

***CORRECTION**

The resolution adopted on June 10, 2014, under Calendar No. 331-13-BZ and printed in Volume 99, Bulletin Nos. 22-24, is hereby corrected to read as follows:

**331-13-BZ
CEQR #14-BSA-093K**

APPLICANT – Warshaw Burstein, LLP, for Isaac Chera, owner; 2007 86th Street Fitness Group, LLP, lessee.

SUBJECT – Application December 31, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within the existing building at the Premises. C4-2 zoning district. PREMISES AFFECTED – 2005 86th Street aka 2007 86th Street, north side of 86th street, west of its intersection with 20th Avenue, Block 6346, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #11BK

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 18, 2013, acting on DOB Application No. 320817345, reads, in pertinent part:

Proposed physical culture establishment is not permitted as-of-right in a C4-2 zoning district pursuant to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-2 zoning district, the operation of a physical culture establishment (“PCE”) in portions of the first story and mezzanine of a one-story commercial building, contrary to ZR § 32-30; and

WHEREAS, a public hearing was held on this application on May 6, 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 Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, Community Board 11, Brooklyn, recommends approval of the application, on condition that: (1) the 85th Street side of the property is not used for entrance or egress; (2) the gate on the 85th Street side is secured at all times; and (3) additional bike racks on 86th Street are provided, if permitted by law; and

WHEREAS, the subject site is a through lot located on the block east of 20th Avenue between 85th Street and

86th Street, within a C4-2 zoning district; and

WHEREAS, the site has approximately 11 feet of frontage along 20th Avenue, 70 feet of frontage along 85th Street, 70 feet of frontage along 86th Street, and 14,330 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story commercial building with a mezzanine; the building has a total of 13,990 sq. ft. of floor area (0.98 FAR); and

WHEREAS, the applicant states that it proposes to enlarge the mezzanine level by 3,550 sq. ft., resulting in a total building floor area of 17,540 sq. ft. (1.22 FAR); and

WHEREAS, the proposed PCE will occupy 16,880 sq. ft. of floor area – 12,540 sq. ft. of floor area on the first story and 4,340 sq. ft. of floor space on the mezzanine level; and

WHEREAS, the PCE will be operated as Planet Fitness; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the hours of operation for the PCE will be seven days per week, 24 hours per day; 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 hearing, the Board requested clarification regarding the proposed PCE’s use of the 85th Street entrance to the site; and

WHEREAS, in response, the applicant provided photographs showing that the 85th Street entrance to the site is enclosed with a gated fence; the applicant also represented that the PCE would not have an entrance on the 85th Street side of the building; 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 an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in

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the Environmental Assessment Statement, CEQR No. 14BSA093K dated December 23, 2013; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issued a Negative Declaration 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 C4-2 zoning district, the operation of a PCE in portions of the first story and mezzanine of a one-story commercial building, contrary to ZR § 32-30; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received March 11, 2014" – Four (4) sheets; and *on 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 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;

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

Printed in Bulletin Nos. 22-24, Vol. 99.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

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.

The resolution has been amended. Corrected in Bulletin No. 26, Vol. 99, dated July 2, 2014.

