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September 19, 2007

Jeff Mulligan  
Executive Director  
NYC Board of Standards and Appeals  
40 Rector Street - 9th Floor  
New York, New York 10006

Re: BSA 74-07-BZ  
Congregation Shearith Israel  
6-10 West 70th Street/99 Central Park West  
Block 1122 Lots 36. 37 - Manhattan

Dear Mr. Mulligan:

I am in receipt of the 197 pages of new documents submitted by the Applicant Congregation Shearith Israel on September 10, 2007.

In connection therewith, enclosed please find our Preliminary Opposition to the Application. We believe that further revisions need to be made to the Application and drawings prior to scheduling any hearing in order to permit meaningful consideration, and these suggested changes are stated below.

As to most of the BSA Objections, the Applicant purported to respond, but the responses are in our view insufficient to support the required findings and many were not responsive to the Objection. For example, as detailed in the attached Preliminary Opposition, the Applicant still has been unable to establish the nexus between the alleged hardships and the specific requested variance. Indeed, some information weakened rather than strengthened the Applicant's position.

We respectfully request that BSA ask the Applicant to provide supplemental and revised information as follows:

1. Please clarify in a narrative whether the model used for computing rate of return and Profit(loss) assumes that in all the schemes analyzed, the Congregation, as the land owner, receives off-the-top, an \$18.9 million payment for land costs, so that in all the rate of return analyses, the Congregation would have a net positive cash position.
2. Explain the inconsistency between the conclusion that the market value of the site is \$18.9 million based upon zoning limitations in existence and the value that a developer could be expected to derive from the site, and the conclusion that an as of right building

would lose \$5,011,000. Does this not mean that the “cost” of the site is overvalued as computed by the Applicant?

3. Explain why it is appropriate to consider small 500-1000 square foot rooms as “comparable” properties in ascertaining community facility rates for a 12 classroom school with support facilities including lobbies and recreation facilities? If there are no comparable properties for lease, please provide an alternate methodology. Please explain why the construction costs for the school range between \$10.5 million and \$11.5 million, but the capitalized market value of the school ranges between \$2.1 million and \$4 million.

4. Provide a copy of all leases and agreements, current and past, between the Congregation and the Beit Rabban School and include any letters of intent or understanding or similar documents as to the financial arrangement between the Congregation and Beit Rabban as to the new school facility.

5. The Application states that there are 40 student in the Hebrew School. Please describe whether all of these students are at attendance at the same time. Provide a schedule for the current Hebrew School sessions and the number of students in attendance in each class. The Application now states there are 125 students at the Beit Rabban School. There are 12 classrooms in the proposed school Please state the maximum number of students that will be using the proposed school at any one time.

6. What is the maximum number of persons that will be permitted to occupy the sub-basement facility? What will be the traffic impact functions that will be attended by that number of persons?

7. The Application now states that adjoining windows in 18 West 70<sup>th</sup> St. under the proposed scheme would be blocked, windows that would not be blocked under the as-of-right schemes. In accordance with BSA procedures, please provide photographs of the wall of this building and indicate which windows will be bricked-off. Also indicate whether other windows on that façade will have air or light reduced by the proposed scheme.

8. The Shadow Study of Central Park indicates that shadows will be cast on the street and face of West 70<sup>th</sup> Street; however, the impact on West 70<sup>th</sup> Street cannot be discerned from the study drawings. Provide a shadow study showing the impact of the proposed versus the as-of-right schemes on the building and street opposite the site on West 70<sup>th</sup> Street.

9. With the revised application, the Applicant provided three sets of As-Of-Right drawings, with the drawings all labeled AOR-1 et seq. Please provide revised drawings labeled distinctly for each of the three schemes Also, there is insufficient narrative describing the differences among each of the As-Of-Right schemes – please supplement.

10. Provide a discussion of the use of the terms “school” space and “community space” and the distinctions therein as used in the Application documents..
11. In the Freeman Frazier report, provide an explanation of terms used such as:
  - “Built Residential Area”
  - “Sellable Area”
  - “Rentable Community Facility Area” as used in Schedule A2 (including identifying whether the this term includes, in addition to the classrooms, the caretaker’s apartment, the lobby, the museum, the archives, the Little Synagogue addition, the sub-basement etc.
  - “School” as used in the Construction Cost Estimates.
  - “Potential Residential Zoning Floor Area” as used in the computation of land cost.
12. The new Statement contains on page 23 a table labeled “ Existing and Proposed CSI Program Areas”. Using the terms defined in the prior paragraph, please explain the meaning of the areas shown in the table. Please provide the same table showing both built and rentable areas for “Community” facilities.
13. The application now states that the new community facilities will provide an “Enlarged barrier-free vestibule and Synagogue lobby at the first floor level.” The basement and first floor of the existing and new buildings are not at the same elevation as the adjoining basement and first floor of the Sanctuary. In some places the drawings show stairs between the same floors in the adjoining and community buildings, but, in other places on the same drawings there are no stairs, nor are there any indication of ramps. Please explain how the proposed facility provides barrier free access to the Sanctuary as stated in the Revised Application if there are stairs between the buildings.
14. The newly submitted drawings for the Parsonage (which the Congregation states is part of the zoning lot) show an elevator not previously shown. Please explain. Also, please explain the use of the rooms in the Parsonage, explain whether the Parsonage is has been rented and if so provide information as to the rent received, and explain why the programmatic needs cannot be satisfied using Parsonage facilities. The application states that the new community space will provide “Appropriately sized Rabbinical and executive offices on floors one and two.” If that is so, to how is the Parsonage being used.
15. Provide the exact dates that the vacant lot site within the building site was acquired by the Congregation, and include the citation to property records for the transactions.
16. Please explain why the drawings submitted with the revised application are dated subsequent to the typed date of the DOB objection.

Alan Sugarman to Jeff Mulligan BSA

September 19, 2007

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We believe it would be premature to hold or even schedule a hearing in this matter until these issues are completely answered in written documents from the Applicant.

Sincerely,

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

Alan D. Sugarman

P.S. Supporting Documents are posted at [ProtectWest70Street.org](http://ProtectWest70Street.org).

cc:

Hon. Betsy Gotbaum, Public Advocate of the City of New York

Hon. Gale Brewer, New York City Council Member

Hon. Scott Stringer Manhattan Borough President

Hon. Richard N. Gottfried, State Assembly Member, District 64

Hon. Thomas K. Duane, State Senator, District 29

Hon. Sheldon J. Fine, Chair, Manhattan Community Board 7

Jed Weiss, Senior Examiner, BSA

Alan Gieger, Department of City Planning

Kate Wood, Executive Director, Landmarks West

Shelly Friedman, Esq and Lori Cuisinier, Friedman & Gotbaum LLP