

232-14-BZ

CEQR #15-BSA-072K

APPLICANT – Warshaw Burstein, LLP, for Pennsylvania Associates, LLC., owner; Pennsylvania Avenue Fitness Group, LLC, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Planet Fitness*) within a portion of an existing commercial building. M1-1 zoning district.

PREMISES AFFECTED – 946 Pennsylvania Avenue aka 1000 Pennsylvania Avenue, west side of Pennsylvania Avenue between Wortman Avenue and Cozine Avenue, Block 04389, Lot 0001, Borough of Brooklyn.

COMMUNITY BOARD #5BK

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 September 10, 2014, acting on DOB Application No. 320916960, reads, in pertinent part:

Proposed Physical Culture Establishment is not permitted as-of-right in an M1-1 zoning district per ZR section 42-10 ...; 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”) on the first story of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 3, 2015 after due notice by publication in the *City Record*, and then to decision on April 14, 2015; and

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

WHEREAS, Community Board 5, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is an entire zoning lot comprising an entire block bounded by Pennsylvania Avenue, to east, Georgia Avenue, to the west, Wortman Avenue, to the north, and Cozine Avenue, to the south; the site has a lot area of 225,000 sq. ft. and is located within an M1-1 zoning district, in Brooklyn; and

WHEREAS, the site is occupied by a two-story and cellar commercial use building containing 400,000 sq. ft. of floor area; and

WHEREAS, the Board granted a variance to permit the construction of the building under BSA Cal. No. 243-71-BZ, pursuant to which certain bulk regulations were

waived and the required accessory parking for the site was permitted off-site at 850 Georgia Avenue, Brooklyn (Block 4366, Lot 1 [formerly lots 1 and 20]); and

WHEREAS, the PCE will occupy 13,530 sq. ft. of floor area on the building’s first floor and will have approximately 94 feet of frontage along Pennsylvania Avenue; and

WHEREAS, the PCE will operate as Planet Fitness; and

WHEREAS, the hours of operation for the PCE will be 24 hours per day, seven days per week; 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. 15-BSA-072K, dated September 26, 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, a physical culture establishment (the “PCE”) on the first story 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 24, 2015,” Three (3) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on April 14, 2025;

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THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed 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 April 14, 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, 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 14, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, April 14, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

