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## 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

June 22, 2015

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

Dear Madame Chair Perlmutter:

At its Full Board meeting on June 18, 2015, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

**39 Clarkson Street** (between Hudson and Greenwich Streets) BSA Application #64-15-BZ for a variance to permit conversion of a six-story former manufacturing building in an M1-5 district to have eight residential units and four accessory parking spaces.

### Whereas:

- 1) This is a 96-year-old, story manufacturing building in an M1-5 district to be converted to a residential building with eight units and four off-street accessory parking spaces for the units;
- 2) In order to provide a 30-foot rear yard for the residences, the proposed conversion would remove 8,040 sf from the rear of the building and reallocate the floor area to an additional three stories plus penthouse, which would be set back 20 feet from the street line and would be within the M1-5 sky exposure plane and rear yard open space requirements;
- 3) There are no Certificates of Occupancy for the building on the DOB website;
- 4) Under the proposed conversion, the zoning area would be 28,776 sf of floor area (the amount of floor area in the existing building), yielding an FAR of 5.74.
- 5) The current FAR permitted by the zoning resolution for this district is 5.00 for commercial and manufacturing use and the maximum allowable zoning floor area is 25,080 sf (5.00 x 5016sf).
- 6) Even though the proposed alterations do not increase the degree of non-compliance or create new non-compliance, that does not mean the applicant is entitled to the current FAR when seeking a change to residential uses;
- 7) The applicant's economic analysis report calculates the annualized return on investment at 7.52%. However:
  - a) In calculating the revenues from the three-story triplex, Schedule G3 (Proposed Conversion Apartment Pricing) miscalculates the price of the unit at \$6,363,500 because it mistakenly uses

a price per square foot of \$1327 x 4793 sf instead of the \$2200 per sf shown in the chart, which would yield a price of \$10,544,600 and would increase the project value by approximately 10%.

- b) This mistake also skews the calculation of return on investment in Schedule A2 (Analysis Summary – Residential Use).
  - c) The return of 7.52% is based on an average unit sales price of \$1,927 per square foot, which is unrealistically low for new luxury housing in this neighborhood.
  - d) This average is further reduced significantly by the price per square foot of the studio apartment on the first floor (\$1600 per sf).
  - e) The applicant has failed to factor in any value from each unit's outdoor space, especially the square footage of the duplex's 1500 sf terraces and the triplex's almost 1900 sf terraces and roof area.
  - f) The applicant shows a differential per lower floor units vs. upper floor units of only \$25 per square foot per floor.
  - g) When calculating the price of the units, the applicant fails to factor in the scarcity of four- and five-bedrooms (not to mention apartments with square footage in excess of 3000 sf) in Manhattan in general and this neighborhood in particular
  - h) A search of comps in new high-end residential construction projects in the neighborhood shows per square foot prices of closer to \$2400 for three-bedrooms, \$2700 for four-bedrooms and in excess of \$2800 for five bedrooms, which significantly changes the value of the project.
  - i) Applying the above rates and correcting the error on the triplex raises the projected revenues by more than 35%.
- 8) The applicant is entitled to only the minimum variance needed to make a reasonable return. Therefore, it is critically important to recalculate the projected revenues using realistic and properly-computed per square foot calculations, including the potential revenues from the outright sale of the four cellar parking spaces.
- 9) CB2 is acutely aware that this application is only one of a stream of recent, new, ultra-high luxury residential projects in the district, which left unchallenged threaten to replicate the enclaves of wealth and privilege that now exist in the West Village, the Far West Village and SoHo.
- 10) CB2 is committed to achieving a significant affordable housing goal and thinks that in this case, and if found necessary, it is appropriate to allow more floor area for that purpose.

**Therefore be it resolved that CB2 recommends DENIAL of this application UNLESS:**

- 1) The developer dedicates 20% of the floor area of the project to permanently-affordable condominium units.
- 2) If affordable units are included, additional floor area be considered to achieve the minimum variance, provided the BSA takes a fresh look at the applicant's calculated projected revenue—using correct calculations of project value and including competitive per square foot data that more accurately reflects the high value of similar units in the area—to determine the number of additional floors, if any, needed to achieve the minimum reasonable return while still maintaining neighborhood context.
- 3) Appropriate Area Median Income data to be used to achieve these goals.

Vote: Passed, with 24 Board members in favor, 15 in opposition (L. Cannistraci, R. Chatree, T. Connor, C. Dwyer, R. Ely, B. Freeland, J. Frost, A. Meadows, L. Rakoff, B. Riccobono, S. Russo, K. Shea, S. Smith, S. Tyree, E. Young), and 1 abstention (S. Sweeney).

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

Sincerely,



Tobi Bergman, Chair  
Community Board #2, Manhattan



Anita Brandt, Chair  
Land Use & Business Development Committee  
Community Board #2, Manhattan

TB/fa

c: Hon. Jerrold L. Nadler, Congress Member  
Hon. Brad Hoylman, NY State Senator  
Hon. Deborah Glick, Assembly Member  
Hon. Gale A. Brewer, Manhattan Borough President  
Hon. Corey Johnson, NYC Council Member  
Ryan Singer, Executive Director, Board of Standards & Appeals

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June 19, 2015

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

Dear Madame Chair Perlmutter:

At its Full Board meeting on June 18, 2015, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

**557 Broadway** is located on the west side of Broadway between Spring and Prince Streets. Application **146-96-BZ** by Scholastic 557 Broadway LLC to the Board of Standards and Appeals is to amend a previously approved variance (August 1997) to move Scholastic's corporate headquarters entrance from Broadway to Mercer Street, create retail square footage on the ground floor entered from Broadway and create an Broadway lobby to access new retail on the second floor.

### Whereas:

- 1) Since completion of 557 Broadway in 2001, Scholastic has been an exemplary neighbor, leading the way for revitalization of the neighborhood and creating a building that fits perfectly within the neighborhood context. In 2014, they took ownership of the adjacent building at 555 Broadway and are preparing a major renovation of both buildings.
- 2) This application is to amend a variance for 557 Broadway (MI-5B) in the following ways:
  - a) relocate the Broadway office lobby and related common areas from the eastern portion of the building facing Broadway to the western portion of the building facing Mercer Street (1,980 s.f.)
  - b) relocate and expand the Mercer Street retail space to Broadway (7,438 s.f.); and
  - c) provide a new entrance lobby (654 s.f.) on Broadway with access second floor retail (8,607 s.f.).
- 3) The applicant, represented by Ross Moskowitz from Stroock & Stroock & Lavan LLP and Jonathan Feldberg from Scholastic, first presented to CB2's Land Use Committee on April 8, 2015. At this June 10 meeting:
  - a) they made no changes to the previous committee presentation and offered no new information;
  - b) they refused to commit to limiting the size of future retail; and
  - c) they refused to confirm or deny that they have accepted a bid of \$400 million from Madison Capital for the rights to 32,000 s.f. retail as reported in the Real Deal (April 17, 2015).

- 4) This meeting was attended by approximately 15 neighborhood residents who spoke out against approving this amendment. The comments from the community include:
- a) the alarming trend in Soho toward huge retail “big box” stores, which threaten to overwhelm the character of this mixed use, historic neighborhood;
  - b) the concern that this amendment is the first step in an overall plan to create oversized retail space in this building and the adjacent building at 555 Broadway, recently acquired by the same company;
  - c) a request that a comprehensive master plan for the overall future retail uses be presented before approval of this application; and
  - d) concern that although the two Scholastic Broadway buildings are technically two individual tax lots, those buildings are actually interconnected above the first floor, which in the future could simplify the retail expansion all across the upper floors;
- 5) Quality of life issues associated with moving the employee entrance to Mercer Street are:
- a) the need to discourage congregating and smoking outside the new office entrance on Mercer Street;
  - b) the need to improve lighting by the office entrance and under the overhang area, where currently the homeless sleep; and
  - c) the potential for significant additional noise generated by loading and unloading, hours of delivery, trucks parking and idling, trash collection and impacts on vehicular traffic.
- 6) Illumination from Scholastic’s offices and its impact on the residential neighbors was discussed and the applicant agreed to limit the light levels emanating from the upper floors of building at night in the following ways:
- a) install light motion sensors in the exit stairs;
  - b) add automatic shades for the office for nighttime control; and
  - c) schedule the cleaning crews to complete with office cleaning by midnight (and turn off the lights)
- 7) Retail illumination and signage in Soho and NoHo in general, and especially on Broadway, has recently taken the form of huge light boxes or LED screens in first and second floor windows that create a Times Square advertising atmosphere day and night.
- a) The applicant was not prepared to add a clause to its retail leases regarding limiting levels of illumination from signage.
- 8) While we understand Scholastic’s desire to move the employee entrance to Mercer Street so it is separated from the overcrowded conditions on Broadway, amending the variance to add additional retail will exacerbate the very conditions that they are escaping.
- 9) Absent a demonstrable hardship, we question why Scholastic should not have to abide by the same regulations as other commercial and residential buildings.

- 10) The 1997 variance was based on the calculation of a “minimum” variance. Any increase in the amount of non-conforming retail below the second story would clearly be above and beyond the minimum variance.
- 11) CB2, Man. has a track record of opposition to too much and too big retail on Broadway and is committed to protecting the mixed-use character of SoHo and NoHo.
- 12) CB2, Man. has supported and continues to support the current limitation of 10,000 s.f. on the size of individual retail stores.

**Therefore it is resolved that CB2 recommends DENIAL of this application UNLESS:**

- 1) The total retail below the second story does not exceed the amount approved in the original variance, based on the minimum variance finding.
- 2) Retail uses at 557 Broadway are restricted so that in the future, no single store can exceed 10,000 s.f.
- 3) Future connections between 557 Broadway and 555 Broadway for the purposes of creating oversize retail are prohibited.

Vote: Passed, with 39 Board members in favor, and 1 recusal (S. Smith).

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

Sincerely,



Tobi Bergman, Chair  
Community Board #2, Manhattan



Anita Brandt, Chair  
Land Use & Business Development Committee  
Community Board #2, Manhattan

TB/fa

- c: Hon. Jerrold Nadler , Congressman  
Hon. Daniel Squadron, NY State Senator  
Hon. Deborah J. Glick, Assembly Member  
Hon. Gale A. Brewer, Man. Borough President  
Hon. Margaret Chin, Council Member  
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