

169-15-BZ

CEQR #16-BSA-009M

APPLICANT – Francis R. Angelino, Esq., for 93 Worth Street Retail LLC, by Eldad Blaustein, owner; 93 Worth Gym, LLC, lessee.

SUBJECT – Application July 29, 2015 – Special Permit (§73-36) to allow a physical culture establishment ("93") to be operated within an existing building.

PREMISES AFFECTED – 93 Worth Street, Block 00173, Lot 7504, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 23, 2015, acting on Department of Buildings Application No. 122473304, reads in pertinent part:

“ZR 32-10, ZR 73-36: Proposed use as a physical culture establishment, as defined by ZR 12-10, is contrary to ZR 32-10 and must be referred to the Board of Standards and Appeals for approval pursuant to ZR 73-36”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located partially within a C6-2A zoning district and partially within a C6-4A zoning district, the operation of a physical culture establishment (PCE), contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 2, 2016 after due notice by publication in *The City Record*, and then to decision on February 23, 2016; and

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

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the northwest corner of Worth Street and Broadway, partially within a C6-2A zoning district and partially within a C6-4A zoning district, in Manhattan; and

WHEREAS, the subject site has approximately 203 feet of frontage along Worth Street, 56 feet of frontage along Broadway and 12,422 sq. ft. of lot area; and

WHEREAS, the site is currently occupied by a 17-story mixed use residential and commercial building; and

WHEREAS, the proposed PCE will occupy 120 sq. ft. of floor area on the ground floor and 3,500 sq. ft. of

floor area on the cellar level (a total of 3,620 sq. ft. of floor area) located exclusively within the portion of the existing building located within a C6-4A zoning district; no part of the PCE will be operated in a portion of the building located within a C6-2A zoning district; and

WHEREAS, the cellar space will be accessible from the PCE’s dedicated ground floor lobby, located on the side of the building fronting Worth Street, by both stairs and an ADA-accessible elevator; and

WHEREAS, the PCE will be operated as 93 Worth Gym; and

WHEREAS, the applicant represents that the ground floor will be occupied only by a lobby and the cellar level will contain locker room facilities as well as spaces for interval training, weight training, and yoga instruction; and

WHEREAS, the proposed hours of operation for the PCE are Monday through Thursday, 6:00 a.m. to 9:00 p.m., Friday, 6:00 a.m. to 7:00 p.m., and Saturday through Sunday, 8:00 a.m. to 12:00 p.m.; and

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

WHEREAS, the Fire Department states that it has no objections to the proposal; and

WHEREAS, the applicant has provided the Board with plans representing that both an automatic sprinkler system and an approved fire alarm system—including area smoke detectors, manual pull stations at each required exit, local audible and visible alarms, and connection to an Fire Department-approved central station—shall be installed in the entire PCE space; and

WHEREAS, the proposed PCE will be physically separated from residential uses in the building, which start on the second floor, by the building’s ground floor lobby; and

WHEREAS, the applicant’s plans also include notes of the proposed sound attenuation measures, including an acoustical partition around the cellar demising wall, acoustical seals on all doors, shock-absorbing acoustic built-up flooring installed in the activities areas of the cellar, and installing a limiter on the sound system; and

WHEREAS, the PCE will not interfere with any public improvement projects; 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 Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the

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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 an 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. 16-BSA-009M, dated July 29, 2015; 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 located partially within a C6-2A zoning district and partially within a C6-4A zoning district, the operation of a physical culture establishment (PCE), contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received February 12, 2016"- nine (9) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on February 23, 2026;

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 under Local Law 58/87 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 February 23, 2020;

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, February 23, 2016.

A true copy of resolution adopted by the Board of Standards and Appeals, February 23, 2016.

Printed in Bulletin Nos. 8-9, Vol. 101.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

