

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Argued - December 15, 2006

ROBERT W. SCHMIDT, J.P.
STEPHEN G. CRANE
PETER B. SKELOS
STEVEN W. FISHER, JJ.

2005-05805

DECISION & ORDER

In the Matter of Peter Boneparth, et al., appellants, v
Herbert Warshavsky, et al., respondents.

(Index No. 16058/04)

Law Offices of David J. Sutton, P.C., Garden City, N.Y. (Ann Marie DiNenno of counsel), for appellants.

Berkman, Henoeh, Peterson & Peddy, P.C., Garden City, N.Y. (Todd C. Steckler of counsel), for respondent Irving Schlusel.

In a proceeding pursuant to CPLR article 78, inter alia, to review a determination of the Planning Board of the Village of Lawrence, dated September 29, 2004, which, after a hearing, conditionally granted Irving Schlusel's petition to subdivide an existing lot into two separate parcels, the petitioners appeal from a judgment of the Supreme Court, Nassau County (McCarty, J.), entered May 11, 2005, which, in effect, denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

Contrary to the petitioners' contention, the determination of the respondent Planning Board of the Village of Lawrence was not made in violation of lawful procedure (*see* Village of Lawrence Code §§ 182-3, 182-7[A] and 182-28), did not constitute an abuse of discretion, and was neither arbitrary nor capricious (*see* CPLR 7803[3]; *Matter of Jamil v Village of Scarsdale Planning Bd.*, 24 AD3d 552, 554).

January 23, 2007

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The petitioners' remaining contentions are either not properly before this court (*see Matter of Myles v Doar*, 24 AD3d 677, 678; *Matter of Mealie v Board of Zoning Appeals of Town of Brookhaven*, 14 AD3d 703) or without merit.

SCHMIDT, J.P., CRANE, SKELOS and FISHER, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court