

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

TUESDAY, MARCH 28, 2017, 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 Chairperson Toni Korleski at 7:00 PM.

6
7 Linda Heid led meeting attendees in the pledge of allegiance.

8
9 BZC present: Toni Korleski, Jerry Valentine, Steve Spangler, Ken O'Brien, Mike Bardash
10 (1st alternate member, seated).

11 Also present: Zoning Clerk Lisa Knapp; Zoning Inspector Chet Heid; Zoning Secretary
12 Cathy Rippel.

13 Not present: BZC member Darcy Kaplan, BZC 2nd alternate Martin Johnson.
14

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

18 **AGENDA ITEM: LEGAL NOTICE**

19
20 Ms. Knapp said the meeting was advertised in the 3/14/17 Delaware Gazette as follows:
21

22 *Berlin Township Zoning Commission Notice of Public Meeting*

23
24 *The Berlin Township Zoning Commission will hold a meeting for the purpose of public*
25 *hearing March 28, 2017 at 7:00 p.m. at the Berlin Township Hall located at 3271*
26 *Cheshire Road, Delaware, OH 43015 in order to consider an application to amend the*
27 *Berlin Zoning Resolution, designated as BZC 17-005, filed by John C. Wicks, 110 Polaris*
28 *Pkwy, Ste. 303, Westerville, OH 43082. The applicant is requesting approval of a*
29 *preliminary development plan known as Berlin Manor, Parcel's #41831001031000;*
30 *41831001029000; 41831001028000; 41831001024000; 41831001014000 &*
31 *41831001011000 from Farm Residential District (FR-1) to R-2 with a Planned*
32 *Residential District Overlay (R-2/PRD) 89.02 ± acres, 0 Cheshire Road, Delaware,*
33 *OH 43015.*
34

35 *The text and map of this application will be available for public examination, excluding*
36 *legal holidays; March 3 – March 14, 2017, Monday-Friday from 8:00 a.m. to 4:30 p.m. at*
37 *the Berlin Township Zoning Office located at 3271 Cheshire Rd., Delaware, OH*
38 *43015. Also, you can find the text and map on the Berlin Township*
39 *website www.berlintwp.us. After the conclusion of the hearing, the matter will be*
40 *submitted to the Board of Township Trustees for its action. Questions concerning this*
41 *matter should be directed to Ray Armstrong, Interim Zoning Inspector at 740-369-*
42 *7261. The person responsible for giving notice of the public hearing by publication is*
43 *Cathy Rippel. Township residents are encouraged to attend.*
44

45 *Toni Korleski, Chairperson*
46 *Berlin Township Zoning Commission*
47

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

- 49
50 ♦ Gary Will, 3351 Cheshire Road
51 ♦ Chet Heid, 3383 Cheshire Road
52 ♦ Linda Heid, 3383 Cheshire Road
53 ♦ Barbara Sherman, 1469 Africa Road
54 ♦ Don Sherman, 1469 Africa Road
55 ♦ Dave Davis, 1950 Lackey Old State Road

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- 56 ♦ Marti Davis, 1950 Lackey Old State Road
- 57 ♦ Steve Eldridge, 2462 Lackey Old State Road
- 58 ♦ Jeff Jordan, 24511 Lackey Old State Road
- 59 ♦ Orlan Foster, 2386 Lackey Old State Road
- 60 ♦ Beverly Sammons, 3001 Cheshire Road
- 61 ♦ Mary Brown, 2925 Cheshire Road
- 62 ♦ Kathleen Betso, 2338 Lackey Old State Road
- 63 ♦ Terry Bullard, 2440 Lackey Old State Road
- 64 ♦ Joe Korleski, 3584 Greenville Road
- 65 ♦ Neil Mattison, 3433 Cheshire Road
- 66 ♦ Dana Mattison, 3433 Cheshire Road
- 67 ♦ Gerre Martin, 73 Somerset Drive, Delaware
- 68 ♦ Brooke Martin, 73 Somerset Drive, Delaware
- 69 ♦ Marilyn Mansell, 2300 Lackey Old State
- 70 ♦ Cathy Rippel, 3061 Cheshire Road
- 71 ♦ Kevin Kershner, 1500 Lakshore Drive, Columbus 43204
- 72 ♦ David Denniston, 422 Beecher Road, Gahanna, 43230
- 73 ♦ John Wicks, 110 Polaris Parkway
- 74 ♦ Todd Faris, with Faris Planning and Design
- 75 ♦ Joe Thomas, with Metro Development
- 76 ♦ John Leskoske, 2782 Red Robin Way

77
78

AGENDA ITEM: APPROVAL OF MINUTES

79
80

81 Mr. O'Brien made a motion to approve the minutes from the 2/14/17 BZC meeting. Mr.
82 Bardash seconded the motion.

83 Vote: O'Brien, yes; Bardash, yes; Valentine, yes; Spangler, abstain; Korleski, yes. Motion
84 carried.

85

86 Mr. O'Brien made a motion to approve the minutes from the 2/28/17 BZC meeting. Mr.
87 Bardash seconded the motion.

88 Vote: O'Brien, yes; Bardash, yes; Spangler, yes; Valentine, yes; Korleski, yes. Motion
89 carried.

90

AGENDA ITEM: BZC # 17-005, BERLIN MANOR

91
92

93 Ray Armstrong served as zoning inspector for this hearing due to Chet Heid's recusal.

94

95 *BZC 17-005, filed by John C. Wicks, 110 Polaris Pkwy, Ste. 303, Westerville, OH 43082.*

96 *The applicant is requesting approval of a preliminary development plan known as Berlin*

97 *Manor, Parcel's #41831001031000; 41831001029000; 41831001028000;*

98 *41831001024000; 41831001011000; 41831001014000 from Farm Residential District*

99 *(FR-1) to R-2 with a Planned Residential District Overlay (R-2/PRD) 89.02 ± acres,*

100 *89.02 ± acres, 0 Cheshire Road, Delaware, OH 43015.*

101

APPLICANT PRESENTATION

102
103

104 John Wicks, 110 Polaris Parkway, presented the application and answered questions from
105 the BZC. Mr. Wicks said he is here to present the Berlin Manor subdivision and he
106 sincerely hopes this can become a hallmark of Berlin Township housing because with all
107 the growth in the area, including the construction of Berlin High School, there will be a
108 lot of building going on. This will be a really nice, quality subdivision with a good

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109 network of connections with some of the surrounding developments that are proposed at
110 this time.

111

112 Mr. Wicks said he came before the BZC informally on 1/24/17 to present two concepts
113 and that led him to this proposal. At that time Concept A was strict adherence to the
114 zoning resolution, with all lots being ½ acre or larger 100' wide at the build line, and 20%
115 open space. Concept B adheres to all zoning code resolution requirements with the
116 exception of lot sizes. Some will be .4 acres instead of .5 acres, and some would be .3
117 acres.

118

119 Mr. Wicks said this divergence allowed him to be more generous with open space and
120 more creative with the layout including putting open spaces against the lots which, at a
121 couple hundred feet wide, will be quite usable. It also allowed the expansion of the open
122 space buffer around the perimeter of the project up against some of the neighboring
123 properties, whose owners he had met with. It also provides more flexibility and additional
124 options for buyers in the area, some of whom do not want large ½-acre lots.

125

126 Mr. Wicks said the feedback he received at the informal meeting made him feel
127 comfortable with this submittal. 38% of the lots meet the ½-acre minimum requirement
128 of the R-2 zoning, 30% are .4 acre, and 31.6% are .3 acre. The .3 acre lots will only be
129 located internally, and he pointed them out on the map. For visual appearance purposes,
130 the lots along the perimeter roads including Cheshire Road and roads that stub into the
131 development, the lots will be the larger lots. Any lot that abuts an existing home will meet
132 the R-2 standard of ½ acre or larger, and he pointed them out on the map.

133

134 Mr. Wicks said in the informal presentation he committed to a couple areas being passive
135 open spaces, meaning they will be allowed to grow and not mowed on a regular basis in
136 order to provide more deterrent for residents intruding upon the existing homes. Those are
137 Reserves A and F, and he pointed them out along the entrance and along the south edge of
138 the open space, and in-between the new development and the existing homes.

139

140 Ms. Korleski asked whether they would be “no mow.” Mr. Wicks said they would be low
141 mow at around 2-3 times per year to prevent the area from becoming completely wild.

142

143 Mr. Wicks said he had committed to meeting with the Lackey Old State neighbors to
144 discuss specific design requirements for the screening on lots 43 & 48, and he has
145 committed to doing that although he has not met with the neighbors yet at this early stage
146 because that is more of a design detail to be discussed during the final development plan
147 later.

148

149 Mr. Wicks said he had committed to fountains in the ponds, specifically for geese and
150 algae control. He also committed to building a walking path to the neighborhood park so
151 there is now pedestrian access from the entrance at Cheshire Road; there will be sidewalks
152 on both sides of the public roads and there will be a 8'-wide path through the open space
153 and connecting to the sidewalks which will connect through the future subdivisions up to
154 the school.

155

156 Mr. Wicks said shown is also a 10' wide path on the north side of Cheshire Road, and that
157 will be built if required. Currently there are no plans to extend it across from the five lots
158 on Cheshire Road and more discussion will be had during the final development plan
159 process.

160

161 Mr. Wicks said he committed to having side load garages on some of the lots and the
162 zoning text indicates that a minimum of 35% of the lots will have side load garages
163 although he suspects there will be more homes with the side load garages. Ms. Korleski
164 asked whether 35% of each of the three phases would have side load garages. Mr. Wicks

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165 said it was overall but side load garages can fit on all lots in the development, but he did
166 not want to force builders and/or buyers to do all side load garages the overall total is
167 35%.

168
169 Ms. Korleski said she did not want all the side load garages on the 100' wide lots, but
170 would want some on the 90' and 95' wide loads. Mr. Wicks said he was not sure how to
171 police that. Mr. Bardash said that could be done per phase. Mr. Wicks said that Phases 1
172 and 2 are all nearly B and C-sized lots. Mr. O'Brien said it has been done by phase in the
173 past.

174
175 Mr. Wicks asked whether he could commit to 20% of the C lots, 30% on the B lots, and
176 50% of the A lots. Mr. O'Brien said it would seem the most variety should be located
177 where more people would see the lots rather than in three. He suggested 35% of each
178 phase. Ms. Korleski said it could be discussed later in the hearing.

179
180 Mr. Wicks said at their 2/23/17 meeting the Delaware County Regional Planning
181 Commission (DCRPC) recommended unanimous approval of this application.

182
183 Mr. Wicks said that since the informal meeting, some changes were made. At that time,
184 he did not have an agreement worked out with the Lewalds on some property to the east
185 of the project, and that was critical for drainage. The pond is partially located on the
186 Bullard property but more importantly it is the outlet getting into the ravine that is there
187 because the elevation there is so much lower than it is here; it will allow the pond to be
188 steadier rather than having to build up a berm because the other elevation was so high.
189 Instead, he was able to sink it into the ground so it looks nicer.

190
191 Mr. Wicks said the Bullard's legal staff advised him that it would be better for him to
192 include all of his property in the zoning application so it was not devalued by making the
193 lots smaller than 5 acre lots. He decided to include all of his property into this
194 development and they will actually be platted lots on the final plat. There will be two
195 plats that will continue to be owned and maintained by the Bullard family and they will be
196 restricted to one family per lot. One lot already has a house on it. There are 95 lots total
197 and those two lots would not be subject to the homeowners association (HOA) but all
198 other lots will. The Bullards will continue to have access to Lackey Old State Road and
199 the other 93 lots will have access to the internal roads.

200
201 Mr. Wicks said when those extra acres were added, the size of the development went from
202 76.4 to 89 acres. Some lots were added, but the density of the project decreased from 1.25
203 to 1.21/units per net development acre. The open space 26.9% in the current plan which
204 exceeds the minimum 20% required, and he proposes the same mix of lots. The two lots
205 will be the large estate lots on Lackey Old State Road; one will contain the existing
206 Mattison house that will be incorporated in the subdivision and that will be subject to the
207 HOA and will have access to the roads.

208
209 Mr. Wicks said that four divergences were discussed, and he has requested those in the
210 application. Two related to setbacks, and two relate to lot sizes. He reviewed the
211 divergences as follows:

- 212 1) A request to reduce the perimeter setback from 50' around the entire development
213 where it abuts a different type of use to a 50' buffer all the way around part of the
214 development where it abuts a different type of use, but in the areas where the
215 development is adjacent to another PRD, it is not a different type of use but is the
216 same type of use. He did not know whether a divergence is required but he is
217 requesting one. The perimeter setbacks would be 35' on some lots as well as all
218 lots in the development that back to each other or open space.

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219 2) There are four lots that have side yards that are adjacent to said developments and
220 he is requesting the same side yard consideration of 12.5', so he is requesting a
221 reduction from 20', which would provide the minimum of 25' between all
222 structures. There will be much more than 25' between homes because the home
223 width is much less than the lot width.

BZC Consideration

224
225

226 Mr. Valentine said the first divergence indicates it is reduced from 50' to 12.5'. Mr.
227 Wicks said that was only on four lots, # 24, 26, 33, and 34. These would be considered
228 the side lot line, and he is requesting that all side yard setbacks be 12.5' minimum.

229

230 Ms. Korleski asked whether the 50' buffer would be on both sides of the cemetery. Mr.
231 Wicks said it was 110' and around 150', and the lots also have their own setbacks within
232 the lot.

233 3) This is a divergence for lot size; the requirement is 21,780 SF, which is ½ acre,
234 and he is requesting .4 acres on up to 35% of the lots, and a divergence from ½
235 acre to .3 acres on up to 35% of the lots. The specific numbers are 30.5% for the
236 B lots, and 31.6% as the plan currently stands; that is less than he is requesting but
237 he wants to plan for any changes which may occur.

238 4) A divergence is requested for the minimum lot width, which is consistent with the
239 surrounding areas. He is requesting a smaller area and a smaller width at the build
240 line. The standards require 100' on the lots that are .4 acres and he is requested a
241 reduction to 95', and the .3 acre lots would be 90' wide. 90' wide lots can
242 accommodate side load garages.

243 Mr. Wicks said the plan indicates three phases, but it may go to four phases because the
244 3rd phase is large. Phase 1 would include the entrance to Cheshire Road, which is shown
245 as being opposite Howard Farms and will include 34 lots which will be a mix of B and C-
246 sized lots. This is the first phase because the existing sewer is located right there; the
247 development will tie into the existing sewer and extend the line in two different directions
248 in order to be able to serve both subdivision sections as well as provide sewer stubs to the
249 five existing neighbors. Mr. Wicks said the plan does not show this, but if the township
250 prefers, the developer would be willing to stub the sewer to the existing Berlin Township
251 Hall.

252

253 Mr. Wicks said Phase 2 contains 21 lots. Generally speaking, once the infrastructure for
254 Phase 1 is built and homes have started construction, when around half of those homes are
255 built the roads will be started for the second phase. At that point, the developer will have
256 a better idea of how the homes are selling. The developer would not want to fall behind
257 and sell out Phase 1 prior to Phase 2 being started because the model home would need to
258 be closed and other details. The same process will follow for Phase 3. Ms. Korleski
259 asked whether Phase 2 has only B and C lots. Mr. Wicks said it has six A lots as well.

260

261 Mr. Wicks said Phase 3 extends from the northwest corner of the cemetery all the way
262 across the project and has only A and B lots. This phase will have 40 lots, two of which
263 are the estate lots on Lackey Old State Road, one of which is the Mattison home. There
264 would be 37 buildable lots.

265

266 Mr. Wicks said for connectivity, there are four stub streets shown on the project which are
267 primarily dictated by applications that came in prior to this. These stub streets include
268 one from Eaststone Crossing to the west, from Eaststone Crossing from the north, and
269 also from the west at the north end. There will also be a stub street to the north to The
270 Pines development.

271

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272 Mr. Wicks said that landscaped mounding will be provided in the areas that are shown in
273 brown in order to provide a buffer for the existing homeowners, as well as along the
274 cemetery and Reserve F on the rear yards of lots 43-48. He pointed out the area where the
275 neighbors live that he will meet with to see where they would like to have trees placed.
276

277 Ms. Korleski asked about the gravel drive that will go back to the cul-de-sac. Mr. Wicks
278 said a 12' wide emergency access drive is shown in the plan if required. Currently, the
279 county engineer has told him it is not required because the length of the cul-de-sacs are
280 just under the threshold and the fire department did not request it. The neighbors
281 probably would not like it and if it is not required, he will probably not build it.
282

283 Mr. O'Brien asked where the beginning of the measurement of the cul-de-sac is. Mr.
284 Wicks said it is at the intersection, and he took 1500' from that intersection to the center
285 of the cul-de-sac bulb, for a measurement of around 1493'.
286

287 There was a discussion between Mr. O'Brien and Mr. Wicks regarding the emergency
288 access.
289

290 Mr. Wicks said the policy is based on the length of the cul-de-sac only, not the absence of
291 through streets. Mr. O'Brien said that is dependent on how the county engineer interprets
292 it.
293

294 Ms. Korleski asked how deep the buffer area was between the cul-de-sac and the three
295 homes that are on the south end of the development. Mr. Wicks said it was 170'. Ms.
296 Korleski asked how far back from the homes he would buffer. Mr. Wicks said there had
297 been discussions regarding mounds against their property lines, but there are problems
298 with that including an existing sewer easement so it made sense to move them out of the
299 area.
300

301 Ms. Korleski asked how far out the buffering would be. Mr. Wicks said it is shown as
302 around 60-70' for the base of the mound and it would increase from there. Ms. Korleski
303 asked whether that could be moved further to the north. Mr. Wicks said "yes" he could
304 do that and that the only consideration is the drainage that comes back through and he
305 needs to ensure it comes back to the catch basin. Ms. Korleski asked whether it could be
306 built so there is 90' between the mound and the north property line. Mr. Wicks said he
307 would commit to 90'.
308

309 Mr. Bardash said he likes the lots in Phase 3 but he is not thrilled with the lots in some of
310 the lots in Phases 1 and 2. In order to make that go away, some lots would need to be
311 removed, but the gain would be additional lots that meet the R-2 designation.
312

313 Mr. Wicks said during the informal review, proposed plan A was shown that met all of the
314 lot size requirements, and that had the same number of lots as this plan. What he did do
315 was provide open space and the ability to buffer the area the way he wanted to. Some of
316 the lots were just 30' to the edge of the easement at that time. He specifically asked the
317 people at the meeting whether they had a preference, and the overwhelming response was
318 that they preferred the mix of lots, which provided some flexibility and benefits the
319 neighbors by providing additional open space and buffer. Mr. Bardash said he agreed
320 with that.
321

322 Mr. Bardash said his biggest concern are ensuring 35% side load garages in the Phase 1
323 for visual aspect purposes. Mr. Wicks said he is willing to commit to that if the side yard
324 variance is approved. Requiring the 20' side yard does not allow the additional 7.5' that a
325 house can be slid to that side to make room for the side load garages, if the 12.5' side yard
326 setback request is approved. Ms. Korleski asked whether he was referring to that on the
327 four lots. Mr. Wicks said he was referring to all of Phase 1. Mr. Wicks said he felt

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328 comfortable with that request because nearly every development in Berlin Township over
329 the past couple of years has been granted that.

330

331 Mr. Valentine asked what the buffering would consist of. Mr. Wicks said he committed
332 verbally to 3-4' tall mounds, because with each vertical foot a mound is increased by, the
333 mound width increases considerably by around 6-7' to maintain the required 3:1 slope. A
334 3-4' high mound with trees is typically what is seen in a development like this with trees
335 planted on top and sometimes on either side of it to provide additional buffering. He said
336 he had talked about putting special grasses on that which can grow densely and provide a
337 very good visual buffer.

338

339 Mr. Valentine asked who the builder would be. Mr. Wicks said he does not have a
340 commitment yet but he does have a long list of builders who want to build here. Mr.
341 Valentine asked whether there would be an HOA. Mr. Wicks said there would be an
342 HOA that would enforce the covenants and restrictions, and it would be controlled by the
343 developer until a certain number of lots has been transferred to owners and at that point
344 the homeowners would control the HOA. Those details would be provided in the final
345 development plan, and that is typically at 60%.

346

347 Ms. Korleski asked whether the Bullard property would complicate that. Mr. Wicks said
348 he does not think it will; he talked with legal counsel on both sides of the issue who stated
349 that because the property is 5 acres or larger it can be considered either mini-farms or
350 estate lots. Ms. Korleski said she looked up the definition of "estate lot" in the dictionary
351 because it is not in the zoning resolution, and the definition is simply just a homeowners
352 piece of property with none of the other details mentioned specified.

353

354 Mr. Wicks said the technical term that differentiates is "mini-farm," but most people do
355 not like to call them mini-farms so the term "estate lots" is used. He said the attorneys
356 told him that the Bullard lot will be in the subdivision but there are enough reasons for
357 them to not be part of the HOA, the biggest of which is that they have access from a
358 different road and they will not be enjoying the open spaces.

359

360 Mr. Valentine asked whether the lots would have outbuildings. Mr. Wicks said there was
361 a provision that was discussed in regards to setbacks, specifically for sheds and pools.
362 The secondary setback for pools and sheds will be 20' from the rear property line and 15'
363 from the side property line of each lot. That was placed in the text because there are some
364 people who want to live in this area who would like to have those amenities, and it is not
365 uncommon to have a shed or pool.

366

367 Ms. Korleski asked whether there was enough room for that. Mr. Wicks said
368 "absolutely."

369

370 Ms. Korleski said her biggest issue at this point is the fact that the Bullard's property was
371 added to this plan but they will not have access to the development. They can only have 1
372 home on each of the two lots. The applicant used the acreage to increase the density of
373 the development, which was the same density that was discussed during the informal
374 meeting, and that allowed at least 10 additional units to be built.

375

376 Mr. Wicks said that is not the reason; the 10+ lots were added because he did a calculation
377 of net developable acreage versus the 15%. These low density developments do not
378 require 15% open space and it is actual 11.8%. Ms. Korleski asked whether he was
379 referring to infrastructure. Mr. Wicks said that was correct and that it was for rights-of-
380 way, wetlands, streams, etc. Ms. Korleski said he still used the Bullard property to
381 increase the density. Mr. Wicks said that is correct and that property is part of the zoning.
382 The difference is that if the Bullard property is not part of the zoning, they could further
383 subdivide that and build on that property. However, Mr. Bullard does not want to do that.

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384 Ms. Korleski said the number of C sized lots, 90' in width, were increased from 18 to 30
385 since the informal meeting. The number of B lots was increased from 27 to 29, and the
386 number of A lots remained the same at 36.

387

388 Mr. Wicks said during the informal meeting, the A lots were located in a certain area, but
389 neighboring property owner Cathy Rippel did not want the homes too close to her
390 property. He had stated at the meeting that in order to do that, the 50' open space could
391 be provided but the size of those lots would need to be reduced, and everybody had
392 seemed to be supportive of that. He said he stayed under the percentages of 33%, 33%,
393 and 33% that he had committed to, and he tried to make a development that fits well and
394 keeps the density into the internal part of the development.

395

396 Ms. Korleski asked whether Mr. Wicks is requesting a divergence for the front setbacks.
397 Mr. Wicks said he is not, and that per the zoning resolution the front setback is dictated by
398 the approved plan. He followed what Delaware County requires, which is half of the
399 right-of-way width. Ms. Korleski said she thought she read references in the application
400 to the front setback at the building line, but that is not what the zoning resolution states.

401

402 Mr. Wicks said the width of the lot is at the building setback line. The general definition
403 of lot width is the front build line. Ms. Korleski said the zoning resolution says
404 something different. Mr. Bardash said it references road frontage. Ms. Korleski said
405 there are many lots on cul-de-sacs that would not meet that requirement. Mr. Wicks said
406 he had not been aware of that regulation. Mr. Wicks said that DCRPC defines it as the
407 front build line. He said it would be nearly impossible to meet the 100' frontage
408 requirement on a cul-de-sac lot and it would result in just one lot on the cul-de-sac.

409

410 Mr. Armstrong said the lots would have to be set very far back; there are a few cul-de-
411 sacs that do meet that requirement but they are extremely large. Ms. Korleski said the
412 zoning resolution references the front line at the roadway, not at the build line. Mr.
413 Armstrong said he thought it did for cul-de-sacs and that is how it has been measured on
414 all the others. Without that it would be difficult to have lots on a cul-de-sac.

415

416 Ms. Korleski said her biggest issue is the acreage as opposed to the density, but the
417 applicant has explained that. She asked whether the headwalls and end walls on the ponds
418 would be covered with stone. Mr. Wicks said they would be and that was included in the
419 text. Mr. Bardash agreed.

420

421 Ms. Korleski asked whether the tree lines would remain intact. Mr. Wicks said his plan is
422 to maintain all of the tree rows because there are not very many of them and he pointed
423 them out on the plan. Some may be scrub materials and in those cases he would probably
424 build a mound in place of those and put new trees on them.

425

426 Ms. Korleski asked whether the trees would be placed in the front lawn instead of the
427 roadway. Mr. Wicks said that was correct and that they would be on private property
428 outside of the road right-of-way, to be installed by the builder.

429

430 Ms. Korleski asked whether there was still a discrepancy with the fire department
431 regarding the location of the fire hydrants. Mr. Wicks said he thought it had been
432 corrected and he stated that he was committed to meeting the fire code.

433

434 Ms. Korleski asked whether the Mattison property would be part of the HOA and Mr.
435 Wicks confirmed that it was.

436

437 Mr. Spangler said that he would like to hear how the neighbors feel about the emergency
438 access road in the future. He asked the applicant to address the fact that Del-Co Water
439 Company only authorized service for 84 lots and the county sewer only authorized 89

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440 lots. Mr. Wicks said that was because at the time he requested letters, that is what was
441 shown on the plan. He said the sewer department is in a growth mode at this time and
442 there are choke points along many of the infrastructure areas but they have plans in place
443 to correct those capacity issues. The letter they wrote is a standard letter. The capacity is
444 there, and by the time this subdivision is ready to tap into it, many of these improvements
445 will be done.

446

447 Mr. Wicks said the water capacity is irrelevant as it relates to the number of lots because it
448 is the amount of water flowing in the lines. As usage increases, so does flow from the
449 water towers. The same static pressure is maintained whether they have 50 users or 100
450 users at the same time.

451

452 Mr. Spangler said his biggest concern is lots 40 and 41 being kept out of the HOA, which
453 is a zoning resolution requirement. Mr. Wicks said that he was told that something
454 similar to this was done on the Roll property where they had nearly exactly the same
455 situation; two homes on Gregory Road owned by Aaron Roll and his parents and they
456 carved out those two lots and they are individual homesteads. They would not have
457 additional homes built on them. That acreage was used within the rest of the
458 development, so there is a legal precedent to that. That property is Westfield, which is
459 located on Gregory Road, south of the elementary school.

460

461 Mr. Spangler said he did not recall that being part of the plat. Mr. Wicks said the county
462 prosecuting attorney specifically told him that was the precedent that would be used for
463 this development. He said that attorney Mike Shade also advised him of that. He said if it
464 is proven that there is a legal issue with having these two lots in the subdivision but not
465 part of the HOA, he would be willing to revisit it.

466

467 Mr. Spangler asked what he would do when the homeowners learn the homes are in the
468 plat but are not part of the HOA; that could set a legal precedent for them to go to the
469 developer and state they do not need to pay the HOA fees either. Mr. Wicks said he
470 would argue that they do not use the roads or services and that they do not have any way to
471 get from their property to the open spaces that are being maintained by the HOA; they are
472 completely segregated. Any other property owner could not claim the same situation.

473 Mr. Spangler said they are on the plat and are not segregated. Mr. Wicks said he would
474 be willing to enforce those two lots to be part of the HOA if it is not found to be legal.

475

476 Ms. Korleski asked whether he used them because of the drainage. Mr. Wicks said that
477 was the original reason why he approached the Bullards; there are several outlets on the
478 property that go west to east, and talking to the neighbors the water tends to be a problem.
479 It is easier to capture the water and take it up. One challenge with that is that some of
480 these areas are pretty low and this area has to be lower than that, and the only way to
481 make that happen was to get into the Bullard property which was several feet lower at that
482 location.

483

484 Ms. Korleski asked whether he could not have purchased part of the property. Mr. Wicks
485 said that was the original intent and he has advised that would not be in his best interest to
486 do it that way.

487

488 Mr. O'Brien asked how many lots would be built upon. Mr. Wicks said it was 92 and the
489 Mattison property would remain. Mr. O'Brien said he would have a difficult time
490 approving more than 89 units for two reasons; even though sewer is being improved upon,
491 they gave you a letter for 89. Also, the financing letter states 89 units. Mr. Wicks said
492 that is an approximate number. Mr. O'Brien said it could be less.

493

494 Mr. Wicks said he can provide letters that indicate how many can be built.

495

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496 Mr. O'Brien said he is very much opposed to the 12.5' setback on property owners that
497 are not in the development because he does not know whether they will have a side yard
498 next to this development's lots side yard; it could be a front yard, back yard etc. The code
499 is very clear about the 50' and the 12.5' is not acceptable to him. The 35' has been
500 granted to others so he could understand that. When that was provided he was fairly
501 certain that outbuildings were not granted.

502

503 Mr. O'Brien asked whether the reference was to a pool was above-ground or in-ground.
504 Mr. Wicks said it could be either one. Mr. O'Brien said he was not OK with that because
505 that is a visual blockade and a fence is required. He said people do that and there are
506 times that it is appropriate because they have to, but they have to go to the BZA and prove
507 that it's appropriate. Mr. Wicks asked whether he was stating that pools should not be
508 allowed. Mr. O'Brien said that they should be located inside the 35' rear yard setback. In-
509 ground pools may have different rules.

510

511 Mr. Armstrong said there are different setbacks on secondary buildings whether they are
512 sheds or pools and they are all different footages; they are not the same as whatever was
513 approved for the subdivision. There is a chart that indicates that, based upon the
514 subdivision. Mr. O'Brien asked about sheds because he said pools have never been called
515 out during any meeting he has ever been to. Mr. Armstrong said those are considered
516 secondary setbacks.

517

518 Mr. O'Brien said he is opposed to going beyond the 35'. Mr. Wicks said the reason he is
519 requesting that on these specific lots is because he knows the configuration of the adjacent
520 lots, which have already been approved. The Pines plan is a PRD adjacent to a PRD
521 which is not a different usage. Mr. O'Brien said that application has not been approved
522 yet so it is still FR-1, so there should be a fence there, although he did not think that
523 should be required because it will probably be a PRD. He did not feel that 12.5' side
524 yard setback was appropriate for any lot that abuts a neighboring lot.

525

526 Mr. O'Brien said the architectural design guideline is "too squishy." Because this is the
527 first step of a two-step process, he did not think it needed to be much more than that, but it
528 should not state that this is approved; it states that it will go to the HOA and it is intended
529 to follow this, but that is not acceptable. During the consideration of the second step, they
530 will come back with more detail at that point. He is not requesting much more than this
531 but just that he shall come back with step 2 and have more detail.

532

533 Mr. Wicks said this development could not be built without the approval of a final
534 development plan so it is inherent that it must be provided. Mr. O'Brien said the wording
535 indicates, "The homeowners association will administer and control after the initial
536 development." He was not certain what "initial development" means. If the homes look
537 like the provided photos, that is wonderful. However, many times in the past the photos
538 indicate one thing while the finished product is something else. He requested that the
539 language indicate that during the second step, the applicant will provide detailed
540 elevations and more precise languages as to what the architectural standards are.

541

542 Mr. Wicks said he did not mind putting that in the text, but that is already in the
543 requirements for the final development plan. Mr. O'Brien said the county prosecutor has
544 advised that what is approved is what is approved. Mr. Wicks wanted to make sure it was
545 known that this was not a purposeful oversight to try to slide through a crack. Mr.
546 O'Brien said he understood that. Mr. Wicks asked how the text should read. Ms.
547 Korleski asked what "after the initial development" meant. Mr. O'Brien said that was his
548 point and he really did not know what that meant. Ms. Korleski asked whether that
549 meant, after the first house is built. Mr. O'Brien was not certain.

550

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551 Mr. Wicks said that means the roads, the utilities, the grading, and the lots. The HOA will
552 control all the architectural standards from the first lot on. Mr. O'Brien said he did not
553 think that was acceptable, and that information should be provided to the BZC during the
554 second step of the process, which is provided by applicants all the time.

555

556 Ms. Korleski suggested removing the second paragraph. She thought the HOA took place
557 after the last property was sold. Mr. Wicks said they are put into place before the first
558 home is built, but they are controlled by the developer until a certain number of lots are
559 sold. He said he could strike the second sentence. Ms. Korleski said it was confusing
560 because it does not state that the developer will control the HOA until a certain time; it
561 states the homeowners will take over as soon as the development begins. Mr. Wicks said
562 the section that mentioned architectural design guidelines did not make mention whether
563 it will be controlled by the HOA. He would be happy to strike the second paragraph.

564

565 Ms. Korleski said above-ground pools are not very appealing in a neighborhood. Mr.
566 Wicks asked whether she was asking him to restrict the developer so there would be no
567 above-ground pool. Ms. Korleski said it would allow only in-ground pools. Mr. Wicks
568 asked what the standard protocol is, and he said the zoning resolution does not prohibit
569 pools in any fashion. Ms. Korleski said the HOA could restrict them. Mr. Wicks said
570 when he comes in for the final development plan, all he provides is a draft of those
571 covenants because those will be approved at a later date.

572

573 Mr. Wicks said he did not put it in the text because the zoning resolution does not
574 reference it. Mr. O'Brien said what brought the issue up is that he wanted the pools 15'
575 from the neighbors' property lines. Ms. Korleski asked whether the materials of the sheds
576 would be restricted to wood and not metal. Mr. Wicks said he was not going to do that
577 because they have to get a permit from the township to be built. Mr. Armstrong said that
578 was correct and they are not restricted now. Ms. Korleski said she did not like metal
579 sheds.

580

581 Mr. Wicks said he was fine with changing the setbacks for pools and sheds to 35' at the
582 rear, although many people do like to have their sheds in the rear corner of their property.
583 He is reluctant to restrict pools to be below-ground only, however. Ms. Korleski said
584 perhaps it could be included in the deed restrictions. Mr. Wicks said the builder may
585 require that. He said the materials of the sheds will be addressed when zoning permits are
586 requested.

587

588 Mr. O'Brien said the 1/3 of each phase having side load garages has been discussed
589 tonight. He said some homes these days have two side-load bays and one front-load. Mr.
590 Wicks said that if any part of the garage is front load, it will be a front load garage. Mr.
591 O'Brien asked that the information be included in the text. Mr. Wicks said that is called a
592 courtyard, where the garage fronts on two different sides of the driveway.

593

594 Mr. Valentine said regarding the picture shown on the first place of Exhibit 11, he is
595 trying to figure out how they would get above the shrubs, and he assumed that is a one-car
596 garage, but then Ms. Korleski said the two-car garage goes to side loader, and that was
597 confusing to him. Mr. Wicks said the in second picture on the first page of the
598 architectural design sheet, the definition may be that if there are two car garages facing
599 the side and one car facing the front, that would be considered a side-load garage.

600

601 Mr. O'Brien said the goal is to get away from the visual appearance of a garage from the
602 street, so that example would be a front load garage because it could be seen from the
603 front. Mr. Wicks said that may be a hardship for the builder to commit to that. Mr.
604 O'Brien said he is not seeking to restrict that but that any garage facing front would be
605 considered part of the 65% front load garage.

606

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607 Mr. Wicks asked whether somebody wanted to build the house without that 3rd car front-
608 facing garage and they wanted to add it later. Mr. O'Brien said it would not be permitted
609 if the 35% of front load garages had already been exceeded, but it would be permitted if
610 that has not been exceeded. Ms. Korleski likes the look of the garage.

611

612 Jeff Jordan, 1469 Africa Road, said that at the preliminary meeting in January 2017, Mr.
613 Wicks committed to mounding the entire length of the driveway. Mr. Wicks said he did
614 not against the Bullard property. Mr. Jordan said that was before the Bullard property had
615 been added to the development. Mr. Jordan said now, he would have to look at houses in
616 his backyard, whereas before if the mounding went to the pond he would not have seen
617 that.

618

619 Mr. Wicks asked whether he is requesting that the mounding and barrier be extended up
620 to the pond. Mr. Jordan said that was correct. He was also concerned about drainage.

621 Mr. Wicks said the storm sewers are being designed to capture that water and pipe it into
622 the pond. He would be happy to build the mound all the way across lot #42 and lot #39.

623 Ms. Korleski asked whether that would be all the way to the pond. Mr. Wicks said it
624 would not be all the way up to the pond but to the edge of lot #39.

625

626 Chet Heid, 3383 Cheshire Road, said he wanted to answer Mr. Spangler's question
627 regarding how the neighbors feel about the access for the fire department to the cul-de-
628 sac. He did not feel it was necessary because it is in Phase 3 and by the time that phase is
629 built there will be access through other subdivisions. Ms. Korleski asked whether that
630 was required by the county. Mr. Heid said the county stated they do not need it, and the
631 fire department does not want it. If it is built it will require a gate and people will drive
632 up to it. He asked what the applicant would do with the road if they do not need to build
633 it.

634

635 Mr. Wicks said he would turn it into open space. Mr. Heid said it would still access the
636 road. Mr. Wicks said he would limit the access after the road is built and he is able to
637 convert the driveway as an access off the road. He agreed to eliminate the existing two
638 access driveways to Cheshire Road that exist on the Bullard and Mattison property, upon
639 the construction of the last phase of the development.

640

641 Mr. Heid asked what kind of trees would be planted. Mr. Wicks said he would address
642 that in the final development plan. Mr. Heid said that discussed were spruce trees and
643 grasses, but he did not want the grasses and he did want it to be no mow.

644

645 John Leskoske, 2782 Red Robin Way, said that three phases were mentioned, and he
646 asked what the timeline was. Mr. Wicks said that he expects construction on phase 1 to
647 begin this coming winter, phase 2 around 18 months after that, and on phase 3, one to one
648 and a half years after that, depending on how things go.

649

650 Mr. Leskoske asked whether, when the driveways are eliminated, would he tear them up?

651 Mr. Wicks said he would let it overgrow.

652

653 Marti Davis, 1950 Lackey Old State Road, said she is a Realtor, and that above-ground
654 pools really do not add to the value of the property. In-ground pools do sometimes and
655 sometimes they do not. She suggested restricting above-ground pools.

656

657 Joe Korleski, 3564 Greenville Drive, asked what price range the homes would be. Mr.
658 Wicks said he did not expect anything to sell for less than \$450,000.

659

660 Linda Heid, 3383 Cheshire Road, said there are designated sidewalks in various parts of
661 the development. Mr. Wicks said both sides of all the streets would have sidewalks.

662

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663 Gerre Martin, 73 Somerset Drive, Delaware, asked whether the green lines are where the
664 sidewalks would be located. Mr. Wicks said those are just the boundaries of the open
665 spaces. She asked whether there would be sidewalk around the back side of the pond.
666 Mr. Wicks said there would not be and that sidewalks would be only located along roads.

667

668 Mr. Leskoske asked whether there would be streetlights and Mr. Wicks said there would
669 not be.

670

671 Orlan Foster, 2386 Lackey Old State Road, asked whether the main construction entrance
672 would be on Cheshire Road at the main entrance. Mr. Wicks said it would be. Mr.
673 Foster asked what kind of access to the front entrance would there be at the start of
674 construction and at the conclusion of the project.

675

676 Mr. Wicks said there will probably be a turn lane into the development from Cheshire
677 Road and also an opposite turn lane into the south as well, and he is working with the
678 county engineer on that right now. If the traffic impact study dictates it, there may be a
679 dedicated westbound right turn lane. Mr. Foster asked whether there would be trees
680 around the back of the pond. Mr. Wicks said he intended to keep as many trees as
681 possible there and he would not plant any trees back there within the detention facility.

682

683 Terry Bullard, 2448 Lackey Old State Road, asked whether there would not be a walkway
684 around that back pond. Mr. Wicks said there would not be but there would be a
685 maintenance berm. There will have to be a dike fill up there to elevate the pond, and the
686 county engineer requires a 10' wide dike so vehicles can access it.

687

688 Ms. Bullard said she had an above-ground pool for 25 years at her home, although it did
689 not look like one. When somebody builds a home, they are allowed to build whatever is
690 permitted. She advised against setting restrictions against their personal use of the
691 property. She moved to Berlin Township for these freedoms. Ms. Korleski noted that she
692 has a large property. Ms. Bullard said it is 7 acres and there are not many people around.
693 However, there are several pools along Berlin Station Road near the church.

694

695 Cathy Rippel, 3061 Cheshire Road, asked whether the orientation of the home near her
696 property line is still oriented the same as it was proposed. Mr. Wicks said it is the same.
697 Ms. Rippel said it is catty-cornered so that the backyard looks towards the pond and not
698 into her yard. Mr. Wicks said that was correct. Ms. Rippel asked whether a new house
699 had been added to that area and Mr. Wicks said there had not been.

700

701 Mary Brown, 2925 Cheshire Road, asked about a sidewalk going across the front of her
702 property. Mr. Wicks said that was the multi-use bike path, and the neighbors were
703 opposed to that, which was another reason to not build a path along this development's
704 frontage because it does not go anywhere. However, he is not saying it will not be built,
705 because it may make sense or may be required by the county engineer.

706

707 Marilyn Mansel, 2300 Lackey Old State Road, said she has a pond along Lackey Old
708 State Road, and she asked whether the planned pond will affect her pond. Mr. Wicks said
709 that pond has been the subject of much discussion between him and the county engineer's
710 office; the impact will be that more water will go into her pond because the project will
711 create more runoff. However, the rate at which the water goes into her pond will be
712 slower. He will be requesting to meet with her to do some pond testing to ensure there is
713 no chance of failure or other situations.

714

715 Ms. Mansel was concerned about the chemicals from lawns running into her pond and
716 killing her fish. Mr. Wicks said ponds are designed for two reasons; one for volume
717 control of soil and water, and the second is for water quality. The outlets are designed in
718 such a way that anything that comes into the pond will settle into the bottom of the pond,

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719 and the water that comes out of the pond and discharges into the stream comes from the
720 top of the pond . The chemicals are heavier than the water and they settle to the bottom.

721

722 A resident asked whether that would be tested. Mr. Wicks said that was not required. Mr.
723 Heid said the county would maintain it.

724

725 Mr. Wicks said there has been some consternation regarding the addition of the Bullard
726 property. As a result of the additional acreage and 5 lots, the Bullard property can no
727 longer be subdivided. Today, he could built 1.25 units per net developable acre on that
728 property, which could have been 5-10 additional lots.

729

730 Ms. Korleski asked whether he wanted a vote now. Mr. Wicks said the number of lots
731 proposed is appropriate because it is still below the 1.25 units per net developable acre;
732 his calculations indicate a density of 1.15 units per net developable acre. He will make
733 the requested changes and commitments to the plan as well.

734

735 Mr. Valentine said he would like the side yard setback changed from 12.5' to 35'. Mr.
736 Wicks agreed to do so. Mr. Valentine asked whether that would change the strategy on
737 those four lots and Mr. Wicks said he would need to reorganize that. Mr. Valentine asked
738 whether it was correct that the density will remain the same and there will be less
739 buildable area, but there will be more free space in those lots. Mr. Wicks said that was
740 correct; he noted that he may end up losing a lot as lot #24 is tight already. Ms. Korleski
741 asked whether the divergence would still only apply to lots 24, 26, 33, and 34 and Mr.
742 Wicks said "yes."

743

744 Mr. Wicks said he is willing to change the secondary setback from 20' from the rear to
745 35'. Ms. Korleski asked about the 15' from the side property line of any lot. Mr. Wicks
746 said because he is requesting 12.5' for the primary structure, he feels that 15' side yard
747 setback is still appropriate for a secondary structure.

748

749 Ms. Korleski said the minimum lot size was discussed. Mr. Wicks said that during the
750 preliminary informal hearing there seemed to be a lot of support for the reduced lot size.
751 Ms. Korleski said she had liked that plan but then it was changed for this hearing with the
752 addition of the Bullard property.

753

754 Ms. Korleski said a divergence is requested for the minimum lot width. Mr. Wicks said it
755 is really the same divergence but because the code has two different sections he had to list
756 it.

757

758 Ms. Korleski reviewed the conditions:

- 759 ♦ Passive open spaces for Reserves A and F will be mowed 2-3 times per year.
- 760 ♦ Fountains will be installed in the pond and the in walls and headwalls will be made
761 of brick or stone. It was noted that is in the text already so it would not be a
762 condition.
- 763 ♦ There will be a walking path to and through the open space. Mr. Wicks said that
764 was included in the text.
- 765 ♦ There will be a 10' wide path along Cheshire Road. Mr. Wicks said that is
766 included on the plan and it is indicated that will be built if required.
- 767 ♦ 35% of each phase will have side load garages.
- 768 ♦ There will be buffering on the south end and there will be 90' of passive open
769 space. Mr. Wicks said there will be 90' of open space between the mound and the
770 property line to the south.

771 Ms. Korleski asked about the sewer tap to the township hall. Mr. Wicks said he has
772 committed to doing that if required or requested. Ms. Korleski said she would like to see

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773 it added as a commitment. Mr. Wicks said the township would need to pay a tap fee. Mr.
774 O'Brien said that would only be if the township taps into it; it will be stubbed and the
775 township can decide later when to tap in.

- 776 ♦ The sewer will be stubbed to the five existing homes.
- 777 ♦ Mounding will be added up to the edge of lot #39.
- 778 ♦ After the last phase of the development has been completed, the Mattison and
779 Holbrook driveway to Cheshire Road will be eliminated.

780 Mr. O'Brien said Mr. Wicks stated he would provide a tap to the township hall, but he
781 would really be providing a stub. Mr. Wicks said he would provide a Y and a service, and
782 it would stub to the property line. The township will have to purchase the tap from
783 Delaware County. Mr. O'Brien said he assumed that but wanted to clarify the issue.
784

785 Mr. O'Brien said there are 92 lots, so he is three lots from getting his vote of approval.
786 Mr. Wicks asked why. Mr. O'Brien said the letter states there is financing for 89 lots and
787 also sewer for 89 lots. Mr. Wicks requested that the application be tabled so he could get
788 new letters indicating service for 92 lots. There is no chance that 3 homes would change
789 that.
790

791 Mr. O'Brien said the letter regarding financing does not indicate he has a letter of credit.
792 Mr. Armstrong said that is not required until the final development plan. Mr. Wicks said
793 there are two professional engineers here besides him and he wanted to ask them whether
794 there is a significant difference between serving 89 lots or 92 lots for sewer, or 81 or 92
795 lots for water. Mr. O'Brien said he is not worried about water, but he is worried about the
796 Peachblow pump station, and it is impossible to get anybody to confirm that it can handle
797 it today.
798

799 Mr. Wicks said the letter specifically states that there are improvements underway that
800 will fix that problem. Mr. O'Brien said it is first come/first served, so it is possible to
801 have service, but the date in the letter is 18 months and that is prior to when he intends to
802 build, which is 36 months.
803

804 Mr. Wicks said if he gets to the point where lots are being platted and the sanitary
805 engineer will not sign off because there is not enough sewer capacity, then he cannot build
806 those lots. However, that should not dictate what he can do during zoning. The letter is as
807 specific as it will ever get. Mr. O'Brien said he understood that, but there is no sufficient
808 capacity at the Peachblow pump station for all the letters. If he reduces the number of lots
809 to 89, he would vote for it. Mr. Wicks said that number seems arbitrary.
810

811 Mr. Wicks asked David Denniston, a professional engineer with Advanced Civil Design,
812 to give his opinion as to whether the opinion of a sewer capacity letter could be changed
813 by three lots. David Denniston, 422 Beechwood, Gahanna, said that in his opinion, three
814 lots is like a Dixie cup in the ocean for water or sewer.
815

816 Mr. Wicks asked Kevin Kershner for his opinion on the issue. Mr. Kershner said the
817 sewer master plan is beginning to be executed and they just awarded the contracts to
818 upgrade the Peachblow pump station and they are starting design shortly. Mr. O'Brien
819 asked how much capacity there would be. Mr. Kershner said it was around 10 times more
820 than there is now. Mr. O'Brien said that would be a lot and he asked whether they would
821 funnel the sewer that crossed Cheshire Road and ship it down. Mr. Kershner said the plan
822 indicates that pump station will go down Africa Road.
823

824 Mr. Wicks said he feels the 89 figure is arbitrary and capricious; the plan meets the
825 guidelines as it is under 1.25 units/net developable acre. Ms. Korleski asked what he

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826 would like to do and Mr. Wicks said he would like to go for a vote. She called for a
827 recess to write in the conditions and then the application would be voted upon.

828

829 There was a brief recess. Hearing was returned to session.

830

831 Mr. Wicks said he is looking for help in naming streets in the development and he
832 requested assistance from the neighbors on that via email.

833

834 **RESOLUTION 2017.03.28.#A: APPROVE BZC #17-005 SYCAMORE TRAIL**

835

836 Ms. Korleski made a motion to approve BZC case #17-005 with the following
837 divergences:

- 838 1) Perimeter setback divergence to allow a perimeter setback reduction from 50' to
839 35' on lots that abut other PRD developments on the side lot line. This applies to
840 lots 24, 26, 33, and 34.
- 841 2) Building setback: divergence to allow:
- 842 a. The rear yard building setback reduction from 50' to 35' on all lots abutting
843 open spaces or other lots within the PRD.
- 844 b. Side yard setback reduction from 20' to 12.5' on all lots. This provides a
845 minimum of 25' separation between all structures.
- 846 c. Secondary setbacks for pools and sheds to be 35' from the rear property line
847 and 15' from the side property line of any lot.
- 848 3) Minimum lot size: divergence to allow the minimum lot area to be reduced from
849 21,780 SF to 17,424 SF on up to 30% of the lots; lots 1-11, 18-21, 23-32, and 92-
850 95; and from 21,780 SF to 13,068 on up to 35% of the lots, lots 62-91. At least
851 35% of the lot shall have a minimum lot area of 21,780 SF.
- 852 4) Minimum lot width: divergence to allow the minimum lot width to be reduced
853 from 100' to 95' on up to 30% of the lots, lots 1-22, 18-21, 23-32, and 92-95; and
854 from 100' to 90' on up to 35% of the lots, lots 62-91. At least 35% of the lots
855 shall have a minimum lot width of 100'. All lot widths are measured along the
856 front building setback line.
- 857

858 Ms. Korleski asked whether the language in 4) was correct. Mr. Armstrong asked what the
859 intent of divergence 4) is. Ms. Korleski said if it is at the build line, each piece of property
860 that has to have that at the build line would need to be identified. Mr. Armstrong said
861 only those on cul-de-sacs would need to be identified. That is not done on each one but is
862 actually done on a plat map, if that is the intent. Mr. Valentine said he was fine with the
863 language.

864

865 And with the following conditions:

- 866 1) Passive open spaces within reserves A and F will be mowed 2-3 times per year.
- 867 2) A minimum of 35% of lots within each phase will have side load garages.
- 868 3) Buffering/mounding along the north side of the Lewald, Heid and Will properties
869 will begin 90' north of said lot line.
- 870 4) The developer will provide a sewer tap to township hall.
- 871 5) Mounding along the east perimeter to be extended to the north side of lot #39.
- 872 6) Existing accesses to Cheshire Road for Mattison and Holbrook properties will be
873 eliminated with the final phase of development.

874

875 Mr. Valentine seconded the motion.

876

877 Mr. Spangler said the issue of lots 40 and 41 not being included in the HOA is still an
878 unresolved issue for him.

879

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880 Vote: Korleski, yes; Valentine, yes; Bardash, yes; Spangler, no; O'Brien, no. Motion
881 carried.

882

883 Brief recess. Meeting was returned to session.

884

885 Mr. Heid was seated as zoning inspector.

886

887 **AGENDA ITEM: INFORMAL PRESENTATION OF METRO DEVELOPMENT**

888

FOR PEACHBLOW ROAD PROPERTY

889

890 Todd Faris, with Faris Planning and Design, presented the information and answered
891 questions. Joe Thomas with Metro Development and Kevin Kershner with Stantec were
892 also present to answer questions.

893

894 Mr. Faris said the last time he was here, he presented a plan and there were some
895 comments regarding trails, etc. The plan has been refined and he wanted to run it by the
896 BZC tonight. The bigger concern was whether there is enough sewer capacity for this
897 development, and if this development was approved would Evans Farm, The Greenery
898 and future industrial/commercial uses still have availability. He said Mr. Kershner has
899 done some studies and he will tell the BZC what he has been doing to discuss the capacity
900 in that area.

901

902 Mr. Kershner said he has been selling the sewer area for the last 8-10 years; it was
903 designed to service the area shown via hatch marks on the plan 6-8 years ago and was
904 approved and that sewer project was tied into the sewer running off Hyatts Road to
905 service this area. A couple years ago he worked with new director Mike Frommer to try
906 to come through the Preservation Parks property but was unable to come to a resolution of
907 building sewer through that area due to restrictions and conservation easements that were
908 not able to be overcome.

909

910 Mr. Kershner said the county has decided to service the area shown via hatched marks
911 with a sanitary pump station. Planned is building a new pump station somewhere at the
912 intersection of Shanahan, Piatt and Route 23 area that will service this tributary, which
913 includes the area to the railroad tracks, Peachblow Road to the north, the school and the
914 condos that are being developed now on the southeast corner.

915

916 Mr. O'Brien asked whether that is a new tributary for them south of Shanahan Road. Mr.
917 Kershner said he believed that it used to or currently is tributary to a sewer that many go
918 along the back of some lots, but there are easement issues as the property owners will not
919 give easements. When the pump station is built, developers will be allowed to go in either
920 direction, whichever makes the most sense for those properties.

921

922 Mr. Kershner said that there have been concerns raised regarding whether there is enough
923 sewer capacity in the area. The pump station is in the preliminary design phase so as
924 much capacity can be created as necessary, although there will be restrictions downstream
925 because there are sewer pipes that only have so much capacity. He has worked with the
926 sewer department, and depending on how the property is built out, there will probably be
927 a two-phase construction depending on how fast and when things are built.

928

929 Mr. Kershner said in the first stage, the pump station will be constructed; there is an
930 existing 10" pipe in Olentangy Falls East that runs close to Hyatts Road and there are
931 easements available there for him to tie in the pump station so the capacity can go up to
932 600 gallons a minute, or about half the development can go into the 10" pipe without
933 causing any problems. If the area is all built out as projected that figure could be nearly
934 doubled to 1200-1500 gallons/minute pump station and it would tie in all the way down
935 closer to where the Perry-Taggart line ends and went up in to the Greif Brothers property.

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936 Mr. Kershner said the details of the funding and transition are still being worked out, but
937 regarding capacity the pump station is being built and as much capacity as necessary can
938 be built. The discharge for phase 1 is available and ultimately there is a 36” pipe to the
939 south so if capacity is necessary the force main can be extended as much as necessary
940 without too much more effort.

941

942 Mr. O’Brien said he was concerned about the pinch point. If it feeds into the first
943 manhole at Olentangy Falls East, what is the mechanism for it to go to the next one. His
944 concern is that if the capacity of the first manhole is used up, and the commercial and
945 industrial development shown in the CLUP (Comprehensive Land Use Plan) does not
946 happen, how would sewer be extended to the second man hole.

947

948 Mr. Kershner said he does not have exact mechanisms yet in terms of signed agreements
949 and who is paying for what, but the current discussion is that if half the area is developed,
950 the county will collect funds with the sewer taps and hold enough money in reserves for
951 the county to execute the second half of the project. The county will be in control of
952 when that improvement needs to be done and they can time that based on the evaluation
953 of the sewer system, how development builds, and approving development plans.

954

955 Mr. O’Brien said the tap fee is \$5,400 and the rest is surcharge. He asked whether the tap
956 fee would pay for that. Mr. Kershner said he has not worked out those final details with
957 Mr. Frommer. However, he did discuss with him that the county would lead this project
958 and use either county funds, which are a combination of tap fees and TIF financing.

959

960 Mr. O’Brien asked whether a Perry-Taggart surcharge would be added to this area
961 because it is feeding into the Perry-Taggart line, and are the other surcharges for the pump
962 station and the line running from the first manhole to the second manhole. They would
963 have to be oversized.

964

965 Mr. Kershner said the new master plan recommended a new sewer fee structure with
966 increased rates and tap fees, and he believes that has been approved. The surcharges for
967 basins would be phased out over 4 years, and tap fees would increase from \$5,900 to
968 \$7,500 across the county regardless of location. This will help fund the capital
969 improvement plan that they will be implementing.

970

971 Mr. O’Brien asked whether there would be a surcharge on top of the new fee. Mr.
972 Kershner said he understood that the sewer department is funding these capital
973 improvement funds. This could be considered one of their projects in their capital
974 improvement funds, through tap fee charges, TIF funds, etc. He does not have an answer
975 exactly regarding how they plan to fund it because he is just starting that process with the
976 sewer department. However, so that the township is not restricted and to ensure the
977 township is protected on approving other development plans, his understanding is that the
978 county will take at least the second phase of the construction of sewer under their wing, so
979 they have control over approving those development plans and also executing that second
980 phase of construction.

981

982 Mr. O’Brien said he wants to see letters that confirm what Mr. Kershner is stating so the
983 township is protected and does not mess over the CLUP and by approving additional
984 houses but there is not capacity for commercial and industrial because it is using the
985 capacity at the first manhole.

986

987 Mr. O’Brien said he would like additional details when the rezoning application is
988 submitted. He is only requesting this additional information because the applicant will be
989 requesting something that is outside of the CLUP. This development could be very good
990 for the township, but it could also be very bad; it will depend on what the letter states.

991

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Public Comment

992

993

994 Barb Sherman, 1469 Africa Road asked about the first phase for sewer. Mr. Kershner
995 said the sewer pump station will have a certain capacity that can handle a certain amount
996 of flow through the pumps. The pump station will not dictate what each development
997 gets, but it will be first-come, first-served. At the point where there is so much flow that
998 it must be improved, the county will take that next step and put bigger pumps and a larger
999 force main in.

1000

1001 Ms. Sherman said the city is in that area as well. Mr. O'Brien said that this helps the
1002 township because once the county puts all this money into the infrastructure, the county
1003 has the power to tell the city "no." Ms. Sherman said that is only if they can provide it.
1004 Mr. O'Brien agreed but said the county can always provide it in their territory but the fees
1005 may be steep. The county will protect their infrastructure if they put the infrastructure in
1006 there; that is why the letter is so important. Is what the applicant requesting going to
1007 cause the county to protect the township?

1008

1009 Mr. O'Brien asked what usage is being calculated for the trailer park known at one point
1010 as Worthington Arms and he asked whether each trailer is counted as having a tap or are
1011 they anticipating that will be wiped out because the taps are too expensive. Mr. Kershner
1012 said he is looking at it in two different ways; he does not think it is a full ERU (equivalent
1013 residential units) at 3 people per house, which is the county standard, so he used lower
1014 calculations based upon where the existing manufactured home park sits. He also did
1015 calculations based upon the property being redeveloped. Mr. O'Brien said the EPA will
1016 require the development to tap into sewer and that will probably be too expensive to do.
1017 However, the calculation must be done as if the trailer park stays and he asked Mr.
1018 Kershner to provide that. Mr. Kershner agreed to do so.

1019

1020 Mr. Sherman said several years ago a large sewer pipe was put in along Route 23 and they
1021 stated a line would go under Route 23 at the gas station with a 36" pipe and it would serve
1022 everything from Peachblow Road to Shanahan Road all the way to the railroad track, and
1023 it would be able to handle any type of development. He did not know what happened to
1024 that. Mr. Thomas said the cost was around \$9 million.

1025

1026 Mr. Sherman said he did not know why the developer south of Hyatts Road was allowed
1027 to come up with an 8-10" pipe. Mr. Thomas said the county leveled the playing field so
1028 that the overall tap fees were increased but each tap costs the same amount.

1029

1030 Mr. Faris said the concept plan he presented last time was 1.85 units/per net developable
1031 acre which would be around 300 lots. He is looking at connectivity now and his
1032 surrounding neighbors now that Evans Farm has been approved, and he pointed out the
1033 connections. There is quite a diversity of lot sizes in Evans Farm, he noted.

1034

1035 Mr. Faris said that he already planned to preserve all the wooded areas. He is finding that
1036 the cost of roads and infrastructure is enormous, and there is a precedent being set with
1037 Evans Farm with smaller lots. The proposed plan is still 300 lots, but the width would be
1038 reduced from 80' to 65'. That would allow a large amount of open space as well as
1039 connectivity from Evans Farm so they can access the wooded areas, it would allow more
1040 walking areas, and preserve tree lines. He wanted to get the opinion of the BZC regarding
1041 this.

1042

1043 Ms. Korleski asked whether all lots would be 65' wide. Mr. Faris said that is what the
1044 plan shows although it may make more sense to have some diversity like Evans Farm has
1045 where some are also 70' or 75' wide. He said the property is 201 acres and planned
1046 would be 300 lots with 107 acres of open space, so 52.5%. The prior plan showed 79
1047 acres of open space at 39% open space, so that has been increased.

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1048 Mr. Faris said he has been finding that homebuyers want smaller lots and larger open
1049 spaces so they have smaller lots to maintain. The density would be 1.85 units per net
1050 developable acres. Ms. Korleski asked about sidewalks. Mr. Faris said there would be
1051 sidewalks on both sides of the streets as well as internal pathways through the woods and
1052 the open spaces, as well as tot lots. Mr. O'Brien said that for such a large development he
1053 would expect a grander entryway. He sees no water features etc. Mr. Faris said that he
1054 would be happy to look into that. Mr. O'Brien said there are homes on Shanahan Road
1055 that have been there for a long time.

1056
1057 Mr. O'Brien said he knows the BZC in general likes larger lots, but that is not his biggest
1058 concern. Mr. Faris said people are willing to spend more money on the house rather than
1059 a larger lot. Mr. O'Brien said he believed that and he is sold on that, but with 65' lots
1060 there would not really be any side load garages. Mr. Faris said that was correct except for
1061 on corner lots or perhaps some designated larger lots. Mr. O'Brien asked how many there
1062 could be. Mr. Faris said he was not sure because he would need to go through and count
1063 the intersections. Mr. O'Brien said that for him, there would need to be side load garages
1064 on more than just corner lots and there should be some 85' lots as well.

1065
1066 Ms. Korleski asked whether any ponds are planned. Mr. Faris said that is being tabulated.
1067 Ms. Korleski asked what is to the west of the development. Mr. Faris said it is the mobile
1068 home park and he pointed out an area that is slated as commercial or industrial in the
1069 CLUP, and that is why the open space is being located more in that area.

1070
1071 Mr. Valentine was concerned about 220 children walking across Shanahan Road to
1072 school. Ms. Korleski said Evans Farm is supposed to be walkable and she asked whether
1073 this development would connect to that. Mr. Faris said there are two road stubs that
1074 would connect and the paths would connect and there would be a crosswalk.

1075
1076 Mr. O'Brien said with that many houses, left and right turn lanes will probably be
1077 required, and that is a very "tall" road. Mr. Faris said that was likely but he would not
1078 know for sure until the traffic study was done. Mr. Thomas said there will be turn lanes.

1079
1080 Mr. Thomas asked whether the BZC is amenable to changing the CLUP from what is
1081 indicated as being industrial to allow residential as shown in this plan. Mr. O'Brien said
1082 the last time the applicants were here, he suggested that they present where another area
1083 could be changed into industrial in lieu of this area, preferable an area they own.

1084
1085 Ms. Korleski said she would not be opposed to changing the industrial to residential. Mr.
1086 O'Brien asked about the lot sizes. Mr. Faris said he would request 7.5' side yards on each
1087 side, which would allow a 50' wide house. Mr. Thomas said that would be a \$400,000
1088 home. Mr. Valentine said he liked Plan B that has more open space. Mr. Thomas said
1089 the homes would be 3,800-3,900 SF homes.

1090
1091 Mr. Heid said that to support such expensive homes, typically both homeowners work so
1092 they do not want to be cutting grass and maintaining their yards.

1093
1094 Mr. Spangler said the request seems fairly reasonable but he was not sure he would be
1095 100% certain regarding the change in the CLUP without seeing a detailed plan. Mr.
1096 O'Brien said it does make more sense to have residential property next to Evans Farm;
1097 however, the township's tax base needs to be considered as well. The sewer is important
1098 but there would be a need for industrial elsewhere in the township to provide balance.
1099 Mr. Thomas said the commercial and industrial areas want residential developments to
1100 pay for the sewer.

1101
1102 Mr. O'Brien asked where the pump station would be located. Mr. Faris pointed to an area
1103 near the intersection of Route 23 and Shanahan Road. Mr. O'Brien said that had been

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1104 decided a long time ago and he asked whether it had been decided whether it would be
1105 straightened out or Shanahan Road would be taken further south. Mr. Faris said they are
1106 still in stage 1.

1107
1108 Mr. Valentine said that with this density, it may be attractive for property to be donated to
1109 the township or another entity for services such as fire department, police, etc. There will
1110 be well over 3000 homes within a square mile. That may help get another “yes” vote for
1111 the project, he said. Mr. O’Brien said due to the lack of parks, Berlin Township residents
1112 use Orange Township’s parks.

1113
1114 Ms. Korleski said the next meeting is on 4/11/17 at 7:00 p.m. at which time The Pines will
1115 be heard.

1116
1117 There was no further business to come before the BZC. Motion to adjourn. Meeting
1118 adjourned.

1119 **SYNOPSIS**

1120 ➤ Resolution 2017.03.28.#A: Approve BZC #17-005 Berlin Manor

1121

1122 _____
1123 Toni Korleski, Chairperson

1124
1125 _____
1126 Jerry Valentine, Vice-Chairperson

1127
1128 _____
1129 Steve Spangler, member

1130
1131 _____
1132 Ken O’Brien, member

1133
1134 _____
1135 Mike Bardash, 1st alternate seated

1136
1137
1138
1139
1140
1141
1142 Attest: _____
1143 Lisa F. Knapp, Berlin Township Zoning Clerk