

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

TUESDAY, MAY 14, 2019 7:00 PM

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

3 **CALL TO ORDER**

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5 The meeting was called to order by Toni Korleski at 7:00 PM.

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7 A meeting attendee led meeting attendees in the pledge of allegiance.

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9 BZC members present: Chairman Toni Korleski, Vice-Chairman Jerry Valentine, Darcy
10 Kaplan, Mike Bardash, Martin Johnson, Steve Flaherty, 1st BZC alternate member, Ray
11 Armstrong (2nd BZC alternate member)

12 Also present: Zoning Inspector David Loveless, Zoning Clerk Lisa Knapp, Zoning
13 Secretary Cathy Rippel.

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15 Ms. Korleski read the adopted BZC policy statement as printed in the agenda.

16 **AGENDA ITEM: LEGAL NOTICE**

17 Ms. Knapp said this meeting was advertised in the annual meeting notice, and the hearing
18 was advertised in the May 1, 2019 Delaware Gazette as follows:

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20 *BZC 92-004, amendment #2, filed by Germann Brothers Holdings, LLC, Kyle*
21 *Germann 4127 S. Old Sate Road, Lewis Center, OH 43035. The applicants are*
22 *requesting a modification to amend an approved zoning plan Planned*
23 *Commercial District (PCD), Parcel #418-330-01-027-000, 774 Peachblow Road,*
24 *Lewis Center, OH 43035 to add a outdoor storage lot for boats, RV's, trailers,*
25 *food trucks and other businesses/individuals needing to rent a parking space.*
26 *Also, any other business that comes before the zoning commission.*

27
28 *The text and map of this application will be available for public examination*
29 *from, excluding legal holidays; May 1, to May 14, 2019, Monday-Friday from*
30 *8:00 a.m. to 4:30 p.m. at the Berlin Township Zoning Office located at 3271*
31 *Cheshire Rd., Delaware, OH 43015. Questions concerning these matters should*
32 *be directed to the Zoning Office, David Loveless at 740-548-5217 x103. The*
33 *person responsible for giving notice of the public hearings by publication is Cathy*
34 *Rippel. Township residents are encouraged to attend.*

35
36 *BERLIN TOWNSHIP ZONING COMMISSION*
37 *Toni Korleski, Chairman*

38 **AGENDA ITEM: APPROVAL OF MINUTES**

39 Mr. Bardash made a motion to approve the BZC minutes from April 23, 2019. Mr.
40 Johnson seconded the motion.

41 Vote: Bardash, yes; Johnson, yes; Valentine, yes; Kaplan, abstain; Korleski, yes.
42 Motion carried. Minutes approved.

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44 **Agenda Item: Introduction of Meeting Attendees**

- 45
- 46 • Kyle Germann, with daughter Leah, 7941 Lot Road
 - 47 • Brian Grudowski, 4484 Baker Road
 - 48 • Barb Sherman, 1469 Africa Road
 - 49 • Joe Korleski, 3584 Greenville Road
 - 50 • Scott Germann, 4127 S. Old State Road
 - 51 • Philip Germann, 2425 Peachblow Road
 - Melissa Wright, 5400 Baker Road

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Agenda Item: BZC 92-004 Amendment #2

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Germann Brothers Holdings, LLC, Kyle Germann, requesting a modification to amend an approved PCD zoning plan, 774 Peachblow Road, Lewis Center, OH to add an outdoor lot for boats, RVs, trailers, food trucks, and other businesses/individuals needing to rent a parking space.

Ms. Korleski asked whether the property was for sale. Mr. Germann said that is the property behind this property and the sign is on the access lane on the west side.

Mr. Germann said that assistant Delaware County prosecutor Mark Fowler had recommended that this request is a major modification for the requested change. The property is already zoned commercial and this request is for an added use. He is requesting to add another storage lot at 774 Peachblow Road, which is around 5 acres in size. It would be primarily available for boat and RV storage but also available for other storage needs as well. It will be rental only.

Mr. Germann said the property is currently zoned PCD but is restricted to NAICS (North American Industry Classification System) codes for greenhouses, nurseries, garden centers, and landscape maintenance. He is requesting the use of NAICS codes that are permitted in the PCD district as indicated in the zoning resolution, specifically NAICS 531130, outdoor storage for boats, RVs and trailers.

Ms. Korleski asked whether that was the only one he was adding. Mr. Germann said he has discussed opening it up to more uses. The house in front is used for office space by a counselor. He asked if that counselor moves, could the use be expanded so an architect or insurance agent could utilize the space? He would like to expand the use to include the uses of anything permitted under PCD for the existing structures on the property.

Ms. Korleski asked whether that property is being rented to a counselor. Mr. Germann said it was and noted that it is not allowed to be rented for commercial use. He would like to expand the uses to anything permitted in PCD so he does not have to come back to the BZC each time a change is made. Ms. Korleski said it was a good idea to do that. Mr. Germann said when he originally zoned the property, it was short sighted of him to restrict the use of the property to landscaping only.

Mr. Germann noted the counselor currently has a three year lease and they are only one year into it. Mr. Germann said he has no short term plans for the building but he is thinking into the future. Mr. Johnson said the applicant is requesting any and all uses that are allowed in PCD. Mr. Germann said that is correct, for existing structures on the property.

Ms. Korleski asked what NAICS codes the property was approved for. Mr. Germann said they are 1114 Greenhouse, Nursery, and Floriculture Production, 444 Building Material and Garden Centers and 561730 Landscaping Services.

Ms. Kaplan said during the discussions on the original application, it was discussed whether there would be retail sales, and the answer was no. Allowing all of the PCD uses would open it up to any retail sales including gas stations, etc. so the scope would be very broad.

Mr. Germann said the concept is, how much change would there need to be to have to come back to the BZC? The existing structures would limit the use, he noted. Mr. Valentine said part of the issue is the potential retail use. He said the specific uses should be included in this application. Mr. Germann agreed to do that. Ms. Kaplan said some applicants have included all the uses and then indicated the exceptions. She noted that uses such as bed and breakfasts could in fact be used in the existing building. Mr.

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109 Johnson asked that the uses be limited specifically to what could reasonably be
110 accommodated in the current buildings.

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112 There was extensive discussion regarding the uses that would be permitted.

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114 Ms. Korleski asked Mr. Germann to clarify what he was saying about Mr. Fowler before.
115 Mr. Germann said Mr. Fowler was present at an informal meeting and had worked with
116 him on this, and Mr. Fowler had suggested that this is a major modification for this use
117 based on the language he had provided.

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119 Mr. Germann said he would continue to operate the landscaping business from the
120 property. There is about 1.3 acres to the west side of the property that he is proposing to
121 be fenced and gravel laid to be used as storage for the public. He would install electric
122 hookups as well, and down lighting in conformance with the Berlin Township zoning
123 resolution. The entire storage lot would be fenced with a chain link fence and an
124 automatic gate with 24-hour access and a 24-hour access automatic gate. The fire
125 department did approve the fencing and also they requested a key box for access, he
126 noted.

127
128 Mr. Germann said the fencing would be 6' tall with privacy fabric and accommodate 70
129 spots. Drainage would go into the existing detention basin. He pointed out the existing
130 landscaping business and pointed out where the storage would be on the west side. He
131 noted there is already a building that was approved in the initial zoning plan that has yet
132 to be built and he pointed out that location. He said some engineering has been done to
133 satisfy the requirements of the Delaware County Soil and Water Bureau.

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135 Ms. Korleski asked whether the BZC had already approved the future building. Mr.
136 Germann said they had, and it is already on the existing plan but has not been built yet.
137 Mr. Johnson asked whether the intent is to build it. Mr. Germann said the intent is to
138 build it in the next couple of years. Ms. Korleski asked what the purpose of it was. Mr.
139 Germann said it would be for storage.

140
141 Mr. Valentine asked whether the 6' fence would be sufficient for privacy. Mr. Germann
142 said most of the frontage is on the west side where there is an access road. On the back,
143 he may be providing mounding and plant some trees, but there are no commitments on
144 the plans because he is not sure what will go back there yet. He owns a drainage
145 easement and a right-of-way and there are existing ponds. It is likely there will be
146 drainage behind him. He has not seen any plans for the property behind him and it has
147 not been sold, so he is not sure what the use will be.

148
149 There was extensive discussion regarding the potential uses.

150
151 Ms. Korleski said the BZC needs to decide whether this is a major or minor change. Mr.
152 Valentine said due to all the NAICS codes that are being added, it should be considered a
153 major change. Mr. Johnson agreed.

154 **RESOLUTION 2019.05. 24.#A: BZC 92-004 AMENDMENT #2**
155 **IS CONSIDERED TO BE A MAJOR CHANGE**

156 Ms. Korleski made a motion that BZC 92-004 amendment #2 is considered to be a major
157 change. Mr. Bardash seconded the motion.
158 Vote: Korleski, yes; Bardash, yes; Johnson, yes; Valentine, yes; Kaplan, yes.

159 **RESOLUTION 2019.05. 24.#B: APPROVE BZC 92-004 AMENDMENT #2**

160 Ms. Korleski made a motion to approve BZC 92-004 amendment #2 with the following
161 condition:

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163 The following NAICS codes from Article 17 of the Berlin Township Zoning District
164 shall be permitted (in addition to NAICS codes 1114 Greenhouse, Nursery, and
165 Floriculture Production; 444 Building Material and Garden Centers and 561730
166 Landscaping Services already approved for this property):

167

○ 621340 Physical, Occupational, and Speech Therapists and Audiologists

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○ 621391 Podiatrists

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○ 621399 Miscellaneous Health Care Practitioners

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○ 621610 Home Health Care Services

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○ 813 Religious, Grant making, Civil, Professional and Similar Organizations

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○ 511 Publishers

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○ 5133 Telecommunications

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○ 514 Information and Data Processing Services

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○ 516110 Internet Publishing

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○ 517110 Wired Telecommunications Carriers

177

○ 517212 Cellular and other Wireless Telecommunications

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○ 518111 Internet Service Providers

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○ 52 Finance and Insurance

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○ 531130 Lessors of Mini-Warehouses and Self-Storage Units

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○ 531210 Offices of Real Estate Agents and Brokers

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○ 531390 Other activities related to Real Estate

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○ 55 Management of Companies and Enterprises

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○ 561110 Office Administrative Support Services

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○ 621111 Offices of Physicians

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○ 621112 Offices of Mental Health Specialists

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○ 621210 Offices of Dentists

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○ 621310 Offices of Chiropractor

189

○ 621320 Offices of Optometrists

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○ 621330 Mental Health Practitioners

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There was a discussion about the buffer. Mr. Germann said he would prefer to leave it open ended as indicated. Mr. Bardash suggested language that the applicant would agree to provide the buffer required based upon future development of the adjacent property.

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Ms. Korleski asked whether the fence would be on the property line. Mr. Germann said

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it would be. Ms. Korleski said Mr. Germann would not need to be concerned about the

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buffer on other people's property.

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Mr. Germann said when the property is developed, those property owners would need to provide additional buffering as well. Ms. Korleski said he doesn't have responsibility for something on the other side of the property and there is already a 25' setback from the subject fence, which is on the property line.

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Mr. Valentine said he had heard at prior hearings for other applications about trespassing on neighboring properties and he was concerned. Mr. Flaherty said that would be their responsibility to ensure.

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Ms. Sherman asked how many total parking spaces there would be. Mr. Germann said there are 5 including handicapped for the existing house, which is 1400 SF.

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Mr. Germann said initially retail was excluded because the area was not paved, and now it is paved and the requirement has been doubled.

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Mr. Flaherty asked how many storage spaces there would be. Mr. Germann said there would be 70 storage spaces.

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Mr. Bardash seconded the motion.

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217 Vote: Korleski, yes; Bardash, yes; Johnson, yes; Kaplan, yes; Valentine, yes.
218 Motion carried.

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Agenda Item: Zoning Resolution Changes

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222 Mr. Armstrong said regarding the densities, Mr. Fowler is incorrect; it does not change
223 the densities. These were done at these densities when Phil Laurien was the director of
224 the Delaware County Regional Planning Commission. Scott Sanders was hired as
225 director around 2006-2007. These densities have been in place in the Comprehensive
226 Land Use Plan (CLUP) since its original iteration. The only change is the removal of the
227 ambiguous language which allowed an applicant to use a loophole by using the language
228 regarding the lot size.

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230 Mr. Valentine said the 20,000 SF figure that was in there changes the density from 1.85
231 to 2.17 units per acre, so removing the 20,000 SF reduces the density. The township and
232 its residents have always requested less density, so he feels the BZC is doing the right
233 thing.

234

235 Ms. Korleski asked whether she had forwarded Mr. Fowler's opinion. Ms. Kaplan said
236 she thought they had received two opinions from Mr. Fowler. The opinion today
237 indicated that it reduces the density. However, she did not think that any of the BZC
238 interpret it that way; they see an inconsistency that they want to eliminate. It is fair to
239 say that there have been challenges to low density zoning in other areas but she did not
240 think the BZC should modify its entire stance to anticipate that.

241

242 Ms. Korleski said she told Mr. Fowler that applicants can always ask for a divergence,
243 and they do, but at least the desired zoning is in place. Mr. Valentine said the statement
244 that there is not higher density around them is not correct; right across the railroad tracks
245 is high density development in the City of Delaware. He would like to maintain Berlin
246 Township's density at 1.85.

247

248 Ms. Korleski said she sent the BZC ORC 519 because Mr. Fowler said the BZC should
249 ensure they are following it. Ms. Rippel has assured her they are following it.

250

251 Mr. Bardash asked who wrote the information that was distributed. Ms. Korleski said it
252 was Mr. Sanders. Mr. Bardash said the word "approximately" was removed in several
253 sections, but under Purpose, the word "approximately" is used. Mr. Johnson said he
254 thought that was the original language.

255

256 Ms. Kaplan asked how the 1.85 units/per acre was not sufficient and accurate enough.
257 Mr. Flaherty said there were two definitions, and applicants are currently able to select
258 which one they want to use. Mr. Johnson said that in addition to definitions, one of them
259 uses the terms "approximately" as well. The definitions do not even refer to density and
260 instead it is explicitly square footage. In each section where the purpose is mentioned,
261 the square footage and approximate densities have been included. The duplicity and
262 ambiguous language will be removed to meet the intent.

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264 Mr. Johnson said under permitted uses, the minimum lot size definition should be
265 included, and it should be pulled out from other sections as well where it can be used
266 alternatively.

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268 There was a brief recess. Meeting was returned to session.

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270 There was a brief discussion regarding how the motion should be crafted.

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RESOLUTION 2019.05. 24.#C: MOTION TO INITIATE AMENDMENTS TO THE BERLIN TOWNSHIP ZONING RESOLUTION

Ms. Korleski made a motion to initiate amendments to the Berlin Township Zoning Resolution regarding density, as indicated in Exhibit A. This resolution will be sent to the Delaware County Regional Planning Commission.

Exhibit A

SECTION 5.052: LOW DENSITY RESIDENTIAL DISTRICT (R-2) – ARTICLE 8

The R2 district is provided for sections of the township with moderately low-density single family residential development, and access to centralized water and sewer systems. ~~The Density is 1.25 units per net developable acre. Minimum lot size is 29,600 square feet.~~

SECTION 5.053: FAMILY RESIDENTIAL DISTRICT HIGH DENSITY (R-3) – ARTICLE 9

The R-3 district is provided in appropriate areas of the township for single family dwellings, and conditionally, multi-family residential development, where there is access to centralized water and sewer systems. ~~The Density is 1.85 units per net developable acre. Minimum lot size is 20,000 square feet per single family dwelling unit.~~ Access to a major collector or arterial street is required.

SECTION 5.054: RESIDENTIAL DISTRICT MEDIUM DENSITY (R-4) – ARTICLE 10

The R-4 district is provided in appropriate areas of the township for single family dwellings, and conditionally, multi-family residential development, where there is access to centralized water and sewer systems. ~~The density is 1.5 units per net developable acre. Minimum lot size is 25,000 square feet per single family dwelling unit.~~ Access to a major collector or arterial street is required.

SECTION 8.01: PURPOSE

The R-2 district is intended to provide for a variety of housing types at a density of ~~one unit per 29,600 square feet, or approximately~~ 1.25 units per net developable acre when used with a PRD overlay. See also Section 5.052.

SECTION 9.01: PURPOSE

The R-3 district is intended to provide for a variety of housing types at a density of ~~one unit per 20,000 square feet, or approximately~~ 1.85 units per net developable acre **when used with a PRD overlay**. See also Section 5.053.

SECTION 10.01: PURPOSE

The R-4 district is intended to provide for a variety of housing types at a density of ~~one unit per 25,000 square feet, or approximately~~ 1.5 units per net developable acre **when used with a PRD overlay**. See also Section 5.054.

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Mr. Bardash seconded the motion.
Vote: Korleski, yes; Bardash, yes; Valentine, yes; Kaplan, yes; Johnson, yes. Motion carried.

Agenda Item: Discussion Regarding the Cloud on Route 36

Mr. Armstrong said he has been working with many people and departments that are working on a cloud overlay for the commercial corridor along Route 36 from Delaware to 3 Bs and a K Road. He had hoped to bring it in tonight but he received a call and email yesterday evening from the county's economic development department that they

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292 wanted to see some changes last minute. When he spoke with them today, they had not
293 prepared those changes yet and were not able to send the information to him prior to this
294 meeting.

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296 Mr. Armstrong said this will be approached in two overlays. The eastern side will be
297 commercial and the west side will be industrial. Of the three township trustees, one lives
298 in the eastern portion and one is in the western portion, so each must recuse themselves
299 from the deliberations in their area, so the areas are being divided.

300

301 Mr. Armstrong said this began with a discussion regarding NAICS codes for commercial
302 and industrial development and what they would like to see and not see in those districts.
303 Nothing is being eliminated as it currently stands, but this would be an overlay similar to
304 the OCPUD (Old Cheshire Planned Unit Development). It will be a cloud that provides
305 a tool with very specific development standards. If an acceptable plan is brought before
306 the BZC, the applicant can invoke that tool and it will not be a rezoning. The zoning
307 will change automatically.

308

309 Mr. Armstrong said the BZC would determine whether the standards are met and impose
310 conditions. The idea behind this is that it will speed up the process. He is working with
311 economic development on this and there will be financial incentives including TIFS (Tax
312 Incentive Financing), CRAs (Community Reinvestment Areas) and other agreements.
313 This will provide benefits to infrastructure in the corridor and also provide income for
314 the Olentangy school system.

315

316 Mr. Armstrong said when he moved here, the commercial tax base was around 18.1%,
317 and now it is 15%; it is going in the wrong direction. Ideally in the United States it
318 should be around 30%. This corridor is highly sought after, he has heard, although he
319 does not have specifics regarding which companies are interested. The cloud will help to
320 control development but also get it going without taking 6-9 months. The BZC and the
321 trustees would approve the development plan if it meets the criteria provided in the
322 cloud.

323

324 Mr. Armstrong said several properties in the OCPUD area have used the cloud and it has
325 worked very well. He noted that even a cloud that is in place does not need to be used.
326 He said no codes are being excluded, but it does not mean they will all be up for
327 automatic zoning changes. He noted that uses approved under the cloud are not subject
328 to referendum.

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330 Mr. Valentine asked what the dividing line was between east and west. Mr. Armstrong
331 said it was South Old State Road. West of that road will be residential TPUD-type and
332 industrial-type uses. East of that to South Three B's and K Road will be PCD and some
333 TPUD residential.

334

335 Mr. Valentine asked whether there would still be access roads along Route 36. Mr.
336 Armstrong said there would be.

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338 Ms. Kaplan asked how far the area extends north and south of Route 36. Mr. Armstrong
339 said it goes north to Baker Road and south to Curve Road.

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341 Mr. Johnson said the intent is to provide an expedited process, and he asked which steps
342 were being removed from the zoning process. Mr. Armstrong said an applicant would
343 come in with a preliminary plan and the BZC will analyze that preliminary plan against
344 the cloud's requirements to make sure it meets the plan. The BZC would then
345 recommend the plan to the trustees, who would make the final decision.

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347 Mr. Johnson asked whether the intent of defining the requirements for the zoning within
348 the cloud is at a level of detail equivalent to a final development plan so that it can be

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349 approved in one step rather than two steps. Mr. Armstrong said that is not the case. Mr.
350 Johnson asked whether applicants would need to provide a detailed landscaping plan.
351 Mr. Armstrong said they would be required to. Mr. Johnson asked whether it was more
352 than a preliminary plan but less than a final development plan.

353
354 Mr. Armstrong said the appearance/look of the development would also need to be
355 defined. Mr. Johnson asked whether that could require updates to the zoning resolution
356 relative to general construction requirements. Mr. Armstrong said there will be some,
357 but most reference general development standards such as lighting, signage, landscaping,
358 etc.

359
360 Mr. Johnson asked who would be responsible for the creation and defining of the cloud.
361 Mr. Armstrong said the authoring of the preliminary information is being done by him,
362 Mr. Sanders, the county's economic development, and a portion of the early code
363 development was done by one of the trustees along with three other people. When the
364 preliminary language is done, the BZC will own it.

365
366 Mr. Johnson asked how the cloud would interact with the CLUP, which is the strategic
367 vision of the township, and said that the cloud is a strategic vision of a particular piece of
368 the township.

369 Mr. Johnson asked whether the cloud would be incorporated into the CLUP. Mr.
370 Armstrong said that it would be an independent document. There may be some
371 alignments regarding the size of the various districts. Mr. Valentine asked that the term
372 "approximately" not be included anywhere within the new text.

373
374 Ms. Rippel asked whether this could help prevent further annexation from Berlin
375 Township into the city of Delaware. Mr. Armstrong said it should help secure the
376 township's borders.

377
378 Mr. Flaherty said this could help make the subject property become more marketable in
379 the township setting because the process is expedited.

380
381 Mr. Armstrong said under the cloud, the applicant does not come to the BZC for a
382 rezoning but instead a plan. Mr. Flaherty said the BZC would define the rules for what it
383 looks like, then each allocation is defined, then they examine the application to ensure it
384 meets the rules that were set forth.

385
386 Mr. Armstrong said the funding is being provided for various infrastructure items to
387 make the property more marketable.

388
389 Ms. Kaplan asked whether there are other clouds in Delaware County. Mr. Armstrong
390 said there is one in Berkshire Township and one down on Route 23 that is just being
391 developed. This will be the largest at over 2,000 acres.

392
393 **Agenda Item: Discussion of Request by John Wicks**

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395 Ms. Korleski stated that Romanelli & Hughes has requested to be removed from any
396 responsibility on the west side of the Villas at Old Harbor property because they will
397 develop just the east side. Ultimately it will be two different developments but the
398 zoning is already in place at this time.

399
400 Ms. Korleski read a letter from Mr. Loveless:

401
402 *"The BZC affirms and certifies that the Romanelli & Hughes Building Company,*
403 *in connection with its acquisition and development of that portion of the Villas at*
404 *Old Harbor zoning, located on the east side of South Old State only, will not be*
405 *responsible or obligated in any way to undertake any improvements or amenities*

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406 *or otherwise comply with any zoning or development requirements that apply to*
407 *that portion of the Villas at Old Harbor rezoning, located on the west side of Old*
408 *State Road.*

409
410 *Failure of the developer of the west side Old Harbor Villas to comply with any*
411 *township zoning development plan or other development requirements shall not*
412 *permit the township to stop or otherwise impede development and construction of*
413 *the east side of Old Harbor Villas. The above statement should also apply to the*
414 *building developer of the west side of the Old Harbor Villas, who shall have no*
415 *responsibility, obligation or commitments on the east side of the Old Harbor*
416 *Villas.”*

417
418 Ms. Korleski read the following email from John Wicks into the record:

419
420 *“I realize that this request is out of the ordinary and somewhat redundant but the*
421 *attorney for Romanelli & Hughes is requesting that both the BZC and trustees*
422 *pass a resolution stating that the east side of the Villas project and the west side*
423 *of the villas project will be mutually exclusive and neither builder will have a*
424 *responsibility to perform any work on the other side. Mr. Loveless wrote a letter*
425 *to this effect which was great. However, the attorney would now like to go a step*
426 *further with a resolution. Mr. Bullard has already stated that the trustees are*
427 *willing to do so on Monday May 13, 2019.*

428
429 *Mr. Wicks is requesting the following:*

430
431 *1) Write a letter or send an email stating that if the trustees pass a resolution,*
432 *then it becomes official, and the BZC does not need to vote to recommend the*
433 *resolution or*
434 *2) At today's meeting, read the letter from David Loveless and read the trustees*
435 *resolution from the May 13, carrying into record the vote to show support of the*
436 *resolution.*

437
438 *Honestly, it feels like an unnecessary step to me but they have made it a condition*
439 *of our contract on the east side. I apologize for the additional work that this*
440 *request causes. On another note, I know there has been some chatter about a*
441 *builder who wanted to buy the west Villas project but get a modification to the*
442 *planned development plan to change the layout product. At this time, I'm not*
443 *pursuing that option as I have another builder interested in building the west side*
444 *Villas using the approved plan.”*

445
446 Ms. Korleski read an email from fiscal officer Claudia Smith to Mr. Wicks from last
447 night's trustee meeting as follows:

448
449 *“Good morning John. I did a resolution to allow trustee Bullard to write a letter*
450 *to you basically saying that the trustees understand that Old Harbor will be two*
451 *separate developments. Not sure when he will get this letter to you.”*

452
453 Ms. Korleski said she told Mr. Wicks that she would not address this issue unless he had
454 received approval via a resolution from the trustees, which he did. She said Romanelli &
455 Hughes wants to ensure that they have nothing to do with the west side. She said Mr.
456 Wicks wants the BZC to pass a resolution that they concur with the resolution of the
457 trustees.

458
459 Mr. Valentine said he did not agree with it because that would mean there are now two
460 separate developments and all the amenities are located on the west side. There was
461 much talk during the rezoning process about signage directing the east side residents to
462 the west side so they could use the clubhouse and other amenities. Now the east side will

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463 not have a clubhouse and there will be two separate homeowners associations. He did not
464 like the concept of separating the two developments.

465

466 Mr. Valentine said that the development started out with 50-55 units on the east side and
467 90 on the west side, and the west side had all the amenities including a clubhouse. Mr.
468 Flaherty asked whether it was two or one BZC cases. Mr. Valentine said it was one
469 case. Mr. Flaherty said the plan was approved as one development but there is more
470 than one developer.

471

472 Ms. Korleski said she thought they would need to come in for an amendment like
473 Westport Homes did. The trustees have already approved the development. Mr.
474 Bardash said the preliminary development plan did not approve who the builder is.
475 Romanelli & Hughes just does not want any responsibility to build the other side, but
476 that is a matter between Mr. Wicks and Romanelli & Hughes.

477

478 Mr. Johnson asked whether this is something that should be run by Mr. Fowler. Mr.
479 Valentine asked whether the trustees had done that. Nobody was sure.

480

481 Mr. Bardash said the current request has nothing to do with the BZC and it would be a
482 legal matter between the parties. Ms. Korleski said she thought there may be more than
483 one homeowners association. Mr. Flaherty said a separate zoning would be required.
484 Ms. Korleski said the zoning is TPUD on both the east and west sides. Mr. Flaherty said
485 the amenities for the development were approved as a whole, so he would need to come
486 back and request that the development be separated out.

487

488 There was additional discussion.

489

490 Ms. Korleski said she agreed that Mr. Wicks should request an amendment from the
491 BZC for two separate developments. Mr. Bardash agreed. He said the BZC did not
492 want the development to be two separate developments and he does not want to go any
493 further with the current request.

494

495 Mr. Johnson said his interpretation is that Mr. Wicks has forwarded Romanelli & Hugh's
496 request asking that the trustees and BZC officially "dis-obligate" him from the west side
497 of the development. He did not think that was within the BZC's purview and it is a
498 developer issue.

499

500 Ms. Korleski said the BZC should request that Mr. Wicks request an amendment to the
501 zoning to separate the two sides. Mr. Bardash and Mr. Johnson vehemently opposed
502 granting such an amendment and Mr. Valentine and Ms. Korleski agreed. Ms. Kaplan
503 said that would be a bait and switch on the part of the applicant.

504

505 Mr. Loveless said Mr. Bullard was apprehensive about the request and he does not want
506 to give them an excuse to not be responsible for the required infrastructure
507 improvements such as turn lanes, etc. Mr. Bardash opined that the BZC should stay out
508 of it. Mr. Loveless was unsure as to whether the trustees had consulted Mr. Fowler.

509

510 Ms. Korleski said Mr. Wicks should request an amendment instead of a letter. Mr.
511 Flaherty said Mr. Fowler should be consulted. Mr. Johnson said he was concerned that
512 the BZC would be legally obligating itself by granting the request. Mr. Bardash said he
513 spoke with Mr. Wicks who told him he does not want to change the plan, but he just
514 wants a builder to do the other side and meet all the requirements of the BZC. He said
515 the BZC should not write the letter that is requested.

516

517 Ms. Rippel said the price point of the east side was in the \$400,000's, and one trustee
518 had been disappointed in the cost of that product had felt there should be a less
519 expensive product on the west side.

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520 Mr. Loveless said that if Romanelli & Hughes isn't responsible for anything on the west
521 side, whoever builds the west side will get stuck with that and that will raise the price of
522 their product.

523

524 Ms. Rippel said that the application will come back for final approval and it doesn't
525 matter who the builder is as long as the plan is adhered to as approved.

526

527 Mr. Flaherty said that Mr. Wicks is requesting a letter that states that Romanelli &
528 Hughes is not financially responsible for the west side, and that the west side is not
529 responsible for the east side's improvements including site work, infrastructure, turn
530 lanes, amenities, etc. Mr. Bardash said those are not letters that need to come from the
531 BZC, and Ms. Korleski agreed.

532

533 Mr. Valentine said he would like to ensure that Mr. Bullard has not sent a letter to Mr.
534 Wicks stating it is two different developments, because that is what Ms. Smith appeared
535 to state. Mr. Flaherty said he would call Mr. Bullard.

536 Ms. Korleski said that would be a change to the zoning. Mr. Flaherty said that would
537 have to come back to the BZC for consideration as a major modification.

538

539 The BZC discussed contacting Mr. Fowler regarding the situation.

540

541 Mr. Bardash said he thought Mr. Fowler would state that the BZC should not get
542 involved in this. Ms. Korleski said she didn't think Mr. Fowler should even be
543 contacted because it's not the BZC's problem to resolve.

544

545 Ms. Rippel said there is a BZC meeting scheduled for May 29 but Mr. Wicks said he
546 does not need to meet with the BZC that night, so the night is open. Mr. Johnson and
547 Mr. Bardash said they will not be at that meeting. Mr. Armstrong said he hopes to have
548 the information regarding the cloud by then. He said he cannot sit on the BZC for those
549 meetings because he lives within the cloud area, and he will present it to the BZC. He is
550 working on the information on behalf of all parties involved and will help facilitate
551 discussions but he will not be sitting on the BZC or making any decisions on it.

552

553 Ms. Rippel said Westport Homes will be bringing in their revisions for the June 11, 2019
554 hearing, and she will distribute that information at the May 29 BZC meeting.

555

556

Public Comment

557

558 Brian Grudowski, 4484 Baker Road, said he lives in the Route 36/37 corridor and he is
559 in the middle of 600 acres. He asked whether he would end up in the middle of a
560 commercial and industrial area if the cloud is put into place. Mr. Armstrong said that
561 was possible. He advised that Mr. Grudowski attend the meetings where it is discussed.
562 He was not sure if he will have the information regarding the cloud ready in time for the
563 May 29 meeting. He asked that the meeting not be canceled.

564

565 There was no further business to come before the Commission. Motion to adjourn.
566 Meeting adjourned.

567

568

569

570

Toni Korleski, Chairperson

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Jerry Valentine, Vice-Chairperson

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Darcy Kaplan, member

Mike Bardash, member

Martin Johnson, member

Steve Flaherty, 1st alternate member

Ray Armstrong, 2nd alternate member

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