

57-14-BZ

CEQR #14-BSA-138M

APPLICANT – The Law Office of Jay Goldstein, PLLC, for One NY Plaza Co. LLC, owner; Gear Fitness LLC d/b/a Retro Fitness, lessee.

SUBJECT – Application April 10, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Retro Fitness*) in the sub-cellar and concourse level of a 50-story commercial building, C5-5(LM) zoning district.

PREMISES AFFECTED – 1 New York Plaza, 114-142 13 Broad Street, 13 South Street, 1-21 Water Street, 49-63 & 54-64 Whitehall Street, Block 4, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated April 9, 2014, acting on DOB Application No. 12809052, reads, in pertinent part:

Proposed use as a physical culture establishment, as defined by ZR 12-10, is not permitted as of right in C5-5 district according to ZR 32-10 and must be referred to the Board of Standards and Appeals for approval pursuant to ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-5 zoning district, within the Special Lower Manhattan District (LM), the operation of a physical culture establishment (“PCE”) in portions of the sub-cellar and cellar levels of a 50-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 17, 2014, after due notice by publication in the *City Record*, and then to decision on July 15, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located within the entire block bounded by Broad Street, South Street, Whitehall Street, and Water Street and is known as One New York Plaza; it is within a C5-5 (LM) zoning district; and

WHEREAS, the lot has an area of 111,382 sq. ft., with approximately 342 feet of frontage on Water Street, approximately 291 feet of frontage on Whitehall Street,

approximately 334 feet of frontage on South Street, and approximately 362 feet of frontage on Broad Street; and

WHEREAS, the applicant states that the site is occupied by a 50-story commercial building with 1,941, 436 sq. ft. of floor area (17.4 FAR); and

WHEREAS, the proposed PCE will occupy 16, 987 sq. ft. of floor space with 6,677 sq. ft. on the sub-cellar and 10,310 sq. ft. on the cellar level; and

WHEREAS, the PCE will be operated as Retro Fitness; and

WHEREAS, the applicant represents that the services at the PCE include dance, aerobics, yoga, and Pilates in addition to cardiovascular exercise and weight training management equipment; and

WHEREAS, the hours of operation for the PCE will be Monday through Thursday 24 hours, Friday until 10:00 p.m., and Saturday and Sunday, from 6:00 a.m. to 7:00 p.m.; 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 Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; 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 requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist (CEQR No. 14BSA138M) dated May 5, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issued a Type II determination 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 ZR §§ 73-36 and 73-03 to permit, on a site within a C5-5 zoning district, within the Special Lower Manhattan District, the operation of a PCE in portions of the sub-cellar and cellar level of a 50-

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story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 5, 2014" Seven (7) – sheets; and *on further condition*:

THAT the term of the PCE grant will expire on July 15, 2024;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

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

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

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

THAT substantial construction will be completed in accordance with ZR § 73-70;

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 will be considered approved only for the portions related to the specific relief granted; and

THAT DOB 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, July 15, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, July 15, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

