

**271-07-BZ**

APPLICANT – Eric Palatnik, P.C., for 217 W.23rd Street LLC., owner; Crunch LLC, lessee.

SUBJECT – Application December 23, 2013 – Amendment of a special permit (§73-36) and variance (§72-21) authorizing a physical culture establishment (*Crunch*) by allowing a change in operator, Extension of Term, Extension of Time to obtain a Certificate of Occupancy, and Waiver of the Rules. C2-7A/R8A zoning district.

PREMISES AFFECTED – 215 West 23rd Street, north side of West 23rd Street, 118.75 ft. west of intersection of West 23rd Street and 7th Avenue, Block 773, Lot 7502, Borough of Manhattan.

**COMMUNITY BOARD #4M**

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

**THE VOTE TO GRANT –**

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

Negative:.....0

**THE RESOLUTION –**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for a physical culture establishment (“PCE”), which expires on September 19, 2015, an extension of time to obtain a certificate of occupancy, which expired on September 16, 2012, and an amendment to permit a change in operator; and

WHEREAS, a public hearing was held on this application on June 17, 2014, after due notice by publication in *The City Record*, and then to decision on July 22, 2014; and

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

WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of West 23rd Street, between Seventh Avenue and Eighth Avenue; and

WHEREAS, the subject site is occupied by a ten-story mixed residential and commercial building; and

WHEREAS, the PCE occupies a total of 31,809 sq. ft. of floor area, with 8,852 sq. ft. of floor area on the first floor, second floor, and cellar levels, respectively, and 5,253 sq. ft. of floor area on the cellar mezzanine level; and

WHEREAS, on September 16, 2008, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-36 and a variance pursuant to ZR § 72-21, to permit, on a site partially within an R8A zoning district and partially within a C2-7A zoning district, the legalization of a PCE on the first floor, second floor, cellar and cellar mezzanine level of the subject building, including within the portions of the building solely within the R8A portion of the site, for a

term of ten years, to expire on September 19, 2015; in addition, the grant provided that substantial construction was to be completed in accordance with ZR § 72-23; thus, a certificate of occupancy was to have been obtained within four years of the grant (September 16, 2012); and

WHEREAS, accordingly, the applicant seeks an extension of the term of the PCE special permit for ten years and an extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant also seeks approval to operate the PCE as Crunch instead of David Barton Gym, as set forth in the prior grant; and

WHEREAS, the applicant notes that there are no proposed changes to the configuration of the exercise equipment or the overall program of the PCE and that sound attenuation will be in accordance with the prior approved plans; and

WHEREAS, based upon its review of the record, the Board finds that an extension of term for ten years is appropriate with certain conditions as set forth below.

*Therefore it is Resolved*, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated September 16, 2008, so that as amended the resolution reads: “to grant an extension of the special permit for a term of ten years from the date of this resolution and to grant an extension of time obtain a certificate of occupancy; *on condition* that any and all use will substantially conform to drawings associated with the prior approval; and *on further condition*:

THAT this grant will be limited to a term of ten years, to expire on July 22, 2024;

THAT a certificate of occupancy will be obtained by July 22, 2015;

THAT any massages will be performed only by New York State licensed massage professionals;

THAT the hours of operation will be limited to Monday through Friday from 5:30 a.m. to midnight; Saturday from 8:00 a.m. to 9:00 p.m., and Sunday from 5:00 a.m. to 11:00 p.m.; and

THAT there will be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT the above conditions will appear on the certificate of occupancy;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, July 22, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, July 22, 2014.**

**Printed in Bulletin No. 30, Vol. 99.**

**Copies Sent**

To Applicant

Fire Com'r.

Borough Com'r.

