

**143-14-BZ**

**CEQR #14-BSA-182K**

APPLICANT – Eric Palatnik, P.C., for Wanda Y. Ng, owner; 99 Health Club Inc., lessee.

SUBJECT – Application June 20, 2014 – Special Permit (§73-36) to allow for the proposed physical culture establishment (99 Health Club Inc.) in the cellar, first and second floor of two story building in an M1-1 zoning district.

PREMISES AFFECTED – 746 61st Street, between 7th and 8th Avenue, Block 5794, Lot 25, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

**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 May 9, 2014, acting on DOB Application No. 320959539, reads, in pertinent part:

Proposed Physical Culture Establishment at zoning M1-1 is not permitted as of right and a special permit by the Board of Standards and Appeals (BSA) is required as per ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, a physical culture establishment (the “PCE”) that will operate in the cellar, ground floor, and second floor of a two-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on March 10, 2014 after due notice by publication in the *City Record*, and then to decision on March 31, 2015; and

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

WHEREAS, Community Board 7, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site has 40 feet of frontage on the south side of 61<sup>st</sup> Street, between 7<sup>th</sup> Avenue and 8<sup>th</sup> Avenue, within an M1-1 zoning district, in Brooklyn; and

WHEREAS, the site contains approximately 4,934 sq. ft. of lot area and is occupied by a two-story and cellar commercial building with approximately 4,419 sq. ft. of floor area; and

WHEREAS, the proposed PCE will occupy a total of 4,414 sq. ft. of lot area on the first floor of the building and 4,608.33 sq. ft. of floor space in the cellar of the building;

WHEREAS, the second floor of the building will

be utilized solely for mechanical equipment and will not be occupied by the proposed PCE;

WHEREAS, the PCE will operate as 99 Health Club, Inc.; and

WHEREAS, the hours of operation for the PCE will be seven days a 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, 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 Checklist action discussed in the CEQR Checklist No. 14-BSA-182K, dated June 20, 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 M1-1 zoning district, the operation of a PCE in the cellar and first floor of a two-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “March 17, 2014”- six (6) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on March 31, 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 all massages at the PCE shall be performed by New York State licensed massage therapists;

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

THAT fire safety measures shall be installed

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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 March 31, 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 (including those provisions related to parking at the subject site), 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, March 31, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 31, 2015.**

**Printed in Bulletin No. 15, Vol. 100.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

