

PASSAIC COUNTY AGRICULTURE DEVELOPMENT BOARD
401 Grand Street, Room 417
Paterson, NJ 07505

RESOLUTION NO. 21-1

On motion by Mr. Hazelman and seconded by Dr. Feeney, the following Resolution was adopted by the Passaic County Agriculture Development Board at a meeting held November 8, 2021.

RESOLUTION OF THE PASSAIC COUNTY AGRICULTURE DEVELOPMENT BOARD APPROVING THE APPLICANT'S REQUEST FOR A SITE SPECIFIC DETERMINATION IN THE MATTER OF HARPER TURNER FARMS RIGHT-TO-FARM APPLICATION FOR PERMIT TO IMPORT FILL DIRT TO CREATE LOGGING ROADS AND LEVEL AREAS FOR GARDENING AND TO STOCKPILE TOPSOIL FOR TREE PLANTINGS AND GARDENS .

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1-C-1, et seq. and the State Agriculture Development Committee regulations, N.J.A.C. 2:76-2.3, a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereafter "Board") to determine if his or her operation constitutes a generally accepted agriculture management practice; and

WHEREAS, David Sisco-Izak (hereafter "Applicant") owner and operator of Harper Turner Farms, of _____, Hewitt, West Milford, New Jersey 07421, Block 2702, Lot 1.01, in West Milford Township (hereafter "Property"), made a request in writing to the Board for a site-specific agriculture management practice (hereafter "SSAMP") to permit importing fill dirt to create logging roads and level areas for gardening and to stockpile topsoil for tree plantings and gardens; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(c), the applicant advised in writing the State Agriculture Development Committee and the Township of West Milford of their request; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b), the applicant provided proof that their agricultural operation is a commercial farm as defined at N.J.S.A. 4:1-C-3 and N.J.A.C. 2:76-2.1; and

WHEREAS, on April 20, 2021, applicant provided proof to the Board in the form of a commercial farm certification, including supporting documentation that the property is 5 acres or more and produces agricultural and/or horticultural products worth \$2,500 or more annually, and is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964, that the farm is located in the R-1 Zone, an area in which as of December 31, 1998 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, and that the Property is a "commercial farm" as defined by N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1; and

WHEREAS, a public hearing regarding Applicant's request was noticed to take place at the October 18, 2021, and November 8, 2021, Board meetings, and the Applicant was instructed to provide notice to all property owners within 200 feet as suggested by the Court in Curzi v. Raub, 415 N.J.Super. 1 (App. Div. 2010); and

WHEREAS, the appropriate proof of service and publication of the Notice of Hearing was provided and the Board was found to have jurisdiction to proceed with the hearings on October 18, 2021, and November 8, 2021; and

WHEREAS, in accordance with the procedure set forth in N.J.A.C. 2:76-2.10, public hearings were held on October 18, 2021, and November 8, 2021, when the Applicant presented his case and provided sworn testimony under oath. No representative from the Township of West Milford appeared; and there were two neighboring residents, Robert Stark and Michael Hlubik, who appeared, but no other interested parties appeared to express their concerns; and

WHEREAS, the Applicant provided sworn testimony under oath that the following agricultural activities were conducted on the Property: that primarily it is a woodland management program where Applicant harvests a certain amount of timber, lately it had been dead wood on the ground that Applicant is cleaning up, turning that into firewood and woodchips for sale; that the Applicant has gardens set up to make some produce, and chickens and ducks that produce eggs; and

WHEREAS, the Applicant further testified that on January 3, 2018, he met with Jeremy Caggiano from the NJ DEP Parks and Forest as part of an inspection of the property and tree farm to be farm assessed in New Jersey. During the inspection, the Applicant showed Mr. Caggiano where they were importing soil and how they were using it to build access/logging roads for purposes of the farm. Mr. Caggiano indicated that they were permitted to do this, and simply noted that they must be sure to put up erosion control, which they have done. Since that meeting, the Applicant has continued to build access roads while performing the primary farm work, which is tree salvage work on the forest and which is what the Applicant is required to do under the tree management plan; and

WHEREAS, the Applicant further testified that he received a Notice of Violation No. ZV-03-19-0040 issued March 14, 2019, from the Township of West Milford, for failing to have a permit for soil movement; that if under 50 yards of material is moved, one does not need a permit, and that if one moves 50 to 500 yards of soil, then one needs a minor soil permit; that if one moves over 500 yards of soil, one needs a major soil permit. The Applicant testified that he applied for a minor soil moving permit, but the Township wanted a major soil moving permit, and that is why the Applicant filed the within application before the Board; and

WHEREAS, the Applicant further testified that the activities for which he applied for are for producing agricultural or horticultural crops, trees, forest products; replenishing soil nutrients; improving soil tilth; installing and maintaining vegetative and terrain alterations and other physical facilities for water and soil conservation; conducting on-site disposal of organic agricultural wastes; importing fill dirt to create logging roads for access to timber to harvest it for wood chips and firewood; to create level areas for gardening, for farming and for tree plantings; and to stockpile topsoil for tree plantings and gardens;

NOW THEREFORE, LET IT BE RESOLVED that based upon the evidence submitted and testimony presented by the Applicant, the Board finds as follows:

1. That the Board determines that Applicant operates a commercial farm in accordance with the requirements of N.J.S.A. 4:1C-9; and
2. That the Applicant is engaged in a generally accepted agricultural operation or practice pursuant to N.J.A.C. 2:76-2B.2; and

3. That the Board regains jurisdiction of this matter; and

4. That the Applicant has a legitimate farm based reason not to comply with the Township of West Milford's Notice of Violation No. ZV-03-19-0040, Notice of Land Development Ordinance & General Code Violations, in relation to importing fill dirt to create logging roads and level areas for gardening and stockpiling topsoil for tree plantings and gardens and any site plan requirements, since the proposed uses are a reasonable agricultural activity; and

5. That the noticed neighbors, the Township of West Milford, and the surrounding community will not be adversely affected by the proposal to import fill dirt to create logging roads and level areas for gardening and stockpiling topsoil for tree plantings and gardens; and

6. That the Applicant will not implicate any health, safety, and welfare issues; and

7. That the Township of West Milford shall permit the Applicant to proceed with the above-stated proposals, and issue all necessary permits accordingly;

8. That the matter is expressly conditioned on the fact that Applicant has the right to finish his project with clean soil to be brought in not to exceed ONE HUNDRED (100) YARDS; and

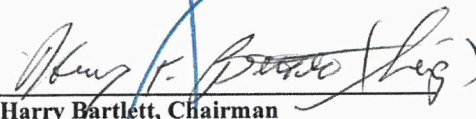
BE IT FURTHER RESOLVED that the Board shall forward a copy of its written recommendation of the SSAMP Resolution to Harper Turner Farms (David Sisco-Izak, Applicant), the Township of West Milford, the State Agriculture Development Committee, and any other individuals or organizations deemed appropriate by the Board within 30 days of the memorialization of this recommendation.

Roll Call: Harry "Skip" Bartlett, Chairman – yes
Dr. Timothy Feeney, Vice-Chairman – yes
Rocky Hazelman – yes
Michael Eelman – yes
Henry Anderson – yes
Jennifer Papa - yes

Approved as to form and legality:



Matthew P. Jordan, County Counsel



Harry Bartlett, Chairman
Passaic County Agriculture Development Board

Dated: January 18, 2022