

**177-14-BZ**

**CEQR #15-BSA-035K**

APPLICANT – Eric Palatnik, PC, for MADDD Properties LLC 34 Arden Lane, owner; CF Flatbush LLC, lessee.

SUBJECT – Application July 24, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Crunch Fitness*) within a portion of an altered building. C4-4A/R6A zoning district.

PREMISES AFFECTED – 1038 Flatbush Avenue, 180' south of intersection of Flatbush Avenue and Regent Place, Block 5123, Lot 60, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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

**THE VOTE TO GRANT** –

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

**THE RESOLUTION** –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated February 20, 2014, acting on DOB Application No. 121662664, reads, in pertinent part:

ZR 32-10 Physical Cultural [SIC] establishment is not permitted as of right on C4-4A/R6A zoning district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-4A/R6A zoning district, the operation of a physical culture establishment (“PCE”) on the cellar, first, second, and third floors of a three-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in the *City Record*, with a continued hearing on February 3, 2015, and then to decision on February 24, 2015; and

WHEREAS, Vice Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood examinations of the premises and surrounding area; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site has approximately 80 feet of frontage on the west side of Flatbush Avenue, between Regent Place and Beverly Road, and consists of 7,290 sq. ft. of lot area; and

WHEREAS, the site is located within a C4-4A/R6A zoning district; and

WHEREAS, pursuant to ZR §77-11, the C4-4A zoning district regulations are applicable to the entire site; and

WHEREAS, the site is occupied by a three-story commercial building; and

WHEREAS, the proposed PCE shall occupy 2,299 sq. ft. of floor space at the cellar level, 4,518 sq. ft. of

floor area at the first floor, 5,849 sq. ft. of floor area at the second floor, and 5,068 sq. ft. of floor area at the third floor; and

WHEREAS, the PCE’s hours of operation are Monday through Saturday, from 5:00 a.m. to 11:00 p.m., and on Sunday, from 7:00 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 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 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-035K, dated July 25, 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 a C4-4A/R6A zoning district the entirety of which is subject to the C4-4A zoning district regulations, the operation of a PCE on the cellar, first, second, and third stories of a three-story commercial building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “July 25, 2014”-(4) sheets; *on further condition*:

THAT the term of the PCE grant will expire on February 24, 2025;

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;

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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 24, 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 24, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, February 24, 2015.  
Printed in Bulletin Nos. 9-10, Vol. 100.**

**Copies Sent  
To Applicant  
Fire Com'r.  
Borough Com'r.**

