



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD

July 23, 2018

Attendance:

Board Members:

Mickey Day, Chair
Ann Jones, Vice Chair
Jamie Brown
Abby Gibbon
Cathy Hudson
Savannah Kaiss
Denny Patrick

Staff:

Amy Gowan, Deputy Director, DPZ
Joy Levy, Program Administrator, Agricultural Land Preservation Program
Lisa O'Brien, Senior Assistant County Solicitor

Guests:

Mary Clay, County Council
James Zoller, Agriculture Coordinator, Office of Community Sustainability

Public:

Andrea Machado
Nelson Machado
Terry Westerland

Mr. Day called the meeting to order at 7:00 p.m. and conducted introductions.

Action Items

1) Minutes from the meeting of June 18, 2018

Mr. Day called for the approval of the June 18, 2018 meeting minutes. Ms. Hudson moved to approve. Mr. Brown seconded the motion, which passed unanimously.

2) Minutes from the meeting of June 28, 2018

Mr. Day confirmed with staff that the June 28 minutes are not ready yet and would be expected at the next meeting.

3) Request for Approval, Principal Dwelling Location, JBRK, LLC property, HO-91-15-E(S), 100 +/- acres (ALPB)

Ms. Levy read the staff report, stating that JBRK, LLC is the current owner of this property, which was placed in the Howard County ALPP on August 15, 1991 by Clyde and Dorothy Brown. There are no dwellings on the property, but there is the right for a principal dwelling and up to four tenant houses. Nelson and Andrea Machado are the contract purchasers and are requesting to construct a principal dwelling.

She stated that the proposed location is approximately 300 feet from Green Bridge Road in a field that is currently in hay and farmed by Howie Feaga. Ms. Levy referred to the aerial map and indicated that the house location is proximate to other residential uses, including six previously released unrestricted lots. According to the Machado's request letter, the house location will use a relatively small portion of the hay field and will only slightly affect Mr. Feaga's operation. The house will be accessed by a new driveway from Green Bridge Road. Ricky Bauer farms the remainder of the property. The Machados intend to continue the current farming operations.

Ms. Levy recommended approval of the request to locate a principal dwelling subject to the applicant obtaining all appropriate County and State permits and approvals.

Mr. Day asked about the status of the house that used to be on the parcel. Ms. Levy confirmed that the dwelling that had been on the property was demolished. She explained the subdivision history of the farm, stating that it was one 150-acre parcel when it came under easement, and was subsequently divided into a 100-acre parcel and a 50-acre parcel in 2007. When the property was subdivided, the dwelling rights were distributed between the two parcels with the 100-acre parcel getting the principal dwelling right. The existing house on the 50-acre parcel was designated as a tenant house.

Mr. Day asked if there is a right to demolish a house and rebuild. Ms. Levy confirmed that the Code allows this, provided that the Board determines that the new dwelling is located to minimize disruption of existing or future agricultural activities. She added that a request to construct a new dwelling in the original location would not need the Board's approval.

Ms. Hudson asked if the area between the proposed house location and Green Bridge Road would continue to be in hay. Mr. Machado indicated that their plan is to keep as much of the current farm operation in place. Ms. Hudson stated that the curved driveway will essentially remove the entire area from farm use.

Ms. Jones asked about the location of the barns on the property. Mr. Brown stated that he is familiar with this farm, and the barns are located along the property line between the 100-acre and 50-acre parcels, on the opposite side of the farm from the proposed house location. Ms. Jones expressed her concern that the proposed house is not envisioned to be part of the farmstead.

Mr. Day noted that the cluster of farm buildings is very close to the property line between the two parcels, and inquired as to whether setbacks were addressed at the time of subdivision. Ms. Levy stated that she did not know but would assume that they were.

Ms. Jones expressed her concern that the location is in the middle of the field and wondered if the Machados considered any other sites that may be less intrusive. Mr. Brown indicated that he used to farm the property, and that the chosen location has the best view and is very desirable. He stated that the topography on that part of the farm restricts location options.

Mr. Day asked why they are proposing the curved driveway and questioned whether it followed the terrain. Mr. Machado said they were planning to plant trees along the curve to provide screening of the house from Green Bridge Road. Ms. Hudson pointed out that the driveway curve follows the topographic contour line.

Mr. Brown moved to approve. Ms. Kaiss seconded the motion. Mr. Day called for questions. Mr. Patrick expressed his concern about the configuration of the driveway. Mr. Brown stated that if the Machados are going to be planting trees to screen the house, it does not matter if the driveway is straight or curved. Ms. Jones expressed her concern that there will be several acres that will not be farmable, taking the house and driveway into account. She stated her preference that the house be located closer to the other lots or somewhere other than the middle of the field. Mr. Brown noted that the area in question is not high quality farmland. He stated that it was pasture ground for many years.

The motion passed with Mr. Day abstaining, Ms. Jones and Ms. Hudson against, and the remaining members voting approval.

Discussion Items

1) **Program Updates** – Ms. Levy indicated that she did not have anything to report.

2) **Review of proposed legislation for Code changes to Section 15.500**

Ms. Gowan stated that she, Mary Kay Sigaty and the County Solicitor have been working to incorporate the Board's suggestions from the June 28 meeting. She hopes to prepare a final version with the Board's input from tonight's meeting for August pre-file and Council introduction in September. She stated that Ms. Sigaty will be the sponsor of the legislation and the County Executive would co-sponsor.

Ms. Gowan noted that there were several logistical concerns raised at the last meeting regarding moving the Board to the Office of Community Sustainability (OCS), and those have been addressed in the current version. Ms. Gowan then began going through the changes line by line. Highlights include:

- 1) The scope of the Agricultural Land Preservation Act is being expanded to include the sustainability of agriculture as an industry, and the name of the Act is changing accordingly.
- 2) The name of the Board will change to the Agricultural Preservation Board, removing the word "Land."
- 3) The section of the Code that governs the OCS is being amended to reflect that OCS will provide the Executive Secretary to the Board and the administrative functions of the ALPP will stay with DPZ.
- 4) A definition of "agricultural endeavors" was added to help clarify Board member qualifications. Ms. Hudson questioned whether this term is also going to apply to zoning. Ms. Gowan stated that is not the intent.
- 5) There was discussion about the proper wording for Section 15.503(C)(2), with Board members asking for the removal of the 50% threshold and the phrase "active farming." Board members agreed that the language should be that at the time of appointment, three members shall be engaged in active agricultural endeavors, which means filing a Schedule F tax form.
- 6) Ms. Hudson suggested moving the criteria under 15.503(C)(6)(I) for Board consideration of the farmer members under the qualifications section, 15.503(C)(2). She also suggested moving the criteria under 15.503(C)(6)(II) for Board consideration of the non-farmer members under the qualifications section, 15.503(C)(4). All agreed.

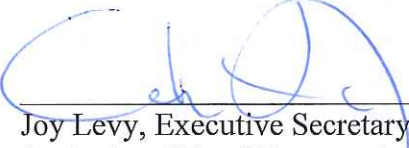
- 7) New language has been added to allow the Board to not meet for a month in each of the planting and harvest seasons.
- 8) In Section 15.503(H)(1)(I)(D), Ms. Gowan explained that based on advice from the Office of Law, the Board's ability to testify as a body on behalf of agricultural matters will be limited to county issues. This is a clarification due to the Board wanting the ability to potentially testify on state and federal matters. Ms. Gowan stated that there are no other boards that act as an agent of the County, so this language was refined to provide consistency.
- 9) In Section 15.503(H)(2)(II), Ms. Jones suggested clarifying language so that the Board could do outreach and education, as opposed to one or the other.
- 10) For Section 15.503(H)(3), Ms. Hudson asked whether the intent included the Board being able to testify before the Hearing Examiner on conditional uses (CUs). She asked if the current language would require applicants to get Board approval for CUs other than commercial solar. Ms. Gowan confirmed that commercial solar is the only CU that requires Board review, however if applicants were willing to bring other CU requests to the Board for recommendation, it might assist with the Hearing Examiner's review and approval.
- 11) Ms. Gowan reviewed the new language in Section 15.515 that will allow the exchange of easements on dedicated preservation parcels that transferred their density through the Density Exchange Option. Ms. O'Brien inquired as to whether the new provision applies only to those preservation parcels dedicated to the ALPP, or to environmental preservation parcels as well. The consensus was that only ag preservation parcels are covered, so suggestions were made to clarify the language.
- 12) Ms. Levy explained the change to Section 15.519, which is a housekeeping measure to correct language pertaining to MALPF districts. The change will reflect that MALPF no longer requires the establishment of preservation districts on properties before the owner applies to sell an easement.

Ms. Gowan confirmed that everyone is comfortable with the changes as discussed, and thanked the Board members for their efforts. She then noted that the County Solicitor has advised that the moving of the Executive Secretary role from DPZ to OCS constitutes a reorganization under the County Charter. This means that the County Executive must submit a reorganization plan along with the legislation, which explains the purpose of the bill and the fiscal impact. She explained the process, as required by the Charter. She noted that she will be meeting with the Department of Finance soon to discuss the fiscal impact element.

Ms. Hudson inquired whether the September introduction goal is still realistic. Ms. Gowan confirmed, stating that the reorganization plan should only be a couple page document. Ms. Hudson asked if the Board should be taking an active role, and Ms. Gowan encouraged the Board members to testify at the public hearing. Ms. Clay confirmed the legislative introduction and hearing dates.

Ms. Jones made a motion to support the proposed legislative changes and the reorganization, once the Board edits have been incorporated into the document. Mr. Brown seconded the motion, which passed unanimously.

Mr. Brown moved to adjourn and Ms. Jones seconded. The motion passed unanimously and the meeting adjourned at 8:35 p.m.



Joy Levy, Executive Secretary
Agricultural Land Preservation Board