

285-13-BZ

CEQR #14-BSA-055K

APPLICANT – Warshaw Burstein, LLP, for 495 Flatbush Ave, LLC, owner; 495 Flatbush Fitness Group, LLC, lessee.

SUBJECT – Application October 9, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Fitness Center*). C8-6 zoning district.

PREMISES AFFECTED – 495 Flatbush Avenue, east side of Flatbush Avenue approximately 110 feet northwest of its intersection with Lefferts Avenue, Block 1197, Lot 6. Borough of Brooklyn.

COMMUNITY BOARD #9BK

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 Brooklyn Borough Commissioner of the Department of Buildings (“DOB”), dated September 12, 2013, acting on DOB Application No. 320787314, reads, in pertinent part:

ZR 32-10 - physical culture establishment is not permitted as-of-right in a C8 district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C8-2 zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second stories of a three-story mixed commercial and community facility building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on April 1, 2014, after due notice by publication in the *City Record*, and then to decision on April 29, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 9, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Flatbush Avenue, between Empire Boulevard and Lefferts Avenue, within a C8-2 zoning district; and

WHEREAS, the site has approximately 213 feet of frontage along Flatbush Avenue, approximately 234 feet of frontage along Washington Avenue, and 44,413 sq. ft. of lot area; and

WHEREAS, the site is occupied by a three-story mixed commercial and community facility building with approximately 78,795 sq. ft. of floor area (1.75 FAR); and

WHEREAS, the proposed PCE will occupy 2,000 sq. ft. of floor area on the first story and approximately 17,080 sq. ft. of floor area on the second story, for a total PCE floor area of approximately 19,080 sq. ft.; 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 directed the applicant to confirm that the proposed signage is in accordance with the C8-2 district regulations; and

WHEREAS, in response, the applicant provided a zoning analysis confirming that the proposed signage complies; 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 the Environmental Assessment Statement, CEQR No.14BSA055K dated October 8, 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

285-13-BZ

CEQR #14-BSA-055K

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 C8-2 zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second stories of a three-story mixed commercial and community facility building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received February 12, 2014” – Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on April 29, 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 any massages will be performed only by New York State licensed massage professionals;

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, April 29, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, April 29, 2014.

Printed in Bulletin Nos. 16-18, Vol. 99.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

