

98-97-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 278 Eighth Associates LLC, owner; TSI West 23rd Street, LLC dba New York Sports Club, lessee.

SUBJECT – Application November 30, 2016 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of physical culture Establishment (*New York Sports Club*) which expired on November 1, 2016. C2-7A zoning district. PREMISES AFFECTED –270 Eighth Avenue, Block 773, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #4M

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 for an extension of term of a special permit for a physical culture establishment (“PCE”) previously granted by the Board, which expired November 1, 2016; and

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

WHEREAS, Commissioner Ottley-Brown performed an inspection 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 Eighth Avenue, between West 24th Street and West 23rd Street, in a C2-7A zoning district, in Manhattan; and

WHEREAS, the site has approximately 198 feet of frontage along Eighth Avenue, 100 feet of depth, 19,750 square feet of lot area and is occupied by a two-story, with cellar, commercial building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 24, 1998, when, under the subject calendar number, the Board granted a special permit for the PCE in the subject building for a term of ten (10) years, expiring November 1, 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 signage be maintained in accordance with the Board-approved plans, that rooftop HVAC and mechanical equipment comply with the New York City Noise Code, that the hours of operation be limited to 6:00 a.m. to 11:00 p.m., Monday through Thursday, 6:00 a.m. to 10:00 p.m., Friday, and 9:00 a.m. to 6:00 p.m., Saturday and Sunday, that the above conditions appear on the certificate of occupancy and that a certificate of occupancy be obtained within one (1) year, by February

24, 1999; and

WHEREAS, on September 14, 2010, under the subject calendar number, the Board waived its Rules of Practice and Procedure, granted an extension of term of the special permit for ten (10) years, expiring November 1, 2016, and amended its resolution to change the hours of operation to Monday through Thursday, 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.; and

WHEREAS, the term of the special permit having expired, the applicant now seeks a further extension of term for an additional ten (10) year term; and

WHEREAS, the facility remains in operation as New York Sports Club with the following hours of operation: Monday through Thursday, 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.; and

WHEREAS, the applicant notes that the PCE continues to occupy 19,990 square feet of floor space in the building: 240 square feet of floor space in the cellar and 19,750 square feet of floor area on the second floor, as previously approved by the Board; and

WHEREAS, at hearing, the applicant explained that, despite the previously approved plans, which reflect 19,760 square feet of floor area, the actual floor area used by the PCE is in fact 19,750; and

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

WHEREAS, by letter dated June 26, 2016, the Fire Department states that, based upon its review of the drawings and supporting documentation, it has no objection to this application; and

WHEREAS, by letter dated December 28, 2016, Community Board 4, Manhattan, states that it has recently conducted an inspection of the PCE, finding that the PCE was a well-run facility, and that Community Board 4’s office has no record of complaints about the PCE; 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 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 the subject 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

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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 a 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, as adopted on February 24, 1998, as amended through September 14, 2010, so that as amended this portion of the resolution shall read: "to extend the term for a period of ten (10) years from November 1, 2016, to expire on November 1, 2026; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked 'Received November 30, 2016'-Five (5) sheets; and *on further condition*:

THAT the term of this grant shall expire November 1, 2026;

THAT the hours of operation shall be: Monday through Thursday, 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 PCE without prior application to and approval from the Board;

THAT signage shall be maintained in accordance with the Board-approved plans;

THAT rooftop HVAC and mechanical equipment comply with the New York City Noise Code;

THAT the above conditions shall be listed on the certificate of occupancy;

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

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

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; 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.

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.

