

April 17, 2023

Via Email Only

Andover Township Land Use Board
134 Newton Sparta Road
Newton, New Jersey 07860

Attn: Paul Messerschmidt, Chairman

Re: Objection to BHT Application for Use Variance, Preliminary and Final Site Plan Approval and Minor Subdivision before the Andover Township Land Use Board
Premises: 248 Stickles Pond Road, Block 151, Lot 21
Andover Township, Sussex County, New Jersey
Our File Number: 1409-001

Dear Chairman Messerschmidt:

I am in receipt of Applicant’s counsel, Roger W. Thomas, Esq.’s correspondence today to the Land Use Board’s Administrator, Stephanie Pizzulo, requesting yet another adjournment in the caption Application. Mr. Thomas sets forth that the reason for yet another adjournment request is due to “unforeseen scheduling issues”. As the Chairman and Board are aware, this matter has had twenty (23) meetings or potential meeting dates, as set forth below, the highlighted meetings are the adjournments requested by the Applicant and granted:

	<u>DATE</u>	<u>WITNESSES</u>
1.	7-20-21 at The Hillside Barn	C. Nusser, PE - Applicant’s Engineer
2.	8-17-21 at The Hillside Barn	Applicant requested to be carried to 9-21-21 because not available
3.	9-21-21 at The Hillside Barn	Application did not go forward because Applicant did not have completed Site Plan
4.	10-19-21 at The Hillside Barn	M. Morris, PP – Board Planner P. Ricci, PP – Applicant’s Planner M. Sainz – Applicant’s Chief of Operations
5.	11-30-21 Special at The Hillside Barn	Continue – M. Sainz – Applicant’s Chief of Operations
6.	12-21-21 at The Hillside Barn	Day of Hearing, Applicant requested to be carried Motion to Carry Approved

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7.	1-18-22 at The Hillside Barn	Applicant did not appear advised day of Hearing witness was ill; Board met Motion to Carry Approved Motion to Hire H2M and Equity Environmental Approved
8.	2-15-22 at The Hillside Barn	Continue C. Nusser, PE – Applicant’s Engineer
9.	3-15-22 at The Hillside Barn	Continue C. Nusser, PE – Applicant’s Engineer
10.	3-29-22 at Florence Burd School	C. Chase of Dynamic Traffic, LLC – Applicant’s Traffic Expert
11.	4-19-22 at The Long Pond School	Continue C. Chase of Dynamic Traffic, LLC – Applicant’s Traffic Expert
12.	5-17-22 at The Municipal Building	The following three (3) witnesses from Equity Environmental – Board’s Expert: 1. K. Williams, PP 2. F. Moser, Enviro Scientist 3. J. Heineman, PP Equity Environmental
13.	6-21-22 at The Municipal Building	Continue Equity Environmental – Board’s Expert: 1. K. Williams, PP 2. F. Moser, Enviro Scientist 3. J. Heineman, PP Equity Environmental
14.	7-19-22 at The Municipal Building	C. Nusser, PE – Applicant’s Engineer Cross
15.	8-16-22 at The Municipal Building	C. Nusser, PE – Applicant’s Engineer Cross
16.	8-30-22 at The Municipal Building	C. Nusser, PE – Applicant’s Engineer Cross
17.	9-20-22 at The Municipal Building	M. Kovacs, SVP of EcholScience, Inc. – Applicant’s Expert
18.	10-25-22 at The Municipal Building	M. Kovacs, SVP of EcholScience, Inc. – Applicant’s Expert
19.	11-15-22 at The Municipal Building	Adjourned due to Applicant’s counsel’s illness
20.	12-20-22 at the Municipal Building	Continue M. Kovacs, SVP of EcholScience, Inc. – Applicant’s Expert C. Nusser, PE – Applicant’s Engineer direct re: revised plans

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21.	1-31-23 at the Municipal Building	C. Nusser, PE – Applicant’s Engineer direct re: revised plans
22.	2-21-23 at the Municipal Building	F. Getchell, Applicant’s Hydrogeologist
23.	3-21-23 at the Municipal Building	C. Nusser, PE – Applicant’s Engineer direct re: revised plans

You will note, neither the Board, nor I, have requested any adjournments. All adjournment requests have been by the Applicant. As I have discussed with the Board on numerous occasions, this Application is taking far longer than it should have to due to the Applicant’s adjournments, as well as the Applicant’s failure to timely submit requested documents and/or revised plans. By way of example, and not limitation, to date, we have yet to receive the revised EIS, which the Applicant has been advising the Board for months was “forthcoming”.

Naturally, it is up to the Board as to whether or not the Board will grant yet another extension request to the Applicant. Normally, I would not object to an adjournment request, however, in this instance, given the number of adjournments to date, and the fact that Applicant’s counsel sent a letter the day before the scheduled meeting advising that the Applicant is requesting another adjournment due to “unforeseen scheduling issues”, I must object to the Board granting this adjournment and request that the Board require the Applicant to proceed tomorrow evening with the “operations representative” for the Applicant, which witness, the Applicant’s counsel advised the Board, for the past few months, would be testifying at the April 18th meeting. I have taken the time to prepare to cross examine this witness and am available tomorrow evening. Additionally, my clients are also prepared to attend the meeting tomorrow night and have spent time reviewing the Application to get ready for tomorrow’s Board hearing. The Objectors and I are prepared to proceed and wish to proceed tomorrow night.

I await the Board’s decision regarding the Applicant’s adjournment request.

Respectfully submitted,
THE DURKIN FIRM, LLC

By: 
Elizabeth M. Durkin

EMD/sb

- cc: Clients (via email only)
Roger W. Thomas, Esq., Dolan & Dolan (via email only)
Thomas J. Molica, Jr., Esq. (via email only)
Stephanie Pizzulo, Administrator (via email only)
Matthew Morris, L.L.A., P.P., LEED G.A. (via email only)
Cory L. Stoner, P.E., C.M.E. (via email only)