

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING  
JANUARY 12, 2010 7:00 PM**

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 Ms. Bringardner led the meeting attendees in the recitation of the Pledge of Allegiance.

9  
10 BZC Members Present: Rick Sedlacek; Jerry Valentine; Rae Ann Kerlin; Kristin Yorko; Toni  
11 Korleski (2<sup>nd</sup> alternate seated); Betty Bringardner (1<sup>st</sup> alternate).

12  
13 BZC Member Absent: Jim Hahn

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

16  
17 **LEGAL NOTICE AND PROOF OF LEGAL NOTICE PUBLICATION**

18  
19 Zoning Clerk Lisa Knapp provided proof of publication for the legal notice for this meeting,  
20 which was published on December 30, 2009 in the Delaware Gazette, providing notification of  
21 the meeting date, time, and items for discussion.

22  
23 **BERLIN TOWNSHIP BOARD OF ZONING APPEALS AND BERLIN TOWNSHIP ZONING**  
24 **COMMISSION NOTICE OF PUBLIC MEETING**

25  
26 The Berlin Township Board of Zoning Appeals (BZA) and the Berlin Township Zoning  
27 Commission (BZC) will hold a joint public organizational meeting at 7:00 P.M., Tuesday,  
28 January 12, 2010 at the Berlin Township House, 3271 Cheshire Road, Delaware, Ohio, 43015.  
29 The purpose of the joint meeting is to elect officers and conduct such other organizational  
30 business as deemed necessary. After the conclusion of the organizational part the BZC will hold  
31 a hearing in order to consider the final development plan for Phase One and preliminary plan for  
32 Phase Two, designated as Case Number 08-004, filed by Byers Realty Inc., 427 South Hamilton  
33 Rd., Columbus, OH 43213. Parcels include, 5.637 ± acres, known as #41833001070000, 5342  
34 Columbus Pike, Lewis Center, OH and #41833001069000, 5308 Columbus Pike, Lewis Center,  
35 OH for a full service car dealership. The text of the proposed development plan will be available  
36 for public examination from December 30, 2009 through January 12, 2010, inclusive, Monday -  
37 Friday, excluding legal holidays, from 7:30 a.m.-5:00 p.m. at the Berlin Township Zoning Office  
38 located at 3271 Cheshire Road, Delaware, Ohio 43015. The person responsible for giving  
39 notice of the public meeting by publication is Cathy Rippel. Questions concerning this matter  
40 should be directed to the Zoning Office at 740-548-5217. Township residents are encouraged to  
41 attend.

42  
43 **BERLIN TOWNSHIP BOARD OF ZONING APPEALS**  
44 Mike Morrill, Chairman

45  
46 **BERLIN TOWNSHIP ZONING COMMISSION**  
47 Rick Sedlacek, Chairman

48  
49 **AGENDA ITEM: INTRODUCTION OF MEETING ATTENDEES**

50  
51 Mr. Sedlacek asked the meeting attendees to introduce themselves.

- 52  
53 • Betty Bringardner, BZC alternate  
54 • Maynard "Tom" Thompson, Berlin Township BZA member  
55 • David Johnston, with George Byers Sons/Byers Kia  
56 • Jerry Gannon, with Floorcrafters  
57 • Madison Darby  
58 • Dewey Darby, representing Worthington Arms

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- 59 • Don Sutton, BZA alternate  
60 • Dave Johnson, manager of Byers Kia  
61 • David Leahy, 1484 Dale Ford Road, Delaware, Ohio 43015  
62 • Jay DuRivage, dealer principal with George Byers Sons  
63 • John Oney, with Architectural Alliance, on behalf of Byers  
64 • Jamie Leesburg, with M-E Companies  
65

**APPROVAL OF MINUTES**

66  
67  
68 Ms. Yorke made a motion to approve the minutes from the December 8, 2009 BZC meeting as  
69 presented. Ms. Korleski seconded the motion. All in favor say, “aye,” all opposed signify with  
70 same sign. No opposition, motion carried, minutes approved  
71

**AGENDA ITEM – ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON 2010**

**RESOLUTION 10.01.12.#1: ELECTION OF CHAIRPERSON 2010**

72  
73  
74  
75  
76 Mr. Valentine made a motion to nominate Rick Sedlacek for Chairperson for the Calendar Year  
77 2010. Ms. Yorke seconded the motion. There were no further nominations.  
78

79 Vote: Valentine, yes; Yorke, yes; Korleski, yes; Kerlin, yes; Sedlacek, yes. Motion carried, Mr.  
80 Sedlacek elected Chairperson 2010.  
81

82 Mr. Sedlacek said that it would be good for the experience to pass this job along to other people.  
83 He accepted the nomination for chair for one more year, and then next year somebody else can  
84 have the experience.  
85

**RESOLUTION 10.01.12.#2: ELECTION OF VICE-CHAIRPERSON 2010**

86  
87  
88 Mr. Valentine made a motion to nominate Ms. Yorke for Vice Chairperson for the Calendar  
89 Year 2010. Mr. Kerlin seconded the motion. There were no further nominations. Vote:  
90 Valentine, yes; Kerlin, yes; Korleski, yes; Sedlacek, yes; Yorke, yes. Motion carried, Ms. Yorke  
91 elected Vice Chairperson 2010.  
92

**Meeting Cuts**

93  
94 Mr. Sedlacek said that times are tough all over, and the zoning office is looking to make some  
95 cuts. He said that if the BZC has no business, perhaps it should take some meetings off the  
96 schedule, although nobody can project the future.  
97

98 Traditionally, the BZC has had its meetings on the second Tuesday of each month. For some  
99 years, the summers were taken off, but more recently meetings have been held during the  
100 summer because projects came to the zoning office. He said the Comprehensive Land Use Plan  
101 (CLUP) review will be done soon, and suggested that meetings be held on the next 3 Tuesdays,  
102 with May if needed. Then the second Tuesday during the months of June, July, and August  
103 could be reserved for meetings, but only in case of an emergency.  
104

105 Ms. Korleski said she didn't see the point of meeting if there is no business before the Board.  
106 Ms. Kerlin agreed, and said if something comes up the BZC would have to meet anyway. Mr.  
107 Valentine agreed.  
108

**RESOLUTION 10.01.12.#3: SET 2010 BZC MEETINGS**

109  
110  
111 Ms. Yorke made a motion to set the 2010 BZC Regular Meetings on the second Tuesdays of  
112 each month as follows for 2010:  
113

- 114 ♦ January 12, 2010  
115 ♦ February 9, 2010  
116 ♦ March 9, 2010



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175 it seemed like a good fit. Especially given the current economic conditions, his business needs  
176 extra business.

177

178 Ms. Kerlin asked what the largest truck was. Mr. Gannon said it is 26', but most of the trucks  
179 are 14' long. There are typically about 3 trucks and 3-4 trailers on the lot.

180

181 Mr. Sedlacek asked if customers can rent the trucks and turn them in to other U-Haul operations.  
182 Mr. Gannon said, "Yes." Mr. Sedlacek asked him what was the maximum number of trucks he  
183 would expect to have at one time. Mr. Gannon said he tells U-Haul what he is willing to take it,  
184 and he has told them no more than 5 trucks and 4 trailers. He said that typically there are no  
185 trucks on the property over the weekend, as they are typically picked up over the weekend and  
186 dropped off on Mondays and Tuesdays.

187

188 Mr. Sedlacek asked if there would be any POD-like containers on the property. Mr. Gannon said  
189 there would not be. Ms. Korleski asked if the trucks would be parked on the side so they are not  
190 visible from the front. Mr. Gannon said they are parked in a row alongside the storage units and  
191 there is a drive that extends back there, and the trailers are parked on the side.

192

193 Mr. Armstrong provided the NAICS sheets for the appropriate classification code and the  
194 national definition, which he provided to the BZC. Mr. Sedlacek said that a BZC subcommittee  
195 reviewed those codes and were prepared to make a recommendation later tonight. He asked the  
196 BZC to take the new request under advisement, to address any questions to him or Mr.  
197 Armstrong, and be prepared to make a decision at the next BZC meeting in February. Mr.  
198 Gannon said that BZC members are welcome to stop by the operation to see how it works.

199

200 Mr. Sedlacek asked that Mr. Gannon attend the next meeting and said it would be discussed first  
201 on the agenda. He asked for comments from the public, and there were none.

202

203 **AGENDA ITEM – CASE NUMBER 08-004, FILED BY BYERS REALTY INC., 427 SOUTH HAMILTON**  
204 **ROAD, COLUMBUS, OH 43213. THE APPLICANT HAS THE FINAL DEVELOPMENT PLAN FOR**  
205 **PHASE ONE AND PRELIMINARY PLAN PHASE TWO FOR, PARCEL #41833001070000, 5342**  
206 **COLUMBUS PIKE, LEWIS CENTER, OH AND PARCEL #41833001069000, 5308 COLUMBUS PIKE,**  
207 **LEWIS CENTER, OH FOR A FULL SERVICE CAR DEALERSHIP**

208

209 Mr. Sedlacek said the BZC has had ample time to review the rezoning package, and he asked  
210 that the applicant explain what the application is for the benefit of the others.

211

212 Mr. Shade said that this property was properly rezoned some time ago, but a change was required  
213 based on the NAICS codes. There was a recommendation that this property and car dealerships  
214 now fall under the PID, versus the PCD. The property was originally acquired and was properly  
215 rezoned PCD, and the change had to be made. He is here for the final development plan on  
216 Phases I and II, and preliminary plan on Phase Two. He said Mr. Oney will discuss the details  
217 regarding what will transpire in the plan, and he noted that if there are any questions he will  
218 address those at the appropriate time. He said there is one addition which came late today to the  
219 Delaware County Engineer's office.

220

221 Mr. Shade noted that Jay DuRivage, vice-president of George Byers Sons, and Dave Johnson,  
222 who is the manager of the Byers Kia store on Route 23, are present to answer questions.

223

224 Mr. Sedlacek said the property was zoned PID, and he said the BZC will address questions to  
225 him, and he can defer them to another party if desired. He asked Mr. Shade to start with Exhibit  
226 1 and review the application.

227

228 **Exhibit 1**

229 Mr. Shade noted that Exhibit 1 is an application for the final development plan, and he noted it  
230 was reviewed very carefully with Mr. Armstrong to ensure it was worded properly. It consists of  
231 5.636 acres; there are two parcels. One is the original site where the building is currently  
232 located. Byers Realty acquired the property immediately to the north of that and that was part of  
233 the original zoning application and is now zoned PID.

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234

235 Mr. Shade noted that during the rezoning, there was a request made that the lots be combined  
236 into one legal description, and that deed has now been prepared. He consulted with Mr.  
237 Armstrong on the issue, and the applicant has chosen not to execute that document as of tonight,  
238 although it could be executed tonight. The issue is that when lots are combined, the Ohio  
239 Department of Transportation (ODOT) becomes very strong in their positions on the number of  
240 curb cuts on properties. The plans indicate there are two curb cuts planned for the front of this  
241 property, and that is designed not only for customer traffic but also to get trucks to maneuver  
242 around the building and get back out on Route 23 as they deliver cars. He noted that cars are not  
243 a small item to deliver.

244

245 Mr. Shade said that other types of smaller trucks, such as delivery trucks, are able to easily exit  
246 on the same entrance point. These issues need to be negotiated with ODOT, but that process is  
247 just beginning and can't really begin until this plan is approved by the township. The applicant  
248 stands ready, willing and able to execute and record that document, as it did with the road right-  
249 of-way required by Berlin Township, and the applicant is now asking for time to get that done.

250

251 Exhibit 2

252 Mr. Shade said that Exhibit 2 is a list of the adjoining property owners as properly served by the  
253 Delaware County Auditor's office. Listed also is Carl Skeels, 5246 Columbus Pike, and the  
254 document states that he sold the property on 11/5/09 and he retained a life estate interest so he  
255 was included for notes purposes. However, the new owner of that property is Greif Inc., and  
256 their deed has been properly recorded.

257

258 Mr. Shade said that this tab also includes the properly recorded deeds, the sale from Mr. Stewart,  
259 and the prior sale of the existing building from Route 23 LLC. to Byer's Realty, and that is  
260 where they took ownership of the property.

261

262 Exhibit 3

263 Mr. Shade said that this tab includes the existing topographic plan, the legal description of the  
264 combined properties, and the easement for force-main sanitary sewer. The plan indicates a 20'  
265 sanitary sewer easement which was properly recorded. Also marked on the preliminary plat  
266 originally submitted by Greif Brothers is a new roadway which was to service the back ends of  
267 the Carl Skeels property, the Stewart property, Byers Realty and properties to the south,  
268 specifically Ed Ross construction. As a result, Greif Brothers became very concerned about  
269 putting in the permanent sewer, not knowing what they want to do with their property. They  
270 have lost the 3872 and 3871 lots, which may be reconfigured, but they are not certain how the  
271 property would be configured they didn't want to commit to the exact location of the roadway  
272 and the exact location of the sanitary sewer. He said the applicant will cooperate with them.

273

274 Mr. Shade said that after lengthy negotiations, Byers entered into an agreement, which he  
275 brought with him to this meeting, indicating that his client was granted a 5' easement for a  
276 temporary forced main sewer. This required action of the Delaware County Commissioner's  
277 office, from which the applicant received unanimous approval for the temporary forced main.  
278 The situation is not that others can't tie into it, the real purpose is to provide centralized sanitary  
279 sewer to the Byers property at the present time. If others want to tie in, there are two methods to  
280 accomplish this, including construction of a permanent main, or an arrangement which comes  
281 through the lift station as a part of this agreement onto the Byer's tract for pumping out one  
282 source. He is not sure how that will work but the details have been figured out.

283

284 Mr. Sedlacek asked whether the sewer would extend to the south. Mr. Shade said, "No," and  
285 that it would go from the Byer's property out to Greif Parkway, and eventually the plan is to  
286 move to a permanent location in that 20' area. The issue is that nobody else is presently  
287 interested in running the sewer, and the price of that is significant. Mr. Sedlacek asked whether  
288 Byers could access the line only through the 1.486-acre property which used to belong to  
289 Stewart. Mr. Shade said that was correct, and noted that everything has been met with approvals  
290 so far. He doesn't believe the PTI (permit to install) has been obtained yet.

291

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292 Mr. Oney said that the final drawings have been submitted and approved, and he is waiting for  
293 the PTI. The applicant had to pay a right-of-way easement fee. Contractors are anticipating  
294 construction to begin within 2 weeks, weather permitting. He said that as part of the original  
295 approval, all the engineering drawings for the original Phase One showed a gravity line.  
296 Through the negotiations, the forced-main resolution was approved by Delaware County officials,  
297 and the engineer for the project, M-E Companies, had revised the drawings and it has been  
298 through the approval process.

299  
300 Mr. Armstrong said that by completing the forced main, the site will be taken from under the  
301 purview of the Delaware County Health District and the Environmental Protection Agency  
302 (EPA). When NFS-QAL was occupying the property, EPA submitted a letter regulating the  
303 amount of usage and what was allowed on that property because it was septic, so this will resolve  
304 that condition as well.

305  
306 Mr. Shade said that once the final development for this area is done, which includes most of the  
307 land to be future development, and Greif Brothers makes the determination how they want to  
308 develop that and they move to the fixed gravity-feed system, this line will be abandoned,  
309 meaning it will be flushed and plugged on both ends in accordance with the standards of the  
310 sanitary engineer's office, and will revert to the use of the gravity feed system. This will take  
311 some time.

312  
313 Mr. Shade said that as part of negotiations with the sanitary engineer's office, his client has  
314 agreed that if the gravity feed sewer comes within 75' of this property, he will tie in. This has  
315 been an ongoing process and he would have rather had a permanent solution, but his clients are  
316 willing to accept the significant cost of having this accomplished so he can operate his business  
317 and develop a plan which he originally agreed to do during the original submission. The project  
318 has been held up as a part of the negotiation process.

319  
320 Mr. Shade said that the drawing indicates that the proposed roadway area gets narrow. With  
321 regards to the old Warner Stewart property and the southern property now owned by Byer's  
322 Realty, as a part of the original submission, an easement was granted to the Delaware County  
323 commissioners for Byers' share of that roadway. Thus, if the road is eventually put in, the  
324 easement is already in place and the township will be in charge of that. This is in compliance  
325 with both ODOT's and the Delaware County Engineer's requirements. Mr. Sedlacek asked if  
326 Byers could use that in the future. Mr. Shade said that was correct, and also the development  
327 which occurs on the Skeels Property, the Ed Ross property, and other businesses further to the  
328 south could possibly gain access to that. He wasn't sure what the long term plan was for that  
329 area, but the original plat submitted by Byers showed that the roadway extends down to the Ed  
330 Ross property.

331  
332 Mr. Sedlacek said that this exhibit includes a letter from Jewell Layton, specifying that the  
333 parcels must be surveyed. However, the applicant mentioned that could happen tonight. Mr.  
334 Shade explained that the parcels can be surveyed, and they have to have a combined legal  
335 description. Mr. Sedlacek asked whether they would be combined into one parcel. Mr. Shade  
336 responded that is correct and there will be one legal description for purposes of both the request  
337 of the engineer's office and as a condition of the BZC's approval of the zoning.

338  
339 Mr. Sedlacek asked, if this plan is approved, when would that happen? Mr. Shade said that if the  
340 Commission approves the plan at this meeting, he is requesting enough time to negotiate with  
341 ODOT. He would like to maintain 2 access points, as they exist today and are indicated on the  
342 plan. However, once the properties have combined ownership, ODOT can restrict the access to  
343 just one point. Mr. Sedlacek asked if the applicant would like to make the access larger. Mr.  
344 Shade said that if it is, it would be with their approval, and probably to ensure that they accesses  
345 have the proper turning radii so traffic can enter and exit with ease for safety reasons.

346  
347 Jamie Leesburg, with M-E Companies, said the existing driveway to the north property is really  
348 an unimproved surface as it is a gravel driveway. The road would be curved and would have the  
349 proper radius for turning. Due to the median it is only a right-in lane at this time and there is no  
350 turning movement the other way so there is no need for a turn lane in that direction. It is hard to

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351 determine how big the existing driveway is because it is gravel. The new alignment will move to  
352 the north slightly to give more separation between the two driveways.

353

354 Mr. Sedlacek asked if the Stewart home is still inhabited. Mr. Leesburg said it was still there,  
355 but not inhabited. Mr. Sedlacek asked what the plans for that home were. Mr. DuRivage said it  
356 would be bulldozed in Phase Two.

357

358 Mr. Shade said that the pastor's letter is a copy of the deed with the legal description attached to  
359 it, which his client will execute as soon as possible after ODOT has had an opportunity to  
360 approve.

361

362 Mr. Shade said that included is the easement for roadway purposes which he mentioned earlier,  
363 and he said it was recorded as requested. It is a 30' wide easement and is indicated in the  
364 drawing as a part of the submission.

365

366 Mr. Shade said that included is a letter to Joe Smiley of Greif Packaging, LLC from Byers Realty  
367 regarding the procedures his client will adhere to on a temporary basis for the construction of the  
368 sanitary sewer easement and the documents which follow that are copies of the proposed  
369 easements that are of both a temporary nature and a permanent nature for the sewer line. These  
370 are not executed because as a part of negotiations, Greif had set forth certain landscape plan  
371 conditions. The plan presented at this hearing reflects their requests of Byers Kia, and Byers Kia  
372 has agreed to this. Once the plan is approved, if that occurs, as a part of the installation process,  
373 the easements will be granted.

374

375 Ms. Yorke asked whether, regarding item #3 in the letter being discussed, which indicates  
376 "Byers Holding Company" on the top, is the applicant requesting approval of two final  
377 development plans, and can the Commission do that? Mr. Shade said the reason the applicant is  
378 asking for two plans is because if the roadway as originally planned does not go through, if Greif  
379 Brothers would like the roadway to service these properties and relocate it in between their  
380 properties or reconfigure it, there is a 30' easement which will no longer be necessary.

381

382 Mr. Shade said that in that case, the landscape plan would remain the same but could be moved  
383 back 30', and there will be a possibility of two curb cuts. This is part of the agreement with  
384 Byers, and this plan could alter based on the number of curb cuts, whether the 30' easement is  
385 "cut permanent," or if that land is reverted back to Byers and the roadway is placed in another  
386 location. Mr. Sedlacek asked if the applicant was asking the BZC to approve both plans, and  
387 depending upon what Greif Brothers requests, the landscaping plan could be relocated while  
388 maintaining its presented characteristics.

389

390 Mr. Oney said that in the application plan 1.01B shows what would be potential future curb cuts.  
391 LP2, the landscaping plan, also indicates what the applicant has agreed to regarding the  
392 treatments which would occur. It has been included as a conceptual plan for Phase Two, which  
393 is the final phase which could potentially add the road, the curb cuts, and the landscaping. At  
394 that point one access point in the rear could be removed. There are two drawings in the packet  
395 which reflect this. He said that if the road is installed in one place there will be a main entrance  
396 which he pointed out, and a second curb cut for traffic maneuverability, as well as a mound.

397

398 Mr. DuRivage said that because the road is not there, Greif wants Byers to commit to drawing  
399 #1, and if the road is installed then drawing #2 will be implemented.

400

401 Mr. Sedlacek was concerned that the BZC was being asked to approve 2 different plans, one  
402 being an alternate. Mr. Armstrong said that the plan committed to being built being discussed  
403 right now is the final development plan portion of this. The portion regarding the road and the  
404 rear is the preliminary plan for Phase Two. Thus, while the BZC is hearing a final development  
405 plan, it is also hearing a preliminary development plan for Phase Two.

406

407 Mr. Sedlacek said that it states, "Final Plan Phases 1 and 2." Mr. Armstrong said that was Phase  
408 One which would have been heard and approved with the rezoning, and at that point it was  
409 broken up into three phases. Currently the BZC is hearing the original phases 1 and 2 as final

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410 plans tonight. He confirmed that was indicated correctly in the application. The last piece being  
411 heard is the preliminary plan for the final development, which will not be built until the applicant  
412 comes back for final approval after the road is built along the Liberty/Berlin townships line, or  
413 where Greif, Liberty and Berlin Townships, and the county engineer decide to locate the road.  
414 Ms. Yoroko said her question was answered.

415  
416 Mr. Shade said that next to review is the development text. Ms. Yoroko said that page 5 was  
417 missing from her copy and Mr. Shade agreed. It was determined that this page was missing from  
418 all copies of the application. It was then provided by Mr. Oney to Mr. Armstrong, who made a  
419 copy of it to be added as an exhibit this evening.

420  
421 Mr. Oney referred the BZC to color prints, and said that the original approval language was  
422 indicated in black text. When the original phases 1 and 2 were combined, it took two years to  
423 get to this point. The business was successful and Byers decided to add building and parking  
424 areas. The text amendments are indicated in blue, he noted.

425  
426 Mr. Sedlacek said that on page 4, about middle of the page, the text states, "Refer to Tab 4 and 8,  
427 Phase One Final Development Plan and Phase Two Conceptual Plan and Completion Time  
428 Table" and he asked whether that meant that Tab 4 will have the final development plan and Tab  
429 8 will have the timetables. Mr. Oney said that was correct.

430  
431 Mr. Armstrong returned with page 5 and it was agreed that would be marked as "Exhibit 16."

**RESOLUTION 10.01.12.#4: ACCEPT PAGE 5 OF TEXT AS EXHIBIT 16**

432  
433  
434  
435 Mr. Valentine made a motion to accept page 5 of the text and to name that page Exhibit #16.  
436 Ms. Kerlin seconded the motion. Vote: Valentine, yes; Kerlin, yes; Yoroko, yes; Korleski, yes;  
437 Sedlacek, yes. Motion carried, page 5 marked as Exhibit 16 for the record.

438  
439 Exhibit 3 Review (Continued)

440 Mr. Oney said that the sections were previously approved and not being changed. Tab 5  
441 indicates that in Phase Two, if there is a new roadway off the access road and a curb cut is done  
442 in the back, there would be in the landscaping area an entrance monument sign, and the  
443 dimensions are listed on page 2. He read the text which indicated that the sign would be 46 SF  
444 and would be located at the new entry location; it would be 5'9" wide and 8' tall. Mr. Oney said  
445 that page 5 indicates that in Phase Two, a divergence from the sign code would be required.

446  
447 Mr. Oney said that in the prior submission when there was only one curb cut to the south, a  
448 directional sign had been approved indicating "service this way." Because the main entrance is  
449 being relocated, Byers would like to relocate the directional sign, and the text states that is a  
450 difference from what was previously approved

451  
452 Mr. Oney said regarding item 4, in Phase Two there will be an access road and now the back of  
453 the building is the front of the building, in Phase One the applicant would be allowed to have 320  
454 SF of signage, while only 195 SF is proposed. If Phase Two occurs and the additional roadway  
455 is built, the applicant will be allowed 480 SF of signage, and is proposing 368 SF. He proposed  
456 having "Byer's Kia" on the west face of the building at the entry point. The code says it is 32  
457 SF, and that would probably require a divergence in Phase Two. There were handwritten notes  
458 on page 5 made by Mr. Oney which will be removed for the exhibit.

459  
460 There was a brief recess to copy the exhibit and delete the marks. Hearing was returned to  
461 session.

462  
463 Ms. Yoroko asked if the applicant meant to be referring to Tab 4, not 3, regarding the sanitary and  
464 road plan, or whether he was referring to the one exhibit for the easement. Mr. Armstrong said  
465 he assumed that was the easement. Mr. Shade said that was correct, and it was Tab 3 Greif  
466 Brothers sanitary easement and road plan, which has already been reviewed. Mr. Oney agreed  
467 and said he could add the location of the forced main drawings. Ms. Yoroko said she sought  
468 construction drawings, not easement drawings.

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469

470 Mr. Sedlacek said that on page 7, under item C), the text states, "Building height shall be a  
471 maximum 35'-0" in height, except for the existing three sloped peaks that are 36'5" to the top."  
472 He asked what was intended to be 36'5" in height? Mr. Oney said those peaks currently exist on  
473 the current building. Any new addition would not exceed 35' but the existing peaks are 36' 5" to  
474 the top. Mr. Sedlacek asked whether that was granted as a divergence years ago. Mr. Armstrong  
475 guessed that wasn't included when the prior tenants, NFS-QAL, built the building.

476

477 Exhibit 4

478 Mr. Sedlacek said that there are many drawings in this exhibit, and he asked that the drawings be  
479 identified and they will be discussed if desired.

480

481 Mr. Oney said the first drawing, Site Plan Phase One 1.01A outlined the area of the additional  
482 parking and the area of the building addition, which is the service addition to the west part to the  
483 property. He said it shows the future curb cuts and signage planned for Phase Two. Mr.  
484 Sedlacek asked if the inventory area includes parking places which are designated for cars which  
485 have not yet been sold. Mr. Johnson said that the inventory and service vehicles will change  
486 over the seasons, and he said there is sufficient parking for both customers and service.

487

488 Mr. Sedlacek asked about the note, "New light poles typical, unless noted otherwise." Mr. Oney  
489 said the second phrase could be struck, and he noted that there is a lighting plan in the final tab  
490 of the book where existing and new lights are identified. The new lights will match the existing  
491 lights and will be full cut-off fixtures. Unless the drawing notes the lights are being relocated or  
492 existing, the lights are new. Mr. DuRivage said the concept is that the new lighting will match  
493 the existing lighting.

494

495 Ms. Yorke asked if cars are permitted to be used as signs as indicated by "future feature  
496 display"; there is a car shown on the western edge of the property. Mr. Oney said when the  
497 additional landscaping was negotiated, it was discovered the automobiles could not be seen  
498 well, and it was decided to have one feature display area at the entrance point where the sign is.  
499 It is expanded in the landscaping plan. Mr. Sedlacek asked if that was a sign. Mr. DuRivage  
500 said it was an automobile, and along the western edge per the zoning resolution it is required that  
501 a 30" high mound with plantings be installed, so all the automobiles will be screened from view  
502 from the west side, except for the feature display car.

503

504 Ms. Kerlin asked if that was a preliminary request for the future entranceway, and Mr. DuRivage  
505 said that was correct. Mr. Shade said the applicant intended to give as much information as  
506 possible to the Commission so it can see how it will fit together in the future when Phase Two is  
507 considered.

508

509 Mr. DuRivage said there is a much better drawing in the landscaping plan. He has had similar  
510 feature vehicles in other dealerships; the car is landscaped around with plants. Mr. Sedlacek  
511 asked whether a ramp would be necessary to get the car up and down. Mr. Oney said it would be  
512 on grade. Mr. Sedlacek asked Mr. Armstrong whether that posed any problems, and Mr.  
513 Armstrong said it did not. Mr. Sedlacek asked Ms. Yorke if the explanation sufficed. Ms.  
514 Yorke said, "Yes."

515

516 1.01B was reviewed next. Mr. Oney said this was for Phase Two and it adds parking or parking  
517 and a future building to the northwest portion of the property. As the dealership grows the  
518 applicant will find what the priorities will be, and that area could be used for additional parking  
519 or possibly a pre-owned vehicle sales area. The applicant is allowed 75% maximum tract  
520 coverage, and with this proposal it will be only 63%. Mr. Sedlacek asked if it would be used as a  
521 showroom with used cars, and offices. Mr. Oney said it could be, or just parking.

522

523 Mr. Johnson said it could be used for future franchise or a separate used car operation in that  
524 building, although he is seeking the parking right now. Kia is one of three car brands in the U.S.  
525 with a market increase and it is expanding; it will need the room.

526

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527 4.02 Proposed Exterior Elevations was reviewed. Mr. Oney said that originally in the  
528 application for Phase One there were no building additions, but two years later a building  
529 additional is planned. All interiors will match the existing interior. The focal point of the  
530 dealership has been changed to face north, where the main entrance and parking will be located.  
531 Service reception traffic will be directed there. The elevation 1 indicated as north should be  
532 south, he noted, and vice versa

533

534 Exhibit 5

535 LP-1 Landscaping Plan was reviewed. Mr. Sedlacek asked what the curved line on the west side  
536 of the plan was. Mr. Oney said it was just intended to tie the street trees together, and it is not  
537 really a line. It indicates that they are all the same species. Mr. Sedlacek said it seems that much  
538 of the landscaping is existing, and some will be removed.

539

540 Mr. Oney said the "X" indications are existing trees which will be removed. Everything else will  
541 be new. What was originally approved on the west property line was to keep the landscaping  
542 there with mounding and street trees, and it was to be done at a later phase. However, in order to  
543 help secure the rezoning the applicant has agreed to this plan with more extensive landscaping in  
544 Phase One. He noted that most of the trees to be removed are overgrown or un-maintained or a  
545 species which was not agreed upon. He noted that the position of the landscaping along Route  
546 23 will be dependant on the final requirements from Delaware County. The species and  
547 quantities would remain the same but they could be moved to the west or the east.

548

549 Mr. Oney said that LP-2 is for Phase Two when the roadway will be installed and that will be the  
550 access point with two proposed curb cuts. The main entry point will receive additional  
551 landscaping and the feature display. Mr. Sedlacek asked if that was where the display vehicle  
552 will be located. Mr. Oney said it is intended to indicate the mounding in relationship to the cars  
553 locations.

554

555 Mr. Sedlacek asked if the feature car is allowable within the prescribed setback. Mr. Armstrong  
556 said that normally it would not be, but this is a planned development, so if the BZC approves it  
557 as part of the plan it is approved. He said instead of a typical landscaping requirement of having  
558 75% opacity over 5 years, the applicant is proposing 100% immediate opacity, and that is part of  
559 the agreement. Whatever the Commission decides, that is part of this being a planned district.

560

561 Mr. Sedlacek said he is not terribly thrilled with the idea of a car sitting there. Mr. Shade said  
562 the car is really important because if the service road is installed as planned, the 100% opacity  
563 will block the sign and cars will drive right by the entrance because of the trees. He noted that in  
564 some areas, vehicles not only rise but tilt and rotate on a continuous basis. However, this feature  
565 vehicle will be stationery. He noted that the trees being required are many more than are  
566 required by the zoning resolution, but it was part of the negotiations with Greif Brothers to  
567 satisfy their needs for the development of their land. All this is tied together to promote the  
568 business and keep it growing.

569

570 Mr. Leesburg noted that the proximity of the monument sign to the drive doesn't give much time  
571 to make the turn. Mr. Shade said the position of the car would help identify the drive.

572

573 Ms. Korleski said that a nice new shiny car is more appealing than a sign to her; something will  
574 be needed to indicate the entrance. Ms. Kerlin wanted to make sure it wasn't a liability. Mr.  
575 Sedlacek said when the BZC is working with a plan, it can approve what it wants to approve. He  
576 asked if it wouldn't meet the required setbacks normally. Mr. Armstrong said that was correct.

577

578 Ms. Bringardner said that she understood it is not a backage road, and that it is to come out on  
579 Hyatt's Road near the horse farm on the west side. Mr. Shade said that road was never to go out  
580 there. As currently shown, the backage road will serve only Byer's, Greif Brothers on the west,  
581 the Skeels property, and Ed Ross construction.

582

583 Ms. Yorke indicated that she was not pleased with the proposed vehicle feature. Mr. Valentine  
584 said he didn't have a problem with it. Ms. Korleski agreed and said it will be a service road,

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585 especially since it will only service one particular business. Ms. Kerlin didn't object as long as it  
586 was behind the road right-of-way, so as not be a liability for the township.

587  
588 Mr. DuRivage said he has 10 dealerships, and none of them have this type of blockage of cars on  
589 a road like this. This is a compromise between a blockage and the presence of the cars. This  
590 will look like an entranceway to a golf course or a nice development as there will be many plants  
591 there. The car will be a feature element; it will "not just be a car plopped out in the middle of  
592 somewhere"; it will identify the location. It will be the only car visible from that road, and  
593 depending on traffic patterns in the future, it may end up being the entrance anybody coming  
594 from the north will use when they come to this property. It is important to the overall plan, and it  
595 is important to Greif. He has worked hard to get to this point.

596  
597 Ms. Korleski asked if the plan satisfied Greif's need for landscaping. Mr. DuRivage said the  
598 landscaping is in the middle of a corn field, and Greif won't tell him when they will install the  
599 road. Ms. Korleski asked why all the heavy landscaping is being installed. Mr. DuRivage said it  
600 was because Greif wants it done that way.

601  
602 Mr. Shade said Greif want protection for eventually users of their land, although they don't have  
603 any now. Mr. Oney noted that for most restrictive zoning areas, up to 25% of the frontage can be  
604 used for display of cars; however, here there is none, and the feature car will help with that.

605  
606 Exhibit 6

607 Mr. Shade reviewed Exhibit 6, which is a listing of the public entities.

608  
609 Exhibit 7

610 Mr. Shade said that Exhibit 7 indicates the public improvements and reflects the changes in  
611 regards to the temporary forced main, as well as authorization on the temporary forced main  
612 approved by the Delaware County Commissioners. Mr. Valentine noted that the first sentence,  
613 second line states, "Be a possible the..." and "the" should be removed as a typo. Mr. Shade  
614 agreed to strike it; Mr. Armstrong was unconcerned about the typo.

615  
616 Mr. Shade said the final item under Exhibit 7 is a letter from Byers Holdings, LLC. to the  
617 Delaware County Commissioners agreeing that once sewer gets within 75' of the fixed gravity  
618 feed, they will tie in and be responsible for a prorated share.

619  
620 Mr. Shade reviewed Exhibit 8, which was redone to reflect the combination of Phases I and II.  
621 Phase Two was part of the original submission but has been completely eliminated. The big  
622 unknown is the roadway.

623  
624 Exhibit 8

625 Mr. Valentine said that in Phase Two, on pages 2 and 3, "from the real of the property" should be  
626 corrected to "from the rear of the property."

627  
628 Mr. Sedlacek said that in the Time Schedule for Completion, it indicates that all Phase One will  
629 be done within 2 years, and he asked if that was correct. Mr. Shade said that Phase One will be  
630 done within 2 years.

631  
632 Mr. Sedlacek said that in the next page under Time Schedule for Development, the text indicates  
633 that, "All matters shown on drawing 1.01A or 1.01B will be completed within three years..." and  
634 he asked if that should be two years instead. Mr. Shade said that is the site plan for Phase One,  
635 and the conceptual plan for Phase Two, and it is hoped that they will be completed within 3  
636 years. Mr. Oney said the first sheet said 3-4 years for Phase Two, and that should just state 3  
637 years. Mr. Shade said the concept plan is Phase Two.

638  
639 Ms. Kerlin said page 3 says Phase One. Mr. Shade agreed it was inconsistent. He said part of  
640 Phase Two is being done now, and the rest will be done in Phase Two. Some of what is in the  
641 concept plan will be done as a part of Phase One. Mr. Sedlacek said there are parts of Phase One  
642 and parts of Phase Two, but the text specifies 1.01A or 1.01B and that is confusing. He  
643 suggested stating that, "all part of 1.01A and some parts of 1.01B" and Mr. Shade agreed.

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644  
645 Mr. Shade said the additional building will need to be reviewed by the township prior to it being  
646 built, and if the roadway changes that will need to be done as well. Mr. DuRivage said that  
647 1.01B is the curb cut, parking area, and entrance, and it had been intended because when the  
648 submittal was first made the applicant was fairly certain Greif would build the road. There are  
649 two plans because he doesn't know when Greif will build the road. He committed that he will  
650 build 1.01A and the appropriate parts of 1.01B soon; however the expansion to the back, the curb  
651 cut, etc, won't be done unless the road goes in, if that happens. The conceptual plan must be  
652 approved in order to get the easement.

653  
654 Ms. Korleski said the wording in the first bulleted point under Phase Two needs to be changed.  
655 Ms. Kerlin agreed and said it should state that it is contingent on the placement and installation  
656 of the road. Mr. DuRivage said the applicant has an agreement with Greif Brothers to participate  
657 in helping to build the road, and when it is built, the details must be fulfilled as part of that  
658 agreement. But if the road doesn't go in, it won't be done, and 1.01B will be installed within 3  
659 years. If it is built, the entranceway, landscaping, plants, 3 tiers, etc. will be installed.

660  
661 Mr. Oney said that on Sheet 1.01B, conceptual Phase Two, the future parking and/or proposed  
662 building is indicated, and it still identifies the road as still potentially a future road/curb cut. The  
663 drawing indicates that Phase Two could be with or without the curb cut until the road is built.

664  
665 Mr. Shade said the text should indicate all parts of 1.01A and part of 1.01B, but anything further  
666 is already indicated on the drawing. Mr. Oney asked rhetorically, "Is the applicant committing to  
667 do the curb cut and vehicle display with 3 tiers of landscaping within four years?" and answered,  
668 "No, the design is conceptual." Mr. Johnson added that those items will go in if the road goes in,  
669 but if not, it could be perhaps 10 years before they are built.

670  
671 Ms. Korleski said that the second page indicates Time Schedule for Development, and under  
672 Phase Two, the first bullet says that 1.01B will be completed within 4 years, so that needs to be  
673 stricken. Mr. Armstrong said the second bullet says, "It is expected that the service road located  
674 at the rear of the properties will be constructed by year four. However, since the land for the  
675 access road is contributed by multiple property owners and the cost will be shared by those  
676 property owners. It is depended on cooperation outside of the applicant's control."

677  
678 Ms. Korleski said this could be expanded but it seems to be sufficient. She reiterated that the  
679 first bullet says it will be completed within four years, but they applicant is saying something  
680 different. Mr. Armstrong said that could be stricken.

681  
682 Mr. Shade said that perhaps a phrase could be added at the end of the first bullet stating,  
683 "...except for the proposed roadway." Mr. Armstrong suggested also, "and proposed entrance."  
684 Mr. Shade agreed.

685  
686 Mr. Shade said there is a preliminary plan showing this roadway which has been properly  
687 recorded, and the county engineer signed off on it. That doesn't mean there can't be negotiations  
688 on where the roadway will be, but that is mostly because of the insistence of Greif Brothers. Not  
689 only has ODOT signed off on that and is requiring that, but the U.S. Dept. of Transportation is  
690 also requiring it, so some force of roadway servicing those properties will be built. He noted that  
691 the county engineer had to sign off on that.

692  
693 Ms. Bringardner asked if there was a timeline for completion. Mr. Shade said there is not, and  
694 the expectation that the adjoining property owners or the developers will pay for it. He  
695 understands Greif's concerns, as they don't know what they are doing with their property. That  
696 is what has made this terribly difficult to talk in terms of timelines.

697  
698 Mr. Armstrong read the modified text for the record, "All matters shown on drawing 1.01b will  
699 be completed within 4 years from the date of approval of the zoning and plan, including a  
700 possible additional building, except for the roadway and rear entrance."

701  
702

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703 Exhibit 9

704 Mr. Shade said that regarding Exhibit 9, Mr. Armstrong has provided a copy of a letter sent just  
705 today addressed to Mr. Sedlacek from the Delaware County Engineer indicating their tacit  
706 approval of the engineering plans, although there are some things that they are still reviewing.  
707 The letter was signed by county engineer employees Doug Riedel and Bret Burgefurd. Mr.  
708 Sedlacek asked that it be added as "Exhibit 17" to the application.

709

710 **RESOLUTION 10.01.12.#5: ACCEPT LETTER AS EXHIBIT 17**

711

712 Ms. Korleski made a motion to accept the letter from the Delaware County Engineer's office to  
713 the Commission, to make it part of this package, and to identify it as Exhibit 17. Ms. Rae  
714 seconded the motion. Vote: Korleski, yes; Rae, yes; Yorko, yes; Valentine, yes; Sedlacek, yes.  
715 Motion carried, Exhibit 17 added to the rezoning application.

716

717 Mr. Shade said the engineering plans by M-E. Companies for the sewer and other improvements  
718 on the property were included in Exhibit 9

719

720 Ms. Kerlin said that on sheet 3 of 7, there is a statement indicating "gravel parking." Mr. Shade  
721 said that currently exists on the property and that will be blacktopped.

722

723 Exhibit 10

724 There were no questions or comments about this exhibit.

725

726 Exhibit 11

727 Mr. Sedlacek said that note 4 indicates, "1,000-watt lamps with 110,000 lumens." He said that  
728 400 watts equals 36,000 lumens, so that is not a direct proportion.

729

730 Mr. Oney said it is not an exact proportion, and there are different efficiencies. The bigger the  
731 wattage, the more lumens per watt are provided.

732

733 A break was taken to initial the changes in Exhibit 17 and the other two changes. The hearing  
734 was returned to session, and Mr. Sedlacek noted that he and Mr. Shade have initialed and dated  
735 those changes.

736

737 Ms. Kerlin asked what real advantage the applicant has when the road does go in, as most of the  
738 visibility of the property will be from Route 23. She asked if it was for convenience. Mr.  
739 Leesburg said that for traffic which came from the north, when they leave they must go south  
740 and make a u-turn and then head back north. The service road will prevent. Ms. Kerlin asked if  
741 it would change the directional thrust of the business. Once the light is in and the intersection is  
742 developed, customers will come up Greif Parkway and turn left, so customers coming from the  
743 south and going north on Route 23 will end up on the service road, and that will be an important  
744 entrance.

745

746 Ms. Shade said that both exits onto Route 23 will be right-in/right-out. Ms. Kerlin said that most  
747 people will know the dealership is there because of Route 23. Mr. Leesburg said that many  
748 customers cannot find the dealership and drive right by, and they call while trying to find it.

749

750 Mr. Sedlacek said that the residents of the Worthington Arms mobile home park have been  
751 fighting the u-turns for years as they are very dangerous; however, there is nothing the BZC can  
752 do about that. A resident from there who had been in attendance earlier has left the meeting. Mr.  
753 Leesburg said the resident had been concerned about storm water retention and whether  
754 detention was being provided for the improvements. Mr. Shade that the park has a significant  
755 drainage problem, but it is not provided by this side of the road; it flows through their property,  
756 and they put roadways in there without the proper and necessary conduits under the road to carry  
757 that away, so it backs up onto the roadways.

758

759 Ms. Kerlin said this is a preliminary approval for the Phase Two, and she asked if, when the road  
760 is built, the applicant would come back to the township for how they would close one of the  
761 entrances on Route 23 and what the plan for that will be, as she didn't see that information in the

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762 plan, as it was mentioned earlier that one of the right-in/right-out access would probably be  
763 closed. Mr. DuRivage said that one may be lost as a result of current negotiations with ODOT.

764

765

**RESOLUTION 10.01.12.#6: ACCEPT BZC 08-004**

766

767 Mr. Valentine made a motion to accept BZC 08-004, final development plan of Phase One and  
768 preliminary plan of Phase Two, for Byers Realty, along with an inclusive exhibit 16 and exhibit  
769 17, and the minor changes which were made to the application and which were approved by Mr.  
770 Shade and Mr. Sedlacek. Ms. Kerlin seconded the motion. Vote: Valentine, yes; Kerlin, yes;  
771 Korleski, yes; Yoroko, no; Sedlacek, yes. Motion carried.

772

773 Ms. Yoroko clarified that she voted “no” due to the feature vehicle included in the plan;  
774 everything else in the plan she is fine with and it is a beautiful and wonderful plan.

775

776 Mr. Sedlacek commended the applicant on a very nice application and the large amount of  
777 information was well put together. He also commended Ms. Yoroko on maintaining her ground.

778

779

**AGENDA ITEM – OTHER BUSINESS**

780

NAISC Codes

782 Mr. Armstrong said that at the last meeting, the BZC discussed codes which were in the planned  
783 commercial district but not in the PID district. Mr. Sedlacek, Ms. Korleski and he reviewed all  
784 the code numbers and decided which ones to recommend from the list discussed last month. He  
785 distributed 6 sheets; the first two were the list of codes discussed the last hearing, and the next  
786 two were the codes which the three concluded should be included in the Planned Industrial  
787 District (PID). Not all of them made it to the final proposed list, he noted. He asked the BZC to  
788 review the codes for discussion and possible decision at the next meeting.

789

790 Mr. Valentine asked if codes were included for U-Haul uses. Mr. Armstrong said those were not  
791 included in this list because that request was for the PCD.

792

Revocation of Conditional Use Permits

794 Mr. Armstrong said the next two pages are regarding the issue brought up at the county  
795 prosecutor’s training regarding language in the zoning resolution which states that township  
796 authorities can revoke a Conditional Use Permit if the conditions of that permit are not complied  
797 with. The county prosecutor has since stated that is not legal, and he proposed language to  
798 remedy the situation.

799

800 The language was taken from exiting Section 28 of the code, and reads, “Failure to comply with  
801 the terms and conditions of the Conditional Use Permit shall result in a zoning violation.” It is a  
802 one-sentence change in several places in the zoning resolution. Mr. Sedlacek said the language  
803 gave the BZA the approval to disapprove a Conditional Use Permit, and that was incorrect. This  
804 corrects that issue and the responsibility for enforcement goes back to the zoning inspector.

805

806 Mr. Armstrong included a letter he sent to Chris Betz of the Delaware County Prosecutor’s  
807 office, asking him to review it. It also contains a list of each zoning resolution and article where  
808 that paragraph is found. He said Mr. Betz told him these changes should be made and he agreed  
809 with them, and said all the sections would need to be reprinted with the changes, and they could  
810 be included in one motion and sent to the trustees.

811

DCRPC Contract

813 Mr. Armstrong said that the annual contract with the DCRPC (Delaware County Regional  
814 Planning Commission) is usually handled by the BZC chairperson, Mr. Armstrong, DCRPC and  
815 then the trustees. Within the budget for next year he had included \$5,000.00, which is over and  
816 above the number of “free” policy annual hours received from the DCRPC each year. He and  
817 Mr. Sedlacek spoke with Mr. Sanders and have cut back the use of these policy hours so the  
818 township doesn’t use them all up on the CLUP update; some hours will be then reserved for  
819 hours of work on other items, including code changes, etc.

820

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821 Mr. Armstrong said the 2010 contract contains up to a \$5,000.00 allotment, and Mr. Sanders  
822 estimated to him that the township will probably use about half of that. Of the \$10,000.00  
823 allocated last year, about \$6,000.00 was actually used. He presented two copies of the contract  
824 to the BZC and asked for approval by the chairperson and the BZC.

825  
826 Mr. Armstrong said he would like to get it to the trustees in time for their next meeting. He  
827 noted that it is the same contract as has existed for 2 years, with the difference that the amount of  
828 policy hours is restricted, and the dollar amount is also different. The county is changing the  
829 same amount for fees, overhead, etc.

830

831 **RESOLUTION 10.01.12.#7: APPROVE TOWNSHIP CONTRACT WITH DCRPC**

832

833 Ms. Yorke made a motion to accept and direct Mr. Sedlacek to approve the contract for planning  
834 services between Berlin Township and the Delaware County Regional Planning Commission,  
835 dated 1/11/10. Mr. Valentine seconded the motion. Vote: Yorke, yes; Valentine, yes; Korleski,  
836 yes; Kerlin, yes; Sedlacek, yes. Motion carried.

837

838 Wind Turbines

839 Mr. Armstrong said he was not ready to discuss wind turbines yet, and he needs to discuss with  
840 Mr. Sanders the items discussed by Mr. Armstrong, Mr. Sedlacek and Ms. Korleski. He could  
841 not discuss this during 2009 because the township was out of policy hours for that year. Mr.  
842 Sedlacek thanked Ms. Korleski for participating in the 2, 2-hour meetings to discuss the  
843 information.

844

845 Proposed Zoning Resolution Changes to Expanded Home Occupation Language

846 Ms. Yorke said that last month the expanded and limited home occupations were discussed. She  
847 proposed one change to the expanded home occupation; the language prior had stated, "No non-  
848 resident employee shall be allowed for properties less than 1 acre in size" and she proposed to  
849 change it to  $\frac{3}{4}$  or  $\frac{1}{2}$  acre, so if the property is larger than that, they could have non-resident  
850 employees. This makes more sense for some of the subdivisions.

851

852 Ms. Korleski added that it would be one such employee. Ms. Yorke said it didn't state how  
853 many they could have; currently the language states, "No non-resident employees." Mr.  
854 Armstrong said there could be up to three. Mr. Sedlacek said he responded back to Ms. Yorke  
855 and said he preferred the  $\frac{3}{4}$  acre, and he asked about the  $\frac{1}{2}$  acre proposal.

856

857 Ms. Yorke asked whether the item could be placed on the agenda for discussion and a possible  
858 vote in February. There was additional discussion. Mr. Sedlacek said he could go either way, as  
859 long as it is less than one.

860

861 Ms. Korleski didn't think using acreage as a limitation was a necessary criterion, and that the  
862 decision should be made based by the BZA on the circumstances of individual requests, but she  
863 deferred to the minimum  $\frac{1}{2}$  acre if she has to agree to a limit.

864

865 Mr. Valentine said his only concern is the parking; for example, it would be difficult to have  
866 three non-residential employees working on just a  $\frac{1}{2}$  acre lot. Ms. Yorke said that issue would  
867 be resolved by judging each application on its individual circumstances. For example, a property  
868 could have a long driveway or other circumstances. Ms. Korleski said that applicants who pay  
869 the BZA application fee should be heard.

870

871 Mr. Sedlacek asked whether the BZC wished to direct Ms. Yorke to prepare the language  
872 indicating a minimum of  $\frac{3}{4}$  acre and bring it back to the BZC. Ms. Korleski said she preferred a  
873  $\frac{1}{2}$  acre minimum. Mr. Valentine said he would prefer  $\frac{3}{4}$  acre, but the BZC should have a  
874 consensus, and Ms. Korleski still would like a  $\frac{1}{2}$  acre minimum. Ms. Yorke said that she still  
875 wanted the  $\frac{1}{2}$  acre. Ms. Korleski said that some small business may just have the business  
876 anyway with a non-resident on a smaller parcel without applying for the permit, if the regulations  
877 are too restrictive.

878

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING  
JANUARY 12, 2010 7:00 PM**

879 Ms. Kerlin asked whether she felt it would be safer to have a 1/2 acre minimum because  
880 everybody would have to come to the BZA in that case. Mr. Armstrong said all home  
881 occupations required a conditional use permit, regardless. Ms. Kerlin said it makes it easier to  
882 approve if it is a 3/4 minimum, as there is more space on the property. Ms. Korleski said there are  
883 many possible configurations to a 1/2 acre property, but she would defer to the 3/4 if that is the  
884 consensus of the BZC, as it is at least less than the 1-acre minimum previously suggested.  
885

886 Mr. Morrill said that regardless of the size of the property, the BZA will have to consider it, and  
887 the BZA will decide whether it is a legitimate proposal, so the minimum size is a moot point. If  
888 the township requires 3/4 acre minimum in lieu of 1/2 acre, the regulations may as well be done  
889 away with and the BZA could be allowed to handle it. Ms. Korleski said that would give false  
890 hope to applicants.  
891

892 Mr. Armstrong said that the minimum acreage will tell applicants beforehand whether they are  
893 either eligible to apply or not. Ms. Korleski felt the criteria shouldn't be based on acreage. Mr.  
894 Armstrong said that having no minimum could result in false hopes and an applicant filing and  
895 paying the \$500.00 fee when there is not much chance of it being approved.  
896

897 Mr. Armstrong asked that the language be prepared with the 3/4 acre minimum for the next  
898 hearing.  
899

900 Mr. Armstrong noted that next month's agenda will include NAICS, Conditional Use Permits,  
901 and CLUP discussions.  
902

**SYNOPSIS**

Accomplished

- 906 ➤ Floorcrafters provided information on their U-Haul operation and requested a change to the  
907 zoning resolution.
- 908 ➤ BZC 08-0028 was reviewed and approved.
- 909 ➤ The BZC approved the contract with the DCRPC.  
910

Future Work

- 912 ➤ Proposed zoning resolution regarding expanded home occupations will be prepared by Ms.  
913 Yorke for discussion and possible approval at the 2/9/10 meeting.
- 914 ➤ BZC members will review the information regarding the NAICS codes from Mr. Armstrong  
915 for discussion and possible decision at the 2/9/10 meeting.
- 916 ➤ At the next BZC meeting on 2/9/10 at 7:00 PM, the review of the CLUP will continue.
- 917 ➤ Work will continue on the various BZC sub-committees.
- 918 ➤ Work will continue on language regarding wind turbines.  
919

920 The next BZC meeting will be on Tuesday February 9, 2010 at 7:00 PM at the Berlin Township  
921 Hall. There was no further business to come before the Commission. Motion to adjourn.  
922 Meeting adjourned at 9:46 PM.  
923

\_\_\_\_\_  
Rick Sedlacek, Chairperson

\_\_\_\_\_  
Kristin Yorke, Vice Chairperson

\_\_\_\_\_  
Jerry Valentine, member

\_\_\_\_\_  
Rae Ann Kerlin, member

\_\_\_\_\_  
Toni Korleski, second alternate seated

934 Attest: \_\_\_\_\_  
935 Lisa F. Knapp, Berlin Township Zoning Clerk