

**18-14-BZ**

**CEQR #14-BSA-106K**

APPLICANT – Warshaw Burstein, LLP, for Infinity Fulton Street, LLC, owner; 1245 Fulton Fitness Group, LLC, lessee.

SUBJECT – Application January 29, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within an existing building. C4-5 zoning district.

PREMISES AFFECTED – 1245 Fulton Street, north side of Fulton Street between Bedford Avenue and Arlington Place, Block 1842, Lot 47, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT** –

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 Department of Buildings (“DOB”), dated January 14, 2014, acting on DOB Application No. 320851306, reads, in pertinent part:

Proposed physical culture establishment is not permitted as-of-right in a C4-5D zoning district, per ZR Section 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-5D zoning district, the operation of a physical culture establishment (“PCE”) in the cellar and first story of a proposed one-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on May 20, 2014, after due notice by publication in the *City Record*, and then to decision on June 24, 2014; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Montanez; and

WHEREAS, Community Board 3, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the north side of Fulton Street between Bedford Avenue and Arlington Place, within a C4-5D zoning district; and

WHEREAS, the site has approximately 54 feet of frontage along Fulton Street and 7,957 sq. ft. of lot area; and

WHEREAS, the site is currently occupied by a one-story building, which is proposed to be demolished and replaced with a one-story building with 7,836 sq. ft. of floor area and 5,500 sq. ft. of floor space in the cellar; and

WHEREAS, the proposed PCE will occupy the entire building, for a total PCE size of 13,336 sq. ft.; and

WHEREAS, the PCE will be operated as Planet 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 seven days per week, 24 hours per day; 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 Type II proposed action discussed in the CEQR Checklist (CEQR No. 14BSA106K) dated January 29, 2014; and

*Therefore it is Resolved*, that the Board of Standards and Appeals issued 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 a C4-5D zoning district, the operation of a physical culture establishment (“PCE”) in the cellar and first story of a proposed one-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received March 25, 2014” – Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on June 24, 2024;

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

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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.

Adopted by the Board of Standards and Appeals, June 24, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, June 24, 2014.**

**Printed in Bulletin No. 26, Vol. 99.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

