

**246-01-BZ**

APPLICANT – Eric Palatnik, P.C., for Bodhi Fitness Center Inc., owner.

SUBJECT – Application June 15, 2018 – Extension of Term of a previously approved Special Permit (73-36) which permitted the operation of a Physical Cultural Establishment (Bodhi Fitness Center) which expired on June 1, 2018; Amendment to permit the enlargement of the establishment by 4,037.41 square feet. C2-2/R6 zoning district.

PREMISES AFFECTED – 35-11 Prince Street, Block 4958, Lot 1, Borough of Queens.

**COMMUNITY BOARD #7Q**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT** –

Affirmative: Chair Perlmutter, Vice-Chair Chanda, Commissioner Ottley-Brown, Commissioner Sheta and Commissioner Scibetta.....5

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for an extension to the term of the special permit for a physical culture establishment (“PCE”), previously granted pursuant to ZR § 73-36, which expired on June 1, 2018, and the amendment of the same; and

WHEREAS, a public hearing was held on this application on April 23, 2019, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, the subject site is an irregular site with frontage on Prince Street and 35th Avenue, partially within an M1-1 zoning district and partially within an R6 (C2-2) zoning district, in Queens; and

WHEREAS, the site has approximately 130 feet of non-continuous frontage along Prince Street, 74 feet of frontage along 35th Avenue, 27,624 square feet of lot area and is occupied by a one- (1) story plus cellar commercial building; and

WHEREAS, the subject PCE is located within a portion of the first floor (17,318 square feet of floor area) of the subject building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 11, 2002, when, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to legalize the operation of a PCE, containing 8,962 square feet of floor area, on the first floor of the subject building on condition that all work substantially conform to drawings, as they apply to the objections, filed with the application; a sign be posted within the PCE stating that no children under the age of eighteen (18) be permitted; there be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board; accessory parking in the cellar be provided and maintained for 16 cars with an entrance from 35th Avenue with clearly visible signs to be posted, identifying spaces designated for PCE members only; fire protection measures, including a wet sprinkler and smoke detection system

connected to a Fire Department-approved central station, be maintained in accordance with the BSA-approved plans; the special permit be limited to a term of ten (10) years from June 1, 1998, to expire June 1, 2008; the above conditions appear on the certificate of occupancy; the approval be limited to the relief granted by the Board in response to specifically cited and filed Department of Buildings (“DOB”) other jurisdiction objection(s) only; the approved plans be considered approved only for the portions related to the specific relief granted; and, the DOB 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; and

WHEREAS, on August 25, 2009, under the subject calendar number, the Board waived its Rules of Practice and Procedure and amended the resolution to extend the term for a period of ten (10) years, to expire on June 1, 2018, on condition that any and all work substantially conform to drawings as they apply to the objections, filed with the application; there be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board; all conditions from prior resolutions not specifically waived by the Board remain in effect; this approval be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and, the DOB 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)/configuration(s) not related to the relief granted; and

WHEREAS, on April 8, 2014, under the subject calendar number, the Board further amended the resolution to permit the 3,999 square foot enlargement of the PCE into adjoining space in the subject site on condition that all work substantially conform to drawings as they apply to the objections, filed with the application; signage for the PCE comply with the C2 regulations; all conditions from prior resolutions not specifically waived by the Board remain in effect; the approval be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and, the DOB 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)/configuration(s) not related to the relief granted; and

WHEREAS, the term of the special permit having expired, the applicant requests the subject relief; and

WHEREAS, the applicant represents that no changes to the operator (Bodhi Fitness) or operations of the PCE have occurred or are proposed and maintains the same hours of operation: Monday through Friday, 24 hours per day, and Saturday and Sunday, from 7:00 a.m. to 12:00 a.m.; and

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WHEREAS, the applicant also requests an amendment to permit enlargement of the existing PCE space by 4,037 square feet, for a total PCE floor area of 17,318, and interior modifications to the PCE layout to utilize the new floor area; and

WHEREAS, by letter dated April 5, 2019, the Fire Department states that they have no objection to the application as these premises have a fire alarm and sprinkler system that have been inspected and tested satisfactorily, and the Licensed Public Place of Assembly Unit has been performing annual inspections of the public assembly space and have found it to be in compliance with all rules and regulations of the Fire Department; and

WHEREAS, pursuant to ZR § 73-03(f), 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, at hearing, the Board expressed concern regarding compliance with the condition that off-street garage parking be maintained with clearly visible signs to be posted, identifying spaces designated for PCE members only; and

WHEREAS, in response, the applicant represented, and the Board agreed, that the condition required exterior signage, as opposed to signage on the individual spaces, and provided evidence of compliance with said condition; and

WHEREAS, accordingly, the Board finds that an extension of term of the special permit and the subject amendment to permit an expansion of the PCE space and modifications to the interior layout of the PCE are appropriate with the conditions set forth below.

*Therefore, it is Resolved,* that the Board of Standards and Appeals further *amends* the resolution, dated June 11, 2002, as amended through April 8, 2014, so that, as amended, this portion of the resolution reads: “to permit an extension of term of the special permit, to expire on June 1, 2028, *on condition* that the use and operation of the site shall conform to drawings filed with this application marked ‘June 20, 2018’-Four (4) sheets; and *on further condition*:

THAT the term of this grant shall expire on June 1, 2028;

THAT the permitted hours of operation shall be: Monday through Friday, 24 hours per day, and Saturday and Sunday, from 7:00 a.m. to 12:00 a.m.;

THAT the premises shall be maintained free of debris and graffiti;

THAT a sign shall be maintained within the PCE stating that no children under the age of eighteen (18) are permitted;

THAT accessory parking in the cellar be shall be provided and maintained with an entrance from 35th

**A true copy of resolution adopted by the Board of Standards and Appeals, April 23, 2019.**

**Printed in Bulletin Nos. 17-18, Vol. 104.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

Avenue and a sign clearly visible from the public street identifying parking designated for PCE members;

THAT all signage on the site shall comply with all applicable provisions of the Zoning Resolution;

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

THAT minimum three (3) foot wide exit pathways to required exits shall always be maintained unobstructed, including that from any gymnasium equipment;

THAT sprinklers and interior fire alarm system—including area smoke detectors, manual pull stations at each required exit, local audible and visual alarms, connection of the interior fire alarm and sprinklers to a FDNY-approved central station—shall be maintained throughout the PCE space as indicated on the Board-approved plans;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

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

THAT a new certificate of occupancy, also indicating this approval and calendar number (“BSA Cal. No. 246-01-BZ”) shall be obtained within one (1) year, by April 23, 2020;

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);

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 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, April 23, 2019.

