

Lancaster County Agricultural Preserve Board
Meeting Minutes
Thursday, February 25, 2016

Present: Mr. Gene Garber
Mr. Jeffrey Frey
Mr. Roger Rohrer
Commissioner Dennis Stuckey
Mr. Matthew Young
Mr. Richard Hurst
Mr. Gary Landis

Absent: Mr. Daniel Zimmerman
Mr. Edward Goodhart, III

Staff: Mr. Matthew Knepper, Director
Mrs. Nancy Ambler, Farmland Preservation Specialist
Mr. Kevin Baer, Farmland Preservation Specialist
Ms. June Mengel, Farmland Preservation Specialist
Ms. Christine Le, Administrative Coordinator, Recording Secretary

Guests: Mrs. Joella Neff, Lancaster Farmland Trust
Mr. Jeffrey Swinehart, Lancaster Farmland Trust
Mr. Keith Heigel, Engineer, Light-Heigel & Associates, Inc. Engineers & Surveyors
Mr. Brad Harris, Attorney, Partner in Good & Harris, LLP
Mrs. Barbara Stoner, Preserved Farm Landowner, East Donegal Township
Mr. Barry Stoner, Preserved Farm Landowner, East Donegal Township

I. Call to Order

Mr. Gene Garber called the meeting to order at 8:05 a.m.

II. Review of 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. Executive Session

The Agricultural Preserve Board met in executive session on February 25, 2016, at 7:15 a.m. to discuss real estate transactions.

IV. Approval of Minutes

Motion to approve the January 28, 2016 meeting minutes with the correction to change the term "hotel" to "lodging," made by Mr. Richard Hurst and seconded by Mr. Jeffrey Frey. Approved unanimously.

MOTION CARRIED

V. Announcements

A. 2016 Legislative Breakfast – Lancaster Eden Resort

On March 24, 2016, the Lancaster Agricultural Preserve Board and the Lancaster Farmland Trust will have their annual legislative breakfast at the Lancaster Eden Resort. The breakfast will be held before the Board's monthly meeting, also held at the same location. Board members will be receiving a reminder via email and postal mail soon. Invitations have been sent to the Lancaster delegation, including the three County Commissioners. The Board meeting location change notice will soon be published.

VI. Business from Guests

A. Stormwater Management Plan: Barry and Barbara Stoner, Landowners of preserved farm Keith Heigel, Engineer, Light-Heigel & Associates, Inc. Engineers & Surveyors Brad Harris, Attorney, Partner in Good & Harris, LLP East Donegal Township

Mr. Keith Heigel, Engineer of Light-Heigel & Associates, Inc. Engineers & Surveyors, presented to the Board a plan that addresses the on-going stormwater issue currently affecting the Stoner farm and East Donegal Township's Coffee Goss Road. Mr. Heigel is seeking the Board's input on the proposed plan. The Board was shown an aerial map of the Stoner farm property, watershed, and areas affected.

- Barry and Barbara Stoner are landowners of a 74 acre preserved farm in East Donegal Township, south of Rock Point Road
 - A stream crosses the Stoner farm from west to east
 - Top of the watershed is approximately located in the southeast quadrant of the village of Maytown
 - Continuously running springs are also located in the area
 - Nearby Bridal Path and Village Square development projects are expected to start their last phase soon, potentially affecting nearby streams
 - East Donegal Township confirmed that Coffee Goss Road will be redesigned to have a softer curve than its existing 90 degree angle curve --- will impact the Stoner farm
 - Stormwater floods Coffee Goss Road and flows onto the Stoner farm, eroding the stream along Furman Road
 - Flooded area is 2 feet lower than surrounding area
 - Pipeline is on farm
- 1) **Plan:** Place a stormwater easement on the Stoner farm and a low-profile stormwater facility just off of Coffee Goss Road
- Stormwater facility to be in area surrounded by Coffee Goss Road, the nearby stream and the pipeline (between 1 to 1.5 acres) --- would release collected stormwater into a controlled grade
 - Stormwater facility area would still allow for some crop farming

Mr. Keith Heigel's, Engineer, and Mr. Brad Harris's, Attorney, comments:

- Plan will minimize the flooding and erosion, and maximize agricultural use of the entire Stoner farm
- Plan is to have more control on where any additional stormwater runoff will go
- Specific answers regarding responsibility and measurements are to be determined
- Easement will be held by the Stoners
- Trying to push someone else, not the Stoners, to build the stormwater facility
- Seeking to address the stormwater problem, money exchange not a priority issue
- The Stoners are willing to pay for the improvements

- Hopes that the Township will later choose to maintain the easement --- may possibly use it as a credit towards MS4 regulations
- East Donegal Township has told them they are not interested in maintaining such easement at this time
- New stormwater regulations will require new developers to address stormwater on their development
- Easement gives us the most flexibility
- Township is likely waiting for a new developer to address the stormwater
- The problem exists today, and anything the developer does will ultimately impact the Stoner farm

Mr. Barry and Mrs. Barbara Stoner's, Landowners, comments:

- The stormwater flooding issue has been a problem for 15 years, since development began upstream
- Wants to be in control of what occurs when the Township and the developers start their last phase of development
- New development has not occurred in 10 years --- is unpredictable
- Has not sought advice from NRCS
- Asked the Township for help, but was told money is not available
- The developer would only be responsible for addressing the stormwater on one side of the road, other side is Township's responsibility
- If the easement and the stormwater facility is installed, they would have more farmland to utilize

Mr. Matthew Knepper's comments:

- Are other upstream farms affected?
- Plan would be acceptable if it was included as a Best Management Practice (BMP) in the Stoner Conservation Plan
- There is more flexibility if project was entirely the Stoner's project
- Problematic if the Township wants to place a retention basin on a preserved farm to fix a Township problem --- same goes for a private developer wanting to do the same
- Issue with permanent easement legal restrictions being on top of farm preservation easements
- Will seek advice from solicitor

Board comments:

- Why should the Stoners have to address the stormwater issue when the problem was caused by the developer?
- Why is the stormwater easement necessary?
- Will the Stoners receive any type of compensation for allowing the stormwater easement to be placed on their property?
- Has an issue selling an easement to a developer
- Do you know if the development will continue to grow?
- Could be a possibility that more development in that area is no longer legal
- Advised the Stoners to consult with NRCS
- All landowners affected by stormwater issue and NRCS should address the Township
- Concerned with ownership and payment of the stormwater basin and easement
- If the landowners can retrieve Township development plans ahead of time, they could build according to that plan
- BMP implementation is not the Board's concern
- Concerned with modifications and approvals the project may seek on top of the legal language of the current existing easement

- Would approve of the project if the Stoners were doing so to benefit their property
- Disapproves of someone benefiting off of an easement held by another in order to correct a problem
- If the landowners are addressing the stormwater issue on their property to protect their farm, it is considered a Best Management Practice --- there is no need for an easement
- Risk that stormwater easement can be transferred to someone else in the future
- Concerned Township would not be interested in maintaining the easement after it is placed
- Concerned that if a developer chooses to pay for, and therefore benefit off of, the stormwater easement, the Board will have to rectify developer problems on a preserved farm
- Preserved farms should not be used to rectify another person's problem
- Regardless of whether further development continues, the Township needs to address its existing stormwater issue
- Appreciates the Stoners being pro-active to address the stormwater issue
- State should lead the way in addressing stormwater issues affecting preserved farms

2) **Future Plan:** The Stoners' daughter would also like to subdivide the flag-shaped lot on the Stoner farm to build a house

Mr. Keith Heigel's comments:

- Road relocation and elevation may help daughter access property

VII. Old Business

None

VIII. New Business

A. Requests for Subdivision/Land Development

None

B. Request for Rural Enterprise

1) **Special Event/Wedding Venue:** Dennis L. and Karen K. Stoner
 _____ East Earl Township

Dennis L. and Karen K. Stoner are seeking approval of a special event venue on their 66.51 acre preserved farm, East Earl Township.

- Venue is an existing barn, using only the top floor
- The events will primarily be weddings
- Seasonal
- Stoners have already received East Earl Township's Zoning Board's approval
- Township Zoning Hearing Board required that they use their existing septic system
- Stoners not permitted to expand their permitted capacity
- Exterior visual alteration of the barn is prohibited
- Existing impervious surface areas will be used for parking
- Signage will be small; similar to the sign of their previously-operated bed and breakfast
- Lower portion of barn will continue to be used for storage
- Bathrooms are located the second floor

Conditions of approval:

- ❖ The rural enterprise is to be allowed as described and set forth in the Application
- ❖ Any changes to the operation must be presented to APB for review and approval prior to undertaking such changes
- ❖ The preserved farm must continue to be used for agricultural production and the rural enterprise may not restrict the use of the farm for agricultural production and/or normal farming operations
- ❖ This approval is contingent on, at all times, verification by the Lancaster County Conservation District that the farm is following a Conservation 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

This Rural Enterprise as proposed meets the conditions of the Rural Enterprise Guidelines and must continue to do so:

Section F-1.

The agritourism and agritainment set forth below are permissible so long as the landowner demonstrates compliance with all of the requirement herein, including all of the following:

- A) The agritourism and agritainment enterprise shall remain incidental to the agricultural use and character of the farm
- B) The agritourism or agritainment does not render any portions of the land incapable of being immediately converted to agricultural use
- C) The agritourism or agritainment enterprise shall, unless the nature of the proposed agritourism or agritainment enterprise is such that this criteria does not apply, be located within the curtilage of the existing residential or agricultural structures
- D) No excavation, paving, graveling, construction of permanent non-agricultural structures of other activity that would diminish the productive capacity of the soils permitted in connection with such events

Mr. Matthew Knepper's comments:

- East Earl Township has reviewed and approved request with conditions
- APB staff recommends approval because request fits within the Rural Enterprise Guidelines and is consistent with previously Board-approved special event venues
- All easements contain disclaimer language

Board comments:

- Curious as to why standards to convert this barn into a special events venue is considerably a lot less than similar farms that had to seek permits that ensure their venues meet public safety and accessibility standards
- Township is responsible for ensuring public safety and accessibility standards are met

Motion to approve the Mr. Dennis L. and Mrs. Karen K. Stoner special events venue request with the Lancaster County Agriculture Preserve staff recommended conditions of approval as presented made by Mr. Matthew Young and seconded by Mr. Richard Hurst. Approved unanimously.

MOTION CARRIED

C. Rural Enterprise Guidelines Review

Considering last month's Board discussion and decision on a proposal for farm lodging, Mr. Matthew Knepper asked the Board to review the Rural Enterprise Guidelines language, specifically types of appropriate rural enterprise lodging.

Mr. Matthew Knepper's comments:

- APB's existing Agritourism and Agritainment Rural Enterprise Guidelines would not have fully backed up last week's Board decision --- not specific enough
- Evident that proposal presented was not what Board felt as acceptable lodging on a preserved farm
- After discussion with APB's solicitor, felt the current Rural Enterprise Guidelines would not have prevented approval of the lodging proposal if it already had Township approval, and if it did not have conflicting easements
- Board needs to establish clear boundary lines between acceptable and unacceptable lodging on preserved farms
- Under the Agritourism and Agritainment Enterprise Guidelines (Section F1), reference to acceptable lodging only states "bed and breakfast accommodations or similar farm lodging" --- location of lodging is not specified
- Received feedback from the Lancaster Planning Commission
- Reviewed multiple township ordinances related to bed and breakfast
- Found that those townships limited the maximum number of rooms permitted was 5
- Majority of townships required lodging rooms to be part of the owner-occupied residence, or at least have the owner reside on the same property
- Common theme of a single door entrance into a common area
- Other criteria included requirement to serve breakfast, and separate cooking facilities were prohibited
- By State law, the farm experience includes commercial equine uses
- The Board needs to make decisions based on what the easement says, not on personal preference

Board comments:

- Bed and breakfast type of lodging in a barn or a residential house is acceptable
- Multiple unit, separate door, hotel type of lodging is not acceptable
- Scale of lodging is a factor (2 rooms versus 7 rooms)
- Proposed lodging reviewed last month seemed similar to a hotel --- did not seem to be part of the farm experience
- Would like lodging that ensures visitors feel part of the farm cultural experience
- Approval of last month's proposal would be a stretch of the farmland preservation language
- Board should try to keep the legalities close to overall concept of a farm cultural experience
- Suggested checking with the Treasurer's office to see what the lodging would classify as for tax collection --- bed and breakfast pays a different tax than hotel rooms
- Board should set a limit of the maximum number of permitted rooms
- State law determines what is acceptable on a preserved farm
- There are some very successful bed and breakfasts that have generated more cash flow than their farm
- Asked Mr. Matthew Knepper to report his findings on the tax collection classification
- Board thanked and commended Mr. Matthew Knepper and the APB staff for their great work

D. 2015 Application Ranking

The Board reviewed the 2015 Application Ranking list and map that were initially shown at last month's Board meeting.

- 189 farms listed, approximate total of 10,097 acres
- If the landowner(s) chooses to pass on preserving their farm, APB staff want to continue moving down the Ranking list to present an offer to the next farm
- Mr. Kevin Baer has followed-up with landowners that have not responded to appraisal deposit requests via phone call
- Requests for appraisal deposits will continue to move down the list until funding has run out
- Mr. Matthew Knepper and Mr. Kevin Baer reviewed applicants that have passed
- 16 offers for 90% bargain sale
- 17 offers for 80% bargain sale
- 11 offers for 70% bargain sale
- 3 offers for 60% bargain sale
- 5 offers for 50% bargain sale

Board comments:

- Commended the Lancaster Farmland Trust's contribution to the County's preservation program
- Thanked Commissioner Dennis Stuckey for providing an additional \$250,000 of funding towards the farmland preservation program
- Amish interest in preservation continues to grow

Mr. Jeffrey Swinehart's, Lancaster Farmland Trust, comments:

- Lancaster Farmland Trust altered their preservation criteria and their payment structure about a year ago
- Number of applicants of high quality farms have significantly increased

Mr. Matthew Knepper's comments:

- Thanked the APB staff for their incredible work

Motion to approve 2015 Ranking List made by Mr. Richard Hurst and seconded by Mr. Jeffrey Frey. Approved unanimously.

MOTION CARRIED

E. 2016 State Funding

The 2016 State Funding was approved at last week's State Board meeting. Mr. Matthew Knepper presented the list of distribution funds for all counties within the Commonwealth of Pennsylvania based on their County match.

- The State funding formula is based heavily on the real estate transfer tax, the amount of agricultural production, and on the County match
- Lancaster County received approximately the same amount of funding as last year
- Board would like to see at least 250,000 total acres preserved within the next 20 years

IX. Adjourn

The meeting adjourned at 10:15 a.m.

The next schedule meeting of the Agricultural Preserve Board:

Thursday, March 24, 2016, at 8:00 a.m.

Lancaster Eden Resort – State Room

222 Eden Road

Lancaster, Pennsylvania 17601