

**SEEKONK ZONING BOARD
PUBLIC HEARING and WORK SESSION
February 6, 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, Zoning Enforcement Officer

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

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.

N. Abelson was told by Mr. Patel that this petition will be withdrawn without prejudice. Mr. Sagar read the email that was sent to the Zoning Clerk on January 25, 2023 in its entirety which stated Mr. Patel's intent to withdraw.

D. Robillard made a motion to allow for the withdrawal of the Zoning Enforcement Officer's decision without prejudice, seconded by R. Read.

VOTE: 5-0-0

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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. **CONTINUED FROM JANUARY 9, 2023**

Mr. Sagar read the petition in its entirety. He then read a portion of the memo from Mr. John Aubin, Town Planner to the Board; a copy of which was given to the applicant.

Ms. Newkirk explained what was discussed at the meeting she had with Mr. Aubin. She understood Mr. Aubin's explanation to be that what they are proposing could be seen as a customary assessor's use of agricultural land; therefore, no change in zoning or Special Permits. Mr. Sagar said that if you

have 5-acres of land you can have agriculture by right; this has been adopted by Seekonk. He was hoping that Mr. Aubin would come up with a way for the petitioner to be able to hold special events at the farm. He went on to say that even if the Board overruled Mr. Abelson's decision, the applicant would still have to go in front of the Board of Selectmen (BOS) to apply for a special events permit. Ms. Newkirk replied that she believed it was an either/or situation from her perspective; if she was unsuccessful in proving her case to the Board, she could obtain a special event's permit from the BOS. Mr. Sagar stated that Mr. Aubin is under the opinion that under Accessory Uses the farm can do a certain number of events. Mr. Abelson said he hasn't seen enough evidence to change his mind.

Ms. Newkirk came up with a list of approximately 25 farms that are working farms without accommodations that are hosting private events. She does not consider the events they are currently hosting any different than weddings or other private events. They are not interested in being a wedding venue, but more of an educational opportunity to highlight what a farm can offer the community. Mr. Sagar suggested she share this research with Mr. Abelson in the hopes that she could convince him that this use is appropriate. The Board would like Ms. Newkirk to continue this petition for a month to give her the time to gather her information and present it to Mr. Abelson. Ms. Newkirk asked for clarification of Accessory Use which Mr. Sagar provided.

G. Gauthier explained that the biggest difference between other events vs a working farm is the lack of septic/plumbing/bathrooms. Ms. Newkirk replied that she is not offering any catering or facilities, only the farm as a backdrop.

G. Sagar read from the memo that Mr. Aubin submitted in regards to Category 27 which states that a public hearing, notice to abutters, and reviews from building code, fire code and zoning compliance are required. It went on to say that the Board of Selectmen has the ability to grant waivers from the strict provisions of the terms of Category 27. Ms. Newkirk received clarification of public events vs private events. Mr. Sagar doesn't believe this is an accessory use; he supported Mr. Abelson's determination.

N. Almeida concurs with Mr. Sagar. He asked Ms. Newkirk to conduct research and present it to the Board to convince them that what she is asking for is an accessory use. The other Board members agreed.

Ms. Newkirk requested a continuance for March 6th.

R. Read made a motion to continue this public hearing to March 6th, 2023 at 7 p.m., seconded by D. Robillard.

VOTE: 5-0-0

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. **CONTINUED FROM JANUARY 9, 2023**

Jennifer Jencks and Michael Bingham sat at the table to present their case to the Board. Mr. Sagar reminded the Board that the applicants were referred to the Board of Health (BOH). Mr. Sagar read the letter from Mr. Abelson to the BOH into the record. He then read the memo from the Health Agent to the ZBA in which the BOH recommended the ZBA enforce a 100' minimum setback from an existing livestock enclosure/pen if a Special Permit is to be issued.

Ms. Jencks was waiting for the ZBA decision to ensure they would be able to keep the goats before she moved them. She then informed the Board that the goats are 80' away from the abutters well at this time; there is a plan in place to move them the extra distance of at least 100'. Mr. Bingham told the Board that he discussed his plan with Mr. Holland; the goats would be 35' off the side lot and 70' towards the back of the property. He went on to say that the closest point the goats would be from the well is 150'.

Mr. Bingham commented that moving the goats to the other side of the property, as was suggested at the previous meeting, would make the goats more vulnerable and also less convenient for himself and Ms. Jencks to care for them. He said that the property is large enough to Form A another lot on the other side which would result in them coming back to the ZBA for another Special Permit.

The Board had no questions at this time.

Robert McNelis, Esquire of 995 Park Ave., Cranston, RI presented the Mr. and Mrs. Holland's case to the Board. He said the Seekonk Water District recommends a distance of 400', not the 100' as was discussed by the BOH. He said the Holland's are requesting a distance of 200' from the goats to their well. He went on to present the Hollands argument to the Board.

Mr. Sagar clarified that the 400' is for a R-1 Zone that feeds the Town, not for a residential well. He continued to say that the applicant is willing to go 150'. He asked the Holland's what the well -head elevation above finished grade is. Atty. McNelis replied that one of the recommendations from the company that performed the water test was to raise the well-head.

James and Heather Holland of 496 Woodward Ave. reported that the well company they hired informed them that there were no cracks in the well; everything is fine. Per the report from the well company, bacteria could be entering through the veins of the well.

Mr. Sagar said that the Mass DEP Well Regulations suggests/recommends that the well-head be a minimum of 12" above finished grade. He then discussed chain of custody and the fact that Mrs. Holland obtained the water sample to be tested and brought it to the lab. Mr. Holland said that they followed the instructions from the lab.

Mr. Sagar read from the minutes of the last meeting where it was indicated by Mrs. Holland that during a heavy rain the water puddles around the well; while Mr. Holland said it gets into the well.

Mrs. Holland replied that when it rains the pen fills with water which saturates the ground and eventually runs into their well. There was a brief discussion on how deep the well is. G. Sagar reiterated that he does not want to see anyone to drink contaminated water.

Mrs. Holland stated that they are asking for 200' from the property line to their well. Mr. Holland said there is no plan in place so they can see where the goats will be moved to. G. Sagar was happy that even though the BOH recommended 100', the applicant is willing to go 150'. Mrs. Holland believed that the goats should be moved to the other side of the property since there are no abutters there. A discussion in regards to the elevation between the properties followed.

G. Sagar said that the stone wall is the property line and suggested a 6" dirt berm to help keep the water off of the Hollands property. Atty. McNelis agreed with this idea to alleviate some of the problem. Mr. Sagar clarified that the 6" berm would be in the area where the goats are. He believes that one of the problems the Hollands have is that their well is not raised up enough so it is getting infiltration from groundwater and other places. Mr. Holland believes that a berm is not going to help; the smell is also an issue.

It was brought up that a plan has not been submitted which would help everyone see exactly where the goats would be moved to in junction with the well. G. Gauthier had concerns with the water test. He said that a lot of the water tests he has seen gives parts per million. He has never seen one that says present or not present. He would be more concerned because the test is unclear. Also important, due to the fact that the cover is not raised and that the septic system is 126' away from the well, the coliform could be coming from elsewhere. He believes that remediation should occur from both sides to come up with an acceptable plan. R. Read agrees with G. Gauthier.

Mrs. Holland said that she has tested the well every year and it has always been clean; this is the first year that it has not.

Mrs. Holland asked about the smell factor. G. Sagar asked how long the goats have been there; Mrs. Holland replied they have been there for 3 years. She said she has lived with the smell; the patio is new and the smell in the summer is horrible.

Mrs. Holland asked if the goats were going to be moved 150' from the well? N. Almeida replied that the 150' would be from the property line (the stone wall). He agrees that a plan is definitely needed.

Mr. Bingham said he would be happy to put a berm against the stone wall. He went on to say that the well is significantly higher than the goat pen. He had tried to negotiate a plan for the goat pen with Mr. Holland. He then explained that the Hollands had a lot of construction in their yard in the past year which could be contributing to the water test results. He said that the goats are 10' from the stone wall, they will be 35' off of the wall and 70' from the back property. He is happy to put loam against the stone wall so there is no runoff. Ms. Jencks believes the smell issue could have been resolved between the neighbors; she will keep the pen cleaner. She will do whatever needs to be done to complete this project.

G. Gauthier looked at the septic plan provided by the BOH which showed the topo at the stone wall has an elevation of 86' and right off the sunroom and the septic tank shows 98; the difference being 11' higher.

G. Sagar asked the Board what they wanted to do: deny the permit; approve with stipulations (provide the ZBA with a plan); or move the goats even further on the other side. He said they are going 1 ½ times more than the BOH suggested; Mr. Bingham and Ms. Jencks are doing everything they can by putting a berm to contain the flow of water. He believes a lot could have been accomplished if the neighbors could have gotten together to resolve the issues amongst themselves.

Tammy Goudreau of 521 Prospect St. asked what happens to the Special Permit if Ms. Jencks decides to sell off some of their property. G. Sagar replied that they would have to come back in front of the ZBA and explained that it could be withdrawn and terminated if the property size/stipulations were to change. She said if the goats are contaminating the water and Ms. Jencks isn't willing to move them, they should get rid of the goats. G. Sagar replied that the issue is from the well, not the stone wall.

Mr. Sagar measured the distance from the pen to the stone wall to be approximately 50'. Mr. Abelson clarified with Mr. Bingham where the goat pen is intended to be moved to on the property. Mr. Bingham informed the Board that the shed that is on the Holland's property is more towards the backyard neighbor than the goat shed. After the pen is moved, it will be 35' in from the stone wall and the pen would start 20 – 30' beyond where the shed is. He stated that if you swing an arc from the well, the closest point of the pen would be 150' would be the minimum from the corner. The pen is 32' x 50' with a shed inside. Mr. Bingham is happy to construct a berm and grade the area. He will make sure the water doesn't flow onto the Holland's property. G. Gauthier asked how many lineal feet of berm. Mr. Bingham replied that it will be 60 – 80'; he will make sure the water stays on their property.

G. Sagar asked the Board if they were ready to proceed with this petition; he then polled the audience. Mr. Holland wants to see the plan to see exactly where the goats are going to be moved.

G. Sagar asked if the Board was happy with stipulating what the plan has to include and to leave it to Mr. Abelson to enforce the stipulations. He reiterated that 150' is the closest the pen can be to the well and 35' off of the property line.

Mr. Bingham said that it seems odd that the goats have been there since May of 2020 and the water has been tested yearly, but has only been contaminated for the past few months. Mr. Sagar believes there are numerous things that could be the cause of the contamination.

R. Read made a motion to uphold the decision of the Zoning Enforcement Officer, seconded D. Robillard.

VOTE: 5-0-0

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

VOTE: 5-0-0

G. Gauthier made a motion to approve the Special Permit subject to a plan being submitted and approved by N. Abelson that includes the pen being 150' arced distance from the abutters existing well-head; shall be at the closest point of the goat fence and 35' minimum from the stone wall property line; and will include a 6' berm that is a minimum of 70 linear feet, seconded by D. Robillard.

VOTE: 5-0-0

4. **2023-05 Christopher Fyfe**, 68 Cleveland Street, Seekonk MA 02771 Owner/Petitioner, requesting a **Special Permit** under Section 4.3 of the Seekonk Zoning By-law per the Zoning Enforcement Officer's Decision of December 13, 2022 to allow the addition of a 16' x 26' attached garage on the property located at 68 Cleveland Street, Plat 30, Lot 198 in an R-1 Zoning District lot containing 12,355 +/- s.f.
5. **2023-06 Christopher Fyfe**, 68 Cleveland Street, Seekonk MA 02771 Owner/Petitioner, requesting a **Variance** under Section 5.1.4 of the Seekonk Zoning By-law per the Zoning Enforcement Officer's Decision of December 13, 2022 to allow relief of the minimum side yard depth from 15 feet to 11.5 feet on the property located at 68 Cleveland Street, Plat 30, Lot 198 in an R-1 Zoning District lot containing 12,355 +/- s.f.

Mr. Sagar read the petitions in their entirety. Mr. Christopher Fyfe presented to the Board that he is proposing to put an addition to the garage. His house was built in the 1950's with a lot size of 10,000 s.f.; the zoning regulations in regards to lot size has since changed to 14,400 s.f. thus requiring these petitions for relief.

Mr. Sagar polled the audience; there was no one in favor of or opposed to the petition. Mr. Sagar asked the Board for their thoughts. D. Robillard proposed bringing this to a vote.

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

VOTE: 5-0-0

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

VOTE: 5-0-0

N. Almeida made a motion to approve the plan as submitted referencing the plan by Mr. Whalen of W. T. Whalen Engineering Co. received Jan. 24, 2023, seconded by G. Gauthier.

VOTE: 5-0-0

6. **2023-07 Alex Cavanagh**, 1125 Taunton Avenue, Seekonk MA 02771 Owner/Petitioner, requesting a **Special Permit** under Section 6.3 Mixed Use of the Seekonk Zoning By-law to allow the use of a small fence company being able to park one truck and one utility trailer; also, to put up a small sign and a 12' x 16' fence display on the property located at 1125 Taunton Avenue, Plat 17, Lot 149 in an R-2 Zoning District lot containing 38,773 +/- s.f.

Mr. Alex Cavanagh presented to the Board wishes to advertising his small fence company on his property; having recently moved to Seekonk. G. Sagar read from the by-law that a display is not permitted by Special Permit. However, he is allowed to erect a sign and also to have a truck; a trailer is not allowed unless it is solely for use on the property. Mr. Cavanagh said that the trailer is a 8' x 16' and asked for clarification on parking a work trailer vs a personal use trailer at the same house.

N. Abelson said it is not the size, but the use that matters. Since he is using it for business use, it would require a Special Permit. Mr. Cavanagh said there are no abutters on the side where he is proposing to put the fence sections and asked the Board for leeway. It was clarified that there would be 5 rows of 2 sections of fence each 1.5' apart showing different styles of fence. He went on to say the sections of fence would not be enclosing an area. The proposed sign would state to inquire if interested so as to deter people from parking on the main street.

G. Sagar asked the Board when does it become a outdoor display and not a protective fence for the property? Mr. Almeida replied that a fence could protect a yard against road debris. G. Sagar said the applicant can't have a display, but can have a fence to protect his property. He planned to put a stand-alone sign closer to the street; a basic sign measuring 3' x 4' or whatever the Board would be comfortable with. Mr. Sagar clarified that the Special Permit would be for a sign. Mr. Abelson clarified that if Mr. Cavanagh were to receive the Special Permit, he would be allowed to have the truck and trailer on the property. It was said that a fence would also be allowed to prohibit rubbish from going onto the property.

D. Robillard made a motion to close the Public Hearing and uphold the decision of the Building Inspector/Zoning Enforcement Officer, seconded by R. Read.

VOTE: 5-0-0

G. Gauthier made a motion to approve the recommendation of N. Abelson to allow the Special Permit under the Mixed Use per the Seekonk Zoning By-laws which would include a 3' x 4' (or 12 s.f.) sign and have the truck and trailer as permitted, seconded by R. Read.

VOTE: 5-0-0

WORK SESSION:

1. **Approval of minutes:** December 5, 2022

R. Read made a motion to accept the meeting minutes of December 5, 2022, seconded by N. Almeida

VOTE: 5-0-0

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2. **Discussion on "Instructions to Applicant for Petitions to the Zoning Board of Appeals"**

Mr. Sagar asked the Clerk (L. Trenteseaux) to update this document; the last approved version was from 2008. K. Rondeau requested that the document be red-lined and sent to the Board.

Mr. Rondeau relayed to the Board that there is a potential 40b Project in the works. He suggested that there be "all-hands-on-deck" including the alternate members to ensure there is always a

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quorum. He stated that one member is asking to be recused because there is a business relationship between the applicant's engineer and himself.

G. Sagar stated that R. Read is not interested in being reappointed when his term ends in June. He suggested to have G. Gauthier become full-time member and R. Read as an alternate.

Mr. Rondeau said that the 40b application has not been submitted yet; he was unsure how long this process would take.

R. Read made a motion to adjourn, seconded by D. Robillard.

VOTE: 5-0-0

MEETING ADJOURNED: 8:40p.m.

Respectfully submitted by:

Lori Trenteseaux

Secretary of the Zoning Board of Appeals

Formally accepted on 3/07/2023

5 in favor, 0 against, 0 abstention

[Full Video available to view on TV9 Seekonk Community Access Television Link:](http://tv9seekonk.com/)

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