

IN THE MATTER OF	:	BEFORE THE LOWER ALLEN TOWNSHIP
	:	
THE APPLICATION OF	:	ZONING HEARING BOARD
	:	
RYAN A. MAXWELL and	:	CUMBERLAND COUNTY, PENNSYLVANIA
	:	
MICHELLE M. MAXWELL	:	DOCKET NO. 2015-02

DECISION AFFIRMING DETERMINATION OF THE ZONING OFFICER

The Applicants appealed a determination of the zoning officer. A hearing was held before the Board on May 21, 2015.

FINDINGS OF FACT

1. Notice of the hearing was properly advertised, the subject property was posted, and all property owners required to be notified of the hearing were notified in accordance with the Codified Ordinances.

2. The Applicants are Ryan A. Maxwell and Michelle M. Maxwell, 1102 Primrose Avenue, Camp Hill, PA 17011.

3. The subject property is a parcel of land in a MUN zoning district, owned by The Primrose Associates, a partnership, having as partners Barry Kindt and Craig Drabenstadt.

4. The subject property, known as 1101 Primrose Avenue, consists of two lots in a subdivision. Lot 52 is improved with two dwellings, and lot 51 is improved with three accessory buildings.

5. Lot 51 is used by Secco, Inc., a construction business, for storage of property used in its business.

6. Messrs. Kindt and Drabenstadt are the owners of Secco, Inc., which has its primary location on a nearby property in a C-2 district, known as 1111 Primrose Avenue, and owned by another partnership whose partners are Messrs. Kindt and Drabenstadt.

7. The subject property was acquired by The Primrose Associates in 1996. For many years, it was used for storage of construction equipment and materials by someone named Jacobs.

8. Since 1996, the three buildings on lot 51 have been used by Secco for storage of construction materials and tools. The combined area of the buildings is approximately 1,700 square feet.

9. Secco also stores various trailers outdoors on lot 51. These are used on job sites, and also contain materials and tools.

10. At times in the past, Secco has temporarily stored on lot 51 vehicles used in its business. Such vehicles also come to the property on occasion to pick up materials or to tow trailers to construction sites.

11. The Applicants acquired their property in 2003, and have substantially improved it over the intervening years. It serves as their residence.

12. The Applicants' property is located across Primrose Avenue from the subject property.

13. The Applicants object to the parking of construction vehicles and trailers on the subject property.

14. In response to Applicants' most recent complaint, John M. Eby, Building and Zoning Coordinator for Lower Allen Township,

issued a written determination dated March 25, 2015, concluding that Secco's use of the subject property is not in violation of the zoning regulations.

15. Applicants filed an appeal of Mr. Eby's determination. They also request a refund of a portion (\$100.00) of the fee they paid to file the appeal.

16. At the hearing, testimony was offered by Ryan Maxwell, and by various witnesses for the Township.

CONCLUSIONS OF LAW

1. Under Sections 220-266 and 220-269(B)(5) and (C) of the Codified Ordinances, the Zoning Hearing Board has jurisdiction to hear and decide an appeal from a determination of the zoning officer.

2. Lot 51 of the subject property is used by Secco, Inc., in the business of construction.

3. Under section 220-220-28(R) of the Codified Ordinances, construction is a permitted use in the MUN zoning district.

4. Storage and vehicular parking are part of or accessory to construction use.

5. The subject property is not being used as a "parking lot or area" as defined in section 220-6, because the storage of

vehicles is not the primary business use and because the vehicles stored are those of the possessor of the property.

6. If not permitted by right, the use of Lot 51 of the subject property for storage in connection with the business of construction is legally non-conforming.

7. The fee for an application to the Zoning Hearing Board for a non-residential property is \$350.00.

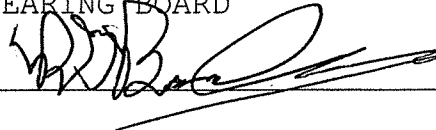
8. The appeal relates only to the non-residential use of the subject property.

9. The fee of \$350.00 paid by Applicants is the correct fee.

DECISION

Based upon the foregoing findings and conclusions, and in consideration of the testimony and evidence presented to the Board, the Board hereby upholds and affirms the determination of the zoning officer and the amount of the fee charged to the Applicants.

LOWER ALLEN TOWNSHIP ZONING
HEARING BOARD





Solicitor

Date: 6-5-2015