

**CORRECTION**

**This resolution adopted on January 13, 2015, under Calendar No. 168-14-BZ and printed in Volume 100, Bulletin No. 4, is hereby corrected to read as follows:**

**168-14-BZ**

**CEQR #15-BSA-027M**

APPLICANT – Warsaw Burnstein, LLP, for Michael Baum, LLC, owner; Barry's Boot camp NYC. LLC, lessee.

SUBJECT – Application July 14, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Barry's Bootcamp*) within the existing building. M1-5B zoning district.

PREMISES AFFECTED – 419 Lafayette Street, east side of Lafayette Street between East 4th Street and Astor Place, Block 544, Lot 13, Borough of Manhattan.

**COMMUNITY BOARD #2M**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT –**

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

**THE RESOLUTION –**

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 25, 2014, acting on DOB Application No. 122022060, reads, in pertinent part:

Proposed ‘Physical Culture Establishment’ at zoning M1-5B is not permitted as-of-right per ZR 42-10...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within an M1-5B zoning district, within the NoHo Historic District, an existing physical culture establishment (the “PCE”) on the cellar and first story of an eight-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on December 16, 2014 after due notice by publication in the *City Record*, and then to decision on January 13, 2015; and

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

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site has approximately 52 feet of frontage along the east side of Lafayette Street, between Astor Place and East 4<sup>th</sup> Street, in Manhattan, within an M1-5B zoning district, within the NoHo Historic District; and

WHEREAS, the site consists of approximately 8,062 sq. ft. of lot area; and

WHEREAS, the site is occupied by an eight-story

commercial building which contains approximately 58,000 sq. ft. of floor area; and

WHEREAS, the PCE shall occupy approximately 1,332 sq. ft. of floor space at the cellar of the building and approximately 3,944 sq. ft. of floor area on the first floor of the building (.49 FAR), for a total of 5,276 sq. ft. of floor space, and shall operate as Barry’s Bootcamp; and

WHEREAS, the hours of operation for the PCE shall be daily from 5:00 a.m. to 11:00 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, at hearing, the Board inquired as to the PCE’s proposed sound isolation and noise attenuation measures, and the applicant submitted drawings showing acoustic wall, ceiling, and spring isolated floor details; 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 Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect (CNE 15-5043), issued on March 10, 2014; 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. 15BSA027M, dated July 14, 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 M1-5B zoning district, within the NoHo Historic District, the operation of a PCE on the first story and cellar of an eight-story commercial building, contrary to ZR § 42-10; *on condition* that all

**168-14-BZ**

**CEQR #15-BSA-027M**

work shall substantially conform to drawings filed with this application marked "Received September 11, 2014" – Four (4) sheets and "Received December 19, 2014" – One (1) sheet; and on further condition:

THAT the term of the PCE grant shall expire on January 13, 2025;

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

THAT accessibility compliance shall be as reviewed and approved by DOB;

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 January 13, 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, January 13, 2015.

**The resolution has been amended to correct the 7<sup>th</sup> WHEREAS, which read "...8,062 sq. ft. of floor area..." now reads "...8,062 sq. ft. of lot area...". Corrected in Bulletin No. 7, Vol. 100, dated February 11, 2015.**

**A true copy of resolution adopted by the Board of Standards and Appeals, January 13, 2015.**

**Printed in Bulletin No. 4, Vol. 100.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

