

184-14-BZ
CEQR #15-BSA-041K

APPLICANT – Sheldon Lobel, P.C., for Hamilton Plaza Associates, owner; Brooklyn Park Slope Fitness, lessee.

SUBJECT – Application August 6, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Retro Fitness*) on the third floor of the existing building at the premises. M1-2 zoning district

PREMISES AFFECTED – 1-37 12th Street, eastern side of the intersection between Hamilton Place and 12th Street, Block 1007, Lot 172, Borough of Brooklyn.

COMMUNITY BOARD #6BK

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 July 8, 2014, acting on DOB Application No. 320917790, reads, in pertinent part:

Proposed Physical Culture Establishment use on the third floor and the mezzanine level of the building within M1-2 district is contrary to ZR 42-10 ...

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-2 zoning district, a physical culture establishment (“PCE”) on the third floor and mezzanine of a four-story mixed manufacturing and commercial use 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*, and then to decision on January 13, 2015; and

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

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

WHEREAS, the subject site is bounded to the west and south by the Gowanus Canal with access from 12th Street, within an M1-2 zoning district; and

WHEREAS, the site consists of approximately 86,250 sq. ft. of lot area; and

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

WHEREAS, the site is subject to a restrictive declaration recorded on October 21, 1977 at Reel 952, Page 1344 (the “Restrictive Declaration”) which restricts, *inter alia*, uses on the 3rd and 4th stories of the building such that the contemplated PCE use must be

recommended by the City Planning Commission (the “CPC”); and

WHEREAS, the applicant has represented that it has submitted an application to the CPC to remove or amend the Restrictive Declaration; and

WHEREAS, the PCE shall occupy approximately 15,561 sq. ft. of floor area (1.35 FAR) on the third floor of the building and shall operate as Retro Fitness; and

WHEREAS, the PCE’s hours of operation shall be daily, from 4:30 a.m. to 12:00 a.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 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 Type II action discussed in the CEQR Checklist No. 15-BSA-041K, dated August 6, 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 within an M1-2 zoning district, the operation of a PCE on the third story and mezzanine of a four-story mixed manufacturing and commercial use building, contrary to ZR § 42-10; *on condition* that all work will substantially conform to drawings filed with this application marked “Received November 26, 2014”- Five (5) sheets and “Received January 13, 2015”- One (1) sheet; *on further condition*:

THAT the term of the PCE grant shall expire on January 13, 2025;

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THAT there shall 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 this approval is contingent upon the CPC removing or amending the Restrictive Declaration so that the contemplated PCE use shall not be prohibited;

THAT required parking shall be as reviewed and approved by DOB;

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 January 13, 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
January 13, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, January 13, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

