

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

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E/cb

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2008-08305

DECISION & ORDER ON MOTION

In the Matter of George Henderson, et al.,
appellants-respondents, v Zoning Board of
Appeals, et al., respondents, Richard Ottinger,
et al., respondents-appellants.

(Index No. 12351/07)

Motion by the appellants-respondents Suzanne McCrory, Leonard Weiss, and Eleanor Weiss to stay enforcement of stated portions of an order and judgment (one paper) of the Supreme Court, Westchester County, entered August 15, 2008, pending hearing and determination of an appeal and cross appeal therefrom, and to dismiss the cross appeal on the ground that no appeal lies as of right from the portions of the order from which the cross appeal is taken (*see* CPLR 5701).


Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that on the court's own motion, the notice of appeal with respect to George Henderson and Irene Henderson and the notice of cross appeal are deemed to be applications for leave to appeal from the portions of the order which aggrieves George and Irene Henderson and the respondents-appellants, and leave to appeal is granted (*see* CPLR 5701[c]); and it is further,

ORDERED that the motion is denied.

RIVERA, J.P., LIFSON, ENG and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

October 30, 2008

MATTER OF HENDERSON v ZONING BOARD OF APPEALS