

284-13-BZ

CEQR #14-BSA-054Q

APPLICANT – Warshaw Burstein, LLP, for 168-42 Jamaica LLC, owner; 168 Jamaica Avenue Fitness Group, LLC, lessee.

SUBJECT – Application October 9, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) on the cellar and the first floor of the building. R6-A/C2-4 (Downtown Jamaica) zoning district.

PREMISES AFFECTED – 168-42 Jamaica Avenue, south side of Jamaica Avenue approximately 180 feet east of the intersection formed by 168th Place and Jamaica Avenue, Block 10210, Lot 22, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez	4
Negative:.....	0
Absent: Vice Chair Collins.....	1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 4, 2013, acting on DOB Application No. 420048629, reads, in pertinent part:

Proposed physical culture establishment is not permitted as-of-right in a C2-4 zoning district per ZR Section 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C2-4(R6A) zoning district and partially within an R5 zoning district, the operation of a physical culture establishment (“PCE”) in portions of the cellar and first story of a proposed one-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on May 13, 2014, after due notice by publication in the *City Record*, with a continued hearing on June 10, 2104 and then to decision on June 24, 2014; and

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

WHEREAS, Community Board 12, Queens, recommends approval of the application; and

WHEREAS, the subject site is on the south side of Jamaica Avenue between 168th Place and 170th Street, partially within a C2-4(R6A) zoning district and partially within an R5 zoning district; and

WHEREAS, a one-story commercial building is being constructed on the site and will have a total of 47,309 sq. ft. of floor area entirely within the C2-4(R6A) zoning district; and

WHEREAS, the proposed PCE will occupy portions of the cellar, and first floor; and

WHEREAS, the PCE will occupy 24,698 sq. ft. of floor area and will have its main entrance on Jamaica Avenue within the C2-4(R6A) zoning district portion of the site; and

WHEREAS, the PCE will be operated as Planet Fitness; 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, 24 hours per day; 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, 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 discussed in the Environmental Assessment Statement, CEQR No. 14BSA054Q dated October 9, 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

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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 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 partially within a C2-4(R6A) zoning district and partially within an R5 zoning district, the operation of a physical culture establishment (“PCE”) in portions of the cellar and first story of a proposed one-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received May 27, 2014” – Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on June 24, 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 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 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, June 24, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, June 24, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

