



O'Donnell, Weiss & Mattei, P.C.

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Parking or Storage of Business Vehicles on Residential Property - Do Not Assume It is Permitted

It is not uncommon, when on a casual evening or weekend drive through Pennsylvania, to notice business vehicles parked or stored on residential properties particularly in suburban or rural areas. It appears that many residential property owners assume or believe that they have the right to park or store business vehicles at their homes as a use customarily incidental to the residential use and occupancy of their properties, particularly when such parking or storage occurs after business hours or at other times when the vehicles are not being actively used in the business.

However, such assumption and belief may not be correct in all cases. For example, consider the following parking or storage of business vehicles by Frank, Bob, Dave and Patrick on their respective residential properties.

Frank conducts an asphalt business on property in one municipality but resides with his wife in a home on a residentially-zoned lot in a neighboring township. Various vehicles, including trucks used in the business, are regularly parked at Frank's home.

Bob lives with his parents, Sam and Nellie, at their home in a residential zone. Bob is a trucker who makes trailer pickups at a terminal approximately 50 miles away. When he is not on the road, Bob parks the cab portion of his truck either on the driveway or in the back yard of his parents' home.

Dave and his father are engaged in a food catering and concession business which they conduct at auctions and carnivals. They utilize vehicles in the business, including two vans containing a mobile kitchen and food service and sale facilities. When not in use, the vehicles are stored by Dave in a pole barn next to his home in a conservation district.

Patrick's home is located in a residential zoning district. He is a "Snap-On Tools" franchisee who sells and services commercial tools and equipment. His business is completely mobile, being housed in truck which contains inventory as well as necessary office equipment for the business. All business transactions occur either in the truck or at customer sites. Patrick does not conduct the franchise business at his residence. However, at the end of the work day when he returns home, he parks the truck behind his house.

Unfortunately, Frank, Bob, Dave and Patrick all share a negative land use law experience. In each of their cases, the parking or storage of business vehicles at their respective homes was held by the Pennsylvania Commonwealth Court to constitute, not a permitted residential accessory use, but a commercial use of their residential properties in violation of local zoning ordinance provisions. See *Taddeo v. Commonwealth*, 412 A.2d

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Attorney Spotlight

[Henry T. Zale, Esq.](#), is an attorney with OWM Law concentrating his practice in the Land Use, Municipal and Real Estate areas. Mr. Zale has been practicing law with OWM Law since 1976.

Mr. Zale was born and raised in Shenandoah, Pennsylvania. Since 1976, he and his family have made Pottstown and the surrounding tri-county area their home.

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212 (Pa.Cmwlth. 1980); *Galliford v. Commonwealth*, 430 A.2d 1222 (Pa.Cmwlth. 1981); *Dech v. Zoning Hearing Board of Lynn Township*, 512 A.2d. 1352 (Pa.Cmwlth. 1986); and *Reardon v. Zoning Hearing Board of Town of McCandless*, 726 A.2d 1108 (Pa.Cmwlth. 1999).

The holding of the Court in each case was based on the theory that the vehicles were so integral to and inseparable from each of the businesses that they were commercial in nature, and that parking or storing the vehicles on the residential properties was neither customary nor incidental to the permitted residential uses of the properties. In the Court's view, the parking or storage of the business vehicles on the residential properties effectively transferred part of the businesses to those properties contrary to the use provisions of the zoning ordinances.

The foregoing approach to business vehicles stored or parked on residential property, as violating the local zoning ordinance, was again followed by the Pennsylvania Commonwealth Court in a recent opinion filed May 27, 2010, in the case of *Lancaster Township v. Zoning Hearing Board of Lancaster Township*, ___ A.2d.___, 2010 WL 2105154 (Pa. Cmwlth.). In that case, the Court, relying on its prior *Taddeo*, *Galliford*, *Dech* and *Reardon* decisions, determined that the use of a garage on residentially-zoned land to store trucks used in the operation of a trucking business did not qualify as permitted accessory use under the zoning ordinance but constituted a prohibited commercial use.

The principal lesson to be learned from the negative land use experiences of Frank, Bob, Dave and Patrick is that a homeowner should not assume that the parking or storage of business vehicles at the owner's residential property is permitted under the local zoning ordinance, even though such parking or storage may occur after the end of the business day or at other times when the vehicles are not being used for business purposes and even though such storage or parking may appear benign. Otherwise, the owner may be unpleasantly surprised to receive a zoning ordinance enforcement notice from the municipality advising that such parking or storage violates the zoning ordinance and, unless discontinued by a certain date, will result in the imposition of sanctions, including substantial monetary penalties. Rather, the owner should consider contacting the local zoning officer to determine whether the parking or storage of business vehicles on the owner's residential property is allowed under the zoning ordinance, particularly in cases where such parking or storage is desired or needed by the owner on a regular basis for more than mere convenience purposes.

For legal services and representation concerning the parking or storage of business vehicles on residential property or for any other land use matter, please contact the [land use attorneys](#) of OWM Law.

constitute, a lawyer-client relationship.

Beginning of Year Review Time

The beginning of the year is not only the time to start thinking about taxes, it also the time to make sure your estate plan is in order. It is a great time to review your Wills, Powers of Attorney, Life Insurance and Retirement accounts, to name a few things.

If revisions are needed you should contact your professional advisors, including your attorney, accountant and financial planner.

UPCOMING EVENTS

Read Legal Ease every other Sunday in the Pottstown Mercury.

See Legal Talk, brought to you by OWM, on PCTV, Tuesdays at 8:30 on Channel 28, and Thursdays at 9:30 p.m. on Channel 98.

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