

Hunterdon County Agriculture Development Board Meeting

March 12, 2020 @ 8:00 pm

314 Route 12 County Complex
Building #1 | Assembly Room
Flemington, New Jersey

Members in Attendance:

Dave Bond-Chair
Bob Hoffman-Vice Chair
Susan Blew
Ted Harwick
David Kyle
Forest Locandro
Gerry Lyness
John Perekhyns
Marc Phillips
Kevin Milz

CADB Staff Present:

Shana Taylor, Esq. County Counsel
Aaron Culton, Esq., Asst County Counsel
Bob Hornby, CADB Administrator

In consideration of COVID-19 public health guidelines, this meeting was held in the advertised location and attended in person by CADB Administrator Bob Hornby, County Counsel Shana Taylor, Esq., and Assistant County Counsel Aaron Culton, Esq. CADB members called in to a prearranged number and the call was audible to the public for the duration of the meeting. Staff was prepared to handle public comment.

Open Public Meeting Act:

County Counsel Shana Taylor opened the meeting at 8:00 p.m. and read the Open Public Meeting Act:

"This meeting is being held in accordance with the provisions of the Open Public Meeting Act. Adequate notice has been provided by prominently posting and maintaining so posted throughout the year on the first floor of the County Administration Building, Main St., Flemington, New Jersey a public place reserved for such announcements, and by mailing on or before January 16, 2020, to The Hunterdon Democrat, Star Ledger, The Trenton Times, The Courier News and The Express Times newspapers, and TAP Into it newspaper and designated by the Hunterdon County Agriculture Development Board to receive such notices, and by filing with the Hunterdon County Clerk a schedule of the times and dates of such meetings."

Pledge of Allegiance:

Roll Call: Absent- Liz Schmid, John Van Nuys, Megan Muehlbauer

Approval of Minutes:

- **February 13, 2020 CADB Minutes** Bob Hoffman made a MOTION to approve, Susan Blew SECONDED. All in favor by Voice Vote; Forest Locandro, Gerry Lyness and John Perekhyns abstained.
- **February 20, 2020 Special CADB Minutes** Ted Harwick made a MOTION to approve, Susan Blew SECONDED. All in favor by Voice Vote; Bob Hoffman, Forest Locandro, Gerry Lyness and John Perekhyns abstained.

Communications and Administrative Business:

- CADB Staff update

- **Jannsen/Peacefield** (Alexandria Twp.) – Landowner has accepted revised offer, Alexandria passed a revised cost resolution, Freeholders will be considering a revised final next week. CADB already passed its recommendation on the farm, no second revised final as nothing has changed except for the price per acre.
- **Herman Farm** – (Delaware Twp.) Withdrew application.
- **Hope Hill** – (Franklin Twp.) Closed March 5th. 69 acres, 2015 selection. It was a 50/50 split between SADC and Federal Funding.
- **Feeley Farm** – Closed February 28th. 45 acres, SADC Direct Easement with no County contribution.
- **Grochowicz** (Hampton, Glen Gardner, Bethlehem, CPIG) – Adam has been keeping landowners up to date on things. Pending Fish & Wildlife and SADC agreement on a consolidated Deed of Easement.
- **2020 Spring Preservation Round:** 2 Applications came in but they were in the PennEast Pipeline corridor. Deadline is April 9th. SADC hosting a Farm Success in Planning Workshop at Recklesstown Distillery in Columbus NJ, on March 31st. May be cancelled due to COVID-19.
- **Monitoring Update:** Complaint on a preserved farm in Clinton Twp. Bob accompanied Mike DePalma from Hunterdon Soil Conservation District (SCD), found over 5,000 square feet of soil disturbance in wooded area. No disturbance to field area. Bob will be working with SCD and the landowner. Kevin Milz stated there where another 30 farms monitored. Landowners are being updated on SADC proposed new standards for Special Events and Impervious Cover and Soil disturbance.

SADC Updates:

Bob updated on behalf of SADC.

- **Special Occasion Events:** SADC released a recommendation wrapping up the Winery Pilot program which will expire at the end of May. A number of bills have come out of House Agriculture Committee, now up to legislature in which direction Special Occasion Events take on both preserved and standard farms.

Chair Comments:

- None at this time

Old Business:

- None at this time.

New Business:

- None at this time.

Right To Farm Matters:

- SSAMP Resolution 2020-05
 - **Melick’s Oldwick Farm (Tewksbury Block 44 Lot 26)** – Shana asked if there were any concerns, objections or modifications. Bob stated there was a modification requested by applicant, Section 8 Line x – “The structure will provide conditioned storage in about a third of the building which will enhance the agricultural output of the farm. The remainder of the building will be insulated but no actively heated or cooled.” Applicant request that they remove the last sentence. County Counsel asked for a MOTION to approve the resolution as amended. Dave Kyle made a MOTION to approve, Susan Blew SECONDED. County Counsel asked for a Roll Call vote.

ROLL CALL MOVED SECONDED AYES NAYS ABSTAIN ABSENT

Dave Bond, Chair			X			
Robert Hoffman Jr., Vice Chair					X	
Susan Blew		X	X			
Marc Phillips			X			
John Perehinys					X	
Gerry Lyness					X	
John Van Nuys						X
Dave Kyle	X		X			
Liz Schmid						X
Ted Harwick			X			
Forest Locandro					X	

5 IN FAVOR, 2 ABSENT, 4 ABSTENSIONS

- SSAMP Hearing -
 - **Beneduce Vineyards (Alexandria Block 21 Lot 41.31)** Beneduce Vineyards requested adjournment until next CADB meeting on April 9th.
 - Counsel called for a motion to open Public Hearing on Beneduce Vineyards – Forest Locandro made a MOTION to Open the Hearing, Dave Kyle SECONDED. County Counsel asked for a Roll Call vote.

ROLL CALL MOVED SECONDED AYES NAYS ABSTAIN ABSENT

Dave Bond, Chair			X			
Robert Hoffman Jr., Vice Chair			X			
Susan Blew			X			
Marc Phillips			X			
John Perehinys			X			
Gerry Lyness			X			
John Van Nuys						X
Dave Kyle		X	X			
Liz Schmid						X
Ted Harwick			X			
Forest Locandro	X		X			

9 IN FAVOR, 2 ABSENT

- Counsel called for a motion to adjourn the Hearing until April 9, 2020, Bob Hoffman made a MOTION to Adjourn and Carry, Susan Blew SECONDED. County Counsel asked for a Roll Call vote.

ROLL CALL

MOVED SECONDED

AYES

NAYS

ABSTAIN

ABSENT

Dave Bond, Chair			X			
Robert Hoffman Jr., Vice Chair	X		X			
Susan Blew		X	X			
Marc Phillips			X			
John Pehinys			X			
Gerry Lyness			X			
John Van Nuys						X
Dave Kyle			X			
Liz Schmid						X
Ted Harwick			X			
Forest Locandro			X			

9 IN FAVOR, 2 ABSENT

Public Comment:

- Ted Harwick reported from Holland Township Environmental Commission, there is a large development going in Glen Gardner next to the Musconetcong River, there were concerns from the public about a large septic system for the development being so close to the river that drainage would go down the river into Holland Twp. and possibly damaging the Township.

Adjournment

- MOTION for adjournment made by Ted Harwick, Dave Kyle SECONDED. All in favor, Meeting Adjourned at 8:20 PM

STATE OF NEW JERSEY

HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD

RESOLUTION 2020-05

Determination for the Site Specific Agricultural Management Practices

Melick's Oldwick Farm, LLC

Block 44, Lot 26, Township of Tewksbury, County of Hunterdon

WHEREAS:

1. On October 25, 2019, a Site Specific Site Management Practice (SSAMP) application was submitted by Michael Lavery, Esq. of Lavery, Selvaggi, Abromitis, and Cohen on behalf of Melick's Oldwick Farm, LLC (hereinafter referred to as "Melick's Oldwick Farm" or the "Applicant"), the owners and operators of a farm at Block 44, Lot 26 in Tewksbury Township, County of Hunterdon, to the Hunterdon County Agriculture Development Board (hereinafter referred to as the "CADB" or "Board"). In connection with setback issues for a proposed new barn, the Applicant sought relief from Tewksbury Township's Land Use Ordinance pertaining to property setbacks which call for a minimum side yard setback of 100 feet. Specifically, the Applicant was seeking for the subject structure to be constructed 40 feet from the easterly side yard.
2. The Board determined that it has jurisdiction to review this application pursuant to the Right to Farm Act, N.J.S.A. 4:1C-9, and implementing rule N.J.A.C. 2:76-2.3.
3. On December 12, 2019, the Board certified Melick's Oldwick Farm as a commercial farm prior to scheduling a public hearing on the SSAMP application. The Applicant testified and furnished proofs the orchard operation met the required standards. The farm consists of 59.263 acres, of which 58.86 are orchard, 3 acres cropland or pasture, and 0.25 acres for the existing farmhouse. The Applicant provided testimony and documentation regarding the farming income and proof of farmland tax assessment. The Board is satisfied the Melick's Oldwick Farm meets the acreage requirement, is currently zoned where agriculture is a principal permitted use, and generates the income required to meet the standards for Commercial Farm Certification.
4. On February 20, 2020, the CADB conducted a public hearing to determine whether Melick's Oldwick Farm is entitled to Site Specific Agricultural Management Practice approval and relief from the Tewksbury Township ordinance setback requirements.
5. The Board is satisfied that notice of the hearing was published in the Hunterdon County Democrat and served via certified mail to all property owners within 200 feet of Melick's Oldwick Farm.
6. At the hearing, Michael Lavery, Esq. of Lavery, Selvaggi, Abromitis, and Cohen presented the application on behalf of Melick's Oldwick Farm. John Melick, an owner and operator of the farm, and Wayne Ingram, P.E., testified in support of the application. No representative for the Township of Tewksbury was present at the hearing, and no objection

to the application was raised by any neighboring landowners or other members of the public, either before, during or after the hearing.

7. The Hunterdon County Farmland Preservation Program Request for Site Specific Agricultural Management Practice Application for Hearing (Form B) and Commercial Farm Certification (Form C) are part of the record presented to the Board. This Application also consisted of the following documents (as supplemented between the Application and the Hearing):
 - a. 2020 Farmland Assessment Form
 - b. Tewksbury Zoning Map showing the Applicants Farm to be in the PM (Piedmont District) zone.
 - c. Hunterdon County Deed Book 1200 Page 1013 showing ownership by Melick's Oldwick Farm, LLC.
 - d. Five (5) pages of drawings entitled "Melick Farm Variance Application" prepared by John Hansen, N.J.P.E. 24GE0419500 consisting of:
 - i. 1/5 Overall Plan
 - ii. 2/5 Detailed Grading Plan- *Marked as Exhibit A-1 during the hearing*
 - iii. 3/5 Soil erosion and Sediment Control Plan
 - iv. 4/5 SESC Notes and Details
 - v. 5/5 Soil Erosion and Sediment Control & Construction Details
 - e. An architectural rendering of the proposed barn prepared by Edward Matthew O'Brien, registered architect NJ CO7692- *Marked as Exhibit A-2 during the hearing.*

8. The Applicant's position, presented to the Board at the hearing, is as follows:
 - a. The subject property is a 59.263-acre parcel.
 - b. The Applicant's orchard operations and activities at the property consist of tree fruit, vegetables, and cider production.
 - c. The Applicant has been conducting operations and activities in multiple generations over 70+ years.
 - d. As identified on the Detailed Grading Plan (Exhibit A-1), the Applicant is proposing to construct a 75 by 120-foot red metal barn on its property, totaling 9,000 square feet.
 - e. The subject structure is further described using an architectural rendering of the proposed barn prepared by Edward Matthew O'Brien (Exhibit A-2).
 - f. Neighboring uses are primarily residential to the east and north and parkland to the south.
 - g. The subject structure is proposed to be constructed 40 feet away from the easterly side yard, where there is minimum setback of 100 feet.
 - h. The Applicant applied to the Tewksbury Land Use Board for a bulk side yard use variance which is currently on hold.
 - i. The Tewksbury Land Use Board asked for additional information that is viewed by the Applicant as onerous and expensive.
 - j. Dry wells will be constructed as required by stormwater standards and improves the current conditions.
 - k. The structure will not be used for retail sales, public engagement, or housing.

- l. Rest room facilities are already provided in an adjacent structure within about 100 feet.
 - m. There is a separate office building on the property, minimal office or record keeping use could occur in the structure.
 - n. The addition of the proposed structure will not result in increased employment, parking requirements, or any changes in hours of operation.
 - o. The structure will improve the visual impact of the site by providing cover for agricultural equipment currently stored outdoors.
 - p. The proposed location of the structure is in an under-utilized gravel area of the property currently utilized for outdoor storage of pallets, orchard crates, and agricultural equipment.
 - q. The proposed location of the structure is in the developed portion of the farm, will not result in the loss of any orchard acreage, and maximizes the agricultural viability of the property.
 - r. The structure will create a visual screen for the neighbors to what is currently outdoor storage.
 - s. The shape of the property causes multiple front, side, and rear yard setback constraints. Agricultural setbacks are in excess of residential setbacks.
 - t. The topography and existing development of the farm precludes permissible locations without removing sections of orchard or considerable cut and fill of the gradient.
 - u. The proposed loading docks are located on the interior side of the structure and buffered from the public.
 - v. The structure will allow for indoor sorting and washing of the apples that is currently done in the parking lot in the fall season.
 - w. No new activities are planned for the structure. Seasonal use will be variable.
 - x. The structure will provide conditioned storage in about a third of the building which will enhance the agricultural output of the farm.
 - y. Electrical service will use existing upgrades from a pad mounted transformer.
 - z. The Board noted possible issues with noise from the proposed refrigeration units on the exterior of the southern side and recommended either moving them to the interior facing (western) side of the structure or buffering them with plantings. The southern side currently faces public ballfields.
9. Melick's Oldwick Farm is a commercial orchard operation performing generally accepted agricultural management practices. The construction of the proposed barn, contrary to the setback requirements of the Tewksbury Township Development Code, is a sound farming practice, particularly as it avoids the unnecessary removal of productive orchard land, and the Applicant should be afforded Right to Farm protection and permitted to construct the barn.

NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD, AFTER HEARING THE TESTIMONY OF THE APPLICANT, AND NO OBJECTION TO THE APPLICATION HAVING BEEN MADE BY THE TOWNSHIP OR ANY OTHER PARTIES, MAKES THE FOLLOWING FINDINGS:

1. The CADB approves Melick's Oldwick Farm's Site Specific Agricultural Management Practice Application, determines that the orchard operation is performing generally accepted agricultural management practices, grants the Applicant's specific request for relief from Tewksbury Township Development Code setback requirements, and approves the Applicant's request to construct a 75 by 120-foot barn.
2. This determination shall be forwarded to the State Agriculture Development Committee within thirty (30) days, pursuant to N.J.A.C. 2:76-2.3(e).
3. Any person aggrieved by this decision, may appeal to the State Agriculture Development Committee, pursuant to N.J.A.C. 2:76-2-3(f).

HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD



David Bond, Chairman

March 12, 2020