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**NYS Appeals Court Upholds Ruling in Favor of
Atlantic Beach Club in Zoning Variance Dispute**

UNIONDALE, NY — [Sahn Ward Coschignano & Baker, PLLC](#) has announced that Christian Browne, a Partner with the Firm, successfully represented the Atlantic Beach Club against two local residents who claimed the zoning variances granted to the establishment would result in injury, or damage, to their property due to traffic congestion or overcrowding.

The New York State Supreme Court, Appellate Division for the Second Judicial Department, recently upheld a State Supreme Court decision finding that residents near the Atlantic Beach Club did not have standing to oppose a Town of Hempstead Board of Zoning Appeals decision allowing for issuance of zoning variances to the beach club's owner, Atlantic Beach Land Company. The variances allowed the beach club to legalize a series of existing structures — mainly its clubhouse and numerous cabanas — built over the years without permits that are larger than the code now allows.

The Court found that the petitioners, Ruth Radow and Seymour Radow, who live 0.69 mile from the beach club, were not entitled to a presumption of injury as the result of the proposed variances. Instead, they had to show that any harm to their property they would have suffered would be different from that suffered by the public at large, and that the injury asserted falls within the zones of interests or concerns sought to be promoted or protected by the statutory provisions under which the Hempstead Town BZA has acted. The court found that their allegations of injury-in-fact due to overcrowding and congestion were purely speculative and not specific or distinguishable from those suffered by the public at large.

“This decision reinforces the requirement that one who wishes to challenge the grant of a zoning board must allege an actual, specific harm to his own particular property or interests in order to bring a suit against a proposed development or zoning decision,” Mr. Browne said. “In an era of increasing litigation over development issues in the region, the Appellate Division’s holding reaffirms that zoning board grants are not subject to attack based upon generalized community opposition to a project or development.”