



LAW OFFICE OF  
**DRICK A. BECKER**

122 EAST 42ND STREET  
SUITE 2100

NEW YORK, NEW YORK 10168-0098

FREDRICK A. BECKER

LYRA J. ALTMAN

(212) 867-3820

FAX (212) 983-5276

January 25, 2012

CERTIFIED MAIL - RETURN  
RECEIPT REQUESTED

Hon. Nicholas D. Viest  
Chairperson  
Community Board No. 8  
505 Park Avenue, Suite 620  
New York, New York 10022

**RECEIVED**  
**JAN 31 2012**  
**BY COMMUNITY BOARD 8**

Re: Board of Standards and Appeals  
Special Order Calendar Application  
BSA Cal No. 161-99-BZ  
Premises: 349 East 76<sup>th</sup> Street  
New York, New York

Dear Chairperson Viest and Members of the Community Board:

We represent the owner of the above premises and New York Sports Club in a special order calendar application before the Board of Standards and Appeals to allow the continued operation of a physical culture establishment (PCE)/health club at the subject premises. The premises has the address of 349 East 76<sup>th</sup> Street, New York, New York. It is located on the northern side of East 76<sup>th</sup> Street between 2<sup>nd</sup> Avenue and 1<sup>st</sup> Avenue. The site is occupied by a four story commercial building. The facility occupies the entire building.

The subject facility has existed at this site since 1993 pursuant to a prior BSA special permit. In 2000 a companion case was added for an expansion of the facility into the adjoining building at 353 East 76<sup>th</sup> Street. The facility is without question a legitimate physical culture establishment as can be seen by both its layout and by the nature of the services which it offers. The facility continues to be operated by New York Sports Club, a well established entity that already has several other facilities within the area and throughout New York City. It is submitted that the operation of the facility will continue to have no adverse or detrimental impact on the area, and is in keeping with the mixed use residential and commercial character of the neighborhood. As

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FREDRICK A. BECKER

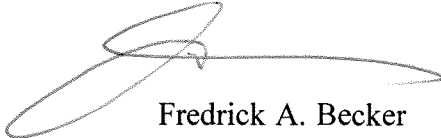
Hon. Nicholas D. Viest  
Chairperson  
Community Board No. 8  
January 25, 2012  
Page 2

with most health clubs, the majority of the club's clientele are drawn from the immediate vicinity, and under these circumstances, most of these people walk to the premises. The site is also well served by public transportation.

We are enclosing a copy of the application form, the statement of facts and findings, plans for the premises, a copy of the zoning map for the subject area, a tax map of the site, a radius diagram, and photographs of the site.

We are available to discuss the matter further with your Board, and therefore will await notification concerning an upcoming hearing.

Very truly yours,



Fredrick A. Becker

FAB:dal  
encl.

cc: Board of Standards and Appeals  
Hon. Scott Stringer, MBP  
Hon. Jessica Lappin, Council  
Mr. Ray Gastil, Manhattan Office, DCP  
Mr. Christopher Holme, DCP



**City of New York**  
**Board of Standards and Appeals**  
**40 Rector Street, 9<sup>th</sup> Floor**  
**New York, NY 10006-1705**  
 Phone: (212) 788-8500  
 Fax: (212) 788-8769  
[www.nyc.gov/bsa](http://www.nyc.gov/bsa)

**SPECIAL ORDER CALENDAR (SOC)**  
*Application Form*

BSA APPLICATION NO. 161-99-BZ  
**RECEIVED**

**Section A**

**Applicant/  
Owner**

<u>The Law Office of Fredrick A. Becker</u> NAME OF APPLICANT	<u>Banner Garage LLC</u> OWNER OF RECORD
<u>122 East 42nd Street Suite 2100</u> ADDRESS	<u>770 Lexington Avenue</u> ADDRESS
<u>New York New York 10168</u> CITY STATE ZIP	<u>New York New York 10065</u> CITY STATE ZIP
<u>(212) 867-3820</u> AREA CODE TELEPHONE	<u>TSI East 76 LLC dba New York Sports Club</u> LESSEE / CONTRACT VENDEE
<u>(212) 983-5276</u> AREA CODE FAX	<u>5 Penn Plaza</u> ADDRESS
<u>fbecker@fbeckerlaw.com</u> EMAIL	<u>New York New York 10001</u> CITY STATE ZIP

**JAN 31 2012**

**BY COMMUNITY BOARD 8**

**Section B**

**Site Data**

349 East 76th Street 10021  
 STREET ADDRESS (INCLUDE ANY A/K/A) ZIP CODE

Northerly side of East 76th Street between 2nd Avenue and 1st Avenue  
 DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS

<u>1451</u> BLOCK	<u>14</u> LOT(S)	<u>Manhattan</u> BOROUGH	<u>8</u> COMMUNITY DISTRICT	<u>None</u> LANDMARK/HISTORIC DISTRICT
<u>Hon. Jessica Lappin</u> CITY COUNCILMEMBER	<u>C2-5 (R8B)</u> ZONING DISTRICT <i>(include special zoning district, if any)</i>	<u>9a</u> ZONING MAP NUMBER		

**Section C**

**Description**

(LEGALIZATION  YES  NO  IN PART )

Extension of the term of a previously granted special permit allowing the operation of a physical culture establishment (PCE)/health club that occupies the entire subject premises. The original application was filed under Z.R. Section 73-36 to allow a variation of Z.R. Section 32-00.

**Section D**

**Actions**

**APPLICATION IS HEREBY MADE TO:**

- Waive of the Rules of Practice and Procedure (*Explain in your statement*)
- Extension of Time to:
  - Complete construction  Obtain a Certificate of Occupancy Expiration Date: \_\_\_\_\_
- Amendment to Previous Board Approval
- Extension of Term of the:
  - Variance  Special Permit For a term of 10 years Expiration Date: 6/28/10
- Other (*Explain in your statement*)

Authorizing Section(s) of the Zoning Resolution:

§ 11-411  § 11-412  § 11-413  §§ 72-01 and 72-22  § 73-11  Other \_\_\_\_\_

**Section E**

**Department  
Of  
Buildings  
Information**

	YES	NO
1. Have plans been filed? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Have plans been approved? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(If Yes, Date Approved _____)		
3. Has a permit been obtained? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(If Yes, Permit No. _____ Date Issued _____)		
4. Is work in progress? .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(If Yes, Percentage of work completed _____ %)		
5. Has a temporary or permanent Certificate of Occupancy been obtained? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(If Yes, Expiration Date _____ Attach a copy)		

If you have answered "No" to any of these questions, include a paragraph in your statement describing the reason(s) for delay and the projected schedule of completion.

**Section F**

**Board  
History**

List all prior Board actions associated with the subject Zoning Lot and attach one copy of each resolution:

On July 20, 1993, when the Zoning District was C2-5 (R8B), an application was granted by the Board under Section 73-36 to permit:

the operation of a physical culture establishment to occupy the entire subject premises. On June 28, 2000 the BSA issued a new special permit under Cal. No. 161-99-BZ to allow the operation of a PCE in conjunction with a companion case for the adjacent premises at 353 East 76th Street, BSA Cal. No. 162-99-BZ. The new grant was for a term of ten (10) years.

**Section G**

**Inspection  
and  
Compliance**

	YES	NO
1. Have you reviewed the Board's case file? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Have you recently inspected the premises and surrounding area? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(If Yes, date of most recent site inspection <u>December 2011</u> )		
3. Did you find:		
a. Compliance with the terms and conditions of the Board's resolution? .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Attach a completed Certificate of Inspection and Compliance		
b. Any significant condition changes (e.g. rezoning, city map amendments, recent developments) within the affected area since the Board's last action on this application?.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If the answer is "yes" to any of the questions below, explain further in your statement.		
4. Is there currently a proposal before the City Planning Commission to change the subject Zoning District, or any other action which includes the premises? .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(File / CP No. _____)		
5. Are there any outstanding violation(s) on the premises? .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(If Yes, submit a DOB BIS printout)		
6. Is there any other application before the Board which affects the premises? .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(If Yes, Cal No. _____)		
7. Is there any other application at any government agency which affects the premises? .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Section H**

**Signature**

**I HEREBY AFFIRM THAT BASED ON INFORMATION AND BELIEF, THE ABOVE STATEMENTS AND THE STATEMENTS CONTAINED IN THE PAPERS ARE TRUE.**

Signature of Applicant, Corporate Officer or Other Authorized Representative

Fredrick A. Becker

Print Name

Attorney

Title

SWORN TO ME THIS 25 DAY OF JAN 2012

DAVID G. ...  
NOTARY PUBLIC Notary Public ... New York

LAW OFFICE OF  
**FREDRICK A. BECKER**  
122 EAST 42ND STREET  
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NEW YORK, NEW YORK 10168-0098

FREDRICK A. BECKER  
LYRA J. ALTMAN

(212) 867-3820  
FAX (212) 983-5276

January 2012

STATEMENT OF FACTS

Calendar No. 161-99-BZ

Premises: 349 East 76<sup>th</sup> Street  
New York, New York

This application is filed to request an extension of the term of a previously granted special permit that allowed the operation of a physical culture establishment at the subject premises. The subject premises has the address of 349 East 76<sup>th</sup> Street, New York, New York, and is known as block 1451, lot 14 on the New York City tax map. Located on the site is an existing four (4) story commercial building. The physical culture establishment occupies the entire building.

The first BSA action affecting the site occurred in July 1993 when a special permit was granted to allow the operation of a physical culture establishment (PCE) at the subject premises. The special permit was granted for a term of ten (10) years with an expiration date in July 2003. In 1999 a new case was brought before the BSA under the current Calendar number, 161-99-BZ, to connect the subject premises to a companion case in the adjacent building located at 353 East 76<sup>th</sup> Street, which was brought under Cal. No. 162-99-BZ. The new case was granted with a ten year term which expired in June 2010.

The original and current operator of the facility is the New York Sports Club, and will remain the New York Sports Club (NYSC). NYSC is a well established company that is currently operating several other physical culture establishments throughout New York City. Since the original grant of the special permit, the subject facility has operated without incident and has been a benefit to the surrounding community. In accordance with the original grant, and pursuant to the terms and provisions of Section 73-36, the subject establishment continues to provide facilities for classes, and instruction and programs for physical improvement, body building, weight reduction and aerobics.

There are four (4) active DOB violations affecting the subject premise. Three of the violations are for elevator issues, and one is for a boiler issue. These violations will be cleared as part of the process involved with the current extension of term. There are no open ECB violations affecting the premises.

In sum, New York Sports Club simply wants to maintain its operation at this location in order to continue to serve its members and the surrounding community. Based on the established manner of the operation, the said use will continue to co-exist in a positive manner with the neighborhood.

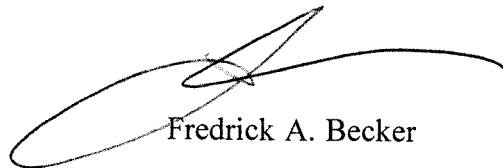
#### Waiver of the Rules of Procedure

This waiver is requested due to a delay in the timely filing of the application. The delay was primarily due to the change of the project architect and an issue that arose concerning the building's facade unrelated to the use. It is submitted that this delay did not cause any detriment to the area, or affect the nature of this application, and the delay should therefore not be an impediment to the acceptance of this late filing.

Conclusion

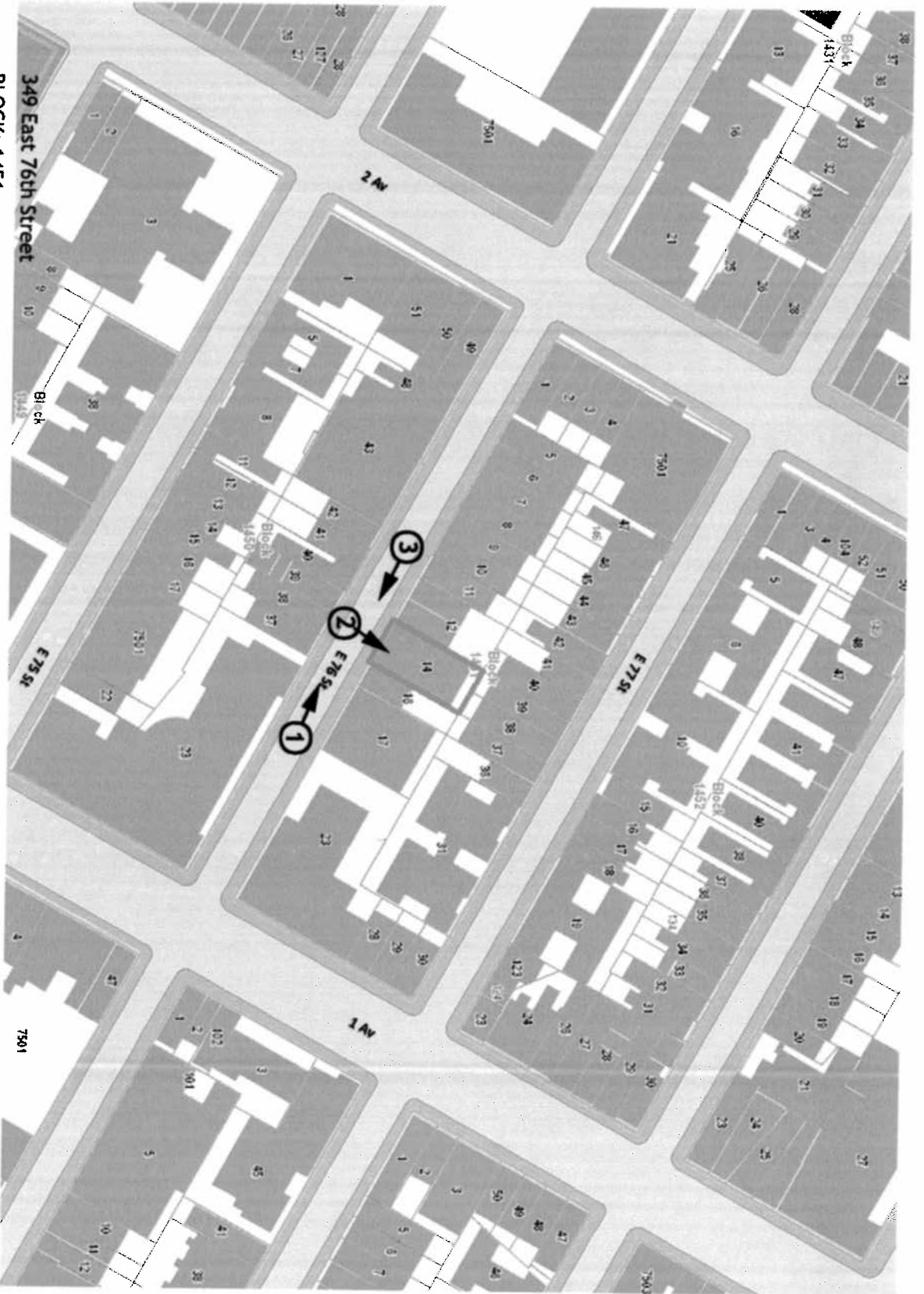
For the reasons set forth above, it is respectfully requested that the BSA grant the subject application to permit the extension of the term of the previously granted special permit allowing the operation of the physical culture establishment at the subject premises and to allow a waiver of the rule of procedure for a late filing. Given the established reputation of the owner/operator and the benefit which this facility has brought to the area, continued operation of the facility will only continue to be a positive asset for the neighborhood.

Respectfully submitted,



Fredrick A. Becker

FAB:dag



BLOCK: 1451

LOT: 14

BOROUGH OF MANHATTAN

349 East 76th Street



CAMERA POSITION



N

**PHOTOGRAPH LOCATION POINTS**

NOT TO SCALE

Photographed by:

GEORGE CONSTANTINO

24-35 28TH STREET, #3A

LONG ISLAND CITY, NY 11102

Phone: (718) 932-8784

Fax: (718) 932-3685

Date: October 11, 2010





Location: 349 East 76th Street, Manhattan

Block: 1451

Lot: 14

PHOTOGRAPHED BY: GEORGE CONSTANTINOU 212.351.2800, STREET #301 ASTORIA NY 11102 (718) 832-8764

EAST 76TH STREET

SITE

VIEW # 1 → N  
DATE October 11, 2010



Location: 349 East 76th Street, Manhattan  
Block: 1451  
Lot: 14

PHOTOGRAPHED BY: GEORGE CONSTANTINOU 24-35 28th STREET #3A ASTORIA NY 11002 (719) 932-8784

VIEW # 3 ← N  
DATE: October 11, 2010



Location: 349 East 76th Street, Manhattan

Block: 1451

Lot: 14

PHOTOGRAPHED BY: GEORGE CONSTANTINOU 24-35 28th STREET #2A ASTORIA, NY 11102 (718) 932-8794

new york sports club

SITE

EAST 76TH STREET

VIEW # 2

DATE: October 11, 2010

N