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STATEMENT OF FACTS AND FINDINGS

Premises: 51 Little West 12th Street
Block 645, Lot 21
Manhattan, New York (the “Premises”)

PRELIMINARY STATEMENT

This variance application is filed pursuant to Section 72-21 of the Zoning Resolution of the City of New York, as amended (the “Zoning Resolution” or “ZR”), to permit the development of a 14-story mixed-use building in an M1-5 zoning district, contrary to ZR § 42-10.

EXISTING SITE CONDITIONS

The Premises is located within an M1-5 zoning district in the Meatpacking District neighborhood of Manhattan, within Community District 2. The Premises is known as Block 645, Lot 21 on the New York City Tax Map. The Premises is a small interior lot with 25 feet of frontage on Little West 12th Street, a narrow one-way street. The lot measures 25 feet by 103.25 feet with a total area of 2,581 square feet. The Premises is currently vacant and has been unimproved since 2010, when DOB issued an emergency declaration to demolish the then-existing 4-story commercial building.

The immediate neighborhood is characterized by commercial uses, including a 3-story commercial building (53 Little West 12th Street) built in 1910 to the west, a single-story

commercial building associated with the Standard Hotel to the east (848 Washington Street), and the 19-story Standard Hotel abutting the subject property to the north. Just east of the Premises is The Highline, a public NYC park; the Whitney Museum of Art is on the block facing the Premises.

PROPOSED SITE CONDITIONS

The applicant proposes a variance in order to permit a mixed-use building with a commercial use on the first two floors and residential use above. The applicant proposes a 14-story plus cellar building (the “Proposed Building”) with 18,128 square feet of floor area (7.02 FAR). The proposed layout would include 12, two-bedroom units on the 3rd through 14th floors.

The Proposed Building would have a total building height of approximately 176 feet. The cellar of the Proposed Building would not contain a habitable space and would be used for storage, building mechanicals, and bicycle storage. The first floor would contain a residential lobby and retail space. The second floor would contain a terrace as part of the commercial use on the first floor. The variety of units in the upper floors are generally similar to the unit sizes in this neighborhood and will provide balconies and terraces. The two-bedroom units are 810 square feet and will also have balconies on every floor. One on-site parking space is provided. *See Proposed Plans.* The building would provide a 20’-3” rear yard and would be consistent with the built character of adjacent properties; however, as residential use is not permitted as-of-right within an M1-5 zoning district, a variance is required pursuant to ZR § 72-21.

A structural engineering report was prepared by DeSimone Consulting Engineering in connection with the proposed development, outlining the complex foundation and excavation requirements necessary to build on the Premises. *See attached report (the “DeSimone Report”).* The DeSimone Report identifies a range of geotechnical challenges, including (1) the small lot

size and configuration, (2) high groundwater table, (3) poor soil quality, and (4) the location within an AE flood zone. In addition, special structural precautions are needed to prevent undermining the adjacent 19-story building to the west. The proposed design incorporates a tangent pile wall system, which functions both as a support of excavation and a critical structural element to transfer loads from the superstructure. These premium construction conditions apply to any viable development scenario on the site and directly inform the scale and design of the proposed building.

The proposed 7.02 FAR is appropriate given the surrounding context and the evolving character of the neighborhood. The building directly adjacent to the Premises rises 19 stories, and there is an active city-sponsored RFP proposal for a 600-unit development directly across the street, signaling a clear trend toward increased density and height in the immediate area. Just a few blocks away, The Highline has further transformed the neighborhood into a vibrant, mixed-use corridor. In this context, the proposed bulk is consistent with the scale and intensity of surrounding development and supports the continued growth and vitality of the area.

AS-OF-RIGHT SITE CONDITIONS

The maximum permitted FAR in an M1-5 zoning district is 5.0 for manufacturing and commercial uses and 6.5 FAR for community facility uses. There is no side yard requirement in the M1-5 zoning district, but if an open area does extend along a side lot line, the open area must measure at least 8 feet wide, pursuant to ZR § 43-25. The M1-5 zoning district requires a rear yard with a depth of at least 20 feet pursuant to ZR § 43-26. The M1-5 zoning district permits industrial uses, commercial uses and certain community facility uses as set forth in ZR § 42-10. Such uses must meet the high-performance standards of M1 zoning as set forth in ZR § 42-20 et. seq. In general, there is little construction of speculative community facility space unless there are large

medical institutions in the immediate vicinity, or if the owner of the property is to be the end-user. Thus, the M1-5 zoning district requirements here would most likely result in an as-of-right building with up to a 5.0 FAR commercial or manufacturing use.

An as-of-right scenario at the Premises would consist of a six-story commercial building. The building would consist of 2,524 square feet in the cellar and 2,009 square feet on the first through 5th floors, with a 6th floor at 1,731 square feet. *See As-of Right Plans*. This ground floor would likely be a commercial use such as an eating and dining establishment, while the upper floors would likely be used for office space.

As discussed below, the lot size of the Premises is uniquely small and narrow in relation to nearby lots within the M1-5 zoning district. Due to the small lot area and narrow width, the subject site is not well-suited for modern commercial and manufacturing operations; nearly all nearby conforming commercial uses are on properties that have greater lot areas and wider widths than the subject site and those that are the same size as the development site, such as the two adjacent lots to the west, have been built since the early 1900's.

A vacant, 25-foot-wide zoning lot at this location cannot feasibly accommodate a modern manufacturing or commercial building as-of-right. Little West 12th street is a side street roughly 108 feet from Washington Street. Little West 12th Street is a narrow one-way street and is burdened with unrestricted parking along the north side of the street, which hinders truck navigation. As discussed below, the Premises is too small for a viable as-of-right use and would not provide a reasonable return.

DEPARTMENT OF BUILDINGS OBJECTIONS

On June 12, 2025, the Department of Buildings issued the following objection:

“ZR §§ 42-12(d) & 42-314(b): Residential use is not permitted as of right within an M1-5 zoning district”

SECTION 72-21 OF THE ZONING RESOLUTION

Pursuant to Section 72-21 of the Zoning Resolution, the Board of Standards and Appeals has the authority to vary the strict application of zoning regulations provided that the five findings of said section are satisfied. We submit that those findings are satisfied in the subject application as follows:

(A) UNIQUE CONDITIONS

There are several factors making the Premises unique among other properties in the neighborhood. As a result, unnecessary hardship and practical difficulties in complying strictly with the provisions of the Zoning Resolution are created. As stated in ZR Section 72-21(a) the Board must find:

that there are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular zoning lot; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with the use or bulk provisions of the Resolution; and that the alleged practical difficulties or unnecessary hardship are not due to circumstances created generally by the strict application of such provisions in the neighborhood or district in which the zoning lot is located;

The following unique conditions pertaining to the Premises have been cited for uniqueness in previous applications before the Board:

Subsurface Conditions

According to the Geotechnical Engineering Report, the Premises is comprised of land fill as the site lies west of the historic shoreline of the Hudson River. *See* attached report (the “Geotechnical Report”). Groundwater was discovered approximately 11.4 feet below grade which necessitates a dewatering program for foundation, cellar and elevator pit construction. The Premises is also in an AE flood zone with a Base Flood Elevation of 11 feet. The Geotechnical Report recommends a deep foundation system consisting of micropiles to transfer the proposed building loads to the sand that lies below the land fill. According to the DeSimone Report, the subsurface conditions specified in the Geotechnical Report, when combined with the small lot size, result in premium costs. The premium costs for development at the subject site are due to (1) the small lot size and configuration, (2) the high-water table and potential flooding in an AE flood zone, (3) the poor soil quality, and (4) special preparations to avoid undermining the adjacent structure to the west. Thus, a tangent pile wall system is proposed as part of a complex foundation that serves not only as a support of excavation but also the structural support that transfers loads at the ground level to then construct the building’s superstructure.

Small Lots / Conforming Uses

There are other unique conditions pertaining to the Premises which create practical difficulty and unnecessary hardship in strictly complying with the provisions of the Zoning Resolution. The lot size of the Premises is uniquely small at 2,581 square feet in relation to lots in the M1-5 zoning district. The Premises also has a narrow width of only 25 feet. In the subject M1-5 zoning district within 600 feet of the Premises, most conforming commercial uses are situated on larger lots with greater widths. *See* Radius Map.

As a further example of site uniqueness, when looking at the 8 lots on the subject block, of the 3 lots with lot area of 2,500 square feet or less, none contain manufacturing buildings. Within a 600-foot radius of the Premises in the subject M1-5 zoning district (the “Study Area”), only Pier 54 supports manufacturing use.

The Premises is inadequate for modern manufacturing use, which requires large, uniform floor plates and wide frontages to accommodate loading. Conforming uses in this area are clearly established on larger parcels. The small lot size of the Premises is not conducive to a conforming manufacturing use, and its longstanding history of vacancy reflects the absence of a market for smaller sites for conforming uses. Manufacturing activities typically involve the use of large machinery and equipment. A small lot may not provide sufficient space to accommodate necessary tools and machinery, leading to congestion and hindered operations. A small lot may also pose challenges for storage, and adequate storage space is crucial to store materials, work-in-progress inventory, and finished goods. Finally, the small lot size limits the rent potential of the Premises to a warehouse building, which is insufficient to offset development costs.

Vacant Lot

The Premises previously contained a three-story loft building constructed prior to 1961. In 2009, due to structural instability caused by the construction of the adjacent Standard Hotel and the high ground water in the area, the Department of Buildings issued an emergency demolition order. *See* attached order.

The Premises is the only privately-owned vacant site within a 600-foot radius, underscoring its unique condition in the surrounding built-up context. The prolonged vacancy here underscores

the hardship at the Premises, especially given the high cost of new construction and the presence of a high groundwater table in this area, which significantly increases foundation and waterproofing costs. These conditions render development particularly burdensome compared to nearby properties that were built before these constraints became as pronounced or costly to address.

In sum, the Premises presents a unique set of physical conditions that severely limit its reasonable use as-of-right. Its narrow 25-foot width constrains functional layout and access, while the high groundwater table significantly increases construction complexity and costs. These challenges are compounded by the site's long-standing vacancy and the fact that it is the only undeveloped lot within a 600-foot radius. Together, these factors make it impractical to support conforming manufacturing or commercial uses and warrant relief.

BSA Precedent

The Premises, like the site in BSA Cal. No. 2024-03-BZ (117 Spencer Street), is a narrow, 25-foot-wide lot that is currently vacant. In that case, the Board found that such a narrow width created a unique physical condition that rendered the lot unsuitable for modern manufacturing uses, due to limitations in accommodating necessary floorplates, circulation, and loading access. The Board also acknowledged that many similar-sized lots were either developed with nonconforming uses or were under common ownership, and that few truly comparable lots remained, highlighting the subject lot's uniqueness.

In the present case, those same limiting factors apply, compounded by the presence of a high groundwater table, which further escalates construction costs, particularly for foundation

work and waterproofing. Unlike Spencer Street, where the site was merely narrow and vacant, this property faces additional geotechnical challenges that materially increase the hardship in developing a conforming use. As such, the site not only meets but exceeds the threshold of uniqueness and hardship recognized by the Board in past precedent, warranting greater relief as permitted under ZR § 72-21.

In BSA Calendar No. 299-12-BZ, the Board granted a variance to allow additional bulk and height on a constrained site burdened by subsurface conditions, including a high water table and contaminated soils. The applicant demonstrated that these conditions significantly increased foundation and dewatering costs, requiring a larger building envelope to make the project economically viable. The Board agreed that the presence of the Highline and geotechnical challenges created a legitimate hardship that justified relief, even though the zoning district (M1-5) generally did not permit that level of bulk. Notably, this variance was granted in 2014, when construction costs were materially lower than they are today.

Similarly, the Premises suffers from unique constraints that make conforming development infeasible. Like the Tenth Avenue site, the Premises is burdened by physical conditions including a narrow 25-foot width and a high groundwater table, which significantly increase foundation costs and limit buildable floor area. Unlike the Tenth Avenue property, the Premises is also vacant, with no existing structure to generate revenue or absorb upfront development risk. Given these conditions, the requested waivers are essential to achieve a viable project. The Board's reasoning in 299-12-BZ supports this position: when physical and economic conditions combine to make as-

of-right development infeasible, variance relief is appropriate, particularly in today's climate of rising construction and financing costs.

(B) REASONABLE RETURN

Section 72-21(b) of the Zoning Resolution states:

that because of such physical conditions there is no reasonable possibility that the development of the zoning lot in strict conformity with the provisions of this Resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such zoning lot; this finding shall not be required for the granting of a variance to a non-profit organization;

Because of the unique factors discussed above, unnecessary hardship arises in complying strictly with the use provisions of the Zoning Resolution, and the grant of a variance is therefore necessary to enable the owner to realize a reasonable return at the Premises. Submitted with this application is an economic analysis prepared by Barbara Cohen, Real Estate & Planning Consultant. The analysis examines two scenarios using a capitalization approach and concludes that as-of-right development is not financially feasible at the Premises. The two scenarios are as follows:

1. "As-of-Right" Commercial – FAR 5.0 ("AOR Scenario"): The construction of a five-story restaurant/office rental-type building.
2. Proposed Fourteen-Story, Mixed-Use Elevator Bldg. – FAR 7.02 ("Proposed Scenario"):

The construction of a fourteen-story, elevator mixed-use building totaling 18,128 square feet of net floor area.

This pro forma analysis compares the two development scenarios outlined above. Under the AOR Scenario, the project yields a total zoning floor area of 12,904 sq. ft., primarily for office use, whereas the Proposed Scenario allows for a larger 18,258 sq. ft. development with nearly 10,000 sq. ft. of residential space and more restaurant area. However, the increased size and change in use comes with significantly higher development costs, \$24.6 million for the proposed plan versus \$17 million for the AOR.

Despite the higher cost, the Proposed Scenario provides a financially viable development. The AOR Scenario generates just \$1.16 million in gross rental income and results in an estimated project loss of nearly \$5 million, with a negative annualized return of -11.3%. This poor outcome is due in part to low revenue potential from office and restaurant use, even before accounting for high foundation costs. In contrast, the Proposed Scenario results in over \$6.9 million in profit and a positive 6.7% return, driven largely by residential condo sales and increased project value. These figures demonstrate that the AOR Scenario is not financially feasible, whereas the Proposed Scenario results in a reasonable return on investment.

Overall, the risk level of the Proposed Scenario is lower than the AOR Scenario, which is reflected in the lower capitalization rate for a commercial building. The economic study thus supports the finding required pursuant to ZR § 72-21(b), as the grant of a variance is necessary here to enable the Applicant to realize a reasonable return from development at the Premises. *See* Financial Report.

(C) CHARACTER OF THE NEIGHBORHOOD

As stated in ZR Section 72-21(c), the Board must find:

that the variance, if granted, will not alter the essential character of the neighborhood or district in which the zoning lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare;

Within the 600-foot study area, there is one manufacturing/transportation use located on the block to the west of the Premises, Pier 54. The prevailing built form in the area consists of commercial office buildings, surface parking lots, and mixed-use buildings with ground-floor commercial space and residential uses above. Building heights in the immediate vicinity vary significantly: the building directly east of the Premises rises 19 stories, while the building to the west is 3 stories tall.

The surrounding area has been subject to a number of land use approvals initiated by the NYC Department of City Planning (“DCP”). One of them was the Far West Village Rezoning. This rezoning, south of the Premises, rezoned approximately 14 blocks in the far western part of the West Village (known as the “Far West Village”). The rezoning area was bounded by Horatio Street to the north, Washington Street to the east, Morton Street to the south, and West Street to the west. The rezoning allowed for the continued development of residential buildings and neighborhood-oriented retail at densities and heights consistent with the existing scale of the neighborhood. The Far West Village was traditionally a manufacturing area that, for many years, was connected to the working waterfront along the Hudson River. The remaining loft buildings and smaller-scale hotels are remnants of the area’s industrial and maritime history. Over the last thirty years, the character of the area has become predominantly residential, with a diverse mixture of residential buildings that included converted loft buildings, 19th-century row houses, the 42 six-

story buildings in the West Village Houses complex, and more recent, taller residential buildings. Distinct clusters of lower-scale buildings are located along Christopher and Weehawken Streets, and Charles Lane, while medium-scale, street wall buildings are located along West and Washington Streets north of Bethune Street. Taller residential buildings are located along West Street between Charles and West 11th Street. Land uses in this area are primarily residential, with most of the lots developed with residential use and some with commercial uses.

Currently under review by the NYC Economic Development Corporation are development proposals for a parcel of about 10,000 square feet located at the corner of Little West 12th Street and 10th Avenue, opposite the subject site. The redevelopment of the corner parcel is to be a part of a larger, coordinated redevelopment of the majority of Block 644. It is contemplated that the entire block, bounded by Little West 12th Street, Washington Street, Gansevoort Street and 10th Avenue will be rezoned as part of a single, comprehensive Uniform Land Use Review Procedure (“ULURP”) process. The proposed Gansevoort Square project seeks to provide 600 residential units, thereby acknowledging that this neighborhood can benefit from additional housing, especially when considering that the area today features a vibrant blend of uses, including art galleries, fashion showrooms, design studios, and creative offices.

(D) SELF-CREATED HARDSHIP

The Board is further required to find:

that the practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner or by a predecessor in title; however where all other required findings are made, the purchase of a zoning lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship; and

The practical difficulties encountered on this site are not caused by the owner of the site or a predecessor in interest. In 1961, the Premises was not larger nor was it connected to another lot. As the Premises maintains the same lot dimensions as existed in 1961, no self-created hardship exists regarding the configuration of the subject lot. We have included a deed chain chart below detailing the ownership history of the Premises.

<u>Owner</u>	<u>Year</u>
BERTHIS REALTY CORP	1960
GOLDEN PACKING CO INC	1977
UPSTREAM DVLPMT CORP,INC	1984
ARADAL SYNDICATIONS,INC	1984
LITTLE W 12TH ST INC.	1985

Importantly, the site's vacant nature is not the result of a self-created hardship. The original four-story loft building, which predated 1961, was demolished in 2009 under an emergency order issued by the Department of Buildings due to structural instability caused by construction on the adjacent lot. The loss of the building was therefore involuntary and underscores the unique challenges the owner now faces in redeveloping the site.

Based upon the forgoing, the Premises is faced with a hardship that arises out of the clear impracticality of strictly complying with the underlying zoning.

(E) MINIMAL VARIANCE NECESSARY

The Board must finally find:

that within the intent and purposes of this Resolution the variance, if granted, is the minimum variance necessary to afford relief; and to this end, the Board may permit a lesser variance than that applied for.

The extent of the variance request is no greater than is necessary to provide reasonable relief. The subject site is uniquely suited for the requested variance, which will enable this small and narrow vacant lot to be utilized for a practical purpose. The proposed development scenario enables feasible use of the lot without being overreaching or excessive and represents the minimum variance necessary to afford relief. The relief requested is well within BSA precedent for similar relief granted to other lots within the surrounding area. We therefore submit that the findings of ZR § 72-21(e) have been met.

CONCLUSION

The variance sought reasonably and minimally meets the needs of the applicant. We are confident that the findings of Section 72-21 have been satisfied in the instant matter and respectfully request that the Board approve the instant application in all respects.

Respectfully submitted,



Richard Lobel