



THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD NO. 3

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Dominic Pisciotta, Board Chair

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Testimony before the Board of Standards and Appeals

December 6, 2011

BSA Calendar No. **96-11-BZ**

514-516 East 6th Street

Manhattan, CB 3

Variance (§72-21) to legalize enlargements to an existing residential building, contrary to floor area (§23-145) and dwelling units (§23-22). R7B zoning district

Community Board 3, Manhattan has previously supported the tenants' petition (BSA 81-08-A) to overturn the Department of Buildings on two applications for alteration: #104368845 and #104744877). The BSA recognized that the Department of Buildings had exceeded its authority to grant the alterations. The Community Board reaffirms its position supporting the tenants and asks that the BSA deny zoning variances to legalize the vertical additions at 514-516 East 6th street.

The owner has not complied with the BSA decision that granted a variance only on the condition that the 7th floor be removed by February 3, 2011. It is very disturbing that this BSA decision has been ignored, yet the applicant is applying for a new variance application. A new application should not be considered while the applicant has not complied with the previous BSA decision.

In the previous decision, the BSA noted that the applicant had represented that the plans were in full compliance with the zoning. Now the applicant is claiming that without zoning variances, the MDL variance has been rendered void. The applicant is not clear in his argument whether he believes he is in compliance or if he is not and requires a variance. The applicant should not make opposing arguments so that that the most favorable can be a basis for a decision.

In the 2008 East Village rezoning, DCP proposed to re-zone the three blocks south of Tompkins Square Park the same as mid-blocks in the rest of the East Village (R8B). However, the community and Community Board 3 appealed to DCP to reconsider. At the request of the community and CB3, DCP proposed and adopted R7B for these mid-blocks. This fulfilled the community request that this area be downzoned to 3.0 FAR. The BSA should not be granting a variance that goes against the DCP, City Council and the community in the recent rezoning.

The original approval for this building included a community facility "bonus." The rezoning eliminated the community facility use because of blatant misuse of this bonus. The applicant is now requesting non-conforming commercial uses. Community Board 3 is currently dealing with many problems caused by the great number of non-conforming use group 6 businesses in R7 and R8 areas. This has had negative quality of life impact, and there is lack of infrastructure to deal with the many commercial uses, such as nightlife issues, lack of necessary sanitation services, and lack of sufficient police staffing, in our residential areas. The applicant should not be allowed to grandfather the floor area, but change the use. The recent rezoning was driven by the needs of the community. This should not be ignored.

In September, 2011, Community Board 3 reaffirmed its position that financial hardship has not been proven by the applicant and was not demonstrated that it was not self-created (resolution attached). Community Board 3 asks that this variance be denied.