Lancaster County Agricultural Preserve Board
Meeting Minutes
Thursday, September 22, 2016

Present: Mr. Gene Garber
Mr. Jeffrey Frey
Mr. Edward Goodhart III
Mr. Gary Landis
Mr. Roger Rohrer
Commissioner Dennis Stuckey
Mr. Matthew Young

Absent: Mr. Richard Hurst
Mr. Daniel Zimmerman

Staff: Mr. Matthew Knepper, Director
Mrs. Nancy Ambler, Farmland Preservation Specialist
Mr. Kevin Baer, Farmland Preservation Specialist
Ms. June Mengel, Farmland Preservation Specialist & acting Recording Secretary

Guests: Mr. Jeffrey Swinehart, Deputy Director, Lancaster Farmland Trust
Ms. Joella Garber, Monitoring Specialist, Lancaster Farmland Trust
Mr. Donald Hess, preserved farm owner ~ East Donegal Township
Mr. Jamie Dunkelberger, Engineer, Light-Heigel & Associates, LLC
Mrs. Judy Grillo, preserved farm owner ~ Penn Township
Mr. Scott Grillo, preserved farm owner ~ Penn Township
Mr. James F.P. Welch, Esq, McNees Wallace & Nurick, LLC
Mrs. Barbara Stoner, preserved farm owner ~ East Donegal Township
Ms. Tiffany Stoner, daughter, Barbara Stoner ~ East Donegal Township
Mr. Keith Heigel, Engineer, Light-Heigel & Associates, LLC

I. Call to Order

Mr. Gene Garber called the meeting to order at 8:03 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 did not meet in executive session prior to this meeting on September 22, 2016.

IV. Approval of Minutes

Motion to approve the August 25, 2016 meeting minutes made by Mr. Edward Goodhart and seconded by Mr. Jeffrey Frey.

MOTION CARRIED UNANIMOUSLY

V. Announcements

A. NO ANNOUNCEMENTS

VI. Business from Guests

None

VII. Old Business

A) Request for Rural Enterprise

Second Review: Special Events Venue: PA Property Investors, LLC
Scott and Judy Grillo
Penn Township

Landowners, Scott and Judy Grillo, are requesting the APB's approval regarding a request to repurpose the barn for a special events venue on their 61.910 acre preserved farm. This is the third time the APB has reviewed the proposal. The first review was at the May 26, 2016 Meeting whereupon the APB was generally agreeable but did have concerns about potential excavation for parking and septic. The second was on August 25, 2016 Meeting. At this meeting the APB indicated that it was agreeable to modifications that had been made, but would like the Grillos to address the proposed parking along the farm lane.

Mr. Scott Grillo and Mrs. Judy Grillo comments

- No land that is currently being farmed is being taken out of production for this proposed use.
- Penn Township Zoning Hearing Board has approved, Decision presented to APB.
- Activity is confined to area around buildings.
- Farmland will stay farmed.
- No limitation to farming activity. A letter has been sent to the tenant farmer to ensure there will be no limitation to his farming activities, regardless if there is an event being held.
- Regardless of what improvement are being done to the barn, nothing will prevent the barn from immediately being converted back to agricultural use.
- Farmhouse will not be used as a B&B, which was proposed. It will now serve as an accessory structure, a staging area for the bride and groom to prepare for the wedding.
- Ceremonies will occur on the lawn behind the house. All reception activities must occur indoors.
- Mr. and Mrs. Lefever (prior owners of the farm) have written a letter in support of this proposal.
- Presentation made to the Lancaster Farmland Trust, but uncertain if a decision has been reached.
- Presentation made to the Penn Township Supervisors, but they did not make a decision at that particular meeting.
- Need to continue to work with the Lancaster Farmland Trust and Penn Township as there may be issues identified in the Declaration of Restriction that do not exist in the Agricultural Conservation Easement.
- Acknowledgement that the Declaration of Restriction may not allow them to construct the additional residential structure.

Mr. Matthew Knepper's comments:

- If APB agreeable to the proposal, it will need to further define why it is acceptable for excavation to occur for septic and parking in this particular instance and how that conclusion will or will not relate to future decisions.

- Excavation acceptable for septic because the area being utilized is immediately adjacent to an existing structure with minimal disturbance. The area is within the curtilage of buildings and not in the tillable land.
- Excavation acceptable for parking because the area proposed is currently immediate surrounding existing structures and within the curtilage. Additionally, the area is not being impacted with permanent impervious surface, but rather pervious pavers are being used which will allow water to infiltrate, grass to grow and can be restored to available tillage acreage within a 24 hour period.
- Topsoil from excavation will be stored on the farm in some way for future use on the farm or will be spread on a field, used immediately, but be available for any restoration needed should parking be removed.
- The APB has approved similar four similar requests and reviewed a fifth. Staff and APB are learning with each one the various details that are associated with these proposals.
- There are a number of different entities that need to review this proposal and render decisions based on the legal documents applicable to their interest in the farm.
- The Rural Enterprise Guidelines specifically indicate that the landowner must have Township approval; however, they do not mandate that a co-grantee of the ACE also provide approval. Therefore, in the APB may decide to render a decision on this proposal without requiring a decision from the Lancaster Farmland Trust. The Lancaster Farmland Trust may decide to exercise its right to vote because of their interest as a co-grantee in the ACE.
- Both the Lancaster Farmland Trust and Penn Township have to review this proposal by the terms of the Declaration of Restriction and render a decision.
- The Declaration of Restriction is more restrictive than the ACE and the associated Rural Enterprise Guidelines.
- The Lancaster Farmland Trust has indicated that because the language of the Declaration of Restriction has more constraints, they do not see the merit of evaluating the proposal under the terms of the ACE before performing a review of the project under the terms of the Declaration of Restriction.
- If the APB believes that the Lancaster Farmland Trust should be required to provide their approval on proposals that are presented involving jointly held ACEs, the APB can address in future ACEs by adding some language or potentially modifying the Rural Enterprise Guidelines.

APB comments:

- Appreciate the effort made through written agreements to ensure that farming will not be hampered by the proposed special event activities.
- Changes appear as though they will not be detrimental to the farming operation.
- Have other similar projects been approved by the Agricultural Preserve APB?
- New York requires that agritainment activities/areas be excluded from preservation easements.
- Agricultural Preserve APB Rural Enterprise Guidelines specifically call out agritainment as possible rural enterprise uses on preserved farms.

Motion to approve the PA Properties LLC Gathering Venue Rural Enterprise Proposal as presented with the associated Conditions of Approval as outlined on the APB Summary made by Mr. Roger Rohrer and seconded by Mr. Dennis Stucky. Approved unanimously.

MOTION CARRIED UNANIMOUSLY

Follow up Discussion about the Rural Enterprise Guidelines:

- Mr. Matthew Knepper commented that the APB needs to revisit the Rural Enterprise Guidelines to address the interpretation of excavation.
- Mr. Edward Goodhart suggested that Mr. Matthew Knepper provide the APB the changes (highlight language in the Rural Enterprise Guidelines) prior to the Meeting so there is time to review.
- Mr. Roger Rohrer stated that it might be helpful to discuss the changes at one meeting and then take a vote at a subsequent meeting.

B) Agricultural Production

Request for Clean Fill Project:

Fourth Review Chiques Rock Farms, Don Hess

_____ East Donegal Township

Landowner, Don Hess, is requesting the APB's review and approval for a fill project on his 50.517 acre preserved farm. Mr. Hess is proposing to modify the grade of a 13+ acre field by importing clean fill. The end result is proposed to create a more farmable area.

Mr. Matthew Knepper's comments:

- Mr. Donald Hess and his engineer, Jamie Dunkelberger, from Light-Heigel Associates, LLC are in attendance.
- Mr. Donald Hess has attended APB Meetings as well as Township Meetings in order to provide as much information as possible and to address any concerns that arise.
- East Donegal Township has provided conditional approval of this proposed clean fill activity.
- Rettew's Kara Kalupson found the current plans, as submitted by the engineer to be complete and that if the plans are followed and did not recommend an additional soil reclamation plan. This evaluation does not identify any deficiencies in materials/plans that have been submitted.
- The staff of the APB prepared a one-page "Facts Sheet" summary of the grading plans and RUSLE2 evaluation that identify important before and after features.
- Specifically, the slope and the soils loss will be less after the project is completed. There will be slightly more farmland available; however, some of the existing farmed ground will only be able to be farmed in grass because of a required drainage easement.
- Four letters of support for the project have been received by the APB: SM Johns & Son Construction, LLC; Doug Lamb Construction, Inc.; W. Craig Adams, Inc.; and, Sporting Valley Turf Farms, Inc.
- This project could be viewed as a rural enterprise; however, the rural enterprise guidelines limit the amount of land that is preserved that can be utilized to ½% of the preserved area – this proposed area is too large to be considered for a rural enterprise.
- In order to permit this proposal, the APB must approve it as Agricultural Production, as defined in the ACE.

Mr. Donald Hess's Comments:

- Shared with the APB his family history and the farms that were preserved by his father and mother.
- Thanked the APB for the efforts and accomplishments that have been made for farmland preservation in Lancaster County.
- East Donegal Township has given conditional approval.

- This project is being driven by contractors who need someplace to go with clean fill.
- Project will meet a need in the community and simultaneously improve this farming area.
- A substantial amount of work and money has been invested in the planning for this project and in the long run it will promote better farming.
- Reviews have been positive, including the most recent one by Rettew for the APB.
- There will be more topsoil replaced as the phases are completed than the what is identified in the storm water management plan. There is a huge mound of topsoil under a cluster of trees that was placed there many years ago when ore mining occurred on site, this topsoil will also be available for dispersal.
- Because of where the trees are located and the severe slope around these knobs, it does not make sense to remove the trees and decrease slope in these areas without the accompanying fill to address a bigger area.
- No doubt farming will be improved. While it may take a number of years before productivity is better than it currently is, future generations will appreciate the work that was done to make this field a better farming area.
- Understand that this decision is difficult for the APB. Stressed that this is clean fill and it is an opportunity to recycle, rather than take clean fill to a landfill, which is designed to accommodate product other than "clean"
- With more and more farmland being preserved it is becoming more difficult to find places to go with clean fill.

APB comments:

- A large area of ground is being impacted. Improving the slope is always good; however, how will the soil condition be altered after this process?
- No-till farmers have trouble comprehending how this type of disturbance can be an improvement for soil condition.
- Is this project an agricultural project or a clean fill project? All of the letters that were submitted to support this project are from contractors and not from farmers.
- This appears to be more of a rural enterprise and less like agricultural production.
- The main driver of this project/proposal is construction that needs a place to go with material.
- Clean fill will inevitably impact this area and cause drainage issues over the long run. This past year has been dry and the best crops have been in the low lying areas.
- Concrete, brick, macadam, etc. will change the underlying structure of this area and pull water, leaving less for crops.
- Increased acreage can be accomplished without clean fill.
- General consensus that this project is not really necessary to improve agriculture.
- In order to gain additional farmland, the tree knobs could be removed regardless of whether or not clean fill was imported.
- Perception may be that a land fill is being permitted on a preserved farm.
- Appreciation expressed for the commitment to farmland preservation that Mr. Donald Hess and his family have demonstrated over the years.
- Challenge in voting to deny this project, because the end result will be farming.
- Can this proposal be viewed as a rural enterprise?

Motion to declare this proposal is not agricultural production made by Mr. Matthew Young and seconded by Mr. Edward Goodhart.

Motion to amend prior motion to state the proposal is not agricultural production and does not meet the criteria for a rural enterprise and is therefore denied made by Mr. Matthew Young and seconded by Mr. Edward Goodhart.

Additional Discussion:

- Mr. Gary Landis stated that this decision was difficult because from a farmer-perspective, level ground is preferable; however, the public perception of permitting a fill site on a preserved farm could set unintended precedents.
- Mr. Matthew young shared Mr. Landis' sentiment that this was very difficult decision to make, but he simply could not justify this proposal as agricultural production because of the disruption of soil, subsoil and the ultimate disturbance of drainage.
- Commissioner Dennis Stucky stated that he did not believe he could support the motion that was on the floor because of the position he took as Commissioner in favor of the Transcontinental Pipeline. He continued by saying that pipeline project disturbs the soil in a similar fashion. Moreover, he said that he appreciates both sides of this proposal, the pro and the con, and he also knows that the solid waste authority needs land so if a clean fill area is available that can reduce land pressures on the solid waste authority.
- Mr. Jeffrey Frey echoed all of the aforementioned comments, but indicated that he is not sure how he can be member of the No-Till Alliance and support soil health and then also support this proposal.

Voting to approve the motion to deny the proposal: Mr. Eugene Garber, Mr. Jeffrey Frey, Mr. Edward Goodhart and Mr. Matthew Young. Voting against the motion to deny the proposal: Commissioner Dennis Stucky and Mr. Roger Roher. Abstained: Mr. Gary Landis.

MOTION CARRIED

C) Agricultural Production
Stormwater Management / Conservation Plan:

Barbara Stoner, Landowners of preserved farm
Tiffany Stoner, daughter of Barbara & Barry Stoner
Keith Heigel, Engineer, Light-Heigel & Associates, Inc.
Engineers & Surveyors
_____East Donegal Township

<u>Mr. Matthew Knepper's comments</u>:

- Reminded APB of proposal and discussion from their meeting on February 25, 2016, whereby the Stoners, Mr. Keith Heigel and Attorney Brad Harris shared the storm water problem on the Stoner farm and their suggested solution of a storm water basin with an accompanying Storm Water Easement Agreement.
- The APB's response to this on-going problem and the proposed solution was to encourage the Stoner's to have the storm water basin incorporated into their Conservation Plan and they were also told to investigate funding opportunities that might be available with such programs like EQIP (environmental quality improvement project)
- Issue with permanent easement legal restrictions being on top of farm preservation easements
- Based on the current, updated proposal to incorporate a storm water basin into the Stoner's existing Conservation Plan, whereby no additional easement will be placed on the property that will limit or prevent agriculture, the proposal is recommended for approval by the APB.

<u>Mr. Keith Heigel's comments</u>:

- The basin will have flat side slopes that will allow for some cropping, primarily grass or other legumes that can be no-till planted.
- Mr. Bill Rogers with AET Consulting will be developing the updated Conservation Plan that will include this storm water basin.
- Mr. Bill Rogers will recommend what type of plant, crops can be grown in and around the basin.
- The APB has made it very clear that no outside party is to have control of this Conservation Plan or the storm water basin.

Motion to approve the storm water basin and conservation plan update proposal as presented with any applicable conditions as identified on the APB Summary made by Mr. Jeffrey Frey and seconded by Mr. Edward Goodhart.

MOTION CARRIED UNANIMOUSLY

Additional Discussion**:**

- Mr. Keith Heigel introduced Ms. Tiffany Stoner to the APB. Mr. and Mrs. Stoner plan to subdivide a 2 acre lot for the permitted additional residential structure as permitted by the terms of the ACE. Their daughter, Ms. Tiffany Stoner, will reside in this house.
- Mr. Matthew Knepper indicated that he and Mr. Keith Heigel talked before the meeting and Mr. Heigel is aware of the 2 acre maximum, inclusive of any access.
- Mr. Keith Heigel stated that they have tested for nitrates and have done a perk test. The area chosen is near the woods, back a long driveway but will not disrupt any crop production.
- Mr. Matthew Knepper thanked Mr. Heigel and the Stoner family for sharing this information and that once a formal subdivision application is submitted, the staff can review and the APB can look to approve. It will not be necessary for the Stoners or any representative to attend this meeting.

VIII. New Business

A) Review of need for Conservation Plan verification as associated with applications for subdivision, land development or rural enterprise.

- Mr. Matthew Knepper reminded the APB that typically a "condition of approval" includes condition that stipulates that a landowner must have an approved and implemented conservation plan. Frequently, the APB will grant preliminary approval and authorize staff to grant final approval when all conditions have been met. Often, staff must perpetually keep checking and/or requesting the Conservation Plan, the updated Conservation Plan and the signed Verification of Implementation of Conservation Practices Form.
- Mr. Matthew Knepper is proposing that this requirement be "front-loaded" and that an application for subdivision, land development and/or rural enterprise will not be deemed complete and taken to the APB for review and decision until this aspect has been completed and submitted.
- The APB unanimously agreed with this interpretation and course of action.
- Mr. Roger Rohrer and Mr. Matthew Young concurred that if this aspect is not captured prior to submission, once approval has been granted, the motivation is no longer as strong to have the Conservation Pan completed/updated and/or verified.

1) Requests for Lot Add-On Review and consideration of "special exception" language as noted in the 1995 Subdivision Guidelines (2002 Corrective Subdivision Guidelines)

FOR DISCUSSION ONLY because Verification of Conservation Plan is not complete

David and Jodi Findley & Daniel and Barbara Lapp

_____ Drumore Township

David and Jodi Findley are looking to sell a portion of their farm to Daniel and Barbara Lapp. Both the Findley farm and the Lapp farm are preserved. The acreage being proposed for sale would be a lot add-on to the Daniel and Barbara Lapp farm.

Mr. Matthew Knepper's comments:

- The 1995 Subdivision Guidelines allow for agricultural subdivision so long as the residual / parent tract is no less than 50 acres.
- The 1995 Subdivision Guidelines also allow for special exceptions on a case-by-case basis, depending on the size of the subdivided tract, township zoning, neighborhood characteristics and other pertinent factors.
- The 2009 Subdivision Guidelines grants the authority for lot add-ons (greater than 10 acres that meet minimum criteria) This authority is retroactive to those farms preserved that are subject to the 1995 Subdivision Guidelines.
- This lot add on has been proposed in two ways, with maps provided, so the APB can determine if an exception to the 50 acre residual/parent tract is warranted.
- Option A would provide for a "clean" lot add-on that would result in a residual/parent tract of 48.83 acres and lot add-on parcel of 26.28 acres that would be joined with the Lapp farm creating a 74.09 acre farm.
- Option B would provide for a less than "clean" lot add-on. The residual/parent tract would be 50 acres, but there would be a small 1.17 acre piece on the other side of Susquehannock Dr. 25.11 acres would be added to the Lapp farm, creating a 72.92 acre parcel.
- This is a Lot Add-On and no new parcels will be created.
- The 1.17 acres is woodland, which can be prone to difficult to identify encroachments.

ABP comments:

- Mr. Roger Rohrer indicated that in this case, it would make sense to grant a special exception. The residual/ parent tract is very close to 50 acres, it's much cleaner and no new parcels are being created.
- Mr. Edward Goodhart wondered if it is prudent to grant a special exception for land that is woodland?
- Mr. Roger Rohrer said that he very sensitive to setting precedents and how making exceptions can be viewed as precedent setting. However, as these type of situations arise, it behooves the APB to review them on a case by case basis and make sound, reasonable decisions.
- Agreed that in this case an exception would be reasonable and likely to be granted when this proposal is presented: no new parcels are being created, 1995 Subdivision Guidelines allow for special exceptions (noting that the 2009 Subdivision Guidelines do not provide for exceptions); and, a smaller portion of woodland can be challenging to monitor because of potential encroachments.

B) Request for Rural Enterprise – None

C) Rural Enterprise/Subdivision Review Committee

- Mr. Matthew Knepper asked the APB to think about the need for a Rural Enterprise/Subdivision Review Committee. The APB spends a substantial amount of time at their monthly meetings dealing with these items. Increasingly, topics often continue for multiple meetings. This can be time consuming and can

limit the amount of time spent on other topics/matters. A committee could be structured with some APB Members and some non-APB Members and would meet on an as-need basis. This committee would then make recommendations to the APB. However, if the APB is of the opinion that they would still engage in extensive discussion regardless of the committee participation than it may not be a good idea to have such a committee.

- The APB generally concurred that they were likely to want to discuss topics as well. Mr. Knepper encouraged them to think about the pros and cons of such a committee structure.
- An example of such a topic that the Committee would discuss is the location of the additional residential structure.
- Mr. Roger Rohrer asked if the APB can dictate where the house will be located?
- Mr. Matthew Knepper stated that only the 2009 Subdivision Guidelines provide that ability; however, there is no “checklist” of what the APB should specifically be looking at when making that decision.
- Mr. Gary Landis suggested that there are a number of Townships that have criteria and that perhaps the APB should look to this criteria as a guide.
- Mr. Matthew Knepper warned that the APB may want to be careful of how specific the criteria is that we may decide to establish.

D) Adjourn

The meeting adjourned at 9:33 a.m.

The next schedule meeting of the Agricultural Preserve Board:

Thursday, October 27, 2016, at 8:00 a.m.
Lancaster County Government Center
150 North Queen Street, Room 104
Lancaster, Pennsylvania 17603