

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

D23585  
O/kmg

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Argued - May 11, 2009

FRED T. SANTUCCI, J.P.  
THOMAS A. DICKERSON  
ARIEL E. BELEN  
CHERYL E. CHAMBERS, JJ.

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2008-03318

DECISION & ORDER

In the Matter of John Groarke, et al., appellants,  
v Board of Education of Rockville Centre Union  
Free School District, et al., respondents.

(Index No. 8528/07)

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Certilman Balin Adler & Hyman, LLP, Hauppauge, N.Y. (John M. Wagner and Kevin P. Walsh of counsel), for appellants.

Ingerman Smith, LLP, Hauppauge, N.Y. (Joseph E. Madsen of counsel), for respondents.

In a proceeding pursuant to CPLR article 78 to review a resolution of the Board of Education of the Rockville Centre Union Free School District, which approved a proposal to upgrade the athletic field at South Side High School in the Rockville Centre School District pending development and the approval of contracts, the petitioners appeal from a judgment of the Supreme Court, Nassau County (Woodard, J.), entered February 26, 2008, which, inter alia, denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

Contrary to the petitioners' contention, the Supreme Court properly determined that the proposal approved by the Board of Education of the Rockville Centre Union Free School District to upgrade the athletic field at South Side High School in the Rockville Centre School District by installing artificial turf, lighting, and bleachers, qualified as a Type II action under the State Environmental Quality Review Act (ECL art 8; hereinafter SEQRA). Since the proposal clearly is

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ROCKVILLE CENTRE UNION FREE SCHOOL DISTRICT

for a “replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site” (6 NYCRR 617.5[c][2]), it is a Type II action, which does not require environmental review under SEQRA (see *Matter of Committee to Stop Airport Expansion v Town Bd. of Town of E. Hampton*, 2 AD3d 850; *Matter of Levine v Town of Clarkstown*, 307 AD2d 997; *Matter of Crews v Village of Dobbs Ferry*, 272 AD2d 540).

The appellants’ remaining contention is without merit (see CPLR 5019[a]).

SANTUCCI, J.P., DICKERSON, BELEN and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer  
Clerk of the Court