

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

**REGULAR MEETING
TUESDAY, JULY 26, 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 at 7:00 PM.

BZC members present: Chairperson Steve Flaherty, Vice-Chairperson Christina Littleton, Jerry Valentine, Angela Brown, 1st alternate member Jenny Sloas (seated).

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

Not present: Darcy Kaplan, BZC member, Assistant Zoning Inspector Sherry Graham.

Mr. Flaherty reviewed the BZC's adopted rules, including public comment rules.

PROOF OF PUBLICATION

Ms. Knapp stated that this meeting was advertised in the Delaware Gazette on July 15, 2022 Delaware Gazette, as follows:

NOTICE OF PUBLIC HEARING

The Berlin Township Zoning Commission will hold a meeting for the purpose of a public hearing July 26, 2022, at 7:00 p.m. at the Berlin Township Hall located at 3271 Cheshire Road, Delaware, OH 43015 to consider an application to amend an approved Final Development Plan, designated as BZC 17-005, amendment #1, filed by Berlin Manor One LLC, 10163 Windsor Way, Powell, OH 43065. The applicant is requesting approval to remove Balsamridge Street and add an single family lot that has been added in place of the eliminated street in Section 2, R-2 with a planned residential overlay, ±12.651 acres, Parcel #41831001031000 in the subdivision known as Berlin Manor, Cheshire Road, Delaware, OH 43015.

For questions, contact Sherry Graham, Assistant Zoning Inspector at 740.548.5217 x103. You can find the text and map on the Berlin Township website www.berlintwp.us. After the conclusion of the hearing, the zoning commission will determine if the matter needs to be submitted to the Board of Township Trustees for its action. The person responsible for giving notice of the public meeting by publication is Cathy Rippel. Township residents are encouraged to attend.

BERLIN TOWNSHIP ZONING COMMISSION
Steve Flaherty, Chairman

AGENDA ITEM: APPROVAL OF MINUTES

Mr. Valentine made a motion to approve the minutes from the 7/12/22 BZC meeting, as presented. Ms. Littleton seconded the motion.

Vote: Valentine, yes; Littleton, yes; Brown, yes; Sloas, yes; Flaherty, yes.

AGENDA ITEM: BZC 17-005 AMENDMENT #1 BERLIN MANOR ONE, LLC

Applicant is requesting approval to remove Balsamridge Street, and add a single-family lot that has been added in place of the illuminated street in Section 2. The development is 12.651± acres, with an R-2 with a PRD overlay.

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52 John Wicks, with Real Property Design Development, 15 N. Liberty St., presented the
53 application and answered questions from the BZC. Nilay Bhatt, 1975 Woodland Hall
54 Drive, with Dani Homes, was also present to answer questions.

55
56 Mr. Wicks said he is requesting a minor amendment. Mr. Wicks said the developed plan
57 is for the entire project, which includes 95 lots, which he is requesting to increase to 96
58 lots. He has submitted a data sheet that shows a zero increased in net developable density
59 by removing a small portion of right-of-way that was removed on the Berlin Bluffs
60 project. That was a result of public comment because a through street from Berlin
61 Manor through Berlin Bluffs was not desired. His response was to remove the street and
62 to not have a stub street. He said he confirmed with Delaware County and the fire
63 department that it was not a big deal.

64
65 Mr. Wicks said he is hoping that this would be an administrative approval rather than
66 having to seek approval from the trustees. The only differences are the increase of a
67 single-family lot and reduction of the right-of-way, and the development meets all the
68 requirements of the zoning. This results in less right-of-way and less roadway for the
69 township to maintain, and the substantial culvert that had been passing under the roadway
70 has been eliminated, so the township will not have to maintain that either.

71
72 Mr. Flaherty said the applicant is requesting an amendment to an approved plan that has
73 already been through the final development process. The BZC will determine whether
74 this is a minor or major change. Minor would be administrative in nature and major
75 would go to the trustees for approval.

76
77 Ms. Sloas said she lives in Berlin Manor, and although she is not on that side, she will
78 abstain from voting. Ms. Sloas said the problem with the proposal is removing the
79 connectivity. She thought the reason the through street was removed not just to reduce
80 traffic but an issue with the builder not wanting to build on that side. The amenities are
81 all located over there including the park, shelter, trails, oval, soccer field, etc. The
82 increased density was approved for this development was because of the community
83 benefit. Taking away the connectivity means there is not way to get there. Allowing the
84 additional density that was approved does not benefit Berlin Manor nor Berlin Bluffs or
85 add to the community.

86
87 Ms. Sloas was not certain if that would go into weighing whether it was a major or minor,
88 because it does affect Berlin Bluffs. The trustee minutes indicate it was a community
89 benefit. If the parking is removed, just some people can use the amenity area, and she
90 asked whether something could be changed to ensure it remained as an amenity. As a
91 resident of Berlin Manor, she is very disappointed that the open space there is empty and
92 a resident needed to add a bench themselves.

93
94 Mr. Wicks said when Berlin Manor was zoned 4-5 years ago, it was more passive open
95 space an no amenities were proposed. He was stuck with the R-2 density rather than the
96 R-3, which would have included 20 more lots, more active amenities could have been
97 included. That was not part of the plan, and it was designed as a rural community and
98 Berlin Township supported the passive open space. Things have changed now with
99 higher-density projects and amenities.

100 Mr. Wicks said regarding lack of connectivity and parking, building the road that stubs
101 into another project for parking means this development would be penalized with a credit
102 for something that was a credit given to the neighboring development. Perhaps 100,000
103 could have been spent for a nice park amenity, but there would be 12 additional lots,
104 which puts it at a distinctive disadvantage. The culvert alone was \$100,000. He did not
105 have the opportunity to zone that property as an R-3.

106

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107 Mr. Wicks said there is still a stub street to the north and that will connect into Berlin
108 Bluffs with sidewalks so it will not be cut off completely. Ms. Sloas said walking is not
109 as accessible as driving. She understands the amenities were substantial in Berlin Bluffs
110 because it was an R-3 instead of an R-2, but Berlin Manor does not even have park
111 benches, and the homes in Berlin Bluffs are more expensive. She has to jump from her
112 car to her mailbox because there is not a concrete pad to get to the mailbox, and it is
113 embarrassing.

114

115 Mr. Wicks said they are not here to talk about that, and for the record, he is not one of the
116 owners of the project; he did the zoning and he is working as an agent for the property in
117 this manner. Mr. Bhatt said they are here to discuss the design and layout of Berlin
118 Bluffs. He said perhaps there is a way to provide better access such a trail. Ms. Sloas
119 suggested a walking path at a minimum as an asset to the community.

120

121 Ms. Sloas said a parking lot was approved by the trustees.

122

123 Mr. Wicks said perhaps this could be approved, subject to the approval of a walking trail
124 to the west.

125

126 Mr. Valentine said item C) of the consideration is for whether a change is considered
127 major. A minor states an increase in density, and this is an increase. Mr. Wicks said it is
128 not an increase. Mr. Flaherty said the section of road right-of-way being removed
129 negates the increase in density so it does not increase.

130

131 Mr. Valentine said he know a road and parking area is expensive, but that makes it a
132 community. Mr. Flaherty said the township has already approved the other side, and part
133 of that approval was removing the connection to Berlin Manor. These are two separate
134 cases. It was specifically requested by the developer of the property to the west, public
135 and the county engineer to not connect those so that was already removed.

136

137 Mr. Flaherty said the Berlin Manor development came in in 2017 with a stub to future
138 connections per county engineer requirements. Then Berlin Bluffs was approved, and in
139 that approval, it was stated that they do not want a connection here. The applicant is
140 requesting removal of the stub so there is no "road to nowhere." Ms. Sloas said it is a
141 road to the amenities. Mr. Flaherty said it was stated that they do not want to connect.
142 Ms. Sloas said they wanted the parking lot. She said the trustee minutes indicate the
143 through street was a community benefit.

144

145 Ms. Sloas asked whether the trustees approved it as a parking lot with the road
146 connecting to it. Mr. Flaherty said the BZC removed it and the trustees approved it. Ms.
147 Sloas said it is still in the plan. Ms. Littleton said it is now a cul-de-sac instead of the
148 hammerhead that was originally approved. Mr. Flaherty said it does not connect into
149 Berlin Bluffs. Ms. Littleton said Balsamridge connects to the cul-de-sac part of the park
150 in Berlin Bluffs.

151

152 Mr. Flaherty asked Joe Thomas whether, after the project was approved, the county
153 engineer had wanted something not to connect. Mr. Thomas, with Metro Development,
154 LLC., 470 Olde Worthington Rd. Ste. 100, Westerville, said it went from a parking
155 lot/hammerhead to a cul-de-sac.

156

157 Mr. Wicks said there is no parking on a cul-de-sac, regardless. Mr. Wicks suggested a
158 walking path instead of the road. Ms. Rippel brought out the approved zoning book,
159 which she said was after the BZC recommendation and the trustees' approval. Mr.
160 Flaherty said the hammerhead was changed to a cul-de-sac by the county engineer.

161

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162 Mr. Flaherty said that during the hearing for Berlin Bluffs, residents from Berlin Manor
163 had stated they did not want the through traffic.

164

165 Mr. Thomas said the cul-de-sac instead of the parking lot was decided prior to the trustee
166 hearing based upon input from the fire department and county engineer.

167

168 Ms. Littleton asked whether there was discussion about parking in the cul-de-sac. Mr.
169 Thomas said there is parking available, but the cul-de-sac needs to be large enough,
170 which it is. Mr. Thomas said as the owner of Berlin Bluffs would support the removal of
171 the stub street but not interfere with the process, and would support another method to
172 gain the same access.

173

174 Mr. Thomas said his sole obligation is to offer access from Berlin Manor to the park and
175 they would support Berlin Bluff's and the BZC's concepts to achieve that. The intent
176 was to eliminate cut-through traffic from Piatt Road going to Berlin Manor, and he did
177 not want to eliminate access to the park from Berlin Manor.

178

179 Mr. Flaherty says he sees the removal of one lot as a minor modification. A path would
180 be built. Ms. Littleton asked how wide it would be. Mr. Wicks said the development
181 plan shows the path coming through the center of Berlin Manor is shown as 8' wide. Mr.
182 Flaherty said 10' is standard for the county multi-use paths along the main artery, but this
183 is a development amenity shown as 8' so he suggested 8' wide.

184

185 Mr. Wicks said he would request modifications to the plan to add an 8' wide multi-use
186 path from the sidewalk on Berlin Manor Drive across the McKinsey ditch so a culvert
187 would need to be installed. That path would connect up to the paths that Mr. Thomas
188 will have on his project. A 15' wide easement would be done that would not encroach
189 upon the properties and it would be owned and controlled by the homeowners
190 association.

191

192 Ms. Littleton said that Berlin Manor can access that park, but she thought the intent was
193 that the rest of the community could access it too. She did not think the road would have
194 created a lot of traffic that would become an issue, and it would not have been through
195 traffic, so that concern does not apply. She said it affects the overall use and character of
196 the development.

197

198 Mr. Wicks said at the time the development plan was approved, there was no park there.
199 Ms. Littleton said a road was planned there. Mr. Bhatt said it could still be done, but that
200 road would go nowhere. Ms. Littleton said it would go to the park. Mr. Wicks said
201 people can drive to Berlin Bluffs and park along the street. Mr. Wicks said there is no
202 parking in the cul-de-sac either. Mr. Flaherty said that technically, according the
203 township regulations, there is no parking in the cul-de-sacs and that would need to be
204 changed. Ms. Littleton asked whether the trustees missed that.

205

206 Mr. Flaherty said cul-de-sacs take four times longer to plow than streets. Ms. Littleton
207 said this qualifies as a major to her. Mr. Flaherty said he would agree if there was no
208 connectivity provided, but with that connectivity, that characteristic is maintained.

209

210 Ms. Brown said with the new lot, yard would be stolen from lot #2294, and she asked
211 how the size of those two lots now compares from a lot size perspective. Mr. Wicks said
212 those are some of the largest lots in the development and they will all be over the
213 minimum lot size, regardless of whether 15' is taken for an easement. Some shifting
214 around the curve would have to be done.

215

216 Ms. Brown asked whether lot #2293 would have an easement on it. Mr. Wicks said it
217 would be an open space between lot lines. The lot lines would be shifted around so there

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218 is no loss of area. Mr. Wicks said there are no currently built lots, and the property is
219 undeveloped at this time.

220

221 Ms. Brown said she is fine with the proposal, as long as it does not encroach upon any
222 currently developer property, the lots still are above the require minimums, and a walking
223 path from Berlin Manor Drive over to the park, she is fine with it. The BZC spent a lot of
224 meetings making sure the amenities could be used by Berlin Manor so they would feel
225 like a connected community.

226

227 Ms. Littleton said the trustees saw the plan with the cul-de-sac and the parking, and these
228 changes are modifying the entire community feel of it. It does not seem right to her.

229

230

Public Comment

231

232 Debi Sutherland, 2667 Voss Drive, in Berlin Manor, said she echoed what Ms. Sloas said
233 and she is disappointed in their development and living here. She walks to Glen Ross
234 and uses their park, and to Howard Farms and uses their benches and gazebos. She said
235 she would like a community park area, garden, etc. She said she has messaged Mr.
236 Wicks so many times, and he cannot even put a pad in front of the mailboxes. Many
237 neighbors feel the same way, she said.

238

239 Ms. Sutherland said she did not support the additional space and she would like to see
240 more open space. She asked that the space benefit Berlin Manor and a path be built so
241 they can get to the park.

242

243 Leon Roberts, 2946 Berlin Manor Drive, said that Mr. Wicks does not respond to his
244 emails or texts, and that he avoids them. He is seeing a trend here. He said the additional
245 density was granted here because there was community access to the park. Berlin
246 Township does not have a parks department, so they rely upon the developers.

247

248 Mr. Roberts said a hammerhead and parking lot was discussed at the zoning hearing for
249 access to the park. The developer is not meeting their development plan as there is no
250 lighting on the sign and it is not built to plan. He said he has emailed Mr. Wicks over a
251 year ago and he still has not answered, and most recently, during rainfall, the
252 transformers were flooded with water, which is a safety issue, but he never replied back.
253 He said this is not acceptable and he had to call the Delaware County Engineers office to
254 resolve that.

255

256 Mr. Flaherty said the township currently does not have a zoning inspector and that it is
257 the responsibility of the township to do inspections to ensure plans are followed, and he
258 suggested contacting the zoning department, and the trustees if not satisfied. Mr. Roberts
259 said he has already done that.

260

261 Mr. Flaherty said the BZC needs to determine whether the request is a minor or major
262 amendment to the Berlin Manor plan. A vote will be taken, and that will determine how
263 it is to proceed.

264 Ms. Brown asked whether this was a reduction of off-street parking. Mr. Flaherty said
265 this is dealing with the street, so not a reduction in off-street parking.

266

267 Mr. Valentine said he would consider it a minor deviation if the applicant builds the path
268 discussed and a couple of amenities to make it more of a community, but a major if not.
269 Mr. Flaherty asked whether he was voting minor. Mr. Valentine said yes. Mr. Flaherty
270 said there is an amendment to remove a road and the BZC is vetting to determine whether
271 that is a major or a minor.

272

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273 Ms. Littleton said if they decide it is a minor deviation, the request would be considered
274 by the BZC.

275
276 Mr. Wicks said he would like to change the application to include the removal of the road
277 and replacing it with the path.

278
279 Mr. Flaherty said the applicant is requesting approval to remove the Balsamridge Street
280 and add a single-family lot. In place of that street, an 8' wide asphalt paved multi-use
281 path that connects into the property line to assume a future connection to Berlin Bluffs.
282 The paths will be maintained by the homeowners association.

283
284 Mr. Valentine said he considered it to be a minor deviation. Mr. Flaherty said he
285 considered it to be a minor deviation. Ms. Littleton considered it a major deviation. Ms.
286 Brown considered it a minor deviation. Ms. Sloas abstained. Mr. Flaherty said it was
287 deemed a minor deviation.

288
289 Mr. Wicks said the amenities could be placed near the pond in the middle of the
290 development.

291
292 Ms. Brown said she would like to see 2 benches in Reserve C, and 2 benches along the
293 northern half as well. Mr. Wicks said the benches will be near the homes and may
294 encroach on privacy. There was additional discussion. It was agreed that there would be
295 4 composite or masonry benches to be placed as desired by the residents.

296
297 Ms. Sutherland asked who was accountable when the developer does not respond to
298 residents' issues. Mr. Flaherty said it would be the zoning inspector.

299
300 Mr. Roberts asked who inspects for compliance, as he asked a year ago and nothing has
301 been done. He said he has come to the zoning office but the zoning inspector was not
302 there.

303
304 Mr. Bhatt said the benches would be installed at the same time the paths are built.
305 Ms. Littleton asked whether the path would be installed between the new lot and lot
306 2293. Mr. Wicks said that was correct. Ms. Littleton asked whether it would connect
307 into the center. Mr. Bhatt said there would be some paths in the center. Mr. Wicks said
308 the lots in the inside are smaller and it would be hard to take property from them.

309
310 Mr. Wicks said Berlin Manor would build the path to the property line, but it would stop
311 at the Berlin Bluffs property line.

312
313 Mr. Roberts asked how Berlin Bluffs would connect the path to the park. Mr. Flaherty
314 said that was unknown. Mr. Thomas said he would work with Berlin Manor.

315
316 Ms. Littleton asked whether Mr. Thomas was counting on Berlin Bluffs being able to
317 clear it all up in final engineering. Mr. Thomas said he was.

318
319 Mr. Flaherty said now the BZC will vote based on the discussion and what is included in
320 that amendment, and then they will vote for approval of the amendment as a minor, with
321 the conditions. They are in the discussion portion of the hearing at this time.

322
323 Mr. Flaherty reviewed the conditions:

- 324
- Balsamridge Street will be removed, and a single-family lot added.
 - In place of the eliminated street, a 15' open space with an 8' wide asphalt multi-use path will be constructed from Berlin Manor Drive to the property line,
- 325
326

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327 assumed to be continued in the future by Berlin Bluffs. It will be north of lot
328 #2293.

329 • Four (4) composite, masonry or other non-deteriorating benches will be placed
330 around Berlin Manor at the determination of the homeowners association.

331 Mr. Wicks agreed to the conditions.

332 **RESOLUTION 2022.07.26.#A: APPROVE MODIFICATION**
333 **AS A MINOR DEVIATION TO BZC 17-005**

334 Mr. Flaherty made a motion to approve the modification to amendment 1, as discussed at
335 this hearing, as a minor deviation to BZC 17-005, with the following conditions:

- 336 • Balsamridge Street will be removed, and a single-family lot added.
337 • In place of the eliminated street, a 15' open space with an 8' wide asphalt multi-
338 use path will be constructed from Berlin Manor Drive to the property line,
339 assumed to be continued in the future by Berlin Bluffs. It will be north of lot
340 #2293.
341 • Four (4) composite, masonry or other non-deteriorating benches will be placed
342 around Berlin Manor at the determination of the homeowners association.

343 Mr. Valentine seconded the motion.

344

345 Vote: Flaherty, yes; Valentine, yes; Littleton, no; Brown, yes; Sloas, abstain.

346

347 Motion carried, request was approved.

348

349 Ms. Littleton said she had thought the BZC was voting to deem the request minor or
350 major as there had been no official vote to determine that. Mr. Flaherty said the BZC
351 must deem whether it is minor or major and discuss it. Ms. Brown said then they would
352 vote again. Ms. Littleton said the first vote was not official.

353

354 Mr. Flaherty said his question regarding whether it was minor or major was just to get a
355 poll of the BZC. Ms. Littleton said she thought there needed to be an official vote on
356 that. There was a brief discussion. Ms. Littleton said her vote would have been the
357 same, regardless.

358

AGENDA ITEM: OTHER BUSINESS

359 Ms. Rippel said she has left the August 9, 2022 BZC meeting date open so they can
360 discuss the Comprehensive Land Use Plan (CLUP). The final development plan for
361 Maeve Meadows will be heard at the August 23, 2022 meeting.

362

363 Mr. Valentine said he spoke with Scott Sanders, executive director of the Delaware
364 County Regional Planning Commission, who is revising the CLUP. There was a
365 discussion. Mr. Valentine asked BZC members to send any suggested changes to Mr.
366 Sanders.

367

368 There was a discussion about solar panels. Mr. Flaherty said he did not see a negative
369 impact on the township. Mr. Valentine asked about somebody placing solar panels on a
370 100-acre property. Mr. Flaherty said that it is unlikely many people would install solar
371 panels like that as it would not be worth it.

372

373 Mr. Flaherty said there are agricultural solar arrays that can grow plants that could not be
374 grown here that are being considered.

375

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376 Mr. Flaherty said at the next meeting, the CLUP will be discussed and Mr. Sanders will
377 be invited to attend.

378

379 The next BZC meeting will be held on Tuesday, August 9, 2022 at 7:00 p.m.

380

381 There was no further business to come before the BZC. Motion to adjourn and second.

382 Meeting was adjourned.

383

384

385

386

Steve Flaherty, Chairperson

387

388

389

390

Christina Littleton, Vice-Chairperson

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392

393

394

Jerry Valentine, member

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396

397

398

Darcy Kaplan, member

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400

401

402

Angela Brown, member

403

404

405

406

Jenny Sloas, 1st alternate member

407

408

409

410

Attest: _____

411

Lisa F. Knapp, Berlin Township Zoning Clerk