

**141-14-BZ**

**CEQR #14-BSA-181M**

APPLICANT – Rothkrug Rothkrug & Spector LLP., for 24655 Broadway Associates, owner; Soul Cycle 2465 Broadway, LLC, lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*SoulCycle*) on the first floor of an existing commercial building, contrary to (§32-31). C4-6A zoning district.

PREMISES AFFECTED – 2465 Broadway, east side of Broadway, 50ft. south of intersection of West 92nd Street, Block 1239, Lot 52, Borough of Manhattan.

**COMMUNITY BOARD #7M**

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

**THE VOTE TO GRANT** –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4

Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated January 12, 2015, acting on DOB Application No. 100795917, reads, in pertinent part:

The proposed Physical Culture Establishment, including the extension of 25 ft. into a Residential District, requires special permits pursuant to [the Zoning Resolution]...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to allow the proposed operation, on a site a portion of which is located within a C4-6A zoning district and also within a Special Enhanced Commercial District and another portion of which is located within an R8 zoning district, of a physical culture establishment (“PCE”) on a portion the first floor and cellar of a three-story commercial building, contrary to ZR § 32-10; and

WHEREAS, this is also an application under ZR § 73-52, to permit the extension of the proposed PCE 25 feet into the R8 district; and

WHEREAS, a public hearing was held on this application on October 7, 2014, after due notice by publication in the *City Record*, and then to decision on February 10, 2015; and

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

WHEREAS, Community Board 7, Manhattan, recommends approval of this application; and

WHEREAS, the site is an irregularly shaped lot with approximately 101 feet of frontage along Broadway in Manhattan, with a depth, for approximately 50 feet at the northerly half of the site, of 100 feet, and of approximately 150 feet at the southerly half of the site, consisting of approximately 12,550 sq. ft. of lot area; and

WHEREAS, a portion of the site is located within a C4-6A zoning district and also within a Special Enhanced Commercial District and a portion of the site is located within an R8 zoning district not within the Special Enhanced Commercial District; and

WHEREAS, approximately 10,100 sq. ft. of the site’s lot area is located within the C4-6A zoning district; and

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

WHEREAS, ZR § 73-52 provides that when a zoning lot that is (a) in single ownership as of December 15, 1961 and (b) divided by district boundaries in which two or more uses are permitted, the Board may permit a use which is permitted in the district in which more than 50 percent of the lot area of the zoning lot is located to extend not more than 25 feet into the remaining portion of the zoning lot where such use is not permitted, provided that: (1) without any such extension, it would not be economically feasible to use or develop the remaining portion of the zoning lot for a permitted use; and (2) such extension will not cause impairment of the essential character or the future use or development of the surrounding area; and

WHEREAS, the applicant submitted documents reflecting the history of ownership of the subject lot and has demonstrated to the satisfaction of the Board that the zoning lot was in single ownership prior to December 15, 1961; and

WHEREAS, as to the 50-percent lot area requirement, the applicant submitted a site plan indicating that approximately 10,100 sq. ft. of the site’s 12,550 sq. ft. of lot area (approximately 80 percent) is located within a C4-6A zoning district; and

WHEREAS, accordingly, the Board finds that the site meets the threshold requirements for ZR § 73-52; and

WHEREAS, as to economic feasibility, the applicant represents that it would not be economically feasible to use or develop the R8 portion of the site for a permitted use; specifically, the applicant states that use of the remainder of the zoning lot for a permitted use would necessitate additional entry to and corridors through the existing building which would interrupt the commercial use thereof; and

WHEREAS, accordingly, absent the requested extension of the PCE into the residential space, a substantial portion of the building would be unusable and remain vacant; and

WHEREAS, the Board agrees that it would not be economically feasible to use or develop the remaining portion of the zoning lot, zoned R8, for a permitted use; and

WHEREAS, as to the extension’s effect on the surrounding area, the applicant states that the proposed extension is consistent with existing land use conditions and anticipated projects in the immediate area, in that the area surrounding the site is predominated by high-density commercial and residential uses; further, the proposed PCE will be entirely within the existing building; and

WHEREAS, accordingly, the Board finds that the proposed extension of the C4-6A zoning district portion of the lot into the R8 portion will not impair the essential character or the future use or development of the

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surrounding area, nor will it be detrimental to the public welfare; and

WHEREAS, the Board, therefore, has determined that the evidence in the record supports the requisite findings pursuant to ZR § 73-52; and

WHEREAS, the applicant maintains that absent the proposed special permit pursuant to ZR § 73-52, it would not be feasible to use or develop that portion of the zoning lot located within the R8 zoning district for a permitted use; and

WHEREAS, extending the PCE use into the R8 portion of the lot will not impair the essential character or the future use or development of the surrounding area; and

WHEREAS, the PCE shall operate as SoulCycle, and shall occupy 2,710 sq. ft. of floor area on the ground floor of the building and an additional 460 sq. ft. of floor space at the cellar level of the building; and

WHEREAS, the PCE's hours of operation shall be Monday through Saturday 5:30 a.m. to 11:00 p.m., and Sunday 7:00 a.m. to 9:00 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, 73-03, and 73-52; 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. 14-BSA-181M, dated June 17, 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 a portion of which is located within a C4-6A zoning district and also within a Special Enhanced Commercial District and another portion of which is located within an R8 zoning district, the operation of a PCE on the cellar and ground floor of a three-story commercial building, contrary to ZR §32-10; and under ZR § 73-52, to permit the extension of the proposed PCE 25 feet into the R8 district; *on condition* that all work will substantially conform to drawings filed with this application marked "Received January 28, 2015"-Three (3) sheets; *on further condition*:

THAT the PCE shall not extend further than 25 ft. into that portion of the subject lot that is within the R8 zoning district;

THAT the term of the PCE grant will expire on February 10, 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 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 February 10, 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, February 10, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, February 10, 2015.**

**Printed in Bulletin No. 8, Vol. 100.**

**Copies Sent  
To Applicant  
Fire Com'r.  
Borough Com'r.**

