

242-14-BZ

CEQR #15-BSA-080M

APPLICANT – Jay Goldstein, Esq., for Sutton Realty LLC., owner; Halevy Life, Inc., lessee.

SUBJECT – Application October 8, 2014 – Special Permit (§73-36) to allow for operation of a physical culture establishment (*Halevy Life*) on portions of the cellar and first floor. C1-9 zoning district.

PREMISES AFFECTED – 212 East 57th Street, between 3rd Avenue and 2nd Avenue on the south side of 57th Street, Block 1330, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6M

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 October 3, 2014, acting on DOB Application No. 122080504, reads, in pertinent part:

Proposed change of use to a physical culture establishment ... is not permitted as of right in a C1-9/R10 zoning district ...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C1-9 zoning district, a physical culture establishment (the “PCE”) which currently operates in the cellar and first story of a 24-story mixed use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 3, 2015, after due notice by publication in the *City Record*, and then to decision on April 14, 2015; and

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

WHEREAS, the subject site has 56.25 feet of frontage along the south side of East 57th Street, between Third Avenue and Second Avenue, within a C1-9 zoning district, in Manhattan; and

WHEREAS, the site has a depth of approximately 11 feet and contains approximately 5,648 sq. ft. of lot area and is occupied by a 24-story mixed use building with 75,623 sq. ft. of floor area; and

WHEREAS, the PCE occupies 2,032 sq. ft. of floor space in the cellar and 2,580 sq. ft. of floor area on the first floor of the building, for a total floor area of 2,580 sw. ft.; and

WHEREAS, the PCE will operate as Halevy Life; and

WHEREAS, the hours of operation for the PCE will be Monday through Thursday, from 5:00 a.m. to 9:00 p.m., and on Saturday and Sunday from 8:00 a.m. to 5:00 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 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, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; 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 Checklist action discussed in the CEQR Checklist No. 15-BSA-080M, dated October 7, 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 legalize, on a site within a C1-9 zoning district, the operation of a PCE on the cellar and first story of a 24-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “April 2, 2015,” Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on November 2, 2024;

THAT all massages at the PCE shall be performed by New York State licensed massage therapists;

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

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

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

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THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by April 14, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

THAT the approved plans shall 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, April 14, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, April 14, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

