



# Board of Standards and Appeals

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MEENAKSHI SRINIVASAN  
Chair/Commissioner

June 15, 2007

Shelly S. Friedman, Esq.  
Friedman & Gotbaum, LLP  
568 Broadway, Suite 505  
New York, NY 10012

BSA Cal No: **74-07-BZ**  
CEQR No: **07BSA071M**  
Premises: **6-10 West 70<sup>th</sup> Street, Manhattan**

Dear Mr. Friedman:

Attached is a Notice of Objections for the above referenced BZ application which raises issues that need to be addressed before these applications may be calendared by the Board for a hearing. The Board desires to process applications on a timely basis and requests that applicants notify the Board if they are unable to make a complete submission within sixty (60) days. Failure to respond in a timely manner could lead to the dismissal of the application for lack of prosecution.

Each of the following objections should be addressed point-by-point. A copy of all materials sent in response to these objections must also be submitted to the applicable Community Board(s), Borough President, City Council member, Borough Commissioner of the Department of Buildings, Borough Director of the Department of City Planning (DCP) and to the BSA Liaison at the DCP, Mr. Alan Geiger. Applicants are required to notify each of these entities each and every time a submission is made to the Board of Standards and Appeals. Proof of proper notification may be provided by return receipts, copies of transmittal letters, carbon copy (cc's) lists or other comparable proofs.

For further information regarding these requirements, or for information relating to the following objections, please call Jed Weiss, Senior Examiner at (212) 788-8781 or email him at [jweiss@dcas.nyc.gov](mailto:jweiss@dcas.nyc.gov). For detailed instructions for completing BSA applications, please visit [www.nyc.gov/bsa](http://www.nyc.gov/bsa)

Sincerely,

Jeff Mulligan,  
Executive Director

# New York City Board of Standards and Appeals

## Notice of Objections

**74-07-BZ / 07BSA071M**

Premises: 6-10 West 70<sup>th</sup> Street, Manhattan  
Applicant: Shelly S. Friedman, Esq., Friedman & Gotbaum, LLP

Date: June 15, 2007

### STATEMENT OF FACTS AND FINDINGS

1. **Page 1:** Following the first paragraph, please provide a section summarizing salient aspects of the proposed development for Congregation Shearith Israel (CSI) (FAR, square footage, height, number of stories, uses proposed). Follow this information with a summation of underlying zoning and the waivers requested.
2. **Page 1:** The second paragraph is more appropriate in the “Background of CSI and the Site” section beginning on Page 4.
3. **Page 7:** Within the first sentence of the section entitled “Current Uses and Conditions,” it is stated that “...the Synagogue contains small meeting rooms and a multifunction room in its basement.” According to the existing and proposed plan sets, only the proposed scenario appears to contain a “multifunction” room. Please clarify this discrepancy.
4. **Page 9:** Provided that the proposed scenario calls for an approximate increase of classrooms from 5 to 12, please precisely explain the nature of the “tenant school” and its relationship to CSI and its programmatic needs (please note that the EAS states that the overall number of students will remain the same under the proposed scenario). Specifically state where the tenant school is located today and where it will be located in the proposed new building.
5. **Pages 10 & 11:** These pages contain information describing the proposed building. For clarity, this section should be combined with the “New Building Development Program” on Pages 17 and 18. This combined section should provide more detail of the alleged nexus of CSI’s programmatic needs and the proposed waivers requested. The following four objections (#6 - #9) should be addressed within this combined section.
6. **Page 10:** The first sentence of the first full paragraph references the need for “seminal historical archives” space within the proposed building. Please precisely explain the volume and current location of CSI’s archival material. Please explain how much square footage is needed to accommodate such material.
7. **Page 10:** Please describe the caretaker’s apartment in the proposed community facility portion of the building and discuss its alleged importance to CSI’s programmatic needs.

8. **Page 10:** Within the second full paragraph, it is stated that "...the demolition and replacement of the Community House will permit excavation to provide two cellar levels for programming where none exist today." Please clarify that no sub-cellar exists today; the existing plans indicate an existing cellar level.
9. **Page 10:** Within the second full paragraph, please precisely explain the nature and purpose of the proposed "6,432 sf multi-function room at the subcellar level." Please state whether it is the applicant's intent to lease this space to other entities or for other purposes such as a catering hall.
10. **Page 17:** Please compare the existing CSI program with the proposed scenario by providing a floor-by-floor square footage table for each element of the program.
11. **Page 18:** Within the second full paragraph, it is stated that CSI is compromised of "...550 families, which is an increase of 30 percent in the number of families that were congregants in 1954." Please state the number of families and number of individual worshippers in 1954 and the present.
12. **Page 18:** Within the second full paragraph, new "administrative space" is described. Please precisely describe the programmatic need for an approximate increase in the number of offices from 4 to 13. To this end, please state the number and type of full-time on-site employees and whether CSI anticipates employee growth.
13. **Page 18:** The final sentence of the second paragraph states that "...residential floor area uses only 16 percent of the zoning lot's available zoning floor area." Please follow this sentence by stating the percentage of the proposed zoning floor area (based on the entire zoning lot) that is residential.
14. **Page 20:** Within the first paragraph, one of the elements of the suggested "(a) finding," is "...the dimensions of the zoning lot that preclude the development of floor plans for community facility space required to meet CSI's...programmatic needs." Please specifically explain in what way the site's "dimensions" hamper CSI's programmatic needs.
15. **Page 21:** The first two full sentences on this page state that "...the ZRCNY recognizes that the zoning lot is entitled to average the FAR of the two zoning districts." Please provide evidence that ZR § 77-20 is applicable to this *zoning lot*.
16. **Page 23:** Please correct the title of the second paragraph by replacing "Rear Yard Setback" with "Rear Setback."
17. **Page 23:** Within the second paragraph, wherever found, please change "Sec.663(b)" to "Sec. 23-663(b)."
18. **Page 23:** Within the second paragraph, please clarify the following statement: "[b]ecause the ground floor of the New Building is built full to the rear property line, an objection was issued." Rather, please clarify that the portion of the building above sixty (60) feet in height violates this section (ZR § 23-663(b)).

19. **Page 23:** Within the second and third sentence of the second paragraph, please change references to both “maximum height” and “maximum building height” to “maximum base height.”
20. **Page 24:** Please correct the title of the first full paragraph by replacing “Building Separation” with “Standard Minimum Distance Between Buildings.”
21. **Page 24:** Please note that ZR § 23-711 prescribes a required minimum distance between a residential building and any other building on the same zoning lot. Therefore, within the first full paragraph, please clarify that the DOB objection for ZR § 23-711 is due to the lack of distance between the residential portion of the new building and the existing community facility building to remain.
22. **Page 25:** Within the suggested “(c) finding,” please note the number of lot-line windows for adjacent residential buildings that would be blocked for both the as-of-right, lesser variance (see BSA Objections # 30-31) and proposed scenarios.
23. **Page 25:** Within the suggested “(c) finding,” please discuss the built context along the subject blockfronts of West 70<sup>th</sup> Street and the alleged appropriateness of the proposed building in terms of neighborhood character. Please reference drawing P-17.

#### EXISTING CONDITIONS DRAWINGS

24. **EX-3 & EX-4 (Section Drawings):** Please substantially enlarge each drawing within the 11x17 sheet and show floor-to-ceiling heights. Additionally, please remove the illustrative as-of-right envelope outline from these drawings.

#### AS-OF RIGHT CONDITIONS DRAWINGS

25. It appears that the “as-of-right” scenario would still require a BSA waiver for ZR § 23-711 (Standard Minimum Distance Between Buildings) given that it contains residential use (see Objection # 21). Please clarify.
26. **AOR-3 & AOR-4 (Section Drawings):** Please substantially enlarge each drawing within the 11x17 sheet and show floor-to-ceiling heights.
27. **Drawing AOR-14:** Please label the proposed (as-of-right) building and existing, adjacent buildings accordingly.

#### PROPOSED CONDITIONS DRAWINGS

28. **P-3 & P4:** Please correct the title of the drawings by replacing “street wall sections” with “Areas of Non-Compliance.”
29. Please provide new **section drawings** which show floor-to-ceiling heights.

**“LESSER-VARIANCE” DRAWINGS**

30. Please provide a full plan set of lesser-variance drawings that show compliant height and setback (objections for ZR § 23-633 and ZR § 23-663 are removed) that seeks to accommodate CSI’s programmatic needs and excludes the proposed tenant school space; the remaining floor area shall be used for residential use.
31. Please provide a full plan set for a complying, 4.0 FAR residential building on Lot 36 that includes a BSA waiver for ZR § 23-711 (Standard Minimum Distance Between Buildings).

**BSA ZONING ANALYSIS**

32. Under “Maximum Permitted” column, please confirm the maximum allowable FAR as “8.38.” Provided that the area within the R10A district measures 125’ x 100’6” = 12,562.5 sf (72.7% x 10.0 FAR) and that area within the R8B district measures 47’ x 100’6” = 4723.5 (27.3% x 4.0 FAR), the maximum allowable FAR, as averaged pursuant to ZR § 77-22, appears to be 8.36. Please verify this analysis and revise all relevant zoning calculations accordingly.
33. Under Applicable ZR Section for “No. Parking Spaces,” please change ZR § 13-42 to § 13-12 (for UG 2) and § 13-133 (for UG 4). Pursuant to these sections, residential parking spaces cannot exceed 35% of dwelling units and community facility parking cannot exceed one space per 4000 sq. ft of floor area. Please verify this information and revise the “Maximum Permitted” column accordingly.

**DEPARTMENT OF BUILDINGS (DOB) OBJECTIONS**

34. Please provide evidence that the DOB issued their current objections based on the current proposal before the BSA.

**FEASIBILITY STUDY**

35. Although it is recognized that Congregation Shearith Israel has not-for-profit status, for the purpose of this study, please ascribe standard market-rate rents for community facility space based on comparables rents in the vicinity of the subject site for both the as-of-right and proposed scenarios.
36. It is noted that all comparable properties analyzed to determine the subject site’s value (Schedule C, Page 10-12) are all downward adjusted for “inferior zoning” (the subject site has split zoning - R8B and R10A - and the comparables are all located in R8 or R8 equivalent districts). Please note that for developments in contextual districts, each portion of the zoning lot shall be regulated by the height and setback applicable to the district in which such portion of the zoning lot is located. Further, it is noted that the subject site is located within an historic district which applies further regulation on the height of any

development of this site. Given this information regarding height and setback controls, it does not appear that additional floor area above 4.0 FAR could be utilized on this site (please note that the as-of-right plans show an FAR of 3.23 or 5,513.60 sq. ft. on the R10A zoned portion of Lot 36). Therefore, it does not appear that the subject site's partial location within a 10.0 FAR district (R10A) should warrant any downward adjustment for comparable properties zoned R8, R8B or C6-2A. Please revise this analysis.

37. Provided that the alleged hardship claim for the development site (Lot 36) is an inability to accommodate CSI's programmatic needs on Lot 37, please analyze a complying, fully residential development on Lot 36 as requested within Objection # 31. This analysis is requested for the purposes of gauging what the economic potential of the development site would be without the alleged hardship.
38. Please analyze the "lesser variance scenarios" as described in BSA Objections # 30 and # 31.

### **CEQR REVIEW / EAS**

39. **Methodology for Project Site:** It is inappropriate to analyze only the proposed new building on the subject zoning lot. Please revise the EAS to reflect the entire zoning lot (existing synagogue and proposed new building).
40. **Methodology for "No-Build" / "Build" Scenarios:** Provided that the feasibility study, submitted as part of this application, asserts that an as-of-right development is not economically feasible, it does not appear to be a reasonable assumption to project new, complying development on Lot 37 by the Build Year of 2009. Please either provide a thorough and rational justification for this approach or revise this EAS's methodology by analyzing existing conditions on the entire *zoning lot* for the "no-build" scenario.

### **EAS Form**

41. **Part I, No. 8:** Please update this section to reflect the Certificate of Appropriateness granted by the Landmarks Preservation Commission for the subject proposal.
42. **Part I, No.13b:** Please verify the gross square footage sums listed for "Project Square Feet To Be Developed" (please be sure to include cellar space) and for "Gross Floor Area of Project" (be sure to include the existing Synagogue building and all cellar space).
43. **Part II, No.3:** Please amend the site data for "Community Facility" by including both existing buildings on the subject zoning lot.
44. **Part II, No.4:** There does not appear to be any existing parking spaces on the subject property. Please revise "Existing Parking" section accordingly.
45. **Part II, No.10:** Under "Proposed Land Use," please verify the gross square footage of each building. Be sure to include the existing Synagogue and all cellar space).
46. **Part II, No.11:** No parking is proposed; please revise this section accordingly.

**Technical Analysis**

**47. Land Use, Zoning & Public Policy:**

- a) Please provide a fuller narrative of the existing zoning district (R10A & R8B) in terms of use, bulk, and parking regulations. Please discuss nearby zoning districts also in terms of their use, bulk and parking regulations.
- b) With regards to “public policy,” please discuss whether the site is located within New York City’s Coastal Zone Boundary, an Historic District, an Urban Renewal Area, a 197- a Community Development Plan or a proposed rezoning area.

48. **Shadows:** In accordance with CEQR Technical Manual sections 322 and 400 within Chapter E “Shadows,” please provide a fuller description of existing activities/programming and shade tolerance of existing vegetation in the portion of Central Park where new incremental shadows are projected.