

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

**REGULAR MEETING
TUESDAY, FEBRUARY 8, 2022: 7:00 PM**

CALL TO ORDER

The meeting was held at Berlin Township Hall, 3271 Cheshire Road, and was called to order by Chairperson Steve Flaherty 7:00 PM.

BZC members present: Chairperson Steve Flaherty, Vice-Chairperson Christina Littleton, Jerry Valentine, Darcy Kaplan, 1st BZC alternate BZC member Jenny Sloas (seated), 2nd BZC alternate Sherry Graham (seated).

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

Not present: BZC members Jerry Valentine and Angela Brown,

PROOF OF PUBLICATION

Ms. Knapp stated that the meeting was advertised in the Delaware Gazette in December 2021 as a regular meeting.

AGENDA ITEM: APPROVAL OF MINUTES

Mr. Flaherty made a motion to approve the minutes from the 1/11/22 BZC meeting, as presented. Ms. Littleton seconded the motion.

Vote: Flaherty, yes; Littleton; Graham, yes; Sloas, yes; Kaplan, yes.

Motion carried, minutes were approved.

AGENDA ITEM: INFORMAL WITH ONYX & EAST

Mr. Flaherty said the applicant is here to give an informal presentation for a project called The Greenery, down at Route 23 and Shanahan Road. The applicant was here in November 2021 to present as well. He said this would be a review of the updated concept.

Emily Moser, with Onyx & East, Dan Makley, and attorney Aaron Underhill presented the concept and answered questions.

Ms. Moser said the site is located at Shanahan Road and Route 23. She is here to review the revised site plan concept in order to get the BZC's feedback prior to application. The project was approved several years ago as a multi-family development. She said the BZC had expressed concern that the density was too high, at 146 units. That has been adjusted down to 125 units with a single-family layout. All of the homes will have private garages. Those shown in pink have rear-loaded garages, served by an alley. Around the perimeter of the project are the larger lots shown in green, and those will have front-load garages.

Ms. Moser said there are six units at the front entrance that are designed to be duplexes, which would allow a larger building fronting Shanahan Road that that would offer a bit more of a grand entrance into the community. That type of product would also fill a niche in the market for smaller family rentals. Ms. Moser said she also received a lot of feedback on the amenities. Much of the project is the same, and there is still a walking path that would be provided throughout the community.

Ms. Moser said that would capitalize on some of the existing natural features of the site that are and to be able to preserve many of those trees in the naturally wooded area, which includes a small ravine. She noted that the property has elevation and wetlands issues.

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55 Ms. Moser said the walking trails would be the central focus, and she has added a
56 community pavilion and playground in a central location on the site. The electrical
57 easement area is not permitted to have any structures there such as a playground, so there
58 will be additional open space and a walking path there.

59
60 Ms. Moser said there will be a connector road to the mobile home park, which is adjacent
61 to the north of this property. Some units are shown along that road heading up to connect
62 to that park.

63
64 Mr. Underhill said the approved plan had 40% open space, and this plan includes 58%
65 open space, which is unheard of, and that is an increase from 51% in November. The
66 development is clustered so there is a lot of green area buffering the project from other
67 uses.

68
69 Mr. Flaherty said page 6 shows the exterior elevations. Ms. Moser said they are example
70 elevations current. Mr. Flaherty asked whether they would be single-family owned or
71 rented. Ms. Moser said they would be purpose-built for rentals.

72
73 Mr. Flaherty asked whether they would be taxed as a commercial. Mr. Underhill said
74 they would be and the company responsible for maintaining the property would be
75 responsible for that. Mr. Flaherty asked whether the connector to the trailer park would
76 be for emergencies only. Mr. Makley said it stubs into a 20' driveway with fire
77 knockdown bollards.

78
79 Mr. Underhill said these would be private internal streets so as to allow cross access
80 without an easement in place would be problematic. It would not be a through street.
81 Mr. Flaherty said that overall, there is good buffering and green space. He asked whether
82 units 7, 8 9, 10, 11, and 12 would face Shanahan Road. Mr. Makley said they would be.
83 Ms. Moser said they would be rear-loaded garages but the front doors would be along
84 Shanahan Road.

85
86 Mr. Flaherty asked whether units 7 and 8 are duplexes. Ms. Moser said units 7 and 8 is
87 one duplex building with two units. Mr. Flaherty asked whether units 9 and 10 was a
88 separate building with two units. Mr. Underhill said that was correct.

89
90 Ms. Kaplan said units 21, 22, and 29 through 36 do not appear to have buffering against
91 the property to the west. The first property seems to have a home on it, and she asked
92 whether a fence would need to be installed.

93
94 Mr. Makley said there is a 20' setback from the property line and no buffering is shown.
95 Ideally, they would save as much existing vegetation in those areas of the setback as
96 possible. Ms. Kaplan wondered how the adjacent property owners would feel about that.

97
98 Ms. Kaplan asked whether the garages would be one or two-car. Ms. Moser said they
99 would be two-car garages with on-street parking. Mr. Makley said the roads would be 26'
100 wide that would allow on-street parking. There would also be parking spaces for two
101 cars in the driveway for the front-load units.

102
103 Ms. Kaplan said it appears as though the mail area has some parking spaces that could
104 also be used for the tot lot.

105
106 Ms. Sloas said it appears as though the pool was eliminated and replaced with a tot lot.
107 Ms. Moser said that was correct and that was based on the feedback that the community
108 may appreciate that more. Mr. Underhill added that it would be more usable for larger
109 segments of the residents, rather than a pool that's only open 4 months out of the year.
110 Ms. Sloas agreed with the change.

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111 Ms. Sloas said it seems that the natural vegetation provides a lot of insulation from the
112 surrounding uses.
113
114 Mr. Flaherty asked what was on the eastern boundary. Ms. Rippel said it was Berlin
115 Meadows.
116
117 Ms. Littleton asked whether the property on the south side towards the entrance that's
118 directly to the west was not owned by the applicant. Ms. Moser said that was correct.
119 Ms. Littleton said some additional trees or buffering would be a good idea there. She
120 asked whether all of the other homes would be single-family. Mr. Underhill said that was
121 correct.
122
123 Ms. Littleton asked whether it was correct that only about 15 acres would have structures
124 on them. Mr. Makley said that was correct.
125
126 Ms. Littleton said she likes the paths in the woods and people will use those. She was
127 concerned how the front load garages would work given the provided front elevations.
128 Ms. Moser said those are the rear-loaded product and they are still working on the front-
129 load product; elevations would be forth coming.
130
131 Ms. Littleton asked what the size of the larger green lots would be. Ms. Moser said they
132 are about 46' wide by 80' deep. Ms. Littleton asked whether they would have minimal
133 side yard setbacks. Ms. Moser said that was correct.
134
135 Ms. Graham said she really likes the walking path and the additional green space. The
136 plan indicates a leisure path at the northern end of the property and she asked whether
137 there would be mowed grass for recreation. There are many trees in that area. Mr.
138 Makley said that is the electric easement. Ms. Graham asked whether there was a grassy
139 area for dogs or kids around the pavilion.
140
141 Mr. Makley said there will be some lawn areas around the pavilion between unit one and
142 the playground and it will be adjacent to the path. The leisure path will remain. Mr.
143 Underhill said the easement language dictates that shrubbery and trees cannot be planted.
144 Ms. Graham said she assumes much of the lot will be taken up by the homes, so there
145 will not be much of a yard. Ms. Moser said she would keep that in mind during planning
146 and hopefully some of the areas would be set aside for recreational uses.
147
148 Ms. Littleton said during a prior application, a path in in an electric easement was
149 discussed, and the applicant was concerned whether or not that would be allowed by the
150 electric company. Mr. Flaherty said they are allowed, but they have the right to tear them
151 up if necessary.
152
153 Mr. Underhill said a unique feature of this project is common ownership, and they will be
154 very well incentivized to keep everything looking nice because sometimes an HOA does
155 not have enough funds.
156
157 Mr. Flaherty said this is a commercial development filling a niche that would provide a
158 transitional role. It's in the southwest corner of the township against Route 23 and is
159 similar to the TPUD, helping to protect and keep the character and charm of the rural
160 core of Berlin Township, while providing a transition to the edges where commercial and
161 other uses will be located.
162
163 Mr. Loveless said the preliminary plan should show the building layouts and setbacks for
164 each lot. For the emergency access, they may want to think about putting a circle at the
165 end of the road with a curb cut that is their emergency access because the fire department

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166 is going to want a hammerhead turn around, rather than taking the trucks through the
167 narrow, primitive roads of the trailer park.

168

169 Mr. Loveless said the fire department likes entrances to be three lanes wide with one in
170 and two out, so they may have to adjust the center median, which may affect the signage.
171 The township does ask for a fence between private properties and commercial properties,
172 so a good fence should be placed in the east side to separate the properties. Mr. Makley
173 asked whether that was required against private lots even if there was not adequate buffer
174 space for a fence.

175

176 Mr. Loveless said the materials of the fencing are not specified, but the intention is to
177 protect the residents, so if the residents said they would prefer a buffer and not a fence,
178 that would be fine. He said it is just a matter of protecting both properties.

179

180 Mr. Underhill said this project was initially approved in 2012 and there have been some
181 extensions. Every time they look at the approvals, they get more confused. He asked
182 whether the extensions were for a preliminary or final development plan approval. The
183 site has two zonings including the TPUD on the southern part and PCD on the north.

184

185 Mr. Underhill mentioned at the last meeting, the frontage on Route 23 would not be
186 touched and remain with a commercial designation. A divergence was granted to the
187 PCD to allow residential development. He would really prefer to work within the
188 parameters of the previously approved plan given that really the delays over time were
189 due to the lack of availability of the sanitary sewer, and extensions were given. It seems
190 wasteful to go back through the county process, and he asked whether he was requesting
191 a modification to a final development plan, or would they bring a final development plan
192 through anew based upon an extended preliminary plan.

193

194 Mr. Flaherty said there has not been a final development plan. There was a brief
195 discussion about the current status of the development.

196

197 Mr. Flaherty said his understanding is that this is an approved preliminary plan with
198 extensions granted to get to a final development plan because they couldn't get to a final
199 development plan. He believes there were two extensions while he was a trustee due to
200 sewer issues and more have been done since then.

201 Mr. Flaherty said it currently lives as an approved zoning plan as it has already been
202 through zoning and the trustees, and the referendum period has already expired. This
203 would be a modification of the plan, to submit a final development plan. That would be a
204 trustee decision as to whether it is major or minor. If they deem it to be minor, the
205 trustees handle it. If it's major, which he suspects it is, it would be sent back down to the
206 BZC for the approval process, then the trustees would approve that modification, and
207 then the BZC would await the final development plan.

208

209 Mr. Underhill asked whether it was correct that the BZC would receive a modified
210 preliminary plan and they would make a recommendation to the trustees, they would
211 approve it, and they it comes back to the BZC for a final development plan approval. Mr.
212 Flaherty said he believed that is what the process would be. The only risk is that the
213 modification is not approved by the trustees and the 2012 zoning stands.

214

215 Mr. Flaherty said he feels this is a better plan and it fits better with market conditions and
216 where the township is currently. He believes that what is presented is agreeable and that
217 it is a procedural issue.

218

219 Mr. Underhill said they will figure out the process. He said this commission's role is not
220 to interpret the zoning code and to administer it. He would like to figure out a way
221 everybody could figure out the process be on the same page. Mr. Flaherty suggested that

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222 he craft his interpretation and that will be sent to the county prosecutor's office for
223 review. Mr. Underhill said that was fair

224

225 Mr. Underhill said some divergences were granted for the initial zoning to allow rentals
226 to be 100% of the units rather than 20% as indicated in the TPUD. He did not believe he
227 was asking for those divergences because the property has already been zoned. He said
228 the best thing to do may be to put it all on paper and sort it out.

229

230 Ms. Rippel said she would provide an amendment application to the applicant. Mr.
231 Flaherty said it would be an amendment to an approved preliminary plan and then a final
232 development plan would be submitted to the BZC.

233

234

AGENDA ITEM: OTHER BUSINESS

235

236 Mr. Loveless said the legislature just approved electronic meetings through June 30,
237 2022.

238

239 Mr. Loveless said the trustees are currently considering a temple that has a design that is
240 over 60'.

241

242 There was a brief discussion about the cloud, putting in the identity and how it gets
243 developed.

244

245 There was a brief discussion about the new Intel chip plant and the impact on the area for
246 decades to come. Mr. Flaherty said the auxiliary vendors and customers that come with
247 the Intel plan who could be attracted to Berlin Township, and that could become part of
248 their identity. He said Berlin Township needs to be proactive in seeking out the kinds of
249 businesses it would like to have here.

250

251 Ms. Rippel said Mr. Loveless and Trustee Raehll met with assistant county prosecutor
252 Mark Fowler, and the township now has an application for Articles 15 and 19 with a
253 checklist, flowchart, and fee schedule. She will email it to the BZC tomorrow.

254

255 Ms. Rippel said Scott Sanders, director of the Delaware County Regional Planning
256 Commission, may come to the March 8 BZC meeting with an introduction to the
257 Comprehensive Land Use Plan.

258

259 There was a discussion about virtual meetings.

260

261 Mr. Flaherty said the next BZC meeting will be in person on Tuesday, February 22, 2022
262 at 7:00 PM., when BZC 22-001 Villages of Cheshire Ridge will be heard. Mr. Loveless
263 noted they are in the OCTPUD cloud, but they chose not to use it and are requesting
264 TPUD.

265

266 There was no further business to come before the BZC. Motion to adjourn and second.
267 Meeting was adjourned.

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Steve Flaherty, Chairperson

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275

Christina Littleton, Vice-Chairperson

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Jerry Valentine, member

Darcy Kaplan, member

Angela Brown, member

Jenny Sloas, 1st alternate member

Sherry Graham, 2nd alternate member

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