

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

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**CA 08-01409**

PRESENT: HURLBUTT, J.P., SMITH, FAHEY, PERADOTTO, AND PINE, JJ.

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IN THE MATTER OF WIND POWER ETHICS GROUP (WPEG)  
AND SARAH BOSS, PETITIONERS-APPELLANTS,

V

MEMORANDUM AND ORDER

ZONING BOARD OF APPEALS OF TOWN OF CAPE VINCENT,  
RESPONDENT-RESPONDENT,  
ET AL., RESPONDENTS.  
(APPEAL NO. 2.)

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MENTER, RUDIN & TRIVELPIECE, P.C., SYRACUSE (JULIAN B. MODESTI OF  
COUNSEL), FOR PETITIONERS-APPELLANTS.

WHITEMAN OSTERMAN & HANNA LLP, ALBANY (MICHAEL G. STERTHOUS OF  
COUNSEL), FOR RESPONDENT-RESPONDENT.

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Appeal from an order of the Supreme Court, Jefferson County (Hugh A. Gilbert, J.), entered June 16, 2008 in a proceeding pursuant to CPLR article 78. The order settled the record on the appeal taken from the judgment entered August 27, 2007.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Same Memorandum as in *Wind Power Ethics Group v Zoning Bd. of Appeals of Town of Cape Vincent* ([appeal No. 1] \_\_\_\_ AD3d \_\_\_\_ [Mar. 20, 2009]).

Entered: March 20, 2009

JoAnn M. Wahl  
Clerk of the Court