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SENATOR THOMAS K. DUANE

29th SENATORIAL DISTRICT • NEW YORK STATE SENATE



**TESTIMONY BY NEW YORK STATE SENATOR THOMAS K. DUANE
BEFORE THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS
REGARDING CONGREGATION SHEARITH ISRAEL'S APPLICATION
FOR VARIANCES AT 6-10 WEST 70TH STREET
(Application No. 74-07-BZ – 6-10 West 70th Street)**

February 12, 2008

My name is Thomas K. Duane and I represent New York State's 29th Senatorial District, which includes the Upper West Side where Congregation Shearith Israel's (CSI) site for its proposed building at 6-10 West 70th Street is located. Thank you for the opportunity to present testimony before the New York City Board of Standards and Appeals (BSA) today. As you know, I spoke against CSI's original application for variances at the BSA's November 27, 2007 hearing. I do not find CSI's new application to be substantively different and the same objections I had to that original application still stand.

As you know, CSI, a religious, not-for-profit institution plans to construct a new community house at 6-10 West 70th Street for its programmatic needs. However, while CSI could construct "as of right" an appropriately sized building for these purposes under the area's mid-block R8-B contextual zoning and as a part of the Upper West Side/Central Park West Historic District, it is, instead, seeking seven variances from the BSA. Most of these variances will be used to construct five new floors of market-rate residential units for revenue-generating purposes.

Section 72-21 of the Zoning Resolution states that a variance must not "alter the essential character of the neighborhood or district in which the zoning lot is located... substantially impair appropriate use or development of adjacent property," or "be detrimental to the public welfare..." Unfortunately, CSI's proposed plans will be harmful to the quality of life for its neighbors and the character of its neighborhood. To construct the additional five floors of private residential units, CSI is seeking a height variance that would allow it to build 30 feet taller than what is currently allowed under the R8-B mid-block contextual zoning within which it is located. This additional height will block the air, light, and view for at least seven east-facing windows and dozens more courtyard windows for its adjacent building at 18 West 70th Street, and cast looming shadows on neighboring low-rise historic buildings along West 70th Street. Current residents of these buildings will not only suffer the loss of open views and sunlight, but also diminished property values as a result.

Originally, CSI gave two reasons for the construction of these residential units: that it is necessary either to finance the construction of the building itself or to finance the programs that will operate within it. I and others argued persuasively that regardless of the reason, a religious, non-profit institution should not be using zoning waivers and variances as a method of generating funding. So CSI has now come back with a new rationale: The new application

draws attention to its plans for programmatic use of four of the nine newly constructed above-grade floors and cites “practical difficulties” this zoning lot “present[s] in producing a building that addresses CSI’s current programmatic hardships.” A closer look, however, shows many of these alleged hardships – with the sole exception of the need for an ADA-compliant elevator – are self-created, and there is no justification for the proposed variances. Indeed, the installation of an ADA-compliant elevator would not require a variance at all.

As a State Senator representing much of Manhattan, I continuously work with community activists and other elected officials to fight many inappropriate developments that would encroach on a neighborhood’s character, quality of life, and sustainability. The negative effects of this application, if approved by BSA, would not only directly harm the neighborhood of the Upper West Side, but also the precedent created by such a decision would seriously setback preservation efforts across the City, as developers and property owners become empowered to seek inappropriate variances to develop their real estate holdings. Our City’s zoning and historic preservation laws, specifically designed to protect the character and sustainability of our neighborhoods, would be rendered ineffective if special exemptions are readily given to developers, including non-profit organizations, seeking to expand their coffers at the expense of the community. We cannot let that happen.

In light of these matters, I strongly urge that BSA deny CSI these variances.