



BERKS COUNTY *agricultural land* PRESERVATION BOARD

Berks County Agricultural Center
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Lucine E. Sihelnik

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Ex Officio:

Robert C. Ziegenfus, Ph.D.
Solicitor:
Mark R. Sprow, Esq.

Minutes from the March 29, 2023, Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, March 29, 2023, at 7:00 PM at the Berks County Agricultural Center and via virtual platform “**Microsoft Teams**.” Gregg Eshelman, Chair, called the meeting to order at 7:00 PM. Board members present included Gregg Eshelman, James Coker, Kimberly McGrath, Jeremy Meck, Steven Mohn, Clyde Myers, and David Phillips. Morgan Firestine joined during the meeting. Also, in attendance were Mark Sprow, Esq. Special Counsel for the Board; Staff: Emily Wangolo, Executive Director; Kimberly Fies, Deputy Director; Amanda Burkard-Sell, Agriculture Program Manager; and Mary Shah, Agriculture Program Coordinator.

I. PUBLIC COMMENTS ON AGENDA ITEMS – None.

II. APPROVAL OF MINUTES

Motion: A motion was made to approve the minutes of the January 25, 2023, meeting, as drafted. (J. Coker, J. Meck)

The notes of the February 22, 2023, were recognized as well.

III. STATUS OF RECOMMENDATION UPDATES

- A. Burkard-Sell highlighted several items on the Status of Recommendations: Dockets #2001 and #9309 have gone to settlement the prior week. Dockets #1706, #1238, #1339, and #2201 are planned for submission at the April State Board meeting. The remaining farms are in process.

IV. OLD BUSINESS

A. Settlement #432.0 Swinsinski – ACE Program Violation

- K. Fies reported that there was no update on Settlement #432.0 but work to clarify curtilage acreage continues.

B. Guideline Review Update

- A. Burkard-Sell updated the Board regarding the status of Guideline changes being submitted to the State Board. Per new staffing at the State, prior changes required to be submitted in a new format. Minor wording changes and terminology will be submitted to the State for the April agenda. More substantial changes will be submitted at future meetings. Changes are being submitted gradually because the Board accepts and/or rejects the Guidelines as a whole so, therefore if a single item is rejected, the entire submission is rejected.

V. NEW BUSINESS

A. Conveyance Report

- A. Burkard-Sell reported on the transfers of ownership:
 - Section A: Transferred in Compliance – Settlement #575.0 have transferred correctly.
 - Section B: Transferred with Concerns Noted – Settlement #1.0, the deed of easement was not attached when recorded; attorney and title company working to resolve.
 - Section C: Outstanding Violations - None to report.
 - Section D: Transfers Resolved – Settlement #615.0 has been resolved with a corrective deed recorded.

B. 2022 Annual Inspection Report

- K. Fies highlighted the details of the inspections conducted by the ACE Program Technician and ACE Program Specialist. 356 parcels, that require biannual inspections, have been completed in 2022. Of those, 331 have been in compliance with the easement, 20 had required recommendations, 5 had concerns, and 1 has an ongoing unresolved violation. With the addition of two new Easement Program Technicians, approximately 600 farms are projected to be inspected in 2023.
Fies also noted that a total of 46 farms had transferred with 56 deeds reviewed.

C. 2023 LESA Ranking – Initial Selection

- A. Burkard-Sell informed the Board that 65 farms totaling 4,887.53 acres had been ranked in 2023 and that a total of \$3,509,079 is available for easement purchases.

Motion: A motion was made to select farms ranking 1-13, 50 points, in the 2023 LESA Ranking (K. McGrath, J. Meck)

Discussion: None

Vote: Motion carried unanimously.

- A. Burkard-Sell explained the selected landowners have 15 days after receipt of the selection letter to respond. If they choose to withdraw from the program, then an offer is extended to the next property on the ranking list.

Motion: A motion was made to give staff the ability to continue to move down the list without incurring a deficit, should any of the applications within the first selection withdraw (K. McGrath, J. Meck).

Discussion: None

Vote: Motion carried unanimously.

D. Settlement #544.0 Wolfskill, D. – Rural Enterprise – Existing Landscape Business

- K. Fies presented a request for the Board to recognize and approve the area associated with the landscaping business as a rural enterprise. The business has been in existence since the property was preserved in 2008 and identified as such at the 2022 inspection but was not documented as a rural enterprise. A letter will be sent to the property owner indicating that they cannot expand beyond the current footprint.

Motion: A motion was made for the Board to recognize the existence of an existing rural enterprise for Settlement #544.0 (J. Coker, J. Meck)

Discussion: None.

Vote: Motion carried unanimously.

E. Settlement #16.0 Shelmire, L. – Replacement of Existing Residential Structure

- K. Fies presented a request for Settlement #16.0 to replace an existing residential structure within the curtilage. There were two homes on the property when the land was preserved in 1992; one home was removed in 2017 and the remaining house will be replaced with a new structure.

Motion: A motion was made to approve the request to replace the existing residential structure within the existing curtilage for Settlement #16.0. (D. Philips, J. Coker)

Discussion: None.

Vote: Motion carried unanimously.

F. Settlement #271.0 Snyder, K. – Residential Subdivision

- K. Fies reminded the Board at the December 2022 meeting, they approved to grant conditional concept approval for two-acre residential subdivision for Settlement #271.0, with the caveat that the request includes either the existing driveway or a new access that goes to the road. Per their request, the Snyder family presented drawings, at the February meeting, which included the current driveway access and drawings which included an alternative driveway location if there would be a future conflict where the existing driveway could not be used to access the home.
- K. Fies reported the Snyder family is still waiting on approval from the municipality regarding the alternative driveway location. In the meantime, the Snyder family has provided a copy of the original subdivision plan which identifies, what is now known as the “possible future driveway location”, to be in fact the original driveway; the current driveway was created for aesthetics purposes.

Motion: A motion was made to approve the two-acre residential subdivision with the secondary driveway access pending written approval from the municipality if it is allowable for Settlement #271.0 (D. Philips, J. Coker)

Discussion: None.

Vote: Motion carried unanimously.

G. Settlement #306.2 Zook, E – Additional Residential Structure

- K. Fies presented a request for Settlement #306.2 for a proposed residence and curtilage plan for Settlement #306.2 which will sit on a 52.1-acre lot previously subdivided from a 123.3 acre parcel.

Motion: A motion was made to approve the addition of a residential structure as presented for Settlement #306.2 (C. Myers, K. McGrath)

Discussion: Members discussed issues with the proposed location of the additional residence and whether it affected the agricultural viability of the property.

Vote: Motion carried unanimously.

H. Settlement #194.0 Hertzler, J. – Rural Enterprise

- K. Fies presented a request for Settlement #194.9 for a rural enterprise for the storage of dynamite on approximately 2 acres of ground.
- K. Fies reported that no structures would be built, and they would be using an existing farm lane. The storage of the materials would provide additional income for the dairy operation. Excavation would be needed to build mounds to protect against blasting. There will be no impact on the crop land.

Motion: A motion was made to approve the approximately 2-acre rural enterprise presented for Settlement #194.0 (J. Coker, K. McGrath)

Discussion: None.

Vote: Motion carried unanimously.

I. Settlement #713.0 Zimmerman, L – General Subdivision/Annexation

- K. Fies presented a request to subdivide 15 acres from Settlement #713.0, which is currently 113 acres. The subdivided portion will be annexed to the adjacent parcel, which is currently 53 acres. Zimmerman, L. owns both properties.

Motion: A motion was made to approve the request to subdivide Settlement #713.0 and annex it to the adjoining owned property (J. Coker, D. Philips)

Discussion: None.

Vote: Motion carried unanimously.

J. Settlement #236.0 Kurtland Farm – Digester

- K. Fies presented a request to install an anaerobic digestion system for Settlement #236.0. Although it is not allowable to erect building for a rural enterprise, the State is in favor of this project and recommends it be recognized as an Ag Project instead, as the ag buildings provide energy for use on the farm and some of the inputs are coming from the farm itself.

Motion: A motion was made to approve the request to install an anaerobic digestion system for Settlement #236.0 (C. Myers, D. Philips)

Discussion: None.

Vote: Motion carried unanimously.

VI. DEPARTMENT REPORT

- K. Fies presented the following agriculture structure request:
 - Settlement #676.0 (AppleJack Cider LLC); a request has been received to put up two additional ag structures. One structure is 40' x 100', the other is 82' x 120', a total of 3/10 of an acre. This request to construct the additional structures is permitted under the deed of easement.

VII. CITIZEN COMMENT / BUSINESS FROM THE FLOOR – None.

EXECUTIVE SESSION

Respectfully submitted,

Jennifer Leigh Smilko
Office Support

DRAFT