

Lancaster County Agricultural Preserve Board
Meeting Minutes
Thursday, June 24, 2021

Present: Mr. Jeffrey Frey, Chairman
Mr. Gary Landis
Commissioner Ray D'Agostino
Mr. Jered Hess
Mr. Andrew Lehman
Mr. Matt Young
Mr. Daniel Zimmerman

Absent: Mr. Roger Rohrer, Vice Chairman

Staff: Mr. Matthew Knepper, Director
Mr. Kevin Baer, Farmland Preservation Specialist
Ms. Jessica Graham, Farmland Preservation Specialist
Ms. June Mengel, Farmland Preservation Specialist
Ms. Noelle Fortna, Farmland Preservation Specialist
Mr. Garland Treese, Administrative Assistant

Guests: Mr. Edward C. Goodhart, III
Mr. Gene Garber and his wife Karen Garber
Brandon Conrad, Attorney

I. Call to Order

Mr. Jeffrey Frey called the meeting to order at 8:06 a.m.

II. Review of Mission Statement

Mr. Jeffrey Frey requested Mr. Gene Garber 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 Agricultural Preserve Board met in Executive Session on June 24, 2021 at 7:15 a.m. to discuss real estate transactions and litigation.

At this time, the Board recognized Gene Garber for his years and years of service to the Agricultural Preserve Board. Mr. Jeffrey Frey presented Gene Garber with a framed piece of artwork which included a preserved farm map and the Agricultural Preserve Board's mission statement. Gene Garber shared that he still believes every inch of the County's farmland should be preserved. All of the Board Members echoed similar comments to the one made by Commissioner Ray D'Agostino, who stated that Gene's legacy of farmland preservation is forever cemented into the fabric of our County.

IV. Approval of Minutes

Motion to approve the May 27, 2021 meeting made by Mr. Daniel Zimmerman and seconded by Mr. Andrew Lehman

MOTION CARRIED UNANIMOUSLY

V. Business from Guests –

Subdivision discussion concerning 1990-027, Acq#0083, 352 Oak Lane, Mount Joy 150-68874-0-0000. Brandon Conrad, attorney for Sam Stoltzfus’ real estate business, stated that he was in attendance to hear further discussion regarding the two families who would like to purchase and subdivide the 62-acre Farm into two 30+ acre parcels.

Mr. Matthew Young expressed his concerns at creating smaller farms because he believes these smaller farms create large residential lots and are not really viable farm operations. Commissioner Ray D’Agostino reminded the Board that the terms expressed in the Easements during that time frame do not specify minimum acreage when a subdivision is requested.

VI. New Business

A. Requests for Subdivision/Land Development

i) CONSTRUCTION REQUEST – BOARD SUMMARY
Meeting Date for Review: June 24th, 2021
APB Staff: Jessica Graham

Applicant:

File No: 2007-036
Acq No: 0724
Original Grantor: Calvin D. and Valeria L. Keene
Grantee: County of Lancaster and USDA-NRCS (FRPP)
Date of Easement: 10/22/208
Acres Preserved: 123.73
Property ID: 0305323200000, 1001712400000
Property Location: 679 Bartville Road, Bart Township/Colerain Township
Current Owner(s): John D. and Barbara Ann Lapp

FRPP Construction Request:

Construction activities on farms preserved with FRPP funds require County Board approval for purposes of ensuring impervious surface limit is not exceeded. The FRPP Addendum for this farm contains a maximum impervious surface limit of 6%, which 7.42 acres, or 323,380.728 square feet.

The new construction is for a 50 x 80 barn. Mr. Lapp explained he is removing some older structures and consolidating in this new barn. The barn is in process, we reviewed the impervious list for the farm and Mr. Lapp updated some items had been removed. This area is within the permitted FRPP impervious surface limit.

Maximum Impervious Surface Limit:	323,380.73 sq ft (7.42 ac)
Impervious Existing at ACE granting:	21,525 sq ft
Buildings Removed	2,880 sq ft
New Building	(4,000) sq ft
Balance:	299,313.73 sq ft (6.871 ac)

Staff Recommendation:

Approval, as it is within the impervious surface limitation.

Motion to Approve made by Mr. Daniel Zimmerman and seconded by Mr. Andrew Lehman.

MOTION CARRIED UNANIMOUSLY

B. Requests for Rural Enterprise – None

C. Subdivision Criteria Discussion

The Board was provided with information detailing the various aspects that impact/guide the ability to subdivide on farms that are subject to agricultural conservation easements. Specifically, those components are:

- 1) Deed of Agricultural Conservation Easement (ACE), which is either language in the ACE OR, in most ACEs it is the Subdivision Guidelines that are attached to with the ACE
- 2) State Regulations, which provide for a two-acre subdivision for the additional residential structure or subdivision that does not harm the economic viability. Economic Viability is further defined in the statute to refer to cropland, pastureland and grazing land minimums, soil quality minimums and an acreage minimum of 10 acres.

There are 64 farms that were preserved in the beginning of the preservation program under Act 442, an open space legislation. Those ACEs specifically address what type of subdivision can occur. There are 144 farms that have been preserved under PA Act 43, the ASA law, prior to Lancaster County adopting subdivision guidelines; therefore, the State Regulations apply.

What this means is that for these 144 farms, the State Regulatory language applies and it would be possible for a less than 50 acre farm to be created. By the law, a subdivision could occur as small as 10 acres so long as both the newly created parcel and the “parent” tract still maintain 50% harvested cropland, pasture or grazing land and 50% of the soils are in capability classes I-IV.

<u>Agricultural Conservation Easements ~ Subdivision Possibilities</u>						
Statute	# of Preserved		Time Period	Subdivision Guideline Status	Comments	Other
	Farms	APB Acq				
ACT 442	64	1 thru 64	1/4/1980 - 9/7/1989	None - in ACE, language may vary	ACE does not provide for Ag Subdivision, typically just residential	
ACT 43	144	65 thru 208	12/28/1989 - 10/24/1996	None - in ACE, "does not harm economic viability"	ACE/Statute/Regulations provide for 2 acre residential subdivision or Ag subdivision that does not harm economic viability for agricultural production	At least 7 ACES w/o reference to attachment of Subdivision Guidelines
ACT 43	541	209 thru 749	10/30/1998 - 8/14/2009	1995 / 2002 Subdivision Guidelines (Approvd by State 5/23/1996)	50 Acre Ag Standard with clause for consideration of special exceptions	
ACT 43	295	750 thru 1044	8/20/2009 - 5/4/2021	2009 Subdivision & Land Development Guidelines (Approvd by State 6/11/2009)	75 Acre Ag Standard, lot add provision, review of land development for dwelling & special exception language removed	
Total	1044					

Some Board members expressed concern that by allowing farms to be created as small as 10 acres, there is no way to prevent them from becoming large lot residential uses. Other members commented that perhaps, having this relatively smaller batch of preserved farms (144, 14% of all farms currently preserved) that can be made smaller than fifty acres is a way to provide for farming diversity. Daniel Zimmerman stated that small farms can be profitable and to the diversity of sustainable agricultural operations; however, fragmentation of ag lands can cause limitations in the future. And, allowing fragmentation, creation of smaller farms is actually fueling higher per acre values on farmland.

The Board asked for further breakdown of acreage of farms within this group of 144 farms

D. Replacement of Existing Residential Structures

The Subdivision and Land Development Application has been modified to capture those instances when a landowner wants to replace an existing structure and that replacement may not always be within the existing curtilage.

C. Proposed Construction of a Residential Unit on Preserved Land

APB will evaluate the proposed location of a dwelling based on minimizing the loss of quality farmland and soil, clustering residential uses, ensuring access to farm fields, making use of public water and sewer lines when possible and minimizing property boundaries shared with agricultural areas.

1. Does your Agricultural Easement allow for construction of a residential unit? Y N
2. How many temporary or permanent residential units were existing at the time of preservation? _____
3. Has a temporary or permanent residential unit been constructed on the preserved land since the time of preservation? Y N -If yes, has it since been subdivided? Y N
4. Will area of residential unit, including driveway, yard, garage, septic, wellhead, etc. as well as the unit, be contained within two acres or less? Y N
5. Is the intended owner and/or resident of the residential unit an owner of the farm, immediate family member or farm employee? Y N
6. What is the current land use of the proposed dwelling location? _____
7. Are you requesting to replace an existing dwelling? Y N (If yes, continue. If No, skip to Section D)
8. Does the proposed new location occupy the same area as the dwelling it replaces? _____
9. Will infrastructure from the old dwelling location be completely removed? _____
10. Will the old dwelling location be used for agricultural production? _____

Motion to Approve made by Mr. Andrew Lehman and seconded by Mr. Matt Young.

MOTION CARRIED UNANIMOUSLY

E. Application for Agricultural Conservation Easement

Staff modified the Application for Preservation to clarify the tiered pricing component and also incorporate the additional requirement of submitting a Conservation Plan and the ability to relinquish the house right.

According to the APB's ranking system, applications received from applicants who are willing to accept less than the appraised value of the easement will rank higher.

What portion of the appraised value of the easement, "tiered pricing", are you willing to accept?

Tiered Pricing: 100% 90% 80% 70% 60% 50% or less*

- Where appraisals exceed \$4,000 per acre, the tiered pricing is taken from \$4,000.
- In all cases, easement offers will not exceed \$4,000 per acre.

The difference between the easement purchase price and the appraised easement value may be used as a federal income tax charitable gift deduction. Consult an experienced tax advisor/ attorney.

** Applications from applicants offering to accept 50% or less of the easement value will be evaluated according to the criteria established in the APB Program Guidelines (Dec. 16, 2004 rev., as amended), Section XII.*

A copy of the Conservation Plan must be included with application.

24. A Conservation Plan is required for the land identified in this application, is a copy included? Yes No

25. When was the Plan last updated (mm/dd/yyyy)? _____/_____/_____

26. Was the Plan developed (or updated) in conjunction with the current farming operation? Yes No

27. Verification of Conservation Plan, included with application? Yes No

The Agricultural Conservation Easement permits one additional residential structure to be constructed on the preserved farm. Applicants who permanently relinquish their right to construct the additional residential structure will rank higher.

28. Would you like to permanently relinquish the right to construct the additional residential structure?

Yes No

Motion to Approve made by Mr. Andrew Lehman and seconded by Mr. Matt Young.

MOTION CARRIED UNANIMOUSLY

VII. Adjourn The meeting adjourned at 9:32am.

The next scheduled meeting of the Agricultural Preserve Board

Thursday, July 22, 2021, at 8:00 a.m.
Lancaster County Public Safety Center
101 Champ Blvd. Manheim, PA 17545