

**201-14-BZ**

**CEQR #15-BSA-046X**

APPLICANT – Frank Angelino, Esq., for Joseph Pogostin, owner; New Fitness of 3rd Avenue, Bronx, LLC., lessee.

SUBJECT – Application August 22, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Retro Fitness*) on the ground floor of an existing one-story and cellar commercial building. M1-1/R7-2 zoning district.

PREMISES AFFECTED – 3524 Third Avenue, northeast corner of East 168th Street, Block 2610, Lot 1, Borough of Bronx.

**COMMUNITY BOARD #3BX**

**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 August 8, 2014, acting on DOB Application No. 220390226, reads, in pertinent part:

Proposed Physical Culture Establishment is not permitted in an M1-1/R7-2 Zoning District. The use is contrary to Section ZR 42-10 of the New York City Zoning Resolution

...

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1/R7-2 zoning district, within a Special Mixed Use District (MX-7), a physical culture establishment (“PCE”) on the first floor of a single story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on January 6, 2015, after due notice by publication in the *City Record*, and then to decision on January 13, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 3, Bronx, recommends approval of this application; and

WHEREAS, the subject site is a corner lot with approximately 176 feet of frontage on 3<sup>rd</sup> Avenue and approximately 125 feet of frontage on East 168<sup>th</sup> Street, within an M1-1/R7-2 zoning district, within a Special Mixed Use District (MX-7) in the Bronx; and

WHEREAS, the site consists of approximately 22,925 sq. ft. of lot area; and

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

WHEREAS, the PCE shall occupy approximately 15,008 sq. ft. of floor area (0.66 FAR) on the first floor of

the building and shall operate as Retro Fitness; and

WHEREAS, the PCE’s hours of operation shall be Monday through Friday, from 5:00 a.m. to 12:00 a.m., and on 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 does 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 Type II action discussed in the CEQR Checklist No. 15BSA046X, dated August 22, 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/R7-2 zoning district, within a Special Mixed Use District (MX-7), the operation of a PCE on the first story a single-story commercial building, contrary to ZR § 42-10; *on condition* that all work will substantially conform to drawings filed with this application marked “Received December 3, 2014”- Four (4) sheets; *on further condition*:

THAT the term of the PCE grant will expire on January 13, 2025;

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

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the

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Certificate of Occupancy;

THAT accessibility 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 all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by January 13, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited 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  
January 13, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, January 13, 2015.**

**Printed in Bulletin No. 4, Vol. 100.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

