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June 12, 2007

The Honorable J. Sheldon Fine
Chair
Community Board 7
250 West 87th Street
New York, NY 10024

Re: BSA 74-07-BZ
Congregation Shearith Israel
Incomplete Application

Dear Chair Fine:

Norman Marcus and I have discussed the status of the hearing for the Congregation Shearith Israel committee hearing scheduled for June 20, 2007. The agenda for the Committee was amended only on June 10 to notice this meeting. We believe that given the incomplete nature of the package provided by the Congregation, and the already short notice, that it would be preferable to delay this hearing until such time as the application is complete. Mr. Marcus reviewed a draft of this letter and is in agreement with the sentiments expressed here.

We understand that the BSA is working on a letter of objection concerning the application and will require additional information from the Congregation. Thus, it would make sense to wait until the Congregation has provided a completed package before scheduling a hearing.

Even were a complete package provided today, there are many issues presented and it would take substantial time and effort to analyze any supplemented or amended proposal. The Congregation required an entire year after the LPC hearing to prepare its BSA package, and now the BSA has spent over 10 weeks trying to identify the pertinent issues requiring modification or supplementation. Ultimately, the Congregation is responsible for having provided an obfuscated, incomplete, and even misleading application.

Also, by a separate letter, I have outlined questions for the Congregation's financial consultant which shows that there are substantial issues that need to be clarified before a meeting considering the matter. Other issues should be clarified as well by the Congregation.

Following are examples of missing/incomplete information in the BSA Application, in no particular order of significance:

- Shadow studies of West 70th Street (there are studies more or less of Central Park). Because W 70th St. is narrow, the extra 30 feet on top of 75 feet will have a dramatic late-fall, winter, and early spring impact.
- Sight lines. None are provided. There were sight lines presented to LPC, but, oddly, they left of the top of the buildings.
- Impact of the building on the east facing façade of 18 W. 70th street. There are windows which will be blocked off and other negative impacts on air and light. This is in contravention of BSA rules which require that adjoining conditions are to be shown.
- None of the drawings show the 40 foot separation referred to in the 8th DOB objection, in contravention with BSA rules. This is in contravention of the BSA rule that as of right drawings are to be provided.
- There is no up-to-date DOB objection letter, in contravention to BSA rules.
- There rear setback for DOB objection 4 and 7 are not shown accurately on the drawings.
- There is no discussion of the substantial rent from the current and expected school that will use the building.
- There is no explanation of the use of the subbasement, which, in an earlier drawing to the LPC was labeled a banquet hall.
- There is no discussion of the apartment and other relationship of the Parsonage to the entire site, including rental income, apartments for employees etc.
- There are are no clear statements explaining how each of the 5 findings for each of the 8 variances are met in the application – the application obfuscates and conflates all variances into one variances, and does not address all 5 of the findings. .
- There are no indications on any of the drawings to explain the conclusory contentions in the application relating to hardships and circulation issues etc., making it difficult to ascertain a relationship between the these issues and physical reality.

- Floor plans and sections showing floor to ceiling heights etc are not shown as required by BSA rules. There is no cross-section that explains the first floor of the building, as an example.
- The “banquet” hall is a blank slate. The intended use of this facility is not described. What is the proposed occupancy? Does the Congregation intend to make this facility into a commercial banquet hall, renting it to unrelated third parties in the same way that it currently rents out other facilities in the complex to unrelated third parties?
- Photographs of the sides and rear of the lot are required by BSA rules – yet, no photographs of the East façade of 18 West were provided.
- The financial feasibility study, in contravention to BSA rules, does not explain how the rate or return analysis relates to any “physical condition present at the site.”
- The financial feasibility study does not explain the methodology of determining the developable area for computing land cost.
- The financial feasibility study does not provide computations that allocate any land cost to the community space.
- The financial feasibility study fails to include income from the rental of school and banquet facilities.
- The Drawings fail to include understandable Floor Area Schedules of the proposed building, at Drawing P-2 and AOR-2, because the applicant included in these tables areas in the existing Synagogue and Parsonage, and it is not possible to analyze the building to be constructed without re-casting the schedules.
- The application completely ignores the fifth condition to be met for the granting of a variance, providing no discussion of why the variances requested are the minimum necessary. The approach of the Congregation is all or nothing.

In a court proceeding, one would move to strike from the application the pages and pages of irrelevant information relating to the history and traditions of the Congregation, all of which are irrelevant to the issues at hand, and, only require responses that themselves become non-productive.

We seek to have this process move forward in a transparent manner with all interested parties having ample time to review and respond to statements made by the Congregation. It is not helpful in that regard when the Congregation holds improper ex parte meetings with the quasi-judicial BSA Commissioners. Nor is it transparent when the Congregation engages in written “off-the-record” communications with individual

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CB7 members. You will note we provide a copy of this and all letters to counsel for the Congregation. The Congregation's counsel does not so reciprocate to this common courtesy, as well an effort to be fair and transparent.

Finally, at an October 2005 CB7 committee meeting regarding this matter, an extensive resolution was proposed at the conclusion of the committee meeting, without providing the public with the opportunity to comment. To be clear, the resolution contained language that was not within the purview of the matter noticed for the meeting. We hope that proposed resolutions be read prior to the start of the meeting, not after public comment, and that the resolutions be confined to matters properly before the committee or board.

Sincerely,

A handwritten signature in cursive script that reads "Alan D. Sugarman".

Alan D. Sugarman

cc: Norman Marcus
Shelly Friedman, Esq., Friedman & Gotbaum LLP
Kate Wood, Executive Director, Landmarks West
Jeff Mulligan, Executive Director BSA
Hon. Betsy Gotbaum, Public Advocate of the City of New York
Hon. Gail Brewer, New York City Council Member
Hon. Scott Stringer Manhattan Borough President
Hon. Richard Gottfried State Assembly Member