

**WARREN COUNTY AGRICULTURE DEVELOPMENT BOARD**

Department of Land Preservation

P.O. Box 179

500 Mt. Pisgah Avenue

Oxford, NJ 07863

**Meeting Minutes**

**November 21, 2019**

The regular monthly meeting was held at the office of the Department of Land Preservation, 500 Mt. Pisgah Avenue, Oxford, New Jersey. The meeting was called to order by Chairman Schnetzer at 7:30 p.m. An announcement was read as required by the Open Public Meetings Act, N.J.S.A. 10:4-6-21.

Chairman Schnetzer led the Pledge of Allegiance.

Members present: Lou Baduini, Tim Bodine, Jason Menegus, Joel Schnetzer, Melissa Watters

Members absent: Bradley Burke, Dave Dempski

Others present: T. Kaminski, C. Tierney, Staff; Katrina Campbell, County Counsel; Jeff Gibb, Gary Donaldson; William and Susanne Laban, David Diehl, Richard Thomas, Esq., Blirstown Township.

**Minutes** of the meeting held on October 17, 2019 were approved on a motion by Mr. Baduini and seconded by Mr. Bodine.

**Correspondence:** Noted

**Public Input (Non-agenda Items):** none

**Old Business:**

**Campbell Foundry Farm, BL 5200 L 1100, Hope Township, possible DOE violation**

Mr. Tierney stated that he contacted the LRSP regarding the dumping onto his property that is in possible violation of the Deed of Easement, but hasn't heard back. The landowner faces NJ DEP violations as well and we are still waiting for an official report from the DEP. The landowner will likely need to remove the material. Mr. Tierney to reach out again to try to get a response.

**Special Occasion Events on Preserved Farmland Discussion/Feedback**

Discussion on this to be tabled until next December meeting.

**New Business:**

**Pipers Hills Farms, LLC, TLC-NJ Non-Profit, BL 48 L 72, Washington Township, approx. 28 gross acres**

County Engineering issued its review letter for the survey on this farm. The landowner has some concerns with items raised in the review letter, specifically the need to obtain permits for the access and electrical work. Mr. Gibb stated that he obtained permits from Washington Township and that no one, the Township, JCP&L or excavator stated that they needed a County permit for the junction box. The box is outside of the ROW and the pole is inside ROW. Mr. Gibb stated that the County wants him to apply for a permit for the underground cable. Mr. Gibb stated that the entrance to which he added gravel has been there since 1963 with provided dated aerial map and the gravel was to help prevent mud tracking onto the roadway. The County Engineering Dept. would like him to apply for a permit for a sight triangle and asphalt skirt. The land is on a County Road.

Both Mr. Menegus and Mr. Bodine questioned whether the access should have been grandfathered in.

Mr. Gibb has put gates up to keep people out of the property and will block off second entrance to the field.

Chairman Schnetzer stated that we needed to coordinate with the County Engineering Department and see what kind of response as to further discussion or action. Mr. Tierney had stated that the County Engineer Director was out this week and will follow up with him next week.

**SSAMP Hearing – Hafscoop D'villa, William & Susanne Laban, BL 1501 L 11, Blirstown Township**

Mr. Menegus stepped down from his position on the Board due to conflict.

All notices and paperwork are completed and in compliance for this Right-to-Farm hearing. An announcement was made at the October 17, 2019 meeting that it would be carried to the WCADB November 21, 2019 meeting at the request of the Township's LUB Attorney, Mr. Roger Thomas. This farm was Certified as a Commercial Farm by the WCADB on June 20, 2019 which was then memorialized in Resolution #19-11 by the Board on July 25, 2019.

Ms. Campbell swore in William and Susanne Laban and asked them to state their name and to spell their last. Mr. Laban gave testimony that he has a land sea container on his property located approximately 60 feet from the road (Mt. Hermon – CR 655) in back of property and 100 feet from electrical service access to electric pole. Mr. Laban stated that their barn was already full of equipment and had seen other land sea containers around town and thought it was a good idea. Mr. Laban had stated that a couple of weeks later after putting the sea land container on their property that they got a notice from the Township about the container and so they put in the appeal and were told that the container was not an accepted structure according to the Blairstown ordinances. Mr. Laban stated that he tried to plead his case in that they needed the structure because it was dry, air tight and could store things in there that their regular barn would not allow. He was also going to use it as a little shop and is 100 feet away from electrical service that was installed years ago and the sea container was placed at that location because of the access to the pole. Mrs. Laban stated that they have four acres of hay wanted a dry storage area for their hay and that there was no room in their barn. She stated that they have a Woodland Management Plan and that there was a splitter and pruning equipment for fruit trees, chainsaws, etc. in the sea container. Mr. Laban stated that there currently was a generator and some cushions in there. Mrs. Laban presented 12 pictures of the property that included the fields, different angles of the sea container on the property, their wood splitter and a couple other sea containers in the surrounding area to the Board which was labeled as Exhibit A1 – A12. She discussed the locations and content of the photos with the Board members. Mr. Laban offered to do some landscaping around the sea container to help the aesthetics because in the winter with the leaves off, it is visible. Mr. Laban had stated that the container was located off of a field access road.

Mr. Thomas stated that he could not hear what Mrs. Laban was discussing with the Board members regarding the photos and would like it to be on record so that he could hear it as well. Mr. Thomas and Mr. Diehl, Blairstown Zoning Officer, and Mr. Tierney and Ms. Campbell all reviewed the photos as Mrs. Laban went over them.

Mr. Thomas asked Mrs. Laban if the electrical box serves both the sea land container and the barn and asked if the aerial map of their property was a legal representation of their property and could she point out on the map where the sea land container was located. Mrs. Laban replied yes to all.

Mr. Baduini asked if they received a copy of the Blairstown Zoning Ordinance that they were in violation of. Mr. Laban stated that he did get a copy and had a hard time understanding the ordinance that said that no structure should be any closer to the road than twice the height of the building or 100 feet, whichever was less. Mr. Laban took it as the land sea container was about 9 feet tall so it needed to be at least 18 feet back and that they have the container about 65 feet from the center of the road. He stated that he did understand that it was not a permitted structure because it was not mentioned in the ordinance. Mr. Baduini asked if the Zoning Officer gave him any information about what zoning that he was concerned about? Mr. Laban stated that he thought that it was just setbacks and land use for non-permitted structure. Mr. Laban stated that he did try to reach the zoning officer several times and on the 3<sup>rd</sup> or 4<sup>th</sup> time, he had spoken with him and thought that they could come to a compromise. Mrs. Laban stated that she heard from people in town that they are using the land sea container for their electrical business and had received from the zoning officer a Stop Work Order placed on the electrical service on the feeder running to the container. Mr. Laban was concerned about removing the land sea container because they spent a lot of money on it and have not been able to use it.

Mr. Bodine asked if the land sea container was just used for the farm and not for any outside usage and have any neighbors complain about it. Mr. Laban had stated that they get 300 bales of hay from the cutting and need a place to store it and that no neighbors have said anything to them. Mr. Bodine confirmed that the only issue then is from the town.

Chairman Schnetzer asked that the only use of the land sea container is for the farm use and equipment? Mrs. Laban replied that was all they were going to use it for. Mr. Laban stated that when they can use it, that is what they will use it for, but has not yet used it for anything other than putting the gas generator in there because they have nowhere else to put it.

Ms. Campbell stated that when they were testifying earlier Mr. Laban said that it may also be used for a little shop. Mr. Laban stated that he would use it to sharpen chainsaws and tools. Ms. Campbell asked to confirm that it was for farming activity and not an electrical shop? Mr. Laban stated that he has his own electrical shop and business in North Bergen and all the equipment that he has on the farm is for the farm including the skid steer for the woods.

Mr. Thomas asked Mr. Laban if he went to the town for approval before he bought the land sea container, seek any zoning permit or any kind of building permit? Mr. Laban replied no. Mr. Thomas asked Mr. Laban that when they bought it that they thought it was good for their purposes? Mr. Laban replied yes.

Mr. Thomas asked what was in the barn now and what was the intended use of the sea land trailer? Mr. Laban replied that in the barn there is two six foot mowers, rake, old car, backhoe, tractor, tool box, welding unit. Mr. Laban stated that he pays a landscaper to maintain around the house, but uses the lawn mowers, hedge trimmers to maintain the rest of the property. He stated that all of the stuff is shoved into the barn.

Mr. Thomas stated that Mr. Laban testified that when he placed the trailer it was 66 feet from the center line of the road and asked how was it measured and if he ever contacted the zoning officer as to how the setbacks were measured and was it after the land sea container was already placed? Mr. Laban replied yes to all and that he used a measuring tape.

Ms. Campbell swore in Mr. David Diehl, Zoning Officer where he stated his name and spelled last for the record.

Mr. Thomas asked Mr. Diehl if he had been on the Laban property, was provided a map by the Labans and identified as their property? Mr. Diehl replied yes and provided the Board with a tax map of the property and some black and white copied photos marked at T1-T7.

Mr. Thomas asked Mr. Diehl if he measured from the road the location of the land sea container and if he marked on the map the area where he thinks that the sea land container is located and how was that location established marked on T1? Mr. Diehl replied that the ROW of that section of Mt. Hermon Road is a 66 foot section, with 33 feet each side of the centerline, pavement is around 12 feet and from the centerline to the container is 42 feet and 11 feet in from edge of property. Mr. Thomas asked if setbacks were measured in Blairstown Township from the centerline of the roadway? Mr. Diehl replied no, that setbacks are from the property line and the property line indicated on the map is 11 feet +/- from the container.

Mr. Thomas asked Mr. Diehl if he is a Zoning Officer for other towns? Mr. Diehl replied that he has worked for as many as seven towns and currently is the Zoning Officer of Blairstown, Independence, Allamuchy, Hackettstown and Green Township in Sussex County.

Mr. Thomas asked Mr. Diehl if his understanding of ROWs and setbacks for Town Ordinances is an unusual provision in the Blairstown Zoning Ordinance? Mr. Diehl replied customary reason.

Mr. Thomas asked Mr. Diehl about the violation sticker on the container? Mr. Diehl replied that Blairstown is aggressive on containers and it went up to the Appellate Division where 3 Judges ruling that when the use of the containers change to a storage unit, the intent is changed, therefore it is a regulated structure and building and since it is regulated, construction gets copied and it is run by the Department of Community Affairs State Agency and they do what they see fit.

Mr. Thomas asked Mr. Diehl if he was familiar with the Master Plan and Zoning Ordinance of Blairstown and are there any purposes of zoning contained in either in regards to the land sea container that would be in a rural community? Mr. Diehl replied that basically, Blairstown Master Plan tries to follow the State Statute Municipal Land Use Law and that Blairstown's plan states that the "general purpose is to continue to embrace and maintain a rural and country atmosphere in which their transportation roots and corridors enhance the visual view shield in order to preserve the prevailing rural character".

Mr. Thomas asked Mr. Diehl if there was anything in the zoning ordinance that deals with Right-to-Farm? Mr. Diehl stated that under the general code, LDO general chapter, have the Right-to-Farm in which Blairstown recognizes the continuation of expansion and commercial of all agriculture by encouraging a positive agricultural business climate where best management practices are applied.

Mr. Thomas asked if the ordinance taken into account a special place for agriculture in the Township and how has is that done? Mr. Diehl replied both by zone and in 2003 enhanced the ability of farmers to have more options in placing their buildings and structures on their farms. The town has eliminated use of the A cap for all in the R-5 zone via cap where any accessory building or structure was the percentage of the landowner's home on the lot and farmers are exempt from that coverage provision. For agricultural purposes, there is no coverage or percentage limitation attached to their house for building agricultural structures as long as they are farmland accessed, labeled "Q" farm.

Mr. Thomas asked Mr. Diehl if there was a special rule for farming that were different than residential regarding setbacks? Mr. Diehl replied for that zone, it is 50/50 or a sliding scale for a recognized structure or if it is for livestock it doubles to 100 feet.

Mr. Thomas asked if the Blairstown's regulations were more flexible, less flexible or average compared to other Townships' ordinances in relation to farming? Mr. Diehl replied that Blairstown's were a little bit more progressive.

Mr. Thomas asked Mr. Diehl if he issued a violation to the Labans and what was the purpose? Mr. Diehl stated that the first notice that he sent out was a Notice of Intent letting landowner know that if they intend to keep, it will be in violation of a town ordinance and setbacks and non-permitted use which gives them the option to move forward and if they remove it, they are done. The second set is a Notice of Violation. For Labans, it was a Notice of Intent/Violation. Mr. Thomas stated that in this particular case, you did hear Mr. Laban say in testimony that he saw other land sea containers in the community and can you advise if you were aware of those other containers and whether they are in Blairstown Township or some other location? Mr. Diehl stated that the ones that were referred to are both in Knowlton Township. Mr. Thomas asked if the nature of violation was for use as well as setbacks? Mr. Diehl replied yes. Mr. Thomas asked if he reviewed the ordinance and that there is nothing permitted in the ordinance that allows for a land sea container in this zone and what about the setbacks? Mr. Diehl replied that is correct for R-5 zone that the setbacks became a moot point. Mr. Diehl stated that under State Statue, they can appeal his decision under Land Use Board or for an interpretation in which the Labans did apply to the LUB and got a determination. It was mainly to determine if a sea land container was a permitted use within the Township.

Mr. Thomas asked Mr. Diehl with looking at the map in relation to the front yard, does that apply to the front yard in an R5 zone taking into account authorizing the flexibility of the Right-to-Farm? Mr. Diehl stated that it does not meet the criteria in that the

minimum setback for a structure in the front yard and they reference that it is in the back of their property based on the orientation of where their house is in relation to the road and front yard setback is 75 feet back.

Mr. Thomas asked if Mr. Diehl had pictures of the sea land container and when where they taken. Mr. Diehl went over the Board the photos graphs that were labeled T2-T8 and were taken in the Spring when he did the Notice of Intent. Mr. Diehl showed photos to the Labans for identification.

Mr. Thomas asked Mr. Diehl if the Labans came to him prior to the purchase of the sea land container, what would have been your advisement to them? Mr. Diehl stated that it is not a permitted use, but could apply for another storage building, garage, lean-to on to their barn or a sea land container inside a building. If it is inside as a unit, then it would become an interior unit.

Ms. Campbell asked Mr. Diehl as to where the T1 map come from? Mr. Diehl stated he received it when they applied for their barn permit for the original zoning application to seek relief with the LUB for the 24x48 barn in relation to the house. Ms. Campbell asked Mr. Diehl that when he located where the container was on the map, was the distance measured and did you go onto the property? Mr. Diehl said it was from the ROW and that is why he before stated plus or minus, he only goes to the ROW.

Ms. Campbell asked the Labans if they agree with the location on the map because it sounded to her like they said, no it is over here? They said that they can't argue with the actual footage because it may not depict exactly the right orientation of the road, but can't dispute the measurement because he did not measure the way Mr. Diehl did.

Mr. Baduini stated that he did not see anything where it was denied and where is the copy of the ordinance and the resolution does not mention anything about zoning ordinance for the interpretation for denying the container (May 2019). Mr. Diehl stated that if it was not permitted, it is prohibited.

Ms. Campbell asked what exact violation was written on the Notice? Mr. Diehl responded that the setbacks were referenced and the use of the container was not permitted. Ms. Campbell then told the Board that during the interpretation that is why setbacks were not discussed because the primary reason was for the permitted use of the sea land container on their property.

Mr. Thomas asked Mr. Diehl to take a look at the Blairstown Township's R5 Zoning Ordinance and for accessory structure code number and if there is any reference for permitting a sea land container? Mr. Diehl replied accessory structure is listed as 19 - 405 for the R5 district and accessory structures are under "B" and there is no language permitting sea land container. Mr. Thomas asked if there was a permitted use anywhere in the Ordinance that says that if a use of a structure is not permitted is therefore, prohibited? Mr. Diehl stated yes, that was correct. Is that a standard provision not only in Blairstown but in all other townships that he is aware of? Mr. Diehl stated yes. Mr. Thomas asked if there were specific references for farming activities in that section for accessory structures and what are they referred to as? Mr. Diehl replied yes and in Ordinance 19-405 B (4) "Structures incidental to a farm such as barns and paving, grading and storage buildings for produce raised on the premises; fences; building for the keeping of permitted poultry and livestock; and garages for the keeping and maintaining of trucks and other equipment used in farm operations are permitted when accessory to a permitted farm use, provided that any building which is accessory to a farm shall be set back from any property line at least twice the distance of the height of the accessory building or 100 feet, whichever is less."

Mr. Thomas asked if there was any definition for a sea land container in that description? Mr. Diehl stated that there was not. Mr. Thomas asked him if that is why he issued the violation? Mr. Diehl stated that was correct.

Mr. Baduini asked if the Labans used barn siding around the unit, could he consider it a barn? Mr. Diehl stated that then they would be dealing with the location.

Mr. Bodine asked what if it was moved? Mr. Diehl stated that if they moved it back and created an accessory building around it like a lean too off the barn would be excellent as the barn is about 300 feet off the road.

Mr. Baduini stated that if the unit was moved back and barn siding was applied to the unit, that would be considered a barn and in Mr. Diehl's eyes, correct? Mr. Diehl replied that if there was a building and construction permit to create a storage barn and the container went inside of that barn, it would not be an issue.

Mr. Thomas asked that this was a sea land container that was simply placed on the ground, therefore, it is not a building, a storage building or a barn? Mr. Diehl stated that was correct.

Mr. Baduini asked if it was on concrete blocks as a foundation, would that be sufficient? Mr. Diehl explained that it was a two-step process when getting into buildings, but a sea container by definition determined at the Appellate Division is considered to be a regulated structure. Building are determined by having a roof and sides attached to the ground. Mr. Diehl stated that barn siding would not qualify. If they pulled a permit for a storage building, then construction permit, depending upon the size of the accessory structure, the State had 100 sq. ft. in March 2018, but now it is 200 ft., so anything less than 200 ft. does not need a building permit and anything over 200 sq. ft. does need a building permit and anything over 80 sq. ft. needs a zoning permit.

The land sea container was determined that it is approximately 360 square feet. Mr. Diehl stated that by regulation, it would both be a building and construction permit needed.

Mr. Baduini asked the Zoning Officer, if the Labans put that unit out of the setback and cosmetically made it look like a barn, barn siding and roof, would you be happy? Mr. Diehl stated that he would have no issues. Mr. Diehl stated that if it was done this way in the beginning, there would be no issues.

Mrs. Watters reiterated that if the container is moved and looked better, it would be acceptable if they got the correct permits? Mr. Diehl stated that if they relocated it to the minimum setbacks and pulled a zoning permit and construction permit because it is over 200 square feet built a building and the structure is inside it, then it would be a permit by right. Mrs. Watters asked not just make it look better, but make a building and put it in the building? Mr. Diehl replied, yes.

Mrs. Watters asked build a structure with sides, roof and foundation and put the container in there? Mr. Diehl stated that he is not saying foundation, but that a permit that qualifies as a building and a definition of what qualifies as a building. There is a definition for building, a definition for structure, for height, then the procedures are followed. A zoning permit is a prior approval for building.

For example, a garage has to have a UCC code, a slope on the roof for the gas to run out. The UCC code has a purpose. So, if you are building a 400 square foot building, it would go on a stabilized base, but he referred to the construction department, and stated that if it was under 400 square foot, gravel could be used. If it is not a garage, it does not have to meet the UCC code for a storage building, less than 400 square feet, does not have to be on foundation.

Mr. Thomas asked Mr. Diehl about moving the structure back, making it look like a barn and the container attached to the ground, would that then be a building as opposed simply to a sea land trailer, would that be acceptable? Mr. Diehl stated that it was too abstract and that there were certain requirements to follow. Mr. Thomas asked if having some sheeting placed on the container to give it an appearance with a roof line to look more like a barn, as long as it is attached to the ground. Is that one of the problems that it is not attached to the ground, therefore, it is not a building? If they move it back to accommodate the setback, having it appear as though it is a barn and attached to the ground, that might not be such a problem? Mr. Diehl stated no, and that it did not even have to look like a barn, just look like a storage building.

Mr. Bodine stated that if it is attached to the ground then it is a taxable structure and it is not right now. Mr. Thomas stated that they could either get rid of it and put up a barn as a structure to be regulated or they could move it to the proper setbacks and attach it to the ground, make cosmetic adjustment and would be taxable.

Chairman Schnetzer asked Mr. Diehl what were the Labans denied for, the setback and the use? Mr. Diehl stated that there was no denial, there was no application, but a notice of intent. Ms. Campbell stated that the question was asked what was the violation, was it use and setback and he said, pretty much, which is what confused Ms. Campbell, and that his follow up testimony was that the denial was for use which he believes incorporates the setback.

Ms. Campbell asked that when it was heard at the Blirstown Township Land Use Board and denied, was there a discussion about setbacks or was it about the use? Mr. Diehl stated that he was not present at the meeting, but stated that it was mainly for the use.

Mr. Thomas had stated that there was no issue about the setbacks, but more about the structure and the use. Mr. Thomas asked if there was going to be an issue if it stays where it is in regards to setbacks? The answer is yes because it is too close to the road under any circumstances. The enabling statute does allow you to be doing what you are doing, but it does not allow you to ignore zoning ordinances and to take those into account. The testimony from Mr. Diehl and Blirstown has taken into account the Right-to-Farm and has modified its zoning ordinances to try and be more flexible with regard to farm and farmland rights of farmers. Is there a method to try to resolve this case in a manner that might be acceptable and does that have consequences? But to simply say, move it back, keep it as a sea land trailer and pluck it down on the ground, it is not a building, a non-permitted use. If it was at least attached to the ground, maybe and not speaking for the construction department or Mr. Diehl, it becomes a structure that can be considered a storage structure that can then be dealt with regarding the appearance as well as setbacks.

Chairman Schnetzer asked Mr. Diehl, and referred to his testimony, that he gave an example of a 100 foot setback with livestock and animals, could you go through that again? Mr. Diehl replied that, Ordinance Section 19:402 (D) "poultry, livestock shelters, whether permanent or temporary shall be located close to 100 feet or any property line or to any dwelling unit on the same line". Chairman Schnetzer asked if that would include pasture or fencing? Mr. Diehl replied no, fences are exempt and under another different exception as well as silos. Mr. Diehl replied that if you are a "Q" commercial farmer, you don't need a permit for a fence and exempt from the height restrictions.

Ms. Campbell asked Mr. Diehl if he stated that the setback was 50 feet? Mr. Diehl stated that it was 50 feet under R5 District under general R5 District rules for bulk requirement and then it will change for the agricultural use and the agricultural buildings. Ms. Campbell stated that for this particular use, if it was a building? Mr. Diehl replied, it would be 75 feet for the R5 District front yard setback. Mr. Thomas stated that this isn't a front yard. Ms. Campbell stated, for the side yard, it would be 50 feet? Mr. Diehl replied, 50 feet.

Chairman Schnetzer asked Mr. Thomas that in the Blairstown Township's Land Use Board resolution dated May 20, 2019, was curious about center paragraph on Page 2, why no zoning or ordinance number listed and be more specific on why the structure was not permitted? Mr. Thomas stated, by error, there was no reason why, it would have probably been better to list the fact that it is in the RD Zone, and therefore, it is not a permitted use of the R5 Zone pursuant to the section dealing with accessory structures.

#### Cross Examination

Mr. Laban asked Mr. Diehl if there was anywhere in Blairstown where sea land containers are allowed? Mr. Diehl replied, no.

Mr. Laban asked Mr. Diehl why there was a sea land container on the public field on Route 94? Mr. Diehl replied that is a town field, they received a violation, it is the field events for football, they had to get an architectural plans to build that stand, go to the Township Committee and got approval from the Township Committee. Mr. Diehl stated that because it is a Township owned property, they are exempt from zoning requirements. Mr. Laban stated so that there is a land sea container in town, on the main road, which in the spirit of the ordinance, to keep the beauty of the roads flowing, the Town enabled to put their own sea land container on the corner of Route 94 and Vail Road.

Mr. Laban asked Mr. Diehl if he visited him once? Mr. Diehl stated that is correct. Mr. Laban asked why didn't you inform me of, or did we say that it could probably just be moved back and we come to some kind of compromise or was I misinformed? Mr. Diehl stated that he was not misinformed, but he does not think that the dialogue was quite that simple. The dialogue that he got was that Mr. Laban did not want to move it and wanted to keep it, however, we needed to move it and do some beautification that you said you would and that never happened. Mr. Laban asked Mr. Diehl if he called him again after that? Mr. Diehl replied yes. Mr. Laban asked did I say to you, what kind of a compromise do you want to come to? Mr. Diehl stated pretty much, that the LUB did your determination and did not want to compromise; therefore, they wanted some sort of determination at the Ag Board. Mr. Laban asked if there was a record of that? Mr. Thomas stated that the record was the LUB's 70 C A and B, an action for the LUB to determine that this was a non-permitted use and that was the action that it took and it was based upon the information that they had on that record at that time in May 2019.

Mrs. Laban asked Mr. Diehl that the setback use on the incidentals for the farm, says the setback from any property line is at least twice the distance of the height of the accessory building for 100 feet, whichever is less. The height of the land sea container is 9 ½ feet? Mr. Diehl stated that if it is a recognized accessory building and structure, this sea land container is not a recognized structure as just determined so that there is no 2 ½ times something that we don't recognize.

Chairman Schnetzer asked if there were any more questions. No one had any more questions. He stated final comments could be made.

#### Final Comments

Mr. Laban stated that what he considered was an accessory building or a non-permanent structure up without a zoning permit because they didn't think needed one. When they got the notice, called 3 times and that he tried to remedy the situation with the Township and that through conversation thought that he do something to compromise like landscaping. He stated that to put up a building would have cost too much money and instead went with the land sea container. He stated that there were other land sea containers in Blairstown and in Knowlton and thought that putting back the container and landscaping around the container could help and it is used for agriculture.

Mr. Thomas stated that Blairstown is trying to protect the farming community and the Township has made flexible standards to reasonably accommodate the farmers and that the obligation to the Township is to keep the town looking rural. Mr. Thomas stated that sea land containers are not permitted in Blairstown. Mr. Thomas stated that the land sea containers were also not permitted in Knowlton and may be in violation. Mr. Thomas stated that it sounded like what he heard was that Mr. Laban came to the LUB to have a dialogue of compromise, but the fact of the matter is, that is not the vehicle upon which you can end up compromising. Mr. Thomas stated that there could potentially be some accommodation, but he does not have the authority to make the determination of what they could do, but believes that there is a mechanism where the sea land container can be turned into something more akin to a building that is permitted and has not been established under oath that this is not a business that the Labans are involved in, but strictly for purposes of agriculture. Mr. Thomas stated that the zoning ordinance does not prohibited buildings for farming, but these are not buildings, these are sea land containers which are not permitted and not attractive. Mr. Thomas feels that the Board should not totally ignore the ordinances in regards to this matter. Mr. Thomas stated that the Township may be willing to come to a compromise if the sea land container was positioned at a reasonable set back and does not stick out like a sore thumb.

#### Additional questions:

Mr. Baduini asked the Labans if this could be resolved by working something out and if the container could be moved back and use siding, T11-130, on the container? Mr. Laban replied that he thought so and was open to suggestions like landscaping, fencing, but was not sure if that was agreeable to everyone.

Mr. Bodine asked if it could be moved far back enough that it is out of sight and how quickly that could be done? Mr. Laban replied that he would put up a fence and do landscaping and that he could move it out of sight and use the generator and he could move the container very quickly.

Chairman Schnetzer asked Ms. Campbell for the Board regarding a motion if it were inclined for RTF Protection to use the sea land container and be open to compromise the moving and to keep Blairstown beautiful.

Mrs. Watters believes that it is for ag use and feels moving the sea land container is an option.

Ms. Campbell stated that the Board has to first decide if they are engaging in a generally accepted agricultural management practice and if that they have a legitimate farm based reason for not complying with the Township ordinance.

Chairman Schnetzer asked if there would be a motion from the Board for the Labans that they are operating an accepted Agriculture Management Practice on their farm? Mr. Baduini made a motion that they are operating an accepted Agricultural Management Practice. Mr. Bodine seconded the motion.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mrs. Watters – yes. Motion carries.

Mr. Tierney stated that it might be helpful to clarify, more specifically, that the storage of agricultural tools, equipment, and materials is a generally accepted Agricultural Management Practice.

Chairman Schnetzer asked for a motion to the amendment to add the tools and product derived from the farm.

Mr. Bodine made the motion that the use of the land sea container for storage of equipment and tools and product produced on the farm was an accepted Agricultural Management Practice. Mr. Baduini seconded the motion.

Ms. Campbell repeated that the Board would need to determine if the Board found that the applicant had a legitimate farm based reason for not complying with the Township's ordinance by meeting setbacks and the Board would need to specify.

Mr. Baduini asked Mr. Diehl if it was a setback of 75 feet. Mr. Diehl stated that it was 75 feet setback for the front yard, but under the accessory, it does mention 100 feet from any property line.

Mr. Bodine asked if it could still be seen from 75 feet? Ms. Campbell asked the setbacks again and Mr. Diehl said that the 100 feet was for the temporary or permanent structures incidental to a farm.

Mr. Tierney asked to clarify that the setback for the structures incidental to the farm is greater than any other accessory buildings? Mr. Diehl replied that was correct.

Mr. Baduini asked Mr. Laban if he could live with 100 feet and Mr. Laban responded that they would probably move it back more like 500 feet.

Mr. Thomas stated to try and get the sea land container set up with an aesthetic component to make improvement on it where ever it may be, from 100-500 feet, so that it is in a nature of an ag building instead of a sea land container.

Mr. Laban stated that his property is 900 feet at one spot and could move it 500 feet and locate it down a hill and the only one seeing the top of that, is the planes taking off from the Blairstown Airport. Mr. Laban stated that if he gets to keep the container, he will move it and landscape around it.

Mr. Tierney asked if there were aesthetic requirements in the zoning ordinance? Mr. Thomas said that he didn't want to make it too complicated and have an architect come in, but use something to eliminate what it looks like and to look more like a farm structure.

Mr. Tierney asked if there were aesthetic restrictions on accessory buildings? Mr. Thomas stated that he would refer to Mr. Diehl but stated that it should be compatible with the house and the structures and compatible with the neighborhood and is the general approach that the LUB takes in its approach to accessory structures.

Mr. Tierney asked if the ordinances specify any type of material or architectural style for accessory structures? Mr. Thomas replied no and is not suggesting that there needs to be a particular style, just something to make it look a little less than what it is, a sea land container.

Mr. Diehl stated that there is a section that has to do with other accessory buildings, that they be shielded by a natural buffer or landscaped. If it is outside the view shed, it is done by natural buffer.

Mrs. Laban asked Mr. Diehl if anyone complained about the sea land container. Mr. Diehl replied yes.

Mr. Baduini made a motion to approve the land sea container as an accepted Agricultural Management Practice for storage of equipment and tools and product produced on farm and that the applicant has a legitimate farm based reason for not complying with Blainstown's ordinances regarding use and setback provided that the applicant is willing to move the land sea container at least a minimum of 100 feet from the property line and that the container is landscaped with shrubs or by natural buffer. Mrs. Watters seconded the motion.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mrs. Watters – yes. Motion carries.

Mr. Menegus returned to his position on the Board.

**Vass Farm MUNI PIG Application, BL 46 L 2, BL 46.01 L 1, BL 47 L 4, Knowlton Township, approx. 104.8 acres**

Knowlton Township is asking for the County to take this MUNI PIG as a transfer after appraisals are performed due to local limited Open Space Trust Fund. Mr. Baduini made a motion to accept this application and to look into the small non-contiguous wooded parcel across the street that was included in the application. Mr. Bodine seconded the motion.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mrs. Watters – yes; Mr. Menegus – yes. Motion carries.

**8 Year Program Termination**

Kuhn, BL 1701, L 11 & 11.01, Frelinghuysen Township, 21.97 acres

This 8 year program for farmland preservation is scheduled to expire on January 24, 2020. The landowners have been contacted by mail regarding either renewing or terminating from the program. Both landowners, George & Lisa Kuhn have decided to terminate from the program and have submitted that in writing. Mr. Baduini made a motion to accept this termination of the 8 Year Term Program as submitted and it was seconded by Mr. Bodine.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mrs. Watters – yes; Mr. Menegus – yes. Motion carries.

**WCADB & BORC Joint Meeting**

Mr. Tierney had stated that this is a busy time for the chosen members and that will try again in January to set up a meeting.

**Jaindl update**

Chairman Schnetzer relayed that Richard Nieuwenhuis had stated at the Warren County Board of Agriculture Monthly meeting that Mr. Jaindl is willing to donate to White Township 265 acres of the White Township property that he bought for warehouse development on Route 519. Mr. Baduini would like to wait to see if White Township will re-examine zoning at their December meeting.

**Apple Mountain Golf Course**

Mr. Menegus had stated that Apple Mountain had approached White Township for possible farmland preservation. Ms. Campbell had stated that the property has already been foreclosed.

**Quest Environmental**

The Board did not go into Executive Session to discuss the status of litigation. Ms. Campbell stated that Mr. Lavery was away and that they are still waiting for the contract language to be finalized and will give an update as soon as she has one.

**Administrator's Report** – Mr. Tierney had went over the updates and status of the farms briefly with the Board.

**New Applications:**

**Total Applications: 0      Total Acres: 0**

**Awaiting Green Light Approval:**

**Total Applications: 0      Total Acres: 0**

**Received Green Light Approval:**

*County Applications*

- **Dykstra** – Mansfield Twp. (Approx. 209 ac.) Landowner reapplied. RFPs for appraisals to go out.
- **Khan** – Hardwick Twp. (Approx. 75 ac.) Received appraisals and sent to SADC for CMV.

**Total Applications: 2      Total Acres: 284**

*Municipal Applications*

- **Brook Hollow Winery** – Knowlton Twp. (Approx. 16 ac.) Received appraisals and sent to SADC for CMV.
- **McLain** – Harmony Twp. (Approx. 140 ac.) Received appraisals and sent to SADC for CMV.



- **Vass** – Knowlton Twp. (Approx. 100 ac.) Appraisals underway.

**Total Applications: 3      Total Acres: 256**

*Non-Profit Applications*

- **Hidden Woods Farm (Rogers)** – Frelinghuysen Twp. (Approx. 107 ac.) Appraisals received; sent to SADC for CMV.
- **Kimball** – White Twp. (Approx. 45 ac.) Appraisals received; sent to SADC for CMV.
- **Navesink Roots (Black)** – Hardwick Twp. (Approx. 24 ac.) Appraisals received; sent to SADC for CMV.
- **Promised Land (M. Santini)** – Franklin Twp. (Approx. 58 ac.) Appraisals received; sent to SADC for CMV.
- **River Hollow Farms (R&S Santini)** – Washington Twp. (Approx. 60 ac.) Appraisals received; sent to SADC for CMV.

**Total Applications: 5      Total Acres: 294**

Received CMV & Offer Made:

**Total Applications: 0      Total Acres: 0**

Under Contract (Title Search & Survey):

*County Applications*

- **Beatty North** – Greenwich Twp. (Approx. 86 ac.) CMV \$8,800. Received signed contract; survey underway. Waiting for NRCS conservation plan before SADC will do final approval.
- **Beatty South** – Greenwich Twp. (Approx. 57 ac.) CMV \$9,500. Received signed contract; survey underway. SADC final approval on 10/24/19.
- **Haydu** – Harmony Twp. (Approx. 46 ac.) CMV \$4,900. Title search done & received draft survey. Survey sent to Engineering Dept. for review on 2/27/19.
- **Hoffman-LaRoche** – White Twp. (Approx. 93 ac.) CMV \$5,100. Received signed contract; survey underway.
- **Route 57 Partnership** – Franklin Twp. (Approx. 70 ac.) CMV \$3,200. Survey revisions under review by SADC. Need additional legal documents from landowner.
- **Smith, John & Jean #1** – Harmony/White Twps. (Approx. 82 ac.) CMV \$4,600. Subdivision resolution received. Inspection performed. Highlands Application has been approved. Waiting for landowner to complete municipal subdivision.
- **Smith, John & Jean #2** – Harmony Twp. (Approx. 36 ac.) CMV \$6,000. Subdivision resolution received. Highlands Application has been approved. Waiting for landowner to complete municipal subdivision.
- **Stampone** – Knowlton Twp. (Approx. 38 ac.) Received signed contract. Survey underway.

**Total Applications: 8      Total Acres: 508**

*Municipal Applications*

- **Dokie's Acres (Thompson)** – White Twp. (Approx. 43 ac.) CMV \$6,000. Received signed Contract. Title and survey underway.

**Total Applications: 1      Total Acres: 43**

*Non-Profit Applications*

- **Pipers Hill Farm (Gibb)** – Washington Twp. (Approx. 27 ac.) CMV \$5,500. Received draft survey. Received County Engineer review letter 11/19; landowner to address unpermitted access and power box; revisions to survey needed.

**Total Applications: 1      Total Acres: 27**

Waiting to Close (Final Legal Review):

*County Applications*

- **LaBarre Family Limited Partnership** – Knowlton & Hope Townships (Approx. 107 ac.) CMV \$3,200. Under SADC final legal review. Requested survey revisions again.
- **Shandor** – Harmony Township (Approx. 100 ac.) CMV \$3,100. Survey completed. Waiting for landowner to provide NJDEP Consent Order so SADC can undertake final legal review.

**Total Applications: 2      Total Acres: 207**

*Municipal Applications*

- **Kitchen** – Knowlton Township (Approx. 28 ac.) CMV \$5,100. SADC completed preliminary review. Survey sent to County Engineer for review on 10/15/19

**Total Applications: 1      Total Acres: 28**

*Non-Profit Applications*

- **Deer Haven Farm (Gang)** – Frelinghuysen Township (Approx. 15 ac.) CMV \$5,600. Received fully executed contract and final survey. County Engineer determined review not needed. Final Site Inspection scheduled. Under SADC final legal review.
- **Heeres (R&S Santini)** – Harmony Township (Approx. 67 ac.) CMV \$3,800. Received County Engineer review letter, sent to surveyor & SADC. SADC Preliminary Review.
- **Murlan Farm (Murphy)** – Frelinghuysen Twp. (Approx. 251 ac.) CMV \$4,000. Survey completed. SADC Preliminary Review. One landowner passed away.

**Total Applications: 3          Total Acres: 333**

Recent Closings:

- **Mazza** – Knowlton (Approx. 21 ac.) CMV \$4,850. Closed on October 22<sup>nd</sup>!
- **Anema, Kris** – Washington Township (Approx. 20 ac.) CMV \$4,000. Closed on November 13<sup>th</sup>!

Withdrawn Applications:*County Applications*

- **Garrison** – Franklin (Approx. 130 ac.) Landowner decided to withdrawal application.

Pohatcong Contamination Area Projects:*Seeking Highlands Council Open Space Funding cost-share*

- **Hart Farm #1** – Franklin Twp. (Approx. 113 acres) Fully executed contract. Received 50% matching Highlands Grant. Draft survey sent to Engineering Dept. for review. Landowner to address encroachments.
- **Hart Farm #2** – Franklin Twp. (Approx. 267 acres) Fully executed contract. Received 50% matching Highlands Grant. Draft survey sent to Engineering Dept. for review. Landowner to address encroachments.
- **Pear Tree Realty** – Franklin Township (Approx. 62 ac.) Received up to 50% matching Highlands Grant. Fully executed contract. Survey underway.
- **Pereira** – Franklin Township (Approx. 30 ac.) Received up to 50% matching Highlands Grant. Fully executed contract. Survey underway.
- **Myers/Toretta #1** – Franklin Township (Approx. 38 acres) Received up to 50% matching Highlands Grant. Received signed offer letter. Fully executed contract. Survey underway.
- **Myers/Toretta #2** – Franklin Township (Approx. 48 acres) Received up to 50% matching Highlands Grant. Received signed offer letter. Fully executed contract. Survey underway.
- **Noel** – Franklin Township (Approx. 44 ac.) Received 50% matching Highlands Grant. Landowners reviewing offer with their attorney. Fully executed contract. Will request title. Survey underway.
- **Oberly** – Franklin/Greenwich (Approx. 96 ac.)\_Applied for Highlands Grant. Inspected by HC staff.
- **O'Dowd South** – Franklin & Greenwich Township – (Approx. 93 ac.) Applied for Highlands Grant. Inspected by HC staff.

**Total Applications: 9          Total Acres: 791**

Withdrawn Applications:

- **Tasevski** – Franklin Twp. (Approx. 87 ac.) Received 50% matching Highlands Grant that expires 2/19/20. Offer rejected by landowner.

2019 Closings YTD: 10 farms totaling 532 acres

Program Totals: 295 farms totaling 25,851 acres

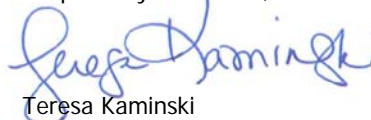
**Closing Public Comment: none**

**Solar Panels on Target Farms**

Ms. Campbell had stated that a Solar Developer has been approaching farm landowners in Harmony Township. Mr. Menegus had stated that the WCADB should fight against solar panels on farms. Chairman Schnetzer had stated that the County needs to be more aggressive with targeted farmland for preservation. The Board discussed briefly on how to value the property for appraisals with solar panel.

**Adjournment:** A motion for adjournment was made by Mr. Bodine and seconded by Mr. Baduini. Motion carries. Chairman Schnetzer adjourned the meeting at 9:37 pm.

Respectfully submitted,



Teresa Kaminski