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COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE
NEW YORK, NY 10012-1899

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December 20, 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 December 19, 2013 CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

220 Lafayette Street (west side between Broome and Spring)

Application filed with the Board of Standards and Appeals pursuant to 72-21 for a variance to permit addition of two floors to an existing three-story commercial building and conversion to a single-family townhouse on floors two through five with a retail store on the ground floor. The site is in an M1-5B zoning district.

A resolution stating no objections to this application contingent on a stipulation prohibiting eating and drinking establishments

Whereas:

1. The application was presented to the committee by Marvin Mitzner, representing the applicant and property owner Susan Golick;
2. The existing building on the site is a three-story building containing 4,875 square feet of floor area with an FAR of approximately 2.6;
3. The current ground floor use is a retail store, a lawful pre-existing non-conforming use;
4. The M1-5B allows FAR 5.0 but no residential use and no retail use below the level of the second story;
5. The proposed project is for an enlargement adding one floor and a penthouse with a single-family residential use on floors two through five and retail use remaining on the ground floor;
6. The project would result in a total of 6,750 square feet of floor area with an FAR 3.6;
7. A credible case was presented that shallow depth of the lot combined with the underbuilt structure and obsolescence of the building for allowed uses present unique conditions create practical difficulties and cause unnecessary hardship in strict compliance with allowed uses, and there was no indication that such conditions were created by the owner or the predecessor in title;

8. A credible case was made that development in strict compliance with the zoning resolution will not bring a reasonable return;
9. A credible case was made that the variance, if granted, will not alter the essential character of the neighborhood, will not impair the appropriate use or development of adjacent properties, and will not be detrimental to the public welfare;
10. The committee was not presented with evidence indicating that the proposed variance exceeds the minimum necessary to afford relief;
11. Three neighbors spoke, presenting questions about the application and/or expressing opposition;
12. As noted by testimony, the application inaccurately states that the project is not near a public park and the applicant promised to correct the application;
13. Concern was raised in testimony that the additional building height may cause shadows affecting the use of the public park but this was not documented or credible given the lower height of this building compared to nearby buildings;
14. Concern was raised by a resident that views from her apartment would be affected;
15. The property is not within a landmark district;
16. The site is in an area where existing bars and restaurants cause a harmful nuisance to residential life;
17. The applicant's representative stated that the applicant has no objection to a stipulation prohibiting eating and drinking uses in connection with the retail use.

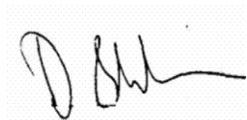
Therefore it is resolved that CB#2, Man. does not object to issuance of this variance if

- a) **a full review of financial analyses by the Board of Standards and Appeals confirms that the proposed variance is the minimum necessary to afford relief; and**
- b) **the variance resolution includes a clause prohibiting any eating and drinking establishment at this site.**

Vote: Unanimous, with 36 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
Jeff Mulligan, Executive Director, Board of Standards & Appeals

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December 20, 2013

Amanda Burden, FAICP
Chair, City Planning Commission
22 Reade Street
New York, NY 10007

Dear Chair Burden,

At its Full Board meeting on December 19, 2013, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

110 Greene Street (east side, on a through lot to Mercer Street, between Spring and Prince). C 140069 ZSM

Application filed to the City Planning Commission pursuant to Section 74-781 of the Zoning Resolution for a special permit to extend existing retail use allowed under a prior permit to an additional portion of the ground floor in an M1-5A zoning district.

A resolution stating no objection to this application for a special permit if eating and drinking uses prohibited at the site.

Whereas:

1. The application was presented to the committee by Marvin Mitzner, representing the applicant Goldman Properties
2. The site is improved with a 13-story building with a total of almost 170,000 zoning square feet of floor area with a mix of offices and JLWQA units;
3. A statement in the application that the current building includes 24 JLWQA units is inaccurate;
4. In 1991, a special permit was issued to convert portions of the ground floor and cellar to retail use, excluding a smaller portion then occupied by a conforming use;
5. The current application is to convert the remaining portion to retail use;
6. The application included credible evidence that the owner had made an effort, for one year as required, to rent the space for conforming uses;
7. The proposal states that an existing furniture store will be expanded into the cellar and rest of the retail space will be used for a new gallery space;
8. The applicant stated that a café that had occupied part of the retail space will not continue operations in the building;
9. The applicant stated that the applicant will agree to a permanent ban on eating and drinking uses.

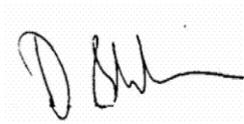
10. Residents of the building and neighboring building objected to prior illegal off-hours construction by current occupants the applicant promised to work with neighbors to prevent future illegal construction activities.

Therefore it is resolved that CB#2, Man. has no objection to issuance of this special permit if an effective and enforceable method of banning future eating and drinking use is put in place either by inclusion of a stipulation in the special permit or by recording of a deed restriction by the applicant.

Vote: Unanimous, with 36 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
Edwin Marshall, Dept. of City Planning

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December 20, 2013

Amanda Burden, FAICP
Chair, City Planning Commission
22 Reade Street
New York, NY 10007

Dear Chair Burden,

At its Full Board meeting on December 19, 2013, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

688 Broadway (east side, between Great Jones and East 4th) Applications C 140055 ZSM and C 140056 ZSM

Applications 140055 ZSM and 140056 ZSM to the City Planning Commission pursuant to 74-712a and 74-712b of the Zoning Resolution to modify use regulations to allow residential use on floors two through twelve and retail use on the ground floor and cellar levels of a new building on a vacant lot in an M1-5B zoning district within the NoHo Historic District, and to modify the height and setback requirements to allow the street wall of the building to rise above the allowed height of 85 feet or six stories, whichever is less.

#1 - A resolution opposing a special permit for a lot created after December 15, 2003, and facilitating unilateral changes to the ownership and use of a jointly-owned private road.

Whereas:

1. The application was presented to the Land Use committee by Mitch Korbey of Herrick Feinstein, George Schieferdecker and Harry Kendall of BKSK Architects and David Schwartz of Downtown Real Estate Holdings;
2. The proposed development is for 41,015 zoning square feet of residential space and 3,970 zoning square feet of commercial space for a total of 44,985 square feet of zoning floor area;
3. The application states that this conforms with a maximum 5.0 FAR based on a lot of 8,998 square feet;
4. However, the lot of this size was created in 2011 through a combination of apportioning and merging of parts of a separate jointly-owned lot (Lot 15) no zoning lot of this size existed at this location until those actions were completed;
5. A Zoning Lot Certification filed for Block 531, Lot 4, on December 3, 2009, describes the lot as a rectangle of 54.5 feet by 130 feet;

6. 74-712 pertains if a zoning lot “as of December 15, 2003 is vacant or has not more than 20 percent of the lot area occupied by existing buildings” so the proposed development substantially exceeds the allowed 5.0 FAR for the lot that did exist at this location prior to that date;
7. The lot area used for this calculation includes 2/3 of the area of an alley that was part of a different lot, Lot 16, before and on December 15, 2003, and thereby defies the language of 74-712 and contorts its intent;
8. Through action by the applicant in 2011, Lot 16 was effectively divided up among adjacent properties through a process that may or may not withstand legal challenge if brought by other owners, but in any case appears inequitable in that the property lines were drawn without consultation or agreement with the other parties;
9. The zoning text provides for an equitable process for such reapportionment that would require either agreement or waiver of rights by all parties-in-interest, but the applicant chose not to follow this process;
10. Furthermore, Lot 16 was deeded in 1806 and 1818 as a private road, and the deed created a permanent restriction such that no building of any size can ever be built on or over it, and reserving it “for all the use and purposes that roads or ways rightfully may or ought to be used but to and for no other use or purpose whatsoever”, thus logically precluding the property from having floor area associated with it;
11. The proposed floor area therefore exceeds the floor area allowed under 74-712;
12. Otherwise, the use modifications appear to meet the requirements of 74-712 including for rear yards, distances between windows and lot lines, dwelling unit floor area, signs, and prohibition of eating and drinking establishments;
13. The proposed use modifications, if floor area is appropriately calculated, would have minimal adverse effects on conforming uses in the surrounding area and would be compatible with the character of the surrounding area;
14. While the building is no larger than some other buildings in the immediate area, 74-712 was added to the zoning text at the recommendation of and with the support of CB-2 Manhattan specifically to regularize the size and uses of buildings that can be constructed on lots that are in M1-5A and M1-5B districts, in historic districts, and are unimproved or improved with buildings covering no more than 20 percent of their lot area, and as such, buildings that exceed the anticipated size based on a 5.0 FAR for the lot size prior to December 15, 2003 should not be considered to compatible with the scale of the surrounding area;
15. Similarly, per the clear intent of 74-712, buildings that exceed the 5.0 FAR for the lot size prior to that date should be assumed to adversely affect structures or open space in the vicinity in terms of scale, location, and access to light and air;
16. In addition to merging the lots for the purpose of increasing available floor area, the project intends to make use of the alley as the main vehicle and pedestrian entrance to the residential building with 14 units;
17. The proposal includes improvements to the alley, but the new use will represent a substantial increase in intensity of use to this narrow, jointly-owned lot, with potential for nuisance from noise and fumes, as well as conflicts with longstanding uses such as retail deliveries and trash collection;
18. The president of the condominium board at 684 Broadway spoke at the hearing to express concerns about impacts increased vehicle traffic in the alley;
19. A significant current use of the alley is for retail deliveries to 866 Broadway which may be incompatible with the planned new use;
20. The proposed uses could not have been anticipated when the alley was laid out well before the advent of internal combustion engines and a major change in use that will impact longstanding prior uses should be based on an agreement between all affected parties;
21. The application refers to an “agreement between the adjacent property owners” but at the hearing the applicant agreed that there is no such agreement, and that the other property owners did not participate in the remapping process or the design of the road renovations or the new gate.
- 22.

Therefore it is resolved that CB#2, Man. recommends DENIAL of these special permits UNLESS

- a) **The pre-2009 zoning lot is restored and the zoning calculations for the proposed building are based on the zoning lot as it existed prior to December 15, 2003, being a rectangular lot of dimensions 54 feet x 130 feet; and**
- b) **Agreements are executed with owners of other properties privileged with the use of the alley (including 686 and 684 Broadway) specifying work to be performed affecting the property held in common or by others, and responsibilities for maintenance and security of the alley and regulating its use.**

#2 - A resolution favoring accommodations for neighbors if the permits are granted.

Whereas:

1. The proposed building will block 27 large lot line windows on the south side of the adjacent building at 14 East 4th Street (aka The Silk Building);
2. The proposed building will block and render useless 27 HVAC units providing heat, air-conditioning, and ventilation to this building;
3. Representatives of the Silk Building presented a report to the committee demonstrating that 18 units will lose access to light and air if the proposed building is built as planned;
4. The report also detailed objections to the changes to the lot configurations and their concerns about undermining of the foundations of their building;
5. Thirty-four people who identified themselves as owners and/or occupants of “JLWQA” condominium units of the Silk Building signed the guest list and expressed opposition to the application;
6. JLWQA units were allowed in this building as a result of a 1980 Application 864-80-BZ to the Board of Standards and Appeals which was supported by CB-2 Manhattan;
7. The resolution passed by the BSA at that time required that “all interior habitable rooms have light and ventilation in accordance with the Multiple Dwelling Law and Building Code”;
8. To the extent that the current residential habitation of the Silk Building depends on light and air from the lot line windows, such use is not in accordance with the MDL and the Building Code;
9. The requested special permits are not subject to requirements to retain these lot line windows and the applicant has no legal responsibility to mitigate conditions caused by the blocking of the 27 windows and AC units;
10. Nevertheless, it is clear that the loss of use of these windows and AC units will cause substantial hardship and loss to multiple families;
11. The applicant presented a modified foundation plan that appeared to address concerns that foundations of neighboring buildings may be damaged during construction of the cellars;
12. Noho Broadway Stakeholders submitted a statement supporting the application;
13. CB-2 recommended denial of this application for reasons not related to the impacts of this project on light and air or risk of damages to the adjacent foundations;

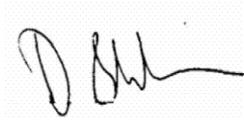
Therefore it is resolved that CB#2, Manhattan:

1. **Urges the applicant and affected parties to establish direct communications and make best efforts to reduce harm in the event that this application is approved and specifically, urges the applicant to consider inclusion of an air shaft or partial side yard serving as many Silk Building windows as possible.**
2. **Urges the relevant city agencies and elected officials to work with the applicant and affected parties and CB#2, Man. in an effort to achieve such outcome.**

Vote: Unanimous, with 36 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

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