

**CORRECTION**

This resolution adopted on February 4, 2014, under Calendar No. 209-13-BZ and printed in Volume 99, Bulletin No. 6, is hereby corrected to read as follows:

**209-13-BZ**

**CEQR #14-BSA-005M**

APPLICANT – Sheldon Lobel, P.C., for 12 W21 Land, L.P., owner.

SUBJECT – Application July 8, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*NY Physical Training Fitness Studio*) within the existing building, contrary to C6-4A zoning district.

PREMISES AFFECTED – 12 West 21st Street, between 5th Avenue and 6th Avenue, Block 822, Lot 49, 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 Montanez .....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated June 6, 2013, acting on Department of Buildings (“DOB”) Application No. 121094813, reads in pertinent part:

Physical culture establishment is not permitted as-of-right in a C6-4A zoning district and 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 C6-4A zoning district within the Ladies’ Mile Historic District, the legalization of a physical culture establishment (“PCE”) on the second floor of a 12-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 Chair Srinivasan, 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 on the south side of West 21st Street, between Fifth Avenue and Avenue of the Americas, within a C6-4A zoning district within the Ladies’ Mile Historic District; and

WHEREAS, the site has approximately 50.5 feet of frontage along West 21st Street, and 4,646 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 12-story commercial building with 54,220 sq. ft. of floor area (11.67 FAR); and

WHEREAS, the PCE occupies approximately 4,242 sq. ft. of floor area on the second floor of the building; and

WHEREAS, the PCE began operation as New York Personal Training Fitness Studio on January 1, 2008; 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 are 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 Landmarks Preservation Commission has issued a Certificate of No Effect for the interior alterations and the exterior signage, dated October 2, 2013; 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; however, the Board has reduced the term of the grant to reflect the period of time that the PCE operated without the special permit; 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. 14BSA005M dated July 8, 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

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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 C6-4A zoning district within the Ladies' Mile Historic District, the legalization of a PCE on the second floor of an 12-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 6, 2013" – Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on January 1, 2018;

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 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

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

**Printed in Bulletin No. 6, Vol. 99.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

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.

**\*The resolution has been revised to correct the Owner's name and to remove the extra hyphen in the zoning district. Corrected in Bulletin Nos. 8-9, Vol. 99, dated March 6, 2014.**

