

173-95-BZ

APPLICANT – Stephen J. Rizzo, Esq., for 80 East 85th Street Company, owner; David Barton Gym Corp., lessee.

SUBJECT – Application March 10, 2006 – Pursuant to ZR §73-11 and §73-36 for the Extension of Term/Waiver of a Physical Culture Establishment (David Barton Gym) in a portion of the first floor and the entire second floor of a 30 story residential building.

PREMISES AFFECTED – 30 East 85th Street, Madison Avenue and East 85th Street, Block 1496, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Karen Samardo.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of the term for a previously granted special permit for a Physical Culture Establishment (PCE), which expired on August 15, 2005; and

WHEREAS, a public hearing was held on this application on July 11, 2006, after due notice by publication in *The City Record*, and then to decision on August 8, 2006; and

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, the subject premises is located at the southwest corner of Madison Avenue and East 85th Street; and

WHEREAS, the site is occupied by a 30-story mixed use building, located within a C5-1 (Special Madison Avenue Preservation) zoning district, with commercial uses on the first and second floor and residential use above; and

WHEREAS, the PCE is operated as a David Barton Gym; and

WHEREAS, on August 15, 1995, the Board granted a special permit pursuant to ZR § 73-36, to permit the operation of a PCE in a portion of the first floor and on the entire second floor of the subject building; and

WHEREAS, the instant application seeks to extend

the term of the variance for an additional ten years; and

WHEREAS, at hearing the Board asked the applicant if the PCE provided sufficient sound attenuation between it and residential uses within the building; and

WHEREAS, in response, the applicant represents that the implemented sound attenuation measures have been effective and that there have not been any noise complaints; and

WHEREAS, accordingly, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated August 15, 1995, so that as amended this portion of the resolution shall read: “to grant an extension of the special permit for a term of ten years from the expiration of the last grant; *on condition* that the use and operation of the PCE shall substantially conform to BSA-approved plans, *on condition* that all work and site conditions shall comply with drawings marked “Received August 3, 2006”–(5) sheets; and *on further condition*:

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT this grant shall be limited to a term of ten years from August 15, 2005, expiring August 15, 2015;

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

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

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

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

Adopted by the Board of Standards and Appeals, August 8, 2006.

A true copy of resolution adopted by the Board of Standards and Appeals, August 8, 2006.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.