

20-14-BZ

CEQR #14-BSA-107M

APPLICANT – Sandy Anagnostou, Assoc, AIA, for 310-312 Owners Corp. LLC, owner; John Vatis, NMMME, lessee.

SUBJECT – Application February 3, 2014 – Special Permit (§73-36) to allow the operation of a physical culture (*Massage Envy*) establishment on the first floor of an existing mixed use building. C1-9A zoning district.

PREMISES AFFECTED – 312 East 23rd Street, south side of East 23rd Street 171' east from the corner of 2nd Avenue and East 23rd Street, Block 928, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #10M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated December 31, 2013, acting on DOB Application No. 121828335, reads, in pertinent part:

ZR 32-10 – Proposed physical culture establishment in a C1-9A (zoning district) is not permitted as-of-right; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C1-9A zoning district, within the Special Transit Land Use District, the operation of a physical culture establishment (“PCE”) in portions of the first story of a 12-story mixed residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on May 13, 2014, after due notice by publication in the *City Record*, and then to decision on June 10, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Ottley-Brown; and

WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of East 23rd Street between First Avenue and Second Avenue, within a C1-9A zoning district, within the Special Transit Land Use District; and

WHEREAS, the site has approximately 125 feet of frontage along East 23rd Street and 12,344 sq. ft. of lot area; and

WHEREAS, the applicant states that the site is occupied by a 12-story mixed residential and commercial building with 117,871 sq. ft. of floor area (9.5 FAR); and

WHEREAS, the applicant notes that the building was historically two separate buildings, which were

combined, as evidenced by Certificate of Occupancy No. 85578, issued March 27, 1984; and

WHEREAS, the proposed PCE will occupy 3,497 sq. ft. of floor area on the first story; and

WHEREAS, the PCE will be operated as *Massage Envy*; and

WHEREAS, the applicant represents that the services at the PCE include spa services and massage by New York State-licensed masseurs and masseuses; and

WHEREAS, the hours of operation for the PCE will be Monday through Saturday, from 8:00 a.m. to 10:00 p.m. and Sunday, from 8:00 a.m. to 9:00 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, 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, CEQR No. 14BSA107M dated February 3, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issued 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 a C1-9A zoning district, within the Special Transit Land Use District, the operation of a PCE in portions of the first story of a 12-story mixed residential and commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received April 22, 2014” – Five (5) sheets; and *on*

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further condition:

THAT the term of the PCE grant will expire on June 10, 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 massages must be performed by New York State licensed massage therapists;

THAT the hours of operation for the PCE will be limited to Monday through Saturday, from 8:00 a.m. to 10:00 p.m. and Sunday, from 8:00 a.m. to 9:00 p.m.;

THAT Local Law 58/87 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 substantial construction will be completed in accordance with ZR § 73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction 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, June 10, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, June 10, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

