

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

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

3  
4 **CALL TO ORDER**

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

7  
8 Marti Davis led meeting attendees in the pledge of allegiance.

9  
10 BZC members present: Chairman Toni Korleski, Vice-Chairman Jerry Valentine, Mike  
11 Bardash, Martin Johnson, Steve Flaherty, 1<sup>st</sup> BZC alternate member, seated.

12 Also present: Ray Armstrong (2<sup>nd</sup> BZC alternate member), Zoning Inspector David  
13 Loveless, Zoning Clerk Lisa Knapp, Zoning Secretary Cathy Rippel.

14 Not Present: BZC member Darcy Kaplan.  
15

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

17 **AGENDA ITEM: LEGAL NOTICE**

18 Ms. Knapp said this meeting was advertised in the annual meeting notice, and the hearing  
19 was tabled from 3/12/19 to tonight at 7:00 p.m.

20 **AGENDA ITEM: APPROVAL OF MINUTES**

21 Ms. Korleski made a motion to approve the minutes from the 4/09/19 BZC meeting as  
22 presented. Mr. Bardash seconded the motion.

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

24 Motion carried. Minutes approved.

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

- 26 • David Davis, 1950 Lackey Old State Road  
27 • Marti Davis, 1950 Lackey Old State Road  
28 • Jeff Jordan, 2862 Berlin Station Road  
29 • Teri Jordan, 2862 Berlin Station Road  
30 • Robert Holmes, 2981 Berlin Station Road  
31 • Joe Korleski, 3585 Greenville Drive  
32 • Larry Harmon, 3931 Africa Road  
33 • Michelle Brooks, 4365 Eastbay Circle  
34 • Barbara Schank, 6361 Johnnycake Lane  
35 • Cort Eiken, 509 Kensington St., Middletown, OH 45044  
36 • Maribeth Graham, 6 Westgate Drive  
37 • Amy Eiken, 61 Westgate Drive  
38 • Kathy Myers, 2945 Berlin Station Road  
39 • Stan Myers, 2945 Berlin Station Road  
40 • Bob Grden, 1241 Peachblow Road  
41 • Steve Pardi, Longhill Road Partnership  
42 • John Pardi, Longhill Road Partnership  
43 • Erin Bush, 1535 Dale Ford Road  
44 • Roy Cottrill, 1227 Belle Meade Place  
45 • Gene Cottrill, 2807 Berlin Station Road  
46 • Dan Cottrill, 927 Princeway Lane, Westerville  
47 • Steve Spangler, 2877 Berlin Station Road  
48 • Mike Shade, PO Box 438, Delaware  
49 • Jeff Cutler, 7525 Perry Road, Delaware  
50 • Mike Reeves, an engineer with Kimley-Horn

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

- 51       • Jack Reynolds, Attorney with Smith and Hale, 37 W. Broad St., Columbus,  
52       43215  
53       • Greg Chillog, with The Edge Group, 330 W. Spring Street, Ste. 350 Columbus,  
54       43215

**BZC 18-003**

55  
56  
57       *BZC 18-003, filed by Longhill Limited Partnership II, RDRG Farms Inc., & Steve*  
58       *Spangler Sr., requesting approval of a preliminary development plan to rezone 301.944*  
59       *± acres on Berlin Station Road for a 531 single family lot subdivision.*

60  
61       Jack Reynolds, attorney with Smith and Hale, and Greg Chillog, with The Edge Group,  
62       presented the application and answered questions.

63  
64       Ms. Korleski said there was a discussion between Mr. Reynolds and Mark Fowler of the  
65       Delaware County prosecutor's office, and much homework was done due to  
66       discrepancies found in the zoning density requirements in the zoning resolution. She  
67       read the email from Mr. Fowler.

68  
69       *From: Fowler, Mark*  
70       *Date: April 19, 2019 at 4:04:43 PM EDT*  
71       *To: David Loveless*  
72       *Cc: Toni Korleski*  
73       *Subject: FW: Longhill subdivision density calculations - Berlin Township*

74       *Zoning Inspector Loveless:*  
75       *Thanks for calling me back this morning, sorry we couldn't get a call together before*  
76       *you left today. As I mentioned on my voicemail, I was contacted by the attorney for*  
77       *Longhill about how to interpret density in the Zoning Resolution. I spoke with Jack*  
78       *today, and according to him the Zoning Commission indicated in the last hearing that*  
79       *the density calculation must comply with 1.85 units per net developable acre.*

80  
81       *After reviewing the Zoning Resolution, I agree with Jack's interpretation of the*  
82       *Zoning Resolution as to density (see his attached documents). The Zoning Resolution*  
83       *mandates that there be one unit per 20,000 square feet. In my opinion, that is the*  
84       *standard that must be followed.*

85  
86       *The Zoning Resolution, in Section 9.01, does also say "...or approximately 1.85 units*  
87       *per net developable acre." To me, this is not an enforceable standard, but rather is*  
88       *language included to be an example. It would be very difficult to legally enforce a*  
89       *standard that includes the word "approximately" as there is too much ambiguity with*  
90       *that word. At best, that language presents an "either or" standard, meaning the*  
91       *Zoning Resolution allows for both options. But if there are two options, the applicant*  
92       *gets to decide which option they prefer, not the Township, as zoning is always*  
93       *interpreted in favor of the property owner.*

94  
95       *These are my thoughts on the issue. Please let me know if you have any questions or*  
96       *need further advice on this issue.*

97  
98       *Mark W. Fowler*  
99       *Assistant Prosecuting Attorney*  
100       *Delaware County Prosecutor's Office*

101  
102       Mr. Reynolds said Mr. Chillog will be presenting the application. Mr. Reynolds will  
103       provide information indicating how he obtained the provided density, and engineer Mike  
104       Reeves will provide an update regarding his discussions about the Piatt Road extension.  
105

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

106 Mr. Chillog said he will provide a recap on the plan. At the original meeting, 531 lots  
107 were proposed, and that has now been reduced to 489 lots. The 23 acre parcel to the  
108 west of the railroad tracks was eliminated from the plan. At the 3/12 meeting, a plan was  
109 presented that showed the creation of community and identity features to help brand the  
110 areas of the site plan including The Enclave for empty nesters. The Reserve and The  
111 Meadows will be single-family neighborhoods.

112

113 Mr. Chillog said significant program commitments were made for the parks and open  
114 space areas including commitments to a certain number of playfields, playgrounds,  
115 shelters, gathering spaces and other amenities. A significant addition to the permitted  
116 uses in the text was also included that will help to provide for the development of this  
117 area as an agri-hood in the future. That included very specific agricultural-type uses  
118 including community gardens.

119

120 Mr. Chillog said there had been two entrance points on Berlin Station Road, but there is  
121 one now and a second will be located at the new Piatt Road. Lots were proposed across  
122 from Berlin high school but that is now a large open space area with potential  
123 programming for community amenities. Modifications were made to the requested  
124 divergences as well. The side yard setbacks were originally proposed at 6', 8' and 10',  
125 but the 6' side yard setback requested has now been eliminated.

126

127 Mr. Chillog said the last meeting indicated that there was general support for the plan  
128 and the text changes, and the proposed modifications to the requested divergences. He  
129 said it was requested that the divergence for a reduction in lot area for Type B lots be  
130 eliminated, and that was removed. All Type B and Type C lots will meet the zoning  
131 resolution's area requirements. The only divergence for lot area will be the Type A lots  
132 in The Enclave.

133

134 Mr. Chillog said the BZC asked that he reexamine the calculation for net developable  
135 area and also permitted density area, and he did that. The zoning resolution was  
136 researched and the definitions were examined. The calculations were redone based upon  
137 that with a result of 488 lots. He reviewed the lot changes on the plan.

138

139 Mr. Chillog said that discussions also were had with the county regarding the Piatt Road  
140 extension.

141

142 Mr. Reynolds said Mr. Chillog went through the zoning resolution in order to assure that  
143 the density was correctly calculated. He distributed information regarding the portions  
144 of the zoning resolution that were included in the research. The permitted density is  
145 included in the 4.01 Definitions of the zoning resolution, which states that, "The  
146 permitted density is the number of dwelling units in the development. Such number shall  
147 be determined by dividing the net developable acre by the conventional lot size for the  
148 zoning district being overlaid."

149

150 Mr. Reynolds said the definition is Net Developable Acre (Acreage): The land area,  
151 measured in acres, determined by deducting the 15% of the subdivision's gross area for  
152 streets and utilities, plus all otherwise unbuildable as follows:

- 153       • Jurisdictional wetlands.  
154       • Floodplains.  
155       • Slopes greater than 20%.  
156       • Utilities rights-of-way and easements.  
157       • Existing bodies of water.

158 Mr. Reynolds said the acreages for the existing utilities were removed from the plan.

159

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

160 Mr. Reynolds said that Section 11.03 Planned Residential District states that, “The net  
161 density of the underlying zoning shall be used to determine the number of units allowed.  
162 All other standards shall be defined in Article 11.”

163  
164 Mr. Reynolds said the underlying district is R-3 with a net density of one unit per 20,000  
165 SF.

166  
167 Mr. Reynolds said Section 9.01 states that “The R-3 district is intended to provide a  
168 variety of housing types at a density of one unit per 20,000 SF.”

169  
170 Mr. Reynolds stated that Section 9.06 reiterates the 20,000 SF requirement, then also  
171 indicates that, “When utilized, a PRD overlay including the required open space, lot sizes  
172 may be reduced to a minimum of 10,890 SF.” Mr. Reynolds said that has been done for  
173 Lots B and C.

174  
175 Mr. Reynolds provided a copy of the math done to determine the density. The gross area  
176 was 278.812 acres. The 15% for the roadway and also the open space was 41.821 acres.  
177 The electrical easements are 12.12 acres. At the last meeting, it was agreed that there are  
178 224.871 acres, which is 9,795,380.7 SF, which divided by 20,000 SF is 489 lots.

179  
180 Mike Reeves, an engineer with Kimley-Horn, said on March 17, he and representatives  
181 from Longhill Limited Partnership met with county engineer staff to discuss overall  
182 roadway improvements and transportation planning for this area of Berlin Township.  
183 Mr. Reeves said earlier this year, the county released some long range planning. This  
184 included developments that they plan to provide improvements for through 2021. As  
185 part of that plan, the first release of the county’s plan to improve Berlin Station Road  
186 from South Old State Road to the railroad tracks has been identified as part of the 2021  
187 programmatic improvements.

188  
189 Mr. Reeves said this is in connection with the overpass on Cheshire Road and the  
190 completion of the Piatt Road extension. The area of Berlin high school is an area that the  
191 county sees as needing safety enhancements and improvements through the  
192 development. Mr. Reeves said that the county decided to look at the big picture  
193 including regional improvements for this area of the county.

194  
195 Mr. Reeves said his discussions involved how this development and other potential  
196 developments, including the 63 acre site to the east of this property, would ultimately  
197 affect traffic in the area. The county suggested that instead of the developer being  
198 responsible for improving Piatt Road over a period of time while the development is  
199 being built, that the county be responsible for the project instead, especially given these  
200 489 lots and the adjacent future development.

201  
202 Mr. Reeves said the county engineer will take the lead on the Piatt Road extension,  
203 which includes extending it from Berlin Station Road to Curve Road, and improve the  
204 intersection of Curve Road and Rolloson Road, and Piatt Road. The approximate  
205 timeframe would be 2022.

206  
207 Mr. Reeves said the funding for the Piatt Road extension applicable to the developments  
208 would still be the responsibility of the developers. The county would front the funding,  
209 issue a carrying fee to the developers, and then assess the developers a fee to pay it back  
210 over a certain period of time as they start selling lots within the subdivision.

211  
212 Mr. Reeves said that way, the roadway improvements will be completed prior to the  
213 traffic impacting the area instead of vice-versa.

214  
215 Mr. Flaherty asked whether that would involve a TIF (Tax Increment Financing). Mr.  
216 Reeves said they are currently considering a special assessment, which is a much easier

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

217 mechanism than a TIF, an NCA (New Community Authority), or a CEA. A TIF requires  
218 the TIF board approval regarding how the funds are spent and reimbursed, while a  
219 special assessment is done through the auditor's office and is simpler. His understanding  
220 is that the county auditor would split the value of the road improvements between the  
221 subject development and the future development to the east, then assess that land value  
222 to the developments. Each year there would be a payment in addition to the actual  
223 property value to pay for the road, for around 20 years. Additional money would also be  
224 paid for interest.

225

226 Ms. Korleski asked whether the county engineer had committed to that yet. Mr. Reeves  
227 said there would need to be a final development agreement put in place between the  
228 development and the county, which would be similar to development agreements that are  
229 put in place at the time of platting or bonding.

230

231 Mr. Reeves said that both the developer and the county are very interested in this plan.  
232 Although there is no written agreement now, it is being strongly pursued.

233

234 Mr. Flaherty said it would be similar to a ditch petition. Ms. Korleski said she wants to  
235 know whether this is a reality or not.

236

237 Mr. Reynolds explained how this concept would expedite the building of the road.

238

239 Mr. Flaherty asked what improvements were planned for Berlin Station Road and he  
240 asked whether there would be turn lanes. Mr. Reeves said the county standard lane  
241 width is 24' and Berlin Station Road is well short of that width. The county would like  
242 to have 12' lanes in each direction and it would include the roundabout improvements at  
243 Piatt Road, and possibly turn lanes into the high school. It would also include the turn  
244 lane into the subject development, which the developer would fund in addition to the  
245 other improvements. The cost estimate would be provided by the county engineer and  
246 the developer would pay that up front. The benefit of doing it this way is so the  
247 construction occurs all at once instead of piecemeal.

248

249 Mr. Reeves said the roundabout is part of the Berlin improvements. Mr. Flaherty  
250 appreciated the proactive planning.

251

252 Mr. Valentine said he is concerned about the divergences. Ms. Korleski said the  
253 applicant has requested 8 divergences. Mr. Valentine asked which divergences remain,  
254 as Mr. Chillog had stated one has been deleted. Mr. Chillog said the number of  
255 divergences remains the same. The divergence he had referred to is divergence #3 for lot  
256 area, which originally had two requests, including for Type A and B lots. The new  
257 proposal removed the portion of the divergence request for Type B lots.

258

259 Mr. Valentine asked why that was removed and whether it was because the lot sizes had  
260 been increased. Mr. Flaherty said it was because the BZC had requested that last time.

261

262 Mr. Valentine said his biggest concern is the lots that are 8750 SF, because that would be  
263 5 lots on one acre. That does not seem to be the intent here. Mr. Reynolds said one of  
264 the communities, The Enclave, has all 70' wide lots, and those lots would be 8750 SF.  
265 Mr. Chillog said that would be targeted as a separate or individual community with first  
266 floor living and low maintenance. Mr. Flaherty asked whether the minimum size would  
267 still be 1500 SF. Mr. Chillog said that was correct and that the minimum square footage  
268 is the same for the entire development.

269

270 Ms. Korleski asked whether there would be a separate HOA. Mr. Chillog said that is  
271 typically what would occur, although he is not the home builder. There would probably  
272 be a master HOA and each community within that would have their own which would be  
273 responsible for the maintenance in that particular community.

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

274 Mr. Reynolds said that there is a large demand for step-down housing in this community  
275 and this is an opportunity to have smaller homes and smaller lots for that purpose.

276

277 Ms. Korleski said the request for divergence #6 is to increase the building coverage to  
278 35% for Type A lots and 30% for Type B and C lots. She asked why that was necessary.  
279 Mr. Chillog said the concept is that the footprint is the same. Footprint A on an 80' wide  
280 lot would need the 35% coverage, but on the larger lots the percentage would be lower.  
281 He is trying to ensure that is all covered, for example if a future homeowner wants to  
282 build a patio.

283

284 Ms. Korleski asked whether patios and decks would be allowed in this development, and  
285 she asked whether there was enough room for them. Mr. Chillog said "absolutely" and  
286 that those are features and amenities that residents of this community want, and he wants  
287 to ensure that they are accommodated.

288

289 Mr. Johnson said he understands Mr. Fowler's response. He said one can definitively  
290 defend a single standard, but one cannot definitively defend no standards. However,  
291 Section 9.01 outlines the purpose of the article, and Section 2 definitively states 1.85. In  
292 reading the entire resolution, the tenor that Berlin Township has brought to the resolution  
293 is about those average densities. The zoning resolution is not worded well, but the word  
294 "approximately" does throw a legal shadow of doubt. It is in difference to the tenor and  
295 the general guidelines of the resolution, which is talking about average density.

296

297 Mr. Johnson said that from the interpretation and the guidance provided, that is an  
298 allowable interpretation of the density calculation so he cannot argue against that. He  
299 said the BZC should discuss clarifying the language in the zoning resolution because that  
300 does not reflect the intent. Ms. Korleski said she gives the applicant kudos for  
301 researching that so intensely that they came up with this interpretation; nobody else has  
302 ever done that. She appreciates the applicant bringing it forward so the BZC can look at  
303 it.

304

305 Mr. Johnson said this is an uncomfortable scenario where the BZC is governed by the  
306 legality of this, but not necessarily the fairness. He noted that the applicant's plan has  
307 "±" indications all over it, and he asked rhetorically whether the applicant is willing to  
308 remove all of those and provide the details as exact measurements. He understands the  
309 intent of that, just like he understands the intent that was poorly described in the zoning  
310 resolution.

311

312 Mr. Valentine noted that he Googled "acre" today and the definition used the term  
313 "approximately."

314

315 Mr. Johnson said he understands the interpretation and said the ambiguity in the zoning  
316 resolution needs to be straightened out later. He said he does not subscribe to that  
317 interpretation. He said he is concerned with the number of divergences. He understands  
318 the sign divergences, but he is concerned with the reduced side yard setbacks. He asked  
319 for some creativity regarding trying to spread the density at least somewhat more  
320 uniformly across the subdivision.

321

322 Mr. Bardash commended the applicant for going to the trouble of determining the  
323 number of permitted lots. However, he asked why that is the one part of the zoning  
324 resolution that the applicant chose to meet, but has still requested divergences for lot  
325 size.

326

327 Mr. Bardash said as an empty nester himself, he is not convinced that empty nester  
328 would like to live across the street from a high school. In fact, that is the last place he  
329 would want to live as an empty nester.

330

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

331 Mr. Bardash said the BZC had asked that 25% of the garages be side or court loaded in  
332 each of the sections. However, the text still does not state that; it simply states that 25%  
333 of the overall development will be. Mr. Chillog said he thought the request had been to  
334 look at that and he thought the plan was more flexible when applying the standard over  
335 the entire subdivision. He does not know the exact footprint of some of the homes. Mr.  
336 Bardash said the 8' side yard setbacks also makes it more difficult. Mr. Chillog said it  
337 actually makes it easier because the court load can be done with the house pushed to the  
338 side of the lot, and that is part of the justification of the reduction in side yard setbacks.

339  
340 Mr. Johnson said the intent is to try to ensure that there is uniform distribution  
341 throughout the development and the side load garages are not lumped in one corner. Ms.  
342 Korleski agreed. Mr. Johnson asked whether uniformity could be provided by phase.  
343 Mr. Chillog said he could commit to 25% overall and perhaps a minimum of 5-10% in  
344 each area, as a compromise. Mr. Johnson asked whether there are side load options for  
345 Type A lots. Mr. Chillog said absolutely, and that there are more court-load options.

346  
347 Mr. Reynolds suggested that in each of the 3 subdivisions a minimum of 5% of the units  
348 will be side loaded, with a maximum of 25% total for the three subdivisions. Mr.  
349 Johnson said 25% is the minimum, and the request is that each subdivision have a  
350 minimum of 25% side load garages. Mr. Chillog said he could commit that 25% of the  
351 489 lots will have side load or court load garages. He could also commit that The  
352 Enclave, The Meadows, and The Reserve will each have a minimum of 10% side/court  
353 load garages.

354  
355 Mr. Chillog said he cannot commit to 25% in each area because he is not the builder and  
356 does not have the footprints for the buildings.

357  
358 Mr. Loveless said the Berlin Station exit is directly across from a house on the opposite  
359 side of the street and he asked that it be moved about 40' to the west as that would be  
360 much more pleasant for the existing property owner. Mr. Chillog said he would work to  
361 achieve that on the final engineering.

362  
363 Ms. Korleski reviewed the divergences:

- 364 1) Reduction in side yard setbacks.  
365 Ms. Korleski said nobody likes that. Type A lots have 8', Type B & C have 10'.  
366  
367 2) Structure separation reduced from 25' to 16' for Type A lots, and 20' for Type B &  
368 C lots.  
369 3) Reduction of the lot area from 10,890 SF to 8,750 SF for Type A lots.  
370 4) Reduction of the lot frontage measured at the street from 80' to 70' for Type A lots.  
371 5) Lot frontage measured at the building setback line instead of at the street for all lots.  
372 6) The zoning resolution requires 25% maximum lot coverage for structures while  
373 maintaining a maximum of 50% coverage for buildings and pavement. The applicant  
374 has increased the building coverage to 35% for Type A lots, and 30% for Type B and  
375 C lots.  
376 7) The township requires a buffer against the railroad tracks, but the applicant has stated  
377 that there is preserved existing vegetation and that they would supplement any  
378 spaces.

379 Mr. Johnson asked whether this is really a divergence because the applicant has  
380 committed to doing supplemental planting. Mr. Chillog said the intent is to be  
381 permitted to utilize existing vegetation as part of the buffer. Ms. Korleski asked  
382 whether it would be a 50' buffer. Mr. Reynolds said that this is a screening buffer.

383  
384 Ms. Korleski asked how far away the railroad tracks are from the end of the subject  
385 property. Mr. Chillog said it is 125-150' from the railroad right-of-way. Ms.  
386 Korleski said that is in addition to the 50' perimeter buffer and Mr. Chillog agreed.

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

387 Mr. Johnson said the zoning resolution does not require that the existing vegetation  
388 be removed. Ms. Korleski said the BZC is not requesting that the vegetation be  
389 removed but that the existing vegetation be preserved. Mr. Johnson agreed and said  
390 the applicant is committing to preserve the existing vegetation and if that is  
391 insufficient to meet the standards, they will supplement the existing vegetation.  
392 Thus, it is really not a divergence but a commitment to supplement the existing  
393 vegetation. When the development is completed, the buffering will meet the zoning  
394 resolution. The applicant is not requesting a divergence for a smaller buffer, a shorter  
395 height, etc.

396  
397 Mr. Chillog said the zoning resolution requires that the applicant install a  
398 landscaping buffer between the residential area and the railroad track. He wants to  
399 preserve the existing buffer and install additional buffering if necessary. Mr.  
400 Reynolds said there would not be 100% opacity along the railroad tracks.

401  
402 Mr. Johnson said there may be no harm in leaving it as stated. For example, if there  
403 was an existing forest, supplemental planting would not be done and a divergence  
404 would not be necessary. Mr. Reynolds said the intent is to provide an adequate  
405 buffer. Ms. Korleski said she would prefer to leave the divergence language in. Mr.  
406 Loveless noted that along Gregory Road, the existing vegetation is very sparse. He  
407 felt that supplemental vegetation will be needed, and noted that buffering is for  
408 sound blocking purposes as well as visual purposes.

409  
410 Mr. Reynolds said the applicant does want the vegetation, but it was a question of  
411 whether all new vegetation is required. It was agreed to leave the language as exists.

412  
413 8) One sign is permitted for a year, and the applicant is requesting 2 signs until the  
414 development is 90% built.

415 Mr. Flaherty said there was a 41.1-41.2 acre decrease in net developable area from the  
416 last time. Essentially the plan did not change much except there are three fewer houses.  
417 The layout has not changed much and neither has the number of homes. The green space  
418 remains the same as well.

419  
420 Mr. Flaherty said he likes the agricultural activities and he understands the permitted  
421 uses versus the committed-to uses. He requested that the agricultural center be  
422 committed to and not just a permitted use. If it simply remains as a permitted use, it is  
423 optional and the builder can decide not to build it due to the expense. He would like to  
424 place that use in 11.08.

425  
426 Mr. Reynolds said he could commit that there will be some attribute of the agrihood that  
427 will be contained in that area, and that will be provided in the final development plan.

428 Mr. Flaherty said he did not want to wait until the final development plan and he is  
429 asking that the specific wording for the agricultural center or community center be  
430 committed to in the text in 11.08. That will ensure that something other than just a  
431 shelter is built.

432  
433 Ms. Korleski said the applicant indicated there will be a shelter for each area. Mr.  
434 Flaherty said that was not correct and there is just one 575 SF community shelter, and a  
435 seating and gathering area that is a minimum of 200 SF for each hard surface.

436  
437 Mr. Bardash said Mr. Johnson was requesting that some of 11.04 be moved to 11.08.  
438 Mr. Flaherty said a community center or agricultural center should be required, not just  
439 included in the permitted uses section.

440  
441 Mr. Reynolds said he could add a community center on page 10 of the text, and its  
442 minimum size as a permitted use. He asked what square footage would be appropriate



**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

443 there. He said he is struggling with this because the applicant is not the developer. Mr.  
444 Flaherty said it should state “greater than.”

445  
446 Mr. Flaherty said the intent is to deliver something that can be utilized.

447  
448 Mr. Bardash asked whether Mr. Flaherty wants it to be called an agricultural center or a  
449 community center. Mr. Flaherty said he envisioned it as something 4-H can use, the  
450 schools could use, etc. that helps preserve the rural culture and charm of Berlin  
451 Township. He would like a barn-type structure that will help define that area.

452  
453 Mr. Johnson asked how large the space was. Mr. Chillog said it was around 7 acres.  
454 There was further discussion. Mr. Flaherty suggested 2,000-2,500 SF. Mr. Chillog  
455 suggested a building 35’ by 60’.

456  
457 A female meeting attendee said it could be two stories as well. Ms. Korleski suggested  
458 5,000 SF. Mr. Bardash suggested 3,000 SF.

459  
460 Mr. Reynolds said he has 1500-1600 SF as a minimum. Because he is not the builder, he  
461 is discussing something that it is not assured will actually be built. He would like the  
462 details to be worked out when the final development plan is submitted. Mr. Valentine  
463 would like 2,500 SF minimum. Mr. Reynolds said he could agree to that if that included  
464 storage and other areas of the building.

465  
466 Mr. Chillog asked if the wording could indicate it was a minimum 2,500 community or  
467 agricultural structure that included the agricultural-type uses located in 11.08. Mr.  
468 Valentine said the term “agri-center” has been used. Mr. Chillog said it could be  
469 meeting space, support for the development, and other uses.

470  
471 Larry Harmon said the development is not quite at 2 units per acre but it is closer to that  
472 than the 1.85 units/acre. He asked how that issue would be corrected in the future. Mr.  
473 Johnson said the existing legislation at the time of the application must be used. Mr.  
474 Flaherty said a change could be made in the future to the zoning resolution and it would  
475 then be considered by the trustees.

476  
477 Mr. Harmon said this has made a big impact on this development. He said the BZC  
478 should not grant a lot of divergences. The applicant has found a way to increase their  
479 density to meet what they want, but they cannot quite squeeze the homes in the way they  
480 want without the requested divergences, and that’s too bad. The BZC should leverage  
481 and adhere to the required side yard setbacks. It’s not right that the applicant wants the  
482 BZC to adhere to the letter of the law but is asking for the BZC to grant divergences.

483  
484 Mr. Chillog said regarding the comment that the applicant is squeezing lots onto the  
485 project, the side load divergence allows the house sizes to be increased, which creates  
486 more value on that ground. It will create more infrastructure and tax base. Mr. Harmon  
487 said what was written in the plan is 1.89 units/acre, which would mean fewer but larger  
488 homes and larger lots. As usual, the applicant is trying to get as much packed in there as  
489 possible. Mr. Chillog said the applicant is providing nearly double the required open  
490 space, which could be developed instead. The lots are not being put on 80% of the site  
491 but instead on 60% of the site, creating greater value and more tax base, and that is the  
492 essence of a planned community.

493  
494 Teri Jordan asked whether there would be a traffic study done. Ms. Korleski said that  
495 will be required for the final development plan. Mr. Reeves said that yesterday, the  
496 county submitted their first set of review comments back to the traffic engineer. That  
497 study must be completed and submitted prior to the final development plan being  
498 submitted.

499

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

500 Bob Holmes said he is very concerned about The Enclave, not so much for what is being  
501 built there but for the demand for what is being built there. He asked how much work  
502 has been put into that in regards to the voice of the customer. He asked whether there is a  
503 demand for that kind of home in that area.

504

505 Mr. Reynolds said he was present during a rezoning application by John Wicks on a  
506 project just south of here, and Romanelli & Hughes stated at that meeting that there is so  
507 much of a demand for empty nester housing in this community that they had already  
508 purchased the property and it will be built. Mr. Wicks has looked into that quite a bit, he  
509 said. There are many 80-90' projects in the township where grandparents would be very  
510 happy to spend time with their grandchildren. The trustees did approve Mr. Wicks'  
511 application.

512

513 Mr. Bardash said that location was near the state park entrance and the boat ramp. Mr.  
514 Johnson added that it was not next to a high school and a railroad track. Mr. Holmes  
515 said when he retires he is not going to purchase a property near the railroad tracks and a  
516 high school. He does not feel this project has been well thought out. His concern is that  
517 the project starts and then remains empty for years.

518

519 Mr. Loveless said spec builders do not start homes most of the time until the lot and the  
520 home have been sold. Mr. Chillog said if there is not a demand for 70' lots, they could  
521 turn into 80' or 90' wide lots. These are minimum standards. He said the BIA of Central  
522 Ohio has done a study where the population growth in this area is expected to be 50%  
523 soon, and this is one of the types of housing this area does not have. Mr. Holmes said he  
524 understands that, but he questions the demand for that style of home in that location.

525

526 Marti Davis said she is a Realtor and there is a definite demand for condos and  
527 freestanding stepdown homes. There are many grandparents who want to live near their  
528 grandchildren. She does not know about that particular area, but more homes for senior  
529 citizens are needed. However, they need to be affordable.

530

531 Jeff Cutler, with Cutler Real Estate, said he has been a broker in southern Delaware  
532 County for 38 years, and this is the hottest product in the area. There is a demand for  
533 people who want to retire or for teachers who want affordable housing in the area.

534

535 Stan Myers asked how wide Berlin Station Road would be. Mr. Reeves said the  
536 county's minimum standard is 12' lanes, so the minimum standard would be 24'. He  
537 would add an additional 12' at the entrance so there would be a 36' wide section  
538 anywhere there are turn lanes. Mr. Flaherty asked whether that would be curbed or not.  
539 Mr. Reeves was not certain at this time.

540

541 Ms. Korleski said the text indicates that there will be a rural edge on Berlin Station  
542 Road. Mr. Chillog said that refers to the landscaping buffer, not the road itself.

543

544 A woman said she lives directly across the street and she asked whether the entrance/exit  
545 at Berlin Station could be moved further east or moved to Piatt Road. She asked whether  
546 there really needed to be an exit/entrance on Berlin Station Road. Mr. Flaherty said the  
547 county engineer will require that so that there are two accesses if something were to  
548 happen on Piatt Road.

549

550 Bob Grden asked what the time frame was for changing the zoning resolution regarding  
551 net developable acreage. Ms. Korleski said it could take 5-6 months.

552

553 Mr. Reynolds said he has made commitments that can be placed in the text regarding the  
554 side load garages, and the community center language, and he will present the revised  
555 text to the trustees. He believes all questions have been answered, and he asked for a  
556 vote.

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

557 Mr. Loveless said something that may need to be addressed in the final development  
558 plan is the mailbox structures.

559 **RESOLUTION 2019.04.23 .#A: RECOMMEND APPROVAL OF**  
560 **BZC 18-003 TO TRUSTEES WITH CONDITIONS**

561 Mr. Flaherty made a motion to recommend approval of BZC 18-003 to the township  
562 trustees with the divergences as noted and the following conditions:

- 563 1) Item #6, an agri-structure, will be added to 11.08, with full details to be provided  
564 later. It will comply with the uses in 11.04 and will be a minimum of 2,500 SF.  
565 2) A minimum of 10% of the units in each subarea will have side load or courtyard  
566 loaded garages, and no less than 25% of the units in the overall development will  
567 have side load or courtyard loaded garages.

568 Ms. Korleski seconded the motion.

569 Vote: Flaherty, yes; Korleski, yes; Valentine, no; Bardash, no; Johnson, no.

570

571 The recommendation for approval was denied. Ms. Korleski said the application will go  
572 to the trustees.

573

574 Mr. Bardash said his “no” vote was based upon divergences 1, 2, 3 and 4 and Mr.  
575 Johnson agreed that those were his concerns as well.

576

577 Mr. Reynolds asked whether if the side yards were a minimum of 12.5’, whether that  
578 would have changed things. Mr. Johnson said then no divergence would have been  
579 required. Mr. Bardash said he objected to the lot size being reduced to 8,750 SF.

580

581 Mr. Reynolds asked whether he could convince one of the BZC members who voted  
582 “no” to vote to reconsider, with the understanding that he would come back to the next  
583 meeting and strip all of the divergences out so they could vote on the application without  
584 those divergences. Mr. Bardash said at this point, there is a vote to not approve the  
585 application and he did not know whether they could go backwards and take that back.

586

587 Mr. Reynolds said he could ask the BZC to reconsider and the application could be  
588 tabled to a future date. At that time, he would come back with an application that the  
589 BZC would support. Ms. Korleski said she did not see a reason why they could not do  
590 that. Mr. Valentine said he thought the recommendation would go to the trustees now.

591

592 Mr. Reynolds said procedurally through Roberts Rules, he could ask that one of the  
593 individuals who voted “no” to reconsider and if they agreed, the reconsideration would  
594 be voted on, and then he would ask that the application be tabled to a future date. At that  
595 time, he would provide a revised application without the requested divergence. Ms.  
596 Knapp suggested a brief recess to try to figure it out.

597

598 Mr. Johnson said he is in agreement with the proposal as long as the BZC would not be  
599 violating a procedure. Mr. Reynolds assured that they would not be and that this  
600 happens all the time.

601 **RESOLUTION 2019.04.23 .#B: RECONSIDER VOTE**  
602 **PENDING TABLE & CONTINUE TO JULY 9, 2019 AT 7:00 P.M.**

603 Mr. Johnson said that as long as it is legally allowed, he made a motion to reconsider the  
604 vote pending the table and continue to July 9, 2019 at 7:00 p.m., allowing for a re-visit of  
605 the requested divergences. Mr. Valentine seconded the motion.

606

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

607 Ms. Knapp asked Mr. Reynolds whether he was 100% sure this could be done. Mr.  
608 Reynolds said he was.

609

610 Vote: Johnson, yes; Valentine, yes; Flaherty, yes; Bardash, yes; Korleski, yes.  
611 Motion carried.

612

613 Mr. Reynolds said he will be back with a more attractive package on 7/9/19.

614

615 There was a brief recess. The meeting was returned to order.

616

**AGENDA ITEM: OTHER BUSINESS**

617 Ms. Rippel said she is to inform all Berlin Township employees including the zoning  
618 boards that on 5/15/19 from 8:30-11:00 AM the Berlin Township Fire Department will  
619 be teaching a CPR class and how to use the defibrillator. She asked everybody to let her  
620 know within the next few days whether they will be attending. She also stated there was  
621 a meet and greet for all township officials for the new county prosecutor at Orange  
622 Township Hall on 4/30/19 from 4:00-6:00 PM.

623

624 Mr. Loveless asked that when the zoning resolution is revised that mailbox clusters be  
625 addressed. Currently the mailboxes are being installed at Johnnycake and they are not  
626 ADA-compliant (Americans with Disabilities Act). It will fall back to Berlin Township  
627 to rip them out and replace them at its own expense. Mr. Flaherty asked whether the  
628 clause that the mailboxes be USPS (United States Postal Service) approved does not  
629 include ADA approval. Mr. Loveless said the Johnnycake mailboxes went in after the  
630 fact and they have no ADA access.

631

632 Ms. Korleski said the details should be included in the development plan. Mr. Loveless  
633 said that is correct and that the details should include where they will be located as well  
634 as that they will be ADA compliant. Mr. Flaherty said the USPS requirement should  
635 also be included. Mr. Loveless said Johnnycake is not a very large development but it  
636 has two clusters of mailboxes. Johnnycake is located on the corner of Cheshire Road  
637 and 3 B's and K Road. Mr. Bardash said he would be surprised if ADA compliance was  
638 not a federal requirement of the USPS.

639

640 Mr. Armstrong said when he was the zoning inspector, he tried for years to get the post  
641 office to enforce its regulations regarding no monument-based mailboxes, which are  
642 banned in the United States, to no avail. The USPS would neither enforce nor inspect  
643 the mailboxes while he was zoning inspector; they informed him it was a global problem  
644 and they would not get involved.

645

646 Mr. Loveless said he looked at the regulations and they are in their infancy, so they have  
647 not gotten all the details in there. Mr. Flaherty said they should check with the county  
648 prosecutor as well. Mr. Loveless said unless it's addressed and stated how cluster  
649 mailboxes are built, the developer will skip the required curb cuts and handicapped  
650 ramps because they are expensive. There are not supposed to be expansion joints in the  
651 concrete.

652

653 Mr. Johnson asked whether the requirements can simply indicate that they are ADA-  
654 compliant. Mr. Loveless said that was correct.

655

656 Mr. Valentine asked about removing the term "approximately" from the zoning  
657 resolution. Mr. Armstrong said it would be more than that. He noted that he agreed with  
658 the opinion of another audience member who said he would not have granted any of the  
659 divergences.

660

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

661 Mr. Johnson said sections 2, 3 and 4 specify in the purpose that there will be one unit per  
662 so many square feet, or approximately. He said that language may be able to be  
663 removed and replaced with “A housing type at a density of 1.5, 1.85” etc. In sections .02  
664 which is the application description for all the articles, the square footage only comes  
665 about when establishing minimum lot sizes.

666  
667 Ms. Korleski asked whether that was part of Ohio Revised Code. Mr. Armstrong said it  
668 was not and that the language could be removed as suggested. A minimum square  
669 footage could be provided without indicating the normal lot size. The density being used  
670 as a result of this loophole is 2.17 units/acre. To remove it, the density should be  
671 provided and the “approximate” references should be removed. He suggested discussing  
672 the issue with Delaware County Regional Planning Commission and placing it on the  
673 agenda at one of the next two BZC meetings for initiation so it can be approved quickly.

674  
675 Mr. Johnson said the square foot value language is referenced in each section and that  
676 needs to be included in the discussion. By using the “or approximately,” the township  
677 has allowed developers to use the minimum lot size to calculate average density. Mr.  
678 Johnson said by including square footage and average density overall under the purpose,  
679 the waters have been muddied. The language regarding the square footage and the  
680 approximate language could be removed from .01 for Sections 9, 10 and 11 and that  
681 would clear it up. Mr. Armstrong suggested new language and ensuring that meets what  
682 the township wants.

683  
684 Mr. Valentine asked whether the township’s comprehensive land use plan (CLUP) book  
685 needs to be revised as well due to any conflicting information. Mr. Flaherty said that the  
686 CLUP is not binding like the zoning resolution. Ms. Korleski and Mr. Valentine said  
687 even though that is always stated, applicants continue to reference it in each application.  
688 Mr. Flaherty said it should be revisited during the CLUP update.

689  
690 Ms. Rippel said perhaps the change could be initiated and process started at the 5/14/19  
691 BZC meeting because the current agenda is not extensive. Mr. Armstrong said the  
692 language to initiate would need to be provided. Ms. Korleski said she would want to  
693 make sure that all the details are in place prior to initiation. Mr. Flaherty said at the 5/14  
694 meeting, the BZC can decide what they want and submit it to Delaware County Regional  
695 Planning Commission executive director Scott Sanders for his recommendation. Mr.  
696 Armstrong said they could request that Mr. Sanders remove the other figures so it is 1.85  
697 units/acre, then Mr. Sanders would send it to the BZC.

698  
699 Ms. Korleski said she thought the BZC would have to initiate the application before it  
700 goes to the Delaware County Regional Planning Commission. Mr. Armstrong said that  
701 cannot be done. Ms. Korleski said that it is the way the BZC has done it before. Mr.  
702 Armstrong said a 14 day notice must be advertised in the newspaper that indicates the  
703 purpose and includes the changes to be made. Three separate actions under the three  
704 separate articles R-2, R-3 and R-4 must initiated.

705  
706 Ms. Rippel said she thought she initiated it and then advertised it, and then the BZC  
707 would discuss the issue and then vote. Ms. Rippel said that is the way it was done  
708 before. Mr. Armstrong said it was not done that way in the past. Mr. Johnson suggested  
709 reaching out to Mr. Sanders to clarify what needs to be done. Ms. Korleski said she  
710 would do that.

711  
712 The next BZC meeting will be on Tuesday 5/14/19 at 7:00 p.m. for the Germins, who  
713 want to add a use to their property. Ms. Korleski said she thought she had seen a For  
714 Sale sign on that property.

715  
716 There was no further business to come before the Commission. Motion to adjourn.  
717 Meeting adjourned.

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, APRIL 23, 2019 7:00 PM**

718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748

\_\_\_\_\_  
Toni Korleski, Chairperson

\_\_\_\_\_  
Jerry Valentine, Vice-Chairperson

\_\_\_\_\_  
Darcy Kaplan, member

\_\_\_\_\_  
Mike Bardash, member

\_\_\_\_\_  
Martin Johnson, member

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

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

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