

SUPREME COURT OF THE STATE OF NEW YORK  
*Appellate Division, Fourth Judicial Department*

190

CA 12-01653

PRESENT: SCUDDER, P.J., CENTRA, LINDLEY, SCONIERS, AND MARTOCHE, JJ.

---

IN THE MATTER OF MICHAEL J. MIMASSI,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

TOWN OF WHITESTOWN ZONING BOARD OF APPEALS,  
RESPONDENT-RESPONDENT.  
(APPEAL NO. 2.)

---

DOUGLAS H. ZAMELIS, MANLIUS, FOR PETITIONER-APPELLANT.

WILLIAM P. SCHMITT, TOWN ATTORNEY, UTICA, FOR RESPONDENT-RESPONDENT.

---

Appeal from a judgment (denominated order) of the Supreme Court, Oneida County (Norman I. Siegel, A.J.), entered July 19, 2012 in a proceeding pursuant to CPLR article 78. The judgment dismissed the petition.

It is hereby ORDERED that the judgment so appealed from is unanimously vacated without costs.

Same Memorandum as in *Matter of Mimassi v Town of Whitestown Zoning Bd. of Appeals* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [Mar. 22, 2013]).

Entered: March 22, 2013

Frances E. Cafarell  
Clerk of the Court