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Antony Wong, *Treasurer*
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Keen Berger, *Assistant Secretary*

COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE
NEW YORK, NY 10012-1899

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Greenwich Village ✦ Little Italy ✦ SoHo ✦ NoHo ✦ Hudson Square ✦ Chinatown ✦ Gansevoort Market

April 19, 2013

Meenakshi Srinivasan, *Chair*
NYC Board of Standards & Appeals
40 Rector Street, 9th Floor
New York, New York 10006-1705

Dear Chair Srinivasan:

At its Full Board meeting on April 18, 2013 CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

45 Great Jones Street. Application 77-13-BZ to the Board of Standards and Appeals pursuant to ZR 72-21 to waive ZR 42-10 to allow residential use, ZR 43-43 with regard to front wall height, and ZR 42-14 to allow Use Group 6 below the 2nd story level for the alteration of a 3-story commercial building into an 8-story mixed use building with 7 floors of residential use and ground floor retail in an M1-5B zone.

Whereas:

(Regarding the application information.)

1. The application is to replace an existing 3-story commercial building with an 8-story mixed-use building with 7 floors of residential use and ground floor retail.
2. The existing structure is located on a block that is mostly residential and retail.
3. There is no market in the area for conforming uses either in the existing structure or in a new replacement structure.
4. The new building will include a 30-foot rear yard, exceeding the requirements for a residential structure in the zone.
5. The project will be a ground lease coop.
6. The CB2 Landmarks Committee recommended approval of a design for the building, which was later modified with a higher street wall at the request of the Landmarks Preservation Commission.

(Regarding applicant statements and community response.)

7. The application was presented to the committee on behalf of the applicant by Sasha Friedman of Friedman and Gotbaum; Richard Metsky and Shin-Yau Huang of Beyer Blinder Belle; and the applicants Don and Alex Capoccia of DD45, LLC.
8. The applicant stated willingness to accept a stipulation that there would be no eating or drinking establishments in the retail space.
9. The applicant stated willingness to include in all co-op proprietary leases a statement regarding acceptance by tenants of potential inconvenience or nuisance from conforming manufacturing uses in neighboring buildings, if any.
10. Zella Jones spoke in favor of the applications and submitted a letter for NoHo Bowery Stakeholders in favor of the application
11. A letter supporting the application was received from the NoHo Neighborhood Association.

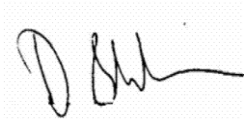
Therefore it is resolved that CB#2, Man.

Recommends approval of this application to allow a mixed use 8-story building at 45 Great Jones Street subject to a restriction prohibiting eating and drinking establishments as agreed to by the applicant.

Vote: Unanimous, with 41 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



David Gruber, Chair
Community Board #2, Manhattan



Tobi Bergman, Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

DG/fa

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Brad Hoylman, NY State Senator
Hon. Daniel Squadron, NY State Senator
Hon. Deborah J. Glick, Assembly Member
Hon. Scott M. Stringer, Man. Borough President
Hon. Christine C. Quinn, Council Speaker
Hon. Margaret Chin, Council Member
Hon. Rosie Mendez, Council Member
Vivian Awner, Community Board Liaison, Dept. of City Planning
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NYC Board of Standards & Appeals
40 Rector Street, 9th Floor
New York, New York 10006-1705

Dear Chair Srinivasan:

At its Full Board meeting on April 18, 2013 CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

110 Waverly Place. Application 239-02-BZ to the Board of Standards and Appeals pursuant to ZR 22-10 and 52-61 seeking a ten-year extension to the term of a previous variance allowing an eating and drinking establishment (Babbo) and a non-conforming accessory business sign in an R7-2 residential zone [HELD OVER FROM FEBRUARY].

Whereas

(Regarding the application information)

1. The restaurant Babbo is located on the ground floor and part of the second floor of this four story building in an R7-2.
2. The application is for extension of a variance supported by CB2 and granted by the BSA in 2002.
3. The variance, allowing a prior restaurant use that had lapsed for more than two years to resume, was granted even though the site is within the Greenwich Village Historic District.
4. The variance, allowing restaurant use of the site to be continued for ten years, expired on December 17, 2012, but the continued use is allowed while this application is considered and DOB issued a new certificate of occupancy in December, 2012.
5. There were not changes proposed to the prior variance.
6. The application was initially presented to the CB 2 Land Use Committee in February 2013, but was held over because the applicant was not prepared to respond to questions from committee members.

(Regarding the request to extend the variance.)

7. A presentation was made to the committee by Deirdre Carson and Daniel Egers of Greenberg Traurig LLP, representing the applicant, Babbo restaurant.
8. Mark Coseia of Babbo was available to respond to questions regarding restaurant operations.
9. The presentation reviewed a history of nuisances caused by operation of the restaurant dating from before the approval of the variance and recognized by the applicant in documents submitted to the committee.
10. The presentation detailed significant efforts made by the applicant to address the various concerns and summarized planned work to remediate ongoing conditions.
11. These nuisances include noise and vibration from HVAC units on the roof of the site and from a large kitchen exhaust system.
12. These conditions have been brought to the attention of the applicant over a period of years by the owner/resident of 108 Waverly Place, Nurettin Akgul.
13. Mr. Akgul was represented at the hearing by Jacqueline Gewald and Arnold Spellun of the law firm McLaughlin & Stein who were provided an opportunity to fully present the history and current status of ongoing concerns.
14. In testimony to the committee and in a prepared document including various exhibits a credible case was made regarding on-going nuisance from noise and vibration.
15. This testimony also indicated persuasively that the most recent Certificate of Occupancy issued by DOB failed to include restrictions required by the variance, indicating possible failure of applicable agency process needed to protect residential uses where variances are issued for Use Group 6 in residential zones.
16. Additional concerns were raised regarding noise from trash collection and fumes from kitchen exhaust and cleaning of exhaust equipment.
17. The applicant presented current plans to address the nuisance conditions related to noise from the AC units and kitchen exhaust system, and will include replacement of two of the units with quieter models.
18. The presentation did not include a proposal to address vibrations caused by the units because the applicant believes these are adequately addressed by the use of vibration dampers on the HVAC units.
19. Permits for this work, which will require staff review by LPC, have not yet been applied for.
20. Given the long history of failure to adequately address these conditions despite substantial effort and expense at the time of the initial variance application and subsequently, there can be no high level of confidence regarding the success of the proposed changes.
21. The applicant presented credible evidence of a strong and largely successful effort to address other concerns, such as by scheduling trash pick-up for after 8 AM.
22. Another residential neighbor spoke in favor of the application, saying that the restaurant management had been very responsive to her complaints.

Therefore it is resolved that CB#2, Man.

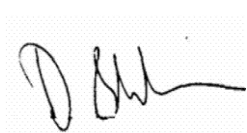
1. Recognizes and appreciates the efforts the applicant has made to address the nuisances it agrees it has caused;
2. Regrets that these efforts have been inconsistent and have not adequately addressed the conditions of noise and vibration affecting 108 Waverly Place.
3. Recommends denial of this application to extend the variance for Babbo restaurant unless detailed restrictions are included to assure the operation of the restaurant in a manner that minimizes impacts on conforming uses and unless such restrictions are included as legal limitations in all future certificates of occupancy and adequately enforced by the Department of Buildings.

4. Recommends delay of approval of this application until the noise and vibration from HVAC and exhaust equipment are fully and successfully addressed.
5. Recommends that any variance to be issued based on the current application be for a 2-year duration only to assure continuous attention by the applicant to the potential nuisances caused by the operation of the restaurant.

Vote: Unanimous, with 41 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



David Gruber, Chair
Community Board #2, Manhattan



Tobi Bergman, Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

DG/fa

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Brad Hoylman, NY State Senator
Hon. Daniel Squadron, NY State Senator
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Hon. Scott M. Stringer, Man. Borough President
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NYC Board of Standards & Appeals
40 Rector Street, 9th Floor
New York, New York 10006-1705

Dear Chair Srinivasan:

At its Full Board meeting on April 18, 2013 CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

126 Leroy Street. Application 52-13-BZ to the Board of Standards and Appeals pursuant to ZR 73-36 to permit a physical culture establishment (Soul Cycle) within an existing commercial building in an M1-5 zone.

Whereas:

(Regarding application information.)

1. The proposal is for a special permit to allow a physical culture establishment within portions of an existing 9-story building in an M1-5 zone.
2. SoulCycle operates a chain of indoor cycling exercise facilities and would occupy portions of the cellar and ground floor.
3. Hours of operation would be Monday – Saturday, 5:30 AM – 11:00 PM and Sunday 7:00 AM – 9:00 PM.
4. Occupancy would be limited to the number of cycles available, between 40 and 60.
5. There would be a staff of 20 – 25 employees with no more than 6 within the facility at any times
6. Plans include installation of required life safety systems and also construction for noise attenuation.
7. No negative impacts are anticipated for the building or neighbors.
8. The use is appropriate and will serve nearby commercial and residential neighbors.

(Regarding applicant statements and community response.)

9. Todd Dale of Rothkrug Rothkrug & Spector LLP appeared before the committee on behalf of the applicant.

10. No one spoke for or against the proposal.

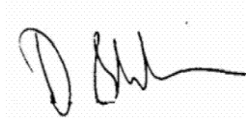
Therefore it is resolved that CB#2, Man.

Recommends approval of this application to allow a physical culture establishment at 126 Leroy Street.

Vote: Unanimous, with 41 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



David Gruber, Chair
Community Board #2, Manhattan



Tobi Bergman, Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

DG/fa

cc: Hon. Jerrold L. Nadler, Congressman
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