

58-96-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 277 Park Avenue, LLC., owner; Manhattan Athletic Club LLC, lessee.

SUBJECT – Application November 28, 2016 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of physical culture establishment (*Manhattan Athletic Club*) which expires on December 10, 2016. C5-2A (DB) zoning district. C5-3 & C6-6 (Special Midtown District) zoning district.

PREMISES AFFECTED – 277 Park Avenue, Block 1302, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Chanda and Commissioner Montanez.....3

Negative:0

Absent: Commissioner Ottley-Brown.....1

THE RESOLUTION –

WHEREAS, this is an application to amend a previously granted special permit for a physical culture establishment (“PCE”) and an extension of term of the special permit, which expired on December 10, 2016; and

WHEREAS, a public hearing was held on this application on May 23, 2017, after due notice by publication in *The City Record*, and then to decision on June 27, 2017; and

WHEREAS, Vice-Chair Chanda and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 4, Manhattan, waives its recommendation for this application; and

WHEREAS, the subject site is located on the east side of Park Avenue, between East 48th Street, Lexington Avenue and East 46th Street, partially within a C5-3 zoning district and partially within a C6-6 zoning district, in the Special Midtown District, in Manhattan; and

WHEREAS, the site has approximately 201 feet of frontage along Park Avenue, 405 feet of frontage along East 48th Street, 201 feet of frontage along Lexington Avenue, 405 feet of frontage along East 47th Street, 81,338 square feet of lot area and is occupied by a 50-story, with cellar, commercial building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 10, 1996, when, under the subject calendar number, the Board granted a special permit to permit the operation of PCE for a term of ten (10) years, expiring December 10, 2006, on condition that there be no change in ownership or operating control of the PCE without prior application to and approval from the Board, that all massage therapists at the subject PCE shall possess a valid New York State license for such practice which license shall

be prominently displayed at the premises and that the above conditions appear on the certificate of occupancy; and

WHEREAS, on April 10, 2007, the Board amended its grant to modify the PCE’s interior layout and add 479 square feet of floor area on the first floor to accommodate boxing facilities and extended the term of the special permit for ten (10) years, expiring December 10, 2016, on condition that there be no change in ownership or operating control of the PCE without prior approval from the Board, that the Board’s conditions appear on the certificate of occupancy, that a certificate of occupancy be obtained within one (1) year, by April 10, 2008, and that Local Law 58/87 be as reviewed and approved by the Department of Buildings; and

WHEREAS, the applicant now seeks an extension of term of the special permit for an additional ten (10) years and an amendment to permit interior layout changes, reflecting a smaller reception area and additional massage room; and

WHEREAS, the facility remains in operation as Manhattan Athletic Club with the following hours of operation: 5:30 a.m. to 10:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m., Saturday and Sunday; and

WHEREAS, the applicant notes that the PCE continues to occupy 13,428 square feet of floor area: 495 square feet in the basement and 12,454 square feet on the first floor, as previously approved by the Board; and

WHEREAS, the applicant explains that the drawings have been corrected to reflect the PCE floor area of 13,428 square feet, which includes 495 square feet of floor area for the PCE entrance at the basement level; and

WHEREAS, as discussed at hearing, the Board declines to opine on the banners at the subject site and notes that no sign regulations have been waived by the Board, and accordingly all signage shall comply with the applicable sign regulations; and

WHEREAS, the Board notes that its determination is subject to and guided by ZR § 73-03; and

WHEREAS, by letter dated June 23, 2017, the Fire Department states that, based upon its review of the drawings and supporting documentation, it has no objection to this application; and

WHEREAS, consistent with ZR § 73-03(a), the Board finds that, under the conditions and safeguards imposed, the hazards of disadvantage to the community at large of the special permit are outweighed by the advantages to be derived by the community; and

WHEREAS, as to ZR § 73-03 subsections (b) and (c), the Board finds, respectively, that the subject special permit will not interfere with any public

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improvement project and that the use will not interfere with the existing street system; and

WHEREAS, the Board notes that ZR § 73-03 subsections (d) and (g) are inapplicable to this application; and

WHEREAS, § 73-36 mandates a term not to exceed ten (10) years and, thus, pursuant to ZR § 73-03(e), the Board shall establish a term not to extend ten (10) years; and

WHEREAS, consistent with ZR § 73-03(f), the Board finds that the circumstances warranting the original grant still obtain and that the applicant has complied with the conditions and safeguards theretofore described by the Board during the prior term; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment and ten (10) year extension is appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated December 10, 1996, as amended April 10, 2007, so that as amended this portion of the resolution shall read: “to grant modifications to the interior layout, reflecting a smaller reception area and additional massage room, and an extension of term for an additional ten (10) years, expiring December 10, 2026; *on condition* that the use and operation of the PCE shall substantially conform to the Board-approved plans, and that all work and site conditions shall comply with drawings marked ‘Received November 28, 2016’- Two (2) sheets; and *on further condition*:

THAT this special permit shall be limited to a term of ten (10) years, expiring December 10, 2026;

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 massage therapists at the subject physical culture establishment shall possess a valid New York State license for such practice, which license shall be prominently displayed at the premises;

THAT the above conditions shall appear on the certificate of occupancy;

THAT an amended certificate of occupancy shall be obtained within one (1) year, by June 27, 2018;

THAT Local Law 58/87 compliance shall be as reviewed and approved by the Department of Buildings;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect; and

A true copy of resolution adopted by the Board of Standards and Appeals, June 27, 2017.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

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, June 27, 2017.

