned.

720

721

AGENDA ITEM: ANY OTHER BUSINESS BROUGHT BEFORE THE ZONING COMMISSION

722

723 Mr. Hahn said that regarding the access road along Dave Lundberg's property along S. R.
724 36/37, he spoke to Doug Riedel, of the Delaware County Engineer's office, as well as
725 Berlin Township trustee Phil Panzarella. The three men agreed that perhaps before he
726 meets with Mr. Lundberg, the county engineer, etc., there should be a meeting with
727 county sewer officials to get a feeling of their commitment to provide sewer service along
728 that property.

729

730 Mr. Hahn said that Mr. Armstrong also suggested working with the county
731 commissioners to get them to make a decision regarding working with the Army Corp of
732 Engineers. It was expected to be submitted last June; however, Mr. Panzarella recently
733 spoke to them and much work remains to be done. At this point, Mr. Panzarella wasn't
734 sure whether meetings with the county engineer, the Lundbergs, and other property
735 owners could be held prior to early March.

736

737 Mr. Armstrong said that \$5 million was committed for the Route 36/37-I-71 study to
738 determine whether it is north or south in the official study, although preliminary study
739 has been done. The land that was rezoned for condominiums and owned by Ciminelli off
740 of 3 Bs and K Road, approximately 10 acres of which are in Berlin Township and the rest
741 of the acreage is in Berkshire Township, was sold about 2 weeks ago.

742

743 Mr. Armstrong said that the plan had expired previously, so the township may need to
744 contend with the issue of PCD. Mr. Hahn asked whether the property was currently
745 zoned PCD and whether a rezoning of the property could be initiated prior to the property
746 owner approaching the township.

747

748 Mr. Armstrong said that he would be willing to discuss the issue with the county
749 prosecutor's office, if so directed. Mr. Hahn said that the plan has expired, and nobody
750 has come in with a new plan. Until somebody does, the township probably can ethically
751 and legally begin actions to change the zoning on that property.

752

753

AGENDA ITEM: ANY BUSINESS FROM THE ZONING INSPECTOR

754

755 Mr. Armstrong said that he has received a request from an applicant that an informal
756 meeting be held with two members from the Commission to advise the applicant about
757 the use of a business property on S.R. 36/37, including zoning and occupancy questions.
758 He said the applicant would like to set up a meeting within a week to ten days from now,
759 and he noted that he spent all afternoon with the applicant today discussing the situation.

760

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

FEBRUARY 8, 2011: 7:00 P.M.

761 Mr. Hahn asked if it would have an access road for which planning would enter into. Mr.
762 Armstrong said that the property currently has part of an access road, so the issue is really
763 just a possible modification of the use of the property. He asked for volunteers so he
764 could answer the applicant. The meeting would probably be held during the day on a
765 weekday.

766
767 Mr. Sedlacek and Ms. Korleski volunteered to meet with the applicant. Mr. Sedlacek
768 said he will look at his schedule for the next two weeks and let Mr. Armstrong know the
769 dates he is available to meet, and he asked Ms. Korleski to do the same.

770
771 **SYNOPSIS**

772
773 Accomplished

- 774 ➤ The following resolution was passed 4-1:
775 *Resolution 2011.02.08.#1: Approve 1-year Extension of the Final Development Plan*
776 *for the Ravines at Meadow Ridge Development (with the condition that this is the last*
777 *extension that the BZC will grant for this development).*
778 ➤ The following resolution was passed 5-0:
779 *Resolution 2011.02.08.#2: Move BZC Meeting Date from 11/08/11 to 11/15/11*
780 ➤ Mr. Hahn provided an update regarding discussions/meetings to be held regarding the
781 backage road planned for property owned by David Lundeborg.
782 ➤ Mr. Armstrong provided a report was regarding the preliminary and successful
783 meeting which was held with property owner David Lundberg, Doug Riedel of the
784 Delaware County Engineer's office, Mr. Hahn, and Mr. Sedlacek to discuss the
785 backage road planned for Mr. Lundberg's property.

786
787 Homework

- 788 ➤ Proposed changes in language to Article 22, Sign and Billboard Regulations, were
789 reviewed and modified. Ms. Kerlin will revise the language as discussed, forward it
790 to Mr. Armstrong, who will give it to Mr. Sanders for review and the language should
791 be ready for the BZC to initiate the process at the next BZC meeting.
792 ➤ An informal meeting with a developer will be held in the next two weeks. Mr.
793 Sedlacek and Ms. Korleski volunteered to attend.

794
795 Future Work

- 796 ➤ When the weather warms up, Mr. Armstrong will arrange a trip view the wind turbine
797 at the Byers dealership along I-270 for a preliminary wind turbine subcommittee
798 consisting of BZC members, Mr. Armstrong, and possibly resident Dave Leahy.
799 ➤ In order to become more informed regarding wind turbines, BZC members will
800 independently visit the Byers Toyota Dealership, located along U.S. 23, to view its
801 wind turbine and ask questions of a Byers representative.
802 ➤ The BZC is considering creating a list, for internal use only, which would be a "Cheat
803 sheet"/informal guidance document to include a list of items which should be
804 reviewed for re-zonings, including reasons why a property shouldn't be rezoned in a
805 certain classification per information included in the CLUP, such as incorrect density,
806 lack of sewer service; clarification regarding what is intended by Transitional Planned
807 Unit Developments; etc.

808
809 There was no further business to come before the Commission. Motion to adjourn.

810 Meeting adjourned.

811
812
813 _____
814 Rick Sedlacek, Chairperson

815
816 _____
817 Kristin Yorke, Vice-Chairperson

818
819 _____
820 Jerry Valentine

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

**REGULAR MEETING
FEBRUARY 8, 2011: 7:00 P.M.**

821

822

823

824

825

826

827

828

829

Jim Hahn, member

Rae Kerlin, member

Attest: _____
Lisa F. Knapp, Berlin Township Zoning Clerk