

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : SECOND JUDICIAL DEPARTMENT

6888D
C/jv

_____ AD2d _____

Argued - March 9, 1999

DAVID S. RITTER, J.P.
MYRIAM J. ALTMAN
GLORIA GOLDSTEIN
LEO F. MCGINITY, JJ.

97-10457

In the Matter of Robert A. Ficalora, etc.,
appellant, v Planning Board of the Town of
East Hampton, et al., respondents.

DECISION & ORDER

Joel R. Kupferman, Centerport, N.Y., for appellant, and appellant *pro se*
(one brief filed).

Cahn Wishod & Knauer, LLP, Melville, N.Y. (Richard C. Cahn and Scott M.
Karson of counsel), for respondents.

In a proceeding pursuant to CPLR article 78 to review (1) a determination of the Planning Board of the Town of East Hampton, dated June 4, 1997, which, after a hearing, granted the application of nonparties Joseph Guarneri and Joanne Guarneri, *inter alia*, for a special permit, and (2) a determination of the Building Department of the Town of East Hampton, dated June 26, 1997, which granted the application of nonparties Joseph Guarneri and Joanne Guarneri for a building permit, the petitioner appeals from a judgment of the Supreme Court, Suffolk County (Underwood, J.), dated October 31, 1997, which denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

The determinations to issue the subject permits were neither arbitrary nor capricious (*see, Matter of Johnson v Village of Westhampton Beach*, 244 AD2d 335). In any event, so much of the proceeding as sought to review the determination dated June 4, 1997, is time-barred, since it was not commenced within 30 days of June 5, 1997, the date that determination was filed with the Town Clerk (*see, Town Law* § 267-c[1]; § 274-b[9]).

RITTER, J.P., ALTMAN, GOLDSTEIN, and MCGINITY, JJ., concur.

ENTER:

Martin H. Brownstein
Clerk

June 1, 1999

MATTER OF FICALORA v PLANNING BOARD OF THE TOWN OF EAST HAMPTON