

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

RESOLUTION NO. 12-07

On motion by Mr. Gourniak, and seconded by Mr. Race, the following resolution was adopted by the Warren County Agricultural Development Board at a meeting held February 16, 2012.

**RESOLUTION OF THE WARREN COUNTY AGRICULTURE
DEVELOPMENT BOARD APPROVING THE APPLICANT'S REQUEST
FOR A SITE SPECIFIC DETERMINATION IN THE MATTER OF
MITCHELL JONES RIGHT-TO-FARM APPLICATION**

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 December 7, 2011, Mitchell Jones owner/operator of Mountain Top Farm (hereafter "Applicant"), Block 13 Lot 1.03 in Harmony Township, and Block 11 Lot 9 in White Township (hereafter "Property") made a request in writing to the Board for the development of a site-specific agriculture management practice (hereinafter, "SSAMP") for the allowance of raising of pigs; and

WHEREAS, on December 20, 2011, pursuant to N.J.A.C. 2:76-2.3(c), the Board advised in writing the State Agriculture Development Committee, Harmony Township, White Township, and Mr. & Mrs. John H. Chisamore of Harmony Township, of the Applicant's request; and

WHEREAS, on December 15, 2011 pursuant to N.J.A.C. 2:76-2.3(b), the Board requested that Applicant provide proof that his 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 December 15, 2011, Applicant provided proof to the Board of a commercial farm certification, including supporting documentation attached hereto, 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 January 19, 2012; and

WHEREAS, a public hearing regarding Applicant's request was noticed to take place at the February 16, 2012 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, in accordance with the procedure set forth in N.J.A.C. 2:76-2.10, a public hearing was held on February 16, 2012, when the Applicant presented his case, Township of Harmony appeared to present its case through its Zoning Officer, John Fritz; and neighboring residents Mr. John Chisamore appeared to express their concerns; and

WHEREAS, on the February 16, 2012, based on information and testimony presented at the public hearing, the Board made the following findings of fact:

1. Harmony Township received a complaint from Applicant's neighbors, Mr. and Mrs. Chisamore, regarding the practice of raising pigs and spreading manure on the Property;
2. The Chisamore's complaint was the impetus for the Township's inspection and subsequent letter dated November 1, 2011 to Applicant ordering him to either cease raising pigs on the Property or to apply for a determination under the Right-To-Farm Act from the Board;
3. Applicant thereafter applied to the Board for a determination that raising pigs and spreading manure on the Property is a generally accepted agricultural management practice;
4. Harmony Township did not survey the property in order to confirm Applicant's pigs were in fact penned in Harmony Township;
5. It is not the Board's responsibility to survey the property to determine the municipal boundary line or property boundary lines;
6. Even if the pigs were penned in Harmony Township, Applicant's 6.586 acres is large enough to spread manure of less than fifteen (15) pigs on the Property;
7. Mr. Chisamore stated that Applicant left manure on Demeter Road and spread large manure clumps close to and over onto his property;
8. Applicant disputed Mr. Chisamore's property boundary line stating that Mr. Chisamore began mowing into his field;
9. Applicant's Property has been farmed for generations, adjoins other farms, and has existed within the farming community for years;
10. Even if the manure was spread onto Mr. Chisamore's property or left on the road, this was an isolated incident;

NOW THEREFORE, BE IT RESOLVED, that the Board hereby determines that the raising of pigs on Applicant's Property constitutes a generally accepted site specific agriculture management practice in that:

1. Applicant is permitted to raise various pigs on the Property, not to exceed a maximum number of 10 animal units based on a nutrient management;
2. Applicant must keep the pigs penned as mapped;
3. Applicant is permitted to spread manure up to the property line, but not onto the neighbor's property;
4. Applicant shall remove manure from the road; and
5. Applicant shall not slaughter pigs onsite if they are to be sold to the general public;
6. Applicant must conform to all relevant federal and State statutes, rules, and regulations; and
7. This Site Specific Agricultural Management Practice Determination shall override Harmony Township's conflicting ordinances.

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written recommendation of the site-specific AMP to the Applicant, the SADC, Harmony and White Townships, and any other individuals or organizations deemed appropriate by the Board within 30 days of the recommendation.

Roll Call: Mr. Schnetzer – yes; Mr. Race – yes; Mr. Baduini – absent; Mr. Toretta – absent;
Mr. Gibbs – absent; Mr. Gourniak – yes; Ms. Willever – 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 Committee held on February 16, 2012 to memorialize the Warren County Agriculture Development Board's action on March 15, 2012.


Teresa Kaminski