

Zoning Commission

1 Application # ZON-18-06

January 24, 2019

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4 **Rezoning Application #ZON-18-06, Kerbler Farms LLC & JAK Investments II LLC.** Requesting
5 an amendment of the currently effective development plan for +/- 20.47 acres, within the Slate Ridge
6 Planned Elderly Residential (PERD) District, approved under application #13- 0307 of Kerbler Farms
7 LLC to a Planned Elderly Residential (PERD) District. The subject properties are currently owned by
8 Kerbler Farms LLC and JAK Investments II LLC and is located or bounded east of Columbus Pike/US
9 23 and north of Mount Carmel Medical Facility with parcel numbers 318-220-04-029-000 and 318-230-
10 01-001-000.

11 Mr. Duell called the meeting to order at 7:00 p.m.

12 Roll Call: Mark Duell, Christine Trebellas, Todd Dove, Dennis McNulty, Adam Pychewicz

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14 Township Officials Also Present Michael McCarthy, Township Counsel
15 Michele Boni, Planning and Zoning Director
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20 **MOTION TO RETURN FROM RECESS FOR APPLICATION #ZON-18-06**

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22 Ms. Trebellas made a motion to return from recess for Rezoning Application #ZON-18-06, Kerbler Farms
23 LLC & JAK Investments II LLC; seconded by Mr. Pychewicz.

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25 Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes, Mr. Dove-yes, Mr. McNulty-yes, Mr. Pychewicz-yes
26 Motion carried

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28 Mr. Duell: We're going to pick up with the PERD where we left off Tuesday. We had discussion
29 regarding remaining items, Mr. McCarthy had not yet provided the formal list of stipulations, so we
30 couldn't vote on it Tuesday night. We have that now, so the idea would be to go thru those.

31
32 Mr. McCarthy: Normally we prepare the stipulations, bring it back, you guys look at it, if you change it,
33 you change it, if it's good, it's good, and we went from there. To shorten the process somewhat, we've
34 eliminated that. When I do send those, please let me know if they're okay, and then I know they've been
35 looked at.

36
37 Ms. Boni: And copy me also please.

38
39 Mr. Duell: I don't want to send any more motions to the Trustees with 20-some stipulations; that's just
40 too many. I know we're trying to speed up the process and generally I'm in favor of that, but we maybe
41 hit the gas a bit too hard this time. There are extenuating circumstances in this case specifically, but I
42 think we need to tweak things a little and that's a good time for discussion, but I think there's too many
43 open items at this point.

44
45 Ms. Boni: It's up to the Board if they want to continue seeing more revised submittals, so it adds a cost...

46
47 Mr. Duell: But if we have too many open items going to the Trustees, there's potential for bad things to
48 happen because I don't think they look at it as closely as we do.

49
50 Ms. Trebellas: Are these items reviewed in the final document before it goes to the Trustees?
51

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52 Ms. Boni: Yes, and if the Trustees approve it with the stipulations and they are not addressed, I will not
53 issue any permits.

54
55 Mr. McCarthy: A book will be prepared and all changes sent here are to be addressed and if they're not
56 those are deemed matters. If the Board cares about those, my recommendation to the Board is, has been
57 and will be that they see what they expect to vote on because it can put your zoning staff in a difficult
58 spot. The problem with conditional, not every applicant is going to follow thru and if they do follow thru,
59 they may not follow thru accurately.

60
61 Ms. Trebellas: I take it that's the reason why when we do send stipulations, it's a few minor things,
62 typos mostly.

63
64 Mr. McCarthy: Some of these are new, they came up in the submittal, some aren't. If you send 30, with
65 some applicants, and I'm not reputing this applicant, I don't think they've been here before, I wouldn't go
66 into shock if I saw 10 just not addressed, 10 kind of addressed, and 10 that finally complied.

67
68 Mr. Duell: It's the 10 kind of addressed that I worry about because that really puts the burden on her...

69
70 Mr. McCarthy: It puts it on her but at this point the vote's already been taken and unless you're willing to
71 not get a new book and every time you have a question getting out that resolution and reading thru the
72 stipulations, which is a poor way to practice going forward, especially on a project that's not going to be
73 done in 6 months, either you control the process or you don't. If you don't, then you've got to decide
74 what kind of process you're going to have.

75
76 Mr. Duell: We need to tweak this a little to bring the number of stipulations down. This case is special
77 because they're on the clock, a multi-million dollar clock, an important clock to the Township also.

78
79 Mr. McCarthy: And this should be brought forward to give the Trustees, who are elected representatives
80 of the community, the opportunity to address them up or down and not have it fail for any other reason.

81
82 Ms. Boni: I just ask the Board respectfully not to go backward in our process; I think we've made
83 improvements. I'd love to keep it to a maximum of 3 hearings. If the applicant's not willing to cooperate
84 with us, that's on them. We'll do our best to make sure all those comments are addressed but if there's 20
85 comments....

86
87 Mr. Duell: One of the issues is a denial from us, it still goes to the Trustees and with an imperfect book,
88 who knows what the Trustees might do.

89
90 Mr. McCarthy: Especially if you have 30 stipulations; that's really where the problem is. If you give the
91 Trustees 3, that's when they're going to pay attention.

92
93 Mr. Duell: I'm not suggesting we go back; I think we might just need to tweak things a little, just to start
94 thinking about that because this is a lot. I don't know what we can do.

95
96 Ms. Boni: We talked about creating a master list of things we would typically want. I provided that to the
97 Commission and never got feedback, so I don't know what you want staff to do.

98
99 Mr. Duell: I'm not sure there's anything for staff to do other than we need to...

100
101 Mr. McCarthy: This is a discussion we probably needed to have for a while. Would any of you have a
102 problem when stipulations go out just letting me know if you have an issue with them, just email me any

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103 concerns you may have and we'll go from there. Anything that's not attorney/client to you individually
104 I'll share with Michele; those other things I don't share with anyone.

105
106 Ms. Boni: What's the likelihood that we could get those motions earlier?
107

108 Mr. McCarthy: It depends on what you want. Doing it this way there's a trade off and I'm open to this
109 discussion because the thoughts been in my head too. Going thru the review, coming up with my notes
110 and then presenting those and getting comments and concerns of the Zoning Commission does 2 things: it
111 gets the comments and concerns of the Zoning Commission, and it tells me what's not important so that is
112 not a waste of time no matter what happens because there are things if you look at my notes that don't
113 come back again. So with that, I have a defined base to work from. If it's before the hearing and we get
114 into playing round robin, you can't do that under the Sunshine Law, I'm going to prepare what I've got, it
115 still doesn't address them and I'm not sure how important that is, especially at the end of the hearing. But
116 I'm open to discussion on it.

117
118 Mr. Duell: You talk about wanting 3 hearings tops; this one's going to go out in 2. The only reason this
119 is a third hearing is because we didn't finish it Tuesday because we were doubled up, but in a typical case,
120 this is the second hearing, so we're kind of ahead of what you envisioned as the process perhaps.

121
122 Ms. Boni: I used to be a part of a Board where there were typically 5 applications in one hearing, so
123 we're different here...

124
125 Mr. Duell: Were those 1 or 2 step processes?
126

127 Ms. Boni: 1 step.
128

129 Mr. Duell: Because there's absolutely no way you can listen to 5 applications a night when you have to
130 do everything.

131
132 Ms. Boni: Some of the other townships do. I don't want to have this discussion tonight. Mike and I are
133 putting together some very minor Code updates for you in the coming weeks, so maybe we can have that
134 discussion when we have the Code updates too, spend some time to talk about procedures.

135
136 Mr. McCarthy: These are taken from the prior list and with the review notes that I had that were taken
137 from comments made by the Board. There are a couple of new ones because I didn't go back to see if I
138 missed them the first time, like the landscaping one I know. The first is something we discussed the other
139 night, that would be references in this application be adjusted simply to reflect the Zoning Permit,
140 Temporary Certificate of Compliance and Certificate of Compliance which are issued by our Zoning
141 Department. Is there any concern on the applicant on that stipulation?

142
143 Wes Smith, Schottenstein Real Estate Group, 2 Easton Oval, Columbus, Ohio 43219, we've reviewed the
144 entire list you provided in an email; I have 20 stipulations. I reviewed all the stipulations, and we're okay
145 with all stipulations provided and agree to all of them. I just have one clarification item on Number 6 and
146 Number 8. On 6, when we modify the text, do you want us to insert this verbiage directly into 15.06 a)3)
147 and 15.06 b)3)?

148
149 Mr. McCarthy: These are things that need changed. Some show up in more than one place and the idea is
150 they be changed in all those places.

151
152 Mr. Smith: And you speak specifically to 15.06 a)3), 15.06 b)3), throughout the text where it talks about
153 3 parking spaces per unit; do you want me to add this language to those sections as well?

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154 Mr. McCarthy: Yes. That way we don't get into any contradictions in the text.
155
156 Mr. Smith: We reviewed all the stipulations, we're okay with all of them, and if you approve them, we're
157 happy to make the adjustments.
158
159 Mr. McCarthy: That being said, Mr. Chairman do you just wish to review them quickly?
160
161 Mr. Duell: Yes.
162
163 Mr. McCarthy: The first one we discussed, hearing nothing. Eliminate "typical" and "illustrative" from
164 the text and plans. Re-title that one; that may not have been in the same file actually. Model home,
165 permanently approved Conditional Use like we did with the MFPRD. The point in Number 5 is the
166 addition of the word exterior. The Township, to my recollection, has never tried to mess with people's
167 interior lighting. 7, rental office, should be permanently approved Conditional Use. 6 and 8 go together,
168 just make a statement that the spaces in the course of the model, there's only 2 per model in the driveway;
169 with the rental office they indicated they would comply which would require the 6, so those would be
170 additional 2 for 3 per unit otherwise be provided. Borrow pit has been put in the same form I understood
171 you to approve in the MFPRD.
172
173 Mr. Duell: We were sunseting that, so he forgot to put in the part about the borrow pit. Sunset is when
174 the development is done and the infrastructure is in.
175
176 Mr. McCarthy: Should I just add until the PERD is complete?
177
178 Mr. Duell: Or PERD and associated roadway.
179
180 Ms. Trebellas: And I think we gave it 2 years.
181
182 Mr. Duell: Did we set a specific time?
183
184 Mr. Smith: I thought it was upon completion of the MFPRD and completion of Home Road; I don't
185 remember a specific timing because as of the road we're not sure.
186
187 Mr. Duell: A specific trader is fine; I just don't want it to be in perpetuity.
188
189 Mr. McCarthy: Is it intended that this would be for Street E and this as well as to what you can use it for?
190
191 Mr. Smith: Yes.
192
193 Mr. McCarthy: Because you've got a stub in there.
194
195 Mr. Duell: So you have the district, Home Road and Street E.
196
197 Mr. McCarthy: Yes.
198
199 Mr. Smith: Agreed.
200
201 Mr. McCarthy: The distances are what we talked about the other night; 7' from the street right-of-way if
202 it's not going to be a storm water pond and thereafter a 1:1 influence away, which means they're going to
203 cut out from 1' out and 1' down. As to one that's going to be, that would be 25' from the right-of-way
204 and then 1:1. And then if it's not going to be a storm water pond, it will be no closer than 10' to a

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205 property line. Sign language, just clarify it so we can tell the difference between the sign and the columns.
206 The next part, I tried to come up with, and the language Mr. Hunter used helped a lot in trying to
207 conceptualize it. Did that work for you guys?

208
209 Mr. Smith: The language works for us.

210
211 Mr. McCarthy: I suggest you all read it. The idea is that if this project goes forward as the plans indicate,
212 there will be a 68 unit maximum. If it goes forward in another iteration, whether it's going to be 80,
213 which goes back to the original density was that was approved. 13, originally it simply said see the
214 exhibit, but just to make it clear it's not just what's on the drawing; if the words don't agree, the exhibits
215 are incorporated into their text. 14, waste refusal, indicate the location on the plan just so we know where
216 it's supposed to sit.

217
218 Mr. Smith: We'll put it right next to the Home Road right-of-way.

219
220 Mr. McCarthy: All landscaping shall be completed prior to the issuance of a Certificate of Compliance for
221 the final building in the PERD; that language was brought over from the other. Add landscaping into the
222 things to be completed in the reply to 15.08 f), the public service facilities. Street E, add it to the surety to
223 be given. As far as the mechanicals, if the roof ones aren't permitted, just say they're not permitted and
224 take "roof" out everywhere.

225
226 Ms. Trebellas: Which is my understanding you're not having roof mounted.

227
228 Mr. Smith: No; we'll just take roof out of there.

229
230 Mr. McCarthy: And add that roof mounted are not permitted. 19, that's exterior lighting and #20 is the
231 same issue we talked about the other night. So if there are no objections with Mark's change.

232
233 Mr. Duell: 18 we talk about the statement, all mechanicals, roof or ground mounted; you say you're
234 going to take them out.

235
236 Mr. McCarthy: The roof. We're taking "or roof" out and indicating roof units won't be permitted.

237
238 Mr. Duell: So we've made changes to 9 and 18.

239
240 Mr. McCarthy: If Schottenstein goes forward, we know there won't be a problem. If this comes in under
241 another plan, they may want, of course they'll have to come back and get them.

242
243 Mr. Smith: Unless they want to develop our plan, they'd have to come back.

244
245 Ms. Trebellas: And personally I don't know how I'd feel about roof mounted by a residential area, even
246 though there's a buffer.

247
248 Mr. McCarthy: If you want to change what we've got, there's Mr. Duell's adjustment as to Item 9.

249
250 Mr. Duell: And there's a change to 18.

251
252 Mr. Smith: It should read "all ground mounted mechanicals shall be screened from view" and then add
253 another sentence that says "no roof mounted mechanicals shall be permitted"?

254
255 Mr. McCarthy: Yes.

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PUBLIC COMMENT

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Chris Chakroff, 90 Highland Terrace, Worthington, Ohio, a lot of reference has been made in this application about the Home Road extension being completed. Where exactly is that line? Is it all the way across the railroad to Lewis Center or is it back?

Mr. McCarthy: Both of these applications specifically provide that these developments can go forward if the Home Road improvements don't happen. Ultimately I think the PERD has trouble with some of the language in there but there will be no Certificate of Compliance, which is our occupancy, until the Engineer and Fire Department are satisfied with the street access, but that's not our discussion, we're taking ourselves out of it and turning it over to the County Engineer's Office and Fire Department. The PERD could go in without Home Road ever being built.

Mr. Chakroff: It just seems like there's a lot of things based on that completion.

Mr. McCarthy: Actually that's the anomaly; it's not. Now presumably the County Engineer won't approve the PERD without Home Road going to at least Street E.

Mr. Chakroff: I was at the Engineer's Office today, and they're hoping to start everything in August and they're going to take the first phase to Green Meadows Drive then stop, and then it could be 5-10 years before it goes the rest of the way, so that brought to my mind a lot of this stuff is based on the Home Road completion. The completion for these projects very well could be the Green Meadows Drive, so everyone's on the same page, where is that completion point?

Mr. Duell: They have always shown us with regard to these applications is to Green Meadows.

Mr. Chakroff: That's what the Engineer is saying, that's where they're going first, then they're going to stop and it could be years after that before it ever gets over the railroad tracks.

Mr. Duell: The applicant never suggested otherwise.

Mr. Chakroff: I was just trying to clarify. I've been hearing this since September, and I just wondered where is that point. Is it 5-10 years from now?

Mr. McCarthy: For the PERD I suspect Home Road will extend to Street E. For the MFPRD, it doesn't have to extend anywhere. Usually it's required that they be completed; in this instance, that's not the case. I will be putting this out in a draft form tomorrow assuming it's successful this evening and sharing it with Michele. If anyone has anything to say about it, please call Michele and let me know immediately.

Mr. Smith: This thing will be perfect when it comes to the Trustees.

Mr. Duell: The applicant is okay with all the stipulations?

Mr. Smith: We are okay with all the stipulations as we have discussed.

CONDITIONAL RECOMMENDATION OF APPROVAL OF ZONING APPLICATION #ZON-18-06 OF SCHOTTENSTEIN REAL ESTATE GROUP, LLC, WITH STIPULATIONS.

Motion by Mr. Dove to conditionally recommend to the Board of Township Trustees the approval of Zoning Application #ZON-18-06 of Schottenstein Real Estate Group, LLC, authorized by the property

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306 owners and requesting the amendment of Zoning Application #13-0307 of Kerbler Farms, LLC, which
307 rezoned 20.47 +/- Acres from Farm Residential District (FR-1) to a Planned Elderly Residential District
308 (PERD), the version of the application to be approved consisting of those materials submitted by the
309 applicant in a hard copy binder titled *Slate Ridge Amended Development Plan for the Planned Elderly*
310 *Residential District (PERD)*, the pages of which are stamped RECEIVED with ORANGE TWP.
311 ZONING above and JAN 15 2019 superimposed over RECEIVED by Orange Township Zoning
312 (“Development Plan”), as modified by those stipulations listed for correction/modification in the
313 *Statement of Stipulations* attached hereto as *Attachment “A-1”* and incorporated herein by reference, all
314 of which stipulations have been agreed to by the owner and applicant and all of which are to applied
315 consistently and completely throughout the Development Plan in each relevant location.

316 Further moved that the condition of this recommendation is that the applicant submit a final
317 revision of the Development Plan reflecting compliance with all items of the *Statement of Stipulations*
318 indicated for correction/modification prior to the consideration of this application by the Board of
319 Township Trustees and if that submittal does not fully comply with the same, the recommendation of the
320 Zoning Commission is DENIAL of Zoning Application #ZON-18-06 of Schottenstein Real Estate Group,
321 LLC

322
323 Seconded by Mr. McNulty

324
325 “Attachment A-1”
326

STATEMENT OF STIPULATIONS

327
328
329 **Re: Zoning Application #ZON-18-06 of Schottenstein Real Estate Group, LLC, requesting the**
330 **amendment of Zoning Application #13-0307 of Kerbler Farms, LLC, which rezoned 20.47 +/-**
331 **Acres from Farm Residential District (FR-1) to a Planned Elderly Residential District (PERD).**
332

- 333 1) Prior to the Trustees’ hearing, correct the Development Text and Exhibits to refer only to “Zoning
334 Permit”, “Temporary Certificate of Compliance” and “Certificate of Compliance”, those permits
335 issued by the Zoning Department. Eliminate reference to building code permits, such as “certificate
336 of occupancy” and “temporary certificate of occupancy”.
337
- 338 2) Eliminate the use of the words “typical” and “illustrative” in the Development Text and Exhibits.
339
- 340 3) In the Table of Contents, correct the title “Overall Illustrative Plan to be “Overall Rendering.”
341
- 342 4) As regards Section 15.06 a), a model home shall be regarded as a permanently approved conditional
343 use of this zoning district.
344
- 345 5) The second paragraph of the reply to Section 15.06 a) 2) is modified to read:
346

347 **The color temperature of all exterior LED lighting shall not exceed 2,700 to 3,000 Kelvin.**
348

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- 349 6) As regards Section 15.06 a) 3), the parking spaces required for a model home shall be additional to
350 the 3 spaces required for each residential unit and all other required parking spaces.
351
- 352 7) As regards Section 15.06 b), a rental complex office shall be regarded as a permanently approved
353 conditional use of this zoning district.
354
- 355 8) As regards Section 15.06 b) 3), parking spaces required for a rental complex office shall be additional
356 to the 3 spaces required for each residential unit and all other required parking spaces.
357
- 358 9) As regards Section 15.06 c), a borrow pit shall be regarded as an approved conditional use of this
359 zoning district until this PERD and the extensions of Home Road and Street E are completed.
360
- 361 10) As regards Section 15.06 c) 3), Yard Requirement: Excepting a borrow pit to be a stormwater
362 management basin, a borrow pit shall be set back a minimum of 7 feet from any public right-of-way
363 and a public utility easement along a street right-of-way, and thereafter be located at a minimum of a
364 1:1 influence away from a street right-of-way line and a public utility easement along a street right-
365 of-way.
366

367 A borrow pit to be a stormwater management basin shall be set back a minimum of 25 feet from any
368 public right-of-way and a public utility easement along a street right-of-way, and thereafter be located
369 at a minimum of a 1:1 influence away from a street right-of-way line and a public utility easement
370 along a street right-of-way.
371

372 Excepting a borrow pit to be a stormwater management basin, excavation shall be no closer than 10
373 feet to a property boundary line, except with the written consent of said adjacent property owner. A
374 borrow pit to be a stormwater management basin, shall be set back a minimum of 10 feet from a
375 property boundary line, except with the written consent of said adjacent property owner.
376

- 377 11) As regards Section 15.06 d) and throughout the application, the Primary Entry sign P-1 shall be
378 clarified to provide that the maximum height of the sign shall not exceed 7' 6" and the maximum
379 height of its columns shall not exceed 8' 6".
380
- 381 12) The last sentence of the reply to Section 15.08 b) 1) is modified to read:
382

383 **Notwithstanding the foregoing, the Development Text and Exhibits presented in this application**
384 **indicate a maximum of 68 units, which shall be the maximum permitted upon the closing of the**
385 **applicant's purchase of this property and the commencement of construction.**
386

- 387 13) The first paragraph of the reply to Section 15.08 b) 2) is modified to read:
388

389 **See responses to Section 15.08 and Section 15.09, together with Section 1, Development Plan**
390 **Exhibit A.2 for general development standards, including minimum setbacks, general**
391 **development character, general drive layout and development features.**
392

- 393 14) As to the reply to Section 15.08 b) 3):
394

- 395 a) The third sentence of the sixth paragraph of the reply to Section 15.08 b) 3) is amended to read:
396

397 **Should individual waste and refuse pickup be discontinued, a permanent waste and refuse**
398 **area(s) shall be provided on the site, located as indicated on Development Plan Exhibit A.2.**
399

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400 b) Indicate the location of the permanent waste and refuse area(s) on Development Plan Exhibit A.2.

401

402 15) The sixth sentence of the reply to Section 15.08 b) 10) is modified to read:

403

404 **All landscaping shall be completed prior to the release of the final Certificate of Compliance for**
405 **the final building within the PERD.**

406

407 16) Similarly, include “landscaping” in the changes to the last paragraph of the reply to Section 15.08 f)
408 Public Service Facilities Required.

409

410 17) In the reply to Section 15.08 b) 13), add Street E to the improvements for which surety will be given.

411

412 18) As regards the screening of mechanicals, modify the fourth paragraph of the reply to Section 15.09 o),
413 and elsewhere throughout the submittal, to read:

414

415 **All ground mounted mechanicals (e.g., HVAC units, condensing units, etc.), shall be screened**
416 **from view of public roads and neighboring properties with maiden grass (2 gallon) and/or sea**
417 **green junipers (3 gallon).**

418

419 Provide that roof mounted mechanicals are not permitted in this zoning district and delete further
420 reference to them.

421

422 19) The first sentence of the reply to Section 15.09 s) is modified to read:

423

424 **All exterior lighting in this PERD shall conform to the requirements and standards of Section**
425 **21.12 of this Zoning Resolution, with the exception of any approved divergence(s).**

426

427 20) All screening of ground mounted mechanicals shall be to the outside (away from the building). [See
428 Landscape Details Exhibit B.4 - rear of buildings.]

429

430 Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes, Mr. Dove-yes, Mr. McNulty-yes, Mr. Pychewicz-yes

431 Motion carried

432

433 Meeting adjourned at 7:30 p.m.

434

435 Minutes prepared by Cindy Davis, Zoning Secretary

436

437 On June 25, 2019, Mr. Pychewicz made a motion to approve the meeting minutes of the Orange
438 Township Zoning Commission for Rezoning Application #ZON-18-06, Kerbler Farms LLC and JAK
439 Investments II LLC dated January 24, 2019 with the following corrections:

440

- 441 • Line 66: the word “finely” should read “finally”
- 442 • Line 150: the sentence should read: “....they be changed in all those places”

443

444 Seconded by Mr. McNulty

445

446 Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes, Mr. McNulty-yes, Mr. Pychewicz-yes, Ms. Ault-yes

447 Motion carried

448