

Agricultural Preservation Advisory Board

Regular Meeting Minutes

March 10, 2020

7:00 pm

Attendance: Michael Jamison, John Fendrick, Chuck Gingrich, Bob Cissel, Nick Deluca

Staff: Mike Scheffel, Kristin Fisher

Guests: Rebecca Roach, Drew Baker, Ken Shumaker

The meeting was called to order at 6:55 pm.

Introductions were made for the benefit of the guests.

Jamison made a motion to approve the February 11, 2020 meeting minutes as written; Cissel seconded.

1. AEP Easement Program

a. Discussion of “orphaned” child/owner’s lots and excess TDR analysis

Mike sent the memo to Vickie Gaul regarding the status of TDRs associated with child and owner’s lots that could no longer be exercised. She believes the only options are to 1) amend the agricultural easements to say the TDRs and child/owner lot rights are no longer usable, or 2) allow landowners to serialize the TDRs and sell them as excess TDRs. She does not believe there are other legal mechanisms for addressing the issue in the land records. For the time being, OAG will use this list as a tracking tool to answer questions from new or existing landowners about their rights under the easements. Fendrick suggested putting together form letter to send to new owners of easements, describing their rights as it relates to these “orphaned” TDRs.

b. Roach Property

Fisher inspected this property in February and spoke to the landowner, Rebecca Roach. There are two issues that she is here to discuss.

First, Ms. Roach moved out of the main farmhouse and into a modular home that was brought to the property to escape unlivable conditions resulting from black mold in the farmhouse. She did not obtain Board approval ahead of time for this tenant home, but having one tenant home on a 202-acre farm is allowed under the easement. The Board just needs to retroactively approve this tenant house and DPS approval for well and septic. Ms. Roach will need to record a covenant in the land records that required by zoning, identifying the house as a farm labor housing unit that is tied to the operation of the farm. It is not a marketable lot. Scheffel can help Ms. Roach with these steps.

Ms. Roach indicated that the well and septic used for the modular home were preexisting on the property for two previous mobile homes that have since been demolished and removed. It is tied into the equestrian center.

The Board indicated approval pending documentation that well and septic is approved by DPS. Jamison acknowledged that the location of the home is not problematic for the functioning of the farm.

Ms. Roach is also interested in generating additional income through a dog training and exercising business. This would entail fenced areas where dogs could be brought to the farm to be taught to herd sheep. The easement and zoning does not prohibit recreational uses on the farm, but the Board would need more details on the plan (parking, bathrooms, fencing, etc.) when Ms. Roach has developed the idea further. She indicated that it would entail fencing 1-2 acres across from the old farmhouse in an existing pasture that is not currently being used for the horses.

c. Shumaker Property

Fisher inspected this property in February. The easement withheld payment on three acres, reflecting the existence of three houses at the time of settlement. However, a fourth house's foundation existed prior to the settlement of the easement. This fourth house has been improved recently. By density, Mr. Shumaker is not allowed to have this many tenant structures on the 188-acre easement property, but with the labor required to operate the farm, he's asking for the Board's approval for the fourth house under Policy 2019-1. Mr. Shumaker operates 250 acres including land not under easement. He makes hay, raises beef cattle, boards 75 horses, and owns 10 horses. He operates a portable toilet business, which pre-dated the easement, and a dumpster business that hauls trash as well as agricultural products.

The Board acknowledged the existence of the fourth house prior to settling the easement, and its necessity for continued operation of the farm. If Mr. Shumaker can prove its existence prior to June 1, 1958, he will not need to record a covenant in the land records for that house and he it won't be restricted to farm labor housing. He said the well and septic were the same that have existed onsite since the house was built. Fendrick made a motion that contingent upon proof of existence prior to June 1, 1958, the Board acknowledges and approves the existence of the fourth house. Cissel seconded. (if existed pre-2018 no covenant, right?)

d. Kirsch/Cherry Glenn Goat Cheese property

Roger Hayden is now representing Wayne Collins, the landowner. Scheffel sent copies of correspondence between OAG and Mr. Collins to Mr. Hayden as well as information on the Board's policy 2019-1 regarding tenant houses and a copy of

the covenant that would have to be recorded in land records. It is important to resolve this tenant house issue in case the farm is sold.

e. Baker Property/ Burnt Hill Farm proposed agritourism use

Drew Baker owns a 117-acre property in Clarksburg that has in preservation since 2013. They have planted 17 acres in grapes and have plans to plant 5 more acres of grapes this spring.

Mr. Baker is interested in developing a business for agritourism-related farm-stays with shelters that are off-the-grid, supported by solar panels and/or marine batteries, and provided with trailer bathroom facilities. He is looking at these farm-stays as an immersive experience in agriculture including eating local food, participating in farm workshops, caring for animals, riding horses, and other possibilities. The shelters would be accessory agricultural structures. The Board recognizes that this use would be accessory to agriculture under the easement and Mr. Baker would not be taking away productive crop ground since the shelters will be in the woods. The Board does not see an apparent conflict with the terms of the easement. However, the Board would need to know more about the planned infrastructure – e.g., parking, access, toilets, etc. to make sure no negative effects on the agricultural potential of the land.

A discussion ensued related to what might be allowed under zoning. Mr. Baker advocated for “incidental overnights” to be added to the definition of agritourism in a future ZTA for agritourism. However, this discussion was beyond the scope of the Board’s jurisdiction.

2. Maryland Agricultural Land Preservation Foundation

a. Update on FY 20 Application Stanley (Suddath Farm).

The Stanleys have received an offer from MALPF and have 30 days to accept or reject it. Scheffel has not heard any response from the Stanleys regarding the offer.

3. RLP Easement Program

a. Update on 2020 easement award.

OAG is waiting on formal grant agreement to be approved by DNR. When that happens, OAG can start spending money against the grant (e.g., ordering surveys). Margaret Giblin, the contact person at DNR with whom OAG has been working throughout this process, will be leaving DNR this month. OAG’s new contact person for Rural Legacy is Tom McCarthy, Conservation Easement Supervisor at DNR.

4. Legislative activities

a. Written testimony submitted for ZTA 20-01

On March 3rd, the APAB submitted written testimony in opposition to this ZTA, which would allow up to 1800 acres of solar installations in the Ag Reserve. During the public hearing testimony was heard both for and against the ZTA. Agricultural groups were universally opposed to the ZTA, in part because the Ag Reserve is meant for future food and fiber production, much of the land in the Ag Reserve is rented, and farmers cannot compete with the rent that would be offered from solar providers.

5. Other business

a. Proposed board policy – eligibility of residentially assessed properties

This policy allows residential parcels to apply for agricultural preservation programs, but requires that they be agriculturally assessed by the time of settlement. Fendrick made a motion to approve the policy; Cissel seconded.

Scheffel reported that Margaret Giblin, who is leaving DNR, expressed interest in the non-farmer position to the APAB and is a potential replacement for Bob Cissel.

The meeting adjourned at 8:42 pm.