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November 2, 2007

The Honorable Helen Rosenthal  
Chair Manhattan Community Board 7  
250 W.87<sup>th</sup> St.  
New York, NY 10024

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

Dear Chair Rosenthal:

I would like to introduce myself; I am the President of the Cooperative Board of 18 West 70<sup>th</sup> Street, the building that is adjacent to the plot upon which CSI intends to build a new building.

Congratulations on your new position as Chair of Community Board 7. The community looks forward to working with you on all of the matters that concern residents of the West Side. We apologize that as one of your first matters, we need to bring the following to your attention.

There is some consternation within the community as to the abrupt scheduling by the Board of Standards and Appeals of its hearing on November 27, 2007, without allowing the Community Board to work through its process, as well as allowing the Land Use Committee under Richard Asche and Page Cowley the time to judiciously consider the matter.

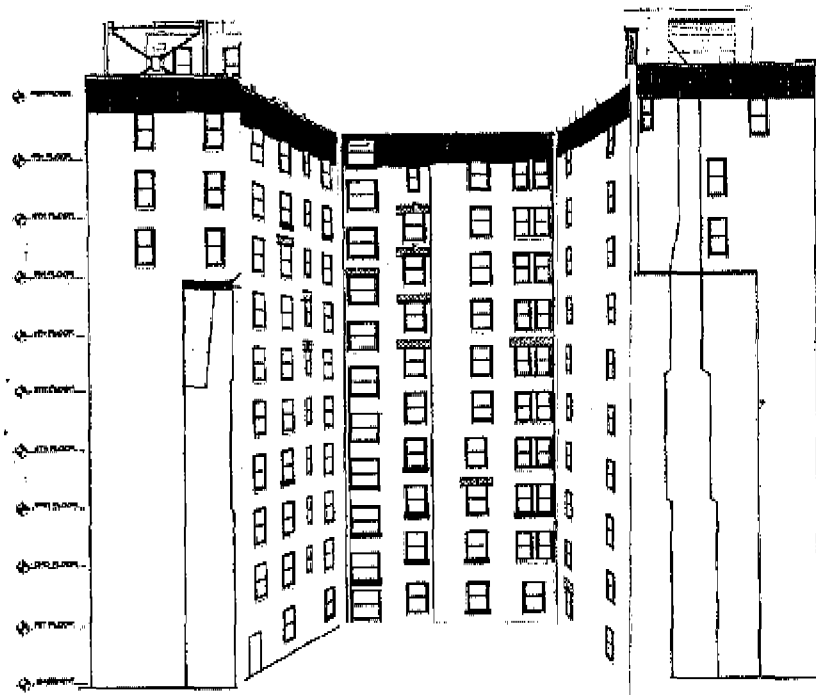
The Congregation seems to claim that it is the victim of overly technical nit-picking by the community opponents and the Board of Standards and Appeals, and has used such an argument to pressure the BSA to by-pass their own rules. Nothing could be further from the truth. All of the delays since the March 2006 Landmarks Preservation Commission action are solely a result of the Congregations own actions.

Because the window situation is of specific relevance to my building, this letter will focus on but one issue where the Congregation has not been forthcoming and has attempted to minimize, if not conceal adverse facts, fact which should have been disclosed up-front in their initial application to the BSA, if not previously.

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### **The Delays in the Congregation Shearith Israel Variance Proceedings Are Caused Completely by the Congregation's Own Conduct**

The Board of Standards of Appeals, in contravention of its own rules as well as the City Charter, intends to move ahead with a hearing on the variance waivers requested by Congregation Shearith Israel on November 27, 2007, without requiring the Congregation to provide a substantially complete application and without providing Community Board 7 with the 60 days required under the City Charter and BSA rules for review by the Community Board.



Perspective of Windows in 18 West 70<sup>th</sup> Street As Prepared by the Community  
Not Completely to Scale but Indicative of the Site  
BSA Rules Required the Applicant to Provide this Information  
The Applicant still has not provided this information.

If the lack of disclosure by Congregation Shearith Israel of the impact of its proposed building upon the windows of neighboring buildings is any indication, it is no surprise that the variance application, first filed in April, 2007, has dragged on for so long. Prior to filing the BSA variance application, the Congregation waited over a year after receiving the approval of the Landmarks Preservation Commission of 2006.

The Congregation's tactic is to delay providing relevant information except when directly confronted, and then to rush the process to prevent consideration of the facts.

The record is clear: the Congregation tried to conceal the situation concerning the lot line window, and is still concealing the facts.

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## **Background**

The Congregation is seeking a waiver from mid-block zoning law requirements which impose limitation upon height and require setbacks on the upper floors.

Shearith Israel has proposed a 105-foot nine-and-a-half story building, but the zoning law would only permit a 75 foot seven and a half story "as-of-right" building. Adjacent to the Shearith Israel vacant lot site (upon which a historic brownstone was demolished by the Congregation in 1970) is our nine floor cooperative apartment building, 18 West 70<sup>th</sup> Street.

One of the requirements for a variance is that the applicant shows to the BSA that the project will not unduly burden adjoining properties. Therefore, for the BSA to consider this issue, the applicant is required under BSA rules to provide a description of the existing conditions in adjacent properties and to describe the impact on adjacent properties.

The BSA rules are quite specific – they required the Applicant to provide a set of plans showing "Adjoining Conditions." Item J of BSA's "Detailed Instructions for Completing BZ Application." Item I requires photographs to be submitted showing the actual conditions on the lot. Item G of the same rules requires "A description of the proposal including the proposed use and surrounding land use and building context." Finally, Item H requires a written statement which "explain how the required findings are met, and reference any supporting evidence"

The Congregation still has not complied with these provisions as they relate to the existing conditions relating to the adjoining property 18 West 70<sup>th</sup> Street.

When the Congregation first filed its application for a variance with the BSA in April, 2007, the Congregation completely ignored these requirements as to the adjoining building and failed to disclose that its building would block lot line windows in 18 West. After community complaints, the BSA in its first set of objections, asked the Congregation for more information. Of note, the fact that the proposed building was blocking windows that would not be blocked by the as of right building was never previously communicated to either the Community Board or the Landmarks Preservation Commission. Land Use Committee members expressed complete surprise as to this fact when it was presented at its October 17, 2007 preliminary hearing.

In its September, 2007, submission, the Congregation stated in its Statement in Support:

With respect to the adjacent nine-storey building along the proposed New Building's western lot line, eight lot line windows will be blocked. In the as of right schemes three windows would be blocked.

Notably, the Congregation did not include any drawings or other descriptions showing the conditions in the lot line wall.

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The Community objected again, and the BSA issued another objection requiring drawings from the Congregation. In its October 25, 2007, submission, the Congregation provided drawings for the proposed and as-of-right building, but:

- It did not provide existing condition drawings, and has yet to provide drawings of the entire façade of 18 West showing all the windows, a basic requirement of BSA rules still not fulfilled.
- The drawings the Congregation provided failed to show windows in the interior courtyard which will be affected by the building.
- The Congregations narrative as to the number of windows blocked by the as of right scheme is not consistent with the two drawings which it did submit.

### **Explanation in Detail**

To support this contention, we draw your attention to the following facts, which show not only the reticence of the BSA to plainly require compliance with its own rules, but the incremental and misleading disclosure:

The First Application of the Congregation of April 2, 2007 was silent on the issue of windows.

The community objected in a letter dated June 12, 2007:

Impact of the building on the east facing façade of 18 W. 70<sup>th</sup> street. There are windows which will be blocked off and other negative impacts on air and light. This is in contravention of BSA rules which require that adjoining conditions are to be shown.

The BSA issued this objection on June 15, 2007:

22. Page 25: Within the suggested "(c) finding," please note the number of lot-line windows for adjacent residential buildings that would be blocked for both the as-of-right, lesser variance (see BSA Objections # 30-31) and proposed scenarios.

The Community then on June 20, 2007, objected to the non-specific request by the BSA in objection 22, also noting the court-yard windows:

COMMUNITY #43. Page 25: In addition to noting the lot-line windows as required in BSA # 22, please also note others windows in the east face and court of 18 West which would have their light and air affected or both the as-of-right, lesser variance and proposed scenarios and provide a detail drawing with the information for lot line and affected windows.

The Congregation's First Revised Statement of September 10, 2007, with no accompanying drawings, states on page 32:

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With respect to the adjacent nine-storey building along the proposed New Building's western lot line, eight lot line windows will be blocked. In the as of right schemes three windows would be blocked.

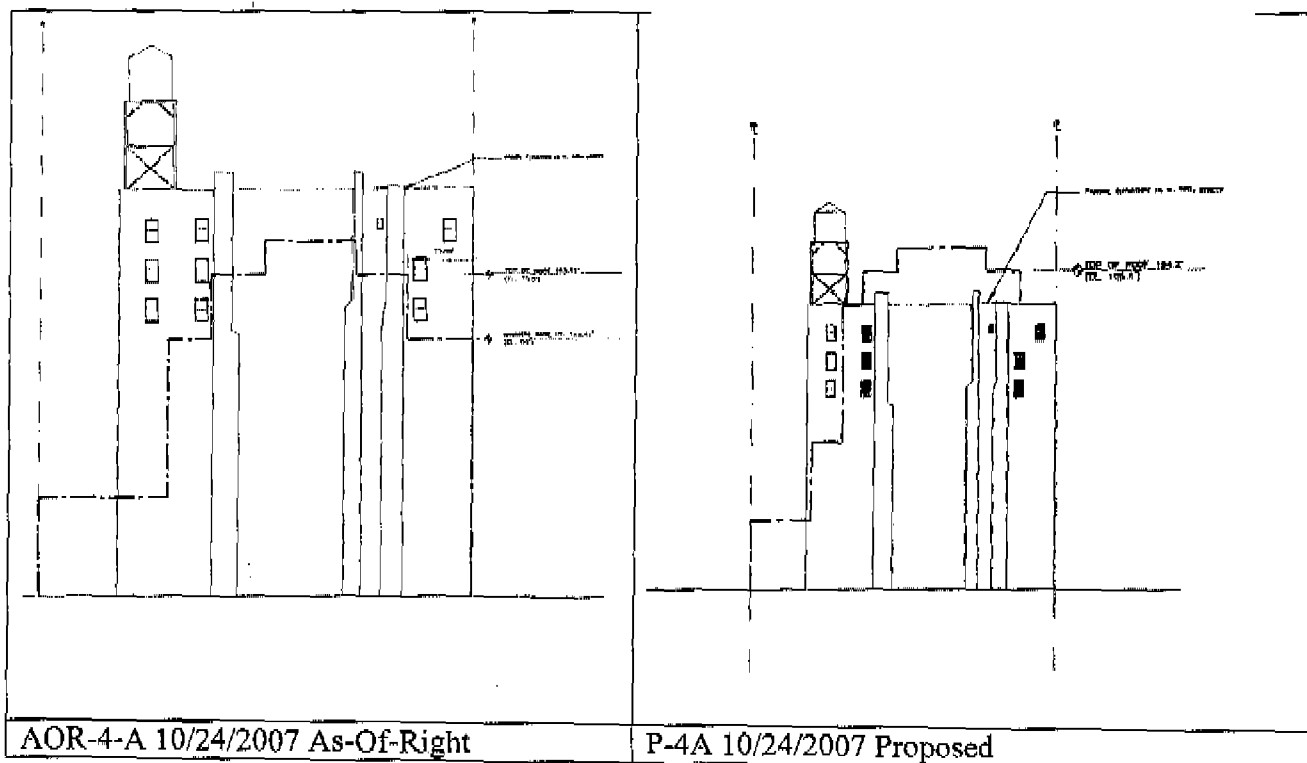
The BSA issued this objection on September 12, 2007:

17. Please provide an illustrative elevation drawing showing a comparison of lot line windows on adjacent building(s) that would be blocked under an as-of-right scenario and the proposed scenario.

The so-called final Second Revised Statement of October 25, 2007 states on page 31:

With respect to the adjacent nine-storey building along the proposed New Building's western lot line, eight lot line windows will be blocked. In the as of right schemes three windows would be blocked.

With the Second Revised Statement, the Congregation provided the following as-of-right drawing:



It is unclear from where the Congregation derives the "facts" that the AOR building will block three windows and the Proposed 7 windows.

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The Congregation still has not provided an existing conditions photograph or drawing, in contravention of the rules of BSA.

It is the responsibility of the developer to submit the drawings and photos as to the impact on adjacent existing property, not the Community. This is the obligation of the Applicant to provide these material facts, and, in any hearing, it is not the responsibility of the Community to establish these facts.

Clearly, even as late as October 25, the Congregation is playing games. It never shows the affected windows in the Courtyard. And, its narrative is clearly inconsistent with its own drawings.

On this important matter, then, the Congregation has been obstructionist, but, yet seems to request that CB7 and the BSA rush through the proceedings, ignoring required time periods, all because of the negligence of the Congregation is providing a complete application for consideration.

Sincerely,



Howard G. Lepow  
President – 18 Owners Corp.

cc:

Hon. Meenakshi Srinivasa, Chair, Board of Standard and Appeals  
Mr. Jeff Mulligan, Executive Directory, Board of Standards and Appeals  
Richard Asche, Co-Chair CB7 Land Use Committee  
Page Cowley, Co-Chair CB7 Land Use committee  
Hon. Betsy Gotbaum, Public Advocate of the City of New York  
Hon. Gale A. Brewer, New York City Council Member  
Hon. Scott M. Stringer, Manhattan Borough President  
Hon. Richard N. Gottfried, State Assembly Member, District 64  
Hon. Thomas K. Duane, State Senator, District 29  
Alan Geiger, Department of City Planning  
Kate Wood, Executive Director, LANDMARK WEST!  
Shelly Friedman, Esq. and Lori Cuisinier, Friedman & Gotbaum LLP