



**PASSAIC COUNTY AGRICULTURE  
DEVELOPMENT BOARD  
MINUTES OF A REGULAR MEETING  
Mondy, October 18<sup>th</sup>, 2021  
WebEx Meeting**

Chair Bartlett opened the meeting at 6:30 PM and read the notice that the requirements of the Open Public Meeting Act had been met.

**MEMBERS PRESENT:** Skip Bartlett, Chair; Tim Feeney, Vice Chair; Rocky Hazelman, Commissioner; Michael Eelman, Commissioner; Henry Anderson, Commissioner; Jennifer Papa, Commissioner

**EX-OFFICIO MEMBERS:** Glen Van Olden, Soil Conservation District of Hudson-Essex & Passaic; Cecilia Diaz, Rutgers Cooperative Extension of Passaic County

**STAFF PRESENT:** John Pogorelec, County Counsel; Marc Seemon, Deputy County Administrator; Michael Lysicatos, Planning Director/Board Secretary; Jessie Summers, CADB Administrator; Salvatore Presti, Assistant Planner

**OTHERS PRESENT:** Cindy Roberts, SADC Development & Training Coordinator; Rachel DeFlumeri, SADC Regional Acquisition Coordinator

**MINUTES**

A motion to accept the minutes of April 20<sup>th</sup>, 2021 and August 13<sup>th</sup>, 2021 was made by Commissioner Hazelman. The motion was seconded by Chair Bartlett. The motion passed unanimously.

**PUBLIC PORTION**

The following members of the public were present at the meeting:

- David Sisco-Izak – 38 Castle Rock Road, Hewitt, NJ – Applicant
- Nicholas Ponzini, attorney for Robert Stark – 35 Castle Rock Road, NJ – Objector
- Michael Hlubik – 25 Castle Rock Road, Hewitt, NJ – Objector
- Pam & Mike Kovatch – 42 Castle Rock Road, Hewitt, NJ - Objector

**NEW BUSINESS**

**SSAMP Hearing for Harper Turner Farms**

County Counsel to the Board John Pogorelec outlined the proceedings for the hearing and cited relevant provisions from the case of Township of Franklin v. David den Hollander regarding the authority of the County Agriculture Development Board:

- Although the boards have primary jurisdiction over disputes between municipalities and commercial farms, the boards do not have carte blanche to impose their views. Because the authority of agriculture boards is not unfettered when settling disputes that directly affect public health and safety, the boards must consider the impact of the agriculture management practice on public health and safety and make their determinations in accordance with these standards. As a general rule, the threshold question will be whether an agricultural management practice is at issue. If so, the CADB must then consider relevant municipal standards in making its ultimate determination. In disputes where a local ordinance has a peripheral effect on farming but implicates a policy that does not directly conflict with farming practices, greater deference should

be afforded to local zoning regulations and ordinances. Even where an activity is considered an accepted agricultural management practice, the resolution of an issue in favor of farming interest does not vest the CADB with wide-ranging authority to ascribe itself to prerogatives beyond those set for the in the Act. The boards must act in a way that is consistent with their mandate, giving appropriate consideration not only to agriculture practices at issue but also to local ordinances and regulations, including land use regulations that may affect the agriculture practice. A fact-sensitive inquiry is required. Courts conclude that although there is potential for conflict between farming interests and public health and safety concerns, the court reposes trust and discretion in the CADB to decide carefully future disputes on a case-by-case basis to balance the competing interests.

County Counsel Pogorelec then explained that the applicant's site-specific request practices are 1) import fill dirt to create logging roads and level areas for gardening, and 2) stockpile topsoil for tree plantings and gardening.

David Sisco-Izak testified that he had a state forester witness the work being performed on the site in 2018, which was creating logging roads and putting woodchips on said roads to get access to dead timber to harvest and the forester issued no objections as long as erosion was controlled, and the road was stabilized. In 2019, he received a zoning violation from the Township of West Milford for importing fill dirt. David Sisco-Izak stated the complaint process was not followed, as a municipal official who believe a farm is violating an ordinance must file a complain with the CADB rather than issuing a violation or summons. This prompted David Sisco-Izak to seek initial assistance from the CADB. Since then, David Sisco-Izak has had the Hudson Essex Passaic Soil Conservation District on the site multiple times to inspect the property. The property is flagged per the state forester's recommendation to define the property. There is a 50-foot paper road bordering the property, further defining its borders. There are no intentions of adding any roads or inviting anyone from the public to the farm.

Glen Van Olden asked David Sisco-Izak for the specific purpose of bringing in the fill material and create the logging roads. David Sisco-Izak answered that it would be for better access to the trees on site, and also

John Pogorelec asked David Sisco-Izak to specify the operations happening at his farm. David Sisco-Izak responded that primarily his farm was following a woodlands managing program which had recently been removing dead trees from the property and turning them into firewood and wood chips. Additionally, there were gardens for produce as well as chicken and duck facilities.

Rocky Hazelman asked about the berms on the site. David Sisco-Izak responded by describing the berms and composting on site.

Nicholas Ponzini asked David Sisco-Izak about his property's compliance to local laws. David Sisco-Izak responded that a state forester had raised no objection. Nicholas Ponzini asked if there were any other ways to achieve the logging. David Sisco-Izak responded that there was not.

Nicholas Ponzini asked if David Sisco-Izak had received a soil permit. David Sisco-Izak responded that when he had filed, the town insisted that he file a major soil permit instead of the minor soil permit he believed he was entitled to due to the amount of soil he was moving falling under the category of minor.

Michael Stark stated that he was concerned that David Sisco-Izak would use his yard as a storage yard for his septic tank business. Rocky Hazleman responded that use of property changes is not in the power of the board.

Glen Van Olden stated that due to the agricultural use on site, he believes that the board is within its right to grant time and volume specific rights to David Sisco-Izak to import fill. He also stated that he believes the Township of West Milford did not have the right to force David Sisco-Izak to apply for a major soil permit.

Jennifer Papa asked if the property was farmland assessed before or after the soil permit was issued. David Sisco-Izak stated that the property was assessed before the soil permit was issued.

Pam Kovatch asked if there were as-builts for the property. David Sisco-Izak responded that there were markers on the trees and that there was a site plan for the site. Mike Kovatch raised a concern that where they marked the trees did not agree with his survey. David Sisco-Izak responded that he would meet with Mike Kovatch to clarify any bounds.

Glen Van Olden asked if the town denied the permit. David Sisco-Izak stated that they had.

Each board member was asked to provide comment. They are as follows:

- Tim Feeney stated that he believed that Mr. Sisco-Izak was covered under the Right to Farm Act due to the logging roads being critical to his farm's operation. He also stated that he would like to visit the site, and that he wanted something to be worked out that is agreeable to all parties.
- Rocky Hazleman stated that after seeing the site, he believes what is being discussed is in line with his visit.
- Cecilia Diaz concurred with Rocky Hazleman.
- Jennifer Papa stated she would like to visit the site before a final determination was made.
- Michael Eelman stated he would like to visit the site.
- Henry Anderson stated he would like to visit the site.
- Skip Bartlett stated that he would like to grant David Sisco-Izak the ability to import the last remaining soil needed for his project with the stipulation that the soil is clean. He also stated that other board members should visit the site before the matter is resolved.

The board resolved to have Open Space Coordinator Jessie Summers set up times for board members to visit the site with David Sisco-Izak. The board can then solve the issue at the next meeting. The board wished to meet again to settle the hearing on November 8<sup>th</sup>, 2021 at 6:30.

## **OLD BUSINESS**

### **Oldham Road**

Planning Director Lysicatos informed the board that there were currently no updates on the Oldham Road matter. He stated that the county would be meeting with Morris and Bergen Counties to discuss urban agriculture and how to bring it in line with the state. While the Planning Department has had conversations with the state, the same standards from the past would currently apply to the property.

### **Union Valley Road**

Open Space Coordinator Jessie Summers stated that she had received a SSAMP Application from Battinelli Family Farms at 1566 Union Valley Road, West Milford. She stated that West Milford and the

Passaic County Agriculture Development Board  
Meeting Minutes  
October 18, 2021

state would be notified that they have received that application. She stated that she will be scheduling another board meeting to present the materials.

**ADJOURNMENT:** Chair Bartlett made a motion to adjourn the meeting at 7:31 PM that was seconded by Commissioner Papa. The motion passed unanimously.

Respectfully submitted,  
Salvatore Presti for

A handwritten signature in cursive script that reads "Salvatore Presti".

JESSIE SUMMERS