

Lancaster County Agricultural Preserve Board
Meeting Minutes
Thursday, July 25, 2019

Present: Mr. Jeffrey Frey, Chairman
Mr. Gary Landis, Vice-Chairman
Mr. Edward C. Goodhart III
Mr. Andrew Lehman
Mr. Roger Rohrer
Commissioner Dennis Stuckey
Mr. Daniel Zimmerman

Absent: Mr. H. Eugene Garber
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: Mr. Jeb Musser, Director of Land Protection, Lancaster Farmland Trust (LFT)
Ray D'Agostino

I. Call to Order

Mr. Gary Landis called the meeting to order at 8:05 a.m.

II. Review of Mission Statement

Mr. Jeffrey Frey read the Mission Statement: *"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 July 25, 2019 to discuss real estate matters and litigation.

IV. Approval of Minutes

Motion to approve the May 23, 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

A. Request for Subdivision/Land Development –

1) Construction Request: Kirby F. Nissley, 1487 Breneman Rd, Manheim PA 17545, Rapho Township, Property ID: 5405620500000, APB Acq 0692, 90.08 acres

Retroactive approval for a 2015 implement shed with dimensions of 60 x 75, or 4,500 sq ft. The federal addendum associated with the preservation of this farm require County Board approval for purposes of ensuring the impervious surface limit is not exceeded.

The total amount of impervious that is permitted on this farm is 6% of the area preserved, or 5.40 acres (235,433.09 sq ft.) With the approval of this request, there will still be 3.597 acres available for impervious coverage (buildings, driveway, etc.)

Motion to approve the retroactive construction request for a 60 x 75 ft implement shed was made by Mr. Edward C. Goodhart III and seconded by Mr. Daniel Zimmerman.

MOTION CARRIED UNANIMOUSLY

2) Agricultural Subdivision Request: John M. Esch, 478 St. Catherine Dr, Quarryville PA 17566, East Drumore Township, Property ID: 1802075000000, APB Acq 0711, 110.46 acres preserved

The farm is subject to the 1995/2002 Subdivision Guidelines which permits agricultural subdivision if resultant parcels remain over 50 acres. Mr. Esch is proposing to subdivide the farm into two parcels, one being 59.579 acres and 50.876 acres. The 59.579 acre parcel has the existing dwelling and farm structures. It is also currently using the one additional residential structure allowed by the ACE in the form of ECHO housing. Until the ECHO housing is removed, the 50.876 acre tract will not have the authorization to construct a dwelling. The proposed dividing line for the farm is along a contoured field edge and makes for a very sound subdivision in so far as having minimal impact on the way the property is farmed.

Staff recommends approval of this request as it is within the provisions of ACE with the following conditions:

- Applicable APB Standard Plan Notes should be identified on the Plan with unique language added to address the one additional house that is currently being used in the form of ECHO housing.
- Subsequent to Subdivision, two new property deeds shall be prepared and recorded in the Lancaster County Recorder of Deeds Office: One for the 50.876 acres and one for the 59.579 acres.
 - Both deeds shall reference and include the ACE language.
 - Both deeds shall reference by recording information the Subdivision Plan.
 - Deed for 50.876-acre farm shall indicate that the one additional residential structure, as permitted by the ACE, is assigned to this farm but may not be utilized until the ECHO housing on the 59.579-acre farm has been removed. Furthermore, the new property deed shall indicate that no further subdivision is permitted.
 - Deed for 59.579- acre farm shall indicate that the one additional residential structure, as permitted by the ACE, is currently being utilized by this tract and may be assigned to the 50.876-acre farm after such time that the ECHO housing is removed from this tract.

Furthermore, the new property deed shall indicate that no further subdivision is permitted.

- 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. Any new owner/operators of the newly created farm tracts should ensure that there are implemented Conservation Plans/ Ag E&S Plans (inclusive of manure/nutrient management plans) to reflect their operations.
- 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
- No restriction limiting agricultural production is permitted.
- APB Staff authorized to provide any necessary final approvals after reviewing final Land Development Plan as submitted to Township/County.

Motion to approve the agricultural subdivision as presented and subject to the identified conditions was made by Mr. Edward C. Goodhart III and seconded by Mr. Roger Rohrer.

MOTION CARRIED UNANIMOUSLY

B. Request for Rural Enterprise –

- 1) **Customary Ag Compatible Enterprise – Sale of mushroom soil as an amendment for soils: Delton L. and Maria S. Nolt, 2663 Robert Fulton Hwy, Peach Bottom PA 17563, Fulton Township, Property ID: 2804920100000, 163.59 acres preserved.**

Mr. Nolt states in his application that the mushroom soil currently stored on the farm is primarily used on their fields to build up organic matter in soil and the balance is consumed by local neighbors. This side business has been in existence for a number of years with signage advertising its availability at the end of the farm lane.

The activity appears to be consistent with the Agricultural Conservation Easement and the associated Program Guidelines pertaining to rural enterprises. Staff is recommending preliminary approval with the conditions identified below. Final approval may be provided on behalf of the Board by staff once verification of a conservation plan has been made. Conditions:

- The operation may not exceed 0.5% acres of the farm.
- The rural enterprise is to be allowed as described and set forth in the Application.

Motion to grant preliminary approval, or conditional approval, with staff authorized to grant final approval on behalf of the Board once verification of a conservation plan has been made and subject to the identified conditions was made by Mr. Daniel Zimmerman and seconded by Mr. Roger Rohrer.

MOTION CARRIED UNANIMOUSLY

C. ACT 33 OF 2019

This was House Bill 370 and was discussed at the prior Board Meeting:

- A landowner may voluntarily relinquish the additional residential dwelling
- A landowner may subdivide either the permitted additional residential dwelling OR an existing residential dwelling
- Who is permitted to construct the permitted additional residential dwelling and subdivide the additional residential dwelling OR an existing dwelling is being “cleaned up” so there do not

exist different criteria (as do now) In either case the action can be done by the primary landowner, an immediate family member or an employee.

Mr. Knepper highlighted that voluntary relinquishment of the additional dwelling could be a tool that is used in the ranking to award more points and as a negotiating tool should there be issues on a farm subject to an ACE. Furthermore, it could also be used as an option for 50% bargain sales and/or farms that are very small.

And, another possibility for the Board to contemplate is the opportunity to offer existing preserved farms the opportunity to relinquish construction of the additional dwelling. Other things to consider: Is the Board proactive (mailing to any farm eligible)? Do we compensate? Do we just let landowners do it on their own and utilize the tool provided for in the Act (affidavit)?

The following comments/questions were made:

- Mr. Frey and Mr. Goodhart stated that at minimum APB needs to make landowners aware of this option through a mailing of some sort.
- Mr. Rohrer asked if it was possible to have one of our appraisers determine a range of value that this house right might be worth, say \$10,000 - \$50,000?
- Mr. Zimmerman said that any effort to permanently remove the one additional house right should be approached cautiously because perpetual is forever.
- Mr. Frey and Mr. Rohrer encouraged staff to “shake the tree.” In other words, get the information out there and see if there is any interest by any landowner to voluntarily relinquish the house right.
- Mr. Landis wondered about potential legal implications?

D. ACT 13 OF 2019

This was House Bill 624 and is part of the “PA Farm Bill.” This Act exempts the sale of preserved farms to qualified beginning farmers from real estate transfer tax.

Mr. Roger Rohrer commented that statistically 95% of all farm transfers are within families and are therefore exempt from real estate transfer tax.

It was noted that there are a smaller percentage of transactions that would benefit from this initiative and that with an aging farm population, it may be that in the future the percentage of non-family farm transfers increases.

Mr. Knepper said he would wait until a summary is distributed by the PA Department of Agriculture, after which staff would distribute information about this new legislation.

At this point in the meeting, Commissioner Stuckey shared that the Berks County Commissioners have filed an Appeal of the State Agricultural Land Preservation Board’s denial of changes to their preservation program in Commonwealth Court. Specifically, Berks County proposed to modify their program to change some of the selection criteria (based on their County’s newly revised Comprehensive Plan.) The result of these changes would have excluded a very large number of existing applications and make it very difficult for a large group of farms to qualify.

Mr. Goodhart asked Commissioner Stuckey if he would be able to serve on the State’s Board after he is no longer in the position of County Commissioner? The Board unanimously shared their gratitude for Commissioner Stuckey’s solid representation of Lancaster County’s interests while serving on the State

Board and encouraged him to investigate the ability to remain in service even after he is no longer a County Commissioner. Commissioner Stuckey indicated he would investigate whether or not this would be possible.

VII. Adjourn

The meeting adjourned at 8:43 a.m.

The next scheduled meeting of the Agricultural Preserve Board

Thursday, August 22, 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:

- *Send Letters of approval and preliminary approval to John M. Esch (ag subdivision), Kirby F. Nissley (construction) & Delton and Maria Nolt (rural enterprise) (complete)*
- *Make Easement Offers per Board authorization during Executive Session (complete)*
- *Follow up with State regarding Act 33 and Act 13 & then distribute information to preserved farm owners*

Action Items from May 23rd Meeting:

- *Send Letters of Rural Enterprise Approval to William D. Coleman and Michael and Peggy Nolt (complete)*
- *Make Easement Offers per Board authorization during Executive Session (complete)*
- *Draft Letter to Penn Manor School District per Board directive during Executive Session (attended school board meeting)*
- *Contact Senator Aument's office to indicate the Agricultural Preserve Board's unfavorable position on SB 583*

Action Items from April 25th Meeting:

- *Letter drafted DEP regarding bio-solid concerns on East Donegal preserved farm.*
- *Rank all farms in Penn Township's ASA. (in process)*
- *Letter to Clay Township developed in consultation with counsel. (complete)*
- *Finalize revised additional structure application with new evaluation criteria. (complete)*

Action Items from February 28th Meeting:

- *Mr. Zimmerman meet with / talk to Penn Township (Mark Heister) re: preservation participation (complete – Andy Lehman, Matt Knepper & Noelle Fortna)*
- *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 (complete)*
- *Next Meeting – evaluation criteria for permitted additional residence (complete)*
- *2018 Ranking – solicit appraisal deposits from appropriate number of applicants as determined by funding availability (complete – 1st round)*