

SUMMONS

Attorney(s) Matthew E. Gilson, Esq.

Office Address Weiner Law Group LLP

Town, State, Zip Code 629 Parsippany Road, P.O. Box 0438
Parsippany, New Jersey 07054

Telephone Number 973-403-1100 x 214

Attorney(s) for Plaintiff Vincent Blehl

VINCENT BLEHL

Plaintiff(s)

vs.

THE PLANNING BOARD OF THE

BOROUGH OF SADDLE RIVER

Defendant(s)

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.

15/Michelle Smith

Clerk of the Superior Court

DATED: 04/14/2022

Name of Defendant to Be Served: The Planning Board of the Borough of Saddle River

Address of Defendant to Be Served: 100 E. Allendale Road, Saddle River, New Jersey 07458

Superior Court of
New Jersey

Bergen County

Law Division

Docket No: BER-L-002078-22

CIVIL ACTION
SUMMONS

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BOROUGH OF SADDLE RIVER
CLERKS OFFICE

Matthew E. Gilson Attorney ID: (217402016)
WEINER LAW GROUP, LLP
629 Parsippany Road
Parsippany, NJ 07054
(973)403-1100
Attorneys for the Plaintiff
2308927 1

VINCENT BLEHL

Plaintiff,

VS

THE PLANNING BOARD OF THE
BOROUGH OF SADDLE RIVER and
THE MICHAELS DEVELOPMENT
COMPANY I, LP,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

DOCKET NO.: BER-L-

CIVIL ACTION

COMPLAINT IN LIEU OF
PREROGATIVE WRITS

Plaintiff, Vincent Blehl (the "Plaintiff"), the owner of real property located in the Borough of Saddle River, County of Bergen and State of New Jersey, by way of complaint in lieu of prerogative writs against the Defendants says:

PARTIES

1. Plaintiff, Vincent Blehl, is the owner of property located at 33 E. Allendale Road designated as Block 1601, Lot 8 on the Tax Map of the Borough of Saddle River.

2. Defendant, Planning Board of the Borough of Saddle River ("SRPB") is the municipal planning board of the Borough of Saddle River organized under N.J.S.A. 40:55D-23, et seq.

3. Defendant, The Michaels Development Company I, LP ("MDC") is the designated redeveloper of property located at Block 1601, Lots 9, 10, 10.11 and 11 in the Borough of Saddle River (the "Subject Property") pursuant to Borough Council Resolution 131-20.

FACTS COMMON TO ALL COUNTS

4. On or about July 20, 2020 the Borough of Saddle River designated MDC as the redeveloper of the Subject Property.
5. On or about September 20, 2020 the Borough of Saddle River adopted Ordinance 2020-1000 to amend the zoning of the Subject Property to the AH-3 Affordable Housing Zone District which was subsequently amended by Ordinance 2021-2015.
6. On or about September 21, 2020, the SRPB grant preliminary major site plan approval on the Subject Property.
7. On or about December 18, 2021 the MDC applied for amended preliminary and final site plan approval for the Subject Property (the "Subject Application").
8. On or about January 12, 2022, the SRPB held a public hearing on the Subject Application which was carried to January 25, 2022.
9. On January 25, 2022, counsel for the Plaintiff, on behalf of another neighboring property owner sent a letter to the SRPB and its professionals stating its desire to put forward a case in opposition to the Subject Application.
10. The January 25, 2022 letter requested an adjournment for that property owner to obtain professionals and the opportunity to present a case in opposition.
11. At the January 25, 2022, counsel for the Plaintiff participated in the hearing, cross-examining several witnesses.
12. In particular, cross-examination of Adolf Montana, P.E., MCD's civil engineer expert, revealed that the Applicant did not consider the effect of stormwater run-off from the Subject Property to certain neighboring properties.

13. Additionally, cross-examination of John Corak, PE, PTOE, MCD's traffic engineering expert, revealed traffic considerations were not adequately addressed.

14. At the conclusion of the direct testimony and reports from SRPB professionals, the SRPB proceeded to a vote on the Subject Application without addressing the aforementioned request for an adjournment or providing an opportunity to present any opposing testimony.

15. Plaintiff and another neighboring property owner would have presented experts to refute this testimony if the mandatory procedures for public hearings had been followed.

16. Even in the absence of granting an adjournment to allow for Plaintiff or his neighboring property owner to obtain experts, the SRPB refused Plaintiff or his neighboring property owner the ability to testify in opposition.

17. This failure to allow any opposing testimony by an objector constitutes a violation of Municipal Land Use Law as outlined in Witt v. Borough of Maywood 328 N.J. Super 432, 454 (Law Div. 1998), aff'd o.b. 328 N.J. Super 343 (App. Div. 2000).

18. The SRPB adopted its memorializing resolution approving the Subject Application on March 1, 2022¹ and a Notice of Decision published on March 4, 2022.

FIRST COUNT
(Arbitrary, Capricious and Unreasonable)

19. Plaintiff repeats the statements and allegation of the Facts Common to All Counts as if set forth at length herein.

20. The actions of the Planning Board of the Board of Saddle River in approving the application of the Michaels Development Company I, LP was arbitrary, capricious and unreasonable and inconsistent with the Municipal Land Use Law.

¹ The Public Notice published by Applicant indicates the resolution was passed on March 2, 2022, however, the Saddle River Planning Board meeting at which the resolution was passed occurred on March 1, 2022.

21. As a result of the arbitrary, capricious and/or unreasonable conduct of the Planning Board of the Borough of Saddle River and the damages flowing therefrom, Plaintiff is entitled to an Order for Judgment in its favor invalidating the memorializing resolution.

WHEREFORE, Plaintiff, Vincent Blehl, demands a judgment against the Planning Board of the Borough of Saddle River and The Michaels Development Company I, LP invalidating Resolution 22-07; awarding attorneys' fees and costs of suit and granting such other and further relief as the Court shall find equitable and just.

SECOND COUNT
(Failure to Allow Objector Testimony)

22. Plaintiff repeats the statements and allegation of the Facts Common to All Counts as if set forth at length herein.

23. On January 25, 2022, Plaintiff's counsel submitted a letter to the SRPB requesting an adjournment to obtain witnesses to testify regarding an objection to the Subject Application.

24. Plaintiff's counsel intended to call, at a minimum, Mr. Robert Petrow, who counsel represented at the hearing, as a witness at the hearing to testify.

25. At the January 25, 2022, Plaintiff's appeared and cross-examined several witnesses put forward by the Applicant.

26. Following the conclusion of the Applicant's direct testimony, the SRPB immediately moved for a vote on the Subject Application utterly failing to provide Plaintiff's counsel or any individual the opportunity to testify in objection to the Subject Application.

27. Plaintiff, who participated in the hearing throughout, would have provided direct testimony in opposition to the Subject Application.

28. As a result of this action, the SRPB denied Plaintiff and all other interesting parties any meaningful opportunity to participating at the hearing depriving these persons of procedural

due process of law consistent with the holding in Witt v. Borough of Maywood 328 N.J. Super 432, 454 (Law Div. 1998), aff'd o.b. 328 N.J. Super 343 (App. Div. 2000).

WHEREFORE, Plaintiff, Vincent Blehl, demands a judgment against the Planning Board of the Borough of Saddle River and The Michaels Development Company I, LP invalidating Resolution 22-07; awarding attorneys' fees and costs of suit and granting such other and further relief as the Court shall find equitable and just.

**THIRD COUNT
(Challenging Notice)**

29. The Plaintiff repeats the statements and allegation of the Facts Common to All Counts as if set forth at length herein.


30. Upon information and belief, adequate public notice was not provided related to Subject Application as required under the Municipal Land Use Law.

31. Public notice is a jurisdiction pre-requisite prior to formal action such as adopting a memorializing resolution.

32. As such, Resolution 22-07 must be invalidated.

33. **WHEREFORE**, Plaintiff, Vincent Blehl, demands a judgment against the Planning Board of the Borough of Saddle River and The Michaels Development Company I, LP invalidating Resolution 22-07; awarding attorneys' fees and costs of suit and granting such other and further relief as the Court shall find equitable and just.

WEINER LAW GROUP, LLP
629 Parsippany Road
Parsippany, NJ 07057
Attorneys for Plaintiff


By: Matthew E. Gilson, Esq.
Bar ID 217402016

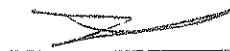
Dated: April 13, 2022

CERTIFICATION PURSUANT TO RULE 4:5-1

In accordance with R. 4:5-1, I hereby certify that upon information and belief, the matter in controversy is not the subject of any other action pending in any Court or arbitration proceeding, nor is the same contemplated. I further certify that to the best of my knowledge, information and belief, no other party should be joined in this action. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: April 13, 2022

WEINER LAW GROUP, LLP
Attorneys for Plaintiff



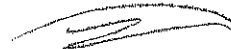
Matthew E. Gilson, Esq.

DESIGNATION OF TRIAL COUNSEL

Plaintiff, Vincent Blehl, hereby designates Matthew E. Gilson, Esq. as trial counsel in this matter.

Dated: April 13, 2022

WEINER LAW GROUP, LLP
Attorneys for Plaintiff



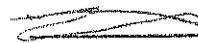
Matthew E. Gilson, Esq.

CERTIFICATION PURSUANT TO RULE 4:69-4

The undersigned attorney for the Plaintiff hereby certifies that all necessary transcripts have been ordered from the Planning Board of the Borough of Saddle River, the local agency in question.

Dated: April 13, 2022

WEINER LAW GROUP, LLP
Attorneys for Plaintiff



Matthew E. Gilson, Esq.

Civil Case Information Statement

Case Details: BERGEN | Civil Part Docket# L-002078-22

Case Caption: BLEHL VINCENT VS THE PLANNING BOARD OF THE BOR

Case Initiation Date: 04/13/2022

Attorney Name: MATTHEW EDWARD GILSON

Firm Name: WEINER LAW GROUP LLP

Address: 629 PARSIPPANY RD PO BOX 438
PARSIPPANY NJ 070540438

Phone: 9734031100

Name of Party: PLAINTIFF : Blehl, Vincent

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: Vincent Blehl? 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)*

04/13/2022

Dated

/s/ MATTHEW EDWARD GILSON

Signed