

93-14-BZ**CEQR #14-BSA-146M**

APPLICANT – Eric Palatnik, P.C., for 455 West 37 LLC., owner; MJM Boxing LLC., lessee.

SUBJECT – Application September 16, 2014 – Special Permit (§73-36) to legalize a physical culture establishment (*Title Boxing Club*). R8A/C2-5 zoning district.

PREMISES AFFECTED – 455 West 37th Street, between Dyer and 10th Avenues, Block 735, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez	4
Negative:.....	0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated April 25, 2014, acting on DOB Application No. 121184912, reads, in pertinent part:

ZR 32-10 – Proposed physical culture establishment is not permitted as of right in R8A/C2-5 district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C2-5 (R8A) zoning district and partially within a C2-8 zoning district, within the Special Hudson Yards District, the legalization of an existing physical culture establishment (“PCE”) operating on the first story of a 23-story mixed residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 16, 2014, after due notice by publication in the *City Record*, with a continued hearing on October 28, 2014, and then to decision on November 18, 2014; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Ottley-Brown; and

WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, the subject site spans the west side of Tenth Avenue between West 37th Street and West 38th Street; it is located partially within a C2-5 (R8A) zoning district and partially within a C2-8 zoning district, within the Special Hudson Yards District; and

WHEREAS, the site has 197.5 feet of frontage along Tenth Avenue, 150.5 feet of frontage along West 37th Street, 195.5 feet of frontage along West 38th Street, and 34,167 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 23-story mixed residential and commercial building; and

WHEREAS, the PCE occupies 6,107 sq. ft. of floor

area on the first story and operates as Title Boxing Club; and

WHEREAS, the PCE’s hours of operation are Monday through Friday, from 5:45 a.m. to 9:00 p.m., and Saturday and Sunday, from 8:00 a.m. to 3:00 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 does 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, at hearing, the Board noted the application was a legalization and indicated that sound attenuation measures must be shown on the plans; and

WHEREAS, in response, the applicant recast the application as a legalization and submitted amended plans noting the PCE’s sound attenuation measures; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; 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 Checklist action discussed in the CEQR Checklist No. 14-BSA-146M, dated May 2, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination 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 partially within a C2-5 (R8A) zoning district and partially within a C2-8 zoning district, within the Special Hudson Yards District, the legalization of an existing PCE operating on the first story of a 23-story mixed residential and commercial building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked

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“Received May 2, 2014”-(3) sheets; *on further condition:*

THAT the term of the PCE grant will expire on June 1, 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 accessibility 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 all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by November 18, 2018;

THAT this approval is limited to the relief granted by the Board in response to specifically cited 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, November 18, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, November 18, 2014.
Printed in Bulletin Nos. 45-47, Vol. 99.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

