

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

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_____AD3d_____

Argued - November 15, 2007

A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
FRED T. SANTUCCI
ROBERT A. LIFSON, JJ.

2006-10819

DECISION & ORDER

In the Matter of Richard Brand, et al., appellants,
v Steven P. Knowlton, etc., et al., respondents;
Arthur Auer, et al., intervenors-respondents.

(Index No. 2294/06)

Alani Golanski, Brooklyn, N.Y., for appellants.

Walter R. Sevastian, Nyack, N.Y., for respondents.

Stein & Stein, Haverstraw, N.Y. (William M. Stein of counsel), for intervenors-respondents.

In a proceeding pursuant to CPLR article 78 to review a determination of the Zoning Board of Appeals of the Village of Nyack dated February 27, 2006, which, after a hearing, denied the petitioners' application for an area variance, the petitioners appeal from a judgment of the Supreme Court, Rockland County (Weiner, J.), entered October 16, 2006, which denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

Local zoning boards have broad discretion in considering applications for area variances, and judicial review is limited to determining whether the action taken by the board was illegal, arbitrary, or an abuse of discretion (*see Matter of Pecoraro v Board of Appeals of Town of Hempstead*, 2 NY3d 608, 613; *Matter of Ifrah v Utschig*, 98 NY2d 304, 308).

January 29, 2008

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Here, the Zoning Board of Appeals of the Village of Nyack (hereinafter the Board) engaged in the required balancing test and considered the relevant statutory factors. The record indicates that the Board's determination had a rational basis and was not illegal, arbitrary, or an abuse of discretion (*see Matter of Pecoraro v Board of Appeals of Town of Hempstead*, 2 NY3d at 613-614; *Matter of Martino v Board of Zoning Appeals of Inc. Vil. of Great Neck Plaza*, 26 AD3d 382, 383; *Matter of Peconic Shores Dev. v Board of Zoning Appeals of Town of Brookhaven*, 19 AD3d 600, 601). Accordingly, the Supreme Court properly denied the petition and dismissed the proceeding.

PRUDENTI, P.J., MASTRO, SANTUCCI and LIFSON, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court