

00001 **NOTE THIS IS NOT THE OFFICIAL TRANSCRIPT**

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PUBLIC HEARING BEFORE

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THE BOARD OF STANDARDS AND APPEALS

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6-10 WEST 70TH STREET

6

NEW YORK, NEW YORK

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CONGREGATION SHEARITH ISRAEL

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74-07-BZ

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40 Rector Street

New York, New York

11

June 24, 2008

12

2:21 p.m.

13

14 BEFORE:

15

MEENAKSHI SRINIVASAN, Chair, Commissioner

16

CHRISTOPHER COLLINS, Vice Chair, Commissioner

17

EILEEN MONTANEZ, PE, Commissioner

18

SUSAN HINKSON, RE, Commissioner

19

DARA OTLEY-BROWN, Commissioner

20

21

22

23 Reported by:

24

Yaffa Kaplan

25

Job No. 203948

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1 Proceedings

2 MR. FRIEDMAN: Good afternoon, Madam 14:21  
3 Chair, members of the Commission. Sheldon 14:21  
4 Friedman, from Friedman & Gotbaum. I am 14:21  
5 joined at the table by counsel in this matter, 14:21  
6 Louis Salomon from Proskauer Rose. 14:21  
7 Mr. Salomon is also a trustee of Shearith 14:21  
8 Israel. 14:21

9 We really have nothing to amplify our 14:21  
10 most recent submission. We just want to note 14:21  
11 we are here and present. All of our 14:21  
12 professionals with regard to this application 14:21  
13 are present and prepared to answer your 14:21  
14 questions and prepared to hear and to respond 14:21  
15 to whatever questions you might have after the 14:21  
16 opposition speaks. 14:21

17 THE CHAIRPERSON: All right, we had a 14:21  
18 few questions for you during our discussion 14:21  
19 yesterday. Would you like to respond to that? 14:21  
20 Do you have them or do you -- 14:21

21 MR. FRIEDMAN: I would be happy to 14:21  
22 respond to them if you could remind me which 14:21  
23 ones were current. We have heard them. 14:21

24 THE CHAIRPERSON: I know that there 14:21  
25 were, I think, essentially questions on the 14:21

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Proceedings

2 financials and just some clarification. 14:21

3 Commissioner Otley-Brown, would you like 14:21

4 to -- 14:21

5 MR. FRIEDMAN: With your permission, I 14:21

6 will ask Jack Freeman to come up and join us. 14:21

7 MS. OTLEY-BROWN: The first question is 14:22

8 could you clarify exactly what floors those 14:22

9 terraces are on, and they don't seem to be 14:22

10 accounted for in the outdoor financials for 14:22

11 the outdoor space. 14:22

12 MR. FREEMAN: They are included in the 14:22

13 financials. 14:22

14 MS. OTLEY-BROWN: They are? 14:22

15 MR. FREEMAN: The outdoor space and the 14:22

16 penthouse are accounted for. 14:22

17 MS. OTLEY-BROWN: No, those rear 14:22

18 terraces, the rear terrace and the cut-out in 14:22

19 the back. 14:22

20 MR. FREEMAN: I think they are in the 14:22

21 price. I will double-check for you, though. 14:22

22 MS. OTLEY-BROWN: You have it for the 14:22

23 penthouse, but you don't have it for floors 14:22

24 that require cut-out terrace, and it's not 14:22

25 clear to me how many of them there are. Just 14:22

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1 Proceedings

2 one floor or on floor six? 14:22

3 MR. FREEMAN: I will check with the 14:23

4 architect and we will do what we have to do. 14:23

5 THE CHAIRPERSON: What I understand is 14:23

6 it only occupies one floor because you are not 14:23

7 including balconies on the other floor. 14:23

8 MR. FREEMAN: No. 14:23

9 THE CHAIRPERSON: It's just a cut-out 14:23

10 when once you set back your building on the 14:23

11 sixth, seven and eighth floors. 14:23

12 MR. FREEMAN: Right. 14:23

13 THE CHAIRPERSON: And the ninth floor, 14:23

14 so one apartment against the terrace. 14:23

15 MR. FREEMAN: It may have been included 14:23

16 in the pricing, but I don't want to say that. 14:23

17 MS. OTLEY-BROWN: And then the other 14:23

18 question I had concerned the efficiency ratio. 14:23

19 If you can clarify how you calculated the 14:23

20 efficiency ratio because if you look, it shows 14:23

21 three situations, your eighth floor plus 14:23

22 penthouse, the actual penthouse, and your 14:23

23 efficiency ratio for your second example, 14:23

24 eighth floor and no penthouse, is actually 14:23

25 lower than your seven floors plus penthouse. 14:23

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1 Proceedings

2 MR. FREEMAN: I will check. The core 14:23  
3 size and circulation space affect the 14:23  
4 efficiency ratio, so that doesn't change, but 14:23  
5 the architect -- 14:24

6 MS. OTLEY-BROWN: Because it doesn't 14:24  
7 change, one would think then that the second 14:24  
8 alternative should have an even lower 14:24  
9 efficiency ratio because that penthouse floor 14:24  
10 is actually smaller than your eighth floor and 14:24  
11 the eighth floor no penthouse. 14:24

12 MR. FREEMAN: We will check with the 14:24  
13 architect. He is the source of that 14:24  
14 information and we will, if necessary, correct 14:24  
15 it. 14:24

16 THE CHAIRPERSON: Right. And also just 14:24  
17 on the issue of efficiency, if you can clarify 14:24  
18 to us what you have taken out from your gross 14:24  
19 square feet so you have gross residential, and 14:24  
20 then you have I think the sellable 14:24  
21 residential. 14:24

22 MR. FREEMAN: We will do that. 14:24

23 THE CHAIRPERSON: All right. So if we 14:24  
24 understand, the floor is taken out and there 14:24  
25 may be other things, the lobby. 14:24

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1 Proceedings

2 MR. FREEMAN: There are public areas 14:24  
3 that are not sellable areas. 14:24

4 THE CHAIRPERSON: All right, but if 14:24  
5 there are other things, like if you are taking 14:24  
6 into consideration or removing any space that 14:24  
7 is taken up by walls, it should still be 14:24  
8 understood that because the efficiencies that 14:24  
9 you have are really in the range of 60 to 70 14:25  
10 percent. 14:25

11 MR. FREEMAN: It's an inefficient 14:25  
12 building, but it's consistent from alternative 14:25  
13 to alternative, as I understand it, how it was 14:25  
14 calculated. 14:25

15 THE CHAIRPERSON: Right, but the 14:25  
16 calculations are pretty straightforward 14:25  
17 because they are based on a set of drawings 14:25  
18 that we have, which actually identify how much 14:25  
19 residential space is occupied by the core and 14:25  
20 how much residential space is occupied by the 14:25  
21 lobby; so if you do some of those 14:25  
22 calculations, they should be consistent. 14:25

23 MR. FREEMAN: We will review it with the 14:25  
24 architect. 14:25

25 THE CHAIRPERSON: Okay. Question? Yes, 14:25

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1 Proceedings

2 any questions? 14:25

3 MS. OTLEY-BROWN: No, I don't have any 14:25

4 questions. 14:25

5 THE CHAIRPERSON: All right. 14:25

6 Commissioner Montanez. 14:25

7 MS. MONTANEZ: I think basically along 14:25

8 the same lines, you know, what is the sellable 14:25

9 areas versus the built area, and once you come 14:25

10 up in the elevator you have a small hallway, 14:25

11 basically the entire floor. I would think 14:25

12 that should have a high efficiency. 14:25

13 MR. FREEMAN: We will provide you with 14:25

14 some documentation. 14:25

15 MS. MONTANEZ: Okay. 14:25

16 THE CHAIRPERSON: All right. And I 14:25

17 think there was such an issue that was raised 14:25

18 by testimony that was received, which has to 14:26

19 do with the comparables that you have used and 14:26

20 whether the comparables for the other 14:26

21 apartments, which is the basis of your 14:26

22 revenue, revise your revenue that you get per 14:26

23 square foot for the condominiums, whether they 14:26

24 are comparable, does it make the same 14:26

25 assumptions that you have made. 14:26

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1 Proceedings

2 There are some questions whether those 14:26  
3 comps are used for as common areas and I know 14:26  
4 in the analysis that you have done you have 14:26  
5 taken out the common area. 14:26

6 MR. FREEMAN: Well, usually. 14:26

7 THE CHAIRPERSON: If there is a way to 14:26  
8 establish -- 14:26

9 MR. FREEMAN: There is no way to do 14:26  
10 that. We just go by whatever the available 14:26  
11 published information is, and when they say 14:26  
12 sellable square footage, we have no idea what 14:26  
13 was their gross, what was taken out. There is 14:26  
14 no way to back into that. It's that much 14:26  
15 sellable. So I would love to be able to 14:26  
16 answer the question, but it's based on what 14:26  
17 the reported sellable area is. It doesn't 14:26  
18 tell you what -- 14:27

19 THE CHAIRPERSON: Right. So you are 14:27  
20 saying if there is a transaction that took 14:27  
21 place with a thousand square-foot apartment, 14:27  
22 the assumption is the thousand square feet is 14:27  
23 inside the unit? 14:27

24 MR. FREEMAN: Is the sellable area. I 14:27  
25 mean we can try to get a copy of an offering 14:27

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1 Proceedings

2 plan, but that's what's identified in the 14:27  
3 offering plan as sellable area to a 14:27  
4 prospective purchaser. When it's recorded, 14:27  
5 that's what shows. So we go by what they say 14:27  
6 is sellable, and then we look to our architect 14:27  
7 to identify what would be the sellable area. 14:27  
8 I think partly with the caveat that these are 14:27  
9 very schematic, conceptual plans, so as they 14:27  
10 evolve, the sellable area may change a bit in 14:27  
11 its sort of overall character. By the time it 14:27  
12 gets to the Attorney General, it's met the 14:27  
13 standards, but we are not there yet. 14:27  
14 THE CHAIRPERSON: Any other questions 14:27  
15 for the applicants? 14:27  
16 Thank you, Mr. Friedman. Mr. Friedman, 14:27  
17 do you have anything to add right now? We 14:28  
18 will take testimony. 14:28  
19 MR. FRIEDMAN: We are here. 14:28  
20 MR. LEBOW: Madam Chair, members of the 14:28  
21 Board, as you know, I represent the opposition 14:28  
22 to all seven of these variances and I want to 14:28  
23 thank you for your patience in permitting an 14:28  
24 organized, although somewhat disorganized at 14:28  
25 times, opposition to have its say before you. 14:28

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1 Proceedings

2 We appreciate the courtesies that you and your 14:28  
3 staff have given to us throughout this. If 14:28  
4 some of us have strayed a little bit from the 14:28  
5 reservation, I hope that you forgive us 14:28  
6 because passions run high on the West Side 14:28  
7 when it comes to changes in mid-block zoning. 14:28  
8 So if any of us have offended you by being too 14:28  
9 excessive, I hope you will forgive us. 14:28

10 This I hope is the last chance that I 14:29  
11 will have to persuade you in this presentation 14:29  
12 that we are going to make today, that none of 14:29  
13 these seven variances should be issued, and as 14:29  
14 usual, I am going to try, probably 14:29  
15 unsuccessfully, to take a little bit of a step 14:29  
16 back and look at the whole situation perhaps 14:29  
17 from afar, so to speak, and the subsequent 14:29  
18 speakers that we have scheduled through your 14:29  
19 staff for the rest of this half-hour 14:29  
20 presentation will go into the detailed 14:29  
21 findings that you must make for each one of 14:29  
22 the variances. 14:29

23 I would just like to urge you to please 14:29  
24 make specific factual findings for each one of 14:29  
25 the statutory findings that you must make in 14:29

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Proceedings

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order to justify each one of the variances as 14:29

3

you give. The last thing that Mr. Friedman 14:29

4

and I would like to do is come back here two 14:29

5

years from now and ask you to make further 14:29

6

factual findings. Well, maybe I shouldn't 14:29

7

speak for Mr. Friedman, but it's the last 14:29

8

thing that I would like to do anyway. 14:29

9

Let's turn to these findings one by one. 14:30

10

First for the A Finding, this plot of land is 14:30

11

a perfectly garden variety rectangular spot in 14:30

12

a perfectly garden variety rectangular block. 14:30

13

There are no unusual hardships. There are no 14:30

14

special, strange admissions about it. The 14:30

15

fact that there is a landmark next to it and 14:30

16

that its only zoning line goes down the middle 14:30

17

of it have been repeatedly held not to 14:30

18

present, by themselves, any unusual conditions 14:30

19

that require a variance pursuant to Finding A. 14:30

20

Turning very quickly to accessibility, 14:30

21

there is no doubt that even minor repairs to 14:30

22

the existing structure will grant full and 14:30

23

complete accessibility to the landmark, and 14:30

24

certainly an as-of-right structure can easily 14:30

25

correct any accessibility problems. 14:31

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## Proceedings

2

The main issue that we come to is 14:31

3

whether or not programmatic needs are 14:31

4

satisfied by this nonprofit's application to 14:31

5

you for its variances, and I ask you once 14:31

6

again to look at what programmatic means. 14:31

7

Programmatic means that it must continue or 14:31

8

foster the institution's programs, and needs 14:31

9

means it needs them. That does not include 14:31

10

luxury condominiums. You have never ever held 14:31

11

that luxury condominiums are necessary for 14:31

12

programmatic needs. And this building is half 14:31

13

programmatic needs, arguably, and half luxury 14:31

14

condominiums. 14:31

15

The programmatic needs can easily be put 14:31

16

in an as-of-right structure. We have given 14:32

17

you so much evidence of that that it is 14:32

18

absolutely overwhelmingly clear that if you 14:32

19

take out the half luxury condominiums, that 14:32

20

all of the real programmatic needs can fit 14:32

21

into the other half. And that is not a 14:32

22

surprise because even the applicant wants to 14:32

23

put luxury condominiums in half the building, 14:32

24

and look at these strange programmatic needs. 14:32

25

A day care center? I mean I would have 14:32

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Proceedings

2

thought that they would have probably wanted 14:32

3

to have a reading room. At least that's more 14:32

4

like a programmatic need. And a rental school 14:32

5

which anybody can go to which pays rent to the 14:32

6

institution, these are pretty marginal 14:32

7

programmatic needs as they are, and they can 14:32

8

easily fit in half the building. So, 14:32

9

therefore, the programmatic needs requirement 14:32

10

does not extend to luxury condominiums. 14:32

11

Turning now to the community. You heard 14:32

12

what the Community Board said. They voted 14:33

13

against all seven of these variances. You 14:33

14

have heard what the narrow community on West 14:33

15

70th Street have said because all those that 14:33

16

we don't represent must have been here 14:33

17

themselves personally throughout one of these 14:33

18

hearings. 14:33

19

The community doesn't want it and you 14:33

20

know why Community Board Number 7 was right? 14:33

21

And as I think you know, I was a Community 14:33

22

Chair, Board Chair before, and we don't always 14:33

23

get it right and you don't always listen to 14:33

24

us, but Community Board 7, by heavens, got 14:33

25

this exactly right. 14:33

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1 Proceedings

2 The first thing that came before them 14:33  
3 was the landmark application and they looked 14:33  
4 and they said does this building, as it is 14:33  
5 proposed, is it suitable for this landmark, 14:33  
6 does it mess it up, having nothing to do with 14:33  
7 zoning, and they were smart enough for once to 14:33  
8 look at it and say okay, it doesn't mess up 14:34  
9 the building. It's not inappropriate. So 14:34  
10 they said to Landmarks, we don't have any 14:34  
11 objection if you give us a certificate of 14:34  
12 appropriateness. 14:34  
13 That has nothing to do with zoning 14:34  
14 though because when it came back to C after 14:34  
15 Landmarks said what it said, does it fit into 14:34  
16 the community from a zoning standpoint, 14:34  
17 because that is your job. You don't have 14:34  
18 anything to do with appropriateness and 14:34  
19 Landmarks doesn't have anything to do with 14:34  
20 zoning. So they looked at it after it came 14:34  
21 back and said it's too big and it's too fat. 14:34  
22 Forget about too ugly because you know what I 14:34  
23 think about the aesthetics of this building, 14:34  
24 but that's just my opinion. All I know is 14:34  
25 that land architects from Denmark and Iceland 14:34

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1 Proceedings

2 are not going to be traipsing over to look at 14:34  
3 this piece of work. 14:34

4 But in any event, what they said was 14:34  
5 from a zoning standpoint it doesn't work, and 14:34  
6 they got it exactly right. And my friend 14:34  
7 Mr. Friedman often gets these two confused. 14:35  
8 When he comes to you and he says that the 14:35  
9 Bloomberg administration has approved this, 14:35  
10 which is total nonsense, and he implies by 14:35  
11 that that Landmarks has been the final word on 14:35  
12 zoning, it's totally ridiculous. 14:35

13 Even Community Board 7 got that right 14:35  
14 and why did they get it right? Because we 14:35  
15 have given you a list of seven or 10 or 12 14:35  
16 other examples on Central Park West where 14:35  
17 there are cultural institutions and where 14:35  
18 behind it there are low-rises and they know 14:35  
19 that the Upper West Side of Manhattan today is 14:35  
20 probably the most desirable place to live in 14:35  
21 New York. Maybe Fifth Avenue or Park Avenue 14:35  
22 on parts of it, but Central Park West is 14:35  
23 catching up. 14:35

24 And if the trend continues, it is the 14:35  
25 most desirable place to live in New York. Why 14:35

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Proceedings

2 is that? Because of its character. High 14:36  
3 buildings on the avenues. Not even talking 14:36  
4 about Columbus Avenue, I don't know what 14:36  
5 happened there, but just Central Park West for 14:36  
6 a while, and brownstones four to six stories, 14:36  
7 that is what makes it unique. That's what 14:36  
8 makes it valuable and that's why people get 14:36  
9 upset about it. And you have never once, 14:36  
10 never once departed from mid-block zoning on 14:36  
11 the Upper West Side, to depart from this four- 14:36  
12 to six-story brownstones. I couldn't find one 14:36  
13 single case where you have ever done it 14:36  
14 before. 14:36  
15 And if you said all right, so the 14:36  
16 buildings are on Columbus or Central Park 14:36  
17 West, well, because you are again an 14:36  
18 institution and religious institution, we will 14:36  
19 let you put a high-rise a hundred feet in, 150 14:36  
20 feet in, we will move it back just for you, 14:36  
21 that's the beginning of the end because that's 14:36  
22 not what the zoning law says. 14:36  
23 That's not what the character of the 14:37  
24 neighborhood is and it will really open a 14:37  
25 Pandora's box for you. The rule is that 14:37

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Proceedings

2 high-rises are on the avenues. Mid-block 14:37

3 zoning is for six-storied brownstones. Of 14:37

4 course there are some anomalies there, which 14:37

5 existed before the Code, but you have 14:37

6 steadfastly said you are not in the business 14:37

7 to perpetuating anomalies. Don't do it here. 14:37

8 THE CHAIRPERSON: Thank you, Mr. Lebow. 14:37

9 Next speaker. 14:37

10 MR. GREER: Madam Chair, I am James 14:37

11 Greer. I was before you before. I will be 14:37

12 very brief. I want to address, as I have been 14:37

13 addressing, the issue of programmatic needs, 14:37

14 particularly for classrooms. I remind the 14:37

15 Board that since November you had a long 14:37

16 series of discussions with the applicant and 14:38

17 its lawyers, requesting detailed information 14:38

18 about the programmatic needs for classroom 14:38

19 space and particularly the relationship 14:38

20 between CSI and its tenant school, Beit Raban. 14:38

21 There has been a lot of paper. There has been 14:38

22 a lot of talk, and with great respect to the 14:38

23 applicant and its lawyers, you still don't 14:38

24 have the answer. 14:38

25 I have been through this and read part 14:38





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1 Proceedings

2 arbitrary and capricious. We would rather the 14:41  
3 Board get it right now. In neglecting its 14:41  
4 obligations as we see them, the Board was able 14:41  
5 to shape the record to meet the Board's or 14:41  
6 someone's desired outcome. 14:41

7 Not only does the Board not ask certain 14:41  
8 questions, but it ignores objective and expert 14:41  
9 testimony from the opponents. And I will be 14:41  
10 specific. Consider Finding A and you all know 14:41  
11 that it requires, among other things, 14:41  
12 practical difficulties or unnecessary 14:41  
13 hardships that arise, which comply strictly 14:41  
14 with the provisions of the resolution. 14:41

15 Now, yesterday at the executive session 14:41  
16 I heard no discussion of that. And also you 14:42  
17 lumped all the variances together. Now, in 14:42  
18 this case the applicant has kindly stated in 14:42  
19 its last submission that access and 14:42  
20 accessibility hardships are the heart of its 14:42  
21 application. In fact, it referred to it 30 14:42  
22 times in its last submission, and yet the 14:42  
23 Board has really never gone into that to 14:42  
24 figure out what they are talking about as it 14:42  
25 relates to Finding A, which requires that 14:42

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Proceedings

connection between the hardship arises from 14:42  
the strict compliance with the zoning 14:42  
resolution. 14:42  
So here we have an issue that is, 14:42  
without question, legally relevant, and then 14:42  
mandatory findings and the applicant says is 14:42  
the heart of its application. So what do we 14:42  
have in the record? We keep asking the Board 14:42  
to ask and get into these issues and, frankly, 14:43  
I think we are ignored. I don't understand 14:43  
how this wasn't taken care of months or over a 14:43  
year ago, where we would not see it 30 times. 14:43  
30 times in one submission? 14:43  
So here is the question. Can the 14:43  
applicant explain how a building strictly 14:43  
complying with the zoning resolution does not 14:43  
address the access and accessibility 14:43  
difficulties, a hardship described by the 14:43  
applicant as the heart of its application? I 14:43  
have never heard that question asked. Has the 14:43  
Chair asked that? No. Has the Vice Chair? 14:43  
No. Has Commissioner Hinkson so inquired? 14:43  
No. Neither Commissioner Otley-Brown nor 14:43  
Commissioner Montanez. 14:43

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Proceedings

2

Has the applicant answered this? No. 14:43

3

Where is the connection of the heart of its 14:44

4

application to this mandatory finding, which 14:44

5

wasn't even referred to yesterday? So I don't 14:44

6

know how the Board is going to make this 14:44

7

Finding A, which is critical particularly as 14:44

8

it applies to the upper building. We have 14:44

9

provided our expert architect, providing 14:44

10

information on that. We have provided 14:44

11

schematics analysis, anything you can possibly 14:44

12

do. And interestingly, for the opposition 14:44

13

testifies, no one questions it. None of the 14:44

14

Commissioners question it. 14:44

15

The applicant doesn't question it, so it 14:44

16

seems to me the answer to the question, there 14:44

17

is no relationship whatsoever between this 14:44

18

hardship and any requested variance. There is 14:44

19

no question and that's what we will base our 14:44

20

Article 78 proceeding on, including the 14:44

21

refusal of the Board to collect the 14:45

22

information on something so material. It 14:45

23

cannot just ignore it. 14:45

24

And in a related matter, at the last 14:45

25

hearing I quoted something from the applicant 14:45

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1 Proceedings

2 on this same issue. Again, I think where they 14:45  
3 say as a community physical condition, a 14:45  
4 development site on the remaining one-third of 14:45  
5 the zoning lot, whose feasible development is 14:45  
6 hampered by requirements to align its street 14:45  
7 wall and east elevation with the existing 14:45  
8 synogogue building. You may recall I read 14:45  
9 that at the last hearing. 14:45

10 We had a meeting with staff after that. 14:45  
11 I asked your entire staff if they could 14:45  
12 explain to me what this is all about. I don't 14:45  
13 know what they mean. Aligning the street wall 14:45  
14 with the existing synogogue building, and this 14:45  
15 is a unique physical condition? Have I heard 14:46  
16 anything from the applicant? No. Do you 14:46  
17 know? Will you repeat this in a finding 14:46  
18 without knowing what it means? I would hope 14:46  
19 not. 14:46

20 And this is not the only material issue 14:46  
21 that I believe the Board has not inquired 14:46  
22 into. It hasn't inquired, as far as I know, 14:46  
23 why the congregation's programmatic needs 14:46  
24 can't also be included on the fifth and sixth 14:46  
25 floor. I mean, after all, the caretaker's 14:46

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1 Proceedings

2 apartment could be moved up there, giving more 14:46  
3 space on the fourth floor. Never a question. 14:46  
4 Has it been raised in the opposition's 14:46  
5 statements over and over again for the last 16 14:46  
6 months? Yes. Have you ever gotten an 14:46  
7 explanation? No. 14:46  
8 The Board blinds itself to the income, 14:46  
9 current and future, from the tenant's school, 14:46  
10 Beit Raban. Is that relevant? Well, we see 14:47  
11 in the financials that were discussed 14:47  
12 yesterday that you are going to have the 14:47  
13 hypothetical developer pay for the rights of 14:47  
14 the entire building, but you just want to 14:47  
15 ignore the fact that they are getting a 14:47  
16 million dollars or so a year. Well, the only 14:47  
17 hard information we have is an initial filing 14:47  
18 that Beit Raban made with the IRS showing 14:47  
19 \$480,000 a year and it's doubled in size. You 14:47  
20 can check the fact. It's doubled it. But you 14:47  
21 haven't inquired. How can you proceed and 14:47  
22 make the kind of findings you are going to 14:47  
23 make on the feasibility with letting them 14:47  
24 charge for six floors with only two floors 14:47  
25 being used in Scheme A? 14:47

1 Proceedings

2 I don't understand that. Nor do I think 14:47  
3 a court will. And I -- in that regard, I 14:47  
4 think a court also will have substantial 14:48  
5 questions about the analysis that yesterday I 14:48  
6 think I heard the Board suggest it was okay to 14:48  
7 charge a hypothetical developer with six 14:48  
8 floors of space and only use two. I don't 14:48  
9 think that's going to go over. I know some of 14:48  
10 the Commissioners had questions about that and 14:48  
11 that will be one other item. 14:48

12 We have Marty Levine is tied up in 14:48  
13 another proceeding and I hope he might get 14:48  
14 here in a few minutes, but if not, I wanted to 14:48  
15 point out a couple of things. Last time we 14:48  
16 pointed out that the pages were missing in the 14:48  
17 construction estimate, so we got them for two 14:48  
18 or three of the proposals. Not for Scheme A, 14:48  
19 though. And there was sort of, if I may, a 14:48  
20 snide remark that someone said, we can look 14:49  
21 this over. But we did, and if you recall, 14:49  
22 right at the beginning of this proceeding we 14:49  
23 looked at these estimates and said what do 14:49  
24 they mean by "school"? What do they mean by 14:49  
25 "residential"? We asked staff; they don't 14:49

1 Proceedings

2 know. 14:49

3 But what this disclosed now, that every 14:49

4 single residential construction estimate, they 14:49

5 are including as a condominium the two-bedroom 14:49

6 apartment on the fourth floor, because the 14:49

7 construction estimated that this residential 14:49

8 wasn't going to be a condominium. That is 14:49

9 perhaps a million dollar error in every 14:49

10 single -- every single feasibility study. And 14:49

11 we just found out because that could have been 14:49

12 answered a year and a half ago. And we still 14:49

13 don't know what the assumptions are for the 14:49

14 allocations. 14:49

15 Another little minor thing that showed 14:49

16 up in the last large submission in May was, 14:50

17 unbelievably, if you recall the purpose behind 14:50

18 or the reason for the second-floor extension, 14:50

19 the rear extension, was the toddler program, 14:50

20 which suddenly appeared out of nowhere, 14:50

21 because in everything else in the beginning of 14:50

22 this proceeding and in large Landmarks, it was 14:50

23 offices. 14:50

24 Well, they can't keep their story 14:50

25 straight because go look at pages 30, 31 of 14:50

00027

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Proceedings

2 the May 13th application and guess what? Now 14:50  
3 they are going to be putting offices back on 14:50  
4 the second floor. So one day it's toddlers, 14:50  
5 the next day it's offices. They have a table 14:50  
6 there that came from a year and a half ago and 14:50  
7 why? This isn't a mistake. The story isn't 14:50  
8 being told straight. It's hard to keep 14:50  
9 everything straight and that's what happened 14:50  
10 again. In fact, it's happened hundreds of 14:51  
11 times. 14:51  
12 The last thing -- so I mean that's 14:51  
13 pretty incorrect. How are you going to make a 14:51  
14 finding on the second floor? Do they have a 14:51  
15 programmatic need for 60 toddlers when right 14:51  
16 now they only have five toddlers, two hours a 14:51  
17 day two days a week, and they are going to 14:51  
18 have 60 toddlers on this one floor. This is 14:51  
19 bizarre. And I don't know how you can buy 14:51  
20 that. 14:51  
21 I know you have to give deference to the 14:51  
22 synogogue or you feel you do, but deference 14:51  
23 doesn't mean accepting anything they say when 14:51  
24 it so conflicts with everything else they are 14:51  
25 saying. They can't keep the story straight. 14:51

00028

1 Proceedings

2 So do you have any, Marty -- oh, okay. I am 14:51  
3 done with my part of the presentation. Do you 14:52  
4 have any questions? 14:52

5 THE CHAIRPERSON: Any questions for 14:52  
6 Mr. Sugarman? Okay, thank you. The next 14:52  
7 speaker. 14:52

8 MR. PRINCE: I am going to distribute my 14:52  
9 statement and an attachment, if I may. Thank 14:52  
10 you. Thank you and just really topline my 14:52  
11 remarks. 14:52

12 THE CHAIRPERSON: Can you state your 14:52  
13 name for the record. 14:52

14 MR. PRINCE: My name is Ron Prince and I 14:52  
15 have spoken before this Board and I am part of 14:52  
16 a committee formed by the Board of 18 West 14:52  
17 70th Street, and, obviously, we are very 14:52  
18 disappointed in the direction things are 14:52  
19 taking here. 14:52

20 The thing that we really want to go on 14:52  
21 record to say is that the applicant has said 14:52  
22 in its recent filings, that has mentioned its 14:52  
23 concern to blocking the windows on 91 Central 14:52  
24 Park West, and I guess we would like to 14:53  
25 applaud their half-sensitivity to blocking 14:53

1 Proceedings

2 windows. But I guess when you are on 70th 14:53  
3 Street, and not Central Park West, your 14:53  
4 windows don't matter as much as if you are on 14:53  
5 Central Park West. 14:53

6 So you will see in this statement some 14:53  
7 remarks related specifically to the reality 14:53  
8 that all through this process, that the 14:53  
9 congregation's submissions have failed to take 14:53  
10 into account in their environmental 14:53  
11 assessments the effect that their proposed 14:53  
12 building would have on the windows of 18 West 14:53  
13 70th Street. That continues for the most 14:53  
14 recent May filing and it's simply disgraceful 14:53  
15 that that would be tolerated. 14:53

16 The second attachment you will see 14:53  
17 relates to the shadow study. This is a set of 14:53  
18 photographs I submitted before. Given the 14:53  
19 shadow study, I thought it has bearing again, 14:53  
20 and the synogogue's shadow study that says 14:53  
21 whatever shadows are produced, I believe the 14:54  
22 language is "only incremental." Of course 14:54  
23 it's preposterous to think where there is a 14:54  
24 vacant lot and then there is a 14:54  
25 100-whatever-foot-story floor building, that 14:54

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Proceedings

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there will not be a new shadow. And I hope 14:54

3

that study documents for you that the study, 14:54

4

like everything filed, is a sham. 14:54

5

Finally, we want to say that we are 14:54

6

sorry the Board is inclined to accept CSI's 14:54

7

claim. We think it's time for you to find 14:54

8

your voice and commitment to the Zoning Law 14:54

9

and reject this application now. Thank you. 14:54

10

THE CHAIRPERSON: Thank you. Our next 14:54

11

speaker. 14:54

12

MS. NIAL: Good afternoon, members of 14:54

13

the Board, Madam Chairman. My name is Susan 14:54

14

Nial, and I think you have received a number 14:54

15

of letters from me, and I am here as counsel 14:54

16

representing the opposition, but on a pro bono 14:54

17

basis. 14:55

18

And I want to talk a little bit about 14:55

19

some conceptual items that I think have been 14:55

20

missing in the discussion of this case. In 14:55

21

fact, I think they have been misinterpreted in 14:55

22

a large sense. The Chairman has made a lot of 14:55

23

good comments about how important public 14:55

24

participation is in this process and how 14:55

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important this Board is to the protection of 14:55

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Proceedings

neighborhoods and the protection and the 14:55  
quality of life in the City and the 14:55  
enforcement of the zoning regulations. 14:55  
Clearly, you balance the interests of 14:55  
developers and the interests of the 14:55  
neighborhoods, but in that balance, that 14:55  
balance has to look for preserving 14:55  
neighborhoods. 14:55  
In this case, I think the variances 14:55  
being asked for have been shown almost beyond 14:55  
a reasonable doubt to have been destructive. 14:55  
Professor Sklar has written you a letter 14:55  
regarding contextual zoning, a concept which 14:56  
has been very important in protecting 14:56  
neighborhoods in this City. A concept and, in 14:56  
this particular case, contextual zoning and 14:56  
mid-block zoning was considered and 14:56  
democratically enacted. And I suggest to you 14:56  
that granting these variances as they now 14:56  
stand before you would destroy that whole idea 14:56  
of contextual zoning and, in fact, do very 14:56  
grave damage to a legitimate considered system 14:56  
of regulation of land use. 14:56  
There has been a lot of discussion about 14:56

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Proceedings

2           deference and how religious institutions           14:56  
3           deserve deference and there have been a lot of   14:56  
4           law review articles and newspaper articles       14:56  
5           written about land use and religious           14:56  
6           institutions. The concept of deference to       14:56  
7           religious institutions when they wanted to       14:56  
8           build a church, build a synogogue, have some       14:57  
9           parking space so that their congregants can       14:57  
10          come and worship, was one thing; but we have   14:57  
11          seen a dramatic change in the way that           14:57  
12          religious institutions wish to use their land,   14:57  
13          the way nonprofit institutions wish to use       14:57  
14          their land. This is a perfect example of that   14:57  
15          change.   14:57  
16                 That change is they use their land not   14:57  
17          for congregational purposes, religious           14:57  
18          exercise purposes, which is the thing to which   14:57  
19          deference must be given, but rather they use     14:57  
20          it to make a profit. Now, maybe you have a       14:57  
21          different definition of profit than I might,      14:57  
22          so we will call it money, so that we won't run   14:57  
23          up against some professional definitions.       14:57  
24                 In this case, money has always been at   14:57  
25          the bottom, at the center, and at the top of     14:57

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Proceedings

why these variances have been asked for. And 14:58  
you yourselves have voiced concern about that 14:58  
being the issue. Your decisions passed have 14:58  
said that that kind of, quote, "programmatic 14:58  
need," getting revenue to fund your 14:58  
congregants' exercise, is not an appropriate 14:58  
programmatic need. I was stunned when I heard 14:58  
a Commissioner suggest that in fact, the 14:58  
record should be changed here and that 14:58  
information regarding that request for funding 14:58  
as a result of these variances should be taken 14:58  
out of the applicant's statement of support. 14:58  
I put it to you that that is not an 14:58  
appropriate programmatic need and that that is 14:58  
really the reason that these variances are 14:58  
being asked for. So I would ask you to 14:58  
consider your obligation to the community. 14:58  
Not just this small community of 70 West, but 14:59  
rather the larger community, because there, 14:59  
again, there is a misconception of the 14:59  
importance of precedent. While you may argue 14:59  
in some of your rulings that they are limited 14:59  
to the facts, that will not happen here. If 14:59  
you accept, as you have said in some of your 14:59

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Proceedings

prior rulings, that revenue generation by the 14:59  
building of luxury condominiums is an 14:59  
appropriate basis for granting 14:59  
neighborhood-destroying variances, you will 14:59  
without question open the floodgates. You 14:59  
will without question generate strife and 14:59  
concern as to why some will be allowed to use 14:59  
that as a programmatic need to support 14:59  
variances, while others were not. 15:00  
If you allow a complete deference to 15:00  
everything that's been said by this applicant 15:00  
because they are a religious institution, 15:00  
whether it was regarding the number of 15:00  
classrooms they need, whether it was regarding 15:00  
accessibility, et cetera, without probing 15:00  
those representations, there again they are 15:00  
being treated differently. Not just 15:00  
differently from other for-profit developers, 15:00  
which they surely are, but they will also be 15:00  
treated differently than previous nonprofit 15:00  
and religious applicants that you have had 15:00  
before you in the past, where you have looked 15:00  
at how many classrooms they needed, where you 15:00  
have looked at the size of those classrooms, 15:00

00035

1 Proceedings

2 and where you have said to them you don't need 15:00  
3 this, you don't need that, you will take that 15:00  
4 out and you will not use that. 15:00

5 So I ask you to consider seriously your 15:01  
6 obligation to the community and 70 West, your 15:01  
7 obligation to the zoning resolution, and your 15:01  
8 obligation to maintain the kind of 15:01  
9 neighborhood control over and City, control 15:01  
10 over development, and not to open the flood 15:01  
11 gates, which will surely happen if you grant 15:01  
12 these variances. Thank you. 15:01

13 THE CHAIRPERSON: Mr. Lebow, is that the 15:01  
14 conclusion of your presentation? 15:01

15 MR. LEBOW: Almost, except for me. Our 15:01  
16 last speaker. Mark Lebow for the opponents. 15:01

17 Our last speaker was supposed to be 15:02  
18 Martin Levine, who is from Metropolitan 15:02  
19 Valuation Services Real Estate Consulting and 15:02  
20 Appraisal, and, as you recall, the applicant 15:02  
21 submitted a report by Freeman Frazier last 15:02  
22 week which contained a number of financial 15:02  
23 conclusions, especially about economic 15:02  
24 hardship, a rather dubious detour to begin 15:02  
25 with, and this would have been his response. 15:02

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Proceedings

2

I ask that you take it in lieu of his 15:02

3

speaking today, and I would only like to read 15:02

4

one paragraph from what he says. And he is an 15:02

5

MAI, a Member of the Appraisal Institute, and 15:02

6

does point out that Mr. Freeman's CV does not 15:02

7

indicate that he is a member of any recognized 15:02

8

real estate appraisal organization, or 15:02

9

possesses any valuation licenses. 15:02

10

Mr. Levine, so I shall just conclude 15:02

11

with reading his paragraph, one paragraph. 15:02

12

"Inconsistencies run amok in the Freeman 15:03

13

Frazier reports from the land value, the 15:03

14

construction costs, soft costs, sellable area 15:03

15

measurement, profit calculation. Justifying 15:03

16

their inconsistencies, sometimes they cite 15:03

17

BSA's submission practice, which they do not 15:03

18

document, but only assert. Most of the time 15:03

19

they ignore the BSA's own directives to submit 15:03

20

documentation." 15:03

21

That concludes the presentation by the 15:03

22

opposition, but I am here to answer any 15:03

23

questions that you may pose to me or, 15:03

24

derivatively, to anyone else. 15:03

25

THE CHAIRPERSON: Are there any 15:03





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Proceedings

West Side, where Congregation Shearith 15:06  
Israel's site for its building at 6-10 West 15:06  
70th Street is located. 15:06  
"I have spoken against CSI's application 15:06  
at each of the three previous hearings before 15:06  
the Board of Standards and Appeals and I am 15:06  
disappointed that this application is being 15:06  
heard yet again. CSI's latest submissions do 15:06  
not modify any of the requested variances, all 15:06  
of which are in direct contradiction with the 15:06  
letter and spirit of the zoning resolution and 15:06  
the interests of the community. Therefore, my 15:06  
objections to the original application still 15:06  
stand. 15:06  
"In the interest of brevity, I will 15:06  
refer you back to my previous testimony. 15:06  
However, I feel compelled to repeat that none 15:06  
of the variances requested satisfy all of the 15:06  
criteria required by Section 72-21 of the 15:06  
zoning resolution. Granting these variances, 15:07  
in light of the application's failings, would 15:07  
violate the zoning resolution and, thus, I 15:07  
strongly urge the BSA to deny CSI these 15:07  
variances. Thank you." 15:07

00040

1 Proceedings

2 THE CHAIRPERSON: Thank you. The next 15:07  
3 speaker. 15:07

4 MS. BLUMKIN: My name is Linda Blumkin. 15:07  
5 I reside at 11 East 85th Street, and I am here 15:07  
6 as a concerned citizen concerned about the 15:07  
7 issues presented by this application for our 15:07  
8 entire City, not just this block and not just 15:07  
9 the West Side. 15:07

10 What we have here is what would seem to 15:07  
11 a lay person, or to a lawyer like myself, who 15:07  
12 is not a real estate specialist, to be a very 15:07  
13 simple situation. You have an institution 15:07  
14 that has more than enough space to build an 15:07  
15 as-of-right building that will more than 15:07  
16 adequately address its programmatic needs. 15:07  
17 Why that is not the end of the inquiry and why 15:07  
18 this proceeding has been going on for so many 15:08  
19 years totally escapes me. 15:08

20 We are not talking now about variances 15:08  
21 to fit in more classrooms or more rabbis or 15:08  
22 more social halls or more anything else having 15:08  
23 to do with this synogogue. Instead, we are 15:08  
24 talking about luxury condos and penthouses and 15:08  
25 terraces and Central Park views from luxury 15:08

00041

1 Proceedings

2 condos and penthouses and terraces. I simply 15:08  
3 cannot begin to understand why this kind of a 15:08  
4 proceeding is being entertained here, and to 15:08  
5 warn that this kind of a proceeding, if 15:08  
6 entertained here, has implications for the 15:08  
7 entire City because there are many other 15:08  
8 institutions that are blessed with more than 15:08  
9 enough space for their programmatic needs as 15:08  
10 well. 15:08

11 I was present at a hearing some months 15:08  
12 ago where the rabbi spoke and concluded his 15:09  
13 remarks by talking happily about how his 15:09  
14 congregation was growing, how it attracted 15:09  
15 more families, how he saw nothing but growth 15:09  
16 in its future and God bless them. That would 15:09  
17 be a wonderful thing for them to see, and then 15:09  
18 the rabbi said to you, in words or substance, 15:09  
19 and, you know, I may well be back before this 15:09  
20 panel in a few years to ask for more 15:09  
21 variances. 15:09

22 But let's look at the situation. What 15:09  
23 this synogogue and this rabbi have done is 15:09  
24 sell their birth right, their potential for 15:09  
25 future expansion, by instead of building a 15:09



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## Proceedings

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Assembly District, which includes Congregation 15:10

3

Shearith Israel and the site of the proposed 15:10

4

new building. I regret that the legislative 15:11

5

session in Albany prevents me from appearing 15:11

6

at today's hearing. 15:11

7

"Congregation Shearith Israel has 15:11

8

applied to the Board of Standards and Appeals 15:11

9

for seven zoning variances that will allow it 15:11

10

to construct a new community house with five 15:11

11

residential units on the upper floors. If the 15:11

12

BSA approves these variances, the new 15:11

13

buildings would harm its neighbors, the 15:11

14

neighborhood, and advance a dangerous trend of 15:11

15

land use. Hundred of pages of new submissions 15:11

16

and responses have been exchanged since these 15:11

17

proceedings began in November. However, the 15:11

18

underlying issues have not changed. 15:11

19

"I have previously testified that the 15:11

20

application falls drastically short of 15:11

21

conditions required under the five findings 15:11

22

required for the variances under the zoning 15:11

23

resolution. The applicant has still failed to 15:11

24

prove otherwise. Repeatedly the community has 15:11

25

shown that an as-of-right building can 15:11





## 1 Proceedings

2 Has the applicant overcome Commissioner 15:13  
3 Otley-Brown's observation at the November 7th 15:13  
4 hearing. She said, quote, "It's my opinion 15:13  
5 that residential use to raise capital funds to 15:13  
6 correct programmatic deficiencies is not, in 15:13  
7 and of itself, a programmatic need, and I 15:13  
8 think if we open the door here and allow that 15:14  
9 argument in, we are going to have a hard time 15:14  
10 turning down every other religious institution 15:14  
11 that wants to place residential in their 15:14  
12 backyard in order to finance expansion," end 15:14  
13 quote. 15:14

14 Are we to believe that this approval 15:14  
15 will not be recognized by those institutions 15:14  
16 as an open invitation? None of us is that 15:14  
17 innocent. 15:14

18 Tom Robbins, in the April 2nd Village 15:14  
19 Voice referred to the Doctoroff doctrine: The 15:14  
20 more building the better, and don't sweat the 15:14  
21 small stuff. Whether it's five stories or 55 15:14  
22 stories, this isn't small stuff. You are not 15:14  
23 a panel of platonic philosopher kings in 15:14  
24 search of the best possible solutions to a 15:14  
25 land use issue. You have an important, but 15:14



00048

1 Proceedings

2 Are there any more speakers on this item? Any 15:15  
3 more speakers? Okay, Mr. Friedman. 15:15  
4 MR. FRIEDMAN: Thank you, Madam Chair. 15:16  
5 We do not have major substantive points to 15:16  
6 rebut here. We have a detailed record in 15:16  
7 front of you and a number of statements back 15:16  
8 and forth that the opposition had. We would 15:16  
9 hope to have you close your record and make 15:16  
10 your decision based on the record before you. 15:16  
11 I will, however, provide some comment. 15:16  
12 We do not recognize yesterday's events as a 15:16  
13 turnaround or look for further turnarounds. 15:16  
14 That's not what this Board has ever been 15:16  
15 about. This is a methodical effort to work on 15:16  
16 an application, to address questions. There 15:16  
17 is back and forth. Alternates are put 15:16  
18 forward. Alternates are rejected. But in the 15:16  
19 main, you know, we have reached and I hope, 15:16  
20 unfortunately, reached a methodical end of 15:16  
21 your inquiries, and that there is a case in 15:16  
22 front of you now which we are ready to decide 15:17  
23 and we respect your process and respect your 15:17  
24 methodical way in which you go about building 15:17  
25 your decision-making record. 15:17

## 1 Proceedings

2 The record that you have before you is 15:17  
3 compliant with all issues, especially with 15:17  
4 regard to the shadow studies. It's compliant, 15:17  
5 to the best of our knowledge, with your BSA 15:17  
6 rules and regulations. 15:17

7 I didn't -- do not recall mentioning 15:17  
8 that Landmarks is the official and last word 15:17  
9 on zoning. I believe the statement really 15:17  
10 asks that Landmarks is the final word of this 15:17  
11 administration on important components under 15:17  
12 the City's police power to regulate, and that 15:17  
13 is on aesthetic judgment in historic 15:17  
14 districts, and that judgment is to be accorded 15:17  
15 some very high weight in dealing with the 15:17  
16 general welfare and the finding of 15:17  
17 compatibility with the project in its 15:17  
18 community. 15:17

19 With regard to the concern about 15:18  
20 precedent, the slippery slope that you hear on 15:18  
21 a weekly basis in every application, we 15:18  
22 believe we have provided you with what you 15:18  
23 have required of us and that is to prove the 15:18  
24 local request is truly unique, and that your 15:18  
25 resolution can truly and fairly reflect the 15:18

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## Proceedings

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fact that this is not an application that has 15:18

3

the kind of precedential throw weight that the 15:18

4

opponents wish they could convince you that it 15:18

5

had. 15:18

6

But you have asked us to literally walk 15:18

7

Central Park West from the 60s to the 90s 15:18

8

looking at every possible site that shares the 15:18

9

general zoning parameters of this -- of this 15:18

10

site. To look at all the other specifics, the 15:18

11

individual landmarks, the ability to transfer 15:18

12

development rights, the applicability of 15:18

13

especially Chapter 77, indeed this is a site 15:18

14

which is unique, and the totality of specifics 15:18

15

that we put into the record regarding 15:19

16

uniqueness and practical difficulty are 15:19

17

inherent in the zoning log and are not 15:19

18

general. 15:19

19

We did not come before you to say we are 15:19

20

in a landmark district and that's a hardship, 15:19

21

or we are an individual landmark and that's a 15:19

22

hardship. We brought to you a specific 15:19

23

project, specifically approved by the 15:19

24

Landmarks Commission, which has generated some 15:19

25

difficulties with utilizing our floor area in 15:19

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an as-of-right manner, and that, in 15:19  
combination with several other factors which 15:19  
we put in the record, but we think Landmarks 15:19  
is squarely in your parameters for an approval 15:19  
project. 15:19

And lastly, with regard to the quote 15:19  
from Mr. Jennings, I wish he were here because 15:19  
when I heard that quote, he had never appeared 15:19  
either at Landmarks or before the BSA. 15:19  
Everything that we have submitted by letter on 15:19  
his behalf, but I wanted to ask him how a man 15:19  
as busy as him could walk out of his apartment 15:20  
building, which is noncompliant, and walk over 15:20  
to his office building, which is also 15:20  
noncompliant, at ABC, and take the opportunity 15:20  
to pass judgment on Shearith Israel's vacant 15:20  
lot. 15:20

It seems to me that the concern about 15:20  
the fix being in, or whatever his phrase or 15:20  
whatever the person who wrote that letter's 15:20  
phrase, reflects a deep-seated 15:20  
misunderstanding of the process, and a 15:20  
deep-seated misunderstanding of the role of 15:20  
this Board. Not in adjudicating and not 15:20

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necessarily in protecting neighborhoods and 15:20  
communities, but also, and this is your 15:20  
burden, also to work out the conflicts of 15:20  
protecting institutions who need to expand 15:20  
from a hostile community. And that is as much 15:20  
your charge as any other aspect of your 15:20  
responsibilities, as had been dictated to you 15:20  
and to all of us both in the statute and in 15:21  
the zoning resolution and in judicial opinion. 15:21  
And so with that, I would like to very 15:21  
much thank the Board for its tried and true 15:21  
patience, which are hard, to this application, 15:21  
and I would like to ask that the record be 15:21  
closed. It can be left open, we received some 15:21  
information today that we might want to write 15:21  
a letter on. It will only take us a day or 15:21  
two to get that in, but we would like to ask 15:21  
the Board to close the record and schedule a 15:21  
date for a possible decision. Thank you very 15:21  
much. 15:21  
THE CHAIRPERSON: Thank you, 15:21  
Mr. Friedman. Any questions for the 15:21  
applicant? 15:21  
What we will do is we will close the 15:21

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2 hearing today and we will set a schedule. As 15:21  
3 you know, Mr. Friedman, there were a few 15:21  
4 questions the Board raised today. I would 15:21  
5 like to add just a few more to be clarified 15:21  
6 for us, and some of this has to do with 15:21  
7 language that is in your papers that perhaps 15:21  
8 the opposition may not understand. I think I 15:22  
9 have an understanding of it, but just to 15:22  
10 clarify the record, the discussion you had 15:22  
11 about aligning the street wall, I believe you 15:22  
12 are really talking about centering it on the 15:22  
13 landmark; is that right? And if I am wrong, 15:22  
14 then please clarify that to us. But there was 15:22  
15 some language about how that forms some kind 15:22  
16 of hardship or difficulty in your measuring of 15:22  
17 your building. 15:22  
18 I think, for the record, it's worthwhile 15:22  
19 to discuss the caretaker's apartment and the 15:22  
20 need to include it within the four floors. I 15:22  
21 think it would be helpful in the record to 15:22  
22 also just clarify about the construction 15:22  
23 estimates. Our understanding is the 15:22  
24 caretaker's apartment is really an accessory 15:22  
25 to community facility use, and should not be 15:22

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2 in the construction costs for the residence, 15:22  
3 and that is the assumption that I think the 15:23  
4 Board members have made. 15:23

5 If you can just clarify that and I think 15:23  
6 this -- the comment that Commissioner 15:23  
7 Otley-Brown made about the programmatic need, 15:23  
8 regarding revenue generation, I recall we said 15:23  
9 that many times, that we feel that in of 15:23  
10 itself is not a part of programmatic need. I 15:23  
11 know you still have it in your papers. The 15:23  
12 Board may reject that argument, but I think 15:23  
13 it -- I know it would be better for the papers 15:23  
14 to take that out. 15:23

15 Are there any other comments? Okay, all 15:23  
16 right. So we will set a schedule. And there 15:23  
17 is one other comment which actually has to do 15:23  
18 with your drawings, and that had to do with 15:23  
19 ensuring that the facility takes care of 15:23  
20 garbage, and if you can just reflect that on 15:23  
21 your drawings, where you are going to keep the 15:23  
22 refrigerated, I guess, waste till -- since it 15:23  
23 was, I think, if I remember correctly, it's a 15:24  
24 recommendation or condition that you said that 15:24  
25 would mitigate any impact. Yes. All right? 15:24

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2 Anything else? Yes. 15:24

3 MS. MONTANEZ: Just that they will 15:24

4 answer the other questions we raised today 15:24

5 regarding the financials. 15:24

6 THE CHAIRPERSON: Absolutely. So we 15:24

7 identified a few issues for Mr. Friedman that 15:24

8 he will be responding to, so we will set a 15:24

9 schedule. All right, Mr. Friedman, we will 15:24

10 give you two weeks, until July 8th, to 15:24

11 respond. We will allow Mr. Lebow and his crew 15:24

12 up to July 29th. And, Mr. Friedman, you can 15:24

13 respond back by August 12th. And we will set 15:24

14 a decision for August 26th. 15:24

15 MR. FRIEDMAN: Thank you very much. 15:25

16 THE CHAIRPERSON: Make a motion. 15:25

17 THE HEARING CLERK: Chair, Commissioner 15:25

18 Srinivasan.

19 THE CHAIRPERSON: Aye.

20 THE HEARING CLERK: Vice Chair,

21 Commissioner Collins.

22 MR. COLLINS: Aye.

23 THE HEARING CLERK: Commissioner 15:25

24 Hinkson. 15:25

25 MS. HINKSON: Aye. 15:25

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THE HEARING CLERK:	Commissioner	15:25
Montanez.		15:25
MS. MONTANEZ:	Aye.	15:25
THE HEARING CLERK:	Commissioner	15:25
Otley-Brown.		15:25
MS. OTLEY-BROWN:	Aye.	15:25
(Time noted:	3:25 p.m.)	

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C E R T I F I C A T E

STATE OF NEW YORK )

: ss.

COUNTY OF QUEENS )

I, YAFFA KAPLAN, a Notary Public within  
and for the State of New York, do hereby  
certify that the foregoing record of  
proceedings is a full and correct transcript  
of the stenographic notes taken by me therein.

IN WITNESS THEREOF, I have hereunto set  
my hand this 30th day of June, 2008.

\_\_\_\_\_

YAFFA KAPLAN