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AUG 29 2011

**MINUTES OF THE HEARING ON THE PETITION FOR REVIEW**

**HEARING # 11-10 TOWN CLERK, ACTON**

**GARY HAMEL SR. & JILL PRIMMER, 100 WILLOW STREET**

A public hearing of the Acton Board of Appeals was held on Monday, July 11, 2011 at 8:00 PM in Room 126 of the Town Hall on a petition by Gary Hamel Sr. and Jill Primmer for a PETITION FOR REVIEW of the Decision of the Zoning Enforcement Officer dated May 9, 2011 ("Decision") as the Decision is not in accordance with the provisions of the Acton Zoning Bylaw. The property in question is located at 100 Willow Street. Map G1-86 and G1-87.

Present at the hearing were Ken Kozik, Chairman; Richard Fallon, Alternate Member; Francis Mastroianni, Alternate Member; Scott Mutch, Zoning Enforcement Officer and petitioners Gary Hamel Sr., Jill Gregory and their Attorney, Alex Parra.

Ken Kozik opened the hearing, and read the contents of the file which included the May 9, 2011, letter from the Zoning Enforcement Officer. The May 9<sup>th</sup> letter stated that it was an addendum to a previously issued March 10, 2011, letter to the same petitioners, 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.

Ken asked Scott Mutch, ZEO to explain what the subject of the memo was that got them here tonight. Scott said the memo of May 9<sup>th</sup>, which is why they are here tonight, came out of further conversation and discussion with Legal Counsel and the Planning Director on just what type of a home based businesses would be acceptable and what the bylaw had contemplated. The previous memo from March 10<sup>th</sup> talked about what was happening on the property but did not go into this depth. This May 9<sup>th</sup> memo describes what their belief is that the zoning bylaw contemplates as a home based business. They are in no way saying this business can't be done. The administrative part of this business is not a problem and is permitted. It's the storage of the vehicles that's problematic. This memo lays out that case. Business uses under the zoning bylaw that would be appropriate would be architects, attorney, accountant, and so for the, something that fits in and maintains the character of the neighborhood.

"Attachment A," a document that was submitted 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 with the dwelling or the proposed accessory garage, and it is by a resident with no employees.

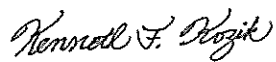
The petitioner Gary Hamel Sr. stated that he was operating a business out of his residence at 100 Willow Street with two work trucks, one a flatbed and the other a Wentworth full size dump truck. His business involves going out to other locations, picking up scrap metal with the dump truck and cars with the flatbed and bringing the metal and cars into Boston.

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.

The hearing was closed. The Board voted 3-0 against overturning the Zoning Enforcement Officer's Decision. The Zoning Enforcement Officer's decision was **UPHELD**.

Richard Fallon to write the decision.

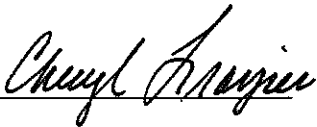
Respectfully submitted,



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Kenneth F. Kozik

Chairman, Board of Appeals



Cheryl Frazier

Secretary, Board of Appeals