



JOHN A. OLSZEWSKI, JR.
County Executive

STEPHEN LAFFERTY, Director
Department of Planning

Baltimore County Agriculture Advisory Board
Meeting Agenda

MEETING: November 9 2022 Board Meeting – 6:30 PM @ The Baltimore County Center for Maryland Agriculture, 1114 Shawan Road, Cockeysville, MD 21030.

Attendees:

Board Members Present: Steve Myer, Scott Welsh, Holly Gilmore, Brenda Strohmer, Rick Bernstein

Staff: Megan Benjamin, Joe Wiley

Others: Jim Ensor (SCD), Terry Armacost, Joe Armacost, Elina Lusabova, Jon Orens, other attendees not identified

I. APPROVAL OF MINUTES/ADDITION OR DELETION OF AGENDA ITEMS:

A. Approval of Minutes of: September 14, 2022

Motion: To approve the minutes of September 14, 2022

Motioned by: Brenda Strohmer

Seconded by: Scott Welsh

Decision: Unanimous Approval

B. Addition or Deletion of Agenda Items.-None

II. MALPF EASEMENT LANDOWNER REQUESTS/ISSUES

A. **Armacost Family – 17634 Bruehl Road– 87.41 ac – (MALPF# 03-96-13AC)**

Request: Recommendation of 1) approval of an Agricultural Subdivision of the easement property and 2) recommending the action as a General Exemption for Agricultural Purposes.

Background: The Armacost Family is requesting an action to include 20 acres from the aforementioned Easement (03-96-13AC) to be merged into the farm currently owned by Joseph Armacost and added to his 60 acre farm located at 2831 Tracey's Store Road which is adjacent to the north. Joseph's Property is also under a MALPF Easement (03-00-08ac). His intention is to farm the property.

The result will be a farm of 80 acres and a farm of 164 acres.

The owners have agreed that the houses on each respective easement will be non-subdivideable from the easement property.

For the purpose of recommending the request for a General Exemption from the development process, the Board is being asked to review and make a recommendation on whether or not the lot line adjustment/subdivision is for agricultural purposes. "Agricultural purpose" means any use of land that directly contributes to the production, processing, or storage of agricultural products.

Discussion: Joe Wiley presented background to the Board. Megan Benjamin added that MALPF would require the 25-year clause to be removed in the process. Terry and Joe Armacost were available to answer any questions.

Motion: 1) recommend the reconfiguration of the properties which results in approximately 20 acres from the property at 17634 Bruhel Road (03-96-13AC) be transferred into the property at 2831 Traceys Store Road (03-00-08ac), and 2) recommend that the action is for agricultural purposes.

Motioned by: Brenda Strohmer

Seconded by: Rick Bernstein

Decision: Unanimous Approval

III. BALTIMORE COUNTY PERMITS & DEVELOPMENT APPLICANTS

A. Luarsabova, Elina– 17615 Falls Road – 10.0903ac—RC2

Request: Designation of Legitimacy of Agricultural Use for construction of a barn

Background: The Luarsabova property is a 10 +/- acre property located on Falls Road in Upperco. The property is zoned RC-2.

The property is currently leased to Cold Bottom Farms. The applicant, Elina Lurasabova, has provided the Board with a farm plan detailing the plan to convert the current farming operation to an owner-operated diversified organic farm. The proposed structure is 40'x80' with a 10'x80' lean to pole building and will include a workshop/equipment storage area to house farm tools. The rest of the enclosed and finished indoor space (2800 sq.ft.) will be divided into a poultry brooder, animal feed storage, honey extraction and beekeeping storage area. The posts for the structure had been set before halting construction to resolve the question of what setbacks apply in this situation.

The Zoning Office referred the matter to the Ag Board for review and recommendation of whether or not the operation should be considered a Commercial Agricultural operation. (BCZR definition below)

AGRICULTURE, COMMERCIAL — The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to § 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquiculture, apiculture, viticulture, forestry, animal and poultry husbandry, the operation of an equestrian center, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations.

When the posts were set for the structure, concerns from a neighboring landowner about the setbacks were raised (letter from neighbor Jon Orens attached).

The property has a preferential agricultural use assessment. A conservation plan is pending with the Soil Conservation District. Current FSA Abbreviated 156 Farm Record shows the farmland is operated by Cold Bottom Farms and by Lavender Farms, Inc.

Existing infrastructure includes: 500 square foot greenhouse; 120 square foot chicken coop with the capacity of up to 60 birds; 200 square feet storage shed; composting pit; John Deere mowing tractor with a metal dump cart; gardening equipment, battery operated 8-gallon sprayer; portable generator and propane heater.

Discussion: Megan Benjamin presented background to the Board, explaining that the determination would be used in determining what setbacks for the building would apply. Erika Crowl, UMD Extension Agent was unable to attend the meeting, but provided comments to staff ahead of the meeting. Erika indicated she had worked with the landowner in developing the farm plan. In her opinion, converting all 10 acres to an organic operation is a bit ambitious, but she believed the need for the pole barn as part of the operation was legitimate. Erika provided a list of questions, to help discern the legitimacy of the operation including if the landowner has a farming mentor.

Benjamin and Wiley had conducted a site visit on November 3, 2022 and provided photos to the Board.

Rick Bernstein asked whether the barn had been started. Benjamin explained that posts had been set and then the question arose about the setbacks and that the purpose of the Ag Board's review will be to help determine what setback rules would apply.

Scott Welsh asked for confirmation of the Zoning. Benjamin confirmed it is RC2 and that it is staff understanding from discussions with the Zoning Office that is the building is for Commercial Agriculture, a 5' setback would be all that is required. If determined to be a non-Commercial barn, a 35' setback would be required.

Brenda Strohmer asked what the setback of the set posts currently are. Elina Lurasabova answered that they are having surveyors verify the boundaries and believe they are currently approximately 28' from the property line.

Benjamin introduced the landowner, Elina Lurasabova and the neighbor, Jon Orens, who requested the ability to address the board in this matter.

Lurasabova addressed the Board and explained that they had originally planned to have the builder coordinate all aspects or permitting and did not understand there was an issue with the setbacks until recently brought to her attention through the neighbor's inquiry. Her main concern is being able to utilize the building as intended for the farm operation. Lurasabova described the operation and her plans for expansion.

Welsh asked if the builder sought a permit for the barn. Lurasabova explained they were told if the structure is Commercial Agriculture, a permit is not required.

Benjamin asked if the farm business is generating any income. Lurasabova indicated that it is and they have filed taxes annually since the business has been registered and provided copies of income tax filings for the farm business for the Board to view.

She explained that the barn is a crucial component of further expanding the farm business operation for processing farm products and brooder location for chickens.

Welsh asked about plans for expanding the farm operation into the area that is currently farmed by Cold Bottom. Lurasabova indicated they have taken over one of the fields, while Cold Bottom continues to farm the other field. Eventually, they anticipate taking over more of the property as pasture, but not immediately.

Bernstein asked if the main disagreement is on the location of the building. Lurasabova indicated that she is not opposed to following whatever the appropriate setbacks are. She explained the choice of location based on the location of the well and access to BGE service and proximity to fruit trees. If it were to be placed elsewhere, topography and septic setbacks would mean the barn would be in the middle of the field, disturbing the agricultural use.

Lurasabova added that to address the questions that Erika Crowl provided, she does have a family friend who operates a similar farm business in Virginia who serves as an advisor/mentor. This mentor has experience in chickens, crops, and beekeeping.

Bernstein asked how the size and scale of the barn was determined. Lurasabova indicated she had worked with the builder in determining the size given the plans for the building's use in the farm operation, which includes equipment storage/repair, farm product processing, chicken brooding area, etc. Bernstein commented on the large size and Lurasabova indicated that they intend to utilize it in full.

The neighboring landowner, Jon Orens, addressed the Board and thanked them for the time to hear the concerns. Orens indicated they were surprised to see the grading and posts for the building and upset by the visual affect to their property. Orens indicated he had reached out to Zoning for clarity on rules that would apply and received somewhat contradictory messages. Orens indicated he would much prefer the barn to be located out of the visual line of his property. From his measurements, he believes the structure is located 24' from the property line. Orens indicated he offered to pay for grading elsewhere on the property if the neighbor would be willing to move the location. In consultation with his realtor, they believe the structure will have a negative impact to the Orens property value.

Scott Welsh asked if Orens had considered a tree line as a visual screen. Orens indicated he had gotten a quote and that he found it would be quite costly. Bernstein asked his opinions on that as a solution. Orens indicated he rather see the trees on the neighbor's side of the property line. Orens indicated they would like to see the building moved back to a minimum of 35' and highly prefer it to be located elsewhere.

Benjamin reminded the Board that the question before the Board is determining whether the building is for Commercial Agricultural purposes (by the BCZR definition provided) or not. Looking at the definition, the property does have the SDAT preferential assessment. The second part of the definition has to do with it being an income producing operation.

Orens interjected with a set of different criteria he indicated came from BCZR. (It was later confirmed the material Orens was citing came from Section 24 of County Code and was not applicable to this matter).

Lurasabova reiterated that her main concern is being able to use the building as intended for her commercial farm operation. She intends to follow the setbacks that apply and she is not intending to cause conflict with the neighbors.

Bernstein states that the definition does not indicate any level of commercial income, just that there is income.

Strohmer read the definition and indicates it appears to her that the definition is being met.

Welsh asks about the ability of Lurasabova to move the structure so that there is a 35' setback. Lurasabova indicated that it would be somewhat inconvenient due to the cost and utility locations, but it would be possible. Again, her main concern is not the setbacks, but rather the ability to use the structure for Commercial Agricultural purposes. It had been indicated to her by the Zoning Office that the use of the building may be compromised if not confirmed for Commercial Agriculture.

Orens indicated his main concern is the setback and impact on his property, not the Commercial Agricultural use of the structure. He reiterated his desire that it is moved elsewhere on the property and indicated he would support it being deemed a Commercial Agricultural structure if located elsewhere on the property. Lurasabova reiterated the constraints associated with locating it elsewhere.

The Board discussed ways to help come to an amicable resolution while satisfying the letter of the law and being minimally disruptive to both, such as tree planting on either side of the property line to screen the visual impact to Orens.

Myer indicated he sees the use clearly as production agriculture. Strohmer cited Cold Bottom farming of the leased field. Benjamin clarified that the designation has to do with the building itself, so not the production of the leased portion of the land, but rather the Lavender Farms, Inc. operation.

Orens asked if the builder would move the building if not required to. Lurasabova indicated the builder is waiting to hear that the issue is resolved.

Strohmer asked for clarification on the restrictions Lurasabova cited about the limitations on the use if the structure is not confirmed for Commercial Agricultural use. Lurasabova reiterated what was described to her from the Zoning Office.

Bernstein focused back to the definition and that there is no requirement on the amount of income produced. In his opinion, by the letter of the law, this structure is a Commercial structure, but for the purposes of addressing the neighbor's concern, discussed the option of moving the structure back to 35'.

Strohmer expressed it should be the landowner's determination where the structure is located on the property.

Bernstein is familiar with other circumstances where large agricultural structures are built and neighbor relationships are negatively impacted. The Board agreed that neighbor disputes can be unpleasant even when adhering to all aspects of the law.

Benjamin indicated the Board's role is to review the information presented in order to make a determination if the definition of "Agriculture, Commercial", as provided.

Welsh asked for clarification on the setbacks. Benjamin explained that her understanding from the Zoning Office is that if the building is for Commercial Agriculture the setback would be guided by the building code and in this case would be 5'. If the structure is non-commercial ag, it would be required to have a 35' setback. Zoning has referred the matter to the Ag Board for making a recommendation to determine which setbacks and guidelines should apply.

Bernstein asked for Jim Ensor's opinion. Ensor stated in his opinion it would be Commercial Agriculture.

Welsh again focused back on the definition and stated that though they would like to see an amicable resolution, the Board needs to focus on the definition.

Motion: Recommend that based on the Commercial Agriculture definition, the barn is for Commercial Agricultural use.

Motioned by: Brenda Strohmer

Seconded by: Rick Bernstein

Amended Motion: Recommend that based on the Commercial Agriculture definition, the barn is for Commercial Agricultural use with the recommendation that the neighbors continue to work together to reach a 35' setback, if possible.

Motion by: Rick Bernstein

Second by: Scott Welsh

Decision: Unanimous approval

B. **Potepan, Frank & Ellen—2017 Western Run Road—RC2**

Request: Recommendation of approval of subdivision as a General Exemption for Agricultural Purposes.

Background: The request is being made to approve an agricultural subdivision for the property at 2017 Western Run Road. The owner would like to subdivide the property to divide the approximately 10-acre parcel that includes less farmable area from the remainder of the 87.564 acre farm.

A request for agricultural subdivision, a General Exemption from the development process requires:

- 1) no new roads or streets
- 2) meets zoning regulations, and
- 3) be for agricultural purposes.

The Board is asked to review and make a recommendation on whether or not the subdivision is for agricultural purposes. "*Agricultural* purpose" means any use of land that directly contributes to the production, processing, or storage of *agricultural* products.

Discussion: Megan Benjamin presented background to the Board. Bernstein asked for the purpose they are dividing. The landowner had indicated they are dividing the property so the son of the owner can build a house. The farmer that leases the ag land will continue to farm it according to the landowners. Environmental Impact Review has already approved the environmental buffers per their requirements for an agricultural subdivision. Strohmer asked if they are continuing to farm the property. Benjamin indicated the landowner indicated the property would continue to be leased for agriculture.

Motion: Recommendation of approval of subdivision as a General Exemption for Agricultural Purposes.

Motioned by: Scott Welsh

Seconded by: Rick Bernstein

Decision: Unanimous Approval

IV. PROGRAM POLICY

A. Agricultural Priority Preservation Areas-Master Plan 2030

Background: For the purpose of updating the Land Management Areas for Master Plan 2030, Rural Place Types (updated name for the Land Management Areas in MP 2020) were reviewed and minor updates were made, including to “Agricultural Priority Preservation Areas” which are the areas prioritized for agricultural preservation.

Per County Code duties of the County Agricultural Land Preservation Advisory Board, the Board is to: “§ 3-3-305(b)(1) Make recommendations on areas of productive agricultural land and their inclusion within the county master plan as agricultural protection areas”. The proposed updates to the Rural Place Types are primarily consistent with the existing Land Management Areas, with minor updates to fit current planimetric data.

Planning Staff propose updates to the Agricultural Priority Preservation Areas to more accurately reflect the resources and use and in order to maximize protection of agricultural lands.

The changes proposed fall into three categories:

1. Given updated base map data/projection data, the APPAs were updated to more correctly match parcel data at the updated scale
2. A visual analysis was done to identify parcels by aerial and SDAT use status that are in active agricultural use into APPA or
3. Removing areas built out as rural residential lots or if they appeared to be more appropriately resource preservation.

A map was included in Board packets and available as a larger print out at the meeting. Staff requests your review of the proposed changes as well as any further recommendations you may have related to the changes of the APPAs for inclusion in Master Plan 2030.

Discussion: Joe Wiley presented the background to the Board. The Board reviewed and asked clarifying questions about the purpose and process. Overall there is a slight increase (~100 acres) in total area in APPA.

Motion: Recommend approval of the updates as recommended by Staff.

Motioned by: Rick Bernstein
Decision: Unanimous Approval

Seconded by: Holly Gilmore

V. STATUS OF EASEMENT TRANSACTIONS/ INSPECTIONS/ UPDATES

VI. MISCELLANEOUS/ INFORMATION/ CORRESPONDENCE/ NEWS ARTICLES

VII. FUTURE MEETING DATES

Next Meeting: December 14, 2022

VIII. ADJOURNMENT: 8:05 PM