

328-13-BZ

CEQR #14-BSA-090K

APPLICANT – Eric Palatnik, P.C., for Patti, owner.
SUBJECT – Application December 26, 2013 – Special Permit (§73-36) to legalize the operation of physical culture establishment (*Brooklyn Athletic Club*) on the cellar, first, second, and third floors in a five-story building. M1-1 zoning district.

PREMISES AFFECTED – 8 Berry Street, northeast corner of Berry Street and North 13th Street, Block 2279, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson and Commissioner Montanez.....3
Negative:.....0
Absent: Commissioner Ottley-Brown1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated December 12, 2013, acting on DOB Application No. 320330209, reads, in pertinent part:

Proposed Physical Culture or Health Establishment (PCE) requires BSA special permit; contrary to ZR 42-31; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, the operation of a physical culture establishment (“PCE”) in portions of the cellar, first, second and third stories of a five-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on July 20, 2014 after due notice by publication in the *City Record*, with a continued hearing on October 21, 2014, and then to decision on January 6, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed an inspection of the site and premises, as well as the surrounding area and neighborhood; and

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site, located within an M1-1 zoning district, is a corner lot with approximately 125 feet of frontage along Berry Street and approximately 225 feet of frontage along North 13th Street, consisting of approximately 25,000 sq. ft. of lot area; and

WHEREAS, at the site is a five-story commercial building; and

WHEREAS, the PCE will occupy a total of 10,155 sq. ft. of floor space, consisting of 2,315 sq. ft. of floor space in the cellar, 2,861 sq. ft. of floor area on the first story, 2,844 sq. ft. of floor area on the second story, and 2,135 sq. ft. of floor area on the third story; and

WHEREAS, the PCE will operate as Brooklyn

Athletic Club, Inc.; and

WHEREAS, the PCE’s hours of operation will hours be Monday through Friday, 5:30 a.m. to 10:30 p.m., Saturday and Sunday, 8:00 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 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, at hearing, the Board inquired as to the PCE currently occupied at the subject site; and

WHEREAS, in response, the principal of Brooklyn Athletic Club, Inc. submitted an affidavit in which he averred that his current operation of a training facility on a building located at the subject site would be discontinued, and that the building in which such use was conducted would be torn down, upon the opening of the subject PCE; 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 and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 14BSA090K, dated December 26, 2013; and

WHEREAS, the EAS documents that the operation of the facility 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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operation of the facility will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues 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 within an M1-1 zoning district, the operation of a PCE in portions of the cellar, first, second and third stories of a five-story commercial building, contrary to ZR § 42-10; *on condition* that all work will substantially conform to drawings filed with this application marked "Received December 18, 2014"-Six (6) sheets; *on further condition*:

THAT the term of the PCE grant will expire on January 6, 2025;

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

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 the above conditions will appear on the Certificate of Occupancy;

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 6, 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 6, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, January 6, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

