

BERLIN TOWNSHIP BOARD OF ZONING APPEALS (BZA)

OF DELAWARE COUNTY, OHIO

HEARING

JANUARY 4, 2022: 7:00 PM

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CALL TO ORDER

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

The meeting was called to order by Vice-Chairperson Jason Acevedo at 7:00 PM.

Pledge of Allegiance.

BZA members present: Chairperson Don Sutton, Vice-Chairperson Jason Acevedo, Brad Cook, Michelle Cook, Quinn Machan (BZA first alternate member, seated).

Also present: Zoning Clerk Lisa Knapp; Zoning Secretary Cathy Rippel.

Not present: BZC member Larry Harmon, BZA second alternate member Jessica Kuenzli, Zoning Inspector David Loveless.

Those wishing to speak were sworn in by Court Reporter Sandy Kin from Runfola Reporters.

AGENDA ITEM: BZA 21-004 SCHOTTENSTEIN HOMES
REQUEST FOR CONDITIONAL USE PERMIT FOR A MODEL HOME

BZA 21-004 request by Schottenstein Homes for a conditional use permit for a model home and parking lot at 6975 Turnstone Loop, lots 3188 and 3187, at the Reserve at Northlake.

List of Exhibits

Ms. Knapp read the list of exhibits into the record as follows:

Original File Exhibits –

1. Application for Conditional Use Permit, Model Home/Parking Lot Parcel 418-110-06-003-000 & 418-110-06-003-002, 1-page, dated 11/10/2021, submitted 11/18/2021.

2. Letter dated 11/4/2021 to Berlin Township from Chris Lamkin Schottenstein Homes, 1-page, submitted with application filed 11/18/2021.

3. Letter dated 11/10/2021, list of parcels with 300 feet, all parcels are owned by Schottenstein Homes, 1 –page, submitted with application filed 11/18/2021.

4. 11x17, Signage example for model home, 11x17 of the model home parking, 2- pages, submitted with application filed 11/18/2021.

5. 11 x 17 Plot Plan of Model Home, Lot 3188, 6975 Turnstone Loop, 11x17 elevations of the model home “The Vinton” 4-pages, submitted with application filed 11/01/2021.

6. 11x17 landscape plan for model home, Lot 3188, 6975 Turnstone Loop, 1-page, submitted with application filed 11/01/2021.

ZONING OFFICE EXHIBITS

7. Ariel view of 418-110-06-003-000, & 418-110-06-003-002 and surrounding property owners within 300 feet (all owned by Schottenstein Homes), from Delaware County Auditor’s GIS Office, dated, 12/13/2021.

8. Request of publication in the Delaware Gazette 12/21/2021 via email, dated 12/13/2021.

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61 9. Notice of Hearing to applicant dated 12/28/2021.

62

63 10. Proof of publication in the Delaware Gazette dated 12/21/2021.

64

65

Applicant Presentation

66

67 Paul Coppel, with Schottenstein homes, presented the application and answered
68 questions from the Board.

69

70 Mr. Coppel said this model home is for their newest condominium community in
71 Northlake, with 37 units. This is part of a PUD zoning approved in Berlin Township
72 4-5 years ago. Under the approved zoning, they are permitted to have a model home
73 and he is here to request approval for that. The text of the zoning also indicated that
74 the BZA would need to approve the model home sign, which is part of the file.

75

76 Mr. Coppel said at the time the zoning was done, there was an agreement that there
77 would be no off-street parking, so there will not be a parking lot, and that is indicated
78 in the packet. He said that was erroneously included in the application and it should
79 be deleted.

80

81 Mr. Coppel said the model home is one of the designs that will be offered in the
82 community.

83

84 Mr. Sutton said there was a letter provided to them by the fire department. It was
85 added as Exhibit 11.

86

87 Mr. Sutton reviewed Section 11.06 Conditional Uses from the Berlin Township
88 zoning resolution, criteria that must be met to approve the application.

89 11.06 Conditional Uses

90

91 A. Model Homes in Subdivisions, the same being defined as residential type
92 structures used as sales offices by builders/developers and to display the
93 builder's/developer's product. The same may be furnished within, since its purpose is
94 to display to prospective buyer the builder's/developer's features (such as exterior
95 siding treatment, roofing materials, interior trim, moldings, floor coverings, etc.), in
96 the environment of a completed home. Model homes may be staffed by the
97 builder's/developer's sales force. Model homes shall be subject to the following
98 restrictions:

99

100 1. Lighting: All exterior lighting, except for security lighting, must be down-lighting,
101 so that no light shall be cast onto adjoining residential properties. All off-street
102 parking areas must be illuminated. All exterior lighting, except for security lighting,
103 shall be extinguished at the closing time of the model home.

104

105 Mr. Coppel said Exhibit G shows the hours of operating and lighting. Mr. Coppel
106 said all of the lighting will comply and that was part of the original zoning. There
107 will be downlighting. Mr. Sutton asked whether there would be downlighting on the
108 sign as well. Mr. Coppel said "yes."

109

110 2. Parking: All model homes shall provide off-street paved parking for the public.
111 Such off-street paved parking shall be located as directed by the Board of Zoning
112 Appeals. The number of required parking spaces shall be six (6) per model home. The
113 driveway of the model home may be utilized for not more than two (2) parking
114 spaces.

115

116 Mr. Coppel said that he included a plan for parking, but had forgotten about the
117 original zoning, where he said the township trustees had approved a divergence from
118 the code, stating, "No off-street parking shall be required. This is a divergence from
119 the requirements of the Berlin Township code."

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120 Mr. Sutton said the plan for parking was included with the application. Mr. Coppel
121 said that was a mistake. Mr. Sutton said the approval for a conditional use permit
122 requires a parking lot for a model home. Mr. Coppel said he did not think that it does
123 in this case because the township trustees approved a divergence in the original
124 zoning. Mr. Sutton said he does not have that information, and it was not included in
125 the original application.

126
127 Mr. Coppel said he cannot build a parking lot when he agreed not to. He said he has
128 the text signed by the trustees and presented it. Ms. Rippel said that was from the
129 Berlin Township BZC (BZC), not the trustees, and she asked whether he had
130 something from the trustees. Mr. Coppel said he thought that was from the trustees.
131 Ms. Rippel noted the item was from when Toni Korleski was the BZC chair, but she
132 was not sure what the trustees approved.

133
134 Mr. Coppel asked whether it could be approved subject to the applicant providing
135 proof that the township trustees approved a divergence to not require the parking lot.
136 Otherwise, he would install the parking lot. He is very confident that the zoning
137 divergence was approved. Ms. Knapp offered to look up the minutes. Ms. Rippel
138 said the application number was 16-011, and the BZC hearing was held on 1/10/17.
139 The trustee hearing was held on 4/10/17.

140
141 Ms. Rippel showed the conclusion letter she creates from the BZC approval that she
142 provides to the trustees after their recommendation. It includes the exhibits and any
143 divergences or conditions that are included. It is a stamped exhibit and was read at
144 the trustee hearing, she said.

145
146 Ms. Knapp asked whether the conclusion letter indicated that the application included
147 a divergence for not parking lot. She said the zoning minutes indicate divergences for
148 off-street parking for the model home, sidewalks abutting the curbs, vinyl siding, and
149 1000% use of the model home instead of 90%. She read from the minutes as follows:

150
151 *“There will be no off-street parking for the model home, 5’ wide sidewalks will abut*
152 *the curb, model home will be allowed until the property is 100% developed, high-*
153 *quality vinyl siding is allowed on the sides and rears of the units.”*

154
155 Mr. Coppel said “no off-street parking” means no parking lot off of the lot. Ms.
156 Rippel was not so sure.

157
158 Ms. Knapp read from the minutes as follows:

159
160 *“The applicant said the other major change in the body of the text is in reference to*
161 *model homes to match those in Berkshire Township. The model homes do not use off-*
162 *street parking much, and there are typically 1-2 cars there, so the text indicates that*
163 *no off-street parking is required for a model home, and the model home can be open*
164 *until the model home is entirely sold out. The parking of two spaces in the driveway*
165 *and two in the garage is required.”*

166
167 Mr. Acevedo said that means one can park on the street but in this design, there is not
168 room to do that, which means off-street parking would be on the model home lot,
169 which would be two in the driveway and two in the garage, which would be 4 spots.
170 He asked whether four spaces were available. Ms. Knapp asked whether the BZC
171 exhibit explicitly stated there would be no parking lot and she said that it was not
172 reflected in the meeting minutes that there would be no parking lot.

173
174 Mr. Acevedo said “no off-street parking is required” meant to him that there are no
175 parking spaces made available such as in the garage, as some model homes are built
176 without a garage. Mr. Coppel said generally in Berlin Township, a parking lot is
177 required to be built next to the model home. When this zoning was done, he
178 requested a divergence that a parking lot not be required here, and that was approved.

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179 People will be parking in the driveway, and also it is permitted to park on one side of
180 the street. He said he created the confusion by including the parking lot.
181
182 Mr. Acevedo said one of the elevations appeared to not have a driveway. Mr. Coppel
183 said all of the homes have driveways. He said typically people do not park in
184 driveway and it is not a good look. It is typically landscaped and people park on the
185 street and walk up.
186
187 Ms. Knapp said typically residential homes require 4 off-street parking spaces, and
188 it's possible the BZC meant parking in the driveway was not a requirement. There
189 was no discussion about not having a parking lot in the minutes.
190
191 Mr. Acevedo said clearly, a divergence for no off-street parking was approved. The
192 question is whether a parking lot is considered to be off-street parking in this case.
193
194 Mr. Cook said the driveway shown is landscaped-in, and he asked whether that was
195 what was meant by "no off-street parking." Exhibit 5 shows a driveway, but Exhibit
196 6, the landscaping plan, shows that the driveway is landscaped-in.
197
198 Ms. Knapp read from the zoning minutes: "Ms. Korleski said that parking of two
199 spaces in the driveway and two in the garage is required. Mr. Ciminello said that is
200 provided for all homes after built, but this is for the model home, where the driveway
201 is usually used for a walkway with planters and the like." She noted that the
202 divergence may be referring to the driveway and not the parking lot.
203
204 MC said one can count the number of spaces in a driveway towards the requirement .
205 Mr. Coppel said typically a parking lot is required as was submitted, but that is what
206 the divergence was about. MC said it was not discussed at the trustee meeting, per
207 the minutes.
208
209 Ms. Rippel said the letter from the trustees tells them what the BZC said about the
210 parking. Mr. Sutton said that the conditional use permit requires 6 off-street parking
211 spaces. Mr. Coppel said the code states that, but the zoning as approved states a
212 divergence was granted.
213
214 Mr. Sutton said the verbiage states there will no off-street parking for the model
215 home, and the BZA needs to decide whether that meant no driveway was required, or
216 whether no parking lot was required. The language is very vague. Mr. Coppel said
217 they were talking about the parking lot.
218
219 Mr. Sutton said the submitted plan shows a parking lot, that meets the code
220 requirements. Mr. Coppel said that was a mistake and it was already approved. Mr.
221 Sutton said the BZA needs to determine whether there was no off-street parking on
222 the model home lot, or whether there was no parking lot required. It does not state
223 that there is no parking lot required for a model home.
224
225 Mr. Coppel said a parking lot is off the street, and he said if there is no off-street
226 parking, how does he build a parking lot off the street. Mr. Sutton said he is
227 following the parking requirements for the conditional use permit. Mr. Coppel said
228 when a PUD is passed, the zoning code is amended.
229
230 Mr. Sutton said the divergence was not included in the application being considered
231 tonight.
232
233 Mr. Coppel asked the BZA to approve the application as is without the parking lot,
234 and he just would not build it, and he would deal with the zoning officer. Mr. Sutton
235 said he would be out of compliance with the application and the approval in that case.
236 Mr. Coppel said the trustees have already stated he cannot build a parking lot. He
237 could not get a permit for that.
238

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239 Mr. Sutton said the facts need to be determined. He has never heard of the BZC
240 waiving the parking requirements for a model home.

241

242 MC said the handwritten and the typed information contradict each other. Mr.
243 Machan said they both state that there will be no off-street parking. The issue appears
244 to be that that 6 spaces of off-street parking is required by the code, and the zoning
245 code states that each home must have off-street parking. The language states there
246 will no off-street parking for the model home. It is not clear.

247

248 Mr. Cook said the parking lot issue could be resolved by the zoning inspector later.

249

250 3. Screening and Trash Receptacles: Landscape drawing shall be required and show
251 adequate landscaping and screening from adjoining residential lots, together with the
252 clear marking of the boundaries of the model home lot. Trash receptacles shall be
253 provided around the model home for use by visitors to the home.

254

255 Mr. Sutton said Exhibit 6 shows the landscaping. MC said the plan does not include
256 trash receptacles as required. Mr. Sutton asked whether trash receptacles were
257 planned. Mr. Coppel said that they are not typically included. Mr. Sutton said they
258 are required. Mr. Coppel said he would provide them.

259

260 4. Termination of Use: The use of model homes within a residential subdivision, or
261 within any single phase of a multi-phase subdivision, shall terminate after five (5)
262 years from its opening date, or when building permits have been issued for ninety
263 percent (90%) of the lots, whichever comes first.

264

265 Mr. Sutton said the zoning states they are permitted until 100% or five years.

266

267 5. No building equipment or materials may be stored at the model home.

268

269 Mr. Coppel said this was correct.

270

271 6. Model Home Signs: Model home signs may be approved by the Board of Zoning
272 Appeals provided the following conditions are met:

273

274 a. the sign shall not exceed 16 (sixteen) square feet per side with 32 (thirty two)
275 square feet maximum total display area;

276

277 b. the overall height of the sign shall be no more than four (4) feet above grade.

278

279 c. model home sign shall be located on the same lot as the model home.

280

281 6. If sign information is not presented at the time the development is submitted and
282 approved, the applicant will apply for a conditional use permit to the Board of
283 Zoning Appeals, which will rule on additional sign conditions.

284 Mr. Sutton said this was included in Exhibit 4.

285

286 Mr. Machan said Exhibit 5 shows the driveway, and Exhibit 6 shows a different
287 location. Mr. Coppel said the garage is used as a sales scenter, but when they moved
288 out, they convert that back to a garage. The exhibits show how the driveway looks
289 while the home is a model home, and then how it looks like after the driveway is
290 converted back.

291

292 Mr. Coppel requested that the application be considered tonight for approval as
293 submitted, which would include the parking lot, and it could be sorted out later. If he
294 has to build the parking lot, it is not the end of the world.

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RESOLUTION 2022.01.04.#A: APPROVE BZA 21-004

Mr. Cook made a motion to accept the plan as submitted, with the additional exhibits submitted at this hearing. The applicant understands that if he wants to challenge the parking lot, he needs to take that up with the zoning inspector. Mr. Acevedo seconded the motion.

Vote: Mr. Cook, yes; Acevedo, yes; Mrs. Cook, yes; Machan, yes; Sutton, yes.
Motion carried, application was approved.

AGENDA ITEM: APPROVAL OF MINUTES

Mr. Machan made a motion to approve the BZA minutes from the 12/14/21 BZA Organizational meeting. Mrs. Cook seconded the motion.

Vote: Machan, yes; Mrs. Cook, yes; Mr. Cook, yes; Acevedo, yes; Sutton, yes.

There was no further business. Meeting was adjourned.

Don Sutton, Chairperson

Jason Acevedo, Vice-Chairperson

Bradley Cook, member

Michelle Cook, member

Larry Harmon, member

Quinn Machan, 1st alternate member

Jessica Kuenzli, 2nd alternate member

Attest: _____
Berlin Township Zoning Clerk Lisa F. Knapp