

# **RESOLUTION 2021-03**

## **Hunterdon County Agriculture Development Board**

### **Determination for the Site Specific Agricultural Management Practice Application**

### **Robert Hoffman, Jr. (Hoffman Farm)**

### **Block 5, Lots 12.01 & 12.02, Township of Tewksbury, County of Hunterdon**

#### **WHEREAS:**

1. On December 1, 2020, a Site Specific Agricultural Management Practice application was submitted by Robert Hoffman, Jr. (hereinafter referred to as “Hoffman Farm” or the “Applicant”), the owner of Block 5, Lots 12.01 and 12.02, in Tewksbury Township, County of Hunterdon, to the Hunterdon County Agriculture Development Board (hereinafter referred to as the “CADB” or “Board”). The Applicant sought a determination to permit Applicant to undertake the following activity:
  - A. Construct two (2) new 30’x60’ fabric structures for farm storage (one (1) structure on each Lot) for agricultural use with an impervious area totaling 3,600 square feet. In connection with the plan for construction, the Applicant is seeking relief from Tewksbury Township’s stormwater management ordinance to the extent that it is more stringent than the State of New Jersey Stormwater Management (SWM) Rules, N.J.A.C. 7:8. Specifically, the Applicant is seeking waiver of the Township’s requirement of the submission of a Grading and Surface Water Treatment Plan to the Township Engineer for approval prior to the issuance of any Zoning and/or Construction permits for the proposed structures.
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 10, 2020 the Board certified the Hoffman Farm as a commercial farm prior to scheduling a public hearing on the application. Robert Hoffman, Jr. testified and furnished proofs that his operation met the required economic standard. The farm consists of approximately 7 acres, and produces hay, beef cattle and pork in excess of \$2,500 annually. Further, the Lots are within the Hunterdon Agriculture Development Area (ADA) and in the Highlands District, an area where agriculture is a permitted use. Documentation to demonstrate the farming income and proof of farmland tax assessment were produced.
4. On February 23, 2021, CADB staff conducted a site visit of the Hoffman Farm.
5. On March 11, 2021, the CADB conducted a public hearing to determine whether the Hoffman Farm is entitled to Site Specific Agricultural Management Practice approval and relief from the Tewksbury Township stormwater management ordinance in connection with the construction of two 30’ x 60’ agricultural structures.

6. The Board is satisfied that written notice of the hearing was published in the Hunterdon County Democrat and served via certified mail to all property owners within 200 feet of the Hoffman Farm, as well as the Township of Tewksbury and the State Agriculture Development Committee.

7. At the hearing, Robert Hoffman, Jr. appeared on behalf of Hoffman Farm. No representative for the Township of Tewksbury was present at the hearing, although written objection to the Application was submitted by letter dated March 5, 2021 from counsel for the Township, Justin A. Marchetta, Esq., and made a part of the record before the Board. No objection to the Application was raised by any neighboring landowners or other members of the public either before, during or after the hearing.

8. The Hunterdon County Agriculture Development Board Request for Site Specific Agricultural Management Practice Application for Hearing submitted by Hoffman Farm is part of the record presented to the Board. At the March 11, 2021 hearing, the following documents and materials were introduced and marked as Exhibits during the course of the hearing:

- A-1 Completed SSAMP Application Form
- A-2 Notice of Public Hearing
- A-3 January 11, 2021 Email from John E. Showler, P.E., NJ State Erosion Control Engineer
- A-4 Excerpts from the NJDEP Stormwater Management Regulations (N.J.A.C. 7:8)
- A-5 Tewksbury Ordinance #11-2012 to Amend the Code of the Township of Tewksbury by Revising Chapter 13.12, Entitled "Grading and Surface Water Management"
- A-6 Survey Map with sketched locations of the proposed 30' x 60' fabric structures on Block 5, Lots 12.01 and 12.02
- A-7 Satellite Map with locations of the proposed 30' x 60' fabric structures on Block 5, Lots 12.01 and 12.02
- T-1 March 5, 2021 Letter from Justin A. Marchetta, Esq., Tewksbury Township attorney, setting forth the Township's objection to the Application

9. The Board carefully considered the testimony of the Applicant and the written opposition of the Township in making its determination.

10. The Applicant's position, which was presented to the Board at the hearing by Robert Hoffman, Jr. is as follows:

- The Applicant proposes to construct two (2) fabric structures on his property for the storage of agricultural crops and machinery.
- The proposed agricultural structure dimensions for each structure is 30' wide x 60' long, with a total impervious area of 3,600 Square Feet. They will be anchored to the ground.
- With the exception of minimal site preparation, there is no plan for any grading or soil disturbance in connection with the proposed structures.

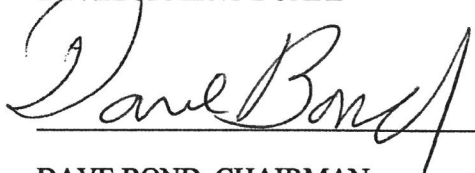
- Prior to seeking SSAMP approval, the Applicant made an application to Tewksbury Township on November 11, 2020, to obtain a municipal permit for one 30' x 60' (1,800 Square Foot) structure for farm storage on Block 5, Lot 12.01. That application was denied by the Office of the Zoning Enforcement Officer of Tewksbury Township. The denial was due to the size of the proposed structure, which exceeded 1,000 Square Feet. In accordance with the Tewksbury Township Ordinance (Section 13.12), a structure in excess of 1,000 Square Feet requires the submission of a Grading and Surface Water Management Plan ("GSWMP") to confirm compliance with specified site disturbance limits, as well as Township mandated stormwater control rules. The March 5, 2021 letter from Tewksbury Township counsel, Justin A. Marchetta, Esq. (Exhibit T-1), outlines the Township's position concerning the applicability of the Township stormwater ordinance on farm properties and opposition to the Applicant's relief from the GSWMP.
- The Applicant maintains that the Township's requirement of submission of a GSWMP for structures larger than 1,000 Square Feet exceeds the State Stormwater Management Rules. As identified in the email correspondence from John E. Showler, P.E., NJ State Erosion Control Engineer (Exhibit A-3), NJDEP Rules designated the local soil conservation district as the review and approval agency for State Stormwater Management Rule implementation. However, in order to trigger those rules, the proposed activity must meet the definition of "major development."
- The New Jersey Stormwater Management (SWM) Rules, N.J.A.C. 7:8, define "Major Development" as an individual "development" as well as multiple developments that individually or collectively result in (1) the disturbance of one or more acres of land or (2) the creation of One Quarter (1/4) acre or more of impervious surface area.
- One acre of land comprises approximately 43,000 Square Feet. One Quarter (1/4) acres of impervious surface area would equal approximately 10,750 Square Feet.
- The Hoffman Farm project consists of two 30' x 60' structures which total 3,600 square feet. The proposed structures do not trigger the New Jersey State Stormwater Management Rules, as their size does not meet the definition of a "Major Development" which would require imposition of the Rules and oversight by the soil conservation district.
- The New Jersey State Stormwater Management Rules do not apply to the Hoffman Farm project based on the size of the proposed structures. The Township's requirement of the submission of a GSWMP by the Hoffman Farm because the size of the structure(s) exceed 1,000 Square Feet imposes a more restrictive requirement on the Hoffman Farm permit application than is required under the New Jersey State Stormwater Management Rules.
- The Hoffman Farm is a commercial farming operation performing generally accepted agricultural management practices. The proposed plan for the construction of two 30' x 60' fabric structures for farmland crop and machinery storage is a sound farming practice which does not trigger the New Jersey State Stormwater Management Rules, and the

Applicant should be afforded Right to Farm protection and relief from Tewksbury Township's imposition of stormwater management ordinance.

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 the Hoffman Farm's Site Specific Agricultural Management Practice Application and finds that the New Jersey State Stormwater Management Rules, N.J.A.C. 7:8 do not apply to the Applicant's proposed construction of two proposed 30' x 60' fabric structures, totaling 3,600 Square Feet, for the storage of agricultural crops and machinery and crops as set forth in his SSAMP Application. The CADB grants the Applicant's specific request for relief from Tewksbury Township's ordinance which requires the submission of a Grading and Surface Water Treatment Plan to the Township Engineer for approval prior to the issuance of any zoning and/or construction permits for the proposed structures because they exceed 1,000 Square Feet, as such requirement exceeds, and is more restrictive than, the New Jersey State Stormwater Management Rules.
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



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DAVE BOND, CHAIRMAN

Dated: April 8, 2021