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February 4, 2008

BY HAND

The Honorable Meenakshi Srinivasan
Chair
NYC Board of Standards and Appeals
40 Rector Street - 9th Floor
New York, New York 10006

**Re: Congregation Shearith Israel ("CSI")
6-10 West 70th Street/99 Central Park West
74-07-BZ /CEQR No.: 07BSA071M**

Dear Madam Chair and Commissioners:

The Applicant respectfully submits this letter in response to the opposition papers filed by Landmark West! and Lebow & Sokolow LLP. We find the materials raise no new arguments with regard to the issue at hand, and such new information as is provided is clearly irrelevant to the findings the Board is considering. Enclosed with this letter are materials prepared by the Applicant's architects, Platt Byard Dovell White Architects LLP, and its financial advisor, Freeman Frazier & Associates, Inc., which address the opposition experts' submissions, architect Craig Morrison, AIA and appraiser Martin B. Levine, MAI (Metropolitan Valuation Services). Even a cursory review of the opposition experts' submissions indicate that they were submitted without a detailed understanding of the programmatic difficulties which lie at the heart of this case. With regard to the appraiser, even that is an overstatement given the fact that it is not submitting its report to the Board until the eve of the hearing, in contravention of the Chair's timetable for submission.

Among the highlights of our observations regarding this submission are:

1. The BSA cases cited in the brief are not applicable. 72-05-BZ initially requested additional FAR and streetwall height. As the Board stated in its resolution, the application's request for both additional residential FAR and street wall height "arose solely" because the application included residential uses. CSI's application does not request additional floor area (far from it, it uses only 70,720.73 sf of the 144,510.96 sf available as-of-right on the zoning lot), and in fact this situation is unlike 72-05-BZ because the Zoning Resolution encourages the averaging of FAR across a zoning district boundary pursuant to ZR Section 77-00 *et seq.*, which presents a totally contrasting

situation. Moreover, CSI's request for street wall height does not arise "solely" from its residential component but because the small development site it has to work with given that the landmark status of the Synagogue requires the community facility use to be placed within the first 49.1 ft of elevation. Note that this is a strange precedent to be offering as the Board actually approved 72-05-BZ, finding that programmatic difficulties existed and approving a "modest" amount of residential square footage. The Applicant submits that in the totality of a site located on Central Park West and zoned R10A over 72.7 percent of its footprint, the addition of 5 residential units is indeed modest.

The other precedent cited, as evidence of the Board's current thinking, 290-05-BZ, addressed a single objection, a proposed catering hall use (UG 9) in an R5 zone. There is no catering hall objection to waive in this application for the very sound reason that neither DOB nor this Board has been presented with a scintilla of evidence that Shearith Israel has operated as such in the past or intends to operate as one in the future. What makes the continuing virulence of the opposition on this point so unusual is that there is a church operating openly and notoriously as a catering hall a mere 6 blocks to the north at 160 Central Park West (Block 1128 Lot 33). The 4th Universalist Society building, on an R10A/R8B split lot, routinely advertises in international and local journals the availability of its church space as suitable for hire for any corporate, social, personal or charitable affairs. Its 2008 Finance Department classification is M1 (church) and the most recent Certificate of Occupancy we have been able to review (1987) classifies the uses as community facility. While we do not ask the Board to accept this as precedent for Shearith Israel's use as a catering hall, since it has no intention of doing so, we do ask it to consider the lack of consistency between the opponents and the context in this community.

2. A great deal of this material calls out the wealth and philanthropic history, primarily through a dearth of Google listings on two of Shearith Israel's congregants, Ronald Stanton and Jack Rudin, purportedly to demonstrate that because these two gentlemen and other high net worth congregants have a record of charitable giving, the variance application must fail. Submission of this material is in direct contravention of the Vice Chair's remarks at the last hearing. Moreover, to single out two high net worth individuals in a manner so as to state that their affiliation with the religious institution of their choice and their philanthropy cripple the institution's ability to prove a hardship under ZR 72-21, or as stated at the hearing "let them just right out big checks," is a grave mis-use of these public proceedings. While certainly no more so than other civic leaders in a similar position, these two men in particular have given their time, their resources and their wealth to countless worthy causes. Are all these causes now too to be barred from seeking the Board's relief?

3. The opposition papers rely substantially on the legal and financial papers submitted in opposition to a pending application before the Board (172-07-BZ) on behalf of Congregation Kehilath Jeshrun/The Ramaz School. As the Board knows, this application has not even been heard. The Applicant is confident that there are bountiful responses to the material submitted in that case, and until such time as those responses are made and considered by the Board it would be a highly unusual departure from jurisprudence for the Board to consider submissions from other cases awaiting hearing.

4. Consistent with its previous materials and statements, the opposition would have the Board ignore that the proposed building has been unanimously approved by the Landmarks Preservation Commission and praised for its contextuality and its harmony with the Historic District. Continuing references to the sanctity of the mid-block R8B zoning are entirely misplaced given the height and bulk noncompliances of CSI's adjacent neighbors to the south (91 CPW, 13 stories), west (18 West 70th, 9 stories) and north (101 CPW, 15 stories), all of which are overbuilt and over-height in the R8B portion of their lots. Landmark West! in particular urged the City Planning Commission to extend the R8B district so as to create these noncompliant situations within the R8B midblock and now argues the case for the district's purity.

In conclusion, the Trustees of the Congregation Shearith Israel thank the Board for its time and attention. It has met the Board's, if not the opponents standards, with respect to ZR 72-21. On its behalf, I urge that the proceeding be deemed closed and a hearing date for approval of the application be established.

Very truly yours,



Shelly S. Friedman

Enclosures

cc: Hon. Helen Rosenthal, CB 7
Hon. Gail A. Brewer, City Council Member
Hon. Scott Stringer, Manhattan Borough President
Mr. Alan Geiger, Department of City Planning, BSA liaison
Mr. Ray Gastil, Director, Manhattan Office, Department of City Planning
David J. Nathan, Esq.
Peter Neustadter
Dr. Alan Singer
Alan D. Sugarman, Esq.
David Rosenberg, Esq.
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February 4, 2008

Honorable Meenakshi Srinivasan, Chairperson
New York City Board of Standards and Appeals
40 Rector Street
New York, NY 10007

re: Congregation Shearith Israel
6-10 West 70th Street
New York, New York

74-07-BZ

To the Honorable Meenakshi Srinivasan,

On behalf of the Congregation Shearith Israel, we would like to respond to the points made by architect Craig Morrison, AIA, in his letter dated January 28, 2008. Mr. Morrison states that he has reviewed the drawings submitted to the Board of Standards and Appeals in connection with the zoning variance request for Congregation Shearith Israel. His statements seem to suggest that the synagogue confine its vision to code minimums, rather than build to suit good and reasonable standards for programmatic needs. Where classrooms and class size should be determined by educational standards for specific subjects and age groups, Mr. Morrison suggests that they be designed only to the minimum allowable sizes. In addressing his arguments, we will review each point below:

Paragraphs 1, 2, and 3

These paragraphs cover the architect's background and the material that has been reviewed. We note that Mr. Morrison's resumé does not indicate any experience in design or planning for educational facilities or religious institutions.

Paragraphs 4 and 5

Access and circulation in the proposed and as-of-right schemes are discussed in these paragraphs. Mr. Morrison correctly points out that both the as-of-right and proposed schemes relieve the now untenable access to the synagogue. Both

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Paul Spencer Byard FAIA
Ray H. Dovell AIA
Samuel G. White FAIA

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Scott Duenow AIA

Kathryn Crowley AIA
David C. Grider AIA
Elissa C. Icso AIA
Serena Losonczy AIA
Matthew H. Mueller AIA

schemes remedy the circulation through the addition of an ADA compliant elevator adjacent to the historic synagogue building. In each scheme, the proposed elevator serves both the historic synagogue and the community facility floors of the proposed building. Unlike the existing non-compliant elevator, the proposed elevator is sized and configured to meet program needs and ADA requirements. Most importantly, it stops on all levels of both the existing synagogue and the community facility floors of the proposed building. Because the current elevator does not stop at the level of the main sanctuary, disabled congregants must now be carried up a flight of stairs to reach the main sanctuary. The proposed elevator is a necessary and required improvement to the synagogue's everyday circumstances and is used in both the proposed and as-of-right schemes.

Paragraph 6

Mr. Morrison is incorrect in saying that the existing elevator could be altered to meet ADA requirements by adding a side door. Neither the elevator cab nor its shaftway meet ADA minimum dimensions. To make the existing elevator compliant would require an enlarged cab and a hoistway expansion with significant structural alterations.

Paragraphs 7 and 8

Mr. Morrison says that the programmatic needs of the congregation can be met "comfortably" [my underlining] within the as-of-right envelope, if the residential program is eliminated. However, the as-of-right envelope is inefficient and would severely compromise the current programmatic needs. The rear yard setback variance, which if granted, will add 10' along the south side of floors 2, 3, and 4, enables these floors to have adequately sized classrooms both north and south of the building core. Without this additional area, the spaces south of the core would be cramped, awkward and badly shaped for classroom use.

The loss of 9 adequately sized classrooms, on floors 2, 3, and 4, in a building that provides a total of 15 is significant. Using the 5th and 6th floors for educational purposes would only generate 5 additional classrooms of inefficient proportions. To illustrate the point, the floors 2, 3, and 4 of the proposed plan provides 59% efficiency, still slightly below 60%, the commonly accepted efficiency ratio for this type of educational facility. On the other hand, the as-of-right plan for these floors produces 53% efficiency, a yield that would make doubtful the great expense and disruption of the effort.

Paragraph 9

Mr. Morrison examines the synagogue's historic building and suggests that the Parsonage and Levy Auditorium be used for program needs unfulfilled by the as-of-right envelope. The Levy Auditorium, which Mr. Morrison defines as "the substantial space under the Sanctuary," is already in use for life cycle events year round and is used for summer services as well.

The Parsonage floor plate is inadequate for educational use. Its 1,610 square feet of space remaining after constructing the two required sets of egress stairs and

corridors would be grossly inefficient. Moreover, it is isolated from the rest of the community facility space and its floor levels do not align with other existing floors. Additional floors would block the historic leaded glass windows that provide southern light to the main sanctuary. In any case, its designation as a contributing building for landmarks would make these additional floors unlikely.

Paragraphs 10

Mr. Morrison addresses the specifics of the synagogue's educational program and the motives of their mission. The Toddler Program is intended to serve the congregation and the community. For the synagogue, extending this program to the community is both an important service and an opportunity to foster membership. Mr. Morrison points out that the Toddler Programs, Hebrew School and Adult Education are non-simultaneous and suggests that they share spaces. While this is occasionally the case, the more important factor is that these spaces need to be designed, arranged and furnished with properly sized equipment to accommodate specific age groups and uses.

Paragraph 11

Mr. Morrison correctly details the manner in which the design has evolved over the past five years. The plan has developed and was changed to leave the small synagogue intact because of its significant historic character.

Paragraph 12

For his analysis of the proposed classroom space, Mr. Morrison chooses only code mandated minimums, regulations created to protect the public against worst case situations. He evaluates the plan at 20 square feet per student. He doesn't take into account the stricter requirements set out by the Board of Health for toddler classrooms of 35 square feet per student. In our professional experience, 35 to 40 feet per student is the acceptable figure for educational purposes. CSI's programming has every good reason to seek optimal classrooms.

Paragraph 13

Similarly, Mr. Morrison reviews code mandated minimums for number of toilets, and suggests that the plans show too many. In our professional opinion, the code minimum is meager and inappropriate. He says that by having fewer toilets, one could add to the available educational space. We believe the number of toilets shown is the reasonable number needed to have separate toilets for faculty and for boys and girls. In any case, the interior, windowless space that is used for toilets would be extremely difficult to redistribute from the core and is less than ideal for classrooms.

Paragraph 14

Mr. Morrison maintains that the custodian apartment is "extravagantly sized." This apartment is a small two bedroom apartment, sized for a small family. Furthermore, it is in keeping with the accommodations currently set aside for the superintendent. Mr. Morrison's suggestion that the six bedroom Parsonage be used instead is an even more extravagant solution. And, uses for the Parsonage other than residential would require two means of egress and ADA compliance which would seem to make this

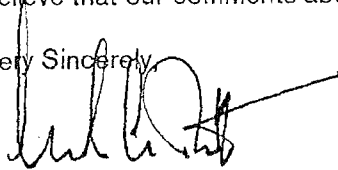
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almost, if not, impossible.

Paragraph 15

In our professional opinion, we respectfully disagree with Mr. Morrison's summary and believe that our comments above demonstrate the inadequacy of his analysis.

Very Sincerely,

A handwritten signature in black ink, appearing to read 'Charles A. Platt', with a long horizontal stroke extending to the right.

Charles A. Platt, FAIA

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FRAZIER

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January 30, 2008

Hon. Meenakshi Srinivasan, Chairperson
New York City Board of Standards and Appeals
40 Rector Street
New York, New York 10007

Re : 6-10 West 70th Street
New York, NY
Calendar No. 74-07-BZ

Dear Chairperson Srinivasan:

The following has been prepared in response to a letter (the "Coalition Letter"), dated January 28, 2008, in opposition to the above referenced application submitted by Mark L. Lebow, Attorney at Law, on behalf of the coalition of buildings and residents of West 70th Street, 91 Central Park West, 101 Central Park West and 18 West 70th Street; and a letter (the "Sugarman Letter") dated January 28, 2007 from Alan D. Sugarman, Attorney at Law, resident of 17 West 70th Street, and on behalf of the owner of 15 West 70th Street. These Letters question specific items in my letter to you of December 21, 2007 and the Economic Analysis Report, dated March 28, 2007 (collectively referred to herein as the "Report"). Specifically, we reply to these Letters as follows :

The Coalition Letter

Metropolitan Valuation Services

- The MVS summary states,

"The report assumes that a potential developer of the site would pay for all of the site's potential developable building area, regardless of whether they were used in the project to be built."

The MVS summary is correct as regards analyses submitted prior to the Response of December 21, 2007. This methodology was consistent with analyses of similar projects previously approved by the BSA. However, the BSA had asked for a revised acquisition cost, determined by not including the community facility.

The determination of this revised estimated acquisition cost was included in the Response of December 21, 2007 and was the basis of the revised feasibility analyses contained therein. As noted in the Response of December 21, 2007, this revised estimated acquisition cost is lower than was used in previous analyses.

- The MVS summary states that land values were “cherry picked” and “many relevant sales were ignored”. Our analyses included a diligent investigation of appropriate market sales. We look forward to having MVS identify any additional sales that they believe to be relevant, comparable and overlooked to support this statement.
- The MVS summary states the net sellable residential area to be “certainly not consistent with market measurement parameters.” And continues by attempting to conclude, “The sales revenues in the Report are substantially underestimated by virtue of undercounted saleable area.” The sellable area utilized in our analyses has been estimated by the project architect.
- The MVS summary states,

“The construction cost estimates assumed in the report include very substantial interest carry on the site acquisition cost. Reducing the acquisition cost to only those development right actually being acquired will reduce the soft construction cost component substantially.”

The acquisition costs identified in our analyses only relate to those development rights actually being acquired.

The carrying costs in our Report are based on the Total Development Costs, not just the construction cost estimates. As Mr. Levine well knows, site acquisition costs are incurred at the beginning of the project, and therefore substantial related costs must be carried for the extended life of the full development and sales period.

We look forward to the opportunity to respond to Mr. Levine’s full Report when we receive it. At this time we cannot respond further to unsupported allegations and anecdotal comments.

The Sugarman Letter

Monetization

The Sugarman Letter states,

“In all of the feasibility study scenarios, the Applicant will receive in its own coffers the “acquisition cost”, i.e., the proceeds from the “sale” of the land, and these funds are of course available to the Applicant to meet its programmatic need.”

This is not correct, and it was clearly identified within the report that the costs of construction of the community facility portion of the development were being carried by the synagogue. Therefore the proceeds of sale would be used to pay for such costs and not be available to the applicant for its programmatic need.

F.A.R. 4.0 Response

The Sugarman Letter states, “The latest study did not respond to a Commissioner’s question as to why the FAR 4.0 project did not show a reasonable return.”

It was our understanding that no further response was necessary. However in our revised submission of December 21, 2007 we provided an updated analysis of the As of Right Residential FAR 4.0 scheme.

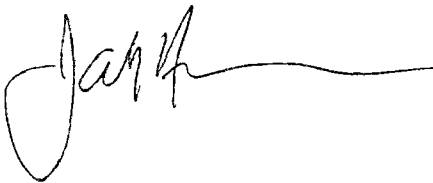
Economic Return on Development Rights

The Sugarman Letter states, “The idea of computing an economic return of a slice of development rights is questionable and no authority for such an analysis would exist for finding (b).”

This comment is confusing since it implies that Sugarman is critical of the BSA requirements and not necessarily of any work done within the feasibility study. Without additional clarification we cannot provide a response.

Please feel free to call me if you have any further questions.

Sincerely,



Jack Freeman