

Note.—This resolution is final but subject to formal revision before publication in the Bulletin. Please notify the General Counsel of any typographical or other formal errors so that corrections may be made before the Bulletin is published.

CORRECTION: This resolution adopted on February 11, 2020, under Calendar No. 2019-254-BZ, is hereby corrected to read as follows:

BOARD OF STANDARDS AND APPEALS

MEETING OF: February 11, 2020
CALENDAR NO.: 2019-254-BZ
PREMISES: 415 Red Hook Lane, Brooklyn
Block 154, Lot 7501

ACTION OF BOARD — Application granted on condition.

THE VOTE —
Affirmative: Chair Perlmutter, Commissioner Ottley-Brown,
Commissioner Sheta, and Commissioner Scibetta.....4
Negative:.....0
Absent: Vice-Chair Chanda.....1

THE RESOLUTION —

The decision of the Department of Buildings (“DOB”), dated July 26, 2019, acting on New Building Application No. 320626747, reads in pertinent part:

“Z.R. 73-36: Proposed physical cultural establishment in C6-4.5 zoning district is contrary to section Z.R. 32-10 and requires a special permit from the BSA (73-36).”

This is an application under Z.R. §§ 73-36 and 73-03 to permit, in a C6-4.5 zoning district and the Special Downtown Brooklyn District, the legalization of a physical culture establishment (“PCE”) on portions of the cellar and first floor of an existing 21-story plus cellar mixed-use residential and commercial building, contrary to Z.R. § 32-10.

A public hearing was held on this application on February 11, 2020, after due notice by publication in *The City Record*, and then to decision on that same date. Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood. Community Board 2, Brooklyn, waived its recommendation of this application.

The Premises are located on the northeast corner of Red Hook Lane and Livingston Street, in a C6-4.5 zoning district and the Special Downtown Brooklyn District, in Brooklyn. The Premises have approximately 101 feet of frontage along Red Hook Lane, 112 feet of frontage along Livingston Street, 9,007 square feet of lot area and is occupied by a 21-story with cellar mixed-use residential and commercial building.

The Board notes that its determination is also subject to and guided by Z.R. § 73-03. The Board notes that, pursuant to Z.R. § 73-04, it has prescribed certain conditions and safeguards to the subject special permit in order to minimize the adverse effects of the special permit upon other property and community at large; the Board notes further that such conditions and safeguards shall be incorporated in the building permit and certificate of occupancy of the subject building, and that failure to comply with such conditions or restrictions shall constitute a violation of the Zoning Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies. As a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available.

The subject PCE occupies 8,437 square feet of floor space as follows: 3,617 square feet of floor area on the first floor, containing a reception area and the studio, and 4,820 square feet of floor space in the cellar, used for a personal training studio, a locker area, an office, storage rooms, men's locker room and women's locker room. The PCE has been in operation as "Rumble Fitness" since September 2019, with the following hours of operation: Monday through Friday, 5:30 a.m. to 10:00 p.m., and Saturday and Sunday, 6:30 a.m. to 7:00 p.m. The applicant represents that the PCE use is consistent with the vibrant commercial area in which it is located, that the PCE use is fully contained within the envelope of an existing building and that the Premises has pedestrian access to rapid transit facilities within the vicinity. In addition, the applicant submits that sound attenuation measures have been provided within the space so as to not disturb other tenants in the building, including isolating walls at the studio from the adjacent structure; studio walls with two layers, sound attenuated BATT insulation in stud cavities and layers of gypsum coreboard at outer side of studs; all flooring at the studio is one inch thick core rubber tile flooring; all penetration at studio ceilings and walls are sealed mineral fiber insulation and caulked; and the ceiling at the studio is isolated from existing slab above. The Board finds that the PCE use is so located as not to impair the essential character or the future use or development of the surrounding area.

The applicant states that the PCE provides boxing-based workouts designed to facilitate fat burning, cardiovascular health, muscle toning and wellness and is a facility for classes, instruction and programs for physical improvement, body building, weight reduction, aerobics or martial arts. The Board finds that the subject PCE use is consistent with those eligible pursuant to Z.R. § 73-36(a)(2), for the issuance of the special permit. 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 deemed to be satisfactory.

The applicant submitted evidence that the PCE is fully sprinklered and that an approved fire alarm—including connection to an FDNY-approved central station— has been installed in the entire PCE space. By letter dated February 9, 2020, the Fire Department states these premises are protected by a standpipe and sprinkler fire suppression system that have been inspected and signed-off by the Department of Buildings; the fire alarm system was inspected by the

Fire Department and permits are current; based upon the foregoing, the Department has no objection to the above-referenced application and the Bureau of Fire Prevention will continue to inspect these premises and enforce all applicable rules and regulations. 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 finds no adverse effect on the privacy, quiet, light and air in the neighborhood. The proposed special permit use will not interfere with any pending public improvement project.

The project is classified as a Type II action pursuant to 6 NYCRR Part 617.5. The Board has conducted a review of the proposed Type II action noted in the CEQR Checklist No. 20BSA020K, dated September 4, 2019.

The Board finds that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-03 and that the applicant has substantiated a basis to warrant exercise of discretion.

The Board notes that the term of this grant has been reduced to reflect the period of time that the PCE has operated without a special permit.

Therefore, it is Resolved, that the Board of Standards and Appeals does hereby *issue* a Type II determination under 6 NYCRR Part 617.5 and 617.3, §§ 5-02(a) and 5-02(b)(2) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-03 to *permit*, in a C6-4.5 zoning district and the Special Downtown Brooklyn District, the legalization of a physical culture establishment (“PCE”) on portions of the cellar and first floor of an existing 21-story plus cellar mixed-use residential and commercial building, contrary to Z.R. § 32-10; *on condition* that all work, site conditions and operations shall conform to drawings filed with this application marked “Received February 11, 2020”-Five (5) sheets; *on further condition*:

THAT this grant shall be limited to a term of ten years, expiring September 1, 2029;

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

THAT minimum three-foot-wide exit pathways shall be maintained leading to the required exits and that pathways shall be maintained unobstructed, including from any gymnasium equipment;

THAT an approved interior fire alarm system—including connection of the interior fire alarm to an FDNY-approved central station—shall be maintained in the entire PCE space and the PCE shall remain fully sprinklered, as indicated on the Board-approved plans;

THAT sound attenuation shall be installed and maintained in the PCE, as indicated on the Board-approved plans;

THAT accessibility shall be provided pursuant to the standards set forth in applicable accessibility laws, including but not limited to Chapter 11 of the NYC Building Code, the 2009 American National Standards Institute (ANSI) A117.1 and Title III of the Americans with Disabilities Act, as reviewed and approved by DOB;

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

THAT a certificate of occupancy, also indicating this approval and calendar number (“BSA Cal. No. 2019-254-BZ”), shall be obtained within one year and an additional six months, in light of the current state of emergency declared to exist within the City of New York resulting from an outbreak of novel coronavirus disease, by November 13, 2021;

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.

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, February 11, 2020.

CERTIFICATION

***This copy of the Resolution
dated February 11, 2020
is hereby filed by
the Board of Standards and Appeals
dated April 30, 2021***



***Carlo Costanza
Executive Director***