

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

1579

CA 10-01376

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

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IN THE MATTER OF MICHAEL A. MOON AND  
TRACY L. MOON, PETITIONERS-APPELLANTS,

V

ORDER

VILLAGE OF BROCTON ZONING BOARD OF APPEALS  
AND JOHN A. SIMONE, RESPONDENTS-RESPONDENTS.

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GODELL & RANKIN, JAMESTOWN (ANDREW W. GODELL OF COUNSEL), FOR  
PETITIONERS-APPELLANTS.

WRIGHT, WRIGHT AND HAMPTON, JAMESTOWN (EDWARD P. WRIGHT OF COUNSEL),  
FOR RESPONDENT-RESPONDENT VILLAGE OF BROCTON ZONING BOARD OF APPEALS.

DAVID M. CIVILETTE, P.C., DUNKIRK (DAVID M. CIVILETTE OF COUNSEL), FOR  
RESPONDENT-RESPONDENT JOHN A. SIMONE.

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Appeal from a judgment of the Supreme Court, Chautauqua County (James H. Dillon, J.), entered January 5, 2010 in a proceeding pursuant to CPLR article 78. The judgment, among other things, denied plaintiffs' motion to set aside the use variance granted to defendant John A. Simone by defendant Village of Brocton Zoning Board of Appeals.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: December 30, 2010

Patricia L. Morgan  
Clerk of the Court