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Louis N. Levine
F. Alex Parra
Cathy S. Netburn
Maryann Cash Cassidy

April 7, 2011

VIA HAND DELIVERY

✓ Eva K. Taylor, Town Clerk
Acton Town Hall
472 Main Street
Acton, MA 01720

RECEIVED
APR - 7 2011

RE: Gary Hamel, Sr. and Jill Primmer
100 Willow Street
Board of Appeals Petition for Review

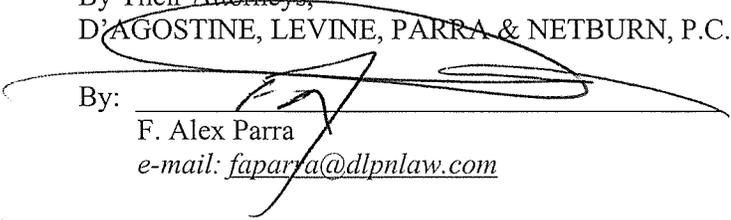
TOWN CLERK, ACTON

Dear Ms. Taylor:

Enclosed for filing please find original and seven (7) copies of the following

1. Board of Appeals (Form 1) Petition for Review, filed with the Board of Appeals this day on behalf of Gary Hamel, Sr. and Jill Primmer relative to the property situated at 100 Willow Street, Acton, Massachusetts, appealing the Decision of the Zoning Enforcement Officer dated March 10, 2011. A copy of said Decision is attached to the Petition, together with copy of location plan, plot plan and Abutters List; and
2. Signed authorization for Beacon Community Newspaper to bill our firm directly;
3. Check in the amount of \$100.00 to cover the cost of filing the Petition.

Very truly yours,
GARY HAMEL, JR. and JILL PRIMMER
By Their Attorneys,
D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.

By: 
F. Alex Parra
e-mail: faparra@dlpnlaw.com

FAP/amc
Enclosures (3)
cc: Board of Appeals – Via Hand Delivery
Zoning Enforcement Officer – Via Hand Delivery
Client
Civi\Hamel\Letter to Town Clerk



Town of Acton
Massachusetts

Date Received
TOWN CLERK

RECEIVED

By: April 7, 2011

RECEIVED

Date Received
BOARD OF APPEALS
APR - 7 2011
Cheryl Primmer
ACTON BUILDING DEPARTMENT

TOWN CLERK, ACTON

**Board of Appeals
(Form 1)
Petition for Review**

April 7 2011
(See (1) Below)

I/We hereby petition the Board of Appeals for a public hearing under Section 11.1.1 of the Zoning By-law to review (a) ~~the refusal of the Zoning Enforcement Officer to grant a permit under Section _____ of the Zoning By-law to allow~~ (b) ~~the refusal of the Zoning Enforcement Officer to enforce the provisions of Section _____ of the Zoning By-law as follows: (Strike out inapplicable language)~~

decision of the Zoning Enforcement Officer dated March 10, 2011, a copy of which is attached hereto.

Date of Zoning Enforcement Officer's Action March 10, 2011

(1) Petition must be filed within 30 days of refusal date with copy of decision or order attached.

OFFICE USE ONLY

Seven copies of petition? _____

Location Map? _____

Plot plans? _____

Additional briefs? _____

List of abutters and other interested parties? _____

Fee - \$100.00/1-25 abutters?
\$125.00/26 + abutters? _____

Next Hearing Date? _____ # _____

Respectfully submitted,

Signed *Gary Hamel, Sr.*
(Petitioner) Gary Hamel, Sr.
Jill Primmer

Name _____

Address 100 Willow Street, Acton, MA

Phone # (978) 877-7390

Signed same
(Owner of Record)

Name _____

Address _____

Phone # _____

The Board of Appeals has the power and duty to hear and decide appeals (Section 11.1.1) from a decision of the Zoning Enforcement Officer



TOWN OF ACTON
Planning Department
472 Main Street
Acton, Massachusetts 01720
Telephone: (978) 929-6631
Fax : (978) 929-6340
planning@acton-ma.gov
www.acton-ma.gov

Zoning Enforcement Officer

Gary Hamel Sr. & Jill Primmer
100 Willow Street
Acton, MA 01720

March 10, 2011

Re: Illegal Use of land
100 Willow Street, Acton, MA 01720
Certified Mail # 7009 0820 0001 3220 3719

Dear Mr. Hamel & Ms. Primmer,

I am writing regarding zoning violations recently brought to my attention occurring on your property at 100 Willow Street. During routine compliance inspections conducted by this office, I have observed multiple pieces of large construction/salvage/commercial equipment and vehicles as well as general piles of construction/salvaged materials located within and being stored on your property (see color photographs attached). More specifically, I observed the following: an automobile wrecker with a damaged red car loaded on the rear flat bed portion, a large commercial salvage truck, a front end loader, an unknown object(s) being covered by a large blue tarp, a spare red "claw" used to pick-up material and debris being salvaged, at least two (2) additional hydrogen tanks, and another unknown yellow piece of construction equipment. Both the automobile wrecker and the commercial salvage truck identified in the previous sentence have "Hamel (978) 877-7390" identifications painted on the driver side doors. In addition, the entire front portion of your home's roof and a significant portion of your home's rear roof is currently covered by a large blue tarp.

I have searched the Town of Acton's Building Department records and have found that there are no currently active building permits open or pending for your property. I have also checked with the Town Clerk's office regarding the apparent business operation and have found that there is no business license or business certificate registered to your property permitting you to conduct a business on the subject property.

Therefore, based upon the visual findings of my site inspection and in conjunction with the above noted information, I am determining that you are in violation of the Town of Acton's Zoning Bylaw ("Bylaw"). The General Use of a parcel of land is governed by Bylaw Section 3 - Table of Principal Uses, Principal Use Definitions and Accessory Use Regulations. More specifically, Prohibited Uses are governed by Bylaw Section 3.7. The observed storage of construction and salvage equipment and materials within and on your residentially zoned property can be classified as either 1) a "Storage yard, contractor's yard or other open air establishment for storage, distribution, or sale of materials, merchandise, products or

equipment,” or 2) “Salvage yard and all open air storage of salvage materials and debris”. Both uses of residentially zoned property are strictly prohibited within the Town of Acton under Bylaw Section 3.7.

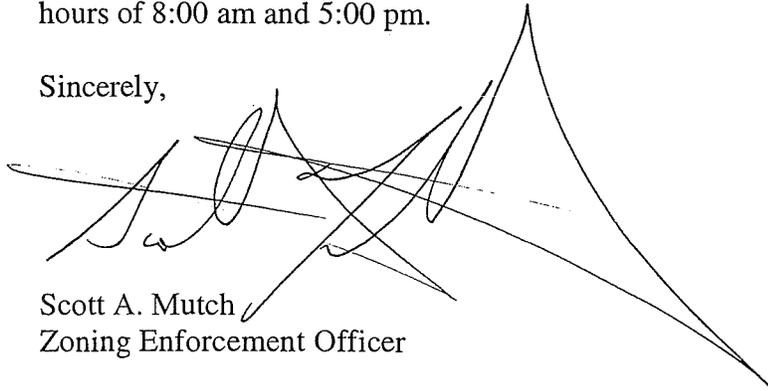
The Bylaw does permit certain and specific accessory uses to occur on the same lot with the principal use. In this instance, the Bylaw would allow for you to conduct a home occupation from within your residence. If you are interested in pursuing this option, please ensure that you comply with Bylaw Section 3.8.1.2 and that the business (home occupation) is properly licensed through either the Town Clerk’s office (as a “DBA”) or if your business is “incorporated” it would be licensed through the State of Massachusetts.

The intent of this letter is to 1) notify you of the existing non-compliant use of the land, and 2) provide you with the opportunity to have the chance to remove the existing construction/salvage equipment and materials prior to strict enforcement action commencing. Again, pictures of the offending construction/salvage equipment and materials are attached, and can be found on pages 4 and 5 of this letter.

In order to remedy this matter, please completely remove all of the construction/salvage equipment and piles of materials from the property by no later than April 9, 2011. In the event that no action, or inadequate action, is taken by the April 9, 2011 deadline, I will take enforcement action against you and the offending violations. Section 11.1.2 of the Zoning Bylaw provides for the issuance of fines for non-compliance in the amount of \$300.00 per day. Each day that a violation exists shall constitute a separate offense.

If you have any questions, comments or concerns regarding this matter, please feel free to contact our office at (978) 929-6631, Monday through Friday (except holidays) between the hours of 8:00 am and 5:00 pm.

Sincerely,



Scott A. Mutch
Zoning Enforcement Officer

Cc: Joan Meyer, Acton Real Estate Co.
Nancy Tavenier, Chairman of the Acton Community Housing Corporation

APPLICABLE ZONING BYLAW REQUIREMENTS

3.7 Prohibited USES – All USES that pose a present or potential hazard to human health, safety, welfare, or the environment through the emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare are expressly prohibited in all zoning districts. In addition, the following USES are expressly prohibited in all zoning districts.

- Salvage yard and all open air storage of salvage materials and debris
- Storage yard, contractor's yard or other open air establishment for storage, distribution, or sale of materials, merchandise, products or equipment

3.8 ACCESSORY USE Regulations – ACCESSORY USES shall be permitted in all districts on the same LOT with the PRINCIPAL USE. The ACCESSORY USES listed below are subject to the conditions and requirements stated in the respective Sections.

3.8.1 ACCESSORY USES Permitted in the Residential Districts and dwellings in the Non-Residential Districts:

3.8.1.2 A home occupation, other than retail sales, conducted entirely within the DWELLING UNIT or an accessory BUILDING by a resident and employing no persons other than the residents. In the Village Residential District, the portion of the DWELLING UNIT or accessory BUILDING used for a home occupation shall be limited to 500 square feet of NET FLOOR AREA. The Board of Appeals may authorize by special permit a home occupation which 1) conducts retail sales, or 2) employs non-residents provided that no more than two such non-resident employees shall be present on the premises at any one time.

11.1.2 Fine – Violation of this Bylaw shall be punishable by a fine of \$300.00 for each offense.
Each day that such violation continues shall constitute a separate offense.



Photo 6 – Blue Tarp Concealing Unknown Object(s)

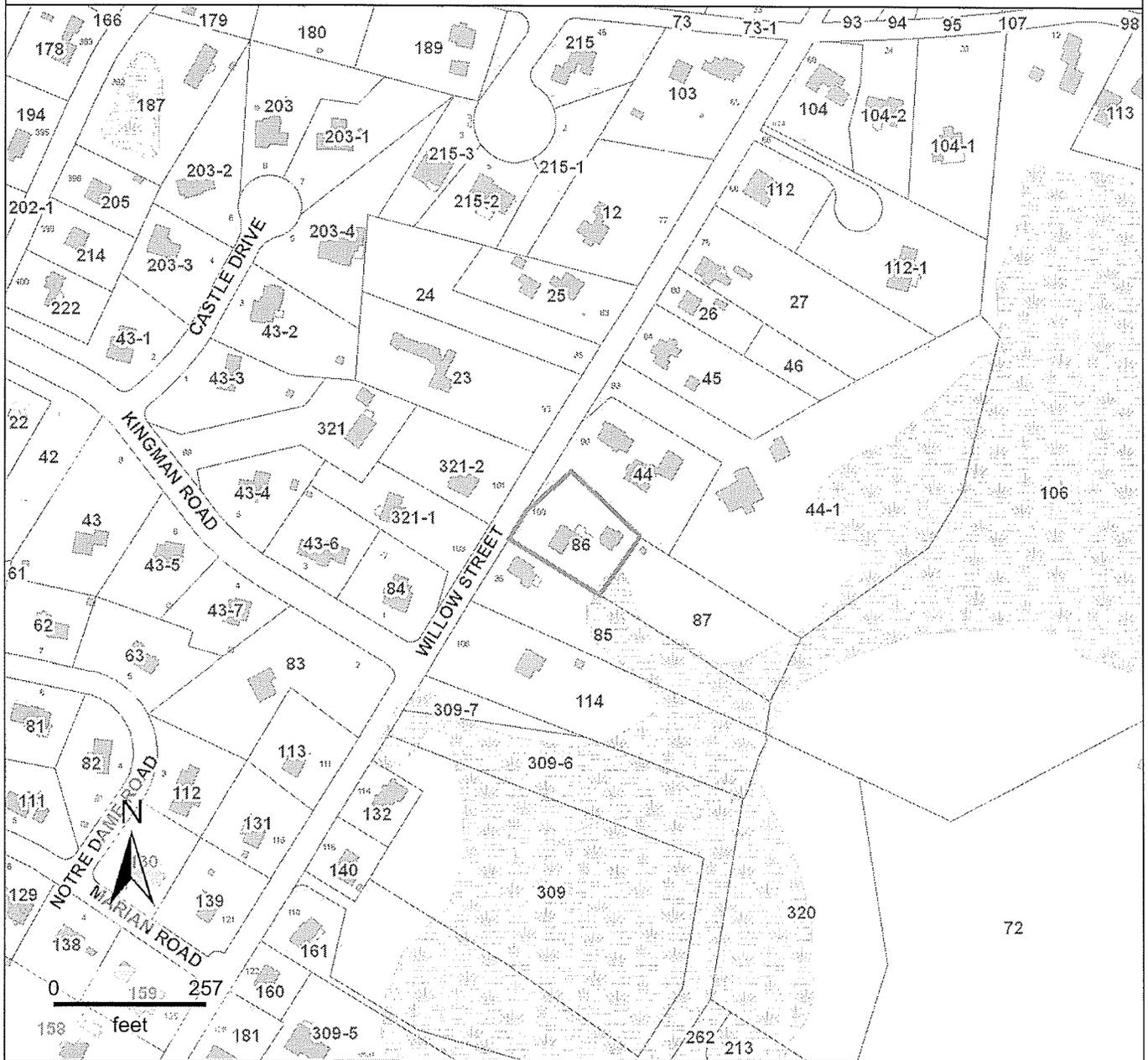


Photo 7 – Additional Hydrogen Tanks



Photo 8 – Unknown Yellow Piece of Construction Equipment

100 Willow

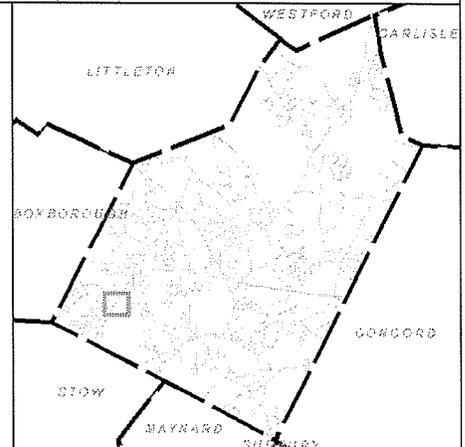


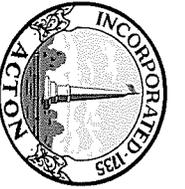
Property Information
 Property ID G1-86
 Location 100 WILLOW ST



MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT

This data set/map is for planning purposes only and should not be used for larger scale analysis. The Town of Acton shall not be held liable for any use of the data or images shown on this map, nor is any warranty of accuracy expressed. All uses of this data set/map are subject to field verification.





Town of Acton
 472 Main Street
 Acton, MA 01720
 Telephone (978) 929-6621
 Fax (978) 929-6340

Brian McMullen
 Assistant Assessor

Parcel Location 100 Willow Street and 100 Willow Street Behind
Parcel I.D.: G1-86 and G1-87

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST Zip
12 SUMMER ST	F2.B-106	MADDEN JR PAUL B	MADDEN JOY C	12 SUMMER STREET	ACTON	MA 01720
77 WILLOW ST	G1-12	FENTON JAMES TRUSTEE	FENTON REALTY TRUST	PO BOX 985	ACTON	MA 01720
93 WILLOW ST	G1-23	WILSON DALE W	WILSON MARY A	93 WILLOW STREET	ACTON	MA 01720
85 WILLOW ST	G1-24	SISSON CHARLES B JR	MARSHA	83 WILLOW ST	ACTON	MA 01720
83 WILLOW ST	G1-25	SISSON CHARLES B JR	MARSHA	83 WILLOW ST	ACTON	MA 01720
80 WILLOW ST	G1-26	COLETTI SARAH J	WILLIAMS CHARLOTTE E	80 WILLOW ST.	ACTON	MA 01720
5 KINGMAN RD	G1-43-4	WILLIAMS F DOUGLAS	WILLIAMS CHARLOTTE E	5 KINGMAN RD	ACTON	MA 01720
3 KINGMAN RD	G1-43-6	LI NAIXIN	SONG YU	3 KINGMAN RD	ACTON	MA 01720
84 WILLOW ST	G1-45	MORRIS JANE	NEPTUNE WILFORD H	84 WILLOW STREET	ACTON	MA 01720
80 WILLOW ST	G1-46	COLETTI SARAH J	NEPTUNE WILFORD H	80 WILLOW ST	ACTON	MA 01720
2 KINGMAN RD	G1-83	DIGUETTE SUSAN	VISOCCHI PATRICIA A	2 KINGMAN RD	ACTON	MA 01720
1 KINGMAN RD	G1-84	VISOCCHI DAVID R	VISOCCHI PATRICIA A	1 KINGMAN RD	ACTON	MA 01720
102 WILLOW ST	G1-85	RED ACRE DEVELOPMENT	OSBORN KRISTIN	22 ELM ST	ACTON	MA 01720
106 WILLOW ST	G1-114	OSBORN JEREMY	CHEN CHANGQING	106 WILLOW ST	ACTON	MA 01720
110 WILLOW ST	G1-309	LI MING	CHEN CHANGQING	110 WILLOW ST	ACTON	MA 01720
112 WILLOW ST	G1-309-6	SONG KENING	LI XIAO YAN	112 WILLOW ST	ACTON	MA 01720
108 WILLOW ST REAR	G1-320	TOWN OF ACTON	OSBORN KRISTIN	472 MAIN STREET	ACTON	MA 01720
99 WILLOW ST	G1-321	DUBOIS CAROL A	YU HUALING	99 WILLOW ST	ACTON	MA 01720
103 WILLOW ST	G1-321-1	WU SAMUEL	YU HUALING	103 WILLOW ST	ACTON	MA 01720
101 WILLOW ST	G1-321-2	FRAIZER KALETA B		101 WILLOW ST	ACTON	MA 01720
90 WILLOW ST	G1-44	BAJWA SUKHJINDER		88 WILLOW ST	ACTON	MA 01720
88 WILLOW ST	G1-44-1	BAJWA SUKHJINDER		88 WILLOW ST	ACTON	MA 01720
162 CENTRAL ST	G2-72	TOWN OF ACTON		472 MAIN STREET	ACTON	MA 01720

Abutters and owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list.

HEARING NOTICES FOR ALL SPECIAL PERMITS MUST BE SENT TO THE PLANNING BOARD, TOWN HALL IN THE FOLLOWING TOWNS:

Boyborough, MA 01729 Maynard, MA 01754 Concord, MA 01742 Littleton, MA 01460
 Carlisle, MA 01741 Stow, MA 01775 Westford, MA 01886 Sudbury, MA 01776

Daryl Powell
 Daryl Powell
 Property Lister
 Acton Assessors Office

4/7/2011