

CORRECTION

This resolution adopted on November 18, 2014, under Calendar No. 104-14-BZ and printed in Volume 99, Bulletin Nos. 45-47, is hereby corrected to read as follows:

**104-14-BZ
CEQR #14-BSA-155K**

APPLICANT – Warshaw Burnstein, LLP., for Sam Spikes, LLC, owner; 287 Broadway Fitness Group, LLC., lessee.

SUBJECT – Application May 15, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) on a portion of the ground and second floors of a new building, contrary to (§32-31). C4-3 zoning district.

PREMISES AFFECTED – 282 South 5th Street aka 287 Broadway, between Broadway and West of Marcy Avenue, Block 2460, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 7, 2014, acting on DOB Application No. 320377454, reads, in pertinent part:

Proposed physical culture establishment use is not permitted as-of-right in a C4-3 zoning district, per ZR Section 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-3 zoning district, the operation of a physical culture establishment (“PCE”) in portions of the first and second stories of a 13-story mixed residential, community facility, and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on October 7, 2014 after due notice by publication in the *City Record*, and then to decision on November 18, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is a through lot with frontages along South Fifth Street (140’-2”) and Broadway (140’-2”), between Marcy Avenue and Havemeyer Street, within a C4-3 zoning district; the site has 28,046 sq. ft. of lot area; and

WHEREAS, under construction at the site is a 13-story mixed residential, community facility, and

commercial building with 105,906 sq. ft. of floor area (3.78 FAR); and

WHEREAS, the PCE will occupy a total 17,878 sq. ft. of floor area, with 2,008 sq. ft. of floor area on the first story and 15,870 sq. ft. of floor area on the second story; and

WHEREAS, the PCE will operate as Planet Fitness; and

WHEREAS, the PCE’s hours of operation will 24 hours per day, seven days per week; 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 Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; 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, at hearing, the Board directed the applicant to clarify its proposed sound attenuation measures; and

WHEREAS, in response, the applicant submitted amended plans to reflect the proposed sound attenuation measures, which include a buffer space between the PCE and the community facility space on the second story; the applicant also notes that no dwelling will share a demising wall with the PCE; 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 a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 14-BSA-155K, dated May 15, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination 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 within a C4-3 zoning district, the operation of a PCE in portions of the first and second stories of a 13-story mixed residential, community

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facility, and commercial building, contrary to ZR § 32-10; on condition that all work will substantially conform to drawings filed with this application marked "Received February 10, 2015"- (4) sheets; on further condition:

THAT the term of the PCE grant will expire on November 18, 2024; THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by November 18, 2018;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB 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, November 18, 2014.

The resolution has been amended to correct the Approved Plans date, which read "Received November 5, 2014"-Two (2) sheets" now reads "Received February 10, 2015"-(4) sheets". Corrected in Bulletin No. 8, Vol. 100, dated February 18, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, November 18, 2014.

Printed in Bulletin Nos. 45-47, Vol. 99.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

