

STATE OF NEW JERSEY

HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD

RESOLUTION 2020-05

Determination for the Site Specific Agricultural Management Practices

Melick's Oldwick Farm, LLC

Block 44, Lot 26, Township of Tewksbury, County of Hunterdon

WHEREAS:

1. On October 25, 2019, a Site Specific Site Management Practice (SSAMP) application was submitted by Michael Lavery, Esq. of Lavery, Selvaggi, Abromitis, and Cohen on behalf of Melick's Oldwick Farm, LLC (hereinafter referred to as "Melick's Oldwick Farm" or the "Applicant"), the owners and operators of a farm at Block 44, Lot 26 in Tewksbury Township, County of Hunterdon, to the Hunterdon County Agriculture Development Board (hereinafter referred to as the "CADB" or "Board"). In connection with setback issues for a proposed new barn, the Applicant sought relief from Tewksbury Township's Land Use Ordinance pertaining to property setbacks which call for a minimum side yard setback of 100 feet. Specifically, the Applicant was seeking for the subject structure to be constructed 40 feet from the easterly side yard.
2. The Board determined that it has jurisdiction to review this application pursuant to the Right to Farm Act, N.J.S.A. 4:1C-9, and implementing rule N.J.A.C. 2:76-2.3.
3. On December 12, 2019, the Board certified Melick's Oldwick Farm as a commercial farm prior to scheduling a public hearing on the SSAMP application. The Applicant testified and furnished proofs the orchard operation met the required standards. The farm consists of 59.263 acres, of which 58.86 are orchard, 3 acres cropland or pasture, and 0.25 acres for the existing farmhouse. The Applicant provided testimony and documentation regarding the farming income and proof of farmland tax assessment. The Board is satisfied the Melick's Oldwick Farm meets the acreage requirement, is currently zoned where agriculture is a principal permitted use, and generates the income required to meet the standards for Commercial Farm Certification.
4. On February 20, 2020, the CADB conducted a public hearing to determine whether Melick's Oldwick Farm is entitled to Site Specific Agricultural Management Practice approval and relief from the Tewksbury Township ordinance setback requirements.
5. The Board is satisfied that notice of the hearing was published in the Hunterdon County Democrat and served via certified mail to all property owners within 200 feet of Melick's Oldwick Farm.
6. At the hearing, Michael Lavery, Esq. of Lavery, Selvaggi, Abromitis, and Cohen presented the application on behalf of Melick's Oldwick Farm. John Melick, an owner and operator of the farm, and Wayne Ingram, P.E., testified in support of the application. No representative for the Township of Tewksbury was present at the hearing, and no objection

to the application was raised by any neighboring landowners or other members of the public, either before, during or after the hearing.

7. The Hunterdon County Farmland Preservation Program Request for Site Specific Agricultural Management Practice Application for Hearing (Form B) and Commercial Farm Certification (Form C) are part of the record presented to the Board. This Application also consisted of the following documents (as supplemented between the Application and the Hearing):
 - a. 2020 Farmland Assessment Form
 - b. Tewksbury Zoning Map showing the Applicants Farm to be in the PM (Piedmont District) zone.
 - c. Hunterdon County Deed Book 1200 Page 1013 showing ownership by Melick's Oldwick Farm, LLC.
 - d. Five (5) pages of drawings entitled "Melick Farm Variance Application" prepared by John Hansen, N.J.P.E. 24GE0419500 consisting of:
 - i. 1/5 Overall Plan
 - ii. 2/5 Detailed Grading Plan- *Marked as Exhibit A-1 during the hearing*
 - iii. 3/5 Soil erosion and Sediment Control Plan
 - iv. 4/5 SESC Notes and Details
 - v. 5/5 Soil Erosion and Sediment Control & Construction Details
 - e. An architectural rendering of the proposed barn prepared by Edward Matthew O'Brien, registered architect NJ CO7692- *Marked as Exhibit A-2 during the hearing.*
8. The Applicant's position, presented to the Board at the hearing, is as follows:
 - a. The subject property is a 59.263-acre parcel.
 - b. The Applicant's orchard operations and activities at the property consist of tree fruit, vegetables, and cider production.
 - c. The Applicant has been conducting operations and activities in multiple generations over 70+ years.
 - d. As identified on the Detailed Grading Plan (Exhibit A-1), the Applicant is proposing to construct a 75 by 120-foot red metal barn on its property, totaling 9,000 square feet.
 - e. The subject structure is further described using an architectural rendering of the proposed barn prepared by Edward Matthew O'Brien (Exhibit A-2).
 - f. Neighboring uses are primarily residential to the east and north and parkland to the south.
 - g. The subject structure is proposed to be constructed 40 feet away from the easterly side yard, where there is minimum setback of 100 feet.
 - h. The Applicant applied to the Tewksbury Land Use Board for a bulk side yard use variance which is currently on hold.
 - i. The Tewksbury Land Use Board asked for additional information that is viewed by the Applicant as onerous and expensive.
 - j. Dry wells will be constructed as required by stormwater standards and improves the current conditions.
 - k. The structure will not be used for retail sales, public engagement, or housing.

- l. Rest room facilities are already provided in an adjacent structure within about 100 feet.
 - m. There is a separate office building on the property, minimal office or record keeping use could occur in the structure.
 - n. The addition of the proposed structure will not result in increased employment, parking requirements, or any changes in hours of operation.
 - o. The structure will improve the visual impact of the site by providing cover for agricultural equipment currently stored outdoors.
 - p. The proposed location of the structure is in an under-utilized gravel area of the property currently utilized for outdoor storage of pallets, orchard crates, and agricultural equipment.
 - q. The proposed location of the structure is in the developed portion of the farm, will not result in the loss of any orchard acreage, and maximizes the agricultural viability of the property.
 - r. The structure will create a visual screen for the neighbors to what is currently outdoor storage.
 - s. The shape of the property causes multiple front, side, and rear yard setback constraints. Agricultural setbacks are in excess of residential setbacks.
 - t. The topography and existing development of the farm precludes permissible locations without removing sections of orchard or considerable cut and fill of the gradient.
 - u. The proposed loading docks are located on the interior side of the structure and buffered from the public.
 - v. The structure will allow for indoor sorting and washing of the apples that is currently done in the parking lot in the fall season.
 - w. No new activities are planned for the structure. Seasonal use will be variable.
 - x. The structure will provide conditioned storage in about a third of the building which will enhance the agricultural output of the farm.
 - y. Electrical service will use existing upgrades from a pad mounted transformer.
 - z. The Board noted possible issues with noise from the proposed refrigeration units on the exterior of the southern side and recommended either moving them to the interior facing (western) side of the structure or buffering them with plantings. The southern side currently faces public ballfields.
9. Melick's Oldwick Farm is a commercial orchard operation performing generally accepted agricultural management practices. The construction of the proposed barn, contrary to the setback requirements of the Tewksbury Township Development Code, is a sound farming practice, particularly as it avoids the unnecessary removal of productive orchard land, and the Applicant should be afforded Right to Farm protection and permitted to construct the barn.

NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD, AFTER HEARING THE TESTIMONY OF THE APPLICANT, AND NO OBJECTION TO THE APPLICATION HAVING BEEN MADE BY THE TOWNSHIP OR ANY OTHER PARTIES, MAKES THE FOLLOWING FINDINGS:

1. The CADB approves Melick's Oldwick Farm's Site Specific Agricultural Management Practice Application, determines that the orchard operation is performing generally accepted agricultural management practices, grants the Applicant's specific request for relief from Tewksbury Township Development Code setback requirements, and approves the Applicant's request to construct a 75 by 120-foot barn.
2. This determination shall be forwarded to the State Agriculture Development Committee within thirty (30) days, pursuant to N.J.A.C. 2:76-2.3(e).
3. Any person aggrieved by this decision, may appeal to the State Agriculture Development Committee, pursuant to N.J.A.C. 2:76-2-3(f).

HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD



Handwritten signature of David Bond in cursive script, written over a horizontal line.

David Bond, Chairman

March 12, 2020