

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

RESOLUTION NO. 20-10

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 November 19, 2020.

**RESOLUTION OF THE WARREN COUNTY AGRICULTURE
DEVELOPMENT BOARD APPROVING THE APPLICANT'S REQUEST
FOR A SITE SPECIFIC DETERMINATION IN THE MATTER OF
KELRICK FARMS, LLC, BLOCK 4, LOT 3 IN HARMONY TOWNSHIP,
WARREN COUNTY, NEW JERSEY, RIGHT-TO-FARM APPLICATION
TO PERMIT STORAGE CONTAINERS FOR AGRICULTURE PURPOSE
ON FARM**

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), a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereinafter "Board") to determine whether its operation constitutes a generally accepted agricultural management practice; and

WHEREAS, Patrick and Kelley Smith (the "Applicants") applied for a Site Specific Agricultural Management Practice ("SSAMP") determination for their property located at 1 in the Township of Harmony, New Jersey, and known as Block 4 Lot 3 on the Township Tax Map ("Property")

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b), the Board advised the State Agriculture Development Committee and Harmony Township of the request for a SSAMP determination; and

WHEREAS, pursuant to N.J.S.A. 4:1C-9 and N.J.A.C. 2:76-2.3, upon receipt of a request for a SSAMP, the Board must first determine whether the Applicant's operation satisfies at least one of the following two conditions:

- (1) It is located in an area of which, as of December 31, 1997, or thereafter, agriculture is a permitted use under Municipal zoning ordinances and is consistent with the Municipal master plan; or
- (2) The commercial farm was in operation as of the effective date of the amended Right to Farm Act, July 2, 1998; and

WHEREAS, based upon the application documentation submitted by the Applicant, including a copy of the Harmony Township Zoning Map and pertinent sections of the Harmony Township Zoning Ordinance, the Board finds that the Property is located in the "I-1 Farms & R-

HB” Zones which, as of December 31, 1997, or thereafter, agriculture is a permitted use pursuant to Harmony Township Municipal Zoning Ordinance §165-17(A) & §165-14 (A) and is consistent with the Harmony Township Municipal master plan; and

WHEREAS, pursuant to N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1 defining “commercial farm”, the Board also must determine whether the Applicant’s operation satisfies at least one of the following two requirements:

- (1) a farm management unit of no less than 5 acres, producing agricultural or horticultural products worth \$2,500.00 or more annually and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1994; or
- (2) A farm management unit of less than 5 acres, producing agricultural or horticultural products for \$50,000.00 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1994; and

WHEREAS, based upon the application documentation submitted by the Applicant, including a copy of Applicant’s 2020 Application for Farmland Assessment, the Board finds that Applicant’s farm management unit includes 34 acres owned by Applicant and therefore is not less than 5 acres;

WHEREAS, based upon the application documentation submitted by the Applicant, including a copy of the Applicant’s 2019 Federal Income Tax Returns, the Board finds that the Applicant’s farm management unit produces agricultural and horticultural products in excess of \$2,500.00 and satisfies the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1994; and

WHEREAS, pursuant to N.J.S.A. 4:1C-9, to be eligible for protection under the Right to Farm Act, the agricultural operation must also: (1) conform to agricultural management practices adopted by the Committee; (2) comply with all relevant Federal or State statutes and regulations; and (3) not pose a direct threat to public health and safety; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(i), the Board scheduled a public hearing regarding Applicant’s request for a SSAMP determination which was noticed to take place at the September 17, 2020 Board meeting;

WHEREAS, the Applicant provided the Board with proof of written notice having been made in accordance with the requirements of N.J.S.A. 2:76-2.8(c), including, but not limited to, proof of written notice to all property owners within 200 feet of Applicant’s Property, Harmony Clerk and Land Use Board, the State Agriculture Development Committee, and proof of publication of the Notice of Hearing in the Easton’s The Express Times on September 2, 2020; and

WHEREAS, the Applicants were represented by Mr. Steven Gruenberg, Esq.; and

WHEREAS, no members of the public present other than the Applicant, Mr. Patrick Smith, provided sworn testimony under oath, and;

WHEREAS, the Applicant, Mr. Patrick Smith, gave testimony that there are three storage containers on the property and they contain round hay bales and shavings for horse stalls; and

WHEREAS, the Applicant, Mr. Patrick Smith, provided sketch of location of the storage containers on his property with his SSAMP application and testified that they were located 50 yards from property line, that up to three storage containers have been on the property for approximately 15-20 years, are mobile and are located on a hard surface area and do not increase the impervious surface coverage of the farm; and

WHEREAS, the following exhibit were marked into evidence during the hearing:

Exhibit A1: Applicant color photos 1-6 of storage containers on property with the agricultural stored products.

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

- 1) That the Board previously determined that Applicant operates a commercial farm by Resolution #20-04 dated June 18, 2020 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 has a legitimate farm-based reason not to comply with Harmony Township's Land Use Board Resolution of November 6, 2018 Zoning Ordinance Amendment #18-8 under Chapter 140. Storage or Shipping Containers; and
- 5) That the Board has approved up to five storage containers on this property for agricultural and horticultural use; and
- 6) That the Applicant must comply with all health, safety and welfare issues; and
- 7) That the Township of Harmony shall permit the Applicant to continue its use of storage containers (box trailers) as the same are used in agricultural operations of the farm and such use is protected by the Board's Site specific Determination of approval.

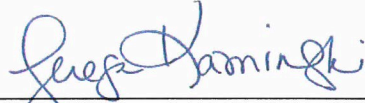
BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written decision of the SSAMP Resolution to the Kelrick Farms, LLC (Patrick and Kelley Smith, applicants), the Township of Harmony, the State Agriculture Development Committee (SADC),

and any other individuals or organizations deemed appropriate by the Board within 30 days of the memorialization of this recommendation.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – abstained;
Mr. Burke – yes; Mr. Nyland – yes; Mrs. Watters – yes; 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 November 19, 2020 to memorialize the Board’s action on September 17, 2020 in which a motion was made by Mr. Menegus and seconded by Mr. Bodine and Roll Call at said meeting was as follows: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Burke – yes; Mr. Menegus – yes. Mr. Baduini and Mrs. Watters absent.



Teresa Kaminski

