

290-13-BZ

CEQR #14-BSA-058K

APPLICANT – Herrick, Feinstein LLP, by Arthur Huh, for Church Avenue Development LLC, owner; New Fitness Holdings LLC, lessee.

SUBJECT – Application October 21, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Retro Fitness*) located on the second floor of a four-story building. C4-4A zoning district.

PREMISES AFFECTED – 2244 Church Avenue, south side of Church Avenue between Flatbush Avenue and Bedford Avenue, Block 5103, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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| Affirmative: Chair Srinivasan, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez..... | 4 |
| Negative:..... | 0 |
| Absent: Vice Chair Collins..... | 1 |

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the Department of Buildings (“DOB”), dated October 15, 2013, acting on DOB Application No. 320302016, reads, in pertinent part:

Proposed physical culture establishment is not permitted in a C4-4A zoning district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-4A zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second stories of a four-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 11, 2014, after due notice by publication in the *City Record*, and then to decision on April 8, 2014; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the south side of Church Avenue, between Flatbush Avenue and Bedford Avenue, within a C4-4A zoning district; and

WHEREAS, the site has approximately 171 feet of frontage along Church Street and 22,153 sq. ft. of lot area; and

WHEREAS, under construction at the site is a four-story commercial building, with office and retail space and approximately 73,683 sq. ft. of floor area (3.3 FAR); and

WHEREAS, the proposed PCE will occupy approximately 599 sq. ft. of floor area on the first story

and approximately 17,687 sq. ft. of floor area on the second story, for a total PCE floor area of approximately 18,286 sq. ft.; and

WHEREAS, the PCE will be operated as Retro 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 Friday, from 5:00 a.m. to 11:00 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, at hearing, the Board directed the applicant to confirm that there is no parking required for the PCE use and that the proposed signage is in accordance with the C4 district regulations; and

WHEREAS, in response, the applicant provided a zoning analysis confirming that the proposed parking and signage are in compliance; 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. 14BSA058K dated January 29, 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

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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 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 C4-4A zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second stories of a four-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received February 7, 2014” – Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on April 8, 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 any massages will be performed only by New York State licensed massage professionals;

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

A true copy of resolution adopted by the Board of Standards and Appeals, April 8, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

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 8, 2014.

