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 2  
 3 COMMUNITY BOARD 7 LAND USE  
 4 COMMITTEE PUBLIC MEETING

5  
 6 TIME: 8:14 P.M.

7  
 8 LOCATION: St. Luke's Roosevelt Hospital  
 9 1000 10th Avenue  
 10 New York, New York 10024

11 DATE: December 4, 2007

12  
 13 RICHARD ASCHE: Co-Chairperson

14 PAGE COWLEY: Co-Chairperson

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1  
 2 MR. GOTTFRIED: I guess I  
 3 should apologize for talking about an  
 4 agenda item about this block of time,  
 5 but I hope it will work out for  
 6 everyone.

7 I want to talk quickly about  
 8 Shearith Israel and the variances they  
 9 are seeking to enable them to build  
 10 several luxury priced housing units on  
 11 top of the community house they want to  
 12 build.

13 That housing would damage their  
 14 immediate neighbors. It would cover up  
 15 lot line windows. It would reduce light  
 16 and air for adjoining buildings. At  
 17 least as important, maybe more so, it  
 18 would damage the entire surrounding  
 19 community by violating the reasonable  
 20 zoning standards for the historical  
 21 district side streets, and there is no  
 22 necessity that justifies giving them a

1 variance.  
 2 It is not necessary for the  
 3 building of the community house. It is  
 4 being done solely because Shearith  
 5 Israel would rather finance their  
 6 building by the proceeds of the luxury  
 7 priced housing, rather than financing  
 8 their building the way a congregation  
 9 normally would, mainly by turning to its  
 10 members to raise money. That is not  
 11 what zoning variances are supposed to be  
 12 about.

13 Effectively, what Shearith Israel  
 14 is doing is taking value from its  
 15 immediate neighbors and from the whole  
 16 community and then taking that value and  
 17 selling it off to enrich itself,  
 18 essentially making the community make an  
 19 involuntary contribution to Shearith  
 20 Israel.

21 Again, I don't think that's what  
 22 zoning variances is really about. I

1 think there there's really a dangerous  
 2 trend about not-for-profit owners and I  
 3 think we will see soon for profit  
 4 property owners trying to use this kind  
 5 of argument for getting permission to  
 6 violate this community's reasonable  
 7 building standards, and others as well.

8 And I think it is very important  
 9 that this board follow what the  
 10 committee did which is recommend against  
 11 these variances.

12 Two other things I want to  
 13 mention, tomorrow morning at 11:00  
 14 o'clock, I'm holding a press conference  
 15 announcing a proposal for universal  
 16 health coverage.

17 (Whereupon, at this time, other  
 18 agenda items were discussed.)

19 MS. ROSENTHAL: If I can turn  
 20 it over to the Land Use Committee. Page  
 21 Cowley and Richard Asche, co-chairs.  
 22 Thank you.

1 MR. ASCHE: All right. This  
2 was the application for various  
3 variances by Shearith Israel.

4 In your board packet, there is a  
5 recitation of committee votes by  
6 finding. As you know, we're required to  
7 make four findings with respect to each  
8 variance.

9 The committee really didn't vote  
10 by finding. The committee voted by  
11 variance and that is not listed in your  
12 board packets, but fortunately Hope kept  
13 a tally and had it typed up, and I'm  
14 going to ask Hope before we start public  
15 comments, to simply recite what the --  
16 what each variance was and what the  
17 votes, committee votes and board votes  
18 were for each variance.

19 MS. COHEN: Okay. So as I'm  
20 sure we're going to actually hear from,  
21 perhaps, the applicant in a moment,  
22 there are six variances proposed in the

1 Shearith Israel application.

2 And I'll tell you each, the votes  
3 on each of the six variances, but I  
4 think the simplest way to understand it  
5 is that there are a couple of variances  
6 that have to do with how the facility  
7 would be horizontally, and those  
8 variances were approved.

9 And then there are four variances  
10 that have to do with how the facility  
11 would be vertically, and those variances  
12 were disapproved.

13 A VOICE: Hope, on Page 2 or  
14 3, there are votes.

15 MS. COHEN: Forget the votes,  
16 the votes are correct, the numbers are  
17 correct, but they don't map to actually  
18 what we voted on.

19 What Richard was explaining, for  
20 some reason the minutes show the votes  
21 done by finding. When we vote on a  
22 variance, we have to make four findings

1 in the case of a non profit, we have to  
2 make four findings. We have to make all  
3 four of them to approve the variance.  
4 Okay.

5 So if we approve a variance, that  
6 means we found that all four findings  
7 were met. If we don't approve the  
8 variance, it indicates that we were not  
9 satisfied that one or more of those  
10 findings were met.

11 And, in general, I will tell you  
12 that when we disapproved variances in  
13 this case, and we disapproved four out  
14 of the six, that when we disapprove  
15 those variances, it was basically on the  
16 basis of the -- to some -- basically, on  
17 the basis of the C -- I'm sorry, the D  
18 and E findings, and particularly the E  
19 finding, which has to do with is this  
20 variance the least, the minimum  
21 necessary to do what needs to be done  
22 for the applicant.

1 So, in four cases, I'm going to go  
2 through what we approved and what we  
3 didn't approve and by how many. We  
4 found that it was more than -- that it  
5 was more than the minimum. We also in  
6 those cases pretty much found that, that  
7 the C finding was not met that it would  
8 have a bad impact on the community.

9 When we approved the variances,  
10 which we did in two cases, that meant  
11 that we were satisfied that all the  
12 findings were met. That it would have  
13 no bad impact on the community, that it  
14 was the minimum necessary and so forth.  
15 Okay.

16 So here are the votes. There was  
17 a variance -- I'm going to do the  
18 horizontal ones first. There's a  
19 variance for lot coverage for how much  
20 of the lot overall is coverage.

21 The Land Use Committee approved  
22 that seven zip, zip, zip and the non

1 land use board members who were there,  
2 voted two to two to zip to zip on that  
3 particular variance.

4 Then there were two variances  
5 having to do with rear yard  
6 encroachments. Now, one of the  
7 complexities of this particular  
8 application, of this particular site,  
9 it's what's called a split zone site.

10 The site is partially an R10  
11 zoning district and partially in an R8B  
12 zoning district. So there were separate  
13 variances for the rear yard incursion  
14 for each of those kinds of districts.

15 In the case of the rear yard  
16 incursion, in the R10A portion, the Land  
17 Use Committee approved that variance  
18 seven zip, zip, zip and the non land use  
19 board members who were there voted,  
20 disapproved it, voted one to three to  
21 zip to zip on that particular one.

22 On the analogous one for the R8B

1 portion of the site, the rear yard  
2 incursion same issue, but on the R8B  
3 portion Land Use Committee approved that  
4 variance six to one to zero to zero, and  
5 then the non land use board members  
6 again voted that down one to three to  
7 zero to zero.

8 Then there were the what I'm  
9 calling the vertical variances. And I  
10 haven't completely divided these up  
11 right because two of them get paired  
12 together.

13 So there's one on the -- let me  
14 say, first, again, anything that has to  
15 do with vertical was disapproved, okay,  
16 and I'll give you the votes.

17 This's a variance for the total  
18 height of the building. And for the  
19 base height, that is, the height of the  
20 building until the first setback, and  
21 for a setback, a change in the amount of  
22 the setback in the rear portion.

1 In all of those cases the Land Use  
2 Committee disapproved, was -- all  
3 members who were there voted against  
4 those variances. So the land use vote  
5 was zero to seven to zero to zero, and  
6 non land use board members was zero to  
7 four to zero to zero.

8 And there was one other little  
9 oddity, a separate vote for the front,  
10 for the amount of the front setbacks  
11 matter of a couple of feet, again, the  
12 Land Use Committee voted that down 21 to  
13 six to 0 to 0, and the non land use  
14 board members voted that down to zero to  
15 four to zero to zero.

16 I'm going to turn it back to  
17 Richard, but if you keep in mind,  
18 overall we approved the things that went  
19 out this way and we disapproved the  
20 thing that, you know, went up that way.

21 MR. ASCHE: I'm presuming  
22 everybody, the board is familiar with

1 the resolution and has some idea what  
2 the building is like.

3 We have a representative of the  
4 Congregation here tonight,  
5 unfortunately, he doesn't have any  
6 visual aides, and, also, we have either  
7 he or Page can describe the project, if  
8 proposed, if anybody needs to have that  
9 done.

10 Okay. Let's go to the public  
11 session, then we'll take comments from  
12 the board. Jan Levy, followed by Faith  
13 Steinberg.

14 MS. STEINBERG: I'm giving  
15 mine through Jan Levy.

16 MR. ASCHE: She doesn't  
17 accept.

18 MS. LEVY: I'm not allowed.  
19 There are two people who want to follow  
20 me. One is this woman Faith Steinberg  
21 and Bacha, so if you'll call them next.

22 MR. ASCHE: Okay. And if I do

1 anything else that you don't --  
 2 MS. LEVY: We'll work  
 3 something out.  
 4 I guess I'm always the lead  
 5 witness here. Some of you have already  
 6 heard me on this subject. I find it  
 7 very difficult to understand the  
 8 reasoning behind the congregation's need  
 9 for all these variances. It may be and  
 10 I don't want to be irreverent and as you  
 11 discussed the Tora and the possibilities  
 12 of its meaning, perhaps, that's the way  
 13 you approach the zoning resolutions and  
 14 the interpretation of their meanings.  
 15 I don't, I don't -- I can't  
 16 understand why a congregation that has  
 17 been so long in this city and so well  
 18 respected and so esteemed by its  
 19 neighbors would want to disfigure its  
 20 own building and its block and Central  
 21 Park West historical district with a  
 22 building that is absolutely

1 inappropriate.  
 2 The design flies in the face of  
 3 any kind of mid block zoning  
 4 possibility. It has nothing whatsoever  
 5 to do with the Shearith Israel building  
 6 itself or the neighbors on the block.  
 7 So I thought about this and I  
 8 thought about how hard we worked to get  
 9 the historical district, and the fact  
 10 that Shearith Israel cleaned the outside  
 11 of the building. It keeps the building  
 12 in pristine condition and it really is a  
 13 very important institution, not only in  
 14 the upper west side, but in the city.  
 15 It's been here 350 years and it's  
 16 very, very much adhered to the original,  
 17 some of the original ways of observing  
 18 and commitments to community and civic  
 19 service that have been the hallmark of  
 20 this congregation since its inception.  
 21 And so I am really distressed that  
 22 there is a need, there is a need to have

1 public support and financing when I'm  
 2 sure this congregation can afford to do  
 3 this if it really wants to. All right.  
 4 So I will just conclude by saying,  
 5 in sum, I think what is being proposed  
 6 here is sacrilegious.  
 7 MR. ASCHE: Faith Steinberg  
 8 and Bacha Lune. Faith?  
 9 MS. LUNE: I absolutely  
 10 support what Jan said.  
 11 MS. STEINBERG: Faith  
 12 Steinberg. Ditto.  
 13 MR. ASCHE: Okay. Kate Wood.  
 14 Followed by Jay Greer.  
 15 MS. WOOD: Before my time  
 16 starts, I want to try to get an  
 17 understanding, is the applicant going to  
 18 speak tonight, because if so, there are  
 19 three of us that would like to speak  
 20 after the applicant, so we can respond  
 21 to what he has to say --  
 22 MR. ASCHE: You can only speak

1 once. If you want to wait until the  
 2 end, you can.  
 3 MS. WOOD: Will the applicant  
 4 be speaking this evening?  
 5 MS. ROSENTHAL: Probably at  
 6 the end. Richard, can we have a short  
 7 chat for one second.  
 8 MR. ASCHE: Why don't we  
 9 continue, let them talk while we talk.  
 10 MS. ROSENTHAL: Okay. You can  
 11 talk.  
 12 MR. ASCHE: Let me put it very  
 13 plainly. We're not going to have  
 14 posturing to see who goes last speak or  
 15 don't speak, but it's your turn now.  
 16 All right.  
 17 MS. WOOD: I would just like  
 18 to have the opportunity to --  
 19 MR. ASCHE: Everybody wants to  
 20 speak last, but it's impossible.  
 21 MS. WOOD: My purpose in being  
 22 here tonight is to make sure the

1 committee and the board have the facts  
2 and so --

3 A VOICE: Go to the next  
4 speaking.

5 MS. WOOD: I'm going to  
6 postpone my speaking until after the  
7 next speaker.

8 MR. ASCHE: That's fine. Jay  
9 Greer followed by Ann Farley.

10 MR. GREER: Members of the  
11 board, various chairs and committees of  
12 the board. I'm Jay Greer, a long time  
13 neighbor of Shearith Israel.

14 I appeared before you on the 17th  
15 of October. I submitted something in  
16 writing in opposition to all the  
17 variances. I did the same thing before  
18 the Land Use Committee on the 19th of  
19 November. I'll stand by those.

20 I only want to add one thing.  
21 Aside from supporting what Richard  
22 Gottfried and Senator Duane's offices

1 said, CSI has left out some very  
2 important stuff, but one thing they have  
3 totally omitted is a reference to the  
4 6400 square foot banquet hall mixed use  
5 facility for religious life cycle events  
6 that they want to put in their sub  
7 basement.

8 For some, this will add  
9 two-and-a-half times the amount of set  
10 space to their facility. I submit that  
11 that will do a significant amount of  
12 damage to the neighborhood in terms of  
13 increased traffic, increased garbage and  
14 increased noise.

15 And for that reason alone, I  
16 submit that whether they can do it as of  
17 right or not, that should weigh heavily  
18 against them getting any of these  
19 variances.

20 Thank you very much.

21 (Applause.)

22 MR. ASCHE: Ann Farley

1 followed by Ron Prince.

2 MS. FARLEY: I'm Ann Farley,  
3 the immediate past president of 101  
4 Central Park West, and I want to join  
5 with the others who oppose the  
6 application of the Congregation,  
7 including the horizontal variances that  
8 you described.

9 I want to note, in addition to  
10 what Jay said that the application fails  
11 to quantify the financial gain that's  
12 likely to come with this new banquet  
13 hall.

14 Certainly users of the facility  
15 will pay for the use in a reasonably  
16 short time. Congregation may well  
17 recoup the cost of its construction.  
18 Thereafter, they will likely realize  
19 substantial increase in revenues from  
20 the source and their failure to disclose  
21 expected revenue understates the value  
22 of its proposed new community house.

1 The same thing is true of its  
2 failure to disclose the amount of  
3 revenue it receives from renting its  
4 parsonage.

5 Second, there is creeping growth,  
6 it may be generated by the school housed  
7 in their proposed new building. The  
8 school is not affiliated with the  
9 Congregation and has grown from nothing  
10 to 124 students in 13 years.

11 This is problematic because the  
12 school buses routinely block the street  
13 and students obstruct the sidewalk in  
14 front of the Congregation during school  
15 hours.

16 And lastly, the application  
17 doesn't reveal what the Congregation  
18 plans to do about emergency egress from  
19 this banquet hall we've just heard  
20 about.

21 The plans reveal only two narrow  
22 interior staircases that do not directly

1 exit outside, but connect to the cellar  
2 above and the result is the sub basement  
3 could well be a fire hazard or a death  
4 trap in the event of a fire.

5 The problem is especially acute in  
6 the new building, which drastically  
7 reduces the size of the rear yard and,  
8 indeed, appears to preclude any escape  
9 from what's left in the property.

10 So I encourage you to disapprove  
11 the horizontal variances as well as the  
12 vertical ones. Thank you.

13 (Applause.)

14 MR. ASCHE: Ron Prince  
15 followed by Jeff Retton.

16 MR. PRINCE: Sir, we'd like to  
17 present this together. It's a  
18 presentation we developed together, if  
19 we may. We have handouts for the board  
20 members, please. Thank you.

21 I'm going to go first followed  
22 by Jeff Retton. My name is Ron Prince

1 and I represent a group of property  
2 owners at 18 West 70th Street.

3 The draft resolution describes how  
4 the proposed building would directly  
5 brick over lot line windows and cut off  
6 the light and air of apartments who face  
7 our eastern courtyard at 18 West 70th.

8 It characterizes such an outcome  
9 as an abuse of the variance process.  
10 Quote, a taking of property in a way  
11 which the zoning resolution was designed  
12 to prevent. We applaud the strength of  
13 this conviction and feel it essential  
14 and bring to you the full board the hard  
15 facts behind what they've written.

16 And if you could refer to the  
17 handout for this illustration one there,  
18 you'll see the unavoidable starting  
19 point of any discussion about the impact  
20 on its adjacent property is that an as  
21 of right building would brick over  
22 absolutely zero windows at 18 West 70th.

1 And you can see this by the  
2 contour of an as of right building  
3 against the eastern portion of 18, which  
4 is shown in blue.

5 Illustration two shows in contrast  
6 the proposed building which is shown in  
7 red. It weighs in at 105 instead of  
8 75 feet, and with it you can see seven  
9 lot line windows are directly bricked  
10 over. Illustration three shows that  
11 which is the photograph that lot line  
12 windows are only part of this story.

13 Windows on the eastern courtyard  
14 would also be sealed off. Here a  
15 building of this proposed height would  
16 transform the courtyard into an air  
17 shaft.

18 As you can see, illustration four  
19 on the second page shows even in an as  
20 of right scenario, we acknowledge there  
21 would be impact on our eastern  
22 courtyard, but a building as tall the

1 Congregation is proposing would have an  
2 intolerable effect.

3 Fifteen windows in the courtyard  
4 are high enough to look at a blue sky if  
5 an as of right building went up, and for  
6 the others further down, the darker  
7 would be even deeper --

8 MR. ASCHE: Try to wrap up.

9 MR. PRINCE: From here, I'll  
10 move to illustration six and Jeff Retton  
11 will take over.

12 MR. RETTON: To sum up and  
13 conclude I would like to say the zoning  
14 regulations expressly prohibit this type  
15 of harm from occurring.

16 For a variance to be granted, it  
17 must not substantially impair the  
18 appropriate use or development of  
19 adjacent property and must not be  
20 detrimental to the public welfare.

21 As experts would attest, light and  
22 air are keys to public welfare. Imagine

1 the effect of our neighbor, who we'll  
2 call Patricia I., a resident owner with  
3 a small studio on the 9th floor.

4 She has only one window of any  
5 size. The reality is, it is on the lot  
6 line and would be directly bricked over  
7 if these variances are granted.

8 We urge the board to prevent these  
9 bleak outcomes from becoming reality.  
10 Thank you.

11 (Applause.)

12 MR. ASCHE: Howard Lippman.

13 MS. SIMON: He left.

14 MR. ASCHE: Kate, you want to  
15 speak now or do you want to wait?

16 MS. WOOD: I will go ahead and  
17 speak now. I have to say I've never  
18 been to a proceeding where the applicant  
19 didn't speak until comments.

20 What I plan to present in  
21 partnership with other neighbors is a  
22 very concise summary of the facts as to

1 why the community and people beyond the  
2 upper west side community are adamantly  
3 opposed to the requested zoning  
4 variance.

5 To be clear, no one is against the  
6 new as of right community house on this  
7 site. An as of right building on this  
8 site, but the applicant has the basic  
9 burden of proof that it has come no  
10 closer to meeting today than it had nine  
11 months ago.

12 The applicant would like to  
13 convince you that it needs the proposed  
14 tower to cure circulation and  
15 accessibility problems, but the  
16 applicant's own drawings show that these  
17 issues could be equally addressed by a  
18 new as of right building.

19 The applicant has informed this  
20 board that one of the five required  
21 findings for zoning variances, finding B  
22 regarding reasonable return on

1 investment is not necessary since  
2 Shearith Israel is a non profit  
3 institution.

4 In fact, the BSA rejected the  
5 applicant's argument that the luxury  
6 condos have anything to do with the  
7 synagogue's programs and instructed  
8 Shearith Israel to address finding B.  
9 The BSA's reasoning is that other non  
10 profit religious institutions raise  
11 money for their programs without  
12 resorting to special variances.

13 So this applicant does not get a  
14 free pass on this issue. The applicant  
15 would like you also to believe that this  
16 is a modest eight stories plus  
17 penthouse, when, in fact, it would rise  
18 up to 95 feet on the street wall and  
19 105 feet, overall the equivalent of  
20 ten-and-a-half stories, roughly double  
21 the height of the brownstones that  
22 define West 70th Street, and

1 significantly taller than the adjacent  
2 landmark synagogue.

3 And you've got some illustrations  
4 over there that show you the green is  
5 the as of right building the red is the  
6 proposed building.

7 One final comment that I would  
8 like to make before my time runs out is  
9 that this is not just about our skyline  
10 Central Park West, this is an issue that  
11 effects the entire city. Give me  
12 30 seconds to wrap up and say that this  
13 is about our mid blocks.

14 Right now only three out of 53  
15 buildings on West 70th Street between  
16 Central Park West and Columbus are more  
17 than six stories tall.

18 If built, the proposed building  
19 would raise that number to four, the  
20 Catholic High School Association owns  
21 the brownstone at 22 West 70 Street.

22 And if you look at the poster,

1 it's the purple building that bulks up  
2 on the west side of West 70th Street.  
3 Using the synagogue's logic, this non  
4 profit could add floors to the top of  
5 its building creating five tall  
6 buildings on the West 70th Street mid  
7 block.

8 Suddenly, the balance starts to  
9 tip as tall buildings begin to form a  
10 wall overshadowing the small buildings  
11 undermining the purpose of mid block  
12 contextual zoning, which is to maximize  
13 sunlight, air, a narrow side street's  
14 protected brownstone scale and preserve  
15 the overall visual character and sense  
16 of place.

17 This is what this community board  
18 fought for and won back in the early  
19 1980s. We hope you will fight for it  
20 and win it again today.

21 Thank you very much.

22 (Applause.)

1 them as requested by the architect, was  
2 to create expansion space for the  
3 school.

4 The school is a rental facility,  
5 really, I look out my windows and I see  
6 the Rent-a-Kids at the rental school  
7 every day.

8 I would suggest that perhaps they  
9 need to expand the school, that they dig  
10 into the 6,000 plus square foot rental  
11 hall for receptions that they plan to  
12 construct and find adequate housing  
13 there for the school or perhaps the  
14 parsonage, which is rented out.

15 So that there's plenty of  
16 opportunity to seek, to solve the  
17 problem elsewhere without affecting  
18 one's air and light rights. Ultimately,  
19 what lies before us is this question,  
20 it's one of benefit versus burden.

21 If there's a project presented  
22 before you which benefits the entire

1 MR. ASCHE: Ellen Fleyscher  
2 followed by Bruce Simon.

3 MS. FLEYSCHER: Good evening.  
4 My name is Ellen Fleyscher, I'm a tenant  
5 shareholder at 91 Central Park West. I  
6 have lived there 31 years, which is a  
7 very long time.

8 Other people have spoken before  
9 you and addressed this group before in  
10 much more eloquent ways than I possibly  
11 can. I simply want to say I stand here,  
12 I never appeared before a community  
13 board meeting before in my life.

14 I totally oppose all seven  
15 variances which have been requested on  
16 the grounds that I don't believe any of  
17 them are totally necessary. Especially,  
18 I would like to address the horizontal  
19 ones.

20 Everyone is talking about the  
21 vertical, which is quite valid.  
22 Horizontally the reason for requesting

1 community and the burden is borne by the  
2 entire community, that sounds equitable  
3 to me and reasonable and just. But when  
4 the project benefits only one, and the  
5 burden is felt by everyone else, there's  
6 something wrong there.

7 And so I urge you to vote against  
8 all seven variances of this project.  
9 Thank you.

10 (Applause.)

11 MR. ASCHE: Bruce Simon  
12 followed by Alan Sugarman.

13 MR. B. SIMON: Bruce Simon.  
14 I've been a west sider since 1960. My  
15 air, my light, my views are not affected  
16 by this building. I guess I'm 500 feet  
17 away instead of the 400 feet that come  
18 within the BSA standards.

19 I speak in opposition to all of  
20 the variances and I simply ask the board  
21 to concentrate on what it is it's being  
22 asked to do.



1 The zoning resolution is adopted  
 2 by the people of the City of New York to  
 3 govern themselves. It is a public good.  
 4 The public in effect is protecting  
 5 itself against what profit maximization  
 6 by any one of the public could do if  
 7 they were not restricted by the zoning  
 8 resolution in the public good.

9 Non profits are as bound by the  
 10 zoning resolution as are profit making  
 11 institutions. So are religious  
 12 institutions. There is a certain  
 13 deference given to religious  
 14 institutions to give them some  
 15 flexibility with regard to the zoning  
 16 resolution when their religious mission  
 17 is directly at stake. Not when they are  
 18 acting as a private developer building  
 19 luxury residential co-op apartments.

20 That is not their religious mission.

21 There is no excuse whatsoever for  
 22 them converting the wealth of the

1 community, the value of the community,  
 2 the not Jewish, the folks whose lot line  
 3 windows are protected, but the rest of  
 4 West 70th Street, indeed, the rest of  
 5 the west side and converting that  
 6 community value into value for the  
 7 synagogue.

8 They should be able to perform  
 9 their religious institution and we  
 10 should do every -- religious mission, we  
 11 should do everything to permit them to  
 12 do so, but we should not relax the rule  
 13 that every one of the rest of us are  
 14 protected by to allow them to escape the  
 15 burden of financing their religious  
 16 mission.

17 We are not expected to subsidize  
 18 Jack Retton or the board of the central  
 19 synagogue. They are perfectly capable  
 20 of subsidizing themselves.

21 (Applause.)

22 MR. ASCHE: Alan Sugarman

1 followed by Marlin.

2 MR. SUGARMAN: I'm Alan  
 3 Sugarman. I live directly across the  
 4 street from the synagogue. I have a  
 5 handout, which all of you should have,  
 6 that was discussed before. I would like  
 7 to point out the as of right building is  
 8 the green building on the left, the  
 9 upper two photos and on the right is the  
 10 proposed building, in red.

11 In general, the synagogue does not  
 12 show the comparison between the as of  
 13 right and the proposed building simply  
 14 because all of the congregation's  
 15 programatic needs are satisfied by the  
 16 as of right building, the green  
 17 building. They just don't need the red  
 18 building.

19 If we look at the findings we have  
 20 to make, finding east states basically  
 21 that any variance granted should be the  
 22 minimum variance, so if the green as of

1 right building satisfies the plan needs  
 2 of the Congregation then there can be no  
 3 variance.

4 Mandatory finding A states there  
 5 must be some unique physical condition  
 6 on the site which prevents economic use  
 7 of the site. Here there are no such  
 8 physical conditions. Rather the  
 9 Congregation suggests that the cause is  
 10 a religious non profit and can satisfy  
 11 by showing, A, religious programmatic  
 12 needs, which cannot be met in an as of  
 13 right building.

14 The programmatic needs they show  
 15 for the rear lot extensions that were  
 16 discussed is really what they want in a  
 17 perfect world.

18 I don't submit they rise to the  
 19 standard of permitting the avoidance of  
 20 finding A, which is really about  
 21 physical condition. So let's focus on  
 22 the programmatic needs asserted by the

1 Congregation.  
2 You will hear the terrible stories  
3 about the need to resolve access and  
4 circulation problems, due to the  
5 sanctuary floors being at different  
6 levels for most in the community house.

7 What is needed really is  
8 replacement of the 1954 elevator. What  
9 is needed is a modern elevator opens the  
10 front and back and side so entry and  
11 exit is possible at different levels.  
12 The as of right building, the green  
13 building, does this and more, is able to  
14 accommodate all of these access and  
15 circulation programmatic needs  
16 100 percent.

17 Let me just finish. The top two  
18 floors of the as of right building,  
19 also, is a luxury condominium and all of  
20 these leads for which they somehow  
21 persuaded the committee to permit an  
22 extension in the rear can easily be

1 resolved in these two floors of luxury  
2 condominiums. Quite simply, they don't  
3 meet the standards of the law for any of  
4 these variances. Thank you.

5 (Applause.)

6 MR. ASCHE: Madeleine Polayes  
7 followed by Kent Walgren.

8 MS. POLAYES: I don't know I  
9 need this, I have a very loud voice.

10 (Laughter.)

11 MS. POLAYES: Coalition For A  
12 Livable West Side opposes Congregation  
13 Shearith Israel's application to  
14 construct a 105 foot building, mid  
15 block, which would break the R8B  
16 contextual zoning for the site.

17 It is really a shame this is  
18 happening to the west side. As you  
19 know, I have fought hard for making sure  
20 that we stay within the certain  
21 ambiance.

22 Well, that is being broken over

1 and over again, and I really plead with  
2 this board not to let it happen in this  
3 instance either. Thank you.

4 (Applause.)

5 MR. ASCHE: Kent Walgren  
6 followed by Lori Cuisinier or Shelly  
7 Friedman.

8 MR. WALGREN: I'm Kent  
9 Walgren. I live in 18 West 70th Street.  
10 I'm a board member and treasurer of 18  
11 West 70th.

12 We, the board, are strongly  
13 opposed to the building proposal.  
14 Primarily because of this significant  
15 negative impact we feel it has in our  
16 building. We're concerned about the air  
17 and light being cut to many apartments  
18 and many residents in our building. And  
19 many bedrooms would also be impacted,  
20 including some you heard earlier.

21 We also, we're also concerned that  
22 it will be a loss of apartment values

1 and, basically, an involuntary transfer  
2 of money going from our building to the  
3 Congregation next door.

4 And we see this as the  
5 Congregation trying to maneuver around  
6 the rules and make money on our behalf.

7 VOICES: On their behalf.

8 MR. WALGREN: So my family is  
9 also directly impacted. I have two  
10 daughters six and 9 years old that live  
11 in a bedroom, they share a bedroom that  
12 will be -- that have one window that  
13 will be bricked over and they're  
14 certainly very worried, they're very  
15 concerned about what's going to happen  
16 to them and their room and they're  
17 concerned about light and fresh air.

18 And they wanted to make sure I  
19 came here tonight and make sure I tell  
20 you that they don't think this is fair.  
21 So we want our neighbor to limit his  
22 plans to building no taller or deeper

1 than allowed.  
2 So please stop this proposal, and  
3 thank you very much.

4 (Applause.)

5 MR. ASCHE: Lori Cuisinier or  
6 Shelly Friedman.

7 MR. FRIEDMAN: I'm Shelly  
8 Friedman. Basically, our function as  
9 the applicant here is to answer any  
10 questions the board may have of us.

11 We had a significant amount of  
12 work with the Land Use Committee. We  
13 spent several nights with the lawyers on  
14 this application. I haven't had the  
15 benefit of reading the board's  
16 resolution, obviously, but it sounded  
17 like a correct iteration of what  
18 occurred on that night, and I am simply  
19 going to say if any of the board members  
20 have specific questions on this complex  
21 application, we have the architect here  
22 and we can go over them to your

1 satisfaction. Thank you.

2 MR. ASCHE: Thank you. Ray  
3 Dovell followed by Roberta Vatski.

4 MR. FRIEDMAN: Mr. Dovell is  
5 with me. He's the architect, so we'll  
6 pass.

7 MR. ASCHE: Roberta Vatski  
8 followed by Debbie Fink.

9 MS. VATSKI: Hi, I'm Roberta  
10 Vatski. I live at 17 West 70th across  
11 from the Congregation. I hate to put  
12 myself in the position I'm in for the  
13 variances and I think it's very, very  
14 important that we know what this  
15 Congregation is.

16 I mean, I would love to take a  
17 show of hands how many people have been  
18 in the building at 2 West 70th Street.  
19 Well, good, a lot of us do happen to  
20 know what that congregation is. It is,  
21 when I first moved into this  
22 neighborhood I had natural red hair, so

1 you can see how long I've been here and  
2 I was amazed at the enormous benefit I  
3 got by just knowing what that building  
4 was and what it stood for.

5 I learned American history. I  
6 learned New York history, I learned west  
7 side history, and this congregation had  
8 dealings, I had dealings with Peter  
9 Stuyvesant. It was a marvelous  
10 experience.

11 I didn't know anything about it  
12 when I moved to this part of the city.  
13 And I've been here ever since, but it's  
14 got a book written about it, too. It's  
15 called "The Grandees" and it's an old  
16 book, but there were very fine people in  
17 this congregation. It's old now and  
18 popular. Popular opinion is that it's  
19 wealthy.

20 It is not wealthy anymore and it  
21 does have to pay rent and it will be  
22 fabulous benefit to the community to

1 have this particular institution here,  
2 but it must secure its future and it  
3 knows very well what it needs.

4 And I think it's important that we  
5 do try to support an institution of this  
6 magnitude and of this honor.

7 Benjamin Cordozo, our Supreme  
8 Court Justice, was a member of this  
9 congregation. Very recently Abraham  
10 Cordozo died. He was a member of this  
11 congregation. He was a direct link from  
12 the Amsterdam community and honored by  
13 Queen Beatrice and it's a Cordozo, it  
14 shows how long this community has been  
15 here.

16 So I'm for anything that the  
17 synagogue thinks it needs to maintain  
18 itself for the future. Thank you. And  
19 I'm going to run now before I get run  
20 out of the neighborhood.

21 MR. ASCHE: We have one more  
22 speaker.

1 A VOICE: I have a question  
2 something she said.  
3 A VOICE: About the color of  
4 your hair.  
5 A VOICE: My question was she  
6 made a statement that the Congregation  
7 pays rent, and I just want to know to  
8 whom they pay rent.  
9 MS. VATSKI: An expression of  
10 saying it has to support itself and real  
11 estate is a time honored way of  
12 supporting itself.  
13 A VOICE: Say that, don't say  
14 they pay rent. It's misleading.  
15 MS. VATSKI: The point is many  
16 institutions get money from different  
17 things, but it has to support itself.  
18 MR. ASCHE: Debbie Fink is the  
19 last speaker.  
20 MS. FINK: I know it's a late  
21 night. I'm exhausted. I'm sure you  
22 guys are, as well. So I promise to be

1 brief.  
2 I've never been to one of these  
3 meetings. I'm a resident of 18 West  
4 70th Street. I've lived there since  
5 last year, I've been a resident of  
6 Manhattan for 12 years, and decided I  
7 wanted to buy an apartment.  
8 So last year I wiped out my entire  
9 401K, my life's savings, borrowed money  
10 from my parents and bought an apartment  
11 at 18 West 70th.  
12 I'm one of the few apartments that  
13 faces east, and solely east. I have two  
14 windows, one in my living room, one in  
15 the bedroom. If the variances are  
16 approved, not only will I lose all my  
17 light, I will lose all my air quality,  
18 the value of my apartment will go down.  
19 This was a new investment for me.  
20 I've been working hard in the city, I  
21 love New York and I have every intention  
22 of staying on the upper west side, but I

1 don't think it's fair that the value of  
2 my apartment gets lower because of  
3 something not that it's my choice, but  
4 something that a non profit gets to  
5 profit from.  
6 So I hope you vote against these  
7 variances. Thank you.  
8 (Applause.)  
9 MR. ASCHE: Board members,  
10 questions, comments?  
11 MS. STARKEY: On our voting  
12 sheet it says vote A, B, C, D, E, is  
13 that the way we're voting.  
14 MR. ASCHE: No, we're going to  
15 vote by variance.  
16 MS. NEUWELT: Richard, this is  
17 for discussion, right?  
18 MR. ASCHE: Yes.  
19 MS. NEUWELT: I'm going to try  
20 to slice and dice this in a way that I  
21 think is clear. Hope described this as  
22 horizontal and vertical. That's one

1 way.  
2 I would think it's easier to think  
3 of it as the height of the front, the  
4 height of the back and the depth of the  
5 back. The height of the front and the  
6 height of the back, both of which are  
7 the issues that impinge on the light  
8 line windows and the light and air of  
9 the adjacent building, the resolution  
10 opposes what the applicant wants to do  
11 on those and with a very high degree of  
12 favorable vote on that.  
13 I'm in agreement with that, so the  
14 resolution sides with the neighbors on  
15 that issue. The one that I want to talk  
16 about where the -- where I was in the  
17 minority is what I would call -- Hope  
18 called horizontal and I would call the  
19 rear of the bottom of the building.  
20 Basically, what the variance asks  
21 for is instead of having a 30-foot rear  
22 yard, which is what the zoning

1 resolution requires for all building,  
2 unless they get a variance, they can  
3 build their building for the first  
4 several stories 20 feet instead of 30.  
5 And I, the premises for that, that I  
6 think apparently persuaded -- let me  
7 just say one more thing quickly.

8 I have a lot of respect and I  
9 think we all do for what our committees  
10 do, if we're not there, and the  
11 committee comes and tells us what they  
12 thought about and what they've done.

13 If I'm not sure about it, I'll  
14 either abstain or vote in favor of what  
15 the committee did for me. This is a  
16 situation where I attended the two  
17 lengthy hearings that the committee had,  
18 one was the committee meeting, one was a  
19 prior informational hearing.

20 I have all the same information  
21 the committee had. I heard all the same  
22 debate, participated in the same debate

1 on this particular issue. I don't feel  
2 the same deference to the committee that  
3 one might, otherwise might and I want to  
4 tell you why.

5 The rationale that the applicant  
6 gave for why they should not, why they  
7 should at the base of the building be,  
8 instead of having a standard 30-foot  
9 rear yard, which effects the light and  
10 air and all that kind of thing of people  
11 behind them on 69th Street, as well as  
12 their neighbors, to some extent 18 West  
13 70th Street.

14 The rationale they gave is that  
15 they want their school, the rented  
16 school, and they also use it for their  
17 own religious school on Sundays and  
18 Saturdays.

19 Gee, it would really be  
20 inconvenient to have the school use the  
21 elevator. We want bigger offices and we  
22 want bigger classrooms and that's why we

1 want to take all that space from the  
2 public and we were, we are putting five  
3 condominiums on the top five floors so  
4 we're going to use this extra space in  
5 the back for these uses. That does not  
6 persuade me their programmatic needs  
7 demand that they build back at 20 feet  
8 instead of 30 feet in the rear yard  
9 because their programmatic needs would  
10 allow them to build four condominiums  
11 and take the elevator to a whole, to  
12 bigger, classrooms and a whole lot more  
13 offices on one of those floors of  
14 condominiums.

15 So I am unpersuaded that the  
16 programmatic needs support the rear yard  
17 setback. I see absolutely nothing in  
18 this that requires them to have five  
19 condominiums on top of four floors of  
20 programmatic needs, as opposed to five  
21 floors of programmatic needs and fewer  
22 condominiums, therefore, I am not

1 persuaded that the finding that they  
2 didn't cause them themselves is a proper  
3 finding.

4 And for that reason I, I am not  
5 speaking for the other several people on  
6 the board who voted against this  
7 particular part of the resolution, but I  
8 think that what I'm saying very likely  
9 reflects the thinking of the rest of my  
10 colleagues on the board who vetoed  
11 against the favorable findings with  
12 regard to the proposed variances at the  
13 rear yard, so I urge the board instead  
14 of voting yes on the rear yard variances  
15 and no on the top rear and front and  
16 rear variances to vote no on all of them  
17 for some of the reasons that also Bruce  
18 Simon gave and Richard Gottfried said  
19 and the lady who said she wasn't  
20 articulate, but she was extremely  
21 articulate on that exact issue.

22 (Applause.)

1 MS. COWLEY: Can I make a  
2 comment? This has been a very difficult  
3 one for our committee to review and this  
4 process started, I believe, with the  
5 applicant who's worked very hard with  
6 the architects and us in May and we have  
7 had this project come before us in  
8 various different forms. As Klari said  
9 there were two lengthy meetings.

10 The problem that I have and I  
11 wanted to voice my opinion on this  
12 because Richard and others have done an  
13 admirable job. This is the first  
14 meeting minutes I didn't have to take on  
15 the community board, so I was relieved  
16 to see how thorough all the descriptions  
17 have been.

18 The problem when you're looking at  
19 an application like this that have to  
20 meet five findings of which only four  
21 applied to a non profit there is only  
22 one building proposal before us tonight.

1 The concern that we've had on  
2 other projects when we tried to  
3 encourage an applicant to manipulate a  
4 piece of the design in favor of another  
5 aspect in due favor ends up causing  
6 something of a push me, pull you, that  
7 is, neither meets necessarily the  
8 program requirement of the applicant or  
9 fit in the neighborhood.

10 So I think what Klari has  
11 mentioned as an observer to our  
12 committee and you have to remember we  
13 also two years ago heard this on our  
14 parks and preservation committee that  
15 looked at it completely set of different  
16 criteria.

17 The issue before the committee  
18 tonight is the programmatic requirement.  
19 Are these waivers necessary for them to  
20 meet their programmatic requirement?  
21 The second thing I wanted to point out  
22 this evening is that through scheduling

1 and, again, in trying to help the  
2 applicant move this process forward  
3 through a different public review  
4 process at the board of standards and  
5 appeals, we were not able to submit this  
6 resolution when the discussions came  
7 before the BSA a week ago.

8 So even though we know that the  
9 BSA have some questions and the  
10 applicant will be going back to address  
11 that, the project will continue through  
12 review process through, I believe, it's  
13 February of '08, the likelihood is that  
14 this project is going to have to modify,  
15 and I hope the applicant will come back  
16 to the community board and inform us  
17 what the ramifications of some of the  
18 changes that the BSA has requested will  
19 be.

20 That said, it's still important  
21 for this board to reach a uniform  
22 decision about the scheme, so we can

1 submit our comments and have those be  
2 part of the decision as the board  
3 members of the BSA reach their  
4 conclusion.

5 Therefore, as you consider these  
6 findings, I happen to side with the non  
7 board members who sort of had trouble  
8 voting uniformly to accept every aspect  
9 of the scheme to remember that it's one  
10 building, and the likelihood is that the  
11 message that we hope to give back about  
12 the height and the bulk of the building  
13 will end up producing a better building  
14 that doesn't compromise the  
15 neighborhood.

16 So, I hope I'm making myself clear  
17 here, but if you vote for one finding  
18 yes, you need to think it through, how  
19 it affects the entire project because  
20 just voting down one finding doesn't  
21 necessarily stop or change the project.  
22 It is one building.

1 MR. ASCHE: Hope?  
 2 MS. COHEN: Once again, I want  
 3 to remind people that we are not voting  
 4 by finding. We are voting by variance.  
 5 I'm glad that Klari clarified what I'm  
 6 calling the vertical because we heard a  
 7 lot of testimony tonight about that, and  
 8 it's important that everybody on the  
 9 board understand that the -- there was  
 10 virtual, if not entire unanimity, among  
 11 land use and non land use board members  
 12 in opposition to the variances being  
 13 sought concerning the height of the  
 14 building and the various things that  
 15 grow out of that in terms of setback.  
 16 In other words, all of those  
 17 things that would affect the lot line  
 18 windows that you heard a lot about and,  
 19 in fact, the fact that they would effect  
 20 lot line windows was perhaps the premier  
 21 consideration in our discussion.  
 22 The other candidate for premier

1 consideration was the very philosophy,  
 2 the very question of using essentially a  
 3 for profit real estate deal to finance  
 4 the non profit work of the entity.  
 5 And so, there was, as I said,  
 6 pretty much, if not entire unanimity, on  
 7 the -- on those questions and we oppose  
 8 them.  
 9 Now, it is our usual practice and  
 10 one that I stand by again tonight that  
 11 when a non profit comes to us, and  
 12 states a need for its program, that we  
 13 give them the benefit of the doubt.  
 14 It is very difficult, if not  
 15 impossible, for us to reexamine just how  
 16 many classrooms a school may need, just  
 17 exactly how large they might need to be,  
 18 et cetera.  
 19 In the case of this applicant,  
 20 they came to us and said, we need ten  
 21 feet to make the school work. To make  
 22 the community facility portion, which

1 all agree the synagogue had a right to  
 2 build an as of right building and all  
 3 agree should be built.  
 4 I think anybody who lives in that  
 5 neighborhood and see the condition of  
 6 the current community house and the  
 7 vacant adjacent lot would agree that a  
 8 new proper building would be an  
 9 improvement for that block and a  
 10 neighborhood, as a whole, as well as the  
 11 Congregation so the question is what  
 12 kind of a building, and if the synagogue  
 13 has examined and its architects have  
 14 examined its classroom needs, it's  
 15 difficult for us to say no, you really  
 16 don't need classrooms that are that big,  
 17 you can get away with classrooms that  
 18 are ten feet smaller.  
 19 And that is our usual practice in  
 20 considering variances for non profit.  
 21 Applications for variances for non  
 22 profits that we do not question the

1 programmatic need they claim, we  
 2 understand that, but we do go onto what  
 3 it does, you know, what does the  
 4 building as proposed do to the rest of  
 5 the community and what we have concluded  
 6 here is that the veracity is  
 7 unacceptable for the reasons that I went  
 8 through.  
 9 Both physically for the neighbors  
 10 and philosophically as a precedential  
 11 problem, but that the horizontal  
 12 variances that they seek are quite  
 13 minimal.  
 14 And we have no reason to think or  
 15 to double guess them, second guess them  
 16 that what they're asking for is not  
 17 correct.  
 18 I have to say I think we really I  
 19 feel strongly here that we really  
 20 grappled with this and have come out  
 21 with the right answer in terms of giving  
 22 an important community participant who's

1 this, as this synagogue is, that not  
2 only for our neighborhood and not only  
3 for the Jewish community, but for New  
4 York as a whole, an extraordinary place  
5 of extraordinary history.

6 To do the right thing by them and  
7 also do the right thing by the  
8 neighborhood and precedential, also.

9 A VOICE: My question is this:  
10 I heard what everybody said. What I  
11 understand is that the verticality of  
12 that project is going to impact on the  
13 neighborhood's light and air, am I  
14 correct, and therefore you're voting  
15 against it.

16 I want to know more clearly in  
17 what way is the rear part of this  
18 impacting on what all these people said  
19 because what they talked about is  
20 blocking up their windows and that  
21 religious institution shouldn't make a  
22 profit.

1 I want to know about that rear  
2 piece that you voted for, does it impact  
3 on the neighborhood.

4 MS. COHEN: No is the answer.  
5 The things that we voted down, the  
6 things, all of the lot line windows that  
7 we discussed are protected by our  
8 resolution.

9 A VOICE: So then how are all  
10 these people saying that's not true, as  
11 I speak they're saying no, no, no, so I  
12 don't get it.

13 MS. COHEN: I'm give you two  
14 answers to that. I'll give you the  
15 physical answer which is yes, not on any  
16 windows but, yes, of course, there's an  
17 impact to the adjacent 69th Street side  
18 because the backyard would now be  
19 20 feet deep instead of 30 feet deep.

20 In other words, the new building  
21 will be ten feet closer to the neighbors  
22 on the 69th Street side than it would be

1 otherwise.

2 A VOICE: But are those  
3 neighbors affected anyway?

4 MS. WOOD: That's the purpose  
5 of zoning.

6 A VOICE: Light and air, 11  
7 West 69th Street.

8 MS. COHEN: They are effected  
9 in the sense the adjacent building is  
10 ten feet closer to them than it would be  
11 otherwise.

12 A VOICE: Which is how close?

13 MR. ASCHE: Probably 50 feet.

14 MS. COHEN: From me to the  
15 first? Row.

16 MR. ASCHE: 30-foot setback on  
17 the other side and 20-foot setback on  
18 the Congregation side.

19 MS. COHEN: Difference of ten  
20 feet, they're asking for ten feet.

21 A VOICE: And the committee's  
22 opinion is that it's not a big deal.

1 MS. COHEN: The committee's  
2 opinion -- no, I agree. The committee's  
3 opinion is that it's not a big deal.  
4 There's another way in which what you  
5 heard about people being impacted and  
6 that's, and that's essentially legally  
7 or theoretically and that is the zoning  
8 ordinance gives us X and any compromise  
9 of that is our loss.

10 Or is a bad thing or that it's  
11 precedential ly bad that any, that there  
12 shouldn't be any compromise of the  
13 zoning ordinance.

14 I have to say that I didn't want  
15 to go into that, but I think that is a  
16 problematic claim.

17 A VOICE: That's the part of  
18 what they're saying that you agree with.

19 MS. COHEN: Do I not agree  
20 with it? No, because it is perfectly  
21 normal. Look, we meet here month after  
22 month and have variance after variance



1 that goes before the BSA. The BSA was  
2 invented at the same time that the  
3 zoning resolution was venting.

4 It was specifically invented at  
5 that time because the people who  
6 invented the zoning ordinance in 1916  
7 understood that there would have to be  
8 exceptions to it under certain  
9 circumstances and they invented a tool  
10 to do that.

11 So it has always been the case  
12 that there's been the zoning ordinance,  
13 not always -- since 1916 it has been the  
14 case that it's a zoning ordinance and  
15 there's also a mechanism to have  
16 exceptions to the zoning ordinance.

17 MR. ASCHE: Dan?

18 MR. ZWEIG: Question, Hope.  
19 You meet as well stay unless somebody  
20 else can answer this. My question is  
21 that there's a certain amount of bulk  
22 that's going to go into that rear yard,

1 the ten feet, et cetera.  
2 Were that extension into the rear  
3 yard not made, where would that bulk go  
4 in an as of right building and would  
5 that change anything else in that  
6 building that we would be concerned  
7 about.

8 MR. ASCHE: Part of the  
9 picture here and part of the  
10 consideration for any variance is  
11 whether the applicant is prevented by  
12 some feature of the property from  
13 utilizing his as of right vote in a  
14 practical way.

15 In this case, because of the  
16 height restrictions on, the zoning lot  
17 that the space sits on is in two zones.  
18 One zone is an R10A, which allows a  
19 much, which allows a ten FAR, and the  
20 other is R8B, which is a much lower  
21 60-foot height limit.

22 And because there is a landmark on

1 the site, they're allowed to average so  
2 that their permissible FAR under, as of  
3 right permissible FAR is more than  
4 double what they're proposing to build,  
5 even with all their variances.

6 And it's considerably more than  
7 double what we would be approving. So  
8 the answer to your question is that it's  
9 not clear that they could put that bulk  
10 anyplace else. I mean, without a  
11 variance.

12 So they could get, they could take  
13 that bulk and put it on top with a  
14 variance or they could put it, well,  
15 either top or back are the only two  
16 places.

17 MR. ZWEIG: So do I understand  
18 the hardship is, basically, the  
19 difference in the zone and the height  
20 restriction in the -- can I finish.

21 MR. ASCHE: It's not entirely  
22 that. It's also the fact there is a

1 landmark on the site that can't be  
2 touched.

3 MR. ZWEIG: Right.

4 MR. ASCHE: Practically, as a  
5 practical matter, it can't be touched  
6 and it is also the fact that they have  
7 come to us and shown us plans with floor  
8 plates for a school, and have shown us  
9 that if the classrooms in the back of  
10 the building were ten feet narrower,  
11 they would, in the judgment of the  
12 synagogue, be too narrow, too small.

13 Now, by the way, as I understand  
14 it, as of right, Shelly, tell me if I'm  
15 wrong or right about this, can the  
16 synagogue build in the backyard up to  
17 the height of the first floor in as of  
18 right?

19 MR. FRIEDMAN: The zoning  
20 permits for a community facility, the  
21 rear yard be completely covered up to  
22 23 feet in height or one floor,

1 whichever is less.

2 MR. ASCHE: And are you  
3 covering the entire rear yard up to  
4 20 feet?

5 MR. FRIEDMAN: We are, that's  
6 as of right.

7 MR. ASCHE: So the variance is  
8 above the 23 feet.

9 MR. FRIEDMAN: The variance is  
10 above the 23 feet and instead of the  
11 30-foot rear yard, we're asking for a  
12 20-foot rear yard above the first floor.

13 MR. ASCHE: So we're talking  
14 about ten feet above the first floor.

15 MR. FRIEDMAN: For three  
16 floors.

17 MR. ASCHE: For three floors.  
18 And that's all classroom space.

19 MR. FRIEDMAN: Classrooms and  
20 other activities, essentially. Bobbie  
21 Katzander.

22 MS. KATZANDER: As I

1 understand it, when Hope was speaking,  
2 Hope, it sounds like horizontal, a  
3 50 percent encroachment in the specs.

4 MS. COHEN: Well, 33 percent  
5 encroachment into the space. Well,  
6 33 percent encroachment on the synagogue  
7 side because on the 69th Street neighbor  
8 side, they also have 30 feet.

9 So it's, yeah, it's a 33 percent  
10 encroachment from the synagogue side  
11 into the rear yard.

12 A VOICE: So there's 60 feet  
13 between the two buildings, now there's  
14 50 feet.

15 MS. WOOD: That's not right  
16 because --

17 MR. ASCHE: No.

18 Bobbie, the rear yard --

19 MR. B. SIMON: Half of 20 is  
20 ten, 20 plus ten equals 30, it's a  
21 50 percent encroachment, it's math.

22 MR. ASCHE: At the back of the

1 69th Street building. There is a rear  
2 yard at the back of the, of this site.  
3 Together those two rear yards can be  
4 60 feet.

5 What is being proposed for the  
6 three floors above the first floor is  
7 that the rear yard be shrunk to 50 feet  
8 by taking ten feet off the rear yard for  
9 as of right.

10 MS. NORMAN: I think we  
11 glossed over -- I think we glossed over  
12 very quickly.

13 The impact this is going to have  
14 and the precedent it's setting. I know  
15 precedent is not supposed to be an  
16 important issue. How can it not be?  
17 How many other facilities we have in  
18 this community where there's a split  
19 lot, where there's a landmark, whatever  
20 makes this important to do.

21 We have it all over and we're  
22 going to see this, again and again and

1 again. And I think we have to take a  
2 firm stand that this is not acceptable.

3 (Applause.)

4 MR. ASCHE: Elizabeth Stark.

5 MS. LAWTON: I have a question  
6 for the gentleman that asked the  
7 question.

8 A VOICE: Elizabeth has the  
9 floor.

10 MS. STARKEY: I want to say I  
11 attend most of the committee meetings  
12 myself and at the last one, I saw this  
13 as between the horizontal and the  
14 vertical and I saw the horizontal as  
15 impacting the synagogue's programmatic  
16 needs.

17 And at that time I really was of  
18 the same mind that Hope was and that is  
19 that I didn't want to get into micro  
20 managing the size of their classrooms  
21 and so forth, and I was willing to grant  
22 the variances that granted the

1 horizontal setback and so forth that  
 2 they needed. But not the vertical.  
 3 Tonight with some of the visuals  
 4 and some of the testimony, I'm going to  
 5 change my vote because I am going to now  
 6 look at it as two other things. I'm  
 7 going to look at it as an as of right  
 8 building and I'm going to look at it as  
 9 the proposed building with the  
 10 variances.  
 11 And I'm going to change my vote  
 12 and I'm going to, you know, with much of  
 13 the same reasoning that Klari and Lenore  
 14 put I'm going to say that there is no  
 15 proven need, as far as I can see for  
 16 anything more that be the as of right  
 17 building.  
 18 The as of right will already  
 19 impact on the neighborhood somewhat, but  
 20 I think that it is something that they  
 21 do have the right to do and I think that  
 22 it will fulfill their programmatic needs

1 so I'm going to vote against the  
 2 variances.  
 3 (Applause.)  
 4 MS. LAWTON: I have a question  
 5 for the representative.  
 6 You submitted a series of  
 7 variances and my question basically is  
 8 can your program and your project move  
 9 forward with some, but not all, or is it  
 10 an all or nothing approach to your  
 11 project. He needs the mike.  
 12 MR. FRIEDMAN: The application  
 13 we submitted provides what we believe is  
 14 the minimum necessary for the project to  
 15 proceed. We have a different viewpoint  
 16 than some members of the opposition here  
 17 regarding the ability to billed  
 18 residential. We don't believe it will  
 19 set any precedent. In fact, if the  
 20 issue is non profit selling profit --  
 21 MR. ASCHE: Shelly, please,  
 22 she asked a question, you answered it.

1 Now you're going on to a different topic  
 2 you answered her question. It's all or  
 3 nothing. According to him, it's not.  
 4 A VOICE: How far is the brick  
 5 wall from the windows. The bricked over  
 6 windows. How far is the bricked wall  
 7 from the windows from the next building?  
 8 A VOICE: About 400 yards.  
 9 MR. B. SIMON: Inches.  
 10 MR. ASCHE: If the vertical  
 11 variances are granted, it will be almost  
 12 flush with the windows on the building  
 13 next to it.  
 14 MR. FRIEDMAN: Some of them,  
 15 not all of them.  
 16 MR. ASCHE: In addition to the  
 17 seven lot line windows that will be  
 18 affected, there is a courtyard which  
 19 would not be flush with the building but  
 20 would be effected in terms of its light  
 21 and air if the vertical variances were  
 22 granted.

1 A VOICE: Rich.  
 2 MS. RADLEY: If I understand  
 3 what you were saying, let me try to work  
 4 it another way. They have a tremendous  
 5 as of right possibility given the FAR.  
 6 The hardship seems to occur because they  
 7 don't have a place to put it without the  
 8 variances and they are actually building  
 9 less than the FAR because of it.  
 10 MR. ASCHE: No, they have a  
 11 place to put it, but would result is a  
 12 building A that wouldn't pass landmarks,  
 13 and B, that would be more or less  
 14 useless.  
 15 So they could theoretically stack  
 16 the 10-A portion, build a skyscraper or  
 17 something and have a 60-foot high  
 18 building behind it, but Landmarks  
 19 wouldn't approve it, we wouldn't approve  
 20 it and they couldn't use it.  
 21 MS. RADLEY: So the fact that  
 22 there's no place to logically put this

1 has created the need for variances.  
 2 MS. WOOD: Not for BSA.  
 3 MR. ASCHE: Not that sole --  
 4 if that were the only issue, no, but the  
 5 combination of that and the fact that  
 6 the synagogue is basically untouchable  
 7 and, you know, there's a certain amount  
 8 of common sense that you know people can  
 9 disagree about, but whether an  
 10 additional ten feet for three stories in  
 11 the rear yard is a significant  
 12 impediment to public welfare. So you  
 13 know the feeling of the committee was  
 14 they presented a plausible programmatic  
 15 need, that is, they needed a floor plate  
 16 that could support classrooms of a  
 17 certain size.  
 18 MS. COWLEY: Richard, can I add  
 19 something to help her understand this?  
 20 We did not and it is not our purpose to  
 21 look at the mission of the church or  
 22 synagogue or whatever non profit comes

1 before us.  
 2 They have to prove that they need  
 3 these variances for programmatic need  
 4 and the question we wrestled with are  
 5 were the condominiums going on top of  
 6 that, that caused the height increase  
 7 certainly necessary, was that a  
 8 hardship. Were they creating that and  
 9 we found, Richard, I think I'm  
 10 representing this correctly, we found  
 11 that was not necessary, correct, the  
 12 height.  
 13 MR. ASCHE: We found -- I  
 14 mean, the basic finding was that a  
 15 variance to allow a private residential  
 16 development was A, not necessary to the  
 17 programmatic needs, and B, injurious of  
 18 the public welfare because it blocked  
 19 the lot line windows and, also, created  
 20 a very large building on an otherwise,  
 21 for the most part, a typical west side  
 22 side street.

1 As to the rear yard and lot  
 2 coverage, we did not feel that that  
 3 seriously impinged on the nature and  
 4 character of the block or on the public  
 5 welfare.  
 6 David?  
 7 MR. HARRIS: I thought the  
 8 applicant asked if the initial ten feet  
 9 was used to the classroom. I wasn't  
 10 clear on the issue I heard classrooms  
 11 and other uses.  
 12 MR. FRIEDMAN: We were asked  
 13 of the BSA whether this had anything,  
 14 whether the application was predicated  
 15 on the tenant school and we stated in  
 16 front of the BSA as we stated in front  
 17 of this committee, it does not.  
 18 The offices that are, the rooms  
 19 that are there for a synagogue as  
 20 opposed to a school can be multi  
 21 purpose.  
 22 They are not simply classrooms.

1 Some of them are classrooms, they will  
 2 be used for adult education. They will  
 3 be used for social action group  
 4 meetings. There are other purposes, so  
 5 they're not in the context of the  
 6 synagogue.  
 7 They're not simply classrooms and  
 8 they're not there to address any tenants  
 9 needs. They are there to provide the  
 10 minimum configuration of space that the  
 11 synagogue needs to conduct its programs  
 12 to have its rabbinical offices to have  
 13 its pastoral offices to have its  
 14 archive, et cetera, et cetera, et  
 15 cetera.  
 16 MR. C. SIMON: I want to make  
 17 a couple points. One is on this whole  
 18 as of right question, I think it needs  
 19 to be crystal clear and I too have been  
 20 at the various public meetings that have  
 21 been held on this topic a substantial as  
 22 of right building can be built.

1 So let there be no confusion about  
2 that, the synagogue can billed a  
3 substantial as of right building. The  
4 question is whether we will vote to  
5 support or not support variances to  
6 increase the size above and beyond the  
7 substantial as of right building that  
8 can be built.

9 That's, I think, an important  
10 point to be made and if the building is  
11 built as of right, that substantial  
12 building, we're not going to have  
13 anything to say about it and that's the  
14 law.

15 Second of all, and I think what  
16 Shelly, I think what Shelly helped us  
17 understand or helped me understand  
18 something. This is a point that's been  
19 made by several people on this side of  
20 the room. It has no, no way grant, even  
21 granting that we give deference in  
22 certain situations, it has not even

1 been, the case has not even been made,  
2 it's not even a close call for me  
3 whether the case has been made or not  
4 that programmatic needs demand the  
5 shrinking of the rear yard from 30 to  
6 20 feet.

7 That case, to my mind, hasn't been  
8 made. It's not even a close call and,  
9 therefore, I think we shouldn't be  
10 voting to support any of these  
11 variances.

12 And the last point I would make is  
13 on this whole question of precedent,  
14 obviously, we need to judge this  
15 application on the merits or we can't be  
16 looking exclusively at precedent.

17 Our primary job is to look on the  
18 merits, but we have to view that  
19 judgment on the merits in the context of  
20 what could come later, and for me, given  
21 the fact that I think it's not even a  
22 close call, it's appropriate to also

1 think about precedent and someone said,  
2 I think, and I don't remember who it  
3 was, at the last committee meeting that  
4 BSA doesn't look at precedent.

5 First of all, I don't believe that  
6 as a lawyer, but second of all, I think  
7 and folks who are at the last BSA  
8 meeting can correct me if I'm wrong, I  
9 think the synagogue was actually asked  
10 to come back to BSA having done research  
11 on appropriate precedent.

12 So the whole notion and I don't  
13 remember who it was who said it that BSA  
14 doesn't look at precedent, it is  
15 contradicted by the question that was  
16 posed at the -- I don't know what it was  
17 a few days ago at the BSA meeting.

18 So we should be mindful of that,  
19 given the building that's -- I can't  
20 remember what the address is, 22 and  
21 mindful of other buildings that are  
22 going to be looking at this critical

1 seminal case, and thinking about what  
2 the implications are given, of course,  
3 that we're doing our job, our primary  
4 job, which is to examine this case on  
5 the merits.

6 In my mind, it's a no brainer and  
7 on the merits, we should be voting no on  
8 all the variances.

9 (Applause.)

10 MR. FINE: I'm going to  
11 respect Charles' brain, but I don't  
12 think he's thinking clearly enough on  
13 this about the extent of necessity here.  
14 First to deal with the precedent setting  
15 issue which is not our, really our  
16 concern, but if it is your concern this  
17 is a very unique situation given the  
18 landmark, given the two zones, given the  
19 possibility of FAR twice of what they're  
20 doing. This special programmatic needs  
21 and so on.

22 So I don't think this is a typical

1 situation that could easily be employed  
2 otherwise. Nevertheless, we looked at  
3 the situation and this situation was  
4 presented tonight was not ignored.

5 In fact, we rejected the variance  
6 that would create this type of situation  
7 and we've addressed the height issues  
8 and other things in a negative way. But  
9 the programmatic needs of this  
10 institution are not just the  
11 programmatic needs of this institution.

12 It's the programmatic providing  
13 that it does for a large segment of the  
14 community Jewish and non Jewish, local  
15 and city wide and it's one of the major  
16 institutions that, of sacrilegious and  
17 cultural heritage in the city, and is  
18 the prime one, probably in the nation  
19 along with Toro, No. 1.

20 Number two, they are actively  
21 doing most of the programmatic things  
22 they're talking about already. But in

1 conditions that are unacceptable.  
2 That's why they're thinking of expanding  
3 those spaces.

4 I think we've clearly, the  
5 committee has clearly made a reasonable  
6 and reasoned judgment to have a split  
7 decision, decisions on things that would  
8 definitely have negative impact on the  
9 neighborhood and neighbors versus what  
10 is essential for this great institution  
11 to go to its next 100 years, and I'm not  
12 talking about temporary.

13 This is a growing synagogue and in  
14 a growing community. And I urge  
15 everyone to support the committee's  
16 resolution, which I think is a balanced  
17 and sensible one.

18 MR. SIEGEL: I also would like  
19 to urge everyone to support the  
20 committee resolution. I would just --

21 A VOICE: Now it's on.

22 MR. SIEGEL: I would just like

1 to urge everyone on the board to support  
2 this resolution. I believe the  
3 committee has given this a great deal of  
4 thought. I was at the meetings Charles  
5 was at, I attended all the meetings on  
6 this issue and I came to the opposite  
7 conclusion about the real programmatic  
8 needs that this applicant has expressed,  
9 and that the Land Use Committee  
10 responded to in granting what in my view  
11 are clearly minimal variances that will  
12 not have a significant impact on the  
13 neighbors.

14 And I think we as a board would  
15 not be responsible if we did not urge  
16 the BSA to grant those variances. And  
17 there's been some discussion about split  
18 decision on this issue and whether --  
19 and the strength of particular argument,  
20 and I would like to read it and  
21 reiterate some of the numbers that Hope  
22 read off about the real vote on this

1 committee.

2 The Land Use Committee approved  
3 the variance for lot coverage  
4 unanimously. It approved the rear yard  
5 encroachment, unanimously. It approved  
6 the R10A district, and then it approved  
7 the rear yard encroachments an the R8B  
8 District six to one.

9 So there was some discussion by  
10 some of the non committee members, but  
11 even those, the board members rather,  
12 the board members voted for variance and  
13 lot coverage two to zero. It approved,  
14 the board members approved the rear yard  
15 encroachments disapproved the rear yard  
16 encroachments one to three.

17 And the same thing for the R8.  
18 But the rest of the committee voted  
19 virtually unanimously or unanimously in  
20 favor of these minimal variances, so I  
21 would just encourage everybody to  
22 approved the resolution as stated before

1 you.

2 MR. ASCHE: Larry?

3 MR. HOROWITZ: Are we going to  
4 be voting on each variance separately?

5 MR. ASCHE: Yes.

6 A VOICE: Yes.

7 MR. HOROWITZ: Does it that  
8 mean we have to make the four findings  
9 each time we vote for it.

10 MR. ASCHE: We're not taking  
11 28 votes.

12 MR. HOROWITZ: I understand  
13 that.

14 MR. ASCHE: As I understand it  
15 for each variance there must be four  
16 findings.

17 MR. HOROWITZ: And the  
18 committee vote a positive committee vote  
19 reflects --

20 MR. ASCHE: The four findings.

21 MR. HOROWITZ: Major four  
22 findings.

1 MR. ASCHE: Tom?

2 MR. VITULLO-MARTIN: Speaking  
3 as a member of the committee that went  
4 to the school, it's there while it was  
5 in operation with Helen to look at what  
6 was being proposed and why it was being  
7 proposed and to look at the banquet  
8 room, as well.

9 I have to say that there were very  
10 strong reasons for making the changes  
11 that they were talking about making.  
12 The reasons were programmatic.

13 I don't think it's possible for  
14 someone to look into the future at great  
15 rigor and say that ten-foot isn't  
16 necessary on the third floor or is  
17 necessary on the third floor.

18 It's a very difficult exercise but  
19 we did hear from the committee level, we  
20 did hear from the architect who said  
21 that the classroom structure of the  
22 floors did not work out with the loss of

1 the ten-foot depth that would have come  
2 at the third and, I think, second floor  
3 levels.

4 So, in my mind the programmatic  
5 argument was made. The second point  
6 though is that I went to every meeting,  
7 I believe, that involved this  
8 application, and I don't recall anyone  
9 ever from the community, from the  
10 immediate neighborhood saying that they  
11 would be impacted by this extension of  
12 the rear yard coverage in the same way  
13 that we heard with regard to the height  
14 issues.

15 Nobody said that there would be a  
16 loss of value that they currently  
17 enjoyed because of that variance. And  
18 one reason for that might be that the  
19 neighboring building is already that far  
20 back into the interior lot. So what's  
21 happening here is that as I understand  
22 it, that this school would be put back

1 as far as the preexisting, the building  
2 that pre-existed the current zoning.

3 And, therefore, it's not so  
4 egregious perhaps as it might be if this  
5 were an extension into an open doughnut  
6 in the interior yards, so for that  
7 reason I think the -- I think the  
8 decision of the committee to approve the  
9 variances on lot coverage as an  
10 exception to the zoning was a sound one.

11 MS. WYMORE: Call the  
12 question.

13 MR. ASCHE: Questions have  
14 been called. What we're going to do, I  
15 think, is to vote on each proposed  
16 variance separately and, Hope, you have  
17 the sheet.

18 MS. NEUWELT: You want us to  
19 cross off A, B, C and D because we're  
20 not voting on that.

21 MR. ASCHE: Yes.

22 MS. NEUWELT: At some point

1 soon, you'll tell us how to characterize  
2 on our sheet what we're voting on,  
3 right?

4 MS. COHEN: There are seven  
5 variances.

6 MR. ASCHE: What we can do, we  
7 can take some of what may be the easier  
8 ones first.

9 MR. HARRIS: Take the easier  
10 ones first.

11 A VOICE: Bundle them.

12 A VOICE: Why don't you let  
13 the chairman speak.

14 MR. ASCHE: What we're going  
15 to be voting on, unless there's an  
16 objection, are the following variances.  
17 Building height, base height and front  
18 setback.

19 All right. Those are the three  
20 variances which produce the taller  
21 building with less of a setback in  
22 front. Base height and front setback.

1 Just so that we understand, the building  
2 height would increase the maximum height  
3 of the building in the R8 portion from  
4 60 to 100 and 5 feet.

5 The base height would increase the  
6 height of the first required setback  
7 from 60 feet to 95 feet and the setback  
8 would increase the size, the depth of  
9 the setback would reduce the depth of  
10 the setback from 15 feet to 12 feet, is  
11 that accurate? Okay.

12 MS. NEUWELT: Just to be  
13 clear, we're voting on these together,  
14 these three requests together?

15 MR. ASCHE: Unless there's an  
16 objection.

17 MS. NEUWELT: But if we vote  
18 yes, is that voting for what the  
19 committee did or voting for what  
20 Shearith Israel wants because it's the  
21 opposite.

22 MR. ASCHE: Vote for the

1 committee resolution is to disapprove a  
2 vote for the committee resolution is a  
3 vote to disapprove.

4 Now, on the others you vote for  
5 the committee resolution to approve.

6 MS. ALEXANDER: The one for  
7 the horizontal is to approve and the  
8 vertical was disapprove.

9 MR. FINE: Front setback  
10 separately.

11 A VOICE: Vertical was to  
12 approve and if we vote yes --

13 MR. ASCHE: The depth of the  
14 setback.

15 MR. FINE: No.

16 MR. ASCHE: There's been an  
17 objection to bundling the setback depth.  
18 So we are now only going to do base  
19 height and building height. All those  
20 in favor --

21 MS. ROSENTHAL: Richard,  
22 there's real confusion about this. So

1 can I just articulate it the way I think  
2 people are thinking about this.

3 So the way I think what you're  
4 understanding is if we vote yes, then  
5 we're voting to approve what the  
6 committee did, which was to deny the  
7 height variance.

8 MR. ASCHE: A vote for the  
9 resolution is a vote to disapprove the  
10 variances.

11 MS. ALEXANDER: Very well  
12 done.

13 MR. ZWEIG: It's been  
14 suggested we separate out the front  
15 setback issue. If the building height  
16 and base height were not granted, would,  
17 in fact, a difference in the front  
18 setback then be at issue or would the  
19 building not be high enough for that,  
20 not to have any effect.

21 MR. ASCHE: The building, I  
22 think a portion of the building could be



1 high enough but what we found out was  
2 that the setback the changed from  
3 15 feet to 12 feet was based on what the  
4 applicant represented was a request of  
5 the Landmark Commission and it had to do  
6 with the configuration of the roof of  
7 the synagogue.

8 But if the height goes down, that  
9 consideration no longer applies.

10 MR. ZWEIG: Okay.

11 MR. ASCHE: Okay. Vote for is  
12 a vote to disapprove base height and  
13 building height. All those in favor?

14 (Pause in the Proceedings.)

15 MR. ASCHE: I get 72 -- 36.  
16 Opposed 38. Abstentions. So the first  
17 line on the voting sheet will be base  
18 height. One abstention. Anyone present  
19 and not voting? Resolution carries 38  
20 to zero to one to zero.

21 Front setback, this is a vote for  
22 the resolution is a vote to disapprove a

1 change in the front setback from 15 feet  
2 to 12 feet. All those in favor?

3 A VOICE: Voting to  
4 disapprove, right?

5 MR. ASCHE: I get 37. Shelly  
6 changed his vote, no one else did. All  
7 those opposed? One. Abstain. One.  
8 Present? Zero. 37 to one, to one to  
9 zero.

10 All right.

11 MS. COHEN: Rear setback.

12 MR. ASCHE: Now we're going to  
13 bundle two rear setback. One is for the  
14 portion that's R8B and the other is for  
15 the portion that's R10A, but they're  
16 essentially the same difference.

17 MS. NEUWELT: Those are at the  
18 top of the building.

19 MR. ASCHE: No. Those are  
20 above the first floor.

21 MS. NEUWELT: That's the thing  
22 we disagreed on today.

1 MR. ASCHE: Right.

2 MS. NEUWELT: Then you missed  
3 something. Isn't there a fourth one  
4 that deals with the top of the building?

5 MR. ASCHE: Yes. There's a  
6 rear setback, as well.

7 MS. COHEN: That's what I'm  
8 talking about. Get to the rear setback  
9 before you get to the rear yard.

10 MR. ASCHE: Before that.

11 MS. COHEN: Yeah, we should do  
12 rear setback.

13 MR. ASCHE: Okay. This is a  
14 change in the rear setback from ten feet  
15 to six-and-a-half, six-and-two-thirds?

16 MS. LAWTON: What variance is  
17 this, No. 4? Or did we skip the order?

18 MR. ASCHE: A vote in favor is  
19 a vote to approve.

20 VOICES: No. No.

21 MS. COHEN: Richard, this --

22 MR. ASCHE: Oh, I'm sorry.

1 Forgive me.

2 A VOICE: What was the  
3 committee's vote on this?

4 MR. ASCHE: Committee's vote  
5 was rear yard setback was zero to seven.

6 MS. NEUWELT: It's not rear  
7 yard, it's rear roof.

8 MR. ASCHE: The story with  
9 this one now that my recollection has  
10 been refreshed is the same as with the  
11 front setback. The purpose of it was  
12 what the applicant said was symmetry  
13 with the roof of the synagogue.

14 If we are voting to disapprove an  
15 increase in the height of the building,  
16 then this no longer is necessary for  
17 that purpose. So we voted to disapprove  
18 this. So a vote in favor is a vote to  
19 disapprove.

20 MS. NEUWELT: Right.

21 MS. LAWTON: What number is  
22 this, No. 4?

1 MR. ASCHE: We're calling this  
2 rear setback. All those in favor to  
3 disapprove?

4 (Pause in the Proceedings.)

5 MR. ASCHE: I get 38. I never  
6 forget a hand. All those opposed? I  
7 get zero. All those abstaining, I get  
8 one present and not voting zero.

9 Now, I think we can bundle the  
10 three remaining, the rear yard incursion  
11 for R8B. Rear yard incursion for R10A  
12 and that is the ten feet above the first  
13 floor for three floors, and then there's  
14 a lot coverage which is part of the  
15 same, which is necessary for the same  
16 purpose. You can call them all rear  
17 yard, rear yard and lot coverage.

18 MS. LAWTON: This is five  
19 through seven.

20 MR. ASCHE: As to these, the  
21 committee voted in favor of the  
22 variance, so a vote in favor is a vote

1 in favor.

2 MS. NEUWELT: So if you want  
3 to oppose these variances you vote no.

4 MR. ASCHE: You vote no. All  
5 right.

6 A VOICE: This is everything  
7 else?

8 MR. ASCHE: Everything else  
9 except to the spirals, we haven't gotten  
10 to those.

11 MR. FINE: That's inspiring.

12 MR. ASCHE: Any question about  
13 procedure?

14 A VOICE: No, it's very  
15 simple.

16 MR. ASCHE: All those in  
17 favor?

18 A VOICE: In favor of what?

19 MR. ASCHE: In favor of the  
20 rear yard and lot coverage? All those  
21 opposed?

22 MR. ASCHE: 21.

1 VOICES: What's the vote?

2 MS. COWLEY: I'm slower, I'm  
3 sorry. I get 20.

4 MR. ASCHE: I get 21.

5 A VOICE: Let's do it again.

6 MR. ASCHE: I don't think it  
7 matters. All those abstaining? Two.  
8 Resolution fails so . . .

9 A VOICE: What's the vote?

10 MR. ASCHE: 13 to 21 to two.

11 (Applause.)

12 MR. HARRIS: Do we need an  
13 affirmative resolution to send to BSA  
14 for approvals -- as a matter of fact,  
15 let me offer a motion to do that.

16 MR. ASCHE: There's a motion  
17 to disapprove. Is there anyone who  
18 would change their vote? All right.

19 So the motion that will be sent to  
20 BSA will be to disapprove all seven  
21 variances.

22 (Applause.)

1 MR. ASCHE: Different votes  
2 will be recorded for each variance.

3 We are doing it for the last one.  
4 The votes will be to disapprove the  
5 bundle height, to disapprove the setback  
6 in the front, to disapprove the setback  
7 in the rear. Those are all in the 38 or  
8 37 and the others were 13 to 21.

9 MS. WYMORE: So now you're  
10 talking about reversing the 31 and 21.

11 MR. ASCHE: Right. Thank you  
12 very much for your patience. Thank you.

13 (Whereupon at 10:05 o'clock  
14 p.m., the proceedings were concluded.)

15 C E R T I F I C A T E

16 I do hereby certify that the  
17 foregoing is a true and correct  
18 transcription of my shorthand notes.

19

20 JOHN PHELPS, CSR, RPR, CRR

21

22