

1 GUN PLAIN CHARTER TOWNSHIP

2
3 ZONING BOARD OF APPEALS

4
5 MINUTES OF MEETING HELD NOVEMBER 26, 2018

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7 A regular meeting of the Gun Plain Charter Township Zoning Board of Appeals was held on
8 November 26, 2018, at the Gun Plain Charter Township Hall commencing at 7:00 p.m.
9

10 Members Present: Tim Oosting, Chairman
11 Diane Webber
12 Robert Busk
13 Connie Haan
14 Ron Kopka
15

16 Also present was Lori Castello, the Township Zoning Administrator, Seth Koches, Township
17 Attorney; and, five other interested persons.
18

19 **ITEM 1 CALL TO ORDER**

20
21 Chairman Oosting called the meeting to order at 7:00 p.m.
22

23 **ITEM 2 INTRODUCTION OF BOARD MEMBERS**

24
25 Chairman Oosting noted that all the ZBA members were present and introduced them,
26 along with the Zoning Administrator and Township Attorney, to the public.
27

28 **ITEM 3 APPROVAL OF MINUTES**

29
30 The next item on the agenda was approval of the October 3, 2018 Zoning Board of
31 Appeals meeting minutes. A copy of the minutes was provided to the members prior to the
32 meeting. Upon motion of Kopka, supported by Busk, and unanimous approval, the October 3,
33 2018 meeting minutes were approved as presented.
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35

36 **ITEM 4 OPEN TO THE PUBLIC**

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38 There was no public comment on non-agenda items.
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41 **ITEM 5 PUBLIC HEARING: WILLIAM KLINE – 1181 MILLER ROAD**

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43 The next item on the agenda was the public hearing for the request of William Kline
44 (Lighting Recovery & Towing), requesting an administrative appeal of the Zoning
45 Administrator’s decision determining the extent of the non-conforming use on his property
46 addressed as 1181 Miller Road (Parcel No. 03-08-019-008-10) within the Township. The subject

1 property is located in the Township's R-2 District Zoning Classification. This parcel is separated
2 into three separate pieces, all under the same tax identification number.
3

4 John Teeples, the attorney for William Kline (the applicant) addressed the ZBA on behalf of his
5 client. Teeples said that he was standing in for Don Passenger, who represents Mr. Kline.
6 Teeples said Mr. Kline has used the property for over 30 years. Mr. Teeples asked if the issue
7 was a blight problem or a use issue; or, whether Mr. Kline was not allowed to use the west side
8 of the property for staging vehicles. Teeples asked for clarification.
9

10 Teeples said Mr. Kline operates a towing company on the property dating back to the 1980s,
11 which was in operation prior to his ownership for the property. Teeples said Mr. Lakie hauled
12 and stored vehicles on the property from 1987-1997. Teeples said that the property was zoned I-1
13 when the property was used to store vehicles and the use should continue to be lawful after the
14 property was zoned to R-2. Teeples said that when the zoning ordinance changed (from I-1 to R-
15 2) Mr. Lakie kept operating the hauling and staging business until 1997. Teeples said that since
16 1997, the property has continued to be used in that way. Teeples noted that the use has never
17 changed and said vehicles are temporarily stored on the property and hauled away.
18

19 Teeples discussed the blight issue and said Mr. Kline tries not to leave blight on his property.
20 Teeples said vehicles are temporarily stored on the property for a couple of weeks before they
21 are removed. Teeples said the lawful non-conforming use should allow Mr. Kline to continue
22 using the entire property that way. Chairman Oosting referenced a 1987 letter issued by the
23 Township indicating that the blight was to be contained within a fenced area.
24

25 Township Zoning Administrator, Lori Castello, addressed the ZBA. Castello provided
26 background to the members, stating that on April 9, 2018, she issued a municipal civil infraction
27 citation to Mr. Kline for blight and inoperable motor vehicles that were located on the subject
28 property. Castello stated that Mr. Kline defaulted on the citation; however, Mr. Kline filed a
29 motion to set aside the default judgment. The Court denied Mr. Kline's motion to set aside the
30 default and affirmed the fines and costs entered against him. Castello said the Court declined to
31 enter a compliance order in favor of the Township. Castello said Mr. Kline subsequently
32 appealed her decision, which concluded that the non-conforming use was limited to the east side
33 of the property, to the ZBA.
34

35 Castello said she reviewed all Township records regarding this matter. Castello said the eastern
36 portion of the property was the area that was surrounded by the fence. Castello said her research
37 indicated that the use must remain within the fenced area and may not continue to the west of the
38 residential house. Castello said the three pieces that make up the property are assigned one parcel
39 number and because of this, the use is contained to the fenced-in area at a specific location on the
40 property. Castello said the Township is not looking to stop the lawful non-conforming use on the
41 east end of the property. Castello said vehicles stored to the west are in violation of the Zoning
42 Ordinance.
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44 Teeples said the entire property has been used to temporarily store vehicles and as a towing and
45 hauling business for thirty years, whether the property was fenced or not. Castello said various
46 ZBA minutes disagree and referenced a 1987 letter from the then Township Supervisor stating

1 that the use is non-conforming and needs a special use permit to continue. Teeples said he hadn't
2 seen that letter. Chairman Oosting said the property owner in 1987 was cited for violating the
3 Zoning Ordinance and paid the fine associated with the citation. Castello read Section 23.02 of
4 the Township Zoning Ordinance regarding lawful non-conforming uses of land. Castello again
5 stated that the east side of the property is a lawful non-conforming use, but the west side is not.
6

7 Castello prepared a memorandum that was provided to the ZBA and reviewed the same with the
8 members. Castello indicated that the previous property owner (Mr. Lakie) was cited on
9 7/20/2006 for violating the Township Zoning Ordinance and he paid a fine. Castello said Mr.
10 Kline is using the property the same way Mr. Lakie was in 2006 when he received the citation.
11 Castello provided timeline for the ZBA. Castello said in 1987 the property was zoned I-1, and is
12 now zoned R-2. Russell Jackson was the Township Supervisor in 1987 who issued letters to the
13 previous property owner indicating that he was using his property in violation of the Zoning
14 Ordinance and that the lawful non-conforming use was limited to the east side of the property,
15 not the west side. Castello said that a special use permit is needed for the use to be expanded to
16 the west side of the property.
17

18 Chairman Oosting opened a public hearing. Dave Meert addressed the ZBA and said he
19 previously owned the property across the street from the subject property. Merret said various
20 vehicles have remained on the property for a while. Merret said he lost a sale of his property
21 because of how the subject property was used. Being that there was no additional public
22 comment, Chairman Oosting closed the public hearing and the ZBA entered into deliberations.
23

24 Kopka asked Mr. Kline if he was aware of the letters sent to Mr. Lakie stating that the lawful
25 non-conforming use was permitted only on the east side of the property. Mr. Kline said no. Mr.
26 Kline said his business cleans up other townships. Mr. Kline said vehicles are brought onto his
27 property to be temporarily stored until they are towed away. Castello said that Mr. Kline
28 improved the condition of the property. Mr. Kline and Haan reviewed an aerial map of the
29 property. Teeples asked if Mr. Kline may park commercial vehicles on the west side of his
30 property. Castello said no. Castello said any commercial activity on the west side of the property
31 will be considered an expansion of the non-conforming use, which is not permitted. Teeples
32 reviewed the 1987 letter. Teeples said the 1987 letter indicated that expanding the storage area is
33 prohibited, but Teeples noted that the letter does not prohibit employee parking on the west side
34 of the property. Castello said the entire operation of the business was considered in the 1987
35 letter, which includes parking.
36

37 A proposed Finding of Fact was prepared for the ZBA. Castello read through the Finding of Fact
38 and Chairman Oosting signed his initials next to each finding, indicating the ZBA agreed with
39 each separate finding. The ZBA amended paragraph five to reflect the correct year should be
40 1990, not 1989; and, amended R-1 to R-2. The ZBA struck paragraph 6 from the Finding of Fact.
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42 Upon motion of Kopka, supported by Busk, and unanimous approval, the ZBA DENIED Mr.
43 Kline's appeal and affirmed the Zoning Administrator's decision that the lawful non-conforming
44 use was limited to the east side of the subject property and adopted the Findings of Fact, as
45 amended.
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1 A signed copy of the Findings of Fact and signed copy of the Decision of the Zoning Board of
2 Appeals was personally served upon Attorney Teeples on behalf of Mr. Kline.

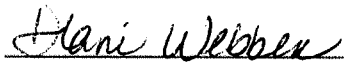
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5 **ITEM 6 OTHER AGENDA ITEMS**

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7 None.

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9 **ITEM 7 ADJOURNMENT**

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11 There being no further business to come before the ZBA, the meeting was adjourned at
12 8:07 p.m.

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16 **GUN PLAIN CHARTER TOWNSHIP**
17 **ZONING BOARD OF APPEALS**

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20 _____
21 Diane Webber, Recording Secretary
22 Gun Plain Charter Township Zoning Board
of Appeals