

**300-04-BZ**

APPLICANT - Malcolm Kaye of Aston Associates, for Jimmy Tuohy, Eurostruct, Inc, owner; Diana Zelvin, lessee.

SUBJECT - Application filed September 9, 2004 - under Z.R. Section 73-36 to permit a proposed physical cultural establishment located on the first and second floor of a two story commercial building, within an M1-1 Zoning district.

PREMISES AFFECTED - 66 Huron Street , south of West Street and Franklin Street, Block 2531 , Lot 12 Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

**APPEARANCES -**

For Applicant: Malcolm Kaye.

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

**THE VOTE TO GRANT -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Borough Commissioner dated September 3, 2004, acting on Department of Buildings Application No. 301046981, reads:

“Proposed Physical Culture Establishment is not permitted as-of-right in M1-1 zoning districts and is contrary to ZR 42-10. Provide Board of Standards and Appeals Special Permit as required under ZR 73-36”; and

WHEREAS, a public hearing was held on this application on March 1, 2005 after due notice by publication in *The City Record*, and then to decision on March 8, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board No. 1, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within an M1-1 zoning district, a proposed physical culture establishment within an existing one-story plus mezzanine commercial building that was previously enlarged as-of-right; and

WHEREAS, the subject building has a total floor area of 7,480 sq. ft.; and

WHEREAS, the applicant represents that the PCE will occupy all of the available square footage within the building; and

WHEREAS, the applicant states that the PCE will have facilities for weight training, exercise, fitness classes, massage, nutritional education and a retail shop selling fitness-related attire and foods; and

WHEREAS, the applicant states that all masseurs

and masseuses employed by the facility are and will be New York State licensed; the applicant has submitted into the record the license for the one anticipated massage therapist; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not have any significant impact on the adjacent residential uses; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; 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 proposed project will not interfere with any pending public improvement project; 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 findings required to be made under Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR. NO. 05-BSA-040K, dated December 21, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration

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prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) 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 Z.R. §§ 73-36 and 73-03, to permit, within an M1-1 zoning district, a proposed physical culture establishment on the first and second floors of an existing two-story commercial building; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 2, 2005" - (4) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from March 8, 2005, expiring March 8, 2015;

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

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 hours of operation shall be limited to: Monday through Friday 7 AM to 11 PM and Saturday and Sunday 7 AM to 10 PM;

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

THAT all signage shall comply with signage regulations applicable in C1 zoning districts;

THAT all exiting requirements and handicapped accessibility shall be as reviewed and approved by the Department of Buildings;

THAT a full sprinkler system shall be installed in the PCE and an interior fire alarm system consisting of area smoke detectors shall be installed throughout the PCE and pull stations shall be installed at all exits, as indicated on the BSA-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) only;

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 plan(s) and/or configuration(s) not related to the relief

**A true copy of resolution adopted by the Board of Standards and Appeals, March 8, 2005.**

**Printed in Bulletin No. 12, Vol. 90.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

granted.

Adopted by the Board of Standards and Appeals, March 8, 2005.