

**293-13-BZ**

**CEQR #14-BSA-061Q**

APPLICANT – Slater & Beckerman, P.C., for JSB Reality No 2 LLC, owner; Fitness International, LLC aka LA Fitness, lessee.

SUBJECT – Application October 23, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*LA Fitness*). C2-2/R4 zoning district.

PREMISES AFFECTED – 78-04 Conduit Avenue, west side of South Conduit Avenue between Linden Boulevard, and Sapphire Avenue, Block 11358, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

**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 Queens Borough Commissioner, dated September 27, 2013, acting on Department of Buildings (“DOB”) Application No. 420516454, reads in pertinent part:

Proposed physical culture establishment in C2-2 (R4) zoning district is not permitted as-of-right 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 within a C2-2 (R4) zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second floors of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 25, 2014, after due notice by publication in *The City Record*, and then to decision on March 25, 2014; and

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

WHEREAS, Community Board 10, Queens, recommends approval of this application; and

WHEREAS, the subject site is an irregularly-shaped lot located at the southwest corner of the intersection of South Conduit Avenue and Sapphire Street, within a C2-2 (R4) zoning district; and

WHEREAS, the site has approximately 192 feet of frontage along South Conduit Avenue, approximately 706 feet of frontage along Sapphire Street, and 141,783 sq. ft. of lot area; and

WHEREAS, under construction at the site is a two-story commercial building that is proposed to have 239,886 sq. ft. of floor area (2.0 FAR) and 375 at-grade parking spaces; and

WHEREAS, the proposed PCE will occupy 10,740 sq. ft. of floor area on the first floor and 32,610 sq. ft. of floor area on the second floor for a total PCE floor area of 43,350 sq. ft. (0.3 FAR); and

WHEREAS, the PCE will be operated as LA 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 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 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, at hearing, the Board directed the applicant to include a note on the plans indicating that no signage for the PCE would be provided on the Sapphire Street frontage; and

WHEREAS, in response, the applicant submitted amended plans including the requested signage note; 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 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. 14BSA061Q dated October 18, 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 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 a C2-2 (R4) zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second floors of a two-story commercial building, contrary to ZR § 32-10;; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received January 15, 2014 ” – Four (4) sheets and “Received March 10, 2014” – Two (2) sheets;; and *on further condition*:

THAT the term of the PCE grant will expire on March 25, 2024;

THAT all signage for the PCE will be limited to the South Conduit frontage of the site and will not be provided along Sapphire Street, as reflected on the BSA-approved plans;

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 Accessibility compliance under Chapter 9 of the New York City Building Code 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, March 25, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 25, 2014.**

**Printed in Bulletin Nos. 12-13, Vol. 99.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

