

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

**REGULAR MEETING
APRIL 13, 2010**

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 PM.

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

9
10 BZC Members Present: Rick Sedlacek; Jerry Valentine; Kristin Yorko; Betty Bringardner
11 (1st alternate seated); Rae Ann Kerlin;

12 Also present: Toni Korleski (2nd alternate).

13
14 BZC Member Absent: Jim Hahn

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

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

20
21 Zoning Clerk Lisa Knapp provided proof of publication for the legal notice for this
22 meeting, which was published on March 31, 2010 in the Delaware Gazette, providing
23 notification of the meeting date, time, and items for discussion.

24
25 *Berlin Township Zoning Commission Notice of Public Hearing*

26
27 *The Berlin Township Zoning Commission will hold a public hearing April 13, 2010 at*
28 *7:00 p.m. at the Berlin Township House located at 3271 Cheshire Road, Delaware, OH*
29 *43015 in order to consider an application, designated as BZC #10-001, filed by Roberta*
30 *M. Coe Altman, 5250 Ford Street, Galena, OH 43021. The applicant is requesting to*
31 *invoke Old Cheshire Planned Unit Development District (OCPUD) currently zoned*
32 *Neighborhood Commercial District (NCD), known as Parcel #41841001065000, 0.174*
33 *acres, 5250 Ford Street, Galena, OH 43021 in order to add a garage and master*
34 *bedroom. Additionally, amendments to the Berlin Township Zoning Resolution initiated*
35 *by the Berlin Township Zoning Commission will be considered as follows: the proposed*
36 *amendment designated as BZC #10-002, specifies changes to Limited Home Occupation*
37 *and Expanded Home Occupation; the proposed amendment designated as BZC #10-003,*
38 *to accept revised language, regarding conditional use permit compliance in sections*
39 *7.04, 8.04, 9.04, 10.04, 12.03, 13.03, 17.03, 19.04 and 22.04; the proposed amendment*
40 *designated as BZC #10-004, recommendation to include North American Industry*
41 *Classification System (NAICS) codes to Planned Industrial District (PID); the proposed*
42 *amendment designated as BZC #10-005, recommendation to include NAICS code 532120*
43 *in Planned Commercial and Office District, (PCD). All of the text to the above cases will*
44 *be available for public examination from March 31, 2010 through April 13, 2010,*
45 *inclusive; Monday through Friday, from 7:30am-5:00pm at the Berlin Township Zoning*
46 *Office located at 3271 Cheshire Road, Delaware, OH 43015. The person responsible for*
47 *giving notice of the public hearing by publication is Cathy Rippel. Questions concerning*
48 *this matter should be directed to the Zoning Office at 740-548-5217. Township residents*
49 *are encouraged to attend.*

50
51 **BERLIN TOWNSHIP ZONING COMMISSION**

52 *Rick Sedlacek, Chairman*

53
54 **APPROVAL OF MINUTES**

55
56 Mr. Valentine made a motion to approve the minutes from the March 9, 2010 BZC
57 meeting as presented. Ms. Yorko seconded the motion. All in favor say, "aye," all
58 opposed signify with same sign. No opposition, motion carried, minutes approved

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AGENDA ITEM: INTRODUCTION OF MEETING ATTENDEES

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Mr. Sedlacek asked the meeting attendees to introduce themselves.

- Jim Simpson, 5242 Finch Lane, Galena, Ohio 43021
- Mike Adams, 5221 Finch Lane, Galena, Ohio 43021
- Cliff Altman, 5250 Ford Street, Galena, Ohio 43021
- Roberta Altman, 5250 Ford Street, Galena, Ohio 43021
- Rick Gemienhardt, 881 Africa Road
- Mike Shade, attorney from Delaware Ohio here on behalf of Garth's Auction House
- Robin Sorenson, 5288 Finch Lane, Galena, Ohio 43021
- Joe Korleski, 3584 Greenville, Berlin Township BZA member
- David Leahy, 1484 Dale Ford Road, Delaware, Ohio 43015

Mr. Sedlacek noted that that the Commission has been working hard for many months on the Comprehensive Land Use Plan (CLUP). However, there are many other agenda items this evening, and they decided to put that function off until next month.

AGENDA ITEM: REQUEST TO ADD NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE 531120 IN PLANNED COMMERCIAL DISTRICT (PCD)

Mike Shade said he was here to represent Garth's Auction Center, which is currently located at the intersection of US 23 and Stratford Road. Because of the sale of that property and potential for relocation of the Delaware County Historical Society at that site, Garth's Auction Center must relocate, and after much consideration they have settled on a property in Berlin Township and he is here to continue to go through the process.

Mr. Shade said that within the next week or so the architects will contact Mr. Armstrong to start reviewing the plans, and he expects to have a submission to the township in May or June 2010, as long as all corrections indicated by Mr. Armstrong are made.

Mr. Shade said he is here to ask for the Commission's consideration to add NAICS (North American Industry Classification System) code 531120 to the Planned Commercial and Office District in the zoning resolution. During the year, there are numerous auctions at Garth's, perhaps 5-10, depending on business. However, there are many times when there are no auctions, and they would like to create additional income by offering their facility for use as a conference or reception center for events such as wedding receptions, conferences of various types, etc.

Mr. Shade said many improvements would be necessary for the site in order to accommodate the additional uses. He apologized that his client was not here due to illness in the family. Also, his brother David Shade, who represents Garth's and has for several years, had a plane delay and was not able to attend. He said if the Commission feels that this is an appropriate addition and it has concerns, he is here to address those concerns.

Mr. Shade said that any text limitations would also be binding on future users or owners of the property. Also, a new development plan would be required in that case. There are some steps which he could take to ensure that the use of the property isn't abused. There would be personal uses such as wedding receptions and anniversary or graduation parties.

Mr. Shade said that his client would have facilities for food and that would be included as part of the plan, but he does not intend to apply for a liquor license or to hold a liquor license. He said that 722 is a permitted use within this zoning classification, but if anybody uses the facility for receptions and they are giving away alcohol, they do not need a permit. However, if liquor is sold they will have to get a liquor permit from the

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117 Ohio Liquor Control Board. It is very difficult to get such a license, even for a temporary
118 use.

119

120 Mr. Shade reiterated that he is willing to work with the Commission and he sees this as a
121 good use for this property. If everything does well and the use is approved, Garth's will
122 be an asset to Berlin Township. It is a very large business, and the facility to be built in
123 Phase I will be significant.

124

125 Mr. Sedlacek asked if the location of the property has been identified at this point and
126 whether Mr. Shade was at liberty to share its location. Mr. Shade said the location has
127 been chosen, but that he would prefer not to reveal that in public at this time. Mr.
128 Sedlacek asked if it was in the PCD. Mr. Shade said it was and further added that it is
129 located along Route 36.

130

131 Mr. Sedlacek asked whether Mr. Shade had any documentation to provide to the
132 Commission, since his client is not present and this is the first the Commission has heard
133 of this. Mr. Shade said he is here to represent the applicant. The Commission will be
134 receiving the plans and if the Commission chooses, he could probably deal with this
135 around the same time the process is started.

136

137 Mr. Sedlacek said this is a big plan, and after the Commission sees the development plan
138 may be a better time to discuss the proposal, and both could be done at the same time.
139 Mr. Shade said he didn't want to come in with a surprise, and he has informed his client
140 that they will need all the information before submitting the proposal.

141

142 Mr. Sedlacek asked if he would be ready in May to present the information, and Mr.
143 Shade said that may be too early. Mr. Armstrong has not seen the plans in final detail and
144 the applicant would like to get his feedback so they can assemble the text and
145 presentation for Commission review.

146

147 Mr. Sedlacek asked about hearing this at the same time the final development plan comes
148 in. Mr. Armstrong said he had no problem with that, and he added that the township's
149 legal counsel, the Delaware County Prosecutor's Office, needs to review the proposal
150 because some of the items included within that code would amount to including the code
151 with no text limitations, and there could be problems with some such uses like a dance
152 hall, concert hall. If there are uses the Commission does not wish to include some uses,
153 the application would need to be text limited.

154

155 Mr. Shade said that the facility would handle about 500 people at the maximum so it
156 would be unlikely that concert venues could be held at the property. It would be far less
157 than number of people if tables are being used as the tables take up so much space.

158

159 Mr. Sedlacek asked Mr. Armstrong to provide the Commission members and alternates a
160 copy of that page from the NAICS to review. Mr. Shade said that his client is not trying
161 to open the door to uses not appropriate for the area, but are instead trying to make the
162 business extremely viable.

163

164 The Commission determined it wished to obtain a copy of the previously-referenced page
165 from the NAISC and to delay review of the proposal until the development plan is
166 submitted by the applicant.

167

168 Ms. Korleski said it is a good idea to wait for the proposal so the Commission is aware of
169 the location.

170

171 Mr. Sedlacek said that at one time a music hall was proposed in the township and wasn't
172 well accepted, so that would probably be not permitted now. Mr. Shade said that due to
173 the access road which was included in ODOT's long-term plan there is only about 7-7.5-
174 acres of developable land for the one tract, and the smaller tract has far less than that.

175

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176 **AGENDA ITEM: BZC CASE #10-001- ROBERTA M. COE ALTMAN, 5250 FORD STREET,**
177 **GALENA, OH, REQUEST TO INVOKE OCPUD IN CURRENTLY ZONED NCD TO ADD A**
178 **GARAGE AND MASTER BEDROOM**

179

180

Chairperson's Statement

181

182 Mr. Sedlacek provided some background information. He said that the subject property
183 is located in the Village of Cheshire, which is zoned Neighborhood Commercial District
184 (NCD). Several years ago, when he was zoning inspector, a person who owned 2 lots
185 wanted to build a home on Ford Street and came to the zoning office with an application
186 to build a home. Mr. Sedlacek had informed the person that there was no way to build a
187 home in the NCD under the current zoning provisions.

188

189 Mr. Sedlacek said the peripheral area is full of businesses, and the internal part is homes,
190 which are grandfathered in, although that area was zoned NCD. Thus, a person with a
191 home or lot who wished to build a home could not do so, even though there were homes
192 on either side, and that seemed unfair.

193

194 Mr. Sedlacek said the referenced applicant wanted to come before the BZC with a
195 development plan; however, one can't ask for something which isn't in the code.
196 Obtaining a variance from the BZA was also considered; however, that body cannot grant
197 a variance if the proposed use is not in the zoning resolution.

198

199 Mr. Sedlacek said that what happened then was that around 2004, under the direction and
200 assistance of Phil Laurien, prior Delaware County Regional Planning Commission
201 director, suggested a way in which the residents who lived in the existing homes in the
202 area could conceivably do some residentially-related things, so it then became an
203 OCPUD.

204

205 Mr. Sedlacek said that means that a cloud is floated above the Village of Cheshire, and if
206 somebody wants to do something outside the NCD, they can pull down from that cloud
207 and, with a BZC administrative hearing and action they could do some of the other
208 things. This provided fair flexibility to those residents. This is in Article 16 of the
209 zoning resolution, which specifies "Old Cheshire Planned Unit Development District,"
210 and that is the cloud he speaks of.

211

212 Mr. Sedlacek said that with the floating cloud in place, residents in that designated area
213 do not have to apply for and receive a rezoning for the property; they can simply pull the
214 cloud down and request an administrative action to allow the changes.

215

216 Mr. Armstrong said that when county zoning was set up in the 1960's, some of the
217 residents in that area had the idea that rezoning their property to commercial would make
218 it more valuable. Thus, the entire Village of Cheshire ended up being NCD, as did much
219 of the land along Route 36. That action then restricted them from any residential action
220 on the property, although the existing uses were permitted.

221

222 Mr. Sedlacek said the OCPUD allows residents who live there to do things such as what
223 the Altmans are requesting, which is to add a garage and master bedroom to their existing
224 home. He noted that the request is not for a variance, and it is legal within Article 16 of
225 the zoning resolution.

226

Applicant Presentation

227

228

229 Mr. Altman said his home is very small. He and his wife have a one-year old child and
230 another baby on the way in the fall. The house is only about 1100 SF now and they are
231 quickly outgrowing the home. The planned addition would make the house about 2000
232 SF of livable space, as well as enhancing the garage.

233

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234 Mr. Altman said that the proposal indicates that there would be an attached garage which
235 he feels will both add to the value of the home, as well as providing the living space his
236 family needs. The proposal discusses the OCPUD, and the applicable section begins in
237 Section 16.03.

238
239 Mr. Altman said he answered the required questions in the zoning resolution as
240 completely as possible in his submission. He intends to match the existing siding and
241 architecture as much as possible. He noted that the house was remodeled in 2005 just
242 prior to his purchase, so the materials on the outside are new enough that they will be
243 easy to match.

244
245 Mr. Altman said there were no changes to the rear setback. He is requesting a variance
246 from the front setback because in order to tie in with the existing structure on the second
247 story, his architect has advised moving the addition about 10' in front of the existing
248 house. Included is a drawing of the addition; however, he noted that this drawing was
249 done by the first architect which was hired, and it is not to scale.

250
251 Mr. Altman said the proposal includes the dimensions of 30' by 25', and also 24' high
252 with 8' ceilings in the garage and living space. He has included a plot plan which
253 indicates the applicant's proposal, along with photos of the existing structure.

254
255 Plan Review by Applicant and Commission Comments & Questions

256
257 Mr. Sedlacek said that since this is a planned unit development, it can be approved based
258 on the existing plan. It is legal for the BZC to approve the plan if it thinks the plan looks
259 good.

260
261 Mr. Sedlacek said that one page past Section 16.03 indicates the applicant's answers in
262 red, and he asked the applicant to discuss these items.

263
264 Mr. Altman said that item 16.03 D. 5. d. of the zoning resolution requests architectural
265 design criteria, including materials, colors and renderings for the structures. The
266 architect he is working with does believe the exterior color of the proposed addition will
267 match the existing color, with a result of it looking as much as possible that it was all
268 built at the same time. The house is beige, he noted. The proposed site for the garage is
269 currently a patio-paver driveway, and the garage will be built over that.

270
271 Mr. Altman said that D. 5. e. discusses proposed provisions for water, fire hydrants, and
272 sewage disposal. He said he checked with the Delaware County Recorder's office and
273 found no issues regarding the current drainage of the property. He plans to build a new
274 bathroom over the garage in the master suite, and the contractor he is working with has
275 informed him that he can tie everything into the existing sewage lines and thus there
276 would be no digging necessary for sewage lines.

277
278 Mr. Altman said that regarding D. 5. f., request for a traffic analysis; that is not applicable
279 to this situation. Item D. 5. g. discusses the relationship that the proposed development
280 has to existing and probably uses of the surrounding development. On one side are
281 existing houses, and on the other is a legally-designated green space for the development
282 located behind the home at this time. The green space can never been built upon and is
283 "tightly landscaped." It goes to Winter Street and leads back to a development.

284
285 Mr. Altman said that item D. 5. h. 2. requests the exact location of building footprints and
286 envelopes. Appendix D in the packet is a plot plan with a survey which was done just
287 before he purchased his home, and the dimensions for the house addition are 25' by 30'
288 by 24' high.

289
290 Mr. Altman said item D. 5. h. 8. on the next page is the proposed timetable for the
291 development. He said he will begin building as soon as possible.

292

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293 Mr. Altman said the next item is D. 10, regarding divergences from development
294 standards, he said that regarding the side lot setback, "As the original structure does not
295 sit squarely within the boundaries of the property, the northeast corner of the proposed
296 addition will be slightly closer to the easement property line at the southeastern-most
297 corner." He said that at the southeastern corner there will be a setback of 6.5' from the
298 eastern property line, based on the plot plan and survey done in 2005. The northeastern
299 setback would then be 5.9' from the east property line. The front lot setback will be 34.7'
300 from the right-of-way, which is the middle of Ford Street.

301

302 Mr. Altman said that item D. 11. requests information regarding deed restrictions, and he
303 did not find any deed restrictions for the property.

304

305 Mr. Altman said that in Section 16.04, item B. 2. discusses the area of natural open space
306 which will be disturbed during construction or otherwise not preserved in its natural state.
307 He said no natural space shall be disturbed by the addition, and it will all be contained on
308 his lot. There is enough room for construction parking, etc.

309

310 Mr. Altman said that regarding sewage disposal, he has worked with the Delaware
311 County sewage system and sewer currently exists for the site.

312

313 Mr. Altman said that item F. discusses paths and sidewalks, and he said he is not
314 planning to install any paths or sidewalks along Ford Street. Section G discusses trees,
315 and he noted there are no street trees planned in this proposal.

316

317 Mr. Altman said that regarding item H., the minimum front setback, the applicant is
318 requesting a divergence from this, which requires a 30' setback from the street right-of-
319 way, and that front-load garages shall be setback at least 10' behind the front building
320 line of the dwelling unit or may be flush with the dwelling unit front if the dwelling unit
321 sets back at least 50' from the street right of way.

322

323 Mr. Altman said the proposal indicates a setback to be located slightly further than the
324 existing front of the house at 34.7' from the road centerline.

325

326 Ms. Yorke said the 34.7' setback is indicated as being measured from the road centerline;
327 however, the plot plan indicates this being measure from the edge of the right-of-way,
328 and she asked which was correct. She asked whether the house will be actually setback
329 17.5' closer to the road centerline. Mr. Altman said the correct measurement is to the
330 right-of-way, which he was told is the centerline of the road. Ms. Yorke said those are
331 two different things.

332

333 Mr. Armstrong said that in this case, the right-of-way is actually the centerline of the
334 road. The measurements of 35.7' and 36.4' are from the centerline of the road. Mr.
335 Altman said he worked very closely with Mr. Armstrong to do the calculations.

336

337 Ms. Bringardner said that on the same page, the text says, "fifty (40)," which is a
338 contradiction. Mr. Valentine agreed. Mr. Armstrong said that is how it is indicated in
339 the zoning resolution. Mr. Altman said it was that way when he received it, and it
340 appears later on where he quotes that same section and he kept it as "fifty (40)" for
341 consistency. Mr. Sedlacek said the BZC should discuss that in the future.

342

343 Mr. Altman said that item K. Minimum Side Yard, which is approved per plan, indicates
344 that the area containing his existing driveway will be developed as an attached garage,
345 and a 5.9' setback will be maintained at the side nearest the street, and a 6.6' setback will
346 be maintained from the property line further from Ford Street. He noted that the eastern
347 border of the lot is adjacent to a designated green space.

348

349 Mr. Altman said that item L. states that driveway setbacks must be 2' from the side lot
350 line. He said the driveway setback will be maintained at its existing location, and the

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351 new attached garage will be a front loading garage, and there are different requirements
352 for front loading versus side loading garages.

353

354 Mr. Altman said that regarding item M., indicates that the minimum rear yard setback is
355 30' for a single family detached dwelling. His plan for this project will not change the
356 existing rear yard setback, which is 46.7'.

357

358 Mr. Altman said that regarding item N., building height requirements, the addition shall
359 not exceed 35' including the two stories of a garage and master suite. Eight-foot high
360 ceilings are planned for both, and the garage will be ground level with the master suite
361 above. The intention is to match the pitch of the existing roofline, and the height would
362 be about 24'.

363

364 Ms. Kerlin said the applicant has stated that the drawing isn't to scale, as it looks like it is
365 actually taller than the existing house. Mr. Altman confirmed that is correct, and that the
366 drawing is not to scale.

367

368 Mr. Altman said that regarding item P., landscaping is not very applicable to this
369 application. In the front of the new structure there will be a garage door and driveway,
370 and grassy areas will be maintained.

371

372 Mr. Altman said that regarding item Q, the text indicates that off-street parking for
373 construction vehicles will be in the existing driveway, and when construction is
374 completed, off-street parking will be available in the new garage and the existing
375 driveway.

376

377 Mr. Altman said that item R. regarding signage is not applicable to his proposal.

378

379 Mr. Altman said that item T. regarding divergences indicates that he has requested a
380 divergence for the front setback for the addition to be built. The measurement will be
381 34.7' from the right-of-way. Also the front line will be 6' in front of his existing home,
382 which will allow an easier attachment of the garage to the upper story via an existing
383 hallway.

384

385 Mr. Sedlacek said that Exhibit 4 is the existing view of the front and the side. The
386 existing and proposed plot plans have also been included.

387

388 Ms. Bringardner asked who owned the vacated alley to the rear. Mr. Altman said he
389 maintains that area and there are no structures on it. It leads up to a privacy fence which
390 is in the backyard of the development behind his house. To his knowledge, he is the only
391 person maintaining.

392

393 Mr. Sedlacek said he thought that used to be a roadway years ago. Ms. Bringardner said
394 it was. Mr. Altman said he was surprised to find there was that much space which he
395 didn't own between his yard and the privacy fence. Mr. Sedlacek asked who owns the
396 property. Mr. Altman said he didn't know.

397

398 Ms. Yorko said according to the Delaware County Auditor's GIS information, the
399 Altmans own it. Mr. Altman said he has always maintained it, but his plot plan shows the
400 property as an alleyway, but there is no marker to delineate it.

401

402 Ms. Yorko said that per 16.03 D. 2, the applicant is supposed to provide a grading plan,
403 which she didn't see in the packet, and she is concerned about drainage because there is a
404 mound and the applicant will be building so close to it. Mr. Sedlacek said the applicant
405 informed the Commission that there would be no drainage problem, but that is always a
406 concern. He asked if the applicant had a grading plan.

407

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408 Mr. Altman said he did not put a grading plan yet. Mr. Sedlacek asked if the property
409 grade would change at all. Mr. Altman said he didn't think it would; the current grade
410 will be maintained. A foundation will be dug into the existing driveway.

411

412 Ms. Yorko asked if there is a basement or whether it would be slab. Mr. Altman said it
413 would be slab and he is working with a contractor to determine how that will be done.
414 He has not been told there should be any concern about drainage on that side and he is
415 not aware of any issues.

416

417 Mr. Armstrong said that the concept of doing a grading and drainage plan was not for a
418 single house when this was put together; it allows for a subdivision to be done. This is
419 similar to the Arbors at Cheshire. On the north side a property was being considered for
420 a subdivision with multiple houses, and a grading and drainage plan was requested so it
421 could be checked with the county prior to approval. It was not intended for a single
422 residential property.

423

424 Mr. Sedlacek asked him if, in his observations in that area, are there any kind of drainage
425 problems which exist? Mr. Armstrong said he was not aware of drainage issues on that
426 property, although he is aware of one about a block west and a little north of this, on a
427 portion of park property.

428

429 Ms. Yorko suggested that when the Altmans are working with their contractor they don't
430 use the mound to shunt the downspouts. She is not aware of the property's slope and is
431 unsure whether it would be more appropriate to have the drainage going to the front or
432 back. Mr. Altman said he would keep that in mind. He said at this point he has no
433 drainage issues/standing water issues.

434

435 Mr. Valentine said he is aware the drawing is not to scale. He asked how wide the front
436 porch, which is a slab, was compared to the diagram? Mr. Altman said it is just less than
437 10' wide. Mr. Valentine said it would seem to look so much nicer for the new building to
438 not go past that slab, and the diagram shows it coming out a couple more feet.

439

440 Mr. Altman agreed, and said this is a process which he has been working on for several
441 months. His current contractor is now allowing him to keep the option open to move it
442 back a little bit. He wanted to ask for the divergence now rather than having to come back
443 later and request it. If it is moved back, it does not change the rear setback for the
444 property because it would still be within the existing structure.

445

446 Mr. Sedlacek said moving it back would eliminate the need for a front divergence, and it
447 also appears that the front side of the property angles a little, so the 5.9' could be greater.
448 Mr. Altman says a picture included in the back of the application which indicates a
449 window on the second floor which he is hoping to turn into a doorway between the two
450 structures, and which would be an easy tie-in. That is why the structure was set forward.
451 However, other options are being discussed.

452

453 Mr. Valentine said it is attractive from the front. Mr. Altman said he could look at that.
454 Ms. Kerlin asked if the distance of 5.9' is measured from the front of the porch. Mr.
455 Altman said that was correct and that measurement would be about 16'. Ms. Kerlin said
456 that was quite a ways. Mr. Altman said there would also be a walkway from the door in
457 front of the home.

458

459 Ms. Kerlin asked whether he was planning to pave the driveway and whether he was
460 doing anything else in addition to the new structure. Mr. Altman said he plans a paved
461 driveway at this point, although he does like the brick pavers he currently has. He would
462 remove those and is considering moving them forward. The garage will have a poured
463 cement floor.

464

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465 Ms. Kerlin said that if that much of the garage will be located in front of the home, it will
466 eclipse the house and there will be a lot of driveway. She noted that their house was very
467 “cute.”

468

469 Mr. Sedlacek asked who owns the lot directly to the east of the subject property. Mr.
470 Altman said it is part of the Arbors of Cheshire development, which is behind him. Mr.
471 Simpson said it is green space with some shrubs and pine trees.

472

473 Mr. Sedlacek said that the timetable actually refers to the length of construction, and was
474 included so a project is not started and then dragged out for a long time, which would be
475 disconcerting to the neighbors. He asked how long the project would take. Mr. Altman
476 said it would be about 6 weeks, including a remodel of the kitchen. Mr. Sedlacek opined
477 that was aggressive. Mr. Altman said he needs the work to be done by November.

478

479 Mr. Sedlacek asked about the foundation for the addition. Mr. Altman said he is not sure
480 at this time. Mr. Sedlacek said the parking during construction could be a problem, as the
481 street is very narrow and it is possible that five crew members could be working at the
482 site at once. Also there is no room to park heavy equipment on the street.

483

484

Public Comment

485

486 Mr. Sorenson noted that the addition on the drawing looked huge but it was noted at this
487 hearing that it is not to scale. He did not object to the proposal as long as it will have the
488 same pitch as the existing structure. Mr. Sedlacek said the rendering is also shown at the
489 wrong angle; it should have been taken from a front angle. He complimented the
490 applicant on their submittal.

491

492 Mr. Altman said he would have left the drawing out except for the fact that he paid for it
493 and didn't have it redone. He has since hired a new architect.

494

495 Robin Sorenson said she observed the said drawing in the zoning office last week and its
496 size seemed too large, but since the drawing is not too scale that is reassuring. Mr.
497 Altman said that the new structure will have 8' ceilings on the first and second level.
498 However, the existing structure doesn't have 8' ceilings in the upper story as it is a
499 converted attic space. Thus the height of the new building will be less than 5-6' of the
500 existing peak, and he is hoping to push it back behind the line of the house and it
501 shouldn't look very big.

502

503 Mr. Sedlacek said the BZC and the zoning inspector are appreciative of the applicant's
504 desire to be a good neighbor. The neighbors live there and have an investment in the area.
505 He said the proposed addition will be nice and will enhance the property.

506

507 Mr. Armstrong said depending upon what is approved, the zoning office will need a final
508 rendering for the structure, and the plot plan will be updated by the surveyor and include
509 the correct setbacks. When the building permit is obtained, he requests that the building
510 addition be pinned by a surveyor.

511

512 Mr. Sedlacek said that the BZC could request that the applicant come back next month
513 and provide the final information to it; however, that will cost time and money. A
514 different way would be to capture and document the comments of the BZC, the zoning
515 inspector and the audience, and for the applicant and the township sign off on that. The
516 zoning inspector would then verify that the information is complied with.

517

518 Mr. Sedlacek reviewed the comments so far for the application:

519

- 520 • The plot plan needs to be updated.
- 521 • The conceptual drawing needs to be re-done.

522

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523 Mr. Armstrong said that he is concerned that when the final design is arrived upon, based
524 on the side setbacks approved by the BZC, that the footprint and location is determined
525 that the plot plan be updated. Regarding the artist's rendering, the zoning office doesn't
526 care whether that is updated.

527

528 Mr. Sedlacek asked if the applicant planned to have the drawing re-done. Mr. Altman
529 said he is working with a different architect than the one who did the drawing, and he
530 meets with him tomorrow. That architect has two options to look at, and then he will
531 have blueprints put together. Mr. Sedlacek said he would like to see a new artist's
532 rendering on file due to the concern from the audience and the Commission.

533

534 Mr. Sedlacek asked whether the Commission had any problems with the side yard
535 setback, as the lots in that area are small. Ms. Bringardner said there is not much that can
536 be done about that. Mr. Sedlacek said that one advantage for the applicant is that the lot
537 to the east isn't inhabited. Thus there really isn't any concern in this situation about
538 setting a precedent for adjacent lots, creating a very small setback between structures.

539

540 Mr. Altman said he assumed that would never be a building on that site in the future.

541

542 Ms. Bringardner said the only thing which could be done is to reduce the size of the
543 garage, which wouldn't be practical. Mr. Sedlacek said that he had been concerned about
544 the side yard setbacks until he realized that it won't be up against anything.

545

546 Ms. Yorke said she wasn't as concerned about the side setbacks as she is about the front
547 encroachment of about 6'. It is possible that the house on the west side is perhaps just
548 15' back, but she can't tell from here. If the proposal is in keeping with the area, she
549 doesn't have a problem with it. However, if it will thrust to the front and set a precedent,
550 that could be an issue.

551

552 Mr. Sedlacek asked about the house immediately to the west. Mr. Altman said it was an
553 empty lot. Mr. Sedlacek asked how the Altman's lot lined up with the Farley property.
554 Mr. Altman said it was slightly in front, but not much. Mr. Sedlacek said the applicant is
555 requesting that the new structure be 6' forward of that. Mr. Altman said that would be
556 the worst-case scenario; it is not his intention to put it in front of the house at all, but the
557 original architect thought that would be necessary. The new architect and contractor feel
558 that may not be necessary.

559

560 Ms. Kerlin asked if Mr. Altman thought the structure would not protrude the 6'. Mr.
561 Altman said he would prefer that if possible, although he couldn't agree to that at this
562 time. Ms. Kerlin said the applicant should attempt to keep it back for the applicant's
563 property value, but personally she felt that putting their cars in a garage off the street will
564 probably improve the entire area, and that is a big advantage. She is fine with the
565 proposal.

566

567 Ms. Korleski said there is a house nearby on the same street with short setbacks. Mr.
568 Armstrong confirmed it was just 10-12' off the pavement and is grandfathered.

569

570 Mr. Simpson said that the first structure to the west of the subject property usually has
571 multiple vehicles in the driveway, and in his opinion, having the front of the building
572 protrude a little is better than having vehicles out of the garage.

573

574 Mr. Sedlacek said that regarding the re-submittal of the architectural rendering, is it
575 necessary? After discussion it was agreed that it was not necessary.

576

577 There was a brief recess during which Mr. Altman and Mr. Sedlacek signed the
578 application specifying that an updated plot plan would be required.

579

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Resolution 10.04.13.#1: Accept Administrative Plan for BZC Case #10-001

Ms. Yorke made a motion to accept the administrative plan for BZC case #10-001, with the addition of a notation specifying that an updated plot plan will be delivered to the zoning office before construction commences.

Ms. Bringardner seconded the motion. Vote: Yorke, yes; Bringardner, yes; Kerlin, yes; Valentine, yes; Sedlacek, yes. Motion carried, BZC case #10-001 approved.

AGENDA ITEM: BZC CASE #10-002 – SPECIFIC CHANGES TO ARTICLE XXI, SECTIONS 21.15 & 21.16, LIMITED HOME OCCUPATION AND EXPANDED HOME OCCUPATION.

Mr. Sedlacek said that the process to amend the zoning resolution is that the BZC initiates changes, which Mr. Armstrong takes to the DCRPC and to the county prosecutor, whose evaluations are provided to the BZC. The BZC then votes on the changes, they go to the trustees for consideration, and if approved the changes become law in 30 days.

Mr. Armstrong said the county prosecutor’s office had comments about only one of the cases BZC 10-002. He suggested two changes, which were not incorporated into the legal document. If the Commission wishes to incorporate the changes into the legal document, he will cause the DCRPC to make the changes to the document.

Mr. Armstrong said the proposed change is to 21.15 Limited Home Occupation. Chris Betz, assistant county prosecutor, and he discussed the issue, which apparently has existed for a long time. The subject language is as follows:

A limited home occupation (business) shall be permitted within a permitted dwelling in all residential zoning districts.

Mr. Armstrong said that Mr. Betz noted that “permitted dwelling” has not been defined in the definitions section of the zoning resolution. In order to fix the problem, the word “permitted” could simply be removed. He noted that 21.16 does not include that verbiage and the change is not recommended there.

Mr. Armstrong said that Mr. Betz also noted that 21.16 G. incorrectly refers to “Delaware County Department of Health,” when it should state, “Delaware General Health District.”

Mr. Sedlacek asked if the Commission had any problems with the suggested changes. The Commission did not indicate any such problems

Resolution 10.04.13.#2: Accept BZC Case #10-002 - Specific Changes to Article XXI, Sections 21.15 & 21.16, Limited Home Occupation and Expanded Home Occupation, of the Berlin Township Zoning Resolution

Ms. Yorke made a motion to accept BZC case #10-002, specific changes to Article XXI, Sections 21.15 & 21.16, Limited Home Occupation and Expanded Home Occupation of the Berlin Township Zoning Resolution, with the changes recommended by Mr. Betz at this hearing. Ms. Kerlin seconded the motion.

Vote: Yorke, yes; Kerlin, yes; Valentine, yes; Bringardner, yes; Sedlacek, yes. Motion carried, changes approved.

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639 **AGENDA ITEM: BZC CASE #10-003- ACCEPT REVISED LANGUAGE REGARDING**
640 **CONDITIONAL USE PERMIT COMPLIANCE IN SECTIONS 7.04, 8.04, 9.04, 10.04, 12.03,**
641 **13.03, 17.03, 19.04 AND 22.04**

642
643 **Resolution 10.04.13.#3: Accept BZC Case #10-003 - Revised Language Regarding**
644 **Conditional Use Permits in Sections 7.04, 8.04, 9.04, 10.04, 12.03, 13.03, 17.03, 19.04**
645 **and 22.04 of the Berlin Township Zoning Resolution**
646

647 Mr. Valentine made a motion to accept BZC case #10-003, the revised language
648 regarding conditional use permit compliance in sections 7.04, 8.04, 9.04, 10.04, 12.03,
649 13.03, 17.03, 19.04 and 22.04 of the Berlin Township Zoning Resolution. Ms.
650 Bringardner seconded the motion.

651 Vote: Valentine, yes; Bringardner, yes; Kerlin, yes; Yoriko, yes; Sedlacek, yes. Motion
652 carried, changes approved.
653

654 **AGENDA ITEM: BZC CASE #10-004 – RECOMMENDATION TO INCLUDE NORTH**
655 **AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES IN PLANNED**
656 **INDUSTRIAL DISTRICT (PID)**
657

658 **Resolution 10.04.13.#4: Accept BZC Case #10-004 - Recommendation to Include**
659 **North American Industry Classification System (NAICS) Codes in Planned**
660 **Industrial District (PID) of the Berlin Township Zoning Resolution**
661

662 Ms. Kerlin made a motion to accept BZC case #10-004, to include North American
663 Industry Classification System (NAICS) codes in the Planned Industrial District (PID) in
664 the Berlin Township Zoning Resolution. Mr. Valentine seconded the motion.

665 Vote: Kerlin, yes; Valentine, yes; Yoriko, yes; Bringardner, yes; Sedlacek, yes. Motion
666 carried, NAICS codes added.
667

668 **AGENDA ITEM: BZC #10-005 – RECOMMENDATION TO INCLUDE NORTH AMERICAN**
669 **INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE 532120 IN PLANNED**
670 **COMMERCIAL AND OFFICE DISTRICT (PCD)**
671

672 **Resolution 10.04.13.#5: Accept BZC Case # 10-005 - Recommendation to Include**
673 **North American Industry Classification System (NAISC) Code 532120 in the**
674 **Planned Commercial and Office District (PCD) of the Berlin Township Zoning**
675 **Resolution**
676

677 Ms. Bringardner made a motion to accept BZC case #10-005, a recommendation to
678 include North American Industry Classification System (NAICS) code 532120 in the
679 Planned Commercial and Office District (PCD) of the Berlin Township Zoning
680 Resolution. Ms. Yoriko seconded the motion.

681 Vote: Bringardner, yes; Yoriko, yes; Kerlin, yes; Valentine, yes; Sedlacek, yes. Motion
682 carried, NAICS codes added.
683

684 **AGENDA ITEM: OTHER BUSINESS**
685

686 NAICS Codes

687 Mr. Armstrong provided copies of the NAICS codes requested by Mr. Sedlacek earlier,
688 regarding uses for Garth's Auction house. He asked that the Commission members take
689 and study this for review of the Garth's proposal. Although he doesn't have a problem
690 with what Mr. Shade said tonight, he feels that the Commission should closely scrutinize
691 the situation because of the future possibilities for the property.
692

693 Mr. Korleski said that the zoning resolution indicates that if conditional land uses are
694 granted and a property changes hands, the conditional land use terminates. Mr. Sedlacek
695 said that is correct, but a rezoning is permanent.
696

697 Ms. Korleski asked what the check marks were for. Mr. Armstrong said those are some
698 of the uses he discussed with Mr. Sedlacek in order to avoid some of the uses the

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699 township may not want, such as a music venue, concert or bingo hall, amphitheater, etc.
700 He suggested that he take that to Mr. Betz for his recommendation so the township isn't
701 opened to unintended consequences.

702
703 Ms. Kerlin said that was her thought too. Mr. Valentine was concerned about annexation,
704 and Mr. Armstrong said that the property is not contiguous to the City.

AGENDA ITEM: COMMENTS FROM THE ZONING INSPECTOR

706
707
708 Delaware Gazette Article Regarding Restrictive Signage
709 Mr. Sedlacek distributed a copy of an article from the 3/19/10 Delaware Gazette to the
710 Commission. This article detailed how a CVS store in Liberty Township is annexing to
711 the City of Powell due to Liberty Township's restrictive sign regulations. The annexation
712 will allow the business to add and enlarge a variety of exterior signage. A CVS attorney
713 in the article stated that the existing signage had put the store at a competitive
714 disadvantage compared to other stores. The article also mentions a large shopping center
715 which is being annexed from Liberty Township to Powell for some of the same reasons.

716
717 Mr. Armstrong opined that this was just another example of people who are stubborn and
718 not willing to relax any of their sign laws, so a large piece of property is being annexed.
719 He said the township wants to be intelligent when considering its sign code. It is
720 deliberately taking its time and wants to be fair.

721
722 Mr. Sedlacek said that the BZC has met with some of the small business owners and
723 wants to take their concerns into account and also not lose any more land. He said that
724 the annexation of the Glen Ross property was very traumatic to him. He was zoning
725 inspector at that time, and the application was denied with a vote of 3:2. The very next
726 day, the annexation process of the property was started. The township still has to abide
727 with all the issues of that property, including the noise, vehicles, students in the school,
728 etc. but it doesn't get the same tax money it would have if the property was kept in the
729 township. It is foolish to be too "hard-core" on these types of issues.

730
731 Mr. Sedlacek said that if an applicant has a good development, they appear to be good
732 citizens and are staying within the zoning resolution, the township shouldn't turn the
733 application down for no reason. It should carefully examine the application and see
734 whether it can be cleaned up.

735
736 Ms. Kerlin said that architectural standards should also be reviewed, because in the future
737 somebody will probably want to develop the Cheshire area and the township needs to be
738 ready for that. Mr. Sedlacek agreed that the township codes should be current so when
739 and if that occurs, the township will be ready.

SYNOPSIS

741
742
743 Accomplished

- 744 ➤ The following resolutions were passed:
- 745 • Resolution 10.04.13.#1: Accept Administrative Plan for BZC Case #10-001.
 - 746 • Resolution 10.04.13.#2: Accept BZC Case #10-002, Specific Changes to Article
747 XXI, Sections 21.15 & 21.16, Limited Home Occupation and Expanded Home
748 Occupation of the Berlin Township Zoning Resolution.
 - 749 • Resolution 10.04.13.#3: Accept BZC Case #10-003 - Revised Language
750 Regarding Conditional Use Permits in Sections 7.04, 8.04, 9.04, 10.04, 12.03,
751 13.03, 17.03, 19.04 and 22.04 of the Berlin Township Zoning Resolution.
 - 752 • Resolution 10.04.13.#4: Accept BZC Case #10-004, Recommendation to Include
753 North American Industry Classification System (NAICS) Codes in Planned
754 Industrial District (PID) of the Berlin Township Zoning Resolution.
 - 755 • Resolution 10.04.13.#5: Accept BZC Case # 10-005 - Recommendation to Include
756 North American Industry Classification System (NAISC) Code 532120 in the
757 Planned Commercial and Office District (PCD) of the Berlin Township Zoning
758 Resolution.

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759 Future Work

760 ➤ Members will review the additional information regarding the NAICS codes relevant
761 to Garth's Auction House so they are ready for discussion when the Garth's proposal
762 is submitted. .

763 ➤ The review of the CLUP will continue.

764 ➤ Work will continue on the various BZC sub-committees.

765

766 The next BZC meeting will be on Tuesday, May 11, 2010 at 7:00 PM at the Berlin
767 Township Hall.

768

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

770 Meeting adjourned.

771

772

Rick Sedlacek, Chairperson

773

774

Kristin Yorke, Vice Chairperson

775

776

Jerry Valentine, member

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778

Rae Kerlin, member

779

780

Betty Bringardner, first alternate seated

781

782 Attest: _____

783

Lisa F. Knapp, Berlin Township Zoning Clerk