

MAY 05 2021

MILLBURY PLANNING BOARD

12 Thomas Hill Road
Millbury, MA 01527-3012

Thursday, April 29, 2021

Richard F. Gosselin, Jr, Chairman
Paul A. Piktelis, Vice Chairman
Terry Burke Dotson, Member
Mathew Ashmankas, Member
Bruce M. Devault, Member
Millbury Planning Board
127 Elm Street
Millbury, MA 01527-2632

Reference: Public Hearing Comments (from a son of the owners and resident of **Map 62 Parcel 98**)
McLaughlin Family Living Trust (the "owners")
John Antaya (the "owners")
Kathleen (McLaughlin) Mardirosian (the "owners")
Whitney Street Home Builders, LLC (the "developer")
17 Rice Road, Millbury, MA (a/k/a Rice Pond Village Project)

Dear Planning Board Members:

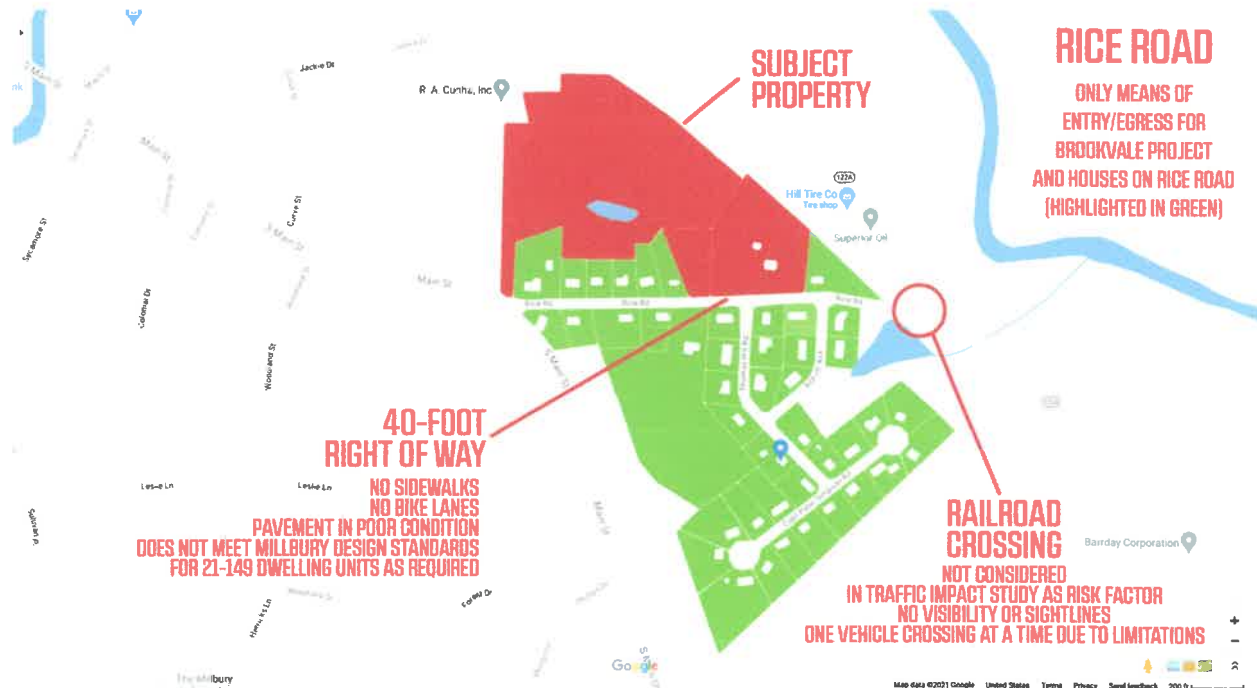
While I respect the rights of the McLaughlin Family Living Trust, John Antaya (husband of Patricia (McLaughlin) Antaya)) and Kathleen (McLaughlin) Mardirosian (the "owners") to develop their consolidated properties, identified by the Millbury Town Assessor as Map 63 Parcel 75 with frontage at 13-17 Rice Road and Map 63 Parcel 144 with frontage on South Main Street (adjacent to 1 Rice Road), I cannot support nor endorse the proposed plans as submitted for 52 condominium units with access on a minor road¹, Rice Road, that has a 40-foot Right of Way (ROW) and a railroad crossing with insufficient sightlines. I would, however, support the development of this property in full compliance with Millbury's Zoning Bylaws without approval of one or more special permits, variances, or other concessions as 15² or less single-family house lots with a minimum of 12,500 square feet and a public road that adheres to all roadway design standards of the Town of Millbury and the Commonwealth of Massachusetts Department of Transportation (Mass DOT).

Millbury's Zoning Bylaws were enacted to responsibly develop the town in a consistent, compatible, harmonious, and responsible manner. That is exactly what I am requesting that the Millbury Planning Board comply with Millbury's Zoning Bylaws and deny their request for a special permit to allow multi-family units on a minor road with a 40-foot ROW that is currently in a poor condition that has a railroad crossing that is likely to cause harm, injury or a fatality.

¹ Millbury's Zoning Bylaws defines major streets, as follows: "Major Street - All state-numbered highways (Routes 20, I-190, 122, 122A, and 146) Auburn Road, Carleton Road, Elm Street, Grafton Street, Greenwood Street, Howe Avenue, Martin Street, Millbury Avenue, McCracken Road east of Greenwood, North Main Street, Stone Road, Sutton Road, West Main Street, plus any street subsequently laid out with right-of-way width of sixty feet (60') or more." Rice Road is a minor street as defined by the Millbury Zoning Bylaws. Millbury's Design Standards further dictates that multi-family with 21-149 dwelling units require a ROW of 50-feet or more. Rice Road has a 40-foot ROW.

² Fifteen is the number provided by the developer's civil engineers as the maximum development potential as single-family house lots with a 750-foot road.

I have a rather unique perspective to evaluate this proposed project, I was born and brought home from the hospital to this neighborhood, was raised, and lived here for a good portion of my life, and returned 2+ years ago; my parents celebrated 60 years of homeownership in our family home on April 21, 2021, where they raised my four brothers and myself, as a pre-teen and teenager, I used to play on the land that this proposed project encompasses with some of the McLaughlin children; having been previously employed by multiple civil and environmental engineering firms, my last position as a site planner, I am quite familiar with civil and environmental engineering; as well as previously serving as a condominium board president of a 132 unit stacked townhouse and garden-style condominiums on 11.94± acres on the developed parcel and 12.04± acres of conservation restricted land, that has far more open space on the developed parcel and between buildings than is being proposed in this project.



Special Permits and Other Provisions

MGL Chapter 40A Section 9 – Special Permits – “Zoning ordinances or by-laws shall provide for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. Special permits may be issued only for uses which are **in harmony** with the general purpose and intent of the ordinance or by-law, and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards and limitations on time or use.”

Harmony (n.) The just adaptation of parts to each other, in any system or combination of things, or in things, or things intended to form a connected whole; such an agreement between **the different parts of a design or composition as to produce unity** of effect; as, the harmony of the universe. — Legal Dictionary

Section 6: [Millbury] Design Standards — From a table contained in 5 6 – Width, “The width of street right-of-ways and traveled ways shall not be less than the following:” Sub-Collector ROW, 21-149 dwelling units must be serviced by a **50-foot Right of Way (ROW) with 26-feet of pavement**. Rice Road only has a 40-foot ROW, is in poor condition and a railroad crossing with no visibility and effectively a one vehicle at a time crossing due to the crossing’s design/construction limitations.

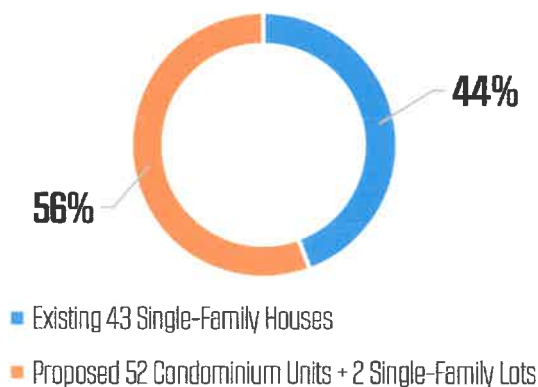
Development Impact Statement (DIS) — No noise impact study was performed by the owner or developer. There are at least a minimum of two critical factors that need to be assessed by a licensed professional: the Worcester and Providence Railroad and increased traffic noise from Providence Road (Route 122A) due to the removal of trees, vegetation and soil (topography changes), as well as site work and construction over a period of time.

In reviewing Massachusetts General Laws, the Millbury Zoning Bylaws, and other provisions and statutes, I submit to you that the request for a special permit from the owners and/or developer is not **“in harmony with the general purpose and intent of the ordinance or by-law”**, **is not in the best interests of the homeowners and residents** in the immediate surrounding neighborhoods and beyond, **there is no pre-existing legitimate hardship, nor does their proposed plan create unity** due to the following reasons and specific objections:

Specific Objections

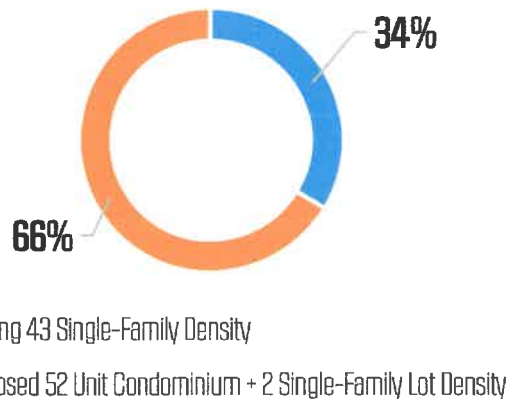
1. The scale of magnitude is far too great for a minor road (Rice Road) and would have a drastic and direct negative impact on the 43 existing single-family households³ (herein after referred to as the “neighborhood”) that have no other option available other than utilizing Rice Road for entry and egress. Fifty-two (52) additional dwelling units exceeds the current neighborhood on a significantly smaller footprint (lot). The Town of Millbury’s design standards, as posted on the town’s website (https://www.millbury-ma.org/sites/g/files/whlif4706/f/uploads/section6_0.pdf) includes specific roadway requirements that state that roads serving 21-149 dwelling units must be serviced by a 50-foot ROW and requires 26-foot width of pavement, Rice Road has a 40-foot ROW, no sidewalks, no bicycle lanes, and the condition of the pavement is poor at best (even prior to the recent natural gas and domestic water improvement projects). Rice Road does not meet the design standards as set forth by the Town of Millbury for the number of existing and/or proposed dwelling units. The magnitude proposed is greater than the entire existing neighborhood and what I can imagine in Boston or some other major inner cities, not a smaller community like Millbury. Higher density increases congestion and the odds of conflicts between people, residents and neighbors.

Household Impact



³ There is a total of 43 single-family houses on Rice Road, Aldrich Avenue, Thomas Hill Road and Captain Peter Simpson Road, excluding the McLaughlin Family Living Trust house at 17 Rice Road, that have **no other means of entry or egress than the use of Rice Road** to either Providence Road (Route 122A) or South Main Street. The original Brookvale Project encompassed 14, 17, 19 and 20 Rice Road and all lots on Thomas Hill Road, Aldrich Avenue and Captain Peter Simpson Road.

Density Per Acre Of Land



- AK Associates' Traffic Impact Study represents that the "...Level of Service (LOS) are not expected to change...", even though the developer proposes a 226% increase⁴ in dwelling units in the neighborhood. Common sense should dictate that there is a problem with the methods used to determine future traffic impacts. Driving patterns have changed (substantially decreases) and in many cases minimized due to the pandemic, so trips are less than normal as people are telecommuting and combining trips to minimize potential exposure and therefore do not reflect a "normal" traffic level of service. The developer has no control over who purchases units now or in the future, so to represent that they will be sold to first-time homebuyers and empty netters is simply disingenuous. The Town of Millbury should conduct a peer review to validate AK Associates' traffic engineer's conclusions independently to mitigate the hazards.
- AK Associates' Traffic Impact Study completely neglected to even consider the railroad crossing as risk factor. The pinch point (one vehicle at a time) in the road at the existing railroad crossing has been and is dangerous now, due to the configuration (narrow pavement width and approach angles), downgrade or upgrade depending on the direction of travel, unprotected Providence Road side (no guardrails), sightlines, etc. Adding 52 more units of vehicles (adding a minimum of 104 vehicles) to this railroad crossing will add a significant risk and problem that will need to be addressed in assessing their proposed plan and upgrades should be required prior to any demolition and construction commencing. The Town of Millbury should conduct a peer review to validate AK Associates' traffic engineer's conclusions independently. Mr. & Mrs. Donald Orrell, 1 Aldrich Avenue, recently recounted to me that they see people "flying over the railroad tracks" in the middle of Rice Road with no visibility if anyone is coming up from Providence Road (Route 122A) and are quite surprised that there has not been a serious accident or fatality to their knowledge. Other neighbors have conveyed similar "near-misses" of head-on incidents due to the almost non-existent sightlines at this railroad crossing due to the approach grades and angles, as shown in the embedded photographs. I, myself, have had these experiences, that have gotten worse over time, rather than better.

⁴ $(43 \text{ existing single-family house lots} + (52 \text{ proposed condominiums} + 2 \text{ undeveloped single-family house lots})) \div 43 \text{ existing single-family house lots} = 226\%$



Rice Road beyond Aldrich Avenue in the direction of Providence Road (Route 122A) approaching railroad crossing. There is no visibility of any approaching vehicles. This photograph was taken at a 6± foot height, higher than the typical seated height in a motor vehicle, therefore, visibility is greater in this photograph than would be in a passenger vehicle.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK AND CONTINUED ON NEXT PAGE.]



Rice Road from Providence Road (Route 122A) in the direction of Aldrich Avenue approaching railroad crossing. There is no visibility of any approaching vehicles. This photograph was taken at a 6+ foot height, higher than the typical seated height in a motor vehicle, therefore, visibility is greater in this photograph than would be in a passenger vehicle.

4. The proposed development has 1.98 times greater density than the existing neighborhood. There are 43 single-family house lots on 25.28± acres of land⁵ or 1.70 dwellings per acre. The proposed 52 condominium units lot plus two (2) single-family residential lots are a total of 16.09± acres⁶ according to recorded plans or 3.36 dwellings per acre. It is clear from my previous professional experience the proposed design is to maximize the owner's and developer's return on investment (also known as "greed") and will leave any resulting problems or conflicts for others to resolve in the future.⁷ In the 1987 movie "Wall Street," Michael Douglas as Gordon Gekko gave an insightful speech where he said, "Greed, for lack of a better word, is good." He went on to make the point that greed is a clean drive that "captures the essence of the evolutionary spirit. Greed, in all of its forms; greed for life, for money, for love, for knowledge has marked the upward surge of mankind." I would submit for your consideration that greed at this

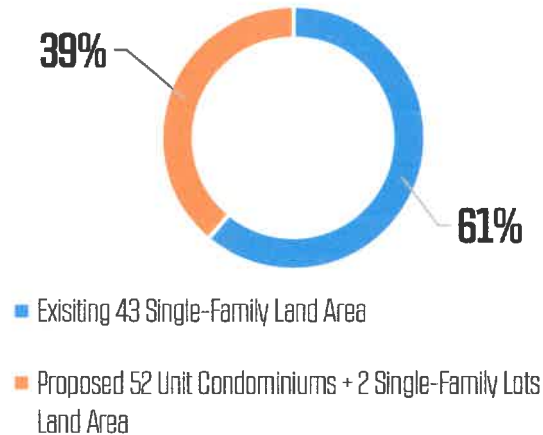
⁵ According to recorded plans, deeds, and for a few lots from the assessor's data where deeds did not have the land area contained within a plan or deed due to the age of the deed.

⁶ The 16.09± acre parcel noted is inclusive of all parcels as recorded in the Worcester County Registry of Deeds, including Lot 1 (0.3202± acres) and Lot 4 (0.2880± acres) on Plan Book 950 Plan 65 and Plan Book 821 Plan 32, that the owners and developer have failed to disclose their proposed use, which indicates that these lots will be later sold as single-family house lots or be added to the number of condominiums.

⁷ Having served as a condominium board president, I and the other trustees had to deal with the problems left behind by the developer, which involved attorneys, police and the courts to attempt to mitigate the serious problems created by insufficient design criteria and other factors.

magnitude and density is not beneficial for the existing neighborhood, for the potential future owners/residents of the proposed 52 condominium units or two (2) undeveloped residential lots on Rice Road owned by the owners, nor the Town of Millbury.

Land Area Comparison



5. The site plan provides minimal personal tangible outdoor space (i.e., limited common area) for recreational activities due to the density of the proposed plan and will likely create conflicts between condominium residents or spill out into the existing neighborhood. The dwelling units are too densely packed together and quite honestly probably should be combined into clusters of townhouses or row houses, which would provide more open space on the property. The condominium that I owned and was president of had a higher density of units in each building (8-16 units), but much more open green space on the developed parcel.
6. The real-world conditions for parking for residents and visitors as proposed in their plan is insufficient for the actual need. The number one problem that most condominiums have is insufficient on-site parking followed by trash. There are more people living in all types of dwelling units (single-family, condominiums and apartments) than ever before. You don't have to look too far to find an example, the duplexes that were built on Woodland Street near South Main Street. There are far more than two to three vehicles per unit, and they frequently overflow park on Woodland Street. Take those four units (2A, 2B, 3 and 5 Woodland Street) and multiple that by 52 units. Where will these residents be parking their additional vehicles? The answer is on Rice Road, Thomas Hill Road, Aldrich Avenue, and Captain Peter Simpson Road to avoid being fined by or towed from the condominium property. The condominium that I was the president of had parking problems and people trespassed on a neighboring commercial property to avoid being fined and/or towed by the condominium. People will also park along the roadways in the condominium regardless of rules to the contrary, thus creating a significant safety risk in the case of a medical emergency, fire or law enforcement situation.
7. From the developer's submission, no actual noise study was performed. The Development Impact Statement (DIS) with regards to noise seems unrealistic that removing a majority of the trees and vegetation will not change the noise impacts on existing houses. Common sense would dictate otherwise. Noise generated by the railroad and vehicular traffic from Providence Road will likely increase in intensity with trees and vegetation removal, year-round. What noise impact will the proposed condominiums have on condominium residents with the railroad tracks being 20-30± feet from the rear of the units? The people purchasing these units will want to seek relief from the town and railroad for the buyer's lack of foresight and this is something that town officials will have to deal with. I did not see a soundproof barrier on their plans. If this does get approved, which I sincerely hope it does not, the developer should be required to install a soundproof barrier prior to the removal of majority of trees and existing vegetation to protect existing neighbors from the noise impacts that will come with the development of this property and then the existing neighbors and condominium residents after the development is completed. The Town of Millbury should conduct an actual noise

study by a qualified noise engineer to determine the impacts on the area from the removal of trees and existing vegetation and all sources of noise (i.e., railroad, traffic from Providence Road, etc.).

8. The developer's plan does not have sufficient space allocated for snow removal and stacking on-site due to the density of the development of the parcel of land. If this project is approved, which again, I sincerely hope it is not, then there should be an easement or restriction from plowing and piling snow greater than 2-feet in height at least within 75-feet of the center of the ROW of the intersection of the condominium entrance/exit, Rice Road, and Thomas Hill Road to provide sightlines for safer vehicular traffic (no stacking or piling within this safe traffic visibility zone). Currently, the Town of Millbury or its subcontractors pile snow too high and provide no sightlines until you are actually in the road where people tend to drive too fast for conditions, because Rice Road is used as a cut-through road. The developer and condominium should be required to have adequate snow storage area to preclude trucking snow from the site which adds noise nuisances in high volume (extreme) winter snowfall years.
9. The developer's plan does not contain a bus shelter or a loading/unloading area for any additional school-age children that will come due to this proposed project. There should be a bus lane or area off of municipal roads where children can safely get onto and off of school buses with a shelter from weather, without concern for the safety, traffic at speeds of 30 MPH or greater.
10. The Town of Millbury is nearing its maximum available water capacity. The Town of Millbury seems to have a continual outdoor water ban imposed by the Massachusetts Department of Environmental Protection (DEP). The Town of Millbury should require a comprehensive water study be performed to ensure the Town of Millbury has an adequate water supply, prior to any consideration for approval of this proposed project. Water is being purchased from the City of Worcester to meet Millbury's current water requirements, which was from less than 1% in 2018 and 2019 to 9.7% of total use in 2020:
 - a. "The City of Worcester supplemented our own sources by providing 57.4 million gallons of water to our system in 2020, accounting for 9.7% of the total use."⁹ — Aquarion Water Company, 2020 Water Quality Report
 - b. "The City of Worcester supplemented our own sources by providing 14,345 gallons of water to our system in 2019, accounting for less than 1% of the total use. The distribution system is also interconnected to the water system in Grafton for emergencies or periods of high water use." — Aquarion Water Company, 2019 Water Quality Report
 - c. "The City of Worcester supplemented our own sources by providing 525,000 gallons of water to our system in 2018, accounting for less than 1 % of the total use." — Aquarion Water Company, 2018 Water Quality Report
11. The Town of Millbury should require a comprehensive water treatment (sewer) study to be performed to ensure that the Town of Millbury's capacity and current infrastructure can support the proposed 52 condominium units and two (2) single-family lots on Rice Road, plus other developments proposed in the town without the need for expansion of the current infrastructure and facility (an additional burden on taxpayers).
12. The Worcester and Providence Railroad should be consulted to determine what upgrades need to be made in order to increase sightlines, visibility for motorists, to widen the crossing so more than one vehicle can safely pass over the crossing at a time, etc.

⁹ Aquarion Water Company, 2020 Water Quality Report (https://www.aquarionwater.com/docs/default-source/water-quality-reports/ma/2020/millburv2020.pdf?sfvrsn=f24316cf_4).

Alternative Proposals

1. The McLaughlin Family Living Trust does not need to develop the aforementioned 5 tracts of land. The owners could sell their family's house lot as originally purchased on December 12, 1961⁹ and not as subdivided into 4 tracts of land as was recorded in 2020¹⁰, which the McLaughlin family were raised in, as one (1) single-family house lot, with a conservation restriction that would preclude any future development (no new structures or clearing of existing trees and vegetation from the property) or subdivision, leaving open space as the McLaughlin Family Living Trust legacy.
2. The McLaughlin Family Living Trust could develop the land in full compliance with Millbury's Zoning Bylaws with no special permits, variances, or other regulatory variances (i.e., wetlands, water sheds, etc.) into single-family house lots in harmony with and preserving the natural landscape and open space.
3. The McLaughlin Family Living Trust could develop the property with a maximum of 18 condominium units (2-3 bedrooms maximum) similar to Wyman Farms¹¹, 935 Main Street, Shrewsbury, Massachusetts with clusters of 1, 2 and 3 duplexes with unobstructed views (of no other units in front or behind) while maintaining the open space on the property.
4. The McLaughlin Family Living Trust and their developer could withdraw the proposed site plans and submit new plans with access from the 105.11± feet of frontage on South Main Street¹² with no access to Rice Road, and a 150-foot conservation buffer (no construction of any structures) along all four parcels of land on Rice Road, including the two (2) lots shown on the plans (adjacent to 11 Rice Road and 19 Rice Road)¹³, that were intentionally omitted in the submitted plans and request another special permit hearing on the matter with neighborhood input.
5. The McLaughlin Family Living Trust and their developer could develop the tract of land owned by John Antaya (husband of Patricia (McLaughlin) Antaya) and Kathleen (McLaughlin) Mardirosian containing 11.97± acres with 105.11± feet of frontage on South Main Street as a separate tract of land without the use of any portion of the original McLaughlin land as purchased on July 12, 1961, and without the use of Rice Road, in full compliance with the Millbury Zoning Bylaws without the need for any special permits or variances, other than for a stream or wetlands crossing, creation of compensatory wetlands or similar wetlands related regulations to provide useable access to the 11.97± acres of land, and with all dwelling units remaining outside of the wetlands and stream buffer zones to act as a visual buffer for the existing houses along Rice Road, specifically 1-19 (odd).

In closing, I respectfully request that you deny this special permit to allow multi-family dwelling units on the McLaughlin Family Living Trust, John Antaya (husband of Patricia (McLaughlin) Antaya) and Kathleen (McLaughlin) Mardirosian land due to the aforementioned reasons, concerns, the inconsistency and incompatibility with the pre-existing neighborhood, road conditions and limitations, and the congestion, the hazards and nuisances that will be created. The proposal as set forth is not in harmony with Millbury's Zoning Bylaws and there is no pre-existing hardship. Approval of this proposed development as submitted would drastically and irreparably change the character and composition of the neighborhood forever to the existing neighborhood's detriment, and therefore would not be in harmony with the Millbury Zoning Bylaws.

⁹ The original land was purchased by Maureen B. McLaughlin and recorded in the Worcester County Registry of Deeds as Book 4207 Page 129 on July 12, 1961, with a confirmatory deed as Book 4250 Page 569 on December 21, 1961, and a deed with James F. McLaughlin and Maureen B. McLaughlin recorded as Book 4250 Page 572 on December 21, 1961, prior to its subdivision into 4 tracts of land with frontage on Rice Road (refer to footnote below for more information).

¹⁰ The McLaughlin Family Living Trust subdivided 17 Rice Road into 4 tracts of land, as recorded in the Worcester County Registry of Deeds, Plan Book 950 Plan 65.

¹¹ The Wyman Farms site plan is recorded in the Worcester County Registry of Deed, Plan Book 954 Plan 118.


¹² 105.11± feet of frontage are based upon a plan recorded in the Worcester County Registry of Deeds, Plan Book 821 Plan 32.

¹³ Subdivision control plan recorded in the Worcester County Registry of Deeds, Plan Book 950 Plan 65, denoted as Lot 1 and Lot 4.

I urge you to enforce the current Millbury's Zoning Bylaws that were implemented with considerable forethought and consulting of planning professionals and deny this special permit for multi-family on a minor road and any other deviations from the Millbury Zoning Bylaws or any other regulations.

Additionally, I would respectfully ask that you to consider all owners' and residents' public hearing comments on Rice Road, Thomas Hill Road, Aldrich Avenue and Captain Peter Simpson Road as direct abutters, because all of these owners and residents have no alternative means of entry or egress from their properties and residences without the use of Rice Road and therefore would be impacted with any development of the McLaughlin Family Living Trust properties (the 4 tracts on Rice Road) and the tract owned by John Antaya (husband of Patricia (McLaughlin) Antaya)) and Kathleen (McLaughlin) Mardirosian.

Thank you kindly for your anticipated support,



Steven S. Stearns