

267-13-BZ

CEQR #14-BSA-038M

APPLICANT – Law Office of Jay Goldstein, PLLC, for 689 Fifth Avenue LLC, owner; Fit Life 5th Avenue LLC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*The Bar Method*). C5-3 (MID) zoning district.

PREMISES AFFECTED – 689 5th Avenue aka 1 East 54th Street, northeast corner of 5th Avenue and East 54th Street, Block 1290, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated September 4, 2013, acting on Department of Buildings (“DOB”) Application No. 121741838, reads in pertinent part:

Proposed use as a physical culture establishment is contrary to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C5-3 zoning district within the Special Midtown District, the operation of a physical culture establishment (“PCE”) on the ninth story of a 14-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 14, 2014 after due notice by publication in *The City Record*, and then to decision on February 4, 2014; and

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

WHEREAS, Community Board 5, Manhattan, expresses no objection to this application; and

WHEREAS, the subject site is located at the northeast corner of the intersection of Fifth Avenue and East 54th Street, within a C5-3 zoning district within the Special Midtown District; and

WHEREAS, the site has 50 feet of frontage along Fifth Avenue, 125 feet of frontage along East 54th Street, and approximately 6,925 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 14-story commercial building with 85,761 sq. ft. of floor area (12.38 FAR); the building is known as the Aeolian Building and it is designated as an individual New York City landmark by the Landmarks Preservation Commission; and

WHEREAS, the PCE is proposed to occupy

approximately 6,849 sq. ft. of floor area on the ninth story of the building; and

WHEREAS, the PCE will be operated as The Bar Method; 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, from 5:30 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 Landmarks Preservation Commission has issued a Certificate of No Effect for the interior alterations, dated September 5, 2013; and

WHEREAS, at hearing, the Board questioned whether any exterior signage was proposed for the PCE; and

WHEREAS, in response, the applicant stated that the PCE would not be displaying any signage on the exterior of the building; 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 directed the applicant to clarify: (1) whether any portion of the PCE was proposed on the first story; and (2) whether there were any residential uses in the subject building or in any adjacent buildings; and

WHEREAS, in response, the applicant clarified that although the PCE is accessed through a common commercial lobby on the first story, there is no PCE program space on the first story; in addition, the applicant represented that there are no residential uses in the subject building or in any adjacent building; 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 I action pursuant to 6 NYCRR Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No.14BSA038M dated September 10, 2013; and

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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 Standards and Appeals issued a Type I 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 located in a C5-3 zoning district within the Special Midtown District, the operation of a physical culture establishment (“PCE”) on the ninth story of a 14-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received November 13, 2013 – Three (3) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on February 4, 2024;

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

THAT any massages will be performed only by New York State licensed massage professionals;

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

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

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

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, February 4, 2014.

