

Board of Standards and Appeals

40 Rector Street, 9th Floor • New York, NY 10006-1705 • Tel. (212) 788-8500 • Fax (212) 788-8769
Website @ www.nyc.gov/bsa

MEENAKSHI SRINIVASAN

Chair/Commissioner

April 21, 2008

Alan D. Sugarman
17 West 70th Street
New York, New York 10023

Dear Mr. Sugarman:

This letter is in response to your April 11, 2008 request made under the State Freedom of Information Law ("FOIL"). The date of your last request was October 2, 2007, so the Board searched for records dated between October 2, 2007 and April 11, 2008.

Based on our review, the following documents are provided pursuant to your request:

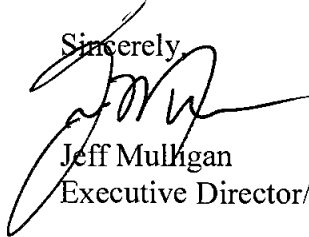
1. An email from Shelly Friedman of CSI on March 4, 2008 and a response from Jeff Mulligan on March 7, 2008. The attachment to the March 4, 2008 email is also enclosed.
2. An eight page fax from Jessica Daniels and Jack Freeman of CSI on February 22, 2008.
3. A February 11, 2008 email from BSA Commissioner Eileen Montanez re. site visit to CSI
4. A January 2, 2008 email from Shelly Friedman
5. A November 23, 2007 email from BSA Commissioner Dara Ottley-Brown re. site visit to CSI
6. A November 21, 2007 email from BSA Commissioner Susan Hinkson re. site visit to CSI
7. A November 26, 2007 email from Shelly Friedman
8. An October 16, 2007 email from Shelly Friedman (with attachments)

Please be advised that we do not have any additional documents responsive to your April 11, 2008 request. Please also be advised that, as we have stated in previous correspondence to you, handwritten notes, to the extent that they exist, are exempt from disclosure under FOIL Sec. 83(2)(g).

This letter is a final determination of the Board. You have the right to seek review of this determination pursuant to Article 78 of the Civil Law Practice and Rules, and Public Officers Law Sec 89(4)(b).

The total copying cost for these documents is \$12.50. Please also forward the payment for the outstanding balance of \$8.50 for the documents provided in response to your previous FOIL request.

Sincerely,



Jeff Mulligan
Executive Director/Records Access Officer

c: Margaret P. Stix, General Counsel

Jeffrey Mulligan

From: Jeffrey Mulligan
Sent: Friday, March 07, 2008 1:55 PM
To: Shelly Friedman
Subject: RE: CSI Response to Lebow Letter of 2/21/08

Shelly – Please submit a hardcopy. Thanks.

From: Shelly Friedman [mailto:sfriedman@frigot.com]
Sent: Tuesday, March 04, 2008 6:24 PM
To: Jeffrey Mulligan; iatholdings@aol.com; CAPlatt@pbdw.com; rhdovell@pbdw.com
Subject: CSI Response to Lebow Letter of 2/21/08

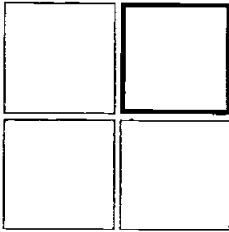
CSI response attached. Jeff – Is it acceptable to email cc's like this? Will submit hardcopy if necessary.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

SHELLY S. FRIEDMAN
FRIEDMAN & 568 Broadway Suite 505
GOTBAUM, LLP New York, NY 10012

Phone: 212.925.4545
Fax: 212.925.5199

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FRIEDMAN & GOTBAUM LLP

568 BROADWAY SUITE 505
NEW YORK NEW YORK 10012
TEL 212.925.4545
FAX 212.925.5199
ZONING@FRIGOT.COM

March 4, 2008

Via US MAIL

Mark D. Lebow, Esq
Lebow & Sokolow, LLP
770 Lexington Avenue
New York, NY 10065-8165

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

Dear Mr. Lebow:

I write in response to your letter of February 21, 2008.

Please be advised that we will submit for the record the floorplan drawing shown to the Board for illustrative purposes with our supplemental papers on March 11. Inasmuch as the floorplan was used only to respond to a Commissioner's question at the hearing and not as part of our application, no submission was necessary. Nor was any member of the public prevented from asking to examine the drawing at the time.

In addition, we will not accede to your request that Craig Morrison be given the opportunity to "tour all of the buildings on the zoning site that is [sic] the subject of this application." I note that Mr. Morrison did not believe a tour of the buildings was necessary prior to his offering his expert testimony at the February 12th hearing nor did he state during his testimony that his ability to offer his expert opinion was in any way hampered by lack of access to the buildings. I also note that he neither complied with the Board's schedule for timely submission of his report to the Board and Applicant, nor produced a copy of his report to any party until after the public hearing had closed for the day. Under the circumstances, your request appears to be a procedural afterthought on which to base further requests for extensions and delays. If Mr. Morrison now feels he lacks the factual basis necessary to render his opinion, he should feel free to direct any factual questions he may have in writing to Messrs. Platt and Dovell within the timeframe allowed each party for comment.

With regard to your third point, any documents filed and logged in at the Board office on behalf of the Applicant will be hand-delivered or overnight expressed to you as filed.

Very truly yours,

Shelly S. Friedman

cc: Hon. Meenakshi Srinivasan
Hon. Jeff Mulligan
Peter Neustadter
Charles Platt
Ray Dovell

LEBOW & SOKOLOW LLP

ATTORNEYS AT LAW
770 LEXINGTON AVENUE, SIXTH FLOOR
NEW YORK, NEW YORK 10065-8165
TEL: 212-935-6000 FAX: 212-935-4865

February 21, 2008

VIA U.S. MAIL

Shelly S. Friedman, Esq.
Friedman & Gotbaum LLP
568 Broadway, Suite 505
New York, New York 10012

Re: Congregation Shearith Israel, 6-10 West 70th Street

Dear Mr. Friedman:

Following up on the hearing of February 12, 2008, we have two requests:

First, please provide us with copies of the drawings that you and Charles Platt presented to the BSA during the February 12 hearing. Among other subjects, the drawings appeared to contain another variation of the proposed building in which a "notch" was suggested relating to the windows in 18 West 70th Street. Not only does it appear that the drawings were not filed with the BSA, but the drawings were not shown to the public attending the hearing.

Second, we request that our architect Craig Morrison be permitted, as soon as possible, to tour all of the buildings on the zoning site that is the subject of the application. Please suggest times convenient to your client.

This letter also confirms our understanding that any documents the Applicant files with the BSA or provides to its staff will at the same time be hand delivered or faxed to me. We agree to reciprocate.

Thank you.

Sincerely yours,



Mark D. Lebow

cc: Hon. Meenakshi Srinivasan, BSA
Mr. Jeffrey Mulligan, BSA

Norman Marcus, Esq.
David Rosenberg, Esq.
Alan D. Sugarman, Esq.
James Greer, Esq.
Ms. Kate Wood, Landmark West
Mr. Craig Morrison, AIA
Mr. Martin Levine, MAI

FREEMAN

FRAZIER

& ASSOCIATES, INC.

REAL ESTATE SERVICES

132 NASSAU STREET
NEW YORK, NY 10038
TEL: 212.732.4056
FAX: 212.732.1442

FAX TRANSMITTAL

Date: February 22, 2008
To: Jeffrey Mulligan + Jed Weiss
Fax Number: 212-788-8769
From: Jessica Daniels
Re: 10 W 70th St Meeting Follow Up
No. of Pages: 8 (including cover page)
Fax Number: (212) 732-1442

<input type="checkbox"/> URGENT	<input checked="" type="checkbox"/> FOR REVIEW	<input type="checkbox"/> PLEASE COMMENT
<input type="checkbox"/> AS REQUESTED	<input type="checkbox"/> PLEASE REPLY	<input type="checkbox"/> FOR YOUR INFORMATION

NOTES/COMMENTS:

FREEMAN

FRAZIER

REAL ESTATE SERVICES

& ASSOCIATES, INC.

132 NASSAU STREET
NEW YORK, NY 10038
TEL: 212.732.4056
FAX: 212.732.1442

MEMORANDUM

Date : February 22, 2008

To : Jeffrey Mulligan
Jed Weiss
New York City Board of Standards and Appeals

From : Jack Freeman

Re : 6-10 West 70th Street
BSA Meeting Response

Attached please find a letter in response to the BSA meeting of February 20, 2008.

FREEMAN

FRAZIER

REAL ESTATE SERVICES

& ASSOCIATES, INC.

132 NASSAU STREET
NEW YORK, NY 10038
TEL: 212.732.4056
FAX: 212.732.1442

February 22, 2008

Jeffrey Mulligan, Executive Director
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
74-07-BZ

Dear Mr. Mulligan:

Following our meeting on February 20, 2008, we had the chance to review the materials we provided in our previous submissions and December 21, 2007 Response to the Board. Below we provide a summary to highlight the assumptions made for the most recent submission:

The floor area of the As of Right with Tower was determined by Platt Byard Dovell White's (PBDW) zoning analysis to be 37,888.11 sq. ft. This served as the basis of our property valuation and As of Right analysis. For your review we have attached is an axonometric drawing of the As of Right with Tower Development and floor area schedule as provided by PBDW (for current discussion purposes, PBDW's 37,888.11 sq. ft. is more or less consistent with the +/-36,000 sq. ft. you described at the meeting; differences can be discussed and resolved with PBDW).

Of the As of Right 37,888.11 sq. ft., 19,755 (as shown on floor area schedule) is residential square footage, and 18,133 is community facilities area. In our most recent submission, the acquisition cost of \$14,816,000 was determined based only on the 19,755 sq. ft. of As of Right residential area at \$750/sq. ft. In previous analyses, the acquisition costs were based on the entire building, which included the community facility areas.

Attached is a copy of page two of the December 21, 2007 Hearing Response submission, which describes the As of Right with Tower Development, as per the above. Schedule A from the same submission (attached), shows the As of Right scheme is not feasible and has a capital loss of \$7,076,000.

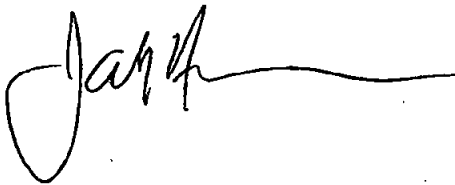
BSA Hearing Response
6-10 West 70th Street
New York, NY
February 22, 2008
Page 2

The Proposed Development has slightly more floor area, 42,962 sq.ft. of total floor area, of which 14,430 sq.ft. is community facility area, and 20,863 sq.ft. is residential area. As seen in Schedule A, the return is 12.19%. This is somewhat higher than in previous analyses, but is a direct result of the decrease in acquisition costs based on the elimination of the Community Facility floor area requested by the Board. In other variances the Board has accepted increased returns, which result at changes in assumptions made at their request.

As we noted at the meeting, and as shown by the analysis of the As of Right with Tower Development, without the floor area included in the Proposed Development, the project would not be economically feasible. When PBDW completes their analysis of creating a courtyard, we will analyze the effect of the loss of floor area from the courtyard and discuss that with you at next Thursday's meeting.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Freeman", with a long horizontal flourish extending to the right.

Jack Freeman

C) As of Right with Tower Development

The As of Right with Tower Development would occupy the full zoning envelope, and would consist of a new synagogue lobby on the ground floor, and community facility space on floors two through four. Floors five through sixteen would be for sale condominium units. There would be a total of thirteen residential units.

The gross built area of this alternative would be 37,888 sq.ft., not including the cellar. The zoning floor area for this alternative would be 37,888 sq.ft. The total gross residential area, which includes residential lobby and core but does not include the cellar, would be 19,755 sq.ft. The residential sellable area is 10,795 sq.ft.

D) Proposed Development

The Proposed Development alternative would consist of new construction of an eight-story plus penthouse. The new development consists of a new synagogue lobby on the ground floor, and community facility space on floors two through four. Floors five through eight and the penthouse would be for sale condominium units. There would be a total of five residential units.

The gross built area of this alternative would be 42,962 sq.ft., not including the cellar. The zoning floor area for this alternative would be 42,962 sq.ft. The total gross residential area, which includes residential lobby and core but does not include the cellar, would be 22,907 sq.ft. The residential sellable area is 14,980 sq.ft.

This development program is referred to as the "Proposed Development".

E) As of Right Residential F.A.R. 4.0 – Scheme C

The "As of Right Residential F.A.R. 4.0" alternative was submitted at the request of the Board based on Notice of Objections of June 15, 2007, Objection #37. A revised analysis at the request of the Board was performed in the October 24, 2007 submission.

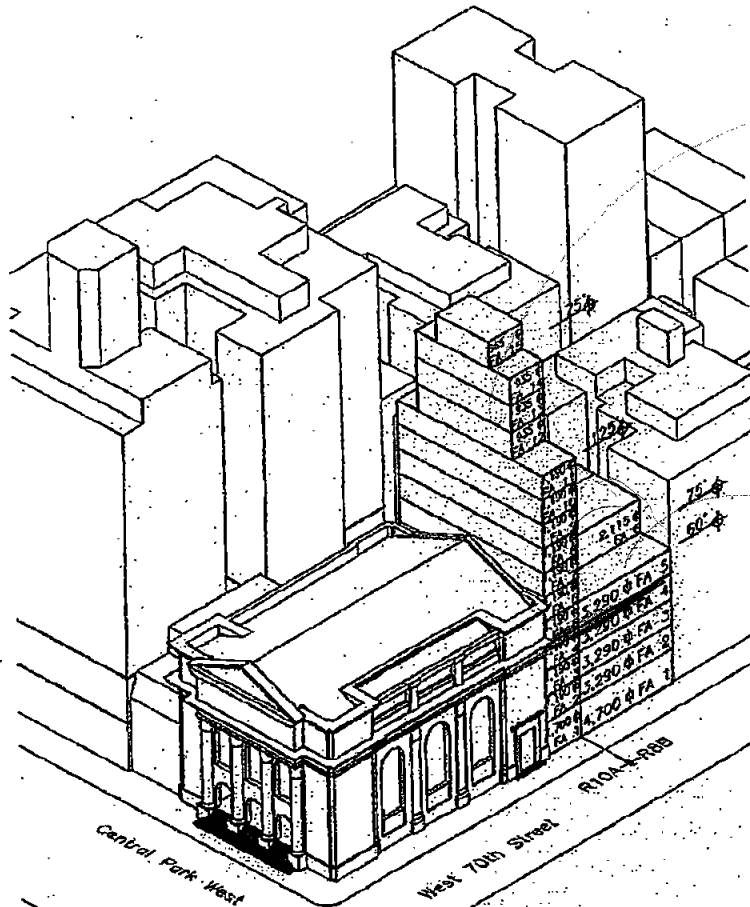
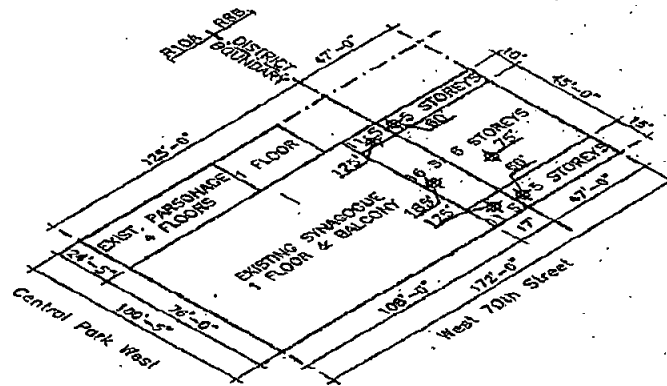
The specifics of this alternative are discussed in Exhibit C.

Value of the Property

Estimating the acquisition cost is part of every Economic Analysis Report submitted as part of the BSA procedure. For this mixed institutional and residential development, property valuation was estimated assuming complying development after review and analysis of comparable land sales, based on an average \$/square foot of buildable floor area.

SCHEDULE A1: ANALYSIS SUMMARY - CONDOMINIUM USE

		REVISED AS OF RIGHT CF/RESIDENTIAL DEVELOPMENT	LESSER VARIANCE CF/RESIDENTIAL DEVELOPMENT		AS OF RIGHT WITH TOWER DEVELOPMENT (Residential Only)		REVISED PROPOSED DEVELOPMENT (Residential Only)		ALL RESIDENTIAL F.A.R. 4.0
BUILDING AREA (SQ.FT.)									
BUILT RESIDENTIAL AREA		7,594	12,575		20,019		20,863		28,724
SELLABLE AREA	70%	5,316	8,593	76%	10,346	52%	15,799	62%	17,780
CAPITAL INVESTMENT SUMMARY									
ACQUISITION COST		\$14,816,000	\$14,816,000		\$14,816,000		\$14,816,000		\$14,816,000
HOLDING & PREP. COSTS		\$0	\$0		0		\$0		\$0
BASE CONSTRUCTION COSTS		\$3,722,000	\$4,339,000		\$8,056,000		\$7,488,000		\$11,808,000
SOFT CONSTRUCTION COSTS		\$4,337,000	\$4,525,000		\$6,274,000		\$6,434,000		\$6,847,000
		\$22,875,000	\$23,680,000		\$29,146,000		\$28,738,000		\$33,471,000
PROJECT VALUE									
SALE OF UNITS		\$12,623,000	\$20,191,000		\$24,595,000		\$40,968,000		\$40,199,000
(less) SALES COMMISSIONS	6%	(\$757,000)	(\$1,211,000)		(\$1,476,000)		(\$2,458,000)		(\$2,412,000)
EST. NET PROJECT VALUE		\$11,866,000	\$18,980,000		\$23,119,000		\$38,510,000		\$37,787,000
PROJECT INVESTMENT									
ACQUISITION COST		\$14,816,000	\$14,816,000		\$14,816,000		\$14,816,000		\$14,816,000
HOLDING & PREP. COSTS		\$0	\$0		\$0		\$0		\$0
BASE CONSTRUCTION COSTS		\$3,722,000	\$4,339,000		\$8,056,000		\$7,488,000		\$11,808,000
SOFT CONSTRUCTION COSTS		\$4,337,000	\$4,525,000		\$6,274,000		\$6,434,000		\$6,847,000
CARRYING COSTS DURING SALES PERIOD		\$470,000	\$493,000		\$600,000		\$664,000		\$688,000
EST. TOTAL INVESTMENT		\$23,345,000	\$24,173,000		\$29,746,000		\$29,402,000		\$34,159,000
RETURN ON INVESTMENT									
ESTIMATED PROJECT VALUE		\$11,866,000	\$18,980,000		\$23,119,000		\$38,510,000		\$37,787,000
(less) EST. TOTAL INVESTMENT		(\$23,345,000)	(\$24,173,000)		(\$29,746,000)		(\$29,402,000)		(\$34,159,000)
(less) EST. TRANSACTION TAXES		(\$230,000)	(\$368,000)		(\$449,000)		(\$748,000)		(\$734,000)
EST. PROFIT (loss)		(\$11,709,000)	(\$5,561,000)		(\$7,076,000)		\$8,360,000		\$2,894,000
DEVELOPMENT/SALES PERIOD (MONTHS)		23	23		32		28		28
ANNUALIZED PROFIT (loss)		(\$6,109,000)	(\$2,901,000)		(\$2,654,000)		\$3,583,000		\$1,240,000
RETURN ON TOTAL INVESTMENT		0.00%	0.00%		0.00%		28.43%		8.47%
ANNUALIZED RETURN ON TOTAL INVESTMENT		0.00%	0.00%		0.00%		12.19%		3.63%



**EXISTING AS OF RIGHT ZONING ENVELOPE @
DEVELOPMENT SITE**

LOT AREA AT DEVELOPMENT SITE: 6,427 SF
PERMITTED FLOOR AREA:

R10A- 17,070 SF
R88- 18,878 SF
COMBINED - 35,948 SF

10 WEST 70th ST.

PLATT BYARD DOVELL WHITE STEPHEN TILLY, Architect
ARCHITECTS LLP

PLATT BYARD DOVELL WHITE
Architects

Congregation Shearith Israel
As-of-Right with Tower
(existing synagogue not included)

	R8B CF	R8B RES	R10A CF	R10A RES	R8B & R10A CF	R8B & R10A RES	R8 & R10	ZONING FAR
C2	4723.50		1918.10		6641.60		6641.60	
C1CF	3247.68		1602.44		4850.12			
C1R		1339.75		315.66		1655.41	6505.53	
1CF	3705.44		1918.10		5623.54			
1R		1017.57				1017.57	6641.11	6641.11
2CF	2988.00		1198.50		4186.50			
2R		325.50				325.50	4512.00	4512.00
3CF	2988.00		1198.50		4186.50			
3R		325.50				325.50	4512.00	4512.00
4CF	2938.50		1198.50		4137.00			
4R		375.00				375.00	4512.00	4512.00
5CF								
5R		3315.50		1198.50		4514.00	4514.00	4514.00
6		2138.50		1198.50		3337.00	3337.00	3337.00
7				1198.50		1198.50	1198.50	1198.50
8				1198.50		1198.50	1198.50	1198.50
9				1198.50		1198.50	1198.50	1198.50
10				1198.50		1198.50	1198.50	1198.50
11				1198.50		1198.50	1198.50	1198.50
12				773.50		773.50	773.50	773.50
13				773.50		773.50	773.50	773.50
14				773.50		773.50	773.50	773.50
15				773.50		773.50	773.50	773.50
16				773.50		773.50	773.50	773.50
R8B	12619.94	7497.57	5513.60	12257.00				
R10A	20,117.51		17,770.60					
TOTAL CF			18,133.54					
TOTAL RES						19,754.57		
TOTAL FAR							51,035.24	
TOTAL ZONING FAR								37,888.11

12/4/2007

Jeffrey Mulligan

From: Eileen Montanez

Sent: Monday, February 11, 2008 11:30 AM

To: Meenakshi Srinivasan; Susan M. Hinkson; Dara Ottley-Brown; Christopher Collins; Jeffrey Mulligan

Subject: FW: site visits

On Friday, I visited the following sites:

124-07-BZ

824-61-BZ

74-07-BZ

233-07-BZ

221-07-BZ

218-07-BZ

261-07-A

Jeffrey Mulligan

From: Shelly Friedman [sfriedman@frigot.com]
Sent: Wednesday, January 02, 2008 12:06 PM
To: Jeffrey Mulligan
Subject: Shearith

FYI - We hand-messengered copies to Lebow and Arlene Monday, so they have them ahead of the usual schedule. I am just too nice a guy for this business. Best. .

Shelly S. Friedman Friedman & Gotbaum, LLP

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Dara Ottley-Brown

From: Dara Ottley-Brown
Sent: Friday, November 23, 2007 5:01 PM
To: Meenakshi Srinivasan; Christopher Collins; Susan M. Hinkson
Subject: Site Visit

Tracking:	Recipient	Delivery	Read
	Meenakshi Srinivasan	Delivered: 11/23/2007 5:01 PM	Read: 11/23/2007 5:01 PM
	Christopher Collins	Delivered: 11/23/2007 5:01 PM	Read: 11/23/2007 5:26 PM
	Susan M. Hinkson	Delivered: 11/23/2007 5:01 PM	Read: 11/26/2007 9:34 AM

I'm going to check out 74-07 BZ this evening.

Dara Ottley-Brown

Commissioner

Board of Standards and Appeals

(212) 788-8788

Meenakshi Srinivasan

From: Susan M. Hinkson
Sent: Wednesday, November 21, 2007 1:11 PM
To: Meenakshi Srinivasan
Subject: Shearith

Hi

I'm going to go up there today and walk around. I want to get a feel for the neighborhood before the hearing.

Susan

Susan Hinkson, RA, JD, AIA

NYC Board of Standards and Appeals

Commissioner

40 Rector Street 9th Floor

New York, NY

Jeffrey Mulligan

From: Shelly Friedman [sfriedman@frigot.com]
Sent: Monday, November 26, 2007 9:36 PM
To: Jeffrey Mulligan
Subject: FW: Crucial Public Hearing on Shearith Israel Tower Proposal
Attachments: BSA Objection Form.pdf

FYI.

From: Jim Grossman [mailto:jgrossman@rubenstein.com]
Sent: Monday, November 26, 2007 9:33 PM
To: Shelly Friedman
Subject: FW: Crucial Public Hearing on Shearith Israel Tower Proposal

From: LANDMARK WEST! [mailto:landmarkwest@landmarkwest.org]
Sent: Mon 11/26/2007 6:01 PM
To: landmarkwest@landmarkwest.org
Subject: Crucial Public Hearing on Shearith Israel Tower Proposal

Congregation Shearith Israel: Important Public Hearing at the NYC Board of Standards and Appeals

Don't miss tomorrow's absolutely crucial public hearing, Tuesday, November 27, starting at 1:30 PM at 40 Rector Street, 6th Floor (take the #1 subway down to Rector Street and walk west). Bring photo ID. Congregation Shearith Israel's application is estimated to come up by about 2:30 PM, so time yourself accordingly!

Remember, the BSA is the final word on whether Congregation Shearith Israel gets the 7 zoning variances it wants to build a 9-story, 105'-tall community house with 5 floors of luxury condominiums stacked on top. Even though Shearith Israel can accommodate all of its mission-related activities in an as-of-right building (without getting any special waivers or exemptions), it seeks to violate the low-rise, mid-block zoning that protects West 70th Street and many other blocks throughout the Upper West Side/Central Park West Historic District. Why? Profit.

Tomorrow is your opportunity to make your opposition heard loud and clear (even if you don't plan to speak, your presence will speak volumes). See you there!

4/21/2008

Jeffrey Mulligan

From: Shelly Friedman [sfriedman@frigot.com]
Sent: Tuesday, October 16, 2007 3:57 PM
To: Jeffrey Mulligan
Subject: FW: CSI Meeting on Wednesday
Attachments: BSA Objections Oct 07.CV.CV02.pdf

Jeff - There is a high degree of confidence that we will have our responses into Jed in sufficient time to meet the deadline for a 11/28 hearing date. Accordingly, that is our preference as the Rabbi would like to avoid a repeat when community members complained (inaccurately) that submitting our application on the day of Passover Eve somehow violated Jewish Canon Law.

I am attached the edict sent out by the Community Board chairs. I think they are doing yeoman's work to make this a workable functional meeting in the face of tactics to delay. I know this was copied to Jed but I wanted to send it to you in furtherance of our past discussions so that you can see the havoc the "Objections" moniker and the reference to an incomplete application is having out there in the public realm (highlighted in red). The rallying cry now is the the BSA opposes the application and that the only thing that has prevented its denial prior to hearing is Shearith's political skullduggery. And the reference in the letter to an "incomplete application" has others saying that under BSA rules the application should never have gotten past intake if it were incomplete. Its all nonsense, but apparently there are lawyers out here spending somebody's money on that very issue.

There is a lot of effort and goodwill be spent trying to explain BSA procedure on these points. Neither an applicant nor a community board chair should be tagged with the burden of demonstrating the objectivity of the BSA in the face of false statements by others that the BSA Notice of Objections indicates the Board's opposition to an application. This would all be avoided with a different choice of metaphors for the innocent and helpful process of responding to staff questions.

Best, Shelly

SHELLY S. FRIEDMAN

FRIEDMAN & 568 Broadway Suite 505
GOTBAUM, LLP New York, NY 10012

Phone: 212.925.4545

Fax: 212.925.5199

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From: Page Cowley [mailto:pcowley@pac-architects.com]

4/21/2008

Sent: Tuesday, October 16, 2007 2:08 PM

To: SFine50@aol.com; richard asche; Penny Ryan; Thomas Vitullo-Martin; Melanie Radley; Daniel Meltzer; Watson, Maria; LizSamurovich@aol.com; Siegel, Jeffrey; Helen Rosenthal; Lenore Norman; KNeuwelt@aol.com; Ethel Sheffer

Cc: Hunter Armstrong; jweiss@dcas.nyc.gov; Shelly Friedman

Subject: FW: CSI Meeting on Wednesday

Dear Land Use Committee & CB7 Board Members

This Wednesday, October 17th, the CB7 Land Use Committee is holding a **PRELIMINARY INFORMATION SESSION** regarding an application before the Board of Standards & Appeals (BSA) relating to the **Spanish & Portuguese Synagogue a.k.a. Congregation Sherith Israel, 6-10 West 70th Street**. The meeting is being hosted by Congregation Rodeph Sholom, 7 West 83rd Street at 7:00 PM. The project was recently reviewed by the BSA and an objection sheet was issued. A copy of the letter to the applicant and the accompanying objection sheet is attached.

The cover letter from the BSA states that these objections must be addressed before the application may be calendared for a hearing at the BSA. As a result, this application is considered incomplete until all issues raised by the BSA are answered.

The meeting tomorrow evening is to provide CB7 and the community an opportunity to hear the application currently before the BSA and review the project as approved before the NYC Landmarks Preservation Commission.

Because this is a complicated application with interrelated requests for variances, we have copied from the BSA website the information about the findings that must be met before a variance may be granted. We urge you to familiarize yourself with this criteria so that the discussion and questions to the applicant are germane.

Please be advised that this meeting is for discussion and questions from both the community who are invited to attend and CB7. Questions from the Community at large will be considered first. **THERE WILL BE NO RESOLUTION OR VOTE AT THIS MEETING**. A second meeting will be scheduled once the applicant has resubmitted to the BSA in response to the BSA letter dated October 12, 2007.

If you require further information, the website for the BSA is: www.nyc.gov/bsa

We look forward to seeing you on Wednesday.

Richard Asche, Page Cowley, Co-Chairs Land Use Committee
Shelly Fine, Chair, CB7

FROM THE BSA WEB-SITE RE VARIANCES

Applications that come before the Board

Variances

Section 72-21 of the Zoning Resolution authorizes the Board to modify or waive zoning regulations. In applying for a variance, property owners typically claim that full compliance with zoning regulations is not possible in order to realize a reasonable economic return on their property. The Board must determine, in granting a variance, that each and every one of five findings identified in Section 72-21 are met. The five findings are excerpted from the Zoning Resolution below:

(a) that there are unique physical conditions inherent in the particular zoning lot; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise;

(b) that because of such physical conditions there is no reasonable possibility that the development of the zoning lot will bring a reasonable return ... this finding shall not be required for the granting of a variance to a non-profit organization;

- (c) that the variance, if granted, will not alter the essential character of the neighborhood;
- (d) that the practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner;
- (e) ...the variance, if granted, is the minimum variance necessary to afford relief.

Special Permits

Section 73-01 of the Zoning Resolution authorizes the Board to grant special permits for specified uses, or for the modification of use and bulk in appropriate cases.

Special permit applications that affect use regulations include auto service stations in designated commercial districts, eating and drinking establishments with entertainment in designated commercial and manufacturing districts, physical culture establishments (i.e., "health clubs") in designated commercial and manufacturing districts, cellular phone towers, and modification of zoning lots divided by zoning district boundaries and parking requirements.

Special permit applications that affect bulk regulations include the enlargement of single- and two-family residences in designated areas of Brooklyn, enlargement of non-residential buildings, and modification of community facility uses.

Rights to Continue Construction/Vested Rights

Section 11-331 of the Zoning Resolution authorizes the Board to renew (or "vest") building permits that have lapsed due to zoning changes. In order for the permits to be renewed, the Board must determine that, on the date that the permits lapsed, excavation of the site had been completed and substantial progress made on completion of the foundations.

The Board can also renew permits if an applicant files to vest under the common law doctrine. Based on case law, the Board can make a vesting determination if it is determined that work was commenced under validly-issued permits, tangible change to the property occurred, and economic loss would result due to significant expenditure or irrevocable financial commitment.

Extensions and Modifications to Previous BSA Grants

The Board reviews applications to extend the term of previously approved variances and special permits (if a term was imposed on the approval) and/or to modify previous approvals for both before and after 1961, under Sections 11-411, 11-412, and 11-413 of the Zoning Resolution. The Board also hears applications to extend the time to complete work and/or obtain a Certificate of Occupancy.

General City Law Waivers

Under specific circumstances, the Board may grant an administrative appeal to both Sections 35 and 36 of the NYS General City Law.

Section 35 generally prohibits building in the bed of any street identified on an official map. The Board may grant an appeal to allow issuance of a building permit when a property owner can establish that the land within the mapped street is not yielding a fair return, or when the proposed street extension has been mapped for 10 years but the City has yet to acquire title.

Section 36 generally prohibits the issuance of a certificate of occupancy for buildings that do not front on a mapped street. The Board may grant an appeal if compliance with Section 36 would result in a practical difficulty or unnecessary hardship.

Prior to making its determination, the Board forwards applications for waivers from the General City Law to the Departments of Transportation, Fire and Environmental Protection for review and comment.

Appeals

Section 72-11 authorizes the Board to hear and decide appeals to decisions rendered by the Department of Buildings or any City agency which, under the provisions of the Charter, has jurisdiction over the use of land or use or bulk of buildings or other structures. The Board is authorized to reverse, affirm (in whole or in part), or modify such decision. All appeals to the Board must be made within 30 days of the agency determination.

Application Process

Upon filing, an application is assigned a calendar number and is forwarded to a staff examiner for review. For applications on the Zoning ("BZ") and Special Order Calendars ("SOC"), applicants are required to provide copies of the filed applications to the local community board, borough president, councilmember and the Department of City Planning. When the examiner determines that the application is substantially complete, the application is scheduled for a public hearing. Applicants are notified by the Board of the hearing date at least 30 days in advance of the date.

Notification of Public Hearings

At least 20 days in advance of the public hearing, applicants must provide notice of the hearing to the local community board, borough president, councilmember and Department of City Planning for applications on the BZ and SOC calendars. Applicants with projects on the BZ calendar are also required to notify property owners within a 400 foot radius of the subject site (200 foot radius for applications that involve one- to three-family homes, or for special permit applications for lots of less than 40,000 square feet).

----- End of Forwarded Message



Board of Standards and Appeals

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Website @ www.nyc.gov/bsa

MEENAKSHI SRINIVASAN
Chair/Commissioner

October 12, 2007

Shelly S. Friedman, Esq.
Friedman & Gotbaum, LLP
568 Broadway, Suite 505
New York, NY 10012

BSA Cal No: 74-07-BZ
CEQR No: 07BSA071M
Premises: 6-10 West 70th Street, Manhattan

Dear Mr. Friedman:

Attached is a **Second Notice of Objections** for the above referenced BZ application which raises issues that need to be addressed before these applications may be calendared by the Board for a hearing. The Board desires to process applications on a timely basis and requests that applicants notify the Board if they are unable to make a complete submission within sixty (60) days. Failure to respond in a timely manner could lead to the dismissal of the application for lack of prosecution.

Each of the following objections should be addressed point-by-point. A copy of all materials sent in response to these objections must also be submitted to the applicable Community Board(s), Borough President, City Council member, Borough Commissioner of the Department of Buildings, Borough Director of the Department of City Planning (DCP) and to the BSA Liaison at the DCP, Mr. Alan Geiger. Applicants are required to notify each of these entities each and every time a submission is made to the Board of Standards and Appeals. Proof of proper notification may be provided by return receipts, copies of transmittal letters, carbon copy (cc's) lists or other comparable proofs.

For further information regarding these requirements, or for information relating to the following objections, please call Jed Weiss, Senior Examiner at (212) 788-8781 or email him at jweiss@dcas.nyc.gov. For detailed instructions for completing BSA applications, please visit www.nyc.gov/bsa

Sincerely,


Jeff Mulligan,
Executive Director

New York City Board of Standards and Appeals

Second Notice of Objections

74-07-BZ / 07BSA071M

Premises: 6-10 West 70th Street, Manhattan
Applicant: Shelly S. Friedman, Esq., Friedman & Gotbaum, LLP

Date: October 12, 2007

STATEMENT OF FACTS AND FINDINGS

1. Page 1: As previously requested within Objection # 1 of the First Notice, please explicitly state the number of proposed stories (9) within the introductory section.
2. Page 3: Within the second paragraph, please change "...rear yard exceedances for the third and fourth floors" to "...rear yard exceedances for the second, third, and fourth floors."
3. Page 13: When describing the existing school space for Beit Rabban, please specifically state how many classrooms and square footage are devoted to this tenant school.
4. Page 21: Please replace the second sentence of the first full paragraph with the following: "While the Synagogue provides a full cellar level and a small sub-cellar, the demolition and replacement of the Community House will permit excavation of Lot 37 to provide both a sub-cellar and cellar level for the proposed building."
5. Page 23: Please revise the floor-by-floor table as follows:
 - o Analyze the entire zoning lot (both lots 36 and 37)
 - o Provide a "total" row noting the total square footage for each program element
 - o Provide "existing" and "proposed" conditions within separate columns
6. Page 23: Objection # 12 of the First Notice has not been adequately addressed. It is stated that "[t]hese new office areas will be utilized by CSI's new assistant Rabbi; program director, secretary and assistant; archivist and tour director." However, it is later stated within the endnote on this page that "staff is increased from approximately 12 to 16 persons. Given the apparent discrepancy of these two statements, please provide a precise written description of all existing and proposed staff members. Additionally, please state whether or not CSI anticipates employee growth.
7. Page 27: Within the "Lot Coverage in R10A and R8B" section, please change "...corner lots within 100 ft. of a corner" to "lots within 100 ft. of a corner."

8. Page 28: Within the final sentence of the "Rear Yard in R10A and R8B" section, please change "...provide a fully compliant rear yard" to "...do not further encroach into the required rear yard."
9. Page 29: Within the first sentence of the "Rear Setback" section, please change "rear lot line" to "rear yard line."
10. Page 29 & 30: Also within the "Rear Setback" section, please change "This 3.5 ft. setback differential resulted in the issuance of DOB objection #7" to "The proposed base height above the permitted 60' and the proposed rear setback at less than the required 10' resulted in the issuance of DOB Objection # 7."
11. Page 30: Please remove the final sentence of the "Rear Setback" section. The discussion of the ground floor level which is allowed to be built full to rear lot line as a permitted obstruction is not germane to this section.
12. Page 31: For the suggested "(c) finding," as previously requested by Objection # 23 of the First Notice, please describe existing built conditions along both West 70th Street block-fronts between Central Park West and Columbus Avenue.

AS-OF-RIGHT CONDITIONS DRAWINGS

13. As-of-right schemes 'A' and 'B' both appear to violate the rear yard and thus are not "as-of-right." The rear portion of the building within the required rear yard appears to exceed one-story and thus does not qualify as a permitted obstruction pursuant to ZR § 24-33. Please revise these drawing sets to show a compliant rear yard.
14. Please re-label all as-of-right drawings so as each drawing set has its own unique identifier (e.g., AOR-A-3, AOR-B-3, and AOR-C-3).
15. Scheme C (Residential Scheme): This as-of-right scenario does not maximize floor area that can be accommodated within the R8B zoning envelope. Instead of showing a six-story building with five stories below the 60' maximum base height, please reduce the floor-to-ceiling heights and show a seven-story building with five stories up to the 55' minimum base height and two floors above.

PROPOSED CONDITIONS DRAWINGS

16. Drawing P-4 ("Proposed Areas of Non-Compliance"): A legend is provided on this sheet for four discrete non-complying elements (building height, base height, and front and rear setback); however the drawing only shows the area of non-compliance for building height. Please revise this drawing by graphically showing all areas of proposed non-compliance.
17. Please provide an illustrative elevation drawing showing a comparison of lot line windows on adjacent building(s) that would be blocked under an as-of-right and the proposed scenario.

"LESSER-VARIANCE" DRAWINGS

18. Objection # 30 has not been complied with. Please provide a full plan set for a lesser-variance scenario that shows compliant building height, base height, front and rear setback but non-complying rear yard and lot coverage.

FEASIBILITY STUDY

19. Please analyze the revised as-of-right scenarios ("Scheme A" and "Scheme B") as described by Objection # 13.
20. Please analyze the revised "Scheme C" (as-of-right residential scenario) as described by Objection # 15 of the Second Notice.
21. Please analyze the "lesser-variance" scheme as described within Objection # 30 of the First Notice.
22. The response given to Objection # 36 of the First Notice is not satisfactory. It does not directly respond to the overall point that because the development site, although partially located within an R10A district, is primarily zoned R8B and located entirely within an historic district, and thus cannot reasonably utilize additional floor area from the R10A district. Therefore, it is not appropriate to adjust upward the vacant land sales comparables for zoning.