

**RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
RECOMMENDING SITE SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE
UNDER THE NEW JERSEY RIGHT TO FARM ACT**

Mr. Holland offered the following resolution and moved its adoption:

WHEREAS, Karen Wilkin and James Urbano, Jr. ("Applicants") have applied to the Monmouth County Agriculture Development Board ("the Board") pursuant to N.J.A.C. 2:76-2.3, requesting a determination from the Board as to whether the commercial farm operated by them and known as Star Cross Stable ("SCS") at Yellowbrook Road, Howell, New Jersey ("the Property"), and the proposed uses of and improvements to the Property constitute a generally accepted agricultural operation or practice; and

WHEREAS, the Applicants use and propose to use the Property for horse breeding and sales; and

WHEREAS, a site visit to the Property was conducted on November 25, 2002 ("the Site Visit"), which was attended by Board staff member Karen Colvin, Monmouth County Agricultural Agent Richard Obal and Applicant, Karen Wilkin; and

WHEREAS, a report of the November 25, 2002 site visit was submitted to the Board on December 2, 2002, by Richard Obal, Monmouth County Agricultural Agent; and

WHEREAS, the Board conducted a hearing on the Applicants' application on December 4, 2002, January 8, 2003 and February 5, 2003, at which the Applicants were represented by Peter R. LaFrance, Esq.; and

WHEREAS, Karen Wilkin testified concerning the commercial farm and the horse breeding and sales operations and the proposed improvements to the Property to be used in connection with the farm operation; and

WHEREAS, Vito M. Marinaccio, the Howell Township Land Use Director and Betty Lou Textor, Howell's Assistant Land Use Director, appearing on behalf of Mr. Marinaccio, appeared and testified in opposition to the application; and

WHEREAS, the grounds for Mr. Marinaccio's objections to the application are as stated in his letter to the Applicants dated March 11, 2002, to the effect that the proposed use of a former chicken coop for agricultural labor housing, as sought by the Applicants, would constitute a second principal use on the Property which fails to meet setback requirements in the zone and would therefore require a variance under Howell's land use ordinances; and

WHEREAS, a letter was offered to the Board from Elden V. Klayman, D.V.M. stating that Karen Wilkin has developed "an impressive breeding program of Fresian [sic] horses", has "become known nation wide" and as the operation expands, it will require "full time help and observation of her horses"; and

WHEREAS, Wendell and Leslie Nanson, who live across Yellowbrook Road from SCS testified in support of the application that the Applicants require agricultural labor housing in order to have someone present at the Property to oversee Applicants' horses on a full-time basis, and to allow the Applicants' horses to be attended when Ms. Wilkin attends horse shows; and

WHEREAS, Peter and Susan McLaughlin, owners of property which adjoins the Property appeared by counsel and testified in opposition to the application; and

WHEREAS, Susan McLaughlin testified that she has lived on Yellowbrook Road adjacent to the Property since 1995, she is not opposed to the Applicants obtaining necessary farm labor, her house is located about 21 feet from the Applicants' property line and about 60 feet from the chicken coop which is proposed to be converted to agricultural labor housing, she never noticed anyone living in the chicken coop until she observed work being done on the structure without permits and many contractors "coming and going", after which she observed a man living in the structure, and that she is not opposed to the agricultural labor housing, provided it is located somewhere else on the Property, farther from her house; and

WHEREAS, Peter McLaughlin also testified that his house is only approximately 21 feet from the property line and not setback 50 feet as required by the zoning ordinance and that he is concerned about who might occupy the agricultural labor housing on the Property in the future; and

WHEREAS, the McLaughlins offered the Board a copy of a letter dated December 4, 2002, from William M. Merkler, a previous owner of the Property, to the Howell Township Housing Inspector, stating that "to the best of my knowledge, there was not water, sewer, and/or heat in the chicken coop" at the Property; and

WHEREAS, the McLaughlins offered a letter dated January 4, 2002, from Darrell G. Thompson, a previous owner of the Property, to Howell Township, stating that he had used a part of the chicken coop for hay and straw storage and that utilities had been disconnected before he purchased the property in February 1978, although a previous owner had run electric service to a "horse barn coop" and he had run a "water line to an out side [sic] tank for my horses"; and

WHEREAS, the McLaughlins submitted a written request for the Board to consider imposing conditions and restrictions in connection with any recommendation it might make with respect to the application; and

WHEREAS, the Board has considered the evidence presented in support of and in opposition to the application.

NOW, THEREFORE, based on the evidence presented, including the applicants' certifications required by N.J.A.C. 2:76-2.3(b), the Board makes the following findings of fact and conclusions of law:

1. The Property is located at Yellowbrook Road;
2. The Applicants, Karen Wilkin and James Urbano, Jr., are the owners of the Property;
3. The Applicants purchased the Property for horse breeding and training purposes and commenced commercial farming operations on December 22, 1999;
4. The operation located at the Property trades as Star Cross Stables;
5. The Property comprises approximately 15 acres and is operated as a horse breeding and training facility;
6. The Property produces agricultural products worth \$2,500 or more annually and the Property meets the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:23.1, *et seq.*);
7. The Property is located in an ARE-6 zone which is an area in which, as of December 31, 1997, or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan;

8. The Applicants' operation at the Property qualifies as a commercial farm as defined in the New Jersey Right to Farm Act (N.J.S.A. 4:1C-3);

9. The following conditions at the Property were observed during the Site Visit: an equine breeding operation, with 9 Friesian horses on-site, of which 7 are for breeding purposes; approximately 8 acres are devoted to permanent pasture and divided into 11 separate fenced areas; 2 to 3 additional acres being cleared for more pasture; a small area of nursery stock was observed; a farm house; a large wood frame building with 11 horse stalls, including 2 large foaling stalls; outbuildings utilized for hay storage were converted from chicken coops; a storage building converted from a chicken coop was in the process of being again converted to agriculture labor housing; tree harvesting in process; manure management by field spreading; extensive collection of carriages for training purposes; trails under construction for carriage training; and farm implements (tractor, wagons, manure spreader, etc.) are stored outside or under temporary plastic cover;

10. Karen Wilkin resides in the farm house at the Property;

11. The Applicants propose to complete the conversion of the storage building/former chicken coop into 2 one bedroom units of agriculture labor housing consisting of approximately 420 square feet each;

12. It is usual and customary for a horse breeding and training operation such as that conducted at the Property to have agriculture labor that resides in on-site agriculture labor housing in order to provide continuous security and care for the livestock at the farm, especially when the owner is away attending horse shows and conducting other farm business;

13. Agriculture labor housing of the type proposed is a permitted accessory use in the

Agriculture Rural Estate Zones as defined by section 14-17.2(b)(1) of Howell Township's Land Use Ordinance ("Ordinance") because it is "customarily incidental and ancillary to a permitted use" which, in this case, is agriculture;

14. Agriculture labor housing of the type proposed is not a "second principal building" as that term is used in section 14-15.7(a) of the Ordinance because it does not share the kind of structural or use equivalence with any principal building on the lot as contemplated by the wording of that section, and to hold otherwise would arbitrarily prohibit residential structures in excess of two farmhouses, or one farmhouse and one building used for agriculture labor housing, or two buildings used for agriculture labor housing, where the size and nature of a farm's operations might require more;

15. The objection to the application by Howell Township officials is not based on issues of public health or safety or other issues involving the nature of the farm's operation, but is based instead on their conclusion that the proposed agriculture labor housing does not meet the 50 feet setback requirements applicable to second principal buildings on a lot;

16. The conversion of the former chicken coop to agriculture labor housing implicates the Ordinance's setback requirements for an accessory building and the building meets those setback requirements which require a setback at least equal to the height of the accessory building;

17. If the application is denied because the proposed agriculture labor housing does not meet setback requirements for second principal buildings on a lot, the Applicants would be relegated to constructing completely new agriculture labor housing at substantial additional cost in another area of the farm, leaving the storage building/former chicken coop in its present

location and condition;

18. The Applicants have proposed a landscape plan which the Board finds acceptable and sufficient to buffer the proposed agriculture labor housing from the adjoining property;

19. The proposed improvements to the Property are appropriate to the agricultural use of the Property;

20. The existing horse breeding and training operation at SCS and the proposed use of the storage building/former chicken coop as agriculture labor housing are accepted agriculture management practices relative to the operation being conducted by the Applicants at the Property.

NOW, THEREFORE, BE IT FURTHER RESOLVED that, based on the aforesaid findings of fact and conclusions of law, the Monmouth County Agriculture Development Board recommends the proposed improvements and uses as set forth in the application as accepted agricultural management practices within the meaning of the New Jersey Right to Farm Act and the regulations promulgated pursuant thereto, PROVIDED, HOWEVER, that the storage building/former chicken coop, once converted, shall be used as housing for agriculture labor employees of SCS only, and FURTHER PROVIDED that the Applicants provide landscaping as set out in the landscape plan submitted by them.

Seconded by Mr. Bullock and adopted on a roll call by the following vote:

	YES	NO	ABSTAIN	ABSENT
Mr. Bullock	X			
Mr. Buscaglia				X
Mr. Holland	X			
Mr. Hom	X			
Mr. Illmensee		X		
Mr. McCarthy				X
Mr. McCormack				X
Mr. Potter	X			
Mr. Puglisi	X			
Mr. Rifkin (Recused)			X	
Mr. Stuart				X

I certify that foregoing is a true copy of the Resolution of the Monmouth County Agriculture Development Board duly adopted at a regular meeting of the Board on February 5, 2003, and memorialized on March 5, 2003.

Dated:

Richard Obal, Secretary