

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, SEPTEMBER 27, 2022: 7:00 PM

CALL TO ORDER

The meeting was held at Berlin Township Hall, 3271 Cheshire Road, and was called to order by Vice-Chairperson Christina Littleton at 7:00 PM.

BZC members present: Vice-Chairperson Christina Littleton, Jerry Valentine, Darcy Kaplan, Angela Brown, 2nd alternate member Keith Goshia (seated).

Also present: Zoning Inspector Laura Borso.

Not present: Chairperson Steve Flaherty, 1st alternate member Jenny Sloas.

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

PROOF OF PUBLICATION

Ms. Knapp stated that this hearing was advertised as a regular meeting at the end of December, 2021 in the Delaware Gazette.

Ms. Littleton said it has come to her attention that at the September 13, 2022, the BZC incorrectly voted to recommend the final draft of the Comprehensive Land Use Plan (CLUP), and that needs to be corrected procedurally. There was a brief discussion.

AGENDA ITEM: APPROVAL OF MINUTES

Mr. Valentine made a motion to approve the minutes from the 9/13/22 BZC meeting, as presented. Ms. Littleton seconded the motion.

Vote: Valentine, yes; Littleton, yes; Goshia, yes; Kaplan, yes; Brown, abstain.

Motion carried, minutes were approved.

**AGENDA ITEM: INFORMAL DISCUSSION WITH JAKE DIETRICH OF ONYX + EAST
RE: FINAL DEVELOPMENT PLAN FOR THE GREENERY**

Aaron Underhill, attorney with Underhill & Hoge, representing Onyx and East, said he has been here many times for this project. Jake Dietrich and Ann Richardson with Onyx and East, Dan Megley with G2 Planning, and Jessie Lee with ms consultants were also present to answer questions.

Mr. Underhill said he was not able to get this on the BZC agenda for formal action this evening, but he would like to give an update on where they are. He hoped that they would gain official approval at the next available meeting so the project can be developed.

Mr. Underhill said the architecture had been further designed, and he displayed some two-dimensional elevation renderings. He said the neighborhood has more of an old town feeling with smaller setbacks, 12' building separation, and walkable features. He displayed a three-dimensional perspective rendering that showed how the development will look from a street view. The homes are good looking and have a variety of colors, he opined.

Mr. Underhill displayed the previously approved site plan, as presented to the trustees and to the BZC. He has modified the final plan based on conditions of approval by both bodies. He said that plan had 125 units. He noted that the general layout is largely unchanged. He said there is a lot of green space to the north and in the middle, and there

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54 is now 61% green space, up from 59%. There had been a mix of single-family and six
55 detached twin-single-type products in three buildings, but the latter product has been
56 eliminated from the plan.

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58 Mr. Underhill said half of the units would be rear loaded, and half would be front-loaded.
59 A dog park has been added, and the trustees asked them to enhance the buffering between
60 their project and existing rural-residential properties on each side. He has decreased the
61 density by four units, so there are only 121 units now. The net-developable acreage had
62 been discussed in detail, and G2 has now been able to determine that precisely at 4.85
63 units/net developable acre, which is less than 5.

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65 Mr. Underhill said the open space has been increased and a pavilion added. He displayed
66 the dog park details that included a fence. Additional detail has been provided on the tree
67 buffer, including where there is existing vegetation versus where it will be enhanced. It
68 will be a robust and significant buffer.

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70 Mr. Underhill said the elevations had a theme with variations in color with different
71 facades, which provide a very brief overview. He asked whether there were any issues
72 that he could try to address before coming to the BZC for a formal vote. He said the plan
73 meets all of the standards and requirements that were approved by the BZC and trustees
74 and he is not asking for any changes.

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76 BZC Discussion

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78 Ms. Brown said parking had been discussed at length, and four units have now been
79 removed from the plan. She thought the BZC had requested that properties be removed.
80 Mr. Megley said the middle road was widened, with parking on both sides.

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82 Ms. Richardson said she met with the Berlin Township fire department, and it meets all
83 of their standards for on-street parking.

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85 Ms. Brown asked that the dog park be pointed out. Mr. Megley said it was located along
86 the leisure path, and he said he could not put it under the power line easement. Mr.
87 Underhill said the trustees included a minimum square footage of 1500 SF requirement
88 for the dog park, which has been met.

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90 Mr. Goshia asked whether there was a second means of ingress/egress at the beginning.
91 Mr. Megley said there is a double out-lane and single in-lane on the boulevarded
92 entrance, as well as an emergency access in another location. Mr. Goshia asked what
93 would happen if there were two houses on fire at the front of the development and people
94 could not access the neighborhood because the fire is coming so fast. He said he is from
95 Colorado and two means of ingress/egress in case of wildfires are required there for
96 safety.

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98 Mr. Lee said that is why the emergency access has been provided. Mr. Goshia asked
99 whether they would be open from day one, prior to residents moving in. Mr. Lee said
100 they would need to be in place and accessible prior to occupancy.

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102 Ms. Littleton asked whether the dog park could be larger, as 1500 SF is not very large.
103 Mr. Underhill said the power line easement is significant, and there are topographic
104 issues, so the size was limited.

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106 Ms. Littleton asked what was in the rest of the area, south of the walking path. Mr.
107 Megley said there will be a meadow mix. Ms. Littleton asked whether the dog park could
108 be extended into that area. Mr. Megley said that is possible, and there were discussions
109 that could occur on an as-needed basis.

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110 Ms. Knapp asked whether it was correct that passive activity was permitted underneath
111 power lines. Mr. Megley said people could take their dogs in that area, but a fence is not
112 permitted. Mr. Underhill said the improvements were the issue and they do not want
113 anything vertical in that area.

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115 Mr. Valentine asked whether it was correct that there will be no homeowners association
116 because none of the homes will be sold to individuals. Mr. Underhill said there would be
117 a condominium association because the streets will be privately maintained, but there will
118 just be one member, Onyx + East, due to subdivision regulations that are meant more for
119 a rural product. This will eliminate the need to request multiple variances due to the
120 property lines. The association will be funded by Onyx + East through the collection of
121 their rents, and they will maintain the entirety of the property through that association.

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123 Mr. Valentine asked whether it was correct that some of the properties would be rear-
124 loaded at the entryway to the development. Mr. Underhill said that would only be where
125 alleys are located, which is not at the front. Mr. Megley said that had applied when there
126 were duplexes at the front, but those were removed.

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128 Mr. Valentine asked whether there was adequate buffering between the development and
129 the adjoining trailer park. Mr. Megley said there is just under 400' between the rear of
130 the proposed homes and the lot line to the north, and the area is heavily wooded with
131 topography including a valley and a stream. He said he visited the site during the winter,
132 and he could not see over to the site from the subject property.

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134 Mr. Underhill said he would be back at the October 11, 2022 BZC meeting for the formal
135 presentation.

136 **AGENDA ITEM: INITIATE PROCESS TO AMEND COMPREHENSIVE LAND USE PLAN**

137 Ms. Littleton said it has come to her attention that the BZC incorrectly voted to approve
138 the recommendation of the final draft of the 2022 CLUP to the trustees, and that needs to
139 be corrected tonight.

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141 Ms. Littleton said that Scott Sanders, director of the Delaware County Regional Planning
142 Commission, has sent an email to the BZC with three requested additions to the CLUP
143 language. This included a brief description of the overlay language for the Berlin
144 Commercial Overlay (BCO) and Berlin Industrial Overlay (BIO), and language regarding
145 usable open space in developments including tot lots, gazebos, benches, exercise stations,
146 etc.

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148 Ms. Littleton said that Mr. Sanders also suggested adding a potential town center on the
149 west side of the BIO. One is planned on the BCO, but one could be added here if desired.
150 Mr. Valentine noted the CLUP is just a plan and that would not be a requirement.

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152 Ms. Littleton said the BZC is taking the place of the applicant, and they will vote tonight
153 to initiate the process of the approval of the CLUP. It will go back to Cathy Rippel, who
154 will assign a resolution number, advertise it, and the BZC will hold a public hearing for
155 residents and others to provide input, and then the BZC will vote to recommend the
156 revised plan to the trustees.

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158 Ms. Brown asked whether it was correct that although a public hearing was already held
159 at the last BZC meeting, the correct procedure must be followed, and the hearing must be
160 held again. Ms. Littleton said that was correct.

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**RESOLUTION 2022.09.27.A: INITIATE THE PROCESS TO MODIFY
THE EXISTING COMPREHENSIVE LAND USE PLAN**

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Ms. Littleton made a motion to initiate the process to modify the existing Comprehensive Land Use Plan, with the following revisions:

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1. The insertion of language that includes a brief description of the overlay language for the Berlin Commercial Overlay (BCO) and Berlin Industrial Overlay (BIO).
2. The insertion of language regarding usable open space in developments including tot lots, gazebos, benches, exercise stations, etc.
3. The insertion of language regarding a potential town center on the west side of the BIO.

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Ms. Kaplan seconded the motion.

Vote: Littleton, yes; Valentine, yes; Kaplan, yes; Brown, yes; Goshia, yes. Motion carried.

AGENDA ITEM: OTHER BUSINESS

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Ms. Littleton said the trustees recently passed a new application for the use of the OCPUD, which is Article 18 of the zoning resolution and covers the Old Cheshire area. She asked that the BZC members review it, as it is similar to the cloud zoning in place for the BIO and BCO; the applications will not go to the trustees, but instead a final development plan will come to the BZC for consideration of approval.

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Mr. Valentine asked whether the zoning resolution would be updated with the information. Ms. Knapp said she thought it was just a form with directions that would be provided to new applicants when applying for that section. Mr. Goshia suggested that for clarify, all such drafts have a draft number and release dates attached. There was a brief discussion.

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Ms. Littleton asked that everybody drop off their laptops tonight for updates.

Ms. Brown asked about a pending zoning violation on Sherman Road, and that she thought they had until September 23 to rectify the situation. Ms. Borso said they were given 30 days to comply, and she is working on it. She will be inspecting the property. Ms. Brown said nothing has been done so far. Ms. Borso said the next step is that the issue will go to the prosecutor for action.

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Ms. Brown asked about the warehouse zoning violation behind Cheshire Market. Ms. Borso said assistant zoning inspector Sherry Graham did go and speak with them and went to check on what has happened, and she will be checking on that. She believes letters from the prosecutor's office went out today. She is not sure of the exact procedures, but she learned today that a different prosecutor has now been assigned to the township, although she is not sure of who that is, and she is hoping for better lines of communications from this person. She noted there is no guidance in the zoning resolution regarding the procedures.

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Mr. Valentine asked whether the residents in the area could be notified that if the entry to their homes are blocked in, they can call 911 for help, and the violator can be informed of that. Ms. Borso said that is what she would do if that happened to her, and the residents should have been calling immediately every time it happened. Mr. Valentine said perhaps she could let the violator know that the residents have been instructed to call 911 during such an emergency and that may be used as leverage to encourage them to fix the zoning violation.

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216 Ms. Borso said there is nothing in the zoning resolution regarding that, but she assumed
217 that in an emergency, something like that could be done. She said she would also like to
218 know whether something had been done already.

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220 Mr. Valentine asked about the violation on Three B's and K Road with the barn. Ms.
221 Borso said the property owner called him after their discussion at a recent meeting, and
222 they discussed the violation. The property owner was waiting for the floor to be poured,
223 she said, so she gave him an extra two weeks to remedy the situation, which was the first
224 week of October. Ms. Brown said that appeared to be occurring today. Ms. Borso said
225 she would take a look at the property the weekend.

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227 Ms. Littleton said the next BZC meeting would be on Tuesday, October 11, 2022 at 7:00
228 PM at the Berlin Township Hall, when the BZC will hear the final development plan for
229 The Greenery.

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231 There was no further business to come before the BZC. Motion to adjourn. Meeting
232 adjourned.

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Steve Flaherty, Chairperson

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Christina Littleton, Vice-Chairperson

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Jerry Valentine, member

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Darcy Kaplan, member

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Angela Brown, member

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Jenny Sloas, 1st alternate member

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Keith Goshia, 2nd alternate member

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Attest: _____

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Lisa F. Knapp, Berlin Township Zoning Clerk