

RESOLUTION

**RE: Dispute Resolution Hearing, N.J.A.C. 2:76-2.10
In the Matter of DK Arabians
Block 18, lot 24, Township of East Amwell, County of Hunterdon**

WHEREAS:

On April 30, 2008, a Right to Farm (“RTF”) Application for Hearing was submitted to the Hunterdon County Agriculture Development Board (“CADB”), along with a Commercial Farm Certification completed by Kenneth B. Drake, owner of DK Arabians (Block 18, Lot 24), an equestrian breeding facility. The RTF Application requested approval from the CADB for the erection and maintenance of a horse barn and ancillary structures on the property.

At its May 8, 2008 meeting, the CADB discussed the application and determined it needed more information regarding income generated to qualify as a commercial farm. Kenneth Drake subsequently submitted additional documentation and at a special meeting on May 15, 2008, the CADB determined that DK Arabians is a commercial farm operation. A Right to Farm hearing was scheduled for June 12, 2008 in accordance with N.J.A.C. 2:76-2.10.

On May 1, 2008, the CADB, through its Administrator, wrote to the SADC and to East Amwell Township notifying them that the application had been filed.

On May 23, 2008, the CADB, through its attorney, wrote to the East Amwell Township Planning Board and to the East Amwell Township's Zoning Officer informing them of the Board's policy that the applicant be granted the opportunity to appear before the Planning Board on an expedited basis in order to explain what the applicant intended to do and to give the Township an opportunity to review the application.

On June 11, 2008 DK Arabians informally appeared before the East Amwell Township Planning Board to discuss the denial of their request for the erection of a horse barn.

On June 12, 2008, the CADB conducted a site visit at the DK Arabian property.

On June 12, 2009, the CADB held a public hearing to determine:

- (1) Whether the farming/equine activities conducted on the property by DK Arabians constitutes a generally accepted agricultural practice;
- (2) Whether DK Arabians can erect and maintain a horse barn and several run-in sheds for horses on the property.

Formal notice of the meeting was published in the Hunterdon County Democrat and served via certified mail on all landowners within 200 feet of the subject property.

At the hearing, Kenneth and Donna Drake appeared on behalf of DK Arabians. No representative from the Township of East Amwell was present at the hearing. In lieu of an appearance, a letter was submitted to the CADB by Maria Andrews, East Amwell Planning Board Administrative Officer, dated June 12, 2008 indicating that the application of DK Arabians before the CADB was consistent with East Amwell Township's zoning, the Master Plan, and the zoning for the Amwell Valley Agricultural District.

The Exhibits introduced at the hearing were marked as follows:

- A-1 The Right to Farm Application submitted by DK Arabians to the Hunterdon CADB, together with supporting documents
- A-2 Proof of Notice of the hearing in the newspaper and to neighboring property owners within 200 feet of the subject property
- A-3 Letter from the East Amwell Township Zoning Officer dated June 4, 2008 denying the construction of a horse barn
- A-4 Letter from the East Amwell Township Planning Board to Gaetano M. De Sapio dated June 12, 2008 indicating the application of DK Arabians before the CADB was consistent with zoning
- A-5 Set of drawings dated April 15, 2008 describing proposed use and buildings consisting of five pages
- A-6 Letter from Steve Morland, Jr., Esq. dated May 22, 2008 addressed to the East Amwell Township Zoning Officer with Exhibits A through G

Kenneth Drake presented his RTF application to the CADB. He provided the CADB with a brief history and explanation of the equine activities conducted on the property and the potential activities to be conducted upon construction of the horse barn. In addition, he testified as to the necessity and benefits of maintaining a horse barn and run-in sheds for the horses. Donna Drake testified that the uses would be limited to five or six horses, which should not have a negative impact on traffic. Frances Garigan testified in support of the application by DK Arabians.

John Quirke, a member of the public, who is also a neighbor and former Chairman of the East Amwell Township Board of Adjustment, testified that he did not have an objection to the horse barn itself, but that the application made a request for additional relief for “ancillary buildings” and thought the Board should define what was meant by “ancillary buildings”.

Tom Jackson, a member of the public, questioned the use of an alternate road rather than the main road and expressed his concerns regarding traffic.

The CADB considered the concerns of the members of the public with the application, as well as the letter submitted by the East Amwell Township Planning Board Administrator (Exhibit A4).

**NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY
AGRICULTURE DEVELOPMENT BOARD MAKES THE FOLLOWING
FINDINGS OF FACT:**

1. The property in question is known as Block 18, Lot 24 in the Township of East Amwell.
2. DK Arabians runs a commercial farming operation on the property and is entitled to protection under the New Jersey Right-to-Farm law.
3. The Township of East Amwell's Zoning Officer initially, on June 4, 2008, denied a Zoning Permit for the erection of a horse barn and run in structures on the DK Arabian property. However, the East Amwell Township Planning Board, in a letter to this Board dated June 12, 2008, expressed the opinion that the application was consistent with East Amwell Township's zoning, the Master Plan, and the zoning for the Amwell Valley District.
4. The installation of a horse barn and run-in sheds is an important component of good equine management and breeding and constitutes an acceptable agricultural management practice for the DK Arabian property.

**NOW, THEREFORE, BE IT RESOLVED BY THE HUNTERDON COUNTY
AGRICULTURE DEVELOPMENT BOARD AS FOLLOWS:**

1. The Right to Farm application submitted by DK Arabians to erect and maintain a horse barn and various run-in shed structures on the property as shown on the set of drawings dated April 15, 2008 consisting of five pages is approved.

2. The ancillary structures, which are approved, are only the run-in sheds as specifically noted on the drawings dated April 15, 2008.

3. All structures erected on the premises have to comply with the bulk requirement of the East Amwell Township Zoning Ordinance, as no request for variance from the Zoning Ordinance in that regard was asked of this Board.

4. The applicant must obtain any Uniform Construction Code Permits which are applicable to the project.

Dated: July , 2008

PETER MELICK, Chairperson