

311-13-BZ
CEQR #14-BSA-074K

APPLICANT – Francis R. Angelino, Esq., for Midyan Gate Realty No 3 LLC, owner; for Global Health Clubs, LLC, lessee.

SUBJECT – Application November 25, 2013 – Special Permit (§73-36) to allow physical culture establishment (*Retro Fitness*). M1-1 zoning district.

PREMISES AFFECTED – 325 Avenue Y, northeast corner of Shell Road and Avenue Y, Block 7192, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated October 30, 2013, acting on DOB Application No. 320388120, reads, in pertinent part:

Proposed physical culture establishment is not permitted in M1-1 zoning district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a M1-1 zoning district, the legalization of an existing physical culture establishment (“PCE”) on the first story of a four-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on June 24, 2014, after due notice by publication in the *City Record*, and then to decision on July 29, 2014; and

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

WHEREAS, Community Board 15, Brooklyn, recommends disapproval of this application; and

WHEREAS, the subject site is located on the north side of Avenue Y, between Shell Road and West Third Street, within an M1-1 zoning district; and

WHEREAS, the site has approximately 240 feet of frontage along Avenue Y and approximately 25,799 sq. ft. of lot area; and

WHEREAS, the site is occupied by a four-story commercial building and surface parking for 40 automobiles; and

WHEREAS, the applicant represents that the PCE occupies 11,976 sq. ft. of floor area on the first story; and

WHEREAS, the applicant states that the PCE is operated as *Retro Fitness*; and

WHEREAS, the applicant states that the PCE has been in operation since October 1, 2013; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes,

instruction and programs for physical improvement, body building, weight management, and aerobics; and

WHEREAS, the hours of operation for the PCE are 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 questioned whether the parking for the proposed PCE complies with the applicable provisions of the Zoning Resolution; and

WHEREAS, in response, the applicant represents that parking for the building will be as required by DOB; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the operation of the PCE without the special permit; 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 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. 14BSA074K dated November 8, 2013; 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 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

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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 M1-1 zoning district, the legalization of an existing physical culture establishment (“PCE”) on the first story of a four-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received April 29, 2014” Three (3) – sheets; and *on further condition*:

THAT the term of the PCE grant will expire on October 1, 2023;

THAT parking for all uses within the building including the PCE will be as reviewed and approved by DOB;

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

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 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.

A true copy of resolution adopted by the Board of Standards and Appeals, July 29, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

Adopted by the Board of Standards and Appeals,
July 29, 2014.

