

**RUSH CONSERVATION BOARD**  
**Meeting Notes**  
**June 2, 2016**

PRESENT: David Watson, Chairperson  
Julia Lederman, Vice Chairperson  
Patricia Kraus  
Don Root  
Susan Woolaver  
Gerald Kusse, Councilperson, Town Board Liaison

OTHERS: Dan Stanford, Assessor

Correspondence

All correspondence was read.

Review of Applications

**Application 2016-02Z** by Seth and Ruth Hubbard requesting a side setback variance and a rear setback variance for an existing shed. The location does not comply with 120-19 of the Rush Town Code. Property is located at 1913 Middle Road and is zoned Residential -30.

The Conservation Board reviewed the above named application and did not find any aspect of the proposal to have a significant impact on the environment.

**Application 2016-03Z** by Karen Dell requesting a front setback variance for a proposed addition to an existing home. The proposed location does not comply with 120-18 of the Rush Town Code. Property is located at 126 Phelps Road and is zoned Residential-30. 6.07 acres and an existing home, and add it to an existing vacant land parcel containing 87.8 acres on Jeffords Road. No building is proposed. Property is zoned Residential-30.

The Conservation Board reviewed the above named application and did not find any aspect of the proposal to have a significant impact on the environment.

**Application 2016-05P** by Erin & Nathanael Nelson requesting a Special Permit to operate a dog training facility in an existing barn. Property is located at 220 Honeoye Falls Five Pts. Road and is zoned Residential-30.

The Conservation Board reviewed the above named application and did not find any aspect of the proposal to have a significant impact on the environment.

### Board Business

Dan Stanford, Rush Town Assessor, attended the Conservation Board meeting at the invitation of Town Board Liaison Gerry Kusse. Mr. Stanford explained the concept of agricultural exemptions and how they are administered, and answered questions from Conservation Board members regarding criteria for exemptions, state agency regulations, and penalties.

## **Agricultural assessment program - overview**

### **Introduction**

The State Legislature enacted the New York Agricultural Districts Law in 1971 to protect and promote the availability of land for farming purposes. Subsequent amendments have broadened its scope. The law provides a locally initiated mechanism for creating agricultural districts. Forming agricultural districts is intended to counteract the impact that nonfarm development can have upon the continuation of farm businesses.

The Agricultural Districts Law allows reduced property tax bills for land in agricultural production by limiting the property tax assessment of such land to its prescribed agricultural assessment value. Owners whose land satisfies the eligibility requirements may apply for an agricultural assessment (see details below).

Agricultural districts also provide the framework to:

- limit unreasonable local regulation on farm practices
- modify public agencies' ability to acquire farmland through eminent domain
- modify the right to advance public funds to construct facilities that encourage development
- require state agencies to modify administrative regulations and procedures to encourage continuing farm businesses
- provide Right to Farm provisions for protection from private nuisance suits for land in agricultural districts and parcels receiving agricultural assessments outside districts

Benefit assessment, special ad valorem levies, or other rates and fees for the finance of improvements such as water, sewer or nonfarm drainage may not be imposed upon land used in agricultural production and within an agricultural district unless such charges were imposed prior to forming the agricultural district.

## **You must apply to receive an agricultural assessment**

Landowners must file [Form RP-305, Agricultural Assessment Application](#) or [Form RP-305-r, Agricultural Assessment Application Renewal](#) with the assessor to receive an agricultural assessment for their parcels. Landowners must apply for an agricultural assessment, and the farmland must satisfy certain gross sales and acreage eligibility requirements.

## **Land outside an agricultural district**

Land outside an agricultural district may qualify for an agricultural assessment. The requirements and application procedure are the same. However, land located outside of an established agricultural district that receives an agricultural assessment is required to remain in agricultural use for eight years (land within an agricultural district is encumbered for five years) or be subject to a payment for conversion to non-agricultural use.

## **Eligibility requirements**

Eligibility is determined by the assessor or board of assessors where the application is filed. If denied, the applicant has the right to an administrative review by the Board of Assessment Review.

Land generally must consist of *seven or more acres* that were *used in the preceding two years* for the production for sale of crops, livestock, or livestock products.

- The annual *gross sales* of agricultural products generally *must average \$10,000* or more for the preceding two years. If an agricultural enterprise *is less than seven acres, it may qualify if average annual gross sales equal \$50,000 or more.* (see rented land and exceptions to gross sales requirements.) Land that supports a commercial horse boarding operation may qualify for an agricultural assessment if the following eligibility requirements are met:
  - at least seven acres of land supports the commercial horse boarding operation;
  - the operation boards at least 10 horses regardless of ownership; and
  - the operation receives \$10,000 or more in gross receipts annually in the preceding two years from fees generated through boarding horses and/or through producing sale of crops, livestock, and livestock products. (Land that supports operations whose primary on site function is horse racing is not eligible.)
- A start-up operation may qualify based on its annual gross sales of agricultural products in the operation's first or second year. Such annual sales must amount to at least \$10,000, if the start-up operation has seven or more acres, or to at least \$50,000, if the start-up operation has less than seven acres in agricultural production.
- A start-up commercial horse boarding operation may also qualify based on annual boarding fees of \$10,000 or more in its first or second year.

### **Land included in agricultural assessments**

Agricultural assessments is limited to land used in agricultural production, defined to include cropland, pasture, orchards, vineyards, sugarbush, support land, and crop acreage either set aside or retired under Federal supply management or soil conservation programs. Up to 50 acres of farm woodland is eligible for an agricultural assessment per eligible tax parcel. Land and water used for aquacultural production are eligible, as is land under a structure within which crops, livestock or livestock products are produced. Land visibly associated with the owner's residence is ineligible.

### **Multiple land parcels**

Since farm operations often encompass more than one parcel, eligibility is determined by combining separately assessed parcels that are farmed together as a single operation. However, a separate application for each separately assessed parcel must be made. A single operation is one distinct agricultural business enterprise.

### **Rented land and agricultural assessments**

Land rented for agricultural purposes may receive an agricultural assessment. If the rented land satisfies the basic eligibility requirements described above, it is eligible for agricultural assessment. In addition, if the rented land does not satisfy the average gross sales value requirement, but does satisfy the other requirements, it may still be eligible if it is farmed, under a written rental agreement of at least five years, with the other farmland that satisfies all eligibility requirements. The applicant must substantiate the existence of the term of the rental agreement by providing the assessor with either a copy of the lease or [Form RP-305-c, Agricultural Assessment Written Lease Affidavit for Rented Land](#). A start-up farm operation may include rented land.

### **Gross sales value**

*Gross sales value* means the actual proceeds from sales of agricultural products. The landowner must adequately document sales for the assessor. Proceeds from all parcels used in a single operation may be combined to satisfy the average gross sales value requirement. If a crop is grown and processed on the farm, the value of the crop before processing must be used when computing its average gross sales value. When the farm woodland is eligible, proceeds from the sale of woodland products may be included in the computation of average gross sales value but only to a maximum of \$2,000. The commercial horse boarding receipts can be generated wither through the boarding of horses or though the production for sale of crops, livestock, and livestock products or through both.

### **Exceptions to the gross sales requirement**

Agricultural lands affected by natural disasters or continued adverse weather conditions may continue to be eligible. County Cornell Cooperative Extension staff must certify such natural disaster or weather condition destroyed the agricultural production and, as a result, the average

gross sales value for the preceding two years was less than the minimum required for eligibility. The landowner must document the extent of damage and the gross sales value the land can produce under normal conditions. Use [Form RP-305-b, Application for Exception From Minimum Average Sales Value Requirement](#).

No minimum gross sales value is required for crop acreage either set aside or retired under Federal Supply management or soil conservation programs.

### **Agricultural assessment program does not apply to buildings**

Agricultural assessment applies only to land and any posts, wires and trellises used to support vines or trees for the production of fruit on eligible land. The program does not apply to farm buildings, residences, and other improvements. Farm buildings and structures may qualify for other property tax benefits under Real Property Tax Law. See [Farm Building Exemptions](#) brochure for details. However, land under farm building and structures that produce qualified crops, livestock or livestock products may in certain circumstance receive an agricultural assessment.

### **The application procedure**

The landowner's first step in applying for an agricultural assessment is to go to the county Soil and Water Conservation District office. There, all farmland to be enrolled in the program will be classified by soil productivity. A District technician plots each farm tax parcel of the farm on a soil map, and calculates the acreage in each soil group. The landowner should work with the technician to outline woodland areas and ineligible areas. The landowner may exclude any area from the program and this area should be clearly defined and marked on the map. The technician records the information on a "Soil Group Worksheet" (Form APD-1).

Next, the landowner transfers this soil information to the "Application for an Agricultural Assessment" (form RP-305), available from the assessor's office and indicates any farm woodland on the parcel. The landowner submits the completed [RP-305](#) application form along with copies of the completed APD-1 soil group worksheet and the soil map to the assessor by taxable status date.

In most towns, the taxable status date is March 1, but it is advisable to confirm this with the assessor. Landowners must file an application each year with the local assessor. After the initial application, a short version may be used if there have been no changes since the previous year's application. See [Form RP-305-r, Agricultural Assessment Application Renewal](#).

### **Amount of assessment reduction**

After deciding whether the parcel, or any part of it, is eligible for an agricultural assessment, the assessor calculates such assessment by multiplying the acreage in each soil group and farm woodland by the applicable agricultural assessment value. The sum of the values is multiplied by the municipality's latest State equalization rate or special equalization rate. The resulting figure is the agricultural assessment for the eligible land in the parcel. This amount is compared to the

assessed value of the eligible land. Any assessed value above the agricultural assessment is exempt from real property taxation. In other words, taxes on eligible farmland are based on the land's agricultural assessment rather than its full assessment.

### **Finding out about the status of an application**

If a landowner includes a self-addressed, stamped envelope with the application, the assessor must notify the landowner of the approval, modification, or denial of the application. The assessor will inform the applicant at least ten days before the date for hearing assessment complaints which in most towns is the fourth Tuesday in May. If an application is denied, the assessor must also state the reason on the form. For applications approved, the assessor must show how the total assessed value is apportioned between the eligible and ineligible parts of the property for the current year and prior year. A landowner may request the municipal or school tax collector to disclose the dollar value of reduction in tax liability attributable to lands receiving an agricultural assessment.

### **Farmland that is taken out of agricultural production**

If farmland that has received an agricultural assessment is converted to a nonagricultural use (within five years of last receiving an agricultural assessment if located in an agricultural district and within eight years if located outside an agricultural district), a payment to recapture the taxes forgone for converting such land will be imposed.

The assessors determine whether a conversion has occurred on the basis of the facts of each case. Conversion is defined as "an outward or affirmative act changing the use of agricultural land." Non use of the property (for example, abandoning land or leaving it idle) disqualifies such land from receiving an agricultural assessment, but is not considered a conversion. Similarly, land converted to a nonagricultural use through oil and gas exploration, or extraction activity, or through eminent domain or through the purchase of land or the conveyance of a conservation easement to protect the New York City Watershed, or through other involuntary proceedings (except a tax sale) would be ineligible for an agricultural assessment but would not be subject to a payment for conversion.

Payments for the conversion of agricultural land to a nonagricultural use are added to the taxes levied upon the land so converted. The property may be subject to a tax sale should such payment remain unpaid. Therefore, these payments generally become the responsibility of the owner of the land at the time of conversion.

A payment for conversion will be equal to five times the taxes saved in the most recent year that the land received an agricultural assessment. In addition, interest of 6 percent per year compounded annually will be added to the payment amount for each year that the land received an agricultural assessment, not exceeding five years. When only a portion of a parcel is converted, the assessor apportions the assessment and the agricultural assessment and determines the tax savings attributable to the converted portion. The payment for conversion of the portion of the parcel is then computed.

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**90 Day Notice** - Whenever a conversion occurs, the landowner shall notify the assessor within 90 days. Failure to notify may result in a penalty of two times the payments owed to a maximum of \$500.

### **Resources**

Contact your [local assessor or county director of real property tax services](#).

[Agricultural assessment values and other information](#).

*Updated: February 25, 2016*

The meeting was adjourned by Chairperson Watson at 8:55 pm.