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COMMUNITY BOARD 7 LAND USE  
COMMITTEE PUBLIC MEETING

TIME: 7:11 P.M.

LOCATION: American Museum of Natural History  
77th Street and Central Park West  
New York, New York 10024

DATE: November 19, 2007

RICHARD ASCHE: Chairperson  
PAGE COWLEY: Co-Chairperson

APPEARANCES:  
SHELLY FRIEDMAN  
RAY DOVELL  
JACK FREEMAN

BOARD MEMBERS:  
HOPE COHEN  
SHELDON FINE  
KLARI NEUWELT  
LENORE NORMAN  
HELEN ROSENTHAL  
JEFFREY SIEGEL  
CHARLES SIMON  
ELIZABETH STARKEY  
HOMAS VITULLO-MARTIN

1 lot line windows, okay.  
2 Then, we will -- we're going  
3 to after that, if there are spokespeople  
4 for the opposition, we will give you  
5 time, not limited by two minutes, but  
6 limited hopefully by common sense.  
7 We've heard you before, so  
8 you're certainly welcome to comment on  
9 anything that Shelly Friedman says or  
10 anything else, but just bear in mind  
11 that this is not, nobody is writing on a  
12 clean slate here, okay, and let's all  
13 try to exercise some restraint in the  
14 length of our discussions.  
15 MR. FRIEDMAN: Good evening.  
16 Shelly Friedman, Friedman and Gotbaum,  
17 special counsel to the trustees.  
18 VOICES: You need the mike.  
19 MR. FRIEDMAN: Good evening.  
20 Shelly Friedman, Friedman and Gotbaum  
21 special counsel to the congregation.  
22 Richard, given what you'd like

1 MR. ASCHE: All right. If  
2 everybody please will have a seat, we  
3 can get started.  
4 All right. This is a  
5 continuation of public hearing on the  
6 application by the Trustees of Shearith  
7 Israel for various variances.  
8 We had presentations and we  
9 had counter presentations at the last  
10 meeting, but there may be new faces  
11 here. What I'm going to ask the  
12 developer to do is to very quickly  
13 summarize the development, and then to  
14 focus his remarks on the specific  
15 justifications for each of the four  
16 findings that we're required to make in  
17 order to grant any variance.  
18 And, finally, to address the  
19 issue of the lot line windows and to  
20 show us how the building and the  
21 variances would impact those windows and  
22 the windows in the courtyard between the

1 us to begin with, I thought, perhaps,  
2 the best way to go is briefly for Ray  
3 Dovell, the architect, to take us  
4 through the building, focusing on the  
5 variances that are being requested.  
6 And we can stop along the way,  
7 if members of the committee want to know  
8 more about the composition of the  
9 building or any particular uses.  
10 And with those having been  
11 discussed, I can then discuss the  
12 variance application before findings, is  
13 that acceptable? Then I'm going to ask  
14 Ray to speak on the building.  
15 MR. DOVELL: The model you see  
16 here is the approved version of the  
17 model with one exception, the  
18 modifications that we made to the base  
19 of the building, towards the end of the  
20 landmark submission, required a slight  
21 modification at the entry.  
22 That is a little model that's

1 here, which I'm going to put to the side  
2 for everyone to see at the time we begin  
3 to talk about the changes.

4 First, we're going to review  
5 the changes that were made as a result  
6 of the final hearing at Landmark.  
7 Changes made from the last time this  
8 presentation was made to you. Sorry,  
9 it's a little slow on the laptop.

10 MR. ASCHE: If you're going to  
11 talk about the evolution of the  
12 building, I don't think it's all that  
13 germane to what we're doing tonight.

14 MR. DOVELL: I'll go through  
15 this very quickly. To the left was the  
16 presentation, was the elevation that you  
17 saw prior to its approval.

18 In connection with the  
19 approval, we dropped this floor from the  
20 top, again to the left is what you saw  
21 earlier. We dropped this floor. The  
22 penthouse floor.

1 approval Landmark commented on the  
2 symmetry of the upper portions of the  
3 building relating to the pediment and  
4 portico down below, especially the  
5 alignments of this big window and the  
6 penthouse with the edges of the portico.

7 Here you see the changes at  
8 the base of the building. Here is the  
9 before. Here is after, with an  
10 introduction of a vertical element and a  
11 slight shift in the pane of glass.

12 That column then comes  
13 straight through and there are two doors  
14 on either side of it that flank the  
15 screen.

16 And those are the total  
17 changes that were made prior to its  
18 approval. Okay.

19 Now, here is the effect on the  
20 street, and here you can just see the --  
21 just the reduction of that penthouse  
22 floor. Go ahead.

1 We changed the material. The  
2 material you see here was terra-cotta,  
3 to brick. We added a vertical element  
4 at the edge of these spandrels that came  
5 through, and we added four -- we added  
6 two additional doors at the base.

7 Here you see the final and  
8 approved version, you see the reduction  
9 of the penthouse, the change of the  
10 material. The vertical element and the  
11 doors.

12 This, again, is the 70th  
13 Street elevation. Go ahead. The effect  
14 of those changes on the rear of the  
15 building. This is the south facing  
16 portion. This is simply the reduction  
17 of that penthouse floor, and here you  
18 see the final approved version.

19 It's a little faint, but here  
20 you see the west elevation of the  
21 building before and after, and the  
22 reduction of that penthouse floor,

1 Now we'll talk about zoning.  
2 Just note before we go on to that, that  
3 the submission was unanimous approved by  
4 Landmark. They commented on that  
5 symmetry on Central Park. They  
6 commented on a successful resolution of  
7 this building as it made the jump from  
8 the monumentality of the synagogue to  
9 the more domestic scale to the west of  
10 the adjacent buildings.

11 They commented on the change  
12 in materials from limestone toward the  
13 synagogue to the brick at the  
14 residential end.

15 They felt that successfully  
16 resolved the scale shifts and created a  
17 dignified modern building.

18 We'll talk about the zoning  
19 waivers required to make that happen.

20 This diagram really explains  
21 very well the issue. This diagram here  
22 is an as-of-right diagram showing the,

1 the split between the R10A and the R8B  
 2 and what the zoning mandates.  
 3 While you can manage FAR under  
 4 the zoning, you do that as of right, the  
 5 average in this case is of the two is  
 6 8.38?  
 7 A VOICE: 36.  
 8 MR. DOVELL: 8.36, but you  
 9 can't average the bulk weight, the  
 10 different bulk in the R10A and the R8B,  
 11 but this gives you as-of-right solution  
 12 with a big slab of a building  
 13 overlooking Central Park, quite  
 14 inappropriate to the Landmark, but,  
 15 nonetheless, it is as of right.  
 16 This is what we're asking for.  
 17 It's as if you simply push down on the  
 18 R10 portion and pushed up in the R8B  
 19 portion. However, we're asking for  
 20 considerably less floor area under this  
 21 scenario than in this. Next.  
 22 The waivers that we're asking

1 for are two basic categories. One is  
 2 lot coverage in rear yard, which are  
 3 related. The second is height and set  
 4 back, which also are related. We'll  
 5 talk about the first group. Go ahead.  
 6 Lot coverage and rear yard.  
 7 This diagram shows the  
 8 synagogue in this location, the proposed  
 9 addition here. This line here is the  
 10 demising line between the two districts,  
 11 both of which, within the interior  
 12 portion require a 70 percent maximum lot  
 13 coverage. What we're asking for here is  
 14 to increase that to 80. Go ahead.  
 15 That in the -- the next is the  
 16 rear yard in the R8B portion, which is,  
 17 in fact, related to that. The rear yard  
 18 required in the R8B is 30 feet. We ask  
 19 it be reduced to 20 for programmatic  
 20 reasons primarily, so we can get the  
 21 classroom space we need at the base of  
 22 the building.

1 So if you can see this is the  
 2 portion, it's ten feet in this  
 3 direction, times the width of the  
 4 district in that direction. And this is  
 5 what it represents in section.  
 6 Okay. This is the same issue.  
 7 It's the rear yard in the R10A. It is  
 8 the same ten-foot requirement we're  
 9 seeking just through the balance of the  
 10 width of the site. This is the R10A  
 11 portion of this relief that we're asking  
 12 for and here it is in section. Next.  
 13 The lot coverage and the  
 14 reduced rear yard address programmatic  
 15 needs. Without it, we have requirements  
 16 in the building for stairs, of course,  
 17 and bathrooms. Without this, we get a  
 18 substandard and very small classroom  
 19 floors toward the south.  
 20 This is what the desired  
 21 solution is that we're asking for.  
 22 Next.

1 Second category of building  
 2 heights and set back. Go ahead. This  
 3 is the initial set back in the R8B  
 4 portion. The initial set back is  
 5 according to zoning 60 feet in height  
 6 and is supposed to set back 15 feet.  
 7 We're asking for that to be  
 8 reduced to 12 feet and that relates to  
 9 the symmetry of this building over the  
 10 synagogue. It's this little strip we're  
 11 asking for here that's three feet wide  
 12 over the R8B portion. That does not  
 13 happen in the R10A because the street  
 14 wall can be much higher. So it's not  
 15 needed. Go ahead.  
 16 The next waiver is the base  
 17 height in the R8B and that, the required  
 18 base height is at 60 feet, which is  
 19 right here. We're asking that be  
 20 brought up higher, and that this shows  
 21 the area that that is impacted on.  
 22 So, again, this is to yield a

1 decent floor plate and it's, also, to  
2 address the symmetry issues on the site.  
3 Next, please.

4 It also has -- actually, go  
5 back one. It also has the real effect  
6 of maintaining cornice heights across  
7 this.

8 This is something Landmark was  
9 very much interested in and you can see  
10 the dropping. This is the 60-foot limit  
11 that zoning would require a cornice.  
12 Well, we asked to raise it up to this  
13 height, so these cornices are aligned.  
14 That's something Landmark was quite  
15 concerned with. Okay.

16 And finally, this is the  
17 maximum building height in the R8B  
18 portion. The maximum building height  
19 per zoning is at 75 feet above grade and  
20 in this waiver, we're asking to take  
21 that up to 105 feet, which is at that  
22 location.

1 steps inside, before you even reach the  
2 main floor of the sanctuary.

3 There is no other way to get  
4 into this portion of the sanctuary. The  
5 elevator doesn't stop at that level. If  
6 you're going to the upper level. Go up.  
7 If you're going up to the upper level,  
8 you have to be -- I'm sorry. Go back.

9 A VOICE: One more forward.

10 MR. DOVELL: If you're coming  
11 into the balcony section of the  
12 sanctuary, which is one flight up,  
13 there's no handicap accessible route  
14 there, either.

15 You go into the front door of  
16 the community house, go into an elevator  
17 which is noncompliant, and it will take  
18 you up only to the one level.

19 To get into the auditorium  
20 space in the community house, you also  
21 go in the front door of the community  
22 house, are put onto a handicap lift and

1 The R10A, of course, doesn't  
2 have, the piping isn't affected in the  
3 R10A portion. We're well under the  
4 requirements for height and set back.  
5 Next.

6 Now, this diagram -- these  
7 diagrams talk about circulation within  
8 the existing -- the question came up at  
9 some point in these hearings, "Why can't  
10 you get into the synagogue now. There's  
11 an elevator there, you can certainly get  
12 into it."

13 Well, this is going to explain  
14 to you what happens, if you're at all  
15 handicapped trying to get into the  
16 synagogue. To get into the main floor  
17 of the sanctuary, which is here, you  
18 come in the entrance at the synagogue  
19 and up a flight of stairs.

20 First, you have to negotiate  
21 two steps outside the synagogue to get  
22 in, then you go up another eight or nine

1 down the non compliant ramp in this  
2 area.

3 To get further down to get  
4 into the basement of the synagogue, you  
5 have to go down another flight of steps  
6 at this location. So it's rather a  
7 tortuous route.

8 Now go up. That simply  
9 carries through the synagogue. In every  
10 step of the way, you're handicapped  
11 getting in on an accessible route. Keep  
12 going.

13 Again, showing what happens  
14 getting into the -- into the balcony  
15 level, you simply can't make it from  
16 there on an accessible route. And so  
17 on. Right through the community house  
18 and the synagogue. Keep going.

19 This section shows quite  
20 clearly what happens here, although this  
21 shows the shaft in the community house,  
22 although it comes out here and it comes

1 out in the balcony, it's not an  
 2 accessible route. It's a tiny little  
 3 elevator that just doesn't serve the  
 4 needs of the community, and it doesn't  
 5 provide access down below, which is part  
 6 of the ritual, synagogue ritual space,  
 7 as well as on the main floor of the  
 8 sanctuary. Go ahead.

9 Now, the proposed scheme  
 10 solves those quite nicely with the  
 11 introduction of a new elevator in this  
 12 location in a key position which allows  
 13 everyone to come in the same way for the  
 14 first time, and to either go up a flight  
 15 of stairs symmetrically placed about the  
 16 access of the synagogue or into an  
 17 elevator, which is a fully accessible  
 18 route to all levels of the synagogue and  
 19 the community house. And that goes on.

20 This is the basement level  
 21 showing how that whole connection is  
 22 made on an accessible basis with one

1 ahead.

2 And this is the proposed  
 3 building, which blocks all of them  
 4 except the three to the south.

5 And here's a slide showing the  
 6 lot line condition and configuration of  
 7 those windows and the windows on the,  
 8 the balance of it, this is the court  
 9 within. And that's it.

10 MR. FRIEDMAN: Maybe we should  
 11 stop. Maybe we should stop and ask if  
 12 the committee members have any questions  
 13 on the architecture.

14 MR. ASCHE: Well, maybe not.

15 MR. FRIEDMAN: Any objections?

16 MR. ASCHE: Let's go on, I  
 17 want to get your presentation done.

18 MR. FRIEDMAN: We're putting  
 19 up a slide that shows the findings in  
 20 7221, so we can run through them. There  
 21 they are.

22 You'll notice there are four

1 elevator placed in a key location. And  
 2 so on. Keep going.

3 At every level these two  
 4 arrows, the green one being handicap  
 5 route and the blue one being normal  
 6 circulation, show fully accessible  
 7 synagogue as a result of this. Keep  
 8 going. Keep going.

9 This section, this section  
 10 shows how that all works out. Where we,  
 11 in fact, open up with this elevator, we  
 12 had opened up entire, with the entire  
 13 synagogue. Also brought up last time  
 14 were lot line windows?

15 MR. ASCHE: Yes.

16 MR. DOVELL: This dotted line  
 17 here, this is the adjacent building to  
 18 the west.

19 This dotted line is the  
 20 as-of-right situation here, which just  
 21 remarkably misses these windows, these  
 22 six, seven, eight, nine windows. Go

1 findings here. 7221 has five findings.  
 2 The B finding, which we discussed to an  
 3 extensive extent in our last meeting,  
 4 deals with financial return which while  
 5 not applicable per se to an application  
 6 by a non profit, we analyzed in any  
 7 event because of the residential  
 8 component that we're proposing.

9 These are the four findings  
 10 that the Board of Standards and Appeals  
 11 will apply and ask us to justify the  
 12 zoning waivers that Ray has taken you  
 13 through.

14 The zoning waivers for this  
 15 analysis, as well, can really be grouped  
 16 into the kind of waivers required to  
 17 approve the programmatic deficiencies of  
 18 the synagogue, the circulation issues  
 19 and the classroom issues.

20 Another group, which are there  
 21 to achieve the specific mandates of the  
 22 Landmark Commission with regard to

1 symmetry and massing of the public  
 2 proposal.

3 And the last one, which deals  
 4 primarily with the need to accommodate  
 5 the fact that we have added five  
 6 residential units to this proposal. The  
 7 five, the residential units are as of  
 8 right. There are no objections, per se,  
 9 and certainly nothing out of the  
 10 ordinary about a mixed use development.

11 And we are proceeding with  
 12 that, but because of the restrictions on  
 13 our zoning lot having to do with the  
 14 Landmark, the zoning lot boundary and  
 15 the like, we have a limited amount of  
 16 space footprint in which to build  
 17 residential. And we believe that is a  
 18 hardship which entitles us to relief  
 19 being requested with regard to building  
 20 height.

21 The first, because of the  
 22 complexities of this project, there's no

1 that is, in fact, what we are proceeding  
 2 with when we ask for variances with  
 3 regard to the rear yard, and with regard  
 4 to the alignment of the new building,  
 5 such that it violates the rear yard, so  
 6 that we can accomplish the circulation  
 7 solutions that we need to accomplish in  
 8 this building.

9 The inability of worshippers  
 10 to adequately use a building for its  
 11 religious purposes is, indeed, a  
 12 hardship and it's one which we think  
 13 justifies the waivers that are being  
 14 requested here with regard to lot  
 15 coverage, with regard to the incursion  
 16 into the rear yard.

17 They are directly tied into  
 18 the circulation deficiencies and the  
 19 educational deficiencies that the  
 20 present community house provides. We  
 21 have, I think, provided a considerable  
 22 amount of information about how the

1 one hardship which, it's like a bullet  
 2 through all the rest of this, so there's  
 3 no one waiver, which can be discussed as  
 4 pure and simply justifying a variance.

5 We start out with the general  
 6 proposition that the fact that the  
 7 building is a Landmark or that it's in a  
 8 historical district is not in and of  
 9 itself the subject of a variance in the  
 10 City of New York.

11 We can also stipulate the fact  
 12 this is a split lot, the zoning district  
 13 boundary running through it is not of  
 14 itself getting a variance from the City  
 15 of New York, but when they are part of a  
 16 multiplicity of issues, which include  
 17 the integrity of the Landmark, not so  
 18 much because of its status as a  
 19 Landmark, but because of its status as a  
 20 sacred site to the people who use it.

21 Then we are in the category  
 22 where a variance can be considered and

1 present community house is deficient.

2 What it lacks, what it lacks  
 3 in terms of programmatic rooms for the  
 4 synagogue's civic responsibility and  
 5 social and cultural responsibilities, as  
 6 well as for its educational  
 7 responsibilities.

8 We have discussed the lack of  
 9 office space. We have discussed the  
 10 lack of our times in this case for this  
 11 particular synagogue, and I think if you  
 12 know anything about the history of  
 13 Shearith Israel, you'll understand its  
 14 archives are really quite unique in  
 15 American history.

16 Those archives are presently  
 17 lost to scholars, students and anybody  
 18 with an interest in the colonial Jewish  
 19 experience, because they need to be kept  
 20 for territorial purposes and space  
 21 purposes in New Jersey.

22 This building will allow these

1 archives to come back and to be used.  
 2 So from that standpoint, we believe that  
 3 the space that we're asking for both the  
 4 classrooms, the office space and the  
 5 configuration that we needed for proper  
 6 and logical purposes and the  
 7 configuration we needed for circulation  
 8 purposes are, in fact, worthy items for  
 9 the Board of Standards and Appeals to  
 10 consider for giving us the zoning  
 11 waivers we need.

12 With regard to the set back  
 13 issues, again, you heard both, and you  
 14 can recall, even in your own resolution  
 15 this building was considered community  
 16 board seven for Landmark purposes, and  
 17 in the Landmark Commission certificate  
 18 of appropriateness, the primary  
 19 importance of symmetry, it's an issue of  
 20 architectural significance, both in  
 21 terms of respecting the individual  
 22 Landmark and coming up with a massing

1 intervening with this by solving the  
 2 circulation problems, storage problems  
 3 or space problems.

4 So the remaining building  
 5 footprint becomes an issue with regard  
 6 to accommodating the synagogue's  
 7 functions and what we believe is a  
 8 totally normal and totally well used  
 9 with plenty of precedent condition of  
 10 residential space that the synagogue  
 11 believes and will be helpful in  
 12 achieving its programmatic missions.

13 That is the basis of the  
 14 hardship with regard to the height of  
 15 the building.

16 We have mitigated by driving a  
 17 significant part of the program  
 18 underground, so that we could avoid  
 19 additional height. We had cut back on  
 20 the amount of residential space  
 21 necessary to accommodate the Landmark  
 22 approval, but at the end of the day

1 and a bulk that serves the interest of  
 2 the historical district.

3 They asked for it. It can't  
 4 be done without some of these waivers  
 5 with regard to set back. And so we  
 6 believe, again, that those requests are  
 7 specifically aligned with the zoning  
 8 waivers and with a recognizable  
 9 hardship.

10 With regard to the last group,  
 11 which deals with the height of the  
 12 building, you know we are proceeding  
 13 with as-of-right uses on a footprint  
 14 which has been severely restricted by a  
 15 number of factors.

16 First and foremost is the  
 17 factor is that the trustees and the  
 18 congregation themselves, if this  
 19 building were not a Landmark, simply  
 20 could not condone, could not live with,  
 21 could not violate their sense of  
 22 stewardship of this building by

1 whether this space is community facility  
 2 space or residential space, for the  
 3 purposes of the hardship, it's of little  
 4 matter.

5 If the synagogue believes this  
 6 space can be helpful in its programmatic  
 7 mission, it's entitled to ask for it to  
 8 seek the waiver being requested from the  
 9 board with regard to that particular  
 10 zoning violation.

11 In sum, that's really it. I  
 12 tried to stick to relating each of the  
 13 zoning waivers to the programmatic, to  
 14 the area of programmatic difficulty that  
 15 we'll be requesting the Board of  
 16 Standards and Appeals to address.

17 If you have any other  
 18 questions regarding the relationship of  
 19 the residential as an economic engine  
 20 for the provision and construction of  
 21 the community space, Jack Freeman is  
 22 here to go over that with you, again.

29

1 We know there have been  
 2 issues. Ray addressed lot line windows  
 3 issues. We know there were issues about  
 4 tenancy. We heard issues regarding  
 5 so-called catering hall function.  
 6 We're here to address all  
 7 those questions tonight in whatever  
 8 format the committee requests.  
 9 MR. ASCHE: The committee is  
 10 going to have questions sort of at the  
 11 end. The committee has questions now.  
 12 MS. COHEN: Can you hear me?  
 13 Or do I need the mike. One is for Ray  
 14 about the cornice line that one of the  
 15 variances is to align the cornice line  
 16 with the building immediately to the  
 17 west, but it seems to me just from  
 18 looking at the model and looking at the  
 19 images that it does not align.  
 20 Actually, the building cornice  
 21 line is higher than the building to the  
 22 left.

31

1 better space to serve the synagogue  
 2 community is that the archives could  
 3 return from exile in New Jersey, and be  
 4 housed here, but the other piece of that  
 5 is how accessible will they be to people  
 6 who are not members of the synagogue, to  
 7 scholars and neighbors who are  
 8 interested in this remarkable holding of  
 9 American Jewish history?  
 10 MR. FRIEDMAN: First, let me  
 11 say one of the important objects still,  
 12 in fact, are used in daily observations  
 13 and are in place by touring coming to  
 14 take a look at the synagogue.  
 15 MS. COHEN: There are some  
 16 display cases right now?  
 17 MR. FRIEDMAN: Not only are  
 18 there display cases, but for anybody who  
 19 cares to sit in, they will see Torah  
 20 scrolls that bear the marks of the  
 21 slashing of the British officers of the  
 22 war of 1812.

30

1 MR. DOVELL: We have to go  
 2 back to the drawing. This cornice line.  
 3 This cornice line was dropped to about  
 4 six inches below this line.  
 5 MS. COHEN: So the problem  
 6 there is the model, I thought I saw it  
 7 in the image.  
 8 MR. DOVELL: It's clearer in  
 9 the drawing. The final drawing will  
 10 show that.  
 11 MS. COHEN: And I have a  
 12 question for Shelly, as well. It's not  
 13 about zoning technicalities. Shall I  
 14 ask you while you're doing your slide?  
 15 MR. DOVELL: Yes.  
 16 MS. COHEN: With respect to  
 17 the archives, I think, you know, that,  
 18 that this synagogue is enormously  
 19 important historically and its holdings  
 20 are enormously important. And I say  
 21 that one of the things that I find  
 22 important in a proposal to build a

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1 They see the metal chalices  
 2 that were formulated by Martin Meyer,  
 3 who had an apprentice, a young Paul  
 4 Revere. There are working objects in  
 5 this synagogue that are available for  
 6 anybody with an interest to observe.  
 7 With regard to the archival  
 8 material, that has to be protected as  
 9 any other archival material. It's not  
 10 something that can be freely displayed.  
 11 It's not something that can be just left  
 12 in a case.  
 13 I mean, this is correspondence  
 14 between George Washington and the  
 15 trustees of the synagogue. This is  
 16 material over the synagogue's purchase  
 17 and ownership of Touro Synagogue, the  
 18 oldest synagogue in the United States in  
 19 Newport, Rhode Island. There are  
 20 letters and files that go back to the  
 21 founding of Columbia University and  
 22 Mount Sinai Hospital.



33

1 The discussions of which took  
2 place in Shearith Israel. This is  
3 material which has to be treated for the  
4 scholarly importance that it is. So  
5 it's not something that anyone can just  
6 walk in and take a look at, but it is  
7 something that can be made accessible  
8 under the right purposes and upon  
9 request.

10 MS. COHEN: Like a scholarly  
11 library.

12 MR. FRIEDMAN: Absolutely.  
13 That's the intent here. It's also the  
14 intent to have it available for the  
15 synagogue's Hebrew school and adult  
16 education schools.

17 MS. COHEN: Can we go back to  
18 the picture now. Looking at that  
19 picture, it seems to me the new  
20 building, the cornice line is still  
21 higher.

22 MR. DOVELL: The cornice at

34

1 the top of the line, which Landmark  
2 acknowledges if I can point to the model  
3 for a second this portion of the cornice  
4 was brought down. The cornice is pushed  
5 down.

6 MS. COHEN: So it appears the  
7 alignment of the brick.

8 MR. DOVELL: Of the level  
9 cornice across the top at the street  
10 line is now six inches below the  
11 neighbor's cornice.

12 There is a parapet wall that  
13 sets back two-and-a-half feet from that,  
14 which rises up a little higher and that  
15 shows clearly on that, although it's a  
16 little fuzzy projected at this size.  
17 It's there.

18 MS. COHEN: And Landmark is  
19 satisfied with that as an assignment?

20 MR. DOVELL: Yes they were.

21 I'm going to ask the committee  
22 to hold the questions until the end.

35

1 A VOICE: I want to ask a  
2 question.

3 MR. ASCHE: I'll recognize you  
4 and anybody who has a question of a  
5 factual nature. This is not the time to  
6 make statements or testimony. That will  
7 come in a few minutes.

8 A VOICE: While you're up  
9 there, where is the housing for the  
10 elevator and where is the tank? I don't  
11 see anything.

12 MR. DOVELL: There is no house  
13 tank on this. All the water is pumped  
14 from the cellar. There is no cooling  
15 tower. We're using dry coolers to keep  
16 all the machine room as low as possible.

17 It is a gem to the elevator  
18 where the machinery is, in fact, in the  
19 shaft, so we were cognizant of all of  
20 those traditional rooftop things in an  
21 effort to bring them down.

22 You can see them here.

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1 They're all brought down to quite a low  
2 level, in comparison with similar types  
3 of buildings.

4 MR. ASCHE: Any more factual  
5 questions before we go into comments?

6 A VOICE: Did we see  
7 subterranean levels that don't exist  
8 now?

9 MR. DOVELL: You do not see  
10 them. They exist, but we did not show  
11 them at this point. Would you like to  
12 show them?

13 MR. FRIEDMAN: Yes.

14 MR. DOVELL: We can show them.

15 A VOICE: Related to that,  
16 what about that sub basement below the  
17 auditorium, what's going on with that --

18 MR. DOVELL: We'll load that  
19 up now and show you.

20 (Pause in the Proceedings.)

21 MR. DOVELL: This is the  
22 demising line between the community

1 house and the synagogue. This is the  
2 lowest level, this is the sub cellar of  
3 the proposed community house, and in it  
4 is a multi purpose room.

5 It is served by two egress  
6 stairs and an elevator. And that space  
7 is approximately 6,600 feet gross area.

8 A VOICE: Can we see the  
9 cross-section, please? Can we see it in  
10 cross-section?

11 MR. DOVELL: I'll show you a  
12 section of it in just a moment. Let's  
13 go up. This is the level just above  
14 that. This area, the gray area that you  
15 see here is the residential core area  
16 that penetrates through.

17 We have incoming utilities  
18 that have to be at a higher level coming  
19 in at that level. This is all base  
20 building infrastructure, boilers, fire  
21 pumps, et cetera.

22 This is a stair that connects

1 from the lobby down to all three  
2 lobbies, all two levels of cellar. This  
3 is the same elevator that we showed you  
4 before which serves the floors.

5 We then have kosher kitchens  
6 in this location. Toilet and support  
7 rooms and coat rooms down here. This  
8 room is all to serve in support of the  
9 multi purpose room below.

10 MR. ASCHE: I wasn't going to  
11 get into this here, but while we're on  
12 the subject, the cellar and sub cellar  
13 uses were not included in the economic  
14 analysis that was done for this  
15 building, were they?

16 MR. DOVELL: That I don't  
17 know.

18 MR. FRIEDMAN: The answer is  
19 that they were not. But I do want to  
20 address the issue, if this is about the  
21 so-called catering hall.

22 MR. ASCHE: If you're going to

1 talk about the economics later, why  
2 don't you do it then?

3 MR. FRIEDMAN: Okay. Fine.

4 MR. ASCHE: Okay. We're  
5 talking about roughly 10,000 feet of  
6 rentable space that is not included in  
7 the --

8 MR. FRIEDMAN: But the  
9 response is that it is not used for  
10 rental purposes to the extent that you  
11 might believe or others might believe,  
12 and that requires an explanation.

13 MR. ASCHE: But you know  
14 that's not relevant when you're doing a  
15 hypothetical, what if, you know, right?

16 MR. FRIEDMAN: Well, I don't  
17 think that it is relevant.

18 MR. ASCHE: All right. Any  
19 other questions? Yes, ma'am?

20 A VOICE: For the catering  
21 hall, what is the projected maximum of  
22 occupancy?

1 MR. FRIEDMAN: If we're going  
2 to keep talking about the catering hall,  
3 so I can get into the issues.

4 THE COURT: Well, you wouldn't  
5 need a kosher kitchen if you're going to  
6 have a movie theater.

7 MR. FRIEDMAN: That's true.  
8 That's not the issue, either. Let me  
9 say as a zoning issue, the catering hall  
10 is not permitted.

11 MR. ASCHE: I'm not talking  
12 about zoning.

13 MR. FRIEDMAN: I understand it  
14 is not a catering hall. We don't  
15 consider it a catering hall and we don't  
16 believe the committee should. You say  
17 it's a catering hall, it is. We say  
18 it's not.

19 If this is about what people  
20 think is going to be a profit center,  
21 then one has to understand anybody can  
22 test this out tomorrow morning, if they

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1 wish. They should call the synagogue  
2 and ask them, you know, we'd like to  
3 hold a major function here and hear what  
4 the response really is because it will  
5 not be about renting out the facility  
6 for profit.

7 If a person wants to call up  
8 the synagogue who's outside the  
9 synagogue community and say, "We'd like  
10 to have a function in this building,"  
11 first of all, they won't be permitted --

12 MR. ASCHE: Shelly this is not  
13 the issue anyone is raising. The issue  
14 is, first of all, the lady asked what  
15 the capacity of the hall was. And we're  
16 not going to get through tonight unless  
17 you answer the questions.

18 You'll have a chance to say  
19 whatever you want later, but you really  
20 need to answer her question.

21 MR. FRIEDMAN: The hall really  
22 would not be able to function with more

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1 than, do we have a number for that?

2 A VOICE: 440.

3 MR. FRIEDMAN: 440.

4 A VOICE: What was the exact  
5 distance between the proposed building  
6 and the building to the west?

7 MS. ROSENTHAL: Shelly, can  
8 you repeat the question on the mike.

9 MR. FRIEDMAN: The question  
10 is, what is the distance?

11 A VOICE: The flattened into  
12 bricks.

13 MR. FRIEDMAN: 18 West, I  
14 assume you're asking about is on the  
15 lobby, so is this building and so is  
16 every building on the block.

17 MR. ASCHE: Yes?

18 A VOICE: I'm wondering,  
19 you're showing the elevator is going in  
20 there, is there a service elevator for  
21 the residential building? How are they  
22 going to move their furniture in,

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1 osmosis?

2 MR. DOVELL: Let's go there,  
3 up one. This is the ground floor of the  
4 community house. This is the  
5 residential entry. It includes two  
6 elevators; one a passenger elevator and  
7 one a passenger service elevator.

8 One will have an entry out the  
9 back. This elevator will have an entry  
10 out the back. It then has scissor  
11 stairs here. So everything that comes  
12 and goes from the residential component  
13 comes out this block of space on the  
14 right.

15 A VOICE: There's no access  
16 from the synagogue to those elevators;  
17 is that correct?

18 MR. DOVELL: That's correct.

19 MR. ASCHE: Sir?

20 A VOICE: You put a lot of  
21 time into the presentation, but you  
22 brought a model that's inaccurate. I'm

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1 wondering what else might be inaccurate  
2 about this presentation.

3 MR. DOVELL: The wood model is  
4 modified to produce the height. This,  
5 as you imagine, was quite a tedious  
6 model to put together. I have showed  
7 you what was finally approved as a  
8 modification, if you'd like to see it.  
9 It shows the doors down at the  
10 base and it shows the column coming from  
11 the center. But other than that and  
12 this alignment, there are no other  
13 modifications to it.

14 MR. ASCHE: Sir?

15 A VOICE: Could you please  
16 explain what type of foundation is  
17 required to minimize the impact during  
18 the construction process on the  
19 neighbors and the surrounding community?

20 MR. DOVELL: Well, we know  
21 that there's rock below here at some  
22 level that we will get into in

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1 connection with this. So there will be  
2 rock excavation involved.

3 It will probably involve lime  
4 drilling. We haven't worked out all the  
5 specifics for the foundation design, but  
6 it will probably involve lime driving  
7 and possibly some underpinning, but we  
8 have not advanced the project to that  
9 point. The foundations are quite good.

10 A VOICE: What is the best  
11 type of foundation plan for this type of  
12 building in your experience?

13 MR. DOVELL: You can't do  
14 better than New York schist, which this  
15 thing sits on.

16 A VOICE: But the building  
17 isn't built on schist.

18 MR. DOVELL: The foundation  
19 will engage rock and the building will  
20 be a cast in place concrete structure.  
21 That type of structure reduces the floor  
22 to floor heights considerably. That's

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1 why we went to that.

2 A VOICE: What type of  
3 foundation are you planning on using to  
4 build this building?

5 MR. DOVELL: There would be  
6 spread footing on rock. We're not  
7 talking about drill piles or anything  
8 like that, that you'd encounter in soft  
9 soils.

10 This is hard rock bearing  
11 capacity, is very good, the foundation  
12 system would be a minimal foundation  
13 system.

14 MR. ASCHE: Yes?

15 A VOICE: How many members of  
16 the congregation are there? I'm trying  
17 to understand how they relate to the  
18 capacity of the catering hall.

19 MR. FRIEDMAN: I believe the  
20 application says, I think it's more than  
21 600 families.

22 A VOICE: So that's pretty

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1 constant use of the catering hall.

2 MR. FRIEDMAN: It's not a  
3 catering hall, but the room will be  
4 used. It's used every weekend for the  
5 following services.

6 The services that take place  
7 in that facility are absolutely  
8 essential to religious observation. In  
9 fact, the prayers that take place over  
10 the wine and bread areas are important  
11 to the observation of Sabbath as  
12 anything that takes place in the  
13 sanctuary.

14 This hall is linked to the  
15 continuation and the culmination of  
16 Shabbat services and every other service  
17 that takes place in the sanctuary  
18 itself.

19 MR. ASCHE: Ma'am?

20 A VOICE: I haven't done a  
21 renovation to a bathroom. Can you  
22 estimate a time? I'm not asking you to

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1 lock it down, approximately from start  
2 to finish, what would a project like  
3 that be in time, about?

4 MR. FRIEDMAN: We're  
5 estimating 14 to 16 months but, of  
6 course, you have to understand that  
7 after certain point in time, it's  
8 entirely enclosed in and much of that  
9 work is work within an enclosed  
10 building.

11 A VOICE: Does that include  
12 demolition?

13 MR. FRIEDMAN: Yeah. There's  
14 not much to demolish as far as the  
15 community houses are concerned.

16 A VOICE: I still didn't see  
17 my section, I was hoping to see that and  
18 know what the depth is.

19 MR. ASCHE: Let's take another  
20 question while we're waiting. Yes,  
21 ma'am?

22 A VOICE: If approved, when

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1 would construction start?

2 MR. FRIEDMAN: The

3 construction has to be coordinated with

4 the -- obviously, the Jewish holiday

5 calendar or the school calendar. And I

6 don't think those determinations have

7 been made.

8 We don't know when our BSA

9 project will be approved. I think

10 ideally the synagogue would like to

11 start the demolition. It has to

12 relocate all of the facilities out of

13 the community house before it can

14 obviously demolish, so we're probably

15 talking the earliest next spring or

16 summer before construction activity

17 would be taking place on this site.

18 A VOICE: For 14 to 16 months?

19 MR. FRIEDMAN: The estimate is

20 14 to 16 months, yes.

21 MS. COHEN: During the period

22 of construction where will the tenant

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1 also of singular importance to the

2 congregation. We'll continue to use

3 this building for -- throughout this

4 period. So it has to take care of that,

5 as well as 18 and as well as the other

6 adjacent buildings.

7 You know, when the Landmark

8 Commission approves a building of a

9 historical district and other Landmark,

10 it has pretty exacting requirements for

11 what's known as a preservation program

12 regarding construction and the like.

13 That will entail a detailed

14 analysis, not the synagogue, but all the

15 surrounding buildings, including the

16 buildings across the street to assess

17 their structural integrity.

18 They go in and they look at

19 and they map out every crack and every

20 basement wall and make an assessment of

21 existing conditions from that report.

22 The professional engineers

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1 school be housed?

2 MR. FRIEDMAN: The tenant

3 school has been advised it's going to

4 have to seek other quarters. The more

5 important question to the synagogue is

6 where is the Hebrew school going to be.

7 MS. COHEN: Where is that?

8 MR. FRIEDMAN: The answer is

9 at the point in time we know we have to

10 go out in the market to find space and

11 we will. Usually for a synagogue,

12 schools and synagogues and churches all

13 have shared these expansion woes and

14 there will be some grace somewhere that

15 works out the problem.

16 MS. NORMAN: Since this is

17 construction that's going on, what

18 special provisions are you going to be

19 taking to ensure there's no damage to

20 the Landmark.

21 MR. FRIEDMAN: First of all,

22 thank you for the question because it's

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1 involved will establish what's known as

2 a peak particular velocity, which has to

3 do with how vibrations travel, whether

4 it be jackhammers, back hoes or whatever

5 or lime drilling, that is usually

6 coordinated with the Secretary of the

7 Interior standards and the State of New

8 York standards for these kind of

9 construction activities.

10 Seismic monitors are placed in

11 all the adjacent buildings. They are

12 checked several times during the day and

13 if the velocities are -- that are being

14 monitored exceed the standard that's

15 being set, then the job must be shut

16 down until a staff member from the

17 Landmark Commission comes down and helps

18 evaluate what steps can be taken.

19 MS. NORMAN: What about the

20 Buildings Department?

21 MR. FRIEDMAN: The Buildings

22 Department, as well, but the agreement,

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1 typically, because it's part of the  
2 Landmark approval indicates the Landmark  
3 Commission will be involved in the  
4 decision. They're usually more  
5 sensitive.

6 The Buildings Department would  
7 be involved, but it's due to the  
8 protocol worked out with the Landmark  
9 Commission, not the Buildings Department  
10 which sets the threshold approves the  
11 seismic monitoring.

12 And in the event of exceeding  
13 the threshold is the agency contacted to  
14 come to the site and help deal with the  
15 situation, but the site does not work,  
16 the site does not resume until the  
17 commission staff person is satisfied,  
18 until steps are taken to address  
19 whatever the seismic monitors are  
20 indicating that may be a problem.

21 MR. ASCHE: I see two more  
22 hands.

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1 A VOICE: Two years ago there  
2 was a sizable sink hole in the road next  
3 to the temple. I don't know what caused  
4 that. It could swallow up a mini  
5 Cooper, that's how big the sink hole  
6 was, but I don't know --

7 A VOICE: It's a recurrency --

8 A VOICE: I'm concerned with  
9 the infrastructure of the road at that  
10 point with all the activity that will be  
11 taking part with the construction.

12 A VOICE: Does BSA require a  
13 foundation plan for it to grant the  
14 variance?

15 MR. FRIEDMAN: The foundation  
16 plan will be approved by the Department  
17 of Buildings.

18 A VOICE: Following the BSA.

19 MR. FRIEDMAN: Following BSA  
20 approval.

21 MS. NEUWELT: I want to be  
22 clear on the plane of the primary

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1 facade, the north facing facade. As I  
2 recall, what we saw in our Landmark  
3 Committee consideration of this in 2005  
4 a certain amount, 18 inches, two feet or  
5 something, of the wrap around masonry of  
6 the Landmark synagogue, remained visible  
7 because the facade of the -- and tell me  
8 if I'm wrong about this, but the facade  
9 of the new building was set back a bit.

10 What I'm not clear on is  
11 whether, and I'm not clear when you were  
12 referring to various changes because you  
13 said currently the facade, the front  
14 facade is at the lot line. Has the  
15 front facade now been moved forward from  
16 what we saw two years ago, and wherever  
17 it is, and if you would tell us where it  
18 is, is any of the return or the wrap  
19 around masonry of the Landmark building  
20 going to be visible from the west?

21 MR. DOVELL: The primary  
22 facade, which is this facade here, is

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1 right at the lot line. There are then a  
2 series of subtle set back that included  
3 a glass corner at this location, then a  
4 flanking plain of masonry which, in  
5 fact, are pushed back from that plain.

6 They will expose the stone  
7 work on the side of the synagogue.  
8 Landmark was quite interested in that in  
9 revealing that edge of masonry along  
10 that line.

11 MS. NEUWELT: How many inches  
12 or feet of that edge of stone of the --

13 MR. DOVELL: It is  
14 approximately two-foot six.

15 MS. NEUWELT: About two six?  
16 Thanks.

17 MS. STARKEY: Shelly, if you  
18 removed the residential condos, but kept  
19 the entire community facility as it is  
20 presently planned, which would allow  
21 increased classrooms and other amenities  
22 in that, what variances would you need

1 at that time?  
2 MR. FRIEDMAN: We would still  
3 require the variances that are requested  
4 with regard to lot coverage. The  
5 variances that are required for the rear  
6 yard. And the --I'm not sure about the  
7 rear yard set back, but those would be  
8 the package. Obviously, there might  
9 still be, since this would be a much  
10 different project for the Landmark  
11 Commission to consider.  
12 They may take us in a  
13 direction at whatever height that would  
14 require other variances regarding set  
15 back and the like, hard to speculate on  
16 that, but the known variances are the  
17 ones I just listed for you.  
18 MR. ASCHE: All right. Last  
19 question.  
20 A VOICE: Just to go back a  
21 very short distance on the issue of the  
22 plans in terms of the, how the

1 running underneath the synagogue.  
2 A VOICE: Exactly.  
3 MR. ASCHE: We're going into  
4 the comments section, but before we do,  
5 as our first commenter, we have Assembly  
6 Member Richard Gottfried.  
7 MR. GOTTFRIED: Good evening.  
8 Standing back there, I was reminded as I  
9 often have at community board meetings  
10 and community meetings, what an amazing  
11 thing it is, the amount of time and  
12 effort and talent and expertise that our  
13 communities get for free from folks like  
14 yourself. Mind boggling.  
15 And I want to note at the  
16 outset on the question of scheduling of  
17 the Board of Standards and Appeals  
18 hearing, I am very happy that the  
19 community board has written to the BSA  
20 asking that the hearing on the 4th not  
21 open at that time and that, and also I  
22 have also written to the BSA urging the

1 construction affects the buildings and  
2 grounds around it and reconstructing the  
3 Second Avenue subway street station,  
4 there was a concern for that.  
5 And there was much more  
6 concern because there was much older  
7 buildings, they wanted to make sure were  
8 shored up against any work being done.  
9 So I'm sure, if they have any  
10 sense, which I'm sure they do, they're  
11 going to concentrate on those issues, as  
12 well, as he describes.  
13 The other thing is can the  
14 subway line that's practically under the  
15 building itself have a -- will there be  
16 some kind of defense?  
17 MR. FRIEDMAN: It's an  
18 excellent question because it adds one  
19 more agency that's going to take a  
20 critical look at all the construction  
21 work and all the foundations because,  
22 yes, there's couple 100,000 people a day

1 same.  
2 This project would mean harm  
3 to the immediate neighbors of the  
4 synagogue and this sort of issue is  
5 sometimes disparaged as people worried  
6 about their views.  
7 It's not a question of  
8 anybody's views, it's a question of  
9 whether anybody can see out their  
10 windows at all and whether their windows  
11 will exist at all. Rear yard  
12 requirements are in the Building Code,  
13 not out of whim, but because they serve  
14 important and sometimes life protecting  
15 purposes and they should not be casually  
16 disregarded.  
17 The project will perhaps more  
18 importantly mean harm to the  
19 neighborhood. The height limitations on  
20 the side streets and the provisions of  
21 the historical district are there for  
22 important community purposes and the

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1 fact that there were some buildings  
 2 built within the side street boundaries  
 3 that exceed those limits that were built  
 4 before those limits were put into place,  
 5 don't really tell us anything, except  
 6 that those limits were put in there  
 7 because society decided it was time to  
 8 draw a line and that line should be  
 9 protected.

10 And we should not lightly, if  
 11 at all, be disregarding the side street  
 12 height limitations. Especially, since  
 13 there really is no necessity or  
 14 justification and certainly no hardship  
 15 in question here.

16 The synagogue can readily  
 17 build its community house well within  
 18 the requirements of side street zoning.  
 19 I believe that if they were only  
 20 building a community house, they would  
 21 not need any variances at all, but  
 22 certainly dramatically less than they

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1 community is making an involuntary  
 2 contribution to the synagogue. That's  
 3 wrong.

4 The synagogue should do what  
 5 every house of worship does and seek  
 6 voluntary contributions to pay for its  
 7 building. If we do otherwise, I don't  
 8 know if it's a precedent because hardly  
 9 any outrage in land use in the city is a  
 10 precedent anymore, but we would  
 11 certainly be advancing a trend, which we  
 12 should not, that any property owner,  
 13 whether non profit or otherwise, would  
 14 be able to come to the community, to the  
 15 Board of Standards and Appeals and say,  
 16 If you let us build five extra floors so  
 17 we can make more money and we like to  
 18 make more money; therefore, that's a  
 19 hardship and necessity. It's not, and  
 20 this application should be turned down.  
 21 Thank you.  
 22 (Applause.)

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1 are seeking.

2 And the only reason they are  
 3 seeking the five residential units is  
 4 because they would rather pay for their  
 5 community house than pay for it the way  
 6 any house of worship would pay for such  
 7 a building, namely, by raising money.

8 And the fact that they would  
 9 rather sell residential units than raise  
 10 money like any other congregation, to me  
 11 does not constitute a hardship or a  
 12 necessity or a justification.

13 Essentially, what is going on  
 14 here is that something of value to the  
 15 community, whether it's the ability to  
 16 see out of a window or the protection of  
 17 our local zoning, that is something of  
 18 value that belongs to the community and  
 19 the synagogue proposed to take that  
 20 thing of value to itself, and then sell  
 21 it for its financial benefit, which  
 22 means essentially that the entire

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1 MR. ASCHE: Thank you.

2 MS. COWLEY: We have several  
 3 speakers, members of the public, who  
 4 would like to make a statement. I  
 5 remind you, we have a two-minute limit.  
 6 We'd like to hold that.

7 I'm going to start with the  
 8 easiest one because it will give me the  
 9 most in the discard pile. Several  
 10 people have conceded to Jan Levy to make  
 11 her statement and that, I'm going to get  
 12 your name wrong, Polayes, Madeline  
 13 Polayes, Faith Steinberg and Debbie  
 14 Stevens.

15 So, Jan, do you mind starting  
 16 us off?

17 MS. LEVY: Good evening,  
 18 everybody. Well, I am Jan Levy, a  
 19 former 20-year member of this Community  
 20 Board.

21 I'm the founder and former  
 22 chair of the Board's Landmark Committee.



1 I have lived on the Upper West Side for  
2 more than 30 years.

3 I was instrumental in securing  
4 designation of the Central Park West  
5 Historical District, an initiative that  
6 took some five years of great angst,  
7 patience and community support in the  
8 late 1980s.

9 Shearith Israel, a designated  
10 landmark is one of the principal  
11 treasures of the district, which  
12 stretches along Central Park West from  
13 62nd Street to the south side of 96th  
14 Street.

15 It includes numerous  
16 individually and designated residential  
17 and religious buildings and other  
18 institutions.

19 Also, part of the district are  
20 many side streets where the brownstones  
21 that survive as built give us a sense of  
22 life in New York City in the late 19th

1 and 20th centuries.

2 As a resident of the district  
3 who fought for the designation of a  
4 Central Park West Historical District, I  
5 take great pride in our achievement.

6 Shearith Israel holds a  
7 special place in the district, not only  
8 for the beauty and elegance of its  
9 structure, but, of course, lengthy  
10 roster of prominent leaders and members.

11 Founded in 1654, more than 350  
12 proud and glorious years ago. Shearith  
13 Israel stands today as a bastion of the  
14 highest Judaic custom and tradition, a  
15 synagogue both esteemed and deeply  
16 respected by people of all faiths.

17 Indeed, in September 2004, I  
18 was privileged to attend the moving and  
19 inspiration commemoration of the  
20 Congregation's 350th anniversary. The  
21 awesome beauty of the program so simply  
22 and stirringly presented lives among my

1 most treasured memories.

2 The synagogue members, many of  
3 them direct descendents of the founders,  
4 continue many of the customs and  
5 practices of their ancestors. Notably,  
6 the participation in civic and  
7 philanthropic affairs.

8 In addition, the hospitality  
9 and warmth of all who officiate and  
10 worship in this beautiful temple  
11 immediately welcomes visitors and  
12 guests. Shearith Israel is a long and  
13 cherished good neighbor.

14 Many Shearith Israel  
15 traditions reflect the early days of its  
16 existence. For example, the role of  
17 women members, to this day, women still  
18 uphold the impressive standards of  
19 service to congregation and community  
20 established so long ago.

21 Because of this adherence to  
22 the ways of the founders, which reflect

1 deep-seated honor and respect for Judaic  
2 law, it is puzzling that the synagogue's  
3 leaders persist in seeking variances to  
4 the existing zoning laws and building  
5 codes.

6 I well remember in the late  
7 '80s, the synagogue planned to build on  
8 the site of the community house. Eli  
9 Attia, the distinguished Israeli  
10 architect, had designed 36-story  
11 building.

12 At that time I do not believe  
13 R8B or R10A existed. The community  
14 hearing was held in the Ethical Cultural  
15 Auditorium. Following the presentation  
16 of the plans, during the question and  
17 answer period, I asked to address a  
18 question to the Chairman of the Board of  
19 Trustees.

20 I asked why the synagogue  
21 needed a 36-story building, his reply  
22 indicated the synagogue only needed six

1 stories. The balance was for the  
2 developer. Not a trick question, end of  
3 story, case closed.

4 Yet today, we again face the  
5 challenge of an inappropriate structure  
6 that will demean and trivialize a  
7 magnificent building, by constructing  
8 and cantilevering a building of banal  
9 design and inappropriate materials in  
10 the mid-block. The proposed building  
11 offends both the synagogue and the park  
12 block.

13 However, should the variance  
14 requests be approved, the precedent is  
15 set, and other institutions and property  
16 owners will not be long seeking their  
17 piece of the pie.

18 In fact, on the other side of  
19 the park, we learned Congregation  
20 Kehilath Jeshurun on East 85th street, a  
21 distinguished but not landmarked  
22 building, proposes demolishing its

1 adjacent Ramaz school, and replacing it  
2 with a 28-story tower.

3 Sorry, you have to bear with  
4 me. The lower ten stories would serve  
5 Ramaz, the upper 18 would be sold as  
6 luxury condos.

7 The proposed building, rising  
8 more than 100 feet above the allowable  
9 zoning, would tower over its mid-block  
10 neighbors. Like Shearith Israel, it  
11 would require approval of variances by  
12 the Board of Standards and Appeals.

13 Connecting the dots, we find  
14 that both Shearith Israel and Ramaz are  
15 represented by a well-known, experienced  
16 land use lawyer. The precedent of  
17 variances, if approved for Shearith  
18 Israel, would surely bolster the  
19 argument for the Ramaz school.

20 So that we have two  
21 situations, one involving a landmark in  
22 a historical district, the other a well

1 known undesignated building, each  
2 seeking approval of variances above and  
3 beyond existing zoning.

4 Well, then, I ask why  
5 designate individual landmarks and  
6 historic districts, why promulgate  
7 zoning codes and regulations, only to  
8 allow variances which permit larger,  
9 inappropriate structures.

10 Are these laws, which are  
11 intended to protect and preserve our  
12 architectural, cultural and social  
13 heritage, to be honored principally in  
14 the breach?

15 Our religious institutions  
16 protest -- "Mission not Mortar", I feel  
17 certain the majority, if not all  
18 preservationists and New Yorkers,  
19 respect and appreciate the role and the  
20 importance of our religious institutions  
21 in the community.

22 Many provide for the homeless,

1 offer food pantries, host A.A. meetings  
2 and other programs to help those in  
3 need. No one would deny the vital  
4 presence of these the vital presence of  
5 these programs, dedicated to helping the  
6 disadvantaged.

7 In good conscience, who could  
8 refuse to support our religious  
9 institutions?

10 As for Shearith Israel, I  
11 submit that this is not a congregation  
12 that is in desperate circumstance.

13 I have seen the spaces  
14 available for communal gatherings and  
15 noted the pristine condition of the  
16 building, inside and out.

17 This congregation shows great  
18 respect for its more than 100-year old  
19 building. It exterior was cleaned and  
20 restored in observance of the 100-year  
21 anniversary, a gift to this neighborhood  
22 and to the city, the gift of a good

73

1 neighbor.

2 I ask all who support this

3 inappropriate structure, that will be a

4 jarring wrong note on a park block in a

5 historic district, to reconsider, surely

6 there is a better solution to meeting

7 the needs of Congregation Shearith

8 Israel, one that will acknowledge the

9 respect in which an institution of this

10 long history and impeccable stature is

11 held on the Upper West Side, and

12 throughout our city, a solution that

13 will not set a precedent that could

14 result in the loss of some of our most

15 famously prized architecture.

16 Here, I would like to stop and

17 ask how many people have seen or been in

18 the neighborhood of the church of St.

19 Paul and Saint Andrew on 86th Street and

20 West End recently. Well, when you go

21 there, that church came to the community

22 board also in the '80s looking to

75

1 community center. It breaks your heart.

2 However, today there's a sign

3 outside 96th and West End Avenue, that

4 reads Church of Saint Paul and Saint

5 Andrew, Congregation B'nai Jeshurun.

6 So they're all using this

7 building that we wouldn't let tear down

8 20 years ago.

9 I assume it must be close to

10 fire codes, otherwise, so many people

11 would not be using it. So we do respect

12 our religious institutions and they do

13 have a place in our community beyond the

14 fact that they attended the means of

15 their other membership.

16 I feel very badly about the

17 possibility of this building going up

18 behind Shearith Israel. I think it will

19 trivialize, minimize, mock the simple

20 and elegant structure that's been here

21 more than a hundred years.

22 And I would like to see the

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1 perhaps make a deal with the developer,

2 tear down the buildings and put up a

3 structure that would give them space,

4 and I guess condos weren't popular then,

5 but would give them more income from the

6 rest of the building.

7 So they come to us and they

8 told us they would negotiate with a

9 developer and we said we were interested

10 in land marking the building and they

11 said well could they have three more

12 months to discuss the possibilities with

13 the developer. We said sure.

14 They came back asked for

15 another three months. We said sure.

16 After those six months, they came back

17 again, can we have more time. We said

18 no.

19 We called down town, said

20 please landmark the building. It's a

21 wonderful building, lot of room, a

22 theater, it can be such a magnificent

76

1 congregation continue whatever its

2 programs are because I'm sure they are

3 worthwhile to many, many people, but I

4 think it's an awfully big price to pay.

5 So I'm asking the community

6 board to disapprove the Shearith Israel

7 request for variances. Thank you.

8 I have an article from the

9 Sunday Times of November 11th that

10 details some of the information about

11 Kehilath Jeshurun.

12 (Applause.)

13 MS. COWLEY: Followed by

14 Laverne Rooney.

15 A VOICE: Repeat the first

16 name.

17 MS. COWLEY: Laverne.

18 MS. MOONEY: Hello there. My

19 name is Laverne Rooney. I am a doctor

20 in the Environmental Health Department

21 from Columbia University, and I also

22 happen to live on 70th Street.

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1 So my perspective is from the  
2 environmental, spend over 12 years at  
3 Columbia. I'm researching the effect of  
4 environmental pollutants and health.  
5 Air quality and light.

6 I'll just maybe mention a  
7 little bit about the air quality aspect.  
8 You know, environmental health, they say  
9 the solution to pollution is dilution,  
10 and how do we dilute? We dilute by  
11 opening your windows, that's what we  
12 won't be able to do. We're in a  
13 building where it will be blocked.

14 I think it's kind of a shame  
15 I'm just amazed they will go forward.  
16 Indoor pollutant is higher than the  
17 outdoor. There are a few higher  
18 outdoors, but that's the whole aspect of  
19 ventilation, and ventilation makes for  
20 healthy environment and you don't have  
21 much asthma. I wanted to bring that to  
22 you first.

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1 We see a lot of drawings and  
2 lot linings that we don't understand,  
3 but I definitely understand  
4 environmental health. Thank you.

5 (Applause.)

6 MS. COWLEY: Laverne Mooney.  
7 Oh, that's you.

8 Sherry Miller, you're going at  
9 the end.

10 A VOICE: I don't mind going  
11 now.

12 MS. COWLEY: Joan Lenick  
13 followed by Kate Wood.

14 MS. LENICK: My name is Joan  
15 Lenick. I've only been on West 70th for  
16 three years, but was an ancient history  
17 teacher for 15 and I fully respect that  
18 magnificent building on the corner, but  
19 what weighs my mind is the hardship of  
20 one group override the hardship of  
21 another and that is what the board is  
22 considering to contemplate and in their

79

1 conscience decide. Thank you.

2 (Applause.)

3 MS. WOOD: Good evening. I'm  
4 Kate Wood for Landmark West. Landmark  
5 West has been working with many  
6 residents of West 70th Street, including  
7 the buildings that will be most  
8 immediately impacted by the proposed  
9 building. We made a sizable submission  
10 to the committee and the co-chair of the  
11 board, so I'll be brief.

12 I just want to pick up on a  
13 statement made by the Land Use co-chair  
14 Richard Asche at the October 17th  
15 meeting because I think it really gets  
16 to the heart of this matter.

17 You said: "Is it appropriate  
18 for a non profit to use their variances  
19 to build private condominiums in order  
20 to finance the building, and if the  
21 answer to that is yes, are all these  
22 condos necessary to do that or will some

80

1 lesser number suffice. If the answer to  
2 that is no, what is the justification  
3 for having the condos, that's the  
4 issue."

5 And we could not agree more  
6 that is the issue. Beneath these many  
7 piles of paper, all of these months of  
8 back and forth, the submissions and  
9 resubmissions, that is the crucial  
10 issue.

11 The driving force of this  
12 application is not the storage, not the  
13 classrooms, not the accessibility, not  
14 the circulation. The driving force is  
15 five floors of luxury condominiums that  
16 CSI wants to stack on top of its new  
17 community house.

18 All of CSI's programmatic  
19 needs can be met by an as-of-right  
20 building, without any of the seven  
21 requested zoning variances. They've  
22 shown that in their own drawings. Not

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1 only would an as-of-right building meet  
2 all of their mission related needs, it  
3 would generate a healthy profit,  
4 totalling millions of dollars.

5 And if you add that to the  
6 substantial income that they receive  
7 from the tenant's school, from the  
8 top-end residential unit that they have  
9 in the parsonage, this is not a  
10 nonprofit institution that is just  
11 barely meeting its programmatic needs,  
12 it is thriving.

13 Now, CSI wishes it could use  
14 its real estate to generate even more  
15 money but doesn't everyone. The fact is  
16 that the zoning just does not allow it,  
17 and there simply is no basis for  
18 granting variances, just so one property  
19 owner can make more than a reasonable  
20 return or in the case of a nonprofit,  
21 build more than it needs to accommodate  
22 its programs that relate directly to its

83

1 the U.S. Supreme Court when it ruled in  
2 the landmark case, Society for Ethical  
3 Culture versus Spatt.

4 I'll conclude with the quote.  
5 The Court stated: "Society does not  
6 seek simply to replace a religious  
7 facility with a new, larger facility.  
8 Instead, using the need to replace as  
9 justification, it seeks the unbridled  
10 right to develop its property as it sees  
11 fit. This is impermissible and the  
12 restriction here involved cannot be  
13 deemed an abridgment of any First  
14 Amendment freedom, particularly when the  
15 contemplated use, or a large part of it  
16 is wholly unrelated to the exercise of  
17 religion, except for the tangential  
18 benefit of raising revenue through  
19 development.

20 And economic engine is not an  
21 appropriate basis for special exemption  
22 from the laws that govern all property

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1 mission.

2 MS. COWLEY: Can you wrap it  
3 up, please.

4 MS. WOOD: I will. My point  
5 is the community --

6 MR. ASCHE: She spent a lot of  
7 time quoting me, so . . .

8 (Laughter.)

9 MS. WOOD: That shouldn't  
10 count.

11 The bottom line is the  
12 community shouldn't pay the bill for  
13 CSI's new community house, CSI should.  
14 That's exactly the position that BSA has  
15 taken when it came to other less  
16 prosperous congregations in other  
17 boroughs outside of Manhattan.

18 It is the position that Jewish  
19 Home and Hospital claimed BSA would take  
20 if the hospital attempted to seek  
21 variances for its tower development.

22 It's the position adopted by

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1 owners in this special district  
2 throughout the city. Please deny that  
3 application. Thank you.

4 (Applause.)

5 MS. COWLEY: If anyone is  
6 going to try to get away with quoting  
7 Richard Asche, you're going to be  
8 deducted.

9 MR. ASCHE: That's all the  
10 applause.

11 MS. COWLEY: Jay Greer,  
12 followed by Alan Sugarman.

13 MR. GREER: Members of the  
14 committee, members of the audience, I'm  
15 Jay Greer. I live 25 Central Park West  
16 for the last 39 years. From last June,  
17 before last June, I lived right next  
18 door to Shearith Israel.

19 I'm very well aware of it. I  
20 have enormous respect for it; however, I  
21 think what they're trying to do to get  
22 you people to approve is an abomination

85

1 and I hope you beat it.

2 By the way, I did send you all

3 statements and if you need extra copies,

4 I'll be happy to provide them. Thank

5 you.

6 (Applause.)

7 MS. COWLEY: Alan Sugarman.

8 MR. SUGARMAN: Hello. I'm

9 very impressed by my eloquent neighbors.

10 I hoped we could have a little show that

11 we can go through and visually see what

12 in vein I've been trying to get for a

13 couple years, which is something to show

14 the impact on the area or the shadows

15 and my -- Ms. Alice Sterling has helped

16 us put together this presentation.

17 First, we're going to show a

18 quick video and we'll go through some

19 slides. So the point of this

20 presentation has to do with mid block

21 zoning.

22 And mid block zoning cuts down

87

1 proposed building. In green is the

2 as-of-right building. Now, what's very

3 interesting about almost most of the

4 presentations by the developer here is

5 that they show a lot about the proposed

6 building. Don't show very much about

7 the as-of-right building.

8 An example is the economic

9 study, which has a lot of information

10 about the proposed project, but leaves

11 out anything about the as-of-right.

12 Now, we're going through the

13 slides and if anyone on the panel would

14 like us to slow down, we will.

15 MS. MILLER: No. This was

16 supposed to be a two-minute

17 presentation.

18 MR. SUGARMAN: Okay.

19 Continue. These, here's the as-of-right

20 building. By the way, I have been

21 trying for two years to get the

22 developers of architects, who has all of

86

1 on a height and most importantly or very

2 importantly, the set back. Now, to

3 grant a variance from that and to not

4 even ask the developer to prepare

5 realistic site lines and shadow studies

6 is seems to me that the body that's

7 making the decision doesn't have the

8 evidence before them to permit a

9 decision as to whether as to the impact

10 of the project.

11 So we're going through this

12 pretty quickly, then we'll go through

13 some of the slides separately.

14 Here, we see some slides

15 showing the impact on the windows and

16 then we're going to walk up West 70th

17 Street towards Central Park and see

18 something very interesting, which

19 concerns 22 West 70th Street which is

20 just to the west of -- of the large

21 building 18 West.

22 So in red here we see the

88

1 this in their system to present shadow

2 studies.

3 So there's some evidence

4 before the -- to be decided here. Here

5 we can now see though -- can you hold it

6 for a second there, go back to the green

7 one, to the windows. Right there. This

8 shows the as-of-right building and you

9 can see the windows are unaffected, no

10 windows are bricked ups by the

11 as-of-right building. Move forward.

12 Again, here is a view of the

13 as-of-right building, no blockage. Even

14 this is quite an enormous building.

15 Continue. This is the proposed building

16 and you can see what it locks up. I'd

17 also like to make the point it was very

18 interesting -- can you hold it for a

19 second to look -- just hold there. To

20 look at the presentation by the

21 architect where he talked about all the

22 access and elevators.

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1 All those facilities for the  
2 handicapped are contained within the  
3 as-of-right building. Period. There's  
4 nothing that he showed where he only  
5 showed the proposed, but had he shown  
6 the as-of-right building, it would have  
7 been exactly the same. Continue.

8 Now we're going to walk up  
9 West 70th Street, and way up there you  
10 can see the green building and the  
11 as-of-right on top of it. You can see  
12 the real difference in how that's going  
13 to look.

14 We tried really hard to make  
15 this an accurate projection based upon  
16 the model here, which has actually  
17 confused us quite a bit. Continue.  
18 Here, we wanted to -- go back a second  
19 to the sun. Can you go back to the sun  
20 over the building? Right there.

21 This is the sun coming through  
22 a space that's going to be filled up

90

1 completely by the proposed building and  
2 would not be filled up by the  
3 as-of-right building.

4 Here are some photos, you can  
5 see the shadows, sort of the edgy  
6 shadows where 18 West blocks, and then  
7 you will see what happens when the  
8 proposed building comes in. A lot of us  
9 are very conscious of the height of the  
10 buildings. Hold that for a moment.

11 But the set back is just as  
12 important in providing light and air on  
13 the street. Continue.

14 So, here again, you can see  
15 the relationship between the 18 West you  
16 see the windows, the red building,  
17 proposed building, blocks it all out.  
18 Okay. Right now we heard a bit about a  
19 hypothetical about other non profits.

20 Well, when we went through the  
21 list of the affected property owners, we  
22 discovered that 22 West 70th Street is

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1 owned by the Catholic High School  
2 Association. That's right on the other  
3 side of 18 West. So if this proposal is  
4 accepted, we don't see why this  
5 not-for-profit cannot come back and put  
6 in 105 foot tower.

7 They should be treated exactly  
8 the same way in whether they're funding  
9 a facility here or perhaps a school  
10 somewhere else. It's no different than  
11 a synagogue funding its own facility or  
12 funding the facility in Rhode Island and  
13 elsewhere. This that's the end of our  
14 presentation. Thank you.

15 (Applause.)

16 MS. COWLEY: James Lepow.

17 A VOICE: I have a Power Point  
18 presentation that I'm going to go  
19 through as fast as I can.

20 A VOICE: Developers had a  
21 half hour.

22 MS. COWLEY: I know. We're

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1 trying to be fair to everyone.

2 A VOICE: How is that fair?

3 MR. ASCHE: You might want to  
4 wait until he speaks before you speak.

5 MS. COWLEY: If you could be  
6 efficient in your presentation, I'd  
7 appreciate it.

8 MR. J. LEPOW: Basically, what  
9 the presentation is about is really  
10 highlighting how 18 West 70th Street and  
11 the lot line windows and the windows in  
12 the interior courtyard will be affected  
13 by the building of the synagogue here.  
14 So when we get started, you will see it  
15 very clearly.

16 A VOICE: Would it make sense  
17 to have somebody else do their two  
18 minutes?

19 MR. ARMSTRONG: Maybe somebody  
20 else should speak.

21 MS. COWLEY: Your father  
22 Howard, followed by Joseph Bolanos.

1 MR. H. LEPOW: I'm Howard  
 2 Lepow, the president of the board of 18  
 3 West 70th Street. 18 West 70th Street,  
 4 just a slight bit of history, has been  
 5 in my family since 1943. And when my  
 6 father died, I took over managing the  
 7 building and so on, co-oped in the  
 8 1980s. The interaction with Shearith  
 9 Israel over the years, especially when  
 10 they took the building down around 1970,  
 11 was anything about pleasant because the  
 12 synagogue really did not fulfill a lot  
 13 of what they were supposed to do as to  
 14 waterproofing our structure and removing  
 15 debris from the lot next door and so on.  
 16 I never understood the  
 17 economics of taking down a perfectly  
 18 viable structure and truly, if that  
 19 structure remained of the last 36 years,  
 20 I'm sure Shearith Israel would have done  
 21 extremely well financially.  
 22 But, be that as it may, they

1 remove all of the light and the air from  
 2 those windows on the east side.  
 3 Now, all the windows on the  
 4 east side of the building are not  
 5 kitchens and bathrooms. They're actual  
 6 bedrooms. So 18 West over the last  
 7 several years has become a very strong  
 8 family building, and what it means is  
 9 all those windows, which are children's  
 10 bedrooms, parent's bedrooms will lose  
 11 all their light.  
 12 MR. ASCHE: You want to wrap  
 13 it up.  
 14 MR. H. LEPOW: Okay. If I  
 15 read the variance correctly, if a  
 16 variance is granted, it's granted. That  
 17 doesn't permit hardship or taken away  
 18 from an adjacent building. This will  
 19 obviously cause a great deal of hardship  
 20 to 18 West 70th, both economically, both  
 21 from a health point of view, and I don't  
 22 believe that this is correct.

1 took it down. The problem we have here  
 2 is that we have east windows on the --  
 3 on the structure. If there's an  
 4 as-of-right structure that goes up,  
 5 we'll live with that, I mean that, we  
 6 understand, but to get a variance is a  
 7 whole other game.  
 8 I'm also a developer, so I  
 9 know both sides, you know, of what goes  
 10 on. My point with this is very simply  
 11 that for them to put up a structure that  
 12 will contain X number of floors, more  
 13 than the as-of-right, really means  
 14 nothing as to the -- and I don't mean to  
 15 be redundant but it means nothing as to  
 16 handicapped accessibility.  
 17 It means absolutely nothing as  
 18 to storage of records at the synagogue.  
 19 They can do that with as-of-right. The  
 20 whole point of putting up the extra  
 21 floors is really a profit point. What  
 22 it will do our building is it's going to

1 I also don't like the fact  
 2 that this building is going to, if they  
 3 do get the variance, is going to be  
 4 visible from Central Park and Central  
 5 Park West, and I think it's going to  
 6 destroy magnificent, neoclassical  
 7 building.  
 8 Right now I'm more concerned  
 9 what it's going to do to the families  
 10 living on the east side of our building.  
 11 Thank you.  
 12 (Applause.)  
 13 MR. J. LEPOW: With that, I'm  
 14 going to show the -- illustrate the  
 15 effect that it will have on 18 West 70th  
 16 street. Go to the next slide, good.  
 17 So this is the as-of-right  
 18 building. The proposal and they are,  
 19 the windows in the middle are the shaft  
 20 and the windows on the side are all lot  
 21 lined windows.  
 22 As you can see they would be



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1 fine in the as-of-right proposal,  
2 completely blocked and closed up with  
3 brick in the proposed structure. So the  
4 only ones that would be free of that are  
5 the three on the side. All the way to  
6 the lift. So that is one, two, three,  
7 four, five, six, seven windows that  
8 would be completely bricked over. If  
9 you can go to the next slide, please.

10 This is a photograph of the  
11 shaft that is facing east. Go to the  
12 next one. These are the windows that I  
13 was talking about that will be bricked  
14 over. Next slide.

15 Once again, you can see them  
16 illustrate here. All covered by the new  
17 higher 105-foot structure and completely  
18 open in the as-of-right structure. Next  
19 slide, please.

20 You can read that next slide,  
21 please. Yeah, there was an error  
22 actually in CSI's application and

98

1 there's a spelling mistake there, as  
2 well.  
3 VOICES: Spell check.  
4 MR. J. LEPOW: Yeah, but they  
5 said in their proposal that it was eight  
6 and that three windows would be blocked  
7 where as it's -- I'm sorry, eight lot  
8 line windows will be blocked. Next  
9 slide.

10 And, in fact, zero would be  
11 blocked in the as-of-right scheme. Next  
12 slide please.

13 These are the courtyard  
14 windows. Next slide.

15 These are all the windows that  
16 would be effected if the new proposal  
17 would be affected. Next slide, please.  
18 Okay. Next slide, please. Next slide  
19 please.

20 So, yeah, there are a number  
21 of windows that will be in the shaft  
22 that will be covered no matter what.

99

1 Obviously. But there will be a total of  
2 22 windows in addition to that that will  
3 be blocked if the new proposal is  
4 erected.

5 And a lot of those, a lot of  
6 those shaft windows that would be  
7 blocked are, you could see blue skies,  
8 you know, they're bright windows and  
9 they will completely lose their light  
10 and air. Next slide, please.

11 This is CSI application to  
12 BSA. This proposal would not commit  
13 substantial social economic changes in  
14 the surrounding area. I saw that come  
15 up in a slide earlier in their  
16 presentation.

17 That the variance, if granted,  
18 this is a mandatory finding. If  
19 granted, would not alter essential  
20 character of the neighborhood or  
21 district in which the zoning lot is  
22 located, will not substantially impair

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1 the appropriate use or development of  
2 the property and not be detrimental to  
3 the welfare.

4 (Laughter.)

5 (Applause.)

6 MS. COWLEY: George  
7 (inaudible) followed by Bruce Simon.

8 A VOICE: Thank you. I want  
9 to read a statement.

10 "Dear esteemed members of the  
11 CB7, Land Use Committee.

12 "This communication is  
13 respectfully submitted to you in order  
14 to memorialize my statement made at the  
15 last meeting, Wednesday, October 17th,  
16 2007, regarding the matter at hand. CSI  
17 and its application to change/alter  
18 seven zoning variances.

19 "As the president of Landmark  
20 76, the West 76th Street Park Block  
21 Association, and on behalf of over 120  
22 residents, I hereby submit our

1 opposition to any approval and/or  
 2 alteration, of all the variances in  
 3 question.  
 4 "Not only has Congregation  
 5 Shearith Israel failed to prove hardship  
 6 or extenuating fiscal circumstances in  
 7 this matter, but approving any variance  
 8 changes, as submitted by Congregation  
 9 Shearith Israel, would forever change  
 10 the character and complexion of our  
 11 community negatively.  
 12 "I trust, and hope, you concur  
 13 with our sentiments. Thank you.  
 14 (Applause.)  
 15 MS. COWLEY: Bruce Simon,  
 16 followed by Peter Kennard.  
 17 MR. B. SIMON: Hi. Bruce  
 18 Simon. I would just like to ask the  
 19 committee to focus on the issue that's  
 20 before you, which is a zoning issue.  
 21 Now, there are many interesting dramatic  
 22 issues, George Washington, Paul Revere,

1 to this particular religious  
 2 institution.  
 3 And there are occasions when  
 4 special consideration is given to a  
 5 religious institution regarding first  
 6 amendment considerations for the  
 7 performance and the use by religious  
 8 institution for religious purposes.  
 9 The question before you,  
 10 however, that I think has been amply  
 11 demonstrated is the question of five  
 12 luxury residential floors, which I think  
 13 admirably the applicant acknowledged is  
 14 an economic engine.  
 15 There is no requirement in the  
 16 law and it frustrates the zoning  
 17 resolution for variances to be granted  
 18 to any institution, secular or religious  
 19 as an economic engine as opposed to  
 20 fulfillment of its religious mandate.  
 21 This application should be  
 22 opposed by the board and rejected by

1 archives in New Jersey, but the  
 2 fundamental question is a zoning  
 3 question and zoning is a device adopted  
 4 by society to protect itself against the  
 5 unrestrained exploitation of community  
 6 resources.  
 7 It is a restriction that  
 8 society imposes upon the ability of  
 9 anyone to negatively impact what society  
 10 has determined to be important,  
 11 protectable characteristics.  
 12 And so you have a zoning  
 13 resolution that limits what a particular  
 14 developer, whether it is a religious or  
 15 non profit institution or a secular  
 16 organization can do to the rest of the  
 17 community. And what you're being asked  
 18 to do and what BSA will be asked to do  
 19 is decide whether or not that zoning  
 20 resolution adopted for the benefit of  
 21 the community at large should be set  
 22 aside and variances, exceptions, granted

1 BSA. Thank you.  
 2 (Applause.)  
 3 MS. COWLEY: Peter Kennard.  
 4 A VOICE: Peter Kennard left.  
 5 MS. COWLEY: Judith Cass,  
 6 followed by Sherry Miller.  
 7 MS. MILLER: I guess it's  
 8 going to be me because she doesn't seem  
 9 to be here.  
 10 MS. COWLEY: Last call for  
 11 Judith Cass. If she comes back --  
 12 Sherry, are you ready to go?  
 13 MS. MILLER: Sure. First of  
 14 all, let me say, I'm no expert in terms  
 15 of the technicalities of this, but I do  
 16 have some thoughts about it.  
 17 I have some additional  
 18 thoughts based on what I was hearing  
 19 tonight. I sympathize with some of the  
 20 complaints made by those who are against  
 21 the proposal, but I'm also a little  
 22 nonplused because I think the only

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1 solution that would satisfy everyone  
2 here is to have nothing at all in the  
3 lot. That will certainly take care of  
4 the issue of blocked windows what it  
5 looks like, except it's pretty ugly to  
6 have an empty lot there now with a  
7 painted board facing it.

8 In terms of how it's  
9 compatible with the synagogue buildings  
10 itself, well, that's the first time I've  
11 heard that one because most of it seems  
12 to be about compatibility with the rest  
13 of the block.

14 Not that I like everything in  
15 design, but that looks a lot better than  
16 I seen before. I'm not saying I'm for  
17 or against, but I'm trying to give fair  
18 thought, what I understand about it.

19 There are some things I don't  
20 like, but I think there was real effort  
21 and I do know people who were involved  
22 in making decisions about this and I can

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1 empty lot and if you really want what  
2 was there before, well, yes the economic  
3 benefit I don't think to the synagogue  
4 --

5 MR. ASCHE: You want to try to  
6 wrap it up.

7 MS. MILLER: Yes, I will. I  
8 don't appreciate it when Mr. Sugarman  
9 was allowed to go, but just allow me a  
10 little variance. Thank up.

11 I'm saying it is a little  
12 effort, it may not be the effort you  
13 like, but it is an effort, look at the  
14 changes that's been made so far. This  
15 is what I see and I do know the party  
16 involved.

17 You know, there's a lot of  
18 good building going on now. Look at  
19 Houston Street, there's compatible  
20 building in that neighborhood. This  
21 works better than what I've seen before.  
22 Think about it a little more, try to be

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1 tell you, I think there's been a fair  
2 effort to try to meet some of what you  
3 protested against or complained about.

4 Actually, I think it's give  
5 and take, back and forth is valuable. I  
6 don't think one side should just have  
7 any kind of peremptory rights from doing  
8 what they want to do at that time.

9 It's the back and forth, all  
10 of its thesis, antithesis and synthesis,  
11 there's nothing wrong with it because  
12 it's the give and take that will produce  
13 something reasonable for everybody.

14 It's not going to satisfy  
15 everybody, that's for darn sure, but  
16 there is an attempt by the synagogue to  
17 try to meet what you're saying. I'm  
18 sure there are other things that they're  
19 not doing, but you know what, I'm trying  
20 to be a little fair about both sides.  
21 That's all.

22 Listen, before there was an

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1 a little more objective for whatever  
2 your own personal wants and needs are.  
3 That's all. I'm not against you or  
4 against you.

5 MR. ASCHE: Again, if you  
6 can--

7 MS. MILLER: Thank you, but I  
8 don't appreciate being cut off like  
9 that. Perhaps you can cut off  
10 Mr. Sugarman next time.

11 MS. COWLEY: Thank you. Is  
12 Judith Cass still here? Thank you.

13 MR. ASCHE: We're going to  
14 give the board members a chance to ask  
15 questions and make comments.

16 MS. NEUWELT: I'm Klari  
17 Neuwelt and together with Lenore Norman,  
18 sitting next to me, we're co-chairs of  
19 the Landmark Committee of CB7, so we're  
20 guests here with this committee tonight,  
21 but we've been involved in this project  
22 since it came before us as a Landmark

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1 issue, and I just want to comment on two  
2 aspects.

3 This is really one of the most  
4 disingenuous applications I have seen in  
5 many, many, many years on Community  
6 Board 7.

7 The first central thing that  
8 is so disingenuous and people have  
9 referred to it in one way or another is  
10 the concept that you've got a hardship,  
11 and the other findings that need to be  
12 made because you need to get this extra  
13 space, the rear yards and set back and  
14 all these various things in order to  
15 meet your programmatic needs.

16 When the entire theory of that  
17 is based upon meeting to take floors  
18 three, two, whatever it is, three, two,  
19 eight, plus the penthouse for  
20 apartments. I have read, thanks to  
21 Elizabeth, actually started to be  
22 circulated some of the BSA decisions and

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1 it was actually a surprise to me, you  
2 could actually research the BSA  
3 decisions in an organized way.

4 And I'm fairly -- I'm very  
5 convinced the argument you need to make  
6 money by selling condominium space as a  
7 basis for your hardship, therefore,  
8 needing to use only your first two  
9 floors for your programmatic needs is  
10 just a false premise, disingenuous  
11 premise from the beginning.

12 Fell well within, the allowed  
13 as-of-right space, the synagogue could  
14 use three floors or four floors for  
15 programmatic needs. They don't need to  
16 have the classrooms go back into the  
17 rear yard and up in the rear set back in  
18 order to achieve those programmatic  
19 needs because absent the condominiums  
20 they could do three or five or five  
21 floors as-of-right for their  
22 programmatic needs.

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1 Once you eliminate the driving  
2 element of the, of this engine, I see no  
3 basis for any of the findings. The  
4 second thing and we have a little more  
5 expertise and experience, at least some  
6 of the other members of the committee,  
7 the second huge, huge bootstrap I see is  
8 the argument. I heard this a little  
9 more on the October meeting, this  
10 committee than we heard elaborated  
11 tonight, is the argument that the LPC  
12 has approved this, demands this, demands  
13 the symmetry, demands the set back,  
14 demands the additional height and set  
15 back because this arose out of the  
16 application to LPC.

17 As I understand it, the  
18 applicant didn't go to LPC with an  
19 as-of-right application that LPC could  
20 have played with a little, the applicant  
21 went to LPC with something that was  
22 similar to this thing and LPC played

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1 with that.

2 So the argument that LPC  
3 demands all of these changes in order to  
4 meet its aesthetic considerations is  
5 just an enormous bootstrap, as well.

6 I have seen a draft of  
7 something that's been circulated to us.  
8 I don't know whether it's written by a  
9 member of the committee. Whether it's a  
10 draft for the committee, but if so, I'm  
11 disturbed by it because I don't want to  
12 steal somebody else's thunder, but it  
13 seems to me that at least some of the  
14 rationale I heard among committee  
15 members in discussion is that the real  
16 issue is the lot line windows.

17 And if you saw the lot line  
18 windows, then the rest of it is not so  
19 bad. I don't want to take my time up as  
20 Assembly Person Gottfried said, the  
21 zoning resolution has what we call in  
22 the law bright line distinctions.

1           There's a reason, you could  
2 have chosen a different lot line  
3 requirement, you could have chosen  
4 different rear yard requirement. But,  
5 they're there. They're there, they've  
6 been there for many years.

7           They provide an absolute  
8 borderline between what we have decided  
9 to permit and what we have decided not  
10 to permit. And if you say, okay, ten  
11 feet here, 30 feet here, little more  
12 here, little more there, there's no  
13 reason that you can't do that when the  
14 Historic Society comes before us, when  
15 the Catholic church that owns the next  
16 brownstone that comes before us or  
17 anybody else.

18           So I would urge the committee  
19 to reject, not that I don't have great  
20 respect for Shearith Israel, but to me  
21 the whole thing is a colossal bootstrap,  
22 and I urge the committee to reject all

1 Thank you.

2           (Applause.)

3           MS. COWLEY: We're going to  
4 have a breach in the community board's  
5 land use member comments because we have  
6 two more speakers, which I apologize,  
7 seemed to have been buried under some  
8 paperwork. We have Gorman Perry.

9           A VOICE: Reilly.

10           MS. COWLEY: Sorry. Followed  
11 by Mr. Lo Van Der Valk. Sorry. Anybody  
12 else? I didn't realize there were some  
13 slips down below. Has anybody else who  
14 wished to speak this evening submitted a  
15 yellow piece of paper?

16           MR. REILLY: Thank you very  
17 much. My name is Gorman Reilly. I'm  
18 president of Civitas Citizens, Inc.,  
19 which is a community organization on the  
20 east side. We are primarily concerned  
21 with these very issues of zoning and  
22 land use in Community Board 8 and

1 of it. Thank.

2           MR. ASCHE: Thank you.

3           (Applause.)

4           MS. NORMAN: I won't repeat  
5 everything that's said tonight because I  
6 know everybody wants to move on. It  
7 doesn't have to be repeated. I think  
8 you heard it so many times.

9           There are many things wrong  
10 with that application. How it impact on  
11 the landmark, how it impacts on the rest  
12 of the neighborhood, the lot line  
13 windows, the variances, which to me are  
14 very self-serving.

15           The need for five very  
16 expensive condominiums in this  
17 neighborhood, which is overwhelming with  
18 condominiums. Shearith Israel has to  
19 look further to accommodate its needs.  
20 I think it could do its programmatic  
21 needs in an as-of-right building, and I  
22 think we would applaud them for that.

1 Community Board 11, the Upper East Side  
2 and East Harlem.

3           I've come across the park and  
4 I thank you for allowing me to speak for  
5 the precedential impact this would have.  
6 We have in our own neighborhood two  
7 projects that have already seen the  
8 light of day and Mr. Friedman is quite  
9 familiar with one of them.

10           And they are audacious in many  
11 ways in taking this principal, taking  
12 over rights, turning them into a set of  
13 condominiums to be sold to the  
14 developer, and then to the public at  
15 large.

16           The zoning resolution has been  
17 fixed for the very reason of protecting  
18 society. Those determinations were  
19 made. There were mistakes made perhaps  
20 before. They were rectified in the  
21 mid-'80s with R8B zoning and contextual  
22 zoning.

1 And I would refer to the  
2 testimony given by Assemblyman Gottfried  
3 and by Bruce Simon. Now, we rest on  
4 those statements, that is very important  
5 for you to consider what is being asked  
6 here.

7 The zoning is there for the  
8 public and if it's to be given a  
9 variance and give -- the applicant given  
10 the benefit, it has to be for extremely  
11 compelling reason. Thank you very much.

12 (Applause.)

13 MR. VAN DER VALK: My name is  
14 Lo Van Der Valk. I'm president of  
15 Carnegie Neighbors on the east side.  
16 Most of our territory or all of our  
17 territory is north of 86th Street, but  
18 we're very concerned about a similar  
19 case to the case considered here this  
20 evening involving the Ramaz School,  
21 where they would like to build  
22 28 stories high where we determined at

1 least 12 stories break the R10 or C-15A  
2 Lexington Avenue zoning.

3 VOICES: Louder, please.

4 MR. VAN DER VALK: Sorry. So  
5 ours is an example, the Ramaz School is  
6 an example of if you approve this, then  
7 that's the next domino, truly a domino  
8 because this will set the precedent  
9 because the arguments used in our case  
10 are very identical to the arguments used  
11 in your case.

12 And I also agree with Gorman  
13 Reilly's excellent comments that please  
14 rely on the comments of Bruce Simon and  
15 Assembly Man Gottfried, and also Kate  
16 Wood, I thought made some excellent  
17 comments about earlier cases and  
18 examples.

19 This is a very critical issue.  
20 It's going to be watched by everyone in  
21 the zoning community. Everyone in the  
22 New York community because every

1 neighborhood will have some structure  
2 that could become the next template to  
3 follow this earlier one. Thank you so  
4 much.

5 (Applause.)

6 MS. COHEN: Just as there is a  
7 reason for zoning and the zoning  
8 resolution, I do want to put in a word  
9 for there being a BSA and a culpability  
10 of variance.

11 The Board of Standards and  
12 Appeals was invented at the same time as  
13 the zoning resolution, precisely because  
14 there are times that exceptions are  
15 necessary. So there is nothing  
16 absolutely holy about the zoning  
17 resolution.

18 That being said, for this  
19 particular case, I have to disagree with  
20 my colleague a bit. I think that the  
21 applicant has made convincing arguments  
22 for the programmatic need for a number

1 of the variances, in terms of the  
2 circulation, in terms of the classroom  
3 sizes and in terms of the symmetry of  
4 the architecture. I have no problem  
5 with any of that.

6 You look at the regular with  
7 the as-of-right rear yard requirements  
8 are and it's not that, again, that the  
9 entire rear yard is holy, it's that  
10 after the first level there is a  
11 requirement for the rear yard, for the  
12 30 feet.

13 And in this case it's not a  
14 lost of the entire 30 feet, it's a loss  
15 of ten of those feet.

16 However, and this is where I  
17 would again defend the applicant as not  
18 being as disingenuous as original  
19 applicants may have seen. The applicant  
20 told us point blank that the  
21 incorporation of residences as a  
22 financial engine for the synagogue is,

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1 in fact, material to the programmatic  
2 need of the synagogue. That is  
3 refreshing change from other applicants  
4 that always tried to hide that action  
5 from some of us.

6 So it gives us the ability to  
7 say flat out, we disagree with that  
8 point of view. And it is our belief  
9 that the Board of Standards and Appeals  
10 traditionally disagrees with that point  
11 of view. I think that there is nothing  
12 that's convincing to me about the need  
13 for any of the residences and,  
14 therefore, any of the variables which  
15 really apply only to height set back  
16 that relate to the five residential  
17 floors, that I have no problem with the  
18 variances that have to do with  
19 essentially the building out on the lot  
20 of the structure to serve the legitimate  
21 programmatic needs of the congregation,  
22 but I have a lot of problems with what a

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1 witness at the October meeting very  
2 dramatically and appropriately talked  
3 about a transfer of wealth from  
4 residences of 18 West 70 to the new  
5 building.

6 I do want to say one other  
7 thing, and that is, when we weigh the  
8 different interests of different parties  
9 in land use cases, it is often perceived  
10 as the applicant is one thing and the  
11 community is another thing or the  
12 neighbors is another thing. In fact,  
13 the thing that makes it difficult on the  
14 community board is that all of these  
15 entities are part of the community.

16 That the synagogue in this  
17 case is an important part of the  
18 community and, furthermore, that the  
19 synagogue should also keep in mind that  
20 it has even more than other houses of  
21 worship a particular role in the larger  
22 community, which is precisely why I

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1 asked about the archives.

2 That might have seemed to be  
3 my own archive advice interest, but it's  
4 more than that, it is because this  
5 particular synagogue and what this  
6 particular congregation has to offer is  
7 a public trust that we need to consider,  
8 as well, the protection of those  
9 materials is of interest and value, not  
10 only to Shearith Israel but to the rest  
11 of us, as well.

12 MR. SIEGEL: I agree with much  
13 of what Hope just said. I think the  
14 applicant has clearly demonstrated the  
15 need for the variances with respect to  
16 the program.

17 I do not think the applicant  
18 has demonstrated the need for the height  
19 variables and, in particular, I don't  
20 think that they have satisfied the  
21 finding that the minimum variance is  
22 necessary to afford relief for the

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1 project and for the program, and would  
2 urge the approval of variances for  
3 everything with respect to the project,  
4 except for the height.

5 MR. FINE: Having almost two  
6 years ago voted to disapprove the  
7 application for what the application was  
8 before Landmark understanding the needs  
9 of the synagogue and the direction that  
10 they were given, what's happened in  
11 terms of that is done and history, what  
12 I was disappointed tonight in was that  
13 the -- those who spoke, mainly, the  
14 public did not address the findings in a  
15 detailed way.

16 Many other things were  
17 discussed, which were very important to  
18 people, but we're responsible for  
19 looking for findings and determining  
20 whether those findings are there,  
21 adequate, because that's what BSA is  
22 going to be looking at, and when they

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1 look at our resolution, they're going to  
2 be looking at our support of or what,  
3 what we think is not there.

4 So a lot of the good work that  
5 was done, shadow studies, and so on,  
6 that are really irrelevant to what is  
7 before us and that's unfortunate, but  
8 that's what the rules are.

9 I'm in concurrence with my  
10 previous two speakers, my colleagues,  
11 the height variance is in question with  
12 reservation and the others, I see the  
13 findings are there. And that's what  
14 we're charged with doing.

15 MR. ASCHE: This application  
16 has given us a great deal of difficulty,  
17 all of us, I think people have reached a  
18 bottom line with less difficulty than  
19 the process of getting there. And the  
20 reason is because of these findings and  
21 because they're written in language that  
22 doesn't at first blush appear to apply

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1 to this project in, you know, certainly  
2 on all fours.

3 I think that we have reached a  
4 consensus that the economic issue is a  
5 non issue, both because we don't believe  
6 that the as-of-right building would be  
7 an economic hardship, per se, and  
8 because we don't believe that economics,  
9 that the non profit developer is  
10 entitled to build something that's not  
11 as-of-right as a way of financing his  
12 project.

13 Having said that, though, I  
14 believe that there are conditions  
15 on-site which, A, would justify the set  
16 back, the rear yard and lot coverage  
17 variances and with respect to the height  
18 and set back variances, I believe that  
19 there are conditions which make it very  
20 difficult for this builder or anyone  
21 else to build an as-of-right building  
22 and to achieve anything approximating

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1 the FAR that he could achieve.

2 Finally, for me, it comes down  
3 to the finding that was on the Power  
4 Point presentation by the owners or the  
5 former owners of 18 West and that is  
6 that we have to find that the use of  
7 neighboring buildings will not be  
8 impaired, I'm paraphrasing.

9 And I cannot see my way clear  
10 to voting for a variance from an  
11 as-of-right scheme, which would destroy  
12 a portion of a neighbor's property and  
13 that's what I think blocking up a lot  
14 line window does.

15 I think with respect to the  
16 courtyard windows, there is also a  
17 diminution, but the blocking of the lot  
18 line windows, which could be bedrooms or  
19 dining rooms, it doesn't matter,  
20 shouldn't be done if it isn't being done  
21 as-of-right or if there isn't some other  
22 very, very compelling reason.

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1 The way I come out and I don't  
2 know if there's any magic to this, and I  
3 don't know if anyone else on the  
4 committee agrees, is that I would  
5 approve a slight height variation, but  
6 only if the maximum height permitted in  
7 the -- in an FAR, I mean, in an R8B  
8 zone, which is 75 feet be the building  
9 wall and that the -- that there be a  
10 penthouse, one penthouse, which would be  
11 designed in such a way that there would  
12 be no blockage of the lot line windows.

13 I'm not sure whether 75 feet  
14 is the correct height. I don't know  
15 what the height -- if anyone else does,  
16 of the lowest lot line windows that  
17 would be blocked, but that would be my  
18 height limit for this project. And a  
19 penthouse which set back from the lot  
20 line windows would, to my way of  
21 thinking, not be a tremendous burden on  
22 either the neighbors or the community.



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1 But other than that, I agree  
2 with what everyone said and I appreciate  
3 effort on both sides to make, make this  
4 issue clearer than what it really is.

5 MS. ROSENTHAL: Well, I'm new  
6 to this, so I'm trying to use your  
7 language, but I'm mainly going to defer  
8 to your understanding of variance  
9 letters and lot line feet set back,  
10 height and whatever.

11 In principal, though, from  
12 hearing this conversation, I actually  
13 like to start by repeating what  
14 something -- what Gottfried said, which  
15 is I'm most impressed with the work of  
16 this community board and how hard  
17 everyone works on this through e-mails,  
18 site visits, reading, applications  
19 reading new applications and similarly  
20 by the work of the community, people on  
21 all sides from the application, as  
22 others have said, from the applicant to

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1 And I commend Shearith Israel  
2 for moving beyond its initial  
3 restoration of its current synagogue,  
4 which is stunning, and I commend them  
5 for wanting to do the same for their  
6 community house, but I don't see the  
7 need in terms of what they want to  
8 achieve programmatically for them to go  
9 as far back in terms of extending their  
10 rear yard set back as much as they want  
11 to.

12 I think they could pull it in  
13 a bit more and still achieve the  
14 programmatic goals. So that's it.

15 Thank you very much for all of  
16 your work.

17 MS. COWLEY: Well, I think the  
18 community board and those who regularly  
19 attend the Parks and Preservation and  
20 Landmark Committee meetings have seen  
21 proposals that seek to alter our  
22 neighborhoods in ways we never imagined.

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1 the community members to Landmark West,  
2 have put such effort into understanding  
3 this issue and making it understandable  
4 for those who have to make the  
5 decisions, and I'm deeply impressed by  
6 that.

7 In theory, so everyone, you'll  
8 do the work of turning this into the  
9 language for the resolution, but in  
10 theory, I'm very troubled by having the  
11 height of this proposed building go  
12 above the height of Congregation  
13 Shearith Israel, but its lowest cornice.

14 I don't know the language for  
15 what that line is, but I would not want  
16 to see it above the sixth floor of the  
17 proposed building. So in terms of  
18 height restrictions, I don't see the  
19 need for the top three floors. Upon  
20 visiting the site, which I did with  
21 Vitullo-Martin, we can see the need for  
22 the new community space.

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1 And we do need to rely on  
2 guidelines, either from the Landmark  
3 Commission or by the zoning resolution,  
4 particularly when it comes to our non  
5 profit neighbors, particularly when it  
6 comes to religious institutions.

7 I think those of you on the  
8 board, I'm very stubborn about changes  
9 to these buildings and every time we've  
10 seen this, we looked for creative  
11 solutions.

12 I think the troubling aspect  
13 of this for me as an architect, I  
14 understand what the applicant is trying  
15 to achieve and also what you have to  
16 deal with in trying to juggle a  
17 multitude of difficulties in trying to  
18 accommodate the program and to meet the  
19 requirements to fit in aesthetically on  
20 the street, which really isn't our  
21 purview, but somehow it can't be brought  
22 into that and the impact on the

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1 community.

2 Where I have trouble with this

3 proposal is where a non profit who does

4 need to expand the program, and for

5 those things, I agree with my colleagues

6 that anything that would help make that

7 program possible, we would seek to have

8 you do, but where we are changing the

9 zoning, which is have a greater role of

10 protecting the rights of the individual

11 and the neighborhoods around the

12 building, we start taking away from one

13 half and giving it to the other.

14 And I'm not sure that that's

15 been done as thoughtfully or

16 successfully as it might be. And for

17 that reason, I need to request that the

18 issues of the height, as well as the

19 rear yard, I think several of us were,

20 if we didn't go on the tour, I certainly

21 walked by it many times during different

22 times of the day in response to some of

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1 mission of the synagogue.

2 And I think that although we

3 don't want to set a precedent and we can

4 say we're not setting a precedent, I

5 think we heard from people on the east

6 side, and it is clearly going to be a

7 message that will be heard by many of

8 the non profit and the museums and the

9 other not-for-profit organizations on

10 the west side that have available

11 building area, and it will come back to

12 haunt us.

13 And I think we should, first

14 of all, send a very strong message on

15 that point, and as I said, I do not feel

16 that we would necessarily have the

17 expertise to set the programmatic goals

18 of this community.

19 They've obviously thought

20 about it and I happen to agree that, you

21 know, in terms of the interior of the

22 community facility and the need for more

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1 the community who was concerned that we

2 weren't looking at some of the

3 environmental issues to see how that

4 might impact.

5 And I do believe there might

6 be a compromise here or reworking of

7 some of the upper floors, so we do not

8 do that. I think that covers most of my

9 comments.

10 MS. STARKEY: I am primarily

11 concerned that the board send a strong

12 message to BSA, and I'm a little bit

13 leery about our last minute reworking of

14 the plan by Shearith Israel.

15 I'm not quite sure I

16 understand it, but my principals are the

17 following: One, I do not believe that

18 the condominiums which everyone has

19 discussed, and I think everybody has

20 admitted, are really there for financial

21 reasons only. They have nothing to do

22 with the so-called programmatic or

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1 space, I think that is probably a,

2 something that we could all agree with.

3 I'm not going to get into

4 micromanaging that. I think I agree

5 that they do need it, and I would be

6 happy to work with them.

7 I would be happy to support

8 variances that would allow for the

9 programmatic needs to be met in a new

10 building. Other than that, I say the

11 as-of-right building is going to protect

12 the community and I guess that would be

13 my fall back position, but I do want to

14 send -- I do feel sending a message that

15 the community and the community board do

16 not agree with the variances that are

17 being requested, and certainly we don't

18 agree they are the minimum variances

19 that would serve the programmatic needs.

20 MR. VITULLO-MARTIN: Well, I

21 agree with all of my fellow board

22 members and some of them disagree, which

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1 is sort of the state of my mind at the  
2 moment.

3 I think we had to make, I  
4 there are three findings that we had to  
5 make. I don't think we can make  
6 positively for the project. I think the  
7 project manifestly damages neighbors.  
8 Little that can be said about that, that  
9 can be remedied. Perhaps they could  
10 buyout the neighbors that could be  
11 damaged, but as it is they damaged  
12 neighbors.

13 I think that the programmatic  
14 needs of the synagogue are met with the  
15 as-of-right building. They certainly do  
16 need, I think, from the tour that I saw,  
17 they do need to upgrade what they have  
18 for their programmatic purposes. I have  
19 no problem with the variances, at least  
20 as far as I understood them deal with  
21 the lot coverage and some other matters  
22 that were effected. The programmatic

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1 question of whether the programmatic  
2 need of the religious organization or  
3 the not-for-profit requires the variance  
4 and, that's it.

5 So -- but back to Richard, I  
6 am always impressed and increasingly  
7 impressed by Richard's very fine mind  
8 and deciphering both the zoning, the  
9 zoning resolution and in this case, the  
10 variance requirements.

11 Richard is proposing a  
12 compromise that would allow some greater  
13 height, which would require a variance  
14 which would do minimal damage, as we see  
15 it, on that site and my problem with it,  
16 and I'm not sure what my position is on  
17 it, other than Elizabeth makes a very  
18 strong point that there are variances we  
19 can tolerate, there are variances we  
20 can't tolerate it.

21 Once you start hazing over  
22 that line of should we allow a variance

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1 building.

2 I don't believe that it would  
3 be rational to approve variances by  
4 whatever group or body that's asking for  
5 them, that are requested, so that a  
6 greater return could be made on the  
7 development of the property solely for  
8 that reason. Because I don't -- I can't  
9 imagine how one could distinguish that  
10 request from the request from every  
11 other property owner on that block and  
12 frankly every block.

13 I mean, everybody has a good  
14 argument that if only they could get a  
15 variance from the zoning, they could do  
16 a lot more things with their lives. And  
17 I, of course, if everybody got the  
18 variance, the market would be  
19 substantially changed and they might not  
20 be able to do anything better for their  
21 blocks, but in any case, I don't see  
22 that as a basis that goes to the

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1 here because it would do some good  
2 clearly to the synagogue and it doesn't  
3 seem to do too much damage to the  
4 community. And my feeling is that  
5 that's a very slippery slope so I'm a  
6 little afraid of it. And that's it.

7 MR. ASCHE: We're, I think, at  
8 a point, there are now differences  
9 within the committee and let me just, if  
10 -- let me try to synthesize the  
11 positions and just to respond very  
12 briefly to Tom.

13 I don't think that the sole  
14 standard is that it does minimal harm.  
15 I think that I'm impressed by the fact  
16 that the synagogue is to some extent  
17 burdened by having this landmark, which  
18 has restrictions on what can be built,  
19 and by being in a mixed, in a split zone  
20 lot, and that the combination of those  
21 two, along with its programmatic needs  
22 does, would justify, doesn't necessarily

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1 justify, but could justify a slight  
2 variance to compensate and that would be  
3 my rationale.

4 But I think there is no --  
5 there doesn't seem to be, and somebody  
6 correct me if I'm wrong, there doesn't  
7 seem to be any support on the committee  
8 for approving the height and set back  
9 variances that have been requested,  
10 okay; is that correct? Okay.

11 There seems to be a clear  
12 majority which would approve the lot  
13 coverage and rear yard set back provided  
14 that they don't block any lot line  
15 windows; is that accurate?

16 MS. COWLEY: And I would also  
17 add about light and air to the rear  
18 yard, once you start to disassemble  
19 elements, you change the configuration  
20 and --

21 MR. ASCHE: I mean, to the  
22 extent there's a ten-foot increase in

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1 the size, the depth of the building is  
2 that much less air in the rear yard, I  
3 guess.

4 MS. COWLEY: I would only  
5 argue in defense of the applicant when  
6 we change the height of the building,  
7 we're going to change the bulk.

8 And my concern would be when  
9 you start playing with the variables and  
10 be restrictive, are we going to create a  
11 worse set back condition by changing the  
12 height.

13 MS. COHEN: Why?

14 MS. COWLEY: Because we're  
15 changing the mask of the building.

16 MR. FINE: No. We're not,  
17 we're approving variances or not  
18 approving variances.

19 MS. COHEN: And height set  
20 back variance only comes in at a certain  
21 height. Below that --

22 MR. ASCHE: What we're

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1 approving is a reduction in the rear  
2 yard from 30 feet to 20 feet, and that  
3 would be for the height of the building  
4 up to the lowest lot line window, if it  
5 turns out it blocks the lot line window.

6 MS. NEUWELT: It's only the  
7 first couple of floors.

8 MR. ASCHE: It goes higher  
9 than the first couple of floors. The  
10 height of the building doesn't affect  
11 that. It's not going to get thicker if  
12 we reduce the height, it's just going to  
13 get smaller. So the first, this is the  
14 rear --

15 MS. COWLEY: I understand  
16 that.

17 MR. ASCHE: That won't change.

18 MS. COWLEY: So we're allowing  
19 that element to be filled in.

20 MR. ASCHE: Yes.

21 MS. COWLEY: That's what I'm  
22 clarifying. Sorry.

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1 MS. COHEN: It's not filled  
2 in, the variance being requested is ten  
3 feet of the 30 feet yard requirement.  
4 So it's not filling in the whole rear  
5 yard, it's losing ten feet.

6 MS. COWLEY: It's adding or  
7 taking away.

8 MS. COHEN: Ten feet.

9 MS. COWLEY: Right.

10 MR. ASCHE: So the area of  
11 apparent issue is whether there's any  
12 disposition at all to consider any  
13 height and set back variance and with  
14 the proviso that any such variance would  
15 not block any lot line windows, and so  
16 let's see where we stand, Charles?

17 MR. C. SIMON: First of all,  
18 on the height and set back question, if  
19 the case hasn't been made then this --  
20 now I want to talk a little bit about  
21 the precedential question because I  
22 think it is a critical one.

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1 No one is going to remember  
 2 the subtleties of this conversation in  
 3 future conversations about future  
 4 projects and future requests for  
 5 exemptions and variables. No one is  
 6 going to remember these subtleties.  
 7 MR. ASCHE: Hopefully,  
 8 remember them verbatim.  
 9 MR. C. SIMON: And so I think  
 10 we need to be extremely careful,  
 11 extremely careful about granting or  
 12 recommending the granting of any  
 13 variances, unless it's crystal clear  
 14 that the case has been made, given that  
 15 the baseline is the zoning resolution  
 16 and with an eye to the future. And I  
 17 think it would, therefore, be a huge  
 18 mistake to recommend the granting of any  
 19 variables that were not directly tied to  
 20 a case that could be made in a  
 21 compelling light.  
 22 And I just don't see that case

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1 variables in front instead of the  
 2 30 feet rear yard, it would be 20.  
 3 Whatever your business residence,  
 4 whatever, you are on the south side that  
 5 makes a difference.  
 6 The whole thing is ten feet  
 7 closer, so it's not without impact on  
 8 the neighbors. So my question for those  
 9 of you, for me, it's a surprising  
 10 number, what I regard as sophisticated  
 11 who brought into the argument that the  
 12 programmatic needs of the synagogue  
 13 justified these rear yard variances.  
 14 My question is: Are you not  
 15 all reaching that conclusion on the  
 16 premise that all of the programmatic  
 17 needs need to be sandwiched in the  
 18 cellar, which is not at issue and the  
 19 first two floors.  
 20 MR. ASCHE: Klari, I don't  
 21 think so. I think the argument that was  
 22 made was that because of the footprint

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1 being made at all in terms of height and  
 2 rear set back.  
 3 So the recommendation made in  
 4 this draft here to recompense  
 5 Congregation Shearith Israel and for the  
 6 unique position of the zoning lot, I  
 7 must say I find to be not at all  
 8 compelling and, in fact, quite  
 9 dangerous.  
 10 MS. NEUWELT: My answer to  
 11 your question is that I -- is no, I  
 12 would not soften --  
 13 MR. ASCHE: Why don't we just  
 14 put it on the line.  
 15 MS. NEUWELT: I have a  
 16 different fundamental question of  
 17 people's thinking. I don't know if you  
 18 want me to ask it now or hold it.  
 19 MR. ASCHE: Sure.  
 20 MS. NEUWELT: As we see from  
 21 the model and what we know, two floors  
 22 above the first floor to get the

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1 of the as-of-right building, the  
 2 classrooms on the south side of the  
 3 building would be too small.  
 4 MS. NEUWELT: To me, that was  
 5 another sort of not quite straight  
 6 forward, at least as I understood it, I  
 7 think we're saying we meet all the  
 8 condominiums up there, we only got this  
 9 much room for our programs. In the  
 10 first two floors, it seems to me clear  
 11 you can get the elevators, you can get  
 12 the access to your elevator, you can get  
 13 the handicapped access, and if you put  
 14 some classroom space on the third floor  
 15 because you weren't saving it for  
 16 condominiums, then you wouldn't have  
 17 this argument, "Gee, we need," maybe  
 18 that's not exactly right, but I didn't  
 19 find that persuasive.  
 20 I found it totally, totally  
 21 based on the argument that everything  
 22 had to be on the first two floors, so if

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1 people didn't understand it that way,  
2 then that's interesting to me because I  
3 respect the view --

4 MS. COHEN: May I comment on  
5 that?

6 MR. ASCHE: Sure.

7 MS. COHEN: One is specific to  
8 this application and that is the plans  
9 that were shown, the different sizes of  
10 the classrooms under the different  
11 scenarios, which I found perfectly  
12 reasonable.

13 Then, not specific to this  
14 application, but, in general, when we  
15 had schools, in particular, but non  
16 profits, in general, looking for  
17 variances, we tend to unrest.

18 There's something that really  
19 strikes us as odd, we tend to give them  
20 the benefit of the doubt on programmatic  
21 needs. We don't want to double, you  
22 know, with what a particular entity's

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1 needs are. They did the study, so we  
2 generally give them the benefit of the  
3 doubt on that, unless there's something  
4 truly outrageous.

5 And the other general  
6 statement I would make about schools and  
7 other non profits or schools, in  
8 particular, is that there are and this  
9 goes to the diagrams, there is  
10 something, floor plates, the size of  
11 floor plates for schools and other  
12 community facilities are often bigger.

13 That's perfectly normal than a  
14 residential building, for example, and I  
15 really do think that, you know, as we  
16 look at each particular variance and  
17 remember there are four findings to make  
18 for each of the seven variances, and one  
19 of those findings, the one that we're  
20 all spending the most attention on in  
21 all of these discussions is the  
22 E-finding about, is this the minimum

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1 required, I think ten feet on the rear  
2 yard to me is persuasive.

3 In answer to Richard's other  
4 question as you go, do you believe the  
5 question absolutely not on the height  
6 and set back, it seems to me everything  
7 that has to do with height and set back  
8 has to do with the apartments.

9 And I'm unconvinced that the  
10 apartments have anything to do with  
11 programmatic need of the project.

12 MR. SIEGEL: I agree with what  
13 you said about the height and the set  
14 back, and I would just also second what  
15 Charles said, although I appreciate what  
16 you're saying and what you're trying to  
17 do. I think you don't have a clear line  
18 that we open up the door to results that  
19 may not want another person in this  
20 project, in particular.

21 MR. FINE: I'm in accord with  
22 the height issues, but I don't think

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1 we're setting any precedent on that  
2 here. I think that each situation is  
3 very different.

4 The 28-story building on the  
5 east side is not what we're talking  
6 about here. We had a building that was  
7 15 stories and it came down, and it came  
8 down and different situations, the  
9 landmark, not a landmark, different  
10 communities, different pressures, so I  
11 don't think we're taking that precedent  
12 risk the way people contend.

13 MR. ASCHE: Shelly, I think  
14 that if the idea is to send a message to  
15 BSA, the one message we do not want to  
16 send is that our decision is based on  
17 the fear of setting a precedent because  
18 if we send that message they will  
19 disregard our decision because they are  
20 very clear in their belief, however  
21 misguided, that no decision they make  
22 sets a precedent for any other decision.

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1 MS. ROSENTHAL: Now I'm back  
2 to struggling about the school. And the  
3 needs of the school which is a tenant of  
4 the, of CSI. And to how the tenant fits  
5 into their mission.

6 So, I mean that's my struggle  
7 because I think we're all in accordance  
8 with the height. So now I'm talking  
9 about ten feet in a set back, you know.  
10 I don't know if it's a requirement of a  
11 tenant school to be that size.

12 MR. FINE: Just a point of  
13 information on that. One, it's not a  
14 fly by night tenant. It's a -- an  
15 institution in the community that's  
16 being housed there; and two, that space  
17 is also used for the schooling of the  
18 institution.

19 MS. ROSENTHAL: That's  
20 absolutely true. We need three floors,  
21 whatever it is.

22 MS. COWLEY: I keep hearing

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1 that's the problem with the project.  
2 You hear five things, then you hear one  
3 element that breaks the camel's back,  
4 and then we're back to you slide down.

5 I think the height issue, I  
6 would be happier with a smaller, lower  
7 building without a doubt.

8 My issue with the set back and  
9 perhaps I wasn't making myself clear in  
10 terms of the program in trying to be  
11 creating to satisfy this group's needs I  
12 think we would like, I personally would  
13 like to limit the amount of limitations  
14 we put on them because I don't want to,  
15 I think you need to help religious  
16 institutions, but where I come unglued  
17 now is where the requirement of the  
18 classrooms, if this is being designed  
19 for the tenant, rather than for their  
20 own community use, I'm troubled by the  
21 way the -- or the fact the layout, some  
22 of these rooms are designed for

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1 something that go beyond the mission or  
2 your own use.

3 I'm putting my foot in this  
4 because maybe I missed something in the  
5 presentation of all the literature you  
6 provided there for the issue of pushing  
7 the building out into the rear yard.

8 I wonder if those classroom  
9 sizes, if they're not going to be sort  
10 of a legitimate school, I can't remember  
11 the age groups, I throw this out to you,  
12 Shelly, and to Ray, in terms of the  
13 population that you're using because if  
14 it's below kindergarten level, there's  
15 certain requirements for small children  
16 that I don't see here.

17 If it's for, and I remember  
18 you've talked to this ad nauseam,  
19 Shelly. Can I ask a question of this to  
20 see in if it is for an older population,  
21 then it is of a multi purpose type of  
22 room, particularly as you're going to be

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1 using this, as I recall, from the first  
2 meeting we had for spaces to be used by  
3 the congregation when the school isn't  
4 in operation, when your tenant isn't  
5 there.

6 So I'm getting a mixed message  
7 of the school, again, but could you  
8 clarify for us what the school group is.  
9 I don't know if other people need this,  
10 as well, but it might help to determine  
11 this issue of a waiver to meet so many  
12 requirements, rather than just perhaps  
13 your mission. I don't know if you need  
14 a mike. There seems to be a dwindling  
15 group.

16 MR. FRIEDMAN: Our  
17 clarification would be -- the  
18 clarification we would seek to make is  
19 that we have tried in our application,  
20 not necessarily in the comments you've  
21 heard, to make it clear this is about  
22 the space for the synagogue's program

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1 and not for the tenant.  
 2 And in that regard, the space  
 3 for the synagogue involves room sizes  
 4 which, for lower age children would have  
 5 to ultimately accommodate wash rooms and  
 6 the like that are required for lower age  
 7 children not shown on the plan, but  
 8 space put aside for that, but also would  
 9 provide for adult education, Hebrew  
 10 school education, activities that deal  
 11 with the social and cultural activities  
 12 of the synagogue, but not for the  
 13 tenant, per se.

14 We have provided in the  
 15 application and we will provide in the  
 16 BSA, you know, supplementary information  
 17 that indicates every square inch and  
 18 every room dimension is required for the  
 19 synagogue, irrespective of the tenant's  
 20 ability to use that space. And that's  
 21 what we believe the programmatic  
 22 difficulty, how the programmatic

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1 to juggle all the literature that we've  
 2 read. This plan is your optimum plan  
 3 for the classrooms, for the synagogue,  
 4 so it does not reflect any specific age  
 5 requirement or new design that might be  
 6 required if a different population were  
 7 to go there.

8 MR. FRIEDMAN: If that  
 9 different population was related to the  
 10 synagogue's programming, possibly, but  
 11 these spaces and I don't mean to  
 12 trivialize the matter, but we would be  
 13 comfortable having your measure taken as  
 14 if the tenant didn't exist at all.

15 We believe that the  
 16 programmatic needs of the synagogue  
 17 account for everything that's being  
 18 requested here.

19 MS. COWLEY: Then the  
 20 question, a second comment that I have  
 21 to my colleagues here, there's no  
 22 requirement then to meet a certain

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1 difficult should be viewed.

2 MR. ASCHE: Would the sub  
 3 cellar be available for community board  
 4 meetings?

5 A VOICE: God forbid.

6 A VOICE: If you say yes.

7 MR. ASCHE: No pun intended.

8 MR. FRIEDMAN: The answer is

9 --

10 MR. ASCHE: It's not a  
 11 question.

12 MS. ROSENTHAL: It's not a  
 13 question.

14 MR. FRIEDMAN: I can answer  
 15 it.

16 MS. ROSENTHAL: No, please.  
 17 We're not going there.

18 MS. COWLEY: If I understand

19 --

20 MR. FRIEDMAN: I'm always  
 21 responsive to the chair.

22 MS. COWLEY: Again, it's hard

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1 classroom size except for the amount of  
 2 square footage per person that you're  
 3 going to fit in the room, right?

4 So that in the event those  
 5 waivers didn't exist, I wouldn't have a  
 6 hard time saying that programmatic  
 7 agreement wouldn't be met, because you  
 8 would be able to meet it in other ways.  
 9 Yes --

10 MR. FRIEDMAN: I don't  
 11 understand the question.

12 MS. COWLEY: It's a design  
 13 issue, but this I address to Ray, a  
 14 little bit because I'm trying to help my  
 15 colleagues understand nuances.

16 MR. DOVELL: There are 12  
 17 classrooms shown. They all have a place  
 18 in the synagogue's programming for the  
 19 synagogue's use. There are 12 programs  
 20 in floors two through four.

21 All of those classrooms have a  
 22 specific use for the synagogue, whether



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1 it's a Hebrew school, toddler classes  
2 and adult seminar rooms and youth room.  
3 The supplemental offices also have a  
4 particular place there's one office  
5 which would be dedicated to the tenant  
6 school, but that's all.

7 MS. COWLEY: Again, if the  
8 variances were not given to use ten feet  
9 of that rear yard, it is conceivable  
10 that you would be able to accommodate  
11 that by summary organization of the  
12 space planning that you've got on these  
13 particulars, on the second, third and  
14 fourth floors.

15 MR. DOVELL: All of those  
16 classroom floors are in the area where  
17 we're pushing out into the back. That  
18 area is all needed for classrooms.

19 MS. ROSENTHAL: I think what  
20 Page is asking is, so pull it back ten  
21 feet and what happens?

22 MR. DOVELL: The classrooms

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1 becomes substandard in width, they're  
2 marginal on the front of the building  
3 now.

4 MS. COWLEY: That's what I  
5 don't understand. You've given more  
6 space in the rear for office space,  
7 sacrificing classrooms.

8 MR. DOVELL: Look at the floor  
9 above.

10 MS. COWLEY: I'm looking at  
11 the second floor now and the third  
12 floor.

13 MS. ROSENTHAL: On the third  
14 floor, it makes sense. How about on the  
15 second floor then?

16 MR. DOVELL: On the second  
17 floor, there is a requirement for fairly  
18 substantial office spaces in connection  
19 with those spaces.

20 MS. ROSENTHAL: Requirement to  
21 whom?

22 MR. DOVELL: For the synagogue

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1 to support their educational mission.

2 MS. ROSENTHAL: Square footage  
3 requirement.

4 MR. DOVELL: They would like  
5 the larger rooms on the second floor.

6 MS. ROSENTHAL: What's the  
7 requirement for the classrooms?

8 MR. FRIEDMAN: Programmatic  
9 requirement.

10 MS. COWLEY: You're dealing,  
11 with all due respect here, trying to fit  
12 a gallon in a pint and what we're trying  
13 to do is find the actual base where  
14 you're required to make that  
15 programmatic, that program fit what  
16 we're trying to wrestle with is what is  
17 the minimum variance you need to get you  
18 there.

19 MR. FRIEDMAN: The minimum  
20 variance can be, can become a sliding  
21 scale as soon as you just tell the  
22 synagogue, start figuring out how to do

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1 without.

2 That's not what the  
3 programming that leads to an application  
4 like this is about. We had two  
5 deficiencies.

6 We have the deficiencies of  
7 the current space to meet current  
8 activities and we have a host of other  
9 activities, that if there were this  
10 space, the synagogue could begin to  
11 provide, and so it's not simply a matter  
12 of taking a look at what we've got now  
13 saying, "Well, could you nip and tuck  
14 this."

15 These program spaces have been  
16 based on synagogue's articulation of its  
17 present deficiencies, synagogue  
18 articulation of what it would hope to  
19 provide as an organization and the  
20 architect's translation of that into a  
21 program.

22 MS. COWLEY: That's what we're

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1 trying to come to, believe it or not,  
2 these questions are aimed at trying to  
3 understand your point of view of is  
4 there any give and take, do you need all  
5 of these variances, so that's what this,  
6 and certainly my line of questioning is  
7 about.

8 MR. FRIEDMAN: We can put it  
9 all up on the board again with the Power  
10 Point.

11 MS. COWLEY: Trust me, I have  
12 so many plans here.

13 MR. FRIEDMAN: In the generic  
14 sense the answer to the question, Hope,  
15 is yes.

16 MS. COWLEY: Page.

17 MS. ROSENTHAL: Sorry, my bad.

18 MR. ASCHE: I thought you were  
19 going to say the answer to the question,  
20 Page, is hope.

21 (Laughter.)

22 MR. SIEGEL: My opinion on

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1 what you just said, in terms of whether  
2 the variance that they're seeking on lot  
3 coverage and rear yard set back is  
4 necessary for program, to me it clearly  
5 is, and I think it definitely meets the  
6 -- it is the minimum that is necessary  
7 to do what they want to do.

8 I mean, it goes to the heart  
9 of their program. They want to have a  
10 few more kids in the class or they want  
11 to have one more desk for an office.

12 I mean, ten feet is not much  
13 of a variance and I think where we were  
14 before, and what I think Richard was  
15 summarizing was that there seems to be  
16 some consensus on this committee for  
17 approving the variances with respect to  
18 the rear yard and lot coverage, but  
19 disapproving the variances with respect  
20 to the height and the base set back.

21 MS. COWLEY: I disagree. The  
22 thing is, I'm trying to understand that

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1 you're not representing my thoughts  
2 correctly, so hang on. We've got  
3 another --

4 MS. STARKEY: I just wanted to  
5 suggest -- this is for Page and Richard.  
6 This is just a suggestion. I mean,  
7 could you go through the variances and  
8 explain the thing and take an up or down  
9 vote; otherwise, I think we might be  
10 here all night.

11 (Applause.)

12 MR. VITULLO-MARTIN: A quick  
13 comment on the lot coverage variance, I  
14 think from what I saw in the tour and  
15 looking at the site and saw the  
16 difficulty that they have with the size  
17 of the classrooms they have, I think  
18 that the variance should be granted for  
19 the lot coverage.

20 I think it's reasonably useful  
21 for the program. I think it may well be  
22 necessary for the program. I'm

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1 certainly not competent to say it's not  
2 necessary, and I think we should just  
3 move beyond that.

4 I did want to go back to  
5 something we've already taken off the  
6 table, which is Richard's suggestion  
7 about the height variance and say that  
8 actually, Richard, your comments  
9 reminded me, I had forgotten about the  
10 split lot and the split zoning lot and  
11 the fact that they build 28 stories on a  
12 ten-foot wide lot --

13 MR. ASCHE: I don't know if  
14 they can, but FAR --

15 MR. VITULLO-MARTIN: And the  
16 combination of the zoning and the  
17 Landmark does, Landmark front building  
18 does create more perhaps unique  
19 situation that for which there might be  
20 some remedy that does not significantly  
21 damage the neighbors, the immediate  
22 neighbors, which was the other major

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1 concern we had, and is relatively small  
 2 is a height change for the period.  
 3 I mean, never that's desirable  
 4 but because of that landmark status of  
 5 the front building and the large amount  
 6 of unused FAR on the side, I'm more  
 7 inclined to think the way you were  
 8 suggesting.  
 9 MR. ASCHE: Okay. We're going  
 10 to --  
 11 MS. NEUWELT: Richard, can I  
 12 ask -- I'm sorry, Shelly Friedman, I  
 13 wanted to just, if I could, follow-up on  
 14 Page's inquiry because I really am  
 15 trying to understand where some of my  
 16 colleagues are coming from, others are  
 17 not in the same place, Shelly, if the  
 18 first floor, are the first condominium,  
 19 a lowest condominium was not a  
 20 condominium, but was floor space in the  
 21 entire as-of-right footprint that was  
 22 available for the programmatic need that

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1 let's pick another argument for the sake  
 2 of this discussion, and maybe we can  
 3 make it work another way, this is the  
 4 proposal, we have before you and the  
 5 floor you're asking about is currently  
 6 committed to, for residential use."  
 7 Now, if I had to argue in  
 8 theory about the community facilities,  
 9 we could argue here all night about a  
 10 genesis and things about additional  
 11 costs of needlessly having to increase  
 12 height, many schools will come forward  
 13 and say without any of these issues, we  
 14 prefer, as Hope said, we prefer the  
 15 wider floor plate, because it helps us  
 16 in both our programmatic needs in terms  
 17 of teaching with adjacencies and  
 18 avoiding dead space, and it's more  
 19 expensive to build up than build down.  
 20 We can have this discussion,  
 21 if it was from a scratch discussion. We  
 22 have what we have here because these

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1 it could have bathroom space for the  
 2 kiddies but in that footprint in the  
 3 lowest condominium were available  
 4 instead of being sold as a condominium,  
 5 but was made into classrooms and offices  
 6 and meeting rooms, whatever  
 7 programmatic, whether the synagogue, and  
 8 other programmatic needs, would the  
 9 applicant still argue that the rear yard  
 10 variance is necessary for its  
 11 programmatic needs, if you can have a  
 12 whole another floor instead of  
 13 condominiums, rather, as program.  
 14 MR. FRIEDMAN: You're pushing  
 15 the application to the closest where  
 16 we're not free to take it.  
 17 Although I think you're right  
 18 to try to think without boundaries, we  
 19 have boundaries, we have an application  
 20 in front of the community board that  
 21 provides what you see here. Okay. It's  
 22 not possible for us to say, "Well, just

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1 classrooms are like any other classroom  
 2 for educational purposes of program  
 3 space for any organization benefit from  
 4 having them adjacent to each other.  
 5 Benefit in terms of  
 6 efficiencies. Benefit by not having  
 7 additional door, additional stairway,  
 8 for all those reasons I would say, if  
 9 there were no residential floors being  
 10 suggested here, it's quite possible we'd  
 11 be coming to you for the exact same  
 12 variances because they make sense from a  
 13 programmatic standpoint.  
 14 MS. NEUWELT: I say to my  
 15 colleague, I find that ultimately  
 16 unpersuasive and to me it reinforces the  
 17 bootstrap of needing to squish  
 18 everything on the lower floors because  
 19 you're selling condominiums, but I  
 20 believe some of my colleagues disagree.  
 21 MR. ASCHE: What we're going  
 22 to do is this. There are four findings

1 for each variance, and so what I'm going  
2 to do, if there is a vote in which the  
3 majority find for the variance, I'm not  
4 going to ask them about the four  
5 findings because I'm going to assume all  
6 four findings are met by that majority.

7 If there is a vote with a  
8 majority, where the majority does not  
9 reach all four findings then I will ask  
10 for a separate vote on that. And I  
11 guess we have to do it by committee and  
12 board member.

13 Okay. So Land Use Committee,  
14 the first variance is for the lot,  
15 proposed lot coverage on both the R8B  
16 and R10A sites to increase it from 70 to  
17 80 percent all those in favor?

18 (Hands shown.)

19 MS. COWLEY: Just committee.

20 MR. ASCHE: Let's try again.  
21 Committee? One, two, three, four, five,  
22 six, seven. Opposed? Abstentions?

1 Board members for? One, two. Opposed?  
2 Two. Abstain? Zero. Okay.

3 Now, as to I could break down  
4 the vote since it doesn't carry among  
5 the non committee members, I could break  
6 it down into the four findings, if you  
7 want.

8 It's only the committee vote  
9 that counts. Proposed rear yard in the  
10 R8B section to increase or decrease the  
11 yard from 30 feet to 20 feet only in the  
12 R8B section. And only up to a height  
13 that we see here with three floors.

14 Committee members in favor?  
15 Six. Opposed? One. Abstain. Board  
16 members in favor? One. Opposed?  
17 Three.

18 Proposed rear yard in the R10A  
19 interior portion to reduce from 30 feet  
20 to 20 feet, same issue. All those in  
21 favor? Committee? Seven. Opposed?  
22 Zero. Board members in favor? One.

1 Opposed? Three.

2 All right. We're now again to  
3 the some of the set back issues. The  
4 first issue, the first set back issue is  
5 there a requirement of a set back at  
6 60 feet. Let's -- the street wall  
7 height, base height No. 5 to be 94.8  
8 feet instead of 60 feet. Committee  
9 members in favor? Zero. Opposed?  
10 Seven. Abstain? Board members in  
11 favor? Opposed? Four.

12 Now, the next one is changing  
13 the initial, the depth of the initial  
14 set back which is supposed to be 60 feet  
15 from 15 feet to 12 feet. And just as an  
16 aside here, correct me if I'm wrong,  
17 Shelly, but the symmetry argument  
18 doesn't apply if the street wall is  
19 60 feet; is that right?

20 MR. FRIEDMAN: That's correct.  
21 In favor? Three. Opposed? Two.  
22 Abstain?

1 MR. SIMON: Chuck, can you  
2 vote.

3 MS. COHEN: I'm confused.  
4 Could you count that again?

5 MR. ASCHE: This is the  
6 variance which if we don't increase the  
7 height of the street walls to 94 feet  
8 this variance, which the sole  
9 justification of this variance is the  
10 Landmark Commission allegedly wanted  
11 some kind of symmetry.

12 That justification falls apart  
13 if we don't approve, if you don't  
14 approve of the base height. So in  
15 favor? One. Opposed? Six. Abstain.  
16 Board members? In favor, opposed? Four  
17 and four.

18 Now, as to the those, I guess  
19 the issue is whether we want to break it  
20 down into the four findings since we  
21 rejected four --

22 MS. COHEN: Our discussion all

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1 along has really focussed on finding E.  
 2 We do not find that the minimum  
 3 necessary variance -- yeah. I think we  
 4 could also say C, as well.  
 5 MR. ASCHE: So we'll prepare  
 6 the waste and means to focus on those  
 7 findings. Building height to increase  
 8 from 75 feet to 113.70. In favor?  
 9 Opposed? Abstain? Committee. Board  
 10 members in favor, opposed. Abstain.  
 11 A VOICE: Three?  
 12 MR. ASCHE: Four.  
 13 Rear set back. This is a,  
 14 this is different from rear yard. This  
 15 is a rear set back. Is the rational for  
 16 this also the symmetry?  
 17 MR. FRIEDMAN: Largely, yes.  
 18 MR. ASCHE: Okay.  
 19 MS. COWLEY: But I thought on  
 20 the plan, could you help us on this one?  
 21 MR. ASCHE: What height is the  
 22 rear set back?

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1 the set back from ten feet to six and  
 2 two-thirds feet in the rear is related  
 3 to the symmetry issue.  
 4 MR. FRIEDMAN: Yes.  
 5 MR. DOVELL: That's correct.  
 6 MR. ASCHE: Board members.  
 7 Opposed? Just board members. Non  
 8 committee. Okay. So it's the same.  
 9 All right now. We are not in one way of  
 10 tackling and viewing with the issue of  
 11 whether to provide for any height  
 12 increase is simply to take the position,  
 13 which we frequently do, that all we are  
 14 voting on is the application that's in  
 15 front of us and say nothing more about  
 16 it . . .  
 17 A VOICE: We have a  
 18 stenographer here and he can't hear.  
 19 MR. ASCHE: With respect to  
 20 the issue of some lesser variance with  
 21 respect to height, you know one thing we  
 22 frequently do, maybe most frequently is

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1 MR. DOVELL: In the R8B, it's  
 2 the same height as the base.  
 3 MR. ASCHE: You want 94 feet.  
 4 MR. DOVELL: But we want the  
 5 same height but the as-of-right is the  
 6 same 60 feet it is.  
 7 MR. ASCHE: So if it stays at  
 8 60 feet, it doesn't relate to the  
 9 Landmark issue.  
 10 MR. DOVELL: I believe it does  
 11 not.  
 12 MR. ASCHE: In favor.  
 13 Opposed?  
 14 MR. FRIEDMAN: Just as a point  
 15 of information, the street wall height  
 16 is limited to 65 feet, 60 feet but the  
 17 building is 75, so presumably the rear  
 18 yard, the rear elevation could go to 75,  
 19 where the street wall could only go to  
 20 60.  
 21 MR. ASCHE: I understand, but  
 22 the set back, the requirement to reduce

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1 to simply say since the application is  
 2 first a specific height and we don't  
 3 approve that height, we have nothing  
 4 further to say.  
 5 That would obviate the  
 6 discussion about whether some lesser  
 7 height variance would be appropriate.  
 8 MS. NEUWELT: I think that is  
 9 the correct thing to do.  
 10 MS. NORMAN: I agree.  
 11 MS. COWLEY: Is someone  
 12 suggesting a lower building?  
 13 MR. ASCHE: Lower than  
 14 as-of-right?  
 15 MS. COWLEY: Oh.  
 16 MS. NEUWELT: Some people  
 17 argued that at LPC, but --  
 18 MR. ASCHE: We can't.  
 19 Unfortunately, I think that concludes  
 20 the festivities.  
 21 So unless anyone has any  
 22 further business, do we have any new

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1 business, committee business?  
2 Thank you.  
3 (Whereupon, at 10:14 o'clock  
4 p.m., the meeting was concluded.)

5 C E R T I F I C A T E  
6 I do hereby certify that the  
7 foregoing taken at the time and place  
8 aforesaid, is a true and correct  
9 transcription of my shorthand notes.

10

11 JOHN PHELPS, CSR, RPR,

CRR

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