

**TOWNSHIP COMMITTEE  
TOWNSHIP OF MENDHAM  
REGULAR MEETING**

**DATE:** November 8, 2021

**TIME:** 7:30 PM

**LOCATION:** Municipal Building and Remote via Zoom

**ROLL CALL**

Mr. Baio	Present
Ms. Duarte	Present
Mr. Monaghan	<b><i>Absent</i></b>
Mr. Orlins	Present
Mayor Neibart	Present

Also present:

Jason Gabloff, Township Administrator  
John Mills, Township Attorney  
Maria F Coppinger, Township Clerk

**SALUTE TO THE FLAG**

**STATEMENT OF ADEQUATE NOTICE** – Read by Mayor Neibart

Adequate Notice of this meeting of the Township Committee of the Township of Mendham was given as required by the Open Public Meetings Act as follows: Notice was given to the Observer Tribune and Daily Record on January 6, 2021. Notice was posted on the bulletin board in the township offices and notice was filed with the Township Clerk.

**RECOGNIZING NEW MEMBERS**

Chief Montgomery introduced the following members:

- Eren Onat has applied to be a Junior Member of the Ralston Engine Company #1
- Nolan Mortensen has applied to be an Active Member of the Ralston Engine Company #1 (Served as a Junior Member)

**COVID – 19 UPDATE**

Mayor Neibart provided a Covid-19 update.

**ANNOUNCEMENTS**

Township Committee members provided their announcements on upcoming township events.

**OPEN TO THE PUBLIC**

Diana Orban Brown – Ironia Road – Ms. Brown asked if the township committee would allow the residents present regarding the Zoning Ordinance to speak briefly so that the committee has time to reflect on their comments before the committee gets to reading the ordinance and opening it up to the public. It seems a shame to restrict people from speaking about things on their minds.

Ryan Guthrie – 28 Cold Hill Road – Mr. Guthrie spoke on the Backer Farm event on September 11th, noting that the farm has held several occasions with no issue; however, now it has become an issue. He commented on the lawn signs regarding people not in favor of the Backer Farm Brewery application. He feels he has a responsibility to speak out and support Backer Farm.

Peter Banos – 47 Ironia Road, Mendham Borough – Mr. Banos spoke on the residents who are opposed to the Backer Plan. He mentioned that we will let this play out in the courts; we are not against the Backers but we are opposed to the bar. Mr. Banos commented on the environmental report which is attached.

Barrett Kolton – 3 North Gate Road – Mr. Kolton mentioned that there is nothing sinister about the lawn signs regarding the Backer Farm Brewery; he noted that about 30-40 people are against the Backer Bar. He mentioned no vendetta against the Backers; we are objecting not against the farm but the bar. Mr. Kolton has concerns regarding the traffic this application will bring along Roxiticus, Ironia, and North Gate Roads. He expressed that the main issue is, we all moved to this area for the peace and tranquility of Mendham Township.

Fred Backer – 32 Ironia Road – Mr. Backer provided a brief history of Backer Farm, noting that they have been at 32 Ironia Road for 94 years. In that time, the farm has been a low-key operation from honey bees to dairy, to horses, and now the present, where they have vegetables, farm events, and their current venture to have a brewery. He expressed that the family does not plan for the brewery to be a crazy place, noting, “That is not our plan.” He explained that they plan on remaining a farm and doing farm projects, but the brewery is the way to keep their farm sustainable. He mentioned that they had had a lot of support from Mendham Township and surrounding towns; unfortunately, the committee has heard a lot from the opposition. However, this minority of people is very well organized and is being orchestrated by one family. He mentioned that this family had sustained an attack against his farming operation for over 30 years. Mr. Backer reflected on a disturbing incident that occurred to a family member at a local establishment who expressed their opposition to the brewery. He noted that this is all due to false information about the brewery application.

Bob Dillon – 4 Calais Road – Mr. Dillon spoke on the Backer Farm application noting that the craft business has been very positive. He feels that it would be very positive if the brewery came to town.

Dave Rainis - 290 Mountainside Road, Mendham Borough – Mr. Rainis expressed that his family is not anti-Backer; they are very concerned with the plans that have been published. Mr. Rainis noted that they want the farm to survive, but they do want ordinances, restrictions, and rules in place, so everybody at least has their opinion heard and rights respected.

Frank Strafacci – 4 Cedar Lane – Mr. Strafacci mentioned that from what he knows about the brewery project, he is against it and expressed that it's a terrible project. However, he clarified that he is not part of an organized group; he's just a resident who lives in the neighborhood.

Melissa Rainis – 290 Mountainside Road, Mendham Borough – Ms. Rainis stressed to the Backers that they support the farm and it's not a vendetta against the Backers. She expressed that she is looking out for the kids, the town, and her property, noting that the brewery location is not an appropriate area for a 78-seat bar.

Terrill Doyle – 5 Cross Way – Ms. Doyle responded to several comments made by the public regarding the Back Farm Brewery application.

Bruce Flitcroft – 23 Tingley Road – Mr. Flitcroft commented that it is hard in America to make a goal of farms, especially small farms, noting a trend for multi-use farming properties across this county. He expressed that the number of vineyards and cider mills, breweries, and restaurants opening on a farm is necessary to support the farm. In addition, he feels the brewery would be good for the community.

Bob Meyer – 3 East Ridge Road – Mr. Meyer expressed his support for the Backers and their brewery application. He understands the neighbors' concerns around this project but noted that it sounds like a "not in my backyard" knee-jerk response. He clarified that this doesn't mean that they don't have valid concerns, but this is why we have a planning board and zoning board – to address those concerns.

George Koenig – 13 North Gate Road – Mr. Koenig expressed that this is not a personal vendetta against the Backers but a land-use issue. He addressed the Backer family by saying that they have planted over 200 trees as a buffer, but nothing is a buffer from the type of noise they had on 9/11. He suggested that the township consider having the Backers and the 20-30 people in for mediation since they don't know the details of the Backer Brewery plan.

Stephen Dreskin – 3 Roxiticus Road – Mr. Dreskin supports the Backers but is concerned with some of the details of the proposal. Therefore, he would like the committee to pass an ordinance that would regulate the brewery.

Lindsey Steam – 20 East Main Street – Ms. Steam extended her support to the Backer Farm. She owns a brewery and noted a brewery is not a bar, it's a tap room, a place to be educated and a place of community.

Joe Napolitano – 10 Gunther Street, Mendham Borough – Mr. Napolitano commented on the brewery project, noting that the state highly regulates breweries. **(Most of Mr. Napolitano's comments were inaudible – the resident was on via zoom.)**

***Motion to close to the public made by; Mr. Orlins, Seconded by Ms. Duarte.***

Mayor Neibart changed the meeting format by moving Ordinance 15-2021 before the resolutions.

#### **ORDINANCE – SECOND READING / PUBLIC HEARING**

**15-2021** An Ordinance of the Township Committee of the Township of Mendham for a Change in Zoning for Block 147, Lots 42.01 - 42.16 from R-10 to R-5 - Ordinance was introduced on October 13, 2021

***Motion made by Ms. Duarte, Seconded by Mr. Baio.***

Mayor Neibart opened the meeting to the public on Ordinance 15-2021.

Frank Zammataro – 41 Corey Lane – Statement attached. Mr. Zammataro also presented a petition with 38 signatures to delay the vote on the zoning change. Petition filed with the Township Committee has been filed in the Township Clerk's ordinance file.

James Zemaitis – 58 Corey Lane – Statement attached.

Robert Longo – 42 Corey Lane – Statement attached.

Ken Dickison - 67 Tempe Wick Road – Statement attached.

Bob Meyer – 3 East Ridge Road – Mr. Meyer asked the committee to delay the vote on Ordinance 15-2021 (if that's the question) and get as much information as you can get.

Dorothea (Dot) Stillinger – Chatham Township – Representing the Great Swamp Watershed Association – Ms. Stillinger asked if the previously mentioned developer's report was a public document.

Mayor Neibart noted that this is not a site plan application; this is a question about zoning. Additionally, Mayor Neibart clarified that the report that Ms. Stillinger is referencing is a letter, not an official report. Ms. Duarte explained that the report is 20 (or so) pages dating back to 2002. Attorney Mills noted that it is certainly a public document if the document is available.

Josh Moreen – 52 Hardscrabble Road – Mr. Moreen asked the committee to take a step back and review the information. He feels that the zoning request is inconsistent with the Master Plan. He is also concerned with the traffic pattern, and the impact on schools.

Ryan Guthrie – 28 Cold Hill Road – Mr. Guthrie spoke about the Master Plan, responding to some arguments on the environmental study and illegal spot zoning. He commented that these issues have already been addressed in the Master Plan reexamination.

Tracy Moreen – 52 Hardscrabble Road – At the last committee meeting, Ms. Moreen highlighted several concerns about the rezoning request, noting the lack of notification and the possible impact on the watershed, headwaters, wildlife, school, and roads. She explained that the Irene assured her that the property alongside Hardscrabble Road would not be developed beyond the plans noted on the website. She agreed with everything that her neighbors have stated, also asking for a delay in the decision. Ms. Moreen requested that the Township Committee prove how the zoning ordinance is consistent with the Master Plan, why the preservation actions from the study of 2002 no longer stand, and how this ordinance benefits community versus one individual. She expressed that we all need more time to talk about the request collectively.

Diana Orban Brown – Ironia Road She expressed that the residents made several good points regarding the rezoning request: 1. There is no hurry to pass this ordinance. 2. The ordinance has not been discussed thoroughly enough, and it affects a significant number of people and affects what we do with land going forward. 3. What will happen to the other parcels that were (up) zoned during the same time this property was (up) zoned. Ms. Brown provided some history on the property regarding the parcels and ratables.

Thomas Malman - Attorney for the applicant Lawrence Farms / Irene Spring Tree Farm – Mr. Malman addressed several comments that were brought up by residents on the rezoning request.

**Motion to close the public hearing made by; Mr. Orlins, Seconded by Ms. Duarte.**

**Motion to carry Ordinance 15-2022 to the next Township Committee meeting scheduled for November 22, 2022 made by Mr. Orlins, Seconded by Mr. Baio. All members present voted in favor of carrying the Ordinance to November 22, 2022.**

**APPROVAL OF MEETING MINUTES**

- May 3, 2021 – Special Meeting and Executive Session
- May 10, 2021 – Special Meeting and Regular Meeting

TOWNSHIP COMMITTEE	MOTION	SECOND	ROLL CALL		
			YES	NO	ABSTAIN
Mr. Baio			X		
Ms. Duarte	X		X		
Mr. Orlins		X	X		
Mayor Neibart			X		

**RESOLUTIONS - REGULAR AGENDA**

**2021-220** Resolution of the Township Committee of the Township of Mendham Authorizing Redemption of Tax Sale Certificate #19-00001 - 157 Mountainside Road, Block 117 Lot 41

TOWNSHIP COMMITTEE	MOTION	SECOND	MOTION TO CALL THE QUESTION	SECOND	ROLL CALL		
					YES	NO	ABSTAIN
Mr. Baio		X			X		
Ms. Duarte	X		X		X		
Mr. Orlins				X	X		
Mayor Neibart					X		

**2021-221** Resolution of the Township Committee of the Township of Mendham Authorizing the Execution of Renewal of Shared Services Agreement Between the County of Morris and the Township of Mendham for Public Health Services

TOWNSHIP COMMITTEE	MOTION	SECOND	MOTION TO CALL THE QUESTION	SECOND	ROLL CALL		
					YES	NO	ABSTAIN
Mr. Baio		X			X		
Ms. Duarte	X		X		X		
Mr. Orlins				X	X		
Mayor Neibart					X		

**2021-222** Resolution of the Township Committee of the Township of Mendham Authorizing the Mayor to Execute a Letter of Agreement Between the County of Morris and the Mendham Municipal Alliance for Grant Administration of the Mendham Municipal Alliance for the Period of July 1, 2021 to June 30, 2022

TOWNSHIP COMMITTEE	MOTION	SECOND	MOTION TO CALL THE QUESTION	SECOND	ROLL CALL		
					YES	NO	ABSTAIN
Mr. Baio	X		X		X		
Ms. Duarte		X		X	X		
Mr. Orlins					X		
Mayor Neibart					X		

**2021-223** Resolution of the Township Committee of the Township of Mendham Approving the Applications for Membership in the Mendham Township First Aid Squad

TOWNSHIP COMMITTEE	MOTION	SECOND	MOTION TO CALL THE QUESTION	SECOND	ROLL CALL		
					YES	NO	ABSTAIN
Mr. Baio		X			X		
Ms. Duarte	X			X	X		
Mr. Orlins			X		X		
Mayor Neibart					X		

**2021-224** Resolution of the Township Committee of the Township of Mendham Providing for a Meeting not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12 – ***Motion to postpone indefinitely made by Mr. Orlins; Seconded by Ms. Duarte. All members present vote in favor to postpone the resolution.***

**2021-225** Resolution of the Township Committee of the Township of Mendham Adopting Personnel Policies and Procedures Manual

TOWNSHIP COMMITTEE	MOTION	SECOND	MOTION TO CALL THE QUESTION	SECOND	ROLL CALL		
					YES	NO	ABSTAIN
Mr. Baio					X		
Ms. Duarte	X		X		X		
Mr. Orlins		X		X	X		
Mayor Neibart					X		

**2021-226** Resolution of the Township Committee of the Township of Mendham Authorizing the Payment of Bills

TOWNSHIP COMMITTEE	MOTION	SECOND	MOTION TO CALL THE QUESTION	SECOND	ROLL CALL		
					YES	NO	ABSTAIN
Mr. Baio		X		X	X		
Ms. Duarte	X		X		X		
Mr. Orlins					X		
Mayor Neibart					X		

**OPEN TO THE PUBLIC**  
***Motion to open to the public made by Ms. Duarte, Seconded by Mr. Baio.***

Ryan Guthrie – 28 Cold Hill Road – Mr. Guthrie agreed with Ms. Brown’s comments on ordinance 15-2021. He clarified that the Master Plan laid the groundwork for the zoning request. Mr. Guthrie rebutted several statements made about the Backers.

David Rainis - 290 Mountainside Road, Mendham Borough – Mr. Rainis agrees that the residents should sit down with the Backers and discuss the situation (brewery application).

Kimberly Hart – 17 North Gate Road – Ms. Hart addressed the people who spoke on behalf of the Backer Farm application; she clarified that they are not anti-backers, they are not anti-farms. They support the farm but not the brewery.

Bruce Flitcroft – 23 Tingley Road – He understands the noise complaint at the Backer Farm on 9/11 but doesn’t know how that affects the brewery application. He is for the brewery application.

Eric Hart – 17 North Gate Road – Mr. Hart shared his reasons for moving to Mendham Township. He spoke on the Backer Farm application, restating his comments from earlier in the meeting.

Derek Backer – 32 Ironia Road – Mr. Backer expressed that the brewery and the noise from the concert are two different things. He put on the concert to boost income coming in for that day, profiting from his food truck and its products. He mentioned that the farm is what feeds his family, noting that concerts will not be a reoccurring event.

Peter Banos – 47 Ironia Road – Mr. Banos spoke on the application for a brewery on the Backer Farm. He would prefer to see four houses on the property than a brewery. He commented about the nine noise complaints on 9/11 at the farm and the (brewery) submitted documents.

Melissa Rainis - 290 Mountainside Road - She commented that she did call the police regarding the noise complaint, noting that Mr. Guthrie is profiting from the concert at Backer Farm and his comments are incorrect. In addition, she responded to several other statements made by the public regarding the brewery application.

Diana Orban Brown – Ironia Road – A couple of meetings ago, Ms. Brown expressed that she supported Backer Farm for many reasons. She restated her support for the farm. She is amazed at the list of volunteers on the First Aid Squad. She commented on the tree logo, providing history on the old white oak tree (Kings Highway), which she recommended using the old white oak tree as the township’s official logo.

George Koenig – 13 North Gate Road – Mr. Koenig commented that many of the Irene Spring Tree Farm (ordinance 15-2021) concerns are similar to the Backer Brewery concerns. He restated that there should be a mediation between the Backers and the residents regarding the future (brewery) plans.

Terrill Doyle – 5 Cross Way – Ms. Doyle expressed that we keep talking about the Backer BAR, but she reminded the public that it is also a manufacturing plant.

***Motion to close to the public made by Mr. Orlins; Seconded by Ms. Duarte.***

The discussion items and liaison reports were tabled to the next meeting.

**ADJOURN**

The Township Committee adjourned at 10:22 pm; motioned made by Mr. Orlins and seconded by Ms. Duarte.

Respectfully submitted,

Distributed: 04/20/2022  
Approved: 04/25/2022

Maria F. Coppinger  
Township Clerk

Attachments:

- P. Banos, 47 Ironia Road
- J. Zammataro, 41 Corey Lane
- J. Zemaitis, 58 Corey Lane
- R. Longo, 42 Corey Lane
- K. Dickison, 67 Tempe Wick Road

P. Banos Nov. 8, 2021

## van note - harvey

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Princeton, New Jersey 08540  
609-987-2323 Fax: 609-987-0005  
NJ Authorization #24GA28271300

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Since 1894

**VIA E-MAIL**

October 15, 2021

Mr. Peter Banos  
47 Ironia Road  
Mendham New Jersey 07945

**RE: Review Comments  
Major Preliminary and Final Site Plan Application  
BF Partners LLC - Backer Farm  
Block 109, Lot 23  
Mendham Township, Morris County, New Jersey  
VNHA No. 45568-070-01**

Dear Mr. Banos:

As requested, Van Note Harvey Associates, Inc. (VNHA) has reviewed documents associated with the above referenced application relative to stormwater management, NJDEP Freshwater Wetlands permitting, NJDEP Flood Hazard Area permitting and endangered and threatened species concerns.

Documents reviewed included:

1. Cover letter for the application prepared by Shanahan & Voight dated March 10, 2021;
2. Application for Development dated March 9, 2021;
3. Addendum to application prepared by Shanahan & Voight dated March 10, 2021;
4. Preliminary and Final Site Plans prepared by Roth Engineering, 8 sheets, dated March 8, 2021 and last revised August 27, 2021;
5. Property review and report prepared by Kenyon Planning, dated September 15, 2020;
6. Stormwater Management Letter prepared by Roth Engineering, LLC, dated May 4, 2021;
7. Application for NJDEP Freshwater Wetlands Letter of Interpretation -Presence/Absence – Footprint of Disturbance prepared by Environmental Technology Inc., dated June 21, 2021;
8. Technical Review Letter to Mendham Township Planning Board from Princeton Hydro, dated June 21, 2021;
9. Technical Review Letter to Mendham Township Planning Board from French & Parrello Associates, dated June 28, 2021.
10. Response to comment letter to Mendham Township Planning Board from Roth Engineering, dated October 5, 2021.

ENGINEERS • PLANNERS • LAND SURVEYORS • ENVIRONMENTAL CONSULTANTS

VNHA offers the following comments from our review of the above documents:

1. The reviewed documents state that the project is not a "Major Development" as defined by the New Jersey Department of Environmental Protection (NJDEP) Stormwater Management Regulations. Upon review of the project as depicted on the Site Plans and the current NJDEP Stormwater Management Regulations, N.J.A.C. 7:8, effective date March 2, 2021, it appears that the project meets the definition for a Major Development.

I have attached to this letter, excerpts of the NJDEP Stormwater Management Regulations with relevant definitions highlighted. The defined terms key to identifying this particular project as a Major Development are "Major Development," "Regulated Impervious Surface," "Regulated Motor Vehicle Surface" and "Motor Vehicle." The thresholds for meeting the Major Development definition are not solely determined by the area of the project and net increase in impervious surface. They also include the area of Regulated Impervious Surface and Regulated Motor Vehicle Surface created within specified time periods.

Per the NJDEP Stormwater Management Rules "Regulated Impervious Surface" means any of the following, alone or in combination:

- a. A net increase of impervious surface;
- b. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a "new stormwater conveyance system" is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);
- c. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
- d. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

Consequently, the total area of Regulated Impervious Surface for this project should include the net increase in impervious surface which has been identified to be 4,400 square feet plus the area draining to the infiltration basin from the roof of the proposed brewery which has been identified as 4,528 square feet, totaling 8,928 square feet.

Per the NJDEP Stormwater Management Rules, "Regulated Motor Vehicle Surface" means any of the following, alone or in combination:

- a. A net increase in motor vehicle surface; and/or
- b. The total area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

Per the NJDEP Stormwater Management Rules, "Motor Vehicle Surface" means any pervious or impervious surface that is intended to be used by "motor vehicles" and/or

aircraft, and is directly exposed to precipitation including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

“Motor Vehicle” is defined by the regulations as land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles and low speed vehicles. Motor Vehicle does not include farm equipment.

Based on the NJDEP Major Development definition, the determination of whether the project is a Major Development must also consider the net increase in Motor Vehicle Surface. Information contained in the application does not address how the project will affect Motor Vehicle Surface. Parking for patrons of the brewery, where shown on the Site Plan as “Parking on Existing Surface” of approximately 43 parking spaces and drive aisles appears to be an increase of approximately 14,000 square feet of “Motor Vehicle Surface.”

For the proposed Site Plan, the sum of the additional Regulated Impervious Surface and Motor Vehicle Surface described above is approximately 22,928 square feet. This area exceeds the one quarter acre Major Development threshold and consequently the project would be a Major Development per the NJDEP Stormwater management regulations.

It is suggested that NJDEP be consulted for verification of whether the proposed project is considered a Major Development per their rules. NJDEP should be advised of all proposed parking for the project, including the 43 spaces proposed within the “existing sand area.”

2. The applicant submitted a NJDEP Letter of Interpretation application that presumably will verify the absence of NJDEP regulated freshwater wetlands and freshwater wetland transition areas within the “Limit of Disturbance” as depicted on the site plans. It is understood that application is pending with the NJDEP.

All of the area proposed for the brewery parking was not included in the area to be verified by NJDEP although the site plans note “No Disturbance Proposed within Wetland Transition Area” and a fence is depicted to restrict vehicles to the parking area and avoid encroachment into the wetland transition area. It is suggested that the boundary of the freshwater wetlands transition area be verified by NJDEP where the fence is proposed to verify the wetland transition area boundary at that location and avoid encroachment into the wetland transition area. The location of the parking fence is the closest location of the project to the NJDEP regulated wetlands/wetland transition areas.

3. A portion of the project (brewery parking, the refuse enclosure, and a split rail fence) is proposed within an identified NJDEP regulated Flood Hazard Area Riparian Zone, If the project is a Major Development, a NJDEP Flood Hazard Area Individual Permit will be required for NJDEP approval of these proposed improvements. If the project is not considered a Major Development, these improvements may be authorized by a Permit-by-Rule. NJDEP should be consulted for the classification of the project and approvals required for these proposed improvements.
4. The proposed project is essentially redevelopment proposed greater than approximately 250 feet from the North Branch Raritan River tributary, outside of freshwater



wetlands/wetland transition areas (to be confirmed by NJDEP), on the outside edge of a 300-foot Riparian Zone, within an existing operating farm. Provided the project is designed, approved and constructed per current stormwater management and wastewater disposal practices, any direct impacts to wildlife and plant species are expected to be minimal. However, several endangered and threatened species have been identified by NJ-GeoWeb as reported in the documents submitted with the application. Secondary impacts to these species from noise should be considered, particularly if events are planned at the proposed facility.

Should you have any questions or require anything additional, please feel free to contact me by phone or email.

Very truly yours,

John C. Ryder, P.E.  
Vice President

JCR/  
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Enclosures

bc w/encl.: TOS/BRP

November 8, 2021

Statement to Township of Mendham Township Committee Regarding the Notice of Pending Ordinance No. 15-2021 (Change in Zoning for Block 147, Lots 42.01 – 42.16 from R-10 to R-5)

My name is Frank Zammataro and I reside at 41 Corey Lane, also known as the Black Horse Farm. And I want to establish for the record that it was named after my wife Jeannie's 25 year old black horse named "Ghostbuster" and not the Pub! We have been in Mendham Township since 2014, we love our neighbors and believe it is a New Jersey paradise!

I want to thank you for the opportunity to provide input to your decision making process, one which is multi-dimensional; taking individual property rights and the township's rural /historic character and growth into consideration. Your votes are important ones and will have many implications across the community, some of which have and will be voiced here tonight. The implications of your vote might also irreversibly change the course of all the R-10 zoned properties in the Township as well.

The goal of my testimony is to appeal to each of you to be thoughtful about this decision:

- 1) Is it being made to benefit one land owner versus the broader neighborhood and township needs and goals?
- 2) Is it being made with full knowledge of past and present environmental considerations as well as considering the impact on traffic, schools, infrastructure, land preservation, etc.?
- 3) Does the committee want to create a "spot zoning" precedent?; and
- 4) Can solutions be found that makes sense to all the issues and concerns being raised?

I think the answer to my last question is yes....simply delay your vote so more discussion can be had and more transparency can be attained. Your alternative action of a positive or negative vote tonight will create the impression of winners and losers. Instead, take more time to flesh-out all the nuances of this beautiful property, one that should be developed, so that a thoughtful 2021/2022 approach to the zoning proposal can be reached. The nature of your decision process here will set the pace for future considerations and discourse that will be passed onto the planning board; perhaps allowing that process to proceed gracefully. So I ask respectfully, don't argue that it was once zoned R-5 20 plus years ago and don't argue that this is just a planning board issue. This is a Township Committee issue and responsibility, it's your responsibility.

Your committee will set the pace here tonight for an appropriate growth process for the entire township and therefore should simply take the time to work through the issues and concerns to reach a thoughtful vote at a future session. I would like to present a petition, signed by 34 38 neighbors, in support of this request for delay.

I thank you for your service to the community and I offer my time to assist you in any way possible. Thank you.

NOV. 8, 2021  
J. Zemaitis

My name is James Zemaitis. Many of you here recognize me from my membership on the Mendham Township Historical Preservation Committee, but I am here today as a private citizen, and as a resident of 58 Corey Lane, on the corner of Hardscrabble Road, at the bottom of the hill below the Irene Spring Tree Farm property. I have lived in my present residence since 2014 with my wife Sarah Frelinghuysen and our three daughters. I have lived on and off in both the Township and the Borough since 1985.

I want to start by reading from an article published in 2003 by the Great Swamp Watershed Association:

At a May 15, 2003 joint meeting of the Mendham Borough Open Space Advisory Committee and the Mendham Township Open Space Trust Committee.....whoa...(pause)... Irene's Spring Tree Farm's proposed subdivision was among the topics discussed. The Farm is located upslope from the Passaic River and there are headwaters to the River on site. Roadscapes, viewsheds and tree protection are of particular interest. Irene's Spring Tree Farm is one of the largest, privately- owned parcels of land remaining in the Great Swamp watershed. Recently, the Planning Board granted preliminary approval for the 16- lot subdivision. At this time, the Township is debating a cluster ordinance for the Township. As a result, additional open space on the site may be saved while still permitting the owners to develop.

Ultimately, the open space committees were not able to strike a deal with the Irene property to purchase any of the land. And thus the development proceeded. But what we *can* gather from this period account is the concept that Irene Spring Tree Farm is a property of such significance, its future is something which is important to Mendham as whole, or as historians like to say, "The Mendhams," and not just our Township. Hardscrabble Road is the border between Township and

Borough, but just as when one visits the new Pitney Park, located on Cold Hill Road, which is also on the border between Township and Borough, one doesn't walk the paths or read our new Historical Signs and go, "this place and history is exclusive to the municipality of Mendham Township." No. Not at all.

Scenic, winding, fragile Hardscrabble Road is one of the gateways into our community. When visitors crest the hill at the border of Mendham Township, Mendham Borough and Bernardsville, perhaps in the car with their real estate agent, or perhaps on one of the many biking tours which wind through our scenic byways, what they see unfold before them is a magnificent landscape which represents the beauty and the history of Mendham. Just that. Mendham. Not Mendham Township. Not Mendham Borough. And therefore, when we look back at this 2003 article, we see the Mendhams coming together to discuss how to preserve the Irene property.

Let's move on to a 2005 article published in the Observer Tribune:

"On past summer days, someone driving past Irene Spring Tree Farm on Hardscrabble Road would see horses trotting along a gated pasture near stables or ponies nibbling on a patch of green grass along more than 100 acres of gently rolling hills. They now see bulldozers. The Planning Board gave final approval in June 2004 for Hardscrabble Road property owner Larry Irene to build 16 homes on about 158 acres he owns in the township.

The above reference relates to the demolition of the historic stables, barns and riding ring which were once on the property. The article continues to discuss how Township committee members Jack Schrier and Robert Pierson, "sat down and had a long chat with Larry Irene about development." According to Schrier, "for the motorist the crest of the top of the hill offers one of the best fall foliage views in the area." According to Schrier it



was conversations with Irene about the importance of preserving and protecting the landscape which led to an agreement to reduce the developability of the property by 50 percent, and the increase of lot size from five acres to ten."

Sixteen years later, we now have the publication of a new Township Master Use Plan, co-authored by many residents and officials who are here in this room tonight. The opening statement of the Plan which relates directly to what we are discussing tonight is the following:

"Mendham Township is a low-density residential community with significant sensitive land, rural and historic characteristics and a limited infrastructure base. Its future land use policies should be designed to protect and continue these characteristics, especially regionally important water resources including aquifers and the headwaters of the North Branch of the Raritan, the Whippany and the Passaic River. Overall future land use planning should be limited to very low density residential uses consistent with the established rural/historic land use pattern and in balance with a limited infrastructure base and environmentally sensitive land characteristics."

So I ask everyone here tonight, what exactly has changed since the release of this Master Use Plan? Why did the Planning Committee approve Mr. Irene's request to reduce his zoning from ten to five acres? Why should it be any different in 2021 than it was in 2004, when extensive negotiations resulted in a compromise plan which allowed for the development of spectacular estate-quality lots?

When looking at Mendham's landscape, it is of course important to remember that back in the 18<sup>th</sup> and early 19<sup>th</sup> Centuries, the white settlers pretty much deforested all of Mendham. They razed the forests to make charcoal for the nascent iron industry, and

create pastures and apple orchards. Thankfully the forests grew back, and therefore the landscapes we have today are early 20<sup>th</sup> Century in their origin, created when Mendham was still a tiny but extremely affluent community of farms and estates. In addition to our township's historical districts and individual historic structures, one of the most important aspects of Mendham's history is the landscape itself, of rolling hills, winding roads and farm-assessed estates.

Irene Spring Tree Farm's pastures and forests represent the best of the late 19<sup>th</sup> and early 20<sup>th</sup> Century Mendham pastoral landscape. And so we are not here tonight trying to save a wilderness or an old growth forest. Most of us who live in the immediate vicinity of the property have known for years that the existing lots which average ten acres might be developed. We are at peace with that. Heck, we have benefitted by Mr. Irene's apparent unwillingness to market his property over the past decade and have happily watched him remove the signage advertising available lots and take down the optimistic row of mailboxes awaiting family names. At night, the mountain above Corey Lane, which connects via Mendham Township preserved land right into the Jockey Hollow National Historic Park, is completely dark. When the open space committees of the Mendhams were unable to preserve the old horse farm back in the early 2000s, Mr. Irene installed the infrastructure for a future community of ten-acre plots. There's no going back on that.

But during this era of explosive increases in property values in our region, it is NOT the job of the Mendham Township Planning Board nor the Township Committee to rubber stamp Mr. Irene's request to double the number of residential lots on his acreage, just because he apparently has not been interested until now in marketing his property or being flexible with his asking prices. It is not the fault of anyone other than Mr. Irene that new houses haven't yet been built on his existing infrastructure, adding



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valuable tax revenue to the township's coffers. But it IS the job of the planning and township committees to advocate on behalf of the entire community a responsible plan to preserve our existing landscape.

Thank you for giving me the opportunity to speak here tonight.

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## Right of Way

Robert and Marta Longo  
42 Corey Lane

We support the vote delay to gain more clarity since there is a right of way that runs adjacent to my property, between our home at 42 Corey and the Christie's property.

We would like clarification on a number of questions that can impact our property:

- Is this going to be used as ingress and egress, as full time access from the new development to Corey lane?
- Is it a "emergency use only" right of way that only gets used by fire and emergency vehicles?
- Is it going to be a paved road? Gated? Traffic light?

I bought my house with a reasonable expectation that the value wouldn't be diminished by an increase in lot numbers adjacent to ours. The adjacent property already has zoning for 10 acres and there has been no hardship shown by the owner for the need to rezone the property to 5 acres. However, it potentially creates a hardship for me.

- How will that affect my property value? Will extra homes draw down the local water table from which we draw our water? Will I need to drill my well deeper with the increased demand?

It seems premature to hold vote before everybody's impact is recognized thus our support of the vote delay.

- Does this open the door now for other landowners on Corey to subdivide their lots?
- 

I don't see how this can be construed to serve any public good. This move will double the number of people, traffic, maintenance workers, landscapers, etc..and will negatively impact our reasonable expectation for the tranquil, country lifestyle that defines Mendham. And this is the reasonable expectation we had when we purchased our property on Corey Lane over 10 years ago. What precedent is being made?

We only ask for this vote to be delayed because the effect of this new roadway will negatively impact the value of my land, it can provide for potential safety concerns, and I should know what the plan is as I'm directly impacted.



**From:** Ken Dickison [REDACTED]  
**Sent:** Monday, November 8, 2021 9:13 PM  
**To:** Mendham Township Clerk  
**Subject:** Ken Dickison - 67 Tempe Wick Road, Mendham, NJ Comments from 11/8/2021 meeting

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Maria,

See the below. Thank you.

First, thank you for your service. I know you have aspirations of seeing our community continue to be hailed as one of the best towns to live and raise a family in NJ.

I started off a few weeks ago expressing my concern about the mass tree removal happening much of the season at the top of the hill and my concern grew about the impact it would have for us being a home that is positioned down hill from the clearings. We are destined to receive a lot more water running down to where we are this next year...

As I involved myself more in the broader conversation I learned about things I had not thought of including water table issue possibilities, environmental impact from over developing the land, spot zoning implications and how increasing density might change the very fabric of our lifestyle here in Mendham.

Also, In speaking with others in our neighborhood I learned that many, including those adjacent to the spring tree farm property had no idea about the RE-zoning. My call to them was for many the first they were hearing of it.

Many many times I was asked the plan with RE-zoning the property, I could not share with them anything other than to expect up to double the number of lots and the possibility of an affordable housing element to satisfy NJ law.

Why? because it was not decided yet. Everyone seemed puzzled that zoning could or even would be changed without a plan as to why it needed to be rezoned unless there was a shared plan.

The biggest problem is that all I can do at this stage is postulate what will happen with the land. All I can do is hope that those elected to protect the fabric of our community care enough about insuring that this density increase at the top of a hill that feeds the head waters of the Passaic will not have a lot of pesticides and insecticides. That wildlife migration and health will be considered.

I can only hope that the town council will realize that approving something without knowing the answers about how it will reshape the land and fabric of our community at large is unequivocally the wrong step

I would like to encourage the council to delay voting on the ordinance before asking questions, understanding the people currently living in the surrounding neighborhoods, and the impact it will have on all of us.

Ken Dickison  
67 Tempe Wick Road  
Mendham, NJ 07945  
[REDACTED]