

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

D34557
N/prt

_____AD3d_____

Argued - February 24, 2012

WILLIAM F. MASTRO, A.P.J.
L. PRISCILLA HALL
PLUMMER E. LOTT
SANDRA L. SGROI, JJ.

2010-12016

DECISION & ORDER

In the Matter of David P. Hadland, appellant, v
Zoning Board of Appeals of Town of Southampton,
et al., respondents.

(Index No. 48151/09)

Esseks, Hefter & Angel, LLP, Riverhead, N.Y. (Stephen R. Angel, Anthony C. Pasca, and Lisa J. Ross of counsel), for appellant.

Tiffany S. Scarlato, Town Attorney, Southampton, N.Y. (Kathleen Murray of counsel), for respondents Zoning Board of Appeals of Town of Southampton and Michael Benincasa, as Chief Building Inspector of Town of Southampton.

Bennett & Read, Southampton, N.Y. (John J. Bennett and Kimberly A. Judd of counsel), for respondents Kimco Development of Hampton Bays, Inc., and Petco Animal Supplies Stores, Inc.

In a proceeding pursuant to CPLR article 78 to review a determination of the Zoning Board of Appeals of the Town of Southampton dated November 5, 2009, which, after a hearing, determined that it was without jurisdiction to review the petitioner's application on the merits as he was not an aggrieved person pursuant to Town Law § 267-a(4), the petitioner appeals from a judgment of the Supreme Court, Suffolk County (Tanenbaum, J.), which denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

April 17, 2012

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The Zoning Board of Appeals of the Town of Southampton properly determined that the petitioner was not an aggrieved person pursuant to Town Law § 267-a(4) because he failed to demonstrate any legally cognizable interest aside from increased business competition (*see Matter of Sun-Brite Car Wash v Board of Zoning & Appeals of Town of N. Hempstead*, 69 NY2d 406, 415; *Matter of Friedman v Town Clerk of Town of Hempstead*, 62 AD3d 699, 700; *Matter of Tappan Cleaners v Zoning Bd. of Appeals of Vil. of Irvington*, 57 AD3d 683, 684). Accordingly, the Supreme Court properly denied the petition and dismissed the proceeding (*see CPLR 7803[3]*).

MASTRO, A.P.J., HALL, LOTT and SGROI, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court