

**TOWNSHIP COMMITTEE
TOWNSHIP OF MENDHAM
REGULAR MEETING**

DATE: November 22, 2021

TIME: 7:30 PM

LOCATION: Municipal Building and Remote via Zoom

ROLL CALL

Mr. Baio	Present
Ms. Duarte	Present
Mr. Monaghan	Present
Mr. Orlins	Present
Mayor Neibart	Present

ALSO, PRESENT

John Mills, Township Attorney
Jason Gabloff, Township Administrator
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.

COVID – 19 UPDATE

Mayor Neibart provided a Covid-19 Update

ANNOUNCEMENTS

Committee Members provided their announcement on upcoming township events.

OPEN TO THE PUBLIC

Motion to Open to the Public made by Ms. Duarte; Seconded by Mr. Orlins. All members present voted in favor.

Kim Hart and Eric Hart – 17 North Gate Road – Statement attached.

Pat Zimmerman – 3 West Main Street – Ms. Zimmerman expressed that it’s essential to realize that the Backers might have a well-going operation at some point. But, she asked, what would happen if they decide to sell the farm, so we have to be extremely careful about what we approve today, realizing that it may have severe consequences in the years to come. She asked if it would be appropriate to ask Pinnacle if they might consider donating to Pitney Park since the Pinnacle property is historic. She asked if money has been put aside for landscaping at the new police station.

Motion to Close to the Public made by Mr. Orlins; Seconded Ms. Duarte. All members present voted in favor.

RESOLUTIONS - REGULAR AGENDA

2021-227 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. Monaghan					X		
Mr. Orlins					X		
Mayor Neibart					X		

2021-228 Resolution of the Township Committee of the Township of Mendham Authorizing a Refund of Erroneous Payment of Sewer Charges

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

2021-229 Resolution of the Township Committee of the Township of Mendham Authorizing the Execution of a Developer’s Agreement Between the Township of Mendham and Pinnacle Ventures, LLC

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

2021-230 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

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. Monaghan					X		
Mr. Orlins		X			X		
Mayor Neibart					X		

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*

Public Hearing on Ordinance 15-2021
Motion to open the public hearing made by Ms. Duarte; seconded Mr. Baio.

- Frank Zammataro – 40 Corey Lane – Statement attached.
- Dorothea ‘Dot’ Stillinger – 216 Noe Avenue, Chatham Township – Statement attached.
- Mark Trokan – 9 Washington Valley Road – Mr. Trokan seconded everything the first two speakers said. He expressed that these decisions significantly impact the town, and also noted that development needs to be thoughtful progress.
- Martin Slayne – Indian Hollow Road – Mr. Slayne expressed his support some of the comments that have been raised around the environmental impact. He noted that we haven’t seen any information about the environmental impact and that it makes sense to have a proper environmental impact assessment.
- David Shalit – 63 Tempe Wick Road – Mr. Shalit is concerned about this rezoning request and its impact on the environment, traffic, and classroom size.
- Sarah Frelinghuysen – 58 Corey Lane – Statement attached.
- Tracey Moreen – 52 Hardscrabble Road – Statement attached.
- Thomas Malman, Day Pitney – on behalf of Lawrence Farmland – Summarized the attached letter.
- Wayne Dubin – 51 Hardscrabble Road – Statement attached.
- Diana Orban Brown – Ironia Road – Statement attached.

Move to close open to the public made by Mr. Orlins; Seconded by Ms. Duarte. All members present voted in favor.

The Township Committee engaged in a discussion on the ordinance. Mr. Mills detailed the Planning Board process.

Ms. Duarte noted that open space was one of the top three reasons for families moving into Mendham Township. She’s concern because she has seen the town change; she would like to see the township retain and maintain the character of the community. She noted that some of the concerns include environmental, setting a precedent and Master Plan recommendations that have not be addressed. She feels that we are putting the cart before the horse so for those reasons she will vote “no” the rezoning request. She encouraged her colleagues on the dais to in that direction.

Mr. Baio spent a lot of time researching and reading Planning Board meetings. During this research, he learned that the township built (negative) -10 homes, that’s on top of having built several houses. He expressed that we should all be appalled by some top-level stuff here; this is not the forum to talk about bats and environmental concerns; it’s important, but not the forum.

Mr. Orlins spoke on the zoning concerns that the residents expressed by comparing the area to his neighborhood, noting that he has never seen any of those concerns in the Oak Knoll neighborhood with similar zoning. He also expressed that this property is private.

Mr. Monaghan addressed residents' concerns, commenting on the effect on the environment, open space, water quality, Nitrate Dilution, water availability, increased development in general, staying consistent with previous decisions, and spot zoning.

Mayor Neibart noted the Township Clerk received a petition opposing the ordinance, which means that the ordinance requires four votes in favor of the ordinance to be adopted.

Mayor Neibart commented on the public’s concerns.

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*

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

OPEN TO THE PUBLIC

Motion to Open to the Public made by Ms. Duarte; Seconded by Mr. Monaghan. All members present voted in favor.

Frank Zammataro – 40 Corey Lane – Mr. Zammataro spoke to Deputy Mayor Monaghan which is the potential creation of a Conservation Zoning category; which would put some kind of limits on a race for large property owners to rezone.

(First name inaudible) Ms. Brueckner - 38 Ironia Road – Ms. Brueckner expressed her support for Backer Farm.

Peter Banos - 47 Ironia Road, Mendham Borough – Mr. Banos spoke on the Backer (brewery) application and about the concert on September 11th at the farm. He read the letter to the AG board regarding the enforcement of the concert, which the AG board found not in compliance with the deed.

Terrill Doyle – 5 Cross Way – Ms. Doyle commented that the state agreed that the Backers were not engaging in farm activity when they held the concert. She had questions about Mr. Baio’s comment regarding the township hasn’t seen development in town (-10 homes built). Ms. Doyle wanted to know why the mayor was not on the Planning Board.

Pat Zimmerman – 3 West Main Street – She commented that the Hillendale proposal received endorsement from the Historic Preservation.

Bernadette Koenig – 13 North Gate Road – Ms. Koenig thanked Ms. Hart for expressing their point of view and she hopes the committee listened to their concerns.

Motion to Close to the Public made by Ms. Duarte; Seconded Mr. Monaghan. All members present voted in favor.

DISCUSSION

Noise Ordinance

The Committee engaged in a discussion on the enforcement issues with the current noise ordinance. Mayor Neibart, Mr. Monaghan, and the police department conducted a noise experiment. Mr. Mills suggested sitting down to draft a noise and nuisance ordinance.

Volunteer Appreciation Reception

The appreciation reception will be held on December 13th, after the Township Committee meeting.

December Meetings

The appointments meeting was rescheduled to December 6th at 6:00 pm. The Reorganization meeting was rescheduled to January 5th at 7:00 pm.

Interviews for Request for Proposals

The committee members discussed the process to interview for professional services.

Sewer East and West Updates

Mr. Gabloff explained that Veolia’s requested an extension to their contract. He noted that Veolia has been very responsive, and the Sewer Committee recommends an extension to the contract for an additional five years. In addition, Mr. Gabloff noted that Sewer West needs approximately \$160,000 (but not confirmed) in improvements.

(Local) Agricultural Advisory Committee/Board

The committee expressed concerns about the make-up of the membership. There was a conversation about the committee being a working group, not formalized by ordinance, or if there was even a need for an advisory committee.

Updated Welcoming Sign

There was a discussion about the current township logo and a request for an official logo to address the updated welcoming sign.

Pitney Park Carry in/out policy

The committee received a request for trash cans at Pitney Park because it’s a walking trail for people and dogs. Currently, the township has a carry-in, carry-out policy. The committee recommended a dog waste station (trash can).

American Rescue Plan (ARP)

There was discussion on how to use the ARP funds; some suggestions were improvements to the sewer plant, general stormwater infrastructure in different areas of town, and technology upgrades in the municipal building.

Ralston Cider Mill Contract

The committee received a request to review the cider mill contract and authorize a renewal. Mayor Neibart requested a meeting, and she is awaiting a response from the representatives of the Cider Mill.

EXECUTIVE SESSION

The Township Committee recessed into closed session at 10:55 PM.

ADJOURN

Respectfully submitted,

Distributed: 04/22/2022
Approved: 04/25/2022

Maria F. Coppinger
Township Clerk

Attachments:

- Kim Hart, 17 North Gate Road
- Frank Zammataro, 40 Corey Lane
- Dorothea 'Dot' Stillinger, 216 Noe Avenue, Chatham Township
- Sarah Frelinghuysen, 58 Corey Lane
- Tracey Moreen, 52 Hardscrabble Road
- Wayne Dubin, 51 Hardscrabble Road
- Thomas Malman, Pitney Day
- Diana Orban Brown, Ironia Road

**TOWNSHIP OF MENDHAM
MORRIS COUNTY – NEW JERSEY**

ORDINANCE NO. 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**

WHEREAS; a request to change the zoning for Block 147, Lots 42.01 - 42.16 from and R-10 to an R-5 has been made by the property owner; and

WHEREAS; the properties contiguous are currently in the R-5 zone; and

WHEREAS, the Township Committee of the Township of Mendham has determined that based on the Township Master Plan this is a reasonable request based on the surrounding properties.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Township Committee of the Township of Mendham, the County of Morris, New Jersey as follows:

SECTION ONE: Block 147, Lots 42.1 - 42.16 is hereby changed from a R-10 zone to and R-5 zone.

SECTION TWO: The Mendham Township Zoning Map shall be amended to designate Block 147, Lots 147, Lots 42.1 - 42.16 R-5 Residential Zone.

SECTION THREE: Any ordinances inconsistent with this ordinance are hereby amended or repealed to the extent of such inconsistency.

SECTION FOUR: This ordinance shall take effect upon final adoption and publication as provided by law.

DISCUSSION FOR 11/22 T.C. MEETING

Good evening. I'm Kim Hart and live at 17 NG Road along with my husband Eric and daughters. We've lived here for 5 1/2 years and love the OK neighborhood. I've spoken before this committee about our many concerns related to the proposed brewery plan by BF Partners. In fact, **this is the only forum** so far where we have had an opportunity to have our voices heard.

We have been called the "Anti" group and have been vilified on social media and even in public comments at these meetings as being "anti-Backer, anti-farm and even anti-alcohol." We are none of those things.

We're concerned residents about a proposed plan that has the potential to change the very things most of us moved to Mendham for. Tonight though I'd like to share with you the process we've been subject to over the past 5 months to shed light on a different side of the story, one where we have tried to raise our concerns in various forums to no avail.

- We first heard about the plans for a brewery at Backer Farm from another concerned neighbor in mid-June 2021. We then received the minimum **10-day legal notice** which arrived Father's Day weekend.
 - It was a **2 page letter** that essentially notified of us of the hearing before the Planning Board on July 1st and directed us to view the application that was on file at the PB office.
- Instead of going to the office in Brookside, I went online to the MT website to view the application. It contained about **25 exhibits** that included documents from various experts, diagrams, drawings, surveys and pages of statutes. Their application was over **100 pages** in total.
- We later heard that the **brewery plan was proposed to the town in early 2020** - well over a year more than its neighbors were aware. Since that time, the MT **Master Plan** was updated and it appears that a Technical Review Committee probably met with BF Partners about the brewery plan.
- I am a lawyer but land use and municipal law is not in my wheel house. I spoke to friends who were also lawyers about the situation and the complexities of it. My husband and I concluded that given the short period of time we had to digest the information and be able to appropriately respond with our concerns that we should consider hiring an attorney to represent our interests. We decided that **for the first time in our 20 year marriage we would hire an attorney to represent us** other than in the buying/selling of our home and estate planning. We are not litigious people, but felt that strongly about our concerns and joined with 2 other neighbors who were interested in pursuing their rights and together we retained counsel.
- Since our attorney was newly retained and had only a couple of days to try and review the voluminous file before the July 1 hearing, she reached out to **request a short**

adjournment. She was not given that professional courtesy and instead was told she - and we - would need to appear at the July 1st hearing and make the request at that time.

- So we did. We and our attorney appeared on July 1st via Zoom. For some reason the BF Partners application was given a special meeting date of July 1st. Given that we didn't know if the adjournment would be granted, we also needed to prepare in the limited time we had.
- At the beginning of the hearing, our attorney **again requested an adjournment** in order to thoroughly review the application and respond.
 - She also raised the **issue of whether it was before the right board** given the nature and extent of the brewery application. We believed - and still do - that the Zoning Board should have had an application before it regarding the uses and the need for variances and waivers at Backer Farm.
 - Essentially both statements **regarding an adjournment and the jurisdictional question were ignored** and the PB hearing proceeded.
- As I believe everyone now knows, the 4 hours of testimony and questions that were asked were **lost** due to an apparent technical error with Zoom.
 - The hearing was supposed to be **redone** in August, but it was adjourned apparently by BF Partners until September 29 and then again until October 20th.
 - Despite our attorney having made an appearance on the record, we were not notified of these adjournments.
 - We continued to prepare for the hearing with our attorney, and with a group of additional concerned neighbors we raised funds and we **hired experts** to advise us on the many issues we were and remain concerned with - traffic, noise, environmental.
 - BF Partners submitted additional materials just days before the hearing, and then withdrew their application. We first were told it was **adjourned on October 18** and then learned of their **withdrawal on October 22**.
 - The letter of withdrawal to the PB did not advise that BF Partners had already filed or was in the process of filing an application before the Morris County Agriculture Development Board ("CADB"). We were not copied on their submission. **We only learned of that in mid-November and by chance** when our attorney wrote to the CADB inquiring about any submissions by BF Partners since nothing was listed on the website at that time.
- While the BF application was pending before the PB, because we believed that there was a significant **jurisdictional issue** related to whether the farm's current and proposed uses were permitted under MT ordinances, we filed an **application before the Zoning Board**.
 - We filed on Sept 17, 2021, and paid the \$200 filing fee as well as the \$1,000 escrow fee.
 - **We copied the attorney for BF Partners so they were aware of our application.**
 - We waited for a hearing date, which was set for **November 11**, and then provided the required notices to interested parties and the newspaper at our expense.

- We learned that the attorney for the Zoning Board represents a large farm and agri-tourism operation, including in disputes involving neighbors.
- Concerned that the Board attorney may be biased and therefore prejudiced against our application since a farm is involved, we requested that he recuse himself due to a perceived, if not actual, **conflict of interest**.
 - **Recusal** by an attorney or a board member happens frequently so that public confidence in the integrity of the process is maintained.
 - We did not receive an official response but our escrow account was debited for \$290 for time researching the conflict of interest issue.
- In the meantime, we prepared at length for the November 11th Zoning Board hearing with our attorney and the Planner that we hired.
- On November 9th - 2 days before our hearing - we discovered by happenstance that the hearing was **cancelled (not postponed)**, and not by us. Coincidentally, this cancellation was the day after the most recent Twp Committee meeting where several members of the Backer family and their supporters spoke.
 - Our Planner discovered the cancellation after going on the Twp website on Nov 9th to review documents and saw that the Nov 11th hearing was marked "**cancelled.**" So it was publicly announced before we as the applicants or our attorney were notified.
 - After making an inquiry to the zoning board secretary, our attorney then received an email from the secretary stating that it was **postponed** pending a determination by the CADB. Strangely, the editor of the local newspaper was copied on that email.
 - We were not yet aware there was an application by BF Partners pending before the CADB. The BF Partners attorney did eventually provide our attorney access to the documents in their CADB application.
 - Our attorney and other attorneys have said it is **highly unusual** for a Board to cancel or postpone a hearing, unless there's bad weather or lack of a quorum. And, typically at least a phone call to the Applicant's attorney would occur. That courtesy wasn't given to us. Moreover, the hearing on our application was not adjourned to another date. The hearing was cancelled, unilaterally by someone on the Zoning Board.
- **We have filed several formal letter requests asking for our interpretation application to proceed and a hearing to be scheduled as soon as possible. As of tonight, we still have not had any official response from the Zoning Board.**
- It appears that the prevailing view in town is that the proposed brewery is "a done deal." We do not believe that to be true. But we have been denied the opportunity to present our concerns and our case. **To have decisions that affect us made without telling us in advance and to overtly ignore our inquiries is disturbing is at best.**
 - As the Applicants on our interpretation application, we will have the burden of proof before the Zoning Board.
 - We may or may not succeed, but we certainly have the right to be heard as interested parties and request that the Zoning Board hear our application and interpret MT ordinances.

- In a letter to the Zoning Board just last week again requesting our right to be heard, our attorney states in part:

The BOA [the Board of Adjustment as our zoning board is called], and only the BOA, has the sole authority to interpret municipal zoning ordinances as granted under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq... The authority to interpret municipal ordinances is not granted to the Morris County Agriculture Development Board ("CADB") or to the State Agriculture Development Committee ("SADC").

The proposed brewery use and the other uses currently taking place on the Backer Farm property, such as large concerts by "tribute" bands, are a concern to many residents of Mendham Township. A determination of whether these uses are permitted agricultural uses under the zoning ordinance is a precursor to any decision to then be made by the CADB or SADC.... That determination has to be made by the BOA as the only entity granted such jurisdiction under State statute.

In summary, we have tried to play the game and followed the procedures required by the Planning Board and the application process for filing before the Zoning Board. Repeatedly, we have been ignored, seem to be held to a different standard than BF Partners and denied our right to be heard. It is wrong and it doesn't feel good. We are **tax-paying residents whose rights deserve as much attention as those of other applicants**. We want the opportunity to have our interpretation application heard by the Zoning Board.

So I ask this Committee, what recourse do we have? Do you believe that we are being treated fairly when our repeated requests to be heard go unanswered?

Thank you for the opportunity to speak this evening.

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)

November 22, 2021

Good evening. My name is Frank Zammataro and I reside at 41 Corey Lane. This is my second time addressing you on this topic. As some of you know, I've had quite the civics lesson since the November 8th meeting which has included researching the history of this beautiful space and the development of a formal protest petition, which I support, along with over 20 other neighbors in the adjacent and surrounding properties. You should all know that the silver lining for me in of all this activity has been meeting so many neighbors who have what I call **Wit & Grit!**

Lawrence Farmland is requesting non-restrictive approval to be rezoned from R-10 to R-5 siting that this is reasonable because all surrounding properties are zoned R-5. This is somewhat accurate. If you looks closely at a zoning map for the Township you will see many other areas intermingled, sharing adjacent R-5 and R-10 borders. It's one of many things that make the Township unique and special. In addition, the recent study referenced by the Lawrence Farm's attorney, which negates the negative effects of nitrates, fails to address the environmental concerns raised in the earlier 1994/96 study (which was used to justify the R-10 ruling) to protect groundwater reserves in the area. This was highlighted by my neighbor Bob Longo on November 8th. The question here is the rigor of the latest study versus the previous ones? Another precept of the original study, protecting New Jersey's headwaters of the Passaic River, which should certainly be given special consideration, does not appear to be addressed at all. More concerning are the minutes from the September 29th Planning Board meeting, which may have covered some of the proposed R-5 rationale. These minutes have yet to be approved and published not providing the public any time to understand what aspects of the study were discussed in earnest for such an important decision. The bottomline is more transparency and review is required now to make a great decision and not a mediocre one. I personally, as well as many of my neighbors, just don't understand why this ordinance vote need to be hurried?

I'm a bit of an idealist but definitely an optimist and I want to support the development of this land into revenue producing parcels which will support both Lawrence Farmland's objectives and the Township's growth. However, there is no discussion suggesting that this ordinance will protect the historic, rural and environmental beauty of the township. In fact, it may start a precedent for large landowners to rezone. Voting this rezoning in now potentially opens Pandora's Box in many ways and may not serve the best interests of the greater population in Mendham Township. Like I said on November 8th, a vote today will create winners and losers instead of a shared solution.

For these reasons, this current 15-2021 zoning ordinance vote should be delayed for a few months into a 2022 session affording the Township and the public time to have the planning board re-examine a new proposal by Lawrence Farmlands with conservation considerations in mind.

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)

As I have come to learn **Conservation Zoning** and Subdivisions allows development on a portion of a land parcel, with the remainder of the land placed in conservation. Homes can be sited on the property in such a way as to minimize impacts on natural resources and scenic views.

So there is an opportunity for Lawrence Farmlands to achieve their R-5 goal but to include conservation qualities to maintain privacy, water retention and recharging as well as avoiding clear cutting, protecting wildlife and the headwaters of the Passaic River and if they choose to sell the property wholesale, those conservation qualities will survive.

I'm not saying shut the door on Lawrence Farmlands, but let's make sure that its rezoning transition is **completely, and not partially**, in sync with our Master Plan. All masters and special interests can be served here with creative and innovative zoning consideration. Perhaps today this Mendham Township Committee will make local history by setting the pace for logical and incremental growth while protecting our natural resources and historical character. Maybe Mendham Township will become unique in New Jersey with a new zoning approach for **smart sustainable growth**.

Please delay this vote till after the new year and have the Planning Board help Lawrence Farms come back with a conservation zoning approach we can all be proud of. In the end we will all become the best advocates to help bring new families, new neighbors into this beautiful space. Taking the time now will set the right precedent for the entire Township.

When you all check your conscience today around this decision please think about your willingness to sacrifice just a few months of time for all the future Mendham Township generations whose thank you, you'll never hear. So, for those future generations, I would like to thank you again for your service to the Township and for a thoughtful deliberation and consideration of this delay and further study request.

Thank you again and my offer stands to help with the conservation review in any way possible.

I wish you all a Happy Thanksgiving.

From: Dorothea K. Stillinger [REDACTED]
Sent: Monday, November 22, 2021 8:30 PM
To: Mendham Township Clerk
Subject: Here are my remarks from tonight's Twp meeting

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Maria - Here are my remarks from tonight's Twp meeting. Thanks again for all your help. Really.

Remarks for Mendham Township Committee 11-22-21 Representing the Great Swamp Watershed Association

Dorothea Stillinger
216 Noe Avenue
Chatham, NJ 07928
[REDACTED]

Good evening and thank you for this opportunity to speak.

The Great Swamp Watershed Association's primary mission is to protect water quality within the Great Swamp watershed. There are three mapped tributaries of the Passaic River with their tops, their very beginnings, in the Irene property. Any pollution in these tributaries will cascade downstream causing harm along the way. No matter how strict septic systems are regulated or how fertilizers are supposed to be managed on lawns, inevitably unwanted substances are going to be washed into streams.

When the Township changed the zoning from 5 acres to 10 acres in 2003 I understand it was out of concern for an environmentally sensitive area with no sewers and drinking water only from wells. Environmentally, nothing has changed since then. All the reasons for the 10 acre zoning are still valid, and are a consideration for the Watershed Association.

And a little nitpicking here:

- the developer's report says the market doesn't support 10 acre properties. Could it be that the "marketing" is a factor? How is the market different for 5 acre properties?
- There are many 10 acre lots adjacent or near the subject property, not just 5 acre lots.
- Could revitalizing the Township's tax base be better served by looking more closely at areas around current smaller lot zoning near major roads and shopping?

If you think it would be useful to you for exploring more deeply into the current conditions on the tract, the Great Swamp Watershed Association would like to look into conducting an environmental assessment. Of course, it would require the property owner's consent.

The developer's report, while very thorough, did not delve deeply into environmental details such as soil types and suitability for septic and infiltration, vegetation, historical uses including chemicals used for farming, fauna and habitat requirements, true extent of wetlands and buffers as indicated by on-site NJDEP LOIs (that is, certified environmental personnel visit the property, take soil borings and determine the true extent of wetlands), potential for erosion and increased drainage onto neighboring properties.

I'm grateful for having the chance to present the Watershed Association's point of view on this issue. Thanks again.

=====



Larry

1 message

Sarah Frelinghuysen

[REDACTED]

Draft

Sun, Nov 21, 2021 at 8:47 PM

Hi, I'm Sarah Frelinghuysen and I live at 58 Corey Lane. I am here to ask the Township Committee not acquiesce to the pressure of an individual who has spent years trying to circumvent and undermine the Townships existing rules and regulations to facilitate his potential for financial gain. Mr. Irene has had innumerable opportunities to actively market his land and/or adjust his price point down to a more saleable level. The burden should not fall to the members of this Township Committee(s) to grandfather in Mr. Irene's demand to rezone simply because at one moment in time, many years ago, his lots were temporarily zoned for five acre parcels. It's the duty of the Township Committee to consider the broad and overwhelmingly detrimental implications of making the proverbial "exception to the rule" for an individual who has demonstrated little interest in making personal efforts or sacrifices to sell his property. Why should the onus fall on the shoulders of the Township Committee to offer Mr. Irene an additional loophole to flagrantly maintain his exorbitant pricing while asking him for no additional compromises nor conditions in return? The negative implications of this proposal far outweigh Mr. Irene's potential financial windfall. I urge you to consider reversing the Planning boards decision to move forward with the rezoning.

My name is Tracey Moreen. I live at 52 Hardscrabble Road. I may take longer than 5 minutes but not longer than 10, as I am presenting new information today.

I am one of the more than 20 property owners who signed the petition against the Ordinance before you today. It is incredibly important that you vote "no" on this ordinance, as it is too broad, benefits one individual while impacting many others, sets an R5 precedent for the town that we cannot reverse, ignores the original reasons for the R10 zoning, could result in environmental impact, and precedes important debate on the Master Plan that the community never really had in June.

Mr. Irene's lawyer stood up in the last meeting and said that this has been in process for years and that the Nitrate study refutes any possible issues with further densifying the land. For the neighbors, it has not been going on for 2 years – it has been 2 months.. The good news is that there is a reason for notification rules, and all of us engaged when we found out about this proposal. That means the process and our democracy is working. It isn't too late to reverse course on this ordinance or on the Master Plan and let the community participate in landing on the right answer, as this is about **so much more** than a nitrate study.

I want to talk about three things –

1. the Environment
2. the Master Plan and R10 zones
3. the History of the Property

Research Introduction

After the last meeting, I came here to the Town Hall with Lynn Dubin and sat here for 6 hours reading the Township Committee Meeting minutes from 2002 – 2005, the Planning Board Meeting Minutes from 2002-2005, and the two file cabinet drawers full of historical documents related to Spring Tree Farms.

I want to thank Beth Foley and Maria for helping me – the emails, the OPRA requests, etc. If any of you have NOT read these minutes and documents, I encourage you to do that, as I am not sure how you can vote 'yes' on this ordinance without reading the history of the situation yourself – rather than relying on hearsay.

Environment

I was surprised at what I found out through all of my reading. People remind me not to be a "Not in my back yard" person – a NIMBY. In this case, I am proud to be a Not in Back Yard person because it turns out that my backyard is critically important from an environmental perspective – so much so that I am not sure how the R10 Spring Tree Farms Development was ever approved.

So, when this committee says, "it is only 10 more houses" or "Have you driven in Oak Knoll - it has lovely 5 acre lots" I think that you are discounting WHERE these houses would be built and how much forest area would have to be removed to put those houses in. People move here for open spaces, wildlife, forests, etc.

Let me share some of the things I found related to the environment....

- The Headwaters of the Passaic run adjacent to this property. This alone is a significant reason not to allow the further housing density increase on the land – the original 16 houses are already too many
- The Wetlands on the land are “Exceptional Wetlands”– designated by the state NJEP agency. There are letters to the Irene lawyers designating several of the lots as having these Exceptional wetlands = meaning “the wetlands include those which discharge into trout production waters or those which support habitat for endangered or threatened species.” Exceptional wetlands require 150 ft of transition, and those are on the maps you have, but is that enough?
- In one document Larry Irene agreed to comply with new state Flood Hazard Control Area Rules, but a few months later, his lawyers successfully argued that he should be grandfathered from compliance. These rules contain a 300 foot “Riparian Zone” requirement related to Wetlands and stream encroachment. The approved plans gave only a 150 foot conservation zone. This doesn’t even take into consideration the Highlands Act.
- Small Conservation easements were proposed to be given to the town in 2003/2004 10 lots - 42.01, .02, .04, .05, .06, .07, .08, .09, .10, .11 – but is that enough? We need conservation zones – not easements.
- The 2002 Master Plan stated in the Appendix that existing Lot 42 as one of the lots that should be preserved for public Open Space – as there is a link to Lewis Morris Park. In one document in 2002, it talks about increasing the use of “conservation easements” and “alternate zoning techniques to preserve large open space areas”. Yet, 20 years later, we are doing the opposite. Why?
- The documents pointed out that “All of Mendham Township is designated as Environmentally Sensitive in the State Plan because of the critical water resources located within the Township.” The State Plan’s policies for environmentally sensitive areas are for limited growth carefully in balance with sensitive environmental features. Why are we ignoring that point. Have State Plan policies changed?

Furthermore, on the environment, we have federally endangered bats that live in the forests of this land – I see them fly over in the summer, so they are not fictitious – the Indiana bat is also in the Environmental Protection letters sent to Mr. Irene. I never thought I would be that neighbor talking about saving the bats, but here I am. This picture from the town’s 2013 environmental Resources Inventory shows that most of Spring Tree Farm is labeled as having “Federally Endangered” species (show picture).

R10 Zoning Discussion

Now about the Master Plan. On this, I feel that I am representing the community. Yes, the Master Plan Authors may have legally circumvented the illegality of spot zoning with the changes you put in the latest Master Plan, but I wonder - if the Master Plan change that emphasizes development was put up for a public referendum, would it be supported by the community? I don’t think it would. I think that our town architects, real estate agents, real estate investors, and developers would support it – but not many others would.

This Ordinance is the first that clearly shows that this Town Committee has decided to ignore the thoughtful establishment of R10 zones in 2002/2003 that was done through a formal Ordinance. Instead of introducing an Ordinance to reverse that huge decision and let the town debate it, this

process has been quick and not transparent – first with a change to the Master Plan and now this Ordinance to change one part of the R10 zoning. . Starting with this one, narrow Ordinance does not make sense for multiple reasons, and it sets a precedent for the dissolution of all R10 Zones in our town that were put there intentionally to slow development and retain open spaces.

Go back and read the 2002 and 2003 minutes – read about the time taken to thoughtfully try to preserve our town. As part of the movement to preserve open space, the guideline introduced was “New very low density districts (10 acres) should be created in areas with an existing pattern of very low density development”

Groundwater availability was the most significant reason the zones were done, but not the only reason

From the 2002 Master Plan news release *“The plan was drafted to address three issues of greatest concern to Mendham Township residents. Residents have reported increasing problems with groundwater wells and many were concerned about the increased development trend toward extremely large homes on minimum sized lots was negatively affecting their neighborhoods. Other residents were concerned about the increased development in recent years and its general affect on changing the historic nature of the town”*

and from the plan itself... *“Open space preservation must be given immediate priority.”*

And from other Town Committee documents...

““The Land Use Plan” recommends reasonable changes to the Township’s zone plan to limit development consistent with the findings of the study. However, zoning changes will only partially meet the recommendations in the Study. As a Result, the Land Use Plan also recommends an open space preservation program as a necessary part of the Township’s land use planning. A substantial portion of Mendham Township’s remaining privately owned open space will need to be preserved in order to meet Township and State goals.”

Why are these no longer our goals? I don’t get it. We are a community – not a business – we don’t need to more taxable rateables at all costs. We just don’t.

History of the Property

I did deep research on the history of the property – there was much to be read in the 2 files cabinet drawers. One of you characterized this as very simple – it was 5 acres before – it is surrounded by 5 acre lots (which are actually bigger than 5 acres) - “we are just going back to 5 acres”. I suppose this is correct in the letter of the legal processes, but it lacks important context. This was a large 180 acre horse farm with magnificent forests and open spaces that many in the community wanted to preserve – this wasn’t a vacant field that was spliced into 5 acre lots that could be developed. Don’t let people rewrite history on a technicality – we are not just “going back to the past”.

Some notes on history...

- Pre-1981 Farm – letter in files from 1979 highlighting the importance of preserving the Passaic
- 1981 – The Ellingtons applied to make the farm a full Horse Stable and proposed an arena
- 1996 – First record in Township records of Irene owning the property – submitted proposal to Build a home on the land and do more than board horses (one R5 Zone)

- 2002 – first start of discussions on what Irene will do with the land – Irene threatens to let the Stables go because it is “draining him” and he offers to preserve 100 acres if he can do something with the other 80
- Feb 2003 – Full Proposed Development plan submitted with 10-acre zoned lots – proposal to move from Farmland zoned to R10 Residential Zoning, multiple roads that were changed due to Egress debates, etc. He proposed the lot lines.
- 2004 – Proposal accepted by Township Committee & Planning Board
 - o Most arguments & acceptance of compromises based on the fact that it was 10 acre lots
 - o Environmental Protection Agency submitted letter of interpretation at Larry’s request – named 4 areas on the property “Exceptional Wetlands”
 - o The 42.02 Lot – “The Prairie” has Wetlands and then 150 feet of additional protection making it hard to build a house on it – the Township Committee asked for a house to be built behind the trees and that was written in the “Resolution” passed at the time
 - o The Passaic River and the headwaters are mentioned multiple times as concerns and Larry Irene committed to preservation conditions in the Resolutions
 - o Storm Water Management was an issue – many iterations – put in 5 basins
 - o Many references to preserving the “environmental community character and preservation goals”
 - o Historic Preservation Committee recommended that the open fields that are highly visible be preserved; negotiations were completed to preserve lot 42.02 to maintain the vista views
 - o The access to the development was proposed on Exmoor and then off Beverly – the Beverly people got a lawyer and that was changed
- It took Mr. Irene 6 years from 2003 to 2009 to sort out the water situation – he got 3 one-year extensions for “zoning protection” to continue his development (there was an expiration date that needed to be extended). If he was given 6 years to sort out his development, why are we in such a hurry to pass this ordinance? Let’s take a few months or years to get this right.

Conclusion

- In summary, some say “Larry has a right to the develop his land” – well, the town allowed him that right with the current lot structure, and he got many concessions from the town – he should not get more just because time has passed and he waited until a Town Committee was elected that is pro-development to reverse his previous agreements.
- Everyone is speaking of win-wins and compromise, but Larry Irene already won with his original development, especially in light of the environmental sensitivity of the area. Any additional concessions that he is granted is a loss – not a win - for Mendham at large.
- In terms of a possible compromise - If you follow the Master Plan concepts about Wetlands, Headwaters, Forest Preservation, and Vista preservation on Hardscrabble, and if you look at the environmental maps and not just the white maps of the lots, I can count 4 lots that can be broken up and developed without going against the spirit of the Master Plan.
- I encourage you to vote “no” on this ordinance. If you choose to bring this up again in 2022, the new ordinance should not pass without a lot more thought and input by the community at large and with the involvement of conservationists, preservation experts, and government environmental agencies.

Good Evening,

My name is Wayne Dubin. My wife, Lynn and I reside at 51 Hardscrabble Road, Mendham NJ. We purchased this property in 2014 and established residence in April 2017. I am grateful for this opportunity to speak regarding Pending Ordinance No.15-2021. I thank you the members of the Mendham Town Council for your service to the community and your time this evening as I read my prepared remarks.

It is in fact a privilege to live in such a beautiful area and we are all fortunate. Often the word responsibility comes up and more frequently the word stewardship when referencing how it feels to live in an area that includes the headwaters of the Passaic River and lands that have never been farmed. The land was here before any of us and will be here when all of us are gone.

Leadership in Mendham Township must make sure the development decisions made on previously undeveloped or barely developed lands is a win for everyone.

As our neighbor, Frank Zammataro indicated earlier, many of us are on the receiving end of a recent civics lesson. Over the past two weeks, we have heard that Block 147, Lot 42.01 thru 42.16 are in the area known as the NJ Highlands. We have heard the Planning Board notes from September have not published nor are they available for public review, and most recently this question, "Does the Planning Board make recommendations to the Town Council prior to the second reading of a zoning change?" Are some of these true statements? Are any of them accurate? Are all of them accurate and true to some extent? Many of us just do not know.

We respectfully request a delay in order to find out more about the unpublished Planning Board meeting from September and to better understand the impact and implications of Pending Ordinance No. 15-2021.

Current zoning allows sixteen homes to be built on the property in question. Many of us have not lived in this area long enough to know the history of Lawrence Farmlands or the history of the area from a development standpoint. Considering there is one home on this property presently and the only activity we have actually witnessed (since 2014) is the demolition of small buildings on the site, why the hurry to get this approved when there are so many unanswered questions?

Is Conservation Zoning an option? What does the new Master Plan say about conservation, riparian zones, erosion/erosion controls, and carbon replacement with the loss of trees to name just a few concerns? Mendham is unique. It is not Randolph, or Chester or Morristown. We all understand the importance for growth. Let us not lose the local character and our town's identity in the process.

What precedent does approving Pending Ordinance No.15-2021 establish? Does this become the basis for other large private landowners to seek more favorable development/building zoning for their properties in the township? Is that the intent of moving this forward?

Back to my earlier remarks: the land in question includes the headwaters of the Passaic River and includes land never farmed going back to the earliest maps on record. Before you vote, we

ask this council to delay so more fact-finding, fact checking on the part of Mendham residents can take place, and everyone can fully understand the implications of this pending ordinance.

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November 15, 2021

Mayor Neibart and Mendham Township Committee Members
Township Hall
W. Main Street and Cherry Lane
P.O. Box 520
Brookside, New Jersey 07926

Re: Lawrence Farmland, LLC
Exmoor Drive
Block 147, Lots 42.01-42.16 (Property")

Dear Mayor Neibart and Township Committee Members:

Please recall that this firm represents Lawrence Farmland, LLC, the owner of the Property. By letter dated January 23, 2020, my client requested that the Township Committee consider re-zoning the Property, which consists of approximately 183 acres and is presently comprised of sixteen (16) lots, from its current R-10 zone designation to the R-5 zone. In that letter, a copy of which is attached as Exhibit A, I noted that the lots were created by a 2003 subdivision and that they range in size from approximately 10 acres to approximately 13 acres. Moreover, the Property is largely undeveloped and is served by Exmoor Drive, a private road that was fully constructed in accordance with the subdivision approval. In support of my clients request to re-zone the Property, I submitted a report prepared by Burgis Associates. A copy of that report is attached as Exhibit B.

Since the submission of our request to re-zone the property almost two years ago, a number of significant events have occurred. Perhaps most significantly, the Township received the updated Nitrate Dilution Model and Current Planning Capacity Model Report ("2020 Report"). The 2020 Report was prepared in response to a recommendation in the 2018 Master Plan Re-Examination Report. The 2020 Report was intended to update prior nitrate dilution studies conducted in the 1990's which served as the basis for "down zoning" many properties throughout the Township, including the Property, which was re-zoned from R-5 to R-10 as a result of these studies. Among other things, the 2020 Report confirmed that the Township could accommodate more growth than had been projected in the nitrate dilution studies conducted in the 1990's without jeopardizing the Township's water resources. The 2020 Report found that lot sizes ranging from 3.7 to 3.09 acres in size could be properly accommodated.

In addition to the 2020 Report, the Planning Board, in June of 2021, adopted an updated Land Use Plan and Housing Element of the Master Plan ("2021 Master Plan Amendment"). The 2021 Master Plan Amendment, among other things, specifically incorporates the findings of the 2020 report. Moreover, the 2021 Master Plan Amendment specifically states that: "there are areas of the Township that could accommodate new development through subdivision of existing lots while still maintaining the existing character. The Township should consider rezoning certain areas where new development would be appropriate" *2020 Master Plan Amendment at page 17*. The 2020 Master Plan Amendment also specifically references the appropriateness of the minimum lot sizes identified in the 2020 Report by stating that "future subdivisions or zone changes, including those located in zones with larger minimum lot sizes, should align with the recommendation for a 3.7 to 3.9 acres minimum lot area." *Id. at p. 21*. Moreover, the 2020 Master Plan Amendment states that "Mendham Township has the ability to accommodate growth" and that the 2020 Report gives "assurance that the Township has room for growth albeit with still fairly large lot sizes." *Id.*

In response to my client's request to re-zone the Property, the Township requested that its planning, engineering and wastewater consultants review the proposed zoning change. None of these consultants expressed any concerns about the proposed change from the R-10 zone to the R-5 zone. Rather, they expressed support for the proposed change. By report dated 8, 2020, a copy of which is attached as Exhibit C, Jack Szczepanski, PhD, Princeton Hydro, LLC, stated that the rezoning of the Property "will not have a significant impact to groundwater quality" and that the Property contains "Hydrologic Soil Group B soils which drain well and would likely be better able to dilute nitrogen." Additionally, he noted that rezoning the Property from "R-10 to R-5 will have less of a negative impact to the land's nitrate diluting capabilities since most of the proposed lots will be more than the minimum area required for recharge." Mr. Szczepanski further notes that "existing environmental conditions ...will be evaluated once ...development plans are submitted to the board; but the environmental constraints do not specifically impact the zoning decisions at this time."

On October 16, 2020, the Township's Engineer, Denis Keenan, P.E., issued a report regarding the proposed rezoning, a copy of which is attached as Exhibit D. In that report, Mr. Keenan noted that the Property contains 16 lots and that the proposed rezoning could result in an additional 16 lots. However, he explained that the existing roadway infrastructure would serve not only the existing lots but any new lots as well. He specifically stated that "it is likely that the change in zoning would not trigger any new roadways and all newly created lots could be developed utilizing the existing roadway network." Mr. Keenan also noted that "Hardscrabble Road is not a significant generator of traffic... [t]herefore it is not anticipated that the traffic generated from 16 additional homes would have a significant impact on the serviceability of the roadway."

On October 16, 2020, The Township's Planner, Jeffrey Janota, PP, AICP, issued a report regarding the proposed rezoning, a copy of which is attached as Exhibit E. Mr. Janota noted that a conceptual development plan for the Property would add an additional ten lots to the Property. He also noted that many of the lots on the Property border lots in the R-5 zone. He also opined


that "given that many of the lots are bordered by the R-5 zone, a rezoning to the R-5 zone would be in line with the development pattern of this area of the Township." He also noted that the Property "had also been previously zoned for R-5 prior to the change in zoning that resulted from the 2002 Master Plan." Mr. Janota also noted that the proposed rezoning of the Property would create new lots that "would be larger than the minimum lot sizes than the 2020 Nitrate Study recommends are needed to maintain the quality of the Township's groundwater."

After reviewing and considering all of the forgoing materials and information, the Township Committee introduced Ordinance No. 15-2021 ("Ordinance"), which provides for the rezoning of the Property from R-10 to R-5. The Ordinance specifically notes that the Property is "contiguous" with R-5 properties and that the proposed rezoning is "reasonable" based upon the Township's Master Plan. The Township Committee referred the Ordinance to the Planning Board for a determination of its consistency with the Master Plan. The Planning Board referred the Ordinance to the Township Planner, Ryan Conklin, PP, AICP, CFM, GISP, for review. By report dated September 14, 2021, a copy of which is attached as Exhibit F, Mr. Conklin determined that the Ordinance "is consistent" with the Master Plan. Subsequently, the Planning Board accepted Mr. Conklin's recommendation and determined that the Ordinance is consistent with the Master Plan.

Given the extensive review that has been undertaken regarding the Ordinance, I respectfully submit that there is no legitimate reason for the Township Committee to further delay adoption of the Ordinance. Although some neighbors have appeared at recent public hearings to raise concerns about the Ordinance, none of those concerns has significant merit. The objections expressed by neighbors include concerns about overdevelopment, inconsistency with the Master Plan, disrupting the Township's rural character, harming the Township's groundwater, and creating traffic issues. As noted above, all of these issues have been properly considered and rejected. Some neighbors have suggested that the rezoning constitutes spot zoning. That argument is specious given the size of the Property, the fact that the Property was originally in the R-5 zone and that 2021 Master Plan Amendment specifically supports the proposed rezoning. Some other neighbors have suggested that the rezoning process must be slowed down so that a "thoughtful" review can occur. Given the almost two year period of time that has elapsed since my client submitted the rezoning request and the extensive investigation by the Planning Board and the Township's consultants, I respectfully submit that the proposed zoning change has received a very "thoughtful" and comprehensive review.

For all of the reasons stated above, I respectfully request that the Township Committee adopt the Ordinance at its next meeting. Thank you.

Very truly yours,



Thomas J. Malman

cc. John Mills, III, Esq. (w/enc.)

Diana Orban Brown, Ironia Road.

On October 21, 2020 – so a little over a year ago – I attended a meeting of the Planning Board at which two issues were presented.

The first was a request to re-zone the Spring Tree Farm/Lawrence Farmland development to 5 acres from 10 acres. The reason was offered that 10-acre lots were unmarketable under the conditions of that time and most of the properties around this parcel were 5 acres in size.

The other was a request by a landowner on Mountainside Road to re-zone his seven-acre property from the 3-acre zone to a 1-acre zone, which he said was similar to the zoning somewhat east of his property. His reasoning was that it would be better for him if he could subdivide his property to build six houses on 1-acre lots rather than just two houses on 3-acre lots. I guess he did the math.

These two issues were sent to the Planning Board by the Township Committee for the board's recommendation. The Board opined that since the Master Plan was still under review they would not make a recommendation.

However, one Planning Board member made some interesting comments. You can check the minutes. He said, "Developers who buy properties such as, for example, Lawrence Farmland with 10-acre zoning are taking the entrepreneurial risk when buying such a property for development. He added that "the Board does not wish to be callous, but also cannot facilitate their success." He also said such an accommodation would be unfair to residents who built in a 10-acre zone.

As you know, there were several other parts of town that were designated as 10-acre zones.

We see what has happened with the Sisters' Mosle property, now known as Hillandale. In no conceivable way did the town fathers and administration at the time ever envision that that 18-acre parcel would evolve into 44 townhouses – unrestricted by age, number of occupants or any other qualifications! But after nibbling away for a number of years over what could be developed there, 44 townhouses is what we have.

You see where I'm going with this.

So a fellow down the street from me in the "new" 10-acre zone has 40 acres that he's looking to sell. What if he uses Lawrence Farmland, Hillandale and the fellow from Mountainside Road as models. What if he whittled down future Township Committees over a period of years. We could wind up with 10 homes, 40 homes or – if he was really good at whittling and nibbling -- 88 or 90 townhouses in what used to be bucolic farmland.

Let's not allow this to happen. There needs to be much more thoughtful discussion and consideration to the zoning ordinance.