

272-07-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Amsterdam & 76th Associates LLC, owner; Equinox 76th Street, Inc., lessee.

SUBJECT – Application September 27, 2018 – Extension of Term of a previously approved Special Permit (§73-36) which permitted the operation of a Physical Cultural Establishment (*Equinox*) on the cellar, ground and second floors and (Pure Yoga Facility) on the cellar level of a mixed-use building which expires on May 13, 2018. C2-7A (EC-2) and C4-6A (EC-3) zoning districts.

PREMISES AFFECTED – 344 Amsterdam Avenue, Block 1168, Lot 7501, 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, Commissioner Sheta and Commissioner Scibetta.....5

Negative:0

THE RESOLUTION –

WHEREAS, this is an application for an extension of term of a previously granted special permit for a physical culture establishment (“PCE”), which expired on May 13, 2018; and

WHEREAS, a public hearing was held on this application on September 27, 2018, after due notice by publication in *The City Record*, and then to decision on the same date; and

WHEREAS, Commissioner Ottley-Brown and Commissioner Scibetta performed an inspection 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 west side of Amsterdam Avenue, bound by West 77th Street to the north and West 76th Street to the south, partially located within a C2-7A zoning district and the Special Enhanced Commercial District 2 (EC-2) and partially located within a C4-6A zoning district and the Special Enhanced Commercial District 3 (EC-3), in Manhattan; and

WHEREAS, the site has approximately 179 feet of frontage along Amsterdam Avenue, 115 feet of frontage along West 77th Street, 100 feet of frontage along West 76th Street, and 28,863 square feet of lot area; and

WHEREAS, the site is occupied by a mixed-use residential and commercial building that rises to four stories, plus cellar and sub-cellar, and splits into a 13-story building (“Tower 1”) located on the northeastern most portion of the subject site and an 18-story building (“Tower 2”) located on the southwestern most portion of the site; and

WHEREAS, the subject PCE is located within

portions of the cellar (20,116 square feet of floor space) and first and second floors (28,311 square feet of floor area) of the subject development; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 13, 2008, when, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit the establishment of a physical culture establishment, operated by Equinox Fitness located on portions of the cellar, first and second floors of the then-proposed 13- and 18- story mixed-use residential and commercial development at the subject site for a term of ten (10) years, expiring May 13, 2018, on condition that there be no change in ownership or operating control of the PCE without prior application to and approval from the Board; all massages be performed by New York State licensed massage therapists; a maximum interior noise level of 45 dBA be maintained between the PCE and adjacent residential use; the above conditions appear on the certificate of occupancy; Local Law 58/87 compliance be as reviewed and approved by DOB; fire safety measures be installed and/or maintained as shown on the Board-approved plans; prior to the issuance of any permits, DOB review the floor area and location of the PCE for compliance with all relevant commercial use regulations; sound attenuation measures be installed and maintained in accordance with the approved plans; the approved plan be considered approved only for the portions related to the specific relief granted; and the Department of Buildings 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; and

WHEREAS, on October 20, 2009, under the subject calendar number, the Board amended the resolution to permit extensions of the PCE use at the cellar and first floor, on condition that the use and operation of the site substantially conform to the approved plans filed with the application; there be no change in ownership or operating control of the PCE without prior application to and approval from the Board and that all conditions from prior resolutions not specifically waived by the Board remain in effect; and

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

WHEREAS, the applicant represents that there has been no change in ownership or operator since the 2008 resolution and that Equinox continues to operate the subject PCE, that the cellar level contains the entirety of the Pure Yoga space, men’s and women’s locker areas, yoga studio, reception areas and a lounge, as well as the women’s area, kids’ area, and treatment rooms for the Equinox facility; the first floor contains the entrances to both Equinox and Pure Yoga; and the

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second floor contains the Equinox exercise areas and men's locker area; and

WHEREAS, the applicant submits that the Pure Yoga and Equinox facilities are operated separately with separate staffs, but have the same principals, which are the same as they were when the special permit was originally granted in 2008; that there has been no changes in the hours of operation, which were approved in 2008 to be Monday through Thursday, 5:30 a.m. to 11:00 p.m., Friday, 5:30 a.m. to 10:00 p.m., and Saturday and Sunday, 7:00 a.m. to 9:00 p.m., but not incorporated as a condition to the resolution; and that massage services continue to be provided by New York State-licensed massage therapists; and

WHEREAS, by letter dated September 26, 2018, the Fire Department stated that it had no objection to the application and confirmed that all FDNY permits for the fire alarm system and fire suppression system are current; 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, accordingly, the Board finds that a ten (10) year extension of the term of the special permit is appropriate, with the conditions set forth below.

Therefore, it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated May 13, 2008, so that as amended this portion of the resolution shall read: "to permit an extension of the term of the special permit for a term of ten (10) years, expiring May 13, 2028, *on condition* that all work and site conditions shall conform to drawings filed with this application marked "Received June 28, 2018"-Six (6) sheets; and *on further condition*:

THAT the term of this grant shall expire on May 13, 2028;

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 all massages shall be performed by New York State licensed massage therapists;

THAT a maximum interior noise level of 45 dBA shall be maintained between the PCE and adjacent residential use;

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 revised certificate of occupancy shall be obtained within one (1) year, by September 27, 2019;

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, September 27, 2018.

A true copy of resolution adopted by the Board of Standards and Appeals, September 27, 2018.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

