

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

**REGULAR MEETING
TUESDAY, JULY 25, 2023: 7:00 PM**

1 CALL TO ORDER

2 The meeting was held at Berlin Township Hall, 3271 Cheshire Road, and was called to
3 order by Chairperson Jerry Valentine at 7:00 PM.

4
5 BZC members present: Chairperson Jerry Valentine, Vice-Chairperson Darcy Kaplan,
6 Angela Brown, Jenny Sloas, BZC 1st alternate Jasper DeChristopher (seated).

7
8 Also present: Zoning Secretary Cathy Rippel, Zoning Clerk Lisa Knapp.

9
10 Not present: BZC member Keith Goshia, 2nd alternate member Tara Shields.

11
12 **AGENDA ITEM: APPROVAL OF MINUTES**

13
14 Ms. Kaplan made a motion to approve the minutes from the 7/11/23 BZC meeting as
15 presented. Mr. DeChristopher seconded the motion.

16
17 Vote: Kaplan, yes; DeChristopher, yes; Sloas, abstain; Brown, yes; Valentine, yes.

18
19 **AGENDA ITEM: BZC 21-004, AMENDMENT #1 JIM HILTZ/PULTE GROUP**

20 *BZC 21-004, amendment #1, by Jim Hiltz, Pulte Group, 475 Metro Place, Suite 200,*
21 *Dublin, OH 43017. The applicant is asking to amend the location of a side-load garage.*
22 *Lot 1, Model Home already built was to have a side-load garage and instead was built*
23 *with a front-load garage, they would ask for Lot 24 have the side-load garage instead of*
24 *front load garage per the approved final development plan in the development known as*
25 *Maeve Meadows, Piatt Road, Delaware, OH 43015.*

26
27 Mr. Valentine said the county prosecutor had advised that the BZC ask how they got to
28 this point, and that is what they need to know in order to make the decision regarding
29 whether this is a minor or major change to the original plan.

30
31 Jim Hiltz, with the Pulte Group, and Todd Faris, with Faris Planning & Design, presented
32 the application and answered questions.

33
34 Mr. Hiltz apologized that they are here to request this minor modification. Lot #1, the
35 model home lot, was to have been a sideload garage. They submitted a zoning permit
36 application to the township for the house plan with a front load garage and it was
37 approved. They realized after construction started that the application was incorrect and
38 it should have been a side load garage, so they self-reported the mistake to the township.
39 Mr. Hiltz apologized again and said he is here to propose a solution to the mistake.
40 Using lot #24 would continue to meet the requirement that there are 8 homes with side
41 load garage in Maeve Meadows. They have come up with enhancements to the entry
42 landscape package to provide more screening.

43
44 Mr. Faris said he took a look at the front landscaping as proposed and how the impact of
45 a front load garage could be minimized. He proposed additional landscaping that would
46 attempt to draw eyes away from the front load garage, including a row of evergreen trees
47 and street trees. He reviewed the proposal.

48
49 Mr. Valentine said the BZC must decide whether the request is a minor or major
50 modification. If it is minor, the BZC would then decide whether to approve or deny the
51 request. In the text of Section 11-13, one of the features of a major modification a
52 change in the use or character of the development. He said the characteristics of this
53 allotment changes drastically. The intent of the BZC and the trustees in July 2022 was to

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, JULY 25, 2023: 7:00 PM

54 enter this development and to see a nice entryway and to see no cars. The price range is
55 \$600,000-800,000.

56

57 Mr. Valentine asked whether the door could be moved to the side of the house. There
58 will be four cars always visible when first coming into the development.

59

60 Ms. Brown said she would be fine with it if the sideload garage was on the other side.

61 Mr. Hiltz said the garage is in the correct location of the house. Ms. Brown said she was
62 shocked when she saw it being built and knew something was wrong, but wasn't sure of
63 what until now. She did not perceive it as a major change to the neighborhood. She
64 appreciates the extra landscaping, and it doesn't pay to put it on the original homesite as
65 the homeowner may rip it out.

66

67 Ms. Brown asked whether there could be additional landscaping behind the right-of-way
68 and also at the house across the street. That would help pull the eye away from this
69 subject home. Mr. Hiltz said he could add some lawn trees to fortify the landscaping on
70 both sides. Model homes are very upgraded and expensive. For example, this had
71 HardiPlank and an upgraded garage.

72

73 Mr. Faris asked whether Ms. Brown was requesting foundation plantings or trees. Ms.
74 Brown said she was thinking about foundation plantings and said it should be done on lot
75 33 as well.

76

77 Ms. Sloas said it sticks out like a sore thumb now because it is the only thing there right
78 now. Eventually, #35 will be built and will block the garage. She sees this is a minor
79 modification and what is being proposed would shield the impact. She was concerned
80 that landscaping added around the house quickly becomes overgrown and is usually
81 removed within a short period of time. She suggested adding landscaping around the
82 entry as shown by the applicant, and the homes on the other side of the street will shield
83 it as well. She believes it was an honest mistake and she is fine with the submitted
84 corrections.

85

86 Ms. Kaplan said she drove by the site. The BZC strives to make these entrances have a
87 rural feel, and this does not align with that. This is staggered and this is the closest home
88 to the entrance. It seems very close to the street. She does not like to see this, as this is
89 more of a suburban/urban feel, and she is unhappy with it. She feels it is a major
90 modification.

91

92 Mr. DeChristopher said he has not decided whether he believes it is a major/minor
93 modification. The fact that this is the model home and the garage door has an
94 architectural feel does help it look more rural than the standard garage door. He would
95 like an upgraded door. He likes the landscaping package. There are elms proposed and
96 he recommended perhaps including trees that would draw the eye more and may be a
97 different color.

98

99 Mr. Faris said the wildfire sweet gum has a red tint to the leaves all summer. Mr.
100 DeChristopher said that may help. It seems that the concept now involves drawing the
101 eye away from the home. A rendering of the proposed door was shown. Mr. Faris said
102 he could redefine the trees.

103

104 Mr. DeChristopher said he believes it was an honest mistake, but there are repercussions,
105 and the applicant can improve the lot to help with the situation.

106

107 Mr. Valentine said the first decision to be made by the BZC is whether the request is a
108 major or a minor modification. The zoning resolution page 11-15 indicates that minor
109 deviations include changes in the location of the structures, street and parking areas. The

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, JULY 25, 2023: 7:00 PM

110 zoning commission can choose to impose conditions and safeguards. Mr. Valentine said
111 that did not seem to fit the situation.

112

113 Mr. Valentine said a better fit is under major modifications, item A, a change in the use
114 or character of the development. His understanding is that the intent of the trustees in
115 2022 is the first six in order to set the neighborhoods up. This development will be a
116 segway. The applicant did agree to put a 3-way stop sign to prevent it from being a drag
117 strip. This is just the one house that faces the road.

118

119 Tom Hart, attorney for the applicant, said this analysis starts with the code, and the code
120 only. This is an administrative hearing to determine whether this is a major or minor
121 modification, and then decide whether to approve it or not. This is not a major
122 modification because it is not a change in use. The use is single-family and that is not
123 changing. It is not a change in character because it is one home. The applicant proposes
124 mitigation the situation by replacing the side load garage in another location, and provide
125 additional notification.

126

127 Mr. Hart said the code is very illustrative on examples of what is a major modification,
128 such as density, open space, traffic impact, lot coverage, reduction in off-street parking,
129 changes in overall acreage, etc. Those items would change the overall character of the
130 neighborhood. The code is very specific. It is hard for the applicant to accept that the
131 changing a side load home from one lot to another based upon a mistake changes the
132 character of the development. There are no architectural or development standard
133 changes being requested.

134

135 Mr. Hart said Section 11-13 a)1) indicates that minor deviations include changes in
136 locations of buildings, structures, streets or parking areas. That is exactly what is being
137 done; the location of one building that is supposed to have a sideload garage is now going
138 to be on a different lot because of a mistake, mainly because it doesn't meet the definition
139 of changing the character of the community. The alternative, if this request was turned
140 down, would not seem to be appropriate. All offenses need to fit the cure, and trying to
141 flip the house, tear it down, or other major construction would not seem to fit the impact
142 of the mistake. It would be unreasonable. The ramifications of any decision should be
143 considered.

144

145 Mr. Valentine said they are here to determine whether this is a major or minor
146 modification. The trustees negotiated the home being a side load garage was as a part of
147 the characteristics of the neighborhood. Mr. Hart said the township has legal counsel and
148 the township should get their opinion. Mr. Valentine said assistant county prosecutor
149 Tony Stocco told him the attorney called him yesterday, but stated that he did not have
150 time to look at it or he would have been at this hearing tonight.

151

152 Mr. Valentine said the BZC will make a decision that is hopefully best for the community
153 and the impact of the decision decades down the road. He said he could continue the
154 hearing to a date after which the township's legal counsel has had time to look at it. He
155 said it looks out of place today and so perhaps would blend in as time goes on and more
156 homes are built. One does not want to view an open garage from the street.

157

158 Mr. Valentine said he did not want to tear the house down, and he asked whether it could
159 become a sideload garage. Mr. Hart said, "not without some major reconstruction, at
160 significant expense." Mr. Valentine said he wanted to stay away from significant
161 impacts, and he would like to have a solution that is best for everyone. Mr. Hart said it is
162 not just moving the door from the front to the side or they would have done that.
163 Significant changes would need to be made.

164

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, JULY 25, 2023: 7:00 PM

165 Mr. Valentine said this has been on the books for 6 years. Mr. Hart said he did not want
166 to be here discussing this. This community is different for Pulte because they bought it
167 from Metro Development. The information that should have been available internally
168 was missed. Pulte self-reported the issue to the township so they were aware of the issue.
169 They are not hiding from this, he said.

170
171 Mr. Valentine asked whether the zoning permit was approved as is by the zoning
172 inspector. Ms. Rippel said a zoning permit was approved. Mr. Valentine said the BZC
173 requests a percentage of homes to be side loaded, although they do not always see the end
174 result. In this case, the trustees worked to get the first six for the appeal. He spoke with
175 two trustees and the county prosecutor's office about it. He appreciates what Pulte is
176 doing, but this is the first house and he is having a hard time getting over it.

177
178 Mr. Valentine asked for a straw poll regarding major versus minor. Ms. Brown asked
179 whether the applicant would like to table the application so they could speak with legal
180 counsel.

181
182 There was a five minute recess. Hearing was returned to session.

183
184 Ms. Brown said the zoning inspector Jake Bon missed the fact that this was supposed to
185 be a sideload garage and approved it as a front load garage. She said mistakes happen
186 everywhere. Mr. Valentine said the BZC must decide whether it is a major or a minor
187 modification.

188
189 Ms. Brown said she believes it is a minor modification.

190
191 Ms. Sloas said she believes it is a minor modification. There is still the same number of
192 lots. Ultimately, the home on the opposite side of the street will block this, and that will
193 rectify the situation. The feel of the area will not be changed. There is a large open space
194 park on the other side of this, which will still provide a rural feel.

195
196 Ms. Kaplan said she believes that this is a major modification. It is the very first house
197 that is offset from the rest. A commitment was made by the developers and was
198 requested by the trustees. She did not think it would have been approved had they been
199 told it was a front-load garage.

200
201 Mr. DeChristopher said he did not feel that it really changes the character of the
202 neighborhood. There would be substantial impact if the garage had to be moved. In his
203 opinion, the best course of action is trying to determine what could be done to mitigate
204 the view as one drives in. Adding the landscaping and upgraded door, and building a
205 sideload garage on a different lot greatly impacts that. It sticks out now because it is the
206 only house. As time goes by, the landscaping will grow and there will be other homes
207 built. He mostly feels that this is a minor modification.

208
209 Mr. Valentine said he agrees with everybody. This will have an HOA, so that area will
210 be maintained to hide the belongings of house #1. The view of that house when one
211 drives into the development is an issue for him.

212
213
214
215
216
217
218
219

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, JULY 25, 2023: 7:00 PM

220
221

**RESOLUTION 2023.07.25.#A: DESIGNATE BZC 21-004 AS A
MINOR MODIFICATION & APPROVE REQUEST**

222
223
224
225
226
227
228
229
230

Mr. Valentine made a motion to designate the requested deviation in BZC 21-004 Amendment 1 as a minor modification to the plan and to approve it with condition of the landscaping plan enhancement provided tonight. Ms. Brown seconded the motion.

Vote: Valentine, no; Brown, yes; DeChristopher, yes; Sloas, yes; Kaplan, no.

Motion was carried.

There was a brief recess. Meeting was returned to session.

231

AGENDA ITEM: INFORMAL DISCUSSION WITH EMH&T

232
233
234
235
236

Informal with Joe Walker with EMH&T to discuss potential light industrial/light commercial improvements on Delaware County parcel numbers 418-210-01-020-000 and 418-220-01-001-000 Joe Walker, with EMH&T, a civil engineering company, said he is partnering with Josh Rabina, who represents the future applicant, on this project. A plan was distributed to the BZC.

237
238
239
240
241
242

Mr. Walker apologized for being “secret secret squirrel” about the project, but he did not want to reveal too much about the identity of the project. He is in the diligence phase of with respect to this site and making a substantial investment in the site prior to making decisions.

243
244
245
246

Mr. Walker said an initial site plan has been developed. Many of the items are fully compliant, but there are questions regarding the process. There is a sizeable substation on site for a data center and industrial-type uses and this is template that has been employed in multiple parts of the country.

247
248
249
250
251
252
253
254
255

Mr. Walker said there are 113.5 acres within the two parcels mentioned, which would be combined. The diagram illustrates setbacks based on their interpretation of the zoning resolution. He would coordinate with zoning inspector Jake Bon regarding their interpretations. He is here to discuss the details and next steps. The site plan shows a ring road in white around the perimeter to allow for access, safety and maneuverability internal to the site. The blue areas shown are potential detention and stormwater features. He has had coordination meetings with the Delaware County Engineer’s office at a high level. There are some constraints due to how flat the site is.

256
257
258
259
260
261
262

Mr. Walker said there is a roadside swale along the south side of 36/37. They are considering building a moat around the perimeter of the site that would perform stormwater retention and to lift up the site internally in order to drain to the moat. The property to the south is zoned residentially although there are no residences there currently. He is aware that the code requires an 8’ mound on the south side of the property and that is shown on the plan.

263
264
265
266
267
268
269

Mr. Walker said the areas in magenta show various setbacks. There is a maximum building setback along 36/37 of 120’. Because of the size and height of the buildings there are other setbacks that articulate a larger setback for the height of the building proposed. He has worked hard to meet the minimum requirements, but would not comply with the maximum requirement. He asked whether a divergence from the maximum could be achieved.

270
271
272

Ms. Brown said the purpose of having that maximum was so that it does not look like a supermarket plaza with a sea of asphalt. Having retention ponds is a little different. Mr. Walker asked what the process would be to seek a deviation. Mr. Valentine said with this

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, JULY 25, 2023: 7:00 PM

273 part of the cloud, the purpose was to have zero deviations. Mr. Walker said the buildings
274 would be a maximum of 60' tall. He said there is a requirement if one is breaching the
275 46' height that it be set back further off the road at 400'.
276

277 Mr. Walker said the buildings have been oriented so that portion would extend into the
278 400' setback but they are all shorter than 46' in height. He is trying to do his best to
279 make the building fit the code, but they cannot creep into the 120' maximum without
280 violating other components of the code.
281

282 Mr. Walker said that this type of use would generate less of a need for parking than the
283 code-required minimums, and they have had success in submitting similar sites with
284 similar uses across the country.
285

286 Mr. Walker said the lot coverage is 52% impervious, while up to 75% is permitted. The
287 two major deviations would be the minimum parking and the maximum setback. There
288 would be some details regarding the paths and connectivity. The next step would be to
289 meet with the Delaware County Regional Planning Commission staff and ODOT.
290

291 Mr. Valentine asked how many people would work at the buildings. Mr. Walker said
292 each of the buildings could have 30-100 maximum. Mr. Valentine said that could be up
293 to 600 vehicles. He said he was concerned about traffic and turning. Mr. Walker said
294 they are in discussions with the Delaware County Engineer's office regarding the
295 appropriate access.
296

297 Mr. DeChristopher said the overlay includes a common use path and he recommended
298 adding it from the very beginning. He said the county has had discussions about having
299 interconnecting roads in the industrial areas to take traffic off of 36/37.
300

301 Mr. Walker asked whether the paths would be required along private roads as well.
302

303 Ms. Brown asked about the substation and asked for additional screening. Mr. Walker
304 said there is a substation on Lackey Old State for comparison.
305

306 Ms. Kaplan confirmed that there would be fencing around the substation. She asked
307 whether the intention was to have delivery trucks to go under the red pieces of building
308 and turn around in the stubs so there would be no loading docks. Mr. Walker said there
309 would be a loading dock on the north side of each of the red shaded areas.
310

311 Ms. Kaplan asked about the gray area for equipment. Mr. Walker said it would be
312 equipment used to energize and for coolant. There would be fencing around that as well.
313 Ms. Kaplan said the intention for the green space is to not only look good but also for
314 employee use. Mr. Walker said they had been considering that and that each building is
315 individually fenced off.
316

317 Ms. Kaplan asked how far off the parking requested was off of the requirement. Mr.
318 Walker said some areas near each building could be expanded for future parking.
319

320 Mr. Walker said his client is in contract to purchase the land and he asked whether they
321 could get a straw poll regarding the BZC's feelings on the concept. He understands the
322 maximum parking and he could certainly work through and preserve the space on the site
323 that would allow for a site exchange or programming change to allow an expansion.
324 There is an opportunity to come up with a design that is creative and could comply with
325 all versions of the code. He asked whether they could get a more formal ruling on the
326 maximum setback before they invest in the next steps.
327

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, JULY 25, 2023: 7:00 PM

328 Mr. Valentine said if the plan meets Chapter 15, it would be approved. The BZC does
329 not really even have a say in it. Mr. Walker said the code indicates there is a 120'
330 maximum setback, but that if the building is taller than 46' there must be a 250' setback.
331 Mr. Walker said the buildings are all less than 60' in total height, but they are stuck in the
332 46' and 120' threshold. They cannot get any closer to the right-of-way because the
333 height of the two-story building is taller than 46'. There are competing concepts.

334

335 Ms. Kaplan said it would seem that reasonable people would say they were compliant.
336 Ms. Kaplan said it seems that they would comply with the setback along 36/37. Ms.
337 Brown agreed and said it was green space and water. Ms. Sloas said it would seem to
338 meet the spirit of the intent of not having a sea of parking.

339

AGENDA ITEM: OTHER BUSINESS

340 Mr. Valentine said the final changes have been made to the CLUP and the BZC will vote
341 on it at the August 8, 2023, BZC meeting.

342

343 Mr. Valentine said the meeting mentioned at a prior meeting to be held on on August 18th
344 for the developers and the business park is being postponed to a date yet to be
345 determined.

346

347 There was no further business to come before the BZC. Mr. Valentine adjourned the
348 meeting.

349

350

351

352

Jerry Valentine, Chairperson

353

354

355

356

Darcy Kaplan, Vice-Chairperson

357

358

359

360

Angela Brown, member

361

362

363

364

Jenny Sloas, member

365

366

367

368

Keith Goshia, member

369

370

371

372

Jasper DeChristopher, 1st alternate member

373

374

375

376

Tara Shields, 2nd alternate member

377

378

379

Attest: _____

380

Lisa F. Knapp, Berlin Township Zoning Clerk

381