

182-95-BZ

APPLICANT – Rothkrug & Spector LLP, for 2465 Broadway Associates LLC., owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2465 Broadway, West side of Broadway, 50' south of southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Chanda, Commissioner Ottley-Brown and Commissioner Scibetta.....4

Negative:0

Absent: Commissioner Sheta.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated October 10, 2014, acting on Alteration Application No. 100795917, reads in pertinent part:

“The proposed enlargement and extension of term of the physical culture establishment . . . is contrary to . . . Section [32]-10 of the NYC Zoning Resolution and must be referred back to the Board of Standards and Appeals”; and

WHEREAS, this is an application for a waiver of the Board’s Rules of Practice and Procedure, an extension of term of a special permit for a physical culture establishment (“PCE”), previously granted by the Board, and an amendment to allow the extension and relocation of the PCE use within the cellar and the third floor of a three-story, with cellar, commercial building; and

WHEREAS, a public hearing was held on this application on August 25, 2015, after due notice by publication in *The City Record*, with continued hearings on January 22, 2016, February 6, 2018, and, and then to decision on August 7, 2018; and

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

WHEREAS, Community Board 7, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the southwest corner of Broadway and West 92nd Street, partially in a C4-6A zoning district and partially in an R8 zoning district, in Manhattan; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 18, 1997, when, under BSA Calendar Numbers 182-95-BZ and 183-95-BZ,

the Board granted a special permit within portions of the cellars of two contiguous three- and two-story, with cellars, commercial buildings for a term of eight (8) years, expiring November 1, 2005, on condition that there be no change in ownership or operating control of the PCE without prior application to and approval from the Board, that the PCE comply with the provisions of the New York City Noise Code and the enclosures surrounding the roof-mounted HVAC and mechanical equipment be and be maintained in accordance with the Board-approved plans, that all individuals practicing massage at the subject site possess valid New York State Licenses for such practice which licenses shall be prominently displayed at the subject site, that the above conditions appear on the certificate of occupancy and that a certificate of occupancy be obtained within one (1) year, by March 18, 1998; and

WHEREAS, on September 26, 2000, under BSA Calendar Number 182-95-BZ, the Board amended the special permit to allow an expansion to the second floor of the subject building; and

WHEREAS, on September 26, 2006, under BSA Calendar Numbers 182-95-BZ and 183-95-BZ, the Board granted an extension of term of ten (10) years, expiring November 1, 2015, on condition that there be no change in ownership or operating control of the PCE without prior approval from the Board and that the above conditions appear on the certificate of occupancy; and

WHEREAS, the term having expired, the applicant now seeks a waiver of the Board’s Rules of Practice and Procedure to allow the early filing of this application, an amendment and an extension of term; and

WHEREAS, the applicant proposes an extension and relocation of the PCE use within the cellar and the third floor of the subject building; and

WHEREAS, the subject PCE occupies 24,038 square feet of floor space as follows: 9,790 of floor space in the cellar, 4,480 square feet of floor area on the first-floor mezzanine, 9,779 square feet of floor area on the second floor and the addition of 9,779 square feet of floor area on the third floor, including a group fitness studio, a spinning room, storage, an employee lounge and a strength- and cardiovascular-training area; and

WHEREAS, the applicant represents that there have been no changes to the operator of the facility, Equinox, as previously approved by the Board; and

WHEREAS, in response to questions from the Board at hearing, the applicant states that extension of the PCE use 25 feet into the R8 portion of the subject site is permitted pursuant to ZR § 73-52 and revised the drawings to reflect a wall to keep vacant the portion of the cellar in the R8 zoning district beyond 25 feet; and

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WHEREAS, the applicant has satisfactorily demonstrated compliance with the conditions of the previous term and the Board finds that the circumstances warranting the original grant still obtain; and

WHEREAS, based upon its review of the record, the Board has determined that the requested waiver of the Board's Rules of Practice and Procedure, amendment and extension of term is appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals does hereby *wave* the Rules of Practice and Procedure and *reopen* and *amend* the resolution, dated March 18, 1997, as amended through September 26, 2006, so that as amended this portion of the resolution shall read: "to *permit* the extension and relocation of the PCE use within the cellar and the third floor of the subject building and to *grant* an extension of term of ten (10) years, expiring November 1, 2025; *on condition* that all work, operations and site conditions shall conform to drawings filed with this application marked "Received July 20, 2018"-Six (6) sheets; and *on further condition*:

THAT the term of this grant shall be limited to ten (10) years, expiring November 1, 2025;

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

THAT the PCE shall comply with the provisions of the New York City Noise Code and the enclosures surrounding the roof-mounted HVAC and mechanical equipment shall be and shall be maintained in accordance with the Board-approved plans;

THAT all individuals practicing massage at the subject site possess valid New York State Licenses for such practice which licenses shall be prominently displayed at the subject site;

THAT the above conditions shall appear on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained within four (4) years, by August 7, 2022;

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 objections cited and filed by the Department of Buildings;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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 plans or configurations not related to the relief granted."

Adopted by the Board of Standards and Appeals, August 7, 2018.

A true copy of resolution adopted by the Board of Standards and Appeals, August 7, 2018.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

