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September 25, 2025

Client/Matter No. 15763-0071

Via Email:

Heather Kepler, Zoning Board of Adjustment Secretary
Township of Neptune
25 Neptune Boulevard
Neptune, New Jersey 07753

Re: HMH - Jersey Shore University Medical Center
Bulk Variance Application (Signs)
19-21 Davis Avenue, Neptune, New Jersey
Block 1201, Lot 4

Dear Ms. Kepler:

This firm represents HMH – Jersey Shore University Medical Center (the “Applicant” or “JSUMC”) with respect to the referenced application for bulk variance approval, submitted on May 8, 2025 (the “Application”). Applicant operates a hospital in the Township of Neptune (“Township”) and submitted the Application, seeking bulk variance relief for the installation of three (3) additional façade signs at the property located at 19-21 Davis Avenue, Neptune, New Jersey 07753 and depicted as Block 1201, Lot 4 on the Township tax map (the “Property”). This letter brief is submitted to the Township of Neptune Zoning Board of Adjustment (the “Board”) in support of the Application. As detailed herein, the Application is consistent with the purposes and intent of the Municipal Land Use Law (“MLUL”) and satisfies the criteria for approval.

FACTUAL BACKGROUND

The Property is located within the Township’s Civic “C” Zone. The Property contains a hospital with a bed capacity of nearly 700 and is comprised of several buildings, parking lots, and multiple separate hospital wards. JSUMC is ranked number five in the state of New Jersey and has been ranked in the top ten hospitals in New Jersey for more than a decade. JSUMC has been verified as a Level I trauma center and is also home to K. Hovnanian Children’s Hospital, which is the number one ranked children’s hospital in the state.

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Mary Ellen Harris, a hospital donor with a long history of philanthropic support to the hospital, has made significant financial contributions to JSUMC on behalf of herself and her late husband, Dr. Robert Harris. Among other things, the financial contributions received from Dr. Robert H. and Mary Ellen Harris have allowed JSUMC to install the **world's first** center to integrate the ZAP-X® Gyroscopic Radiosurgery® with Synaptive's Brain-Only Silent MRI (the "ZAP-X Machine"). The ZAP-X Machine provides an advanced form of radiation therapy, which is used to treat patients with various types of brain tumors, brain cancers, and chronic nerve disorders, without the need for incisions. This non-invasive, pain-free treatment uses a unique combination of computer-controlled robotics, high-definition imaging, and a Synaptive MRI to deliver precise radiation beams. This cutting-edge technology allows for rapid, accurate treatment with minimal side effects, no anesthesia, and no recovery time, enabling patients to quickly return to their daily activities. Since October of 2023, JSUMC has delivered nearly 700 treatments to 271 patients using the ZAP-X Machine.

Dr. Robert H. and Mary Ellen Harris are the pioneers in making this first-in-the-world technology available to the residents of Neptune and the greater New Jersey area. To honor them as such, JSUMC has designated a specific wing of the hospital as the "Dr. Robert H. and Mary Ellen Harris HOPE Tower." In further recognition of the significant impact Dr. Robert H. and Mary Ellen Harris have made on the hospital and the Neptune community by allowing the Township to be home to the first ever ZAP-X machine, JSUMC is seeking to install façade signs on the exterior of the building named in their honor.

JSUMC's status as one of the top hospitals in the state of New Jersey is a direct result of the philanthropic support it receives. JSUMC relies on continued philanthropic support for the acquisition of state-of-the-art technology that allows the hospital staff to provide unparalleled levels of care. Specifically, JSUMC's ability to purchase, install, and operate the ZAP-X Machine is a direct result of the contributions made on behalf of Dr. Robert H. and Mary Ellen Harris. The Harrises have also contributed towards the purchase of new operating tables, the creation of a Pediatric Epilepsy Monitoring unit, CT Scanners, and many other tools and resources that have allowed JSUMC to establish itself as one of the highest ranking trauma centers in the state of New Jersey.

The use of outdoor façade signs to recognize donors is commonly known as a powerful fundraising tool. This form of donor recognition is currently used on the Property, at other Hackensack Meridian Health facilities in New Jersey, and at hospitals throughout the state. Public recognition encourages ongoing support by building a legacy and strengthening donor loyalty.

The Application seeks to install façade signs designating a specific building on the hospital campus as the "Dr. Robert H. and Mary Ellen Harris HOPE Tower." The Application seeks to install façade signs in two separate locations and both proposed signs will read "Dr. Robert H. and Mary Ellen Harris HOPE Tower." One proposed façade sign will be located directly above the

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southern facing hospital entrance, located off Davis Avenue (“First Proposed Sign”). The Applicant proposes an additional sign on the western façade of the building known as the Dr. Robert H. and Mary Ellen Harris HOPE Tower (“Second Proposed Sign”). The Second Proposed Sign will be aligned with the top of the building. Given the length and positioning of the Second Proposed Sign, the message conveyed will constitute two separate lines, which the Board has interpreted to constitute two separate façade signs. JSUMC recognizes the Board’s concern regarding future façade signs of a similar elevation and scale on the western facing wall of the HOPE Tower. In consideration of the same, JSUMC is agreeable to limiting façade signage on the western facing wall of the HOPE Tower to the signage proposed in this Application and will not seek future approval for the installation of façade signs on the western facing wall of the same elevation and scale.

In addition to the external façade signs proposed by the Application, and in addition to the existing plaques recognizing Dr. Robert H. and Mary Ellen Harris throughout the hospital, JSUMC also plans to install a plaque on the inside of the HOPE Tower lobby with detailed information regarding Dr. Robert H. and Mary Ellen Harris and their impact. This plaque will educate and inform hospital patients and visitors of the significance of the ZAP-X Machine and magnitude of JSUMC’s ability to be the first hospital in the world to offer this treatment.

The Applicant has appeared before the Board twice regarding the pending Application. At a hearing on July 2, 2025, the Board requested additional information regarding the connection between the relief sought and the Township’s zoning goals and the purposes of the MLUL. At a second hearing on September 3, 2025, the Board requested further information regarding the legal justification for the Application. This brief is provided in response to that request.

LEGAL ARGUMENT

I. The Benefits of the Application Outweigh Any Potential Detriment.

The Board has the power to grant a “c(2)” or so-called “flexible” variance from zoning ordinance requirements pursuant to N.J.S.A. 40:55D-70(c), which permits the Board to grant relief where in an application relating to a specific piece of property, the purposes of the [MLUL] would be “advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.”

A (c)(2) variance contemplates that even absent proof of hardship, a bulk or dimensional variance that advances the purposes of the MLUL may be granted if the benefits of the deviation outweigh any detriment. Jacoby v. Zoning Bd. of Adjustment of Borough of Englewood Cliffs, 124 A.3d 694, 707 (N.J. Super. App. Div. 2015). To establish a (c)(2) variance, the applicant must show that the purposes of the MLUL would be advanced, the variance can be granted without substantial detriment to the public good, the benefits of the variance will outweigh any detriment, and that the variance will not substantially impair the intent and purpose of the zoning plan and ordinance, or the so-called negative requirements. Id. at 702.

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a. The Application provides a benefit to the residents of Neptune, Monmouth County, and the greater New Jersey area.

The proposed signage directly benefits Township residents, and residents of the greater New Jersey area, because there is a direct connection between recognition of large donors and their continued support, without which JSUMC would not be able to provide the level of care that it is known for. The practice of naming a building after a large donor is mutually beneficial and creates a lasting association that results in continued support and partnership. Through donor recognition, donors gain public recognition, establish a legacy, and feel a deeper connection to the hospital's mission. In return, Township residents receive an inherent benefit, through the Applicant, by means of having access to cutting-edge technology and top tier care, which would otherwise not be available without donor support and recognition.

It is a long-standing practice for JSUMC to acknowledge the generosity of donors through the naming of certain locations on its hospital campus. For example, other locations at JSUMC named after donors include: K. Hovnanian Children's Hospital, Richard Amdur Ambulatory Care Center, Robert Brennan Pavillion, Mary V. Black Pavillion, and several others.

The residents of Neptune township, through the Applicant, have received a major benefit from the donations already provided by Dr. Robert H. and Mary Ellen Harris. While it was pointed out by one Board member that the donation has already been received, the purpose of installing the façade sign is in recognition of the donation and in hopes of continuing to foster a philanthropic relationship with existing and future donors.

b. The Application does not create a substantial detriment to the public good.

Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70: "No variance or other relief may be granted ... without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance."

The variance relief sought by the Applicant can be granted without substantial detriment to the public good. The proposed signage is consistent with the theme of signage around the hospital campus and will contribute to a cohesive look. The proposed locations are positioned in a way that identifies the location of the Dr. Robert H. and Mary Ellen HOPE Tower to hospital patients and visitors. Further, the size and placement of the proposed signage will effectively recognize significant donors without installing unsightly billboard style signs or drawing unnecessary attention. The size of the proposed signage above the entryway is approximately 5 feet in height and the proposed location is approximately 26'6" from the ground. This scale and location is standard and is not disruptive of the hospital aesthetics. While the Second Proposed Sign location is larger in scale, because the sign will be positioned higher off the ground, the signage will not be disproportionately large to pedestrians on the ground. The Second Proposed

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Sign will be situated towards the top of the western facing side of the Dr. Robert H. and Mary Ellen HOPE Tower, which is approximately 165' tall (to the top of the brick façade). The Second Proposed Sign depicts two lines of text that are each approximately 2'10" tall and will be positioned approximately 152'3" from the ground. While the Board has interpreted the Second Proposed Sign as two separate façade signs, only one message will be conveyed – the name of the building. It is important to note that this sign will not be directly facing any public road since the western building façade faces internally towards the hospital campus. Additionally, though the proposed signage is relatively large, the Second Proposed Sign is conforming to the size and scale of the HOPE Tower and is proportional to the location where the sign will be installed.

As such, the Applicant submits that there is no detriment to the public as a result of the proposed signage, and any detriment that may be created is substantially outweighed by the inherent benefit the hospital provides to public health, safety, and general welfare through the recognition of its donors.

II. The Application Furthers the Purposes of the Municipal Land Use Law ("MLUL") and the Local Code.

In addition to a showing that the variance can be granted without substantial detriment to the public good and that the benefits of the variance will outweigh any detriment, the applicant must also show that the purposes of the MLUL would be advanced and that the variance will not substantially impair the intent and purpose of the zoning plan and ordinance. *Id.* at 702.

N.J.S.A. 40:55D-2 establishes certain enumerated purposes of the MLUL. As a hospital, JSUMC is an inherently beneficial use which, together with the improvements proposed by the Application, promotes the purposes and intent of the MLUL, specifically:

- (a) To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare.

Proof that a proposed use is inherently beneficial to the public has frequently satisfied the finding that a use promotes the general welfare under N.J.S.A. 40:55D-2a. Burbridge v. Governing Body of Twp. of Mine Hill, 117 N.J. 376, 386 (1990). New Jersey courts have a longstanding precedent establishing hospitals as inherently beneficial uses. See Med. Ctr. at Princeton v. Twp. of Princeton Zoning Bd. of Adjustment, 343 N.J. Super. 177 (App. Div. 2001), Sica v. Bd. of Adjustment of Twp. of Wall, 127 N.J. 152 (1992), Kunzler v. Hoffman, 48 N.J. 277, 225 A.2d 321 (1966).

The signage proposed by the Application furthers the goal of the MLUL under N.J.S.A. 40:55D-2(a) by encouraging development that will promote public health, safety, morals, and

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general welfare. The recognition of donors encourages continued development of JSUMC and its operations. But for the Applicant's ability to establish and foster positive relationships with donors, the hospital would not be able to provide the high caliber level of care that it has been known to provide. Recognition of donors, and specifically the recognition of Dr. Robert H. and Mary Ellen Harris, has encouraged development of the hospital in a manner that promotes public health, safety, and general welfare.

The proposed signage recognizes the significant contributions received by Dr. Robert H. and Mary Ellen Harris and encourages further development of the hospital to promote the public health, safety, and general welfare of Township residents. The Applicant's ability to recognize and foster relationships with significant donors is the direct cause of several positive developments undertaken by the hospital. Most notably, the relationship fostered between JSUMC and Mary Ellen Harris led to the Township being home to the world's first ZAP-X Machine and hospital's ability to provide life-changing treatments. These treatments would not be possible without the support of donors. Donor recognition is critical to strengthen donor loyalty and encourage further developments to promote the goals of the MLUL under N.J.S.A. 40:55D-2(a).

The same purpose is included in the "Purpose and Intent" section of the Township of Neptune Code (the "Code"), which establishes one intention of the Code to "guide the appropriate use or development of all lands in a manner that will promote the public health, safety, morals and general welfare." Code Section LDO-102(A). The Code also establishes an additional purpose of providing adequate community facilities and services in order to enhance the quality of life for existing and future Township residents and respond to changing demographics. Code Section LDO-102(Y). The continued success of the Applicant's operations is necessary to provide adequate community facilities for Neptune residents. While Applicant receives some funding from state grants and insurance providers, the revolutionary care offered by JSUMC would not be possible without the monetary contributions received from hospital donors. The receipt of donations is directly tied to the Applicant's ability to further the purposes and intent and the Code by providing above adequate services to enhance the quality of life for existing and future Township residents.

Additionally, the proposed façade signs, together with the internal plaques in place throughout the hospital and to be installed in the lobby of the HOPE Tower, will educate and inform hospital patients and visitors of the cutting-edge technology available at JSUMC and the life-changing treatments and services available in Neptune. The exterior façade signs and the descriptive memorial plaque will provide a connection to the Neptune community that recognizes the significant impact of being the first township in the world with a hospital capable of providing treatment via a ZAP-X Machine. The dissemination of this information promotes the public health, safety, and general welfare of Neptune residents.

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Therefore, the purposes of the MLUL are advanced by the Application and the variance will not substantially impair the intent and purpose of the Township zoning plan.

III. The Application is Consistent with Established Case Law Granting Variance Relief.

In Levin Props., L.P. v. Hamilton Twp. Plan. Bd., No. A-3815-04T1 (App. Div. July 12, 2006), the Appellate Division agreed with established case law that flexible c, or c(2) variance, should “be considered in context and in terms of [its] functional and aesthetic impact on the surrounding area.” Id. at 11. See also Valenti v. Planning Bd. of Absecon, 244 N.J. Super. 77, 85 (App.Div.1990); accord Bressman v. Gash, 131 N.J. 517, 530 (1993) (upholding board's grant of c(2) variance and allowing a garage with side entry to be built because not only did it allow the property to be consistent with the character of the area, but also it promoted ‘a desirable visual environment’).

Similarly, the aesthetic impact of the Applicant’s proposed signage on the surrounding area must be considered in context of the location of the Property and operations of the hospital. The existing façade signs on the hospital’s campus are relevant to hospital operations and are necessary for identification and branding purposes. The signage proposed in the Application is consistent with the existing signage identifying a specific structure or area by its name, such as the identification on the exterior of the K. Hovnanian Children’s Hospital. This practice of identifying a building’s name on the exterior of the building contributes towards the positive aesthetics of the hospital campus by creating a cohesive look. As stated above, proposed signage also promotes a desirable visual environment by utilizing the existing dead space on the plain brick wall and conveying a message of hope.

Further, the location of the hospital within the Township is a key factor that should be considered when reviewing this Application. The buildings on which the proposed signage will be located are set back from the main road and are separated from public roads by parking lots and landscaping. The proposed signage will not directly abut any public roads and, given the scale and location, will not create an unsightly appearance from the public roads or any residential portions of the Township. Further, the Second Proposed Sign is western facing, which is in the direction of the internal hospital campus, so the primary impact will be on hospital visitors and patients. As such, granting the variance relief sought in the Application would not result in a negative aesthetic impact and would, in fact, contribute to a desirable visual environment.

The court in Piscitelli v. Twp. Comm. of Scotch Plains Twp., 103 N.J. Super. 589 (Law. Div. 1968) found that aesthetics is a legitimate aim of zoning and that aesthetic considerations must be prescribed in zoning ordinance and implemented by the board of adjustments in order to be valid. Further, In State v. Miller, 83 N.J. 402 (1980), the court held that a zoning ordinance may accommodate aesthetic concerns, consistent with the intended purpose of the MLUL to promote a desirable visual environment. As such, while aesthetic concerns the Board are valid, such concerns

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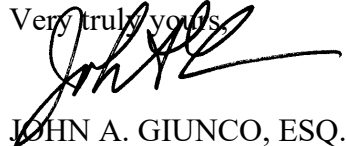
must be considered in a manner that is consistent with the intended purposes of the MLUL. Because the Application furthers the goals of the MLUL while also factoring in aesthetic considerations, the Application should be granted by the Board.

In Kauffman v. Planning Bd. For Warren Tp., 110 N.J. 551 (1988), the court held that the focus of a c(2) variance case should be on the characteristics of the land that present an opportunity to improve zoning and planning, and which will benefit the community. Similar to the subject property in Kauffman, the Property that is the subject of this Application is relatively larger than most surrounding properties and has unique characteristics that require it to be treated somewhat differently from other properties in the Township. The hospital's campus contains multiple buildings, which is unique of this type of property when compared to other properties governed by the Code. Additionally, the hospital campus encompasses several different operational units and divisions, each serving a special function or area of expertise. Proper signage is required and should be utilized for the identification of each.

As in Kauffman, the focus in determining this Application should be on the characteristics identified above and the opportunity to improve zoning in a way that will benefit the community. This Application gives the Board an opportunity to benefit the community by supporting the purposes of the MLUL and the purpose and intent Township of Neptune Code. Not every deviation from zoning requirements runs counter to the purposes of zoning. Id. at 564. Therefore, the Application can be granted consistent with key factors considered by New Jersey courts when granting variances under N.J.S.A. 40:55D-70(c)(2).

CONCLUSION

For the foregoing reasons, JSUMC respectfully requests that the Board grant the Application for bulk variance relief.

Very truly yours,

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