

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

TUESDAY, JULY 9, 2019 7:00 PM

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

3 **CALL TO ORDER**

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

6
7 Mr. Valentine led meeting attendees in the pledge of allegiance.

8
9 BZC members present: Chairman Toni Korleski, Vice-Chairman Jerry Valentine, Darci
10 Kaplan, Mike Bardash, Steve Flaherty, 1st BZC alternate member (seated).

11 Not present: BZC member Martin Johnson; Ray Armstrong 2nd BZC alternate member.

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

14
15 Ms. Korleski read the adopted BZC policy statement as printed in the agenda.

16 **AGENDA ITEM: LEGAL NOTICE**

17 Ms. Knapp said this meeting was advertised as a regular meeting for 2019, and this
18 hearing was tabled and continued from the April 23, 2019 BZC meeting.

19 **AGENDA ITEM: APPROVAL OF MINUTES**

20 Mr. Valentine made a motion to approve the minutes from the June 25, 2019 BZC
21 meeting as presented. Mr. Flaherty seconded the motion.

22 Vote: Valentine, yes; Flaherty, yes; Kaplan, abstain; Bardash, abstain; Korleski, yes.

23 Motion carried. Minutes approved.

24
25 **Agenda Item: Introduction of Meeting Attendees**

- 26 • Michelle Brooks, 4365 East Bay Circle
27 • Brad Cook, 2820 Berlin Station Road
28 • Michelle Cook, 2820 Berlin Station Road
29 • Joe Korleski, 3584 Greenville Drive
30 • Barb Sherman, 1469 Africa Road
31 • Amy Eiken, 61 Westgate Drive
32 • Mary Beth Graham, 6 Westgate Drive
33 • Michael Shade, attorney, PO Box 438, Delaware, Ohio
34 • Bob Grtn, 1241 Peachblow Road
35 • Tom Hebert, 5340 Polar Drive
36 • Jeff Jordan, 2862 Berlin Station Road
37 • Mark Davidson, 64 Arbor Lane, Pataskala,
38 • Dan Pardi, Longhill Limited Partnership
39 • John Pardi, Longhill Limited Partnership
40 • Steve Spangler, 2877 Berlin Station Road
41 • Gene Cottrill, 2807 Berlin Station Road
42 • Dan Cottrill, 927 Prince William Lane, Westerville
43 • Roy Cottrill, 1227 Bell Mead Place, Westerville
44 • Amy Herbert, 5340 Polar Drive, Lewis Center
45 • Mike Reeves, engineer with Kimley-Horn and Associates, 2400 Corporate
46 Exchange, Columbus
47 • Drew Russell, with The Edge Group, 330 W. Spring Street, Ste. 350 Columbus,
48 43215
49 • Greg Chillog, with The Edge Group
50 • Aaron Underhill, attorney with Underhill & Hodge

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**AGENDA ITEM: BZC 18-003, LONGHILL LIMITED PARTNERSHIP II,
RDRG FARMS INC., & STEVE SPANGLER SR.**

53 *BZC 18-003, filed by Longhill Limited Partnership II, RDRG Farms Inc., & Steve*
54 *Spangler Sr., 1592 Denbigh, Columbus, OH 43220. The applicant's are requesting*
55 *approval of a preliminary development plan to rezone, Parcel's #41824001057000,*
56 *Parcel #418-240-01-058-000, & Parcel#418-240-01-056-000, 0 Berlin Station Rd.,*
57 *Parcel #418-230-01-002-000, 2807 Berlin Station Road, & Parcel #418-230-01-001-000*
58 *& Parcel #418-240-01-058-001, 2877 Berlin Station Rd., all in Delaware, OH 43015*
59 *from Farm Residential District (FR-1) to R-3 Planned Residential District (R-3/PRD),*
60 *301.944 ± acres, for a 531 single family lot subdivision.*

61
62
63

Ms. Korleski read a letter into the minutes:



Aaron L. Underhill
8000 Walton Parkway, Suite 260
New Albany, Ohio 43054

P: 614.335.9321
F: 614.335.9329
aaron@uhlawfirm.com

June 2, 2019

Ms. Cathy Rippel, Zoning Secretary
Berlin Township
3271 Cheshire Road
Delaware, Ohio 43015

Via Email: zoningsecretary@berlintwp.us

Dear Cathy,

As I am sure Greg Chillog has mentioned, I have been retained to assist with this application moving forward. Thank you for alerting us to the anticipated absence of Commissioner Martin Johnson from the July 9, 2019 Berlin Township Zoning Commission hearing. We would still like to present our revised plan to a full Commission on July 9, 2019.

As you will recall, Mr. Steve Flaherty took the place of Darcy Kaplan (a regular member of the Berlin Township Zoning Commission) on the Berlin Township Zoning Commission at the initial meeting to consider this application, as she was out of town. Mr. Flaherty has sat in for Ms. Kaplan at each meeting on this application. Given that Ms. Kaplan has been in attendance as an alternate during subsequent meetings of the BZC to hear this application, we would like to request that she be permitted to take Mr. Johnson's place on July 9th. Thank you for your assistance and consideration.

Sincerely,



Aaron L. Underhill

64
65

66 Ms. Korleski noted that the number of homes had been changed. Mr. Underhill said it
67 was now 482.

68

69 Mr. Underhill said he had been hired recently to take a fresh look at this application and
70 plan and he is taking that very seriously by reviewing past plans presented to the BZC,
71 he has read and re-read BZC minutes from prior meeting, and has spent countless hours
72 with his client and their other consultants. He is here to present a new and improved
73 plan that he believes is meant to try to bridge the gap between what the applicant is
74 proposing and what the BZC would like to see.

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75 Mr. Underhill said there were three issues that needed to be addressed.

76

77 The area of The Enclave, which is the empty-nester age-targeted component.

78

79 Mr. Underhill said this is located in the southwestern portion of the site. The BZC vote
80 was split 3:2 and he felt that the applicant could do more to ensure that this is the product
81 that is delivered to the township. There had been concerns about whether the
82 development would produce schoolchildren, that the lots were too small for the homes,
83 etc.

84

85 Mr. Underhill said there is a master homeowners association (HOA) that will apply to
86 the entire community. It will be forced and funded and would apply to the entire
87 community and each homeowner would pay their fair share of the maintenance of the
88 open and common spaces. In The Enclave, a sub-association which will also be forced
89 and funded, will be formed, and its role will be to maintain all of the lawns and
90 landscaping for The Enclave portion of the development. The empty-nester residents do
91 not like to spend their time maintaining their lawn, etc. and this will be an amenity to the
92 community and will provide uniform maintenance.

93

94 Mr. Underhill said this is a step short of a condo, where some of the exterior of the
95 building would be taken care of. Homeowners in The Enclave will still be responsible
96 for maintaining their homes. This feature will be an important component that will lure
97 empty-nesters.

98

99 Mr. Underhill said the height and story configurations have been limited, and only ranch-
100 style or 1 ½ story units are permitted, and the two bedrooms and two baths are required
101 to be on the first floor, along with the laundry room. The maximum permitted bedrooms
102 in the half story would be just one, so this will not be attractive to a family with school
103 children. He thinks putting these provisions in place helps assure the developer's intent
104 for the product.

105

106 Mr. Underhill said it has also been provided that no playgrounds will be permitted within
107 the open spaces in this area of the community, as playgrounds would fly in the face of
108 the market that is being attracted. He said he would be willing to prohibit swing sets and
109 such in the backyards as well.

110

111 Mr. Underhill said the most important change is regarding density. The applicant has
112 eliminated 7 lots overall. There were 489 units at the last hearing, and there are 482
113 now. He noted that the 23 acre site across from the railroad tracks on the northwest
114 portion of the site had been taken out prior to this, when there were 531 units.

115

116 Mr. Underhill said maintaining the rural character of Berlin Station Road was important,
117 and eliminating the 7 lots helped to create a rural character along that frontage.

118

119 Components of the neighborhood that are meant to be serving as an agrihood, providing
120 an amenity for the community.

121

122 Mr. Underhill said the applicant has been trying to figure out what it meant to be an
123 agrihood. Reserve N is about 8 acres and it has now been cut into two sub-reserves, N-1
124 and N-2. Within subarea N-1, only agricultural uses will be permitted and that will be
125 200' from the right-of-way as proposed, and with the additional right-of-way, it will be
126 212.5' back from the current right-of-way line. Within the agrihood area, only
127 agricultural uses will be permitted and there will be no structures. There may be animals
128 including chickens, and gardens.

129

130 Mr. Underhill said that N-1 needs to interact with the northern part of the subarea, N-2,
131 which will have an agricultural community center and will serve a dual purpose,

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132 including being a typical community amenity to include possible uses such as a
133 gathering space, a pool, and other recreation. Per the minutes, committing to the size of
134 the structure was important to the BZC and the applicant has now committed to a
135 minimum of 2,500 SF for that agricultural community center.

136
137 Mr. Underhill said in order to ensure that areas N-1 and N-2 interact with each other, he
138 is requiring that 1,500 SF of the 2,500 SF will be conditioned space. Essentially it will
139 be habitable with air and heat. The remainder could be unconditioned space, although it
140 may not be. The concept was that it could provide an area for residents to store tools,
141 seeds, etc. and also have easy access down into the unimproved area to the south.

142
143 Mr. Underhill said the community center will be required to have a barn-like design and
144 architecture and to run parallel to Berlin Station Road. The intent of the significant
145 setback and the barn-like structure is to make it feel like it belongs there and has been
146 there for a while, which will enhance the aesthetics of the area. To prohibit it from being
147 set back too far, the text indicates a requirement that the structure be no further than 25'
148 from the dividing line between the two sub reserves. It will be 200-225' from the
149 roadway.

150
151 Mr. Underhill said another requirement included in the text is that any components of or
152 improvements to the community area, other than patios and walking paths, have to be to
153 the rear of the front façade of the building. Even though there will be significant
154 landscaping along Berlin Station Road, this additional requirement will help buffer the
155 view from that road and provide a nice visual component.

156
157 Mr. Underhill said he believes that these changes have created a strong rural feel in the
158 upper area and have incorporated a viable area of 3-4 acres for agricultural uses.

159
160 A number of divergences, which he has done his best to eliminate.
161 Mr. Underhill said he understands that the BZC does not like divergences, so he cleaned
162 up the plan. In the original plan and throughout the process there have been 7-8
163 divergences. There are only three divergences being requested for this application.

- 164 1. Signage: There is a request that allows the ability to have a couple of marketing
165 signs, and indicates the length of time they can be up. That is due to the size of
166 the property.
167 2. Side yards in The Enclave: These types of empty nester communities have
168 smaller yards with less space between homes and smaller lot sizes. The applicant
169 is measuring lot widths at the building lines instead of the streets. This helps
170 provide planned open space. If 9' was added to the setbacks in this area, that
171 would reduce the open space by 3 acres as it would be dispersed throughout the
172 community on each lot. The applicant is not requesting a divergence from lot size
173 or area requirements.

174 Mr. Underhill said regarding why divergences should be granted, this is not a one-size-
175 fits-all world. The zoning resolution provides for this district in order to provide for
176 some creativity and diversity in product type, and to bring a better plan than would
177 otherwise be brought if the zoning resolution was followed. If a plan were to adhere to
178 the resolution, there would be no need to have a planned district. There is a recognition
179 that this can lead to a better quality product and he believes he has achieved that here.

180
181 Mr. Underhill referenced Section 5.05 5) of the zoning resolution, which discusses the
182 purpose:

183
184 *SECTION 5.055: PLANNED RESIDENTIAL DISTRICT (PRD) – ARTICLE 11*
185 *The Planned Residential District is a planned unit development district (PUD)*
186 *adopted pursuant to Ohio Revised Code section 519.21(A). It is intended to*

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187 *supplement the FR-1, R-2, R-3, and R-4 districts. The PRD is intended to provide*
188 *flexibility in the arrangement, design, lot size, and setbacks of primarily single*
189 *family dwellings in designated suburban areas based on a unified development*
190 *plan...Open space is a major component of such a unified development plan.*

191
192 Mr. Underhill said he has tried to use these provisions to create a superior product and
193 plan. More than 80% of the overall lots meet the requirements of the underlying R-3
194 base district. Around 19% do not, but this community creates a diversity of product type;
195 it's what the consumer expects, and it allows the aging population in this area to step into
196 a product that is smaller and maintenance free.

197
198 Mr. Underhill said he thought about what the development would look like if it adhered
199 to the straight R-3 district or a PRD district that adhered to the R-3 requirements. He
200 said some BZC members had felt that the reduction of the side yards and lot width was
201 an attempt to get more density on the site.

202
203 Mr. Underhill said in either case, the same number of homes could be built, and in fact a
204 few more units could be built if side yards and lot widths were not reduced. This plan is
205 not an attempt to get more density but instead to put together a better plan everybody
206 could be proud of. He distributed a handout that showed more information. He said a
207 straight R-3 district does not require any open space but that would be an exercise in
208 trying to cram as many lots as possible on the project without amenities, so that is not
209 realistic.

210
211 Mr. Underhill said there are many things the applicant is bringing along with this project
212 including the materials, the agrihood, architectural details, limitations on the main floor
213 in The Enclave, etc. He believes that through the combination of changes made to the
214 plan, it is actually 7 units short of what could be built if the letter of the resolution was
215 followed in certain districts. He said the provided chart indicates the applicant has
216 provided a superior project.

217
218 Mr. Underhill said with the reduction in the number of units and the number of
219 divergences, he is requesting that the BZC consider the application for approval.

220
221 Commission Consideration

222
223 Ms. Kaplan said she noticed that The Enclave has a community pool, and she asked
224 whether there would be one in Area N. Mr. Underhill said there likely would be, and the
225 concept and requirement will be that the pool in The Enclave would only serve that
226 community.

227
228 Ms. Kaplan said a rendering in The Enclave shows a home up to the pond water line, but
229 the provided home envelopes look far away from the pond. Mr. Chillog said the
230 difference between The Enclave lots and the wider lots are that there are open space
231 areas behind most of these lots, and that translates into a different lifestyle.

232
233 Ms. Kaplan asked about the long pond near the railroad track and she said it appeared to
234 be very narrow at 40' across. Mr. Chillog said it is a large pond and is a function of
235 elevations and the outlet elevations; it is essentially an above-ground pipe. It cannot be
236 split into two ponds because there isn't the fall necessary to get it from one level to the
237 other.

238
239 Mr. Reeves said there is a similar situation south of Berlin high school where there is a
240 very large water surface elevation due to the lack of fall and topographic relief in this
241 area. Also, the Delaware County Engineer's standards would make it challenging to pipe
242 the water.

243

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244 Mr. Chillog said some of the areas along the pond are intended to be more natural in
245 appearance such as wetlands shelves, etc. Mr. Underhill said the final engineering plan
246 will be brought back to the BZC for final approval.
247

248 Ms. Kaplan said the applicant spoke regarding why divergences are in the township's
249 best interest, but she is still very concerned about the density. There are different ways
250 to calculate the density. Using the method typically used to calculate density, she came
251 up with just 416 units. Mr. Underhill said he tried his best to conform to the rules and the
252 plan does meet the R-3 standards. There is a bit of an anomaly in the resolution that it
253 was not written as intended and he has tried to make the plan the best it can be. He
254 believes the plan meets the letter of the law.
255

256 Ms. Kaplan said the BZC's task is to follow the letter of the law as far as divergences.
257 Mr. Underhill said the planned district has to have some wiggle room; if there is none,
258 there is no sense in having a planned district. There are only a few divergences that have
259 been requested. The reduction in lot width is just 10%, he noted. He thinks it is
260 important to provide diversity to the residents.
261

262 Mr. Valentine said at the last hearing, the applicant was going to try to adjust the
263 ingress/egress road so it wasn't directly across from the existing house across the street,
264 for purposes of headlights. However, it appears to be directly across from the house
265 now, and he asked whether they have discussed that with the homeowners.
266

267 Mr. Chillog said there were some discussion with the homeowners, including that when
268 final engineering is done, it would be located as far from the driveway as possible, and
269 also that they would work with the homeowner for additional landscaping.
270

271 Mr. Valentine noted that recent input from the community has indicated that they want a
272 rural environment. The density is still about 60 above what it should be, which is a 15-
273 20% difference.
274

275 Ms. Korleski asked about listed divergence #1. Mr. Chillog said it could have been
276 mislabeled. Ms. Korleski asked about the lots that were highlighted. Mr. Chillog said
277 those are the lots where a divergence has been granted for where the lot width is
278 measured, at the build line instead of at the street. Ms. Korleski said the divergence
279 indicates that it only applies to The Enclave.
280

281 Mr. Chillog said the intent of the request is for the front yard setback to be measured at
282 the front yard setback line on all lots. He referenced page 6 of the plan. There is a
283 request for a reduction from 80' to 72' for Lot Type A, which would allow 72' lots in
284 The Enclave, and that the lot frontage for all lots will be measure at the front setback
285 line. Ms. Korleski said a second divergence would be required for the properties that are
286 on the curve. Mr. Chillog said that was their intent.
287

288 Mr. Underhill said it was unartfully worded as it comes after the referenced Lot Type A.
289 He could call it a separate divergence and commit to the lots as shown on the plan. Ms.
290 Korleski said it does not reference Lot Type B. Mr. Flaherty explained how the
291 language was confusing. Mr. Chillog confirmed that it would only apply to the curved
292 sections. Ms. Korleski said a divergence should be requested for that.
293

294 Ms. Korleski asked whether all of the lots in The Enclave will be maintained by the sub-
295 association. Mr. Underhill said that was correct. Mr. Chillog explained that in previous
296 versions that was two divergences, but it was combined into one for this version.
297

298 Ms. Korleski asked whether the applicant was planning to put a multi-path on Piatt
299 Road. Mr. Chillog said there will be a pathway along Piatt Road as part of that

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300 construction and it is shown on the open space plan, in the development plan, in the text,
301 and elsewhere.

302

303 Mr. Loveless said that the plan shows that Piatt Road crosses over off the property and
304 the pathway ends. It will end there forever. If the path continued all the way down to
305 the entrance of this development, at a minimum, that would eliminate a dead-end bike
306 path.

307

308 Mr. Chillog showed a diagram and said the path is being shown as part of the Piatt Road
309 extension. He said the path is continuing but it is difficult to see on the plans, and he
310 pointed it out in yellow.

311

312 Mr. Flaherty asked whether the sub-association of The Enclave would be just for lawn
313 care, not snow plowing, etc. because those are township roads. Mr. Chillog said that was
314 correct.

315

316 Mr. Flaherty said he appreciated the cooperation along the way by the applicant. He
317 recognizes the importance of the PRD. There is just one chance to develop the property
318 and to do it right. Density is always going to be the most difficult issue for the township,
319 especially with the larger developments. Evans Farm and this development are the two
320 largest properties that have come through zoning. However, because they are so large,
321 they are not just neighborhoods. They have to have an identity and a community that
322 they are bringing in lieu of just rooftops. He appreciates the applicant working through
323 this and listening to what the BZC has to say. He is fine with the divergences as
324 requested.

325

326 Mr. Bardash applauded Mr. Underhill on the letter that was included with the revised
327 plan. He reviewed the divergences and made a suggestion that could eliminate the need
328 for the 4th divergence.

329

330 Mr. Bardash said in Exhibit N, the total number of lots was not changed to 482. Mr.
331 Chillog said that figure shows what could be constructed under R-3 PRD and that what
332 the developer is providing is less than what the zoning resolution permits.

333

334 Mr. Bardash said he likes the idea of not allowing swing sets or playsets in the backyards
335 of The Enclave. He asked that it be incorporated as Exhibit X and that the following
336 language could be added: "Lot frontage to be measured at the front yard setback line as
337 shown in Exhibit B on Exhibit X."

338

RESOLUTION 2019.07.09 #A: ENTER EXHIBIT X INTO THE RECORD

339 Ms. Korleski made a motion to enter Exhibit X into the application. Mr. Flaherty
340 seconded the motion.

341 Vote: Korleski, yes; Flaherty, yes; Bardash, yes; Valentine, yes; Kaplan, yes.

342 Motion carried.

343

344 Mr. Bardash stated that divergence 2, E will now state "A reduction from 80' to 72' for
345 lot types A, lot frontage to be measured at the front yard setback line as shown
346 highlighted in Exhibit B of Exhibit X." Mr. Underhill signed the exhibit.

347

348 Mr. Chillog said originally The Enclave lots were 70' but they were increased to 72'.

349

350 Ms. Eiken said she was the one who brought the agrihood to the table a few months ago.
351 She was concerned about who would take care of that area. A community is not just a
352 group of people who live in the same area. An agrihood is a community with heart, with
353 people who are passionate about the land and taking care of it. This is a nice add-on,
354 although she is not sure they really got the concept of an agrihood. She suggested

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355 changing the vernacular and not calling it an agrihood because it doesn't really hit the
356 mark, although it is a nice feature.

357

358 Mr. Chillog said that typically, a community farm is not something that would be taken
359 over by the HOA. There is no current operator for the community farm, but he has
360 written into the text items that he can commit to and that the HOA could manage, so
361 when that person or entity comes on line, it is available.

362

363 Mr. Underhill said he could perhaps require a management company to take care of it,
364 and it would be good for the neighborhood. He said perhaps a plan to ensure that could
365 be presented with the final development plan.

366

367 Mr. Flaherty said there were discussions about the high school as well as 4-H having
368 some involvement or availability for that, and he encouraged the applicant to reach out to
369 them for discussions. That plan would be key to the final development plan so it doesn't
370 go awry, and ensuring that the community farm can be used by the community. Mr.
371 Underhill said it should be open to the public in general.

372

373 Mr. Jordan asked where the entrance was. Mr. Chillog said it was still in the same
374 location.

375

376 Ms. Rippel asked whether there would be a pickleball court or exercise equipment in The
377 Enclave. Mr. Chillog said there is not but it could be provided. Mr. Underhill said those
378 commitments would be made in the final development plan.

379

RESOLUTION 2019.07.09 #B: RECOMMEND APPROVAL OF BZC 18-003 TO TRUSTEES

380 Mr. Flaherty made a motion to recommend to the township trustees the approval of BZC
381 18-003, a rezone from FR-1 to an R-3 district with a PRD overlay, of 278.812± acres for
382 a 482 single-family lot subdivision with the following conditions:

- 383 • No swing sets/playsets will be permitted in The Enclave.
384 • Exhibits A-X are a part of this application.

385 Mr. Bardash seconded the motion.

386 Vote: Flaherty, yes; Bardash, yes; Valentine, yes; Korleski, yes; Kaplan, no.

387

388 There was a brief recess.

389 Meeting was returned to session.

390

**AGENDA ITEM: INFORMAL MEETING WITH MARK DAVIDSON & TOM HEBERT OF
391 BARTER LAWN CARE RE: OLD RICH'S AUTO PROPERTY IN OLD CHESHIRE**

392 Mr. Hebert said the subject property was used by Rich's Automotive, which moved to
393 36/37 and 3 B's and K Road many years ago. They had leased the property, which is
394 currently for sale by owner and they are in contract to purchase the property, which is in
395 the Old Cheshire Planned Unit Development District (OCPUDD) area.

396

397 Mr. Davidson said Greenlawn is currently running in that area as well using NAICS code
398 1114 (Greenhouse, Nursery and Floriculture Production); they are doing fertilizations,
399 over seeding, aerations, etc. and he would like to do that same thing. He did not know
400 whether he would work under that or whether he would need to apply for a different
401 code under lawn care, which would be 561730. Ms. Korleski said she did not have that
402 one.

403

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404 Mr. Davidson said he wanted to make sure the proposed use was in compliance with the
405 zoning resolution before the property is purchased. There is already one company
406 working under that code for the same uses.

407
408 Ms. Korleski said a rezoning would be required for a change in use. Mr. Davidson said
409 they would not do automotive work, just lawn care. He would like to improve the house
410 next to it to use it as an office or rent it out. The garage may need to be fixed up as well.
411 Ms. Korleski clarified that they would not be building any more buildings.

412
413 Ms. Korleski said the use or the character of the development was changing from
414 automotive to lawn care. She read from the zoning resolution:

415
416 SECTION 13.11: ADMINISTRATION OF THE DEVELOPMENT PLAN

417
418 *A.) Deviations:*

419
420 *2.) Major Deviations: In the case of a request for a modification or amendment to*
421 *the approved final development plan that represents a substantial departure from the*
422 *intent of the original proposal, as determined by the Zoning Commission, said*
423 *modification or amendment shall be subject to the same procedure and conditions of*
424 *preliminary and final development plan approval as the original application. The*
425 *following shall be considered substantial departures from the original application:*

426
427 *a.) A change in the use or character of the development*

428
429 Ms. Korleski said the proposal would be a change in the use or character of the
430 development.

431
432 Mr. Flaherty said it was developed as a commercial development, so a change in use
433 would be to another district. He asked what the current NAICS code for the property is.
434 He said as long as the NAICS code 1114 is currently approved for the property it should
435 be fine. Going from an automotive use to a lawn care use is not a change in use; it is still
436 commercial activity.

437
438 Mr. Loveless said NAICS code 1114 is already an approved use for that property. Mr.
439 Flaherty said he did not see it as a change in use.

440
441 Mr. Loveless said this is an informal discussion just to make sure they are compliant.
442 Mr. Valentine said 1114 is the very first NAICS code listed in the OCPUDD. Mr.
443 Davidson asked if another use wanted to use the building, would be fine as long as the
444 code was already approved for the property. Mr. Flaherty said that was correct.

445 **ITEM: DISCUSSION OF 36/37 CLOUD**

446 Ms. Korleski said Ray Armstrong thinks there will be large attendance for the cloud
447 discussion for 36/37, and trustee Ron Bullard wants to see if he can reserve Gracepoint
448 Church for the meeting. She is waiting for a call back from him. Ms. Korleski noted
449 that at least 2 weeks' notice would be required for noticing purposes. Ms. Rippel said she
450 does not have the list yet and would need at least 3 weeks.

451 **AGENDA ITEM: OTHER BUSINESS**

452 Villas of Old Harbor East

453 Mr. Loveless said he met with a representative from Romanelli & Hughes and he has
454 some requests regarding Villas of Old Harbor east. The representative wants to keep it a
455 private community, but he wants to eliminate the entry gate that was specified in the plan

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

REGULAR MEETING

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456 and put that money into amenities like a gazebo, etc. That would also open it up and
457 make it look more rural. He wanted to make sure that was acceptable.

458
459 Ms. Korleski asked what the advantage of a gate was. Mr. Loveless said that it was to
460 keep the ingress and egress private, keeping people who don't live there out. He said a
461 sign indicating "no through street" could be posted instead. Mr. Valentine noted there
462 were two gates. Mr. Loveless said that was correct but the gate on the far side is
463 breakaway bollards so emergency vehicles can come through. He noted that bicycles
464 and pedestrians can go through the other gate.

465
466 Mr. Loveless said the entrance on South Old State Road would not have a gate on it. Mr.
467 Flaherty asked if the other side would still have a gate. Mr. Loveless said because the
468 builder is not known, that is not known yet. Ms. Korleski said there would be a gate on
469 Hollenback Road. Mr. Flaherty said "as long as they're still maintaining the roads as a
470 private community, gate or no gate..."

471
472 Mr. Flaherty said it would have to be part of the final development plan and it could not
473 be decided until then. Ms. Korleski said the applicant for that community, John Wicks,
474 said he wanted to have a gated community and he discussed the advantages and
475 disadvantages. Mr. Valentine noted there is no swimming pool on that side in the plans.
476 Mr. Valentine agreed the request should be part of the final development plan.

477
478 Big Run Road Property

479
480 Mr. Loveless said there is a property at 194 Big Run Road that has multiple unregistered
481 vehicles and there have also been health complaints that are being addressed including
482 mice. However, the neighbor to the south is very upset with the condition of the property
483 because he has his property for sale and enforcement of the issues is taking a long time.
484 Mr. Loveless noted that zoning has no authority over the mice running out of the
485 property. The situation involves multiple issues and there is no quick fix, but said the
486 township will probably proceed with legal action against the property owner.

487 **AGENDA ITEM: OTHER BUSINESS**

488 Ms. Korleski said the next BZC meeting will be on Tuesday, 7/23/19 at 7:00 p.m.

489
490 There was no further business to come before the Commission. Motion to adjourn.
491 Meeting adjourned.

492
493
494 _____
Toni Korleski, Chairperson

495
496
497 _____
Jerry Valentine, Vice-Chairperson

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500 _____
Darcy Kaplan, member

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503 _____
Mike Bardash, member

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Martin Johnson, member

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

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Steve Flaherty, 1st alternate member

Ray Armstrong, 2nd alternate member

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