

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FOURTH JUDICIAL DEPARTMENT**

**Brighton Grassroots, LLC v. Town of Brighton Zoning Bd. of
Appeals**

2021 NY Slip Op 05214 (App. Div. 2021) · No. 737 CA 21-00240 · Decided October 1, 2021

SUMMARY

The Appellate Division, Fourth Department, affirmed a judgment in a CPLR article 78 proceeding and declaratory judgment action involving the Town of Brighton Zoning Board of Appeals and related respondents. The judgment denied the petitioner-plaintiff's motion for a preliminary injunction and granted respondents-defendants' cross motions to dismiss the petition-complaint.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Whalen, P.J.; Centra, J.; Nemoyer, J.; Troutman, J.; Winslow, J.
JURISDICTION	New York
DECIDED	October 1, 2021
DOCKET	737 CA 21-00240
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment denominated an order and judgment in a CPLR article 78 proceeding and declaratory judgment action.
PRECEDENTIAL VALUE	Published appellate opinion
PARTIES	Brighton Grassroots, LLC v. Town of Brighton Zoning Board of Appeals, M & F, LLC, Daniele SPC, LLC, Mucca Mucca LLC, Daniele Management, LLC, Mardanth Enterprises, Inc., collectively doing business as the Daniele Family Companies

TOPICS

[municipal law](#) [administrative law](#) [injunctions](#) [appellate procedure](#) [civil procedure](#)

PRACTICE AREAS

[municipal law](#) [administrative law](#) [zoning](#)

QUESTIONS PRESENTED

1. Whether Supreme Court properly denied the motion for a preliminary injunction and granted respondents' cross motions to dismiss the CPLR article 78 petition and declaratory judgment complaint.

HOLDINGS

1. The judgment was affirmed in all respects.

KEY QUOTATIONS

“It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.” ([*1])

FACTUAL BACKGROUND

The opinion identifies Brighton Grassroots, LLC as the petitioner-plaintiff and the Town of Brighton Zoning Board of Appeals and the Daniele Family Companies as respondents-defendants. The underlying proceeding challenged zoning-related conduct through a CPLR article 78 proceeding and declaratory judgment action. The available opinion text does not provide further material factual findings.

PROCEDURAL HISTORY

Supreme Court, Monroe County, denied petitioner-plaintiff's motion for a preliminary injunction and granted respondents-defendants' cross motions to dismiss the petition-complaint. Brighton Grassroots, LLC appealed, and the Appellate Division unanimously affirmed.

DISPOSITION

affirmed

OPINION

Brighton Grassroots, LLC v. Town of Brighton Zoning Bd. of Appeals 2021 NY Slip Op 05214
PER CURIAM.

Brighton Grassroots, LLC v Town of Brighton Zoning Bd. of Appeals (2021 NY Slip Op 05214)
Brighton Grassroots, LLC v Town of Brighton Zoning Bd. of Appeals 2021 NY Slip Op 05214
Decided on October 1, 2021 Appellate Division, Fourth Department Published by New York State
Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to
revision before publication in the Official Reports. Decided on October 1, 2021

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Fourth Judicial Department PRESENT: WHALEN, P.J., CENTRA,
NEMOYER, TROUTMAN, AND WINSLOW, JJ. 737 CA 21-00240

[*1]BRIGHTON GRASSROOTS, LLC, PETITIONER-PLAINTIFF-APPELLANT,
vTOWN OF BRIGHTON ZONING BOARD OF APPEALS, M & F, LLC, DANIELE SPC,
LLC, MUCCA MUCCA LLC, DANIELE MANAGEMENT, LLC, AND MARDANTH

ENTERPRISES, INC., COLLECTIVELY DOING BUSINESS AS THE DANIELE FAMILY COMPANIES, RESPONDENTS-DEFENDANTS-RESPONDENTS. THE ZOGHLIN GROUP, PLLC, ROCHESTER (JACOB H. ZOGHLIN OF COUNSEL), FOR PETITIONER-PLAINTIFF-APPELLANT. WEAVER MANCUSO BRIGHTMAN PLLC, ROCHESTER (JOHN A. MANCUSO OF COUNSEL), FOR RESPONDENT-DEFENDANT-RESPONDENT TOWN OF BRIGHTON ZONING BOARD OF APPEALS. WOODS OVIATT GILMAN LLP, ROCHESTER (WARREN B. ROSENBAUM OF COUNSEL), FOR RESPONDENTS-DEFENDANTS-RESPONDENTS M & F, LLC, DANIELE SPC, LLC, MUCCA MUCCA LLC, DANIELE MANAGEMENT, LLC, AND MARDANTH ENTERPRISES, INC., COLLECTIVELY DOING BUSINESS AS THE DANIELE FAMILY COMPANIES. Appeal from a judgment (denominated order and judgment) of the Supreme Court, Monroe County (J. Scott Odorisi, J.), entered February 8, 2021 in a proceeding pursuant to CPLR article 78 and declaratory judgment action. The judgment denied the motion of petitioner-plaintiff for a preliminary injunction, and granted the cross motions of respondents-defendants to dismiss the petition-complaint. It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs. Entered: October 1, 2021 Ann Dillon Flynn Clerk of the Court