

**Lancaster County Agricultural Preserve Board
Meeting Minutes
Thursday, February 28, 2019**

Present: Mr. Gary Landis, Vice Chairman
Mr. H. Eugene Garber
Mr. Edward C. Goodhart III
Mr. Andrew Lehman
Mr. Daniel Zimmerman

Absent: Mr. Jeffrey Frey, Chairman
Commissioner Dennis Stuckey
Mr. Roger Rohrer
Mr. Matthew Young

Staff: Mr. Matthew Knepper, Director
Mr. Kevin Baer, Farmland Preservation Specialist
Ms. Noelle Fortna, Farmland Preservation Specialist
Ms. Jessica Graham, Farmland Preservation Specialist
Ms. June Mengel, Farmland Preservation Specialist

Guests: No Guests

I. Call to Order

Mr. Gary Landis called the meeting to order at 8:00 a.m.

II. Review of Mission Statement

Mr. H. Eugene Garber read *"To forever preserve the beautiful farmland and productive soils in Lancaster County and its agricultural heritage; and to create a healthy environment for the long-term sustainability of the agricultural economy and farming as a way of life."*

III. Announcements

Executive Session: The Agricultural Preserve Board (also: APB and Board) met in Executive Session on February 28, 2019 to discuss real estate matters and potential litigation regarding the following matters: Hottenstein and Fryberger.

IV. Approval of Minutes

Motion to approve the January 24, 2019 meeting minutes made by Mr. Edward C. Goodhart III and seconded by Mr. Daniel Zimmerman.

MOTION CARRIED UNANIMOUSLY

V. Business from Guests

- No Business from Guests

VI. Old Business.

- No Old Business

VII. New Business

- No new Business

A. Request for Subdivision/Land Development –

- 1) **Land Development – Additional Residential Structure: Ivan S. and Rebecca S. Fisher, 239 Hossler Rd, Manheim PA 17545, Rapho Township, Property ID: 5401122800000, APB Acq 0967, 49.27 acres preserved**

Landowners are requesting permission to exercise the construction of a residential dwelling as permitted by the Agricultural Conservation Easement (ACE) and require Board approval per the 2009 Subdivision and Land Development Guidelines.

The proposed location is on the Western side of the farm in an area surrounded on three sides by woods. The current site has been a continuous hay field. While this location is not adjacent to existing dwellings, nor is it in close proximity to a road, it is likely the least intrusive spot on the farm as to not impact the balance of the farm operation.

There is a rather long driveway proposed with access on Hossler Road. This driveway will traverse the western border of the farm to said location. The driveway is approximately .75 acres. The land development for this project will also include a gravel parking area, barn, pole barn and greenhouse. The existing house located near Hossler Road on the Northeastern portion of the farm will remain and be utilized by another family. (NOTE: Board Summary & Plan submission contain additional detail)

Staff recommends preliminary approval by the Board, with authorization for staff to determine Final Approval status. Final Approval will occur only when all outstanding conditions have been met. Staff will review the Final Land Development Plan (as submitted to the Township and the County) in order to ensure no deviations from this request and incorporation of applicable APB Plan Notes. Staff will also confirm that the Verification of Implementation of Conservation Plan (or Ag E&S Plan) and the Manure Management Plan has been submitted and meets all requirements. Conditions of Approval:

- Applicable APB Standard Plan Notes should be identified on the Plan.
- APB Staff authorized to provide Final Approval after reviewing final Land Development Plan as submitted to Township/County.
- This approval is contingent on, at all times, verification by the Lancaster County Conservation District or a certified conservation planner (technical service provider) that the farm is following a Conservation Plan / Ag E&S Plan (inclusive of manure/nutrient management plan) that is being / has been implemented according to schedule.
- All other requirements that may be imposed by the Township or any other regulatory body must be met.
- All provisions of the Application and this approval shall be binding on the applicants, the owner of the land subject to the Agricultural Conservation Easement, and their respective heirs, successors and assigns.
- No restriction limiting agricultural production is permitted.

Motion to grant preliminary approval of the request for the permitted additional residential structure as presented made by Mr. Daniel Zimmerman and seconded by Mr. Edward C. Goodhart III.

MOTION CARRIED UNANIMOUSLY

B. Request for Rural Enterprise –

- **No Request for Rural Enterprises**

C. 2019 State Funding

Mr. Knepper distributed the Allocation of Funds worksheet as distributed by the PA Department of Agriculture's Bureau of Farmland Protection.

It was noted that Chester County appropriated the most County funds at \$5 million and also received the largest amount of State funding at \$3,743,274. Lancaster County appropriated \$1,760,639 and received \$3,017,906 in State funding.

Mr. Knepper explained that even though Lancaster's County Appropriation was higher, less was received in State funding than last year. This decrease was due to the funding formula as there was less available in the real estate transfer component (due to a cap) and less available in the redistribution of funds component.

Mr. Goodhart commented that it would be helpful to see the average size of farms that are preserved in Bucks, Chester, Lehigh, Montgomery and North Hampton Counties. All of these counties receive large State Allocations, in large part b/c of the development pressure in those Counties. Mr. Goodhart argued that it has always been a challenge for him to accept the formula that awards so much funding for preservation in Counties whereby there are not as many farms, the farms are smaller, and they are much more expensive to preserve. Agricultural may not be sustainable / viable in the long run in these more developed Counties.

At this point, there was discussion among the Board Members about increased and sustainable funding for the program along with a longer term & on-going benefit to preserved farm owners:

Mr. Goodhart stated that there should be a referendum put forth so the public can decide on additional, dedication funding for farmland protection. The economy is strong and farmland preservation is still supported by the public. It is imperative that a guaranteed stream of funding be secured.

Mr. Zimmerman commented that Senator Scott Martin, while County Commissioner, advocated for an alternative source of funding for the preservation program but was never agreeable to any of the options presented.

Mr. Zimmerman continued by emphasizing the effects of freezing the milage on preserved farms as a means to provide an on-going benefit.

There was consensus among the Board that given the climate, the economy and the change in leadership, now would be a logical time to push forward some ideas for dedicated funding and on-going benefits for preserved farms.

Mr. Knepper did remind the Board that Governor Wolf's proposed PA Farm Bill would eliminate the obligation of a real estate transfer tax if a first-time farmer is purchasing a preserved farm.

This type of allowance would address a concern that Mr. Garber mentioned earlier with regards to transferring farms the next generation at a time when it is still reasonable for them to incur debt and allow them to build equity.

Mr. Landis suggested that the Board should engage the legislators. This could be done in a social setting, such as a gathering at a place like Fox Meadows Creamery, a preserved dairy farm with a successful enterprise (albeit not actually on the preserved farm.)

Mr. Knepper responded that he was hoping to have a joint meeting with the Lancaster Farmland Trust that would also include the legislators. This was to happen in March; however, there may not be enough time to schedule this comprehensive meeting. He also added that he and the APB staff have discussed having a preserved farm tour for Board Members where the staff could showcase some of the preserved farms that have been discussed. These could be farms with rural enterprises, farms that have had enforcement issues, farms that have scored highly on the ranking system, etc.

Mr. Knepper indicated he would look into a meeting of some sort with Legislators.

D. Stoltzfus farm/Home Towne Square storm water

Mr. Landis, as a Clay Township Supervisor, recused himself from this discussion.

Mr. and Mrs. Stephen Stoltzfus reside on a preserved farm at 310 Hackman Road in Ephrata, Clay Township. The farm they live on was preserved by donation under Act 442 by Ivan and Fannie Martin. It was the second farm preserved in the County's preservation program.

The farm adjoins residential zoning and there is a multi-phased residential development called Home Towne Square that has been evolving, 2 phases are complete, and the developers are moving forward with Phase 4 (skipping over Phase 3 for now.)

Pioneer Management, LLC sent a letter to Mr. Stoltzfus. Part of the letter states: "It is required by the Township that the "rate" of stormwater runoff onto your property be managed or controlled. The rate of runoff (how fast water will leave the Home Towne Square site) will be at least 50% lower than it currently is because Landmark Homes will be constructing a detention basin in this phase and future phases of the development. However, since no water is permanently retained or "held" on the Home Towne Square development, more water (volume) over time will be entering your property. This is unavoidable as new impervious surfaces such as streets and homes are constructed."

Ms. Noelle Fortna has met with Mr. Stoltzfus and he has made it very clear that water is already a problem on his farm, hindering his farming, and he does not want his farm to have to accommodate any additional water because of the expansion of this multi-phased development. He shared with Ms. Fortna that he was presented with the letter from Pioneer Management, LLC, he didn't believe he had an option to oppose the additional water.

Mr. Knepper explained for some reason that APB is still trying to determine (presumably because of older storm water management requirements), the developer is not required to obtain a storm water easement from the Stoltzfus family, merely notify them of the impacts. In their review letter, Clay Township Engineer, stresses multiple times that that increased volume of water will not be mitigated and that the downstream property owner (Stephen and Mary

Stoltzfus) will likely experience prolonged inundation because of the discharge from the proposed stormwater basin (on Home Towne Square site) will discharge over a longer period of time. It is also pointed out that there will be “significant increase in runoff volume to the downstream property owner and to an existing drainage problem.”

Clay Township specifically wants verification as to whether or not the Agricultural Preserve Board is acceptable to the increased volume or that they have no jurisdiction. To this end, after consultation with counsel, APB has determined they do have jurisdiction.

The Board was asked to consider this situation and respond:

Mr. Goodhart asked what is the soil type? Mr. Knepper stated that is limestone soils and there has already been at least one sink hole in Home Towne Square. Landmark Homes currently has some outstanding run-off issues that they need to address with the Township.

There was substantial discussion about the option that Landmark could contain the stormwater on site, but that would likely impact the development’s bottom line because they lose sellable area for homes. With this said, it is incumbent for the Board to defend the integrity of the Agricultural Conservation Easement. The Board agreed that to render portions of this farm, unfarmable at times and to impact it to the degree that is being proposed, is similar to a taking. Mr. Goodhart stated that the Board also has responsibility to the landowner, who does not want to accept this onslaught of water. Mr. Garber sited a similar situation on a preserved farm outside of Maytown, siting how the expansion of the development over time has drastically impacted not only this preserved farm, but multiple other properties and the water “travels downhill.” Mr. Lehman said that what Landmark Homes is proposing by using this farm as the recipient of a huge increase in volume of water due to its development will change the use forever.

Mr. Knepper thanked the Board for their input. He will discuss with counsel and will likely prepare a statement that will be submitted to the Township and copied to Landmark Homes clearly stating that the APB has jurisdiction and is not acceptable to any increased water on the Stoltzfus farm because it is not being contained on-site.

E. 2018 Ranking Review

Mr. Knepper took a moment to thank Mr. Kevin Baer for his work on the Annual Ranking. Mr. Knepper stated that Mr. Baer does a tremendous job of thoroughly evaluating and reviewing each application for accuracy.

The Board was presented with an analysis prepared by Mr. Baer, titled “2018 Ranking by the Numbers Ranking”

192 farms applied on 10,780 acres. The top 30 farms have an average acreage of 90.45 and 20 of the top 30 are adjacent to two or more other preserved farms. This is just a sample of the data contained in this analysis. The Board found it very helpful and illuminating.

The Board was then directed to the detailed ranking spreadsheet. Four of the applications are 50% bargain sales and are in process already. Seven of the applications are joint township projects with either Warwick or Caernarvon and are also in process. Joint project whereby

Townships are contributing funds towards the preservation of the farm and 50% bargain sales are acted upon immediately (in other words, they are preserved out of ranking order.)

At this time, Mr. Lehman shared with the Board the he did speak with Jill Groff, a Penn Township Supervisor and also preserved farm landowner regarding Penn Township's lack of participation in farmland preservation. Mrs. Groff assured him that there is no opposition to farmland preservation and utilizing their preservation funds (Manheim Auto Auction) to participate. Mr. Zimmerman said he will follow up with the Township Manager, Mark Heister, to determine what seems to be the drag on Penn Township's participation.

Mr. Zimmerman then asked Mr. Goodhart, why his former home, Manor Township, was not participating with their landfill tipping fees? Mr. Goodhart told the Board that he and Matt spoke with the Township Manager and he was supposed to schedule a time for them to make a presentation to the Board of Supervisors but nothing every came of it. He said that enough time has passed that they should make contact again.

E. Additional Residential Structure Location Criteria

Mr. Knepper said that he would postpone this discussion for another meeting when Board Members were in attendance. He would like to circle back to a discussion that was started a couple years ago with regards to establishing some criteria or check list for the Board to use to determine if the proposed location of the permitted additional house is in an appropriate location that will not negatively impact a farms operation.

VIII. Adjourn

Prior to adjournment, Mr. Knepper did remind the Board that next month's meeting (March 28th) will not be in the normal meeting room, it will be on the third floor in the HR Meeting Room. Details will follow.

The meeting adjourned at 9:20 a.m.

The next scheduled meeting of the Agricultural Preserve Board

Thursday, March 28, 2019, at 8:00 a.m.

Lancaster County Government Center

150 North Queen Street, 3rd Floor HR MEETING ROOM

Lancaster, Pennsylvania 17603

Action Items from Today's Meeting:

- ***Mr. Zimmerman meet with / talk to Penn Township (Mark Heister) re: preservation participation***
- ***Mr. Goodhart / Mr. Knepper – look to meet with Manor Township re: preservation participation***
- ***Board members – game plan/strategy for dedicated funding, referendum?***
- ***Board members – game plan/strategy for on-going benefit for preserved farm owners – freeze milage***
- ***Meeting with Legislators***
- ***Letter to Clay Township/Landmark Homes – Stoltzfus farm and water issue***
- ***Next Meeting – evaluation criteria for permitted additional residence***
- ***2018 Ranking – solicit appraisal deposits from appropriate number of applicants as determined by funding availability***