

42-03-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 1221 Avenue holdings LLC, owner; TSI West 48, LLC dba New York Sports Club, lessee.

SUBJECT – Application October 2, 2013 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a physical culture establishment (*New York Sports Club*) which expired on July 22, 2013; Amendment to the hours of operation; Waiver of the Rules. C6-5, C6-6 (MID) zoning district.

PREMISES AFFECTED – 1221 Avenue of the Americas, western block front of the Avenue of Americas between West 48th Street and West 49th Street, Block 1001, 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, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening, a waiver of the Rules of Practice and Procedure, an amendment, and an extension of term for a physical culture establishment (“PCE”), which expired on July 22, 2003; and

WHEREAS, a public hearing was held on this application on January 14, 2014, after due notice by publication in *The City Record*, and then to decision on February 4, 2014; and

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

WHEREAS, Community Board 5, Manhattan, declines to issue a recommendation on the application; and

WHEREAS, the subject site is a corner lot with frontages along West 48th Street and West 49th Street, and Avenue of the Americas, partially within a C6-6 zoning district and partially within a C6-5.5 zoning district, within the Special Midtown District; and

WHEREAS, the site is occupied by a 51-story commercial building, known as the McGraw Hill Building, with approximately 2,508,386 sq. ft. of floor area; and

WHEREAS, the PCE is located on portions of the cellar, sub-cellar, and third sub-cellar levels (20,344 sq. ft. of floor space), with an entrance through the plaza on the Avenue of the Americas frontage of the site; and

WHEREAS, the PCE is operated as New York Sports Club; and

WHEREAS, on July 22, 2003, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, on a site partially within a C6-6 zoning district and partially within a C6-5.5 zoning district, within the Special Midtown District, the

operation of a PCE for a term of ten years, to expire on July 22, 2013; and

WHEREAS, the applicant now seeks an amendment regarding the hours of operation and an extension of the term of the PCE special permit for ten years; and

WHEREAS, as to the hours of operation, the applicant noted that the operator has changed the hours of operation from Monday through Thursday, from 6:00 a.m. to 11:00, Friday, from 6:00 a.m. to 10:00 p.m. and Saturday and Sunday, from 9:00 a.m. to 7:00 p.m. to Monday through Thursday, from 5:30 a.m. to 9:00 p.m., Friday, from 5:30 a.m. to 8:00 p.m. and closed Saturday and Sunday; and

WHEREAS, in addition, the applicant requests that the hours of operation be removed as a condition of the grant, so that the operator has flexibility to respond to the changing needs of its members; the applicant notes that the PCE is within an entirely commercial building and that the building is within a commercial district with no nearby residential uses; and

WHEREAS, the Board agrees that because the building contains only commercial uses and because the site is not adjacent to any residential uses, the hours of operation need not be included as a condition of the grant; 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 July 22, 2003, so that as amended the resolution reads: “to grant an amendment to remove the condition regarding the PCE’s hours of operation and to grant an extension of the special permit for a term of ten years from the prior expiration; *on condition* that the use will substantially comply with the 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, 2023;

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

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, February 4, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, February 4, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

