

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

D34983
Y/prt

_____AD3d_____

Argued - April 13, 2012

MARK C. DILLON, J.P.
ANITA R. FLORIO
PLUMMER E. LOTT
SANDRA L. SGROI, JJ.

2011-04748

DECISION & ORDER

In the Matter of Mainstreet Makeover 2, Inc., appellant,
v Meenakshi Srinivasan, etc., et al., respondents.

(Index No. 80224/10)

Rothkrug Rothkrug & Spector, LLP, Great Neck, N.Y. (Simon H. Rothkrug and Todd Dale of counsel), for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Edward F. X. Hart and Drake A. Colley of counsel), for respondents.

In a proceeding pursuant to CPLR article 78 to review a determination of the Board of Standards and Appeals of the City of New York dated July 13, 2010, made after a hearing, that a building permit was erroneously issued by the Department of Buildings of the City of New York as a result of misrepresentations and that, consequently, the building permit should be revoked, the petitioner appeals from a judgment of the Supreme Court, Richmond County (Fusco, J.), dated March 28, 2011, which denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

The facts of this proceeding are set forth in our decision and order on a prior appeal (*see Matter of Mainstreet Makeover 2, Inc. v Srinivasan*, 55 AD3d 910). On that appeal, this Court remitted the matter to the Board of Standards and Appeals of the City of New York (hereinafter the BSA) for a determination solely of the issue of whether the Department of Buildings of the City of New York (hereinafter the DOB) issued a site alteration permit in error based upon alleged misrepresentations made by the petitioner during the permit application process with respect to the petitioner's plans to demolish the existing premises and to construct a new residence on a different

May 30, 2012

Page 1.

MATTER OF MAINSTREET MAKEOVER 2, INC. v SRINIVASAN

portion of the subject lot (*see* Administrative Code of City of NY former § 27-197).

We find that the determination of the BSA that the site alteration permit was issued in error based upon misrepresentations was neither arbitrary nor capricious (*see Matter of SoHo Alliance v New York City Bd. of Stds. & Appeals*, 95 NY2d 437).

The petitioner's remaining contentions are either not properly before this Court or without merit.

DILLON, J.P., FLORIO, LOTT and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court