

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

RESOLUTION NO. 18-09

On motion by Mr. Baduini, and seconded by Mr. Dempski, the following resolution was adopted by the Warren County Agricultural Development Board at a meeting held September 20, 2018.

**RESOLUTION OF THE WARREN COUNTY AGRICULTURE
DEVELOPMENT BOARD APPROVING THE APPLICANT'S REQUEST FOR A
SITE SPECIFIC DETERMINATION IN THE MATTER OF NEW VILLAGE
FARMS, BLOCK 39, LOT 6.03 IN FRANKLIN TOWNSHIP, WARREN COUNTY,
NEW JERSEY, RIGHT-TO-FARM APPLICATION TO PERMIT CONSTRUCTION
OF DRIVEWAY/PRIVATE FARM LANE**

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, New Village Farms, owners and operators Robert & Sharon Santini, farm location at _____ in Franklin Township, appeared before the Warren County Agriculture Development Board seeking a determination that they operate a commercial farm; and

WHEREAS, on June 23, 2018, Robert and Sharon Santini owners of the New Village Farms, (hereafter "Applicant"), Block 39 Lot 6.03 in Franklin Township, (hereafter "Property") made a request in writing to the Board for a site-specific agriculture management practice (hereinafter, "SSAMP") to permit construction of driveway for farm use on said lot; and

WHEREAS, on August 2, 2018, pursuant to N.J.A.C. 2:76-2.3(c), the applicant advised in writing to the State Agriculture Development Committee and the Township of Franklin of their request; and

WHEREAS, on June 23, 2018, 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 June 23, 2018, 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 the farm 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 RC 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 August 16, 2018; and

WHEREAS, a public hearing regarding Applicant's request was noticed to take place at the August 16, 2018 Board meeting and the Applicant provided notice on August 2, 2018 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 on July 31, 2018 in the New Jersey Star Ledger was provided and the Board was found to have jurisdiction to proceed with the hearing on August 16, 2018; and

WHEREAS, Robert and Sharon Santini executed the required documents for farms that are 5 acres or more: (1) Current Farmland Assessment Form showing eligibility for differential property taxation pursuant to

the Farmland Assessment Act of 1964 (2) Income from profit or loss from tax return (3) Application, and (4) Tax Map of subject property location that is in an area as of December 31, 1997 or thereafter where agriculture has been a permitted use under the municipal zoning ordinance and master plan;

WHEREAS, New Village Farms, owners, Robert and Sharon Santini, submitted a copy of their 2017 tax returns showing a gross income over \$2,500 from the sale of agricultural and/or horticultural products; and

WHEREAS, based upon the documentary evidence supplied by Robert and Sharon Santini, the Board determined that New Village Farms located at [redacted] in Franklin Township, meets the requirements of a commercial farm; and

WHEREAS, in accordance with the procedure set forth in N.J.A.C. 2:76-2.10, a public hearing was held on August 20, 2018, when Mr. Santini, with Mr. Anthony Sposaro, his attorney presented his case and provided sworn testimony under oath. Mayor DeAngelis from Township of Franklin appeared as representation, but thought this was a discussion, not a hearing. Three neighboring residents of Applicant, Mrs. Ruth Schutzbank, Mr. Tom Kenny, and Mr. Michael Handel appeared and gave testimony, but no other interested party appeared to express their concerns; and

WHEREAS, the Board received as part of the hearing process the following testimony and documentary evidence:

Mr. Robert Santini provided sworn testimony under oath that he is the owner of New Village Farms. New Village Farms, located on 11 Stewartville Road, is a grain operation of mostly corn and soybeans, around 2,000 – 3,000 acres, and has been operated at this location since 1992. The Granary is located on Block 34, Lot 10 which has access to Stewartville Road. Ms. Santini also owns Block 39, Lot 6.03 which has access on Stewartville Road and State Route 57. The reason for Mr. Santini seeking an SSAMP under the Right to Farm regulations was because the Township of Franklin rescinded his driveway permit application on Block 39 Lot 6.03 with a Stop Work Order.

Mr. Santini provided photographs and aerials of the location of New Village Farms entrance at [redacted] (Block 34, Lot 10), the intersection of Stewartville Road and Route 57 and the proposed entrances from Block 39, Lot 6.03 to Stewartville Road and Route 57.

Mr. Santini testified that he has a problem getting his equipment (some 20 feet wide) out of his farm onto Route 57 from Stewartville Road. Mr. Santini stated that when a vehicle exits his property and turns to the right, the intersection of Stewartville Road has a steep grade and limited site view to see oncoming traffic on Route 57. Many of his vehicles would like to make a left-hand turn at that intersection but it is too dangerous. Many of the larger vehicles are prohibited from turning left from the farm onto Stewartville Road because there is a railroad trestle that does not have the proper clearance for the larger vehicles. Therefore, these vehicles are left with no choice but to turn right out of the farm and on the Route 57.

Mr. Santini's testified that his reason for wanting to construct a driveway on Block 39, Lot 6.03 was for safety reasons. Vehicles can turn left out of the farm, travel on Stewartville Road for a very short distance and make a right onto the driveway and then those vehicles can turn either left or right onto Route 57 both of which turns are safer than trying to make the turn further east at the intersection of Route 57 and Stewartville Road.

Mr. Santini testified that he applied for a driveway permit with the Township of Franklin for the entrance on Stewartville Road and he applied with the NJDOT for the entrance on Route 57. Mr. Santini's municipal driveway permit was prepared by Pequest Engineering and listed the use of the driveway as commercial use for vehicles entering and exiting the granary on Block 34, Lot 10.

Mr. Santini testified that, in March of 2017, before he submitted his driveway application to the Township of Franklin, he contacted the Township Engineer, Michael Finelli. Mr. Santini met Mr. Finelli on site and the two men walked the property together. During that meeting, Mr. Santini and Mr. Finelli came to an agreement as to the appropriate location for the driveway to enter/exit Stewartville Road. That location was used by Mr. Santini's engineer in preparing his driveway plan. Mr. Santini testified that he did discuss with Mr.

Finelli the intended use of the driveway which was for farm equipment and farm trucks to travel to/from his farm to Stewartsville Road to Route 57 and vice versa. Mr. Santini testified that Mr. Finelli raised no objection to Mr. Santini's intended use of the driveway. Mr. Santini's application for the driveway was approved by the Township shortly after it was submitted. Mr. Santini testified that he received no communication from the Township regarding his driveway between the approval of his application and the Stop Work Order he received in June of 2018.

Mr. Santini testified that he engaged the services of Pequest Engineering for the NJDOT application. Mr. Santini testified that he met on-site with a NJDOT representative after his application was submitted. During that on-site visit the NJDOT representative was advised of the intended use of the driveway and viewed Mr. Santini's farm, equipment and trucks. Mr. Santini testified that the representative agreed that there was a safety concern with Mr. Santini's vehicles and equipment accessing Route 57 at the Stewartsville Road intersection. After the on-site meeting, Mr. Santini was granted an access permit from the NJDOT for the proposed driveway. Mr. Santini further testified that NJDOT came out to inspect and approve the apron that was constructed at the entry/exit of the driveway on Route 57.

Mr. Santini testified that after receiving both permits from the Municipality and the NJDOT, he invested approximately \$50,000 in constructing the farm lane/driveway. This amount was in addition to the \$30,000 that Mr. Santini said he spent on the engineering for the applications and driveway design. Mr. Santini testified that at this time the only thing left to complete for the driveway construction is the apron for the driveway on Stewartsville Road. This work was not completed because Mr. Santini received a Stop Work Order from the municipality.

Mr. Santini, when questioned by members of the Board, testified that the NJDOT permit has not been rescinded/revoked his approval despite claims by the Township Attorney that he was going to contact NJDOT and request the permit be revoked. When asked further about the intersection of Route 57 and Stewartsville Road, Mr. Santini testified that his trucks do not turn left onto Route 57 because it is too dangerous. He said he is aware of accidents at that intersection but does not know how many. None of his vehicles has ever had an accident at that intersection.

Mr. Santini, when questioned by members of the Board regarding the driveway, testified that the driveway was a single lane with a few areas to allow passing of vehicles. The width of the driveway was between 14 feet and 25 feet. Mr. Santini testified that the traffic on the driveway would be seasonal. Mostly during the spring and fall and during daylight hours. Mr. Santini does not anticipate the driveway to be used much during other times of the year. Mr. Santini also testified that he did not construct this driveway to allow for increased truck traffic. He does not anticipate any traffic increase over the approximately 30 vehicles he currently utilizes and stated the impetus for the driveway construction was for safety. He further stated that the driveway would be private and only vehicles for his farm would be using the driveway.

Mr. Santini was asked about a gate for the driveway. He testified that there is a gate but that he was not inclined to install an electric gate as that would require a monitor on each vehicle and piece of equipment.

Franklin Township Mayor Jeff DeAngelis made comments on behalf of the Township. Mayor DeAngelis stated that the Township and the neighbors received no notice that the driveway was being constructed. Mr. Santini's attorney stated that no notice was required under the municipality's driveway permit process. Mayor DeAngelis testified that the Township Attorney could not attend the meeting, but he had submitted a letter on behalf of the Township. Mayor DeAngelis questioned whether what was being constructed was a driveway or a roadway and stated he was concerned about the fact that the driveway was connecting a state road to a municipal road.

Franklin Township resident Tom Kenny, [REDACTED], made comments that he believes it's a driveway and not a road because it connects to roads. Mr. Kenny stated that he agrees that the intersection of Route 57 and Stewartsville Road is dangerous, and he stated Mr. Santini's driveway should be made into a municipal road for the public to use.

The Board asked Mayor DeAngelis if the Township would be interested in the driveway for a municipal road in the future. Mr. Santini stated that the municipal engineer said that the driveway would be a good location for a municipal road; however, Ms. Finelli stated that the municipality did not have the money to make that kind of improvement at this time. Mr. Santini stated that he would be willing to discuss the possibility with the municipality in the future. The Township Engineer did not attend the meeting on behalf of the Township.

Franklin Township resident Ruth Schutzbank, [REDACTED], made comments that she met Mr. Santini and Mr. Finelli on the property when they were doing their site inspection. She objected that the driveway is located on Stewartsville Road directly across the street from her house. She believes this driveway will increase noise and will have a negative effect on her house value. She questioned why she did not receive notice before the driveway was constructed. Mrs. Schutzbank stated that her husband and her attended the Township Committee meeting to voice their concerns. She stated that she had a meeting with Mr. and Mrs. Santini and although it was very friendly, there was no point of resolution or agreement. Mrs. Schutzbank commented that she believes that Mr. Santini's vehicles can make a left-hand turn onto Stewartsville Road and do not need to go onto Route 57. She believes his trucks can make it through the railroad trestle. Mr. Santini responded that the underpass is 11 feet, the lower trucks will go that way, but the higher trucks can't go underneath there neither can all of his equipment. Mrs. Schutzbank stated that this is anticipating more traffic with the trucks and that the road is not safe, and it does not improve safety of Stewartsville Road. Mrs. Schutzbank feels that it should be delayed and reviewed further.

Franklin Township resident Michael Handel, [REDACTED] stated that where his house is situated is between New Village Farms entrance and the proposed driveway. Mr. Handel wanted to speak for the benefit of the proposed driveway despite the change to the traffic pattern in front of his, in his opinion it benefits all drivers on Stewartsville Road, not just Mr. Santini's drivers as it alleviates his congestion, it only helps everyone coming from that direction and would like to see future investment as a Municipal Road.

Board member Burke commented that a driveway of 14 feet in width does not support a public road.

The Board asked Mr. Santini if the Township looked at the site distance of his driveway as it relates to Stewartsville Road. Mr. Santini replied that Mr. Finelli marked out the location and that it meets code.

NOW, THEREFORE BE IT RESOLVED, that based upon the evidence submitted and testimony presented by the Applicant, Franklin Township Mayor and neighbors, 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 agricultural operation or practice includes Block 39, Lot 6.03 even though this lot is not adjacent to Block 34, Lot 10; 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 Franklin Township's June 7, 2018 Stop Work Order on the driveway/private farm lane rescinding Permit #17-01 zoning ordinance; and
- 6) That the 14-foot width of the driveway/private farm lane does not support it being categorized as a roadway; and
- 7) That the noticed neighbors, the Township and Franklin, and the surrounding community would not be adversely affected by the driveway/private farm lane construction; and
- 8) That the Applicant has complied with all health, safety and welfare issues; and

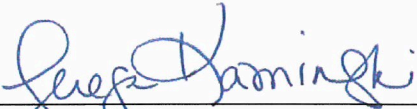
- 9) That the Board has reviewed the Township's Attorney's correspondence of June 7, 2018 and August 16, 2018 and does not find any of his arguments persuasive; and
- 10) All testimonies from Mayor DeAngelis, Mrs. Schutzbank, Mr. Kenny and Mr. Handel were considered; and
- 11) That the Township of Franklin shall permit the Applicant to proceed with the construction of the driveway/private farm lane without further approval from the Township of Franklin.

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written recommendation of the SSAMP Resolution to New Village Farms (Robert and Sharon Santini, applicant), the Township of Franklin, 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 – abstain; Mr. Baduini –yes; Mr. Dempski – yes;
Mr. Burke –yes; Mrs. Watters – yes; Mr. Menegus – yes; Mr. Bodine – absent.

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 September 20, 2018 to memorialize the Board's action on August 16, 2018 in which a motion was made by Mr. Dempski and seconded by Mr. Menegus and Roll Call at said meeting was as follows: Mr. Schnetzer – recused; Mr. Bodine – yes; Mr. Baduini – yes; Mr. Burke – yes; Mr. Dempski – yes; Mr. Menegus – yes.



Teresa Kaminski
Secretary to the Board