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3 COMMUNITY BOARD 7 LAND USE
4 COMMITTEE PUBLIC MEETING

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7 TIME: 7:00 P.M.

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11 LOCATION: Congregation Rodeph Sholom
12 7 West 83rd Street
13 New York, New York

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17 DATE: October 17, 2007

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21 RICHARD ASCHE: Chairperson
22

1 THE CHAIRPERSON: Ladies and
2 gentlemen, if everybody can take a seat.
3 We have a lot to cover tonight.
4 Everybody be seated and let's
5 try to keep conversations out of the
6 room, if possible. What we're doing
7 tonight, everybody knows why we're here.
8 We're here on an application by CSI,
9 Shearith Israel for variances that will
10 be heard by BSA sometime in the future,
11 we don't know when.

12 There have been a number of
13 objections registered by BSA to the
14 application, and as a consequence, the
15 application has not been calendered for
16 a hearing in BSA. Since BSA feels they
17 need more information before they can
18 vote, it stands to reason that the
19 community board can't vote until we have
20 the same information.

21 So tonight's meeting is not a
22 meeting to vote on this issue. On the

1 other hand, we felt that because there
2 are a large number of people that want
3 to weigh in on the issue, the issues are
4 complex and we do have some lead time
5 that we will have, this will be the
6 first of at least two committee, joint
7 committee meetings at which the issues
8 will be first explained, then explored,
9 and then debated. And finally voted on.

10 No vote will be taken tonight
11 and no minds will be made up, in all
12 likelihood, tonight. We will give the
13 develop -- the CSI an opportunity to
14 explain the application and the building
15 they propose to erect. I'm asking them
16 to abbreviate it somewhat. I think you
17 can assume from the -- we're familiar
18 with the institution.

19 We will then, I understand
20 that there's a Power Point in opposition
21 to the application. We'll give whoever
22 is presenting that the opportunity to do

1 so. We will then take questions from
2 the floor. We have some -- but I want
3 you all to bear in mind that there will
4 be an opportunity for public debate and
5 speaking at the next meeting, and then
6 another opportunity at the full board
7 meeting.

8 So if you wish to speak on
9 this issue once, you may decide to speak
10 tonight or you may wish to wait until
11 tonight, until the night that everybody
12 is going to be voting, and it won't be
13 held against you either way.

14 We will ask that you refrain
15 from making the same speech to the same
16 committee twice. It's bad enough that
17 we do it.

18 (Laughter.)

19 THE CHAIRPERSON: Without
20 further ado, if you could introduce
21 yourself, who's on your team, what the
22 application is and what exactly we need

1 to vote on.

2 MR. FRIEDMAN: Good evening,
3 members of the board. My name is Shelly
4 from the law firm of --

5 VOICES: Speak up.

6 MR. FRIEDMAN: I have with us
7 tonight, there are only three of us here
8 to present tonight, two of us and one to
9 respond to any questions that you may
10 have, Ray Dovell, the project architect.

11 Jack Freeman provided
12 financial analysis for a portion of the
13 application. And it behooves, as the
14 chair said, an application -- a building
15 that they've seen several times before a
16 committee.

17 We had no other speakers and
18 no list of folks to speak to the
19 application. We simply wanted to bring
20 your attention where this project is and
21 where the application is and how, most
22 significantly tonight for your benefit,

1 how it's changed since the last time you
2 saw it, since you spent dozens of hours
3 in conference with us and listened to
4 testimony regarding the application.

5 The building itself has
6 changed slightly as a result of the
7 Landmarks' approval. It has not changed
8 since. Ray will, after I've, after I've
9 gone briefly through some of the other
10 changes, present the Power Point, which
11 will focus first on the changes to the
12 building since you last saw it; and
13 secondly, on the variances that we're
14 seeking from BSA, so you have an
15 understanding of those zoning issues.

16 Aside from the building
17 changing, there's a couple of other
18 aspects which have also changed.

19 When we appeared before you
20 last time, we were an applicant. We
21 were not approved by the it was
22 essentially a well reasoned and well

1 articulated debate about preservation
2 issues and Landmark issues.

3 Tonight we appear before you
4 with the full imprimatur of the
5 Landmarks Commission, which is approved
6 on behalf of the Bloomberg
7 administration, everything you see here
8 tonight.

9 At this point, I think it's
10 fair to say that that in and of itself
11 is a big change. We are no longer
12 simply an applicant. We have a design
13 approved by and supported by the
14 Bloomberg administration, the Landmarks
15 Commission and we think that's a
16 significant difference that appeared
17 before you last time.

18 While you can take a look or
19 you can certainly disagree with how the
20 commission came out of when it comes to
21 the case before the BSA, the commission,
22 the commission's voice, its certificate

1 of appropriateness, which is part of our
2 application which is in front of you and
3 which we have additional copies for you
4 tonight is a pretty clear indication
5 that the issues regarding preservation
6 issues, the issues regarding scale and
7 appropriateness and historical district
8 are now, as far as the State of New York
9 is concerned, the voice of the Landmarks
10 Commission has been heard.

11 As you know, this was the
12 building you're going to see was
13 unanimously approved by the Landmarks
14 Commission and that is, and that is an
15 important element of any application to
16 the Board of Standard and Appeals with
17 regard to the required findings.

18 In addition to the imprimatur
19 of the Bloomberg administration, we have
20 a monitor of the community board in
21 several respect.

22 We have your resolution which

1 while disapproved the application of the
2 Landmark's submission spoke at length
3 about several positive aspects of this
4 application. And those positive aspects
5 have been honored and presented to the
6 Commission and as Ray will take you
7 through, in some cases, the application,
8 the building you're going to see has
9 moved toward the position that you took
10 in the -- in your earlier deliberations.

11 Your resolution spoke
12 appreciably about the symmetry of the
13 building with regard to the east facade.
14 It spoke respectfully about the efforts
15 of the architects to solve some very
16 thorny issues regarding scale and
17 height.

18 And those issues we think of
19 it addressed and progress has been made.
20 And so tonight we come not only with
21 imprimatur of the Landmarks Commission,
22 but to a certain extent relying on your

1 voice and how your voice has informed
2 the Landmarks Commission and helped us
3 make changes to warrant approval of the
4 project.

5 I raise these two seals of
6 approval because in every respect the
7 zoning variances are tied into the
8 building, which is approved by the
9 Landmarks Commission.

10 These, there is a one-to-one
11 relationship between each of the
12 variances and the fact that the
13 commission wanted to see the building a
14 certain way and you wanted to see the
15 building a certain way.

16 As an example, in your
17 resolution, you supported the fact that
18 our design provided a symmetrical
19 building behind the synagogue when
20 viewed from the park. That it was
21 centered, that it was quiet and that it
22 achieved a certain background,

1 background status, so that it did not
2 steal from the voice and presence of the
3 landmark, the way, the view from Central
4 Park and other points east.

5 To achieve that, we need the
6 variances that we're requesting here
7 tonight and we can take you through, if
8 you wish, one by one how those variances
9 -- which variances contribute to that
10 symmetry, and how we cannot achieve that
11 symmetry, we cannot achieve what you
12 asked us to do, and we cannot achieve
13 what the Landmarks Commission asked us
14 to do without the variances being
15 requested here tonight.

16 So this is in large respect
17 the execution phase of the proposal that
18 we put before you, and that was
19 considered at the Landmarks Commission
20 because with the building form now
21 approved, we need to go back and get the
22 zoning to line up behind what you asked

1 us to do and behind what you asked --
2 and behind what the Commission asked us
3 to do.

4 And that's why we rely heavily
5 on the previous voices of the
6 certificate of appropriateness and the
7 previous voices of the community board
8 of resolution in terms on how we move
9 forward with this application.

10 Another significant change is
11 in the closing hours of deliberation
12 when we came to you this building was
13 going to be a Section 74-711 special
14 permit. We took that struggle forward
15 and we believe that was the right
16 approach. The Commission disagreed.

17 The community at large uphold
18 the 74-711 at the end of the day, the
19 Landmarks Commission did support the
20 74-711. But it's important I clarify
21 the record because I said several things
22 in reliance upon the 74-711 application

1 that now will not be part of the BSA
2 discussion.

3 I stated that there will be,
4 that there had to be a preservation
5 purpose served by the application in
6 order to get the 74-711 application.
7 There is no such requirement in the BSA
8 statute.

9 I indicated there would be a
10 plan for continuing maintenance entered
11 into. Deep restriction provided for the
12 long-term within the maintenance of the
13 synagogue. That only comes with the
14 74-711. There's no need for that at the
15 Board of Standard and Appeals.

16 Those two issues the synagogue
17 is going to do voluntarily anyway,
18 because then it sends stewardship over
19 the building, so there's no loss there.

20 There was a statement about --
21 in the community about the requirement,
22 a hope for a restrictive declaration

1 proceeded as a 74-711. Not withstanding
2 the fact it is a tougher application to
3 get approved, but the Landmarks
4 Commission listened to elements of the
5 community and stressed that we should be
6 going instead to the Board of Standards
7 and Appeals.

8 So that's why we're at the
9 Board of Standards and Appeals through
10 absolutely no effort of our own to get
11 to the easier agency.

12 Two last concepts I want to
13 discuss with you with regard to, I think
14 what you're going to hear tonight, then
15 I'm going to give it over to Ray. One
16 is the issue of financial hardship.

17 As many of you know who have
18 seen these cases for some 20 some odd
19 years, a non profit applicant, the Board
20 of Standard and Appeals does not have to
21 make the finding.

22 In fact, the material that was

1 regarding the unused floor area.
2 Restrictive declaration to the province
3 of 74-711.

4 The BSA does not ask for
5 restrictive declarations regarding floor
6 area, so that will no longer be
7 considered. There was, of course, I
8 gave the process 74-711 city counsel for
9 review. The BSA does not go to city
10 counsel for review.

11 It views on the variance will
12 be final and subject only to litigation.
13 That litigation being not against the
14 synagogue but against the city in the
15 form of an Article 78 it will be a suit
16 against the City of New York not against
17 Shearith Israel.

18 So from that standpoint, they
19 had significant changes, maybe not all
20 of them in terms of long-term
21 preservation issues. We for one do not
22 understand why this could not have

1 sent out to you via e-mail you had an E
2 finding provided to you and it clearly
3 says financial hardship shall not be
4 required of a not-for-profit
5 organization.

6 Nonetheless, we've provided
7 financial background information to Jack
8 Freeman's efforts. Through Jack
9 Freeman's efforts, the reason for that,
10 although there will be no finding, no
11 requirement for the BSA to file
12 financial hardship, oftentimes they like
13 to consider finances under E finding the
14 minimum variance requirement.

15 If it's their call, it's a
16 factor they may consider or may not
17 consider, but it's not required if they
18 consider it.

19 But in any event, we had gone
20 through the process preparing financial
21 information. I just want to restate
22 that the financial information is not

1 because the BSA requires it and the BSA
2 will make no finding on hardship.

3 It's simply there if the board
4 chooses to include it among the factors
5 for the minimum variance finding.
6 Something concerned about whether the
7 residential we're asking for is too
8 much, too little, what have you. So
9 that's that.

10 The other question is one of
11 precedence. You will be hearing a lot
12 and you've already seen a lot about how
13 this concept of a not-for-profit seeking
14 the revived residential opportunities in
15 real estate is somehow some new
16 invidious attempt that has never been
17 done before and that is breaking the
18 envelope of what's been done in the City
19 of New York.

20 All I can tell you is the
21 first case I worked on in 1982 in the
22 State of New York is just that when the

1 a dozen examples to literally dozens of
2 examples. St. Steven's Church.

3 There are a number of examples
4 in this immediate neighborhood of
5 exactly what Shearith Israel is trying
6 to do now. It is trying to utilize air
7 rights which it has owned since the
8 zoning resolution created air rights for
9 its own programmatic purposes and
10 there's absolutely nothing new with that
11 approach.

12 So I'm going to ask Ray now to
13 step forward and provide you with a
14 survey of the changes in the
15 architecture and give you a basic
16 architectural background in the zoning
17 variances, then if you wish, I'll be
18 happy to come back and talk about the
19 variance application itself.

20 A VOICE: Can you use the
21 mike. State your name and firm.

22 MR. DOVELL: Ray Dovell,

1 Jewish Museum proposed to build a
2 residential tower on Fifth Avenue, it
3 ultimately wasn't built although the
4 Landmarks Commission approved it and the
5 City of New York were prepared to issue
6 a building permit.

7 Sticking just to this
8 community board, Trinity School long
9 before 1982 developed as a real estate
10 developer a Mitchell Lama on its site.
11 The roads to Lincoln Center was built a
12 decade ago.

13 You've been considering the
14 Fordham Bugler which asks for
15 residential development on its community
16 facility. This is nothing new. It's
17 been in this community board and
18 throughout the city for decades.

19 And, in fact, when you add to
20 that its cousin, when a not-for-profit
21 sells its air rights to an adjacent
22 developer to build housing. We go from

1 Platt, Byard, Dovell, White Architects.
2 What I'm going to start with on the
3 Power Point presentation is a
4 cataloguing of the design changes made
5 from the last time we saw your group
6 after, before the Landmarks Commission
7 ultimately approved it.

8 So if I can ask you to turn,
9 we'll go through them and I'll refer to
10 the model for clarity's sake. The
11 presentation, we split it in two pieces,
12 one dealing with the Landmark approval
13 board, as Shelly said zoning issues.
14 Starting with Landmark's.

15 MR. SIMON: Will you be
16 providing hard copy?

17 A VOICE: Hard copy of what,
18 Bruce?

19 MR. SIMON: Power Point
20 presentation.

21 MR. FRIEDMAN: It's an
22 application already on file.

1 MR. SIMON: But the Power
2 Point isn't. You're presenting a Power
3 Point, will you provide hard copy of the
4 Power Point?

5 MR. FRIEDMAN: If the board
6 asks for it, we'll send it to the board,
7 also.

8 THE CHAIRPERSON: Why don't
9 you send us a disc.

10 MR. DOVELL: We eliminated the
11 second penthouse level, which was the
12 penthouse level above here, it's no
13 longer there. We changed the facade
14 material from terra-cotta to brick or
15 terra-cotta is something this community
16 objected to early on.

17 We dropped the cornice which
18 you can see right along the front street
19 line here to align with the neighboring
20 cornice, and at the suggestion of the
21 Landmarks Commission, we introduced a
22 vertical element at the end of these

1 pieces here to give it a visual support,
2 and to use it as a method for increasing
3 the opening of the doors to the street.

4 Now, here is the -- this is a
5 small piece of the model, which I'll put
6 down here and you can see that effect
7 was. It's a vertical member that
8 supports the brick spangle pieces,
9 visually creates a freestanding column
10 out towards the street to give it a
11 greater presence and more open, openings
12 with doors.

13 Here to the left is the
14 original presentation that you saw, to
15 the right is the approved Landmark
16 submission. You see the upper
17 penthouses is up here, which is now
18 gone. Here you see the vertical element
19 coming through, supporting the ends of
20 the brick spangles. The change of
21 materials and the existing doors.

22 Landmark commented on the

1 required jump of scale from the
2 residential to the monumental aspect of
3 the synagogue. And the most importantly
4 the maintaining of the cornice right
5 now.

6 Here you see the cornice is
7 slightly up above and here you see it
8 now actually six inches below the
9 cornice of the adjacent building to the
10 east.

11 A VOICE: West.

12 MR. DOVELL: This is the back
13 of the building, the effect of this
14 change to the back is simply the
15 reduction of that penthouse level.
16 Otherwise, there's no visible change on
17 the south elevation.

18 Now here, very faintly is the
19 Central Park elevations and here you see
20 the one that we showed to you with the
21 upper penthouse. Here you see the
22 penthouse gone. Landmark talked at

1 length about this symmetrical block from
2 the pedimented portico over the
3 synagogue up to this curtain wall block
4 here and up to the penthouse level.

5 In the finally approved
6 version, we maintain that symmetry of
7 that location. It's very important
8 because these tie in directly to the
9 waivers that follow.

10 MR. FINE: Can I just ask who
11 is adjusting the lights?

12 A VOICE: What's the small
13 building to the left?

14 MR. DOVELL: The parsonage.

15 MR. FRIEDMAN: Just wait a
16 minute.

17 MR. DOVELL: Landmark spent
18 quite a bit of talk time talking about
19 the symmetries and how it pedimented
20 this point here. So the scheme was
21 finally approved has the legs that line
22 up with the impediment on each side and

1 go up to the setback penthouse level.
 2 And you can see that quite
 3 well here. You can see in physical
 4 form. You can see in physical form here
 5 what the, how that works. The edge --
 6 (Laughter.)
 7 MS. COWLEY: I think you can
 8 refer back to the images. I think we
 9 stabilized the lighting.
 10 A VOICE: Motion to adjourn,
 11 all in favor?
 12 (Pause in the Proceedings.)
 13 THE CHAIRPERSON: While it's
 14 warming up, do you want to describe --
 15 MR. FRIEDMAN: It's warming
 16 up, we have a count down here. Okay.
 17 MR. DOVELL: Okay. I was
 18 talking about the importance of the
 19 symmetry, Landmark felt this symmetry
 20 was extremely important.
 21 A VOICE: Louder, please.
 22 MR. DOVELL: The symmetry of

1 the bay window over the pediment portico
 2 of the synagogue, then upward to the
 3 penthouse level. This stone was quite
 4 important to the reading of the
 5 building. This is the effect of the
 6 base.
 7 This is the base prior to
 8 approval, the last time you saw it.
 9 This is the base approval. We have the
 10 vertical element coming down, another
 11 offset with a glass in this location. A
 12 freestanding column and four doors
 13 behind. To the entrance of the
 14 synagogue with the same screen element
 15 we had before. The surrounding material
 16 is all limestone and the flanking
 17 material is brick.
 18 And this finally is the
 19 effect, these are rendering made from
 20 the street before and after showing the
 21 reduction removal of this penthouse
 22 level and the changes to the facade in

1 this location.
 2 And now on to the zoning
 3 issues. The zoning issues are best, are
 4 really quite well described in these two
 5 little diagrams right here. This being
 6 an as of right application of the zoning
 7 with the split in the R10A and R8B
 8 portions of the site.
 9 What you should know is that
 10 the allowable floor area over at that
 11 site permitted is 144,500 feet. The
 12 existing synagogue occupies 27,800 feet.
 13 Leaving developable area of 116,000 and
 14 some feet. Of that we are using
 15 56,244 feet. 60,000 of this is unused.
 16 We are not taking advantage of that
 17 balance of 60,000 feet.
 18 Now if you think about this
 19 diagram and what it implies, this slab
 20 right here is a complying R10A envelope.
 21 Beyond it is the R8B complying envelope.
 22 The zoning resolution let's you average

1 floor area, which we've done but it does
 2 not let you average the bulk
 3 requirements, hence, that's why we're
 4 here. What we have done this as of
 5 right portion not taking into account
 6 the floor area that's permitted over the
 7 synagogue allows us approximately
 8 57,000 feet.
 9 This is the model that we're
 10 proposing now which is considerably less
 11 than that. These are the waivers that
 12 are required in connection with this
 13 approval. They fall in two basic
 14 categories. The first is lot coverage
 15 in rear yard. The second category is
 16 height and set back. They're
 17 intertwined, as you will see.
 18 First, we'll talk about the
 19 lot coverage and rear yard. This is a
 20 site plan, Central Park west is here.
 21 The street is here. The corner portion,
 22 the 100-foot corner portion which

1 contains the synagogue, excuse me. Has
2 a permitted lot coverage of a hundred
3 percent. It is not an issue.

4 This hatch portion in here is
5 the R10A portion, interior lot R10A
6 portion which has a permitted lot
7 coverage of 70 percent, as does the R8B
8 portion. Zoning asks that these be
9 averaged, so if you average them, you
10 still get 70 percent. We're asking for
11 80 percent lot coverage.

12 So we would like to occupy a
13 ten-foot sliver across here, more than
14 the current zoning provides. Here is a
15 diagram illustrating the rear yard in
16 the R8B portion which again is down here
17 and the fact that we do not comply with
18 the 30-foot rear yard requirement, but
19 this occurs only in the community
20 facility portion of the project through
21 the first, through the first, for the
22 first -- three floors here. The first

1 floor you can go up to 23 feet without,
2 as permitted obstruction without any
3 required waivers.

4 So it's the yellow portion you
5 see there in planned and in inception.
6 That's a ten-foot sliver on three
7 floors.

8 This is the rear yard
9 requirement in the R10A portion of the
10 requirement is 30 feet, we're asking for
11 ten. Again, it's to accommodate the
12 community facility use in the base of
13 the building. These three floors in
14 here. Here it is in plan, here it is in
15 section.

16 This is the effect on the
17 floor with and without this waiver.
18 What you see here on this side is a
19 20-foot yard that we're asking for where
20 we have classroom spaces. These floors
21 are classroom spaces. If we have to
22 lose the ten feet, we're severely

1 compromised in that location.

2 Now we'll talk about the
3 building heights and set back. This
4 diagram, what you're looking at here
5 indicates the initial set back from the
6 R8B portion. This, again, relates to
7 the aspect of symmetry that we talked
8 about before on the Central Park
9 elevation.

10 We're asking for additional
11 set back required by zoning is 15 feet
12 on the narrow street. We're asking that
13 to be reduced to 12, so it's a very
14 small sliver of space we're asking for
15 here and, again, it's to achieve the
16 symmetry that Landmark spoke so much
17 about.

18 This diagram relates to a base
19 height waiver we're asking for. Base
20 height in the R8 portion only. This
21 portion right here is asking for to
22 waive the 60-foot height is the initial

1 set back height in the R8B portion and
2 asks us to raise that up these
3 additional floor, so those lines with
4 the cornice heights this which you see
5 across here and in the model. And let
6 us get reasonable floor place with them.

7 And the diagram here shows
8 exactly where that's happening. To the
9 left in this zone, this is the R10A
10 portion where that waiver is not
11 required because it's zoning envelope is
12 a much greater, has a much greater
13 height and set back. So it helps us,
14 that waiver helps us align the cornices
15 with the adjacent building mandated by
16 Landmark and allows us to meet the
17 program objectives.

18 I apologize, the computer is a
19 little slow this evening. This is the
20 maximum building height in the R8B
21 portion. This is a site plan showing
22 where that takes place, the R10A portion

1 is here, the R8B portion is here. We're
2 asking to go higher than the 75-foot
3 maximum height limit described by that
4 portion of the zoning.

5 The R10A portion here, the red
6 dotted line shows that permitted
7 envelope which we're well under. And
8 that helps us use the floor plans
9 because without that, there would be a
10 very slim R10A floor plate there, which
11 would really not be usable.

12 And it allows us to maintain
13 the cornice heights that Landmark was so
14 interested in. And finally there is a
15 rear set back requirement in the R8B
16 which is to occur at the 60-foot height.

17 Again, to maintain the
18 symmetry, we're asking for the same
19 waiver in the back that we had in the
20 front. So this little sliver here which
21 the set back requirement is ten feet and
22 we're asking that it be 6.8 feet. This

1 sliver let's us maintain that symmetry.
2 And in section you can see it right
3 there. And that covers the seven
4 waivers that we're talking about. This
5 is the effect of it.

6 This is the effect of it in
7 plan and you can see here again is that
8 elevation showing what the effect of
9 that would be without it, it would be a
10 chip out of the shoulder of that
11 penthouse, which would not work well
12 down through the rest of the building.
13 And that really covers the seven waivers
14 that we're asking for.

15 THE CHAIRPERSON: Shelly?

16 MR. FRIEDMAN: Yes,
17 Mr. Chairman. This really completes our
18 presentation we'd be happy to answer --

19 THE CHAIRPERSON: We'll have a
20 chance to discuss the findings but can
21 you address the E finding and economics,
22 specifically as I understand it you have

1 to show that this variance is the
2 smallest variance necessary to achieve
3 your objective and to do that, strikes
4 me that you have to make the economic
5 analysis to the committee because a good
6 part of the variance is in order to
7 accommodate private residences, which
8 are not part of your religious mission,
9 at least in the narrow sense.

10 And so can you tell us how you
11 get to the E finding that this is the
12 smallest variance necessary to achieve
13 your goal.

14 MR. FRIEDMAN: The language is
15 the minimum variance. As I indicated
16 before, if the board decides it wants to
17 include the financial point of view
18 perspective in that finding, we provide
19 the information. It's under no
20 obligation to do so, it's simply there
21 if it chooses to. We've provided, we
22 believe, is a project which meets the

1 synagogue's and the congregation's
2 needs.

3 That includes a new community
4 house. It includes intervention into
5 the accessibility and egress to the
6 synagogue. It provides, we believe,
7 synonymous with the synagogue's mission
8 an opportunity to build not a lot of
9 residential units in order to conform
10 with the mission of the synagogue.

11 We don't believe that there's
12 any major leap that has to be made to
13 accommodate the provision of residential
14 housing on this project.

15 THE CHAIRPERSON: Maybe I
16 didn't make myself clear. You can
17 accommodate all of the programmatic
18 needs of the synagogue without inviting
19 residences. We're adding private
20 residences, I understand it, in order to
21 finance the building. The question is
22 do you need every square foot of those

1 private residences in order to finance
2 the building, and if so, is the material
3 that you submitted contain that
4 analysis.

5 MR. FRIEDMAN: We believe that
6 it does and with all due respect, I
7 happen to disagree with your opening
8 premise, we believe the condition of
9 this residential space is essential to
10 achieve that mission of synagogue
11 because without that provision, we don't
12 have the means to carry through with a
13 great deal of the programs.

14 So it's not as if we meet the
15 needs of the synagogues and then there's
16 the residential. It is all tied in and
17 apparent in the proposal to be able to
18 execute the entire plan. In the same
19 way many of these other institutions
20 have also availed themselves, their
21 rights that they own for a long time.
22 Other institutions do it differently.

1 of a not-for-profit seeking the proceeds
2 from a private residential building for
3 its programmatic needs.

4 We're faced with this recently
5 in a different kind of situation namely
6 the Jewish Home and Hospital in which we
7 had recommended that they go through BSA
8 and certain precedence were cited by
9 their counsel and, including a couple of
10 cases and it was very specific about the
11 BSA needs questioning in terms of
12 finding whether a not-for-profit could
13 justify the need to build and sell
14 rather its land or air rights for a
15 private residential tower in order to
16 promote its programmatic needs.

17 I take it that is your
18 rationale in this instance. You need to
19 do that, you just said, in order to
20 serve your programmatic need and I just
21 wonder how that squares with the other
22 statements from BSA.

1 Some can have massive publications
2 programs.

3 Some can have annexes and
4 shops all over the city to sell goods
5 and replicas, that's part of their
6 mission, as well. This is part of ours.
7 And the residential is no different than
8 that. We have provided in your
9 application the financial information to
10 substantiate that the board decides they
11 want to look at it. That's Mr. Freeman,
12 he can address those points that you
13 want to review here tonight.

14 MS. SHEFFER: You made the
15 point earlier there are many precedence
16 in this district, as well as all over
17 the city for not not-for-profits or
18 selling part of their property for
19 residential buildings. Are there not
20 precedence or at least some precedence
21 in BSA rulings recently that at least
22 question the argument or the rationale

1 MR. FRIEDMAN: Well, we have
2 as you know been at a discourse with the
3 BSA for a couple of months with regards
4 to the so-called notice of objections
5 which is a consistent aspect in every
6 application to BSA. They send you a
7 list of things they want you to address
8 and you do it. That question has not
9 arisen in that discussion.

10 It's my understanding, I do
11 not know every aspect of that case, but
12 the question there was that, at the end
13 of the day whether they had the
14 sufficient justification for that alone.
15 That is the sale of the residential
16 component of their project. That's what
17 the BSA is there to adjudicate. Some
18 applications will and some won't. I
19 believe that we have a very good
20 submission and a very good case on that
21 point.

22 You know, I understand that

1 some of these other cases involve
 2 situations that, in which non profits
 3 have bought air rights from adjoining
 4 properties made new tax lots, then came
 5 into the BSA and said we have a hardship
 6 with all this and the BSA said all of
 7 this is rather self imposed because you
 8 bought these air rights and you -- we're
 9 not doing any of that. These air rights
 10 have been over the roof of the synagogue
 11 and the community house and the vacant
 12 lots for half a century. And there have
 13 been no changes to the tax lot. No
 14 effort to add to the tax lot or
 15 accumulate air rights for sale. We are
 16 simply using that which we had always
 17 had.

18 THE CHAIRPERSON: This is a
 19 very lengthy discussion. We'll have it
 20 at our next meeting if you claim that
 21 the information is in the application,
 22 we'll examine it. I looked at it

1 briefly. I don't think it answers the
 2 questions that Ethel and I are asking
 3 but we could be wrong. Why don't we
 4 move on to the Power Point in opposition
 5 and then we'll have some more questions.

6 MR. FRIEDMAN: Thank you.

7 MR. LEBOW: I'm Mark Lebow.

8 I'm Shelly's opposite number, namely the
 9 lawyer for the coalition of buildings
 10 that opposes this application which
 11 includes 91 Central Park West, 101
 12 Central Park West, 18 West 70th Street
 13 and the various buildings and tenants
 14 built along West 70th Street.

15 Let me begin by saying that
 16 the Bloomberg administration has not
 17 given any imprimatur to this building.
 18 I don't think Bloomberg administration
 19 cares about this building one way or the
 20 other. What happened was the Landmarks
 21 Commission said that this is an
 22 appropriate building to put next to the

1 landmark, which is the synagogue. It
 2 doesn't mess it up.

3 We argue just what we're going
 4 to argue before you tonight that the
 5 thing is too damn big, it's too high, it
 6 doesn't belong mid-block that it
 7 wandered in from Mars to sit in a
 8 mid-block designation and that it's too
 9 fat. They said we don't decide that at
 10 Landmark. You tell that to the
 11 community board and you tell that to the
 12 Board of Standards and Appeals. All we
 13 decide is whether it messes up the
 14 landmark aesthetic.

15 Now, the architect spoke to
 16 you about the aesthetics of the
 17 building, that's not your issue. I
 18 don't think, not unless you want to make
 19 it one. I think the building is a
 20 little bit ugly but that's my opinion.
 21 They certainly will not send architects
 22 from Stockholm, Sweden, to study this to

1 see if it gets the Nobel prize for
 2 architecture, but, you know, it's a
 3 building.

4 The question that you must
 5 decide is does it mess up the contextual
 6 zoning that has existed now for more
 7 than 25 years on West 70th Street
 8 throughout the west side, so that it is
 9 too big to be blocked in mid-block. If
 10 you do decide it is not too big, this
 11 will be probably a building that is
 12 twice as tall of anything else that's
 13 been knocked down mid-block since the
 14 zoning resolution was adopted.

15 Now, they have asked for eight
 16 variances. These eight variances, as
 17 you know, received 48 discrepancies
 18 misrepresentations and failure notices
 19 from the Board of Standards and Appeals
 20 back in June. The Board of Standard and
 21 Appeals gave the application 60 days to
 22 correct me, it took them at least

1 60 days to do it and they submitted the
2 application over again.

3 October 12, 2007, the Board of
4 Standards and Appeals issued the second
5 notice of objections and it contained 22
6 objections, some were new, but most of
7 them consolidated, the old ones, but the
8 overwhelming amount of the objections
9 still remain and I think that you, your
10 chairman pointed out the real problem
11 with this and it will be impossible for
12 this applicant to ever demonstrate that
13 it's programmatic needs are necessary to
14 get these variances and you were right,
15 the board of standards and appeals says
16 if you want zoning variances for a non
17 profit, you've got to show that your
18 programming needs are what is essential
19 to get these variances.

20 Now, nobody made a
21 presentation until your chairman raised
22 the issue, even mentioned that this top

1 half of the building is luxury
2 condominiums, luxury apartments. This
3 is no way this is consistent with the
4 programmatic needs of this particular
5 landlord.

6 Luxury condominiums are not
7 part of their programmatic needs. That's
8 why I don't think they're ever going to
9 get past the Board of Standards and
10 Appeals objections.

11 Now, in answer to the question
12 my friend Shelly was pretty creative.
13 He said, okay, in order to put up this
14 new building and I make it this big, we
15 need to sell the condominium apartment
16 to a builder. As you know, they have a
17 community house already that occupies
18 half the size, which contains all of
19 their programmatic needs, most of which,
20 as you saw, were classrooms for a
21 school, by the way, which they rent out
22 to some other school that is a tenant of

1 the congregation.

2 Now, the other argument I
3 thought Shelly was going to make, and
4 maybe he did and I didn't hear it, is
5 there are buildings almost this size or
6 about this size in mid-block scattered
7 throughout this particular historical
8 district. And there may be even one or
9 two On West 70th Street, but I don't
10 think you should be persuaded by that
11 argument is because the point of the
12 zoning laws is you do not perpetuate
13 anomalies, most of which were put there
14 in 18 something or other before there
15 was any zoning at all.

16 What you must do is keep the
17 contextual zoning which is about this
18 part 4 to 6 stories of brownstones and
19 beautiful brownstones and especially on
20 West 70th Street, which has some of the
21 nicest brownstones in the entire city,
22 if not the entire country.

1 Now, lastly, before you see
2 the Power Point presentation which will
3 go into this in greater detail, I want
4 to talk about this hardship business.
5 They keep this landmark in great shape
6 and I have to hand it to them, they
7 raised millions of dollars to do it and
8 they keep it in great shape.

9 This congregation is not a
10 hardship case. They probably got more
11 money than Saint Patrick. They
12 certainly have more money in Rodeph
13 Sholom. The there is no hardship, there
14 the Landmarks Commission told them that.
15 It's up to you to focus, keep your eye
16 on the ball is this huge probably in
17 mid-block and that is what the Board of
18 Standards and Appeals has asked you to
19 make your recommendations to it about,
20 and that is what you should use as the
21 basis for denying the application.

22 I hope we can do our Power

1 Point, if you're ready, Alan, and I'll
2 hand up the microphone, if I may.

3 MR. SUGARMAN: We're setting
4 up. Alan Sugarman. I'm an attorney. I
5 live on West 70th Street and I was
6 maintaining a website, West 70th dot
7 org. The purpose of it is to assemble
8 all of the documents, letters, rules,
9 regulations, comments people have to
10 make available the variance.

11 In the beginning, I was a
12 little apprehensive. I believe it is a
13 good idea to go over some issues that
14 really require further information from
15 the applicant.

16 So I'm going to slightly
17 change my presentation because the rules
18 have changed tonight, but in a very good
19 way. I'm going to focus initially on
20 the initial revised feasibility study
21 provided by Friedman Frazier, who I'm
22 glad is here tonight.

1 Even though Shelly Friedman
2 has said that they don't need to have
3 it, it hasn't been withdrawn and the way
4 I understood what he just said a few
5 minutes ago is that it still is part of
6 the application. It's part of the
7 overall conflicts. So we're still going
8 to have to come back to this document.

9 What I'm going to ask the
10 board to do after it hears this is if it
11 thinks of, if it needs more information
12 that it asks Friedman Frazier to provide
13 specific answers to some of the
14 questions being raised here tonight. I
15 also want to point out that the new
16 objections have at least six new
17 requests that relate to this particular
18 report. Ready?

19 A VOICE: Yes.

20 MR. SUGARMAN: We'll go to
21 number 17. Okay. I spent a lot of time
22 reading this report and I gave it to a

1 lot of people I knew who did a financial
2 analysis, and most people don't quite
3 understand what it's trying to say and I
4 hope I figure this out, but, basically,
5 the report is trying to do a return on
6 investment analysis and they're really
7 two big components of this, for this
8 project.

9 The first one is the expense.
10 We have the construction cost and these
11 are hard and soft dollars. Somebody has
12 to write a check and deliver that to the
13 contractors and to the consultants, the
14 architect, et cetera. The other part is
15 the land cost.

16 In this particular case, the
17 land cost that's used is pure
18 conjecture. It's based solely on
19 assumptions and we have to understand
20 the congregation already owns the land
21 and there is no land cost, as such, at
22 least as far as there is a cash payment

1 and this is one of the specific pieces
2 of information requested by the new
3 objections, objecting to the way the
4 land cost was played around with.

5 Obviously, the land cost goes
6 up, the profit increases.

7 Now we go to 18. Okay. On
8 the income side of this project, once
9 again we have a mixture of fact, the,
10 condominium sale, those were coming in
11 cash and the people, most people have a
12 good idea what the condominium will sell
13 for, but the other subjective issue we
14 have here is the value retained by the
15 congregation, the banquet hall, 6,000
16 square feet, lobby, elevated classrooms,
17 archives, offices, kitchens, et cetera.
18 That's really a guess here. There's no
19 hard number for this.

20 Obviously, as we reduce the
21 value, then that's going to have an
22 effect on the profit and loss. So we

1 can see the subjective valuation of land
2 cost is important and the subjective
3 valuation of community space retained is
4 also important.

5 Now, interestingly enough, in
6 this latest version of the report, it
7 says that the school facility is worth
8 only \$4 million. This is a school for
9 120 or so children, 12 classrooms,
10 recreational area, meeting areas,
11 bathrooms, et cetera, et cetera. That
12 would be a questionable issue and there
13 probably is a fact that relates to this
14 on what's being paid in the lease, but
15 that hasn't been presented.

16 Let's go to 14. So the BSA
17 objected in number 22, in its new
18 objection it says it's not appropriate
19 to adjust upward the vacant land sales.
20 Now, that was a very polite way of
21 saying that the evaluation for land is
22 way too high.

1 So if you go to the next slide
2 11. We'll see what they have done here.
3 If you look what they did is they use a
4 figure of 37,899 square feet of
5 available land, available development
6 rights and they multiply that by 500.
7 Why don't we go to 12 for a second.

8 This is from the Friedman's
9 first report. Where do they come up
10 with \$18.9 million? It's simple. They
11 said potential residential zoning floor
12 area multiply it by 500 and they come up
13 with 18,944. Go back to the other
14 slide, 11.

15 Now if you go back to the
16 other slide here, look in the first gray
17 area, you see the square feet being used
18 for the different scenarios they
19 proposed. I don't see 37,899. In fact,
20 on the far right this was supposed to
21 be, and the scenario where they were
22 doing all residential building for that,

1 they even came up with a loss, as well.
2 So it's pretty clear that no one, no
3 developer is going to go out and pay for
4 37,899 square feet. They're only going
5 to be able to build 26 -- really 16,000
6 square feet, so no wonder there's a loss
7 in all the numbers. That's the first
8 issue that you need to appreciate here.

9 The second thing and -- and
10 also by the way if you look at the land
11 cost, it's actually in all cases almost
12 more than the construction cost. So
13 it's really the range of component in
14 and it's way overvalued, but that's what
15 they've been asked to fix. Ask we go to
16 16.

17 So the second thing they have
18 done here relates to the capitalized
19 value of the community facilities. Now
20 what's interesting here is that the
21 synagogue wants to sell its land for
22 \$18.9 million, but they still want to

1 put in all these facilities, the school,
2 the banquet hall, et cetera, et cetera.
3 What they're saying here and, again, I
4 think they've been asked to correct this
5 is all the stuff the synagogue is
6 retaining for itself is only worth 4
7 million, even in the proposed and also
8 it's sort of weird, if you sell your
9 land, then -- and retain the right to
10 use a good portion of it should you be
11 permitted to get the full 39,000 square
12 feet? I would say no.

13 So we can see two ways in
14 which land costs have been adjusted
15 here. Why don't we go to 20.

16 This is a slight about the
17 community facility, 21. So we can see
18 again the under value of the community
19 facility.

20 And we go to 22. This is just
21 an example, the banquet hall which is
22 pretty large. I've rented facilities

1 and this is pretty big. Well, the real
2 issue that's lined up here is what
3 happens to this \$18.96 million.

4 Well, you look at the
5 computations they provide, it sounds as
6 if someone has made 18.96 million. And
7 there seems to be a hypothetical
8 developer here or a real developer, but
9 I think what the assumption is is this
10 hypothetical developer pays synagogue
11 \$18.9 million, and then the building
12 gets built and if the synagogue doesn't
13 get back its 18.9 million or if the
14 developer doesn't, there's a loss, but
15 if you look at it from the synagogue's
16 point of view, they're going to end up
17 with cash in their pocket.

18 So I ask you to -- these are
19 complicated schedule, but really that's
20 the heart, no matter how you look at it,
21 it sounds to me as if the synagogue
22 could build all three of the versions

1 they have without raising any funds
2 based upon the numbers that are
3 presented.

4 So I'm hoping we can get some
5 more information on this. I have a more
6 extensive slide show that will be
7 available on my Web site and I would
8 like to move on because I think I've
9 pointed out the basic problem here.

10 While we're here, I wanted to
11 go into a few other issues only because
12 we haven't received information on them.
13 First, slide 24.

14 Slide 24 relates to the
15 parsonage. The parsonage is part of the
16 zoning law. The parsonage as people in
17 the neighborhood know have been
18 renovated in the last two or
19 three years. What's it being used for?
20 It's not being used for the archives.
21 It's not being used for offices. It's
22 not being used for the museum. It's not

1 being used for all the other purposes
2 that they have a very good need for they
3 claim. It's being used as a rental
4 property, that's six bedrooms, terrace,
5 living room, dining room and it's being
6 used as a rental facility.

7 It's rented out to someone
8 probably as much as 17 or 18,000 a
9 month. That's fine. It's very creative
10 of the synagogue to do that, but at the
11 same time they really can't come back
12 and say they need, they need facilities
13 for their programatic needs when they're
14 sitting right here.

15 And if I had shown the first
16 floor here, it would not take much
17 creative architecture to figure out a
18 way to put the synagogue extension in
19 there. So we'd like to get some answers
20 on the parsonage. We've raised it and
21 the answer is basically been silenced.

22 The next slides I want to look

1 at are slides 40, actually 38, 39, 40
2 and 41. Start with 38. 38. These four
3 slides show the area of the proposed and
4 existing buildings with the existing on
5 the left and the proposed on the right.
6 And show the connections between the two
7 buildings.

8 Now if I've seen so many
9 paragraphs, sentences, pages about
10 accessibility elevation and circulation,
11 so I made a comparison of the, of
12 existing building and what they're
13 proposing and, you know, I can't find
14 any discernible difference. They both
15 have an elevator, that's in yellow.
16 Those arrows point to the entrances and
17 the synagogue is over to the right.

18 Let's go to the second floor.
19 Same thing on the second floor. Third
20 floor. Same on the third floor and,
21 again, if you look at the fourth floor,
22 the same thing. So this, there might be

1 some minor changes. I know they have a
2 new elevator. I know the elevator
3 breaks down all the time. It might make
4 things easier, but people still get up
5 to the upper floors by elevators, same
6 access back and forth.

7 I really don't understand at
8 all the narratives and all the various
9 pages in the application and I think
10 they have to explain this if they're
11 going to rely upon access,
12 accessibility, et cetera, as a reason.

13 The last thing I would like to
14 do is just point to a few slides, give
15 me a moment. A few environmental-type
16 issues that have not been, I believe
17 adequately discussed and we start with
18 number 30.

19 I guess I'm sensitive to this,
20 but I think the synagogue is going to
21 have to do a better job of the dealing
22 with the traffic congestion caused by

1 the school now. This is customary of
2 the block up the street and the banquet
3 hall, I haven't figured out how many
4 people 6,000 square feet will hold, but
5 it's a heck of a lot of people and
6 that's a concern it's not something to
7 be ignored.

8 31, similarly, they have this
9 banquet hall. Right now they don't seem
10 to be able to manage their garbage after
11 an event. So I live across the street
12 and have to look at mounds of garbage on
13 Sunday afternoons. Do they have a place
14 for the garbage? I know this is a big
15 issue before the BSA.

16 The next item is 32. I'm
17 sorry, the next one. 33. Shadows. My
18 favorite topic. When you go before the
19 Landmark proceedings they say, oh, no,
20 we don't consider shadows sunlight.
21 Then when you come back to these
22 proceedings we will hear, oh, no,

1 Landmarks already looked at it all
2 height and all these things and you're
3 not slows supposed to look at shadows
4 here. And then you have to think for a
5 moment about the mid-block zoning what
6 it's all about.

7 The corner buildings get a lot
8 of sunlight because they're on the
9 corner, they get it in two directions
10 they have the avenue, so when you come
11 in block that starts to disappear. Now
12 we have asked, we've been standing the
13 Landmark proceedings for the architect
14 to flip a switch and give us some shadow
15 studies for 70th Street.

16 Silence, that's always been
17 the response. Silence. And I submit
18 that because it's so easy to prepare
19 that this is going to show a big impact
20 on these buildings along 70th Street and
21 for my cat who likes the sun in the
22 afternoon in the winter that will be

1 gone. That's all I have I want to
2 comment on now, but I do ask Mr. Freeman
3 prepare a respond, respond to these
4 questions and, also, tell us who is the
5 developer. Is it the synagogue? Is it
6 a third-party? And explain these
7 inconsistencies. Thank you.

8 (Applause.)

9 MR. PRINCE: Before we put
10 away the computer, we had two more Power
11 Points, both adhering to the two-minute
12 sort of floor. Can we do one more
13 before we turn it off? There is one --

14 THE CHAIRPERSON: Two minutes.

15 MR. PRINCE: Thank you.

16 MR. HARTNETT: My name is Mark
17 Hartnett. I'm a resident on the West
18 70th Street. At the height of Shearith
19 Israel request of zoning variances is a
20 claim of financial need. Rather curious
21 wording, CSI states the revenue from
22 it's proposed condos are required to

1 fund their programatic pursuits. Of
 2 course, since CSI is a non profit
 3 religious institution, it is not
 4 required to make any financial
 5 disclosures to support this claim.
 6 However, CSI own Web site, Shearith
 7 Israel dot org permits its ability to
 8 raise money and raise it in very
 9 impressive amounts.

10 This is a page from CSI's own
 11 Web site discussing the congregation's
 12 300th anniversary campaign. The effort
 13 is chaired by Norman Benzaquen that
 14 states the campaign's goal is to reach
 15 \$10 million. Mr. Benzaquen is a
 16 philanthropist and managing partner of
 17 the investment firm of Gilder, Gagnon,
 18 Howe & Co., reveals that the 350th
 19 anniversary campaign comes on the heels
 20 of the earlier 1999 fundraising drive
 21 which preserves CSI landmark building.

22 As per the 1999 campaign, he

1 writes donations came from congregants
 2 that brings light. The campaign was
 3 successful and the funds were put to
 4 excellent use.

5 Why the need for another
 6 drive? Effectively, as a rainy day
 7 fund. We must have a strong endowment
 8 fund that supports religious services,
 9 educational and cultural programs, youth
 10 work, outreach synagogue, archives,
 11 historical cemeteries and other services
 12 for the congregation in the community.

13 The 350th anniversary campaign
 14 isn't interested in donations of \$350,
 15 rather preceding champion sponsors
 16 contributed \$350,350. Thirty paying
 17 members are listed, including wealthy
 18 and influential New Yorkers. I
 19 personally serve on the board of the
 20 modest nonprofit organization downtown
 21 and it is understood if your name is
 22 listed, as these names are here, you're

1 expected to either give or get, that is,
 2 give a substantial amount or get others
 3 on your Rolodex to do so.

4 How do the producers list as
 5 the fundraisers do? In an undated
 6 notice on CSI's own site, we see that it
 7 leads to the halfway mark.
 8 Contributions reached \$5 million and
 9 they were advancing vigorously.

10 In case you're missing the
 11 point, here's why this information is so
 12 important. This proposal seeks nothing
 13 short of the transfer of equity from
 14 community or board of New Yorkers to an
 15 institution with the ability to raise
 16 funds from extremely wealthy vendors.
 17 It is unthinkable this community will
 18 put its stamp on this. Thank you.

19 (Applause.)

20 THE CHAIRPERSON: One more?

21 MR. PRINCE: As for the other
 22 one, it was about the windows and I

1 would like to wait until our next
 2 meeting when CSI responds to the
 3 application, please. Thank you very
 4 much.

5 (Applause.)

6 THE CHAIRPERSON: We have a
 7 large number of speakers and I would
 8 like you to bear in mind two things.
 9 No. 1, if you don't speak tonight,
 10 you'll have an opportunity to speak at
 11 our next meeting when the committee
 12 votes, and No. 2, it is always
 13 appreciated when a speaker not repeat
 14 something that's either in the Power
 15 Point or what a previous speaker has
 16 said. So if you signed up to speak and
 17 you merely want your presence to be
 18 noted and which side you're on and who
 19 you agree with, you can stand up and say
 20 that and that will be appreciated too,
 21 but anyone that wants to speak will be
 22 allowed the full two minutes.

1 I see and welcome back to the
2 community board Jan Levy with her hand
3 up.

4 MS. LEVY: Thank you,
5 Mr. Chair.

6 THE CHAIRPERSON: It would be
7 fool hearty of me not to recognize her.

8 (Laughter.)

9 MS. LEVY: I understand there
10 were three more meetings, there's
11 another meeting of the landmark
12 committee this month --

13 THE CHAIRPERSON: Next week's
14 meeting of this committee will not
15 address this building. Our next
16 committee meeting will be dependant upon
17 when the application responds to the
18 objection and BSA acknowledges that the
19 application that they have no further
20 objections.

21 There's no reason to meet
22 again before that. There may be more

1 than one meeting if we don't get our
2 business started, but we're going to
3 have at least one more meeting with the
4 committee, then there will be a full
5 board meeting.

6 MS. LEVY: So we don't have a
7 date certain on the vote.

8 THE CHAIRPERSON: We don't
9 have any date certain. I've heard
10 rumors that the application is trying to
11 have it calendered for December 4th.
12 Our full board will be meeting on the
13 evening of December 4th, but BSA,
14 typically, will hold the record open for
15 --

16 MS. LEVY: You may not have
17 anything to present to the full board
18 then.

19 THE CHAIRPERSON: Then it
20 won't be calendered. We're going to be
21 in step with BSA.

22 MS. LEVY: In other words,

1 watch the Web site. Thank you,
2 Mr. Chair.

3 THE CHAIRPERSON: Okay.

4 Kate Wood followed by Susan
5 Nial.

6 MS. WOOD: Thank you very
7 much. I'm Kate Wood speaking on behalf
8 of Landmark West. I would like to thank
9 the committee for its attentiveness to
10 some really excellent presentations that
11 have been given. This is at heart not a
12 complicated project.

13 In fact, it is a prime example
14 of a persistent and growing trend of non
15 profit institutions seeking to monetize
16 their real estate assets at the public's
17 expense by violating protective height
18 and setback requirements. What makes
19 this project seem complicated are the
20 mount contains of paper, dozens of
21 slides, columns of numbers all seeking
22 to show why Congregation Shearith Israel

1 should not have to apply by the rules,
2 rules that this community and this board
3 fought long and hard to create in order
4 to protect the special character of this
5 neighborhood.

6 Indeed, this application sets
7 out to undue one of the boards truly
8 great successes, low rise R8B contextual
9 mid-block zoning. As Columbia Urban
10 Planning Professor Elliot Sclar wrote a
11 statement about this project as it first
12 appeared four years ago, the very fact
13 so many variances are needed should
14 setup alarm bills everywhere in the
15 planning and preservation community.

16 What is also disturbing is the
17 applicant's repeated failure in all of
18 its voluminous materials to provide
19 essential information necessary to
20 evaluate this application on the merits.

21 These failures are starkly
22 called out by the BSA list of objections

1 to the original application. It's
2 additional 22 objections, the revised
3 application. Plus, the extensive
4 analysis by community representatives
5 including attorney Alan Sugarman and
6 planner Simon Burtrane's copy of the
7 most recent memo is included in some of
8 the memos you received tonight.

9 The most probing of these
10 objections is totally ignored by the
11 applicant. Questions left unanswered
12 include how much square footage and how
13 many classrooms are devoted to the
14 income producing tenant school.

15 Why doesn't the applicant
16 feasibility study include the parsonage
17 with its residential use and income and
18 analysis of its needs and opportunities.
19 Why does the applicant believe it is
20 okay to explain it's neighbor's light,
21 air and quality of life rather than
22 taking advantage. Resources it already

1 has or could have under an as of right
2 scenario.

3 So just in conclusion, one
4 cannot help but suspect that all of
5 these convolutions are simply a smoke
6 screen to hide the one clear fact right
7 there in the applicant's drawings that
8 the most pressing of the claimed
9 programmatic needs for improved
10 circulation and accessibility could be
11 accomplished in just the first floor of
12 an as of right community house and
13 certainly without stacking floors of
14 luxury condos on top.

15 Nothing in life comes for free
16 but in this case Congregation Shearith
17 Israel wants the community to pay the
18 price. Thank you.

19 (Applause.)

20 THE CHAIRPERSON: We're going
21 to make a turn for a minute. I see
22 Assemblyman Gottfried in the audience.

1 Do you want to speak?

2 MR. Gottfried: Thank you.
3 Well, I'll follow your admonition and
4 abbreviate.

5 I'll stress that it would have
6 been wrong to rule on this when the 48
7 point were outstanding. It would be
8 wrong for the community to be asked to
9 judge this project now that BSA says
10 there are 22 points outstanding that
11 need to be responded to.

12 I think what the community
13 board should be doing is appealing to
14 BSA to insist on getting responses to
15 their 22 points and when that response
16 comes in, which may yet be another
17 application, at that point, the
18 community should be given an adequate
19 opportunity to evaluate Shearith
20 Israel's response, should be given an
21 opportunity to communicate to the Board
22 of Standards and Appeals whether those,

1 whether Shearith Israel's responses on
2 the 22 points are satisfactory and let
3 it be given an opportunity to comment on
4 the project with a full amount of time
5 to develop a response on the project,
6 once those 22 point responses have been
7 deemed, if they are to be, a complete
8 application.

9 So it is adamantly wrong for
10 the community and for the community
11 board to be at risk of being put in a
12 position of having this matter coming on
13 before the BSA without the community
14 having an opportunity to comment, and I
15 think the committee and Community Board
16 7 should expeditiously as possible go on
17 record to the Board of Standards and
18 Appeals on those timing issues.

19 THE CHAIRPERSON: Thank you.

20 (Applause.)

21 MS. NEAL: All I want to say
22 is I'm Susan Neal. I'm a lawyer and I

1 came to talk to you about procedure and
2 process and timing, but it's already
3 been said. I just want to thank you for
4 taking the position that you are going
5 to await more information because that's
6 certainly raises the level of legitimacy
7 and credibility of any decision you
8 might make.

9 So thank you very much.

10 THE CHAIRPERSON: Thank you.
11 David Rosenberg followed by Marianne
12 Lang.

13 MR. ROSENBERG: I think it's a
14 little disingenuous for Shelly Friedman
15 to say that Shearith Israel does not
16 have the means to construct its
17 addition. That said for programmatic
18 purposes without constructing the luxury
19 condominiums.

20 Now, means has various
21 meanings. It could be structural.
22 Clearly it's not an issue they couldn't

1 construct these luxury condominiums at
2 the top. What they're saying is they
3 don't have the financial means, then
4 Mr. Friedman says since this is an
5 eleemosynary institution we're not
6 required to make the normal showing of
7 financial hardship, so I'm not going to
8 address that. You take it on faith from
9 me that this incredibly wealthy
10 synagogue and its congregation don't
11 have the financial means to construct
12 the facility that they say they need,
13 which constitutes only the lower floors
14 in this entire project without other
15 floors.

16 For that reason he doesn't
17 address any of the synagogue's finances.
18 He doesn't address the use of a
19 parsonage house. He doesn't address any
20 financial aspect. He just wants you,
21 wants you to take it on faith the
22 synagogue doesn't do this without the

1 contribution of making a profit on these
2 luxury condominiums. The other examples
3 he gave Trinity was not a case where
4 they had to get a variance.

5 He's asking in his own words
6 to monetize the zoning. To monetize it.
7 He wants you to let him violate the
8 zone, get special favors, then to
9 settle. There is nothing in the zoning
10 resolution that requires him to do so,
11 and it should not.

12 (Applause.)

13 THE CHAIRPERSON: Linda
14 Blumkin.

15 MS. BLUMKIN: My name is Linda
16 Blumkin. I live at 111 East 85th Street
17 in the pending shadow of the building
18 that's proposed to be built by the
19 Kehilath Jeshurun and Ramaz in a
20 situation that's remarkably similar,
21 except a heck of a lot taller to what's
22 going on here on West 70th Street.

1 I won't go into the merits of
2 that except to say in the papers
3 submitted by the applicant there
4 represented by the same counsel are
5 astonishingly similar, the arguments are
6 the same as the arguments being made to
7 this community board.

8 I would like to commend this
9 community board in its perseverance in
10 addressing the issues on the merits.
11 Our community board has unfortunately
12 been the subject of a successful end run
13 by K.J. Ramaz and their counsel who
14 filed their papers in time to get on the
15 calendar for July.

16 The community board heard why
17 they could at the end of a very long
18 calendar that evening completed, they
19 did not have time to intelligently
20 address the situation on the merits as
21 to Mr. -- asked Mr. Friedman to put it
22 over to their next meeting in September.

1 That permission was refused.
 2 The matter will not get to BSA
 3 until just about the same time as yours,
 4 probably estimated to be in or about
 5 December, so the BSA is getting zero
 6 input from community board eight and
 7 Mr. Friedman is going to be able to
 8 stand up before community board eight
 9 when folks pull out resolution of
 10 community board eight says we disapprove
 11 and say they didn't disapprove on the
 12 merits.

13 So thank you, guys. We on the
 14 east side are hoping that you will be
 15 able to vindicate some of these
 16 incredibly important principals that are
 17 at stake here. We continue to hope that
 18 our community board will take a stand
 19 like yours and like you, we insist on
 20 answers because somebody has to do it
 21 because otherwise what you have are
 22 developers who are having religious

1 institutions, some of the wealthiest and
 2 most powerful institutions in this city,
 3 fight for them in applications for
 4 zoning variances. So we're rooting for
 5 you guys. Thank you.

6 (Applause.)

7 MS. ADAMS: My name is Jean
 8 Adams and I am a shareholder of 239
 9 Central Park West, a residential
 10 building on Central Park West and West
 11 84th Street. I am also a member of a
 12 special committee of our building's
 13 board of directors monitoring the
 14 proposed expansion of Congregation
 15 Rodeph Sholom School at the school's
 16 West 84th Street mid-block site.

17 This site is contiguous to our
 18 building on the west side of our
 19 property, faces a number of other
 20 buildings on the opposite side of the
 21 street, including 15 West 84 Street, and
 22 is east of 36 West 84th.

1 I am here this evening on
 2 behalf of our shareholders as well as
 3 those of 15 West 84th Street and 36 West
 4 84th Street to comment on the proposed
 5 Congregation Shearith Israel expansion
 6 because we believe this situation is
 7 closely related to one on West 84th
 8 Street that we expect to be on the
 9 community board's agenda in the future.

10 To begin, with respect to
 11 mid-block expansion of buildings in the
 12 upper west side historic district, we
 13 wish to encourage Community Board 7 to
 14 insist upon full compliance with the
 15 statutory mandate of the City's board of
 16 Standards and Appeals to protect the
 17 public's health, safety welfare and
 18 community character prior to granting a
 19 zoning variance.

20 As you know, the governing
 21 standard in New York State applicable to
 22 discretionary waivers of the zoning code

1 mandates that the Board of Standards and
 2 Appeal balance an institution's need for
 3 a request against the detrimental impact
 4 of the proposed expansion.

5 The shareholders of 239
 6 Central Park West, 15 West 84th Street
 7 and 36 West 84th Street encourage
 8 Community Board 7 to stand behind
 9 Section 73-641 of the NYC Zoning
 10 Resolution and encourage the BSA to
 11 demonstrate its responsibility to
 12 protect the air and light of neighbors
 13 potentially affected by mid-block
 14 expansion plans of Congregation Shearith
 15 Israel and Rodeph Sholom as well as to
 16 protect the neighborhood character of
 17 these two micro areas in the upper west
 18 side historic district.

19 The community board must
 20 remind the BSA of its responsibility to
 21 impose appropriate restrictions upon
 22 institutions where the evidence points

1 to significant impact upon traffic
 2 congestion, noise or property values.
 3 The presumption that religious
 4 or educational institutions always
 5 operate in furtherance of the public
 6 interest should not be taken for
 7 granted; we are most concerned that
 8 mid-block expansions of the type being
 9 discussed this evening and the one
 10 proposed for West 84th Street by
 11 Congregation Rodeph Sholom would
 12 actually have a negative effect on our
 13 neighborhood and quality of life in
 14 general.
 15 We encourage Community Board 7
 16 and the BSA to carefully draft a
 17 resolution that will balance the
 18 competing public and institutional
 19 interests. Impairment of the use and
 20 enjoyment of neighboring properties
 21 cannot be disregarded in determining the
 22 appropriateness of the variance

1 application.
 2 Community Board 7 must
 3 encourage BSA to exercise its statutory
 4 right to attach reasonable conditions
 5 prior to granting a variance. On that
 6 basis, the BSA must insist upon strict
 7 compliance with prior directives as a
 8 condition for any waiver of the Zoning
 9 rules.
 10 Finally, we encourage
 11 Community Board 7 to remind BSA that
 12 institutional expansion of the type
 13 proposed by Congregations Shearith
 14 Israel and Rodeph Sholom overpowers and
 15 infringes upon the community's quality
 16 of life.
 17 Thank you.
 18 THE CHAIRPERSON: Ron Prince?
 19 MR. PRINCE: That's me, the
 20 guy with the computer. I'm coming back
 21 next time.
 22 THE CHAIRPERSON: Helen

1 Freund.
 2 A VOICE: She left.
 3 THE CHAIRPERSON: Lo van der
 4 Valk.
 5 MR. VALK: My name is Lo van
 6 der Valk. If I speak today, I can't
 7 speak the next time?
 8 THE CHAIRPERSON: We prefer
 9 you speak once.
 10 MR. VALK: Then I withhold my
 11 comment.
 12 THE CHAIRPERSON: Robert
 13 Goldrich. Joseph Bolanos.
 14 A VOICE: Here.
 15 MR. GOLDRICH: Robert
 16 Goldrich. I live 91 Central Park West.
 17 To me the issue is very clearly CSI is
 18 located historical landmark district
 19 with strict zoning rules and regulations
 20 meant to preserve the character of the
 21 neighborhood for eternity. It's a
 22 dangerous thing to set new precedence

1 that generate government and historical
 2 neighborhoods beyond legal limits.
 3 To you, the community board,
 4 there's only one right thing to do and
 5 that's vote against request to block
 6 zoning. CSI reporting they used to bus
 7 them in from Rochester and New Jersey.
 8 I don't see her today. They could have
 9 many years of happiness if their
 10 leadership showed a path to undergo
 11 capital campaign which was proven
 12 earlier, they could have done very
 13 easily with a few Forbes 400
 14 billionaires on their board.
 15 They need to leadership to
 16 avoid read, choose the legal right and
 17 lead a good path. That's it.
 18 (Applause.)
 19 THE CHAIRPERSON: Joseph
 20 Bolanos followed by James Greer.
 21 MR. Bolanos: My name is
 22 Joseph Bolanos. I'm the president of

1 Landmark 76. That's the West 76th
 2 Street Park Block Association. I'm here
 3 representing over 120 members and
 4 residents of our block. I'm here to
 5 express our solidarity with the
 6 residents in opposing the variance as
 7 well as Landmark West, and I would like
 8 you to excuse me for being dressed like
 9 this, but I spent the whole afternoon
 10 with a Department of Environmental, DEP
 11 hazmat team on our block because an
 12 owner developer decided to use laborers
 13 that were doing a wash with acid and
 14 toxins that ran off the building onto
 15 the sidewalk and into the street.

16 And we managed to stop it
 17 about a foot before it hit the sewer
 18 line. My experience with these hearings
 19 and hearing all these developers is that
 20 it's interesting to hear what they saw,
 21 but more important what they don't say
 22 and the developing question we had today

1 had been before community board seven
 2 Landmark West and LPC and promised about
 3 the most stellar label and the most
 4 incredible manpower, and today we came a
 5 foot away from contaminating that sewer
 6 line.

7 And as a matter of fact when I
 8 leave here, we have, I have three soil
 9 samples that I've taken in the last week
 10 for three different types of projects
 11 that are on our block and I'm going to
 12 make a point about that real quick. We
 13 already established we have 20 percent
 14 more lead on the dust in our streets
 15 because the buildings we have which
 16 primarily are brownstones were old
 17 buildings built in the 1890s.

18 What's happening is these
 19 developers and construction people are
 20 not complying with code, and so we're
 21 walking on the street and puffs of dust
 22 are coming up, like I said, we already

1 have one sampling in one building which
 2 is 20 percent above the allotted lead.

3 Tonight when I leave for ten
 4 minutes, I'm on my way to a lab on 38th
 5 Street three samples and we'll have the
 6 results by Friday. A great deal of the
 7 promise we have on the west side is the
 8 Department of Buildings is failing to
 9 track their permits.

10 We have 40 buildings on our
 11 block and let's say the project that's
 12 being proposed right now, nobody talks
 13 about the fact that if this was to go
 14 through that there might be ten or five
 15 or eight brownstones on that block that
 16 will be, that's also being developed.
 17 We're suffering right now. We're
 18 choking, we have toxic dust affecting us
 19 and it happens everyday. People have
 20 tears in their eyes. This is no
 21 exaggeration. And we're documenting
 22 everything.

1 As far as we're concerned
 2 besides the fact it's a historical area
 3 on 70th street and besides the fact it's
 4 going to ruin the skyline and congest
 5 the area even more than it is and being
 6 Mr. Friedman stated that he has, he
 7 hasn't, he has imprimatur from the
 8 Bloomberg administration and the LPC, if
 9 that's the case, I want to time stamp
 10 the question.

11 If I ask these questions
 12 they're not answered properly, it means
 13 they don't have any future recourse to
 14 answer them and because they have such a
 15 tight package they presented, they
 16 proudly studied density for the
 17 neighborhood, studied stress on the
 18 infrastructure including sewer water,
 19 electricity and the reason I say that is
 20 because a fossil like me that spent 32
 21 years on the upper west side saw this
 22 Park Belvedere where there was no

1 coincidence we had water main breaks on
2 Broadway Central Park West.

3 Millennium Tours went up
4 there, it was no coincidence, strain on
5 the water piping in Broadway gave way.
6 If they gave the answers to this, I
7 would like to take the studies and
8 engineering reports back to our
9 membership because apparently they have,
10 they have complete -- herein complete
11 here as far as their presentation.

12 If you have those reports
13 handy, I'd be more than happy to get
14 them. Thank you for the opportunity to
15 address you.

16 (Applause.)

17 MR. GREER: Mr. Chairman, I'm
18 James Greer. Until about three months
19 ago I've been a neighbor of Shearith
20 Israel for a little over 38 years. I'm
21 going to reserve any comments about the
22 substance of this. I did want to pick

1 up on one point that Shelly made that
2 this does not create a precedence if
3 this is approved, that is rubbish.

4 There are within six or
5 seven blocks of Shearith Israel, at
6 least eight to ten other religious or
7 not-for-profit institutions that have
8 low rise buildings that will be likely
9 or will be tempted to take advantage of
10 a precedence like this.

11 I have copies of my remarks
12 which I'm going to leave with you and
13 spare you any further comment. Thank
14 you.

15 THE CHAIRPERSON: Much
16 appreciated. Thank you.

17 Hunter Armstrong followed by
18 Kent Wallgren.

19 MR. ARMSTRONG: My name is
20 Hunter Armstrong. I would like to read
21 a statement from the Historic Districts
22 Council, I will submit full statement

1 for the record and read an excerpt to
2 you. It was signed by Simeon Bankoff,
3 executive director.

4 We agree with the Board of
5 Standards and Appeals objections to the
6 application that you've been considering
7 this evening and hope the agency
8 continues to deny permission for
9 unnecessarily large building which
10 obviates the protective mid-block zoning
11 which is show integral to maintaining
12 the character of the upper west side.
13 Thank you.

14 MR. Wallgren: I'm Kent
15 Wallgren. I live 18 West 70th Street.
16 I'm also a treasurer on the board of 18
17 West 70th Street and I just wanted to
18 highlight a couple things that directly
19 impact our building and in particular
20 our board is unanimously opposed to this
21 proposal and we are very concerned about
22 the residents living with windows that

1 are going to be shuttered up and bricked
2 up as part of this proposal.

3 We're concerned about the
4 light the air and the sunshine not
5 reaching many of the windows directly
6 facing out. And personally, I have two
7 daughters, six and nine years old that
8 live in a bedroom that will be
9 completely shuttered out from light. So
10 we're very concerned.

11 We're also concerned about,
12 that we are actually helping
13 transferring, well, so many of our
14 residents apartments in this building
15 are actually helping, are going to go
16 down in value and the value is actually
17 going to be transferred to next door and
18 making what my daughters call luxury
19 houses in the sky to rich people and, so
20 therefore, I just want to make a point
21 that we see it as something we really
22 want you to look at very seriously and

1 we're concerned about the proposal.
 2 Thank you very much.
 3 (Applause.)
 4 THE CHAIRPERSON: Bruce Simon.
 5 MR. SIMON: I'm going to
 6 reserve my comments to the next meeting
 7 on the merits. I do have a statement
 8 that I would ask you to receive that was
 9 addressing the procedure. I would like
 10 to make one brief comment about what I
 11 consider to be the inappropriate
 12 references by Mr. Friedman earlier to
 13 the imprimatur of the Bloomberg
 14 administration.
 15 I believe he used the phrase
 16 three times, wholly inappropriate, in an
 17 effort to bring to this body
 18 considerations that do not apply. The
 19 other I think blatantly inappropriate
 20 comment is to try and place upon this
 21 board and the Landmark Preservation
 22 Commission the onus for having imposed

1 upon the synagogue the necessity to seek
 2 the variances they're seeking.
 3 I mean that is just trashy.
 4 And I'm sure that you will recognize
 5 that the effort to place the blame on
 6 you is really kid stuff.
 7 THE CHAIRPERSON: The people,
 8 Helen Zolick? Thomas Hansen. Marianne
 9 Lyons. Okay. I think, I appreciate
 10 everybody's patience and forbearance. I
 11 think we may spend a few more minutes
 12 with members of the board committee
 13 asking questions of the developer.
 14 Everybody is obviously welcome
 15 to stay and listen and maybe we'll just
 16 start it randomly here at my right and
 17 see what questions people have. Victor?
 18 Does anybody have, just start down
 19 there, fire questions at Joe.
 20 MR. GONZALEZ: Victor Gonzalez
 21 I don't have anything to do.
 22 MR. VITULLO-MARTIN: I know

1 you said this, the as of right height of
 2 the building in the R8B area, which I
 3 take it is all the first ten feet of
 4 that building. How high does it go as
 5 of right?
 6 MR. DOVELL: 75 feet. The as
 7 of right there's a 60-foot --
 8 MR. VITULLO-MARTIN: Where is
 9 75-foot on the model? So it's about the
 10 height of the pediment of the sanctuary
 11 of the synagogue, right?
 12 MR. DOVELL: Yes.
 13 MR. VITULLO-MARTIN: Thank
 14 you.
 15 MS. STARKEY: This is just a
 16 clarification. I took some notes. I
 17 thought I heard Shelly say that
 18 financial hardship was not an issue for
 19 a not-for-profit, however, the synagogue
 20 had agreed to provide certain financials
 21 because none the less it would be a
 22 factor in determining whether or not the

1 variances asked for were the minimum
 2 that were necessary, and then I heard an
 3 exchange and I never heard any
 4 financials.
 5 And so I'm just trying to
 6 clarify whether or not we will have the
 7 financials or whether or not they are
 8 relevant in this case.
 9 THE CHAIRPERSON: Well, the
 10 financial analysis in the packet, there
 11 is a financial analysis in the packet.
 12 Whether it is relevant and responsive to
 13 the issues that both and I raised which
 14 we will debate.
 15 I'm not sure, I haven't
 16 figured out yet how to best access this
 17 issue and it may be that we need to have
 18 a separate discussion about that. It's
 19 an extraordinarily complex issue.
 20 You can tell the part of
 21 Mr. Sugarman's analysis refuted some of
 22 the numbers in the CSI's analysis. And

1 I'm not sure that that analysis is
 2 relevant analysis to make anyway, but,
 3 you know, frankly it's very difficult
 4 issue to figure out how to grapple with,
 5 but we certainly ought to devote a fair
 6 portion of our time to the next meeting
 7 to that issue, both in terms of what are
 8 the numbers, and also in terms of what
 9 is the issue that is, you know, as some
 10 people have said, is it appropriate for
 11 a non profit to use, to use their
 12 variances to build private condominiums
 13 in order to finance the building, and if
 14 the answer to that is yes, are all of
 15 these condos necessary to do that or
 16 will some lesser number suffice.

17 And if the answer to that is
 18 no, what is the justification for having
 19 the condo. That's the issue --

20 MS. STARKEY: Can I ask
 21 another question? When you're talking
 22 about the minimum variance necessary,

1 are you talking about the minimum
 2 variance that is necessary for their
 3 programmatic needs?

4 THE CHAIRPERSON: Well,
 5 Shelly, weigh in on this.

6 MR. FRIEDMAN: Thank you.
 7 First of all, the number of condominiums
 8 are five condominiums. That's what's
 9 being here. What I tried to convey was
 10 the sense that one of the findings of
 11 3221 is that the applicant is unable to
 12 achieve a reasonable rate of return
 13 without the granting of the variances.

14 MS. STARKEY: Rate of return
 15 for not-for-profit.

16 MR. FRIEDMAN: That's the
 17 point, it says this finding shall not be
 18 applicable to not-for-profit applicants.
 19 So the financial information that we've
 20 submitted and that you often see in all
 21 of your other variance applications in
 22 this community has not been submitted in

1 furtherance of the B finding.

2 It has been submitted because
 3 unlike the B finding, which is a
 4 mandatory finding which the board must
 5 make, the E finding which is the minimum
 6 variance finding, may if they so choose
 7 involve consideration of finances. And
 8 so to the extent that this optional
 9 inquiry may come up, we've submitted
 10 Jack Freeman, who is here tonight
 11 prepared to go through the economic
 12 analysis and we've submitted that
 13 material.

14 Now, the BSA has asked us some
 15 questions about that material and the
 16 notice of objections and we're
 17 responding to them. But the board's
 18 questions may not be used to
 19 Mr. Sugarman's questions, we're
 20 addressing the board's questions.

21 And when the board tells us
 22 that they're done with viewing our

1 application, we'll have a hearing date
 2 maybe later this month or sometime in
 3 December. And, but we are happy to
 4 answer the community board's questions
 5 about anything that's been submitted.

6 I just have to look back and
 7 make sure I've been clear when I say
 8 it's an optional consideration that the
 9 board may look at not the monetary B
 10 finding because non profits are not
 11 required to meet that standard.

12 MS. STARKEY: Minimum variance
 13 is a mandated finding, right?

14 MR. FRIEDMAN: Yes, it's their
 15 choice. They say maybe you can live
 16 with four or you need all five. They
 17 can go down that road if they choose and
 18 we have to respond whatever road they
 19 will go down. I'm not sure they will go
 20 down that particular road but we're
 21 prepared to deal with that.

22 Mr. Chair, would you like

1 brief synopsis of the financial analysis
 2 I mean, Mr. Freeman is here.
 3 THE CHAIRPERSON: I think it
 4 would be helpful. Why don't we finish.
 5 MR. FRIEDMAN: Whatever the
 6 board wishes.
 7 THE CHAIRPERSON: Also, if
 8 financial analysis does not go to the E
 9 finding, how do you propose to meet the
 10 E finding?
 11 MR. FRIEDMAN: I can address
 12 that, too. You want me to do that
 13 later?
 14 THE CHAIRPERSON: Yes.
 15 MS. ROSENTHAL: Helen
 16 Rosenthal. To the chairs of this
 17 committee, you can decide to set up a
 18 separate group looking at the
 19 financials. I'd be happy to help out
 20 doing that because I would imagine you
 21 can do it well.
 22 THE CHAIRPERSON: All right.

1 MS. COWLEY: I thank you.
 2 MS. ROSENTHAL: Very simple
 3 question. Can you show me where the
 4 five condos are on that model?
 5 MR. FRIEDMAN: The new
 6 building consists of four floors of the
 7 community house, one, two, three, four,
 8 so we're up to here. And then one, two,
 9 three, four, five. This is not a --
 10 this is not a freestanding condo, so
 11 it's the top five floors. I want to
 12 confirm that with Ray.
 13 MS. ROSENTHAL: Thank you.
 14 MR. FRIEDMAN: The original
 15 application was 14 stories and we came
 16 back with this building, two-story
 17 penthouse which would have been a
 18 six-unit and that was cut down.
 19 MS. ROSENTHAL: Okay. My
 20 follow-up questions to that have to do
 21 with financials of the condo units.
 22 MS. COHEN: I think we are

1 going to need to, we're going to need to
 2 analyze each variance one by one.
 3 I think that I am persuaded
 4 that several variances clearly are
 5 needed to maintain the symmetry of the
 6 building. There are some, the ones that
 7 have to do with the rear yard are
 8 specific to the community as it has to
 9 do with how big the school is.
 10 And I would like to know
 11 actually from the applicant in terms of
 12 the tenant the school tenant is, is
 13 there a normal use by the synagogue of
 14 that if they were to completely rent it
 15 out for the tenant's use or is it that
 16 it's an efficient use of space they
 17 haven't used or any regular business
 18 hours kind of thing. That's one set of
 19 questions.
 20 Then there are a set of
 21 variances that are associated with
 22 height and setback that seem -- you have

1 to understand the financial analysis to
 2 be associated with the committee, and I
 3 think those need to be evaluated
 4 separately, especially since this is the
 5 first time I heard tonight, that there
 6 will be blockage of not alignment which
 7 we understand, in general, is a risk of
 8 life in New York, but considering that
 9 that portion of the building wouldn't be
 10 that high, otherwise, this would
 11 actually be us approving a variance that
 12 would block out spotlight windows and I
 13 believe that is of great concern for the
 14 board.
 15 MR. FRIEDMAN: Thank you for
 16 asking the question about the school
 17 because I think there was some
 18 misinformation.
 19 The synagogue has its own
 20 Hebrew school. Vibrant institution, the
 21 school, it services the constituents and
 22 other members of the west side

1 community. Hebrew school tends to be
2 after school and have weekend function,
3 and that is the primary purpose of the
4 space in the community house.

5 And it's the primary purpose
6 of the expanded space with the new
7 classrooms we'll be seeking. Those
8 classrooms lie dormant during the
9 regular school day when children are in
10 other schools in their regular
11 education.

12 The synagogue has arranged a
13 relationship with a day, scheduled day
14 school to use those spaces that are
15 already there. So it's not so the
16 priority there and the zone of the space
17 is not as a rental facility, and oh, by
18 the way, this is not as a Hebrew school,
19 the synagogue has the Hebrew school and
20 have been recently able to find a tenant
21 to be able to use all that space during
22 the daytime.

1 Both institutions are
2 responsible for the present situation
3 which is significant overcrowding, as
4 you know the Landmarks Commission gave
5 approval to put two temporary trailers
6 in the vacant lot because the school
7 conditions are as run down as they are
8 and underserved.

9 The both communities,
10 primarily the Hebrew school community at
11 the synagogue, so in conclusion that is
12 based synagogue space provided for the
13 Hebrew school, needs to be expanded.
14 The tenant will be accommodated to the
15 extent it can be accommodated and to the
16 extent that space is already there.

17 With regard to the second
18 question about the height setback
19 requirements, we will -- we have to
20 maintain and will continue to maintain
21 provisions of residential housing.

22 The residential space is a

1 component, not the driving force, but a
2 component of the school's overall
3 programmatic needs. The same way that
4 the Rose building was an important
5 building perpetuation of the center and
6 other institutions are moving forward in
7 a similar fashion within a stone's throw
8 of West 70th Street.

9 So from that standpoint --

10 MS. COHEN: We have problems
11 with other complications.

12 This one is less egregious,
13 less burdensome.

14 MR. FRIEDMAN: We're talking
15 about five units. We're not talking
16 about the Rose building, but I can't
17 separate the fact that this has been a
18 legitimate pursuit of nonprofit for a
19 very long time. Has not been in
20 invented by Shearith Israel, not created
21 by nonprofit 21-century as some new
22 device for achieving programmatic of

1 efficiency.

2 THE CHAIRPERSON: Now, the
3 moment we've been waiting for Shelly and
4 Shelly.

5 MR. FINE: We were in a
6 difficult position having received BSA
7 22 objections last Friday. To determine
8 how we could look at this proposal and
9 have proper information for the board
10 and community with those issues not
11 addressed.

12 We were also given dates like
13 December 4th, December 8th and even
14 November 28th as possible BSA hearings.
15 Since we want to have proper
16 deliberations, could you tell us at this
17 time an approximate time where you
18 believe that you may respond to those
19 22, in an adequate way so the BSA might
20 decide to calendar? That's one
21 question.

22 And second, can we work

1 together, the community board and
2 Shearith Israel to allow for that
3 deliberation to take place in a timely
4 fashion?

5 MR. FRIEDMAN: Let me address
6 your last question first. The fact of
7 the matter is, now stepping back the
8 question, the objections received last
9 week, and I must define for the group
10 and for those who are listening, these
11 objections are not adversarial
12 oppositional positions.

13 The majority of them have to
14 do with notations on plans, they like us
15 to substitute certain word for other
16 words to improve the readability for the
17 commissioners.

18 These are not adversarial or
19 conceptual plans. They are basically
20 such questions asked, what is a sukkah.
21 Those are the ones we can handle, but we
22 have to respond and we have to respond

1 in an orderly fashion.

2 Our term is to have all the
3 responses due, none of them are terribly
4 hard, by this Friday. It's our
5 expectation we'll meet the deadline. If
6 that's the case, we can have all have
7 the hearing as early as the 28th of
8 November. If not another week
9 December 4th.

10 There's a general concern that
11 being the afternoon of Hanukkah eve that
12 we would not like to proceed on that
13 date, therefore, we're making an effort
14 for everybody's better interests to try
15 and get this all done and in by Friday
16 and get our hearing on the 28th.

17 That said, I think we can
18 anticipate this will not be a single
19 hearing to the Board of Standard and
20 Appeals. I see no calendar issues with
21 overlaying, overdue consideration of
22 this application with the fact that, so

1 that it can be completed before the
2 final hearings of the BSA.

3 And we will cooperate with the
4 board to the extent necessary to assure
5 that because we value this opportunity
6 to define the application for you and
7 seek your support.

8 MR. FINE: Thank you.

9 MS. COWLEY: My question is in
10 three parts because they work their way
11 in Central Park West, I asked my
12 colleagues in parks and preservation one
13 question. Is the parsonage part of the
14 individually designated landmark or is
15 it within a historical district?

16 MR. FRIEDMAN: It is not part
17 of the individual landmark, but it is a
18 historical district.

19 MS. COWLEY: That leads to my
20 second question to which has to do with
21 the as of right proposals you developed
22 and I guess it follows on from the

1 succinct commentary we've had today and
2 has been in the back of my mind about
3 the treatment of the rear yards and
4 certainly amplifies my colleague's
5 comment about blocking up the windows.

6 The examples given A, B and C
7 and the as of right development, I think
8 it's B and C or A and B are exactly the
9 same floor plans, and only C is the as
10 of right that shows your mass
11 development with the slender tower.

12 My concern in this is that I
13 notice that in all three options and the
14 option that you have provided in your
15 design, none of them engaged the
16 parsonage or try to address what appears
17 to be open space and potential
18 development that you would use either
19 behind the parsonage or engage that
20 space.

21 I say this because this, I'm
22 happy we have the time to think about

1 this and I can deliberate with my
2 colleagues, but I think one of the
3 weaknesses and one of the things that
4 I'm going to have trouble with as we
5 move forward is the fact that there is
6 not sufficient variation to show how
7 your program could be met using the air
8 space behind the building that would
9 enable you not to build to such a
10 height.

11 And as for the A, B to be the
12 average between 10AA, 8B not encroach
13 upon the properties that we've seen and
14 make better use, frankly, of the
15 programmatic needs, so it addresses the
16 financial needs, so you would not
17 necessarily need to build the luxury
18 condos.

19 I'm not really asking a
20 question. I'm just telling you my
21 considerations, information and perhaps
22 there would be some additional responses

1 that you can make as to why you did not
2 engage the parsonage as part of the
3 study at large.

4 MR. FRIEDMAN: Well, if that's
5 not in the form of a question, let's put
6 a future date and we'll respond.

7 MS. COWLEY: Unless you can
8 tell us why you didn't engage the
9 parsonage in any of the design studies.

10 MR. FRIEDMAN: There are two
11 and I think the architect is better to
12 answer it, but the parsonage has several
13 problems as potential facility space
14 dealing with its construction, with per
15 se its ability to provide egress
16 necessary for community facility uses.

17 There are serious code
18 requirements regarding the elevator and
19 while it's the elevator can serve
20 residential purposes it cannot serve
21 community facility purposes and,
22 therefore, would have to be most likely

1 in place.

2 It was poor overall for
3 accepting any of programmatic uses the
4 synagogue required. That's why in days
5 of old, as many of you know, it was used
6 as a homeless shelter. That was its
7 only potential use to the synagogue
8 then, and nothing really changed since.

9 It did renovate it, it did
10 imply landmarks for facade work and the
11 like, and has again rented it out and,
12 at market rate to a tenant who has a
13 family there and can use the building in
14 which it was built for the purposes it
15 was built as a residential unit. How
16 that might have been different
17 architecturally beyond that tied into
18 the new construction, I'll ask my
19 colleague.

20 MR. DOVELL: There is one part
21 of that which you should be aware of
22 there is an historical skylight in the

1 parsonage which lights down into the
2 small synagogue into a meeting room
3 which has just been restored.

4 MS. COWLEY: That's why I was
5 asking if it was individually designated
6 or was it within a historical district
7 because elements such as this would not
8 necessarily fall under landmark
9 jurisdiction.

10 I'm aware that many buildings
11 on the west side panelling in people's
12 front parlors, mantle pieces and even
13 doorbells are important, but that would
14 be an elective element for you to
15 restore, and not one that would come
16 under the public eye.

17 So I would say this is an
18 admirable thing for you to do, but not
19 prevent you from certainly making a
20 change in the neighborhood, particularly
21 since this site, you are moving a
22 building, admittedly it might be of

1 great quality which is equal to your
2 uses.

3 The parsonage has also seemed
4 to outlive its use. Thank you. I just
5 had to respond to your response.

6 A VOICE: Shelly, the
7 parsonage to a private individual, you
8 pay property taxes on that or is that
9 considered also not-for-profit and tax
10 free?

11 MR. FRIEDMAN: I would be
12 amazed if they didn't pay property
13 taxes. I don't have firsthand
14 information on that.

15 MR. SIMON: What's the term of
16 the lease?

17 MR. FRIEDMAN: I don't know.

18 A VOICE: I don't think they
19 address the other issue, the space
20 behind the parsonage.

21 MS. COWLEY: I hit them with
22 so many things because I started from

1 Central Park West and moved my way in,
2 as I said they're interrelated part of
3 this is to share our individual comments
4 that we have concerns. Business, it's
5 going to guide finance, use, setback,
6 light and air and environment, so I got
7 some answers. Luckily I could think
8 about it again and I'm going to come
9 back and ask more questions later.

10 MR. FRIEDMAN: In an attempt
11 to respond to that questions, those of
12 you who do know the synagogue, the
13 footprint we're talking about is the
14 site of the little synagogue, which is
15 perhaps one of the most important
16 chambers in the entire array of
17 buildings.

18 That little synagogue is not
19 going to be touched as a programmatic
20 issue and as an issue, you know it as a
21 synagogue, this is fair game. As a
22 programmatic tissue issue, it's an issue

1 of faith, that synagogue is not going to
2 be touched as part of this renovation
3 project.

4 MS. COWLEY: Good answer.
5 Thank you.

6 MR. HOROWITZ: I need
7 clarification or a response to the
8 linkage between the refined B finding
9 and E finding. The B finding modified
10 so that we don't need a demonstration of
11 a reasonable rate of return, and then
12 the E finding which is the minimum
13 variance required for relief.

14 And if I understand what
15 you're saying, there's no requirement
16 for financial relief, but you have to
17 show you need it anyhow. Let me finish
18 the train of thought. And if that is
19 not required basis on that finding, is
20 there any other argument you're putting
21 forth or is it solely reliant upon the
22 economic issue?

1 MR. FRIEDMAN: There are. I
2 think what I'll end up doing is taking
3 this trail once they further it because
4 what you are asking us for is how well
5 we did the A finding, which is the
6 uniqueness finding and how that
7 justifies it.

8 On the minimum various
9 findings, it's a good question because
10 it's a tough one to respond to. Minimum
11 variance is basically anything the board
12 wants to think about or think of.

13 Now, it could be it would be
14 about traffic, it could be about
15 pedestrian congestion. I mean, really,
16 it's a kind of catchall and because it's
17 a catchall, even though we're not
18 required to make a B finding, it can
19 come back in the side door, and they
20 will want to discuss why we're asking
21 for five, why we're asking for five --
22 five condominiums.

1 We're prepared to do that. We
2 want to be prepared for that question.
3 It's not the full force financial
4 analysis that one would have to do for a
5 B finding but it does discuss the fact
6 the five-units are an integral part of
7 our programmatic need, certainly not the
8 only factor.

9 We have egress issues with
10 regard to the synagogue that we need to
11 address. We have to replace the
12 community house. The hardship here
13 inasmuch as people don't want to hear
14 about it is we did not see a building in
15 this presentation adjacent to this
16 synagogue, which is not woefully non
17 compliant. We are up against 91, 101,
18 18 are all woefully and enormously
19 noncompliant and yet we have to somehow
20 produce an as of right building that
21 also lead to landmark's concern about
22 appropriateness in the cornice lines and

1 street wall lights and the like. It
2 cannot be done under the zoning as
3 written. That's what the BSA is for.
4 We have enormous street walls
5 in 18 and lot coverage issues that are
6 woefully noncompliant. We have
7 overbuilt conditions and rear yard non
8 compliances with regard to the building
9 across the street and the one adjacent
10 to ourselves.

11 This building is at the same
12 time in a rear yard and it can be seen
13 from Fifth Avenue in terms of because
14 this is not the typical doughnut, this
15 opens up as it's kind of open-ended as
16 you look into it from east to west and
17 all those rear yard requirements that
18 are essential and important to the
19 concept of bringing light and air into
20 the doughnut don't apply because this is
21 open-ended from Central Park west in.

22 Now, what I'm saying is that

1 these are the issues that are fair game
2 for the BSA to deliberate over and to
3 determine in terms of priority and we're
4 making a case to the BSA asking them to
5 deliberate to find that not all of these
6 zoning requirements which are put to
7 good use and other purposes make sense
8 on this site and, in fact, they're very
9 hurtful. They're hurtful to the
10 programmatic need of the synagogue.

11 They're hurtful to the
12 direction the Landmarks Commission
13 wanted to us go in and they're hurtful
14 to the direction the community board
15 wanted us to consider. It's called
16 collaboration, but in order to achieve
17 what we were asked to achieve and
18 overcome our own programmatic service,
19 we have to have these zoning variances.
20 That's the nature of the case.

21 MR. HOROWITZ: That's without
22 giving a response. I don't want to

1 continue the debate on this now, but to
2 raise the point so that you can
3 anticipate that it will be raised in the
4 future, and that is, there's the concept
5 and the language of relief in that
6 minimum variance and relief is not from
7 a financial hardship --what's this other
8 relief.

9 MR. FRIEDMAN: It's the re --

10 MR. HOROWITZ: That wasn't a
11 question.

12 THE CHAIRPERSON: It's
13 rhetorical, but I'm going to ask it.

14 MR. FRIEDMAN: Great.

15 THE CHAIRPERSON: And I'm
16 going to try to put, we're, you know,
17 several of us have tried to focus on
18 this E finding, Shelly, and either it's
19 late or we're not as sharp as we should
20 be or you haven't thought it through or
21 what you have thought through, doesn't
22 answer it, but we haven't gotten an

1 answer.

2 So let me just focus you on
3 what you wrote in the application, the
4 statement of support. In support of the
5 E finding, you wrote, without the
6 waivers requested in this application,
7 CSI will not be able to build a
8 community house in a manner in which
9 addresses the access deficiencies of the
10 synagogue, nor can it hope to provide
11 better classrooms, offices and
12 specialized facilities that are critical
13 to the continuation of its religious
14 educational and cultural omissions.

15 In every category the demand
16 for the demand elements are increased
17 and CSI considers it essential to
18 provide the services. That's the
19 standard you set for yourself.

20 That is how you told BSA you
21 intended to meet this finding. Now the
22 five floors of condos do not provide

1 classrooms, offices, specialized
2 facilities for, have anything to do
3 directly with your religious,
4 educational and cultural emissions,
5 correct?

6 MR. FRIEDMAN: Incorrect,
7 Mr. Chairman, with all due respect.

8 THE CHAIRPERSON: You're not
9 going to be teaching, they're not going
10 to have banquet facility there, right?

11 MR. FRIEDMAN: You and I will
12 disagree on what direct means. We
13 believe the five units are directly
14 related to achieving --

15 THE CHAIRPERSON: There's no
16 program going on in those condos,
17 correct?

18 MR. FRIEDMAN: No --

19 THE CHAIRPERSON: Shelly,
20 please, you can't filibuster. It's
21 9:30. We're going to stay here until we
22 make some progress. All right.

1 Programmatically, they are not being
2 used for any of the purposes listed in
3 this paragraph.

4 So your argument has to be
5 that they are necessary to finance those
6 programs, correct?

7 MR. FRIEDMAN: Necessary to
8 finance, it's the structure of the
9 housing -- correct?

10 THE CHAIRPERSON: So it's not
11 essentially, but solely an economic
12 issue. It's got nothing to do with
13 symmetry because if the building doesn't
14 stick up over the synagogue, there is no
15 issue of symmetry and, therefore, it is
16 purely a question of economics and the
17 question that we raise and I don't mean
18 to imply that I have an answer, but I
19 really wish you would focus with us on
20 this.

21 We have been told recently in
22 connection with the Jewish Home and

1 Hospital, that BSA does not consider
2 variances in the context of a charitable
3 organization selling off some of its
4 property for private enterprise. And,
5 therefore, they needed a, they needed
6 zoning relief, not a variance, but
7 zoning relief.

8 We weren't sure you were
9 right, but things being what they are,
10 we reached a compromise. Here, you are,
11 your argument stands to fall uniquely on
12 the proposition that a variance is
13 appropriate in order to permit a charity
14 to, or religious institution to build
15 something that has a program associated
16 with this mission.

17 And I would hope that in our
18 next session you can provide it or maybe
19 before our next session, you can provide
20 us with cases that say that that
21 analysis was appropriate, and if you do
22 provide us with those cases, I would

1 hope that you conduct an economic
2 analysis, which has not yet been
3 conducted in my judgment, which proves
4 that five floors of condominiums, not
5 four, not three, not two, not one, not
6 zero, but five floors of condominiums
7 are necessary, the minimum necessary,
8 the minimum necessary, that's what you
9 have to show to sustain the construction
10 of your institution.

11 And I don't know how you prove
12 that you certainly don't prove it by the
13 analysis in the application, which has
14 to do with something, has to do with
15 some hypothetical rate of return which
16 you and I agree are irrelevant. And --

17 MR. FRIEDMAN: I do not agree.

18 THE CHAIRPERSON: The other
19 conundrum, again, I don't have an answer
20 myself, but does the fact that if it's
21 true or members of Forbes Fortune 400,
22 500 on your board as are on our

1 community board, if that's true, does
2 that have a bearing that is the wealth
3 of the organization, does that have, in
4 other words, are you going to be
5 penalized in your application because
6 you're a wealthy board, as opposed to an
7 organization that can't, really can't
8 dig into its own pocket?

9 Does the size of your
10 endowment bear on this issue? These are
11 all things, Shelly, with all due respect
12 this board is not going to walk away
13 from. We're going to address them. If
14 you don't address them, we will, and I
15 suggest that the analysis that was done
16 really relates to the B finding, but not
17 in any way to the E finding.

18 BSA can do what it wants to
19 the E finding, but I think a lot of us
20 are troubled by the proposition that
21 you're requesting a variance for
22 appropriate zoning in order to finance

1 this.

2 MS. NORMAN: I want to talk to
3 you about the parsonage. At any rate,
4 are there air rights that remain over
5 that parsonage?

6 MR. FRIEDMAN: Absolutely.

7 MS. NORMAN: Would it be
8 possible then the synagogue would come
9 back at a later date and suggest that
10 they need to use those air rights to
11 build above the parsonage.

12 MR. FRIEDMAN: Anything is
13 possible. The application take the same
14 trip down --

15 MS. NORMAN: I realize that,
16 but we weren't as effective in the
17 Landmarks Commission as I hoped we would
18 be.

19 MR. FRIEDMAN: That's what the
20 74-711 was all about. It just didn't
21 happen.

22 MS. NORMAN: The other thing I

1 wanted to mention was I don't think all
2 the examples that you mentioned, like
3 the Rose building, has the impact that
4 of the building that will be so visible
5 from Central Park has, and that will be
6 next to such an important building.
7 Just a reminder where I'm coming from.

8 MR. FRIEDMAN: I appreciate
9 that, Lenore, but the joint parks may
10 have a resolution zero stating they had
11 no issue of the height of the building
12 or its, or the issue of symmetry.

13 A VOICE: I have two
14 questions. I want to be a hundred
15 percent certain that the parsonage is a
16 separate lot; is that right?

17 MR. FRIEDMAN: No. Because
18 when you're talking about a zoning lot,
19 it's all part of the same zoning lot
20 because it's --

21 MS. NEUWELT: Most of the
22 people in this committee, which I'm not,

1 are more expert than I am on these fine
2 points, but my question then is the
3 calculations of available floor area the
4 -- thousands that were available, some
5 used, some not, did that include
6 available floor area from the parsonage?

7 MR. FRIEDMAN: Yes, it did.

8 MS. NEUWELT: So the floor
9 area calculations are on the combined
10 buildings?

11 MR. FRIEDMAN: As zoning
12 requires, yes.

13 MS. NEUWELT: I have another
14 question that I can ask Shelly Friedman
15 or our Shelly, Richard, who has the
16 answer to this, again, Lenore and I we
17 do landmarks and we know LPC, there's a
18 difference between the first session the
19 LPC has, which is a public hearing at
20 which anybody including CB can be heard.

21 At subsequent sessions which
22 are called public meetings at LPC where

1 it's only debate and follow up among the
2 Commission.

3 My question is who knows if
4 BSA is the same way because hearing
5 people schedule things earlier tonight I
6 have a question if BSA would adjourn its
7 hearing, BSA can have a --

8 MR. FINE: Can have a second
9 hearing and so on at a certain point,
10 the only thing we can submit if we
11 haven't made that hearing is something
12 in writing to be considered similar.

13 The answer is it's similar,
14 yes.

15 MS. NEUWELT: I think we may
16 have some timing concerns then.

17 MR. FRIEDMAN: Mr. Chair, with
18 the cooperation of the applicant, the
19 BSA will keep that issue open until the
20 final hearing, until it closes the
21 record prior to issuing a decision.

22 And I will be happy to

1 cooperate with the community board to
2 make sure they understand our interest
3 in keeping the record open so the
4 community board can come down and
5 testify.

6 MR. FINE: Thank you.

7 MS. NEUWELT: Certainly our
8 experience with LPC is they keep the
9 record open, too, but that's not the
10 same as the opportunity to come and
11 participate in the dialogue of any
12 session after the first one.

13 MR. FRIEDMAN: That much is
14 very different from BSA. Every meeting
15 with BSA is a continuation of a public
16 hearing until they close it.

17 They do not close it until the
18 last hearing prior to scheduling another
19 hearing. There's no executive session
20 kind of repartee with the BSA.

21 MS. RADLEY: I'm last but
22 just, I think the argument about the

1 billionaires on your board is a spurious
2 argument from our point of view because
3 we dealt with several institutions
4 recently that probably wealthier have a
5 work -- and backing political officials.

6 So I think we have to
7 disregard that and how people choose to
8 spend their money for capital investment
9 versus programmatic investment versus
10 private individuals.

11 What I am concerned about is
12 couple of things. I haven't seen the
13 figures that, we were talking about the
14 capital campaign that was to fund the
15 endowment, which you know not for
16 profits, this is the best of possible
17 words. Everything is tax free so their
18 endowment can grow without taxable
19 benefits, but their costs have gone up.

20 I know how expensive it is to
21 run a temple. So there are costs and
22 I'm sure the endowment has linked that

1 and that in good faith you're using the
2 money from the condos or from the sale
3 of the land to fund this building.

4 However, I'm wondering if --
5 I'm not sure why you were doing an ROI
6 unless it's to show the developer the
7 benefit that he's going to derive from,
8 you don't need an ROI and I'm wondering
9 if part of this is not just going to
10 fund your own construction cost, but is
11 being put into the endowment and,
12 therefore, and I happen to agree with
13 Page that perhaps there is a way of more
14 creatively using the available space.

15 For instance, you said with
16 the R8, you have a right as a community
17 facility to build 23 feet up and I know
18 you have a right to cover most of the
19 backyard. In the meantime, you're also
20 saying that you're not going, that
21 you're not really using that right.
22 You're using what Landmarks asked you to

1 do was to equal the R8 to create a
2 quality between the R8 and the R10
3 compromise, and that's what's given you
4 a variable sheer street wall building.

5 And perhaps if the cost, if
6 the incremental cost were not going to
7 -- incremental income were not going to
8 go into the endowment there will be a
9 way of shaving it off and creating your
10 programmatic objectives and creating a
11 structure that's perhaps more
12 appropriate.

13 MR. FRIEDMAN: First of all,
14 the question of the endowment were not
15 raised by us, it has not been part of
16 our presentation and we're not really if
17 others think that's relevant, they're
18 free to raise it with the BSA, we don't
19 -- we don't intend to address this,
20 unless the BSA wants us to.

21 With regard to the zoning, I
22 think that the comparison, the gray on

1 the screen, the as of right, this
2 footprint is 27 feet in the R10A and
3 47 feet is in the R8B. That generates
4 an as of right building for that first
5 27 feet, it will be a 127 feet high and
6 for the other, the remainder can only
7 be, can only be 75 feet high.

8 That's no reason why I'm -- I
9 don't know anybody wants to see, it's
10 not a building CSI wants to build. I
11 don't think it would be a building that
12 meets with anybody's approval to have
13 such a discrepancy in the street wall,
14 have part of it being 125 feet high and
15 the other part being 75 feet high on the
16 same building site.

17 That's the balancing, the
18 averaging we're trying to achieve here,
19 the bulk is as of right, we are not
20 asking for additional bulk here.

21 It's very important to realize
22 that even though it's an R8B because the

1 zoning lot preceded the 1961 zoning
2 resolution as of right bulk on this site
3 is FAR8. That is a, that is almost
4 double than R8B permits, but it has as
5 of right.

6 We're only seeking the
7 opportunity to modulate across the
8 district boundary to bring down 120 and,
9 obviously, the R8B it goes up.

10 Now, with regard to the ROI, I
11 know if I were to get out of here scot
12 free, I'm going to ask Jack Freeman, who
13 prepared the financial analysis to
14 respond to your question.

15 MR. FREEMAN: What I would
16 like to address really, if you're going
17 to have a follow-up session to deal with
18 complicated financial picture, that's
19 probably a good forum to do it because
20 if we begin to answer the individual
21 questions, we'll be here for quite a
22 while.

1 THE CHAIRPERSON: We agree. I
2 hate to overrule Shelly, but we really,
3 it's not appropriate, it's not as much
4 an appropriate time to address the
5 issue.

6 MR. FREEMAN: We're here to
7 answer the questions you have and help
8 you understand and we're at your
9 disposal, as far as that goes.

10 THE CHAIRPERSON: We
11 appreciate that. Max?

12 MR. ROSENBERG: The way of the
13 setback on that very narrow street.

14 MR. FRIEDMAN: The Rubik's
15 Cube which is this site, if you're
16 standing at the building from across the
17 street in the park looking in the
18 direction of the synagogue that setback
19 will require, create a total lack of
20 symmetry for that elevation.

21 MR. ROSENBERG: You're
22 maximizing the space.

1 MR. FRIEDMAN: The idea of the
2 balance, which is supposed to achieve a
3 quiet background look and not interfere
4 with the synagogue is to have things
5 pretty much be as quiet as possible, and
6 that accounts for the variances both
7 with regard to the rear setback and the
8 front setback.

9 Now, if you turn the cube and
10 look at it from across 70th Street, then
11 you see the additional need desired and
12 this was, it's in the certificate of
13 appropriate with the Landmarks
14 Commission to line up the cornice line
15 with 18 West, and therefore, again
16 strict compliance with the zoning
17 resolution would mean considerable
18 architectural discordance between that
19 setback and the smooth corner slide of
20 18 which is in its own right totally non
21 compliant, but the effort here is at
22 least to provide some symmetry and

1 harmony.

2 THE CHAIRPERSON: Shelly, I
3 must say the symmetry argument lost me a
4 little bit. If you're talking the
5 symmetry argument, I take it how this
6 thing looks behind the synagogue from
7 somewhere on Long Island or Fifth
8 Avenue, right?

9 MR. FRIEDMAN: No. Richard is
10 cross the street, Central Park West and
11 it's in your resolution.

12 THE CHAIRPERSON: But I'm
13 farsighted. What you're proposing is a
14 three-foot waiver of the street setback
15 street side setback. In order to
16 achieve symmetry, you're also proposing
17 a three-foot waiver of the setback on
18 the south in order to achieve symmetry.

19 I don't understand why if you
20 don't get either waiver you don't also
21 have symmetry.

22 MR. FRIEDMAN: I'll ask Ray to

1 respond to that.

2 MR. DOVELL: What Landmark was
3 most interested in is the gable end of
4 this structure and how this glass
5 element wrapped up from it. So it is
6 symmetrical about the center with this
7 piece being the same width as the size
8 of the pediment.

9 That's giving it a direct
10 relation carrying up the building. If
11 this was less, it would not have that
12 same relationship. If this was pushed
13 in and this was pushed in, the
14 relationship would be symmetrical, but
15 would not have the alignments that are
16 here.

17 THE CHAIRPERSON: So it's not
18 symmetry.

19 MR. DOVELL: It's symmetry,
20 but it's also the alignment issue which
21 they comment about.

22 THE CHAIRPERSON: In terms of

1 the lining up of the corners, that's
2 only a relevant factor if we waive the
3 height in which setback is supposed to
4 take place, correct?

5 MR. DOVELL: Correct.

6 THE CHAIRPERSON: Ladies and
7 gentlemen, we made a lot of progress or
8 maybe it doesn't seem like it, but I
9 think we've -- Tom, you want to?

10 MR. VITULLO-MARTIN: One last
11 question. I'm sorry. I'm a little
12 confused about the school. Is the
13 school -- someone said that the school
14 is a rental, rents the property. Is the
15 school part of the program of the
16 synagogue or is it just rental income?

17 MR. FRIEDMAN: It is strictly
18 rental income. The synagogue's Hebrew
19 school deals with the Hebrew education
20 of its congregants and others in the
21 community.

22 The rental school, the Beit

1 Rabban, is a tenant and pays rent to
2 utilize the space for a day school.

3 MR. VITULLO-MARTIN: If the
4 school ceases to be a renter, then the
5 synagogue has a lot more space for its
6 programs. I mean, what is the
7 consequence of that?

8 MR. FRIEDMAN: If the tenant
9 left the site, then the synagogue would
10 have a lot of empty classrooms it uses
11 in the late afternoons, evenings and
12 weekends and most other churches and
13 synagogues that provide after school
14 programs, that space will be not
15 utilized. Empty.

16 MR. VITULLO-MARTIN: Okay.
17 Thank you.

18 MR. FINE: Use space on
19 weekends, at other times as it is,
20 that's what I remember from two years
21 ago.

22 THE CHAIRPERSON: In other

1 words, the space, Tom, is not used by
2 the synagogue during the --

3 MR. VITULLO-MARTIN: They
4 mesh, I see it makes sense.

5 THE CHAIRPERSON: Anyhow I
6 think we've identified issues. We
7 understand the issues on both sides. We
8 have a lot of work to do and we look
9 forward to working with everybody again.

10 We may try to narrow some of
11 the economic issues in a smaller working
12 group, if we can, and hopefully,
13 Mr. Frazier will be available.

14 MR. FRIEDMAN: I'm sorry.
15 Will be available. Thank you very much
16 everybody.

17 (Whereupon, at 9:47 o'clock
18 p.m., the meeting was concluded.)

19 C E R T I F I C A T E

20 I do hereby certify that the
21 foregoing taken at the time and place
22 aforesaid, is a true and correct

1 transcription of my shorthand notes.

2

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JOHN PHELPS, CSR, RPR, CRR

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