

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

D17989
X/kmg

_____AD3d_____

Argued - January 4, 2008

ROBERT A. SPOLZINO, J.P.
ANITA R. FLORIO
HOWARD MILLER
THOMAS A. DICKERSON, JJ.

2007-00160

DECISION & ORDER

In the Matter of Linus Realty, LLC, appellant,
v New York State Department of Environmental
Conservation, respondent.

(Index No. 8267/04)

Menicucci Villa & Associates PLLC, Staten Island, N.Y. (Richard A. Rosenzweig of counsel), for appellant.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Benjamin N. Gutman, Gordon J. Johnson, Daniel J. Chepaitis, and Janice A. Dean of counsel), for respondent.

In a proceeding, inter alia, pursuant to CPLR article 78 to review a determination of the New York State Department of Environmental Conservation dated June 30, 2004, which denied the petitioner's application for a freshwater wetlands permit, the petitioner appeals from an order of the Supreme Court, Richmond County (Minardo, J.), dated November 22, 2006, which, denied, as premature, its motion for leave to renew the petition.

ORDERED that the appeal is dismissed, without costs or disbursements.

The order appealed from is not appealable as of right (*see* CPLR 5701[b]; *Matter of Long Is. Fiber Exch., Inc. v Board of Educ. Servs. for First Supervisory Dist. of Suffolk County*, 38 AD3d 897; *Matter of Turek v Town of Clarkstown Zoning Bd. of Appeals*, 288 AD2d 479; *Matter*

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of Soros v Board of Appeals of Vil. of Southampton, 24 AD2d 705, 706), and we decline to grant leave to appeal (*see* CPLR 5701[c]).

SPOLZINO, J.P., FLORIO, MILLER and DICKERSON, 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