



BERKS COUNTY *agricultural land* PRESERVATION BOARD

Berks County Agricultural Center
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County Commissioners:

Christian Y. Leinbach, Chair
Kevin S. Barnhardt
Michael S. Rivera

Board Members:

David L. Phillips, Chair
James R. Coker, Vice Chair
Gregg Eshelman

Morgan A. Firestine
Kimberly J. McGrath
Jeremy R. Meck

Steven C. Mohn
Clyde A. B. Myers
Louise A. Swartley

Ex Officio:

Robert C. Ziegenfus, Ph.D.

Solicitor:

Mark R. Sprow, Esq.

Minutes from the July 27, 2022 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, July 27, 2022, at 7:00 PM via virtual platform “**Microsoft Teams.**” David Phillips, Chair, called the meeting to order at 7:01 PM. Board members present included James Coker, Gregg Eshelman, Morgan Firestine, Kimberly McGrath, Steven Mohn, Clyde Myers, Louise Swartley, and David Phillips. Also, in attendance were Mark Sprow, Esq. Special Counsel for the Board; Staff: Amanda Burkard-Sell and Kimberly Fies; and Tami Hildebrand, Executive Director.

I. PUBLIC COMMENTS ON AGENDA ITEMS – None.

II. APPROVAL OF MINUTES

Motion: A motion was made to approve the minutes of the June 29, 2022, meeting, as drafted. (J. Coker, L. Swartley)

Discussion: None

Vote: Motion carried unanimously.

III. STATUS OF RECOMMENDATION UPDATES

- T. Hildebrand reported that there had been no changes since the Status of Recommendations was distributed to the Board.
- Hildebrand informed the Board that the Assistant County Solicitor, David Peris had been in communication with the landowner of Docket #0336 and was informed that the landowner’s bank is now under new management. Peris and Hildebrand agreed upon a deadline of August 22, 2022, for the landowner to secure the necessary subordination agreement. If the landowner can ensure that the agreement will be signed, Attorney Peris questioned whether the landowner could continue with preserving the farm, which would require the Board’s approval. The Board discussed what would be necessary for the landowner to proceed if they are able to obtain the subordination agreement. D. Phillips questioned as to whether the easement purchase funds were still available. Hildebrand clarified that this farm was part of the 2019 selection and that the funds were still available. She stated that due to the lapse in time since the appraisal was completed, a new appraisal will be necessary for the application to proceed to the State Board, which would be the only additional cost. Hildebrand questioned if reimbursement from the landowner would be sought for the remaining \$1,250.00 balance of the first appraisal, since the State would only reimburse for the cost of the second appraisal.
- Hildebrand also reported that Peris asked the Board to consider offering the landowner an option to repay the debt of \$25,225.23 via a payment plan if the landowner is unable to secure the subordination.

Motion: A motion was made to authorize the staff to proceed with the easement process for Docket #0336, should the landowner be able to secure the necessary subordination agreement and reimburse the outstanding \$1,250.00 balance for the first appraisal. (G. Eshelman, J. Coker)

Discussion: None

Vote: Motion carried unanimously.

IV. OLD BUSINESS

A. No Update: No Subcommittee Meeting held in July 2022

- D. Phillips reported that there had been no Subcommittee meeting held in July.

B. Update: Soil Health Education Grant Workshop

- K. Fies reported on the Soil Health Education Grant Workshop that had been held on July 20, 2022, at the Harlan Burkholder farm outside of Kutztown. Fies stated that while the goal to reach 30 individual preserved-farm landowners may not have been met, there were more participants and many of them were the second generation that will be taking over the farms in the future, with two (2) non-preserved landowners. Fies further described the successful event that included a soil pit dug by USDA Natural Resources Conservation Service (NRCS), “Soil Your T-Shirt” project by Penn State Extension, and soil health research by PA Sustainable Agriculture (PASA). She noted that a full summary and budget will be presented to the Board at a later meeting.

C. Update: Settlement #432.0 Swinsinski – ACE Program Violation

- T. Hildebrand reported that Attorney Sprow had provided a draft letter for review and that the letter will be sent to the landowners soon.

D. Update: Settlement #517.0 – Schwegmann – ACE Program Violation

- T. Hildebrand reported that Attorney Sprow penned a letter to the landowner, and it had been sent the previous day.

V. NEW BUSINESS

A. Conveyance Report

- T. Hildebrand reported on the transfers of ownership:
 - Section A: Transferred in Compliance - Settlements #324.0, #22.0, #534.0.FD and #534.0.FD.
 - Section B: Transferred with Concerns Noted
 - Settlement #517.0, the deed of easement was omitted when recorded; Hildebrand had reported on the situation earlier in the meeting.
 - Settlements #708.0, and #352.0: the attorneys and title companies have been in contact and are in the process of resolution; no action by the Board is required at this time. A. Burkard-Sell reported that she had reviewed the corrective deed for Settlement #708.0 and that it was in the process of being recorded.
 - Section C: Outstanding Violations - None to report.
 - Section D: Transfers Resolved – Settlements #520.2 and #22.0 have been resolved.

B. Modification to the Easement Request by Settlement #73.0 Meck 2 Bros. – Rural Enterprise

- T. Hildebrand reported that the landowner of Settlement #73.0 had submitted a request for a rural enterprise to host one (1) or two (2) events, such as weddings, in an existing barn. Hildebrand added that a hay field would be used for parking, no modifications to the barn would occur, portable toilets would be rented for the events, and that the landowner would return to the Board should he wish to change the frequency of the events.
- L. Swartley questioned as to whether the Township had been informed. The Board discussed the specifics of the request, the frequency of the events, and the effect that the parking would have on the hay field and agricultural production. Staff clarified that other similar requests had been approved in the past and that the request met the Rural Enterprise Guidelines. The Board and staff discussed the difference between rural enterprises and what is considered an allowed ag activity. The Board continued to discuss the request and its concerns regarding parking and how this request relates to past and future rural enterprise requests. The Board agreed to resume convening the Subcommittee meetings to further discuss rural enterprises. Hildebrand stated that she will contact Assistant County Solicitor, Cody Kauffman regarding the steps involved in resuming these meetings for compliance with the Sunshine Law.

Motion: A motion was made to approve the rural enterprise request for Settlement #73.0, to hold one (1) to two (2) events per year. (K. McGrath, S. Mohn)

Discussion: None

Vote: Motion carried 6-1; (Vote: Yes- J. Coker, G. Eshelman, M. Firestine, K. McGrath, S. Mohn, C. Myers; No - L. Swartley)

C. Modification to the Easement Request by Settlement #526.0 - Stelmach – House Relocation

- T. Hildebrand reminded the Board that a request had previously been submitted to relocate the residence on Settlement #526.0 due to the current location being uninhabitable and that the request was being resubmitted due to the landowner returning to the Country. Hildebrand stated that she and K. Fies had visited the farm to discuss the situation with the landowner. Hildebrand added that the situation had been presented to the State Bureau which supported the request, as similar situations had occurred in other counties. Hildebrand noted that the Township supports moving the residence since it is interested in realigning Kunkle Road to Route 143, however the new alignment would bisect the area where the current house is located, which would require condemnation and review by the State's Ag Land Condemnation Board.
- The Board discussed the specifics of the request and how the situation relates to the size of the curtilage on both this farm and curtilage on preserved farms overall. K. Fies clarified that the current request is for preliminary approval and that the final curtilage dimensions and location would be determined by the landowner working with the Township. The Board and staff further discussed the sizing and the process for determining curtilages on preserved farms. The Board suggested that this topic be reviewed at the next subcommittee meeting, as well.

Motion: A motion was made to give preliminary approval for the landowner of Settlement #526.0 to relocate the existing residential structure. (G. Eshelman, L. Swartley)

Discussion: None

Vote: Motion carried unanimously.

D. Modification to the Easement Request by Settlement #705.0 – Burkholder – Rural Enterprise

- T. Hildebrand presented a request from the landowner of Settlement #705.0 to utilize an existing storage shed for a lawn mower repair shop as a rural enterprise. Hildebrand clarified that no new buildings would be constructed, no changes to the existing buildings were proposed, and no land would be taken out of ag production. L. Swartley questioned as to where parking would occur; Hildebrand clarified that parking would be accommodated in front of the building and noted that the limitations of rural enterprises would be communicated in the letter sent to the landowners.

Motion: A motion was made to approve the rural enterprise request for Settlement #705.0 to operate a lawn mower repair shop in an existing building. (G. Eshelman, M. Firestine)

Discussion: None

Vote: Motion carried unanimously.

VI. EXECUTIVE DIRECTOR'S REPORT

- T. Hildebrand presented the following easement modification requests:
 - Settlement #53.0 – Nelson Martin (North Heidelberg and Heidelberg Twps.) had submitted a request to construct a 45 x 40' addition to the existing residence within the curtilage. As this construction is within the curtilage, it is permitted under the Deed of Easement.
 - Settlement #212.2 – Wesley & Anisa Martin (Tulpehocken) had submitted a request to construct a 45 x 70' agricultural building to store equipment. This request to construct an ag structure is permitted under the Deed of Easement and the township has been contacted regarding the necessary zoning permit.
 - Settlement #302.0 – Steven Henne (Upper Tulpehocken) had submitted a request to relocate a 40 x 24' agricultural structure for storage that had been damaged in a storm. This request to relocate an ag structure is permitted under the Deed of Easement and the zoning permit is already in process.
 - Settlement #373.0 – Lee & Jodi Gauker (Richmond) had submitted a request to remove a 35 x 58' wagon shed and a 12 x 42' former blacksmith shop and construct a 40 x 60' agricultural shed. This request to construct an ag structure is permitted under the terms of the Deed of Easement and the zoning process has already been started.
- T. Hildebrand reported that three (3) Board members had terms that were expiring: C. Myers, D. Phillips, and L. Swartley. Hildebrand added that all were interested in serving another term and that their respective Commissioner appointers will be notified.

VII. EXECUTIVE SESSION

RESUMPTION OF REGULAR MEETING

Motion: A motion was made to offer the cap of \$2,600 per acre to the landowners of Dockets #2205 and #2208 (J. Coker, K. McGrath).

Discussion: None

Vote: Motion carried unanimously.

- The Board discussed the specifics for scheduling a subcommittee meeting and determined to schedule the next meeting for Wednesday, August 3, 2022, at 10:00 am via Microsoft Teams to discuss rural enterprises and curtilage determinations.

VIII. CITIZEN COMMENT / BUSINESS FROM THE FLOOR

- T. Hildebrand read an exchange regarding whether businesses are permitted on preserved farms from Dina Heffner that had been submitted via comments on YouTube. Staff suggested that she contact the office to discuss her concerns.

Motion: A motion was made to adjourn the meeting at 8:56 PM. (C. Myers, J. Coker)

Discussion: None.

Vote: Motion approved.

Respectfully submitted,

Signature on file.

Amanda K. Burkard-Sell
ACE Program Coordinator