

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, JULY 23, 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**

4  
5 The meeting was called to order by Toni Korleski at 7:00 PM.

6  
7 Resident Christina Dew led meeting attendees in the pledge of allegiance.

8  
9 BZC members present: Chairman Toni Korleski, Vice-Chairman Jerry Valentine, Darcy  
10 Kaplan, Mike Bardash, BZC member Martin Johnson,

11 Also present: Steve Flaherty, 1<sup>st</sup> BZC alternate member; Ray Armstrong, 2<sup>nd</sup> BZC  
12 alternate member; Zoning Inspector David Loveless; Zoning Clerk Lisa Knapp; Zoning  
13 Secretary Cathy Rippel.

14  
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 as a regular meeting for 2019, and this  
18 hearing was originally heard on 4/19/19 and tabled several times including to this  
19 evening.

20 **AGENDA ITEM: APPROVAL OF MINUTES**

21 Mr. Valentine made a motion to approve the minutes from the July 9, 2019 BZC meeting  
22 as presented. Ms. Kaplan seconded the motion.

23 Vote: Valentine, yes; Kaplan, yes; Johnson, abstain; Bardash, yes; Korleski, yes.

24 Motion carried. Minutes approved.

25  
26 **Agenda Item: Introduction of Meeting Attendees**

- 27
- 28 • Christina Dew, 553 Shanahan Road
  - 29 • Michael Dew, 553 Shanahan Road
  - 30 • Andrew Norheim, 815 Shanahan Road
  - 31 • Katie Norheim, 815 Shanahan Road
  - 32 • Joe Korleski, 3584 Greenville Drive
  - 33 • Bob Grtn, 1241 Peachblow Road
  - 34 • Sue Fitzpatrick, 585 Shanahan Road
  - 35 • Clyde Fitzpatrick, 585 Shanahan Road
  - 36 • Bruce Runyon, Powell, of Fanning Howey
  - 37 • Jeff Gordon, Director of Business Management and Facilities for Olentangy  
38 Schools
  - 39 • Larry Harmon, 3931 Africa Road
  - 40 • Jim Dietz, 175 S. Sandusky Street
  - 41 • Joe Thomas, with Metro Development
  - 42 • Todd Faris, with Faris Planning and Design, 243 North Fifth Street

43 **AGENDA ITEM: BZC 19-001 & 19-002 PEACHBLOW LAND LLC,**  
44 **KENNY ASSET MANAGEMENT LLC, TRIANGLE PROPERTIES INC.**

45 *BZC 19-001 (formerly BZC 17-007), filed by Peachblow Land LLC, Kenny Asset*  
46 *Management LLC, Triangle Properties Inc., 470 Olde Worthington Road, Suite 101,*  
47 *Westerville, OH 43082. The applicants are requesting approval of a preliminary*  
48 *development plan known as Berlin Meadows, Parcel's #418-330-01-016-000; 418-*

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49 330-01-014-000; & 418-330-01-094-000; from Farm Residential District (FR-1) to R-3  
50 with a Planned Residential District Overlay (R-3/PRD) 183.81+ acres, 1162 Peachblow  
51 Road, 0 Peachblow Road, & 663 Shanahan Road, Lewis Center, OH 43035

52  
53  
54 BZC 19-002, filed by Peachblow Land // LLC, & Kenny Asset Management LLC, 470  
55 Olde Worthington Road, Suite 101, Westerville, OH 43082. The applicants are  
56 requesting approval of a preliminary development plan known as Berlin Meadows,  
57 parcels #418-330-01-016-000; 418-330-01-014-000; from Farm Residential District  
58 (FR-1) to Planned Commercial and Office District (PCD) & 418-330-01-017-000; from  
59 Planned Industrial District (PID) to Planned Commercial and Office District (PCD)  
60 20.85 + acres, 1162 Peachblow Road, O Peachblow Road, & 663 Shanahan Road, Lewis  
61 Center, OH 43035.

62  
63 Ms. Korleski asked whether the applicant would be addressing BZC 19-001. Mr. Faris  
64 asked whether that was the PCD or the PRD. Ms. Korleski said she thought it was the  
65 PRD. Mr. Faris said he would address both. He said it has been a while since he has been  
66 here.

67  
68 Mr. Faris said he would review the history of this project and he displayed a rendering.  
69 He said the property is 170-180 acres located between Peachblow and Shanahan Roads.  
70 He reviewed the surrounding properties.

71  
72 Mr. Faris said North Farms in Orange Township was approved at 2 units per gross acre.  
73 Evans Farm, which borders the subject property to the east, was approved at 2.2 dwelling  
74 units per gross acre. The Greenery condos were approved at 3.23 dwelling units per  
75 gross acre. Arlington Builders to the north in the City of Delaware was approved at 2.61  
76 units per gross acre, and Belmont was approved at 2.15 dwelling units per gross acre.  
77 Mr. Faris said the new proposal for the subject property is 1.89 dwelling units per gross  
78 acre. He said that is below everything in the area and he would show some changes that  
79 have been made to the plan.

80  
81 Mr. Faris said recently there have been resolutions to some issues. North Road is  
82 planned to be extended through this site as well as through the Evans Farm site and will  
83 continue up to the Arlington Builders property.

84  
85 Mr. Faris said there has been some discussions and agreements between Delaware  
86 County, Evans Farm and Berlin Meadows regarding that road alignment and how it will  
87 be built and funded, which will slightly change everything that the applicant already  
88 submitted. He said he is not requesting a vote at this meeting, but is simply requesting  
89 comments, because the plans are still being updated.

90  
91 Mr. Faris said in the planned residential portion of the property, which had been prior  
92 submitted, big changes had been made. He said the location of the roadway, the ponds,  
93 the buffering and paths needed to be determined as there were concerns expressed by the  
94 existing residents. He had revised the plan in order to help address the concerns of the  
95 residents.

96  
97 Mr. Faris said the divergence that had been requested from the 50' perimeter building  
98 setback had been eliminated, which resulted in the loss of some lots. Regarding the  
99 comments that the lots were too homogenous with 6' side yards, 1/3 of the lots now had  
100 10' side yard setbacks. There were 120 lots that are 56' wide with 6' side yard setbacks,  
101 and 127 lots that were 62' wide with 6' side yard setbacks, and 115 lots with 10' side  
102 yard setbacks.

103  
104 Mr. Faris said with all those changes, the lot count came down from 384 to 362, so the  
105 net density was 1.98 units/acre, and the gross density was 2.52 dwelling units per acre.  
106 However, those figures are no longer valid as of 2 days ago.

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107 Mr. Faris said it appears as though the North Road property will go through the Berlin  
108 Meadows property for a portion, curve over to be on Evans Farm for a portion of their  
109 property, then come down and tie in to the existing North Road. That way the cost of the  
110 roadway is shared equally among everybody.

111  
112 Mr. Faris said the North Road changes reduce the acreage of the PRD by about an acre.  
113 It also realigns the entry from North Road. The school will get more property as well.

114  
115 Mr. Faris said the net density is now 1.89 units/acre, and the gross density is now 2.4  
116 dwelling units per acre.

117  
118 Mr. Faris said the revised plan has 41 fewer lots since the beginning of the year. When  
119 he first came to the BZC in 2017, there were 425 lots.

120  
121 Mr. Faris noted that the changes in density will affect the planned commercial district as  
122 well. He said he has submitted several iterations of it. Part of the property is currently  
123 zoned planned industrial district and there has been a lot of heartache regarding whether  
124 it should be rezoned or not. The final decision is that it needs to remain planned  
125 industrial.

126  
127 Mr. Faris said a divergence was not added but he has requested different setbacks of 25'  
128 for buildings in the planned industrial area. There appears to be a 0' setback for parking  
129 so he will check that. Ms. Korleski asked which parcel he eliminated. Mr. Faris said the  
130 Myers parcel number was eliminated. Ms. Korleski asked what the parcel number was.  
131 Mr. Faris said he did not know and he would have to check the auditor's website.

132  
133 Mr. Valentine asked whether it was zoned planned industrial now. Mr. Faris said that is  
134 correct. Mr. Valentine asked whether it was 20.85 acres. Ms. Korleski said it was 15.7  
135 acres. Mr. Valentine said it was 20.85 acres and it changed to 15.7 acres in the latest  
136 version. Mr. Faris said that is the portion that was removed from the plan.

137  
138 Mr. Faris said one divergence remains for the PCD which is to replace the required 6'  
139 mounding/hedging with 3' tall headlight screening, so that the buildings can be seen for  
140 business purposes. Everything conforms and the only change is in the setback to the  
141 west because it is planned industrial, not residential.

142  
143 Ms. Korleski said the applicant has also requested that the preliminary development time  
144 frame be extended from one year to five years. Mr. Faris said that is still in there, but he  
145 added that he will come back every year to the BZC to provide an update. Ms. Korleski  
146 said there are two divergences in the plan.

147  
148 Mr. Faris said it took 6 months due to the North Road extension.

149  
150 Mr. Thomas said the applicant has had multiple discussions with multiple partners that  
151 were involved with the development of North Road, which originally was on the  
152 northern half of this community. There were many discussions between the county  
153 engineer's office regarding shared costs and shared benefits, and the process took a long  
154 time. He also had discussions with Evans Farm and the City of Delaware.

155  
156 Mr. Thomas said there were discussions at the last BZC hearing regarding how the  
157 impact between the subject development and Evans Farm could be lessened so North  
158 Road could be extended. Those discussions involved the county engineer's office, the  
159 county commissioners' office, and the county administrator's office. He will be  
160 developing the sewer which will be on the north side of Shanahan Road, on the east side  
161 of Route 23.

162

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163 Mr. Thomas said he will be connecting the sewer that will go across Berlin Township to  
164 the subject development and into Evans Farm, which will ultimately be a tributary area.  
165 There is just over 100 acres of commercial development on Route 23, and that balances  
166 out the residential areas including Evans Farm, the subject development, and The  
167 Greenery and the trailer park. The sewer connection is a very high priority.  
168

169 Mr. Thomas said as part of the bigger picture, he has agreed to build the trunk sewer  
170 across the ground north of Shanahan Road to the subject property and onto Evans Farm.  
171 He will develop plans immediately for North Road construction, which will take it from  
172 the north side to the south side going from Peachblow Road to Shanahan Road, and there  
173 will be cost sharing between the county engineer, the applicant, and Evans Farm.  
174

175 Mr. Thomas said the subject property's portion of the sewer work got a bit bigger with  
176 an additional 600' and increased costs, and the Evans Farm portion went down 600'. It  
177 becomes a timing issue due to the connection with Olentangy schools, who wants to get  
178 the elementary site online as quickly as possible. They need the roadway installed, and  
179 there is a commitment from the county to get construction and plans started immediately  
180 so that construction will be done by around October 1, 2020. Within that same time  
181 frame, construction will start on the sewer trunk line and that would be done around the  
182 same time frame. The elementary school would open in fall 2021, in advance of the  
183 population growth in this area.  
184

185 Mr. Thomas said the value of the land the applicant is donating to the school is around  
186 \$1.1 million. The infrastructure cost for the single family development is around \$27  
187 million, offsite sewer cost is \$2 million, the North Road contribution is \$2.2 million,  
188 over \$2.8 million for sewer taps in the area, \$1.7 million for water taps, and vertical  
189 construction costs of \$82 million. For the residential aspect of this community, the total  
190 construction investment is estimated at \$119,621,900.  
191

192 Mr. Thomas said the development cost of the commercial aspect is around \$6.5 million,  
193 vertical construction is \$31 million, sewer taps will be \$215,000, water taps will be  
194 \$130,000, and the total construction investment for the commercial area is estimated at  
195 \$38 million.  
196

197 Ms. Korleski asked which plan he was following. Mr. Thomas said it was the one with  
198 less density. He said that was due to the North Road alignment.  
199

Commission Consideration

200  
201  
202 Ms. Kaplan said because the applicant is not asking for a vote, she assumed the BZC will  
203 receive a plan with these details in it, and she asked for a timeline. Mr. Faris said it  
204 should be soon.  
205

206 Ms. Kaplan said the applicant has shown the gross densities of the surrounding  
207 developments, but not the net densities. This makes it hard to compare "apples to  
208 apples". She asked whether he knew the net densities. Mr. Faris said he could probably  
209 put that information on the revised plans.  
210

211 Ms. Kaplan said the applicant is donating some land for the school so the acreage remains  
212 the same, but that creates overall smaller lots because the density calculation includes the  
213 school land as part of the required open space calculation.  
214

215 Mr. Thomas said that was correct. He noted that the balance of it keeps moving due to  
216 the North Road alignment. The difficulty is that he owns 184 acres. 15% is immediately  
217 removed for the net developable acreage, and the easements are also removed. When  
218 this process was started, there were around 6 acres of easements coming out of the gross  
219 acreage, and now there are 11 acres.

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220 Mr. Faris said they learned at the beginning of the year that 150' was needed for the road  
221 relocation, not 100'

222

223 Mr. Faris said he can take his best shot but the difficult one will be Evans Farm because  
224 they did not zone it that way and they flat out said the density was 2.2 units/acre. He  
225 said he can guess using the .85 calculation but that does not include the easements.

226

227 Ms. Kaplan said R-3 is 1.85 units/net developable acre and that is always a big concern  
228 for the BZC. Mr. Thomas said there are tradeoffs, including that they are donating the  
229 land for the school. He wanted to add the commercial aspect to it not only due to the  
230 access to the retail and other items, but it is also a good opportunity for the township to  
231 get some revenue via a JEDD as well as a TIF. He did not want to remove the revenue  
232 opportunities. He said the TIF alone could raise \$1.6-1.8 million.

233

234 Mr. Thomas said in addition to the school and commercial property, he also looked at the  
235 types of internal aspects could be added to the development, which now includes the  
236 large community center and pool area. Mr. Faris noted there is around 46% open space.  
237 Mr. Thomas said he tried to put an amenity package in each area of open space for the  
238 residents. Many of the items such as the parks, benches, and miles of trails aren't limited  
239 to just residents of this neighborhood and they will have public access.

240

241 Mr. Thomas said he tried to directly correlate the additional density with some of the  
242 amenities that were added to the plan.

243 Ms. Kaplan said she really likes what the applicant is doing with the commercial piece  
244 and how it is sculpted around North Road.

245

246 Mr. Valentine said the applicant mentioned Arlington Builders in the city of Delaware is  
247 at 2.61 units/acre. Mr. Faris said that was gross density. Mr. Valentine said a major  
248 concern at the last hearing was the side load garages, and he asked whether a defined  
249 percentage has been created that would be side load garages. The applicants responded  
250 that they had not.

251

252 Mr. Valentine said in Evans Farm, the garages don't face the street. In the subject  
253 application, he sees 300 houses with open garages and he does not like the look of that. It  
254 does not fit with the developments around it.

255

256 Ms. Korleski asked whether all of the NAICS codes included in the application were  
257 necessary. Mr. Faris asked her to tell him which ones she did not want in there. Ms.  
258 Korleski asked whether 444 Building materials, heavy equipment, etc. should be  
259 removed. Mr. Faris said that could be a Home Depot or a Zettler Hardware. Ms.  
260 Korleski said she didn't want that.

261

262 Ms. Korleski asked about 452 General Merchandise and asked whether that was like a  
263 Wal-Mart. Mr. Faris said that was a very inclusive code and that Ms. Korleski probably  
264 did not want to remove that because it is general merchandise and could comprise 90%  
265 of the PCD area. For example, it could be a Hallmark shop.

266

267 Ms. Korleski asked about NAICS codes 621491-713940. Mr. Faris said that could  
268 include HMO medical centers, kidney dialyses, ambulatory, or surgery or medical  
269 center. He asked if she did not want any medical uses there. Ms. Korleski asked whether  
270 a hospital would be located there. Mr. Faris said "no" but that it could be an urgent care.  
271 Mr. Loveless noted that urgent care facilities can be smaller than a Subway restaurant.

272

273 Mr. Thomas said he has had a lot of interest from medical uses including some large  
274 ones. There is a substantial need for ground in this area for medical uses that include  
275 many aspects of care. If that is eliminated, it would eliminate many potential uses. He  
276 said he is not looking to do a plasma donation center.

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277 Mr. Faris stated that exclusions to these items could be added. For example, code 444;  
278 does he really want to exclude garden centers and building materials, or is the objection  
279 to the outside storage of such items? If so, a restriction could be placed to prohibit  
280 outdoor storage. He said Zettler Hardware is a really nice place. Ms. Korleski asked  
281 him to tighten up the language and uses.

282

283 Ms. Korleski asked whether the commercial sites were all freestanding. Mr. Faris said  
284 they were. Ms. Korleski said they have space on each side and she asked whether there  
285 would be roads to get to each one of the units. Mr. Faris said that was correct. Mr.  
286 Thomas said there would be shared access with multiple users using internal private  
287 roads that will have access agreements, etc. Ms. Korleski asked whether it would not be  
288 a strip center. Mr. Faris said that may be in the rear but they would also have front  
289 access.

290

291 Mr. Johnson asked whether the intent would be to put the applicant's portion of North  
292 Road in the north area first. Mr. Thomas said the timing is to build it all at once. Mr.  
293 Johnson asked whether Evans Farm would build their portion at the same time. Mr.  
294 Thomas said the county will build it all and the developers will be contributing funding  
295 for it. It will start at Peachblow Road and go south. Mr. Johnson said he wanted to  
296 make sure part of the road was not built first, with the rest to be built later. Mr. Thomas  
297 said the road is to be built all at once, with perhaps seasonal phases.

298

299 Mr. Johnson asked whether it is correct that the plan is not pen to paper. Mr. Thomas  
300 said they want to start the engineering process this week or early next week. Mr.  
301 Johnson asked whether Evans Farm was signed up, etc. Mr. Thomas said Evans Farm  
302 still has to agree to the terms, but they are nearly there.

303

304 Ms. Korleski asked whether the road would be built and the developers will contribute  
305 later. Mr. Thomas said they would fund it as it goes; it will be a draw process with the  
306 county submitting invoices to him for payment. Ms. Korleski asked whether the road  
307 progress could stop because a developer didn't pay. Mr. Thomas said there will be  
308 bonding in effect for their portion of the money.

309

310 Mr. Johnson said the intent at the prior meetings was that the school would be built as  
311 soon as possible. However, the applicant was planning on phase 1 being at the southern  
312 entrance. There had been concerns about elementary children walking through a  
313 construction zone for 3-5 years and there were conversations regarding revisiting the  
314 phasing process. Mr. Thomas said he would get the answers to that, and that it comes  
315 down to construction levels of the school.

316

317 Ms. Korleski said the applicant is planning to contribute land for the school. Mr.  
318 Thomas said that was correct. Ms. Korleski asked what the time frame was for that. Mr.  
319 Thomas said it was as soon as possible. Mr. Gordon said assuming the school board was  
320 on board with putting the issue on the ballot and it passed, construction would start with  
321 the anticipation of having it ready to open for the 2020-2021 school year.

322

323 Mr. Johnson said he understands there is huge financial pressure due to the sewer, the  
324 power line easements, etc. but he asked the applicant to look at larger side and front yard  
325 setbacks and a higher percentage of them being larger in order to try to get closer to the  
326 requirements of the zoning resolution. The BZC does not care what the surrounding  
327 communities have allowed; they would like to find some alignment with Berlin  
328 Township's requirements.

329

330 Mr. Bardash said he has the same concerns about the lot sizes. Mr. Bardash said  
331 superintendent Mark Raiff had commented at a prior BZC meeting that children will be  
332 bussed until the construction has been complete.

333

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334 Mr. Bardash said the reduced side yards with front load garages are a big concern for the  
335 BZC. He asked that something be changed such as including courtyards, etc. He said the  
336 applicant is doing a good job of getting this closer to the zoning resolution's  
337 requirements. He likes the commercial aspect of the project and also that the applicant is  
338 concerned with the existing neighbors. He is looking forward to getting a new revised  
339 application.

340

341 Mr. Loveless asked whether the narrowest perimeter buffer space was where North Road  
342 leaves the subject property and extends onto Evans Farm. He asked whether there was  
343 enough room to buffer so those homes are not visible and so they do not get the  
344 headlights from oncoming traffic. Mr. Thomas said he could ensure that.

345

346 Ms. Korleski said the applicant is working towards a plan that will work but they still  
347 have a long way to go.

348

Public Comment

349

350 Michael Dew, 553 Shanahan, asked whether dialogue has been had with AEP regarding  
351 whether they can service this development. Mr. Thomas said they will have to move  
352 power poles and pay contributions to bring the power to the site and also to install the  
353 power. That is all part of the process, and includes other utilities such as Columbia Gas.

354

355 Mr. Dew stated that he has lost power quite a bit at his home and he suspects  
356 developments are being built faster than AEP can service them.

357

358 Larry Harmon, 3931 Africa Road, asked how Evans Farm will get sewer if this project is  
359 not approved. Mr. Thomas said they would need to find another avenue to get it. Mr.  
360 Harmon asked whether that had been included in the Evans Farm application. Ms.  
361 Korleski said the sewer was coming up a different way. Mr. Harmon asked whether this  
362 was more cost efficient for them. Mr. Thomas said the county's concern is the lack of  
363 capacity that is currently there, as there is not enough to service the entire area. The  
364 county is making a large investment into the sewer area, at the intersection of  
365 Hyatt/Shanahan Roads and Route 23. A regional lift station will be installed there and it  
366 will be pumped down Hyatts Road into a gravity feed.

367

368 Mr. Thomas said they are trying to not only develop the sewer for the single family  
369 homes but also for Route 23 where there is no sewer at all north of Olentangy Crossings.  
370 He discussed various temporary solutions. Mr. Harmon said the developer is making  
371 contributions to the sewer and school projects.

371

372 Christina Dew, 553 Shanahan Road, asked where the sewage lines run in, and Mr.  
373 Thomas pointed them out on the map.

374

375 Sue Fitzpatrick, 585 Shanahan Road, asked about Shanahan Road, which she was told  
376 would be widened to the south in the Orange Township portion, and she asked why the  
377 sewer couldn't come up that way. Mr. Thomas said the area in which the sewer  
378 easement was necessary would impact this development's foundations due to their size  
379 and depth. There are also existing gas lines as well as large existing overhead power  
380 line. Sewer lines are usually around 25' wide, but the construction requires around 200'.

381

382 Mr. Armstrong said the applicant needs to discuss the development's densities in net  
383 developable acres because that's what the township uses.

384

385 Ms. Korleski asked that the divergences be put right on the development plan when the  
386 applicant revises it.

387

388 Mr. Thomas asked that the application be tabled and continued. Ms. Rippel asked that  
389 the revised plans be submitted to her no later than 8/21/19.

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390  
391

**RESOLUTION 2019.07.23 #A: MOTION TO TABLE AND CONTINUE  
BZC 19-001 & 19-002 TO 9/10/19**

392 Mr. Johnson made a motion to table and continue until 9/10/19. Mr. Bardash seconded  
393 the motion.  
394 Vote: Johnson, yes; Bardash, yes; Valentine, yes; Kaplan, yes; Korleski, yes.  
395  
396 There was a brief recess.  
397 Meeting was returned to session.

398

**AGENDA ITEM: ANY OTHER BUSINESS BEFORE THE BZC**

399

Informal Discussion Regarding Property in Old Cheshire

400 Jim Dietz, 175 S. Sandusky Street, said he works with Mary Lou Gott. He said that 16-  
401 17 years ago they requested a variance for a storage building for a catering business on  
402 Fourth Street in the Old Cheshire area. He said the BZC has a rendering of the property  
403 and he said the lot shown as a yellow rectangle and the two lots to the east are owned by  
404 Ms. Gott. She wants to build an additional storage facility to house one of her catering  
405 trucks and the trailers that she uses for her business.  
406 Mr. Dietz said Ms. Gott wants to match up the front of the new storage building with the  
407 front of the building she built previously. A question that came up when discussing with  
408 Mr. Loveless is that this is in the Old Cheshire Planned Unit Development District. The  
409 rear setback could potentially be an issue depending on how the code is interpreted. The  
410 code says if there is a dwelling, there must be a 30' setback from the rear. However, this  
411 is a storage building for a business, and accessory buildings have a 15' setback.

412

413 Mr. Dietz said he did not think this was an accessory building for a dwelling, which is  
414 how accessory was defined. There would be a 16.75' setback so the new building would  
415 be in line with the existing building. He believes it will meet the requirements, in  
416 looking at the PUD for the overlay, but Mr. Loveless thought it may be best to let  
417 everybody know what they are planning and to make sure everybody is on the same  
418 page. It appears looking at the code that there are no setbacks that would address this  
419 particular use.

420

421 Ms. Korleski had a question about the building. Mr. Dietz said Ms. Gott owns three lots  
422 and she will be putting a storage building on those lots. He displayed the first one she  
423 had built and said she wants it to match up with the existing building. They would like  
424 to acquire the other building in the future but they do not own it at this point. The  
425 building would be 16.75' from the rear, which meets the code requirements for an  
426 accessory building if this is deemed an accessory building, but it is really not, because  
427 the main building is not a dwelling.

428

429 Mr. Bardash asked whether there was a residential building on the far side. Mr. Loveless  
430 said there was. Mr. Bardash said there must be some kind of restriction. Mr. Valentine  
431 said some kind of opaque screening may be helpful on the back because the property  
432 behind it may be residential at some point.

433

434 Mr. Loveless said Finch Lane is farther east and the only thing that backs up behind that  
435 is the property of the lady who owns the pawn shop and who wanted to put a tower in  
436 her property. Mr. Valentine said there is residential in the area and it would be  
437 neighborly to put some kind of a fence back there.

438

439 Mr. Loveless said that is the back of Finch Lane and they do have a fence around it,  
440 although it is dilapidated and falling down. The back of the triangular y-shaped  
441 properties off Finch Lane have some small mounds and vegetation and screening. Mr.  
442 Valentine said if the vegetation matures, he would not have a problem with that kind of  
443 building in that area.



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444 Mr. Johnson asked whether Ms. Gott wants to construct a building that sits on all three  
445 of those lots. Mr. Dietz said the building would be on all three.

446  
447 Mr. Armstrong said this is OCPUD; it is currently residential with a commercial cloud  
448 that can be pulled down. A hearing will be required to pull down the zoning cloud and it  
449 would have to fit within the allowed NAICS codes. He said Mr. Dietz is correct that  
450 because the back yard setbacks are not mentioned, they will be per plan as approved by  
451 the BZC. Because the building will be built across property lines, the owner must be  
452 combining them on the tax duplicate or doing a lot combine. Otherwise, it could create  
453 problems for title insurance, etc.

454  
455 Mr. Loveless said the east side of the property abuts a residential lot so a setback and  
456 buffering will be required. Mr. Dietz said he would like to have more guidance than just  
457 “per plan”. Mr. Flaherty said the buffer is there but the setback will be decided per plan.  
458 Mr. Valentine said the landscaping will be key to this as well.

459  
460 Special Meeting Discussion  
461 Ms. Korleski said she spoke with trustee Ron Bullard regarding a meeting at Gracepoint  
462 Church or Berlin High School. He asked for dates for a special meeting. She suggested  
463 dates 5 weeks from now so Trustee Bullard can coordinate the date and then Ms. Rippel  
464 will have 4 weeks to send out the public notifications.

465  
466 After discussion, the date of September 4, 2019 was decided upon.

467 **AGENDA ITEM: DISCUSSION REGARDING TWO POSSIBLE ADDITIONS TO**  
468 **ARTICLE 24 GENERAL DEVELOPMENT PLAN**

469 Ms. Korleski said there are two new requirements that the trustees want to put in the  
470 general development plan. Specifically, the lake at Old Harbor is referenced because it  
471 looks terrible and is not cared for. Trustee Bullard has suggested adding as a  
472 requirement in the general development plan section of the zoning resolution that  
473 amenities for a development must be completed when a certain percentage of homes  
474 have been completed.

475  
476 Ms. Korleski said also requested is a foundation certificate to be approved by the zoning  
477 inspector prior to construction. Ms. Rippel said that is already in the zoning resolution.  
478 Mr. Armstrong said the foundation certificate and survey is supposed to be done prior to  
479 building anything. Mr. Loveless said builders do not always comply. He said he would  
480 print out a copy of the rules and include it with the zoning permit package so builders are  
481 aware of the requirements.

482  
483 Ms. Rippel said the new application form indicates the builders are required to provide  
484 the foundation information as well as an as-built survey, and they sign that. Mr. Johnson  
485 said it appears that it is already in the code in some form and it seems to be a compliance  
486 issue. He asked what the township’s recourse is if it finds homes that have been built but  
487 the builder did not obtain foundation certificates on any of them. He asked whether the  
488 township is able to levy fines or place a lien on the property.

489  
490 Mr. Armstrong said the township needs to stay on top of the issue. When he was zoning  
491 inspector, he put a red stop order tag on properties that did not comply, which prevents  
492 all contractors from working on the property. Then he called code compliance and made  
493 them aware that the property has been tagged and why. That will put a stop to  
494 everything.

495  
496 Ms. Rippel said she contacted code compliance and they said they could not help. Mr.  
497 Armstrong asked whether a red stop order tag was placed on the property. Mr. Loveless

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498 said he did not. Mr. Armstrong said that was the issue. A red tag stop order means all  
499 work must cease immediately.

500

501 Ms. Kaplan asked whether it was correct that the foundation permit was done by Berlin  
502 Township but the rest of the permitting process was done by the county. Mr. Johnson  
503 said it was not a permit. Mr. Loveless said the document specifies that the foundation is  
504 where it is supposed to be.

505

506 Mr. Loveless said when the foundation is dug, it is possible to miss the correct location  
507 by a few inches here and there, so when they try to squeeze a big home on a tiny lot they  
508 don't always get it right. When those situations occur, he asks that the foundation is  
509 pinned and resurveyed to make sure it is where it's supposed to be. Mr. Armstrong said  
510 the foundation surveys were started by former BZA chairperson Mike Morrill due to  
511 numerous variance requests for homes that were built over the setback line.

512

513 Ms. Korleski said those are the two items Trustee Bullard would like to see in the  
514 general development standards in the zoning resolution. If desired, such changes could  
515 be initiated by the BZC. Mr. Loveless said if such requirements are put in writing on  
516 the plan, it tends to not be overlooked.

517

518 Ms. Korleski said Trustee Bullard suggested that the amenities are to be built at a certain  
519 percentage of housing starts, but he did not specify what percentage. There was a  
520 discussion. Ms. Rippel said for example, the pond was installed in the development right  
521 behind her house but there are no fountains. Somebody put many fish in there recently  
522 and they all died, and it has created a red tide with an unbelievable stench.

523

524 Mr. Loveless said specifying a percentage of a phase should work fine. For example,  
525 when 55% of homes have been built in a phase, the amenities should all be built. Mr.  
526 Bardash said that could be years. Mr. Loveless said each subdivision is different. Mr.  
527 Johnson said for example, for the Villas at Old State, the east side will go in first, but all  
528 the amenities are on the west side are being built by a completely different developer.  
529 Mr. Loveless noted that development was already approved prior to the changes being  
530 made. Mr. Johnson agreed and said it was just an example scenario regarding the per  
531 phase suggestion.

532

533 Mr. Valentine asked if it complicated things if the township has to verify that for each  
534 phase, and he suggested requiring a percentage of the entire development such as 10%.  
535 Mr. Johnson said if it was done per phase, it would only be applicable to amenities that  
536 are all-inclusive to a particular phase. He asked how it could be described per phase  
537 when amenities are typically shared across phases. The cleanest way seemed to be to  
538 identify some percentage of the total development.

539

540 Mr. Loveless noted that development plans tend to indicate various areas, and it could be  
541 specified that amenities need to be installed when certain areas are developed. Mr.  
542 Flaherty noted that pond control is typically done pretty early in the plan when the water  
543 is being diverted.

544

545 Mr. Johnson asked whether the problem Trustee Bullard is worried about solving is as  
546 much about the timing of amenities, or is in the maintenance of the retention areas.  
547 Perhaps language would be included that indicates that retention areas must be in from  
548 day one.

549

550 Ms. Rippel noted that in Old Harbor, the fountains are just now being installed and the  
551 first phase has been done for two years. There is legal action going on in Phase 2  
552 regarding the developer and the home builder. Ms. Korleski said it involves more than  
553 just retention areas.

554

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555 Mr. Loveless said a difference in Old Harbor which is different than other developments  
556 is that a retention area was designated and many people visualized it as a retention pond.  
557 It is actually a swampy wetland with mosquitos that is not even deep enough to put a  
558 fountain in, and it just collects trash. A retention area is completely different than a  
559 retention pond, and people do not want a wetland area in their backyards.

560  
561 Mr. Loveless said the design showed a retention area although they made it look like it  
562 was a pond.

563  
564 Mr. Armstrong said the requirement could state that amenities including fountains etc.  
565 are put in at various stated percentages of the development. That would include other  
566 amenities such as pools, tot lots, community house, etc.

567  
568 Ms. Kaplan asked whether any other zoning resolutions have a similar requirement that  
569 Berlin Township could consider. Mr. Bardash said he didn't think it would be possible  
570 to create a blanket requirement, because every subdivision is different.

571 Ms. Kaplan said if it is included in the approved plan, it could be enforced.

572  
573 Mr. Valentine said a requirement could be included on the final development plan that  
574 the amenities must be completed once 10% of the homes have been built.

575  
576 Mr. Johnson said another option is to initiate the foundation survey language and put  
577 together a list for the trustees to answer regarding what they want for the amenities  
578 language. Mr. Loveless felt that flexibility is required because each development and  
579 amenities are different. Language that is too restrictive could result in nice amenities not  
580 being proposed by developers.

581  
582 Mr. Johnson asked whether there is any burden/cost/concern regarding initiating the two  
583 changes separately rather than together. Ms. Korleski did not think so. Ms. Rippel said it  
584 would just be in advertising costs for the meeting. Mr. Johnson suggested initiating one  
585 of the items tonight, and tabling and continuing the other. Ms. Korleski said she could  
586 discuss it with the trustees to find out what they really want.

587  
588 Mr. Johnson said it seems that the desire is to prevent one particular issue, but a blanket  
589 solution is being proposed. Mr. Loveless asked about subdivisions such as Sycamore  
590 Trail that have no amenities.

591 **RESOLUTION 2019.07.23 #B: INITIATE THE PROCESS FOR CHANGES**  
592 **TO THE ZONING RESOLUTION**

593 Mr. Johnson made a motion to initiate the process to include a requirement for a  
594 foundation certificate into the general development standards of the zoning resolution,  
595 and to send it to the Delaware County Regional Planning Commission.

596 Mr. Bardash seconded the motion.

597 Vote: Johnson, yes; Bardash, yes; Kaplan, yes; Valentine, yes; Korleski, yes.

598 Motion carried.

599

600 Ms. Korleski said the next BZC meeting will be on Tuesday, 8/13/19 at 7:00 p.m.

601

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

603 Meeting adjourned.

604

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Toni Korleski, Chairperson

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Jerry Valentine, Vice-Chairperson

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Darcy Kaplan, member

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Mike Bardash, member

---

Martin Johnson, member

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Steve Flaherty, 1<sup>st</sup> alternate member

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Ray Armstrong, 2<sup>nd</sup> alternate member

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