

**41-10-BZ**

**CEQR #10-BSA-055M**

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for NYU Hospital Center, owner; New York University, lessee.

SUBJECT – Application March 24, 2010 – Variance pursuant (§72-21) to allow for the enlargement of a community facility (*NYU Langone Medical Center*) contrary to rear yard (§24-36) and signage regulations (§§22-321, 22-331, 22-342). R8 zoning district.

PREMISES AFFECTED – 522-566/596-600 First Avenue aka 400-424 East 34th Street and 423-437 East 30th Street, East 34th Street; Franklin D. Roosevelt; East 30th Street and First Avenue, Block 962, Lot 80, 108 & 1001-1107, Borough of Manhattan.

**COMMUNITY BOARD #6M**

**APPEARANCES –**

For Applicant: Elise Wagner.

**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 Manhattan Borough Superintendent, dated March 22, 2010, acting on Department of Buildings Application No. 120229519, reads in pertinent part:

“ZR 24-36. Proposed enlargement does not comply with the minimum rear yard requirements of the Zoning Resolution.

ZR 22-331 Proposed signage does not comply with regulations for permitted

ZR 22-342 illuminated accessory signs for hospitals or the height of signs;” and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R8 zoning district, the enlargement of an existing community facility (New York University Langone Medical Center) that does not comply with zoning regulations for rear yard or signage, contrary to ZR §§ 24-36, 22-331 and 22-342; and

WHEREAS, a public hearing was held on this application on May 25, 2010, after due notice by publication in the *City Record*, and then to decision on July 13, 2010; and

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

WHEREAS, Community Board 6, Manhattan, recommends approval of this application, subject to the condition that certain signs (noted as Signs 4, 6, and 13 on the plans) be eliminated, and another sign (Sign 7) be reduced in size; and

WHEREAS, the application is brought on behalf of

the New York University Langone Medical Center (the “Medical Center”), a non-profit educational institution and hospital; and

WHEREAS, the subject zoning lot is located on the superblock bounded by East 34<sup>th</sup> Street to the north, the Franklin D. Roosevelt Drive (the “FDR Drive”) to the east, East 30<sup>th</sup> Street to the south, and First Avenue to the west, within an R8 zoning district; and

WHEREAS, the zoning lot has a lot area of 408,511 sq. ft.; and

WHEREAS, the proposed enlargement will be located on an approximately 11,400 sq. ft. vacant parcel on the northwest portion of the zoning lot, bounded by First Avenue to the west, the Medical Center’s Perelman Building to the north, an Amtrak ventilation tower to the east (the “Amtrak Site”) and the Medical Center’s Tisch Hospital to the south (the “Development Site”); and

WHEREAS, the Development Site is an irregular “L”-shaped parcel with approximately 138’-0” of frontage on First Avenue and a depth that varies from 50’-0” to 125’-6”;

WHEREAS, the Amtrak Site which adjoins the rear lot line of the Development Site is located on a separate zoning lot within the subject superblock, with access to First Avenue by means of an access easement over the northern portion of the Development Site; and

WHEREAS, the applicant states that the Amtrak Site’s building is occupied by a ventilation shaft for, and emergency exit stair from, the LIRR train tunnels which are owned by Amtrak; and

WHEREAS, the Development Site is currently occupied by the existing Emergency Department, a portion of the Tisch Hospital building, an air intake shaft serving the mechanical equipment in the cellar of Tisch Hospital, a paved area for ambulance unloading and pedestrian access, and a portion of the bed of former East 33<sup>rd</sup> Street (subject to an access easement for Amtrak); and

WHEREAS, the applicant proposes to reconfigure and renovate the existing Emergency Department space, expand it within a portion of the Tisch Hospital building, and construct a 3,780 sq. ft. (12,380 gross sq. ft.) enlargement at the first floor and cellar (the “Proposed Enlargement”) to increase the total floor area on the zoning lot to 2,064,562 sq. ft. (5.1 FAR); and

WHEREAS, the maximum permitted FAR for a community facility in the subject zoning district is 6.5; and

WHEREAS, a portion of the Proposed Enlargement would be located within the required 30’-0” rear yard; and

WHEREAS, the applicant notes that ZR § 24-33 provides a rear yard exemption for a community facility building located within a residence district, allowing the first floor, or up to a height of 23’-0” of the building, to

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encroach into the rear yard as a permitted obstruction; and

WHEREAS, the applicant states that although the portion of the Proposed Enlargement located in the required rear yard is only one story, the rear yard exemption does not apply because the height of the rooftop mechanicals and parapet wall located within the required rear yard exceed 23 feet in height; and

WHEREAS, the applicant also proposes to provide 354 sq. ft. of signage at the entrances and on the façade of the Proposed Enlargement (25 sq. ft. is the maximum signage permitted), with a vertical panel sign integrated into the south façade of the Proposed Enlargement extending above the height of the ground floor ceiling (signs are not permitted to extend above the ground floor ceiling); and

WHEREAS, the applicant represents that the proposed building will not create any new non-compliances or increase any existing non-compliances except for the rear yard and signage requirements; and

WHEREAS, the applicant represents that the variance request is necessitated by unique conditions of the site that create a hardship, specifically: (1) the constraints of the existing site, including the irregular, shallow configuration of the Development Site, and the existing improvements on and surrounding conditions of the zoning lot; and (2) the programmatic needs of the Medical Center; and

WHEREAS, as to the configuration of the Development Site, the applicant states that it is an irregular "L"-shaped site with approximately 138'-0" of frontage on First Avenue and a depth that varies from approximately 50'-0" to 125'-6"; and

WHEREAS, the applicant further states that the northernmost portion of the Development Site on which construction is permitted is made even shallower by an existing air intake shaft located on the eastern portion of the site; and

WHEREAS, the applicant notes that the northern portion of the Development Site, from First Avenue to the Amtrak Site, is subject to an access easement in favor of Amtrak, and permanent obstructions are not permitted within the easement area, thereby preventing the expansion of the Emergency Department into that portion of the Development Site; and

WHEREAS, the applicant states that the Development Site is bounded by the Medical Center's Perelman Building to the north, the Amtrak ventilation tower to the east, and the Tisch Hospital building to the south, and the inability to demolish these existing buildings, which are either necessary to meet the programmatic needs of the Medical Center, or are owned by Amtrak, further constrain the Development Site; and

WHEREAS, the applicant represents that, given

the irregular shape of the Development Site and the surrounding conditions on the zoning lot, the Proposed Enlargement is necessary in order to meet the programmatic needs of the Medical Center, which include: (1) providing a sufficient number of exam/treatment rooms, triage/treatment rooms, and disposition seats to handle current and projected patient volumes; (2) improving patient flow and enhancing visual and acoustic privacy; (3) separating pediatric patients from adult patients, and walk-in patients from ambulance patients; (4) improving staff travel distances and patient waiting times; and (5) providing adequate way-finding and identification signage for visitors approaching the Emergency Department from First Avenue; and

WHEREAS, the applicant represents that the Emergency Department is experiencing increased patient loads, with approximately 39,000 visitors per year; and

WHEREAS, the applicant states that visits to the Emergency Department have increased in recent years by between three and five percent per year, and are projected to continue to increase at such a rate; and

WHEREAS, the applicant further states that patient loads are especially high at the Emergency Department due to the closing of Cabrini Hospital; and

WHEREAS, the applicant represents that the existing Emergency Department is undersized and inefficiently organized, as it contains only approximately 9,250 gross sq. ft., with 18 exam/treatment rooms, one triage/treatment room, and no disposition seats; and

WHEREAS, the applicant states that currently, all patients for the Emergency Department enter at the same location off First Avenue, resulting in an undesirable mixing of walk-in patients with patients arriving by ambulance, as well as pediatric patients with adult patients; and

WHEREAS, the applicant further states that space constraints result in poor patient flow and minimal acoustic and visual privacy; and

WHEREAS, the applicant represents that the existing mechanical and electrical systems serving the Emergency Department are also inadequate; and

WHEREAS, the applicant states that the Proposed Enlargement would provide an Emergency Department with 33,290 gross sq. ft., 29 exam/treatment rooms, three triage/treatment rooms, and an eight-seat disposition lounge; and

WHEREAS, the applicant represents that the increased size and number of rooms, as well as the improved layout of the Proposed Enlargement will improve patient flow, enhance visual and acoustic privacy, and decrease staff travel distances and patient waiting times; and

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WHEREAS, the applicant states that the Proposed Enlargement would provide separation of walk-in patients from ambulance patients by creating a visually distinguishable access point for walk-in patients and a separate entrance corridor for ambulance patients, and would provide separation of pediatrics patients from adult patients by creating a dedicated space for pediatrics; and

WHEREAS, the applicant notes that existing mechanical equipment in the Tisch Hospital building distributes air throughout the west portion of Tisch Hospital through a vertical shaft on that end of the building, which leads to an air handling unit located within the cellar of Tisch Hospital and to the existing air shaft on the Development Site; and

WHEREAS, the applicant states that the programmatic needs of the Medical Center require the elimination of the air intake shaft located on the eastern portion of the Development Site and the air handling unit located in the cellar of the Tisch Hospital building, in order to allow more appropriate dimensions and an improved layout of the proposed Emergency Department; and

WHEREAS, specifically, the applicant states that the removal of the on-site air intake shaft allows for significant increases in plan efficiency by providing a larger floor plate and entrance area; and

WHEREAS, the applicant states that following the removal of the air intake shaft and air handling unit, air handling would be accomplished by two HVAC units located on the roof of the portion of the Proposed Enlargement located within the required rear yard, which would extend above the allowable height of 23 feet; and

WHEREAS, the applicant represents that the new equipment replacing the air handling unit and air shaft must be located as close as possible to the existing vertical shaft within the Tisch Hospital building so that it can continue to serve Tisch Hospital efficiently; and

WHEREAS, the applicant further represents that the roof of the Proposed Enlargement is the only feasible location for the mechanical equipment that is within a reasonable distance of the existing ventilation shaft; and

WHEREAS, the applicant states that the rooftop mechanical equipment, including the equipment encroaching within the required rear yard, would be surrounded by a parapet wall reaching a height of 40'-2" above mean curb level, which serves to screen the mechanical equipment when the building is viewed at street level; and

WHEREAS, the applicant represents that the requested rear yard waiver is necessary in order to provide the necessary floor plates and building layout to satisfy the programmatic needs of the Medical Center,

by locating the proposed mechanical equipment and accompanying parapet wall on the roof of the Proposed Enlargement; and

WHEREAS, as to the requested signage, the applicant states that it is necessary in order to provide adequate way-finding and identification signage for visitors approaching the Emergency Department from First Avenue; and

WHEREAS, the applicant submitted a signage analysis stating that the signage must be visible to northbound traffic on First Avenue, since all vehicles ultimately approach the Emergency Department from this direction; and

WHEREAS, the applicant notes that First Avenue is a five-lane, heavily traveled roadway, and that traffic often backs up at the traffic signal at East 33<sup>rd</sup> Street, restricting visibility of the Emergency Department; and

WHEREAS, the applicant states that the Emergency Department is one of three emergency departments located along the First Avenue medical corridor, and the close proximity of both the Bellevue Hospital and the Veterans Affairs Hospital emergency departments, and the lack of signage identifying each facility results in confusion for visitors; and

WHEREAS, the applicant further states that there are multiple entrances to the Medical Center campus along First Avenue, and most of them are seen by approaching First Avenue traffic before the Emergency Department; as a result, visitors to the Emergency Department are often drawn instead into the Medical Center's main entrance, which is more visually significant than the other entrances, thereby losing critical time in urgent situations; and

WHEREAS, the applicant represents that the Emergency Department entrances must therefore be clearly identified as part of the Medical Center, rather than other hospitals along First Avenue, and must be clearly distinguished from other Medical Center entrances; and

WHEREAS, the applicant states that the Medical Center has established an emergency drop-off lane separated from First Avenue traffic flow by a temporary curb to allow patients to be safely dropped off at the Emergency Department's walk-in entrance, but notes that traffic congestion often blocks the view of the lane divider for vehicles that are not in the far right lanes; and

WHEREAS, the applicant further states that if vehicles miss the drop-off lane, they must take a long route to loop back around to First Avenue via FDR Drive and East 25<sup>th</sup> Street; therefore, the Emergency Department signage must be visible and legible to vehicles well before they encounter the emergency drop-off lane; and

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WHEREAS, the applicant represents that facilities within the Medical Center campus have historically been referenced and known by the building name, therefore the building name for the Emergency Department must be located on the exterior façade; and

WHEREAS, the applicant further represents that the confusion caused by the close proximity of the other hospitals and lack of clear signage for the subject Emergency Department is increased in the nighttime hours; therefore, the Emergency Department signage must be sufficiently illuminated in order to ensure legibility after dark; and

WHEREAS, the applicant notes, however, that only one sign (Sign 7 on the plan sheets) is proposed to be illuminated; and

WHEREAS, the signage analysis reflects that in order to improve visibility, signage must be located within the cone of vision for approaching traffic and must account for impediments to visibility; therefore, the signage should be visible from a distance of approximately 650 feet from the south along First Avenue, and should be legible from a distance of 300 feet; and

WHEREAS, the applicant states that signs above street level are primarily viewable from a distance, and signs at street level are primarily viewable within a close range, and therefore signage at the site needs to be located both above street level and at street level; and

WHEREAS, the applicant further states that because much of the heavy traffic on First Avenue consists of buses, which have heights of approximately 11'-0", signage must be located at a height above 12'-0" in order to be viewable over buses and from a distance; thus, duplicate signage must be provided above a height of 12'-0" and at street level in order to be visible for both vehicular and pedestrian traffic; and

WHEREAS, in response to the Community Board's recommendation for the elimination of redundant signage and the reduction in size of certain signage, the applicant explained that all of the requested signage is necessary in order for the entrances of the Emergency Department to be visible for both vehicular and pedestrian traffic, and to identify the Emergency Department as part of the Medical Center and separate from the other emergency departments in close proximity; and

WHEREAS, the applicant represents that the requested waivers related to the height and square footage of the proposed signage are necessary in order to satisfy the Medical Center's programmatic needs of providing adequate way-finding and identification signage for visitors approaching the Emergency Department from First Avenue; and

WHEREAS, the Board finds that the stated programmatic needs are legitimate, and agrees that the

proposed enlargement and signage are necessary to address the Medical Center's programmatic needs, given the limitations of the site; and

WHEREAS, the applicant represents that it is unable to feasibly accommodate the programmatic needs within an as-of-right building envelope, or with complying signage; and

WHEREAS, the applicant submitted building plans for a complying building, which would incorporate the existing air intake shaft that serves the air handlers in the cellar of the Tisch Hospital building, and would provide only two signs on the canopy over the entrance, and a small business address sign over the entrance; and

WHEREAS, the applicant represents that, due to the inability to remove the air intake shaft, (1) the complying development would lose approximately 3,000 gross sq. ft., one exam/treatment room and four disposition seats as compared to the Proposed Enlargement; (2) the footprint and entrance area of the complying development would be limited; (3) plan efficiency would be reduced; (4) there would be no separation of walk-in patients from ambulance patients or pediatrics patients from adult patients; (5) staff travel distances and patient waiting times would be increased; and (6) upgrades to the Emergency Department's mechanical and electrical systems would not be possible; and

WHEREAS, additionally, the minimal signage provided for the complying development would be inadequate to provide sufficient way-finding for pedestrians and drivers approaching the Emergency Department along First Avenue; and

WHEREAS, the Board acknowledges that the Medical Center, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, accordingly, based upon the above, the Board finds that the limitations and inefficiencies of the site, when considered in conjunction with the programmatic needs of the Medical Center, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the Medical Center is a non-profit institution and the variance is needed to further its

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non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the Proposed Enlargement would be in keeping with the character of the surrounding neighborhood, which is defined by numerous medical and other institutional uses; and

WHEREAS, specifically, the applicant notes that the Proposed Enlargement would be located among a multitude of medical institutions comprising the First Avenue “medical corridor,” including other buildings within the Medical Center, the Bellevue Hospital Center, the Veterans Affairs Medical Center, and the Hunter College School of Medical Professions; and

WHEREAS, the applicant further notes that the 197-a Plan for the Eastern Section of Community District 6 recommended that the area including the Medical Center be rezoned from residential to a Special Hospital Use District, indicating that the community recognizes this area as an appropriate location for specialized hospital uses; and

WHEREAS, the applicant states that First Avenue is a wide, heavily-trafficked northbound thoroughfare which divides the major health care facilities on the east side of the avenue from the neighborhood to the west, which has a mix of residential and institutional uses; and

WHEREAS, the applicant further states that the Development Site is located on a superblock largely occupied by the many mid-rise and high-rise buildings of the Medical Center, as well as two unoccupied Amtrak ventilation buildings on the northwest portion of the superblock and the Office of the New York City Medical Examiner on the southwest portion of the superblock; as such, there are no uses adjacent to the Development Site or on the superblock that would be affected by the requested rear yard waiver; and

WHEREAS, specifically, the applicant represents that the rear yard waiver would not impact the Amtrak ventilation tower located to the east of the Development Site, because the Amtrak building contains only mechanical equipment, is only occupied as needed by maintenance workers, and does not have windows; and

WHEREAS, the applicant states that the exhaust louvers at the top of the shaft of the Amtrak building extend from a height of 86’-0” to the top of the building at approximately 104’-0”, which is well above the top of the Proposed Enlargement’s parapet wall, which has a height of 40’-2”; and

WHEREAS, the applicant further states that the

Proposed Enlargement would not limit access to, or egress from, any of the Amtrak building’s doors, including the emergency exit on the east side of the building; and

WHEREAS, the applicant represents that the signage associated with the Proposed Enlargement would not obstruct any views to any visual resources and would not detract from the visual quality of the Development Site or the surrounding neighborhood; and

WHEREAS, the applicant represents that the Proposed Enlargement would actually improve the visual quality of the Development Site by replacing a paved parking area, ramp and entryway to the existing Emergency Department with a contemporary steel and glass curtain wall design; and

WHEREAS, the applicant states that the proposed signage would not adversely impact the surrounding neighborhood because First Avenue in the vicinity of the Medical Center campus does not have a residential character, as the closest residential use to the Development Site is located diagonally across First Avenue, at least 150 feet away; and

WHEREAS, additionally, the applicant notes that the Proposed Enlargement complies with all other bulk parameters and the use is permitted as-of-right; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Medical Center could occur on the existing site; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant represents that the requested rear yard and signage waivers are the minimum relief necessary to accommodate the projected programmatic needs; and

WHEREAS, the Board has reviewed the applicant’s program needs and assertions as to the insufficiency of a complying scenario and has determined that the rear yard and signage relief are the minimum necessary to allow the Medical Center to fulfill its programmatic needs; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board conducted an environmental review of the proposed action and

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documented relevant information about the project in the Final Environmental Assessment Statement (“EAS”) 10BSA055M, dated July 7, 2010; and

WHEREAS, the EAS documents that the project as proposed 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; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the New York City Department of Environmental Protection’s (“DEP”) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials impacts; and

WHEREAS the applicant submitted the May 2010 Phase II Sampling Protocol and Health and Safety Plan to DEP for review and approval; and

WHEREAS, in its June 23, 2010 letter, DEP finds the Phase II Sampling Protocol and Health and Safety Plan acceptable and requested Phase II testing; and

WHEREAS, the applicant proposes to test and identify any potential hazardous materials pursuant to the approved Sampling Protocol and, if such hazardous materials are found, to submit a hazardous materials remediation plan, including a health and safety plan, (as approved by DEP, the “Remediation Plan”) for approval by DEP prior to the commencement of any construction or demolition activities at the site; and

WHEREAS, prior to the issuance of any building permit by DOB for the proposed project that would result in grading, excavation, foundation, alteration, building or other permit which permits soil disturbance, the applicant proposes to obtain from DEP either: (A) a Notice of No Objection (“Notice of No Objection”) upon the occurrence of the following: (i) the applicant has completed the project-specific DEP approved Sampling Protocol to the satisfaction of DEP; and (ii) DEP has determined in writing that the results of such sampling demonstrate that no hazardous materials remediation is required for the proposed project; or (B) a Notice to Proceed (“Notice to Proceed”) in the event that DEP has determined in writing that: (i) the project-specific Remediation Plan has been approved by DEP and (ii) the permit(s) for grading, excavation, foundation, alteration, building or other permit which permits soil disturbance or construction of the superstructure for the project facilitate the implementation of the DEP approved Remediation Plan; and

WHEREAS, prior to the issuance of any temporary or permanent Certificate of Occupancy by

DOB, applicant proposes to obtain from DEP either: (A) a Notice of Satisfaction (“Notice of Satisfaction”) in the event that DEP determines in writing that the DEP approved project-specific Remediation Plan has been completed to the satisfaction of DEP, or (B) a Notice of No Objection in the event that DEP determines in writing that the work has been completed as set forth in the project-specific DEP approved Sampling Protocol and the results of such sampling demonstrate that no hazardous materials remediation is required for the proposed project; and

WHEREAS, based on the results of noise monitoring, the applicant proposes window-wall noise attenuation of 30 dBA on the west (First Avenue) facade of the subject building; and

WHEREAS, the proposed building design shall include central air-conditioning (as an alternate means of ventilation) to ensure that an interior noise level of 45 dBA is achieved; 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 issues a Negative Declaration, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and the Board of Standards and Appeals makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R8 zoning district, the enlargement of an existing community facility (New York University Langone Medical Center) that does not comply with zoning regulations for rear yard or signage, contrary to ZR §§ 24-36, 22-331 and 22-342, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received June 30, 2010” – eleven (11) sheets; and *on further condition*:

THAT the parameters of the Proposed Enlargement and signage shall be in accordance with the approved plans;

THAT prior to the issuance of any building permit by DOB for the proposed project that would result in grading, excavation, foundation, alteration, building or other permit which permits soil disturbance, the applicant or successor shall obtain from DEP, as applicable, either a Notice of No Objection or a Notice to Proceed, and in the event a Notice to Proceed is obtained, a Notice of Satisfaction, and shall comply

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with all DEP requirements to obtain such notices;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until DEP has issued a Notice of No Objection, or Notice of Satisfaction;

THAT 30 dBA of window-wall noise attenuation shall be provided on the west facade of the subject building and central air-conditioning shall be maintained as an alternate means of ventilation;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT substantial construction shall be completed pursuant to ZR § 72-23;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other 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, July 13, 2010.

**A true copy of resolution adopted by the Board of Standards and Appeals, July 13, 2010.  
Printed in Bulletin Nos. 27-29, Vol. 95.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**