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COMMUNITY BOARD 11

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Susan Seinfeld
District Manager

COMMITTEE REPORT

TO: Board Members
FROM: Christine Haider, Chair
North Bayside/East Flushing Zoning Committee
RE: BSA Cal. No. 49-12 BZ
34-09 Francis Lewis Blvd.
Powerhouse Gym
DATE: March 27, 2012

On March 19, 2012 the North Bayside/East Flushing Zoning Committee met to discuss the above referenced BSA special permit application. Present were Board Members, Christine Haider, Chair, Henry Euler, Andy Rothman, Daniel Berrios, Mohan Jethwani, Christine Scherer and Janet McEaney. Also present were Susan Seinfeld, District Manager, the applicant's representative, Nora Martins, on behalf of Sheldon Lobel, P.C., and the owners of Powerhouse Gym, James Rappaport and Thomas DeCanio.

An application was filed in March, with the Board of Standards and Appeals, for a special permit to operate a physical culture establishment in a C2-2/R5B zoning district. The original special permit was granted under BSA Cal. No. 215-96 BZ. The term of this permit expired on December 1, 2006. Ms. Martins stated they were required to file a new application. Mr. Rappaport said that Philip Augusta filed the original application but he had passed away, and they were left "in limbo". The owner of the building is LaTerra, Inc. and the building received a "facelift" recently. The gym used to be open 24 hours, but now they are open from Monday through Friday from 5 am to midnight and on Saturday and Sunday from 7 am to 9 pm. The Fire Department had just inspected the building. Mr. Rappaport said they are at the gym all the time and even have security cameras at home in order to monitor the gym remotely. They said that they invested \$200,000. in the operation and they are now very family oriented with a child care setting for children of gym members and numerous types of physical fitness classes for women and seniors.

Questions were raised by members of the committee about the 2007 arrest of employees for selling controlled substances. IS 25 is across the street and Board members were very concerned. Mr. Rappaport said he had hired some "bad people" in the gym at that time. It was pointed out, by the members, that the Supreme Court judge had also ordered the gym to be closed. Mr. De Canio owned the bagel shop on the corner and after this incident; he bought into the gym, and partnered with Mr. Rappaport.

Members questioned the owner about exits from the cellar that do not go directly to the street. The architect's Fire Safety Narrative letter that was submitted to BSA was read. All stairways have emergency lights, lighted exit signs and there is a building wide sprinkler system. It was stated that one staircase does exit directly to the first floor with a door to the street. Questions were also raised about the occupancy allowed in the cellar. Ms. Martins is to verify with the architect about the information provided.

Discussion ensued about the late renewal, the operation without a valid Certificate of Occupancy and four outstanding violations. Ms. Martins said that these violations are for occupancy contrary to the C of O. and that this application will resolve the violations. Members stated that the owners should have just hired another attorney before the permit lapsed. The application states that the Dept. of Investigation must conduct a background check of the owners/operators.* Committee members wanted the results of the investigation as soon as possible. There have been no complaints received from the neighbors and no one responded to the letters sent out regarding the meeting. The Chair suggested that the committee consider only recommending a five year term, due to the history of the establishment.

A motion was made by Henry Euler to recommend approval of the application for only a five year term with the condition that there is a positive Dept. of Investigations report and a positive FDNY inspection report. Dan Berrios seconded the motion. A vote was taken and the committee voted five in favor and one opposed and one abstention.

*The applicant's attorney, Nora Martins forwarded e-mail from BSA that the Dept. of Investigation signed off on Powerhouse Gym on 3/22/12.

Addendum: At the Board Meeting on April 2, we learned that the applicant apparently did not agree to the 5 year term that the committee proposed. Ms. Martins stated that they intended to request a ten year term. There was much discussion and the applicant agreed to the request of a five year term.