

146-14-BZ

CEQR #14-BSA-184M

APPLICANT – Sheldon Lobel, P.C., for Fair Only Real Estate Corps., owner; LES Fitness LLC., lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Bowery CrossFit*) in the cellar of an existing building. C6-1G zoning district.

PREMISES AFFECTED – 285 Grand Street, south side of Grand Street approximately 25' west of the intersection formed by Grand Street and Eldridge Street, Block 306, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 22, 2014, acting on DOB Application No. 121908347, reads, in pertinent part:

Proposed Physical Culture Establishment at zoning C6-1G is not permitted as of right...;
and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C6-1G zoning district, a physical culture establishment (“PCE”) operating in the cellar of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 6, 2015, after due notice by publication in the *City Record*, with continued hearings on February 24, 2015, March 24, 2015 and April 14, 2015, and then to decision on May 19, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 3, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of Grand Street, between Forsyth Street and Eldridge Street, within a C6-1G zoning district; and

WHEREAS, the site has approximately 50 feet of frontage along Grand Street and a depth of approximately 100 feet, with a lot area of approximately 4,980 sq. ft.; and

WHEREAS, the site is occupied by a two-story commercial building with approximately 11,046 sq. ft. of floor area (2.22 FAR); and

WHEREAS, the PCE occupies 2,967 sq. ft. of floor space in the cellar of the building and is accessed by a stairway with an entrance on Grand Street; and

WHEREAS, the PCE operates as Bowery Cross Fit; and

WHEREAS, the applicant represents that the hours of operation for the PCE are Monday – Friday, from 5:00 a.m. to 9:00 p.m., and on weekends from 9:00 a.m. to 1:00 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, at a hearing, the Board asked the applicant to prepare a noise and vibration study for the subject premises to quantify the impact of the PCE on other tenants located within the subject building and on adjacent property, including the property located at 87 Eldridge Street; and

WHEREAS, in response, the applicant submitted a noise and vibration study which demonstrates that the conduct and music within the PCE does not generate noise in excess of ambient levels and are not perceivable at other premises within the building or adjacent building; and

WHEREAS, the applicant stated that it would utilize foam padding and platforms to mitigate the impact of weight drops at the subject premises, as recommended by and in consultation with a noise and vibration consultant; 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, 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, 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-184M, dated June 23, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues 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

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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 legalize, on a site within a C6-1G zoning district, a PCE operating in the cellar of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "May 19, 2015" - Seven (7) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on March 1, 2017;

THAT any massages at the PCE shall be performed by New York State licensed massage therapists;

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

THAT weight lifting shall be performed on weight platforms with the specifications as shown on the Board-approved plans;

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by May 19, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

THAT the approved plans shall 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, May 19, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, May 19, 2015.
Printed in Bulletin No. 22, Vol. 100.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

