

MINUTES
MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD
30 Schuyler Place, 4th Floor, Morristown, New Jersey
April 12, 2018

The meeting was called to order by Chairman Davis at 7:32 p.m. Members present:

Rick Desiderio
Gregory Keller
Harvey Ort
Jay Thomson

Members with an excused absence:

Aimee Ashley Myers
Kathy Hammond

Also in Attendance:

William Asdal (departed at 8:23p.m.)

Staff in attendance:

Christine Marion
W. Randall Bush, Esq.
Katherine Coyle

The meeting began with the Pledge of Allegiance.

COMPLIANCE WITH THE OPEN PUBLIC MEETINGS LAW

Chairman Davis announced that in compliance with the Open Public Meetings Act, adequate notice of the meeting had been provided and filed with the Town of Morristown, the Morris County Clerk, the Daily Record and the Star Ledger.

APPROVAL OF MINUTES

On motion of member Ort, seconded by member Thomson, the Board members approved the February 8, 2018 meeting minutes. A roll call vote was taken.

Aye: Desiderio, Ort and Thomson

Nay: None Abstain: Keller and Davis

OPEN TO THE PUBLIC

There were no comments from the public.

RIGHT TO FARM

Alstede Farms, Chester Township (Complaint).

Mr. Bush asked the members whether they had a conflict of interested. Members Davis and Ort indicated that they had dealings with Mr. Alstede so they considered themselves in conflict.

At this point members Davis and Ort left the meeting room. Member Keller took over as Chair.

Mr. Bush asked the remaining members whether they had a conflict of interested. The members replied that they did not. The members present to hear the complaint were Keller, Desiderio and Thomson.

Ms. Coyle presented a Staff Report dated March 5, 2018, which had been distributed to the CADB members, the complainant, and the farmer, prior to the meeting.

On January 31, 2018, the Morris CADB received a complaint filed by Mr. William Asdal against Alstede Farms. Mr. Asdal's complaint concerns the following four issues: off-road parking, setback requirements, storm water management rules, and designation of "farm unit".

Alstede Farms is owned and operated by Mr. Kurt Alstede.

Procedures:

Pursuant to N.J.A.C. 2:76-2.7(b), the CADB shall contact the farm owner to provide evidence that the operation is a commercial farm pursuant to N.J.A.C. 4:1C-3.

Pursuant to N.J.A.C. 2:76-2.7(c), the CADB shall determine whether the commercial farm meets the eligibility criteria pursuant to N.J.S.A. 4:1C-9 and 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.

Pursuant to N.J.A.C. 2:76-2.7(d), if the CADB determines that the operation is a commercial farm, that the dispute involves agricultural activity(ies) that is or are included in one or more of the permitted activities set forth in the RTF Act, and that the commercial farm meets the eligibility criteria of the Act, then the CADB shall hold a public hearing.

Pursuant to N.J.A.C. 2:76-2.7(g), if the CADB determines that the dispute does not involve a commercial farm, and/or agricultural activity(ies) included in one or more of the permitted activities set forth in the RFT Act, and/or the commercial farm does not meet the eligibility criteria of the Act, then the CADB shall dismiss the complaint.

History:

On February 5, 2018, the Morris CADB contacted Mr. Alstede asking him to provide evidence that his operation is a commercial farm. The SADC and the Township of Chester were notified regarding the complaint via the same letter.

On February 16, 2018, the Morris CADB received the Commercial Farm Certification Form and related documents from Mr. Alstede.

Commercial Farm Status:

1. Pursuant to N.J.S.A. 4:1C-3, "commercial farm" means (1) a farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or (2) a farm management unit less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).
2. Because the Alstede Farms farm management unit consists of more than 5 acres, to qualify for protections of the RTF Act, it must produce at least \$2,500 of agricultural/horticultural product per year.
3. Alstede Farms produced more than \$2,500 worth of agricultural products in 2016 and 2017.
4. The Alstede Farms farm management unit is comprised of the following parcels: Block 15, Lots 27, 28.01, 28.02, 28.03, 28.04, 28.05, 28.06, 28.07, 28.08, 29, and 30 in Chester Township, and Block 133, Lot 1 in Chester Borough.
5. According to data obtained from Chester Township, Block 15, Lots 28.01, 28.03, 28.04, 28.05, 28.06, 28.07, and 28.08 are Farmland Assessed. In addition, according to Exhibit F-1, Block, 133, Lot 1 in Chester Borough is Farmland Assessed.
6. The following lots within Mr. Alstede's farm management unit are not Farmland Assessed: Block 15, Lots 27, 28.02, 29 and 30. According to Mr. Alstede's Commercial Farm Certification, Lots 27 and 29 are used for crop production, pasture and farm labor housing, Lot 30 is used for crop production and farm labor housing, and Lot 28.02 is occupied by the farm store.
7. Because the Alstede Farms farm management unit consists of more than 5 acres, to qualify for protections of the RTF Act, it must satisfy the eligibility criteria of the Farmland Assessment Act.

8. The Morris CADB does not have jurisdiction and authority to determine whether a parcel of land satisfies the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

The Morris CADB is unable to determine whether Block 15, Lots 27, 28.02, 29 and 30 satisfy the eligibility criteria of the Farmland Assessment Act. In addition, the Morris CADB is also unable to determine whether said lots meet the eligibility criteria of the Right to Farm Act.

The Chester Township Tax Assessor has jurisdiction and is qualified to determine whether Block 15, Lots 27, 28.02, 29 and 30 satisfy the eligibility criteria of the Farmland Assessment Act. Once that determination has been made and provided to the Morris CADB, the CADB will be able to determine eligibility of said lots for RTF protections.

Right to Farm Act Eligibility:

1. To qualify for the protection of the Right to Farm Act, a commercial farm must meet the following conditions:
 - The farm is located in an area in which, as of December 31, 1997 or thereafter, agriculture is a permitted use under the municipal zoning ordinance,
or
the farm is in operation as of July 2, 1998;
 - The operation of the farm conforms to agricultural management practices (AMPs) adopted by the SADC, or to a site specific AMP developed by the CADB;
 - The operation of the farm conforms to all relevant federal or State statutes, rules and regulations; and
 - The operation of the farm does not pose a direct threat to public health and safety.
2. Agriculture is a permitted use in the zone, in which Alstede Farms is located.
3. N.J.A.C. 2:76-2A.13, "Agricultural Management Practice for On-farm Direct Marketing Facilities, Activities, and Events", sets forth the standards for on-farm direct marketing facilities, activities, and events that commercial farms must comply with to receive the protections of the RTF Act. As part of adjudicating the Asdal complaint, the Morris CADB will determine whether Alstede Farms conforms to N.J.A.C. 2:76-2A.13 with respect to issues listed in the complaint.
4. Mr. Asdal's complaint alleges that Alstede Farms is in violation of the Stormwater Management Rules.

The Morris CADB does not have jurisdiction and authority to determine whether a farmer is in compliance with state law, in this case, the Stormwater Management Rules.

Chester Township professionals and, if applicable, the County Engineer, have jurisdiction and are qualified to determine whether Alstede Farms in in compliance with the Stormwater Management Rules. Once that determination has been made and provided to the Morris CADB, the CADB will be able to determine eligibility for RTF protections.

Agricultural Activity:

1. Pursuant to N.J.S.A. 4:1C-9, the owner or operator of a commercial farm may:
 - “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.”
 - “Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards.”
 - 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.
2. According to Alstede Farms Commercial Farm Certification, the farm produces tree fruit, small fruit, vegetables, hay, firewood and forestry products. 100% of the farm’s fruits and vegetables are sold through the farm store, as pick-your-own, at regional farmers markets and through a Community Supported Agriculture program. Alstede Farms also produces value added products including home made ice cream, apple cider, and baked goods, produced using crops grown on the farm. Alstede Farms also conducts agriculture-related educational and farm-based recreational activities.

The Board discussed an April 11, 2018 letter from Anthony Sposaro, Esq., attorney for Alstede Farms. Mr. Sposaro informed the Board that he was unable to attend the Board’s April 12th meeting due to a previously scheduled matter. Mr. Sposaro asked the Board to adjourn the complaint and the SSAMP application matters until the Board’s May meeting. Mr. Bush stated that he discussed Mr. Sposaro’s request with Mr. Asdal and that Mr. Asdal did not consent to the request regarding adjourning the complaint to the Board’s May meeting.

The Board discussed the Staff Report and directed staff to request the Township’s Tax Assessor to provide a written determination regarding the eligibility of the farm lots in question for Farmland Assessment. The Board further directed staff to request Chester Township’s

professional(s) and the Morris County Engineer to provide a written determination regarding the operation's compliance with Stormwater Management Rules.

Mr. Asdal addressed the Board regarding the determination of eligibility and regarding procedures. He agreed that the Board must make the threshold determinations. He also stated that he did not agree to grant an extension to the Board to continue reviewing the complaint.

Mr. Asdal asked regarding the SSAMP application submitted by Mr. Alstede. Staff informed Mr. Asdal that the SSAMP application is a voluntary process and the applicant may adjourn or withdraw the application at any time.

Alstede Farms, Chester Township (request for SSAMP).

Ms. Coyle distributed a March 5, 2018 Staff Report and informed the Board that Mr. Alstede submitted an application for a SSAMP. Staff stated that on April 11th, Mr. Sposaro asked to adjourn the SSAMP application. The Board agreed to grant the adjournment and directed staff to inform Mr. Sposaro's regarding the Board's decision.

The Board took a five-minute break.

At this point, Mr. Asdal departed.

At this point, members Davis and Ort returned to the meeting room and Chairman Davis continued to chair the meeting.

CLOSED SESSION

Pursuant to P.L. 1975 Ch. 231, the Open Public Meetings Act, Chairman Davis announced that in compliance with the Open Public Meetings Act, the Morris CADB considered closing the open portion of the meeting in order to discuss matters related to the purchase, lease or acquisition of real property, and litigation in Closed Session. On motion of member Thomson, seconded by member Keller, the Board voted to conduct a Closed Session. A roll call vote was taken.

Aye: Davis, Desiderio, Keller, Ort and Thomson

Nay: None Abstain: None

RETURN TO MEETING

The meeting reopened to the public at 9:10 p.m.

ACTIONS RESULTING FROM CLOSED SESSION

At this point, members Ort and Thomson left the meeting room.

Williams Farm, Mt. Olive Township. On motion of member Keller, seconded by member Desiderio, the Board agreed to make an offer to the landowner per the Board's discussion during Closed Session. A roll call vote was taken.

Aye: Davis, Desiderio, Keller

Nay: None Abstain: None

Members Ort and Thomson recused themselves and did not participate in the vote.

At this point, members Ort and Thomson returned to the meeting room.

REPORT OF DIRECTOR & ATTORNEY

Legislative Updates. Legislative updates were shared with the Board via email prior to the meeting.

Highlands grant for agritourism. Ms. Marion informed the Board regarding a grant for agritourism and asked for the Board's suggestions with respect to possible projects. The Board discussed the matter and provided suggestions.

CORRESPONDENCE

There was no correspondence to review.

OLD BUSINESS

There was no old business to review.

NEW BUSINESS

Resolution 2018-02: Picozzi Farm, Harding Township. On motion of member Thomson, seconded by member Keller, the Board adopted Resolution 2018-02. A roll call vote was taken.

Aye: Davis, Desiderio, Keller, Ort and Thomson

Nay: None Abstain: None

OPEN TO THE PUBLIC

There were no comments from the public.

ADJOURNMENT

There being no further business, on motion of member Keller, seconded by member Thomson, the meeting was adjourned at 9:43 p.m.

Respectfully submitted,



Katherine Coyle, Director