

# The Star-Ledger

## Hindu temple trying new legal remedy

**Bridgewater group to use Religious Land Use Act in latest bid to expand**

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In its effort to grow -- and grow big -- the Sri Venkateswara Hindu Temple in Bridgewater has another legal avenue: the federal Religious Land Use and Institutionalized Persons Act of 2000.

The law, which grants preferential treatment by local zoning boards for houses of worship and other "inherently beneficial" institutions, now lies at the heart of the prosperous temple's standoff with the Bridgewater board of adjustment, which has denied an ambitious expansion of the temple three times in two years.

The temple sued the board twice. Last month, Superior Court Judge Victor Ashrafi, sitting in Somerville, dismissed two counts of the temple's second case, and said the board's denial of the expansion "was not arbitrary, capricious, or unreasonable."

Rejecting the temple's claims of anti-Hindu bias and abuse of municipal law, Ashrafi found the board's findings were "adequately supported by the evidence," according to the judge's written decision.

The three remaining counts in the lawsuit, which argue the temple community's ability to worship is impeded by the board's decision, are yet to be decided.

Temple Chairman Madhusudhan Rao Chava said the temple leaders have discussed an appeal with their attorney, but "are still talking about it."

The temple first proposed a 28,000-square-foot expansion of its cultural center, along with a new apartment complex to house 12 priests and their families and a 601-space parking deck in 2004.

The controversial plan enraged neighbors of the temple's property along Routes 202/206 at Old Farm Road, who complained the cultural center would bring noise and traffic and increase flooding in the area. In January 2005, the board unanimously denied the plan and three months later, the temple sued.

The temple repeatedly altered its expansion plans, dropping the parking deck and reducing the size of the cultural center.

Superior Court Judge Peter A. Buchsbaum kicked the application back to the board twice, the second time closing the case with the understanding that the board "considered the revised proposal and is inclined to give favorable consideration to the proposal."

The board did not, however, offer favorable consideration. In May 2006, the bulk of the application was denied for the third and final time. While the priest housing was permitted, the 22,000-square-foot cultural center was denied.

The temple sued the board again. Religious leaders say the cultural center, a venue for religious dance performances and celebrations, is critical to the Hindu faith.

The existing facilities, Chava said, are woefully inadequate. "Right now what's (there) was not built to be a cultural center," he said. "We are just using it as one."

But many board members questioned the religious necessity of the cultural center -- a consideration that "troubled" Ashrafi.

In his April 25 opinion, Ashrafi wrote the question is a First Amendment issue and government agencies "should avoid becoming entangled in issues of what is truly part of a religious practice."

Once religious experts testified the center's activities were necessary, Ashrafi wrote, "the board should have steered away from questioning the relative importance of the cultural center to the temple."

Legal experts suggest state and federal case law favors the temple in the next stage of its case. John Payne, a law professor and land use expert at Rutgers School of Law -- Newark, said it is "unusual" for a house of worship to be denied an expansion.

"In a well-conceived religious application, they have a lot going for them," Payne said. It's the intention of the Religious Land Use and Institutionalized Persons Act "to tilt in favor of religious institutions. For a court to conclude they're not entitled to expansion would suggest that their proposal was seriously flawed."

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