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MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN

Howard B. Mankoff, Esq.

Pauline F. Tutelo, Esq.

Walter F. Kawalec, Esq.

Audrey L. Copeland, Esq. (*pro hac vice application to be submitted*)

425 Eagle Rock Avenue, Suite 302

Roseland, NJ 07068

☎973-618-4100

☎973-618-0685

✉ hbmankoff@mdwgc.com

ATTORNEYS FOR DEFENDANTS - Township Of Bernards, Bernards Township Planning Board, Bernards Township Committee, Barbara Kleinert, Jeffrey Plaza, Jim Baldassare, Jodi Alper , John Malay, Kathleen "Kippy" Piedici, Leon Harris, Paula Axt, Randy Santoro, Rich Moschello, Scott Ross, Carol Bianchi, Carolyn Gaziano, Thomas S. Russo, Jr. and John Carpenter

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
** ELECTRONICALLY FILED ****

THE ISLAMIC SOCIETY OF
BASKING RIDGE and MOHAMMAD
ALI CHAUDRY,

Plaintiffs

v.

TOWNSHIP OF BERNARDS,
BERNARDS TOWNSHIP PLANNING
BOARD, BERNARDS TOWNSHIP
COMMITTEE, BARBARA KLEINERT,
in her official capacity,
JEFFREY PLAZA, in his
official capacity, JIM
BALDASSARE, in his official
capacity, JODI ALPER, in her
official capacity, JOHN
MALAY, in his official
capacity, KATHLEEN "KIPPY"
PIEDICI, in her official
capacity, LEON HARRIS, in his

CASE NO.:3:16-cv-01369-MAS-LHG

Civil Action

**ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFFS' COMPLAINT**

official capacity, PAULA AXT, in her official capacity, RANDY SANTORO, in his official capacity, RICH MOSCHELLO, in his official capacity, SCOTT ROSS, in his official capacity, CAROL BIANCHI, in her official capacity, CAROLYN GAZIANO, in her official capacity, THOMAS S. RUSSO, Jr., in his official capacity, and JOHN CARPENTER, in his official capacity,

Defendants

Defendants, Township of Bernards, Bernards Township Planning Board, Bernards Township Committee, Barbara Kleinert, Jeffrey Plaza, Jim Baldassare, Jodi Alper, John Malay Kathleen "Kippy" Piedici, Leon Harris, Paula Axt, Randy Santoro, Rich Moschello, Scott Ross, Carol Bianchi, Carolyn Gaziano, Thomas S. Russo, Jr., and John Carpenter, by way of Answer to the Complaint, state:

INTRODUCTION

1. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

2. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

3. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

4. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

5. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that the plaintiffs were "conscious of the intent hostility..." The defendants admit that the plaintiffs purchased a 4.088 acre property in a zone where a house of worship was a permitted use under the Township's zoning ordinance. The defendants admit that in April of 2012, ISBR applied to the Bernards Township Planning Board for approval of its site plan. After reasonable investigation, the defendants are without sufficient information to admit or deny the allegation that the mosque can be characterized as modest. It is denied that the application fully complied with all zoning requirements.

6. It is denied that the process "devolved into a Kafkaesque process..." After reasonable investigation, the defendants are without sufficient information to admit or deny the allegation in this paragraph concerning the anonymous flyer and the alleged remarks by a volunteer firefighter.

7. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

8. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegations concerning the motivations of the objectors. It is denied that the Board and its professional adopted the objector arguments. It is denied that the Board's demands were unreasonable. After reasonable investigation,, the defendants are without sufficient information to admit or deny allegations concerning the cost and expenses incurred by the plaintiffs.

9. After reasonable investigation,, the defendants remain without sufficient information to admit or deny this allegation.

10. The defendants deny that issues related to parking can be characterized as a "battle." The plaintiffs' description of the Township parking ordinance is incomplete, in that plaintiffs omit that the ordinance requires one space for twenty-four linear inches of pew space. The allegation concerning ISBR's original application is admitted. It is denied that the planner expressly agreed that ISBR satisfied the parking ordinance. It is denied that objectors insisted that a different parking standard should apply to a mosque that a church. It is denied that the Board agreed with objectors and

explored "one novel parking methodology after another." It is denied that the Board discarded formulations that were prepared by the Board planner. It is admitted that the Board adopted a proposal that required 107 parking spaces but denied that the proposal was adopted from an objector. It is denied that the Board ignored all of ISBR's proposals.

11. It is admitted that ISBR submitted a revised plan with 107 parking spaces, though a plan containing the details required of a final site plan was never submitted. After reasonable investigation,, the defendants have insufficient knowledge concerning the allegation that objectors "Seized upon the oversized the oversized parking lot they had imposed as the basis to make new objections." It is denied that the Board "seized upon the oversized parking lot they had imposed as the basis to make new objections." The plaintiffs do not quote in their entirety the reasons for the denial of preliminary and final site plan approval. The reasons for the denial of the preliminary approval differed from the reasons for the denial of final approval. All the reasons are stated completely in the Board's Resolution, which is attached as Exhibit - A to this Answer.

12. All of the allegations in this paragraph are denied.

13. All of the allegations in this paragraph are denied.

14. The allegation that the defendants amended the local zoning law at the instigation of a suspended lawyer-objector is denied. It is admitted that the new zoning ordinance made houses of worship a conditionally permitted use. It is admitted that the new zoning ordinance required a minimum of six acres of land but it is denied that the ordinance imposed "draconian restrictions on parking and setbacks." After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation in this paragraph concerning community members at the meeting unaffiliated with the plaintiffs.

15. It is admitted that on December 8, 2015, the Board voted to deny the plaintiffs' application. It is admitted that a resolution was adopted on January 19, 2016. It is denied that the Board "had done its part to prevent there ever being a mosque in the Township."

16. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegations in this paragraph.

JURISDICTION AND VENUE

17. Admitted.

18. Admitted.

THE PARTIES

19. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

20. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

21. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

22. It is admitted that plaintiff Chaudry served on the Board of Education and an advisory Board to create the Community Center. It is admitted that plaintiff Chaudry was elected to the Township Committee in November of 2001 and the allegations concerning the positions plaintiff Chaudry occupied are admitted. After reasonable investigation,, the defendants were without sufficient information to admit or deny the allegation that Dr. Chaudry is the first Pakistani born Mayor of a municipality in the United States.

23. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

24. Admitted.

25. Admitted.

26. Admitted.

27. Admitted.

28. Admitted, though there is no legal basis to join any of the defendants in their official capacities.

29. Admitted.

30. Admit that all individuals listed are current members of the Board, but only members Apler, Kleinert, Piedici, Plaza and Santoro participated in hearing and voted on the application.

31. This is the plaintiffs' description of what plaintiffs believe to be the basis of their Complaint, and as such, no response is required. To the extent the plaintiffs mean to imply in this paragraph there are facts which support their legal conclusions, the facts are denied.

32. It is admitted that the plaintiffs accurately, but incompletely, quote from the record.

33. This is the plaintiffs' description of what plaintiffs believe to be the basis of their Complaint, and as such, no response is required. To the extent the plaintiffs mean to imply in this paragraph there are facts which support their legal conclusions, the facts are denied.

34. This is the plaintiffs' description of what plaintiffs believe to be the basis of their Complaint, and as such, no response is required. To the extent the plaintiffs mean to

imply in this paragraph there are facts which support their legal conclusions, the facts are denied.

35. This is the plaintiffs' description of what plaintiffs believe to be the basis of their Complaint, and as such, no response is required. To the extent the plaintiffs mean to imply in this paragraph there are facts which support their legal conclusions, the facts are denied.

36. This is the plaintiffs' description of what plaintiffs believe to be the basis of their Complaint, and as such, no response is required. To the extent the plaintiffs mean to imply in this paragraph there are facts which support their legal conclusions, the facts are denied.

37. It is admitted that under the New Jersey Municipal Land Use Law ("MLUL") a developer must obtain preliminary and final approval of a site plan from a planning Board, except that it can also be from a zoning Board of adjustment under certain circumstances. The defendants deny the plaintiffs' conclusion that an applicant must submit site drawings preliminary architectural plans, and engineering documents in "tentative form for discussion purposes." The applicant may submit such documents but the applicant has the burden of proving through the documents that it is entitled to the approvals sought. The defendants admit that upon submission of a complete application for a site plan, the planning Board must

grant or deny preliminary approval within forty-five days, except that the applicant may consent to extensions, which is what the applicant did in this case, and there are also exceptions if the proposed development is more than ten acres, which is not the case here.

38. This is admitted, except that there can be exceptions which apply in this case.

39. Admitted, except that provision of an ordinance relating to health and public safety may apply at the time an applicant seeks final site plan approval.

40. It is admitted that the New Jersey case law forbids decisions by local planning Boards that are arbitrary, capricious or unreasonable. The defendants deny the statement in this paragraph that the MLUL "limits the standard by which a land use Board can review an application to the specific land use ordinances of the relevant municipality."

41. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

42. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

43. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

44. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

45. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

46. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

47. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

48. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

49. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

50. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

51. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

52. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

53. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

54. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

55. The defendants are without sufficient information to admit or deny the allegation as to when Dr. Chaudry identified a property located at 124 Church Street. It is admitted that the property in question contains a single family home and detached structure on 4.08 acres of land. It is denied that the property met either all the requirements of the Township's zoning ordinance or chapter 21, Article V, Development Regulations for a house of worship to be permitted in a residential zone as of right.

56. Admitted.

57. Admitted.

58. Except that the Liberty Corner Presbyterian Church property is partially located in a business zone described in this paragraph, the other allegations in this paragraph are admitted.

59. It is admitted that ISBR purchased the property on November 9, 2011 for \$750,000.00. After reasonable investigation,, the defendants are without sufficient information to admit or deny the remaining allegations in this paragraph.

60. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegations in this paragraph, except that the defendants admit that prior to submitting its application to the Board, ISBR reached out to its neighbors on Church Street and held two open houses to share its plans.

61. Admitted.

62. It is admitted that on April 20, 2012, ISBR submitted its application for a preliminary and final site plan approval. It is admitted that the application proposed construction of a 4,252 square foot mosque on the property. The other allegations in the paragraph are admitted except the claims that the plans complied with the Township zoning ordinance.

63. After reasonable investigation,, the defendants are without sufficient information to admit or deny any allegations concerning the reasons for ISBR's design choices.

64. It is admitted that ISBR's architect estimated the maximum occupancy of the mosque's 1,594 square foot prayer hall at 150 people. The remaining allegation in this paragraph is denied.

65. Admitted.

66. The defendants admit that the Planning Board has never held as many hearings for any other previous applicant. The defendants deny that the Planning Board regularly approves major site plan applications or major subdivisions in one or just a few meetings.

67. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

68. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegations in this paragraph, except that the defendants admit that Dr. Chaudry reported the act of vandalism to the police.

69. It is admitted that many community members attended the Board work session on ISBR's application on January 17, 2012. After reasonable investigation,, the defendants are

without sufficient information to admit or deny the other allegations in this paragraph.

70. All of the allegations in this paragraph are denied.

71. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

72. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

73. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

74. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

75. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

76. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

77. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

78. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

79. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

80. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

81. Admitted.

82. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation, except that the defendants admit that plaintiff Chaudry reported the incident to the Township Police and the police report noted attempt to convert ISBR into ISIS on the mailbox.

83. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

84. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

85. After reasonable investigation, the defendants are without sufficient information to admit or deny this

allegation, except that the defendants admit the incident was reported to the police.

86. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

87. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation, except that the defendants admit in December of 2015, the Board denied ISBR's application.

88. After reasonable investigation, the defendants are without sufficient information to admit or deny any characterization of the motivation behind the opposition by the objectors to ISBR's application to build the mosque. It is denied that any alleged discriminatory intent was adopted by the Board. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation in this paragraph concerning the sophistication or organization of the objectors.

89. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

90. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

91. After reasonable investigation,, the defendants are without sufficient information to admit or deny the characterization of the BTCRD homepage. The defendants admit that ISBR's property is not located in the Liberty Corner Historic District.

92. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

93. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

94. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

95. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

96. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

97. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

98. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

99. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

100. The defendants deny that there was a "lead objector at the Board meetings" but admit that the BTCRD hired private counsel, Robert Simon, Esq., to represent the BTCRD in those hearings. The defendants deny the allegation that the Board had no discretion to deny the application. After reasonable investigation,, the defendants are without sufficient information to admit or deny the other allegations in this paragraph.

101. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

102. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

103. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation.

104. Denied because the quote is taken out of context and is incomplete.

105. Denied because the quote is taken out of context and is incomplete.

106. Denied.

107. Denied. Ms. Gaziano is not quoted accurately and the quote is not presented in its entirety.

108. It is denied that ISBR could never again apply for a mosque on its property. It is denied that the amending zoning ordinance imposed numerous additional harder and impossible to new conditions for houses of worship.

109. Denied.

110. Denied.

111. It is admitted that Ms. Caratzola's proposed an amendment to the zoning ordinance. The other allegations in this paragraph are denied.

112. Admitted.

113. The Explanatory Statement (not a Preamble) is only quoted here in part. It is denied that anyone was denied an opportunity to speak.

114. It is denied that the ordinance created onerous conditions. The other allegations in this paragraph are admitted.

115. After reasonable investigation, the defendants are without sufficient information to admit or deny this allegation. To respond would require a study of available plots, which the defendants have not conducted.

116. Admitted.

117. Denied.

118. Unknown.

119. Denied.

120. Denied.

121. It is admitted that the new ordinance did not apply to ISBR's pending proposal. It is denied that the new ordinance ensured that if the Board denied ISBR's application it could not reapply with a compliant revised sit plan.

122. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that the Board process placed an immense financial strain on the plaintiffs. The defendants admit that at the Board's request, ISBR's professionals developed five sets of plans. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation concerning the expense of developing these plans. The defendants deny that the plans were "fully developed."

123. It is admitted that the Board formally denied ISBR's application in a forty page Resolution dated January 19,

2016 and published on January 28, 2016. The second sentence in this paragraph regarding why the application was denied is denied by the defendants.

124. Denied.

125. Admitted, though "House of worship" is not used in §22-22.1.

126. Admitted.

127. It is admitted that the 3:1 parking ratio was applied to houses of worship which applied for site plan approval before the Islamic Center of Basking Ridge. This is because the revised ITE standard did not exist at the time.

128. The defendants admit ISBR's original architectural plan estimated the mosque's prayer hall at 150 people. The defendants admit that the ISBR proposal was one parking space for every three prayer mats. The defendants deny that the plaintiffs properly interpreted Ord. §21-22.1.

129. It is denied that David Banisch agreed that the proposal satisfied the ordinance. It is admitted that Mr. Banisch did not recommend any increase in the number of parking spaces in his letter of August 7, 2012, though he did make such a recommendation at a later date.

130. The defendants admit that in a letter dated August 3, 2012, David Schley noted the ISBR proposal included 50 parking spaces.

131. All allegations in this paragraph admitted except the defendants deny the length of time of the questioning

132. Admitted.

133. Admitted.

134. Denied.

135. Admitted.

136. It is admitted that Mr. Banisch issued a new parking memo on October 25, 2012. All other allegations in this paragraph are admitted, except that the defendants deny that Mr. Banisch ever conceded that 50 or 56 parking spaces were sufficient.

137. After reasonable investigation,, the defendants are without sufficient information to admit or deny any allegations concerning whether the objectors were satisfied.

138. The allegations in this paragraph are admitted, except that After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that ISBR Traffic Engineer Ney described the parking ration recorded in the ITE report as "not a recommended standard."

139. It is admitted that the Board never applied the ITE parking rates to determine the parking requirement for any other house of worship, but the issue was not raised in any of the other house of worship applications, and in the ITE parking rates at issue were not published in the ITE Parking Generation

Manual until 2010, which was subsequent to the applications relating to the other houses of worship.. In regard to the second sentence in this paragraph, the defendants admit the allegation except that Board Attorney Jonathan Drill suggested to all Traffic Engineers that they research the parking ratio for mosques contained in the ITE's Parking Generation Manual.

140. The defendants admit the allegation that in December of 2012, ISBR and the BTCRD objectors submitted letter briefs to Board Attorney Drill concerning the applicable parking standard. The defendants admit that in a letter dated December 14, 2012, ISBR took the position that the 3.1 parking ratio for churches applied to ISBR's plans. Defendants deny that the Township ordinance establishes 3:1 as the parking standard for all houses of worship. Defendants admit all other allegations in this paragraph.

141. The defendants admit the allegation concerning the December 21, 2012 letter. The defendants admit the allegation concerning the argument of BTCRD. The defendants deny the allegation that the objectors asked the Board to rewrite the Parking Ordinance and that the Board did just that.

142. It is admitted that on January 3, 2013, Mr. Drill and Mr. Banisch issued a new joint parking memo. .

143. The allegation concerning Drill's and Banisch's interpretation of the parking ordinance is denied. The other allegations in this paragraph are denied.

144. Admitted.

145. Admitted, except that the 110 parking space requirement will not be applied if an applicant presents evidence as to why it should not apply.

146. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that ISBR Traffic Engineer Ney performed a detailed study. It is admitted that at the Board's request, Mr. Ney collected additional data. After reasonable investigation,, the defendants are without sufficient information that the data collected by Mr. Ney and his calculations were based on the ITE methodology. It is admitted that from January 2013 to June 2013, ISBR presented the supplemental parking studies and extensive testimony from Mr. Ney about his analysis. The defendants deny the allegation that based on his local parking study, Mr. Ney stated that applying the ITE methodology resulted in 60 parking spaces for ISBR (his report said 70).

147. Denied.

148. After reasonable investigation,, the defendants are without sufficient information to admit or deny whether the objectors were "satisfied." The defendants deny the allegation

that the Board was "not satisfied", as the Board was simply performing its statutory function. The defendants deny the allegation that any of its activities resulted in "inflated" parking estimates. The defendants admit that the Drill/Banisch parking memo recognized traffic engineers use parking data representing the 85th percentile of parking demand and that the use of 100th percentile figures would result in production of an unnecessary number of parking spaces. It is admitted that the Board questioned Mr. Nay about the 100th percentile figures.

149. It is admitted that on June 4, 2013, the Board voted on ISBR's parking requirement and that the BTCRD objectors presented testimony from their own traffic engineer. It is admitted that Mr. Litwrnia presented a parking recommendation based upon a different metric. The characterization of the testimony is denied. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation as to the basis of Mr. Litwrnia's studies. It is admitted that Mr. Litwrnia recommended that ISBR should be required to provide 107 parking spaces.

150. It is admitted that the Board adopted a recommendation of 107 parking spaces, but denied that it adopted in full the position advanced by Mr. Litwrnia. All of the allegations in this paragraph are denied.

151. It is denied that the Board ignored ISBR testimony. It is admitted that Mr. Ney testified that ISBR could decrease its parking demand through ride sharing arrangements, etc. It is denied that the Board ignored Mr. Ney's recommendations.

152. It is denied that the Board's vote was binding throughout the remainder of the application process. It is denied this compelled ISBR to reconfigure its site plans to comply with the 107 space requirement. It is denied that the Board's requirement of 107 parking spaces laid the ground work for each of the Board's bases for denying ISBR preliminary and final site plan approval.

153. The allegations in this paragraph are denied.

154. The allegations in this paragraph are admitted, except the defendants deny the allegation that "every step in the Board's logic is untenable and contrary to law."

155. It is admitted that ISBR worked for months to resolve the Board's drainage concerns. It is admitted that ISBR changed the type of drainage basins and agreed to change the locations, etc. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that each of these modifications was reflected on ISBR's site plans with the Boards review and entailed considerable expense. The defendants admit the allegation that

the parking spaces required by the Board meant an increase in the water proof pavement, etc. It is denied that the parking lot requirement can be considered "oversized".

156. The defendants admit the remark attributed to Mr. Santoro.

157. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation concerning whether ISBR anticipated a problem. The allegation describing the detention basins is denied. To the extent that the plaintiff's mean to imply that the existence of detention basins and buffer zones at other locations is relevant to the approval of the plans submitted by the plaintiff, the allegation is denied.

158. It is admitted that drainage improvements are listed in the Township's zoning ordinance. Defendants deny the allegation that detention basins are among the least intensive of improvements. The other allegations in this paragraph are denied.

159. The allegations in this paragraph are denied.

160. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that objectors were not satisfied. The allegation concerning the BTCRD presenting their own expert are admitted. The allegation concerning the BTCRD expert articulating a legal

or objective basis for his testimony is denied. The Board found the testimony of the expert to be a net opinion.

161. The allegation that the Board enlisted Planner Banisch to reinterpret the town ordinance buffer provision is denied. It is admitted that Mr. Banisch did not cite to legal precedent or planning treatise but it is denied that he failed to cite to any other authority. It is admitted that Mr. Banisch interpreted the ordinance in the July 20, 2014 memo. The defendants admit that the interpretation of the buffer ordinance had never been applied in connection with any other prior application, but state that this is because it had never been raised as an issue before the plaintiff's application.

162. The allegations in this paragraph are admitted.

163. The defendants deny the allegation that ISBR's existing plans provided for extensive natural planted screening on the property's eastern boundary. The defendants admit that ISBR incorporated into its landscaping plan existing trees as required by the township ordinance. The defendants admit the allegation that ISBR planned a new series of evergreen trees. The defendants deny the allegation there was no inadequacy in the planted screening.

164. The defendants admit the allegations in this paragraph except the allegation that the eastern boundary would then feature an "impregnable array of all available screening

devices." The defendants are without sufficient information to admit or deny this allegation.

165. Admitted.

166. The defendants admit that ISBR made other small changes suggested by Board professionals, which included shifting draining features within the eastern buffer.

167. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that changes have appeared to resolve the eastern screening concerns. The other allegations in this paragraph are admitted.

168. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegations.

169. It is denied that ISBR submitted five iterations of the site plans. ISBR submitted five iterations of plan revisions but never a fully coordinated site plan set, and the plans that were submitted lacked the detail required. The allegation concerning the number of trees is admitted. The defendants admit that ISBR made clear that the detention basis location could be adjusted. The other allegations in this paragraph are admitted.

170. It is admitted that once ISBR submitted its last set of site plan revisions and concluded its case the BTCRD

indicated it did not have any more witnesses and the period for public comment commenced. The defendants deny the allegation in the next sentence that objectors again "swarmed." After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation concerning where the lay objector lived, although it is admitted that a power point was present. It is admitted that no time limits were imposed on any individual public commentators. It is admitted that the Board allowed further expert testimony, but denied it was in contravention of its own rules. It is admitted that Mr. Plaza is accurately quoted, but denied that there was a violation of the Board's rules. It is denied that the Board's rules were relaxed.

171. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation concerning whether ISBR restyled and reshaped the drainage basins six times. It is admitted that preliminary and final site plan approvals were denied. Final approval was denied because the plan did not have sufficient details and for the specific issues described in the Resolution which is attached to defendants' Answer as Exhibit-A. Preliminary approval was denied for the specific issues described in the resolution which is attached, attached to defendants' answer as Exhibit A.

172. It is admitted that the Board concluded that the basin in the eastern buffer exceeded the limited intrusions permitted by the buffer ordinance. The defendants admit that the Board concluded that the drainage basin had to be removed from the buffer. It is denied that this was based on Board planner Banicsh's standard and the characterization of the standard as "brand new" is also denied. It is denied that the Board "leaned heavily on BTCRD's expert testimony and on Mr. Banisch's interpretation of the buffer ordinance" and the characterization of the interpretation as "novel" is also denied.

173. It is admitted the Board stated it would probably have denied specific approval for the swale but the characterization of the swale as a "narrow, grassy" swale is denied. It is also denied that the Board's explanation ignored its experts' praise for the swale.

174. The defendants admit that the Board denied approval to the location of the detention basin but denies that the Board denied approval to the location of other drainage features. The defendants deny the characterization as purportedly. The defendants admit the Board reasoned that "planted screening is much more aesthetically desirable alternative to a fence. The defendants admit that ISBR natural screening would be impacted by the detention basin. The

defendants deny that the Board adopted Ms. Caratzola's terminology. The defendants deny that the Board provided no explanation as to why ISBR's planted screening in the eastern buffer is in any way inadequate and the defendants deny that any facts were ignored.

175. The defendants deny that just because the plans submitted by ISBR showed a "straight fence" that the fence could be constructed "straight." The defendants deny that the Board speculated that the fence would have to be gerrymandered to avoid the existing tree roots. The defendants deny that the Board ignored any facts. The defendants admit the allegation that ISBR landscaping plans reflected only a straight fence in the eastern buffer. The defendants admit that the Board determined that the potential for a fence with asymmetrical fence posts violated the ordinance. The defendants deny that the resolution stated it would have approved the fence if it had been moved farther west, a solution ISBR had repeatedly offered.

176. The defendants deny the allegation that "for good measure the Board also manufactured an additional issue". The defendants deny that ISBR had proposed screening of the parking area from the eastern residential neighbor which is all the township's screening ordinance required. The defendants deny that ISBR represented to the Board it would even erect

additional fencing in its front yard if the Board deemed it necessary and granted a variance, even though no such fence was required by the ordinance. The defendants admit that in its resolution, the Board decided that ISBR must have additional fencing in portions of the front yard setback are to screen the easterly neighbors because ISBR did not provide sufficient landscape screening in that area.. The defendants deny the six foot fence referred to in this allegation was unnecessary. The defendants admit that the Resolution states the Board's finding that any benefit of the fence was substantially outweighed by detrimental aesthetics" which constituted "a substantial detriment to the public record."

177. The defendants deny that the Boards' decision to deny preliminary and final approval was based ultimately on what it deemed aesthetically displeasing and a gerrymandered fence. The defendants deny that the Board treated ISBR differently and less favorably than other religious and secular applicants and that its decisions were arbitrary, capricious and unreasonable.

178. Admitted.

179. It is admitted that on the south side of the property, ISBR's border included a preexisting wooded area. It is admitted that beyond that border was a vacant lot. It is admitted that farther beyond that was the residence of an

individual objector. It is denied that ISBR took every step to ensure adequate southern screening. It is admitted that ISBR submitted a landscaping plan showing the solid screen of new evergreen trees. The defendants admit that ISBR Engineer Khan conducted what ISBR deems was a "screening test" with two different vehicles" headlights. While ISBR Engineer Khan may have determined that the screening was adequate, the Board did not believe him.

180. It is admitted that the Board heard no conflicting testimony but found Mr. Khan's testimony regarding the testing he did to be unpersuasive. The Board need not accept testimony, even though uncontradicted. The allegation about the Board's underlying concern is denied. It is denied that the Board ignored an "obvious point" made by Mr. Khan.

181. It is denied that ISBR agreed to subject its screening to Board scrutiny. The other allegations in this paragraph are also denied.

182. It is admitted that the Board stated it could not access the adequacy of the landscaping plan because the plan lacked a cross-sectional view point. It is denied that this requirement has not been imposed on other applicants. It is denied that cross-section is not warranted.

183. Admitted.

184. All of the allegations in this paragraph are denied.

185. Denied.

186. The allegations in this paragraph are denied.

187. It is admitted that the Board found ISBR's site plan failed to satisfy the requirements of the Township Ordinance and N.J.A.C. §7:8 concerning storm water drainage. It is admitted that the Resolution faulted ISBR for failing to include a groundwater recharge system. It is denied that the bases for denial are untenable.

188. It is admitted that Mr. Khan consulted with Mr. Quinn. The other allegations in this paragraph are admitted except that the defendants deny that the Board's parking lot expansion was faulty.

189. All of the allegations in this paragraph are denied.

190. It is denied that by early 2014 all issues relating to storm water appeared to be resolved. It is admitted that the plaintiffs accurately quote from Mr. Quinn's letter, though the characterization of his comments as "minor" is denied. It is admitted that at a public hearing on January 15, 2014, the Board reviewed Mr. Quinn's comments concerning ISBR's storm water plans. After reasonable investigation,, the

defendants remain without sufficient information to admit or deny the remaining allegations in this paragraph.

191. It is admitted that ISBR submitted a revised storm water management plan. The other allegations in this paragraph are admitted except the report did not address all issues discussed by the Board.

192. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation about whether the objectors were satisfied. It is admitted that at a public hearing on August 4, 2015, ISBR's eastern neighbor questioned whether ISBR's storm water management system needed a recharge system. It is denied that Board Engineer Quinn dismissed the objector's criticism. It is admitted that he informed the objector that engineers "took recharge off the table" because "it is did not seem to make sense." It is denied that Quinn gave any assurances to objectors.

193. It is admitted that objectors continued to press the issue of recharge. It is admitted that at a public hearing on September 8, 2015, an objector presented expert testimony by an engineer, Paul Fox. It is denied that Mr. Fox repeated the opinions of the lay neighbor that ISBR was required to have a recharge system. It is admitted that he made other technical points regarding the ISBR storm water plan. It is admitted that

the Board asked Mr. Quinn to review Mr. Fox's concerns and submit a report with his opinion on the issues.

194. It is denied that Mr. Quinn did not change his mind on the recharge issue. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that Mr. Quinn's view is based on the specific testing of the soils on ISBR's property. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation about whether Khan agree with Quinn's calculations.

195. It is denied that in his letter report dated September 28, 2015, Board Engineer Quinn rebutted Mr. Fox's views. It is denied that Mr. Quinn explained again that there was no requirement of installing a recharge system.

196. It is admitted that Mr. Quinn stated that it might be more expedient for ISBR to comply with the ordinance requirement to provide a recharge facility rather than apply for an exception from having to provide recharge. The defendants deny the characterizations alleged by ISBR. The defendants deny that Mr. Quinn did not opine that the addition of the recharge system was required under the Township ordinance. The defendants deny the remaining allegations.

197. Denied.

198. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegations in this paragraph.

199. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that on October 29, 2015 ISBR's counsel sent to Board attorney Drill a proposed condition of approval regarding either providing a recharge system or performing additional soil testing to reconfirm that no recharge system was needed, that Board attorney Drill then provided the condition to Board members, and that the issue of recharge appeared to be resolved.

200. It is admitted that there was a public hearing on November 3, 2015 and it was the Board's only opportunity to ask Board Engineer Quinn questions about his letter rebutting Mr. Fox's criticism's concerning the ISBR storm water drainage. The other allegations in the paragraph are admitted.

201. It is admitted that the Board denied ISBR's application, even for preliminary approval, though the characterization of "soon thereafter," is denied.

202. It is admitted that the Resolution faulted ISBR for failing to satisfy the purported recharge requirement. It is denied that Board Engineer Quinn repeatedly opined that the recharge requirement did not apply to ISBR's property. The

defendants are without sufficient information to admit or deny any allegation concerning what ISBR understood. It is denied that the Board chose not to grant preliminary approval subject to the agree upon condition because there was no agreed upon condition.

203. It is admitted that the Board's main basis for denial was that ISBR decided not to submit to the Board information it submitted to Quinn. The allegation concerning the Board stating it would be inappropriate to delegate review and approval of essential elements of the development plans such as storm water drainage is admitted. It is denied that the additional information to which the Board was referring were the calculations performed by Board Engineer Quinn himself. It is denied that the Board faulted ISBR for not sharing with the lay Board highly technical engineering calculations. It is denied that the Board also expressly disclaimed an opportunity to review the updated storm water calculations.

204. The allegations in this paragraph are denied. It is denied that the Board previously delegated authority to its engineer to approve a site plan based on his review of storm water drainage plans as differentiated from delegating review of changes to a storm water drainage plan that the Board has approved in tentative form but which needed some minor revisions.

205. Denied.

206. Admitted.

207. It is denied that ISBR satisfied all fire truck access requirements. It is denied that ISBR complied with the local ordinance regarding width of fire lanes. It is admitted that ISBR used a simulation program called AutoTurn to demonstrate the movement of the fire trucks. It is denied that the Town's largest fire truck was shown to have complete access well beyond what is required by law.

208. Denied.

209. It is admitted that the plaintiffs accurately quote the ordinance. It is denied that the ordinance should be interpreted to mean that a building must have at least one fire lane and that the fire lane must be 25 feet wide. In regard to the allegation that an applicant provides additional fire lanes which are not otherwise required to be constructed, the defendants' position was that there was something which had to be constructed. It is admitted that ISBR's plans show a fire lane in front of the public entrance to be 25 feet wide and remaining fire lanes of at least 20 feet wide. It is denied that ISBR complied with the requirements of Ord. §21-46A.1(e) concerning fire lane width.

210. Admitted.

211. It is admitted that the Resolution stated that ISBR's fire truck access plans were deficient because the plans failed to meet the requirements of Ord. §21-46A.1(e)(1). It is denied that the Board adopted wholesale arguments proposed by lay objector. The defendants lay objectors could not present their comments until March 17, 2015. It is admitted that the National Fire Codes Protection Association Standards apply where the following is not specific. It is admitted that the ordinance provides 10 subsections with requirements such as those relating to the width of fire lanes. The allegations describing Mr. Smith's contentions are admitted.

212. It is admitted that NFPA 1141 are located in a section titled Parking Lots that provide standards for the widths of parking aisles and parking stalls. It is denied that those NFPA provisions are designed to ensure that passenger vehicles have sufficient room to back out of parking spaces and then turned around to exit the parking lot. It is denied that the standards have no legal or logical connection to needs of access for fire department apparatus.

213. It is denied that the Township ordinance has a provision which governs the width of fire lanes. It is denied that Mr. Schley acknowledged that the ordinance governs fire lanes. The defendants admit that the provision in question requires 24 foot parking aisles for 90 degree parking stalls.

It is denied that ISBR satisfied the requirements of Ord. 21:39.3, but only as to aisles which don't double as fire lanes.

214. After reasonable investigation,, the defendants are without sufficient information to admit or deny this allegation.

215. The allegation that the defendants' own professional uniformly rejected Mr. Smith's arguments is denied. The defendants deny the allegation that Township Planner Schley confirmed that the Township's ordinance governed parking aisle width, not NFPA 1141. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation that Fire Official Lake testified that the subsections of the ordinance set forth specific rules concerning fire access lanes, which rendered NFPA standards inapplicable. The defendants deny that Board Attorney Drill also opined that Mr. Smith's purportedly legal interpretation was simply incorrect. The defendants deny that Mr. Drill opined that ISBR's site plan complied with any applicable NFPA requirements.

216. The defendants deny that the Board ignored the fire safety advice of its Fire Official. The defendants deny that this was a faulty ruling. The other allegations in this paragraph are denied.

217. Denied.

218. It is admitted that the Board concluded that ISBR's internal traffic circulation plan failed to comply with the ordinance. It is admitted that the Board criticized ISBR's traffic circulation plan for failing to show how Sunday School children would be dropped off.

219. All of the allegations in this paragraph are denied.

220. It is denied that ISBR had no alternatives. It is admitted that ISBR Engineer Khan provided a written supplemental internal circulation plan and oral testimony. It is denied that Mr. Khan testified that children being dropped off would exit their cars at the rear of the building. It is denied that there was any testimony concerning what would happen if more than one car arrived at the same time. It is denied that traffic signs would ensure congregants were made aware that drop off was to be done at the location. It is admitted that the drop off location adjacent to the public entrance identified in Figure 12.

221. It is admitted that Board members did not ask any questions at that time. The description of Mr. Plaza's remarks is admitted, except that his testimony was not accepted as traffic engineer.

222. It is admitted that objectors cross-examined ISBR Engineer Khan. The characterization that the cross-examination was protracted is denied. It is denied that Board member Pavlini was the only one who asked any questions about the safety concerns. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegation about the concerns of the objectors.

223. The sentence describing the Board Resolution is admitted. It is denied, however, that the Resolution complained that ISBR Engineer Khan failed to demonstrate the drop off plan. It is denied that internal circulation of pedestrians and drop off procedures are not required to be on site plans. It is admitted that the ordinance requires a description of site features like roads and pathways but it is denied that the ordinance does not require an operational overview of parking lot operations. It is admitted that Mr. Khan laid out in writing the drop off procedures, but his report did not show the Board how it would work. It is denied that Mr. Khan also incorporated the relevant site features of his circulation plan into ISBR's next set of revised site plans.

224. It is denied that the Board also mentioned the alleged overuse of parking aisles for pedestrians as a basis for rejecting ISBR's circulation plan. It is denied that the cited provision is inapplicable.

225. It is denied that the Board treated ISBR differently. The allegations concerning the Chabad are not valid comparators.

226. All of the allegations in this paragraph are denied.

227. The allegations in this paragraph are admitted.

228. The allegation that the ordinance limits illumination for nonresidential uses to an average of 0.9 footcandles is admitted. It is denied that given ISBR's average illumination levels were below the maximum prescribed by the ordinance, ISBR satisfied its requirements.

229. The allegation concerning the Board ordinance is admitted. The allegation concerning the lighting plan is admitted.

230. It is denied that the Board has no discretion under Ord. §21:41.2. The Board still has discretion to make certain that there is no negative impact. It is admitted that the Board would be limited to setting light levels to minimize undesirable off-premises effects. The allegation that the Board's leading of the ordinance was strained is denied.

231. It is denied that ISBR's lighting plan demonstrated adequate detail. It is admitted that ISBR submitted several different versions the lighting plan. It is admitted that ISBR prepared a lighting exhibit. It is admitted

that ISBR's lighting plan demonstrated the average illumination in the driveways and parking lot was below the maximum of 0.9 footcandles. It is denied that ISBR's plan satisfied the requirements of the ordinance.

232. It is denied that ISBR agreed to moot any possible concerns by reducing the average illumination to 0.5 footcandles. It is admitted that ISBR had previously agreed to a post-approval test of its installed lighting. The other allegations in this paragraph are admitted.

233. It is admitted that the Board has approved lighting plans with average illumination levels of at least .88 footcandles for other houses of worship. The remaining allegations in this paragraph are denied.

234. It is denied that the Board's decision to deny preliminary and final approval was based on the lighting issue. It is denied the Board did not act using the least restrictive means available to it. It is denied that the Board treated ISBR differently and less favorably than other religious and secular applicants and it is denied that the Board's determinations were arbitrary, capricious and unreasonable.

235. After reasonable investigation,, the defendants are without sufficient information to admit or deny the allegations in this paragraph.

236. The defendants admit that the Board voted 4-2 to grant preliminary site plan approval but by operation of law, this constituted a denial pursuant to N.J.S.A. 40:55D-9(a). It is admitted that the Board voted 6-0 to deny ISBR's application for final site plan approval.

237. The allegations in this paragraph are admitted, but the defendants deny that it had any effect on the vote of the planning Board.

238. The allegations in this paragraph are admitted, but the defendants deny that it had any effect on the vote of the planning Board.

239. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

240. This is a legal conclusion, which does not require a response from the defendants. To the extent the plaintiffs mean to imply in this paragraph that there are facts which support the legal theories, the allegation is denied.

241. After reasonable investigation, the defendants remain without sufficient information to admit or deny the allegation that ISBR's funds expended on purchase of the property were transferred by means of financial institutions located outside the State of New Jersey. After reasonable investigation, the defendants are without sufficient

information to admit or deny the allegation concerning the manner in which the construction of ISBR's proposed mosque will effect interstate commerce.

242. It is denied that the Board's refusal to treat ISBR as it treated other land use applicants reflected an approach advocated by the BTCRD's counsel. The other allegations in this paragraph are also denied.

243. The allegations in this paragraph are denied.

244. All of the allegations in this paragraph are admitted.

245. All of the allegations in this paragraph are admitted.

246. All of the allegations in this paragraph are admitted.

247. All of the allegations in this paragraph are admitted.

248. The defendants deny that the Board treated Chabad differently and better than ISBR.

249. It is admitted that on or around November 30, 2000, Chabad applied for approval of a two phase expansion of its synagogue. It is admitted that phase one included a 2,581 square foot addition to the clergy residence, an 18,126 square foot building for classrooms and offices, but it is denied it

was a 67 space parking lot. The other allegations in this paragraph are admitted.

250. All of the allegations in this paragraph are admitted.

251. All of the allegations in this paragraph are admitted.

252. All of the allegations in this paragraph are admitted.

253. All of the allegations in this paragraph are admitted.

254. All of the allegations in this paragraph are admitted.

255. All of the allegations in this paragraph are admitted.

256. It is denied that with respect to the Chabad's expansion application in 2000 that the Board treated Chabad differently and better than ISBR.

257. All of the allegations in this paragraph are admitted.

258. All of the allegations in this paragraph are admitted, except that the proposed facility included 745 seats.

259. All of the allegations in this paragraph are admitted.

260. All of the allegations in this paragraph are admitted.

261. All of the allegations in this paragraph are admitted.

262. Denied. The Board required as a condition of approval a lighting zone plan to supplement the previously submitted lighting plan.

263. Denied that the Board treated B'Nai Israel differently and better than ISBR.

264. All of the allegations in this paragraph are admitted, except that the 80 existing parking spaces included the grass overflow parking area and were not in addition to the grass overflow parking area.

265. All of the allegations in this paragraph are admitted.

266. All of the allegations in this paragraph are admitted.

267. All of the allegations in this paragraph are admitted.

268. The defendants deny that the Board treated B'Nai Israel differently and better than ISBR.

269. All of the allegations in this paragraph are admitted, except that as to the allegation that the Board granted preliminary site plan approval in 1999, the original

Resolution was passed September 7, 1999 and then amended/corrected Resolution was passed October 3, 2000.

270. All of the allegations in this paragraph are admitted.

271. All of the allegations in this paragraph are admitted, except that at the time referred to Mr. Schley was the Assistant Township Planner.

272. It is denied that the Board treated Millington differently and better than ISBR.

273. All of the allegations in this paragraph are admitted.

274. All of the allegations in this paragraph are admitted.

275. Denied. A conforming buffer of at least 50 feet was provided for the new building.

276. All of the allegations in this paragraph are admitted.

277. All of the allegations in this paragraph are admitted.

278. All of the allegations in this paragraph are admitted.

279. It is denied that the Zoning Board treated Millington differently and better than the Planning Board treated ISBR.

280. Admitted, except that a small portion of the Church is in the B-4 business zone.

281. All of the allegations in this paragraph are admitted.

282. It is denied that the Board treated LCPC differently and better than ISBR.

283. All of the allegations in this paragraph are admitted.

284. All of the allegations in this paragraph are admitted.

285. All of the allegations in this paragraph are admitted.

286. All of the allegations in this paragraph are admitted.

287. All of the allegations in this paragraph are admitted.

288. Admitted, but the question of whether students could be dropped off safely was not an issue with this project.

289. All of the allegations in this paragraph are admitted.

290. It is denied that the Zoning Board treated Pingry differently and better than the Planning Board treated ISBR.

291. All of the allegations in this paragraph are admitted.

292. All of the allegations in this paragraph are admitted.

293. All of the allegations in this paragraph are admitted.

294. All of the allegations in this paragraph are admitted.

295. All of the allegations in this paragraph are admitted.

296. It is denied that the Zoning Board treated the Hospital differently and better than the Planning Board treated ISBR.

297. It is admitted that Albroom is a private school located at 361 Somerville Road in the same residential zone as ISBR's property. It is admitted that Albroom submitted three applications to the Board seeking site plan approvals in 1987, 1994 and 1997. It is admitted that the Board approved these applications. It is denied that the Board's 1987, 1994 and 1997 approvals granted variances to Albroom concerning both parking setbacks and the required number of parking spaces. It is denied that the Board treated Albroom differently and better than ISBR. As to the last sentence in the paragraph, it is denied because ISBR did not request similar relief.

298. Dr. Yorio's property is no longer located at 3080 Valley Road. His application was submitted on March 2, 2005. It

is admitted that on August 2, 2005, the Board approved the conditional use after one public hearing on the application. It is denied that in accessing Dr. Yorio's proposed number of parking spaces, the Board applied the parking ratio set forth in the Township ordinance for medical offices. The Board applied the home office requirement of one space for 200 square feet of office space. It is admitted that the Board did not perform an individualized analysis of Dr. Yorio's actual parking need and approved his proposal.

299. It is admitted that the allegations in this paragraph are correct.

300. It is denied that the Board treated Dr. Yorio differently and better than ISBR.

301. Denied.

302. It is denied that as a result of the new ordinance, ISBR cannot now successfully reapply to the Board for site plan approval. After reasonable investigation, the defendants remain without sufficient information to admit or deny allegations concerning expenses incurred by the plaintiffs.

303. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

304. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

305. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

306. After reasonable investigation, the defendants remain without sufficient information to admit or deny this allegation.

307. The allegations in this paragraph are denied.

FIRST CAUSE OF ACTION

308. The answers to the allegations in paragraphs 1 through 307 are repeated as if set forth fully at length herein.

309. It is admitted that the plaintiffs accurately summarize Section 2(a) of RLUIPA.

310. Denied.

311. Denied.

312. Denied.

313. Denied.

SECOND CAUSE OF ACTION

314. The answers to the allegations in paragraphs 1 through 313 are repeated as if set forth fully at length herein.

315. It is admitted that the plaintiffs accurately summarize Section 2(b)(1) of RLUIPA.

316. Denied.

317. Denied.

318. Denied.

319. Denied.

320. The answers to the allegations in paragraphs 1 through 319 are repeated as if set forth fully at length herein.

321. It is admitted that the plaintiffs accurately summarize Section 2(b)(2) of RLUIPA.

322. Denied.

323. Denied.

324. Denied.

325. Denied.

FOURTH CAUSE OF ACTION

326. The answers to the allegation of paragraphs 1 through 325 are repeated as if set forth fully at length herein.

327. The defendants admit that the plaintiffs accurately summarize Section 2(b)(3)(b) of RLUIPA.

328. Denied.

329. Denied.

330. Denied.

331. Denied.

FIFTH CAUSE OF ACTION

332. The answers to the allegations of paragraphs 1 through 331 are repeated as if set forth fully at length herein.

333. The defendants admit that the plaintiffs accurately summarize the Constitutional Amendments referred to in this paragraph.

334. The extent the plaintiffs mean to imply in this paragraph that the defendants violated the First or Fourteenth Amendments, the allegations are denied.

335. Denied.

336. Denied.

337. Denied.

338. Denied.

339. Denied.

340. Denied.

SIXTH CAUSE OF ACTION

341. The answers to the allegations in paragraphs 1 through 340 are repeated as if set forth fully at length herein.

342. Admitted.

343. Denied.

344. Denied.

345. Denied.

346. Denied.

SEVENTH CAUSE OF ACTION

347. The answers to the allegations in paragraphs 1 through 346 are repeated as if set forth fully at length herein.

348. Admitted.

349. To the extent the plaintiffs mean to imply in this paragraph that the defendants violated the Equal Protection Clause of the Fourteenth Amendment, the allegation is denied.

350. Denied.

351. Denied.

352. Denied.

353. Denied.

354. Denied.

EIGHTH CAUSE OF ACTION

355. The answers to the allegations in paragraphs 1 through 354 are repeated as if set forth fully at length herein.

356. To the extent the plaintiffs mean to imply in this paragraph that the defendants violated the Due Process Clause of the Fourteenth Amendment, the allegation is denied.

357. It is admitted that the plaintiffs accurately quote the ordinance.

358. Denied.

359. Denied.

360. Denied.

361. Denied.

NINTH CAUSE OF ACTION

362. The answers to the allegations in paragraphs 1 through 361 are repeated as if set forth fully at length herein.

363. Admitted.

364. Denied.

365. Denied.

366. Denied.

367. Denied.

368. Denied.

TENTH CAUSE OF ACTION

369. The answers to the allegations of paragraph 1 through 368 are repeated as if set forth fully at length herein.

370. It is admitted that the plaintiffs accurately quote from Article I, Paragraph 1 of the New Jersey Constitution. After reasonable investigation,, the defendants

are unable to admit or deny the allegation concerning what the plaintiffs refer to as New Jersey Supreme Court precedent.

371. The defendants admit the plaintiffs accurately quote from the ordinance.

372. Denied.

373. Denied.

374. Denied.

375. Denied.

ELEVENTH CAUSE OF ACTION

376. The answers to the allegations of paragraphs 1 through 375 are repeated as if set forth fully at length herein.

377. Admitted.

378. Denied.

379. Denied.

380. Denied.

PRAYER FOR RELIEF

381. The defendants demand judgment dismissing the Complaint and awarding the defendants counsel fees and costs of suit.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The claims against the individual defendants, in their official capacity, should be dismissed pursuant to *Bass v. Attardi*, 868 F.2d 45 (3d. Cir. 1989).

Second Affirmative Defense

The claims against the individual members of the Planning Board are barred by the doctrine of quasi judicial immunity

Third Affirmative Defense

The claims against the individual members of the Bernards Township Committee are barred by the doctrine of legislative immunity

Fourth Affirmative Defense

The complaint fails to set forth a claim upon which relief can be granted.

Fifth Affirmative Defense

The court lacks jurisdiction because the plaintiffs failed to exhaust administrative remedies.

Sixth Affirmative Defense

Plaintiff, Mohammad Ali Chaudry, lacks standing because he does not have an ownership interest in the property, which is the subject of this suit.

Seventh Affirmative Defense

Plaintiffs have shown no valid civil rights violations and therefore have failed to meet the statutory requirements of 42 U.S.C.S 1981, 1983, 1985, 1986 or 1988. Plaintiffs have also failed to demonstrate the validity of jurisdiction under 28 U.S.C.S. 1927 nor under the First or Fourteenth Amendments to the United States Constitution.

Eighth Affirmative Defense

Plaintiffs failed to exhaust administrative remedies in that they failed to submit to the Planning Board sufficiently detailed plans to enable the Planning Board to determine whether to grant preliminary site plan approval. Plaintiffs failed to obtain administrative approvals from other agencies, such as the Department of Environmental Protection, which are necessary before the plaintiffs could begin construction.

LOCAL RULE 11.2 CERTIFICATION

Pursuant to Local Rule of Civil Procedure 11.2, I hereby certify that the matter in controversy is not currently the subject of any other action pending in any court or of any pending arbitration or administrative proceeding.

TRIAL COUNSEL DESIGNATION

Howard B. Mankoff is hereby designated as trial counsel for defendants Township of Bernards, Bernards Township Planning Board, Bernards Township Committee, Barbara Kleinert, Jeffrey Plaza, Jim Baldassare, Jodi Alper, John Malay Kathleen "Kippy" Piedici, Leon Harris, Paula Axt, Randy Santoro, Rich Moschello, Scott Ross, Carol Bianchi, Carole Gaziano, Thomas S. Russo, Jr., and John Carpenter.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
Attorneys for Defendants,
Township of Bernards,
Bernards Township Planning
Board, Bernards Township
Committee, Barbara Kleinert,
Jeffrey Plaza, Jim
Baldassare, Jodi Alper, John
Malay Kathleen "Kippy"
Piedici, Leon Harris, Paula
Axt, Randy Santoro, Rich
Moschello, Scott Ross, Carol
Bianchi, Carole Gaziano,
Thomas S. Russo, Jr., and
John Carpenter

By: /s/ Howard B. Mankoff
 HOWARD B. MANKOFF, ESQ.

Dated: April 1, 2016
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