

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

RESOLUTION NO. 19-17

On motion by Mr. Bodine, and seconded by Mrs. Watters, the following resolution was adopted by the Warren County Agriculture Development Board at a meeting held December 19, 2019.

**RESOLUTION OF THE WARREN COUNTY AGRICULTURE
DEVELOPMENT BOARD APPROVING THE APPLICANT'S REQUEST
FOR A SITE SPECIFIC DETERMINATION IN THE MATTER OF
HAFSCOOP D'VILLA FARM, BLOCK 1601, LOT 11 IN BLARISTOWN
TOWNSHIP, WARREN COUNTY, NEW JERSEY, RIGHT-TO-FARM
APPLICATION TO PERMIT LAND SEA CONTAINER 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, William Laban and Susanne Laban (the "Applicants") applied for a Site Specific Agricultural Management Practice ("SSAMP") determination for their property located at _____ in the Township of Blairstown, New Jersey, and known as Block 1601 Lot 11 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 Single Family Residential” which, as of December 31, 1997, or thereafter, agriculture is a permitted use pursuant to Blairstown Township Municipal Zoning Ordinance §165-9A 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 2019 Application for Farmland Assessment, the Board finds that Applicant’s farm management unit includes the 25.82 acre Lot 11 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 2018 Federal Income Tax Returns, a letter of compliance from their Forester stating that the year’s activity was completed, and 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 October 17, 2019 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, Blairstown Clerk and Land Use Board, the State Agriculture Development Committee, and proof of publication of the Notice of Hearing in the Newton’s The Times-Herald-Record; and

WHEREAS, a public announcement was made at the October 17, 2019 meeting for the Site Specific Agricultural Management Practice Right-to-Farm hearing for the Hafscoop D’Villa Farm (Labans) to be moved to the November 21, 2019 meeting as requesting by Roger Thomas, Esq., attorney for Blairstown’s Land Use Board with no further notification or publication necessary; and

WHEREAS, the Applicant was represented by themselves; and

WHEREAS, the Township of Blairstown was represented by Roger Thomas, Esq., and offered testimony of Richard Diehl, Blairstown Township Zoning Officer; and

WHEREAS, no other members of the public were present and Applicant and Mr. Diehl provided sworn testimony under oath, and;

WHEREAS, Board member Jason Menegus recused himself from this matter and stepped down from the dais for the entirety of the hearing and votes; and

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

Exhibit A1-12: Applicant color photos of land sea container on property as well as other photos of land sea containers in surrounding area.

Exhibit T1-7: Blairstown reduced survey provided by Applicant and Mr. Diehl’s photos of the land sea container from the road.

WHEREAS, William and Susanne Laban gave the following testimony about their property and the land sea container that they have placed on the property:

- a. The land sea container was placed in the back of their property and it was approximately 60 feet from Mt. Hermon Road (CR 655) and 100 feet from access to electrical service.
- b. The intended use of the container was to store items that did not fit in their already full barn and/or items that needed to be stored in a dry, airtight structure.
- c. The Labans intended to store four acres (approximately 300 bales) of hay in the container as well as a splitter, chainsaws and pruning equipment for their fruit trees.
- d. Currently only a generator and some cushions were stored in the container because the Labans did not want to start using the container until the violation from the Township was resolved.
- e. The Labans also intend to use the container as a “small shop”. When further questioned about what they meant by a small shop, Mr. Laban testified that he intended to use the container to sharpen chainsaws and other tools. He would not use the container for his electrical business which has its own business location in North Bergen.
- f. Mr. Laban testified that he read the municipal zoning ordinance and believed that based upon the size of the container that it needed to be located at least 18 feet from the property line. He placed the container 65 feet from the centerline of the road.
- g. Mr. Laban testified that he never received a complaint from any of his neighbors about the container.

WHEREAS, the Blairstown Zoning Official, David Diehl gave the following testimony:

- a. Sea Land containers are not permitted in the municipality and the municipality is aggressive in the enforcement of this prohibition.
- b. The municipal has a sea land container on public property, but it is exempt from municipal zoning.
- c. The Labans property is in the R5 zone.
- d. Mr. Diehl stated that there are two violations concerning the container: 1) it is not a permitted use and 2) it does not comply with the setback requirements.
- e. The Labans applied to the Blairstown Land Use Board and received a determination that the container was not a permitted use. Setbacks were not discussed at the hearing because the Board never moved passed the permitted use issue.
- f. According to Mr. Diehl's estimation the container is located approximately 11 feet from the edge of the property and based upon the orientation of the house would be considered a front yard.
- g. Mr. Diehl explained that the 18-foot (twice the height of the structure) setback that Mr. Laban referenced is only for accessory buildings and a sea land container is not recognized as a building or structure because it is not a permitted use.
- h. Upon questioning from the Board, Mr. Diehl explained that putting siding on the container would not make it conform because it would need to be affixed to the ground to make it a building and then it would need a building permit. He did say that a barn could be built around the container, but the container would have to be completely within the barn and proper permits would be required for the barn.
- i. Mr. Diehl testified that the minimum front yard setback is 75 feet but the setback for temporary or permanent structures incidental to a farm it is 100 feet.
- j. Mr. Diehl testified that he received a complaint about the container.

WHEREAS, upon further questioning by the Board, the Labans agreed that, if they were permitted to keep the container, they would move the land sea container at least 100 feet back off the property line and that they would landscape around the container with shrubs or another natural buffer.

NOW, THEREFORE BE IT RESOLVED, that based upon the evidence submitted and testimony presented by the Applicant, Mr. David Diehl, Blairstown Township Zoning Office, 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 William and Susanne Laban and David Diehl were considered; 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 the storage of agricultural tools, equipment and materials; and

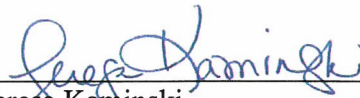
- 4) That the Board retains jurisdiction of this matter; and
- 5) That the Applicant has a legitimate farm-based reason not to comply with Blairstown Township's Land Use Board Resolution of May 20, 2019 appeal for Denial for Zoning Violation Ordinance 19-405 B, Accessory Uses Permitted and D, Yard Requirements; and
- 6) That the determination of the Board is conditioned upon the applicant moving the land sea container a minimum of 100 feet from the property line and that the container be landscaped with shrubs or by another natural buffer; and
- 7) That the Applicant must comply with all health, safety and welfare issues; and
- 8) That the Township of Blairstown shall permit the Applicant to maintain the land sea container on the property provided it is relocated and buffered as provided in Section 6 above.

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written decision of the SSAMP Resolution to the Hafscop D'Villa Farm (William and Susanne Laban, applicant), the Township of Blairstown, 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. Bodine – yes; Mr. Baduini – yes; Mrs. Watters – yes.
Mr. Burke and Mr. Menegus abstained.
Mr. Dempski & Mr. Schnetzer 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 December 19, 2019 to memorialize the Board's action on November 21, 2019 in which a motion was made by Mr. Baduini and seconded by Mrs. Watters and Roll Call at said meeting was as follows: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mrs. Watters – yes; Mr. Burke – absent; Mr. Dempski – absent; Mr. Menegus – recused.



Teresa Kaminski