

222-14-BZ

CEQR #15-BSA-064M

APPLICANT – Sheldon Lobel, P.C., for GP NY Partners LLC, owners.

SUBJECT – Application September 5, 2014 – Special Permit (§73-36) to allow for physical culture establishment (*Envy Spa*) on a portion of the ground floor and cellar of the existing building. C2-8 and R8B zoning districts.

PREMISES AFFECTED – 344 East 63rd Street, bounded by East 63rd Street and 1st Avenue, Block 1437, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Negative:.....0

Absent: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 14, 2014, acting on DOB Application No. 122076145, reads, in pertinent part:

Proposed ‘Physical Culture Establishment’ in C2-8, C2-5, R8B zoning district is not permitted as-of-right as per section ZR 32-31...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize the operation, on a site within an R8B (C2-5) / C2-8 zoning district, of a physical culture establishment (“PCE”) on the ground floor and cellar of a 16-story story mixed residential and commercial use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 30, 2015, after due notice by publication in the *City Record*, and then to decision on February 3, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is an irregularly shaped lot with frontage on East 63rd Street and First Avenue, in Manhattan; it is located within an R8B (C2-5) / C2-8 zoning district; and

WHEREAS, the site has 45 feet of frontage along East 63rd Street with a depth of approximately 100 feet, and 25 feet of frontage along First Avenue, located approximately 25 feet south of East 63rd Street and extending south to a point approximately 150 feet north of East 62nd Street, and consists of approximately 6,522 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 16-story

mixed residential and commercial building; and

WHEREAS, the PCE operates as Massage Envy Spa, and occupies 3,140 sq. ft. of floor area on the ground floor of that portion of the subject building which has frontage on East 63rd Street, together with an accessory storage room on the cellar level; and

WHEREAS, the PCE’s hours of operation are Monday through Friday 8:00 a.m. to 10:00 p.m., Saturday 8:00 a.m. to 6:00 p.m., and Sunday 10:00 a.m. to 6:00 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, 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 Type II action discussed in the CEQR Checklist No. 15-BSA-064M, dated September 2, 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 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 an R8B (C2-5) / C2-8 zoning district, the operation of a PCE on the cellar and ground floor a 16-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 “January 22, 2015”- Four (4) sheets; *on further condition*:

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THAT the term of the PCE grant will expire on December 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 all signage displayed at the site by the applicant shall conform to applicable regulations;

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

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 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 February 3, 2019;

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, February 3, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, February 3, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

