

Lancaster County Agricultural Preserve Board

Meeting Minutes

April 28, 2022

Present: Mr. Roger Rohrer, Chairman
Mr. Edward C. Goodhart, III, Secretary
Commissioner Ray D'Agostino
Mr. Andrew Lehman
Mr. Matt Young

Absent: Mr. Jeffrey Frey
Mr. Jered Hess
Mr. Gary Landis
Mr. Daniel Zimmerman, Vice Chairman

Staff: Mr. Matthew Knepper, Director
Mr. Kevin Baer, Farmland Preservation Specialist
Ms. June Mengel, Farmland Preservation Specialist

Guests: Mr. Jeb Musser, Lancaster Farmland Trust
Mr. Luke and Mrs. Kelsey Hershey, preserved farm operators, Colerain Township

I. Call to Order

Mr. Roger Rohrer called the meeting to order at 8:02 a.m.

II. Review of Mission Statement

Mr. Roger Rohrer, Chairman 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

Mr. Roger Rohrer took a moment to share with the Board the challenges that are facing the agricultural landscape at the moment, including but not limited to: the 6th case of confirmed Avian Influenza in the County, late planting due to weather conditions and exceptionally high input costs (chemicals, fuel, etc.) to

Mr. Matthew Knepper introduced Mrs. Denise Alvarez to the Board. She has joined the staff in the capacity of an upgraded administrative position. She's been with the office for about three weeks and is adjusting to her new role.

(note: this particular Announcement occurred at the end of the meeting, prior to adjournment) Commissioner Ray D'Agostino thanked the Board Members for attending the joint meeting with the Lancaster Farmland Trust and the Lancaster County Planning Commission. His takeaway was that three work groups would be formed to address: Farmland Preservation Priorities, Rural Enterprises and Outreach. Those work groups, after meeting and formulating ideas, will meet and report back to the larger group potentially at the end of this year or early next year.

IV. Approval of Minutes

Motion to approve the March 24, 2022 meeting minutes made by Mr. Edward C. Goodhart and seconded by Mr. Andrew Lehman

MOTION CARRIED UNANIMOUSLY

V. **Business from Guests – Rural Enterprise presentation, see Agenda Item A.**

VI. **New Business**

A. Request for Rural Enterprises

- 1) **F. Leslie & E. Lois Hershey and Luke E. & Kelsey A. Hershey, 154 White Rock Rd, Kirkwood PA 17536, Colerain Township, 141.48 acres subject to an Agricultural Conservation Easement recorded on 1/13/2007**

2004 Program Guidelines, Addendum E, Permitted Customary, Part-time or Off-Season Minor or Rural Enterprise – Commercial Dog Kennel Request in existing agricultural building

Mr. Matthew Knepper briefly explained to the Board that Mr. Luke and Mrs. Kelsey Hershey were requesting review by the Board of their proposal to add a commercial dog kennel to their farming operation in Colerain Township, all of the details which are contained in the Board Summary and associated Exhibits. Ms. June Mengel explained that they would be using an existing ag building for the kennel, no new pavement or impervious surface will be created, and the activity will be located within the existing curtilage and will have no negative impact on the productive capacity of the soils. Kennels are an ag compatible enterprise that are contemplated by the 2004 Program Guidelines, Rural Enterprise Addendum E. The staff recommends this rural enterprise proposal for approval with conditions.

Mr. Luke Hershey shared that currently the family farms around 175 acres and also run 250 feeder steers through their operation. They have three young boys and are looking to create opportunities for the future. They have been investigating other ways to supplement the farming and create a viable supplemental income. They have been breeding AKC (American Kennel Club) registered Labrador Retrievers for a number of years and have a passion for animals and genetics. Mr. Luke Hershey shared that his wife, Kelsey, grew up on a dairy farm and managed the herd for a period of time. After doing a lot of research and touring a number of commercial kennels they determined that adding a larger scale dog kennel would be complementary enhancement to their farm operation. He stated that he believes they are within the parameters of the Rural Enterprise allowances from 2004 and do not think what they are proposing would be detrimental to the farm. The family will have to build another implement shed/shop however because of needing to use the existing structure for the kennel.

Mr. Roger Rohrer asked how they plan to market the dogs and scale/number of dogs? Mr. Luke Hershey responded that at this time there is no plan to wholesale the dogs, all dogs will be sold retail, by appointment. The total number of dogs will be around 45, 30 female and 10 males plus the puppies.

Mr. Edward Goodhart asked where the new/replacement shop will be built. Mr. Luke Hershey, by way of the map that was made available to the Board, explained that it would likely be built on the earthen pad that has been used for feed storage (ag bags.) Mr. Edward Goodhart pointed out that in fact additional land will be used for a building, albeit not for the dog kennel. Mr. Luke Hershey pointed out that this area is in many ways “impervious” because of all the years it has been used for ag bags, the ground is heavily compacted.

Mr. Kevin Baer asked what level of kennel would this operation be considered? Mr. Luke Hershey stated that it would be CK4 per Pennsylvania Law. Mr. Luke Hershey went on to share a number of details about the high level of regulation that this particular determination carries, such as 2 unannounced inspections each year whereupon the entire facility is evaluated, as well as all records and transfer paperwork.

Mr. Edward Goodhart recommended notifying the neighbors of these plans prior to any Zoning Hearing Board postings.

Motion to approve the Rural Enterprise for a commercial dog kennel as presented in the Board Summary and all associated Exhibits including all the conditions being met made by Mr. Edward C. Goodhart and seconded by Mr. Andrew Lehman

MOTION CARRIED UNANIMOUSLY

B. Requests for Subdivision/Land Development – No proposals for this Meeting

C. Easements and Rural Enterprise Policies and Procedures

This discussion is a follow up the presentation by Mr. George Cook, Esquire from last month's meeting about the resulting impacts from the Quarryville Resorts case law, specifically with respect to 1) "easements (*those not mentioned in the actual ag easement document or Statute*) on easements (*APB farms with agricultural conservation easements*) **AND** 2) Rural Enterprises on farms.

1) Easements on Easements – Evaluation Criteria

There will be occasions when Easements that are not specifically identified in the Statute, Regulations or the Agricultural Conservation Easement (ACE) will be allowed. APB will not be able to declare these easements as violations. To this end, Mr. Matthew Knepper has developed a draft of evaluation criteria. Mr. Matthew Knepper made a point to explain to the Board that this criterion is not a black and white / yes or no check off list, rather, it is a list of criteria for the Board to use in order to consistently review easements in order to determine if they are a violation of the ACE in light of the Quarryville Resorts case law.

Commissioner Ray D'Agostino stated that it seemed far too narrow to just look at whether the easement provides a benefit to agriculture (one of the evaluation criteria.) He asserted that a key indicator should be whether the easement is negatively impacting the farm operation. The evaluation criteria proposed is a good starting point but should be, but he believes it needs to be refined. The Board concurred that it is critical to balance the maintenance of the ACEs in perpetuity without overregulating the farm operation.

2) Optional Supplement to Application for Rural Enterprise

The purpose of this document is to provide a mechanism for those farms subject to ACEs that have no Rural Enterprise Guidelines (or alternatively older Rural Enterprise Guidelines) to request consideration for their request under the 2014 Rural Enterprise Guidelines.

There was discussion as to the merits of recording this document in some format. Mr. Matthew Knepper explained there is some concern of binding future landowner's, particularly if the Rural Enterprise Guidelines are modified. There would be a way to draft the Optional Supplement to expressly apply only to a particular landowner at a given time and not bind future owners of the farm. Mr. Matthew Knepper will seek counsel from the solicitor and follow up with the Board at the next meeting.

D. Legislative Updates

Mr. Matthew Knepper distributed a two-page update on current legislation and chose to highlight HB 1984. HB 1984 is out of the House and currently in the Senate Ag Committee. This Bill was a result of a farm in Fulton Township that wanted to add less than 10 acres of an adjoining preserved farm but was required to do 10 acres. Representative Mindy Fee introduced the Bill that provides for less than 10 acres of adjoining preserved farmland to be added to another preserved farm. In addition to this Commissioner Ray D'Agostino has been working with Representative David Zimmerman to modify this Bill to also allow for land that is less than 10 acres and is not preserved be preserved and become part of the "parent" easement document. This will need to be an amendment to the Bill in the Senate.

VII. Adjourn The meeting adjourned at 9:27 am.

The next scheduled meeting of the Agricultural Preserve Board

Thursday, 26, 2022, at 8:00 a.m.
Lancaster County Public Safety Center
101 Champ Blvd. Manheim, PA 17545