

**SEEKONK ZONING BOARD
PUBLIC HEARING and WORK SESSION
January 9, 2023**

ZONING BOARD MEMBERS PRESENT:

Vice Chair G. Sagar, D. Robillard, R. Read, G. Gauthier and N. Almeida

ABSENT WITH CAUSE:

K. Rondeau

TOWN REPRESENTATIVE PRESENT:

N. Abelson

MEETING CALLED TO ORDER: 7:00 p.m.

Mr. Sagar explained the rules of the Zoning Board of Appeals to the audience. He then read the petitions in their entirety.

PUBLIC HEARING:

1. **2023-01 Raj Patel (on behalf of Ramada Inn)** 213 Taunton Avenue, Seekonk MA 02771
Petitioner, Pramukh Greenport Real Estate LLC, 213 Taunton Avenue, Seekonk MA 02771
Owner, requesting an **Appeal** of the Zoning Enforcement Officer's Decision of November 8, 2022 to allow use of freight handling and storage to be located at 213 Taunton Avenue, Plat 14, Lot 94 in a Highway Business District, lot containing 8.87 +/- acres.

Mr. Raj Patel is appealing the Zoning Enforcement Officer (ZEO) decision for freight handling and storage. It was noted that the 30-day appeal period was timely.

Mr. Patel stated that he is representing the Ramada Inn. One of the offices is being rented to a moving service. The moving service has been allowed to park a maximum of five (5) trucks in the lot. The trucks, which are between 14' to 16' long, are used for residential moving. Truckers are allowed to park on the hotel property when staying as guests.

Mr. Sagar stated that a 40' box trailer was parked at the site. Mr. Patel stated that was not from the moving company; this truck was parked there by a trucker because the truck had broken down. Mr. Sagar noticed that the truck was not registered. Mr. Patel reiterated that the truck was broken and will be removed by the 15th of January when the resident moves out. There was another truck from a local paving company parked at the site. The owner had been residing at the hotel, but will be moving out.

G. Sagar informed the applicant that the use he is asking for would be in an Industrial Zone and is prohibited in a Highway Business Zone. The Board would have to say that Mr. Abelson is wrong in what his determination stated.

Mr. Patel told the Board that a lot of truckers stay in the hotel as guests. G. Sagar said that there is nothing to prevent the lot from becoming a trucking terminal when there is a 40' trailer truck (that is

unregistered) parked there as well as a paving truck. He went on to explain that having a couple of trucks for catering would be within the guidelines as an accessory use since there is a restaurant on the premises. He did not see how the Board could overrule the Building Inspector's Determination; it is clearly an Industrial Use which is not allowed in a Highway Business District.

There was a discussion on whether a guest could park a truck on the site.

Mr. Sagar believes to overrule Mr. Abelson's determination would be a violation of the spirit of the by-law.

Mr. Sagar polled the audience; no one was either opposed to or in favor of the application.

R. Read asked if a company had an office there would they be allowed to have any vehicles there? Mr. Abelson said an office would be fine. This application is for moving and storage and does not abide by the Zoning By-laws. He does not believe that a company that hauls furniture should be allowed here.

G. Sagar asked if there was any benefit to continue this until next month to see if some compromise could be made.

N. Almeida asked if anything was going to be stored in the trucks? Mr. Patel replied that the trucks would be empty when returning to the site. The company has another facility in Dartmouth where they could store items; he was unsure of this. There would be a maximum of five trucks; also, most of the time there would only be two or three trucks.

G. Sagar asked how the parking of these trucks will affect the parking plan when events are happening. Mr. Patel replied that it has not affected them as of yet; the maximum hall has a capacity of 450 and there has not been any issues.

Mr. Sagar suggested continuing this petition until next month. He went on to say that Mr. Patel should meet with Mr. Abelson to try to resolve this for the benefit of everyone.

D. Robillard made the motion to continue this petition until February 9th, R. Read seconded the motion.

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2. **2023-02 Sarah Newkirk (on behalf of Osamequin Farm, Inc.)** 50 Walnut Street, Seekonk MA 02771 Petitioner, Andrew Jencks, 80 Walnut Street, Seekonk MA 02771 Owner, requesting an **Appeal** of the Zoning Enforcement Officer's Decision of October 31, 2022 to allow use of property to host occasional private events on the farm located at 80 Walnut Street, Plat 22, Lot 37 in an R-4 Zoning District lot containing 8.44 +/- acres.

Ms. Newkirk, director of the farm, summarized the petition for the Board. She gave a brief history of the farm. She also informed the Board that the farm hosts various events and workshops throughout the year. They welcome local farmers to have celebrations at the farm. They were unaware of the

difference between hosting private events and educational events. She went on to say that there is little to no impact on the surrounding community as far as being a nuisance. She stated that the events end no later than 9:30 p.m. with a 50-car limit being allowed for the weddings.

G. Sagar read the Board of Health (BOH) memo to the applicant; a copy of was also given to the applicant. The memo was marked as **EXHIBIT 1**.

R. Read was asked about lavatories. Ms. Newkirk stated that there is a portable restroom on-site and the event organizer has to supply any additional restrooms.

Mr. Abelson cited the Zoning By-laws that he referred the applicant to. He stated that he was unable to find any of the uses that would allow for weddings to take place on the farm.

Ms. Newkirk was asked if there was a fee to use the farm. She replied that a donation to the farm is requested for hosting an event. Mr. Sagar gave a brief history of the Zoning By-laws and explained the difference between a Permissive and a Prohibitive by-law. He would like to see the Town work with the farm. He recommended that Ms. Newkirk speak to the Town Planner, John Aubin, to see what they could do at the farm.

Jim Frain of 192 Prospect St., spoke on behalf of the farm. He has lived at this address for 2 years and has never been bothered by any noise from the events at the farm. He believes that hosting events keeps in theme with the area. He recognizes that this is an important part of the character of Seekonk; to be able to share Seekonk is important.

G. Gauthier hopes to come to some type of agreement with the Town and also believes the farm should have a contract with potential renters and a set fee. Ms. Newkirk responded that they do have a strict contract that renters are required to sign to use the farm for any reason.

G. Sagar said they can't overrule Mr. Abelson based on the current by-laws.

Paula Deblois of 404 Prospect Street, said that she was encouraged with what is being said so far; and she fully supports the farm owners. She stated that the farm is a unique asset to the Town. She hopes the Board will work with the farm and the Jencks. G. Sagar said he understands what she is saying. Their hands are tied since they do not make the by-laws; they have to enforce what is in front of them. There is nothing in the by-laws that would allow them to overrule Mr. Abelson's decision. He strongly advised speaking to Mr. Aubin tomorrow.

No one in the audience was in opposition of this application. He suggested to ask for a continuance.

N. Almeida made a motion to continue this petition until February 9th, seconded by D. Robillard.

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3. **2023-03 Jennifer W. Jencks**, 540 Prospect Street, Seekonk MA 02771 Owner/Petitioner, requesting a **Special Permit** under Section 4.2 of the Seekonk Zoning By-law per the Zoning Enforcement Officer's Decision of November 15, 2022 to allow the keeping of three goats on

the property located at 540 Prospect Street, Plat 23, Lot 26 in an R-4 Zoning District lot containing 3.71 +/- acres.

Jennifer Jencks and Michael Bingham presented this application to the Board. Mr. Sagar read the Animal Control Officer's (ACO) letter to the applicant (**EXHIBIT 1**); a copy was given to the them. The applicants approved of the letter.

The applicants informed the Board that they received the goats during Covid. They had asked their neighbors if there were any issues with the goats being on the property; at that time there were none. It was stated that the goats are vaccinated and receive annual check-ups. Also, there have been no issues with smells from the goats.

Mr. Bingham told the Board that the goats are pets. They never intended to breed the goats; therefore, the males have been neutered. The previous owners moved and didn't want the goats to go to a home where they would be killed and eaten.

G. Sagar scanned the audience; no one was in favor of the petition.

James and Heather Holland of 496 Woodward Ave. had a few concerns; one being their drinking water is only 60-feet away from the goats. He wasn't opposed at first, but have since voiced his concerns to the applicants. He stated that the applicant's property is at a higher elevation then theirs which causes runoff to go into their well. There is plenty of land on the other side of the house; they should move the goats or remove them from the property.

Mrs. Holland said that during heavy rains (since the applicant's property is at a higher elevation) the water drains into their yard and puddles very close to their artesian well. She went on to say that the properties are separated by a rock wall that has three openings which allows the water to go into their backyard. She also wishes to have the goats moved to the other side of the petitioners property.

G. Gauthier asked the Hollands if the water has been tested. Mrs. Holland responded that it was privately tested when they first purchased the house. They also tested it a couple of months ago themselves. Their own test found showed some kind of feces in the water. They cannot say definitively that it is from the goats or not. They have two children and don't want to take any chances; he reiterated that he wants the goats on the other side of the property.

It was clarified that wells have to be 100 feet away from a septic system. The Board of Health (BOH) has not responded at this time. Mr. Sagar asked if there were any other questions from the Board; there were none. He then asked if there was anyone else who wished to speak in opposition:

Tammy and Matt Goudreau of 521 Prospect St. said they do not have an issue with the goats. However, they believe the goats should be on the other side of the property so as not to contaminate the Hollands' water. Mrs. Goudreau stated that if the applicants do not move the goats, then they will join the Hollands in opposition of the goats. She then informed the Board that other neighbors had heard the goats were going to be moved, but nothing has happened yet. Mr. Goudreau stated that there is an open field on the other side of the applicants property.

Mr. Sagar asked for other comments from the audience; there were none.

The applicants were brought back to the table for further discussion. Ms. Jencks explained that she wanted the goats closer to the house for their protection from predators.

N. Almeida stated that he would feel more comfortable hearing from the BOH prior to making a decision.

Mr. Bingham said that his mother was a former ACO in Town. As of 2005, there was one case of well contamination in Massachusetts from a feed lot. He reiterated that he will move the goats if he has to.

Mr. Holland said that his well was put in 5-years ago and the water was tested at that time; it is also tested frequently. He went on to state that there was a small amount of feces in the water when it was tested last. He expressed his frustration to the Board.

G. Sagar said that the BOH had to test the water when the new well was installed. Mr. Holland said he is considering spending \$10,000 to have a water filtration system installed.

G. Gauthier suggested to consider approving the Special Permit with having the fence moved 100' from the abutter's well. Also, to give the applicants until May 1st, to move the fence since the weather is unpredictable.

Before closing the Public Hearing, Mr. Sagar asked if anyone else would like to speak.

M. Bingham asked if the stipulation could state 100' from the property line since he is unsure where the abutter's well is. Mr. Sagar reiterated that the goats have to be 100' from the abutter's well.

J. Holland was not agreeable to this at all. G. Gauthier indicated if the BOH says 100' from the well to a septic is okay then he would be okay with this. Mr. Holland was upset with this whole process. He would feel better if the BOH was involved.

G. Sagar said to continue to Feb. 9th in order to get the input from the BOH.

Janet Bowden of 170 Walker Street asked the Board if Special Permits were for properties under 5 acres? Also, if the applicant's property was 5 acres would they need to be in front of the ZBA? Mr. Sagar said that if they had the 5 acres, they wouldn't need a Special Permit. But if an issue has been raised that would fall under the BOH's purview, then that would prevail no matter how much land there is.

Mr. Sagar informed everyone that the BOH would be involved with the setbacks. Mr. Abelson said it would be important for the abutter to have the location of the well marked so it could be surveyed and measured.

G. Gauthier made a motion to continue this petition to February 9th after the BOH has the opportunity to review this, seconded by D. Robillard.

VOTE: 5-0-0

4. **2023-04 Stephen D. LeBeau**, 406 Olney Street, Seekonk MA 02771 Owner/Petitioner, requesting a **Variance** under Section 5.2 of the Seekonk Zoning By-law per the Zoning Enforcement Officer's Decision of November 16, 2022 to allow for the reduction of the setback off of the detached garage from 10 feet to 5 feet 3 inches on the property located at 406 Olney Street, Plat 6, Lot 43 in an R-1 Zoning District lot containing 25,214 +/- s.f.

Mr. LeBeau was sworn in before the Board. He is proposing to put a small in-law setup at his property. This would be for his son who moved in last year after his wife passed. This will give them a new entrance into the house.

G. Sagar said 5.3 stamped by a registered surveyor. The addition is shifted over a bit. The applicant stated that the plan says 6'. G. Sagar it's a plus to go with the plan as presented.

No one spoke in favor or opposed to the petition.

G. Gauthier stated it is reasonable; makes sense with the existing porch and ease into the driveway. He agrees.

R. Read made a motion to close the Public Hearing, seconded by G. Gauthier

VOTE: 5-0-0

R. Read made a motion to approve the decision of the Zoning Enforcement Officer, seconded by G. Gauthier

VOTE: 5-0-0

D. Robillard made a motion to approve the petition as submitted, seconded by N. Almeida

VOTE: 5-0-0

WORK SESSION:

Approval of minutes: December 5, 2022

G. Sagar made a motion to accept the meeting minutes of December 5, 2022, seconded by D. Robillard.

VOTE: 3-0-2 (N. Almeida and G. Gauthier abstained)

G. Gauthier made a motion to adjourn, seconded by R. Read.

Meeting Adjourned at 8:25 pm

VOTE: 5-0-0

MEETING ADJOURNED: 8:25 p.m.

The meeting was reopened due to an error with the date of the next meeting. The next meeting will be held on February 6, 2023.

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**R. Read made a motion to continue to February 6th, seconded by G. Gauthier
VOTE: 5-0-0**

The meeting was adjourned at 8:30 p.m.

Respectfully submitted by:

Lori Trenteseaux

Secretary of the Zoning Board of Appeals

Formally accepted on February 6, 2023

5 in favor, 0 against, 0 abstention

Full Video available to view on TV9 Seekonk Community Access Television Link:

<http://tv9seekonk.com/>