

**Lancaster County Agricultural Preserve Board**  
**Meeting Minutes**  
**August 25, 2022**

**Present:** Mr. Roger Rohrer, Chairman  
Mr. Daniel Zimmerman, Vice Chairman  
Mr. Edward C. Goodhart, III, Secretary  
Mr. Jeffrey Frey  
Mr. Gary Landis  
Mr. Andrew Lehman  
Mr. Jered Hess  
Commissioner Ray D'Agostino

**Absent:** Mr. Matt Young  
Mr. Kevin Baer, Farmland Preservation Specialist

**Staff:** Mr. Matthew Knepper, Director  
Ms. Noelle Fortna, Farmland Preservation Specialist  
Mr. Garland Treese, Farmland Preservation Specialist  
Ms. June Mengel, Farmland Preservation Specialist  
Mrs. Denise Alvarez, Administrative Assistant

**Guests:** Dr. Weston Shertzer, and Jeffrey Swinehart LFT

**I. Call to Order**

Mr. Rohrer called the meeting to order at 8:38 a.m.

**II. Review of Mission Statement**

Mr. D'Agostino 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**

The Board met in Executive Session on August 25, 2022 at 7:15AM to discuss Real Estate and Enforcement of Agricultural Conservation Easements

**VI. Approval of Minutes**

**Motion to approve the July 28, 2022 meeting minutes pending a correction that identifies Mr. Jered Hess as absent for that meeting, made by Mr. Landis, seconded by Mr. Zimmerman.**

**MOTION CARRIED UNANIMOUSLY**

**V. Business from Guests**

Mr. Frey noted the presence of Jeffrey Swinehart, Executive Director of the Lancaster Farmland Trust (LFT) and extended congratulations to the organization for the recent award of American Rescue Plan Act (ARPA) funding they had been awarded by the Lancaster County Commissioners.

Mr. Knepper congratulated Mr. Frey on the recent Master Farmer recognition he received.

VI. **New Business**

**A. Request for Subdivision / Land Development – Acq 0882, Rohrer Properties, LLP, Manor Township**

Mr. Knepper distributed the revised application for a driveway easement that is now signed by all parties: Weston and Sara Shertzer and Mike and Lori Rohrer (Rohrer Properties, LLP.)

Mr. Knepper shared with the Board that Attorney George Cook believed that the possibility for precedent setting is very limited. This particular request is narrowly focused and unique; therefore, there is limited exposure with this request, should the Board approve. Furthermore, Atty Cook, drafted a motion for the Board should they decide to take action. This particular action would be for the Board to decide that they would or would not treat this driveway easement as a violation of the Agricultural Conservation Easement (ACE). In essence, if the Board is agreeable to the driveway easement, the action would not be to approve the driveway easement but rather to affirm that they do not believe it to be a violation of the terms of the ACE.

The following Motion was presented to the Board:

MOTION

A. The Board finds the following relevant to this motion:

- a. The Shertzers' tract does suffer from very steep existing conditions, rendering access almost impossible (or only at extreme cost), unless achieved by an access easement akin to the one proposed.
- b. The preserved farm essentially surrounds the Shertzers' tract.
- c. The proposed easement is situated entirely within woodland.
- d. The Shertzers did nothing to create the conditions that result in the need for the access easement.
- e. The proposed easement will not materially harm the preserved farm, and in some ways will provide a benefit to it.
- f. The proposed easement will not unreasonably interfere with the use of the agricultural conservation easement nor impair the interests of the Board.
- g. The Shertzers are agreeable to the conditions stated below.
- h. The Rohrers, owners of the preserved farm, are also agreeable and do desire the Board take the position stated in the Motion below.

B. Therefore, I move as follows:

- a. That the Board, as an enforcement and monitoring matter, not oppose the request for the access easement, under the terms and conditions as presented, and subject to the following terms and conditions as well:
  - i. The beneficiary of the easement shall allow the present and future landowners of the preserved farm to access the farmable land from the west, and the easement may be used by the landowner in the future should the landowner elect to construct a single-family residence on the farm.
  - ii. The easement shall be designed to cover the shortest possible distance between the Shertzers' property and Shultz Road.
  - iii. The Shertzers shall be solely responsible for engineering and construction of the access drive, with the final design and placement subject to approval by the Board and the Rohrers.
  - iv. The Shertzers shall provide ongoing indemnification for the Rohrers against any legal claims related to the beneficiary or beneficiary guest use of the easement.
  - v. The Shertzers shall be responsible for securing liability insurance during construction of the easement.
  - vi. The Shertzers shall guarantee restoration of any surrounding land impacted by construction of the easement.

- vii. The Shertzers shall enter into a reciprocal access agreement, in which the landowner reserves the right to use the access driveway without limitation for agricultural and residential use.
- viii. The Shertzers shall be solely responsible for all ongoing maintenance of the easement and associated costs.
- ix. The Shertzers shall be responsible for engineering a stormwater plan as required by the Township and be responsible for construction of such plan and for maintenance of such facilities constructed for the easement.
- x. The driveway shall abide by the requirements of Manor Township Zoning Ordinance § 425-39. In regard to the width and surface of the driveway, the driveway shall provide a curb cut exceeding 24 feet in width and shall be a bituminous paving or concrete from the edge of the cartway to the edge of the right-of-way.

**Motion to approve was made by Mr. Goodhart and seconded by Mr. Zimmerman**

Commissioner D'Agostino noted that this Motion and any subsequent Action does not tie back to the criteria the Board discussed and believed to be relevant in rendering a favorable decision. He stated that it is important to incorporate "policy" language that tethers the Board's decision to the policy on "easements on easements" and the criteria that has been established used to evaluate such proposals. With this concern recognized, the following revised Motion was made:

**MOTION**

- A. The Board finds the following relevant to this motion:
  - a. The Shertzers' tract does suffer from very steep existing conditions, rendering access almost impossible (or only at extreme cost), unless achieved by an access easement akin to the one proposed.
  - b. The preserved farm essentially surrounds the Shertzers' tract.
  - c. The proposed easement is situated entirely within woodland.
  - d. The Shertzers did nothing to create the conditions that result in the need for the access easement.
  - e. The proposed easement will not materially harm the preserved farm, and in some ways will provide a benefit to it.
  - f. The proposed easement will not unreasonably interfere with the use of the agricultural conservation easement nor impair the interests of the Board.
  - g. The proposed easement is consistent with the criteria established by the Board relating to easements on preserved farms.
  - h. The Shertzers are agreeable to the conditions stated below.
  - i. The Rohrs, owners of the preserved farm, are also agreeable and do desire the Board take the position stated in the Motion below.
- B. Therefore, I move as follows:
  - a. That the Board, as an enforcement and monitoring matter, not oppose the request for the access easement, under the terms and conditions as presented, and subject to the following terms and conditions as well:
    - i. The beneficiary of the easement shall allow the present and future landowners of the preserved farm to access the farmable land from the west, and the easement may be used by the landowner in the future should the landowner elect to construct a single-family residence on the farm.
    - ii. The easement shall be designed to cover the shortest possible distance between the Shertzers' property and Shultz Road.
    - iii. The Shertzers shall be solely responsible for engineering and construction of the access drive, with the final design and placement subject to approval by the Board and the Rohrs.
    - iv. The Shertzers shall provide ongoing indemnification for the Rohrs against any legal claims related to the beneficiary or beneficiary guest use of the easement.

- v. The Shertzers shall be responsible for securing liability insurance during construction of the easement.
- vi. The Shertzers shall guarantee restoration of any surrounding land impacted by construction of the easement.
- vii. The Shertzers shall enter into a reciprocal access agreement, in which the landowner reserves the right to use the access driveway without limitation for agricultural and residential use.
- viii. The Shertzers shall be solely responsible for all ongoing maintenance of the easement and associated costs.
- ix. The Shertzers shall be responsible for engineering a stormwater plan as required by the Township and be responsible for construction of such plan and for maintenance of such facilities constructed for the easement.
- x. The driveway shall abide by the requirements of Manor Township Zoning Ordinance § 425-39. In regard to the width and surface of the driveway, the driveway shall provide a curb cut exceeding 24 feet in width and shall be a bituminous paving or concrete from the edge of the cartway to the edge of the right-of-way.

**Motion to approve the revised Motion made by Mr. Goodhart, seconded by Mr. Zimmerman**

**MOTION CARRIED UNANIMOUSLY**

**B. Requests for Rural Enterprise**

Mr. Knepper prefaced his comments by saying that he was not asking the Board to render any decision(s) or opinions at this time, rather just wanted to put something on their radar.

Based on more recent inspections of preserved farms conducted by staff, it has been discovered that there are some minor rural enterprises occurring in newly built structures (ex. dog kennels, landscaping.) In all cases thus far, these new structures are generally smaller structures and within the curtilage of other buildings. The ACE stipulates that the only structures permitted to be built is the one additional residential structure, the replacement of a residential structure and those used for ag production. Staff has always taken the position that a new structure can't be built solely for the purpose of a rural enterprise. However, the State law permits Rural Enterprises by right, so it could be argued that structures that are required to operate a rural enterprise may also be permitted.

Mr. Knepper asked the Board to contemplate if some level of tolerance should be demonstrated for new structures for rural enterprise if for example they are sized reasonably, within the existing curtilage and non-impactive to the farming operation?

The Board directed staff to investigate further and come back with some draft language for discussion.

**C. Senate Bill 64: State-allocated Farmland Preservation Funding for Land Trusts**

This Bill would open state funding to land trusts derived from unencumbered funds (funds that Counties had opportunity to utilize but did not.) The maximum would be \$1 million or 80% of the unencumbered funds. Under the current formula, the unencumbered funds are redistributed to Counties. If this Bill had been passed this past year, Lancaster County would have received \$75,000 less. Land Trusts must put forth at least 50% of the easement cost and of that 50%, 25% had to be "new" money from donors or some other source. This Bill would bring additional private money to preservation.

**Motion for the Board to submit a letter supporting HB 64 made by Mr. Frey, seconded by Mr. Zimmerman.**

**MOTION CARRIED UNANIMOUSLY**

**D. Farmland Ranking System**

Mr. Knepper requested that the Board take action to revert back to the former ranking, whereby in the Farmland Potential category, the points would remain as they were, prior to the change to add points for relinquishing the right to construct an additional dwelling.

**Motion to revert to prior ranking system made by Mr. Goodhart, seconded by Mr. Lehman.**

**MOTION CARRIED UNANIMOUSLY**

**E. Riparian Easements on Preserved Farms**

ARPA (American Rescue Plan Act) funds will likely be utilized to address water quality and it is being proposed that riparian easements be placed on farms and preserved farms. It is envisioned that these riparian easements could occur in conjunction with preservation and/or be placed on farms that are already preserved. It is possible that a third party (ex. Lancaster Farmland Trust) will hold these riparian easements and also be responsible for the monitoring of these specific easements.

Mr. Knepper asked the Board if they saw a riparian buffer easement as compatible with an ACE, and generally agreed that it would not be viewed as violations of the ACE. The Board agreed.

**VII. Adjourn** The meeting adjourned at 9:46 AM.

**The next scheduled meeting of the Agricultural Preserve Board**

Thursday, September 22, 2022, at 8:00 a.m.  
Lancaster County Public Safety Center  
101 Champ Blvd. Manheim, PA 17545