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Attorney for Plaintiffs

SAZHA ALEXANDRA RAMOS; TOM
CONNORS; SHANTELL CHERRY;
PRATIK PATEL; DANIEL & SARAH
JACKSON; MATTHEW KNOBLAUCH;
RALPH JOHNSON; ZOE SCOTTO;
KAMUELA TILLMAN; SYED SHOAIB;
STACI BERGER, individually and o/b/o the
PISCATAWAY PROGRESSIVE
DEMOCRATIC ORGANIZATION; and
PISCATAWAY YOUTH PROGRESSIVE
ORGANIZATION

Plaintiffs,

-vs-

M&M REALTY PARTNERS at
PISCATAWAY, LLC; and ZONING
BOARD OF ADJUSTMENT OF
PISCATAWAY TOWNSHIP,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MIDDLESEX COUNTY

Docket No.:

Civil Action

**COMPLAINT IN LIEU
OF PREROGATIVE WRIT**

The plaintiffs, Sazha Alexandra Ramos; Tom Connors; Shantell Cherry; Pratik Patel; Daniel Jackson; Matthew Knoblauch; Ralph Johnson; Zoe Scotto; Kamuela Tillman; Syed Shoaib; Staci Berger, individually and o/b/o the Piscataway Progressive Democratic Organization; and, the Piscataway Youth Progressive Organization, residing or operating in the Township of Piscataway, County of Middlesex and State of New Jersey, complaining of the defendants say:

BACKGROUND FACTS

1. Plaintiff Sazha Alexandra Ramos is a long-time resident of Piscataway. She is a navy veteran and social worker who has served at high government levels including the Pentagon, the Veterans Administration and US House of Representatives. She attended Randolphville Elementary School and is deeply concerned about the health and well-being of the children who will attend Randolphville in the future.

2. Plaintiff Tom Connors is a Piscataway resident since 1987 and lives in close proximity to the proposed development project that is the subject of this Complaint. Professionally, Connors is a chemist who has also been very active in the community having served as a member and President of the Piscataway Board of Education, a member of the Piscataway Environmental Commission and a former Middlesex County Democratic Committee member for the impacted area.

3. Plaintiff Shantell Cherry has been Piscataway homeowner since 1994 and is the mother of six children currently enrolled in Piscataway's public schools. Although Cherry is a member of the Piscataway Board of Education, Cherry's action is being taken in her capacity as a private citizen, and not as a member of the Piscataway Board of Education, nor is Cherry authorized to speak or act on behalf of the Board.

4. Pratik Patel is a Piscataway resident and parent of a 6-year-old child who is a student at the Randolphville Elementary school, which adjoins the site of the proposed development project.

5. Plaintiffs Daniel and Sarah Jackson are residents and homeowners in the Township of Piscataway living in close proximity to proposed development project that is the subject of this Complaint.

6. Plaintiff Matthew Knoblauch is a life-long Piscataway resident and current Piscataway homeowner, decade-long Piscataway volunteer firefighter and expecting father, who is concerned about air quality, traffic safety and the public health implications of the proposed development project that is the subject of this Complaint.

7. Plaintiff Ralph Johnson has lived in Piscataway since 2001 and is the father of four children, two of whom attend public school in the Piscataway. He is an Essex County Corrections Officer, having served in law enforcement honorably for the past 20 years. Johnson is also the founder of Take Me Away foundation, a children's charity. Although Johnson is a member of the Piscataway Board of Education, Johnson's action is being taken in his capacity as a private citizen, and not as a member of the Piscataway Board of Education, nor is Johnson authorized to speak or act on behalf of the Board.

8. Plaintiff Zoe Scotto is a Piscataway resident, Rutgers University student and a graduate of Piscataway High School Class of 2020 who served as the Student Representative to the Piscataway Board of Education from 2018 to 2020. She also attended Randolphville Elementary School, which is next to the site of the proposed development project. Although Scotto is a member of the Piscataway Board of Education, Scotto's action is being taken in her capacity as a private citizen, and not as a member of the Piscataway Board of Education, nor is Scotto authorized to speak or act on behalf of the Board.

9. Plaintiff Kamuela Tillman is a long-time Piscataway resident, single mother and a Special Education English teacher. She is also a neighborhood leader for the area sending students to Randolphville Elementary School, which adjoins the site of the proposed development.

10. Plaintiff Syed Shoaib is a Piscataway resident and neighborhood leader for the area

sending students to Randolphville Elementary School, which adjoins the site of the proposed development.

11. Plaintiff Staci Berger has been a Piscataway resident and homeowner since 1999. Her two sons attend Piscataway public schools. She spearheaded the successful effort to ensure smaller class sizes in Piscataway's schools, and she is a Middlesex Democratic committee member for her Piscataway neighborhood.

12. Plaintiff Piscataway Progressive Democratic Organization is a political organization working to make Piscataway a better place to live, work and thrive by promoting transparency, accountability and inclusion.

13. Plaintiff Piscataway Youth Progressive Organization is a youth organization, with a mission of uplifting and amplifying the voices of Piscataway youth and students.

14. The defendant, M&M Realty Partners at Piscataway, LLC ("M&M Realty"), filed an application with the defendant Piscataway Township Zoning Board of Adjustment ("Zoning Board") seeking various variances, pursuant to N.J.S.A. 40:55D-70, for premises known as 1690 South Washington Avenue and designated as Block 5701, Lot 2 on the Tax Map of the Township of Piscataway ("the Property").

15. The intent of the application is to develop the 24.549-acre forested parcel into two warehouses and surrounding parking lots, collectively disturbing 896,750 square feet.

16. The premises in question are located in the RR-1 Zone (Rural Residential) on the official Zoning Map of the Township of Piscataway. Permitted use for the RR-1 Zone is for one dwelling per gross acre. Warehouses are not permitted in the RR-1 Zone.

17. The application was heard by the defendant Zoning Board on November 12, 2020, on

December 10, 2020, and on March 25, 2021. At the conclusion of the last meeting, the Board voted to approve the application. On April 8, 2021, the Zoning Board adopted a resolution intending to memorialize its action taken on March 25, 2021. Publication was made in the newspaper of record on April 13, 2021.

18. The plaintiffs file this action by way of Prerogative Writ seeking to reverse the action taken by the Zoning Board alleging that the defendant applicant, M&M Realty, failed to meet its burden of proof and that the action of the Zoning Board was arbitrary, capricious or unreasonable.

FIRST COUNT

19. The plaintiffs repeat the allegations as set forth in the Background Facts and make the same a part hereof.

20. N.J.S.A 40:55D-70(d) requires that “special reasons” be established to justify the necessary d-1 use variance.

21. The applicant failed to do so.

22. Therefore, the action of the defendant Board in approving the application was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiffs seek judgment as follows:

- A. An order declaring the resolution adopted by the defendant Board on April 8, 2021, as being null and void.
- B. An order denying the application of the defendant, M&M Realty.
- C. Such other relief as the Court may deem just.

SECOND COUNT

23. The plaintiffs repeat the allegations as set forth in the Background Facts and in the First Count and make the same a part hereof.

24. Inasmuch as the applicant requires a d-1 use variance, it was incumbent upon the applicant and the Board to provide “an enhanced quality of proof and clear and specific findings” to “reconcile the proposed use variance with zoning ordinance’s omission of the use from those permitted.”

25. The applicant and the Board failed to do so.

26. Therefore, the action of the defendant Board in approving the application was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiffs seek judgment as follows:

- A. An order declaring the resolution adopted by the defendant Board on April 8, 2021, as being null and void.
- B. An order denying the application of the defendant, M&M Realty.
- C. Such other relief as the Court may deem just.

THIRD COUNT

27. The plaintiffs repeat the allegations as set forth in the Background Facts and in the First and Second Counts and make the same a part hereof.

28. Inasmuch as the applicant requires a d-1 use variance, it was incumbent upon the applicant to demonstrate, and the Board to find, that the variance can be granted without substantial detriment to the public good.

29. The applicant and the Board failed to do so.

30. Therefore, the action of the defendant Board in approving the application was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiffs seek judgment as follows:

- A. An order declaring the resolution adopted by the defendant Board on April 8, 2021, as being null and void.
- B. An order denying the application of the defendant, M&M Realty.
- C. Such other relief as the Court may deem just.

FOURTH COUNT

31. The plaintiffs repeat the allegations as set forth in the Background Facts and in the First, Second, and Third Counts and make the same a part hereof.

32. Inasmuch as the applicant requires a d-1 use variance, it was incumbent upon the applicant to demonstrate, and the Board to find, that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

33. The applicant and the Board failed to do so.

34. Therefore, the action of the defendant Board in approving the application was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiffs seek judgment as follows:

- A. An order declaring the resolution adopted by the defendant Board on April 8, 2021, as being null and void.
- B. An order denying the application of the defendant, M&M Realty.
- C. Such other relief as the Court may deem just.

FIFTH COUNT

35. The plaintiffs repeat the allegations as set forth in the Background Facts, and in the First, Second, Third, and Fourth Counts and make the same a part hereof.

36. The maximum height permitted in the RR-1 Zone is 35 feet. Inasmuch as the proposed structure is 49.55 feet, it was incumbent upon the applicant to establish “special reasons” for the necessary d-6 height variance.

37. The applicant failed to do so.

38. Therefore, the action of the defendant Board in approving the application was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiffs seek judgment as follows:

- A. An order declaring the resolution adopted by the defendant Board on April 8, 2021, as being null and void.
- B. An order denying the application of the defendant, M&M Realty.
- C. Such other relief as the Court may deem just.

SIXTH COUNT

39. The plaintiffs repeat the allegations as set forth in the Background Facts, and in the First, Second, Third, Fourth, and Fifth Counts and make the same a part hereof.

40. The maximum permitted building coverage in the RR-1 Zone is 20%. Inasmuch as
40. the proposed coverage is 33.6%, it was incumbent upon the applicant to show that “the benefits of the deviation would substantially outweigh any detriment” or that exceptional physical characteristics of this property “would result in peculiar an exceptional practical difficulties to, or exceptional and undue hardship upon” the developer.

41. The applicant failed to do so.

42. Therefore, the action of the defendant Board in approving the application was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiffs seek judgment as follows:

A. An order declaring the resolution adopted by the defendant Board on April 8, 2021, as being null and void.

B. An order denying the application of the defendant, M&M Realty.

C. Such other relief as the Court may deem just.

SEVENTH COUNT

43. The plaintiffs repeat the allegations as set forth in the Background Facts, and in the First, Second, Third, Fourth, Fifth, and Sixth Counts and make the same a part hereof.

44. Piscataway Ordinance 21-1201 prohibits free standing signs. Inasmuch as the proposed development contains two free standing signs, it was incumbent upon the applicant to show that “the benefits of the deviation would substantially outweigh any detriment” or that exceptional physical characteristics of this property “would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon” the developer.

45. The applicant failed to do so.

46. Therefore, the action of the defendant Board in approving the application was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiffs seek judgment as follows:

- A. An order declaring the resolution adopted by the defendant Board on April 8, 2021, as being null and void.
- B. An order denying the application of the defendant, M&M Realty.
- C. Such other relief as the Court may deem just.

Dated: 5/28/2021

Cynthia A. Hadjiyannis

Cynthia Hadjiyannis, Esq.

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of Rule 4:25-4, the Court is hereby advised that Cynthia A. Hadjiyannis has been designated Trial Counsel in this matter

Dated: 5/28/2021

Cynthia A. Hadjiyannis

Cynthia Hadjiyannis, Esq.

RULE 4:5-1(b)(2) CERTIFICATION

I hereby certify the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding; that no other or action or arbitration proceeding is contemplated; and, that all necessary and indispensable parties have been made parties to this suit.

I certify that the statements herein set forth are true. I am aware that if any statements set forth herein are willfully false, I am subject to punishment.

Dated: 5/28/2021

Cynthia A. Hadjiyannis

Cynthia Hadjiyannis, Esq.

RULE 4:69-4 CERTIFICATION

I hereby certify that a copy of the transcript of the proceedings before the Board has been obtained from the Office of the Clerk of the Township of Piscataway.

Dated: 5/28/2021

Cynthia A. Hadjiyannis

Cynthia Hadjiyannis, Esq.

Civil Case Information Statement

Case Details: MIDDLESEX | Civil Part Docket# L-003271-21

Case Caption: RAMOS SAZHA VS M&M PARTNERS AT PISC ATAWAY

Case Initiation Date: 05/28/2021

Attorney Name: CYNTHIA AMELIA HADJIYANNIS

Firm Name: CYNTHIA A. HADJIYANNIS

Address: 25 ZABRISKIE STREET

JERSEY CITY NJ 073072903

Phone: 2018766568

Name of Party: PLAINTIFF : RAMOS, SAZHA

Name of Defendant's Primary Insurance Company

(if known): None

Case Type: ACTIONS IN LIEU OF PREROGATIVE WRITS

Document Type: Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: SAZHA RAMOS? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

05/28/2021

Dated

/s/ CYNTHIA AMELIA HADJIYANNIS

Signed