

Friend & Wenzel, LLC
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 Attorneys for the Plaintiff, David Lorenzo

	:	SUPERIOR COURT OF NEW JERSEY
DAVID LORENZO,	:	LAW DIVISION – BERGEN COUNTY
	:	
Plaintiff,	:	
	:	DOCKET NO.:
v.	:	
	:	<u>Civil Action</u>
PLANNING BOARD OF THE	:	
BOROUGH OF PARAMUS and	:	COMPLAINT IN LIEU OF
COSTCO WHOLESALE	:	PREROGATIVE WRIT
CORPORATION	:	
	:	
Defendants.	:	
	:	

Plaintiff, David Lorenzo (the “Plaintiff”), the owner of real property located at 16-02 Clauss Avenue in the Borough of Paramus, County of Bergen, and State of New Jersey by way of complaint in lieu of prerogative writ against the Defendants says:

FACTS COMMON TO ALL COUNTS

1. The Plaintiff is the owner of real property located at 16-02 Clauss Avenue in Borough of Paramus, New Jersey.
2. Defendant Planning Board of the Borough of Paramus (“Board”) is a land use board constituted and organized and existing under the Municipal Land Use Law whose members are appointed by the mayor of the Borough of Paramus.

3. Defendant Costco Wholesale Corporation (“Applicant”) is the prospective owner of 857, 859 & 861 Route 17, Paramus, New Jersey, Block 7401, Lots 1, 2 & 4 on the Tax Map of the Borough of Paramus, New Jersey (“the Property”).

4. Applicant submitted an application to the Board seeking variances for building coverage, planted buffer areas, side and rear yard setbacks, signage, retaining wall height and location, loading area, drive aisle width, rooftop appurtenances height, EV parking spaces, and entrance driveway and site plan approval to construct a Costco Wholesale retail store with tire center (consisting of approximately 184,250 SF) and associated parking on the Property.

5. The Applicant obtained approval of the Board application on or about October 2, 2025.

6. Public hearings were held on October 2, 2024, January 2, 2025, September 18, 2025 and October 2, 2025 and the approval was memorialized by resolution adopted on November 6, 2025 (the “Resolution”). A copy of the Resolution is attached hereto as Exhibit A.

7. Notice of the Resolution was published on or about November 11, 2025.

FIRST COUNT

8. The Plaintiff repeats all of the Complaint as if set forth at length herein.

9. The Resolution fails to provide a sufficient negative criteria zoning analysis to establish that the grant of the variances will not be substantially detrimental to the public good as required by law.

10. The Resolution fails to provide a sufficient negative criteria zoning analysis to establish that the grant of the variances will not substantially impair the intent and purpose of the

Master Plan and Zoning Ordinance and unlawfully usurped the powers granted to the Mayor and Council by the Municipal Land Use law.

11. As a result, the actions of the Board in granting the Applicant's land use application were arbitrary, capricious and/or unreasonable to constitute an abuse of its discretion, violating the law of the State of New Jersey.

12. Therefore, Plaintiff is entitled to an Order for Judgment reversing the approval of Resolution and directing the Board to deny the relief requested by the Applicant on the Property.

WHEREFORE, Plaintiff demands a judgment against The Planning Board of the Borough of Paramus and Costco Wholesale Corporation reversing and vacating the Resolution and awarding attorneys' fees and costs of suit and granting such other and further relief as the Court shall find equitable and just.

SECOND COUNT

13. The Plaintiff repeats the Complaint as if set forth at length herein.

14. The actions of the Board in granting the Applicant's land use application were arbitrary, capricious and/or unreasonable to constitute an abuse of its discretion, violating the law of the State of New Jersey.

15. As a result, the actions of the Board in granting the Applicant's land use application should be reversed and the Resolution vacated.

WHEREFORE, Plaintiff demands a judgment against The Planning Board of the Borough of Paramus and Costco Wholesale Corporation reversing and vacating the Resolution and awarding attorneys' fees and costs of suit and granting such other and further relief as the Court shall find equitable and just.

THIRD COUNT

16. The Plaintiff repeats the Complaint as if set forth at length herein.

17. The Applicant failed to properly notice the affected properties located within the required distance from Property.

18. As such, the property owners around the affected Property received deficient notice of all the variances for the Property.

19. As a result, the granting of the application is in violation of MLUL, specifically N.J.S.A 40:55D-12 and is invalid.

WHEREFORE, Plaintiff demands a judgment against The Planning Board of the Borough of Paramus and Costco Wholesale Corporation reversing and vacating the Resolution and awarding attorneys' fees and costs of suit and granting such other and further relief as the Court shall find equitable and just.

FOURTH COUNT

20. The Plaintiff repeats all of the Complaint as if set forth at length herein.

21. The granting of any variance requires that the Board provide both findings of fact as well as conclusions of law. N.J.S.A. 40:55D-10(g)

22. The factual findings set forth in a resolution cannot consist of a mere recital of testimony or conclusory statements couched in statutory language. N.Y. SMSA, L.P. v. Bd. of Adjustment, 370 N.J. Super. 319, 332-333 (App. Div. 2004). The resolution must contain sufficient factual findings and statements of law to allow a reviewing court to know the basis of the board's decision. Id. at 333.

23, The Resolution of Approval contains no conclusions of law other than cursory references to the statutory criteria for a variance relief. Notably, there was no clarification provided by the Board as to the justification for the numerous variances sought by the Applicant other than for self-induced hardship conditions.

24. As such, the Resolution is defective.

25. Therefore, Plaintiff is entitled to an Order for Judgment reversing the approval of Resolution and directing the Board to deny the relief requested by the Applicant on the Property.

WHEREFORE, Plaintiff demands a judgment against The Planning Board of the Borough of Paramus and Costco Wholesale Corporation reversing and vacating the Resolution and awarding attorneys' fees and costs of suit and granting such other and further relief as the Court shall find equitable and just.

Friend & Wenzel, LLC
975 Clifton Avenue
Clifton, New Jersey 07013
Attorneys for Plaintiff

Dated: December 22, 2025

By: Joseph M. Wenzel
Joseph M. Wenzel

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: December 22, 2025

By: Joseph M Wenzel
Joseph M. Wenzel

CERTIFICATION PURSUANT TO RULE 4:69-4

The undersigned attorney for the Plaintiff hereby certifies that all necessary transcripts have or will be ordered from the court reporting service used by the Planning Board of the Borough of Paramus, New Jersey, the local agency in question.

Dated: December 22, 2025

By: Joseph M Wenzel
Joseph M. Wenzel