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## COMMUNITY BOARD NO. 2, MANHATTAN

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November 30, 2012

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 November 29, 2012, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

**440 Broadway, on the east side of Broadway between Howard and Broome Streets. Board of Standards and Appeals Application # 283-12-BZ filed pursuant to Section 72-21 of the Zoning Resolution for a waiver to permit the legalization of the first floor of the existing building to permit retail use of the ground floor with accessory use in the cellar, below the floor level of the second story.**

### Whereas:

1. The application was presented by applicant Richard Lobel of Sheldon Lobel PC; Guy Kohn, Architect; and Jeffrey Yachmetz representing the building owner 440 Broadway Realty Associates LLC;
2. Copies of the application were provided to committee members by the applicant in advance of the meeting;
3. The building is located within an M1-5B zoning district;
4. The building is located within the Soho Cast Iron Historic District;
5. The Department of Buildings denied an application for the proposed conversion, noting its objection that “proposed retail (Use Group 6) below the floor level of the second story is not permitted, contrary to ZR 42-14(D)(2)(b).”
6. The building is currently used illegally for retail use;
7. The BSA has the authority to vary the application of Section 72-21 providing five findings are satisfied, and as the presentation of the application credibly established: a) there are unique conditions based on the combination of building obsolescence, small floor plates, and location in the historic district, b) there is no opportunity for reasonable return based on as-of-right use, c) the essential character of the neighborhood will not be adversely affected, d) the hardship is not self-created, and e) the variance sought is the minimum variance required to afford relief.

8. There was no public testimony for or against this application;
9. The applicant stated willingness to accept a stipulation in the variance such that eating and drinking establishments will not be allowed.

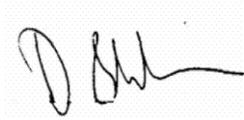
**Therefore it is resolved that CB#2, Man.**

1. Supports granting of a variance for 440 Broadway to permit Use Group 6 on the ground floor with accessory use in the cellar if such variance stipulates that eating and drinking establishments are not allowed.

Vote: Unanimous, with 45 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. Thomas K. Duane, 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  
Pauline Yu, CAU  
Vivian Awner, Community Board Liaison, Dept. of City Planning  
Jeff Mulligan, Executive Director, Board of Standards & Appeals  
Derek Lee, Man. Borough Commissioner, NYC Department of Buildings