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 www.nyc.gov/bsa

**Board of Standards  
 and Appeals**

**ZONING (BZ) CALENDAR**  
 Application Form

BSA APPLICATION NO. 317-14-BZ  
 CEQR NO. 15-BSA-124K

**Section A**

**Applicant/  
 Owner**

NAME OF APPLICANT <u>Law Office of Fredrick A. Becker</u> ADDRESS <u>122 East 42nd Street Suite 2100</u> CITY STATE ZIP <u>New York NY 10168</u> AREA CODE TELEPHONE <u>(212) 867-3820</u> AREA CODE FAX <u>(212) 983-5276</u> EMAIL <u>fbecker@fbeckerlaw.com</u>	OWNER OF RECORD <u>Acadia 3780-3858 Nostrand Avenue LLC</u> ADDRESS <u>1311 Mamaroneck Avenue Suite 260</u> CITY STATE ZIP <u>White Plains NY 10605</u> LESSEE / CONTRACT VENDEE ADDRESS CITY STATE ZIP
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**Section B**

**Site  
 Data**

3780-3860 Nostrand Avenue 11235  
 STREET ADDRESS (INCLUDE ANY A/K/A) ZIP CODE

Westerly side of Nostrand Avenue extending the entire length of the blockfront between Avenue Y and Avenue Z  
 DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS

<u>7445</u> BLOCK	<u>1</u> LOT(S)	<u>Brooklyn</u> BOROUGH	<u>15</u> COMMUNITY DISTRICT	<u>N/A</u> LANDMARK/HISTORIC DISTRICT
<u>Hon. Chaim M. Deutsch</u> CITY COUNCIL MEMBER	<u>C2-2 overlay within R4</u> ZONING DISTRICT (include special district, if any)		<u>29a</u> ZONING MAP NUMBER	

**Section C**

**Dept of Building  
 Decision**

BSA AUTHORIZING SECTION(S) 73-44 for  VARIANCE  SPECIAL PERMIT (Including 11-41)  
 Section(s) of the Zoning Resolution to be varied 36-21  
 DOB Decision (Objection/ Denial) date: 11/24/14 Acting on Application No: 320626961

**Section D**

**Description**

(LEGALIZATION  YES  NO  IN PART)

Special permit application to allow reduced parking at the subject premises pursuant to Zoning Resolution Section 73-44.

**Section E**

**BSA History  
 and  
 Related Actions**

If "YES" to any of the below questions, please explain in the STATEMENT OF FACTS

	YES	NO
1. Has the premises been the subject of any previous BSA application(s)? PRIOR BSA APPLICATION NO(S): <u>791-85-BZ (PCE)</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Are there any applications concerning the premises pending before any other government agency?...	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Is the property the subject of any court action?.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Section F**

**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: [Signature]  
 Fredrick A. Becker  
 Print Name

Attorney  
 Title

SWORN TO ME THIS 26 DAY OF Nov. 2014  
 Notary Public, State of New York  
 No. 02LU6063894  
 Qualified in New York County  
 Commission Expires Sept. 10, 2017  
 NOTARY PUBLIC

LAW OFFICE OF  
**FREDRICK A. BECKER**

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November 2014

STATEMENT OF FACTS AND FINDINGS

Premises: 3780-3860 Nostrand Avenue  
Brooklyn, New York

This application is filed pursuant to Section 73-44 of the 1961 New York City Zoning Resolution, as amended (hereinafter the "Zoning Resolution") for a special permit for a reduction of parking spaces at the subject premises. Zoning Resolution Section 73-44 allows the reduction in the number of accessory off-street parking spaces required by the provisions of Zoning Resolution Section 36-21 for ambulatory diagnostic treatment facilities listed in Use Group 4 and Uses in Parking Requirement Category B1.

The premises is located on the westerly side of Nostrand Avenue and extends the entire length of the blockfront between Avenue Y and Avenue Z. It is a single zoning lot known as Block 7445 Lot 1 on the NYC tax map. The site contains five (5) one and two story community facility and commercial buildings. The site is located in a C2-2 overlay within an R4 zoning district as shown on Zoning Map 29a. The buildings have addresses that range from 3780 to 3860 Nostrand Avenue, Brooklyn, New York.

The five buildings are not physically interconnected, but are tied together with parking requirements

set forth on their individual Certificates of Occupancy which reference the entire zoning lot. The parking requirements for all five (5) buildings as set forth on the Certificates of Occupancy require a total of 122 spaces for the entire lot. Copies of these Certificates of Occupancy are submitted with this Statement.

The parking spaces were provided in three locations on the site. These three locations were designated as an underground parking garage, an open ground level area under the building located at No. 3848/50, and the area in the rear yard between the subject buildings and the properties to the west.

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Several years ago, and when the property was owned by a prior entity, that entity added additional floor area on the ground level of a portion of the site where one of the buildings was built over ground level parking, building No. 3848/50. This action had two consequences: first it removed existing parking; and second it also triggered the need for additional parking. The new and current owner of the premises would now like to correct and legalize this situation. The site does have adequate floor area available to legalize the past enlargement, but a difficulty arises in providing the proper parking.

The enlargement requires an additional 18 spaces. Therefore the site must now provide a total of 140 parking spaces, the previously required 122 spaces and the addition of 18 more spaces. One possible alternative to provide the 140 required spaces is to add "stackers" in the rear of the property which would provide multi-level spaces in the limited available area. The rear of the property abuts residential dwellings and the owner does not believe that this is a viable solution based on visual and noise concerns, as well as for logistical reasons.

Alternatively, the other option is to apply for a reduction in the parking requirement under Zoning Resolution Section 73-44. The uses on the site include a bank, medical offices, general offices, including insurance, and small local retail and restaurant uses. These uses generate short term usage and constant turnover. The site is not a destination location but draws the majority of its clientele from the immediate vicinity. These individuals either walk to the premises, use public transportation or use limited time parking. The majority of the employees at the site tend to use public transportation to get to work. In sum, reduced parking is in character with the nature of the uses located at the subject premises and the local clientele for the said uses.

Pursuant to Sections 73-44, 73-01 and 73-03 of the Zoning Resolution, the Board has the power to grant special permit uses, and to impose appropriate conditions and safeguards in connection with these uses. A review of the instant application and the accompanying materials shows that the subject uses qualify as an ambulatory diagnostic or treatment facility in Use Group 4 and Uses in Parking Requirement Category B1, and that it is appropriate to allow a reduction in accessory parking without any adverse impact on the surrounding community.

Compliance with Z.R. Section 73-44

**Reduction of Parking Spaces for Ambulatory Diagnostic or Treatment Facilities Listed in Use Group 4 and Uses in Parking Requirement Category B1**

In the districts indicated, the Board of Standards and Appeals may permit a reduction in the number of *accessory* off-street parking spaces required by the provisions of Section 36-21 or 44-21 (General Provisions) for ambulatory diagnostic or treatment facilities listed in Use Group 4 and *uses* in

parking requirement category B1 in Use Group 6, 7, 8, 9, 10, 11, 14, or 16 to the applicable number of spaces specified in the table set forth at the end of this Section, provided that the Board finds that occupancy by ambulatory diagnostic or treatment facilities listed in Use Group 4 or *uses* in parking category B1 is contemplated in good faith on the basis of evidence submitted by the applicant. In such a case the Board shall require that the certificate of occupancy issued for the *building* within which such *use* is located shall state that no certificate shall thereafter be issued if the *use* is changed to a *use* listed in parking category B unless additional *accessory* off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-site radius.

REDUCED ACCESSORY OFF-STREET PARKING SPACES REQUIRED FOR AMBULATORY  
DIAGNOSTIC OR TREATMENT FACILITIES LISTED IN USE GROUP 4 AND COMMERCIAL  
USES IN PARKING REQUIREMENT CATEGORY B1

Parking Spaces Required per

<u>Number of Sq. Ft. Of Floor Area*</u>	<u>Districts</u>
1 per 600	C2-2/R4

\*For ambulatory diagnostic or treatment facilities listed in Use Group 4, parking spaces required per number of square feet of *floor area* or *cellar* space, except *cellar* space *used* for storage.

This request is a reduction in the number of parking spaces from the required one hundred forty (140) spaces to the proposed one hundred and five (105) spaces. The current parking requirement for the site is for 140 parking spaces, 122 based on grandfathered Department of Buildings' approvals as shown on the Certificates of Occupancy and 18 for the prior enlargement at 3848/50.

Of the total 140 required parking spaces, the number of parking spaces designated or required for Ambulatory Diagnostic or Treatment Facilities (medical use), general office space (Parking Requirement Category B1) is 80 spaces. The special permit would allow a reduction in the number of spaces for these uses from 80 spaces @ 1 space per 300 square feet to 40 spaces @ 1 space per 600 square feet. The result would be that the site would now require only 100 spaces in total which can be accommodated on site without the need for stackers as the site can accommodate 105 spaces as shown on the plans submitted with this application.

Attached at the end of this Statement is a chart illustrating the required and proposed parking requirements based on use and square footage.

As mentioned earlier in this Statement, the uses on the site are primarily local oriented uses. The majority of the clientele for these uses are from the immediate vicinity and therefore either walk to the premises or use public transportation. The majority of the staff at these uses use public transportation to get to work. For those who drive, the nature of the uses is short term rather than all day long term, which creates a constant turnover. In sum, reduced parking is in character with the nature of these particular uses and their local clientele.

#### Compliance with Z.R. Section 73-03

The Board of Standards and Appeals shall have the power, as authorized by Section 73-01 paragraph (a) or (b), and subject to such appropriate conditions and safeguards as the Board shall prescribe, to grant special permit *uses* or modifications of *use*, or *bulk* regulations as specifically provided in this Chapter, provided in each case:

(a) The board shall make all of the findings required in the applicable sections of this Chapter with respect to each such special permit *use* or modification of *use*, parking or *bulk* regulations shall find that, under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit *use* or modification of *use*, parking or *bulk* regulations at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit. In each case the Board shall determine that the adverse effect, if any, on the privacy, quiet, light and air in the neighborhood of such special permit *use* or modification of *use*, parking or *bulk* regulations will be minimized by appropriate conditions governing location of the site, design and method of operation.

(a) The subject use will have no adverse impact on the community. There are no potential hazards that impact on the privacy, quiet, light and air of the neighborhood as the facility is located within an existing structure, with only a minor addition of less than 500 square feet which is less than 10% of the existing structure.

(b) In all cases the Board shall deny a special permit whenever such proposed special permit *use* or modification of *use*, parking or *bulk* regulations will interfere with any public improvement project (including housing, highways, public *buildings* or facilities, redevelopment or renewal projects, or right-of-way for sewers, transit or other public facilities) which is approved by or pending before the Board of Estimate, Site Selection Board or the City Planning Commission as determined from the calendars of each such agency issued prior to the date of the public hearings before the Board of Standards and Appeals.

(b) The subject project will not interfere with any public improvement project.

(c) When under the applicable findings the Board is required to determine whether the special permit *use* or modification of *use*, parking or *bulk* regulations is appropriately located in relation to the *street* system, the Board shall in its discretion make such determination on the basis of the Master Plan of Arterial Highways and Major Streets on the official City Map. Whenever the Board is required to make a finding on the location of a proposed special permit *use* or modification of *use*, parking or *bulk* regulations in relation to secondary or local *streets* and such classification of *streets* is not shown on the Master Plan, the Board in its discretion shall request the City Planning Commission to establish a report on the appropriate classification of such *street*.

(c) The subject project will not interfere with the existing street system.

(d) For applications relating to Sections 73-243, 73-48 and 73-49, the Board in its discretion shall request from the Department of Transportation a report with respect to the anticipated traffic congestion resulting from such special permit *use* or modification of *use*, parking or *bulk* regulations in the proposed location. If such a report is requested, the Board shall in its decision or determination give due consideration to such report and further shall have the power to substantiate the appropriate finding solely on the basis of the report of the Department of Transportation with respect to the issue referred.

(d) The subject project does not relate to Sections 73-243, 73-48 or 73-49, and therefore this provision is not applicable.

(e) If a term of years is specified in the applicable section, the Board shall establish a term of years not to exceed such maximum. For those special permit *uses* or modification of *use* parking or *bulk*

regulations for which a maximum term has not been specified, the Board may fix an appropriate term for any such special permit *use* or modification of *use* parking or *bulk* regulations.

(e) There is no term specified in Section 73-44. It is nonetheless respectfully requested that if a term is to be given that it be for a period of at least ten (10) years.

(f) On application for renewal of any such special permit authorized in this Chapter, the Board shall determine whether the circumstances warranting the original grant still obtain. In addition, the Board shall ascertain whether the applicant has complied with the conditions and safeguards theretofore described by the Board during the prior term. In the event that the Board shall find the applicant has been in substantial violation thereof, it shall deny the application for renewal.

(f) This is a new application, and therefore the renewal provisions of this item are not applicable.

(g) The Board may permit the *enlargement* or *extension* of any existing *use*, which, if new, would be permitted by special permit in the specified districts under the provisions of Section 73-01 and other applicable provisions of this Chapter, provided that before granting any such permit for *enlargement* or *extension* within the permitted districts, the Board shall make all of the required findings applicable to the special permit *use*, except that:

(1) in the case of colleges or universities in R1 or R2 Districts, the Board may waive all such required findings set forth in Section 73-121 (Colleges and universities); and

- (2) in the case of public utility *uses*, the Board may waive all such required findings set forth in Sections 73-14 (Public Service Establishments) or 73-16 (Public Transit, Railroad or Electric Utility Substations).

No such *enlargement* or *extension* shall create a new *non-compliance* or increase the existing degree of *non-compliance* with the applicable *bulk* regulations, except as may be permitted in accordance with the provisions of Sections 73-62 to 73-68, inclusive, relating to Modification of Bulk Regulations.

- (g) The enlargement or extension provisions relating to an existing use are not applicable, as this is a new use.

### Violations

As of November 24, 2014 there are zero (0) open Department of Buildings (DOB) violations and zero (0) open Environmental Control Board (ECB) violations at the subject premises.

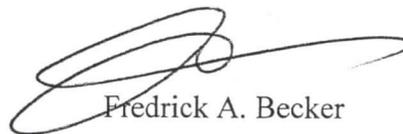
### Conclusion

It is submitted that the instant application meets the criteria of Sections 73-03 and 73-44. We respectfully request that the Board of Standards and Appeals grant this special permit to allow a reduction of parking spaces at the subject premises for an ambulatory diagnostic or treatment facility listed in Use Group 4 and Uses in Parking Requirement Category B1 at the subject premises. For the reasons set forth above, the request is reasonable. Furthermore, the reduction is in keeping with the

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character of the neighborhood, the nature of the uses and their clientele, will create no adverse impacts, and the use involved will continue to benefit the community.

Respectfully submitted,



Fredrick A. Becker

FAB:dl

BLDG. NO. ON PLANS	ADDRESS NOSTRAND AVENUE <sup>1</sup>	FLOOR AREA IN SF AS OF 1986 <sup>2</sup>	REQUIRED PARKING SPACES - PRIOR EXISTING <sup>2</sup>	PROPOSED USES	REQUIRED PARKING - PROPOSED USES <sup>4</sup>	PROPOSED PARKING
1	3860	ALT 3616/82 - N/A NB 325/82 - N/A	22	Medical / Office	22	11 <sup>5</sup>
2	3848/50	1 <sup>st</sup> Fl. - 760 2 <sup>nd</sup> Fl. - 6,134	2.5 20.4	1 <sup>st</sup> Fl. - Retail <sup>3</sup> 2 <sup>nd</sup> Fl. - Office	20.4 20.4	20.4 10.2 <sup>5</sup>
3	3820/46 aka 3838	ALT 23/83 - N/A	0	Retail	0	0
4	3806	NB 67/82 1 <sup>st</sup> Fl. - Retail - 11,306 2 <sup>nd</sup> Fl. - Office - 11,306	37.7 37.7	1 <sup>st</sup> Fl. - Retail 2 <sup>nd</sup> Fl. - Office	37.7 37.7	37.7 18.9 <sup>5</sup>
5	3780, 3790, 3804	ALT 1055/82 - 609	2	Retail	2	2
TOTALS			(122.3)/ <u>122</u>		(140.2)/ <u>140</u>	(100.2)/ <u>100</u>

<sup>1</sup> As set forth on the Certificates of Occupancy.

<sup>2</sup> As set forth on the zoning calculations upon which the current Certificates of Occupancy are based. Some of the buildings were constructed prior to 1961 and do not have parking requirements based on current zoning regulations.

<sup>3</sup> Reflects increase in floor area to 6,134 square feet.

<sup>4</sup> Based on prior Certificates of Occupancy requirements or square footage.

<sup>5</sup> Indicates reduced parking under Z.R. Section 73-44.