

102-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 28-30 Avenue A LLC, owner; TSI Avenue A LLC dba New York Sports Club, lessee.

SUBJECT – Application April 11, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*New York Sports Club*) within a five-story commercial building. C2-5 (R7A/R8B) zoning district.

PREMISES AFFECTED – 28-30 Avenue A, East side of Avenue A, 79.5" north of East 2nd Street, Block 398, Lot 2, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 9, 2013, acting on Department of Buildings Application No. 121511417, reads in pertinent part:

Proposed Physical Culture Establishment at the first through fifth floors is not permitted as-of-right in C2-5 district within R7A and R8B zoning districts and is contrary to ZR 32-31 of the Zoning Resolution; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located partially within a C2-5 (R7A) zoning district and partially within an R8B zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first through fifth stories of a five-story commercial building, contrary to ZR § 32-31; and

WHEREAS, a public hearing was held on this application on June 18, 2013, after due notice by publication in *The City Record*, and then to decision on July 23, 2013; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 3, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Avenue A between East Second Street and East Third Street, partially within a C2-5 (R7A) zoning district and partially within an R8B zoning district; and

WHEREAS, the site has 44 feet of frontage along Avenue A, a lot depth of 120 feet, and a total lot area of 5,280 sq. ft.; and

WHEREAS, the site is occupied by a five-story commercial building with approximately 25,285 sq. ft. of floor area (4.79 FAR); and

WHEREAS, the applicant notes that because 20 feet of the lot’s 120-foot depth extends beyond the C2-5 (R7A) district into the R8B district, and because the lot existed as a lot of record as of December 15, 1961, per ZR § 77-11, the use regulations applicable in the C2-5 (R7A) district may apply in the R8B portion; therefore, commercial uses permitted in a C2-5 district are permitted throughout the lot; and

WHEREAS, the proposed PCE will be located on the second through fifth stories, with an entrance on a portion of the first story, with a total PCE floor area of 20,905 sq. ft. (3.96 FAR); and

WHEREAS, the PCE will be operated as New York Sports Club; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

WHEREAS, the hours of operation for the proposed PCE will be Monday through Thursday, from 5:30 a.m. to 11:00 p.m., Friday from 5:30 a.m. to 9:00 p.m., and Saturday and Sunday, from 8:00 a.m. to 9:00 p.m.; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as Unlisted pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA122M, dated April 10, 2013; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and

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Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located partially within a C2-5 (R7A) zoning district and partially within an R8B zoning district, the operation of a PCE on portions of the first through fifth stories of a five-story commercial building, contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 20, 2013" – Six (6) sheets and *on further condition*:

THAT the term of this grant will expire on July 23, 2023;

THAT there will be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT all massages must be performed by New York State licensed massage therapists;

THAT the signage shall comply with C2-5 district regulations, except as otherwise permitted by DOB;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT substantial construction will be completed in accordance with ZR § 73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

A true copy of resolution adopted by the Board of Standards and Appeals, July 23, 2013.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 23, 2013.

