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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
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