

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

RESOLUTION NO. 12-14

On motion by Mr. Baduini, and seconded by Mr. Gibbs, the following resolution was adopted by the Warren County Agriculture Development Board at a meeting held September 20, 2012.

**RESOLUTION OF THE WARREN COUNTY AGRICULTURE
DEVELOPMENT BOARD APPROVING THE APPLICANT'S
REQUEST FOR A SITE SPECIFIC DETERMINATION IN THE
MATTER OF PETER M. PECK, PETER M. PECK HAY COMPANY
RIGHT-TO-FARM APPLICATION FOR CONSTRUCTION OF A BARN
MEASURING APPROXIMATELY 132' LONG X 36' WIDE**

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 Agriculture management practice; and

WHEREAS, on August 6, 2012, Peter M. Peck owner/operator of Peter M. Peck Hay Company (hereafter "Applicant"), Block 61 Lot 13 in Knowlton 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 construction of a barn structure; and

WHEREAS, on August 8, 2012, pursuant to N.J.A.C. 2:76-2.3(c), the Board advised in writing the State Agriculture Development Committee and on August 6, 2012 the Township of Frelinghuysen of the Applicant's request; and

WHEREAS, on July 19, 2012 pursuant to N.J.A.C. 2:76-2.3(b), the Board requested that Applicant provide proof that their Agriculture 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 July 19, 2012, Applicant provided proof to the Board 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 FPD 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, 2012; and

WHEREAS, a public hearing regarding Applicant's request was noticed to take place at the August 20, 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 August 20, 2012, when the Applicant presented his case. No representative of the Township of Knowlton appeared to present its case. Mr. and Mrs. Donald Cunningham, neighboring residents on adjacent Block 61 Lot 13.06 appeared to express their concerns regarding runoff onto their property affecting their proposed well; and

WHEREAS, Mr. Peck testified that (i) he currently produces hay, (ii) that his farm is a preserved farm with an exception area, and (iii) there is an existing building on the premises, and (iv) presented a survey of said property as "Article A-1" and his proposed building structure plans, and (v) that the barn would be used to house horses; and

WHEREAS, the dimensions of the proposed barn structure are 132'L X 36'W with a rear extension of 36'L X 36'W and a front extension of 6'L x 24'W with a height of approximately 24 feet or more and the Township of Knowlton Zoning Department notified Mr. Peck on July 24, 2012 that a zoning permit can not be issued for his proposal to construct a barn on the property because a site plan is required citing violation of Zoning Ordinance 11-299B(6); and

WHEREAS, farms and associated farm structures are a permitted use on land under Ordinance No. 11-292B and the maximum building height of any barn structure shall not exceed 45 feet with the exception of silos and cupolas pursuant to Ordinance No. 11-296L.

WHEREAS, Mr. Peck cited Zoning Ordinance No. 11-110D that a "minor site plan review shall not be required where the owner or operator of a farm in excess of 50 acres seeks to construct a farm structure less than 10,000 square feet so long as said farm structure is located more than 300 feet from a property line"; and

WHEREAS, Mr. Peck stated that his farm is just under 40 acres and it would cost approximately \$8,000 for a site plan in addition to the \$250 zoning board application fee; and

WHEREAS, Mr. Lavery noted at the meeting of July 19, 2012 that Mr. Rabtzwow, the Knowlton Township Zoning Officer did not feel comfortable with waiving the need for a sight plan referencing Ordinance No. 11-110E which reads, "Review shall not be required for the construction of an accessory building or structure in residential zones where, in the opinion of the Zoning Officer/Code Enforcement Official, the building or structure meets all of the requirements of this chapter and will not have an adverse impact on surrounding properties..." and therefore referred Mr. Peck to this Board to seek a Site Specific Determination; and

WHEREAS, Mr. Peck is seeking relief from Ordinance No. 11-109A (Article 16 General Site Plan Requirements, Site plan required) and Ordinance No. 11-299B(6); and

WHEREAS, Mr. Peck requested that the proposed barn be permitted because (i) the proposed barn structure will be used to house horses, and (ii) the proposed barn structure will comply with all other zoning requirements for a farm structure and remain within the height restriction with an exception for the cupola, including area and yard requirements; and

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

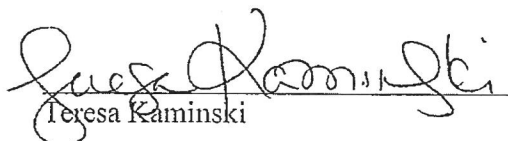
- 1) That the Board previously determined that Applicant operates a commercial farm in accordance with the requirements of N.J.S.A. 4:1C-9; and
- 2) That Applicant is engaged in a generally accepted Agricultural operation or practice pursuant to N.J.A.C. 2:76-2B.2; and
- 3) That Applicant has a legitimate farm based reason for not complying with the Site Plan required in Township of Knowlton's Zoning Ordinances, Section 11-109A and Section 11-299B(6); and
- 4) That the structure is permitted as long as the Applicant meets all of the Township of Knowlton's ordinances regarding the setback and yard requirements and is under the maximum height of 45 feet with the exception of cupolas of the proposed barn structure for FDP zone; and
- 5) That the barn structure of approximately 132'L X 36'W with a rear extension of 36'L X 36'W and a front extension of 6'L X 24'W and a maximum height of 45 feet will not implicate any health, safety or welfare issues; and
- 6) That the Township of Knowlton shall immediately issue all appropriate permits for the construction of the barn structure as presented in the application submitted to the CADB; and
- 7) That the Board retains jurisdiction of this matter.

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written recommendation of the SSAMP Resolution to Peter M. Peck (applicant for Peter M. Peck Hay Company), the Township of Knowlton, the State Agriculture Development Committee (SADC), 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 – yes; Mr. Toretta – yes;
Mr. Gibbs – yes; Mr. Gourniak – yes; Ms. Willever – 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 Committee held on September 20, 2012 to memorialize the Warren County Agriculture Development Board's action on August 16, 2012.


Teresa Kaminski