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BOARD OF APPEALS

BOARD OF APPEALS

Hearing # 11-10

DECISION ON PETITION FOR REVIEW OF THE DECISION
OF THE ZONING ENFORCEMENT OFFICER DATED MAY 9, 2011
CONCERNING 100 WILLOW STREET

The Acton Board of Appeals (the "Board") held a duly noticed public hearing on July 11, 2011, with regard to the Petition of Gary Hamel, Sr. and Jill Primmer for review of the Decision of the Zoning Enforcement Officer dated May 9, 2011 concerning the Property at 100 Willow Street. Map G1-86 and G1-87.

Present at the hearing were Ken Kozik, Chairman; Francis Mastroianni, Alternate Member; Richard Fallon, Alternate Member; Scott Mutch, Zoning Enforcement Officer. Also present were the petitioners, Gary Hamel, Sr. and Jill Primmer, and their counsel. Also present were abutters and interested parties.

The meeting was opened at 8:00 p.m. on July 11, 2011, with Chairman Kozik reading the contents of the file, which included the May 9, 2011 letter from the Zoning Enforcement Officer. That May 9th letter stated that it was an addendum to a previously issued March 10, 2011 letter, and that the Zoning Enforcement Officer could not allow a continuation of the "salvage/construction" business at this location, because this was not an acceptable "home occupation" under the Zoning Bylaw.

"Attachment A," a document presented by the petitioners, states the accessory use [not described in Attachment A] complies with Sections 3.8.1.1 and 3.8.1.2 of the Zoning Bylaw because it does not involve retail sales, it will be conducted entirely within the dwelling or the proposed accessory garage, and it is by a resident with no employees.

The Petitioner Gary Hamel Sr. stated that he was operating at the residential location of 100 Willow Street a business with two work trucks, one a flatbed and the other a Wentworth full size dump truck. This business involves going out to other locations, picking up scrap metal with the dump truck and cars with the flatbed truck, and bringing the metal and cars into Boston. The trucks were stored at 100 Willow Street overnight; sometimes they would remain loaded and the metal stored in the trucks overnight, but not usually longer than that.

The Zoning Bylaw, Section 3.8.1.2, allows for a home occupation other than retail sales which is conducted entirely within the dwelling unit or an accessory building by a resident employing no other persons.

After the hearing was closed, it was determined during the Board's discussion that this business involving commercial vehicles coming and going from the residential location was not a business conducted entirely at the location within the dwelling unit or an accessory building, even if a garage (which did not now exist) were to be allowed for these large commercial vehicles. The Board voted, on a motion to overturn the Zoning Enforcement Officer's Decision, 3-0 **against** overturning the decision.

Conclusion

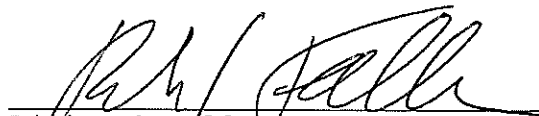
For the reasons stated above, the Board voted 3-0 against overturning the Zoning Enforcement Officer's Decision, such that the decision embodied in the May 9, 2011 letter of the Zoning Enforcement Officer was upheld.

Any person aggrieved by this decision may appeal pursuant to Massachusetts General Laws Chapter 40A, Section 17, within 20 days after this decision is filed with the Acton Town Clerk.

ACTON BOARD OF APPEALS

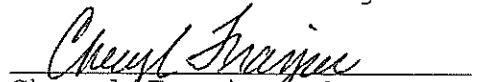

Kenneth F. Kozik, Chairman


Francis Mastroianni, Alternate


Richard Fallon, Alternate

Dated:

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on August 15, 2011.


Cheryl Frazier, Secretary
Board of Appeals