

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

RESOLUTION NO. 20-17

On motion by Mr. Burke, and seconded by Mrs. Watters, the following resolution was adopted by the Warren County Agricultural Development Board at a meeting held December 17, 2020.

**RESOLUTION OF THE WARREN COUNTY AGRICULTURE
DEVELOPMENT BOARD APPROVING THE APPLICANT'S REQUEST
FOR A SITE SPECIFIC DETERMINATION IN THE MATTER OF
MOHICAN FARMS, LLC, BLOCK 902, LOT 1 AND BLOCK 803, LOT 5
IN BLAIRSTOWN TOWNSHIP, WARREN COUNTY, NEW JERSEY,
RIGHT-TO-FARM APPLICATION TO ALLOW THE CONSTRUCTION
OF A 120' x 60' x 18' BUILDING FOR A FARM STAND AND 96' x 42'2" x
17' 2 ¼" STEEL ARCH HOOP SHED TO HOUSE PIGS**

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, Ryan Herold, Managing Member of Mohican Farms, LLC (the "Applicant") applied for a Site Specific Agricultural Management Practice ("SSAMP") determination for his property located at _____ Township of Blairstown, New Jersey, and known as Block 902, Lot 1 and Block 803, Lot 5 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 Blairstown 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 Blairstown Township Zoning Map and pertinent sections of the Blairstown Township Zoning Ordinance, the Board finds that the Property is located in the “R-5 Zone” which, as of December 31, 1997, or thereafter, agriculture is a permitted use pursuant to Blairstown Township Municipal Zoning Ordinance § 19-405 and is consistent with the Blairstown 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 Applicant’s Application for Farmland Assessment, the Board finds that Applicant’s farm management unit includes 120+ 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 Schedule F “Profit and Loss From Farming” statement from Applicant’s Federal Income Tax Returns and 2019 income receipts from sale of hay produced on the property, 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 November 19, 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 dated November 5th & 6th, 2020 to all property owners within 200 feet of Applicant’s Property, Blairstown Clerk and Land Use Board, the State Agriculture Development Committee, and proof of publication of the Notice of Hearing in The Daily Record published on November 8, 2020; and

WHEREAS, the Applicant represented himself; and

WHEREAS, Michael Repasky, a member of the Blirstown Land Use Board, appeared on behalf of the Township of Blirstown; and

WHEREAS, Ryan Herold and Sean Lavery provided sworn testimony on behalf of the Applicant; and

WHEREAS, other members of the public were present but chose not to make public comment; and

WHEREAS, Ryan Herold gave the following testimony about his property and the two buildings he wishes to construct on the property:

- a. The Applicant's land is approximately 120 acres consisting of Block 902, Lot 1, which is 69+/- acres, and Block 803, Lot 5, which is approximately 49+/- acres. The farm is a preserved farm. Lot 1 and Lot 5 are separated from each other by
The farm produces produce as well as raises animals for meat.
- b. Currently located on Block 902, Lot 1 are several farm buildings, including one that currently houses pigs.
- c. Applicant wishes to replace the building that currently houses the pigs with a new building for a farm stand/commercial kitchen ("farm stand building").
- d. The farm stand building will be 120' x 60' x 18'. The Applicant provided as part of his application architectural drawings that depict the farm stand and commercial kitchen. The building will be half kitchen and half store.
- e. The Applicant testified that the farm stand intends to sell the produce of the farm as well as butchered meats that are raised on the farm.
- f. The Applicant testified there will be no slaughtering on site. All slaughtering will be done at a USDA facility and returned back to the farm. The kitchen will be used to cut up and portion out the meat after it has been professionally butchered.
- g. The Applicant intends to sell other items in the farm store that are not products of the farm, including some dairy products and honey from local farms and seafood. The Applicant testified that he is aware of the regulation that the farm market must be used for retail marketing of at least 51 percent of the annual gross sales of the retail farm market which are generated from the sales of agricultural output of the commercial farm or at least 51 percent of the sales area shall be devoted to the sale of agricultural output of the commercial farm.
- h. The Applicant testified that he has been provided a copy of the AMP for On Farm Direct Marketing Facilities, Activities and Events (N.J.A.C. 2:76-2a.13) and he has read these regulations and intends to comply with same.

- i. The Applicant further testified that he will get all necessary construction permits and any approvals required by the County Board of Health with regard to the commercial kitchen.
- j. The Applicant testified that he was seeking to build a steel arch frame hoop shed measuring 96' x 42' 2" x 19' 2 3/4" to house pigs on this property.
- k. The Applicant testified that that building will be located on Block 803, Lot 5, which is the opposite side of the road from where the pigs are currently located. He testified that the hoop building will be located 100 feet from the road and at least 250 feet from any neighboring property. The building is a fabric hoop house with a concrete floor. The Applicant testified that he currently has 20 adult pigs, but his plan is to rotate various ages of pigs, but at no one time have more than 50 pigs on the farm. The Applicant testified that he intends to farrow the hogs and have three sows. He testified that all of the pigs will be kept inside of the building.
- l. The Applicant testified that a majority of the building will be used to house the pigs, but that he will also keep pallets of feed in the building and equipment like a skid steer that would be used to move the pallets of feed inside the building, so they are out of the weather. The Board had a discussion with the Applicant regarding his need for more than 50 pigs and it was decided that the approval being considered by the Board would be for 50 pigs at this time, and if he sought to increase the number of pigs, he could come back before the Board and ask for that relief.

WHEREAS, the hearing was opened to members of the public, and one member of the public, Michael Repasky, who identified himself as a member of the Blairstown Land Use Board, asked about the number of pigs to confirm that 50 was the maximum number of pigs and he also asked to confirm that his property was made up of two lots and equaled approximately 120 acres. There was a typo on the agenda, and the acreage was incorrect, so he was clarifying. The Applicant confirmed that the farm is two lots that make up one farm management unit. Mr. Repasky stated that he had personally inspected the farm and he was very impressed by its condition and that he did not encounter any smell on the property; and

WHEREAS, at that time the public hearing was closed; and

WHEREAS, members of the Board asked if they could do a site inspection of the property and so the matter was carried to the December 17, 2020 Board meeting in order to give members of the Board an opportunity to do a site visit; and

WHEREAS, a site visit was conducted on Thursday, December 3, 2020 in which Corey Tierney, Administrator to the Board and Bradley Burke, Board member visited the farm; and

WHEREAS, no additional issues were raised as a result of the inspection of the farm by the members of the Board; and

WHEREAS, after the hearing it was determined that the notice for Block 803, Lot 5 was deficient and therefore, the Board could not grant relief regarding the building to house the pigs on Block 803, Lot 5; and

WHEREAS, the Applicant notified the Board that he was rescinding his request regarding Block 803, Lot 5 and he would seek relief in the future before he constructed a building to house pigs on Block 803, Lot 5; and

WHEREAS, at the December 17, 2020 meeting, additional members of the public who did not attend the public hearing asked to be heard. Although the public hearing on this matter was closed at the November 19, 2020, the Board allows seven members of the public to make comments regarding the Application for Block 902, Lot 1.

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) All testimonies from Ryan Herold and Michael Repasky were considered as well as the Board member site visit; and
- 3) That the Applicant is engaged in a generally accepted agricultural operation or practice pursuant to N.J.A.C. 2:76-2B.2, specifically on farm direct marketing; and
- 4) That the Board retains jurisdiction of this matter; and
- 5) That the Applicant has a legitimate farm based reason not to comply with Blairstown Township Zoning Ordinance 19-802B(C), Site Plan Review, for the proposed 120' x 60' x 18' farm stand building and Blairstown Township Zoning Ordinance 19-203 which only allows farm stands to be open nine months a year; and
- 6) That the Applicant must comply with all health, safety and welfare issues; and
- 7) That the Township of Blairstown shall issue a zoning permit the Applicant to construct a 120' x 60' x 18' farm stand building and be open year-round; and

BE IT FURTHER RESOLVED,

- 1) It was determined that the notice related to Block 803, Lot 5 was deficient and therefore the Board cannot grant the relief request regarding building a structure for pigs on this lot.
- 2) Applicant has voluntarily withdrawn his request for relief related to pigs on Block 803, Lot 5.

- 3) Applicant has agreed to re-file for relief at such time he wished to construct a structure on Block 803, Lot 5 to house pigs.

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written decision of the SSAMP Resolution to Mohican Farms, LLC (Ryan Herold, Applicant) the Township of Blirstown, 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 – yes; 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 December 17, 2020.



Teresa Kaminski