

244-12-BZ

CEQR #13-BSA-016M

APPLICANT – Watchel, Masyr & Missry LLP by Ellen Hay for EQR-600 Washington LLC, owner; Gotham Gym 1 LLC, lessee.

SUBJECT – Application August 8, 2012 – Special Permit (§73-36) to allow a physical culture establishment (*Gotham Gym*). M1-5 zoning district.

Special Permit (§73-36) to permit a physical culture PREMISES AFFECTED – 600 Washington Street, west side of Washington Street between Morton and Leroy Streets, Block 602, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated January 15, 2013, acting on Department of Buildings Application No. 120918436, reads in pertinent part:

Proposed change of use to a physical culture establishment, as defined by ZR 12-10, is contrary to ZR 42-10 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 within an M1-5 zoning district, the legalization of a physical culture establishment (PCE) on the first floor of a mixed-use commercial/residential building contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on December 4, 2012, after due notice by publication in *The City Record*, and then to decision on January 15, 2013; and

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

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of Washington Street between Leroy and Morton Streets within an M1-5 zoning district; and

WHEREAS, the site was the subject of a prior variance pursuant to BSA Cal. No. 287-00-BZ, which allowed for the construction of a six-, seven-, and 14-story mixed-use commercial/ residential building contrary to underlying use regulations; and

WHEREAS, the PCE will occupy approximately 3,925 sq. ft. of floor area on a portion of the first floor;

and

WHEREAS, the PCE will be operated as Gotham Gym; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; 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 PCE will not interfere with any pending public improvement project; and

WHEREAS, the applicant notes that the PCE began operating at the site in February 2011 and that there have not been any complaints about noise; and

WHEREAS, the applicant asserts that the building is constructed of steel and concrete with concrete floors with a thickness of seven inches, and double pane windows, which satisfies the DEP noise abatement levels; and

WHEREAS, the applicant proposes the following hours of operation: Monday through Friday, 6:00 a.m. to 10:00 p.m. and Saturday and Sunday, 6:00 a.m. to 8:00 p.m.; 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 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 Board notes that the term of the special permit will be reduced for the period from the PCE’s opening in February 2011 to the date of this grant; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.3 and 617.5; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 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 an M1-5 zoning district, the legalization of a physical culture establishment (PCE) the first floor of a mixed-use commercial/residential building contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received

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January 3, 2013” - Four (4) sheets and “Received November 20, 2012” - One (1) sheet and *on further condition*:

THAT the term of this grant will expire on February 1, 2021;

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

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

THAT Local Law 58/87 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 this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT the Department of Buildings 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, January 15, 2013.

**A true copy of resolution adopted by the Board of Standards and Appeals, January 15, 2013.
Printed in Bulletin No. 3, Vol. 98.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.