

**TOWNSHIP COMMITTEE
TOWNSHIP OF MENDHAM
REGULAR MEETING**

DATE: March 14, 2022

TIME: 7:30 PM

LOCATION: Municipal Building and Remote Via Zoom

ROLL CALL

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

Also, present

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

SALUTE TO THE FLAG – Led by Mayor Monaghan

STATEMENT OF ADEQUATE NOTICE – Read by Mayor Monaghan

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 10, 2022. Notice was posted on the bulletin board in the township offices and notice was filed with the Township Clerk.

PROCLAMATIONS

- Recognizing March as Women’s History Month
- In Support of Ukraine

RECOGNIZING NEW MEMBER

Lt. Gisser introduced Milagros Lombardo, Explorer Member, who applied to be a member of the Brookside Engine Company.

COVID – 19 UPDATE

Ms. Neibart noted we have moved from pandemic to endemic state. The governor issued his last daily briefing on March 4th and it has been two years since the first case of Covid 19.

ANNOUNCEMENTS

Ms. Duarte and Ms. Neibart announced the upcoming events in the township and county.

OPEN TO THE PUBLIC

Melissa Saharko – 103 Ironia Road – On behalf of the Historic Preservation Committee, Ms. Saharko shared her interaction with a previous resident. The resident, who now lives in New Mexico, expressed that she wanted to put pieces of her childhood together. The resident was looking for a picture of her childhood home (15 West Main). It so happened that Ms. Saharko had a photo from a previous project that was indexed and preserved, which she could share with the resident. The resident was delighted and thanked Ms. Saharko for giving her memories back. Ms. Saharko wanted to share the interaction so the township committee could understand what the HPC does, which she could not have pulled that photo have iterations of HPC not done that work. The HPC hopes to take all these photos and put them online. They have over 4,000 images that they can put online right away; we hope to do that next.

Marion Koste – 92 Ironia Road – Ms. Koste thanked the officers of the police department (Rocco and Joe) and the First Aid Squad for their assistance during an emergency situation that occurred at her home on January 28th.

Bernadette Koenig – 13 North Gate Road – Statement attached.

Kim Hart – 17 North Gate Road – Statement attached.

Wayne Dubin – 51 Hardscrabble Road, Mendham Borough – Mr. Dubin asked if the meeting minutes for the Township Committee and Planning Board were available.

George Koenig – 13 North Gate Road – Mr. Koenig made the following comments regarding the AG Board’s request and proposed noise ordinance:

- Regarding the AG Board asking the Township Committee for input on hours, lighting, and parking, he understands that the AG Board weighs heavily on those areas; there's case law that may support a town's ability to control those three areas. If that's the case, he recommended the Township Committee be as conservative as possible.
- Regarding Ms. Voight's recent letter, she indicated that the variances and waivers required for this project are overly burdensome. He asked the committee to look at it this way; if he shared that a 78 seat in a 22 standing room WAWA would be built in Mendham Township, the committee's reaction would be, "No Way." So, he asked what's the difference between a WAWA, a diner, or a brewery in terms of community impact. He noted that farms would not bring the township any more money in their commercial activities. Therefore, the township could probably tax (ratable) a WAWA or a diner, which is one difference.

- Still, in terms of cars, traffic, noise, increased policing, and increased EMT services, these are all adverse impacts that any commercial development would have on the township. He expressed that it's not a popularity contest when the residents say they are concerned. He indicated that this is a zoning issue and that the township needs to focus on it as a zoning issue.
- Regarding the noise (ordinance) proposal, he thanked the committee for addressing the issue. He proposed that a few comments or changes were needed; page 4 has an exemption for agriculture. However, recently the Noise Control Council of New Jersey had a new definition for background, live or recorded music. This new wording keeps traditional farming, tractor noise, etc., in place, but as it applies to entertainment activities, they define auxiliary entertainment activities. Mr. Koenig provided the new definition, which addressed music at a farm as a marketing tool. The Noise Control Council said that this is not overriding state law; they are leaving it up to municipalities to take this language and put it in a noise ordinance, which is his request tonight. Lastly, his noise consultant had concerns about the decibels and their calibration.

Marta Longo - 42 Corey Lane - Thank you for supporting the proclamation in support of Ukraine. Ms. Longo wanted to know if there is an official date for discussing the changes to the Master Plan.

Eric Hart – 17 North Gate Road – Mr. Hart commented on the application for the farm brewery that is currently with the county AG board. He expressed that the brewery proposal is far too large for Mendham’s quiet residential area. He noted that the letter from the Backer’s attorney referenced other vineyards in the state; however, he acknowledged the uniqueness of Mendham Township. He also stated that some of the attorney’s examples refer to farms up to 500 acres. The brewery proposal is 37 acres; only 15 acres are built. He asked the township committee, as others have implored, to consider all the factors. He requested the committee create a forum (open to everyone) to discuss the brewery proposal. He mentioned that the residents are asking for a consistent point of view that the township already put forth last year. And avoid the creation of a large destination farm which is essentially a commercial business in a residential zone, which is not why they moved to Mendham Township.

Terril Doyle – 5 Cross Way – Ms. Doyle commented on the brewery proposal noting that there were some concerns around whether or not a brewery falls under the Right to Farm Act. She also spoke about the idea of special events held at protected farms; she noted Governor Christie vetoed the legislation to allow for special events on protected farms.

Peter Banos - 47 Ironia Road, Mendham Borough – Mr. Banos reminded the public that the Morris County Agriculture Development Board deemed the 9/11 concert at Backer Farm violated the easement deed. He doesn’t want to see a brewery on 32 Ironia Road; he loves Mendham for peace and tranquility. He requested that the Township Committee get the (brewery) application away from the AG board and back to the planning board.

Steve Dreskin – 3 Roxiticus Road – He shares his neighbor’s concern about Backer Brewery. He expressed that it is ludicrous for a small community of 6,000 residents to pay for the additional tax bill required for the infrastructure to ensure that the business can succeed. The township should ask for an independent consultant in each area, paid for by the applicant. He expressed that the brewery will not provide additional tax revenues; the benefits would only be to the family or the professional brewery they sell to as soon as approved. He sees the potential for lively concerts every weekend from May through October as a recipe for chaos; it will ruin our town. Mr. Dreskin outlined additional concerns with the proposal. He directed the committee’s attention to Screamin’ Hill Brewery, noting their limitations, allowing for a friendlier neighborhood. He also echoed his neighbors’ gratitude to the committee for all their hard work, but it’s important that we not ruin our town.

Motion made by Mr. Orlins to close the public comment section; Seconded by Ms. Duarte. All members present voted in favor.

APPROVAL OF MEETING MINUTES

- June 28, 2021 Executive Session Meeting
 - January 24, 2022 Special and Regular Meeting
- July 26, 2021 Regular Meeting
 - February 2, 2022 Regular Meeting

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

RESOLUTIONS – CONSENT AGENDA

The following resolutions were submitted to the Township Committee for review and made available to the public for inspection prior to the meeting, and may be adopted by one motion.

- 2022-044

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
- 2022-045

Resolution of the Township Committee of the Township of Mendham to Support the Grant Application of the County of Morris as Part of the 2022 Local Safety Program for Intersection of Cold Hill Road and Main Street
- 2022-046

Resolution of the Township Committee of the Township of Mendham for the “Waiving” of the Claimant Certification as Allowable in Certain Circumstances Based Upon N.J.A.C 5:30-9a.6(C) and N.J.A.C. 5-31-4.1
- 2022-047

Resolution of the Township Committee of the Township of Mendham Authorizing Purchases with Certain Approved Cooperative Purchasing Contracts and New Jersey State Contracts Pursuant To N.J.S.A 40a: 11-11, N.J.A.C. 5:34-7.1 And N.J.S.A. 40a:11-12 (Calendar Year 2022)

- 2022-048

Resolution of the Township Committee of the Township of Mendham Authorizing the Redemption of Municipal Tax Sale Certificate
- 2022-049

Resolution of the Township Committee of the Township of Mendham Urging the Swift Passage of S-330 and A-1012 which Restores Energy Tax Receipts
- 2022-050

Resolution of the Township Committee of the Township of Mendham Authorizing the Payment of Bills

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

RESOLUTIONS - REGULAR AGENDA

- 2022-051

Resolution of the Township Committee of the Township of Mendham Temporary Capital Budget for Sewer East Utility and Sewer West Utility

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

ORDINANCE – FIRST READING

- 01-2022

Ordinance Appropriating \$20,000 from the Mendham Sewer East Capital Improvement Fund in Order to Provide for the Installation of a Telemetry System for the Mendham Sewer East Utility to Provide Communication Between the Plant and the Pump Station in and by the Township of Mendham, in the County of Morris, New Jersey

Public hearing scheduled for Monday, March 28, 2022

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

- 02-2022

Bond Ordinance Providing for the Improvement of the Mendham West Sewer Utility System in and by the Township of Mendham, in the County of Morris, New Jersey, Appropriating \$200,000 Therefor and Authorizing the Issuance of \$190,000 Bonds or Notes of the Township to Finance Part of the Cost Thereof

Public hearing scheduled for Monday, March 28, 2022

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

- 03-2022

An Ordinance of the Township of Mendham Amending Chapter 229 “Noise”

Public hearing scheduled for Monday, March 28, 2022

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

The Township Committee discussed possible revisions to the ordinance, which Mr. Mills will review and provide an amendment(s), if necessary.

Due to potential revisions, Ms. Duarte made a motion to table Ordinance 03-2022; there was no second to the motion.

- 04-2022

An Ordinance authorizing the execution of a lease agreement between the Township of Mendham and the Ralston Cider Mill a non-profit corporation

Public hearing scheduled for Monday, March 28, 2022

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

OPEN TO THE PUBLIC

Robert Fox – 34 Old Mill Road – Mr. Fox asked when the revised noise ordinance would be available to view.

Terrill Doyle -5 Cross Way – Ms. Doyle asked for clarification on the procedure to review and adopt the noise ordinance.

Marian Koste – 92 Ironia Road – Ms. Koste asked if the noise control officer would be a member of the police department. She asked for clarification on the noise ordinance, specifically the prohibited noise (commercial vs. residential) section. Ms. Koste suggested providing examples of noise levels.

Mary Michailidis – 10 Thackery Lane – Ms. Michailidis expressed that everyone must be allowed to speak and say whatever they want, even if it is redundant; this is in response to Mr. Baio’s comment about redundancy during the public comment section. In addition, she asked if there was an expiration date on construction permits.

George Koenig – 13 North Gate Road - Mr. Koenig suggested taking the (current) noise ordinance and adding two or three paragraphs out of the proposed NJDEP ordinance and including it; then, you will have the definition of live or background music in the Township’s ordinance.

Peter Banos – Ironia Road, Mendham Borough – Mr. Banos supports Mr. Koenig's comments and input. He noted that residents would be present at every meeting if they get disrupted on the weekends, so please adopt the noise ordinance.

Motion to close the public comment section made by Mr. Orlins; Seconded by Mr. Baio.

DISCUSSION

LANDSCAPING SERVICES FOR 13 PARKS AND FACILITIES BID

The township issued nine bids for Landscaping services, of which the township received six bids. The lowest bidder responsive bidder was \$134,000; estimated to be 20% higher than prior year. The bid is for a two-year contract with an option for a third year. The Township Committee discussed outsourcing the work versus performing the work in-house. The committee would like to see additional information on the cost of performing the job in-house before moving forward with the service.

Mr. Baio suggested the township adopt a sign/lawn sign ordinance to consider a time limit on displaying signs on private property. The Township Committee discussed their views about the proposed ordinance.

Ms. Neibart motioned to enter Executive Session, Seconded by Mr. Baio.

ADJOURN

Motion to adjourn at 10:52 made by Ms. Duarte; Seconded by Mr. Baio. All members presented voted in favor to adjourn.

Respectfully submitted,

Approved: 05/09/2022

Maria F. Coppinger
Township Clerk

March 14, 2022

Bernadette Koenig

Northgate Rd

Thank you for hearing me and others and directing Robert Casey, Administrator to respond to the MCADB's survey on July 6, 2021 with:

The Township draws the line when the farm seeks to become a destination venue such as ... a distillery, a gathering site or other large scale commercial attraction which is other than farming. (In this regard we invite your attention to the Alstede operation in Chester.)

It seems 4 of you may have assumed Jordan Orlins could handle residents with concerns about the scale of the proposed Backer Brewery. If any of the following surprises you, please start listening closely knowing that preserving Mendham's unique attraction is your responsibility now.

1. Backers' Event Plan allows 77+ events/year: 25 special events, 52 Private Parties, and maybe an unlimited # of non-profit organization events
2. Backers' lawyer continues to state they will follow NJ Noise regulations ie 65db which your experiments showed is too loud for Mendham Twp
3. 51% of product sold at 32 Ironia Rd must come not from 32 Ironia Rd per our ordinance but from a FMU. The FMU could theoretically include ½ of Western Pennsylvania so no product need be grown at 32 Ironia Rd !
4. Every residential property in Mendham Township may engage in agricultural activities and do the same!

I hope you schedule a time that all concerned can hear the plans, ask questions, listen to each other, and find a way to balance the rights of the farm, its immediate neighbors, and the town.

Backer Farm, LLC, d/b/a Backer Farm
32 Ironia Road, Mendham, New Jersey
Block 109, Lots 23 and 23 QFARM, Mendham Township, Morris County
Commercial Farm Certification and Request for SSAMP Application

Exhibit NN

Event Management Plan Prepared for On-
Farm Direct Marketing Facilities, Activities,
and Events at Backer Farm, by
Frank Pinto, Pinto Consulting, LLC and Tara
Kenyon, AICP/PP

but are not limited to, souvenir items such as commercial farm-branded shirts, hats, and bags. Such goods are products that contribute to farm income which are permitted by SADC regulations.

Activity #6: Background Music

Backer Farm may play background music as part of its day-to-day ambiance within the dairy barn and its patio. The day-to-day background music is different than live music, which falls under the below ABC Special Event category.

Activity #7: Video Displays

Backer Farm will have no more than two television screens on the ABC licensed premises, which shall not be greater than 65 inches as measured from corner to corner. If the ABC's rules on television displays changes in the future, Backer Farm will comply with the current rules.

Event #1: ABC Special Events with Brewery Tour and Farm-to-Glass Beer Sales and Marketing and Sale of Packaged Beer for Off-site Consumption

Backer Farm may hold up to 25 on-premises events per calendar year, which are referred to by ABC as "special events," defined as a one-day event that is advertised or promoted by a limited brewery licensee, or by any vendor on behalf of a limited brewery licensee, through any media, including social media. ABC is notified of each such event via the ABC POSSE system. Backer Farm will further notify the Mendham Township clerk and chief law enforcement officer at least ten days prior to the special event. Patrons at such events will be provided a brewery tour.

As per the Agricultural Management Practice for On Farm Direct Marketing Activities, Events, and Facilities, NJAC 2:76-2A.13, such events are permitted farm activities as they are product-based events or farm-based events which are designed to attract customers to the brewery by enhancing the experiencing of purchasing beer. Such events may occur periodically or seasonally.

Events are protected under the Right to Farm Act provided they meet the following standards:

1. The event is accessory to the direct-market sales of the beer;
2. The event serves to increase the direct-market sales of the beer; and,
3. They demonstrate the required relationship to marketing the output of the commercial farm.

Under both the ABC and SADC regulations, such events may include background music as components. As per ABC rules, live, amplified musical performances are counted as one of the 25 on-premises events permitted by the ABC. Live background music events are distinguished from having recorded background music playing within the brewery and patio area as part of the brewery background ambiance. Such background music which is not live or curated by a DJ is not an event.

Under SADC regulations, if a fee is charged, it must be de minimus compared to the income generated from the sales of beer.

All pourers/servers at a limited brewery shall receive server training designed to focus on the prevention of over-serve to patrons and over-consumption by patrons, and shall be certified by a nationally-recognized server training program.

Event #2: ABC Private Party with Brewery Tour and Farm-to-Glass Beer Sales and Marketing and Sale of Packaged Beer for Off-site Consumption

Up to 52 on-premises private parties are permitted by ABC rules per calendar year. Attendance at such events is by invitation only, and invitees will be provided a brewery tour. These events will be located in an area temporarily separated from that area open to the public, or the brewery will not be open to the public during the private party. The host of the private party may arrange for food to be available during the party: Backer Farm will not sell meals or provide catering services due to ABC restrictions.

Events are protected under the Right to Farm Act provided they meet the following standards:

1. The event is accessory to the direct-market sales of the beer;
2. The event serves to increase the direct-market sales of the beer; and,
3. They demonstrate the required relationship to marketing the output of the commercial farm.

Under both the ABC and SADC regulations, such events may include background music as components, in accordance with ABC guidelines. Under SADC regulations, if a fee is charged, it must be de minimus compared to the income generated from the sales of beer.

All pourers/servers at a limited brewery shall receive server training designed to focus on the prevention of over-serve to patrons and over-consumption by patrons, and shall be certified by a nationally-recognized server training program.

Event #3: Social Affair Events with Brewery Tour and Farm-to-Glass Beer Sales and Marketing and Sale of Packaged Beer for Off-site Consumption

Social affair events are subject to a non-profit organization/host obtaining an ABC social affairs permit. Such a permit may only be held by an organization operating solely for civic, religious, educational, charitable, fraternal, social or recreational purposes, and not for private gain. These events will be located in an area temporarily separated from that area open to the public, or the brewery will not be open to the public during the event. A limited brewery is limited to facilitating 25 ABC special events per year.

Events are protected under the Right to Farm Act provided they meet the following standards:

1. The event is accessory to the direct-market sales of the beer;
2. The event serves to increase the direct-market sales of the beer; and,

3. They demonstrate the required relationship to marketing the output of the commercial farm.

Under both the ABC and SADC regulations, such events may include background music as components, in accordance with ABC guidelines. Under SADC regulations, if a fee is charged, it must be de minimus compared to the income generated from the sales of beer.

All pourers/servers at a limited brewery shall receive server training designed to focus on the prevention of over-serve to patrons and over-consumption by patrons, and shall be certified by a nationally-recognized server training program.

We are aware of the County Agriculture Development Board (CADB)'s Mar 2, 2022 letter to the Twp requesting input on the pending SSAMP application by Backer Farm. The CADB has specifically requested written input on hours of operation, noise and all issues related to public health and safety.

Counsel for BF filed a lengthy letter with the Twp on Friday night. The letter focuses on the technicalities of why **variances or waivers** should be granted from the overly burdensome municipal regulations. Are MT's regs overly burdensome? Don't we have them for a reason?

But beyond that, I would implore you to take a **broader perspective** and look beyond whether Backer Farm's driveway entrance should be 22 feet versus 24 feet. Or whether a parking space at the farm should be 9 feet x 20 feet or if their proposed 9 feet x 18 feet is acceptable.

I would ask that you really contemplate what a **78-seat, 2 story brewery** with an outdoor patio and upper deck, that is open for 36 or more hours per week would mean for Mendham Township. And 78 seats doesn't mean 78 people. They are requesting **70 parking spaces** plus overflow parking. If you presume 2 people per car, that's over 140 people at a minimum.

What would it mean for their neighbors if BF has **25 "special events"** with live amplified music as they are requesting in their event management plan? That could be every weekend from May through October. And what about an additional **52 private parties and 25 special affairs events**? How would that impact the neighborhood surrounding BF? What impact would such crowded events have on our volunteer fire and first aid squads?

This type of large scale commercial venture in a neighborhood has the ability to change the landscape of what most people move to Mendham for besides the schools - which is the open space and the peace and quiet, especially on the west side of town.

Our **Master Plan** recognizes the unique and special nature of the town. It states:

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.

As elected officials, you have an opportunity, and a duty, to respond to the CADB in a way that reflects what is in the best interest of the whole Township, not just what's in the best interest of Backer Farm. Your job is not to help the farm make money (as one official stated in a public forum). Moreover, you should not be directing a response to the CADB based upon your personal preferences.

I would **suggest you hold a special meeting** to hear from your constituents who want to comment or raise concerns that touch upon the areas that the CADB wants input on - health, safety, noise, hours of operation. All the things that affect the every day lives of residents.

I would hope that the TC and the attorney we understand is representing the Twp really look at all the things that affect safety - from the environmental concerns to traffic concerns to noise issues - as well as all the components that make up health, both physical and mental health. You have heard from many residents in this regard in the past.

And you should also do your research and analysis. Look at **Screamin' Hill** - the only other farm brewery in NJ. They are located on 100 acres and are open about 10 hours a week. Look at their brewery rules, especially the one that prohibits growler consumption on the premises.

To conclude, after a thorough review of all relevant information from residents as well as experts and your own objective research, I hope that this Committee issues a thoughtful response to the CADB that reflects the position the Twp took less than a year ago in response to the **County Farmland Preservation Plan Survey**. I'll remind the Committee what the letter states:

- Preserving traditional farm operations is important. The Twp notes with great dismay the proliferation of destination farms, amusement park farms, eco tourism farms and venue farms. **These latter operations are something which Mendham Twp believes should be regulated to preserve the overall low-density development of the municipality.**

It goes on to state:

- Agritourism operations, to the extent limited to "pick your own", farm stands and limited hayrides/pumpkin picking are fine. The Twp draws the line when the farm seeks to become a destination venue such as an amusement destination, a distillery, a gathering site or other large scale commercial attraction which is other than farming. Then in parenthesis it states: (In this regard we invite your attention to the Alstede operation in Chester.)

I note that this letter that was sent to the County Planning Director is dated **July 6, 2021** - just 5 days after the MT Planning Board held its hearing on the BF brewery application. It was at that hearing that dozens of residents spoke up with concerns regarding the proposed brewery. It was the first and last time that the public has had that opportunity during a public hearing. I reiterate my request that this Committee schedule a meeting and seek input from any resident who wishes to weigh in on the health and safety aspects of this large scale commercial operation.

Please don't just issue a letter to the CADB that only responds to the variances sought regarding the size of signs or whether the parking area can be gravel or needs to be paved. You are being asked for input on far weightier and significant issues. Please use your authority to do so in a way that preserves all the things we love about Mendham and what the Twp said is important - **traditional, not destination or amusement, farms.**

TY

Kim Hart

17 N Gate Rd