

Lancaster County Agricultural Preserve Board
Meeting Minutes
Thursday, February 27, 2020

Present: Mr. Jeffrey Frey, Chairman
Mr. Gary Landis, Vice Chairman
Commissioner Ray D’Agostino
Mr. Andrew Lehman
Mr. Roger Rohrer
Mr. Daniel Zimmerman

Absent: Mr. Edward C. Goodhart III
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
Mr. Garland Treese, Administrative Assistant

Guests: Mr. Mark Lovett, Esq, Brubaker, Connaughton, Goss & Lucarelli
Mrs. Katie Yoder, Lancaster Farmland Trust
Mr. Randall Andrews, West Lampeter Township preserved farm landowner
Mrs. Christine Andrews, West Lampeter Township preserved farm landowner

I. Call to Order

Mr. Frey called the meeting to order at 8:15 a.m.

II. Review of Mission Statement

Mr. Dan Zimmerman 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

- Commissioner Ray D’Agostino was welcomed to his first APB Meeting as the County Commissioner.
- The Agricultural Preserve Board (also: APB and Board) met in Executive Session on February 27, 2020 to discuss real estate matters and litigation.
- On January 24, 2020, the APB celebrated the milestone of 1,000 preserved farms simultaneously with Warwick Township’s celebration of 3,000 acres. The celebration was hosted by Rock Lititz, which helped in the preservation of farmland by purchasing transferable development rights (TDRs) from Warwick. At this time, a short video produced by Rock Lititz and found on their website was viewed.
- Mr. Rohrer shared the editorial that was featured in LNP that supported the County’s farmland preservation efforts.

- Mr. Landis shared with the Board that his son's farm (Chris Landis) was recently featured in the Baltimore Sun Newspaper and a short video was produced and available on-line. His milk is marketed through Maryland-Virginia Milk Cooperative and purchased by Turkey Hill. Turkey Hill produced this short video which highlights the various conservation efforts in place by the farm. Maryland-Virginia Coop requires their members have Conservation Plans. The Board was able to watch the video which was brief but "hit home" with the conservation message.
- Mr. Rohrer announced that he was recently contacted by Lamonte Garber of Stroud Research Center and informed that his creek along with one other was recently removed from the highly impaired status.
- Mr. Knepper announced that Mr. Garber's term with the Board expired and he has not expressed interest in a reappointment. Mr. Garber has been a long standing member of the Agricultural Preserve Board and Mr. Knepper expressed regret that he will no longer be serving on the Board; however, acknowledged that Mr. Garber has indicated for the past few years that he would be "retiring" from the Board. As has been with other long-standing Board Members, it is desired that Mr. Garber be offered the title of Board Member Emeritus and receive a special commendation from the County Commissioners for his years of service.

IV. Approval of Minutes

Correction to December 19, 2020 Minutes: Mr. Matthew Young was Present; however, he is identified as both Present and Absent. Motion to approve the December 17, 2019 meeting with the Correction identifying Mr. Young as Present made by Mr. Roger Rohrer and seconded by Mr. Andrew Lehman.

MOTION CARRIED UNANIMOUSLY

V. Business from Guests

- Mrs. Katie Yoder, Lancaster Farmland Trust, congratulated the Board and Warwick Township on the recent milestone celebration of 1,000 farms and 3,000 acres, respectively.

VI. New Business

A. Request for Subdivision/Land Development

- i) **Residential Subdivision, APB Acq 0523, R. Gordon and Bertha M. Ziegler, 506 Rock Point Rd, Mount Joy PA East Donegal Township: 1507268500000 // Acres Preserved: 63.3 acres**

Mr. and Mrs. Ziegler are requesting review and permission to subdivide the original farmhouse and two acres. Mr. and Mrs. Ziegler will continue to reside in this house.

The staff is recommending APB grant Preliminary Approval with the staff being authorized to grant Final Approval once verification of all Conditions of Approval have been satisfied/Verified. No Plan or Deeds of Conveyance shall be considered final and recorded until APB has granted Final Approval.

Conditions of Approval:

- Applicable APB Standard Plan Notes should be identified on the Plan.
- Subsequent to the Subdivision, two new property deeds shall be prepared and recorded in the Lancaster County Recorder of Deeds Office: One for the newly created 2-acre residential parcel and one for the 61.3-acre residual/remaining farm tract.
 - The deed for the new residential lot shall reference the ACE.
 - The deed for the residual/remaining farm tract shall reference the ACE and include the ACE language.
 - Both deeds shall reference by recording information the Subdivision Plan.
 - The deed for the farm shall indicate that the one additional structure, as permitted by the ACE, is retained by the farm and that no further subdivision is permitted.
- It is recommended that the Clean and Green Office be contacted in conjunction with this process for filing appropriate continuation of preferential assessment forms.
- 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.
- No restriction limiting agricultural production is permitted.
- APB Staff authorized to provide Final Approval after reviewing final Land Development Plan as submitted to Township/County.

Motion to approve the Request for residential subdivision of the existing house and other structures and two acres as presented in the submitted Application, with specified conditions made by Mr. Gary Landis and seconded by Mr. Daniel Zimmerman.

ii. Residential Subdivision, APB Acq 0272, Luke B. and Donna M. Weidler, 665 Millport Rd, Lititz PA Warwick Township: 6004252700000 & 390060000000 // Acres Preserved in Warwick: 78.14

Mr. and Mrs. Weidler are requesting review and permission to create and subdivided a two-acre residential lot for family. The request is consistent with the Agricultural Conservation Easement and the applicable Subdivision Guidelines. Furthermore, the proposed subdivision and associated residential construction is proposed for a location on the farm that minimizes the length of property lines shared by other residential and agricultural uses and is clustered the residential use on the subject property and with those lots adjoining the property.

The staff is recommending APB grant Preliminary Approval with the staff being authorized to grant Final Approval once verification of all Conditions of Approval have been satisfied/Verified. No Plan or Deeds of Conveyance shall be considered final and recorded until APB has granted Final Approval.

Conditions of Approval:

- Applicable APB Standard Plan Notes should be identified on the Plan.
- Subsequent to the Subdivision, two new property deeds shall be prepared and recorded in the Lancaster County Recorder of Deeds Office:
 - Both deeds shall reference the ACE, but only the deed for the residual farm must contain the ACE language.
 - Both deeds shall reference by recording information the Subdivision Plan.
 - Deed for the residual farm shall indicate that the one additional residential structure, as permitted by the ACE, has been utilized and 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 currently being or already 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.
- No restriction limiting agricultural production is permitted.
- APB Staff authorized to provide Final Approval after reviewing final Land Development Plan as submitted to Township/County.

Mr. Zimmerman suggested that APB consider requiring a condition, as does Warwick Township, that the agricultural nuisance disclaimer language be a requirement in any residential lot that is permitted to be subdivided from a property subject to an ACE. Mr. Knepper said he would investigate this with the solicitor, as this is a requirement for a Plan Note and there may be a legal reason why APB did not also make this a requirement in the Deed.

Motion to approve the Request for subdivision as presented in the submitted Application, with specified conditions made by Mr. Roger Rohrer and seconded by Mr. Andrew Lehman.

iii. Construction Request (FRPP) APB Acq 0823, Paul Lamar and Sheryl J. Hess, 1505 Benton Hollow Rd, Drumore, Drumore Township: 1705567500000 // Acres Preserved: 151.29

Mr. and Mrs. Hess are requesting approval to increase impervious surface by 864 square feet, which is a 24' by 36' concrete barnyard extension. Approval is required by the APB for any impervious increase on most of the farms that have been preserved with federal funding.

The current impervious surface balance that is still available for impervious surface after this 864 square feet addition, is 371,712 square feet or 7.39 acres.

Motion to approve the Request for residential subdivision of the existing house and other structures and two acres with specified conditions made by Mr. Daniel Zimmerman and seconded by Mr. Roger Rohrer.

- iv. General Inquiry regarding Act 442 Easement, APB Acq: 0026, Kimberly A. Schoff, 112 W. Kendig Rd Willow Street (farm location), West Lampeter and Pequea Townships, Property IDs: 5105273500000 & 3201060600000 Acres Preserved: 53.74

This farm is on the market for sale and over the past year numerous inquiries have been made from prospective buyers about what they may or may not do on this farm. This is an older easement with unique language, specifically there is language protecting two of the three houses as they are historic.

A prospective buyer inquired about the following:

- Can one of the historic houses be moved?
- Can one of the historic houses have an addition?
- How many houses may be built on the farm, by the terms of the Easement?

The Board responded as follows, based on their interpretation of the Easement:

Can one of the historic houses be moved? - Yes, but the house must remain in the immediate vicinity of the existing curtilage or on an area where soil is not productive (see Paragraph 4 of Easement)

Can the historic house(s) have an addition? – *Possibly but the Board would have to review and approve and would utilize the Department of the Interiors guidelines for properties on the National Register of Historic Places.*

How many houses may be built on the farm, by the terms of the Easement? – Three, the Board views the original parcel to be reflective of that area in its total that was preserved.

The Board added that they believe that it is likely that Township Zoning, in both West Lampeter and Pequea would limit the number of houses that can be built in a fashion more restrictive than the Easement.

B. Request for Rural Enterprise –

- i. **General/Other: Grain Bin Operation, APB Acq 0435, Clayton and Deanna Andrews, 1214 Beaver Valley Pk, Willow Street (farm location), West Lampeter Township, Property ID: 3204646300000, Acres Preserved: 115.29**

Clayton and Deanna Andrews were represented by Clayton's parents, Randy and Christine Andrews, who own and operate another preserved farmland in West Lampeter Township.

Prior to any discussion, Chairman Jeffrey Frey recused himself from any discussion and left the room for the duration of this topic.

The Andrews family would like to construct six grain bins in the curtilage area that was previously a dairy facility in order to pursue a grain storage enterprise. A small percentage would be their own, but the majority would be product purchased from other farms. The intended construction will not encompass any of the farm fields. Trucks would have access to the grain facility from Beaver Valley Pike. The ingress and egress lanes are already existing. The surface area of the grain bins would cover approximately 1

acre, which is about .9% of the total preserved acreage. This facility would operate year-round. If approved, the Andrews are also hoping to set up solar panels around the curtilage to offset energy costs on this farm and on their home farm, which is a poultry and hog operation. Solar panels may be approved by the staff.

Mr. Knepper explained that this type of request falls into a bit of a gray area. The Board has evaluated similar types in the past. The structures being proposed are agricultural structures, which the State's Bureau of Farmland Protection endorses. However, the activity of buying, storing, drying and selling grain from other farmers is a rural enterprise. And similar rural enterprises are limited to ½ percent of the total area preserved. In this case, the grain bins will exceed this parameter. However, the Rural Enterprise Guidelines allow for the Board to allow for other types of uses that support the local agricultural economy (Paragraph 3, Rural Enterprises Requiring Board Approval.) In these cases, the ½ limit does not need to apply.

Mr. Andrews explained that the area being proposed for use by the grain bin operation is less impervious area than the former dairy facility (barn, silos, manure storage.)

Mr. Rohrer asked if the Andrews wanted to put up more grain bins would they have to ask APB for approval again? Mr. Andrews also asked for clarification on this matter.

Mr. Knepper explained that if the Board grants approval for the grain bins on the proposed 1 acre area, then in the future if Mr. Andrews wanted to put up another grain bin within the 1 acre envelope, approval would not be needed. However, if any new agricultural structures associated with this grain bin operation would fall outside of this 1 acre envelope than approval from APB would be required.

The staff is recommending APB grant approval of this rural enterprise with conditions, viewing the grain bins as agricultural structures.

Conditions of Approval:

- The rural enterprise is to be allowed as described and set forth in the Application, which will be inclusive of any additional information submitted via correspondence and points of clarification made by Board.
- Any changes to the operation must be presented to APB for review and approval prior to undertaking such changes.
- All other requirements that may be imposed by the Township or any other regulatory body must be met.
- This approval is contingent on, at all times, verification by the Lancaster County Conservation District or a certified conservation technician (technical service provider) that the farm is following a Conservation Plan that is being / has been implemented according to schedule.
- 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 Rural Enterprise must continue to meet all the applicable conditions per the Rural Enterprise Guidelines. (See Section F, Paragraph 2)
 - The Customary Ag-Compatible Enterprise shall remain incidental to the agricultural use and character of the farm;

- The Customary Ag-Compatible Enterprise shall be located within the curtilage of the existing residential or agricultural structures.
- The total site coverage of the Customary Ag-Compatible Enterprise, including all parking, loading and other areas necessary for such Customary Ag-Compatible Enterprise, shall be limited to one-half of one percent of the area of the restricted land; and
- No excavation, paving, graveling, construction of permanent nonagricultural structures or other activity that would diminish the productive capacity of the soils is permitted in connection with such activities.

Motion to approve the Request for Grain Bin operation as presented in the submitted Application, with the grain bins being viewed as agricultural structures, along with the identified Conditions, made by Mr. Daniel Zimmerman and seconded by Mr. Roger Rohrer.

- ii. **Customary Ag-Compatible Enterprise: Buggy business, APB Acq 0442, Marlon L. and Annetta W. Weaver, 482 Frysville Rd, Ephrata, East Cocalico Township, Property ID: 0800763100000, Acres Preserved: 28.31**

The owner requests review and approval of a buggy business which is owner operated. The business consists of repair, building and maintenance of local horse drawn vehicles. The area used for the enterprise is one level of the tobacco barn, 24' x 35.' Other parts of the tobacco barn are used for equipment storage. There is one farm employee who also works with the buggy business three days a week. There are no signs and the customers typically arrive on bicycle or buggy.

The Board commented on the thoroughness of the application and agreed that this business was incidental, and the type of rural enterprise envisioned as support businesses on preserved farms.

The staff is recommending APB grant approval of this rural enterprise with conditions because it is consistent with the ACE and the associated Rural Enterprise Guidelines.

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.

Motion to approve the Request for a Buggy business as presented in the submitted Application with the identified Conditions, made by Mr. Daniel Zimmerman and seconded by Mr. Roger Rohrer.

C. 2019 Ranking

Mr. Kevin Baer shared with the Board the results of the 2019 Ranking, including the following overview:

- 186 Farms Applied
- 10,413 Acres
- 17 New Applicants
- Average Acreage of the Top 20 scoring Applicants ~ 100.55
- Average Acreage for all Applicants ~ 55.98
- Proximity to other Preserved Farms ~ 16 of the Top 20 scoring Applicants are adjacent to 2 or more preserved farms.
- 19 out of the 20 top ranked Farms have conservation plans in place.
- Bargain Sales ~ 28% of Applicants offered to preserve their farms for a bargain sale price
- Special Projects ~ 18 of the 186 Applicants have risen to the top of the Ranking List, regardless of score b/c of 50% donation offer, Township funding contribution, Lancaster Farmland Trust funding contribution or Federal Funding contribution.
- AFTER Special Projects, the TOP 20 scoring Applicants range from 50 to 167 acres with primarily Class I and II soils.

Mr. Knepper reminded the Board that their process over the past many years has been to move applicants that are leveraging funds to the top of the list. The fallout from this is that the Board does not move as far down the Top-Ranking Applicants because some of the funding has been utilized on these special projects.

Mr. Rohrer asked how many farms are likely to be preserved in 2020. Mr. Knepper estimated using prior year settlements and indicated 20 to 25 farms.

It was at this time that the Board turned their attention to County Commissioner D'Agostino and encouraged him to evaluate and support when appropriate additional funding for the preservation program. The Board explained how the best-case scenario would be to realize a dedicated funding source for the program.

The Board shared with the Commissioner that they have long advocated for something such as a Real Estate Transfer Tax. The Board supports putting this ask on a referendum and if it passes, then it is a no-brainer, if it fails, then something else should be evaluated. The only group that pushes back against such a tax is the real estate industry.

Mr. Frey suggested that the Board was providing the Commissioner with an opportunity. Commissioner D'Agostino indicated he has been provided with many such opportunities since being elected as Commissioner.

The Commissioner went on to talk with the Board about a recent meeting with Scott Standish, Director, Lancaster County Planning Commission (LCPC.) He is proposing to schedule a meeting with LCPC, APB, Lancaster County Conservancy, Lancaster Farmland Trust to discuss the future of land preservation within the framework of the County's Places 2040 Comprehensive Plan.

Motion to approve the 2019 Ranking as presented made by Mr. Roger Rohrer and seconded by Mr. Daniel Zimmerman.

MOTION CARRIED UNANIMOUSLY

D. 2019 Year in Review

Mr. Knepper shared two spreadsheets with the Board. One showed the details of all the ACEs that settled in 2019 and the other was information about ACEs by year since the preservation program began.

Overview of 2019:

Total ACE Acres Settled ~ 1,794.67

Total Purchase Price ~ \$6,058,297

Average per acre price ~ \$3,690

Average bargain sale ~ 91%

E. 2020 Funding

Mr. Knepper distributed a copy of the County's Resolution No. 15 of 2020 that committed to easement purchase funds for 2020 and the Department of Agriculture's 2020 Allocation of Funds detail.

The County's allocation is:

\$1,855,744.69, breakdown ~

New funds: \$1,500,000

Clean & Green rollback tax interest: \$66,273.69

Other funds: \$24,711

Local Government funds: \$264,730

Annually, the State uses a formula prescribed in regulation to award state funds based in part on a County's allocation. This year the State had \$43,000,000 to allocate to Counties for farmland preservation efforts. The total percentage of those funds that Lancaster received is 7.87%.

The State's funding for Lancaster County is:

Grant: \$1,423,324

Match: \$1,744,856

Redistribution: \$215,623

Other Counties that received large percentages of State funding are:

Berks: 6.29%

Chester: 8.88%

Northhampton: 6.67%

York: 7.04%

Counties have two years in which to either spend or encumber funds. The funding allocated in 2020 must be spent or encumbered by December 31, 2021.

F. Board Member Representation

Mr. Knepper acknowledged that it had been an exceptionally long Board Meeting, but he wanted the Board to contemplate what they would like the Board to look like in the future. There are statutory requirements that dictate the Board membership; however, the Board should think about if there are gaps that should be filled. Some examples of representation: Plain, underserved/minority, regional, organic, ag lender, ag business, etc.

The Board acknowledged that with Mr. Garber's departure should be a good motivator to have them ponder this question. They asked Matt to put this question on the Agenda sooner in the meeting next Month so they could spend some time discussing.

VII. Adjourn

The meeting adjourned at 10:12 a.m.

The next scheduled meeting of the Agricultural Preserve Board

Thursday, March 26, 2020, at 8:00 a.m.
Lancaster County Government Center
150 North Queen Street, Room 104
Lancaster, Pennsylvania 17603