

WARREN COUNTY AGRICULTURAL DEVELOPMENT BOARD
THE DEPARTMENT OF LAND PRESERVATION
500 MT PISGAH AVE, P.O. BOX 179
OXFORD, NJ 07863

RESOLUTION NO. 17-06

On motion by Mr. Menegus, and seconded by Mr. Bodine, the following resolution was adopted by the Warren County Agricultural Development Board at a meeting held June 15, 2017.

**RESOLUTION OF THE WARREN COUNTY AGRICULTURE
DEVELOPMENT BOARD APPROVING THE APPLICANT'S REQUEST FOR A SITE
SPECIFIC DETERMINATION IN THE MATTER OF THE DONALDSON FAMILY
FARM, LP RIGHT-TO-FARM APPLICATION FOR INSTALLATION OF
A 1,000 GALLON UNDERGROUND PROPANE TANK**

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-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 (hereinafter "Board") to determine if his or her operation constitutes a generally accepted agricultural management practice; and

WHEREAS, on May 3, 2017, Lewis Donaldson owner of the Donaldson Family Farm, LP, (hereafter "Applicant"), Block 1105.10 Lots 1, 2.01, 6, 7 & 8 in Mansfield Township, (hereafter "Property") made a request in writing to the Board for a site-specific agriculture management practice (hereinafter, "SSAMP") for the improvement of an existing gravel driveway and added gravel parking area; and

WHEREAS, on May 4, 2017, 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 Mansfield of their request; and

WHEREAS, on April 20, 2017, 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, 2017, 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 the Board memorialized same by resolution on May 18, 2017; and

WHEREAS, a public hearing regarding Applicant's request was noticed to take place at the May 18, 2017 Board meeting 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 (N.J. Super. App. Div. 2010); and

WHEREAS, 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 hearing on May 18, 2017; and

WHEREAS, in accordance with the procedure set forth in N.J.A.C. 2:76-2.10, a public hearing was held on May 18, 2017, when David Donaldson, Gary Donaldson, Christopher Mohler, Engineer from Chesmont Engineering Company, Inc., who presented their case and provided sworn testimony under oath. No representation from Township of Mansfield appeared. No neighboring residents of Applicant, nor any other interested party appeared to express their concerns; and

WHEREAS, Mr. David Donaldson provided sworn testimony under oath that the Township of Mansfield denied his permit application for installation of an underground 1,000 gallon propane tank because a portion of the farm where the tank would be installed is located in the municipality's Airport Safety Zone. He stated that he was therefore seeking a determination by the CADB to allow installation of the tank for agricultural purposes. Responding to questioning by the Board, Mr. Donaldson estimated that 80% of the propane would be used for farm equipment,

including forklifts used at the greenhouse, and for their Friday Night cookout events. In addition, he stated that they would like to begin using propane for other equipment such as lawnmowers in the future.

WHEREAS, Mr. Christopher Mohler from Chesmont Engineering, Inc. provided sworn testimony that the propane tank requirement for underground installation is a depth of 4-5 feet with a minimum of 12" cover. The tank area, he explained, would also be fenced in with a locked gate. He further stated that the tank diameter is 41", that there is protection for corrosion, and that putting the tank underground eliminates issues for fire protection as in no cooling water needed at the tank itself. Therefore, he explained, it is much safer to put the tank underground than above ground.

Mr. Mohler also stated that New Jersey Department of Community Affairs (DCA) will do a preliminary inspection based on the Engineer drawing, submitted as Exhibit A-1. Referring to this exhibit, Mr. Mohler explained that the proposed installation location does not adjoin any structure, estimated the airstrip to be approximately 1,500 feet away, and estimate the high tension wires to be approximately 2,000 feet away.

Following the preliminary inspection, Mr. Mohler stated that DCA would then provide an approval to install. Thereafter, he explained, DCA will do all the inspections and approvals on the installation of the tank and provide yearly inspections and make sure there is a fire extinguisher on site. However, Mr. Mohler clarified for the Board that DCA's jurisdiction is for installation, provided local approval has been granted. He further explained that following installation, Yankee Propane will maintain ownership of the tank, Donaldson Family Farm would be the operator of the propane tank, and anyone who is filling cylinders would need to be properly trained.

WHEREAS, Mr. Gary Donaldson provided sworn testimony under oath that he likened the use of a propane tank for greenhouse equipment to the use of a diesel tank for farm tractors.

WHEREAS, the following exhibits were marked into evidence:

Exhibit A-1: Proposed drawing of the property and installation location by Chesmont Engineering

WHEREAS, referring to Mansfield Township municipal ordinance §363-13, the New Jersey Air Safety and Zoning Act, N.J.S.A. 6:1-80 et seq, and regulations promulgated thereunder, N.J.A.C. 16:62-1.1 et seq, Mr. Keiling recommended that the Board's approval of this installation should be conditioned upon the Applicant obtaining either a waiver or approval from the New Jersey Department of Transportation.

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

- 1) That the Board previously determined 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 retains jurisdiction of this matter; and
- 4) That the Applicant's proposed installation and use of a 1,000 gallon underground propane tank for predominantly farm equipment and farm events, as well as for some ancillary retail sales, is a reasonable agricultural activity; and
- 5) That the noticed neighbors, the Township and Mansfield, and the surrounding community would not be adversely affected by the proposed tank installation; and
- 6) That the Applicant shall obtain from the New Jersey Department of Transportation either a waiver or approval of the propane tank installation and shall comply with any other local or county construction or regulations; and
- 7) That the Township of Mansfield shall permit the Applicant to proceed with the proposed tank installation, provided the Applicant first obtains a waiver or approval from the New Jersey Department of Transportation for the proposed tank installation; and

- 8) That the Applicant shall complete the proposed installation in accordance with New Jersey Department of Community Affairs requirements and in accordance with the testimony and exhibits given to the Board.

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written recommendation of the SSAMP Resolution to Lewis Donaldson (applicant for the Donald Family Farm, LP), the Township of Mansfield, the State Agriculture Development Committee (SADC), and any other individuals or organizations deemed appropriate by the Board within 30 days of the memorialization of this recommendation.

Roll Call: Mr. Schnetzer – absent; Mr. Bodine – yes; Mr. Baduini – yes; Mr. Burke – yes;
Mr. Dempski – abstain; Ms. Willever – abstain; Mr. Menegus – yes

CERTIFICATION

I, Teresa Kaminski, Secretary to the Warren County Agriculture Development Board, do hereby certify the foregoing to be a true and accurate copy of a Resolution adopted by the Warren County Agriculture Development Board at a meeting of said Board held on June 15, 2017 to memorialize the Board's action on May 18, 2017 in which a motion was made by Mr. Baduini and was seconded by Mr. Bodine and Roll Call at said meeting was as follows: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mr. Burke – yes; Mr. Dempski – absent; Ms. Willever – yes; Mr. Menegus – yes.


Teresa Kaminski