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BOARD OF STANDARDS AND APPEALS

MEETING OF: **March 29, 2022**
CALENDAR NO.: **290-99-BZ**
PREMISES: **97 Greenwich Avenue, Manhattan**
Block 615, Lot 29

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 previously approved variance, granted pursuant to Z.R. § 72-21, permitting the operation of a physical culture establishment (“PCE”) and expired on March 28, 2020.

A public hearing was held on this application on February 28, 2022, after due notice by publication in *The City Record*, and then to decision on March 29, 2022. Community Board 2, Manhattan, waived its recommendation of this application.

The Premises are located at the southwest corner of the intersection of Greenwich Avenue and West 12th Street, within a C1-6 (R6) zoning district, in Manhattan. With approximately 67 feet of frontage along Greenwich Avenue, 118 feet of frontage along West 12th Street, and 8,612 square feet of lot area, the Premises are occupied by an existing four-story, plus cellar, commercial building.

The Board has exercised jurisdiction over the Premises since March 28, 2000, when, under the subject calendar number, the Board granted a variance, for a term of ten years, to permit, in a C1-6 (R6) zoning district, within the Greenwich Village Historic District, the proposed conversion and enlargement of an existing two-story brick building movie theater into a four-story physical culture establishment, contrary to Z.R. § 32-10, on condition that all work substantially conform to drawings as they apply to the objections noted and filed with the application; the terms of the variance be limited to ten years from the date of the grant, to expire on March 28, 2010; the hours of operation for the physical culture establishment be limited to Monday through Thursday, 6:00 a.m. to 11:00 p.m., Friday, 6:00 a.m. to

10:00 p.m., Saturday and Sunday 8:00 a.m. to 8:00 p.m.; the proposed wet sprinkler system and interior fire alarm be connected to a Fire Department approved central station; the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and substantial construction be completed in accordance with Z.R. § 72-23.

On August 14, 2001, under the subject calendar number, the Board amended the resolution to permit the installation of an accessory swimming pool at the cellar level of the establishment, on condition that the hours of operation be limited to Monday through Thursday, 6:00 a.m. to 11 p.m., Friday, 6:00 a.m. to 10:00 p.m., Saturday and Sunday, 8:00 a.m. to 8:00 p.m.; a wet sprinkler system with interior fire alarms connected to a Fire Department approved central station be installed throughout the entire establishment; the above conditions appear on the certificate of occupancy; the Premises be maintained in substantial compliance with the proposed conditions plans submitted with the application; the development, as approved, is subject to verification by the Department of Buildings for compliance with any applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; the resolution be complied with in all respect; and substantial construction be completed in accordance with Z.R. § 72-23.

On September 14, 2010, under the subject calendar, the Board further amended the resolution to grant an extension of the term of the variance for ten years from the expiration of the last grant, to expire on March 28, 2010 and to permit the noted change in the hours of operation, on condition that all work substantially conform to drawings as they apply to the objections filed with the application; the term of the grant expire on March 28, 2020; the hours of operation be: Monday through Thursday, from 5:30 a.m. to 11:00 p.m.; Friday, from 5:30 a.m. to 10:00 p.m.; and Saturday and Sunday, from 8:00 a.m. to 9:00 p.m.; the above conditions be listed on the certificate of occupancy; all conditions from resolutions not specifically waived by the Board remain in effect; the approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; the Department of Buildings 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.

The term of the grant having expired, the applicant now seeks an extension and to eliminate the term of the grant. The applicant represents that the Premises continue to comply with all conditions of the Board's resolution and that no changes in the physical plan, floor

area, or operation of the establishment are proposed. The applicant states that it is the sole tenant of the subject building, with the cellar (7,508 exempt square feet) containing a swimming pool, treatment rooms, laundry, employee lounge, and mechanical space; the first floor (8,330 square feet) containing the reception area, locker rooms, and retail and office space; and the second (8,292 square feet), third (8,291 square feet) and fourth (7,075 square feet) floors containing the exercise areas for the establishment. Furthermore, the applicant declares that the subject Premises have approved interior fire alarm and sprinkler systems and continues to comply with all pertinent accessibility requirements. Additionally, the applicant states that no changes to the operator or operation are proposed, with open hours remaining Monday to Thursday, 5:30 a.m. to 11:00 p.m., Friday, 5:30 a.m. to 10:00 p.m., Saturday and Sunday, 8:00 a.m. to 9:00 p.m.

At hearing, the Board raised concerns about the applicant's compliance with the terms of the prior grants and the current conditions inside the health and culture establishment. Additionally, the Board noted that there were inconsistencies between the gross floor area shown on the applicant's drawings and the measurements in the Statement of Facts and cover letter, as deductions of mechanical space from the cellar had resulted in reduced floor area in some material but that information was not uniformly represented in the applicant's submissions. In response, the applicant submitted photos of the interior conditions of the facility and a compliance chart stating the terms of the prior grant and where in the application material proof of compliance may be found. Furthermore, the applicant amended the drawing list and area chart on the existing plan set to correspond to measurements given in its cover letter and Statement of Facts.

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 *amends* the resolution, dated March 28, 2000 as amended through September 14, 2010, so that as amended this portion of the resolution shall read: "to eliminate the term of the grant and limit the use at the subject Premises to a health and fitness establishment, *on condition*:

THAT the hours of operation shall be limited to Monday through Friday, 5:30 a.m. to 11:00 p.m., Friday, 5:30 a.m. to 10:00 p.m., and Saturday and Sunday, 8:00 a.m. to 9:00 p.m.;

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 the above conditions shall appear on the certificate of occupancy;

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THAT a certificate of occupancy, also indicating this approval and calendar number (“BSA Cal. No. 290-99-BZ”), shall be obtained within two years, by March 29, 2024;

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, March 29, 2022.

