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CAPE MAY COUNTY AGRICULTURE DEVELOPMENT BOARD
William E. Sturm Administration Building
Commissioners Meeting Room
4 Moore Road
Cape May Court House, New Jersey 08210
April 13, 2022

MEMBERS PRESENT:

- James P. Hand
- Robert Schumann
- Matthew P. Stiles
- Sue Ann Wheeler
- Alfred Natali
- Jeffrey Lindsay, Board Attorney
- Barbara Ernst, Division Director
- Michael Kent, Cape Atlantic Conservation District

APPEARANCES:

- Attorneys for Applicants
- NICHOLAS F. TALVACCHIA, ESQ. (Cooper Levenson))

Transcriber Jennifer Wilson, AD/T 623
CSR REPORTING
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2	<p>1 I N D E X</p> <p> (04/13/2022)</p> <p>2</p> <p style="text-align: right;">Page(s)</p> <p>3</p> <p>4 APPLICATION:</p> <p>5 MARSHALVILLE FARMS, 3</p> <p>6 Block 12, Lot 23.01, 24.5 acres</p> <p>7 375 Marshallville Road, Upper Township</p> <p>8 Cape May County</p> <p>9 FOR: Site specific agriculture management</p> <p>10 practice</p> <p>11 OPEN PUBLIC MEETINGS ACT 3</p> <p>12 PLEDGE OF ALLEGIANCE 3</p> <p>13 RE: Request</p> <p>14 BY: Mr. Talvacchia 3</p> <p>15</p> <p>16</p> <p>17 WITNESS DIRECT</p> <p>18</p> <p>19 BETTY JEAN YANK 4</p> <p>20 JOHN HALBRUNER 10</p> <p>21</p> <p>22</p> <p>23 MEMBERS OF PUBLIC Page(s)</p> <p>24</p> <p>25 Natalie Neiss 14</p>	4
3	<p>1 (Requested portion begins at 00:27)</p> <p>2 MR. STILES: Okay. Well done. I would like to</p> <p>3 read the statement pertaining to the Open Meeting Act.</p> <p>4 OPEN PUBLIC MEETINGS ACT</p> <p>5 This is a notice pursuant to the requirements of</p> <p>6 the Open Meeting Act that at least 48 hours in advance</p> <p>7 notice of this meeting has been provided by delivering</p> <p>8 the same in writing to the Clerk of the Board of the</p> <p>9 Chosen Freeholders to be posted on the bulletin board</p> <p>10 and delivering a copy of the notice to the Cape May</p> <p>11 County Herald.</p> <p>12 Everyone rise for the Pledge of Allegiance.</p> <p>13 PLEDGE OF ALLEGIANCE</p> <p>14 MR. LINDSAY: The application on the agenda today</p> <p>15 is Marshallville Farms, LLC, Betty Jean Yank. Mr.</p> <p>16 Talvacchia, I assume you're here for that?</p> <p>17 MR. TALVACCHIA: (Not near microphone).</p> <p>18 MR. STILES: The mike. Everyone's pointing to the</p> <p>19 mike.</p> <p>20 MR. TALVACCHIA: Oh, okay.</p> <p>21 MR. STILES: We're recording.</p> <p>22 MR. TALVACCHIA: Good morning, everyone. Nick</p> <p>23 Talvacchia, Cooper Levenson, on behalf of Marshallville</p> <p>24 Farms. Betty Jean is the principal, she's sitting</p> <p>25 here. And we also have John Halbruner from Hyland</p>	5
2	<p>1 Group.</p> <p>2 This is a request for a certification for a</p> <p>3 commercial farm and for site specific agricultural</p> <p>4 management practice recommendation from this Board.</p> <p>5 We did provide public notice, 200 foot list in the</p> <p>6 Newspaper on April 1. We provided our affidavit of</p> <p>7 publication to Ms. Ernst by overnight courier April</p> <p>8 5th.</p> <p>9 And I believe you have jurisdiction to hear this</p> <p>10 and I'm going to have Betty Jean just talk about what</p> <p>11 she's asking for, what she plans to do. And then Ill</p> <p>12 have John Halbruner show you what we received approval</p> <p>13 for from the Upper Township Planning Board back in</p> <p>14 September. They approved the building that we're going</p> <p>15 to use and some waivers from the parking requirement in</p> <p>16 terms of number of spaces and no asphalt and things of</p> <p>17 that nature. But we did receive that approval.</p> <p>18 So, Betty Jean, you want to stand -- swear her in?</p> <p>19 MR. LINDSAY: Swear her in, yes. Go over to the</p> <p>20 podium. State your name, please.</p> <p>21 MS. YANK: Betty Jean Yank.</p> <p>22 B E T T Y J E A N Y A N K, APPLICANT, SWORN</p> <p>23 BY MR. TALVACCHIA:</p> <p>24 Q Betty Jean, just for the record, your name</p> <p>25 and background and what's the specific -- what are you</p>	4

<p style="text-align: right;">6</p> <p>1 have is falling down, that needs to be repaired and 2 it's not high enough and it's basically just a tractor 3 barn. 4 We couldn't build where that is because of if 5 being so close to the river, it was closer than 150 6 feet to the high water line. So we decided to try to 7 build one in the front field. But Shelly said I 8 couldn't build anything higher than 20 feet because the 9 Tuckahoe River front where we are is actually a 10 residential zone and that's the height limit for an 11 accessory building. 12 So I said okay, fine. She said no, you either 13 have to come in for a variance or you have to go to the 14 Cape May County Agricultural Development Board and ask 15 them to approve the barn. She said if they do, then 16 you don't need anything from the Township. 17 So that's when I submitted my application, I 18 believe it was in October of 2021 and -- it might have 19 been October 2020. But actually, you know, things have 20 changed in the Township and during this process, my 21 application process, the County came back and said you 22 need to go to the Township and get them to -- you have 23 to comply with all the Township's parking requirements. 24 So go to the Township. 25 So we went to the Township and they decided that</p>	<p style="text-align: right;">8</p> <p>1 at the hearing. The Board disagreed, they said no, 2 that's principal for the farm, therefore did not need a 3 height variance. So they signed off on that. And John 4 will go through what the Board approved in a moment. 5 6 MR. STILES: Anything else, Betty Jean? 7 MS. YANK: No. Any questions for me? 8 MR. LINDSAY: Nick, I know it's in the material 9 that the Board has, but can walk her through the 10 requirements of a commercial farm, the certification in 11 terms of the acreage and the income. 12 MR. TALVACCHIA: Do you have that? 13 MS. YANK: No, I don't have that with me. 14 MR. TALVACCHIA: I actually don't have that 15 information. I wasn't -- 16 MR. LINDSAY: Okay. 17 MR. TALVACCHIA: -- sure what the process was -- 18 MR. LINDSAY: That's fine. The Board has the 19 materials before them, so that's fine. I just rather 20 it would be supplemented by the testimony. That's 21 fine. 22 MS. YANK: The farm is 25 acres. 23 MR. TALVACCHIA: And exceeds the \$2500, correct? 24 MS. YANK: Yes. 25 MR. LINDSAY: Exceeds what?</p>
<p style="text-align: right;">7</p> <p>1 we didn't need coving and we didn't need a paved 2 parking lot and we didn't need parking lot lighting. 3 And they also decided, other than the handicapped 4 parking spaces and mowing grassy spaces that we 5 certainly have plenty of room for there. That the barn 6 was not an accessory use, it was a primary use. So 7 therefore it could be higher than 20 feet. And that we 8 didn't need a variance. 9 So I'm just here today to hopefully get my 10 commercial farm certification so that I can sell more 11 things than what I can grow there and highlight 12 pumpkins and, you know, bedding plants and herbs and 13 things that other people, you know, grow and produce, 14 as well as just getting you to agree to what the 15 Township said as far as parking and the barn being a 16 primary use, which means it can be higher than 20 feet. 17 MR. TALVACCHIA: I just want to clarify, since the 18 farm is the principal use, the barn would be a 19 principal structure for that use and they allow single 20 family homes and farms on the same lots, so we don't 21 have an issue with two principal uses. The single 22 family home is a principal use for residential and then 23 the barn is a principal use for the farm use. That's 24 how they interpret it. 25 And we did ask for a height variance for accessory</p>	<p style="text-align: right;">9</p> <p>1 MS. YANK: And exceeds the \$2500 in income, yes. 2 MR. LINDSAY: Oh, got it. 3 MS. YANK: And it has been a qualified farm since 4 well before I purchased it and it has continued to be a 5 qualified farm with farmland assessments. 6 MR. NATALI: I just have one question. I think 7 it's wonderful that you can do this and farmland. The 8 \$6500, is 51 percent or more of that income produced on 9 your farm? 10 MS. YANK: At this point, yes, uh-huh. And that 11 was just an estimate. I had no idea what someone was 12 going to bring and we did very well, it was very 13 popular for the you pick operation. 14 MR. LINDSAY: Any other questions from the Board? 15 No. 16 MR. TALVACCHIA: Then I'll just bring John up 17 because he wanted to go through the plan that was 18 presented. 19 MS. YANK: Thank you. 20 MR. HALBRUNER: Do you have a copy of the plan or 21 do you need -- 22 MR. TALVACCHIA: You all have a copy of the plan, 23 correct? 24 Swear him in as well? State your name for the 25 record.</p>

<p style="text-align: right;">10</p> <p>1 MR. HALBRUNER: John Halbruner. Spelled H-A-L-B- 2 R-U-N-E-R. 3 J O H N H A L B R U N E R, APPLICANT'S WITNESS, SWORN 4 BY MR. TALVACCHIA: 5 Q And, John, you're a New Jersey licensed 6 planner and then you're an architect too, right? 7 A I'm a licensed engineer and architect and I have a 8 planning license. 9 Q Okay. So you are witness for Upper Township, 10 correct? 11 A Correct. 12 Q Can you describe the application for the 13 Board, please? 14 A Yes. The application is quite simple. It's to 15 construct a 30 foot by 60 foot one and a half story 16 barn that's 25 feet tall measured by the adjacent 17 grade. And to help service the You Pick demand for 18 parking, 10 parking spaces, one of which is a 19 handicapped spot. The building is located some 25 feet 20 off of Marshallville Road and some 300 and plus feet 21 from the nearest residential parking. 22 The Board did grant several waivers and parking 23 requirements insofar as hidden, we're going to be 24 required to waive that; writing, we're going to be 25 required to waive that; and the third waiver for</p>	<p style="text-align: right;">12</p> <p>1 MR. LINDSAY: Roll call vote. 2 ROLL CALL: 3 MS. ERNST: James Hand? 4 JAMES HAND: Aye. 5 MS. ERNST: Mr Natali? 6 MR. NATALI: Aye. 7 MS. ERNST: Matthew Stiles? 8 MR. STILES: Aye. 9 MS. ERNST: Sue Wheeler? 10 MS. WHEELER: Aye. 11 MS. ERNST: Bob Shumann? 12 MR. SHUMANN:: Aye. 13 MR. TALVACCHIA: Thank you very much. 14 MR. LINDSAY: Do you have anything else? 15 MR. TALVACCHIA: No. 16 UNIDENTIFIED: (Not near microphone) 17 UNIDENTIFIED: Yes, we actually have (inaudible). 18 MR. LINDSAY: Oh, I'm sorry. Yeah. I'm sorry. 19 Comment from the health department? 20 MS. ERNST: (Not near microphone). (Inaudible) we 21 worked together on this application. John, there were 22 a few things that we did change over here regarding the 23 (inaudible). The staff went there and (inaudible). 24 They found some (inaudible). So everything is above in 25 (inaudible) plan. I think (inaudible). At any time</p>
<p style="text-align: right;">11</p> <p>1 treeing and landscaping the parking spaces, the parking 2 lots, parking lots with more than five spaces. 3 Q Yeah, because (not near microphone) -- 4 A Correct. 5 Q That's because we provided a buffer? 6 A Right. That portion of the ordinance is really 7 intended to be for commercial properties in the urban 8 setting, not in the middle of a farm field. So they 9 recognized that and granted us relief from applying 10 those requirements. 11 (Mr. TALVACCHIA not near microphone). 12 Q And you're going to tell me that the barn or 13 the principal structure (inaudible)? 14 A They did. As you mentioned in your opening 15 statements or as Ms. Yank mentioned, we were originally 16 submitted for a height variance and an accessory 17 building. The Board disagreed and said this is really 18 the principal building, so 30 or 35 feet is allowed. 19 You're not above that no height variance required. 20 Q Anything else, John? 21 A No. Unless there's questions. 22 Q (Inaudible). That's what we have. 23 MR. LINDSAY: Motion from the Board? 24 MR. SCHUMANN: I'll make a motion to accept. 25 MR. HAND: I'll second.</p>	<p style="text-align: right;">13</p> <p>1 there is change in what they are doing, they're 2 requiring the food services testing system, his 3 department should be notified. Regarding (inaudible) 4 NJAC 8:24: 5 (Person reading not near microphone) 6 "NJAC 8:24 exempts produce stands offering only 7 whole uncut fresh fruit and vegetables, meaning they 8 are not considered retail food establishments and would 9 not be subject to a health inspection." 10 "We believe that unless the eggs are washed, their 11 storage temperature in with farm stands or residential 12 sale of eggs road-side." 13 "If potentially hazardous products are sold from 14 refrigerator (cut-fruit prepared in approved facility, 15 dairy items) then we would need to routinely check the 16 temperature of the refrigerator, as part of an 17 inspection." 18 "Raw honey is considered an agricultural commodity 19 and is not subject to oversight from this Department. 20 Any added ingredients or processing of the honey would 21 dictate the need for cottage food approval or 22 inspection from this Department." 23 "Any additional handling or preparation of 24 products beyond raw honey would need to take place in 25 an approved facility."</p>

<p style="text-align: right;">14</p> <p>1 "Water source/wastewater disposal. I see on the notes 2 that there will be no bathrooms in the barn. Just note 3 that if water at any time is run to the barn, it has to 4 be disposed of via an approved septic system and not 5 directly onto the ground. Also, if the water will be 6 used in the production of any future food products, it 7 must be tested for potability." 8 And we also have a comment from the planning 9 department of their concerns. 10 This letter is now on display at my office as is 11 the application for environmental protection for the 12 above referenced farm. 13 "I am writing to inform you that the scope of the 14 produce proposed does not meet requirements for County 15 Planning Board site plan as yet. Therefore no 16 modifications to the site plan are necessary from the 17 Planning Board's standpoint. Please feel free to 18 contact me if you have any questions." 19 "Leslie Gimeno, Department Head of Planning." 20 MR. LINDSAY: I also erred in not opening up the 21 public comment before the Board votes and I apologize 22 for that. Do we have any public comment on this 23 application? Yes. 24 MR. LINDSAY: Come over to the microphone, please. 25 MS. NEISS: Natalie Neiss. I'm from Upper</p>	<p style="text-align: right;">16</p> <p>1 amended on July 2, 1998 and in accordance with N.J.A.C. 2 2:76-2.3(a)requires that the County Agriculture 3 Development Board recommend site specific agricultural 4 management practices; and, 5 WHEREAS, Bette Jean Yenk, Marshallville Farms, 6 LLC has petitioned the Cape May County Agriculture 7 Development Board to certify the farm as a commercial 8 farm, Block 12, Lot 23.01, 24.5 acres, commonly known 9 as 375 Marshallville Road, Cape May County, New Jersey, 10 and is seeking a Site Specific Agriculture Management 11 Practice for blueberry production, strawberry 12 production, raspberry and blackberry production, field 13 vegetable production, high tunnel production of 14 vegetables and fruits, egg production and honey 15 production. A u-pick option will be made available for 16 some of the berry production; and 17 WHEREAS, the Upper Township Planning Board adopted 18 Resolution PB05-2021 on October 21, 2021 finding of 19 fact and conclusion of law that stated: -- 20 MR. LINDSAY: Are you planning to read off the 21 dates? 22 MS. ERNST: Yes. 23 MR. LINDSAY: I don't think that's necessary. The 24 Board has the resolution in front of them, correct? 25 MS. ERNST: Okay.</p>
<p style="text-align: right;">15</p> <p>1 Township. I came in late. I mean the last meeting I 2 went to started 30, 35 minutes late, so I'm sorry. But 3 I'm here to support Betty Jean Yank and her endeavors 4 in the Township. And I think that the Yanks have done 5 a lot of good for Upper Township. Thank you. 6 MR. LINDSAY: Any other comments? I take it those 7 comments don't change the Board's vote? 8 UNIDENTIFIED: No. 9 MS. ERNST: (Inaudible). I can read them into the 10 record and you can (inaudible). 11 MR. LINDSAY: Okay. 12 MS. ERNST: (Away from microphone) 13 MR. LINDSAY: All right. We can do it now. 14 MS. ERNST: This is Resolution CADB 1-2022. 15 RESOLUTION CERTIFYING COMMERCIAL FARM OPERATION 16 AND RECOMMENDING SITE SPECIFIC AGRICULTURE 17 MANAGEMENT PRACTICE 18 WHEREAS, the State of New Jersey has enacted 19 N.J.S.A 4:1C-11, now known as the "Agriculture 20 Retention and Development Act"; and, 21 WHEREAS, the County of Cape May has created the 22 "Cape May County Agriculture Development Board" 23 pursuant to aforesaid Statute; and, 24 WHEREAS, the Agriculture Retention and 25 Development Act known as the Right to Farm Act as</p>	<p style="text-align: right;">17</p> <p>1 MR. LINDSAY: Everyone has had an opportunity to 2 review the resolution? 3 UNIDENTIFIED: Yes. 4 UNIDENTIFIED: Yes. (Inaudible) we were voting on 5 it. 6 MR. LINDSAY: With that, someone make a motion. 7 MR. SCHUMANN: I'll make a motion. 8 MR. LINDSAY: Second? 9 MR. NATALI: Second. 10 MR. LINDSAY: All right. Roll call. 11 ROLL CALL: 12 MS. ERNST: Al Natali? 13 MR. NATALI: Aye. 14 MS. ERNST: James Hand? 15 MR. HAND: Aye. 16 MS. ERNST: Matt Stiles? 17 MR. STILES: Aye. 18 MS. ERNST: Sue Wheeler? 19 MS. WHEELER: Aye. 20 MS. ERNST: Bob Shumann? 21 MR. SHUMANN: Aye. 22 MR. LINDSAY: We're concluded. Thank you. 23 (End of recording at 19:01) 24 25</p>

1 CERTIFICATION

2 I, JENNIFER WILSON, the assigned transcriber,
3 do hereby certify the foregoing transcript of
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5 proceedings of April 13, 2022, audio recorded, index
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11 compressed transcript of the proceedings as recorded to
12
13 the best of my knowledge and ability.

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15
16
17 /s/ Jennifer Wilson June 9, 2022 June 9,
18
19 2022

20
21 JENNIFER WILSON, AD/T #623 Date
22
23 ATLANTIC CITY COURT REPORTING, LLC
24
25 Atlantic City, New Jersey

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