

**63-14-BZ**

**CEQR #14-BSA-142X**

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 188 W. 230th Street Corporation, owner; Atlas Athletics, Inc., lessee.

SUBJECT – Application April 23, 2014 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment (*Astral Fitness*). M1-1 zoning district.

PREMISES AFFECTED – 5500 Broadway, southeast corner of intersection of Broadway and W 230th Street, Block 3264, Lot 109, Borough of Bronx.

**COMMUNITY BOARD #8BX**

**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 April 3, 2014, acting on DOB Application No. 220358146, reads, in pertinent part:

Proposed physical culture establishment is contrary to ZR 42-31 and BSA 74-00 BZ; and

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

WHEREAS, a public hearing was held on this application on December 16, 2014 after due notice by publication in the *City Record*, with a continued hearing on March 3, 2015, and then to decision on March 31, 2015; and

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

WHEREAS, Community Board 8, Bronx, recommends approval of this application; and

WHEREAS, the subject site is a corner lot with 113.62 feet of frontage on Exterior Street and 110.62 feet of frontage on West 230<sup>th</sup> Street, within an M1-1 zoning district, in the Bronx; and

WHEREAS, the site contains approximately 14,765 sq. ft. of lot area and is occupied by a three-story commercial building with approximately 31,455 sq. ft. of floor area; and

WHEREAS, authorization to operate the PCE was initially granted under BSA Cal. No. 74-00-BZ, which expired on October 17, 2010 and which was not timely renewed by the applicant; and

WHEREAS, the applicant represents that the site and premises have not undergone any material changes since the initial authorization and that the operator of the facility is unchanged; and

WHEREAS, the PCE will operate as Astral Fitness; and

WHEREAS, the hours of operation for the PCE will be Monday through Friday, from 5:30 a.m. to 10:30 p.m., Saturday, from 7:00 a.m. to 8:00 p.m., and on Sunday from 7:00 a.m. to 6:00 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, 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.14-BSA-142X, dated April 23, 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 legalize, on a site within an M1-1 zoning district, the operation of a PCE in the cellar of a three-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “March 23, 2015”- Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on March 31, 2025;

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

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

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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 March 31, 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, March 31, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 31, 2015.**

**Printed in Bulletin No. 15, Vol. 100.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

