

**275-13-BZ**

**CEQR #14-BSA-146M**

APPLICANT – Warsaw Burstein, LLP, for Kedzkidz Realty LLC., owner; Antonaccio-Crous, LLC, lessee.  
SUBJECT – Application September 26, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Bikram Yoga Soho*). M1-5 zoning district.

PREMISES AFFECTED – 404-406 Broadway, east side of Broadway south of its intersection with Canal Street in TriBeCa, Block 196, Lot 3. Borough of Manhattan.

**COMMUNITY BOARD #1M**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT –**

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

WHEREAS, the decision of the Manhattan Borough Commissioner of the Department of Buildings (“DOB”), dated September 18, 2013, acting on DOB Application No. 120417487, reads, in pertinent part:

Physical culture establishment is being proposed [which] is not permitted as-of-right in a manufacturing district contrary to section 42-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5 zoning district, within the Tribeca East Historic District, the legalization of an existing physical culture establishment (“PCE”) operating in a portion of the third story of a three-story commercial building, contrary to ZR § 32-31; and

WHEREAS, a public hearing was held on this application on April 1, 2014, after due notice by publication in the *City Record*, with a continued hearing on April 29, 2014, and then to decision on May 20, 2014; and

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

WHEREAS, Community Board 1, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Broadway between Walker Street and Lispenard Street, within an M1-5 zoning district, within the Tribeca East Historic District; and

WHEREAS, the site has 52.5 feet of frontage along Broadway and 5,249 sq. ft. of lot area; and

WHEREAS, the site is occupied by two, three-story buildings (known as 404 and 406 Broadway), which the applicant represents share a common stair and elevator and operate together under a single Certificate of

Occupancy; and

WHEREAS, the PCE occupies 2,907 sq. ft. of floor area on the third story of the buildings; and

WHEREAS, the PCE is operated as Bikram Yoga Studio; 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 Monday through Friday, from 6:30 a.m. to 8:30 p.m. and Saturday and Sunday, from 10:00 a.m. to 5:30 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, on October 14, 2010, the Landmarks Preservation Commission (“LPC”) issued a Certificate of Appropriateness for certain renovations to 406 Broadway and on March 13, 2013, LPC issued a Certificate of No Effect for interior work related to the PCE; 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 clarify: (1) the reason(s) for the active Stop Work Order at the site; and (2) whether the proposed signage was approved by LPC; and

WHEREAS, in response, the applicant stated that the Stop Work Order is related to audits of open permit applications; the applicant represents that all objections raised during the course of the audit have been resolved except the objection relating to the subject PCE; the applicant also notes that the issuance of the subject special permit will resolve the only outstanding objection and result DOB’s rescission of the Stop Work Order; and

WHEREAS, as to the proposed signage, the applicant represents that it is not subject to LPC approval because of its location; 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 operation of the PCE without the special permit since December 15, 2013; and

WHEREAS, therefore, the Board has determined

**275-13-BZ**

**CEQR #14-BSA-146M**

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 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. 14BSA146M dated February 4, 2014; 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 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 within an M1-5 zoning district, within the Tribeca East Historic District, the legalization of an existing PCE operating in a portion of the third story of a three-story commercial building, contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received February 6, 2014" – Three (3) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on December 15, 2023;

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;

**A true copy of resolution adopted by the Board of Standards and Appeals, May 20, 2014.**

**Printed in Bulletin No. 21, Vol. 99.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

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, May 20, 2014.

