



# AGRICULTURAL DEVELOPMENT BOARD

## HOUSE SIZE LIMITATIONS ON PRESERVED FARM POLICY

### **Purpose:**

To promote farmland affordability and enhance public perception that the preservation of farmland is primarily for the protection of the agricultural industry, there is needed a policy to establish procedures for the review and approval of new, reconstructed, replaced or modified non-labor housing on farmland permanently preserved through the Mercer County Agricultural Development Board (MCADB).

### **Background:**

On May 7, 2001, the MCADB adopted a policy to restrict new houses on preserved farms to 4,000 square feet of livable space. In the case of an existing house that exceeded 4,000 square feet and needed reconstruction due to fire or other disaster, The MCADB would review the request and approve or deny it. This policy only affected farms preserved from the 2002 Round forward (see Attachment A) and the policy would be reviewed every three years. It was not made retroactive. "Livable Space" was defined as all areas of the house commonly lived in. This would not include an unfinished attic, porch, basement, garage or other ancillary structures (sheds, pool, tennis court, etc.).

The Policy was revised in 2005 to clarify application to existing RDSO's identifying farms from the 2002 Round forward, and address existing houses not within an Exception that exceeded 4,000 square feet.

On February 4, 2013, the MCADB adopted two amendments to this policy and also addressed agricultural labor housing. On February 6, 2017, the CADB revised Amendment No. 1 to allow for reconstruction of existing structures ancillary to residential use larger than 1,500 square feet to be reconstructed if destroyed by fire or other disaster.

Amendment No. 1 recognizes the importance of imposing a reasonable size restriction on residential ancillary structures, including attached and detached garages, to further encourage farmland affordability. The MACDB expanded upon a current SADC direct easement restriction of a maximum and cumulative, 1,000 square feet for ancillary structures by establishing 1,500 square feet to be a reasonable maximum and cumulative MCADB restrictions for garages and enclosed ancillary structures serving a residence.

Amendment No. 2 revises the existing house size policy “livable space” definition. The original definition of “livable space” included finished basements. Because the MCADB does not inspect the inside of homes, determining the status of a basement as “livable space” is difficult to monitor. Effective with this amendment, basements and cellars are not subject to this policy.

### **Residential Dwelling Site Opportunity (RDSO):**

Although there are three preserved farms in Mercer County with RDSO’s, the MCADB does not normally utilize this form of housing opportunity. These three farms are not subject to this policy; however, should a future preserved farm utilize an RDSO, that landowner must also adhere to the size restrictions of this policy.

### **Policy:**

1. In an Exception on a preserved farm, where the Exception contains a residential structure or the right to construct such a structure, the landowner may construct, reconstruct, replace or add-on provided the structure ultimately contains no more than 4,000 square feet of livable space as defined herein. For an existing house that exceeded 4,000 square feet of livable space prior to the agricultural easement and in need of reconstruction due to fire or other disaster, the MCADB will allow reconstruction up to the prior size if it is rebuilt in the exact same footprint.
2. Where an Exception does not exist on a preserved farm, the landowner may add-on to an existing residential structure provided the structure ultimately contains no more than 4,000 square feet of livable space. For an existing house that exceeded 4,000 square feet of livable space prior to the agricultural easement and in need of reconstruction due to fire or other disaster, the MCADB will approve reconstruction up to the prior size provided it is rebuilt in the exact same location. Any new construction as per an RDSO, reconstruction or addition creating a residential structure with more than 4,000 square feet of livable space will require MCADB and possibly SADC approval.
3. This policy applies only to farmland preserved from the 2002 Round forward (as identified in Attachment A) except that a request to replace a residential structure not located within an Exception regardless of the Round requires MCADB and SADC approval and will be subject to this Policy. In addition, each farm’s Agricultural Deed of Easement will further guide MCADB implementation of this policy.
4. The construction of agricultural labor housing, while excluded from the MCADB house size policy, must be approved by the MCADB. This house size policy will be considered during that review and approval.
5. Proof of compliance is the responsibility of the landowner and the landowner must also comply with applicable municipal codes.

### **Policy Amendment No. 1**

1. Whether within an Exception Area or not, there is imposed a 1,500 square foot maximum, and cumulative, restriction of garages (whether attached or detached) and enclosed

ancillary structures serving a residence. For an existing ancillary structure that exceeded 1,500 square feet of space prior to the agricultural easement and in need of reconstruction due to fire or other disaster, the MCADB will allow reconstruction up to the prior size if it is rebuilt in the exact same footprint.

This non-retroactive Amendment becomes effective with the 2014 Round of farmland preservation applications.

#### Policy Amendment No. 2

The definition of “livable space” is amended to only include the area of “livable space” at or above ground within the building “footprint” (excluding attics, porches or screened-in porches). Basements and cellars, finished or unfinished, are no longer subject to this policy.

Adopted:	Effective:	Revision #:	Last Revised:
05-07-01	05-08-01	4	02-06-17

## Attachment A

### 2002 Round Farms:

- Kyle (formerly Bogatz), East Windsor (B30, L25&26) – Existing residence, no Exception
- Ferrette, Hopewell Twp. (B50, L15.02) – Existing residence on Exception
- Gallo, Hopewell Twp. (B50, L13.01) – No existing residence, Res. Exception
- Thompson (formerly Twp. Of Wash/Hall) (B14, L22) – No existing residence, Res. Exception (residence limited to 3,500 square feet of heated living space as per Township agreement with Thompson)

### 2003 Round Farms:

- Dakota (formerly Twp. Of Wash/Bresnahan) (B22, L4) – No existing residence, Res. Exception

### 2004 Round Farms:

- Huebner, Hopewell Twp. (B20, L12) – Existing residence on Exception
- Patricelli, Hopewell Twp. (B62, L2.011) – No existing residence, Res. Exception
- Reed (formerly D&R/Powner), Robbinsville Twp. (B43, L7) – No existing residence, Res. Exception

### 2006 Round Farms:

- Tindall Family Partnership, West Windsor Twp. (B29, L4.01, 5) – Existing residence on Exception
- Booth (formerly Twp. Of Wash/Dyjak), Robbinsville Twp. (B44, L20) – Existing residence of Exception

### 2007 Round Farms:

- Lee Turkey Farm, East Windsor (B68.02, L82.01) – Two existing residences, 0.08ac Exception area around farm market only
- Windsor Farm, Robbinsville Twp. (B10, L57, 58, 61) and West Windsor Twp. (B32, L1) – Existing residence on Exception

### 2008 Round Farms:

- Tindall Greenhouses, Robbinsville Twp. (B47, L13, 14, 14.01, 18) – Two existing residences not on Exceptions. One residential Exception with no existing house.
- Robbinsville Twp. Farm (formerly Mercer/Herman and Updike Farms) (B10, L47, 55) – Existing residence on an Exception and three residences on Premises to be demolished
- Silver Decoy Farm, Robbinsville Twp. (B47, L7, 7.01, 7.02) – No existing residence, Res. Exception

### 2009 Round Farms:

- Mount U-Pick, Lawrence Twp. (B6501, L25) – No existing residence, Res. Exception
- Mercer/Briarholm, Hamilton Twp. (B2739, L1) – No existing residence, Res. Exception
- Mercer/Sawmill, Hamilton Twp. (2730, L9.01) – No existing residence, Res. Exception
- Mercer/Hights, Robbinsville Twp. (B43, L5) – No existing residence, Res. Exception

2012 Round Farm:

- Moore, Hamilton Twp. (B2739, L2) – Existing residence on Exception

2013 Round Farms:

- Samuel Hamill, Lawrence Twp. (B6501, L121.02) – No existing residence, Res. Exception
- Stanley Skeba, East Windsor Twp. (B30, L19.01) – No existing residence, Res. Exception

2016 Round Farms:

- Mercer/McNulty, Hopewell Twp. (B50, L12) – No existing residence, Res. Exception
- Smith, Hamilton Twp. (B2730, New Lot 5.01) 0 Existing residence on Exception

County Deed Restricted Farms w/o SADC grant:

- Samu (formerly Zygmont), Hamilton Twp. (B2713, L19) – No existing residence, Floating residential Exception
- Samu (formerly Zygmont), Hamilton Twp. (B2714, L30.01) – Existing residence under 4,000 square feet with an historic preservation façade easement on three sides