

4-14-BZ

CEQR #14-BSA-097M

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for TrizecHahn, 1065 Ave. of the Americas LLC, owner; Blink 1065 6th Ave., Ink., lessee.

SUBJECT – Application January 9, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Blink Fitness*) within portions of an existing commercial building. C5-3(mid)(T) zoning district.

PREMISES AFFECTED – 1065 Avenue of The Americas, aka 111 West 40th Street, 112 West 41st Street. NWC of Avenue of the Americas and West 40th Street. Block 993, Lot 29. Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative:.....0

Absent: Commissioner Montanez1

THE RESOLUTION –

WHEREAS, the decision of the Executive Director of the NYC Development HUB of the Department of Buildings (“DOB”), dated January 2, 2014, acting on DOB Application No. 121184164, reads, in pertinent part:

ZR 32-30 – Proposed physical culture establishment is not permitted as-of-right; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district, within the Special Midtown District, the operation of a physical culture establishment (“PCE”) in portions of the cellar and first story of a 35-story commercial building, contrary to ZR § 32-30; and

WHEREAS, a public hearing was held on this application on April 29, 2014, after due notice by publication in the *City Record*, and then to decision on May 20, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson and Commissioner Ottley-Brown; and

WHEREAS, Community Board 5, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is an L-shaped lot located on the west side of Sixth Avenue between West 40th Street and West 41st Street, within a C5-3 zoning district, within the Special Midtown District; and

WHEREAS, the site has 200 feet of frontage along West 40th Street, 98.75 feet of frontage along Sixth Avenue, 75 feet of frontage along West 41st Street, and 27,152.5 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 35-story commercial building; and

WHEREAS, the proposed PCE will occupy 19,633

sq. ft. of floor space – 765 sq. ft. of floor area on the first story and 18,868 sq. ft. of floor space in the cellar; and

WHEREAS, the PCE will be operated as Blink 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 Monday through Thursday, from 5:00 a.m. to 11:00 p.m., Friday, from 5:00 a.m. to 10:00 p.m., and Saturday and Sunday, from 7:00 a.m. to 7:00 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, 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 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. 14BSA097M dated January 5, 2014; 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

4-14-BZ

CEQR #14-BSA-097M

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 C5-3 zoning district, within the Special Midtown District, the operation of a physical culture establishment (PCE) in portions of the cellar and first story of a 35-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 May 20, 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;

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, May 20, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, May 20, 2014.

Printed in Bulletin No. 21, Vol. 99.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

