

272-13-BZ

CEQR #14-BSA-043Q

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 78-14 Roosevelt LLC, owner; Blink 78-14 Roosevelt, Inc., lessee.

SUBJECT – Application September 18, 2013 – Special Permit (§73-36) to permit a physical culture establishment (*Blink Fitness*) within a portions of an existing commercial building. C2-3/R6 & R5 zoning district.

PREMISES AFFECTED – 78-02/14 Roosevelt Avenue aka 40-41 78th Street and 40-02 79th Street, south side of Roosevelt Avenue between 78th Street and 79th Street, Block 1489, Lot 7501, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Otley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated September 11, 2013, acting on Department of Buildings (“DOB”) Application No. 420894223, reads in pertinent part:

Proposed physical culture establishment in C2-3 zoning district 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 partially within a C2-3 (R6) zoning district and partially within an R5 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 4, 2014, after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Montanez; and

WHEREAS, the subject site is an irregularly-shaped lot occupying the entire block frontage on the south side of Roosevelt Avenue between 78th Street and 79th Street, partially within a C2-3 (R6) zoning district and partially within an R5 zoning district; and

WHEREAS, the site has 150 feet of frontage along 78th Street, 238.45 feet of frontage along Roosevelt Avenue, 100 feet of frontage along 79th Street, and 29,767 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story commercial building, a portion of which was enlarged pursuant to a grant from the Board under BSA Cal. No. 496-23-BZ, which also authorized the use of the building for public parking; and

WHEREAS, the applicant notes that, per Certificate of Occupancy No. 212624, issued July 18, 1990, the lawful use of the building is for retail stores and offices (Use Group 6) and three accessory parking spaces; and

WHEREAS, the proposed PCE will occupy 524 sq. ft. of floor area on the first floor and 15,779 sq. ft. of floor area on the second floor; and

WHEREAS, the applicant represents that no portion of the PCE will operate within the R5 portion of the site; and

WHEREAS, the PCE will be operated as Blink 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 Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and Sunday from 7:00 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 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 amend the plans to clearly show that the proposed use and signage are entirely outside the R5 portion of the site, and that the signage is in compliance with the C2-3 regulations for accessory signs; and

WHEREAS, in response, the applicant submitted amended plans showing compliant signage; 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. 14BSA043Q dated September 16, 2013; and

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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 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 partially within a C2-3 (R6) zoning district and partially within an R5 zoning district, the operation of a 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 February 10, 2014" – Four (4) sheets; and *on further condition*:

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

THAT the entrance to the PCE and all signage for the PCE will be restricted to the C2-3 (R6) portion of the site;

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;

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

Printed in Bulletin Nos. 8-9, Vol. 99.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

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, February 25, 2014.

