



MEMORANDUM

From the Office of the
Township Manager

TO: BOARD OF SUPERVISORS
FROM: CHRISTOPHER BASHORE
RE: ZONING HEARING BOARD APPLICATION FOR 1126 GROVE ROAD
DATE: MAY 2, 2023

Before the Board of Supervisors this evening is an application before the Zoning Hearing Board for 1126 Grove Road. The applicant is appealing a Notice of Violation issued for the construction of a wall without following the requirements of section 84-47 of the Township's Zoning Ordinance. Please find attached a copy of the application and documentation regarding the current situation. The applicant has claimed non-conforming status; however, evidence indicates that there was not a wall previously on the property. This application is scheduled to be heard on May 22, 2023 at 7:00 pm. As the application involves the appeal of a Notice of Violation, the Township Solicitor would attend the hearing.

Please let me know if you have questions. Thank you.



West Goshen Township
 1025 Paoli Pike
 West Chester, PA 19380
 Phone: (610) 696-5266
 Fax: (610) 429-0616

OFFICE USE ONLY	
Date Filed:	<u>4/24/23</u>
Case No.:	<u>06-23</u>
Pub. Hrg. Date:	<u>5/22/23</u>

PETITION BEFORE THE ZONING HEARING BOARD OF WEST GOSHEN TOWNSHIP

- VARIANCE SPECIAL EXCEPTION OTHER CHECK # 574
 APPEALS FROM THE DETERMINATION OF THE ZONING OFFICER, TOWNSHIP ENGINEER, OR OTHER OFFICIALS ORDINANCE VALIDITY CHALLENGE *800*

PLEASE NOTE: INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

If the applicant is not the legal owner, proof of equitable ownership must be provided with the application, i.e. agreement of sale/lease.

Applicant/Petitioner

Equitable Property Owner/ Co-Applicant

Name: Rian Weber
 Address: 1126 Grove Rd.
West Chester PA 19380
 Phone: [REDACTED] Fax _____
 E-Mail: [REDACTED]

Name: _____
 Address: _____
 Phone: _____ Fax _____
 E-Mail: _____

All applications, except residential, must be represented by an attorney licensed in the state of Pennsylvania.

Professional Services (Attorney Representing Applicant)

(Architect/Designer/Engineer/Additional Contact if applicable)

Name: _____
 Address: _____
 Phone: _____ Fax _____
 E-Mail: _____

Name: _____
 Address: _____
 Phone: _____ Fax _____
 E-Mail: _____

Property Description

Location (Address, intersection of cross street, general area): 1126 Grove Road, West Goshen

Present Zoning R Tax Parcel # 52-2L-80
 Total Land Area _____ (Square Ft.) 22400 (Acres) .5142

Present Land Use And Any Existing Improvements
Present land use remains residential with property improvement to eroded landscape border with durable concrete block not exceeding 4' in height.

Purpose of Petition: (If applicable, proposed language to be added to or deleted from the Zoning Ordinance may be attached)

To appeal a zoning violation notice which asserts that Section 84-58 does not apply to this case.

Petition as requested from applicable section of the West Goshen Township code: _____

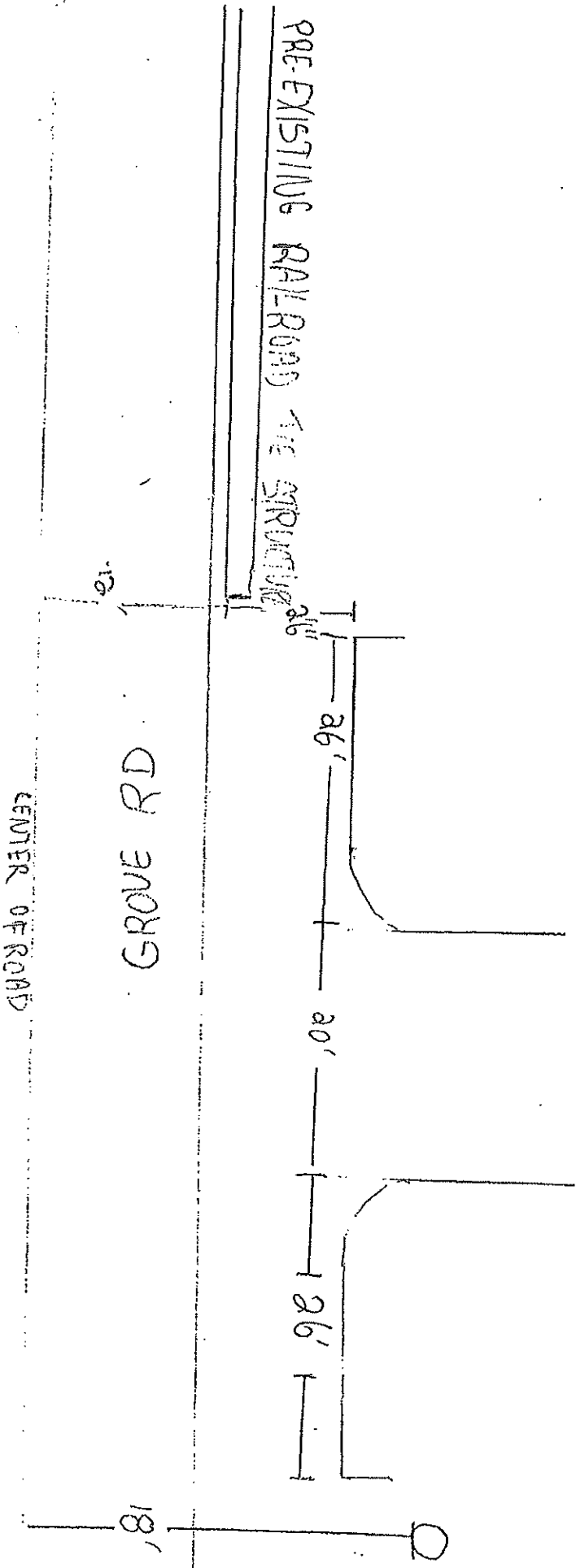
Applicant: Rian S. Weber
 Print
[Signature]
 Signature

Owner: _____
 Print

 Signature

Date: 4/17/23

LANDSCAPE BORDER
MAX HT. = 39"
12" CLEANSTONE BACK FILL
4' OF GEOGRID INSTALLED



WEST GOSHEN TOWNSHIP

Chester County, Pennsylvania

(610) 696-5266

FAX (610) 429-0616

1025 Paoli Pike
West Chester, PA 19380

CODE ENFORCEMENT NOTICE

TO: OWNER X TENANT OTHER

NAME: Rlan S Weber

ADDRESS: 1126 Grove Road West Chester, PA 19380

YOU ARE HEREBY NOTIFIED OF THE CODE VIOLATION(S) LISTED BELOW WHICH EXISTS ON THE PREMISES OF WHICH YOU ARE THE OWNER OR OTHER RESPONSIBLE PARTY LOCATED AT:

1126 Grove Road, West Chester, PA 19380, UPI: 52-2L-80

THE VIOLATION(S) CONSISTS OF: Constructing a retaining wall in the front yard of the property without meeting the required criteria established by the Township Code Section 84-47(listed below). Please note that your claim that the wall is replacing an existing non-conformity covered under Township Code Article XV Nonconforming Uses, Premises, Structures, and Lots, Section 84-58 Nonconformities does not apply to this case.

THIS IS A VIOLATION OF THE FOLLOWING SECTION(S) OF THE WEST GOSHEN

ZONING ORDINANCE:

CHAPTER 84 , SECTION 84-47; SECTION H titled, "Walls"

(1) Freestanding walls shall not be permitted in the required front yard area. Retaining walls with a height as approved by the Township Engineer may be permitted in the required front yard, provided the following criteria are met:

(a) The height of a retaining wall which is built in the required front yard must be approved by the Township Engineer, provided that the maximum height of a retaining wall in the required front yard is four feet.

(b) The retaining wall is erected in a location which does not obstruct clear site and is located a minimum of 10 feet from the right-of-way.

(2) Freestanding walls and retaining walls may be built in the required side and rear yard, provided that they do not exceed four feet in height unless a height greater than four feet is approved by the Township Engineer. The Township Engineer may approve a freestanding wall or retaining wall which is greater than four feet in height in the required side or rear yard area, provided the wall is necessary for health and safety or must be installed to address issues with regard to the topography of the site.

(3) All freestanding walls and retaining walls which are four feet in height or taller require a building permit pursuant to the procedures set forth in § 84-67.

YOU ARE DIRECTED TO COMMENCE ACTION TO ABATE THIS VIOLATION IMMEDIATELY AND SHALL ATTAIN FULL COMPLIANCE WITH THE TOWNSHIP ZONING CODE REQUIREMENTS WITHIN THIRTY (30) DAYS OF THE DATE OF THIS NOTICE.

TO ATTAIN FULL COMPLIANCE, YOU MUST: Obtain the required permits and approvals from the Township and satisfy the requirements established by the Township Code

YOU HAVE THE RIGHT TO APPEAL TO THE BOARD OF APPEALS PROVIDED THAT A WRITTEN APPLICATION FOR APPEAL IS FILED WITHIN 20 DAYS AFTER THE DAY THE DECISION, NOTICE OR ORDER WAS SERVED. AN APPLICATION FOR APPEAL SHALL BE BASED ON A CLAIM THAT THE TRUE INTENT OF THIS CODE OR THE RULES LEGALLY ADOPTED THEREUNDER HAVE BEEN INCORRECTLY INTERPRETED, THE PROVISIONS OF THIS CODE DO NOT FULLY APPLY, OR THE REQUIREMENTS OF THIS CODE ARE ADEQUATELY SATISFIED BY OTHER MEANS.

§ 84-63 Violations.

Failure to secure a permit prior to the construction, alteration, extension or demolition of any building or structure, failure to secure a permit prior to a change in use of land, buildings or structures, failure to secure a use and occupancy permit prior to the use or occupancy of any land, building or structure, failure to obey or comply with an order or condition of approval of any special exception, variance, conditional use or other zoning relief ordered and granted by the Zoning Hearing Board or the Board of Supervisors, as applicable, failure to comply with an enforcement notice duly issued by the Zoning Officer or any authorized Township enforcement officer in relation to the provisions of this chapter, failure to take any action required as a condition of any use provisions of this chapter, failure to comply with a lawful directive of the Zoning Officer issued under the provisions of this chapter and the undertaking of any deliberate action which is contrary to the terms of this chapter shall constitute a violation of this chapter, and the Zoning Officer or any of his deputies are authorized to take such enforcement action as they determine appropriate under the provisions of § 84-64.

§ 84-64 Enforcement; remedies.

A. Enforcement notice. If it appears to the Township or any of its enforcement officers that a violation of this chapter has occurred or is occurring, the Zoning Officer or other enforcement officer shall initiate enforcement proceedings by sending an enforcement notice to the owner of record of the parcel on which the violation has occurred and also to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.

B. Enforcement notice specifications. The enforcement notice shall state:

- (1)** The name of the owner of record and any other person against whom the Township intends to take action.
- (2)** The location of the property in violation.
- (3)** The specific violation with a description of the requirements which have not been met,

citing in each instance the applicable provisions of this chapter.

(4) The date before which the steps for compliance must be commenced and the date before which the steps for compliance must be completed.

(5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within 30 days of the recipient's receipt of the enforcement notice.

(6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions which shall be clearly described. Such notice shall be served by certified or registered mail or personal service.

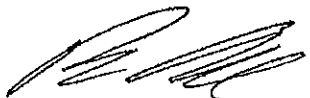
C. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.

D. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board or any court in a subsequent appeal rules in the appealing parties' favor.

E. Enforcement remedies.

(1) Any person who or which has violated or permitted the violation of any of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Township as a result hereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. In the event that any such person against whom a judgment has been rendered by the District Justice neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Pennsylvania Rules of Civil Procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for such person violating this chapter to have believed that there was no such violation. In that latter event, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice, and, thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this chapter shall be paid over to the Township of West Goshen.

Date of Notice: April 6, 2023



Brian Azeff, PE – Asst. Zoning Officer, Rental Property, & Fire Inspector
CC: Chris Bashore – Township Manager
CC: Robert Hell – Interim Zoning Officer
CC: Bryan Kulakowsky, PE – Township Engineer

Certified Mail: April 6, 2023, Article No. 7022041000076151631