

**RESOLUTION OF THE
OCEAN COUNTY AGRICULTURE DEVELOPMENT BOARD**

**IN THE MATTER OF SWEET DREAM FARM, LLC
BLOCK 70 LOT 25.04
TOWNSHIP OF JACKSON**

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et seq. (the "Act") and the State Agriculture Development Committee ("SADC") regulations, N.J.A.C. 2:76-2.1 et seq., any person aggrieved by the operation of a commercial farm within the County of Ocean shall first file a complaint in writing to the Ocean County Agriculture Development Board ("Board") prior to filing an action in court; and

WHEREAS, on August 25, 2015, the Board received a complaint filed by Ms. Brandi Jarmolowich against Jacob and Robin Muchnick the owners and operators of the Sweet Dream Farm, LLC ("Sweet Dream Farm") located at _____ in the Township of Jackson (Exhibit A); and

WHEREAS, Ms. Jarmolowich described the following complaints concerning the activities and events occurring on the Sweet Dream Farm:

1. Sweet Dream Farm operates a commercial farm/petting zoo in violation of the Zoning Ordinances of the Township of Jackson;
2. Sweet Dream Farm operates in a manner which creates a public health and safety issue due to the increase in the amount of flies, dust, odors and rats;
3. Sweet Dream Farm is operated in a manner which creates a concern regarding the possible contamination of well water;
4. Sweet Dream Farm fails to provide sufficient parking and the manner in which the visitors to farm ingress and egress the subject property;
5. Sweet Dream Farm permits public urination to occur on the property;
6. The Complaint has alleged that turkeys and chickens from the Sweet Dream Farm have trespassed on her property; and
7. The visitors of the Sweet Dream Farm violate numerous provisions of the motor vehicles and traffic Regulation contained in N.J.S.A. 39:1-1 et. als.

WHEREAS, pursuant to N.J.S.A. 4:1C-3 upon receipt of the written complaint, the Board shall contact the commercial farm owner or operator to provide evidence that the agricultural operation is a commercial farm pursuant to N.J.S.A. 4:1C-3; and

WHEREAS, on October 1, 2015, Sweet Dream Farm, LLC provided a response to Board's request for information, (See Exhibit B); and

WHEREAS, on October 14, 2015, Josie and Frankie Vega, residing at _____ in the Township of Jackson presented to the Board a written complaint concerning the activities on the Sweet Dream Farm (See Exhibit C); and

WHEREAS, the Vega's complaint alleges that the Sweet Dream Farm is a nuisance causing traffic problems in the community; animals on the farm are not being properly cared for; and that there are problems with rodents, flies and smell (See Exhibit C); and

WHEREAS, the Vega's complaint specified the following complaints concerning the activities on the Sweet Dream Farm:

1. Sweet Dream Farm fails to provide adequate shelter for its animals;
2. The fence located on the property is not up to code;
3. Sweet Dream Farm is not growing fruits or vegetables on their farm as it states that they are supposed to do for agricultural purposes;
4. Sweet Dream Farm is making money selling tickets for schools to visit petting zoo;
5. Safety issues: cars and vans speeding up and down the road putting our residents at risk as well as our animals; and
6. Sweet Dream Farm is allowing people to park in his back yard without a permit.

WHEREAS, in order to be afforded the protections of the Right to Farm Act, Sweet Dream Farm must meet certain eligibility requirements; and

WHEREAS, the Board must first determine whether the Sweet Dream Farm satisfies at least one of 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 ("Locational" Requirement) or
- (2) The commercial farm was in operation as of the effective date of the amended Right to Farm Act, July 2, 1998 ("Operational" Requirement) ; and

WHEREAS, Sweet Dream Farm is located within the R-3 Zone of the Township of Jackson; and

WHEREAS, Section 244-46 entitled "R-2, R-3 and R-5 Residential Zones" of the Code of the Township of Jackson permits the following principal and conditional uses:

A. Permitted principal uses of buildings and structures are as follows:

- (1) Community residences for the developmentally disabled.
- (2) Community shelters for victims of domestic violence.
- (3) Detached single-family dwelling units.
- (4) All farm and agriculture activities, horses, livestock and poultry raising.
- (5) Municipal parks, playgrounds and other such municipal buildings and uses as are deemed appropriate and necessary by the Township Committee.
- (6) Federal, state, county and other public buildings and grounds, including public schools, parks, playgrounds or other public recreational uses or areas.
- (7) Private or parochial schools not operated for profit; except, however, that public and private colleges or universities shall not be permitted.
- (8) Essential services.

B. Permitted accessory uses of buildings and structures are as follows:

- (1) Dog pens, provided that they are located behind the rear building line and not in the required side or rear yard setback for the respective zone.
- (2) Farm buildings for the storage of farm animals, farm products or farm equipment or for the processing of farm products, and which are located on the same premises as the principal use or building.
- (3) Farm markets for the sale of produce and farm products grown or raised on the premises.
- (4) Fences and walls, subject to the provisions of § 244-190.
- (5) Nurseries and greenhouses.
- (6) Off-street parking and private garages.
- (7) Private residential swimming pools, subject to the provisions of § 244-216.
- (8) Satellite dish antennas, subject to the provisions of § 244-165.
- (9) Sheds (garden, storage or tool).
- (10) Signs, subject to the provisions of § 244-207.
- (11) Other customary accessory uses, buildings and structures, which are clearly incidental to the principal use and building.
- (12) Family day-care home.

WHEREAS, the Township of Jackson has adopted a "Right to Farm Ordinance" declaring "the right to farm all land is recognized to exist as a natural right" and is permitted in all zones where it currently legally exists or is currently an allowed use. (See §244-175 Exhibit E.); and

WHEREAS, based upon Sections 244-46 and 244-175 of the Code of the Township of Jackson the Board concluded that Sweet Dream Farm has established the "locational requirement" that agriculture is a permitted use on the subject property; and

WHEREAS, once the locational requirement has been established, the Board next must determine whether Sweet Dream Farm is considered a "commercial farm" as defined in N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3. A "commercial farm" is defined as:

- (1) A farm management unit 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 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
- (3) a farm management unit that is a beekeeping operation producing honey or other agricultural or horticultural apiary-related products, or providing crop pollination services, worth \$10,000 or more annually.

WHEREAS, Sweet Dream Farm is approximately 5.61 acres in total size with 5.31 acres of the property identified as land devoted to agriculture. The remaining .30 acres of property is identified as devoted to Mr. Muchnick's family residence and surrounding curtilage; and

WHEREAS, Sweet Dream Farm has provided copies of their Schedule F for the years 2012, 2013, 2014 together with documents from the Township Assessor which are sufficient to establish the production of \$2,500.00 or more in agricultural products as well as the ability to establish the eligibility for differential property taxation pursuant to the Farmland Assessment Act of 1994; and

WHEREAS, at the Board's regular meeting on October 14, 2015, pursuant to N.J.A.C. 2:76-2.7(a)1 the Board determined that Sweet Dream Farm has satisfied the eligibility criteria pursuant to N.J.S.A. 4:1 C-9; and

WHEREAS, upon the satisfaction of the eligibility criteria pursuant to N.J.S.A. 4:1 C-3 the Board must then determine whether the dispute involves agricultural activity (ies) that is or are included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9.

WHEREAS, on September 30, 2015 Jacob Muchnick, owner and operator of the Sweet Dream Farm, LLC certified the following agricultural activities on the subject property:

1	Raise Angora & Nigerian goats for sale of offspring and mohair wool
2	Raise alpacas for sale of offspring & fiber products
3	Raise American fuzzy lop rabbits for sale
4	Maintain upwards of 50 chickens for daily sale of eggs
5	Raise miniature horses for sale
6	Seasonal – Friday and Sunday recreational public farms visits for sales, promotion and Fun
7	Seasonal – 4-H farmer-in-training clubs for children 2x per week, 1 ½ hours per session; and

WHEREAS, N.J.S.A. 4:1C-9 permits the following agricultural activities:

- a. Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System;
- b. Process and package the agricultural output of the commercial farm;
- c. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards;
- d. Replenish soil nutrients and improve soil tilth;
- e. Control pests, predators and diseases of plants and animals;
- f. Clear woodlands using open burning and other techniques, install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;

- g. Conduct on-site disposal of organic agricultural wastes;
- h. Conduct agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm;
- i. Engage in the generation of power or heat from biomass, solar, or wind energy, provided that the energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2); and
- j. Engage in any other agricultural activity as determined by the State Agriculture Development Committee** and adopted by rule or regulation pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

WHEREAS, the SADC has developed generally acceptable management practices for on-farm direct marketing facilities, activities, and events; and

WHEREAS, the SADC has defined "Agriculture-related educational activities" as:

. . . on-farm educational offerings that have an agricultural focus and are related to marketing the agricultural or horticultural output of the commercial farm. Such activities are accessory to, and serve to increase, the direct-market sales of the agricultural output of a commercial farm by enhancing the experience of purchasing agricultural products for the purpose of attracting customers to the commercial farm. Examples of agriculture-related educational activities may include, but are not limited to: **school trips, hands-on farming activities, educational displays, farm tours, farm task experiences, wine tastings, agriculture-related lectures for clubs, farm open house days, and agriculture-related classes on topics**, such as, but not limited to: canning, freezing, cooking with fresh produce, pie making, pruning, beekeeping, animal care, and gardening. N.J.A.C. 2:76-2A.13

WHEREAS, the SADC has defined "Farm-based recreational activities" as

. . . recreational offerings that are uniquely suited to occurring on a farm and also may include common outdoor recreation activities that are compatible with the agricultural use of the farm, where such offerings and activities are related to marketing the agricultural or horticultural output of the commercial farm. Such activities are accessory to, and serve to increase, the direct-market sales of the agricultural output of the commercial farm by enhancing the experience of purchasing agriculture products for the purpose of attracting customers to the commercial farm. Examples of farm-based recreational activities uniquely suited to occurring on a farm may include, but are not limited to: corn, sunflower, and other crop mazes; hayrides and wagon rides; **agricultural animal display or petting areas; farm tours; horseback riding; pony rides;** and tractor pulls. Examples of farm-based recreational activities considered common outdoor recreation activities that are compatible with the agricultural use of the farm include, but are not limited to: hiking; bird watching; sleigh rides; hunting and fishing; and bonfires. Activities and related infrastructure not considered farm based recreational activities include, but are not limited to: athletic fields; paintball; go-karting and other similar racetracks; carnival-type amusement rides; and the flying of hobby, private, or commercial aircraft. N.J.A.C. 2:76-2A.13

WHEREAS, on October 20, 2015, Board Members Jeff Adams, Alan Perry, Kathleen Sucharski together with Dr. Stephen Yergeau the Environmental and Resource Management Agent of the Cooperative Extension of Ocean County, Rutgers New Jersey Agricultural Experiment Station, Kerry Jennings, Assistant District Director of the Ocean County Soil Conservation District ("District") and the staff members of the Ocean County Agricultural Development Board ("Board Staff") conducted an on-site inspection of the subject premises; and

WHEREAS, based upon the site inspection, Kerry Jennings, Assistant District Director of the Ocean County Soil Conservation District noted that the District currently has no Chapter 251 concerns or issues with Sweet Dream Farm; and

WHEREAS, the Ocean County Health Department ("Health Department") has inspected the Sweet Dream Farm on several occasions; and

WHEREAS, on September 14, 2011, an inspector from the Health Department investigated a complaint alleging odors were emanating from the Sweet Dream Farm which was affecting the neighbors, the investigator noted:

. . . I didn't notice any adverse smells coming from the animals pen. The area appears to be well maintained and there is no garbage or food laying about. The young boy informed me that they regularly clean the pens. No fly activity is present. No further action is required at this time; and

WHEREAS on October 28, 2014, Robert Gilmartin, an inspector from the Health Department, investigated a complaint alleging Sweet Dream Farm was operation of a petting zoo with animal feces all over the property, the investigator noted:

Investigated complaint site. Met with property owners at complaint address. They operate an approved farm called "Sweet Dream Farm". This property has been approved by the Jackson Township as a farm. Walked property with owner's adult son. Observed Goats, Chickens, Horses and Rabbits on farm. No heavy odors of feces noticed while walking property. All pens and corrals were very clean and well taken care of. The animals on the property looked to be well kept. No current health violations present. I informed the complainant that there were no current health violations present and any future complaints should be directed to County Agriculture Dept. as the property owners are protected under the Right to Farm Act. No further action required by this office; and

WHEREAS on August 3, 2015, Salli Wickel, an inspector from the Health Department, investigated a complaint of selling food on premises, odors emanating from the farm effecting neighbors and the presence of rats, the investigator noted:

On site with Robyn and Jack, homeowners and they stated that the 4-H farm operates only on Friday and Sunday afternoons. In compliance with Jackson zoning department. No food is being prepared on site for retail sale. Corn is popped for animals during viewing times. Several flies observed near animal pens, however, all areas are maintained. No ponding water is observed and compost pile is limed regularly; and

WHEREAS on August 13, 2015, Chris Andrews, an inspector from the Health Department, investigated a complaint of the presence of rats, the investigator noted:

. . . I observed the primary housing for the animals here and I observed no accumulation of feces and or food. Some odors were present but not going beyond the limits of the dedicated housing. The pen areas are cleaned regularly as stated by the homeowner. No signs of rodent activity were observed during this inspection. No holes or burrows, no excreta, and no signs of feeding were observed. Currently the complaint cannot be substantiated.

At this time no adverse conditions were observed and no further action will be required.
NO CAUSE FOR FURTHER ACTIONS AT THIS TIME.

WHEREAS, N.J.A.C. 2:76-2A.13(h) permits the use of hay fields, grass fields, pastures and other crop fields as an area which may be utilized for temporary parking during an on-farm direct marketing activity and event; and

WHEREAS, the areas temporarily devoted to parking by Sweet Dream Farm contain few or no improvements, so that the area may be easily converted back productive agricultural use once the need for short term parking ceases; and

WHEREAS, on July 18, 2014, Jeffrey Purpuro, the Jackson Township Zoning Officer, approved a plan permitting the use of certain agricultural areas to be temporary utilized as parking during on-farm direct marketing activities and events; and

WHEREAS, during the inspection several recommendations were made to Mr. Muchnick to alleviate any potential compaction issues which may arise as the result of the use of certain agricultural areas as a temporary parking site during on-farm direct marketing activities and events; and

WHEREAS, Mr. Muchnick has agreed to implement the recommendations proffered by the Board and Staff to alleviate any potential compaction issues which may arise as the result of the use of certain agricultural areas as a temporary parking site during on-farm direct marketing activities and events; and

WHEREAS, Ms. Jamrolowich has alleged in her complaint that “we all have well water and are extremely concerned our water is or will become contaminated. . . [Sweet Dream Farm] has turned their backyard into a dirt parking lot and at times there are well over 50-60 cars parked there *which may very well* be leaking fluids that can also result in causing problems for our water wells;” and

WHEREAS, during the October 20, 2015 on-site inspection there was no evidence of fluid leaking from cars which had used certain agricultural areas as a temporary parking site during on-farm direct marketing activities and events; and

WHEREAS, Ms. Jarmolowich has alleged in her complaint that “[i]t is unsafe for us as well as neighbors to check our mail, pull out of our driveways or attempt to take a walk or bike ride, as they pull out of the businesses on cell phones at a rather high speed most not even looking. The cars pull in and out of our driveways, stop in the middle of the road, block traffic and even beep at other vehicles and wave on other oncoming vehicles;” and

WHEREAS, Mr. and Mrs. Vega has alleged in their complaint that “cars and vans speed up and down the road”; and

WHEREAS, the use of wireless telephones or an electronic communication device while in a moving vehicle is prohibited by N.J.S.A. 39:4-97.3; and

WHEREAS, the operation of a motor vehicle above the posted speed limit is prohibited by N.J.S.A. 39:4-98; and

WHEREAS, the stopping of a motor vehicle in the middle of the road and blocking traffic is prohibited by N.J.S.A. 39:4-97.1; and

WHEREAS, enforcement of the alleged violations of N.J.S.A. 39:4-97.3, N.J.S.A. 39:4-98 and N.J.S.A. 39:4-97.1 are not within the jurisdiction of this Board; and

WHEREAS, on November 24, 2015, the Board conducted a hearing into the complaints alleged by Ms. Jarmolowich and Mr. and Mrs. Vega; and

WHEREAS, Ms. Jarmolowich and Mr. and Mrs. Vega were notified by the Board Staff of the date, time, and location of the Board’s a hearing into their alleged complaints; and

WHEREAS, Ms. Jarmolowich and Mr. and Mrs. Vega advised the Board Staff of their anticipated attendance at the hearing; and

WHEREAS, Ms. Jarmolowich and Mr. and Mrs. Vega failed to attended the hearing into the veracity of their complaints; and

WHEREAS, at the November 24, 2015 the Board Staff presented the findings related to the October 19, 2015 on site inspection; and

WHEREAS, the Board heard testimony from Mr. and Mrs. Muchnick; and

WHEREAS, the following exhibits were received and reviewed by the Board:

EXHIBIT	DESCRIPTION	DATE
A.	Complaint from Ms. Jarmolowich	
	Printout from the Asbury Park Press' DataUniverse	
	Chapter 443 of the Code of Jackson Township	
	Six Photographs	
B.	Commercial Farm Certification	
	Letter from the Jackson Township Tax Assessor	April 25, 2015

	2014 Notice of Disallowance of Claim	
	2015 Notice of Disallowance of Claim	
	Narrative for 2016 Farm Assessment	
	IRS Schedule F for 2014, 2013, 2012	
	NJ Division of Taxation Sales and Use Tax Quarterly Return	
	Supplemental Farmland Assessment Gross Sales Form	
	Chapter 244-46 of the Code of Jackson Township	
	Letter from the Jackson Township Zoning Officer	July 21, 2014
	Memorandum of Agreement between Jackson Township and Sweet Dream Farm with attached temporary parking plan.	July 18, 2014
	Letter from Matthew and Melissa Johnson	July 17, 2014
	Letter from Melissa Johnson	August 24, 2015
	Letter from Bernard Gestetner	Undated
	Letter from C. Rubin	August 9, 2015
	Letter from A. Elazary	Undated
	Letter from B. Schechter	August 11, 2015
	Documents from the Ocean County Board of Health	
	Current farm layout	
	Three photographs	
C	Complaint from Josie and Frankie Vega	
D	Deed	May 26, 2006
E	Chapter 244-176 of the Code of Jackson Township	

THEREFORE BE IT RESOLVED, the Ocean County Agriculture Development Board, after reviewing the exhibits, the testimony, and balancing the interests of the Township, the Complainants and the Sweet Dream Farm, makes the following determinations:

- 1) Jacob and Robin Muchnick are the owners/operators of the Sweet Dream Farm, LLC situated on a 5.61 acre parcel of property located in the R-3 zone of the Township of Jackson.
- 2) Mr. and Mrs. Muchnick acquired the property by deed on May 26, 2006 from Fern and Alexander LaViola with the express intent to operate a commercial farm on the property.
- 3) At the time of the purchase several paddocks and horse barns existed on the property. The Sweet Dream Farm has not altered the location of the existing paddocks or horse barns subsequent to their purchase of the property.
- 4) Sweet Dream Farm is located in an area of which, as of December 31, 1997, or thereafter, agriculture is a permitted use under the Code of the Township of Jackson and is consistent with the Municipal master plan.
- 5) Sweet Dream Farm produces 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.
- 6) The raising and breeding of goats, alpacas, rabbits, horses, miniature horses and chickens are agricultural activities expressly protected under N.J.S.A. 4:1C-9.
- 7) Sweet Dream Farm's management practices concerning the raising and breeding of goats, alpacas, rabbits, horses, miniature horses and chickens conform to generally accepted management practices.
- 8) Sweet Dream Farm is permitted to operate petting areas on the property, conduct public farm visits and 4-H farmer-in-training classes pursuant to N.J.A.C. 2:76-2A.13.
- 9) Sweet Dream Farm's practices concerning the operation of petting areas on the property, conducting public farm visits and 4-H farmer-in-training classes are consistent with the generally accepted management practices contained in N.J.A.C. 2:76-2A.13.

- 10) On several occasions the Ocean County Board of Health has investigated complaints concerning the Sweet Dream Farm and has consistently found no adverse conditions occurring on the property at the time of the inspections.
- 11) Sweet Dream Farm, LLC has adequate sanitary facilities to meet the needs of the visitors to the farm.
- 12) The areas temporarily devoted to parking are consistent with the generally accepted management practices contained in N.J.A.C. 2:76-2A.13(h).
- 13) The Jackson Township Zoning Officer has reviewed and approved the plan by Sweet Dream Farm for the areas temporarily devoted to parking.


BE IT FURTHER RESOLVED that, based upon the foregoing determinations, the Board is without jurisdiction to hear the complaints concerning violations of the New Jersey Motor Vehicle Regulations. The activities which would violation the New Jersey Motor Vehicle Regulations remain under the jurisdiction of applicable local and state authorities; and

BE IT FURTHER RESOLVED, that the Board shall forward certified copies of this Resolution will be forwarded to the following individuals and agencies:

1. Ms. Brandi Jarmolowich;
2. Mr. & Ms. Vega;
3. Mr. and Mrs. Muchnick;
4. State Agricultural Development Committee;
5. Ms. Ann Marie Eden, RMC, Township Clerk, Township of Jackson;
6. Mr. Jeffrey Purpuro, Jackson Township Zoning Officer; and
7. Any other individuals or organizations deemed appropriate by the Board.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 2:76:-2.7 (k) Any person aggrieved by the decision of the board regarding a complaint against a commercial farm in accordance with this section shall appeal the decision to the Committee within 10 days from receipt of the board's decision. The Committee shall schedule a hearing and make a determination within 90 days of receipt of the petition for review.

1. The decision of the Committee shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court.
2. Any decision of the board that is not appealed shall be binding.



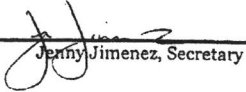
 Jeff Adams, OCADB Vice-Chairman

1/13/2016

 Date

	Yes	No	Abstain	Absent
Mr. Hallock				X
Mr. Adams	✓			
Mr. Dancer	✓			
Mr. Hunter				
Ms. Sucharski	✓			
Mr. Vodak				✓
Mr. Perry	✓			

I do hereby certify that the foregoing is a true copy of a resolution adopted by the Ocean County Agricultural Development Board at a meeting on the 24th of November and memorialized on January 13th, 2016.



 Jenny Jimenez, Secretary