

**88-13-BZ**

**CEQR #13-BSA-111Q**

APPLICANT – Lawrence M. Gerson, Esq., for Allied Austin LLC, owner; American United Company, LLC, lessee.

SUBJECT – Application March 14, 2013 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*Title Boxing Club*) within an existing building. C2-3/R5D zoning district.

PREMISES AFFECTED – 69-40 Austin Street, south side of Austin Street, 299’ east of intersection with 69th Avenue, Block 3234, Lot 150, Borough of Queens.

**COMMUNITY BOARD #6Q**

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the Queens Borough Commissioner, dated August 20, 2013, acting on Department of Buildings (“DOB”) Application No. 420803884, reads in pertinent part:

Proposed conversion of retail store into boxing center is not permitted as-of-right in a C2-3 (R5D) zoning district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C2-3 (R5D) zoning district, the legalization of an existing physical culture establishment (“PCE”) in a portions of the first floor of an existing two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 11, 2014, after due notice by publication in *The City Record*, and then to decision on March 4, 2014; and

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

WHEREAS, Community Board 6, Queens, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of Austin Street, between 69th Avenue and 70th Avenue, within a C2-3 (R5D) zoning district; and

WHEREAS, the site has approximately 411 feet of frontage along Austin Street and approximately 42,773 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story commercial building with approximately 81,269 sq. ft. of floor area (1.9 FAR); and

WHEREAS, the PCE occupies 5,834 sq. ft. of floor area on the first floor of the building; and

WHEREAS, the applicant notes that the PCE has been in operation since June 1, 2013; and

WHEREAS, the PCE is currently operated as Title

Boxing Club; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; the applicant states that massages will not be performed at the PCE; and

WHEREAS, the hours of operation for the PCE will be Monday through Friday, from 5:30 a.m. to 10:00 p.m., and Saturday and Sunday, from 7:30 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 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 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 an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA111Q, dated March 14, 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 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

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Standards and Appeals issues a Negative Declararion 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 located within a C2-3 (R5D) zoning district, the legalization of an existing physical culture establishment (“PCE”) in a portion of the first floor of an existing two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received December 3, 2013 ” – Four (4) sheets; and *on further condition*:

THAT the term of this grant will expire on June 1, 2023;

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

THAT the above conditions will appear on the Certificate of Occupancy;

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 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, March 4, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 4, 2014.**

**Printed in Bulletin No. 10, Vol. 99.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

