



**TOWN OF MERRIMAC**  
**Zoning Board of Appeals**  
2 School Street  
**Merrimac, MA. 01860**  
**(978) 346-0525**  
**FAX (978) 346-0522**

October 22, 2020

Re: Decision on Application of Tara Conway and ~~June Ryerson~~ appealing an August 11, 2020 Order to Cease and Desist Zoning Violation at 44 Bear Hill Road, Merrimac, Massachusetts (the "Cease and Desist Order") issued by the Building Commissioner/Zoning Enforcement Officer (the "Application") relative to the property located at 44 Bear Hill Road Merrimac, Massachusetts 01860 (the "Property").

On October 15, 2020, the Zoning Board held a duly noticed, published and posted public hearing on the Application consistent with the Merrimac Zoning Bylaw, G.L. c. 40A and Gov. Baker's Executive Order "Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20". Specifically, notice of the public hearing was timely posted and mailed to all required parties in interest, and was published in the Newburyport Daily News, a newspaper of general circulation in the Town of Merrimac, on October 1, 2020 & October 8, 2020.

On October 15, 2020, Chairman Edward Mills opened the remote public hearing at 7:10 P.M. The Zoning Board members present for and participating in the public hearing were: Matt Passeri, Josh Jackson, Mitch Kostoulakos and Edward Mills.

The Zoning Board provided the Applicants, members of the public and the Town's Building Commissioner/Zoning Enforcement Officer with the opportunity to be heard on the Application.

Applicant Tara Conway told the Zoning Board that she is the Applicants are trying to start a family farm.

Consistent with the Cease and Desist Order, the Building Commissioner/Zoning Enforcement Officer explained that the Property is slightly larger than half an acre, that the Property owners Applicants have a variety of animals including goats, ducks and chickens on the Property and that those animals are causing noise and odors that are having negative impacts on surrounding properties in violation of the Merrimac Zoning Bylaw.

Specifically, the Zoning Bylaw provides, in relevant part, as follows:

3.1 Prohibited Uses.

In any district, no use will be permitted which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, STRUCTURE or dwelling in the Town....

6.2 Permitted Uses and Structures.

- 6.2.8 AGRICULTURE on LOTS of five acres or less provided that the sale of products is confined to those raised or grown on the premises and so long as such use is not noxious, injurious, or offensive to the neighborhood.

Owners of properties in the neighborhood spoke in support of the Cease and Desist Order and against the farm sharing with the Board that they are being negatively impacted and injured by the noise and odors generated by the animals, and in particular the goats who have a particular odor and make frequent noise. One neighbor reported that she cannot open her windows due to the smell.

In addition, it was reported to the Zoning Board there are safety concerns with the five goats who sometimes get out of their enclosure and leave the Property.

It was also reported to the Zoning Board that a neighboring property owner had already sold their house and another property owner was intending to sell their house due to the negative impacts from the noise and odors generated by the animals on the Property.

The Zoning Board considered the information contained in the Cease and Desist Order and provided to it at the public hearing.

A motion was made and seconded that the Zoning Board uphold the findings of the Building Commissioner/Zoning Enforcement Officer and uphold and affirm the issuance of the Cease and Desist Order.

The motion passed following a roll call vote with 4 votes in favor and 0 votes against.

Mr. Passeri Yes

Mr. Kostoulakos Yes

Mr. Jackson Yes

Mr. Mills Yes

Accordingly, the Applicant's appeal of the Cease and Desist Order failed.

Appeals of this Decision, if any, shall be made pursuant to G.L. c. 40A, §17 and shall be filed within twenty days after the date of filing of this Decision in the office of the Town Clerk.

MERRIMAC ZONING BOARD OF APPEALS

Signed: *Edward Mills*

Edward Mills - Chairman

The Office of the Zoning Board of Appeals  
THE TOWN OF MERRIMAC  
Massachusetts, 01860

**COMMITTEE:** ZBA

**MEETING DATE:** October 15, 2020

**Meeting Location:** Merrimac Town Hall (REMOTE)

86 West Main Street, Merrimac, Ma 01860

**Members present:** Ed Mills, Matthew Passeri, Josh Jackson, Mitch Kostoulakos  
Bob Sinibaldi,

Robin Stein KP Law, **Abutters:** Darlene Vickers, Alyssa Estrada, El Jeffe, Elise and James Pike  
Tara and Ryan Conway

**7:00PM**

Ed Mills, Chairman opened the meeting.

**7:01PM**

Josh Jackson made a motion to approve the payment of the cell phone bill (\$24.95) for the board secretary, Mitch Kostoulakos 2<sup>nd</sup> the motion, Roll call Vote: 4:0

**7:10PM**

The Zoning Board of Appeals will held a public hearing on October 15, 2020 at 7:10PM at the Merrimac Town Hall, School Street Street, Merrimac, Massachusetts, under General Laws, Chapter 40A concerning the premises located at 44 Bear Hill Road, Merrimac Massachusetts. The owner has been given a cease and desist order for violating zoning regulations relating to violation of Article 3.1 and Article 6.2 of the Merrimac Zoning Bylaws. The order states that the property can't be used for agricultural use as it is generating noxious odors and noise. It is possible that this public hearing will be conducted under the "Executive Order suspending certain provisions of the Open Meeting Law GL c 30A Section 20." The public can access the meeting via computer, tablet or smartphone.

The Conway's were able to discuss their property and its current use. Bob Sinibaldi commented on the high number of farm animals on the property and the odor that is present. There was also discussion about safely as some of the animals do leave the property.

The abutters stated their issues with the odor on the property. The abutters asked that the police be notified of the meeting and the order so that if there are any issues with retaliation, they (Police) would be aware of the situation. The board admin will reach out the Police at the end of the meeting.

Tara and Ryan Conway left the meeting at 7:28PM. The meeting was still in progress.

**7:41PM** The motion passed following a roll call vote with 4 votes in favor and 0 votes against.

Mr. Passeri Yes

Mr. Kostoulakos Yes

Mr. Jackson Yes

Mr. Mills Yes

The following is the Decision  
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Specifically, the Zoning Bylaw provides, in relevant part, as follows:

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or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal

use and peaceful enjoyment of any property, STRUCTURE or dwelling in the Town....

1.1.

Permitted Uses and Structures.

1.1.1.

AGRICULTURE on LOTS of five acres or less provided that the sale of products is confined to those raised or grown on the premises and so long as such use is not noxious, injurious, or offensive to the neighborhood.

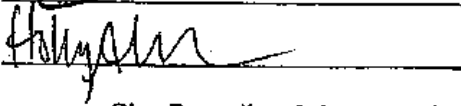
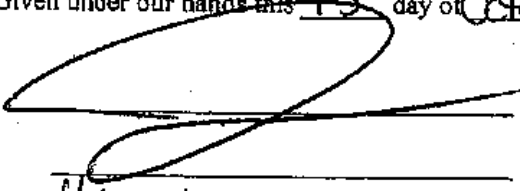
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and odors generated by the animals, and in particular the goats who have a particular odor and make frequent noise. One neighbor reported that she cannot open her windows due to the smell. In addition,

A NO VOTE would make no change in the laws governing voting and how votes are counted.

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this 13 day of October, 2020.



City Council or Selectmen of: \_\_\_\_\_  
(City or Town)

\_\_\_\_\_  
(Indicate method of service of warrant)

\_\_\_\_\_, 2020.  
Constable Signature (Month and Day)