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BOARD OF STANDARDS AND APPEALS

MEETING OF: February 22, 2021
CALENDAR NO.: 281-09-BZ
PREMISES: 246 Spring Street, Manhattan
Block 491, Lot 7503

ACTION OF BOARD — Application granted on condition.

THE VOTE —

Affirmative: Chair Perlmutter, Vice-Chair Chanda,
Commissioner Ottley-Brown, Commissioner Sheta, and
Commissioner Scibetta.....5
Negative:.....0

THE RESOLUTION —

This is an application for an extension of term of a special permit, previously granted by the Board pursuant to Z.R. § 73-36, which expired on February 23, 2020.

A public hearing was held on this application on November 30, 2020, after due notice by publication in *The City Record*, and then to decision on February 22, 2021. Vice-Chair Chanda, Commissioner Ottley-Brown, and Commissioner Scibetta performed an inspection of the Premises and surrounding neighborhood. Community Board 2, Manhattan, waived its recommendation of this application.

The Premises are bounded by Spring Street to the north, Varick Street to the west, and Dominick Street to the south, within a M1-6 zoning district and in the Special Hudson Square District, in Manhattan. The subject physical culture establishment (“PCE”) is located on portions of the fifth floor (4,984 square feet of floor area) and sixth floor (4,172 square feet of floor area) of the existing 43-story mixed-use hotel/commercial building.

The Board has exercised jurisdiction over the Premises since February 23, 2010, when, under the subject calendar number, the Board granted a special permit, pursuant to Z.R. § 73-36, to permit the operation of a PCE, operated as “WTS International,” on condition that all work substantially conform to drawings filed with the application; the term of the grant expire on February 23, 2020; there be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board; all massages be performed by New York State-licensed massage therapists; the conditions appear on the certificate of occupancy; Local Law 58/87 compliance be reviewed and approved by DOB; fire safety measures be

installed and/or maintained as shown on the Board-approved plans; the approval be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); the approved plans be considered approved only for the portions related to the specific relief granted; substantial construction be completed in accordance with Z.R. § 73-70; 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.

The term of the special permit having expired, the applicant now seeks an extension.

The applicant represents that the PCE continues to operate as “WTS International,” and there have been no changes to the operation or the PCE facility.

The Fire Department states, by correspondence dated November 30, 2020, that the Premises are protected by a fire suppression system (standpipe and sprinkler) that has been signed-off at the Department of Buildings. The Fire Suppression Unit has been notified to conduct an inspection of the suppression system. A fire alarm system is also installed, inspected and tested satisfactory as per the Fire Department’s rules and regulations. A swimming pool located at the Premises has been inspected by the Bureau of Fire Prevention Labs Unit for storage of chloride, and such inspection was found to be satisfactory and permits have been issued. Based on the foregoing, the Fire Department has no objection to the application.

At hearing, the Board questioned whether outdoor lounge and spa space at the fifth floor was permitted at the Premises, given that Z.R. § 73-36(b) is inapplicable in an M1-6 zoning district. In response, the applicant revised the plans to remove the outdoor space, which is only permitted to be accessed from the hotel area, from the PCE area and submitted a sealed letter from the architect confirming that the outdoor spaces are not included in PCE floor area calculations.

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. Based upon its review of the record, the Board has determined that the requested 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 *amend* the resolution, dated February 23, 2010, so that as amended this portion of the resolution shall read: “to extend the term of the special permit for ten years, expiring February 23, 2030, *on condition* that all work shall substantially conform to drawings as filed with this application, marked “Received February 4, 2021,”—six (6) sheets; and *on further condition*:

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THAT the term of the PCE shall be for ten years, expiring on February 23, 2030;

THAT the outdoor areas of the Premises shall not be used in connection with PCE use;

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;

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

THAT all signage shall comply with the Zoning Resolution;

THAT fire safety measures be maintained as shown on the Board-approved plans;

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. 281-09-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 September 1, 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, February 22, 2021.

CERTIFICATION

***This copy of the Resolution
dated February 22, 2021
is hereby filed by
the Board of Standards and Appeals
dated March 1, 2021***



***Carlo Costanza
Executive Director***