

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 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 Vice-Chairperson Darcy Kaplan at 7:00 PM.

4

5 BZC members present: Vice-Chairperson Darcy Kaplan, Angela Brown, Jenny Sloas,  
6 BZC 2<sup>nd</sup> alternate Tara Shields (seated).

7

8 Not present: Chairperson Jerry Valentine

9

10 Also present: BZC member Keith Goshia, 1<sup>st</sup> alternate Jasper DeChristopher (recused),  
11 Zoning Inspector Jake Bon, Zoning Clerk Lisa Knapp, Zoning Secretary Cathy Rippel,  
12 Assistant Delaware County Prosecuting Attorney Tony Stocco.

13

14 Ms. Kaplan reviewed the BZC's adopted rules, including public comment rules.

15

16 **PROOF OF PUBLICATION**

17

18 Ms. Knapp stated that this hearing was advertised on March 4, 2023 in the Delaware  
19 Gazette as follows:

20

21 *BERLIN TOWNSHIP ZONING COMMISSION NOTICE OF PUBLIC HEARING*

22

23 *The Berlin Township Zoning Commission will hold a public hearing March 21, 2023, at*  
24 *7:00 p.m. at the Berlin Township House located at 3271 Cheshire Road Delaware*  
25 *OH 43015 to hear application, designated as BZC 23-003, filed by Patty Lynn Chapman,*  
26 *David John Reed, and William Patrick Reed, 5609 Champion Creek Blvd., Medina,*  
27 *OH 44256 requesting a rezone Parcel#41821002002000 ±26.631 acres &*  
28 *Parcel#41821002005000, ±17.545 acres, from Farm Residential (FR-1) to Planned*  
29 *Residential District (PRD) for a residential multi-family development, State Route 37, E.*  
30 *Delaware, OH 43015.*

31

32 *For questions, call Jake Bon, Zoning Inspector at 740.548.5217 x103. You can find the*  
33 *packets on the Berlin Township website [www.berlintwp.us](http://www.berlintwp.us) under the agenda and meeting*  
34 *tab for Zoning Commission. After the conclusion of the hearing, the rezoning matter will*  
35 *be submitted to the Board of Township Trustees for its action. The person responsible*  
36 *for giving notice of the public hearing by publication is Cathy Rippel. Township residents*  
37 *are encouraged to attend.*

38

39 *BERLIN TOWNSHIP ZONING COMMISSION*

40 *Jerry Valentine, Chairman*

41

42 **AGENDA ITEM: BZC 23-003, MULTI-FAMILY DEVELOPMENT ON S.R. 37**

43

44 *BZC 23-003, filed by Chapman and Reed, requesting a rezoning of ±26.631 acres &*  
45 *±17.545 acres from Farm Residential (FR-1) to Planned Residential District (PRD) for a*  
46 *residential multi-family development on State Route 37.*

47

48 RJ Sabatino, with T & R Properties, 3895 Stoneridge Lane, Dublin, Ohio 43017, Mark  
49 Mann, Advanced Civil Design, 781 Science Blvd., Gahanna, Ohio, and Randal  
50 Woodings, with Kontogiannis & Associates, 400 S 5th St, Columbus, OH 43215,  
51 presented the application and answered questions from the Commission.

52

53 Mr. Sabatino said this is the Berlin mixed use project; it is mixed use because there is a  
54 multi-family and an industrial component. The industrial component had gone through

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 2023: 7:00 PM**

55 the rezoning process, and the multi-family application was tabled due to a lot of  
56 feedback.

57

58 Mr. Sabatino said he has made substantial changes in the multi-family portion of the  
59 application that address all of the BZC's comments, and he reviewed them.

60

61 - The site plan looks very different. The north portion previously had a road with  
62 multi-family apartments along it. That has been eliminated in addition to the  
63 road, and 72 apartment units have been eliminated. That is more of a rural density  
64 as requested, and the density is now 5.9 units per acre.

65

66 - Open space: 20% open space is required, and this is 70% open space, which is  
67 substantial.

68

69 - Building elevations: renderings have been provided showing darkened colors,  
70 and the siding will be cementitious rather than vinyl. This is a much better  
71 building that fits better.

72

73 - Setbacks: As a result of the lowered density, the setback divergences have all  
74 been eliminated. There is at least 350' setback from the neighbors along Lackey  
75 Old State Road.

76

77 - The landscaping buffer has been curved to hook around to the north.

78

79 - The PRD has an outdated parking requirement for multi-family; 3 spaces per unit  
80 would be 900 spaces. A substantial amount of guest parking has been added;  
81 previously, there were 532 spaces, and 92 spaces have been added for guest  
82 parking, so the total is 624 spaces. This is closer in line with the industry  
83 standards for multi-family.

84

85 - One-bedroom apartments; 800 SF is too small for a one-bedroom unit, and 751 SF  
86 is proposed for the smallest one. Just a mile away at Seattle House, they are 681  
87 SF, and at Fourwinds they are 681 SF.

88

89 - Mail Kiosks: Mail kiosks were added to the north side, and there were trash  
90 receptacles that have been moved further away from the neighbors.

91

92 Mr. Sabatino said this is a project that has extremely rural density and he believes he has  
93 met the BZC's request. This is a beautiful and quality project, he said and this will  
94 provide housing and substantial tax revenue for the Berlin Township TIF. It will also  
95 serve to open up the 100's of other acres of development land in the Berlin industrial  
96 Overlay for other good developments. He asked for the BZCs affirmative vote.

97

98

BZC Consideration

99

100 Ms. Shields asked for more detail on the changes for the colors as they seem similar to  
101 the prior iteration. Mr. Sabatino said the prior colors were more red tones. Mr. Wooding  
102 said there was some very high chroma brick and siding that was toned down to an  
103 earthtone. The shade of the gables was changed, and the siding was changed.

104

105 Mr. Woodings said in the part parcel 15 overlay, which the property is not in, it indicates  
106 no two-story issues at 250 and up to 350 feet. He has ensured that there is just one 2-  
107 story building within the 350' area, and absolutely none in a different area, where the  
108 two-story buildings are much further away than 350'. The density was reduced in some  
109 areas, and large buildings were relocated. He reviewed the layout. He enhanced the  
110 mounding and plantings, and changed the shape of the pond to look more natural. There

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 2023: 7:00 PM**

111 are two mail kiosks; one is within the clubhouse area. There is a large parking area that  
112 provides plenty of space. Details of the courtyard area have been added including shelter  
113 house, fire pits, and benches. Further details will be provided in the future.

114

115 Ms. Shields asked whether the townhomes have attached garages. Mr. Woodings said  
116 they do, at the front of the units.

117

118 Ms. Sloas said there are benches in the shelter house area, and she asked whether there  
119 would be any in the long walkway area where Reed Parkway extends. Mr. Woodings  
120 and Mr. Sabatino said none are shown in the plan, but they could be added prior to the  
121 trustee meeting. Ms. Sloas said it is a long walkway and there should be places to stop  
122 and rest.

123

124 Ms. Sloas asked how large the shelter house would be. Mr. Woodings said it is unknown  
125 at this time but would be a minimum of 15' by 15' or perhaps 25' by 15'.

126

127 Ms. Sloas asked whether a fire truck turn around. Mr. Woodings said that is not  
128 necessary because they can come back out. Ms. Sloas asked whether the road would be  
129 finished. Mr. Woodings said it would be finished, per the fire department's requirements.  
130 Mr. Sabatino said it is part of the project and it will have to be constructed to get to that  
131 point.

132

133 Ms. Brown said she would like to see the measurements of the shelter house  
134 documentation in the plan, and she would like to see it larger than 15' by 15' and perhaps  
135 could be 20 by 20 or 20 by 15. Mr. Woodings said he was fine with a condition being  
136 placed on it.

137

138 Ms. Brown appreciated the reduction in density since the last meeting and the desire was  
139 condos at 4 units per acre. She appreciated the green space and she likes what they did  
140 with the central location near the bottom area. However, the other areas do not have that  
141 and they are at a disadvantage. She suggested that the two parallel lanes in the upper area  
142 be pulled closer together, and parking be placed on the outsides of the building, and that  
143 would create park space down the center.

144

145 Mr. Woodings said they did not know whether the homeowners in that area would want  
146 play/recreation area there. Thus, they provided as much distance, space and mounding as  
147 possible to protect their land values, so they did not put anything closer to their property  
148 lines. Ms. Brown said she did not want the uses to be located closer, but to move the  
149 parking and separate it so part of it is along the front and part along the back. Mr.  
150 Woodings said the parking was placed where it is because the neighbors do not want the  
151 light and the noise.

152

153 Mr. Sabatino said perhaps some recreational green space could be added along the  
154 southern portion in that area. Mr. Woodings agreed. Ms. Brown said usable green space  
155 such as that provided in the southern portion is important. There was additional  
156 discussion. Mr. Woodings said their goal is to keep as many trees as possible. Ms.  
157 Brown suggested additional walking trails. Mr. Woodings said that could be done.

158

159 Ms. Brown said in the lower portion there is a 50' building setback. She wants to ensure  
160 a buffer in that area against the new residents or school that will may be located in that  
161 area. Mr. Mann said there are drainage swales in that area that cannot be altered. The  
162 roots of trees can impact the stormwater pipes in the future, so keeping the 50' setback  
163 with the grass and the swale is ideal. Mr. Woodings said he would take a look at it.

164

165 Ms. Brown said she would like to see benches around the clubhouse. Mr. Woodings  
166 asked whether she would like to see additional landscaping and benching in the  
clubhouse area. Ms. Brown said that was correct.

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 2023: 7:00 PM**

167 Ms. Brown said the project schedule states that in tab final building and construction  
168 documents indicated winter 2023 through summer 2023 and that should be changed to  
169 summer 2024. Summer 2023 for construction start should be changed to summer 2024.  
170

171 Ms. Brown asked whether the decorative stone in between the buildings is just crushed  
172 stone. Mr. Sabatino said that was correct.  
173

174 Ms. Kaplan thanked the applicant for the substantial changes that had been made. She  
175 said the application says 49.898 gross acres. She said she pulled the survey and it states  
176 49.633 acres. She said the application needs to be correct. She said the zoning map  
177 shows this as being part of the BIO. The applicant is not required to pull down the cloud,  
178 but they have requested PRD, which does not support multi-family development. It is  
179 called out expressly in Article 11 that if it is not approved, it cannot be approved.  
180

181 Ms. Kaplan said PRD is intended to support the overlay of FR-1, R-2, R-3, R-4 or TPUD,  
182 none of which of those have been requested. That is outside of what the BZC can  
183 approve. Mr. Sabatino asked whether she was referring to the underlying zoning and  
184 how the PRD would be an R-2 overlay of the existing FR-1, which is correct. Ms.  
185 Kaplan said they are requesting PRD, which is expressly called out as single-family  
186 homes. Mr. Sabatino said the first page of the PRD references single-family or multi-  
187 family developments.  
188

189 Ms. Kaplan said that is if it is TPUD. Mr. Sabatino said regarding the TPUD, it had been  
190 discussed that TPUD only allows for partial. Ms. Kaplan agreed that TPUD would not be  
191 appropriate, but it is the only zoning aside from the R-4 or the R-8 that supports multi-  
192 family units within Berlin Township zoning.  
193

194 Ms. Kaplan said article 11 states that PRD will be overlaid with FR-1, R-2, R-3, R-4 or  
195 TPUD. In section 11.04, it states that permitted uses are single family detached  
196 residential homes.  
197

198 Mr. Sabatino said they have complied with the recommendations made at the pre-  
199 application meeting. Ms. Kaplan said Section 11.02 of the zoning resolution states that,  
200 “No statement by officials at the township or county made prior to formal submission of  
201 a development plan and application to the zoning commission shall be binding.” She said  
202 that this is the third meeting and the same conversation has been had, including at the  
203 Delaware County Regional Planning Commission (DCRPC), and with the BZC, where it  
204 was stated that a PRD was not appropriate here. Ms. Kaplan said she stands by the  
205 statement that a PRD is not appropriate here. She likes the development, but not there.  
206

207 Mr. Sabatino said the pre-application process is a hearing and is part of the process. Ms.  
208 Kaplan said it is not a hearing. Mr. Sabatino said he has spoken with zoning staff and  
209 county solicitor and that is why he proceeded this way. If, from a technical standpoint,  
210 she believes it to be different, he accepts that, and if that is something she would like to  
211 vote on as a condition of going through this process, he would accept that.  
212

213 Ms. Kaplan asked what would be done in place of this. Mr. Woodings said it would be a  
214 variance. Ms. Kaplan said she does not speak for the trustees but for herself. If this is  
215 granted, a dam would be opened that will never close. PRD has a meaning and that is  
216 single-family homes. If a variance is granted, it would no longer mean that. Mr.  
217 Sabatino said if PRD means single-family homes and multi-family like it says in the code  
218 unless it is TPUD, the location can be amended between now and the trustee hearing.  
219 She could state that, so long as the application is amended to state that it is PRD with a  
220 rezoning request to a TPUD overlay.  
221

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 2023: 7:00 PM**

222 Ms. Kaplan said that is not a quick conversation. TPUD does not align with what the  
223 application is trying to accomplish. Mr. Sabatino said the only item from TPUD that is  
224 different from PRD is that it only allows up to 75% of rental housing, and perhaps he  
225 could request a variance for that, as a condition. He is trying to request as few variances  
226 as possible with the TPUD.

227

228 Ms. Kaplan said they are taking a square peg and trying to fit it into a round hole; she  
229 wished this had not gotten this far in this format. Mr. Sabatino said the same issue exists  
230 with the overlay as well. He thinks this is a great plan and he has addressed the BZC's  
231 concerns. He said they are now in a technicality. Ms. Kaplan said it is a big  
232 technicality. Mr. Sabatino said there is a potential solution with reading in some of those  
233 conditions.

234

235 Ms. Kaplan said she does not know enough about the TPUD and the requirement for the  
236 percentage of ownership and whether that is a state law and whether a variance for that is  
237 appropriate. She has no answers for that. Mr. Sabatino asked whether the township's  
238 solicitor (Tony Stocco), who is present, is able to speak on that, or perhaps the zoning  
239 inspector can. Ms. Kaplan said she would love to find a solution, but she is not sure what  
240 that is.

241

242 Mr. Sabatino said perhaps it could be conditional on this changing to TPUD and pending  
243 solicitor review of the efficacy of the conditions. Ms. Kaplan asked Ms. Brown whether  
244 she had ever heard of a variance for a TPUD. Ms. Brown said they would need to speak  
245 to somebody at the county regarding the variance questions. Mr. Sabatino said it is his  
246 understanding that a variance is a variance is a variance. Ms. Brown said this is a  
247 completely different zoning code.

248

249 Ms. Shields said it seems to go back to whether the proposed plans meet the TPUD. Mr.  
250 Sabatino said the PRD and the TPUD are precisely the same except for the 75%  
251 maximum rental allowance, so that would be a variance. He suggested making approval  
252 contingent on the applicant amending the application to be a PRD with a TPUD overlay,  
253 and requesting a variance for the maximum allowable rental units to be 100%.

254

255 Ms. Kaplan asked where it would leave the applicant if the variance was denied. Mr.  
256 Sabatino said he could solidify the variances prior to the trustee hearing. Ms. Kaplan  
257 recommended in her own opinion that the applicant start over. She cannot vote for this  
258 and she did not believe she was authorized to grant that kind of variance. The structure  
259 for TPUD is bigger than the BZC, although she was not certain because the BZC does not  
260 do many TPUD.

261

262 Ms. Sloas asked whether Mr. Sabatino was requesting that the application be amended.  
263 Mr. Sabatino said he is not requesting that, and he is just presenting the application. He  
264 said the BZC would recommend to the BZC what they would like the applicant to do  
265 prior to the trustee hearing, and the trustees issue the final decision.

266

267 Ms. Sloas said she did not know how the applicant could verbally make an amendment  
268 that large without doing that in writing. Mr. Sabatino said the minutes are taken that will  
269 reflect that. Between the Feb. 14 hearing and this one, the other application was  
270 submitted. Ms. Brown said that is different than this procedure. Amending the  
271 application is a procedural issue, as well as the BZC having the ability to do what the  
272 applicant is requesting. If they cannot, they won't go anywhere with the trustees either.

273

274 Mr. Sabatino asked whether the township's solicitor, who is present, could interpret the  
275 question regarding whether a variance can be approved or not. Since the last hearing, the  
276 application was amended, so he can do the same thing between this recommendation and

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 2023: 7:00 PM**

277 the trustee hearing. Mr. Bon said he was not able to make a legal interpretation of the  
278 issue.

279  
280 Mr. Goshia said at the last township he worked for, variances were allowed, but they had  
281 to go to the people for a vote at the ballot for approval. Mr. Sabatino said he has never  
282 heard of that before. Ms. Kaplan noted that the township's zoning resolution has always  
283 permitted variances, but this is not a garden-variety variance.

284  
285 Ms. Brown asked whether a recess could be taken to discuss the issue with the legal  
286 counsel who is present. Mr. Stocco said he could meet with one person. There was a  
287 recess where Ms. Kaplan met with Mr. Stocco. Hearing was returned to session.

288  
289

Public Comment

290

291 Anne Marchiondo, 444 Lackey Old State Road, said they are adjacent to this property.  
292 When she was considering purchasing their lot, the township website said there would be  
293 a step-down from her property and there would be single-family homes. As they were  
294 building, they heard they were creating an overlay district, and she attended meetings for  
295 a year and a half regarding that.

296

297 Ms. Marchiondo said the county, township and residents agreed on R-4 for the property  
298 next to hers, and that seemed appropriate as it is a step down. The closet apartments near  
299 their house are Summitview, across from Meijer and next to an empty lot and an auto  
300 sales lot. That seems to be an appropriate place for an apartment building. Next to  
301 expensive and established homes does not seem appropriate. She asked how things  
302 changed from what was agreed-upon to this proposal. She asked why the developer  
303 cannot do R-4 there, instead of growing it so large, creating problems with traffic,  
304 adjacent to nice homes that are up to 5,000 SF. The proposed use does not seem to be  
305 appropriate for this area and the apartments should go somewhere else.

306

307 Ms. Kaplan said Ohio allows property owners to request any zoning that they want. It is  
308 the role of this board as well as the trustees to decide whether that will be approved. Ms.  
309 Marchiondo asked why the township website still shows this as being R-4. Ms. Kaplan  
310 said that is the overlay map, which developers are not required to use.

311

312 Ms. Marchiondo said this is the first application for apartments in this area and it's a bad  
313 precedent to set to have apartments next to single-family homes, rather than a step-down  
314 zoning. Ms. Kaplan said she cannot speak to precedent, but it is her job to look at the  
315 zoning and determine whether it is wise.

316

317 Richard Newell, 160 Lackey Old state, asked about whether during the recess, it was  
318 determined that the BZC has the authority to rule on the PRD. Ms. Kaplan said she  
319 would discuss that after public comment. She said the BZC has before them an  
320 application from T& R Properties. They have reviewed many of the recommendations  
321 and have made many changes. However, there is an application before the BZC now and  
322 that is the application that they have to consider. Modifications/variations can be part of  
323 an application, but to change an entire application is different.

324

325 Mr. Newell asked about the height of the buildings. Mr. Woodings said the ridgeline is at  
326 35'.

327

328 Frank Reinhard, 3645 Berlin Station Road, said he is a 25-year resident of Berlin  
329 Township, and a lifelong resident of Delaware County. He is a local banker who has  
330 financed \$100's of millions worth of commercial real estate transactions throughout  
331 Central Ohio. He understands economic development projects, and he serves on the  
332 Delaware County Finance Authority's Board of Director.

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 2023: 7:00 PM**

333 Mr. Reinhard said the Berlin Business Park is finally ready to move forward, and in his  
334 opinion, this would be a good project to get it started. This project will provide much-  
335 needed housing, as well as substantial property tax revenue that the township could use  
336 for public improvements. As a homeowner and a resident of Berlin Township, he is  
337 personally in favor of this project.  
338

339 Michael Marchiondo, 444 Lackey Old State Road, said that property will get developed  
340 whether the applicant develops it or not. The township will get tax revenue. Something  
341 appropriate needs to be developed here. This is not an economic decision; whether they  
342 build R-6, R-4 etc. they will pay taxes. He does not see this as being an economic  
343 decision at all. Further, he will have to live with it as he lives here. He urged the BZC to  
344 vote no on this application.  
345

346 Mr. Sabatino said regarding tax revenue and density, the management of taxes and  
347 expenditures on good public improvement is as important as taking into account the  
348 wishes of the residents. Density has a correlation on tax revenue, as does what is  
349 commercially versus residentially taxed. This is commercially taxed and therefore brings  
350 much more substantial tax revenue to the township.  
351

352 Joe Mitchell, 3491 Mariners Way, said he has lived here for 15 years and has multiple  
353 children in the school system. Berlin Township does not have amenities such as a pool, a  
354 rec center, library, bike paths, playgrounds, ball parks, etc. The tax base from this  
355 application would provide the ability to provide those items for every resident in the  
356 township.  
357

358 Mr. Mitchell said this project represents a restorative, unique opportunity, a once-in a  
359 lifetime generational thing where industries are being brought back to the United States,  
360 including Intel, Amazon, Honda battery, etc. and all of this supports the grown and the  
361 neighbors. Berlin Township is surrounded by rental projects in Genoa, Orange and  
362 Liberty Townships. Evans Farm has rental projects and is surrounded by expensive  
363 single-family homes. There are bookended rental projects at South Old State Road and  
364 Polaris Parkway.

365 Mr. Mitchell said this makes sense in terms of demographics and geographic locations.  
366 Regarding this being a condo project, there are multiple stalled condo projects in Berlin  
367 Township that have been sitting for a year, including the Romanelli & Hughes project on  
368 South Old State and Hollenback Roads, the 3 Pillar Homes project at Hollenback and  
369 South Old State Road, because the market currently does not support \$500,000 patio  
370 homes.  
371

372 Ms. Brown asked where the data that those are stalled projects are coming from. Mr.  
373 Mitchell said it is from his own observation. Ms. Brown asked whether it was correct  
374 that he does not actually have hardcore data on that. Mr. Mitchell said no, but that he has  
375 observed them over the last year, when no progress has been made. He compared with  
376 the rental project at Lewis Center Road and North Road, which went up in 60 days.  
377

378 Shad Sargand, 452 Lackey Old State Road, said he works in transportation, so that is his  
379 area, and he teaches at Ohio Wesleyan University. He said he hopes this project is  
380 successful, and asked how the existing homes can tap into some of the amenities in this  
381 project such as the sewer line.  
382

383 Ms. Kaplan said that typically neighbors can tap in and she recommended that he contact  
384 the Delaware County Sanitary Sewer department.  
385

386 Keith Goshia, 1391 Lockwood Court, asked about the water retention and runoff from  
387 storms. This development will create many hard surfaces with rooftops, pavements etc.

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 2023: 7:00 PM**

388 and he asked how that would be handled, and he asked whether they have a flow rate yet  
389 for 100-year storms.

390

391 Mr. Mann said the stormwater management for the site is based upon a much larger area  
392 than he is looking at. The ponds will be used for the detention and retention for the  
393 stormwater runoff. One issue they have run into is that there are 420 acres of offsite flow  
394 that comes through that stream, so the property must maintain the ability for that flow  
395 while retaining the actual property's runoff.

396

397 Mr. Mann said the developer is required to not release storm water from their system any  
398 quicker than the pre-development one-year storm levels. The ponds are designed to  
399 appropriately retain up to the 100 year rate, and if there is a greater level, they will flood  
400 through the pond and not directly to the stream. The water that would have gone to the  
401 stream is being held back and slowly releasing that.

402

403 Mr. Goshia said that many of these ponds are at 90% capacity. Mr. Mann said they will  
404 be a minimum of 7' deep and they will have fountains so they will be an amenity as well.

405

406 Mr. Goshia asked about the exit to the north to 36/37. He asked whether the township  
407 could not issue a CO until that exit is fully functional, so nobody can live in those area  
408 until that exit is fully paved and functional. Ms. Kaplan thought that was a function of  
409 the county engineers. Mr. Goshia said townships can do it. He does not want to see a  
410 temporary gravel road out to 36/37.

411

412 Mr. Goshia said the traffic study was done well. Mr. Mann added that the amount of  
413 traffic is now less than indicated because the unit count has been reduced, and he is in the  
414 process of modifying that.

415

416 Mr. Goshia asked about construction debris and whether the entire perimeter would be  
417 fenced so no debris flows into the neighbors. Mr. Mann said there will be sediment and  
418 erosion control as part of the construction documents.

419

420 Mr. Goshia asked how he would control the amount of material coming in and out, and  
421 he asked where the construction site would be. Mr. Mann said he was not certain, but  
422 thought that the construction entrance would probably be off of 36/37. However, it  
423 depends on the staging of the project. Mr. Goshia asked that the applicant repave the exit  
424 road at the entrance to 36-37 after the construction is done because the road will be torn  
425 up during construction. Mr. Mann said that is typically what they do.

426

427 Jasper DeChristopher, 436 Lackey Old State Road, said he appreciates all of the work  
428 that went into the updated plan. Regarding the density, the DCRPC reviewed the original  
429 plan and they had issues with the density. They recommended that the density remain  
430 four units per acre. The TPUD has a 20% maximum rental per the zoning resolution, and  
431 they are concerned about a request for 100%, which is a substantial variance.

---

432

433 Mr. DeChristopher said there have been several people who have mentioned the need for  
434 economic development. The residents are not arguing that need is not there and that the  
435 tax revenue from the BCO and BIO is not needed, as that was the concept behind it. That  
436 economic development will be coming, and he would like to see it adhering to the plan  
437 and densities. The tax money is coming. He would like to get to the density number in  
438 more of a TPUD with a lower number. He is concerned about setting a precedence for  
439 the entire property with higher densities. There is an R-10 area for multi-family  
440 developments within the BIO and the BCO. He asked the BZC to follow the BIO and  
441 BCO and also the DCRPC's recommendations.

442



**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 2023: 7:00 PM**

443 Mr. Sabatino said the commercial and industrial are not there and there is no tax base  
444 besides certified agricultural use. This is the gateway and it will open up the rest of the  
445 BIO. The utilities are constructed here for a variety of reasons including the water tower,  
446 the lift station, etc. It's great there is an industrial overlay zone and an R-10 area, but that  
447 will never happen if this doesn't happen because all of the utilities are right here.  
448

449 Eric Rickabaugh, 244 Lackey Old State Road, said he would like to reinforce that the  
450 opinions of those who live near the proposed development are the most important,  
451 because they will have to live with this and will be the most impacted. It was to be an R-  
452 4 and to see if more than that means that 1.5 years was a waste of time. It will also  
453 increase the traffic and the burden on the schools. He asked that the application be  
454 rejected by the BZC.  
455

456 Ms. Kaplan said she spoke with legal counsel during the recess and was advised that the  
457 application that has been submitted is the one that the BZC must vote on, that variances  
458 and modification typically deal with much smaller items such as exteriors, amenities, etc.  
459

460 Mr. Sabatino said he amended the application and resubmitted it, and will do so for the  
461 trustees. He has asked for variances of this magnitude and greater and achieved them in  
462 many other townships and municipalities. He may get additional legal opinion. He  
463 respectfully asked for the BZC's vote this evening, and requested that they add into the  
464 record the requested variances. Ms. Kaplan asked whether that included the variances  
465 sent in the letter. Mr. Sabatino said it did.  
466

467 Ms. Brown said it still states it is a PRD rather than a TPUD. Ms. Kaplan said if the  
468 original application had been for a TPUD, this body would likely have considered the  
469 project from a different point of view. Mr. Sabatino said a PRD is a PRD is a PRD. A  
470 PRD that is FR-1 is not the underlying zoning; the zoning is being changed no matter  
471 what. This is an amendment to change the zoning/land use category. If the BZC  
472 recommends a PRD/TPUD, he will take that to the trustees. If that is their  
473 recommendation, the variance for 100% of the units to be rented would be added.  
474

475 Ms. Brown said he is requesting an 80% variance but a maximum of 20% is permitted.  
476 Also, the TPUD has a four units/acre maximum. Ms. Sloas said that is two major  
477 variances, right off the bat. Mr. Sabatino said he would need all the variances in the letter  
478 in addition to the variance for the rental units.  
479

480 Chuck Roddy, 330 Lackey Old State Road, said he has come to the meetings and listened  
481 to Mr. Sabatino talk. He said he seems to have no respect for what the average person  
482 has to say. He bulldozes over people in a calm way, but he is not fooling anybody by  
483 doing that. He is a young man but he must learn to respect all people, not just his boss.  
484 He knew when he started the project what he would be asking for.  
485

486 Mr. Roddy said Mr. Sabatino could have talked to the residents in advance to get their  
487 opinions. The applicant had meetings behind closed doors, he said. It seems to be all  
488 about them getting what they want while ignoring the requests by the residents. He has  
489 been to many meetings in the past fighting similar proposals, and he is amazed by the  
490 arrogance of applicants.  
491

492 Mr. Sabatino said he met with residents on site where they listened to concerns and they  
493 have a pre-application meeting, and the BZC had a meeting on Feb 14, 2023, and  
494 substantial changes were made, which he thinks the BZC is happy with.  
495

496 Mr. Sabatino said he would like to include the requested variances in the record. There  
497 was a brief recess to allow him to compile a list of the requested variances. The hearing  
498 was brought to order.

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING**

**TUESDAY, MARCH 21, 2023: 7:00 PM**

499 Ms. Kaplan said variances have been requested, including in a letter marked as Exhibit A,  
500 which includes divergences for density, parking, setbacks eliminated, and a decrease in  
501 square footage. Also written on the plat during the recess was a requested amendment to  
502 PRD with TPUD overlay, and a variance request to 13.06 k) to allow 100% multi-family  
503 units to be designated as rental units.  
504

**RESOLUTION 2023.03.21.A: CONSIDER APPLICATION #23-003**

506  
507 Ms. Kaplan made a motion to consider the application as read, including the above  
508 variances. Ms. Sloas seconded the motion.  
509

510 Kaplan, no; Sloas, no; Brown, no; Shields, no. Motion did not carry.  
511

512 Ms. Kaplan thanked the applicant for listening to the BZC and making substantial  
513 changes. The BZC's role is to make sure it complies, and they are not trying to be  
514 adversarial. Mr. Sabatino said he amended the application "at the suggestion of you to  
515 include your variances" and the BZC voted for recommendation of denial still. Ms.  
516 Kaplan said had this been submitted as a TPUD, the process would have been different,  
517 and so would the discussions.  
518

519 Ms. Kaplan said it was not at the request of the BZC; it was a discussion. Mr. Sabatino  
520 said he would like the minutes to state that it was the applicant's interpretation that the  
521 variances and the amendment made were at the suggestion of the BZC. Ms. Kaplan  
522 disagreed.  
523

524 Ms. Brown said it is required that the variances requested be written down prior to a vote.  
525 Mr. Sabatino asked whether there is additional feedback prior to the trustee meeting. Ms.  
526 Kaplan said it was a square peg in a round hole. If the application complied with the  
527 BIO, they would be having a different conversation. There was a 1.5-year process  
528 heavily attended by residents to craft the BIO, and this is outside of that.  
529

530 Mr. Sabatino said that he would like the minutes to indicate that the BZC acknowledges  
531 that the BIO includes errors and flaws and understands why the applicant made the  
532 decision for the TPUD/PRD. Ms. Kaplan said she did not agree that there were errors  
533 and flaws; that is his opinion.  
534

535 Ms. Sloas said the applicant could also comply with the recommendations of the DCRPC  
536 for a PRD with a TPUD overlay and a density of 4 units per acre, as well as 800 SF one-  
537 bedroom unit. There was a discussion about the process of going before the trustees.  
538 \

**AGENDA ITEM: OTHER BUSINESS**

539  
540  
541 The next BZC meeting will be on Tuesday, April 11, 2023 at 7:00 PM.  
542

543 There was no further business to come before the BZC. Ms. Kaplan adjourned the  
544 meeting.  
545

546  
547 \_\_\_\_\_  
548 Jerry Valentine, Chairperson  
549

550  
551 \_\_\_\_\_  
552 Darcy Kaplan, Vice-Chairperson  
553  
554

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO 43015*

**REGULAR MEETING  
TUESDAY, MARCH 21, 2023: 7:00 PM**

555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581

\_\_\_\_\_  
Angela Brown, member

\_\_\_\_\_  
Jenny Sloas, member

\_\_\_\_\_  
Keith Goshia, member

\_\_\_\_\_  
Jasper DeChristopher, 1<sup>st</sup> alternate member

\_\_\_\_\_  
Tara Shields, 2<sup>nd</sup> alternate member

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