

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, OCTOBER 12, 2021: 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 at 7:00 PM.

Mr. Flaherty led meeting attendees in the pledge of allegiance.

BZC members present: Chairperson Steve Flaherty, Vice-Chairperson Jerry Valentine, Darcy Kaplan, Christina Littleton, Angela Brown.

Not present: Zoning Inspector David Loveless

Also present: Zoning Secretary Cathy Rippel, Zoning Clerk Lisa Knapp, 1st alternate BZC member Jenny Sloas, 2nd BZC alternate Sherry Graham.

Ms. Kaplan stated that the adopted policy of the BZC has been included in the agenda.

AGENDA ITEM: PROOF OF PUBLICATION

Ms. Knapp said this hearing was advertised as a regular meeting, and the current application was tabled from August 24, 2021 to tonight.

AGENDA ITEM: APPROVAL OF MINUTES

Mr. Flaherty made a motion to approve the minutes from the 9/28/21 BZC meeting, as presented. Ms. Littleton seconded the motion.

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

Motion was carried, minutes were approved.

AGENDA ITEM: BZC 21-005 BERLIN BLUFFS

BZC 21-005, request by Berlin Village, LLC to rezone 54.183± from R-2 to R-3 on Cheshire Road to allow a larger variety of lot sizes and open spaces in a subdivision known as Berlin Bluffs, formerly Eaststone Crossing.

Mr. Flaherty said the applicant has submitted a revised application to the township.

Todd Faris, with Faris Planning and Design, and Joe Thomas, with Metro Development, were present to answer questions from the BZC.

Mr. Faris showed a location map of the Piatt and Cheshire Road area, where the proposed development is located. He showed the currently approved development plan, which he is requesting to modify. The latest revised plan that was presented included quite a variety of lot sizes, from 52' to 100' wide, with the smaller lots towards the entry. Comments were received regarding the plan, and they have been addressed in the revised plan.

Mr. Faris said setbacks, lot sizes, and number of lots had been the major concerns, but everybody seemed to like the open space and its organizations. The revised plan includes a reduction of 13 lots, so there are just 72 now. There are now three lot sizes, from 80' to 120'. By increasing those lot sizes, he was able to add a minimum 12.5' side yard setback, which meets the zoning requirements

Mr. Faris said the lot locations have also changed, and the transition to Berlin Manor has been modified. About 2 acres of the open space has been lost, he said, and he pointed out the changes.

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52 Mr. Faris said the divergence for the setbacks between lots has been removed. However,
53 a divergence is requested for the lot sizes, although they are very close to the
54 requirement. Requested is a range of 10,400 SF to 10,800 SF on a handful of lots.

55
56 Mr. Faris said a new divergence for the perimeter setback has been requested on some of
57 the lots, in order to have a continuation of the street scape from the existing developments
58 into this development. There is a continuity of the street scape and lots sizes in that area
59 now, he said.

60
61 Mr. Faris said the major open spaces remained unchanged. Clarity was provided for the
62 gazebo area. He said it would be a community area and would be programed. An
63 architecture example has been included, as well as a mailbox kiosk.

64
65 Mr. Faris reviewed the landscaping plan. He showed the architecture for the proposed
66 shelter, opined that it was fairly nice, and a typical mailbox kiosk. He also showed the
67 open space plan. He had received several comments from the residents to the north
68 regarding additional buffering, and evergreens have been added. The amenities have
69 remained.

70

71

BZC Consideration

72

73 Ms. Kaplan said the applicant has stated there would be 10' wide walkways. She asked
74 where they would be located. Mr. Faris said the multi-use pathways are 10' wide and he
75 pointed them out. He said that was a requirement of the fire department,

76 Ms. Kaplan asked how wide the sidewalks on both side of the road would be. Mr. Faris
77 said they would be 5'. She asked whether there was a walkway around the pond. Mr.
78 Faris said it would be only on the south side of the pond.

79

80 Ms. Kaplan said she likes the open space; some of it seems usable, and some is not. She
81 asked about the parking lot that can be accessed by the residents at Berlin Manor, and she
82 asked whether access parking was addressed. Mr. Faris said many of the residents
83 already have access to that, and the county allows parking on the side of the street. This
84 is not a regional park; it is just for the community.

85

86 Ms. Kaplan said she was concerned about the divergences that have been requested, and
87 the designation as an R-3 development. She would prefer to keep the property more rural
88 and to have continuity with the developments around it. The Pines has an R-1 zoning
89 designation, she noted.

90

91 Mr. Valentine said he agreed with Ms. Kaplan. He appreciates that the density was
92 lowered, but there are many surrounding communities that are maturing and they were
93 concerned about backing up to a development that has such high density. He asked
94 whether there were side load garages. Mr. Thomas said all 72 could be side load garages
95 if desired by the homeowners. Mr. Valentine asked whether there were any requirements
96 for side load garages. Mr. Thomas said he could commit to a certain percentage such as
97 25% of them being side load garages. Mr. Valentine said he would like to see at least
98 25% sideload garages.

99

100 Mr. Thomas said that there has been concern with the neighboring uses having larger lots,
101 but most of the property that backs up to existing home is either open space or equal-
102 sized lots. There are larger lots and larger buffer areas between Glen Mead and this
103 development, and existing trees are being maintained. He is trying to balance the
104 different-sized lots with the understanding that with that balance, they are also providing
105 amenities for the community such as the pocket park, the open space, the trails, etc. that
106 other developments do not have. Mr. Thomas said the homes will be the same size as
107 those in Glenmead.

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108 Mr. Flaherty said he is fine with the parking lot for the open space. He asked who owns
109 the parking lot, and whether it was the HOA, and whether there was a line that delineated
110 their and the township's responsibilities. Mr. Thomas said that was correct. Mr. Flaherty
111 asked how large the parking lot was. Mr. Faris said there are 12-14 parking spaces, and it
112 was sized as a hammerhead in case it was needed.

113
114 Mr. Flaherty asked whether the fire department had seen the plan. Mr. Faris said they
115 received the updated plan, and the applicant has addressed their concerns from the last
116 meeting, including that the water line is 1", there are 3 ingress/egress lanes at the entry,
117 and that the path is 10' wide.

118
119 Mr. Flaherty asked whether the red shown between lots 61 and 62 indicates different
120 kinds of landscaping. Mr. Faris said that was correct, and there is a pathway in between.

121
122 Mr. Flaherty said there would be an 8' wide asphalt path connecting near lot 68 up to 54
123 through the shelter and playground area. Mr. Faris said that is correct, and the fire
124 department actually requested 8' path there. Mr. Flaherty asked if the oval would be
125 8' wide asphalt as well. Mr. Faris said that was correct.

126
127 Mr. Flaherty said originally there were 57 lots, and then there were 85, and now there are
128 72, which is 15 more than the original R-2 zoning. However, open space appears to have
129 been increased. Mr. Faris said he did not believe so. Mr. Flaherty said he shows an
130 increase from 45 to 48%, and an increase from 24 to 26 acres of green space.

131
132 Mr. Flaherty said he counts 28 lots at the 10,400 minimum, and 5 that are below the
133 divergence, and 32 are being requested to be below the required size. There are three
134 divergences requested and they were reviewed. Side yard setback requirements are being
135 adhered to, he noted.

136
137 Mr. Flaherty said he did not like the precedent of getting approval for a development and
138 then the applicant coming back and bargaining for increased density, and he is not
139 interested in retaining that as a norm. This does bring more active and engaging open
140 space, which the township asks developers to bring, and this does accomplish that.

141
142 Ms. Littleton said she also did not like the precedent of a development being approved
143 and then the applicant coming back asking for higher density. However, the applicant
144 has done much more with the green space, compared to the original plan, which mainly
145 had retention ponds, which are not useful for recreation. She likes the green space in this
146 plan, as it is combined and more centrally located. It flows more and makes more sense.
147 She likes the playground as well.

148
149 Ms. Littleton is glad the setbacks have been increased to 12.5' from 6', and also that the
150 density was lowered from the most recent proposal. 1.54 units/acre is closer to
151 surrounding neighborhoods than 1.85. she asked if there would be benches in green
152 spaces B and C. Mr. Faris said there would be along the trail. Ms. Littleton said she did
153 not have a problem with the divergence for the reduced setback divergences on the 6 lots
154 that abut the neighborhood developments. It makes sense with the flow of the
155 neighborhoods, and she did not think it would cause any problems.

156
157 Ms. Littleton said she did not object to the other divergences requested.

158
159 Ms. Brown said the setbacks were indicated still as saying 6' in multiple places, rather
160 than 12.5', including on page 1. The text also still discusses vinyl siding on the rear of
161 the homes. She asked that the application be revised accordingly. She asked whether the
162 divergence was still being requested for the sides and rear facades being vinyl. Mr. Faris
163 said that was not a divergence and that is permitted.

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164 Ms. Brown was pleased with the reduction in number of lots and the modifications to the
165 green space. She suggested 49, 46, 48 and 47 feel very crowded. She suggested making
166 lots 49 and 46 larger, and removing lot 48, because there are many trees on it that will be
167 removed when developing lot 47. Also, those lots are up against homes with larger lots.

168

169 Ms. Brown said on page 11, per the building dimensions indicated, homes as small as 800
170 SF on the ground level could be built. She is concerned about the character of the
171 neighborhood changing and it becoming much lower end, instead of those in the area in
172 the \$700,000 range. Mr. Faris said page 12 indicates there is a 1500 SF minimum. The
173 minimum referenced by Ms. Brown is from the zoning resolution. Ms. Brown said that
174 during the recession in 2008, many neighborhoods changed to smaller homes and had a
175 different feel to them.

176

177 Ms. Brown asked that lots 48 and 47 be removed so the treeline there can be kept intact.

178

179 Ms. Graham said she agreed with Ms. Brown about lots 47 and 48 being in the treeline,
180 and she would like to see that preserved. She also loves the open space and the trails.
181 She asked whether the applicant had considered taking the parking lot away, based on
182 Berlin Manor resident feedback. Mr. Thomas said Berlin Manor needs some way for fire
183 trucks to turn around, so it will be dual purpose for Berlin Manor to have fire truck access
184 to that lot stretch of street so they can turn around, and also a parking area. Mr. Flaherty
185 said it may be required by the county engineer. She feels that the green space may be
186 underutilized, and that the parking lot would not be well-received by the neighborhood.

187

188 Ms. Graham likes that the lot sizes have been increased to nearly the 10,898 SF
189 minimum.

190

191 Ms. Sloas said she agreed with removing lots 47 and 48 because it is so far into the
192 existing tree line. She also feels and R-2 is more appropriate, based on the neighboring
193 developments in general. She does not have a problem with the parking lot, which she
194 prefers to the cut through from Berlin Manor. Regarding the oval shaped open area, she
195 did not find it to have much value to the residents. She likes the walking trails, but many
196 residents at the last meeting said they were not something they would use.

197 Ms. Sloas said there was concern about accessing it and going all the way up through the
198 parking lot all the way down and it being a nuisance, for example if people cut through
199 the properties on Berlin Manor to get to it. She would prefer that it be a natural area, as
200 shown on the original plan.

201

202 Ms. Brown said an idea for the oval area could be a fenced-in dog play area, or a soccer
203 field, although there would be no parking there. Mr. Faris said he did have many
204 residents approach him and say they loved the plan.

205

206 Ms. Kaplan asked whether that would be mowed. Mr. Faris said it would be.

207

208 Ms. Littleton said she likes the oval a lot.

209

210 Ms. Sloas said she would have preferred the applicant get input from the Berlin Manor
211 community about the park area, etc. Mr. Thomas said there would be substantial
212 buffering. Also, although he does not know how the information was sent out, but people
213 were invited to a neighborhood meeting to discuss. He also had a number of meetings at
214 Berlin Township Hall. He understands some residents want it and some do not, but it is
215 hard to please everybody.

216

217 Ms. Sloas said she has not spoken to anybody in that neighborhood who was invited to
218 those meetings. Mr. Thomas said it was announced in various groups including on social
219 media. He guarantees that if it is built, it will be used. Ms. Sloas disagreed with him. She

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220 said the access is an issue, and it will create a nuisance because people will have to cut
221 through Berlin Manor yards to access it.

222

223 Mr. Thomas said area residents requested it, and Berlin Manor could install a fence to
224 prevent people from crossing the property line. Ms. Sloas questioned Berlin Manor
225 having to put a fence up to prevent the nuisance being created by this application.

226

227 Mr. Flaherty said that the intent of zoning is not to create public parks, and this area
228 would be internal to the neighborhood. Every piece of trail in this development will be
229 maintained by the homeowners association, not the township. Berlin Manor will benefit
230 from the open space without having to pay for it, and they will have walking access. Ms.
231 Sloas said some residents voiced their concern at the last BZC meeting about this.

232

233 Mr. Flaherty asked what the concern was from a zoning perspective. Ms. Sloas said the
234 concern is that the applicant is requesting a higher density by adding open space that is
235 supposed to add value, and she questioned whether it did. Mr. Flaherty said the only
236 reason this is being considered is the additional open space being provided. Ms. Sloas
237 said she would prefer larger lots instead. Mr. Flaherty noted that sometimes larger lots
238 are not maintained, and now there will be 48% of the property of park area that the
239 homeowners association will pay to maintain. The zoning resolution requires a minimum
240 of 20% of open space, and this provides much more than that, not just for the subject
241 development, but also the community.

242

243 Mr. Flaherty asked if there was anything that could be done to help her be more accepting
244 of the open area. Ms. Sloas said she would like to deter people from cutting through
245 from Berlin Manor, so perhaps buffering could be added on the eastbound drive. Mr.
246 Thomas said that would be buffering the detention basin on Berlin Manor, which is
247 entirely an open space with a detention area. There was additional discussion.

248

249 Mr. Flaherty said the original plan had houses butting up to Berlin Manor, but now, lots
250 51-54 have been eliminated so there is no longer a concrete cul-de-sac right there. There
251 is no longer a detention pond that butts right up against the property, and there is not
252 natural, green manicured space. Lots 45, 46, 47, 48, and 49 on the original plan are now
253 green space with a playground and a shelter. He feels the buffering being provided is
254 better than the original plan.

255

256 Ms. Littleton said regarding people walking from the oval into Berlin Manor, there is a
257 fence around the oval, so that will help prevent that. Ms. Sloas said her concern was
258 people trying to access the oval from Berlin Manor.

259

260 Ms. Sloas said if one was driving from the back park of the development, one would park
261 their car and walk. Mr. Flaherty said he did not want to design a residential development
262 where one has to drive their car to access the green space. People will walk to access it.
263 Ms. Sloas said if there was buffering such as mounding and landscaping to prevent the
264 cut-through traffic, her concern is eliminated. Ms. Brown noted that it is nearly
265 impossible to keep people from cutting through yards.

266

267 Mr. Flaherty asked whether, in 20 years, the township would be more happy with this
268 active space, or more houses. However, he does not like setting a precedent for smaller
269 lots in the future.

270

271 Mr. Flaherty said the shelter was too small and he would like to have a more-usable size,
272 such as one that includes 5-6 picnic tables for a kids' birthday party. Mr. Thomas
273 suggested a 40' by 40'. Ms. Brown said she likes that better than 20' by 20' and Mr.
274 Flaherty said that makes it more usable. Mr. Faris said it would have a concrete pad.
275 There was additional discussion.

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276 There was a discussion about an old farm fence at a tree line. Mr. Thomas said he could
277 install a new wire fence along the property line. Ms. Littleton asked whether it would be
278 incorporated into the tree line. Mr. Thomas said that was correct. Mr. Flaherty it would
279 be along the property line, in the tree line.

280

281 Mr. Flaherty reviewed the list of conditions:

- 282 ➤ Remove any reference to 6' setbacks to reflect the approved 12.5' setbacks as
283 noted.
284 ➤ Re-establish the east treeline with new wire fence from the creek bed to south
285 oval area.
286 ➤ The shelter house will be a minimum of 40' by 40 built as illustrated and detailed
287 with stone column base and decorative post on a poured concrete pad with
288 drainage as typical county standard approved.
289 ➤ There shall be a minimum of 25% side load garages in the final plan that are
290 spread throughout and not clustered in one area.
291 ➤ Eliminate lots 47 and 48.

292 Ms. Brown said that with the removal of lots 47 and 48, she was expecting that lots 49
293 and 46 will be longer. Mr. Faris said those face the roadway coming from Berlin Manor.
294 He asked whether they should be rotated so they face the north. Mr. Flaherty did not
295 think that was necessary. He noted they will be premium lots that will sell for more.
296 After discussion, Mr. Faris said he would run lot #46 on the east side all the way to the
297 property line to the south, and lot #49 to the west would be run down to the 50' setback
298 line.

299

300 Ms. Brown asked whether those lots could be allowed to go to the back tree line. Mr.
301 Thomas said they would not, as they needed access. Mr. Faris said they could run all of
302 those lot lines that would reduce the open space but would not change the plan
303 substantively.

304

305 Ms. Littleton said she thought it would be nice to have lots 46 and 49 facing the same
306 way and not have their backyard facing the side of somebody's home. However, she
307 does realize that it would look nicer from the street to have the fronts.

308

309 There was a discussion about electric connection to the shelter, including for movie
310 nights and security lighting. Mr. Thomas noted that shelters are typically illuminated for
311 security reasons. Mr. Flaherty said it would need to be downlighting.

312

313 Mr. Flaherty stated another condition for the application:

- 314 ➤ Extend lots 53-50 to the southern property line.

315

Public Comment

316

317 Leon Roberts, 2946 Berlin Manor Drive, said he had three points.

- 318 1) The signage at the entrance needs to be comparable to Berlin Manor. People who
319 buy half-million dollar homes would expect a nice sign. Mr. Faris said the sign
320 detail was included on the landscaping plan.
321 2) The sign should have lights on it so people know where the development is at
322 night.
323 3) The front walkway at the entrance is a trail to nowhere. He wondered if there
324 were easements to connect the trail.

325 Mr. Roberts said that he appreciated the open space and the elimination of the two lots.

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326 Mr. Flaherty said the cost to construct a mile of trail is over \$1 million. The township
327 does not have a parks department at this time, so they request that the pathways are
328 constructed at the developer's cost, with the intent to connect them in the future. It
329 presents the opportunity for it to be connected in the future without the township having
330 to pay for all of it.

331

332 Mr. Roberts said he would like to have a buffer in-between the developments. Mr.
333 Flaherty said there is an existing tree line on their side of the property line now and some
334 will have to be torn down to construct homes on lots 40 and 41. However, with the
335 setbacks, much of it will be left in place. The BZC likes continuity in developments.

336

337 Mr. Roberts said he would prefer 4-sided natural exterior architectural materials, given
338 the adjacent neighborhood and the price points of the community. He felt it was wrong
339 to put vinyl siding on a \$600,000 house. Mr. Flaherty noted there will be no vinyl on the
340 front.

341

342 James Amendolare, 2662 Russell Woods Drive, said he was glad to see the two lots
343 removed. The tree line along the northern edge has a 30' tree preservation area that
344 extends into their yards, and he asked whether there was such an area on the other side of
345 that line in this development. Mr. Faris said there was a 50' building setback from that.
346 Mr. Amendolare asked whether it was actually a tree preservation area, where nothing
347 can be changed. Ms. Rippel said the township enforces that.

348

349 Mr. Roberts was concerned about the flood control for retention ponds. There was
350 additional discussion.

351

352 **RESOLUTION 2021.10.12.#1: RECOMMEND APPROVAL OF BZC 21-005 BERLIN BLUFFS**

353

354 Mr. Flaherty made a motion to approve BZC 21-005 with the following conditions as
355 noted in Exhibit 1:

356

1) Remove any reference to 6' setbacks in the text to reflect the approved 12.5'
357 setbacks as noted.

358

2) Re-establish the east treeline with a new wire fence from the creek bed easement
359 to the south oval area where the new fence will be located.

360

3) The shelter house will be a minimum of 40' by 40', built as illustrated, and
361 detailed with stone column base and decorative post on a poured concrete pad
362 with drainage as typical Delaware County standard approved.

363

4) There shall be a minimum of 25% side load garages in the final plan, that are
364 spread throughout and not clustered in one area.

365

5) Eliminate lots 47 and 48.

366

6) Lots 46 and 49 will be increased in size so they extend to the southern property
367 line.

367

7) Extend lots 53-50 to the southern property line.

368

8) A 30' deep tree preservation area will be created along the southern property line
369 at lots 53-41.

370

371 Mr. Valentine seconded the motion.

372

Vote: Flaherty, yes; Valentine, yes; Brown, yes; Littleton, yes; Kaplan, no.

373

374

Motion was carried.

375

376

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378

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379

AGENDA ITEM: OTHER BUSINESS

380 The next BZC meeting will be held on October 26, 2021 at 7:00 PM. An informal review
381 will be held for Charlie Driscoll for an 11 acre site at 5229 Cheshire Road, and an
382 informal review with RD LLC for a 49-acre site at 526 Peachblow Road.

383

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

386

387

388

Steve Flaherty, Chairperson

389

390

391

Jerry Valentine, Vice-Chairperson

392

393

394

Darcy Kaplan, member

395

396

397

Christina Littleton, member

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399

400

Angela Brown, member

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402

403

Jenny Sloas, 1st alternate member

404

405

406

Sherry Graham, 2nd alternate member

407

408

409

Attest: _____

410

Lisa F. Knapp, Berlin Township Zoning Clerk