

BERLIN TOWNSHIP TRUSTEES

6:00 p.m. Trustee Meeting July 8, 19

HELD AT: Berlin Township House, 3271 Cheshire Rd., Delaware, OH

CALL TO ORDER: Ken O'Brien, Trustee Chairman

PLEDGE OF ALLEGIANCE: Ken O'Brien led the Pledge of Allegiance

ROLL CALL: Ken O'Brien, Tom D'Amico arrived late and Ron Bullard and Claudia Smith, Fiscal Officer.

ATTENDANCE: Phil Germann

*******6:00 P.M. TIME CERTAIN****BZC 92-004 GERMANN BROTHERS*******

O'Brien called the meeting to order and asked for a small recess to wait for trustee D'Amico to arrive. Trustee D'Amico arrive at 6:14 p.m and O'Brien called the meeting back to order. O'Brien said we have the following exhibits to add:

- 9.) Rezone conclusion letter for BZC Case #92-004 #2, Germann Brothers Holdings LLC, Toni Korleski, BZC Chair dated May 14, 2019.
- 10.) Request of publication via email in the Delaware Gazette dated June 11, 2019.
- 11.) Proof of Publication - Delaware Gazette dated June 14, 2019.

Phil Germann said they have five acres on Peachblow Road and they intend to put an outdoor storage lot on the unused acreage. When they went for the zoning approval initially on their landscape building it was landscape specific, they would like to expand the use to other businesses for the future. The zoning board helped them decide which would fit the site. D'Amico asked why he did not want to do landscape screening. Germann said they did not put it into the plan because they were not sure of the final grade and nothing around them has been developed so they were waiting to see how it would be zoned. He said they did have three foot buffering in the plan. Bullard said he was in favor of most of the NAICS codes but asked where these offices would be. Germann said there were offices in the existing back building and house by the road. Bullard asked where they were going to park and Germann said there were five parking spots. Germann said when they went through the zoning their concept was the size of the building limits the use of the parking size for the current building. Bullard said he would like the plans to say that they are limited to five parking spots. Germann said the occupancy permit of the building limits that but Bullard would like it in writing.

O'Brien said he was not okay with the plan as it is a planned development. What they are trying to do is make it straight commercial not planned commercial and it is not zoned commercial so every time you want to do something with it you have to come with a new plan. He thinks a six-foot mound with trees and fencing would be appropriate as a buffer but that is not in the plan. He also wants Germann to be more specific as to what will be located in the storage lot. O'Brien said he was not in favor of it as it is tonight. Germann said if you want berm and landscaping they can do that. Bullard asked what the hours of operation would be for the storage lot and Germann said it would be key code access. Bullard said since there are residents across the street they will be bothered by the comings and goings at all hours of the day and night. O'Brien said there was no one in the audience to speak for or against the plan. Germann said the zoning board's view was that the existing structure already limits their use to the extent that there was no further language needed. Germann said since the changes could be so small every year as the lease changes they did not want to come back to the zoning and pay \$500 each time the lease changes. D'Amico suggested that Germann read the Berlin Township Zoning code for the regulations on landscaping. Germann requested that the hearing be tabled.

RESOLUTION 19-07-01 APPROVE TABLING BZC 92-004 # 2, GERMANN BROTHERS TO SEPTEMBER 9, 2019 AT 7:15 P.M. TIME CERTAIN PER THE APPLICANTS REQUEST

Motion: O'Brien
Second: Bullard
Vote: O'Brien yes, D'Amico yes and Bullard yes

Hearing concluded at 6:59 p.m.

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The regular trustee meeting started at 7:00 p.m.

ATTENDANCE: Craig Hall, Joe Pichert, John Wicks, Ryan Badger, Connie Klema, John Oney, Eric Penkal and Chris Paykoff

RESOLUTION 19-07-02 APPROVE THE 6/10/19 REGULAR MEETING MINUTES AND DISPENSE WITH THE READING

Motion: Bullard
Second: O'Brien
Vote: O'Brien yes, D'Amico yes & Bullard yes

RESOLUTION 19-07-03 APPROVE THE 6/27/19 SPECIAL MEETING MINUTES AND DISPENSE WITH THE READING

Motion: Bullard
Second: O'Brien
Vote: D'Amico yes, Bullard yes and O'Brien yes

PUBLIC COMMENT: O'Brien asked if there were any public comments. John Wicks with Real Properties Design and Development said he wanted to talk about the Villas of Old Harbor East and West. The concern was that two separate builders are doing two phases which has always been the case. One of the builders was asking for a resolution to be passed which clarifies that they are responsible for the east side and they don't control the land on the west side and have no responsibility to develop anything on the west side. After talking to everyone involved it was agreed that you can't force someone that doesn't own the property to develop it. The owner of the east side of the development will be responsible for the east side and the owner of the west side will be responsible for the west side as long as all the approved amenities and improvements are constructed by someone. He said the builders attorney is still asking for a resolution to be passed by the trustees to make that point of clarification. Wicks told them that the trustees are hesitant to do that resolution and asked if anything has changed.

Bullard said he talked to the prosecutor who said we would be crazy to write such a letter, getting into the middle of whose paying for what amenities. He said we want the amenities for the development and we look at the development as one development not two, but he thinks it is between the developer and the people that are buying there. Bullard said the development is not done until both sides are done. Wicks said the builder on the west had concerns that someone could come back on him and say that this was approved as one zoning and somebody didn't do their obligation on the west side so now you have to build a clubhouse and a pool. Bullard said he left a message for the attorney and Wicks thanked him for doing that.

Old Business –

Fairview Cemetery – O'Brien said he talked to the attorney on this and the filings should take place this week with Judge Gormley and the 5th District.

The Cloud – Bullard said they would be talking about this at the zoning commission meeting tomorrow. They are looking for a large meeting room.

Permissive Tax – O'Brien said we do not have to pass this until November. Eric Penkal said Fowler has been working on it.

Mowing Vacant Land – Penkal said he sent the resolutions out this afternoon. He said we have to send the landowner a letter and give them seven days to fix it and then we have the right to fix it and charge them for it on their property taxes. Bullard will get the resolutions during a recess and approve them later in the meeting.

**Fiscal Officer Items –
Vacation of Hyatts Road –**

RESOLUTION 19-07-04 WHEREAS WE HAVE RECEIVED A COPY OF RESOLUTION #19-399 FROM THE DELAWARE COUNTY COMMISSIONERS IN THE MATTER OF GRANTING THE PETITION FROM THE BOARD OF BERLIN TOWNSHIP TRUSTEES REQUESTING VACATION OF TOWNSHIP ROAD 123A

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IN BERLIN TOWNSHIP IN DELAWARE COUNTY OHIO UNDER THE SPECIAL PRECEDURES OF RC 5553.045, THEREFORE BE IT RESOLVED THAT THE BERLIN TOWNSHIP BOARD OF TRUSTEES HAVE RECEIVED THE RESOLUTION DECLARING IT AND BY, THIS RESOLUTION ORDERS THE PORTION OF THE ROAD 123A ALSO KNOWN AS HYATTS ROAD VACATED UNDER 5553.45 SECTION E.

Motion: O'Brien
Second: Bullard
Vote: D'Amico yes, Bullard yes and O'Brien yes

Trustees signed the June 2019 bank statement and electronic payment list.

5 MINUTE RECESS.

*******7:30 P.M. TIME CERTAIN****BZC 18-002 AAT PROPERTIES*******

John Oney showed the trustees the revised plans and provided them with the revised Preliminary Development Plans dated February 8, 2019.

Bullard asked for a five-minute recess so he could read the revised plan.

Oney stated the divergences have been revised per the trustees request from the last meeting and are as follows:

1. A divergence is requested from Section 26.03, A, l, a.6,) requiring a 6' high hedge, fence or mound. The request is to reduce this to 3'. This occurs on US Route 23 and the western edge of our property abutting Hyatts Road
2. A divergence is requested from Section 25.03B, 1) to allow the top of the wall signs to be at 17 '4" in lieu of 15'-0" to allow signs to be placed in the center of the building cap fascia band.
3. A divergence is requested from Section 26.03.A,a,5) requiring 15' green space and 6' high hedge. The request is to reduce to 10' green space on the north and west property lines and to reduce the 6' hedge to 3' hedge on the north property line.
4. A divergence to reduce the minimum track size from 10 acres to 3 acres

Oney said all other divergences were omitted. He provided them with an updated list of the NAICS codes also which were per the trustee's request. O'Brien asked since Township Road 123A was vacated how they have sufficient access to Hyatts Road and Ryan Badger said he worked with Delaware County and showed them the access on a map. Bullard asked that all businesses are for inside use and that they not have items displayed outside. He also asked that no fabrication, repair or replacement will be done and asked that this wording be added to the NAICS list. The turning radius was an issue for Bullard at the last meeting, which they addressed and they provided a turning template map.

RESOLUTION APPROVE ACCEPTING EXHIBITS 6-18 FOR BZC 18-002 AAT 19-07-05 PROPERTIES LTD.

Exhibits BZC Case # 18-002, AAT Properties, LTD.

- 6.) **BZC agenda, sign in sheets & minutes for meeting dated March 13, 2018.**
- 7.) **BZC agenda, sign in sheets & minutes for meeting dated November 13, 2018.**
- 8.) **Rezone conclusion letter for BZC Case # 18-002, AAT Properties, LTD, Toni Korleski, BZC Chair dated November 28, 2018.**
- 9.) **Request of publication via email in the Delaware Gazette dated December 28, 2018.**
- 10.) **Proof of Publication - Delaware Gazette dated January 2, 2019.**
- 11.) **Letter dated January 8, 2019 requesting hearing be postponed until January 28, 2019.**
- 12.) **Letter from John Oney, AAT Properties Project Architect dated January 29, 2019 requesting the hearing be continued to February 25, 2019 at 7:15 p.m.**

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- 13.) Email from Mark Fowler and Connie Klema attorney for AAT Properties Ltd dated February 22, 2019 regarding vacating a portion of Hyatts Road right-of-way.
- 14.) Letter from John Oney, AAT Properties Project Architect dated February 27, 2019 requesting the hearing be postponed and continue on July 8, 2019 at 7:30 p.m.
- 15.) Preliminary Development Plans revised on February 8, 2019.
- 16.) Updated NAICS Codes with added comments and Turning Template map.
- 17.) Copy of Delaware County Commissioners Resolution 19-399, approving vacation of Township Road 123A, in Berlin Township.
- 18.) Legal Description Right-of-Way Vacation dated March 12, 2019 with maps and 8 pages.

Motion: O'Brien
Second: Bullard
Vote: Bullard yes, O'Brien yes and D'Amico yes

Penkal asked if there were any objections to the exhibits being entered into the record and there were none.

RESOLUTION 19-07-06 APPROVE PLAN FOR BZC 18-002 ATT PROPERTIES LTD & THE RECOMMENDATION FROM THE ZONING COMMISSION ALONG WITH EIGHTEEN EXHIBITS, WITH LATER EXHIBITS TAKING PRECEDENCE OVER EARLIER EXHIBITS.

Motion: Bullard
Second: D'Amico
Vote: Bullard yes, O'Brien yes and D'Amico yes

**Old Business Continued –
Mowing Vacant Land –**

RESOLUTION 19-07-07 APPROVE DECLARATION OF NUISANCE AND ABATEMENT, CONTROL, AND/OR REMOVAL OF NUISANCE PURSUANT TO R.C. § 505.87ON REAL PROPERTY LOCATED AT: 28 LACKEY OLD STATE RD, DELAWARE 43015 (DELAWARE CO. PIN # 41821002001000 AND 41821002038000) AND ALL ASSOCIATED DOCUMENTS AS PROVIDED BY THE DELAWARE COUNTY PROSECUTOR

Motion: Bullard
Second: O'Brien
Vote: O'Brien yes, D'Amico yes & Bullard yes

RESOLUTION 19-07-08 APPROVE APPOINTMENT OF A BOARD MEMBER TO LOCATE A CONTRACTOR AND NEGOTIATE A CONTRACT TO ABATE, CONTROL, AND/OR REMOVE THE NUISANCE ON REAL PROPERTY LOCATED AT: 28 LACKEY OLD STATE RD, DELAWARE 43015 (DELAWARE CO. PIN # 41821002001000 AND 41821002038000) AUTHORIZING RON BULLARD TO IMPLEMENT THIS ACTIVITY

Motion: Bullard
Second: O'Brien
Vote: O'Brien yes, D'Amico yes & Bullard yes

**Fire Levy –
RESOLUTION 19-07-09 APPROVE A RESOLUTION TO PROCEED WITH SUBMISSION OF THE QUESTION OF LEVYING A RENEWAL TAX IN EXCESS OF THE TEN-MILL LIMITATION FOR THE PURPOSE OF FIRE PROTECTION (R.C. §§ 5705.03, 5705.19(I) 5705.191, and 5705.25)**

Motion: O'Brien
Second: Bullard
Vote: D'Amico yes, Bullard yes and O'Brien yes

BERLIN TOWNSHIP TRUSTEES

6:00 p.m.

Trustee Meeting

July 8,

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*******8:00 P.M. TIME CERTAIN**** EMPLOYEE HANDBOOK UPDATES*******

David Riepenhoff the attorney working on the township handbook provided the trustees with a proposal on conducting a Workplace Conduct and Ethics training to township employees. They reviewed the employee handbook starting with employee job descriptions. Riepenhoff stated that employees are required to do anything that is in their job description and if they don't do it, they serve at the pleasure of the trustees and can be let go if the trustees are dissatisfied with their performance. They are at will employees.

RESOLUTION 19-07-10 APPROVE RECESS TO EXECUTIVE SESSION FOR THE PURPOSE OF DISCUSSING DISCIPLINE-THREE TRUSTEES, FISCAL OFFICER AND DAVID RIEPENHOFF ATTORNEY TO ATTEND- 10:34 P.M.

Motion: O'Brien
Second: Bullard
Vote: D'Amico yes, O'Brien yes and Bullard yes

RESOLUTION 19-07-11 MOTION TO RETURN TO REGULAR SESSION AT 11:30 P.M.

Motion: O'Brien
Second: Bullard
Vote: Bullard yes, O'Brien yes and D'Amico yes

O'Brien "We met in executive session and no decisions or actions were taken."

Snow Plow Contract – Bullard said they received a quote from StewCare for \$80 an hour to help with the snowplowing this year. They were a big help last year and he thinks we should do it.

RESOLUTION 19-07-12 APPROVE JUNE 15, 2019 PROPOSAL FROM STEWCARE LAWN CARE & SNOW REMOVAL, FOR SNOW REMOVAL WITH ICE CONTROL, AT \$80 AN HOUR

Motion: D'Amico
Second: Bullard
Vote: Bullard yes, O'Brien yes and D'Amico yes

Fire Department – Requisitions – Pichert said the indemnity clause was removed.

RESOLUTION 19-07-13 APPROVE \$5,242.80 TO ACCENT COMMUNICATIONS SERVICES INC FOR INSTALLATION OF NEW PHONE SYSTEM AT FIRE HOUSE AND ONE YEAR MONTHLY SERVICE

Motion: O'Brien
Second: Bullard
Vote: O'Brien yes, Bullard yes and D'Amico yes

Road Department – Requisitions –

RESOLUTION 19-07-14 APPROVE \$12,000 TO TIMBERLAND TREE COMPANY LLC FOR REMOVAL OF DEAD & DANGEROUS TREES IN BERLIN TOWNSHIP ROAD RIGHT-OF-WAYS

Motion: D'Amico
Second: Bullard
Vote: O'Brien yes, D'Amico yes and Bullard yes

Trustee Items – O'Brien said he went to the Third Thursday's meeting and it was good to talk to other people about what is going on in the area.

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Zoning Department –

Monthly Zoning Report – Bullard said we were half way to a hundred new homes this year.

O'Brien said when the plans for The Pines were approved, a third of the homes had to be side load garages and there is only one. Bullard said he spoke with the zoning inspector and suggested that he talk to the contractor. O'Brien said he would like to see it on the permit. O'Brien said contractors are not providing foundation certificates and they are not supposed to build until they have so how are you supposed to stop them from building. D'Amico said he used to do a stop work order. D'Amico said we can make a phone call to the builder stating that we are not going to issue anymore permits until they do.

Late Items –

RESOLUTION 19-07-15 APPROVE HIRING LARRY HARMON AS BZA ALTERNATE ONE WITH TERM ENDING MARCH 31, 2020 EFFECTIVE IMMEDIATELY AT ZONING BOARD RATE OF PAY

Motion: Bullard
Second: D'Amico
Vote: D'Amico yes, O'Brien yes and Bullard yes

Bullard said they have received more and more requests for Children at Play signs in neighborhoods. He said they are not expensive and make people happy and they are placed in the yard of the person requesting them. O'Brien said they should only be put up if the road supervisor and the road liaison agree.

RESOLUTION 19-07-16 APPROVE WITH UNANIMOUS CONSENT THE ROAD LIAISON HAS AUTHORITY TO WORK WITH THE ROAD SUPERVISOR TO PLACE CHILDREN AT PLAY SIGNS

Motion: O'Brien
Second: Bullard
Vote: D'Amico yes, O'Brien yes and Bullard yes

RESOLUTION 19-07-17 APPROVE \$174.00 TO DELAWARE COUNTY CLERK OF COURTS FOR COURT COSTS ASSOCIATED WITH RCD ZONING CASE

Motion: Bullard
Second: O'Brien
Vote: Bullard yes, O'Brien yes and D'Amico yes

Smith said the doors have been painted in the township hall and she was asked about replacing the men and women's restroom signs with just restroom signs. O'Brien said he wants to keep it men's and women's.

Future Meetings -

8/12/19 Fall Roads Meeting & Trustee Meeting 9/23/19 Trustee Meeting
9/9/19 Trustee Meeting 10/14/19 Trustee Meeting

RESOLUTION 19-07-18 MOTION TO ADJOURN

Motion: Bullard
Second: O'Brien
Vote: Bullard yes, O'Brien yes and D'Amico yes

Meeting adjourned by Chairman O'Brien at 12:.04 P.M.

Ken O'Brien, Trustee

ATTEST:

Tom D'Amico, Trustee

BERLIN TOWNSHIP TRUSTEES

6:00 p.m.

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Claudia Smith, Fiscal Officer

Ron Bullard, Trustee