

ORDINANCE NO. 344 -2024

AN ORDINANCE OF THE TOWNSHIP OF BERN, BERKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER 184 OF THE CODE OF THE TOWNSHIP OF BERN, SO AS TO AMEND THE ZONING REGULATIONS OF THE TOWNSHIP OF BERN.

BACKGROUND

WHEREAS, the Township of Bern has adopted a comprehensive Zoning Ordinance to promote, protect and facilitate the public health, safety, morals and general welfare through coordinated and practical community development; and

WHEREAS, the Rural Residential Zoning District of the Township of Bern has been created to permit limited residential development at low density in an area predominantly characterized by farmland and woodland; and

WHEREAS, there currently exists certain industrial uses within the Rural Residential Zoning District, which were in existence prior to the adoption of the current Zoning Ordinance for Bern Township; and

WHEREAS, the Board of Supervisors of the Township of Bern believe that pursuant to certain conditions, it should be permissible for such pre-existing industrial use within the Rural Residential Zoning District to expand said nonconforming use within the Rural Residential Zoning District; and

WHEREAS, the Board of Supervisors of the Township of Bern desire to set forth the regulations and conditions, which would allow for the expansion of a nonconforming industrial use in the Rural Residential Zoning District.

BE IT ENACTED AND ORDAINED and it is hereby adopted, enacted and ordained by the Board of Supervisors of Bern Township, Berks County, Pennsylvania, as follows:

SECTION 1. Chapter 184, Article IV, Section 184-12.1 of the Code of Ordinances of the Township of Bern is repealed and replaced with the following:

**§184-12.1 Use Permitted by Condition.**

The following use is permitted when a conditional use is granted by the Township Supervisors in accordance with this section and Section 184-210 of this chapter:

- A. A Nonconforming Industrial Use may be permitted to expand subject to approval of a conditional use application by the Board of Supervisors in accordance with Section 184-194 and subject to the following:

- (1) A Nonconforming Industrial Use shall not expand to a maximum area size in excess of ten (10) acres.
- (2) The maximum coverage area of structures supporting the Nonconforming Industrial Use shall not exceed fifty percent (50%) of the lot area.
- (3) A minimum of thirty five percent (35%) of the lot shall be maintained as open area.
- (4) The maximum building height for a structure supporting a Nonconforming Industrial Use shall be fifty (50) feet.
- (5) A side yard setback of at least ten (10) feet shall be provided from any structure supporting a Nonconforming Industrial Use, subject to the screening requirements contained in Section 184-12.1(A)(5) herein.
- (6) A landscape screen of a minimum of five (5) feet in height at installation shall be required along all side and rear boundary lines, where the Nonconforming Industrial Use is adjacent to an existing residential structure. Said screen shall be a year-round screen comprised of landscaping material and / or a fence-type screen. Such screen shall be subject to review by the Board of Supervisors.
- (7) All materials related to the Nonconforming Industrial Use shall be stored inside a structure / building, or if outside, then such materials must be reasonably screened from the view of all neighboring properties.
- (8) The lot area not comprised of structures supporting the Nonconforming Industrial Use, parking or other paved walkway, shall be planted in turf with deciduous and / or coniferous plant material. A plan of said turf coverage shall be required at the time of submission of the land development plan application, which will be subject to review by the Township Board of Supervisors. If approved, the owner shall maintain all turf and plantings in good condition at all times.
- (9) If necessary, the use of off-street parking shall be allowed to accommodate the employees and visitors to the Nonconforming Industrial Use.

- (10) The provisions contained in this subsection 184-12.1 regarding lot area, yards, height, lot dimensions, coverage, open area, special design requirements, and any other dimensional requirements, shall supersede all requirements and / or guidelines to the contrary, which are otherwise contained in this Article IV.
- (11) The provisions of section 184-183, "Expansion", and Section 184-186, "Limit on Expansion", shall not apply to this use permitted by condition.
- (12) For purposes of this subsection 184-12.1, any nonconforming building or structure or a building or structure containing a nonconforming use of which the basic structural elements are totally destroyed by any means may be rebuilt and used for the same nonconforming use. The reconstructed building or structure shall not be more nonconforming in any respect than the building or structure which was destroyed. New construction shall begin within eighteen (18) months of the date of destruction and be carried out to completion without interruption. This provision shall supersede anything to the contrary contained in Section 184-185(A) of Article XIX of Chapter 184 of the Code of Ordinances of Bern Township.

#### SECTION 2. Severability.

The provisions of this Ordinance are severable and if any section, sentence, clause or provision hereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, or provisions of the Ordinance. It is hereby declared to be the intent of the Board of Supervisors of Bern Township that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause or provision had not been included herein.

#### SECTION 3. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

#### SECTION 4. Effective Date.

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED as an Ordinance of the Township of Bern, Berks County, Pennsylvania, by the Board of Supervisors of Bern Township, in lawful session duly assembled, this 8<sup>th</sup> day of April, 2024.

BOARD OF SUPERVISORS  
TOWNSHIP OF BERN

By: Irene Reed  
Irene Reed, Chairperson

By: Jeffrey Thompson  
Jeffrey Thompson, Vice Chairperson

By: Brian Eveland  
Brian Eveland, Supervisor

By: Dan Tobias  
Dan Tobias, Supervisor

By: Boyd Wagner  
Boyd Wagner, III, Supervisor

Attest: Diane DeJesus  
Diane DeJesus, Secretary