

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

D34224  
Y/prt

\_\_\_\_AD3d\_\_\_\_

Submitted - February 16, 2012

PETER B. SKELOS, J.P.  
ARIEL E. BELEN  
PLUMMER E. LOTT  
ROBERT J. MILLER, JJ.

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2011-03880

DECISION & ORDER

In the Matter of Kimber L. Wilkes, appellant, v  
Carol Van Hooke, et al., respondents.

(Index No. 10236/10)

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Alvin L. Spitzer, Pearl River, N.Y., for appellant.

Joseph J. Haspel, Goshen, N.Y., for respondent Carol Van Hooke.

Warren E. Berbit, Village Attorney, New City, N.Y. (Ira M. Emanuel of counsel), for  
respondents Village of Montebello and Village of Montebello Planning Board.

In a proceeding pursuant to CPLR article 78 to review a determination of the Village of Montebello Planning Board granting approval to Carol Van Hooke of a site plan, the petitioner appeals from a judgment of the Supreme Court, Rockland County (Alfieri, J.), dated January 11, 2011, which denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with one bill of costs to the respondents appearing separately and filing separate briefs.

Contrary to the petitioner's contention, the Supreme Court properly denied the petition and dismissed the proceeding as time-barred (*see* Village Law § 7-725-a[11]; CPLR 306-b). The petitioner's contention on appeal that she should be granted an extension of her time to serve the petition for good cause or in the interest of justice (*see* CPLR 306-b), is not properly before this Court (*see NYU Univ. Hosp. for Joint Diseases v Country Wide Ins. Co.*, 84 AD3d 1043).

Those portions of the petitioner's brief that refer to matter dehors the record have not

March 20, 2012

Page 1.

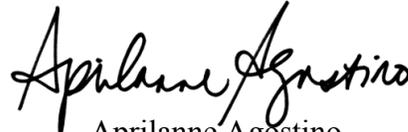
MATTER OF WILKES v VAN HOOKE

been considered in the determination of the appeal (*see Matter Swinson v Brewington*, 84 AD3d 1251, 1254; *Mendoza v Plaza Homes, LLC*, 55 AD3d 692, 693).

The petitioner's remaining contentions are without merit.

SKELOS, J.P., BELEN, LOTT and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court