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3 COMMUNITY BOARD 7 LAND USE
4 COMMITTEE PUBLIC MEETING
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7 TIME: 7:00 P.M.
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11 LOCATION: Congregation Rodeph Sholom
12 7 West 83rd Street
13 New York, New York
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17 DATE: October 17, 2007
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21 RICHARD ASCHE: Chairperson
22

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1 THE CHAIRPERSON: Ladies and
2 gentlemen, if everybody can take a seat.
3 We have a lot to cover tonight.
4 Everybody be seated and let's
5 try to keep conversations out of the
6 room, if possible. What we're doing
7 tonight, everybody knows why we're here.
8 We're here on an application by CSI,
9 Shearith Israel for variances that will
10 be heard by BSA sometime in the future,
11 we don't know when.
12 There have been a number of
13 objections registered by BSA to the
14 application, and as a consequence, the
15 application has not been calendered for
16 a hearing in BSA. Since BSA feels they
17 need more information before they can
18 vote, it stands to reason that the
19 community board can't vote until we have
20 the same information.
21 So tonight's meeting is not a
22 meeting to vote on this issue. On the

3

1 other hand, we felt that because there
2 are a large number of people that want
3 to weigh in on the issue, the issues are
4 complex and we do have some lead time
5 that we will have, this will be the
6 first of at least two committee, joint
7 committee meetings at which the issues
8 will be first explained, then explored,
9 and then debated. And finally voted on.
10 No vote will be taken tonight
11 and no minds will be made up, in all
12 likelihood, tonight. We will give the
13 develop -- the CSI an opportunity to
14 explain the application and the building
15 they propose to erect. I'm asking them
16 to abbreviate it somewhat. I think you
17 can assume from the -- we're familiar
18 with the institution.
19 We will then, I understand
20 that there's a Power Point in opposition
21 to the application. We'll give whoever
22 is presenting that the opportunity to do

4

1 so. We will then take questions from
2 the floor. We have some -- but I want
3 you all to bear in mind that there will
4 be an opportunity for public debate and
5 speaking at the next meeting, and then
6 another opportunity at the full board
7 meeting.
8 So if you wish to speak on
9 this issue once, you may decide to speak
10 tonight or you may wish to wait until
11 tonight, until the night that everybody
12 is going to be voting, and it won't be
13 held against you either way.
14 We will ask that you refrain
15 from making the same speech to the same
16 committee twice. It's bad enough that
17 we do it.
18 (Laughter.)
19 THE CHAIRPERSON: Without
20 further ado, if you could introduce
21 yourself, who's on your team, what the
22 application is and what exactly we need

5

1 to vote on.

2 MR. FRIEDMAN: Good evening,

3 members of the board. My name is Shelly

4 from the law firm of --

5 VOICES: Speak up.

6 MR. FRIEDMAN: I have with us

7 tonight, there are only three of us here

8 to present tonight, two of us and one to

9 respond to any questions that you may

10 have, Ray Dovell, the project architect.

11 Jack Freeman provided

12 financial analysis for a portion of the

13 application. And it behooves, as the

14 chair said, an application -- a building

15 that they've seen several times before a

16 committee.

17 We had no other speakers and

18 no list of folks to speak to the

19 application. We simply wanted to bring

20 your attention where this project is and

21 where the application is and how, most

22 significantly tonight for your benefit,

6

1 how it's changed since the last time you

2 saw it, since you spent dozens of hours

3 in conference with us and listened to

4 testimony regarding the application.

5 The building itself has

6 changed slightly as a result of the

7 Landmarks' approval. It has not changed

8 since. Ray will, after I've, after I've

9 gone briefly through some of the other

10 changes, present the Power Point, which

11 will focus first on the changes to the

12 building since you last saw it; and

13 secondly, on the variances that we're

14 seeking from BSA, so you have an

15 understanding of those zoning issues.

16 Aside from the building

17 changing, there's a couple of other

18 aspects which have also changed.

19 When we appeared before you

20 last time, we were an applicant. We

21 were not approved by the it was

22 essentially a well reasoned and well

7

1 articulated debate about preservation

2 issues and Landmark issues.

3 Tonight we appear before you

4 with the full imprimatur of the

5 Landmarks Commission, which is approved

6 on behalf of the Bloomberg

7 administration, everything you see here

8 tonight.

9 At this point, I think it's

10 fair to say that that in and of itself

11 is a big change. We are no longer

12 simply an applicant. We have a design

13 approved by and supported by the

14 Bloomberg administration, the Landmarks

15 Commission and we think that's a

16 significant difference that appeared

17 before you last time.

18 While you can take a look or

19 you can certainly disagree with how the

20 commission came out of when it comes to

21 the case before the BSA, the commission,

22 the commission's voice, its certificate

8

1 of appropriateness, which is part of our

2 application which is in front of you and

3 which we have additional copies for you

4 tonight is a pretty clear indication

5 that the issues regarding preservation

6 issues, the issues regarding scale and

7 appropriateness and historical district

8 are now, as far as the State of New York

9 is concerned, the voice of the Landmarks

10 Commission has been heard.

11 As you know, this was the

12 building you're going to see was

13 unanimously approved by the Landmarks

14 Commission and that is, and that is an

15 important element of any application to

16 the Board of Standard and Appeals with

17 regard to the required findings.

18 In addition to the imprimatur

19 of the Bloomberg administration, we have

20 a monitor of the community board in

21 several respect.

22 We have your resolution which

1 while disapproved the application of the
2 Landmark's submission spoke at length
3 about several positive aspects of this
4 application. And those positive aspects
5 have been honored and presented to the
6 Commission and as Ray will take you
7 through, in some cases, the application,
8 the building you're going to see has
9 moved toward the position that you took
10 in the -- in your earlier deliberations.

11 Your resolution spoke
12 appreciably about the symmetry of the
13 building with regard to the east facade.
14 It spoke respectfully about the efforts
15 of the architects to solve some very
16 thorny issues regarding scale and
17 height.

18 And those issues we think of
19 it addressed and progress has been made.
20 And so tonight we come not only with
21 imprimatur of the Landmarks Commission,
22 but to a certain extent relying on your

1 voice and how your voice has informed
2 the Landmarks Commission and helped us
3 make changes to warrant approval of the
4 project.

5 I raise these two seals of
6 approval because in every respect the
7 zoning variances are tied into the
8 building, which is approved by the
9 Landmarks Commission.

10 These, there is a one-to-one
11 relationship between each of the
12 variances and the fact that the
13 commission wanted to see the building a
14 certain way and you wanted to see the
15 building a certain way.

16 As an example, in your
17 resolution, you supported the fact that
18 our design provided a symmetrical
19 building behind the synagogue when
20 viewed from the park. That it was
21 centered, that it was quiet and that it
22 achieved a certain background,

1 background status, so that it did not
2 steal from the voice and presence of the
3 landmark, the way, the view from Central
4 Park and other points east.

5 To achieve that, we need the
6 variances that we're requesting here
7 tonight and we can take you through, if
8 you wish, one by one how those variances
9 -- which variances contribute to that
10 symmetry, and how we cannot achieve that
11 symmetry, we cannot achieve what you
12 asked us to do, and we cannot achieve
13 what the Landmarks Commission asked us
14 to do without the variances being
15 requested here tonight.

16 So this is in large respect
17 the execution phase of the proposal that
18 we put before you, and that was
19 considered at the Landmarks Commission
20 because with the building form now
21 approved, we need to go back and get the
22 zoning to line up behind what you asked

1 us to do and behind what you asked --
2 and behind what the Commission asked us
3 to do.

4 And that's why we rely heavily
5 on the previous voices of the
6 certificate of appropriateness and the
7 previous voices of the community board
8 of resolution in terms of how we move
9 forward with this application.

10 Another significant change is
11 in the closing hours of deliberation
12 when we came to you this building was
13 going to be a Section 74-711 special
14 permit. We took that struggle forward
15 and we believe that was the right
16 approach. The Commission disagreed.

17 The community at large uphold
18 the 74-711 at the end of the day, the
19 Landmarks Commission did support the
20 74-711. But it's important I clarify
21 the record because I said several things
22 in reliance upon the 74-711 application

1 that now will not be part of the BSA
2 discussion.

3 I stated that there will be,
4 that there had to be a preservation
5 purpose served by the application in
6 order to get the 74-711 application.
7 There is no such requirement in the BSA
8 statute.

9 I indicated there would be a
10 plan for continuing maintenance entered
11 into. Deep restriction provided for the
12 long-term within the maintenance of the
13 synagogue. That only comes with the
14 74-711. There's no need for that at the
15 Board of Standard and Appeals.

16 Those two issues the synagogue
17 is going to do voluntarily anyway,
18 because then it sends stewardship over
19 the building, so there's no loss there.

20 There was a statement about --
21 in the community about the requirement,
22 a hope for a restrictive declaration

1 regarding the unused floor area.
2 Restrictive declaration to the province
3 of 74-711.

4 The BSA does not ask for
5 restrictive declarations regarding floor
6 area, so that will no longer be
7 considered. There was, of course, I
8 gave the process 74-711 city counsel for
9 review. The BSA does not go to city
10 counsel for review.

11 It views on the variance will
12 be final and subject only to litigation.
13 That litigation being not against the
14 synagogue but against the city in the
15 form of an Article 78 it will be a suit
16 against the City of New York not against
17 Shearith Israel.

18 So from that standpoint, they
19 had significant changes, maybe not all
20 of them in terms of long-term
21 preservation issues. We for one do not
22 understand why this could not have

1 proceeded as a 74-711. Not withstanding
2 the fact it is a tougher application to
3 get approved, but the Landmarks
4 Commission listened to elements of the
5 community and stressed that we should be
6 going instead to the Board of Standards
7 and Appeals.

8 So that's why we're at the
9 Board of Standards and Appeals through
10 absolutely no effort of our own to get
11 to the easier agency.

12 Two last concepts I want to
13 discuss with you with regard to, I think
14 what you're going to hear tonight, then
15 I'm going to give it over to Ray. One
16 is the issue of financial hardship.

17 As many of you know who have
18 seen these cases for some 20 some odd
19 years, a non profit applicant, the Board
20 of Standard and Appeals does not have to
21 make the finding.

22 In fact, the material that was

1 sent out to you via e-mail you had an E
2 finding provided to you and it clearly
3 says financial hardship shall not be
4 required of a not-for-profit
5 organization.

6 Nonetheless, we've provided
7 financial background information to Jack
8 Freeman's efforts. Through Jack
9 Freeman's efforts, the reason for that,
10 although there will be no finding, no
11 requirement for the BSA to file
12 financial hardship, oftentimes they like
13 to consider finances under E finding the
14 minimum variance requirement.

15 If it's their call, it's a
16 factor they may consider or may not
17 consider, but it's not required if they
18 consider it.

19 But in any event, we had gone
20 through the process preparing financial
21 information. I just want to restate
22 that the financial information is not

1 because the BSA requires it and the BSA
2 will make no finding on hardship.

3 It's simply there if the board
4 chooses to include it among the factors
5 for the minimum variance finding.
6 Something concerned about whether the
7 residential we're asking for is too
8 much, too little, what have you. So
9 that's that.

10 The other question is one of
11 precedence. You will be hearing a lot
12 and you've already seen a lot about how
13 this concept of a not-for-profit seeking
14 the revived residential opportunities in
15 real estate is somehow some new
16 invidious attempt that has never been
17 done before and that is breaking the
18 envelope of what's been done in the City
19 of New York.

20 All I can tell you is the
21 first case I worked on in 1982 in the
22 State of New York is just that when the

1 Jewish Museum proposed to build a
2 residential tower on Fifth Avenue, it
3 ultimately wasn't built although the
4 Landmarks Commission approved it and the
5 City of New York were prepared to issue
6 a building permit.

7 Sticking just to this
8 community board, Trinity School long
9 before 1982 developed as a real estate
10 developer a Mitchell Lama on its site.
11 The roads to Lincoln Center was built a
12 decade ago.

13 You've been considering the
14 Fordham Bugler which asks for
15 residential development on its community
16 facility. This is nothing new. It's
17 been in this community board and
18 throughout the city for decades.

19 And, in fact, when you add to
20 that its cousin, when a not-for-profit
21 sells its air rights to an adjacent
22 developer to build housing. We go from

1 a dozen examples to literally dozens of
2 examples. St. Steven's Church.

3 There are a number of examples
4 in this immediate neighborhood of
5 exactly what Shearith Israel is trying
6 to do now. It is trying to utilize air
7 rights which it has owned since the
8 zoning resolution created air rights for
9 its own programmatic purposes and
10 there's absolutely nothing new with that
11 approach.

12 So I'm going to ask Ray now to
13 step forward and provide you with a
14 survey of the changes in the
15 architecture and give you a basic
16 architectural background in the zoning
17 variances, then if you wish, I'll be
18 happy to come back and talk about the
19 variance application itself.

20 A VOICE: Can you use the
21 mike. State your name and firm.

22 MR. DOVELL: Ray Dovel,

1 Platt, Byard, Dovel, White Architects.
2 What I'm going to start with on the
3 Power Point presentation is a
4 cataloguing of the design changes made
5 from the last time we saw your group
6 after, before the Landmarks Commission
7 ultimately approved it.

8 So if I can ask you to turn,
9 we'll go through them and I'll refer to
10 the model for clarity's sake. The
11 presentation, we split it in two pieces,
12 one dealing with the Landmark approval
13 board, as Shelly said zoning issues.
14 Starting with Landmark's.

15 MR. SIMON: Will you be
16 providing hard copy?

17 A VOICE: Hard copy of what,
18 Bruce?

19 MR. SIMON: Power Point
20 presentation.

21 MR. FRIEDMAN: It's an
22 application already on file.

1 MR. SIMON: But the Power
2 Point isn't. You're presenting a Power
3 Point, will you provide hard copy of the
4 Power Point?

5 MR. FRIEDMAN: If the board
6 asks for it, we'll send it to the board,
7 also.

8 THE CHAIRPERSON: Why don't
9 you send us a disc.

10 MR. DOVELL: We eliminated the
11 second penthouse level, which was the
12 penthouse level above here, it's no
13 longer there. We changed the facade
14 material from terra-cotta to brick or
15 terra-cotta is something this community
16 objected to early on.

17 We dropped the cornice which
18 you can see right along the front street
19 line here to align with the neighboring
20 cornice, and at the suggestion of the
21 Landmarks Commission, we introduced a
22 vertical element at the end of these

1 pieces here to give it a visual support,
2 and to use it as a method for increasing
3 the opening of the doors to the street.

4 Now, here is the -- this is a
5 small piece of the model, which I'll put
6 down here and you can see that effect
7 was. It's a vertical member that
8 supports the brick spangle pieces,
9 visually creates a freestanding column
10 out towards the street to give it a
11 greater presence and more open, openings
12 with doors.

13 Here to the left is the
14 original presentation that you saw, to
15 the right is the approved Landmark
16 submission. You see the upper
17 penthouses is up here, which is now
18 gone. Here you see the vertical element
19 coming through, supporting the ends of
20 the brick spangles. The change of
21 materials and the existing doors.

22 Landmark commented on the

1 required jump of scale from the
2 residential to the monumental aspect of
3 the synagogue. And the most importantly
4 the maintaining of the cornice right
5 now.

6 Here you see the cornice is
7 slightly up above and here you see it
8 now actually six inches below the
9 cornice of the adjacent building to the
10 east.

11 A VOICE: West.

12 MR. DOVELL: This is the back
13 of the building, the effect of this
14 change to the back is simply the
15 reduction of that penthouse level.
16 Otherwise, there's no visible change on
17 the south elevation.

18 Now here, very faintly is the
19 Central Park elevations and here you see
20 the one that we showed to you with the
21 upper penthouse. Here you see the
22 penthouse gone. Landmark talked at

1 length about this symmetrical block from
2 the pedimented portico over the
3 synagogue up to this curtain wall block
4 here and up to the penthouse level.

5 In the finally approved
6 version, we maintain that symmetry of
7 that location. It's very important
8 because these tie in directly to the
9 waivers that follow.

10 MR. FINE: Can I just ask who
11 is adjusting the lights?

12 A VOICE: What's the small
13 building to the left?

14 MR. DOVELL: The parsonage.

15 MR. FRIEDMAN: Just wait a
16 minute.

17 MR. DOVELL: Landmark spent
18 quite a bit of talk time talking about
19 the symmetries and how it pedimented
20 this point here. So the scheme was
21 finally approved has the legs that line
22 up with the impediment on each side and

1 go up to the setback penthouse level.
 2 And you can see that quite
 3 well here. You can see in physical
 4 form. You can see in physical form here
 5 what the, how that works. The edge --
 6 (Laughter.)
 7 MS. COWLEY: I think you can
 8 refer back to the images. I think we
 9 stabilized the lighting.
 10 A VOICE: Motion to adjourn,
 11 all in favor?
 12 (Pause in the Proceedings.)
 13 THE CHAIRPERSON: While it's
 14 warming up, do you want to describe --
 15 MR. FRIEDMAN: It's warming
 16 up, we have a count down here. Okay.
 17 MR. DOVELL: Okay. I was
 18 talking about the importance of the
 19 symmetry, landmark felt this symmetry
 20 was extremely important.
 21 A VOICE: Louder, please.
 22 MR. DOVELL: The symmetry of

1 the bay window over the pediment portico
 2 of the synagogue, then upward to the
 3 penthouse level. This stone was quite
 4 important to the reading of the
 5 building. This is the effect of the
 6 base.
 7 This is the base prior to
 8 approval, the last time you saw it.
 9 This is the base approval. We have the
 10 vertical element coming down, another
 11 offset with a glass in this location. A
 12 freestanding column and four doors
 13 behind. To the entrance of the
 14 synagogue with the same screen element
 15 we had before. The surrounding material
 16 is all limestone and the flanking
 17 material is brick.
 18 And this finally is the
 19 effect, these are rendering made from
 20 the street before and after showing the
 21 reduction removal of this penthouse
 22 level and the changes to the facade in

1 this location.
 2 And now on to the zoning
 3 issues. The zoning issues are best, are
 4 really quite well described in these two
 5 little diagrams right here. This being
 6 an as of right application of the zoning
 7 with the split in the R10A and R8B
 8 portions of the site.
 9 What you should know is that
 10 the allowable floor area over at that
 11 site permitted is 144,500 feet. The
 12 existing synagogue occupies 27,800 feet.
 13 Leaving developable area of 116,000 and
 14 some feet. Of that we are using
 15 56,244 feet. 60,000 of this is unused.
 16 We are not taking advantage of that
 17 balance of 60,000 feet.
 18 Now if you think about this
 19 diagram and what it implies, this slab
 20 right here is a complying R10A envelope.
 21 Beyond it is the R8B complying envelope.
 22 The zoning resolution let's you average

1 floor area, which we've done but it does
 2 not let you average the bulk
 3 requirements, hence, that's why we're
 4 here. What we have done this as of
 5 right portion not taking into account
 6 the floor area that's permitted over the
 7 synagogue allows us approximately
 8 57,000 feet.
 9 This is the model that we're
 10 proposing now which is considerably less
 11 than that. These are the waivers that
 12 are required in connection with this
 13 approval. They fall in two basic
 14 categories. The first is lot coverage
 15 in rear yard. The second category is
 16 height and set back. They're
 17 intertwined, as you will see.
 18 First, we'll talk about the
 19 lot coverage and rear yard. This is a
 20 site plan, Central Park west is here.
 21 The street is here. The corner portion,
 22 the 100-foot corner portion which

1 contains the synagogue, excuse me. Has
2 a permitted lot coverage of a hundred
3 percent. It is not an issue.

4 This hatch portion in here is
5 the R10A portion, interior lot R10A
6 portion which has a permitted lot
7 coverage of 70 percent, as does the R8B
8 portion. Zoning asks that these be
9 averaged, so if you average them, you
10 still get 70 percent. We're asking for
11 80 percent lot coverage.

12 So we would like to occupy a
13 ten-foot sliver across here, more than
14 the current zoning provides. Here is a
15 diagram illustrating the rear yard in
16 the R8B portion which again is down here
17 and the fact that we do not comply with
18 the 30-foot rear yard requirement, but
19 this occurs only in the community
20 facility portion of the project through
21 the first, through the first, for the
22 first -- three floors here. The first

1 floor you can go up to 23 feet without,
2 as permitted obstruction without any
3 required waivers.

4 So it's the yellow portion you
5 see there in planned and in inception.
6 That's a ten-foot sliver on three
7 floors.

8 This is the rear yard
9 requirement in the R10A portion of the
10 requirement is 30 feet, we're asking for
11 ten. Again, it's to accommodate the
12 community facility use in the base of
13 the building. These three floors in
14 here. Here it is in plan, here it is in
15 section.

16 This is the effect on the
17 floor with and without this waiver.
18 What you see here on this side is a
19 20-foot yard that we're asking for where
20 we have classroom spaces. These floors
21 are classroom spaces. If we have to
22 lose the ten feet, we're severely

1 compromised in that location.

2 Now we'll talk about the
3 building heights and set back. This
4 diagram, what you're looking at here
5 indicates the initial set back from the
6 R8B portion. This, again, relates to
7 the aspect of symmetry that we talked
8 about before on the Central Park
9 elevation.

10 We're asking for additional
11 set back required by zoning is 15 feet
12 on the narrow street. We're asking that
13 to be reduced to 12, so it's a very
14 small sliver of space we're asking for
15 here and, again, it's to achieve the
16 symmetry that Landmark spoke so much
17 about.

18 This diagram relates to a base
19 height waiver we're asking for. Base
20 height in the R8 portion only. This
21 portion right here is asking for to
22 waive the 60-foot height is the initial

1 set back height in the R8B portion and
2 asks us to raise that up these
3 additional floor, so those lines with
4 the cornice heights this which you see
5 across here and in the model. And let
6 us get reasonable floor place with them.

7 And the diagram here shows
8 exactly where that's happening. To the
9 left in this zone, this is the R10A
10 portion where that waiver is not
11 required because it's zoning envelope is
12 a much greater, has a much greater
13 height and set back. So it helps us,
14 that waiver helps us align the cornices
15 with the adjacent building mandated by
16 Landmark and allows us to meet the
17 program objectives.

18 I apologize, the computer is a
19 little slow this evening. This is the
20 maximum building height in the R8B
21 portion. This is a site plan showing
22 where that takes place, the R10A portion

1 is here, the R8B portion is here. We're
2 asking to go higher than the 75-foot
3 maximum height limit described by that
4 portion of the zoning.

5 The R10A portion here, the red
6 dotted line shows that permitted
7 envelope which we're well under. And
8 that helps us use the floor plans
9 because without that, there would be a
10 very slim R10A floor plate there, which
11 would really not be usable.

12 And it allows us to maintain
13 the cornice heights that Landmark was so
14 interested in. And finally there is a
15 rear set back requirement in the R8B
16 which is to occur at the 60-foot height.

17 Again, to maintain the
18 symmetry, we're asking for the same
19 waiver in the back that we had in the
20 front. So this little sliver here which
21 the set back requirement is ten feet and
22 we're asking that it be 6.8 feet. This

1 sliver let's us maintain that symmetry.
2 And in section you can see it right
3 there. And that covers the seven
4 waivers that we're talking about. This
5 is the effect of it.

6 This is the effect of it in
7 plan and you can see here again is that
8 elevation showing what the effect of
9 that would be without it, it would be a
10 chip out of the shoulder of that
11 penthouse, which would not work well
12 down through the rest of the building.
13 And that really covers the seven waivers
14 that we're asking for.

15 THE CHAIRPERSON: Shelly?

16 MR. FRIEDMAN: Yes,
17 Mr. Chairman. This really completes our
18 presentation we'd be happy to answer --

19 THE CHAIRPERSON: We'll have a
20 chance to discuss the findings but can
21 you address the E finding and economics,
22 specifically as I understand it you have

1 to show that this variance is the
2 smallest variance necessary to achieve
3 your objective and to do that, strikes
4 me that you have to make the economic
5 analysis to the committee because a good
6 part of the variance is in order to
7 accommodate private residences, which
8 are not part of your religious mission,
9 at least in the narrow sense.

10 And so can you tell us how you
11 get to the E finding that this is the
12 smallest variance necessary to achieve
13 your goal.

14 MR. FRIEDMAN: The language is
15 the minimum variance. As I indicated
16 before, if the board decides it wants to
17 include the financial point of view
18 perspective in that finding, we provide
19 the information. It's under no
20 obligation to do so, it's simply there
21 if it chooses to. We've provided, we
22 believe, is a project which meets the

1 synagogue's and the congregation's
2 needs.

3 That includes a new community
4 house. It includes intervention into
5 the accessibility and egress to the
6 synagogue. It provides, we believe,
7 synonymous with the synagogue's mission
8 an opportunity to build not a lot of
9 residential units in order to conform
10 with the mission of the synagogue.

11 We don't believe that there's
12 any major leap that has to be made to
13 accommodate the provision of residential
14 housing on this project.

15 THE CHAIRPERSON: Maybe I
16 didn't make myself clear. You can
17 accommodate all of the programmatic
18 needs of the synagogue without inviting
19 residences. We're adding private
20 residences, I understand it, in order to
21 finance the building. The question is
22 do you need every square foot of those

1 private residences in order to finance
2 the building, and if so, is the material
3 that you submitted contain that
4 analysis.

5 MR. FRIEDMAN: We believe that
6 it does and with all due respect, I
7 happen to disagree with your opening
8 premise, we believe the condition of
9 this residential space is essential to
10 achieve that mission of synagogue
11 because without that provision, we don't
12 have the means to carry through with a
13 great deal of the programs.

14 So it's not as if we meet the
15 needs of the synagogues and then there's
16 the residential. It is all tied in and
17 apparent in the proposal to be able to
18 execute the entire plan. In the same
19 way many of these other institutions
20 have also availed themselves, their
21 rights that they own for a long time.
22 Other institutions do it differently.

1 Some can have massive publications
2 programs.

3 Some can have annexes and
4 shops all over the city to sell goods
5 and replicas, that's part of their
6 mission, as well. This is part of ours.
7 And the residential is no different than
8 that. We have provided in your
9 application the financial information to
10 substantiate that the board decides they
11 want to look at it. That's Mr. Freeman,
12 he can address those points that you
13 want to review here tonight.

14 MS. SHEFFER: You made the
15 point earlier there are many precedence
16 in this district, as well as all over
17 the city for not not-for-profits or
18 selling part of their property for
19 residential buildings. Are there not
20 precedence or at least some precedence
21 in BSA rulings recently that at least
22 question the argument or the rationale

1 of a not-for-profit seeking the proceeds
2 from a private residential building for
3 its programmatic needs.

4 We're faced with this recently
5 in a different kind of situation namely
6 the Jewish Home and Hospital in which we
7 had recommended that they go through BSA
8 and certain precedence were cited by
9 their counsel and, including a couple of
10 cases and it was very specific about the
11 BSA needs questioning in terms of
12 finding whether a not-for-profit could
13 justify the need to build and sell
14 rather its land or air rights for a
15 private residential tower in order to
16 promote its programmatic needs.

17 I take it that is your
18 rationale in this instance. You need to
19 do that, you just said, in order to
20 serve your programmatic need and I just
21 wonder how that squares with the other
22 statements from BSA.

1 MR. FRIEDMAN: Well, we have
2 as you know been at a discourse with the
3 BSA for a couple of months with regards
4 to the so-called notice of objections
5 which is a consistent aspect in every
6 application to BSA. They send you a
7 list of things they want you to address
8 and you do it. That question has not
9 arisen in that discussion.

10 It's my understanding, I do
11 not know every aspect of that case, but
12 the question there was that, at the end
13 of the day whether they had the
14 sufficient justification for that alone.
15 That is the sale of the residential
16 component of their project. That's what
17 the BSA is there to adjudicate. Some
18 applications will and some won't. I
19 believe that we have a very good
20 submission and a very good case on that
21 point.

22 You know, I understand that

1 some of these other cases involve
 2 situations that, in which non profits
 3 have bought air rights from adjoining
 4 properties made new tax lots, then came
 5 into the BSA and said we have a hardship
 6 with all this and the BSA said all of
 7 this is rather self imposed because you
 8 bought these air rights and you -- we're
 9 not doing any of that. These air rights
 10 have been over the roof of the synagogue
 11 and the community house and the vacant
 12 lots for half a century. And there have
 13 been no changes to the tax lot. No
 14 effort to add to the tax lot or
 15 accumulate air rights for sale. We are
 16 simply using that which we had always
 17 had.

18 THE CHAIRPERSON: This is a
 19 very lengthy discussion. We'll have it
 20 at our next meeting if you claim that
 21 the information is in the application,
 22 we'll examine it. I looked at it

1 briefly. I don't think it answers the
 2 questions that Ethel and I are asking
 3 but we could be wrong. Why don't we
 4 move on to the Power Point in opposition
 5 and then we'll have some more questions.

6 MR. FRIEDMAN: Thank you.

7 MR. LEBOW: I'm Mark Lebow.
 8 I'm Shelly's opposite number, namely the
 9 lawyer for the coalition of buildings
 10 that opposes this application which
 11 includes 91 Central Park West, 101
 12 Central Park West, 18 West 70th Street
 13 and the various buildings and tenants
 14 built along West 70th Street.

15 Let me begin by saying that
 16 the Bloomberg administration has not
 17 given any imprimatur to this building.
 18 I don't think Bloomberg administration
 19 cares about this building one way or the
 20 other. What happened was the Landmarks
 21 Commission said that this is an
 22 appropriate building to put next to the

1 landmark, which is the synagogue. It
 2 doesn't mess it up.

3 We argue just what we're going
 4 to argue before you tonight that the
 5 thing is too damn big, it's too high, it
 6 doesn't belong mid-block that it
 7 wandered in from Mars to sit in a
 8 mid-block designation and that it's too
 9 fat. They said we don't decide that at
 10 Landmark. You tell that to the
 11 community board and you tell that to the
 12 Board of Standards and Appeals. All we
 13 decide is whether it messes up the
 14 landmark aesthetic.

15 Now, the architect spoke to
 16 you about the aesthetics of the
 17 building, that's not your issue. I
 18 don't think, not unless you want to make
 19 it one. I think the building is a
 20 little bit ugly but that's my opinion.
 21 They certainly will not send architects
 22 from Stockholm, Sweden, to study this to

1 see if it gets the Nobel prize for
 2 architecture, but, you know, it's a
 3 building.

4 The question that you must
 5 decide is does it mess up the contextual
 6 zoning that has existed now for more
 7 than 25 years on West 70th Street
 8 throughout the west side, so that it is
 9 too big to be blocked in mid-block. If
 10 you do decide it is not too big, this
 11 will be probably a building that is
 12 twice as tall of anything else that's
 13 been knocked down mid-block since the
 14 zoning resolution was adopted.

15 Now, they have asked for eight
 16 variances. These eight variances, as
 17 you know, received 48 discrepancies
 18 misrepresentations and failure notices
 19 from the Board of Standards and Appeals
 20 back in June. The Board of Standard and
 21 Appeals gave the application 60 days to
 22 correct me, it took them at least

1 60 days to do it and they submitted the
2 application over again.

3 October 12, 2007, the Board of
4 Standards and Appeals issued the second
5 notice of objections and it contained 22
6 objections, some were new, but most of
7 them consolidated, the old ones, but the
8 overwhelming amount of the objections
9 still remain and I think that you, your
10 chairman pointed out the real problem
11 with this and it will be impossible for
12 this applicant to ever demonstrate that
13 it's programatic needs are necessary to
14 get these variances and you were right,
15 the board of standards and appeals says
16 if you want zoning variances for a non
17 profit, you've got to show that your
18 programming needs are what is essential
19 to get these variances.

20 Now, nobody made a
21 presentation until your chairman raised
22 the issue, even mentioned that this top

1 half of the building is luxury
2 condominiums, luxury apartments. This
3 is no way this is consistent with the
4 programatic needs of this particular
5 landlord.

6 Luxury condominiums are not
7 part of their programatic needs. That's
8 why I don't think they're ever going to
9 get past the Board of Standards and
10 Appeals objections.

11 Now, in answer to the question
12 my friend Shelly was pretty creative.
13 He said, okay, in order to put up this
14 new building and I make it this big, we
15 need to sell the condominium apartment
16 to a builder. As you know, they have a
17 community house already that occupies
18 half the size, which contains all of
19 their programatic needs, most of which,
20 as you saw, were classrooms for a
21 school, by the way, which they rent out
22 to some other school that is a tenant of

1 the congregation.

2 Now, the other argument I
3 thought Shelly was going to make, and
4 maybe he did and I didn't hear it, is
5 there are buildings almost this size or
6 about this size in mid-block scattered
7 throughout this particular historical
8 district. And there may be even one or
9 two on West 70th Street, but I don't
10 think you should be persuaded by that
11 argument is because the point of the
12 zoning laws is you do not perpetuate
13 anomalies, most of which were put there
14 in 18 something or other before there
15 was any zoning at all.

16 What you must do is keep the
17 contextual zoning which is about this
18 part 4 to 6 stories of brownstones and
19 beautiful brownstones and especially on
20 West 70th Street, which has some of the
21 nicest brownstones in the entire city,
22 if not the entire country.

1 Now, lastly, before you see
2 the Power Point presentation which will
3 go into this in greater detail, I want
4 to talk about this hardship business.
5 They keep this landmark in great shape
6 and I have to hand it to them, they
7 raised millions of dollars to do it and
8 they keep it in great shape.

9 This congregation is not a
10 hardship case. They probably got more
11 money than Saint Patrick. They
12 certainly have more money in Rodeph
13 Sholom. There is no hardship, there
14 the Landmarks Commission told them that.
15 It's up to you to focus, keep your eye
16 on the ball is this huge probably in
17 mid-block and that is what the Board of
18 Standards and Appeals has asked you to
19 make your recommendations to it about,
20 and that is what you should use as the
21 basis for denying the application.

22 I hope we can do our Power

1 Point, if you're ready, Alan, and I'll
2 hand up the microphone, if I may.

3 MR. SUGARMAN: We're setting
4 up. Alan Sugarman. I'm an attorney. I
5 live on West 70th Street and I was
6 maintaining a website, West 70th dot
7 org. The purpose of it is to assemble
8 all of the documents, letters, rules,
9 regulations, comments people have to
10 make available the variance.

11 In the beginning, I was a
12 little apprehensive. I believe it is a
13 good idea to go over some issues that
14 really require further information from
15 the applicant.

16 So I'm going to slightly
17 change my presentation because the rules
18 have changed tonight, but in a very good
19 way. I'm going to focus initially on
20 the initial revised feasibility study
21 provided by Friedman Frazier, who I'm
22 glad is here tonight.

1 Even though Shelly Friedman
2 has said that they don't need to have
3 it, it hasn't been withdrawn and the way
4 I understood what he just said a few
5 minutes ago is that it still is part of
6 the application. It's part of the
7 overall conflicts. So we're still going
8 to have to come back to this document.

9 What I'm going to ask the
10 board to do after it hears this is if it
11 thinks of, if it needs more information
12 that it asks Friedman Frazier to provide
13 specific answers to some of the
14 questions being raised here tonight. I
15 also want to point out that the new
16 objections have at least six new
17 requests that relate to this particular
18 report. Ready?

19 A VOICE: Yes.

20 MR. SUGARMAN: We'll go to
21 number 17. Okay. I spent a lot of time
22 reading this report and I gave it to a

1 lot of people I knew who did a financial
2 analysis, and most people don't quite
3 understand what it's trying to say and I
4 hope I figure this out, but, basically,
5 the report is trying to do a return on
6 investment analysis and they're really
7 two big components of this, for this
8 project.

9 The first one is the expense.
10 We have the construction cost and these
11 are hard and soft dollars. Somebody has
12 to write a check and deliver that to the
13 contractors and to the consultants, the
14 architect, et cetera. The other part is
15 the land cost.

16 In this particular case, the
17 land cost that's used is pure
18 conjecture. It's based solely on
19 assumptions and we have to understand
20 the congregation already owns the land
21 and there is no land cost, as such, at
22 least as far as there is a cash payment

1 and this is one of the specific pieces
2 of information requested by the new
3 objections, objecting to the way the
4 land cost was played around with.

5 Obviously, the land cost goes
6 up, the profit increases.

7 Now we go to 18. Okay. On
8 the income side of this project, once
9 again we have a mixture of fact, the,
10 condominium sale, those were coming in
11 cash and the people, most people have a
12 good idea what the condominium will sell
13 for, but the other subjective issue we
14 have here is the value retained by the
15 congregation, the banquet hall, 6,000
16 square feet, lobby, elevated classrooms,
17 archives, offices, kitchens, et cetera.
18 That's really a guess here. There's no
19 hard number for this.

20 Obviously, as we reduce the
21 value, then that's going to have an
22 effect on the profit and loss. So we

1 can see the subjective valuation of land
2 cost is important and the subjective
3 valuation of community space retained is
4 also important.

5 Now, interestingly enough, in
6 this latest version of the report, it
7 says that the school facility is worth
8 only \$4 million. This is a school for
9 120 or so children, 12 classrooms,
10 recreational area, meeting areas,
11 bathrooms, et cetera, et cetera. That
12 would be a questionable issue and there
13 probably is a fact that relates to this
14 on what's being paid in the lease, but
15 that hasn't been presented.

16 Let's go to 14. So the BSA
17 objected in number 22, in its new
18 objection it says it's not appropriate
19 to adjust upward the vacant land sales.
20 Now, that was a very polite way of
21 saying that the evaluation for land is
22 way too high.

1 So if you go to the next slide
2 11. We'll see what they have done here.
3 If you look what they did is they use a
4 figure of 37,899 square feet of
5 available land, available development
6 rights and they multiply that by 500.
7 Why don't we go to 12 for a second.

8 This is from the Friedman's
9 first report. Where do they come up
10 with \$18.9 million? It's simple. They
11 said potential residential zoning floor
12 area multiply it by 500 and they come up
13 with 18,944. Go back to the other
14 slide, 11.

15 Now if you go back to the
16 other slide here, look in the first gray
17 area, you see the square feet being used
18 for the different scenarios they
19 proposed. I don't see 37,899. In fact,
20 on the far right this was supposed to
21 be, and the scenario where they were
22 doing all residential building for that,

1 they even came up with a loss, as well.
2 So it's pretty clear that no one, no
3 developer is going to go out and pay for
4 37,899 square feet. They're only going
5 to be able to build 26 -- really 16,000
6 square feet, so no wonder there's a loss
7 in all the numbers. That's the first
8 issue that you need to appreciate here.

9 The second thing and -- and
10 also by the way if you look at the land
11 cost, it's actually in all cases almost
12 more than the construction cost. So
13 it's really the range of component in
14 and it's way overvalued, but that's what
15 they've been asked to fix. Ask we go to
16 16.

17 So the second thing they have
18 done here relates to the capitalized
19 value of the community facilities. Now
20 what's interesting here is that the
21 synagogue wants to sell its land for
22 \$18.9 million, but they still want to

1 put in all these facilities, the school,
2 the banquet hall, et cetera, et cetera.
3 What they're saying here and, again, I
4 think they've been asked to correct this
5 is all the stuff the synagogue is
6 retaining for itself is only worth 4
7 million, even in the proposed and also
8 it's sort of weird, if you sell your
9 land, then -- and retain the right to
10 use a good portion of it should you be
11 permitted to get the full 39,000 square
12 feet? I would say no.

13 So we can see two ways in
14 which land costs have been adjusted
15 here. Why don't we go to 20.

16 This is a slight about the
17 community facility, 21. So we can see
18 again the under value of the community
19 facility.

20 And we go to 22. This is just
21 an example, the banquet hall which is
22 pretty large. I've rented facilities

1 and this is pretty big. Well, the real
2 issue that's lined up here is what
3 happens to this \$18.96 million.

4 Well, you look at the
5 computations they provide, it sounds as
6 if someone has made 18.96 million. And
7 there seems to be a hypothetical
8 developer here or a real developer, but
9 I think what the assumption is is this
10 hypothetical developer pays synagogue
11 \$18.9 million, and then the building
12 gets built and if the synagogue doesn't
13 get back its 18.9 million or if the
14 developer doesn't, there's a loss, but
15 if you look at it from the synagogue's
16 point of view, they're going to end up
17 with cash in their pocket.

18 So I ask you to -- these are
19 complicated schedule, but really that's
20 the heart, no matter how you look at it,
21 it sounds to me as if the synagogue
22 could build all three of the versions

1 they have without raising any funds
2 based upon the numbers that are
3 presented.

4 So I'm hoping we can get some
5 more information on this. I have a more
6 extensive slide show that will be
7 available on my Web site and I would
8 like to move on because I think I've
9 pointed out the basic problem here.

10 While we're here, I wanted to
11 go into a few other issues only because
12 we haven't received information on them.
13 First, slide 24.

14 Slide 24 relates to the
15 parsonage. The parsonage is part of the
16 zoning law. The parsonage as people in
17 the neighborhood know have been
18 renovated in the last two or
19 three years. What's it being used for?
20 It's not being used for the archives.
21 It's not being used for offices. It's
22 not being used for the museum. It's not

1 being used for all the other purposes
2 that they have a very good need for they
3 claim. It's being used as a rental
4 property, that's six bedrooms, terrace,
5 living room, dining room and it's being
6 used as a rental facility.

7 It's rented out to someone
8 probably as much as 17 or 18,000 a
9 month. That's fine. It's very creative
10 of the synagogue to do that, but at the
11 same time they really can't come back
12 and say they need, they need facilities
13 for their programatic needs when they're
14 sitting right here.

15 And if I had shown the first
16 floor here, it would not take much
17 creative architecture to figure out a
18 way to put the synagogue extension in
19 there. So we'd like to get some answers
20 on the parsonage. We've raised it and
21 the answer is basically been silenced.

22 The next slides I want to look

1 at are slides 40, actually 38, 39, 40
2 and 41. Start with 38. 38. These four
3 slides show the area of the proposed and
4 existing buildings with the existing on
5 the left and the proposed on the right.
6 And show the connections between the two
7 buildings.

8 Now if I've seen so many
9 paragraphs, sentences, pages about
10 accessibility elevation and circulation,
11 so I made a comparison of the, of
12 existing building and what they're
13 proposing and, you know, I can't find
14 any discernible difference. They both
15 have an elevator, that's in yellow.
16 Those arrows point to the entrances and
17 the synagogue is over to the right.

18 Let's go to the second floor.
19 Same thing on the second floor. Third
20 floor. Same on the third floor and,
21 again, if you look at the fourth floor,
22 the same thing. So this, there might be

1 some minor changes. I know they have a
2 new elevator. I know the elevator
3 breaks down all the time. It might make
4 things easier, but people still get up
5 to the upper floors by elevators, same
6 access back and forth.

7 I really don't understand at
8 all the narratives and all the various
9 pages in the application and I think
10 they have to explain this if they're
11 going to rely upon access,
12 accessibility, et cetera, as a reason.

13 The last thing I would like to
14 do is just point to a few slides, give
15 me a moment. A few environmental-type
16 issues that have not been, I believe
17 adequately discussed and we start with
18 number 30.

19 I guess I'm sensitive to this,
20 but I think the synagogue is going to
21 have to do a better job of the dealing
22 with the traffic congestion caused by

1 the school now. This is customary of
2 the block up the street and the banquet
3 hall, I haven't figured out how many
4 people 6,000 square feet will hold, but
5 it's a heck of a lot of people and
6 that's a concern it's not something to
7 be ignored.

8 31, similarly, they have this
9 banquet hall. Right now they don't seem
10 to be able to manage their garbage after
11 an event. So I live across the street
12 and have to look at mounds of garbage on
13 Sunday afternoons. Do they have a place
14 for the garbage? I know this is a big
15 issue before the BSA.

16 The next item is 32. I'm
17 sorry, the next one. 33. Shadows. My
18 favorite topic. When you go before the
19 Landmark proceedings they say, oh, no,
20 we don't consider shadows sunlight.
21 Then when you come back to these
22 proceedings we will hear, oh, no,

1 Landmarks already looked at it all
2 height and all these things and you're
3 not slows supposed to look at shadows
4 here. And then you have to think for a
5 moment about the mid-block zoning what
6 it's all about.

7 The corner buildings get a lot
8 of sunlight because they're on the
9 corner, they get it in two directions
10 they have the avenue, so when you come
11 in block that starts to disappear. Now
12 we have asked, we've been standing the
13 Landmark proceedings for the architect
14 to flip a switch and give us some shadow
15 studies for 70th Street.

16 Silence, that's always been
17 the response. Silence. And I submit
18 that because it's so easy to prepare
19 that this is going to show a big impact
20 on these buildings along 70th Street and
21 for my cat who likes the sun in the
22 afternoon in the winter that will be

1 gone. That's all I have I want to
2 comment on now, but I do ask Mr. Freeman
3 prepare a respond, respond to these
4 questions and, also, tell us who is the
5 developer. Is it the synagogue? Is it
6 a third-party? And explain these
7 inconsistencies. Thank you.

8 (Applause.)

9 MR. PRINCE: Before we put
10 away the computer, we had two more Power
11 Points, both adhering to the two-minute
12 sort of floor. Can we do one more
13 before we turn it off? There is one --

14 THE CHAIRPERSON: Two minutes.

15 MR. PRINCE: Thank you.

16 MR. HARTNETT: My name is Mark
17 Hartnett. I'm a resident on the West
18 70th Street. At the height of Shearith
19 Israel request of zoning variances is a
20 claim of financial need. Rather curious
21 wording, CSI states the revenue from
22 it's proposed condos are required to

1 fund their programmatic pursuits. Of
 2 course, since CSI is a non profit
 3 religious institution, it is not
 4 required to make any financial
 5 disclosures to support this claim.
 6 However, CSI own Web site, Shearith
 7 Israel dot org permits its ability to
 8 raise money and raise it in very
 9 impressive amounts.

10 This is a page from CSI's own
 11 Web site discussing the congregation's
 12 300th anniversary campaign. The effort
 13 is chaired by Norman Benzaquen that
 14 states the campaign's goal is to reach
 15 \$10 million. Mr. Benzaquen is a
 16 philanthropist and managing partner of
 17 the investment firm of Gilder, Gagnon,
 18 Howe & Co., reveals that the 350th
 19 anniversary campaign comes on the heels
 20 of the earlier 1999 fundraising drive
 21 which preserves CSI landmark building.

22 As per the 1999 campaign, he

1 writes donations came from congregants
 2 that brings light. The campaign was
 3 successful and the funds were put to
 4 excellent use.

5 Why the need for another
 6 drive? Effectively, as a rainy day
 7 fund. We must have a strong endowment
 8 fund that supports religious services,
 9 educational and cultural programs, youth
 10 work, outreach synagogue, archives,
 11 historical cemeteries and other services
 12 for the congregation in the community.

13 The 350th anniversary campaign
 14 isn't interested in donations of \$350,
 15 rather preceding champion sponsors
 16 contributed \$350,350. Thirty paying
 17 members are listed, including wealthy
 18 and influential New Yorkers. I
 19 personally serve on the board of the
 20 modest nonprofit organization downtown
 21 and it is understood if your name is
 22 listed, as these names are here, you're

1 expected to either give or get, that is,
 2 give a substantial amount or get others
 3 on your Rolodex to do so.

4 How do the producers list as
 5 the fundraisers do? In an undated
 6 notice on CSI's own site, we see that it
 7 leads to the halfway mark.
 8 Contributions reached \$5 million and
 9 they were advancing vigorously.

10 In case you're missing the
 11 point, here's why this information is so
 12 important. This proposal seeks nothing
 13 short of the transfer of equity from
 14 community or board of New Yorkers to an
 15 institution with the ability to raise
 16 funds from extremely wealthy vendors.
 17 It is unthinkable this community will
 18 put its stamp on this. Thank you.

19 (Applause.)

20 THE CHAIRPERSON: One more?

21 MR. PRINCE: As for the other
 22 one, it was about the windows and I

1 would like to wait until our next
 2 meeting when CSI responds to the
 3 application, please. Thank you very
 4 much.

5 (Applause.)

6 THE CHAIRPERSON: We have a
 7 large number of speakers and I would
 8 like you to bear in mind two things.
 9 No. 1, if you don't speak tonight,
 10 you'll have an opportunity to speak at
 11 our next meeting when the committee
 12 votes, and No. 2, it is always
 13 appreciated when a speaker not repeat
 14 something that's either in the Power
 15 Point or what a previous speaker has
 16 said. So if you signed up to speak and
 17 you merely want your presence to be
 18 noted and which side you're on and who
 19 you agree with, you can stand up and say
 20 that and that will be appreciated too,
 21 but anyone that wants to speak will be
 22 allowed the full two minutes.

1 I see and welcome back to the
 2 community board Jan Levy with her hand
 3 up.
 4 MS. LEVY: Thank you,
 5 Mr. Chair.
 6 THE CHAIRPERSON: It would be
 7 fool hearty of me not to recognize her.
 8 (Laughter.)
 9 MS. LEVY: I understand there
 10 were three more meetings, there's
 11 another meeting of the landmark
 12 committee this month --
 13 THE CHAIRPERSON: Next week's
 14 meeting of this committee will not
 15 address this building. Our next
 16 committee meeting will be dependant upon
 17 when the application responds to the
 18 objection and BSA acknowledges that the
 19 application that they have no further
 20 objections.
 21 There's no reason to meet
 22 again before that. There may be more

1 than one meeting if we don't get our
 2 business started, but we're going to
 3 have at least one more meeting with the
 4 committee, then there will be a full
 5 board meeting.
 6 MS. LEVY: So we don't have a
 7 date certain on the vote.
 8 THE CHAIRPERSON: We don't
 9 have any date certain. I've heard
 10 rumors that the application is trying to
 11 have it calendered for December 4th.
 12 Our full board will be meeting on the
 13 evening of December 4th, but BSA,
 14 typically, will hold the record open for
 15 --
 16 MS. LEVY: You may not have
 17 anything to present to the full board
 18 then.
 19 THE CHAIRPERSON: Then it
 20 won't be calendered. We're going to be
 21 in step with BSA.
 22 MS. LEVY: In other words,

1 watch the Web site. Thank you,
 2 Mr. Chair.
 3 THE CHAIRPERSON: Okay.
 4 Kate Wood followed by Susan
 5 Nial.
 6 MS. WOOD: Thank you very
 7 much. I'm Kate Wood speaking on behalf
 8 of Landmark West. I would like to thank
 9 the committee for its attentiveness to
 10 some really excellent presentations that
 11 have been given. This is at heart not a
 12 complicated project.
 13 In fact, it is a prime example
 14 of a persistent and growing trend of non
 15 profit institutions seeking to monetize
 16 their real estate assets at the public's
 17 expense by violating protective height
 18 and setback requirements. What makes
 19 this project seem complicated are the
 20 mount contains of paper, dozens of
 21 slides, columns of numbers all seeking
 22 to show why Congregation Shearith Israel

1 should not have to apply by the rules,
 2 rules that this community and this board
 3 fought long and hard to create in order
 4 to protect the special character of this
 5 neighborhood.
 6 Indeed, this application sets
 7 out to undue one of the boards truly
 8 great successes, low rise R8B contextual
 9 mid-block zoning. As Columbia Urban
 10 Planning Professor Elliot Sclar wrote a
 11 statement about this project as it first
 12 appeared four years ago, the very fact
 13 so many variances are needed should
 14 setup alarm bills everywhere in the
 15 planning and preservation community.
 16 What is also disturbing is the
 17 applicant's repeated failure in all of
 18 its voluminous materials to provide
 19 essential information necessary to
 20 evaluate this application on the merits.
 21 These failures are starkly
 22 called out by the BSA list of objections

1 to the original application. It's
2 additional 22 objections, the revised
3 application. Plus, the extensive
4 analysis by community representatives
5 including attorney Alan Sugarman and
6 planner Simon Burtrane's copy of the
7 most recent memo is included in some of
8 the memos you received tonight.

9 The most probing of these
10 objections is totally ignored by the
11 applicant. Questions left unanswered
12 include how much square footage and how
13 many classrooms are devoted to the
14 income producing tenant school.

15 Why doesn't the applicant
16 feasibility study include the parsonage
17 with its residential use and income and
18 analysis of its needs and opportunities.
19 Why does the applicant believe it is
20 okay to explain it's neighbor's light,
21 air and quality of life rather than
22 taking advantage. Resources it already

1 has or could have under an as of right
2 scenario.

3 So just in conclusion, one
4 cannot help but suspect that all of
5 these convolutions are simply a smoke
6 screen to hide the one clear fact right
7 there in the applicant's drawings that
8 the most pressing of the claimed
9 programmatic needs for improved
10 circulation and accessibility could be
11 accomplished in just the first floor of
12 an as of right community house and
13 certainly without stacking floors of
14 luxury condos on top.

15 Nothing in life comes for free
16 but in this case Congregation Shearith
17 Israel wants the community to pay the
18 price. Thank you.

19 (Applause.)

20 THE CHAIRPERSON: We're going
21 to make a turn for a minute. I see
22 Assemblyman Gottfried in the audience.

1 Do you want to speak?

2 MR. Gottfried: Thank you.

3 Well, I'll follow your admonition and
4 abbreviate.

5 I'll stress that it would have
6 been wrong to rule on this when the 48
7 point were outstanding. It would be
8 wrong for the community to be asked to
9 judge this project now that BSA says
10 there are 22 points outstanding that
11 need to be responded to.

12 I think what the community
13 board should be doing is appealing to
14 BSA to insist on getting responses to
15 their 22 points and when that response
16 comes in, which may yet be another
17 application, at that point, the
18 community should be given an adequate
19 opportunity to evaluate Shearith
20 Israel's response, should be given an
21 opportunity to communicate to the Board
22 of Standards and Appeals whether those,

1 whether Shearith Israel's responses on
2 the 22 points are satisfactory and let
3 it be given an opportunity to comment on
4 the project with a full amount of time
5 to develop a response on the project,
6 once those 22 point responses have been
7 deemed, if they are to be, a complete
8 application.

9 So it is adamantly wrong for
10 the community and for the community
11 board to be at risk of being put in a
12 position of having this matter coming on
13 before the BSA without the community
14 having an opportunity to comment, and I
15 think the committee and Community Board
16 7 should expeditiously as possible go on
17 record to the Board of Standards and
18 Appeals on those timing issues.

19 THE CHAIRPERSON: Thank you.
20 (Applause.)

21 MS. NEAL: All I want to say
22 is I'm Susan Neal. I'm a lawyer and I

1 came to talk to you about procedure and
2 process and timing, but it's already
3 been said. I just want to thank you for
4 taking the position that you are going
5 to await more information because that's
6 certainly raises the level of legitimacy
7 and credibility of any decision you
8 might make.

9 So thank you very much.

10 THE CHAIRPERSON: Thank you.
11 David Rosenberg followed by Marianne
12 Lang.

13 MR. ROSENBERG: I think it's a
14 little disingenuous for Shelly Friedman
15 to say that Shearith Israel does not
16 have the means to construct its
17 addition. That said for programmatic
18 purposes without constructing the luxury
19 condominiums.

20 Now, means has various
21 meanings. It could be structural.
22 Clearly it's not an issue they couldn't

1 construct these luxury condominiums at
2 the top. What they're saying is they
3 don't have the financial means, then
4 Mr. Friedman says since this is an
5 eleemosynary institution we're not
6 required to make the normal showing of
7 financial hardship, so I'm not going to
8 address that. You take it on faith from
9 me that this incredibly wealthy
10 synagogue and its congregation don't
11 have the financial means to construct
12 the facility that they say they need,
13 which constitutes only the lower floors
14 in this entire project without other
15 floors.

16 For that reason he doesn't
17 address any of the synagogue's finances.
18 He doesn't address the use of a
19 parsonage house. He doesn't address any
20 financial aspect. He just wants you,
21 wants you to take it on faith the
22 synagogue doesn't do this without the

1 contribution of making a profit on these
2 luxury condominiums. The other examples
3 he gave Trinity was not a case where
4 they had to get a variance.

5 He's asking in his own words
6 to monetize the zoning. To monetize it.
7 He wants you to let him violate the
8 zone, get special favors, then to
9 settle. There is nothing in the zoning
10 resolution that requires him to do so,
11 and it should not.

12 (Applause.)

13 THE CHAIRPERSON: Linda
14 Blumkin.

15 MS. BLUMKIN: My name is Linda
16 Blumkin. I live at 111 East 85th Street
17 in the pending shadow of the building
18 that's proposed to be built by the
19 Kehilath Jeshurun and Ramaz in a
20 situation that's remarkably similar,
21 except a heck of a lot taller to what's
22 going on here on West 70th Street.

1 I won't go into the merits of
2 that except to say in the papers
3 submitted by the applicant there
4 represented by the same counsel are
5 astonishingly similar, the arguments are
6 the same as the arguments being made to
7 this community board.

8 I would like to commend this
9 community board in its perseverance in
10 addressing the issues on the merits.
11 Our community board has unfortunately
12 been the subject of a successful end run
13 by K.J. Ramaz and their counsel who
14 filed their papers in time to get on the
15 calendar for July.

16 The community board heard why
17 they could at the end of a very long
18 calendar that evening completed, they
19 did not have time to intelligently
20 address the situation on the merits as
21 to Mr. -- asked Mr. Friedman to put it
22 over to their next meeting in September.

1 That permission was refused.
 2 The matter will not get to BSA
 3 until just about the same time as yours,
 4 probably estimated to be in or about
 5 December, so the BSA is getting zero
 6 input from community board eight and
 7 Mr. Friedman is going to be able to
 8 stand up before community board eight
 9 when folks pull out resolution of
 10 community board eight says we disapprove
 11 and say they didn't disapprove on the
 12 merits.
 13 So thank you, guys. We on the
 14 east side are hoping that you will be
 15 able to vindicate some of these
 16 incredibly important principals that are
 17 at stake here. We continue to hope that
 18 our community board will take a stand
 19 like yours and like you, we insist on
 20 answers because somebody has to do it
 21 because otherwise what you have are
 22 developers who are having religious

1 institutions, some of the wealthiest and
 2 most powerful institutions in this city,
 3 fight for them in applications for
 4 zoning variances. So we're rooting for
 5 you guys. Thank you.
 6 (Applause.)
 7 MS. ADAMS: My name is Jean
 8 Adams and I am a shareholder of 239
 9 Central Park West, a residential
 10 building on Central Park West and West
 11 84th Street. I am also a member of a
 12 special committee of our building's
 13 board of directors monitoring the
 14 proposed expansion of Congregation
 15 Rodeph Shalom School at the school's
 16 West 84th Street mid-block site.
 17 This site is contiguous to our
 18 building on the west side of our
 19 property, faces a number of other
 20 buildings on the opposite side of the
 21 street, including 15 West 84 Street, and
 22 is east of 36 West 84th.

1 I am here this evening on
 2 behalf of our shareholders as well as
 3 those of 15 West 84th Street and 36 West
 4 84th Street to comment on the proposed
 5 Congregation Shearith Israel expansion
 6 because we believe this situation is
 7 closely related to one on West 84th
 8 Street that we expect to be on the
 9 community board's agenda in the future.
 10 To begin, with respect to
 11 mid-block expansion of buildings in the
 12 upper west side historic district, we
 13 wish to encourage Community Board 7 to
 14 insist upon full compliance with the
 15 statutory mandate of the City's board of
 16 Standards and Appeals to protect the
 17 public's health, safety welfare and
 18 community character prior to granting a
 19 zoning variance.
 20 As you know, the governing
 21 standard in New York State applicable to
 22 discretionary waivers of the zoning code

1 mandates that the Board of Standards and
 2 Appeal balance an institution's need for
 3 a request against the detrimental impact
 4 of the proposed expansion.
 5 The shareholders of 239
 6 Central Park West, 15 West 84th Street
 7 and 36 West 84th Street encourage
 8 Community Board 7 to stand behind
 9 Section 73-641 of the NYC Zoning
 10 Resolution and encourage the BSA to
 11 demonstrate its responsibility to
 12 protect the air and light of neighbors
 13 potentially affected by mid-block
 14 expansion plans of Congregation Shearith
 15 Israel and Rodeph Shalom as well as to
 16 protect the neighborhood character of
 17 these two micro areas in the upper west
 18 side historic district.
 19 The community board must
 20 remind the BSA of its responsibility to
 21 impose appropriate restrictions upon
 22 institutions where the evidence points

1 to significant impact upon traffic
 2 congestion, noise or property values.
 3 The presumption that religious
 4 or educational institutions always
 5 operate in furtherance of the public
 6 interest should not be taken for
 7 granted; we are most concerned that
 8 mid-block expansions of the type being
 9 discussed this evening and the one
 10 proposed for West 84th Street by
 11 Congregation Rodeph Sholom would
 12 actually have a negative effect on our
 13 neighborhood and quality of life in
 14 general.
 15 We encourage Community Board 7
 16 and the BSA to carefully draft a
 17 resolution that will balance the
 18 competing public and institutional
 19 interests. Impairment of the use and
 20 enjoyment of neighboring properties
 21 cannot be disregarded in determining the
 22 appropriateness of the variance

1 application.
 2 Community Board 7 must
 3 encourage BSA to exercise its statutory
 4 right to attach reasonable conditions
 5 prior to granting a variance. On that
 6 basis, the BSA must insist upon strict
 7 compliance with prior directives as a
 8 condition for any waiver of the Zoning
 9 rules.
 10 Finally, we encourage
 11 Community Board 7 to remind BSA that
 12 institutional expansion of the type
 13 proposed by Congregations Shearith
 14 Israel and Rodeph Sholom overpowers and
 15 infringes upon the community's quality
 16 of life.
 17 Thank you.
 18 THE CHAIRPERSON: Ron Prince?
 19 MR. PRINCE: That's me, the
 20 guy with the computer. I'm coming back
 21 next time.
 22 THE CHAIRPERSON: Helen

1 Freund.
 2 A VOICE: She left.
 3 THE CHAIRPERSON: Lo van der
 4 Valk.
 5 MR. VALK: My name is Lo van
 6 der Valk. If I speak today, I can't
 7 speak the next time?
 8 THE CHAIRPERSON: We prefer
 9 you speak once.
 10 MR. VALK: Then I withhold my
 11 comment.
 12 THE CHAIRPERSON: Robert
 13 Goldrich. Joseph Bolanos.
 14 A VOICE: Here.
 15 MR. GOLDRICH: Robert
 16 Goldrich. I live 91 Central Park West.
 17 To me the issue is very clearly CSI is
 18 located historical landmark district
 19 with strict zoning rules and regulations
 20 meant to preserve the character of the
 21 neighborhood for eternity. It's a
 22 dangerous thing to set new precedence

1 that generate government and historical
 2 neighborhoods beyond legal limits.
 3 To you, the community board,
 4 there's only one right thing to do and
 5 that's vote against request to block
 6 zoning. CSI reporting they used to bus
 7 them in from Rochester and New Jersey.
 8 I don't see her today. They could have
 9 many years of happiness if their
 10 leadership showed a path to undergo
 11 capital campaign which was proven
 12 earlier, they could have done very
 13 easily with a few Forbes 400
 14 billionaires on their board.
 15 They need to leadership to
 16 avoid read, choose the legal right and
 17 lead a good path. That's it.
 18 (Applause.)
 19 THE CHAIRPERSON: Joseph
 20 Bolanos followed by James Greer.
 21 MR. Bolanos: My name is
 22 Joseph Bolanos. I'm the president of

1 Landmark 76. That's the West 76th
 2 Street Park Block Association. I'm here
 3 representing over 120 members and
 4 residents of our block. I'm here to
 5 express our solidarity with the
 6 residents in opposing the variance as
 7 well as Landmark West, and I would like
 8 you to excuse me for being dressed like
 9 this, but I spent the whole afternoon
 10 with a Department of Environmental, DEP
 11 hazmat team on our block because an
 12 owner developer decided to use laborers
 13 that were doing a wash with acid and
 14 toxins that ran off the building onto
 15 the sidewalk and into the street.

16 And we managed to stop it
 17 about a foot before it hit the sewer
 18 line. My experience with these hearings
 19 and hearing all these developers is that
 20 it's interesting to hear what they saw,
 21 but more important what they don't say
 22 and the developing question we had today

1 had been before community board seven
 2 Landmark West and LPC and promised about
 3 the most stellar label and the most
 4 incredible manpower, and today we came a
 5 foot away from contaminating that sewer
 6 line.

7 And as a matter of fact when I
 8 leave here, we have, I have three soil
 9 samples that I've taken in the last week
 10 for three different types of projects
 11 that are on our block and I'm going to
 12 make a point about that real quick. We
 13 already established we have 20 percent
 14 more lead on the dust in our streets
 15 because the buildings we have which
 16 primarily are brownstones were old
 17 buildings built in the 1890s.

18 What's happening is these
 19 developers and construction people are
 20 not complying with code, and so we're
 21 walking on the street and puffs of dust
 22 are coming up, like I said, we already

1 have one sampling in one building which
 2 is 20 percent above the allotted lead.

3 Tonight when I leave for ten
 4 minutes, I'm on my way to a lab on 38th
 5 Street three samples and we'll have the
 6 results by Friday. A great deal of the
 7 promise we have on the west side is the
 8 Department of Buildings is failing to
 9 track their permits.

10 We have 40 buildings on our
 11 block and let's say the project that's
 12 being proposed right now, nobody talks
 13 about the fact that if this was to go
 14 through that there might be ten or five
 15 or eight brownstones on that block that
 16 will be, that's also being developed.
 17 We're suffering right now. We're
 18 choking, we have toxic dust affecting us
 19 and it happens everyday. People have
 20 tears in their eyes. This is no
 21 exaggeration. And we're documenting
 22 everything.

1 As far as we're concerned
 2 besides the fact it's a historical area
 3 on 70th street and besides the fact it's
 4 going to ruin the skyline and congest
 5 the area even more than it is and being
 6 Mr. Friedman stated that he has, he
 7 hasn't, he has imprimatur from the
 8 Bloomberg administration and the LPC, if
 9 that's the case, I want to time stamp
 10 the question.

11 If I ask these questions
 12 they're not answered properly, it means
 13 they don't have any future recourse to
 14 answer them and because they have such a
 15 tight package they presented, they
 16 proudly studied density for the
 17 neighborhood, studied stress on the
 18 infrastructure including sewer water,
 19 electricity and the reason I say that is
 20 because a fossil like me that spent 32
 21 years on the upper west side saw this
 22 Park Belvedere where there was no

1 coincidence we had water main breaks on
2 Broadway Central Park West.
3 Millennium Tours went up
4 there, it was no coincidence, strain on
5 the water piping in Broadway gave way.
6 If they gave the answers to this, I
7 would like to take the studies and
8 engineering reports back to our
9 membership because apparently they have,
10 they have complete -- herein complete
11 here as far as their presentation.
12 If you have those reports
13 handy, I'd be more than happy to get
14 them. Thank you for the opportunity to
15 address you.
16 (Applause.)
17 MR. GREER: Mr. Chairman, I'm
18 James Greer. Until about three months
19 ago I've been a neighbor of Shearith
20 Israel for a little over 38 years. I'm
21 going to reserve any comments about the
22 substance of this. I did want to pick

1 up on one point that Shelly made that
2 this does not create a precedence if
3 this is approved, that is rubbish.
4 There are within six or
5 seven blocks of Shearith Israel, at
6 least eight to ten other religious or
7 not-for-profit institutions that have
8 low rise buildings that will be likely
9 or will be tempted to take advantage of
10 a precedence like this.
11 I have copies of my remarks
12 which I'm going to leave with you and
13 spare you any further comment. Thank
14 you.
15 THE CHAIRPERSON: Much
16 appreciated. Thank you.
17 Hunter Armstrong followed by
18 Kent Wallgren.
19 MR. ARMSTRONG: My name is
20 Hunter Armstrong. I would like to read
21 a statement from the Historic Districts
22 Council, I will submit full statement

1 for the record and read an excerpt to
2 you. It was signed by Simeon Bankoff,
3 executive director.
4 We agree with the Board of
5 Standards and Appeals objections to the
6 application that you've been considering
7 this evening and hope the agency
8 continues to deny permission for
9 unnecessarily large building which
10 obviates the protective mid-block zoning
11 which is show integral to maintaining
12 the character of the upper west side.
13 Thank you.
14 MR. Wallgren: I'm Kent
15 Wallgren. I live 18 West 70th Street.
16 I'm also a treasurer on the board of 18
17 West 70th Street and I just wanted to
18 highlight a couple things that directly
19 impact our building and in particular
20 our board is unanimously opposed to this
21 proposal and we are very concerned about
22 the residents living with windows that

1 are going to be shuttered up and bricked
2 up as part of this proposal.
3 We're concerned about the
4 light the air and the sunshine not
5 reaching many of the windows directly
6 facing out. And personally, I have two
7 daughters, six and nine years old that
8 live in a bedroom that will be
9 completely shuttered out from light. So
10 we're very concerned.
11 We're also concerned about,
12 that we are actually helping
13 transferring, well, so many of our
14 residents apartments in this building
15 are actually helping, are going to go
16 down in value and the value is actually
17 going to be transferred to next door and
18 making what my daughters call luxury
19 houses in the sky to rich people and, so
20 therefore, I just want to make a point
21 that we see it as something we really
22 want you to look at very seriously and

1 we're concerned about the proposal.
 2 Thank you very much.
 3 (Applause.)
 4 THE CHAIRPERSON: Bruce Simon.
 5 MR. SIMON: I'm going to
 6 reserve my comments to the next meeting
 7 on the merits. I do have a statement
 8 that I would ask you to receive that was
 9 addressing the procedure. I would like
 10 to make one brief comment about what I
 11 consider to be the inappropriate
 12 references by Mr. Friedman earlier to
 13 the imprimatur of the Bloomberg
 14 administration.
 15 I believe he used the phrase
 16 three times, wholly inappropriate, in an
 17 effort to bring to this body
 18 considerations that do not apply. The
 19 other I think blatantly inappropriate
 20 comment is to try and place upon this
 21 board and the Landmark Preservation
 22 Commission the onus for having imposed

1 upon the synagogue the necessity to seek
 2 the variances they're seeking.
 3 I mean that is just trashy.
 4 And I'm sure that you will recognize
 5 that the effort to place the blame on
 6 you is really kid stuff.
 7 THE CHAIRPERSON: The people,
 8 Helen Zolick? Thomas Hansen. Marianne
 9 Lyons. Okay. I think, I appreciate
 10 everybody's patience and forbearance. I
 11 think we may spend a few more minutes
 12 with members of the board committee
 13 asking questions of the developer.
 14 Everybody is obviously welcome
 15 to stay and listen and maybe we'll just
 16 start it randomly here at my right and
 17 see what questions people have. Victor?
 18 Does anybody have, just start down
 19 there, fire questions at Joe.
 20 MR. GONZALEZ: Victor Gonzalez
 21 I don't have anything to do.
 22 MR. VITULLO-MARTIN: I know

1 you said this, the as of right height of
 2 the building in the R8B area, which I
 3 take it is all the first ten feet of
 4 that building. How high does it go as
 5 of right?
 6 MR. DOVELL: 75 feet. The as
 7 of right there's a 60-foot --
 8 MR. VITULLO-MARTIN: Where is
 9 75-foot on the model? So it's about the
 10 height of the pediment of the sanctuary
 11 of the synagogue, right?
 12 MR. DOVELL: Yes.
 13 MR. VITULLO-MARTIN: Thank
 14 you.
 15 MS. STARKEY: This is just a
 16 clarification. I took some notes. I
 17 thought I heard Shelly say that
 18 financial hardship was not an issue for
 19 a not-for-profit, however, the synagogue
 20 had agreed to provide certain financials
 21 because none the less it would be a
 22 factor in determining whether or not the

1 variances asked for were the minimum
 2 that were necessary, and then I heard an
 3 exchange and I never heard any
 4 financials.
 5 And so I'm just trying to
 6 clarify whether or not we will have the
 7 financials or whether or not they are
 8 relevant in this case.
 9 THE CHAIRPERSON: Well, the
 10 financial analysis in the packet, there
 11 is a financial analysis in the packet.
 12 Whether it is relevant and responsive to
 13 the issues that both and I raised which
 14 we will debate.
 15 I'm not sure, I haven't
 16 figured out yet how to best access this
 17 issue and it may be that we need to have
 18 a separate discussion about that. It's
 19 an extraordinarily complex issue.
 20 You can tell the part of
 21 Mr. Sugarman's analysis refuted some of
 22 the numbers in the CSI's analysis. And

1 I'm not sure that that analysis is
 2 relevant analysis to make anyway, but,
 3 you know, frankly it's very difficult
 4 issue to figure out how to grapple with,
 5 but we certainly ought to devote a fair
 6 portion of our time to the next meeting
 7 to that issue, both in terms of what are
 8 the numbers, and also in terms of what
 9 is the issue that is, you know, as some
 10 people have said, is it appropriate for
 11 a non profit to use, to use their
 12 variances to build private condominiums
 13 in order to finance the building, and if
 14 the answer to that is yes, are all of
 15 these condos necessary to do that or
 16 will some lesser number suffice.

17 And if the answer to that is
 18 no, what is the justification for having
 19 the condo. That's the issue --

20 MS. STARKEY: Can I ask
 21 another question? When you're talking
 22 about the minimum variance necessary,

1 are you talking about the minimum
 2 variance that is necessary for their
 3 programmatic needs?

4 THE CHAIRPERSON: Well,
 5 Shelly, weigh in on this.

6 MR. FRIEDMAN: Thank you.
 7 First of all, the number of condominiums
 8 are five condominiums. That's what's
 9 being here. What I tried to convey was
 10 the sense that one of the findings of
 11 3221 is that the applicant is unable to
 12 achieve a reasonable rate of return
 13 without the granting of the variances.

14 MS. STARKEY: Rate of return
 15 for not-for-profit.

16 MR. FRIEDMAN: That's the
 17 point, it says this finding shall not be
 18 applicable to not-for-profit applicants.
 19 So the financial information that we've
 20 submitted and that you often see in all
 21 of your other variance applications in
 22 this community has not been submitted in

1 furtherance of the B finding.
 2 It has been submitted because
 3 unlike the B finding, which is a
 4 mandatory finding which the board must
 5 make, the E finding which is the minimum
 6 variance finding, may if they so choose
 7 involve consideration of finances. And
 8 so to the extent that this optional
 9 inquiry may come up, we've submitted
 10 Jack Freeman, who is here tonight
 11 prepared to go through the economic
 12 analysis and we've submitted that
 13 material.

14 Now, the BSA has asked us some
 15 questions about that material and the
 16 notice of objections and we're
 17 responding to them. But the board's
 18 questions may not be used to
 19 Mr. Sugarman's questions, we're
 20 addressing the board's questions.

21 And when the board tells us
 22 that they're done with viewing our

1 application, we'll have a hearing date
 2 maybe later this month or sometime in
 3 December. And, but we are happy to
 4 answer the community board's questions
 5 about anything that's been submitted.

6 I just have to look back and
 7 make sure I've been clear when I say
 8 it's an optional consideration that the
 9 board may look at not the monetary B
 10 finding because non profits are not
 11 required to meet that standard.

12 MS. STARKEY: Minimum variance
 13 is a mandated finding, right?

14 MR. FRIEDMAN: Yes, it's their
 15 choice. They say maybe you can live
 16 with four or you need all five. They
 17 can go down that road if they choose and
 18 we have to respond whatever road they
 19 will go down. I'm not sure they will go
 20 down that particular road but we're
 21 prepared to deal with that.

22 Mr. Chair, would you like

1 brief synopsis of the financial analysis
 2 I mean, Mr. Freeman is here.
 3 THE CHAIRPERSON: I think it
 4 would be helpful. Why don't we finish.
 5 MR. FRIEDMAN: Whatever the
 6 board wishes.
 7 THE CHAIRPERSON: Also, if
 8 financial analysis does not go to the E
 9 finding, how do you propose to meet the
 10 E finding?
 11 MR. FRIEDMAN: I can address
 12 that, too. You want me to do that
 13 later?
 14 THE CHAIRPERSON: Yes.
 15 MS. ROSENTHAL: Helen
 16 Rosenthal. To the chairs of this
 17 committee, you can decide to set up a
 18 separate group looking at the
 19 financials. I'd be happy to help out
 20 doing that because I would imagine you
 21 can do it well.
 22 THE CHAIRPERSON: All right.

1 MS. COWLEY: I thank you.
 2 MS. ROSENTHAL: Very simple
 3 question. Can you show me where the
 4 five condos are on that model?
 5 MR. FRIEDMAN: The new
 6 building consists of four floors of the
 7 community house, one, two, three, four,
 8 so we're up to here. And then one, two,
 9 three, four, five. This is not a --
 10 this is not a freestanding condo, so
 11 it's the top five floors. I want to
 12 confirm that with Ray.
 13 MS. ROSENTHAL: Thank you.
 14 MR. FRIEDMAN: The original
 15 application was 14 stories and we came
 16 back with this building, two-story
 17 penthouse which would have been a
 18 six-unit and that was cut down.
 19 MS. ROSENTHAL: Okay. My
 20 follow-up questions to that have to do
 21 with financials of the condo units.
 22 MS. COHEN: I think we are

1 going to need to, we're going to need to
 2 analyze each variance one by one.
 3 I think that I am persuaded
 4 that several variances clearly are
 5 needed to maintain the symmetry of the
 6 building. There are some, the ones that
 7 have to do with the rear yard are
 8 specific to the community as it has to
 9 do with how big the school is.
 10 And I would like to know
 11 actually from the applicant in terms of
 12 the tenant the school tenant is, is
 13 there a normal use by the synagogue of
 14 that if they were to completely rent it
 15 out for the tenant's use or is it that
 16 it's an efficient use of space they
 17 haven't used or any regular business
 18 hours kind of thing. That's one set of
 19 questions.
 20 Then there are a set of
 21 variances that are associated with
 22 height and setback that seem -- you have

1 to understand the financial analysis to
 2 be associated with the committee, and I
 3 think those need to be evaluated
 4 separately, especially since this is the
 5 first time I heard tonight, that there
 6 will be blockage of not alignment which
 7 we understand, in general, is a risk of
 8 life in New York, but considering that
 9 that portion of the building wouldn't be
 10 that high, otherwise, this would
 11 actually be us approving a variance that
 12 would block out spotlight windows and I
 13 believe that is of great concern for the
 14 board.
 15 MR. FRIEDMAN: Thank you for
 16 asking the question about the school
 17 because I think there was some
 18 misinformation.
 19 The synagogue has its own
 20 Hebrew school. Vibrant institution, the
 21 school, it services the constituents and
 22 other members of the west side

1 community. Hebrew school tends to be
2 after school and have weekend function,
3 and that is the primary purpose of the
4 space in the community house.

5 And it's the primary purpose
6 of the expanded space with the new
7 classrooms we'll be seeking. Those
8 classrooms lie dormant during the
9 regular school day when children are in
10 other schools in their regular
11 education.

12 The synagogue has arranged a
13 relationship with a day, scheduled day
14 school to use those spaces that are
15 already there. So it's not so the
16 priority there and the zone of the space
17 is not as a rental facility, and oh, by
18 the way, this is not as a Hebrew school,
19 the synagogue has the Hebrew school and
20 have been recently able to find a tenant
21 to be able to use all that space during
22 the daytime.

1 Both institutions are
2 responsible for the present situation
3 which is significant overcrowding, as
4 you know the Landmarks Commission gave
5 approval to put two temporary trailers
6 in the vacant lot because the school
7 conditions are as run down as they are
8 and underserved.

9 The both communities,
10 primarily the Hebrew school community at
11 the synagogue, so in conclusion that is
12 based synagogue space provided for the
13 Hebrew school, needs to be expanded.
14 The tenant will be accommodated to the
15 extent it can be accommodated and to the
16 extent that space is already there.

17 With regard to the second
18 question about the height setback
19 requirements, we will -- we have to
20 maintain and will continue to maintain
21 provisions of residential housing.

22 The residential space is a

1 component, not the driving force, but a
2 component of the school's overall
3 programmatic needs. The same way that
4 the Rose building was an important
5 building perpetuation of the center and
6 other institutions are moving forward in
7 a similar fashion within a stone's throw
8 of West 70th Street.

9 So from that standpoint --

10 MS. COHEN: We have problems
11 with other complications.

12 This one is less egregious,
13 less burdensome.

14 MR. FRIEDMAN: We're talking
15 about five units. We're not talking
16 about the Rose building, but I can't
17 separate the fact that this has been a
18 legitimate pursuit of nonprofit for a
19 very long time. Has not been in
20 invented by Shearith Israel, not created
21 by nonprofit 21-century as some new
22 device for achieving programmatics of

1 efficiency.

2 THE CHAIRPERSON: Now, the
3 moment we've been waiting for Shelly and
4 Shelly.

5 MR. FINE: We were in a
6 difficult position having received BSA
7 22 objections last Friday. To determine
8 how we could look at this proposal and
9 have proper information for the board
10 and community with those issues not
11 addressed.

12 We were also given dates like
13 December 4th, December 8th and even
14 November 28th as possible BSA hearings.
15 Since we want to have proper
16 deliberations, could you tell us at this
17 time an approximate time where you
18 believe that you may respond to those
19 22, in an adequate way so the BSA might
20 decide to calendar? That's one
21 question.

22 And second, can we work

1 together, the community board and
2 Shearith Israel to allow for that
3 deliberation to take place in a timely
4 fashion?

5 MR. FRIEDMAN: Let me address
6 your last question first. The fact of
7 the matter is, now stepping back the
8 question, the objections received last
9 week, and I must define for the group
10 and for those who are listening, these
11 objections are not adversarial
12 oppositional positions.

13 The majority of them have to
14 do with notations on plans, they like us
15 to substitute certain word for other
16 words to improve the readability for the
17 commissioners.

18 These are not adversarial or
19 conceptual plans. They are basically
20 such questions asked, what is a sukkah.
21 Those are the ones we can handle, but we
22 have to respond and we have to respond

1 in an orderly fashion.

2 Our term is to have all the
3 responses due, none of them are terribly
4 hard, by this Friday. It's our
5 expectation we'll meet the deadline. If
6 that's the case, we can have all have
7 the hearing as early as the 28th of
8 November. If not another week
9 December 4th.

10 There's a general concern that
11 being the afternoon of Hanukkah eve that
12 we would not like to proceed on that
13 date, therefore, we're making an effort
14 for everybody's better interests to try
15 and get this all done and in by Friday
16 and get our hearing on the 28th.

17 That said, I think we can
18 anticipate this will not be a single
19 hearing to the Board of Standard and
20 Appeals. I see no calendar issues with
21 overlaying, overdue consideration of
22 this application with the fact that, so

1 that it can be completed before the
2 final hearings of the BSA.

3 And we will cooperate with the
4 board to the extent necessary to assure
5 that because we value this opportunity
6 to define the application for you and
7 seek your support.

8 MR. FINE: Thank you.

9 MS. COWLEY: My question is in
10 three parts because they work their way
11 in Central Park West, I asked my
12 colleagues in parks and preservation one
13 question. Is the parsonage part of the
14 individually designated landmark or is
15 it within a historical district?

16 MR. FRIEDMAN: It is not part
17 of the individual landmark, but it is a
18 historical district.

19 MS. COWLEY: That leads to my
20 second question to which has to do with
21 the as of right proposals you developed
22 and I guess it follows on from the

1 succinct commentary we've had today and
2 has been in the back of my mind about
3 the treatment of the rear yards and
4 certainly amplifies my colleague's
5 comment about blocking up the windows.

6 The examples given A, B and C
7 and the as of right development, I think
8 it's B and C or A and B are exactly the
9 same floor plans, and only C is the as
10 of right that shows your mass
11 development with the slender tower.

12 My concern in this is that I
13 notice that in all three options and the
14 option that you have provided in your
15 design, none of them engaged the
16 parsonage or try to address what appears
17 to be open space and potential
18 development that you would use either
19 behind the parsonage or engage that
20 space.

21 I say this because this, I'm
22 happy we have the time to think about

1 this and I can deliberate with my
2 colleagues, but I think one of the
3 weaknesses and one of the things that
4 I'm going to have trouble with as we
5 move forward is the fact that there is
6 not sufficient variation to show how
7 your program could be met using the air
8 space behind the building that would
9 enable you not to build to such a
10 height.

11 And as for the A, B to be the
12 average between 10AA, 8B not encroach
13 upon the properties that we've seen and
14 make better use, frankly, of the
15 programmatic needs, so it addresses the
16 financial needs, so you would not
17 necessarily need to build the luxury
18 condos.

19 I'm not really asking a
20 question. I'm just telling you my
21 considerations, information and perhaps
22 there would be some additional responses

1 that you can make as to why you did not
2 engage the parsonage as part of the
3 study at large.

4 MR. FRIEDMAN: Well, if that's
5 not in the form of a question, let's put
6 a future date and we'll respond.

7 MS. COWLEY: Unless you can
8 tell us why you didn't engage the
9 parsonage in any of the design studies.

10 MR. FRIEDMAN: There are two
11 and I think the architect is better to
12 answer it, but the parsonage has several
13 problems as potential facility space
14 dealing with its construction, with per
15 se its ability to provide egress
16 necessary for community facility uses.

17 There are serious code
18 requirements regarding the elevator and
19 while it's the elevator can serve
20 residential purposes it cannot serve
21 community facility purposes and,
22 therefore, would have to be most likely

1 in place.

2 It was poor overall for
3 accepting any of programmatic uses the
4 synagogue required. That's why in days
5 of old, as many of you know, it was used
6 as a homeless shelter. That was its
7 only potential use to the synagogue
8 then, and nothing really changed since.

9 It did renovate it, it did
10 imply landmarks for facade work and the
11 like, and has again rented it out and,
12 at market rate to a tenant who has a
13 family there and can use the building in
14 which it was built for the purposes it
15 was built as a residential unit. How
16 that might have been different
17 architecturally beyond that tied into
18 the new construction, I'll ask my
19 colleague.

20 MR. DOVELL: There is one part
21 of that which you should be aware of
22 there is an historical skylight in the

1 parsonage which lights down into the
2 small synagogue into a meeting room
3 which has just been restored.

4 MS. COWLEY: That's why I was
5 asking if it was individually designated
6 or was it within a historical district
7 because elements such as this would not
8 necessarily fall under landmark
9 jurisdiction.

10 I'm aware that many buildings
11 on the west side panelling in people's
12 front parlors, mantle pieces and even
13 doorbells are important, but that would
14 be an elective element for you to
15 restore, and not one that would come
16 under the public eye.

17 So I would say this is an
18 admirable thing for you to do, but not
19 prevent you from certainly making a
20 change in the neighborhood, particularly
21 since this site, you are moving a
22 building, admittedly it might be of

1 great quality which is equal to your
 2 uses.

3 The parsonage has also seemed
 4 to outlive its use. Thank you. I just
 5 had to respond to your response.

6 A VOICE: Shelly, the
 7 parsonage to a private individual, you
 8 pay property taxes on that or is that
 9 considered also not-for-profit and tax
 10 free?

11 MR. FRIEDMAN: I would be
 12 amazed if they didn't pay property
 13 taxes. I don't have firsthand
 14 information on that.

15 MR. SIMON: What's the term of
 16 the lease?

17 MR. FRIEDMAN: I don't know.

18 A VOICE: I don't think they
 19 address the other issue, the space
 20 behind the parsonage.

21 MS. COWLEY: I hit them with
 22 so many things because I started from

1 Central Park West and moved my way in,
 2 as I said they're interrelated part of
 3 this is to share our individual comments
 4 that we have concerns. Business, it's
 5 going to guide finance, use, setback,
 6 light and air and environment, so I got
 7 some answers. Luckily I could think
 8 about it again and I'm going to come
 9 back and ask more questions later.

10 MR. FRIEDMAN: In an attempt
 11 to respond to that questions, those of
 12 you who do know the synagogue, the
 13 footprint we're talking about is the
 14 site of the little synagogue, which is
 15 perhaps one of the most important
 16 chambers in the entire array of
 17 buildings.

18 That little synagogue is not
 19 going to be touched as a programmatic
 20 issue and as an issue, you know it as a
 21 synagogue, this is fair game. As a
 22 programmatic tissue issue, it's an issue

1 of faith, that synagogue is not going to
 2 be touched as part of this renovation
 3 project.

4 MS. COWLEY: Good answer.
 5 Thank you.

6 MR. HOROWITZ: I need
 7 clarification or a response to the
 8 linkage between the refined B finding
 9 and E finding. The B finding modified
 10 so that we don't need a demonstration of
 11 a reasonable rate of return, and then
 12 the E finding which is the minimum
 13 variance required for relief.

14 And if I understand what
 15 you're saying, there's no requirement
 16 for financial relief, but you have to
 17 show you need it anyhow. Let me finish
 18 the train of thought. And if that is
 19 not required basis on that finding, is
 20 there any other argument you're putting
 21 forth or is it solely reliant upon the
 22 economic issue?

1 MR. FRIEDMAN: There are. I
 2 think what I'll end up doing is taking
 3 this trail once they further it because
 4 what you are asking us for is how well
 5 we did the A finding, which is the
 6 uniqueness finding and how that
 7 justifies it.

8 On the minimum various
 9 findings, it's a good question because
 10 it's a tough one to respond to. Minimum
 11 variance is basically anything the board
 12 wants to think about or think of.

13 Now, it could be it would be
 14 about traffic, it could be about
 15 pedestrian congestion. I mean, really,
 16 it's a kind of catchall and because it's
 17 a catchall, even though we're not
 18 required to make a B finding, it can
 19 come back in the side door, and they
 20 will want to discuss why we're asking
 21 for five, why we're asking for five --
 22 five condominiums.

1 We're prepared to do that. We
2 want to be prepared for that question.
3 It's not the full force financial
4 analysis that one would have to do for a
5 B finding but it does discuss the fact
6 the five-units are an integral part of
7 our programmatic need, certainly not the
8 only factor.

9 We have egress issues with
10 regard to the synagogue that we need to
11 address. We have to replace the
12 community house. The hardship here
13 inasmuch as people don't want to hear
14 about it is we did not see a building in
15 this presentation adjacent to this
16 synagogue, which is not woefully non
17 compliant. We are up against 91, 101,
18 18 are all woefully and enormously
19 noncompliant and yet we have to somehow
20 produce an as of right building that
21 also lead to landmark's concern about
22 appropriateness in the cornice lines and

1 street wall lights and the like. It
2 cannot be done under the zoning as
3 written. That's what the BSA is for.
4 We have enormous street walls
5 in 18 and lot coverage issues that are
6 woefully noncompliant. We have
7 overbuilt conditions and rear yard non
8 compliances with regard to the building
9 across the street and the one adjacent
10 to ourselves.

11 This building is at the same
12 time in a rear yard and it can be seen
13 from Fifth Avenue in terms of because
14 this is not the typical doughnut, this
15 opens up as it's kind of open-ended as
16 you look into it from east to west and
17 all those rear yard requirements that
18 are essential and important to the
19 concept of bringing light and air into
20 the doughnut don't apply because this is
21 open-ended from Central Park west in.

22 Now, what I'm saying is that

1 these are the issues that are fair game
2 for the BSA to deliberate over and to
3 determine in terms of priority and we're
4 making a case to the BSA asking them to
5 deliberate to find that not all of these
6 zoning requirements which are put to
7 good use and other purposes make sense
8 on this site and, in fact, they're very
9 hurtful. They're hurtful to the
10 programmatic need of the synagogue.

11 They're hurtful to the
12 direction the Landmarks Commission
13 wanted to us go in and they're hurtful
14 to the direction the community board
15 wanted us to consider. It's called
16 collaboration, but in order to achieve
17 what we were asked to achieve and
18 overcome our own programmatic service,
19 we have to have these zoning variances.
20 That's the nature of the case.

21 MR. HOROWITZ: That's without
22 giving a response. I don't want to

1 continue the debate on this now, but to
2 raise the point so that you can
3 anticipate that it will be raised in the
4 future, and that is, there's the concept
5 and the language of relief in that
6 minimum variance and relief is not from
7 a financial hardship --what's this other
8 relief.

9 MR. FRIEDMAN: It's the re --

10 MR. HOROWITZ: That wasn't a
11 question.

12 THE CHAIRPERSON: It's
13 rhetorical, but I'm going to ask it.

14 MR. FRIEDMAN: Great.

15 THE CHAIRPERSON: And I'm
16 going to try to put, we're, you know,
17 several of us have tried to focus on
18 this E finding, Shelly, and either it's
19 late or we're not as sharp as we should
20 be or you haven't thought it through or
21 what you have thought through, doesn't
22 answer it, but we haven't gotten an

1 answer.

2 So let me just focus you on

3 what you wrote in the application, the

4 statement of support. In support of the

5 E finding, you wrote, without the

6 waivers requested in this application,

7 CSI will not be able to build a

8 community house in a manner in which

9 addresses the access deficiencies of the

10 synagogue, nor can it hope to provide

11 better classrooms, offices and

12 specialized facilities that are critical

13 to the continuation of its religious

14 educational and cultural omissions.

15 In every category the demand

16 for the demand elements are increased

17 and CSI considers it essential to

18 provide the services. That's the

19 standard you set for yourself.

20 That is how you told BSA you

21 intended to meet this finding. Now the

22 five floors of condos do not provide

1 classrooms, offices, specialized

2 facilities for, have anything to do

3 directly with your religious,

4 educational and cultural emissions,

5 correct?

6 MR. FRIEDMAN: Incorrect,

7 Mr. Chairman, with all due respect.

8 THE CHAIRPERSON: You're not

9 going to be teaching, they're not going

10 to have banquet facility there, right?

11 MR. FRIEDMAN: You and I will

12 disagree on what direct means. We

13 believe the five units are directly

14 related to achieving --

15 THE CHAIRPERSON: There's no

16 program going on in those condos,

17 correct?

18 MR. FRIEDMAN: No --

19 THE CHAIRPERSON: Shelly,

20 please, you can't filibuster. It's

21 9:30. We're going to stay here until we

22 make some progress. All right.

1 Programmatically, they are not being

2 used for any of the purposes listed in

3 this paragraph.

4 So your argument has to be

5 that they are necessary to finance those

6 programs, correct?

7 MR. FRIEDMAN: Necessary to

8 finance, it's the structure of the

9 housing -- correct?

10 THE CHAIRPERSON: So it's not

11 essentially, but solely an economic

12 issue. It's got nothing to do with

13 symmetry because if the building doesn't

14 stick up over the synagogue, there is no

15 issue of symmetry and, therefore, it is

16 purely a question of economics and the

17 question that we raise and I don't mean

18 to imply that I have an answer, but I

19 really wish you would focus with us on

20 this.

21 We have been told recently in

22 connection with the Jewish Home and

1 Hospital, that BSA does not consider

2 variances in the context of a charitable

3 organization selling off some of its

4 property for private enterprise. And,

5 therefore, they needed a, they needed

6 zoning relief, not a variance, but

7 zoning relief.

8 We weren't sure you were

9 right, but things being what they are,

10 we reached a compromise. Here, you are,

11 your argument stands to fall uniquely on

12 the proposition that a variance is

13 appropriate in order to permit a charity

14 to, or religious institution to build

15 something that has a program associated

16 with this mission.

17 And I would hope that in our

18 next session you can provide it or maybe

19 before our next session, you can provide

20 us with cases that say that that

21 analysis was appropriate, and if you do

22 provide us with those cases, I would

1 hope that you conduct an economic
2 analysis, which has not yet been
3 conducted in my judgment, which proves
4 that five floors of condominiums, not
5 four, not three, not two, not one, not
6 zero, but five floors of condominiums
7 are necessary, the minimum necessary,
8 the minimum necessary, that's what you
9 have to show to sustain the construction
10 of your institution.

11 And I don't know how you prove
12 that you certainly don't prove it by the
13 analysis in the application, which has
14 to do with something, has to do with
15 some hypothetical rate of return which
16 you and I agree are irrelevant. And --

17 MR. FRIEDMAN: I do not agree.

18 THE CHAIRPERSON: The other
19 conundrum, again, I don't have an answer
20 myself, but does the fact that if it's
21 true or members of Forbes Fortune 400,
22 500 on your board as are on our

1 community board, if that's true, does
2 that have a bearing that is the wealth
3 of the organization, does that have, in
4 other words, are you going to be
5 penalized in your application because
6 you're a wealthy board, as opposed to an
7 organization that can't, really can't
8 dig into its own pocket?

9 Does the size of your
10 endowment bear on this issue? These are
11 all things, Shelly, with all due respect
12 this board is not going to walk away
13 from. We're going to address them. If
14 you don't address them, we will, and I
15 suggest that the analysis that was done
16 really relates to the B finding, but not
17 in any way to the E finding.

18 BSA can do what it wants to
19 the E finding, but I think a lot of us
20 are troubled by the proposition that
21 you're requesting a variance for
22 appropriate zoning in order to finance

1 this.

2 MS. NORMAN: I want to talk to
3 you about the parsonage. At any rate,
4 are there air rights that remain over
5 that parsonage?

6 MR. FRIEDMAN: Absolutely.

7 MS. NORMAN: Would it be
8 possible then the synagogue would come
9 back at a later date and suggest that
10 they need to use those air rights to
11 build above the parsonage.

12 MR. FRIEDMAN: Anything is
13 possible. The application take the same
14 trip down --

15 MS. NORMAN: I realize that,
16 but we weren't as effective in the
17 Landmarks Commission as I hoped we would
18 be.

19 MR. FRIEDMAN: That's what the
20 74-711 was all about. It just didn't
21 happen.

22 MS. NORMAN: The other thing I

1 wanted to mention was I don't think all
2 the examples that you mentioned, like
3 the Rose building, has the impact that
4 of the building that will be so visible
5 from Central Park has, and that will be
6 next to such an important building.

7 Just a reminder where I'm coming from.

8 MR. FRIEDMAN: I appreciate
9 that, Lenore, but the joint parks may
10 have a resolution zero stating they had
11 no issue of the height of the building
12 or its, or the issue of symmetry.

13 A VOICE: I have two
14 questions. I want to be a hundred
15 percent certain that the parsonage is a
16 separate lot; is that right?

17 MR. FRIEDMAN: No. Because
18 when you're talking about a zoning lot,
19 it's all part of the same zoning lot
20 because it's --

21 MS. NEUWELT: Most of the
22 people in this committee, which I'm not,

1 are more expert than I am on these fine
2 points, but my question then is the
3 calculations of available floor area the
4 -- thousands that were available, some
5 used, some not, did that include
6 available floor area from the parsonage?

7 MR. FRIEDMAN: Yes, it did.

8 MS. NEUWELT: So the floor
9 area calculations are on the combined
10 buildings?

11 MR. FRIEDMAN: As zoning
12 requires, yes.

13 MS. NEUWELT: I have another
14 question that I can ask Shelly Friedman
15 or our Shelly, Richard, who has the
16 answer to this, again, Lenore and I we
17 do landmarks and we know LPC, there's a
18 difference between the first session the
19 LPC has, which is a public hearing at
20 which anybody including CB can be heard.

21 At subsequent sessions which
22 are called public meetings at LPC where

1 it's only debate and follow up among the
2 Commission.

3 My question is who knows if
4 BSA is the same way because hearing
5 people schedule things earlier tonight I
6 have a question if BSA would adjourn its
7 hearing, BSA can have a --

8 MR. FINE: Can have a second
9 hearing and so on at a certain point,
10 the only thing we can submit if we
11 haven't made that hearing is something
12 in writing to be considered similar.

13 The answer is it's similar,
14 yes.

15 MS. NEUWELT: I think we may
16 have some timing concerns then.

17 MR. FRIEDMAN: Mr. Chair, with
18 the cooperation of the applicant, the
19 BSA will keep that issue open until the
20 final hearing, until it closes the
21 record prior to issuing a decision.

22 And I will be happy to

1 cooperate with the community board to
2 make sure they understand our interest
3 in keeping the record open so the
4 community board can come down and
5 testify.

6 MR. FINE: Thank you.

7 MS. NEUWELT: Certainly our
8 experience with LPC is they keep the
9 record open, too, but that's not the
10 same as the opportunity to come and
11 participate in the dialogue of any
12 session after the first one.

13 MR. FRIEDMAN: That much is
14 very different from BSA. Every meeting
15 with BSA is a continuation of a public
16 hearing until they close it.

17 They do not close it until the
18 last hearing prior to scheduling another
19 hearing. There's no executive session
20 kind of repartee with the BSA.

21 MS. RADLEY: I'm last but
22 just, I think the argument about the

1 billionaires on your board is a spurious
2 argument from our point of view because
3 we dealt with several institutions
4 recently that probably wealthier have a
5 work -- and backing political officials.

6 So I think we have to
7 disregard that and how people choose to
8 spend their money for capital investment
9 versus programmatic investment versus
10 private individuals.

11 What I am concerned about is
12 couple of things. I haven't seen the
13 figures that, we were talking about the
14 capital campaign that was to fund the
15 endowment, which you know not for
16 profits, this is the best of possible
17 words. Everything is tax free so their
18 endowment can grow without taxable
19 benefits, but their costs have gone up.

20 I know how expensive it is to
21 run a temple. So there are costs and
22 I'm sure the endowment has linked that

1 and that in good faith you're using the
2 money from the condos or from the sale
3 of the land to fund this building.

4 However, I'm wondering if --
5 I'm not sure why you were doing an ROI
6 unless it's to show the developer the
7 benefit that he's going to derive from,
8 you don't need an ROI and I'm wondering
9 if part of this is not just going to
10 fund your own construction cost, but is
11 being put into the endowment and,
12 therefore, and I happen to agree with
13 Page that perhaps there is a way of more
14 creatively using the available space.

15 For instance, you said with
16 the R8, you have a right as a community
17 facility to build 23 feet up and I know
18 you have a right to cover most of the
19 backyard. In the meantime, you're also
20 saying that you're not going, that
21 you're not really using that right.
22 You're using what Landmarks asked you to

1 do was to equal the R8 to create a
2 quality between the R8 and the R10
3 compromise, and that's what's given you
4 a variable sheer street wall building.
5 And perhaps if the cost, if
6 the incremental cost were not going to
7 -- incremental income were not going to
8 go into the endowment there will be a
9 way of shaving it off and creating your
10 programmatic objectives and creating a
11 structure that's perhaps more
12 appropriate.

13 MR. FRIEDMAN: First of all,
14 the question of the endowment were not
15 raised by us, it has not been part of
16 our presentation and we're not really if
17 others think that's relevant, they're
18 free to raise it with the BSA, we don't
19 -- we don't intend to address this,
20 unless the BSA wants us to.

21 With regard to the zoning, I
22 think that the comparison, the gray on

1 the screen, the as of right, this
2 footprint is 27 feet in the R10A and
3 47 feet is in the R8B. That generates
4 an as of right building for that first
5 27 feet, it will be a 127 feet high and
6 for the other, the remainder can only
7 be, can only be 75 feet high.

8 That's no reason why I'm -- I
9 don't know anybody wants to see, it's
10 not a building CSI wants to build. I
11 don't think it would be a building that
12 meets with anybody's approval to have
13 such a discrepancy in the street wall,
14 have part of it being 125 feet high and
15 the other part being 75 feet high on the
16 same building site.

17 That's the balancing, the
18 averaging we're trying to achieve here,
19 the bulk is as of right, we are not
20 asking for additional bulk here.

21 It's very important to realize
22 that even though it's an R8B because the

1 zoning lot preceded the 1961 zoning
2 resolution as of right bulk on this site
3 is FAR8. That is a, that is almost
4 double than R8B permits, but it has as
5 of right.

6 We're only seeking the
7 opportunity to modulate across the
8 district boundary to bring down 120 and,
9 obviously, the R8B it goes up.

10 Now, with regard to the ROI, I
11 know if I were to get out of here scot
12 free, I'm going to ask Jack Freeman, who
13 prepared the financial analysis to
14 respond to your question.

15 MR. FREEMAN: What I would
16 like to address really, if you're going
17 to have a follow-up session to deal with
18 complicated financial picture, that's
19 probably a good forum to do it because
20 if we begin to answer the individual
21 questions, we'll be here for quite a
22 while.

1 THE CHAIRPERSON: We agree. I
2 hate to overrule Shelly, but we really,
3 it's not appropriate, it's not as much
4 an appropriate time to address the
5 issue.

6 MR. FREEMAN: We're here to
7 answer the questions you have and help
8 you understand and we're at your
9 disposal, as far as that goes.

10 THE CHAIRPERSON: We
11 appreciate that. Max?

12 MR. ROSENBERG: The way of the
13 setback on that very narrow street.

14 MR. FRIEDMAN: The Rubik's
15 Cube which is this site, if you're
16 standing at the building from across the
17 street in the park looking in the
18 direction of the synagogue that setback
19 will require, create a total lack of
20 symmetry for that elevation.

21 MR. ROSENBERG: You're
22 maximizing the space.

1 MR. FRIEDMAN: The idea of the
2 balance, which is supposed to achieve a
3 quiet background look and not interfere
4 with the synagogue is to have things
5 pretty much be as quiet as possible, and
6 that accounts for the variances both
7 with regard to the rear setback and the
8 front setback.

9 Now, if you turn the cube and
10 look at it from across 70th Street, then
11 you see the additional need desired and
12 this was, it's in the certificate of
13 appropriate with the Landmarks
14 Commission to line up the cornice line
15 with 18 West, and therefore, again
16 strict compliance with the zoning
17 resolution would mean considerable
18 architectural discordance between that
19 setback and the smooth corner slide of
20 18 which is in its own right totally non
21 compliant, but the effort here is at
22 least to provide some symmetry and

1 harmony.

2 THE CHAIRPERSON: Shelly, I
3 must say the symmetry argument lost me a
4 little bit. If you're talking the
5 symmetry argument, I take it how this
6 thing looks behind the synagogue from
7 somewhere on Long Island or Fifth
8 Avenue, right?

9 MR. FRIEDMAN: No. Richard is
10 cross the street, Central Park West and
11 it's in your resolution.

12 THE CHAIRPERSON: But I'm
13 farsighted. What you're proposing is a
14 three-foot waiver of the street setback
15 street side setback. In order to
16 achieve symmetry, you're also proposing
17 a three-foot waiver of the setback on
18 the south in order to achieve symmetry.

19 I don't understand why if you
20 don't get either waiver you don't also
21 have symmetry.

22 MR. FRIEDMAN: I'll ask Ray to

1 respond to that.

2 MR. DOVELL: What Landmark was
3 most interested in is the gable end of
4 this structure and how this glass
5 element wrapped up from it. So it is
6 symmetrical about the center with this
7 piece being the same width as the size
8 of the pediment.

9 That's giving it a direct
10 relation carrying up the building. If
11 this was less, it would not have that
12 same relationship. If this was pushed
13 in and this was pushed in, the
14 relationship would be symmetrical, but
15 would not have the alignments that are
16 here.

17 THE CHAIRPERSON: So it's not
18 symmetry.

19 MR. DOVELL: It's symmetry,
20 but it's also the alignment issue which
21 they comment about.

22 THE CHAIRPERSON: In terms of

1 the lining up of the corners, that's
 2 only a relevant factor if we waive the
 3 height in which setback is supposed to
 4 take place, correct?
 5 MR. DOVELL: Correct.
 6 THE CHAIRPERSON: Ladies and
 7 gentlemen, we made a lot of progress or
 8 maybe it doesn't seem like it, but I
 9 think we've -- Tom, you want to?
 10 MR. VITULLO-MARTIN: One last
 11 question. I'm sorry. I'm a little
 12 confused about the school. Is the
 13 school -- someone said that the school
 14 is a rental, rents the property. Is the
 15 school part of the program of the
 16 synagogue or is it just rental income?
 17 MR. FRIEDMAN: It is strictly
 18 rental income. The synagogue's Hebrew
 19 school deals with the Hebrew education
 20 of its congregants and others in the
 21 community.
 22 The rental school, the Beit

1 Rabban, is a tenant and pays rent to
 2 utilize the space for a day school.
 3 MR. VITULLO-MARTIN: If the
 4 school ceases to be a renter, then the
 5 synagogue has a lot more space for its
 6 programs. I mean, what is the
 7 consequence of that?
 8 MR. FRIEDMAN: If the tenant
 9 left the site, then the synagogue would
 10 have a lot of empty classrooms it uses
 11 in the late afternoons, evenings and
 12 weekends and most other churches and
 13 synagogues that provide after school
 14 programs, that space will be not
 15 utilized. Empty.
 16 MR. VITULLO-MARTIN: Okay.
 17 Thank you.
 18 MR. FINE: Use space on
 19 weekends, at other times as it is,
 20 that's what I remember from two years
 21 ago.
 22 THE CHAIRPERSON: In other

1 words, the space, Tom, is not used by
 2 the synagogue during the --
 3 MR. VITULLO-MARTIN: They
 4 mesh, I see it makes sense.
 5 THE CHAIRPERSON: Anyhow I
 6 think we've identified issues. We
 7 understand the issues on both sides. We
 8 have a lot of work to do and we look
 9 forward to working with everybody again.
 10 We may try to narrow some of
 11 the economic issues in a smaller working
 12 group, if we can, and hopefully,
 13 Mr. Frazier will be available.
 14 MR. FRIEDMAN: I'm sorry.
 15 Will be available. Thank you very much
 16 everybody.
 17 (Whereupon, at 9:47 o'clock
 18 p.m., the meeting was concluded.)
 19 C E R T I F I C A T E
 20 I do hereby certify that the
 21 foregoing taken at the time and place
 22 aforesaid, is a true and correct

1 transcription of my shorthand notes.
 2
 3 JOHN PHELPS, CSR, RPR, CRR
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2
3 COMMUNITY BOARD 7 LAND USE
4 COMMITTEE PUBLIC MEETING
5
6 TIME: 7:11 P.M.
7
8 LOCATION: American Museum of Natural History
9 77th Street and Central Park West
10 New York, New York 10024
11
12 DATE: November 19, 2007
13
14 RICHARD ASCHE: Chairperson
15 PAGE COWLEY: Co-Chairperson
16
17 APPEARANCES:
18 SHELLY FRIEDMAN
19 RAY DOVELL
20 JACK FREEMAN
21
22 BOARD MEMBERS:
23 HOPE COHEN
24 SHELDON FINE
25 KLARI NEUWELT
26 LENORE NORMAN
27 HELEN ROSENTHAL
28 JEFFREY SIEGEL
29 CHARLES SIMON
30 ELIZABETH STARKEY
31 HOMAS VITULLO-MARTIN

1 MR. ASCHE: All right. If
2 everybody please will have a seat, we
3 can get started.
4 All right. This is a
5 continuation of public hearing on the
6 application by the Trustees of Shearith
7 Israel for various variances.
8 We had presentations and we
9 had counter presentations at the last
10 meeting, but there may be new faces
11 here. What I'm going to ask the
12 developer to do is to very quickly
13 summarize the development, and then to
14 focus his remarks on the specific
15 justifications for each of the four
16 findings that we're required to make in
17 order to grant any variance.
18 And, finally, to address the
19 issue of the lot line windows and to
20 show us how the building and the
21 variances would impact those windows and
22 the windows in the courtyard between the

1 lot line windows, okay.
2 Then, we will -- we're going
3 to after that, if there are spokespeople
4 for the opposition, we will give you
5 time, not limited by two minutes, but
6 limited hopefully by common sense.
7 We've heard you before, so
8 you're certainly welcome to comment on
9 anything that Shelly Friedman says or
10 anything else, but just bear in mind
11 that this is not, nobody is writing on a
12 clean slate here, okay, and let's all
13 try to exercise some restraint in the
14 length of our discussions.
15 MR. FRIEDMAN: Good evening.
16 Shelly Friedman, Friedman and Gotbaum,
17 special counsel to the trustees.
18 VOICES: You need the mike.
19 MR. FRIEDMAN: Good evening.
20 Shelly Friedman, Friedman and Gotbaum
21 special counsel to the congregation.
22 Richard, given what you'd like

1 us to begin with, I thought, perhaps,
2 the best way to go is briefly for Ray
3 Dovell, the architect, to take us
4 through the building, focusing on the
5 variances that are being requested.
6 And we can stop along the way,
7 if members of the committee want to know
8 more about the composition of the
9 building or any particular uses.
10 And with those having been
11 discussed, I can then discuss the
12 variance application before findings, is
13 that acceptable? Then I'm going to ask
14 Ray to speak on the building.
15 MR. DOVELL: The model you see
16 here is the approved version of the
17 model with one exception, the
18 modifications that we made to the base
19 of the building, towards the end of the
20 landmark submission, required a slight
21 modification at the entry.
22 That is a little model that's

1 here, which I'm going to put to the side
2 for everyone to see at the time we begin
3 to talk about the changes.

4 First, we're going to review
5 the changes that were made as a result
6 of the final hearing at Landmark.
7 Changes made from the last time this
8 presentation was made to you. Sorry,
9 it's a little slow on the laptop.

10 MR. ASCHE: If you're going to
11 talk about the evolution of the
12 building, I don't think it's all that
13 germane to what we're doing tonight.

14 MR. DOVELL: I'll go through
15 this very quickly. To the left was the
16 presentation, was the elevation that you
17 saw prior to its approval.

18 In connection with the
19 approval, we dropped this floor from the
20 top, again to the left is what you saw
21 earlier. We dropped this floor. The
22 penthouse floor.

1 We changed the material. The
2 material you see here was terra-cotta,
3 to brick. We added a vertical element
4 at the edge of these spandrels that came
5 through, and we added four -- we added
6 two additional doors at the base.

7 Here you see the final and
8 approved version, you see the reduction
9 of the penthouse, the change of the
10 material. The vertical element and the
11 doors.

12 This, again, is the 70th
13 Street elevation. Go ahead. The effect
14 of those changes on the rear of the
15 building. This is the south facing
16 portion. This is simply the reduction
17 of that penthouse floor, and here you
18 see the final approved version.

19 It's a little faint, but here
20 you see the west elevation of the
21 building before and after, and the
22 reduction of that penthouse floor,

1 approval Landmark commented on the
2 symmetry of the upper portions of the
3 building relating to the pediment and
4 portico down below, especially the
5 alignments of this big window and the
6 penthouse with the edges of the portico.

7 Here you see the changes at
8 the base of the building. Here is the
9 before. Here is after, with an
10 introduction of a vertical element and a
11 slight shift in the pane of glass.

12 That column then comes
13 straight through and there are two doors
14 on either side of it that flank the
15 screen.

16 And those are the total
17 changes that were made prior to its
18 approval. Okay.

19 Now, here is the effect on the
20 street, and here you can just see the --
21 just the reduction of that penthouse
22 floor. Go ahead.

1 Now we'll talk about zoning.
2 Just note before we go on to that, that
3 the submission was unanimous approved by
4 Landmark. They commented on that
5 symmetry on Central Park. They
6 commented on a successful resolution of
7 this building as it made the jump from
8 the monumentality of the synagogue to
9 the more domestic scale to the west of
10 the adjacent buildings.

11 They commented on the change
12 in materials from limestone toward the
13 synagogue to the brick at the
14 residential end.

15 They felt that successfully
16 resolved the scale shifts and created a
17 dignified modern building.

18 We'll talk about the zoning
19 waivers required to make that happen.

20 This diagram really explains
21 very well the issue. This diagram here
22 is an as-of-right diagram showing the,

1 the split between the R10A and the R8B
2 and what the zoning mandates.

3 While you can manage FAR under
4 the zoning, you do that as of right, the
5 average in this case is of the two is
6 8.38?

7 A VOICE: 36.

8 MR. DOVELL: 8.36, but you
9 can't average the bulk weight, the
10 different bulk in the R10A and the R8B,
11 but this gives you as-of-right solution
12 with a big slab of a building
13 overlooking Central Park, quite
14 inappropriate to the Landmark, but,
15 nonetheless, it is as of right.

16 This is what we're asking for.
17 It's as if you simply push down on the
18 R10 portion and pushed up in the R8B
19 portion. However, we're asking for
20 considerably less floor area under this
21 scenario than in this. Next.

22 The waivers that we're asking

1 for are two basic categories. One is
2 lot coverage in rear yard, which are
3 related. The second is height and set
4 back, which also are related. We'll
5 talk about the first group. Go ahead.

6 Lot coverage and rear yard.

7 This diagram shows the
8 synagogue in this location, the proposed
9 addition here. This line here is the
10 demising line between the two districts,
11 both of which, within the interior
12 portion require a 70 percent maximum lot
13 coverage. What we're asking for here is
14 to increase that to 80. Go ahead.

15 That in the -- the next is the
16 rear yard in the R8B portion, which is,
17 in fact, related to that. The rear yard
18 required in the R8B is 30 feet. We ask
19 it be reduced to 20 for programmatic
20 reasons primarily, so we can get the
21 classroom space we need at the base of
22 the building.

1 So if you can see this is the
2 portion, it's ten feet in this
3 direction, times the width of the
4 district in that direction. And this is
5 what it represents in section.

6 Okay. This is the same issue.
7 It's the rear yard in the R10A. It is
8 the same ten-foot requirement we're
9 seeking just through the balance of the
10 width of the site. This is the R10A
11 portion of this relief that we're asking
12 for and here it is in section. Next.

13 The lot coverage and the
14 reduced rear yard address programmatic
15 needs. Without it, we have requirements
16 in the building for stairs, of course,
17 and bathrooms. Without this, we get a
18 substandard and very small classroom
19 floors toward the south.

20 This is what the desired
21 solution is that we're asking for.
22 Next.

1 Second category of building
2 heights and set back. Go ahead. This
3 is the initial set back in the R8B
4 portion. The initial set back is
5 according to zoning 60 feet in height
6 and is supposed to set back 15 feet.

7 We're asking for that to be
8 reduced to 12 feet and that relates to
9 the symmetry of this building over the
10 synagogue. It's this little strip we're
11 asking for here that's three feet wide
12 over the R8B portion. That does not
13 happen in the R10A because the street
14 wall can be much higher. So it's not
15 needed. Go ahead.

16 The next waiver is the base
17 height in the R8B and that, the required
18 base height is at 60 feet, which is
19 right here. We're asking that be
20 brought up higher, and that this shows
21 the area that that is impacted on.

22 So, again, this is to yield a

1 decent floor plate and it's, also, to
2 address the symmetry issues on the site.
3 Next, please.

4 It also has -- actually, go
5 back one. It also has the real effect
6 of maintaining cornice heights across
7 this.

8 This is something Landmark was
9 very much interested in and you can see
10 the dropping. This is the 60-foot limit
11 that zoning would require a cornice.
12 Well, we asked to raise it up to this
13 height, so these cornices are aligned.
14 That's something Landmark was quite
15 concerned with. Okay.

16 And finally, this is the
17 maximum building height in the R8B
18 portion. The maximum building height
19 per zoning is at 75 feet above grade and
20 in this waiver, we're asking to take
21 that up to 105 feet, which is at that
22 location.

1 The R10A, of course, doesn't
2 have, the piping isn't affected in the
3 R10A portion. We're well under the
4 requirements for height and set back.
5 Next.

6 Now, this diagram -- these
7 diagrams talk about circulation within
8 the existing -- the question came up at
9 some point in these hearings, "Why can't
10 you get into the synagogue now. There's
11 an elevator there, you can certainly get
12 into it."

13 Well, this is going to explain
14 to you what happens, if you're at all
15 handicapped trying to get into the
16 synagogue. To get into the main floor
17 of the sanctuary, which is here, you
18 come in the entrance at the synagogue
19 and up a flight of stairs.

20 First, you have to negotiate
21 two steps outside the synagogue to get
22 in, then you go up another eight or nine

1 steps inside, before you even reach the
2 main floor of the sanctuary.

3 There is no other way to get
4 into this portion of the sanctuary. The
5 elevator doesn't stop at that level. If
6 you're going to the upper level. Go up.
7 If you're going up to the upper level,
8 you have to be -- I'm sorry. Go back.

9 A VOICE: One more forward.

10 MR. DOVELL: If you're coming
11 into the balcony section of the
12 sanctuary, which is one flight up,
13 there's no handicap accessible route
14 there, either.

15 You go into the front door of
16 the community house, go into an elevator
17 which is noncompliant, and it will take
18 you up only to the one level.

19 To get into the auditorium
20 space in the community house, you also
21 go in the front door of the community
22 house, are put onto a handicap lift and

1 down the non compliant ramp in this
2 area.

3 To get further down to get
4 into the basement of the synagogue, you
5 have to go down another flight of steps
6 at this location. So it's rather a
7 tortuous route.

8 Now go up. That simply
9 carries through the synagogue. In every
10 step of the way, you're handicapped
11 getting in on an accessible route. Keep
12 going.

13 Again, showing what happens
14 getting into the -- into the balcony
15 level, you simply can't make it from
16 there on an accessible route. And so
17 on. Right through the community house
18 and the synagogue. Keep going.

19 This section shows quite
20 clearly what happens here, although this
21 shows the shaft in the community house,
22 although it comes out here and it comes

1 out in the balcony, it's not an
2 accessible route. It's a tiny little
3 elevator that just doesn't serve the
4 needs of the community, and it doesn't
5 provide access down below, which is part
6 of the ritual, synagogue ritual space,
7 as well as on the main floor of the
8 sanctuary. Go ahead.

9 Now, the proposed scheme
10 solves those quite nicely with the
11 introduction of a new elevator in this
12 location in a key position which allows
13 everyone to come in the same way for the
14 first time, and to either go up a flight
15 of stairs symmetrically placed about the
16 access of the synagogue or into an
17 elevator, which is a fully accessible
18 route to all levels of the synagogue and
19 the community house. And that goes on.

20 This is the basement level
21 showing how that whole connection is
22 made on an accessible basis with one

1 elevator placed in a key location. And
2 so on. Keep going.

3 At every level these two
4 arrows, the green one being handicap
5 route and the blue one being normal
6 circulation, show fully accessible
7 synagogue as a result of this. Keep
8 going. Keep going.

9 This section, this section
10 shows how that all works out. Where we,
11 in fact, open up with this elevator, we
12 had opened up entire, with the entire
13 synagogue. Also brought up last time
14 were lot line windows?

15 MR. ASCHE: Yes.

16 MR. DOVELL: This dotted line
17 here, this is the adjacent building to
18 the west.

19 This dotted line is the
20 as-of-right situation here, which just
21 remarkably misses these windows, these
22 six, seven, eight, nine windows. Go

1 ahead.

2 And this is the proposed
3 building, which blocks all of them
4 except the three to the south.

5 And here's a slide showing the
6 lot line condition and configuration of
7 those windows and the windows on the,
8 the balance of it, this is the court
9 within. And that's it.

10 MR. FRIEDMAN: Maybe we should
11 stop. Maybe we should stop and ask if
12 the committee members have any questions
13 on the architecture.

14 MR. ASCHE: Well, maybe not.

15 MR. FRIEDMAN: Any objections?

16 MR. ASCHE: Let's go on, I
17 want to get your presentation done.

18 MR. FRIEDMAN: We're putting
19 up a slide that shows the findings in
20 7221, so we can run through them. There
21 they are.

22 You'll notice there are four

1 findings here. 7221 has five findings.
2 The B finding, which we discussed to an
3 extensive extent in our last meeting,
4 deals with financial return which while
5 not applicable per se to an application
6 by a non profit, we analyzed in any
7 event because of the residential
8 component that we're proposing.

9 These are the four findings
10 that the Board of Standards and Appeals
11 will apply and ask us to justify the
12 zoning waivers that Ray has taken you
13 through.

14 The zoning waivers for this
15 analysis, as well, can really be grouped
16 into the kind of waivers required to
17 approve the programmatic deficiencies of
18 the synagogue, the circulation issues
19 and the classroom issues.

20 Another group, which are there
21 to achieve the specific mandates of the
22 Landmark Commission with regard to

1 symmetry and massing of the public
2 proposal.

3 And the last one, which deals
4 primarily with the need to accommodate
5 the fact that we have added five
6 residential units to this proposal. The
7 five, the residential units are as of
8 right. There are no objections, per se,
9 and certainly nothing out of the
10 ordinary about a mixed use development.

11 And we are proceeding with
12 that, but because of the restrictions on
13 our zoning lot having to do with the
14 Landmark, the zoning lot boundary and
15 the like, we have a limited amount of
16 space footprint in which to build
17 residential. And we believe that is a
18 hardship which entitles us to relief
19 being requested with regard to building
20 height.

21 The first, because of the
22 complexities of this project, there's no

1 one hardship which, it's like a bullet
2 through all the rest of this, so there's
3 no one waiver, which can be discussed as
4 pure and simply justifying a variance.

5 We start out with the general
6 proposition that the fact that the
7 building is a Landmark or that it's in a
8 historical district is not in and of
9 itself the subject of a variance in the
10 City of New York.

11 We can also stipulate the fact
12 this is a split lot, the zoning district
13 boundary running through it is not of
14 itself getting a variance from the City
15 of New York, but when they are part of a
16 multiplicity of issues, which include
17 the integrity of the Landmark, not so
18 much because of its status as a
19 Landmark, but because of its status as a
20 sacred site to the people who use it.

21 Then we are in the category
22 where a variance can be considered and

1 that is, in fact, what we are proceeding
2 with when we ask for variances with
3 regard to the rear yard, and with regard
4 to the alignment of the new building,
5 such that it violates the rear yard, so
6 that we can accomplish the circulation
7 solutions that we need to accomplish in
8 this building.

9 The inability of worshippers
10 to adequately use a building for its
11 religious purposes is, indeed, a
12 hardship and it's one which we think
13 justifies the waivers that are being
14 requested here with regard to lot
15 coverage, with regard to the incursion
16 into the rear yard.

17 They are directly tied into
18 the circulation deficiencies and the
19 educational deficiencies that the
20 present community house provides. We
21 have, I think, provided a considerable
22 amount of information about how the

1 present community house is deficient.

2 What it lacks, what it lacks
3 in terms of programmatic rooms for the
4 synagogue's civic responsibility and
5 social and cultural responsibilities, as
6 well as for its educational
7 responsibilities.

8 We have discussed the lack of
9 office space. We have discussed the
10 lack of our times in this case for this
11 particular synagogue, and I think if you
12 know anything about the history of
13 Shearith Israel, you'll understand its
14 archives are really quite unique in
15 American history.

16 Those archives are presently
17 lost to scholars, students and anybody
18 with an interest in the colonial Jewish
19 experience, because they need to be kept
20 for territorial purposes and space
21 purposes in New Jersey.

22 This building will allow these

1 archives to come back and to be used.
 2 So from that standpoint, we believe that
 3 the space that we're asking for both the
 4 classrooms, the office space and the
 5 configuration that we needed for proper
 6 and logical purposes and the
 7 configuration we needed for circulation
 8 purposes are, in fact, worthy items for
 9 the Board of Standards and Appeals to
 10 consider for giving us the zoning
 11 waivers we need.

12 With regard to the set back
 13 issues, again, you heard both, and you
 14 can recall, even in your own resolution
 15 this building was considered community
 16 board seven for Landmark purposes, and
 17 in the Landmark Commission certificate
 18 of appropriateness, the primary
 19 importance of symmetry, it's an issue of
 20 architectural significance, both in
 21 terms of respecting the individual
 22 Landmark and coming up with a massing

1 and a bulk that serves the interest of
 2 the historical district.

3 They asked for it. It can't
 4 be done without some of these waivers
 5 with regard to set back. And so we
 6 believe, again, that those requests are
 7 specifically aligned with the zoning
 8 waivers and with a recognizable
 9 hardship.

10 With regard to the last group,
 11 which deals with the height of the
 12 building, you know we are proceeding
 13 with as-of-right uses on a footprint
 14 which has been severely restricted by a
 15 number of factors.

16 First and foremost is the
 17 factor is that the trustees and the
 18 congregation themselves, if this
 19 building were not a Landmark, simply
 20 could not condone, could not live with,
 21 could not violate their sense of
 22 stewardship of this building by

1 intervening with this by solving the
 2 circulation problems, storage problems
 3 or space problems.

4 So the remaining building
 5 footprint becomes an issue with regard
 6 to accommodating the synagogue's
 7 functions and what we believe is a
 8 totally normal and totally well used
 9 with plenty of precedent condition of
 10 residential space that the synagogue
 11 believes and will be helpful in
 12 achieving its programmatic missions.

13 That is the basis of the
 14 hardship with regard to the height of
 15 the building.

16 We have mitigated by driving a
 17 significant part of the program
 18 underground, so that we could avoid
 19 additional height. We had cut back on
 20 the amount of residential space
 21 necessary to accommodate the Landmark
 22 approval, but at the end of the day

1 whether this space is community facility
 2 space or residential space, for the
 3 purposes of the hardship, it's of little
 4 matter.

5 If the synagogue believes this
 6 space can be helpful in its programmatic
 7 mission, it's entitled to ask for it to
 8 seek the waiver being requested from the
 9 board with regard to that particular
 10 zoning violation.

11 In sum, that's really it. I
 12 tried to stick to relating each of the
 13 zoning waivers to the programmatic, to
 14 the area of programmatic difficulty that
 15 we'll be requesting the Board of
 16 Standards and Appeals to address.

17 If you have any other
 18 questions regarding the relationship of
 19 the residential as an economic engine
 20 for the provision and construction of
 21 the community space, Jack Freeman is
 22 here to go over that with you, again.

1 We know there have been
2 issues. Ray addressed lot line windows
3 issues. We know there were issues about
4 tenancy. We heard issues regarding
5 so-called catering hall function.

6 We're here to address all
7 those questions tonight in whatever
8 format the committee requests.

9 MR. ASCHE: The committee is
10 going to have questions sort of at the
11 end. The committee has questions now.

12 MS. COHEN: Can you hear me?
13 Or do I need the mike. One is for Ray
14 about the cornice line that one of the
15 variances is to align the cornice line
16 with the building immediately to the
17 west, but it seems to me just from
18 looking at the model and looking at the
19 images that it does not align.

20 Actually, the building cornice
21 line is higher than the building to the
22 left.

1 MR. DOVELL: We have to go
2 back to the drawing. This cornice line.
3 This cornice line was dropped to about
4 six inches below this line.

5 MS. COHEN: So the problem
6 there is the model, I thought I saw it
7 in the image.

8 MR. DOVELL: It's clearer in
9 the drawing. The final drawing will
10 show that.

11 MS. COHEN: And I have a
12 question for Shelly, as well. It's not
13 about zoning technicalities. Shall I
14 ask you while you're doing your slide?

15 MR. DOVELL: Yes.

16 MS. COHEN: With respect to
17 the archives, I think, you know, that,
18 that this synagogue is enormously
19 important historically and its holdings
20 are enormously important. And I say
21 that one of the things that I find
22 important in a proposal to build a

1 better space to serve the synagogue
2 community is that the archives could
3 return from exile in New Jersey, and be
4 housed here, but the other piece of that
5 is how accessible will they be to people
6 who are not members of the synagogue, to
7 scholars and neighbors who are
8 interested in this remarkable holding of
9 American Jewish history?

10 MR. FRIEDMAN: First, let me
11 say one of the important objects still,
12 in fact, are used in daily observations
13 and are in place by touring coming to
14 take a look at the synagogue.

15 MS. COHEN: There are some
16 display cases right now?

17 MR. FRIEDMAN: Not only are
18 there display cases, but for anybody who
19 cares to sit in, they will see Torah
20 scrolls that bear the marks of the
21 slashing of the British officers of the
22 war of 1812.

1 They see the metal chalices
2 that were formulated by Martin Meyer,
3 who had an apprentice, a young Paul
4 Revere. There are working objects in
5 this synagogue that are available for
6 anybody with an interest to observe.

7 With regard to the archival
8 material, that has to be protected as
9 any other archival material. It's not
10 something that can be freely displayed.
11 It's not something that can be just left
12 in a case.

13 I mean, this is correspondence
14 between George Washington and the
15 trustees of the synagogue. This is
16 material over the synagogue's purchase
17 and ownership of Touro Synagogue, the
18 oldest synagogue in the United States in
19 Newport, Rhode Island. There are
20 letters and files that go back to the
21 founding of Columbia University and
22 Mount Sinai Hospital.

1 The discussions of which took
2 place in Shearith Israel. This is
3 material which has to be treated for the
4 scholarly importance that it is. So
5 it's not something that anyone can just
6 walk in and take a look at, but it is
7 something that can be made accessible
8 under the right purposes and upon
9 request.

10 MS. COHEN: Like a scholarly
11 library.

12 MR. FRIEDMAN: Absolutely.
13 That's the intent here. It's also the
14 intent to have it available for the
15 synagogue's Hebrew school and adult
16 education schools.

17 MS. COHEN: Can we go back to
18 the picture now. Looking at that
19 picture, it seems to me the new
20 building, the cornice line is still
21 higher.

22 MR. DOVELL: The cornice at

1 the top of the line, which Landmark
2 acknowledges if I can point to the model
3 for a second this portion of the cornice
4 was brought down. The cornice is pushed
5 down.

6 MS. COHEN: So it appears the
7 alignment of the brick.

8 MR. DOVELL: Of the level
9 cornice across the top at the street
10 line is now six inches below the
11 neighbor's cornice.

12 There is a parapet wall that
13 sets back two-and-a-half feet from that,
14 which rises up a little higher and that
15 shows clearly on that, although it's a
16 little fuzzy projected at this size.
17 It's there.

18 MS. COHEN: And Landmark is
19 satisfied with that as an assignment?

20 MR. DOVELL: Yes they were.

21 I'm going to ask the committee
22 to hold the questions until the end.

1 A VOICE: I want to ask a
2 question.

3 MR. ASCHE: I'll recognize you
4 and anybody who has a question of a
5 factual nature. This is not the time to
6 make statements or testimony. That will
7 come in a few minutes.

8 A VOICE: While you're up
9 there, where is the housing for the
10 elevator and where is the tank? I don't
11 see anything.

12 MR. DOVELL: There is no house
13 tank on this. All the water is pumped
14 from the cellar. There is no cooling
15 tower. We're using dry coolers to keep
16 all the machine room as low as possible.

17 It is a gem to the elevator
18 where the machinery is, in fact, in the
19 shaft, so we were cognizant of all of
20 those traditional rooftop things in an
21 effort to bring them down.

22 You can see them here.

1 They're all brought down to quite a low
2 level, in comparison with similar types
3 of buildings.

4 MR. ASCHE: Any more factual
5 questions before we go into comments?

6 A VOICE: Did we see
7 subterranean levels that don't exist
8 now?

9 MR. DOVELL: You do not see
10 them. They exist, but we did not show
11 them at this point. Would you like to
12 show them?

13 MR. FRIEDMAN: Yes.

14 MR. DOVELL: We can show them.

15 A VOICE: Related to that,
16 what about that sub basement below the
17 auditorium, what's going on with that --

18 MR. DOVELL: We'll load that
19 up now and show you.

20 (Pause in the Proceedings.)

21 MR. DOVELL: This is the
22 demising line between the community

1 house and the synagogue. This is the
2 lowest level, this is the sub cellar of
3 the proposed community house, and in it
4 is a multi purpose room.

5 It is served by two egress
6 stairs and an elevator. And that space
7 is approximately 6,600 feet gross area.

8 A VOICE: Can we see the
9 cross-section, please? Can we see it in
10 cross-section?

11 MR. DOVELL: I'll show you a
12 section of it in just a moment. Let's
13 go up. This is the level just above
14 that. This area, the gray area that you
15 see here is the residential core area
16 that penetrates through.

17 We have incoming utilities
18 that have to be at a higher level coming
19 in at that level. This is all base
20 building infrastructure, boilers, fire
21 pumps, et cetera.

22 This is a stair that connects

1 from the lobby down to all three
2 lobbies, all two levels of cellar. This
3 is the same elevator that we showed you
4 before which serves the floors.

5 We then have kosher kitchens
6 in this location. Toilet and support
7 rooms and coat rooms down here. This
8 room is all to serve in support of the
9 multi purpose room below.

10 MR. ASCHE: I wasn't going to
11 get into this here, but while we're on
12 the subject, the cellar and sub cellar
13 uses were not included in the economic
14 analysis that was done for this
15 building, were they?

16 MR. DOVELL: That I don't
17 know.

18 MR. FRIEDMAN: The answer is
19 that they were not. But I do want to
20 address the issue, if this is about the
21 so-called catering hall.

22 MR. ASCHE: If you're going to

1 talk about the economics later, why
2 don't you do it then?

3 MR. FRIEDMAN: Okay. Fine.

4 MR. ASCHE: Okay. We're
5 talking about roughly 10,000 feet of
6 rentable space that is not included in
7 the --

8 MR. FRIEDMAN: But the
9 response is that it is not used for
10 rental purposes to the extent that you
11 might believe or others might believe,
12 and that requires an explanation.

13 MR. ASCHE: But you know
14 that's not relevant when you're doing a
15 hypothetical, what if, you know, right?

16 MR. FRIEDMAN: Well, I don't
17 think that it is relevant.

18 MR. ASCHE: All right. Any
19 other questions? Yes, ma'am?

20 A VOICE: For the catering
21 hall, what is the projected maximum of
22 occupancy?

1 MR. FRIEDMAN: If we're going
2 to keep talking about the catering hall,
3 so I can get into the issues.

4 THE COURT: Well, you wouldn't
5 need a kosher kitchen if you're going to
6 have a movie theater.

7 MR. FRIEDMAN: That's true.
8 That's not the issue, either. Let me
9 say as a zoning issue, the catering hall
10 is not permitted.

11 MR. ASCHE: I'm not talking
12 about zoning.

13 MR. FRIEDMAN: I understand it
14 is not a catering hall. We don't
15 consider it a catering hall and we don't
16 believe the committee should. You say
17 it's a catering hall, it is. We say
18 it's not.

19 If this is about what people
20 think is going to be a profit center,
21 then one has to understand anybody can
22 test this out tomorrow morning, if they

1 wish. They should call the synagogue
2 and ask them, you know, we'd like to
3 hold a major function here and hear what
4 the response really is because it will
5 not be about renting out the facility
6 for profit.

7 If a person wants to call up
8 the synagogue who's outside the
9 synagogue community and say, "We'd like
10 to have a function in this building,"
11 first of all, they won't be permitted --

12 MR. ASCHE: Shelly this is not
13 the issue anyone is raising. The issue
14 is, first of all, the lady asked what
15 the capacity of the hall was. And we're
16 not going to get through tonight unless
17 you answer the questions.

18 You'll have a chance to say
19 whatever you want later, but you really
20 need to answer her question.

21 MR. FRIEDMAN: The hall really
22 would not be able to function with more

1 than, do we have a number for that?

2 A VOICE: 440.

3 MR. FRIEDMAN: 440.

4 A VOICE: What was the exact
5 distance between the proposed building
6 and the building to the west?

7 MS. ROSENTHAL: Shelly, can
8 you repeat the question on the mike.

9 MR. FRIEDMAN: The question
10 is, what is the distance?

11 A VOICE: The flattened into
12 bricks.

13 MR. FRIEDMAN: 18 West, I
14 assume you're asking about is on the
15 lobby, so is this building and so is
16 every building on the block.

17 MR. ASCHE: Yes?

18 A VOICE: I'm wondering,
19 you're showing the elevator is going in
20 there, is there a service elevator for
21 the residential building? How are they
22 going to move their furniture in,

1 osmosis?

2 MR. DOVELL: Let's go there,
3 up one. This is the ground floor of the
4 community house. This is the
5 residential entry. It includes two
6 elevators; one a passenger elevator and
7 one a passenger service elevator.

8 One will have an entry out the
9 back. This elevator will have an entry
10 out the back. It then has scissor
11 stairs here. So everything that comes
12 and goes from the residential component
13 comes out this block of space on the
14 right.

15 A VOICE: There's no access
16 from the synagogue to those elevators;
17 is that correct?

18 MR. DOVELL: That's correct.

19 MR. ASCHE: Sir?

20 A VOICE: You put a lot of
21 time into the presentation, but you
22 brought a model that's inaccurate. I'm

1 wondering what else might be inaccurate
2 about this presentation.

3 MR. DOVELL: The wood model is
4 modified to produce the height. This,
5 as you imagine, was quite a tedious
6 model to put together. I have showed
7 you what was finally approved as a
8 modification, if you'd like to see it.

9 It shows the doors down at the
10 base and it shows the column coming from
11 the center. But other than that and
12 this alignment, there are no other
13 modifications to it.

14 MR. ASCHE: Sir?

15 A VOICE: Could you please
16 explain what type of foundation is
17 required to minimize the impact during
18 the construction process on the
19 neighbors and the surrounding community?

20 MR. DOVELL: Well, we know
21 that there's rock below here at some
22 level that we will get into in

1 connection with this. So there will be
2 rock excavation involved.

3 It will probably involve lime
4 drilling. We haven't worked out all the
5 specifics for the foundation design, but
6 it will probably involve lime driving
7 and possibly some underpinning, but we
8 have not advanced the project to that
9 point. The foundations are quite good.

10 A VOICE: What is the best
11 type of foundation plan for this type of
12 building in your experience?

13 MR. DOVELL: You can't do
14 better than New York schist, which this
15 thing sits on.

16 A VOICE: But the building
17 isn't built on schist.

18 MR. DOVELL: The foundation
19 will engage rock and the building will
20 be a cast in place concrete structure.
21 That type of structure reduces the floor
22 to floor heights considerably. That's

1 why we went to that.

2 A VOICE: What type of
3 foundation are you planning on using to
4 build this building?

5 MR. DOVELL: There would be
6 spread footing on rock. We're not
7 talking about drill piles or anything
8 like that, that you'd encounter in soft
9 soils.

10 This is hard rock bearing
11 capacity, is very good, the foundation
12 system would be a minimal foundation
13 system.

14 MR. ASCHE: Yes?

15 A VOICE: How many members of
16 the congregation are there? I'm trying
17 to understand how they relate to the
18 capacity of the catering hall.

19 MR. FRIEDMAN: I believe the
20 application says, I think it's more than
21 600 families.

22 A VOICE: So that's pretty

1 constant use of the catering hall.

2 MR. FRIEDMAN: It's not a
3 catering hall, but the room will be
4 used. It's used every weekend for the
5 following services.

6 The services that take place
7 in that facility are absolutely
8 essential to religious observation. In
9 fact, the prayers that take place over
10 the wine and bread areas are important
11 to the observation of Sabbath as
12 anything that takes place in the
13 sanctuary.

14 This hall is linked to the
15 continuation and the culmination of
16 Shabbat services and every other service
17 that takes place in the sanctuary
18 itself.

19 MR. ASCHE: Ma'am?

20 A VOICE: I haven't done a
21 renovation to a bathroom. Can you
22 estimate a time? I'm not asking you to

1 lock it down, approximately from start
2 to finish, what would a project like
3 that be in time, about?

4 MR. FRIEDMAN: We're
5 estimating 14 to 16 months but, of
6 course, you have to understand that
7 after certain point in time, it's
8 entirely enclosed in and much of that
9 work is work within an enclosed
10 building.

11 A VOICE: Does that include
12 demolition?

13 MR. FRIEDMAN: Yeah. There's
14 not much to demolish as far as the
15 community houses are concerned.

16 A VOICE: I still didn't see
17 my section, I was hoping to see that and
18 know what the depth is.

19 MR. ASCHE: Let's take another
20 question while we're waiting. Yes,
21 ma'am?

22 A VOICE: If approved, when

1 would construction start?
 2 MR. FRIEDMAN: The
 3 construction has to be coordinated with
 4 the -- obviously, the Jewish holiday
 5 calendar or the school calendar. And I
 6 don't think those determinations have
 7 been made.

8 We don't know when our BSA
 9 project will be approved. I think
 10 ideally the synagogue would like to
 11 start the demolition. It has to
 12 relocate all of the facilities out of
 13 the community house before it can
 14 obviously demolish, so we're probably
 15 talking the earliest next spring or
 16 summer before construction activity
 17 would be taking place on this site.

18 A VOICE: For 14 to 16 months?

19 MR. FRIEDMAN: The estimate is
 20 14 to 16 months, yes.

21 MS. COHEN: During the period
 22 of construction where will the tenant

1 school be housed?
 2 MR. FRIEDMAN: The tenant
 3 school has been advised it's going to
 4 have to seek other quarters. The more
 5 important question to the synagogue is
 6 where is the Hebrew school going to be.

7 MS. COHEN: Where is that?

8 MR. FRIEDMAN: The answer is
 9 at the point in time we know we have to
 10 go out in the market to find space and
 11 we will. Usually for a synagogue,
 12 schools and synagogues and churches all
 13 have shared these expansion woes and
 14 there will be some grace somewhere that
 15 works out the problem.

16 MS. NORMAN: Since this is
 17 construction that's going on, what
 18 special provisions are you going to be
 19 taking to ensure there's no damage to
 20 the Landmark.

21 MR. FRIEDMAN: First of all,
 22 thank you for the question because it's

1 also of singular importance to the
 2 congregation. We'll continue to use
 3 this building for -- throughout this
 4 period. So it has to take care of that,
 5 as well as 18 and as well as the other
 6 adjacent buildings.

7 You know, when the Landmark
 8 Commission approves a building of a
 9 historical district and other Landmark,
 10 it has pretty exacting requirements for
 11 what's known as a preservation program
 12 regarding construction and the like.

13 That will entail a detailed
 14 analysis, not the synagogue, but all the
 15 surrounding buildings, including the
 16 buildings across the street to assess
 17 their structural integrity.

18 They go in and they look at
 19 and they map out every crack and every
 20 basement wall and make an assessment of
 21 existing conditions from that report.

22 The professional engineers

1 involved will establish what's known as
 2 a peak particular velocity, which has to
 3 do with how vibrations travel, whether
 4 it be jackhammers, back hoes or whatever
 5 or lime drilling, that is usually
 6 coordinated with the Secretary of the
 7 Interior standards and the State of New
 8 York standards for these kind of
 9 construction activities.

10 Seismic monitors are placed in
 11 all the adjacent buildings. They are
 12 checked several times during the day and
 13 if the velocities are -- that are being
 14 monitored exceed the standard that's
 15 being set, then the job must be shut
 16 down until a staff member from the
 17 Landmark Commission comes down and helps
 18 evaluate what steps can be taken.

19 MS. NORMAN: What about the
 20 Buildings Department?

21 MR. FRIEDMAN: The Buildings
 22 Department, as well, but the agreement,

1 typically, because it's part of the
2 Landmark approval indicates the Landmark
3 Commission will be involved in the
4 decision. They're usually more
5 sensitive.

6 The Buildings Department would
7 be involved, but it's due to the
8 protocol worked out with the Landmark
9 Commission, not the Buildings Department
10 which sets the threshold approves the
11 seismic monitoring.

12 And in the event of exceeding
13 the threshold is the agency contacted to
14 come to the site and help deal with the
15 situation, but the site does not work,
16 the site does not resume until the
17 commission staff person is satisfied,
18 until steps are taken to address
19 whatever the seismic monitors are
20 indicating that may be a problem.

21 MR. ASCHE: I see two more
22 hands.

1 A VOICE: Two years ago there
2 was a sizable sink hole in the road next
3 to the temple. I don't know what caused
4 that. It could swallow up a mini
5 Cooper, that's how big the sink hole
6 was, but I don't know --

7 A VOICE: It's a recurrency --

8 A VOICE: I'm concerned with
9 the infrastructure of the road at that
10 point with all the activity that will be
11 taking part with the construction.

12 A VOICE: Does BSA require a
13 foundation plan for it to grant the
14 variance?

15 MR. FRIEDMAN: The foundation
16 plan will be approved by the Department
17 of Buildings.

18 A VOICE: Following the BSA.

19 MR. FRIEDMAN: Following BSA
20 approval.

21 MS. NEUWELT: I want to be
22 clear on the plane of the primary

1 facade, the north facing facade. As I
2 recall, what we saw in our Landmark
3 Committee consideration of this in 2005
4 a certain amount, 18 inches, two feet or
5 something, of the wrap around masonry of
6 the Landmark synagogue, remained visible
7 because the facade of the -- and tell me
8 if I'm wrong about this, but the facade
9 of the new building was set back a bit.

10 What I'm not clear on is
11 whether, and I'm not clear when you were
12 referring to various changes because you
13 said currently the facade, the front
14 facade is at the lot line. Has the
15 front facade now been moved forward from
16 what we saw two years ago, and wherever
17 it is, and if you would tell us where it
18 is, is any of the return or the wrap
19 around masonry of the Landmark building
20 going to be visible from the west?

21 MR. DOVELL: The primary
22 facade, which is this facade here, is

1 right at the lot line. There are then a
2 series of subtle set back that included
3 a glass corner at this location, then a
4 flanking plain of masonry which, in
5 fact, are pushed back from that plain.

6 They will expose the stone
7 work on the side of the synagogue.
8 Landmark was quite interested in that in
9 revealing that edge of masonry along
10 that line.

11 MS. NEUWELT: How many inches
12 or feet of that edge of stone of the --

13 MR. DOVELL: It is
14 approximately two-foot six.

15 MS. NEUWELT: About two six?
16 Thanks.

17 MS. STARKEY: Shelly, if you
18 removed the residential condos, but kept
19 the entire community facility as it is
20 presently planned, which would allow
21 increased classrooms and other amenities
22 in that, what variances would you need

1 at that time?

2 MR. FRIEDMAN: We would still

3 require the variances that are requested

4 with regard to lot coverage. The

5 variances that are required for the rear

6 yard. And the --I'm not sure about the

7 rear yard set back, but those would be

8 the package. Obviously, there might

9 still be, since this would be a much

10 different project for the Landmark

11 Commission to consider.

12 They may take us in a

13 direction at whatever height that would

14 require other variances regarding set

15 back and the like, hard to speculate on

16 that, but the known variances are the

17 ones I just listed for you.

18 MR. ASCHE: All right. Last

19 question.

20 A VOICE: Just to go back a

21 very short distance on the issue of the

22 plans in terms of the, how the

1 construction affects the buildings and

2 grounds around it and reconstructing the

3 Second Avenue subway street station,

4 there was a concern for that.

5 And there was much more

6 concern because there was much older

7 buildings, they wanted to make sure were

8 shored up against any work being done.

9 So I'm sure, if they have any

10 sense, which I'm sure they do, they're

11 going to concentrate on those issues, as

12 well, as he describes.

13 The other thing is can the

14 subway line that's practically under the

15 building itself have a -- will there be

16 some kind of defense?

17 MR. FRIEDMAN: It's an

18 excellent question because it adds one

19 more agency that's going to take a

20 critical look at all the construction

21 work and all the foundations because,

22 yes, there's couple 100,000 people a day

1 running underneath the synagogue.

2 A VOICE: Exactly.

3 MR. ASCHE: We're going into

4 the comments section, but before we do,

5 as our first commenter, we have Assembly

6 Member Richard Gottfried.

7 MR. GOTTFRIED: Good evening.

8 Standing back there, I was reminded as I

9 often have at community board meetings

10 and community meetings, what an amazing

11 thing it is, the amount of time and

12 effort and talent and expertise that our

13 communities get for free from folks like

14 yourself. Mind boggling.

15 And I want to note at the

16 outset on the question of scheduling of

17 the Board of Standards and Appeals

18 hearing, I am very happy that the

19 community board has written to the BSA

20 asking that the hearing on the 4th not

21 open at that time and that, and also I

22 have also written to the BSA urging the

1 same.

2 This project would mean harm

3 to the immediate neighbors of the

4 synagogue and this sort of issue is

5 sometimes disparaged as people worried

6 about their views.

7 It's not a question of

8 anybody's views, it's a question of

9 whether anybody can see out their

10 windows at all and whether their windows

11 will exist at all. Rear yard

12 requirements are in the Building Code,

13 not out of whim, but because they serve

14 important and sometimes life protecting

15 purposes and they should not be casually

16 disregarded.

17 The project will perhaps more

18 importantly mean harm to the

19 neighborhood. The height limitations on

20 the side streets and the provisions of

21 the historical district are there for

22 important community purposes and the

1 fact that there were some buildings
2 built within the side street boundaries
3 that exceed those limits that were built
4 before those limits were put into place,
5 don't really tell us anything, except
6 that those limits were put in there
7 because society decided it was time to
8 draw a line and that line should be
9 protected.

10 And we should not lightly, if
11 at all, be disregarding the side street
12 height limitations. Especially, since
13 there really is no necessity or
14 justification and certainly no hardship
15 in question here.

16 The synagogue can readily
17 build its community house well within
18 the requirements of side street zoning.
19 I believe that if they were only
20 building a community house, they would
21 not need any variances at all, but
22 certainly dramatically less than they

1 are seeking.

2 And the only reason they are
3 seeking the five residential units is
4 because they would rather pay for their
5 community house than pay for it the way
6 any house of worship would pay for such
7 a building, namely, by raising money.

8 And the fact that they would
9 rather sell residential units than raise
10 money like any other congregation, to me
11 does not constitute a hardship or a
12 necessity or a justification.

13 Essentially, what is going on
14 here is that something of value to the
15 community, whether it's the ability to
16 see out of a window or the protection of
17 our local zoning, that is something of
18 value that belongs to the community and
19 the synagogue proposed to take that
20 thing of value to itself, and then sell
21 it for its financial benefit, which
22 means essentially that the entire

1 community is making an involuntary
2 contribution to the synagogue. That's
3 wrong.

4 The synagogue should do what
5 every house of worship does and seek
6 voluntary contributions to pay for its
7 building. If we do otherwise, I don't
8 know if it's a precedent because hardly
9 any outrage in land use in the city is a
10 precedent anymore, but we would
11 certainly be advancing a trend, which we
12 should not, that any property owner,
13 whether non profit or otherwise, would
14 be able to come to the community, to the
15 Board of Standards and Appeals and say,
16 If you let us build five extra floors so
17 we can make more money and we like to
18 make more money; therefore, that's a
19 hardship and necessity. It's not, and
20 this application should be turned down.
21 Thank you.

22 (Applause.)

1 MR. ASCHE: Thank you.

2 MS. COWLEY: We have several
3 speakers, members of the public, who
4 would like to make a statement. I
5 remind you, we have a two-minute limit.
6 We'd like to hold that.

7 I'm going to start with the
8 easiest one because it will give me the
9 most in the discard pile. Several
10 people have conceded to Jan Levy to make
11 her statement and that, I'm going to get
12 your name wrong, Polayes, Madeline
13 Polayes, Faith Steinberg and Debbie
14 Stevens.

15 So, Jan, do you mind starting
16 us off?

17 MS. LEVY: Good evening,
18 everybody. Well, I am Jan Levy, a
19 former 20-year member of this Community
20 Board.

21 I'm the founder and former
22 chair of the Board's Landmark Committee.

1 I have lived on the Upper West Side for
2 more than 30 years.

3 I was instrumental in securing
4 designation of the Central Park West
5 Historical District, an initiative that
6 took some five years of great angst,
7 patience and community support in the
8 late 1980s.

9 Shearith Israel, a designated
10 landmark is one of the principal
11 treasures of the district, which
12 stretches along Central Park West from
13 62nd Street to the south side of 96th
14 Street.

15 It includes numerous
16 individually and designated residential
17 and religious buildings and other
18 institutions.

19 Also, part of the district are
20 many side streets where the brownstones
21 that survive as built give us a sense of
22 life in New York City in the late 19th

1 and 20th centuries.

2 As a resident of the district
3 who fought for the designation of a
4 Central Park West Historical District, I
5 take great pride in our achievement.

6 Shearith Israel holds a
7 special place in the district, not only
8 for the beauty and elegance of its
9 structure, but, of course, lengthy
10 roster of prominent leaders and members.

11 Founded in 1654, more than 350
12 proud and glorious years ago. Shearith
13 Israel stands today as a bastion of the
14 highest Judaic custom and tradition, a
15 synagogue both esteemed and deeply
16 respected by people of all faiths.

17 Indeed, in September 2004, I
18 was privileged to attend the moving and
19 inspiration commemoration of the
20 Congregation's 350th anniversary. The
21 awesome beauty of the program so simply
22 and stirringly presented lives among my

1 most treasured memories.

2 The synagogue members, many of
3 them direct descendents of the founders,
4 continue many of the customs and
5 practices of their ancestors. Notably,
6 the participation in civic and
7 philanthropic affairs.

8 In addition, the hospitality
9 and warmth of all who officiate and
10 worship in this beautiful temple
11 immediately welcomes visitors and
12 guests. Shearith Israel is a long and
13 cherished good neighbor.

14 Many Shearith Israel
15 traditions reflect the early days of its
16 existence. For example, the role of
17 women members, to this day, women still
18 uphold the impressive standards of
19 service to congregation and community
20 established so long ago.

21 Because of this adherence to
22 the ways of the founders, which reflect

1 deep-seated honor and respect for Judaic
2 law, it is puzzling that the synagogue's
3 leaders persist in seeking variances to
4 the existing zoning laws and building
5 codes.

6 I well remember in the late
7 '80s, the synagogue planned to build on
8 the site of the community house. Eli
9 Attia, the distinguished Israeli
10 architect, had designed 36-story
11 building.

12 At that time I do not believe
13 R8B or R10A existed. The community
14 hearing was held in the Ethical Cultural
15 Auditorium. Following the presentation
16 of the plans, during the question and
17 answer period, I asked to address a
18 question to the Chairman of the Board of
19 Trustees.

20 I asked why the synagogue
21 needed a 36-story building, his reply
22 indicated the synagogue only needed six

1 stories. The balance was for the
2 developer. Not a trick question, end of
3 story, case closed.

4 Yet today, we again face the
5 challenge of an inappropriate structure
6 that will demean and trivialize a
7 magnificent building, by constructing
8 and cantilevering a building of banal
9 design and inappropriate materials in
10 the mid-block. The proposed building
11 offends both the synagogue and the park
12 block.

13 However, should the variance
14 requests be approved, the precedent is
15 set, and other institutions and property
16 owners will not be long seeking their
17 piece of the pie.

18 In fact, on the other side of
19 the park, we learned Congregation
20 Kehilath Jeshurun on East 85th street, a
21 distinguished but not landmarked
22 building, proposes demolishing its

1 adjacent Ramaz school, and replacing it
2 with a 28-story tower.

3 Sorry, you have to bear with
4 me. The lower ten stories would serve
5 Ramaz, the upper 18 would be sold as
6 luxury condos.

7 The proposed building, rising
8 more than 100 feet above the allowable
9 zoning, would tower over its mid-block
10 neighbors. Like Shearith Israel, it
11 would require approval of variances by
12 the Board of Standards and Appeals.

13 Connecting the dots, we find
14 that both Shearith Israel and Ramaz are
15 represented by a well-known, experienced
16 land use lawyer. The precedent of
17 variances, if approved for Shearith
18 Israel, would surely bolster the
19 argument for the Ramaz school.

20 So that we have two
21 situations, one involving a landmark in
22 a historical district, the other a well

1 known undesignated building, each
2 seeking approval of variances above and
3 beyond existing zoning.

4 Well, then, I ask why
5 designate individual landmarks and
6 historic districts, why promulgate
7 zoning codes and regulations, only to
8 allow variances which permit larger,
9 inappropriate structures.

10 Are these laws, which are
11 intended to protect and preserve our
12 architectural, cultural and social
13 heritage, to be honored principally in
14 the breach?

15 Our religious institutions
16 protest -- "Mission not Mortar", I feel
17 certain the majority, if not all
18 preservationists and New Yorkers,
19 respect and appreciate the role and the
20 importance of our religious institutions
21 in the community.

22 Many provide for the homeless,

1 offer food pantries, host A.A. meetings
2 and other programs to help those in
3 need. No one would deny the vital
4 presence of these the vital presence of
5 these programs, dedicated to helping the
6 disadvantaged.

7 In good conscience, who could
8 refuse to support our religious
9 institutions?

10 As for Shearith Israel, I
11 submit that this is not a congregation
12 that is in desperate circumstance.

13 I have seen the spaces
14 available for communal gatherings and
15 noted the pristine condition of the
16 building, inside and out.

17 This congregation shows great
18 respect for its more than 100-year old
19 building. It exterior was cleaned and
20 restored in observance of the 100-year
21 anniversary, a gift to this neighborhood
22 and to the city, the gift of a good

1 neighbor.

2 I ask all who support this

3 inappropriate structure, that will be a

4 jarring wrong note on a park block in a

5 historic district, to reconsider, surely

6 there is a better solution to meeting

7 the needs of Congregation Shearith

8 Israel, one that will acknowledge the

9 respect in which an institution of this

10 long history and impeccable stature is

11 held on the Upper West Side, and

12 throughout our city, a solution that

13 will not set a precedent that could

14 result in the loss of some of our most

15 famously prized architecture.

16 Here, I would like to stop and

17 ask how many people have seen or been in

18 the neighborhood of the church of St.

19 Paul and Saint Andrew on 86th Street and

20 West End recently. Well, when you go

21 there, that church came to the community

22 board also in the '80s looking to

1 perhaps make a deal with the developer,

2 tear down the buildings and put up a

3 structure that would give them space,

4 and I guess condos weren't popular then,

5 but would give them more income from the

6 rest of the building.

7 So they come to us and they

8 told us they would negotiate with a

9 developer and we said we were interested

10 in land marking the building and they

11 said well could they have three more

12 months to discuss the possibilities with

13 the developer. We said sure.

14 They came back asked for

15 another three months. We said sure.

16 After those six months, they came back

17 again, can we have more time. We said

18 no.

19 We called down town, said

20 please landmark the building. It's a

21 wonderful building, lot of room, a

22 theater, it can be such a magnificent

1 community center. It breaks your heart.

2 However, today there's a sign

3 outside 96th and West End Avenue, that

4 reads Church of Saint Paul and Saint

5 Andrew, Congregation B'nai Jeshurun.

6 So they're all using this

7 building that we wouldn't let tear down

8 20 years ago.

9 I assume it must be close to

10 fire codes, otherwise, so many people

11 would not be using it. So we do respect

12 our religious institutions and they do

13 have a place in our community beyond the

14 fact that they attended the means of

15 their other membership.

16 I feel very badly about the

17 possibility of this building going up

18 behind Shearith Israel. I think it will

19 trivialize, minimize, mock the simple

20 and elegant structure that's been here

21 more than a hundred years.

22 And I would like to see the

1 congregation continue whatever its

2 programs are because I'm sure they are

3 worthwhile to many, many people, but I

4 think it's an awfully big price to pay.

5 So I'm asking the community

6 board to disapprove the Shearith Israel

7 request for variances. Thank you.

8 I have an article from the

9 Sunday Times of November 11th that

10 details some of the information about

11 Kehilath Jeshurun.

12 (Applause.)

13 MS. COWLEY: Followed by

14 Laverne Rooney.

15 A VOICE: Repeat the first

16 name.

17 MS. COWLEY: Laverne.

18 MS. MOONEY: Hello there. My

19 name is Laverne Rooney. I am a doctor

20 in the Environmental Health Department

21 from Columbia University, and I also

22 happen to live on 70th Street.

1 So my perspective is from the
2 environmental, spend over 12 years at
3 Columbia. I'm researching the effect of
4 environmental pollutants and health.
5 Air quality and light.

6 I'll just maybe mention a
7 little bit about the air quality aspect.
8 You know, environmental health, they say
9 the solution to pollution is dilution,
10 and how do we dilute? We dilute by
11 opening your windows, that's what we
12 won't be able to do. We're in a
13 building where it will be blocked.

14 I think it's kind of a shame
15 I'm just amazed they will go forward.
16 Indoor pollutant is higher than the
17 outdoor. There are a few higher
18 outdoors, but that's the whole aspect of
19 ventilation, and ventilation makes for
20 healthy environment and you don't have
21 much asthma. I wanted to bring that to
22 you first.

1 We see a lot of drawings and
2 lot linings that we don't understand,
3 but I definitely understand
4 environmental health. Thank you.

5 (Applause.)

6 MS. COWLEY: Laverne Mooney.
7 Oh, that's you.

8 Sherry Miller, you're going at
9 the end.

10 A VOICE: I don't mind going
11 now.

12 MS. COWLEY: Joan Lenick
13 followed by Kate Wood.

14 MS. LENICK: My name is Joan
15 Lenick. I've only been on West 70th for
16 three years, but was an ancient history
17 teacher for 15 and I fully respect that
18 magnificent building on the corner, but
19 what weighs my mind is the hardship of
20 one group override the hardship of
21 another and that is what the board is
22 considering to contemplate and in their

1 conscience decide. Thank you.

2 (Applause.)

3 MS. WOOD: Good evening. I'm
4 Kate Wood for Landmark West. Landmark
5 West has been working with many
6 residents of West 70th Street, including
7 the buildings that will be most
8 immediately impacted by the proposed
9 building. We made a sizable submission
10 to the committee and the co-chair of the
11 board, so I'll be brief.

12 I just want to pick up on a
13 statement made by the Land Use co-chair
14 Richard Asche at the October 17th
15 meeting because I think it really gets
16 to the heart of this matter.

17 You said: "Is it appropriate
18 for a non profit to use their variances
19 to build private condominiums in order
20 to finance the building, and if the
21 answer to that is yes, are all these
22 condos necessary to do that or will some

1 lesser number suffice. If the answer to
2 that is no, what is the justification
3 for having the condos, that's the
4 issue."

5 And we could not agree more
6 that is the issue. Beneath these many
7 piles of paper, all of these months of
8 back and forth, the submissions and
9 resubmissions, that is the crucial
10 issue.

11 The driving force of this
12 application is not the storage, not the
13 classrooms, not the accessibility, not
14 the circulation. The driving force is
15 five floors of luxury condominiums that
16 CSI wants to stack on top of its new
17 community house.

18 All of CSI's programmatic
19 needs can be met by an as-of-right
20 building, without any of the seven
21 requested zoning variances. They've
22 shown that in their own drawings. Not

1 only would an as-of-right building meet
2 all of their mission related needs, it
3 would generate a healthy profit,
4 totalling millions of dollars.

5 And if you add that to the
6 substantial income that they receive
7 from the tenant's school, from the
8 top-end residential unit that they have
9 in the parsonage, this is not a
10 nonprofit institution that is just
11 barely meeting its programmatic needs,
12 it is thriving.

13 Now, CSI wishes it could use
14 its real estate to generate even more
15 money but doesn't everyone. The fact is
16 that the zoning just does not allow it,
17 and there simply is no basis for
18 granting variances, just so one property
19 owner can make more than a reasonable
20 return or in the case of a nonprofit,
21 build more than it needs to accommodate
22 its programs that relate directly to its

1 mission.

2 MS. COWLEY: Can you wrap it
3 up, please.

4 MS. WOOD: I will. My point
5 is the community --

6 MR. ASCHE: She spent a lot of
7 time quoting me, so . . .

8 (Laughter.)

9 MS. WOOD: That shouldn't
10 count.

11 The bottom line is the
12 community shouldn't pay the bill for
13 CSI's new community house, CSI should.
14 That's exactly the position that BSA has
15 taken when it came to other less
16 prosperous congregations in other
17 boroughs outside of Manhattan.

18 It is the position that Jewish
19 Home and Hospital claimed BSA would take
20 if the hospital attempted to seek
21 variances for its tower development.

22 It's the position adopted by

1 the U.S. Supreme Court when it ruled in
2 the landmark case, Society for Ethical
3 Culture versus Spatt.

4 I'll conclude with the quote.
5 The Court stated: "Society does not
6 seek simply to replace a religious
7 facility with a new, larger facility.
8 Instead, using the need to replace as
9 justification, it seeks the unbridled
10 right to develop its property as it sees
11 fit. This is impermissible and the
12 restriction here involved cannot be
13 deemed an abridgment of any First
14 Amendment freedom, particularly when the
15 contemplated use, or a large part of it
16 is wholly unrelated to the exercise of
17 religion, except for the tangential
18 benefit of raising revenue through
19 development.

20 And economic engine is not an
21 appropriate basis for special exemption
22 from the laws that govern all property

1 owners in this special district

2 throughout the city. Please deny that
3 application. Thank you.

4 (Applause.)

5 MS. COWLEY: If anyone is
6 going to try to get away with quoting
7 Richard Asche, you're going to be
8 deducted.

9 MR. ASCHE: That's all the
10 applause.

11 MS. COWLEY: Jay Greer,
12 followed by Alan Sugarman.

13 MR. GREER: Members of the
14 committee, members of the audience, I'm
15 Jay Greer. I live 25 Central Park West
16 for the last 39 years. From last June,
17 before last June, I lived right next
18 door to Shearith Israel.

19 I'm very well aware of it. I
20 have enormous respect for it; however, I
21 think what they're trying to do to get
22 you people to approve is an abomination

1 and I hope you beat it.

2 By the way, I did send you all
3 statements and if you need extra copies,
4 I'll be happy to provide them. Thank
5 you.

6 (Applause.)

7 MS. COWLEY: Alan Sugarman.

8 MR. SUGARMAN: Hello. I'm
9 very impressed by my eloquent neighbors.
10 I hoped we could have a little show that
11 we can go through and visually see what
12 in vein I've been trying to get for a
13 couple years, which is something to show
14 the impact on the area or the shadows
15 and my -- Ms. Alice Sterling has helped
16 us put together this presentation.

17 First, we're going to show a
18 quick video and we'll go through some
19 slides. So the point of this
20 presentation has to do with mid block
21 zoning.

22 And mid block zoning cuts down

1 on a height and most importantly or very
2 importantly, the set back. Now, to
3 grant a variance from that and to not
4 even ask the developer to prepare
5 realistic site lines and shadow studies
6 is seems to me that the body that's
7 making the decision doesn't have the
8 evidence before them to permit a
9 decision as to whether as to the impact
10 of the project.

11 So we're going through this
12 pretty quickly, then we'll go through
13 some of the slides separately.

14 Here, we see some slides
15 showing the impact on the windows and
16 then we're going to walk up West 70th
17 Street towards Central Park and see
18 something very interesting, which
19 concerns 22 West 70th Street which is
20 just to the west of -- of the large
21 building 18 West.

22 So in red here we see the

1 proposed building. In green is the
2 as-of-right building. Now, what's very
3 interesting about almost most of the
4 presentations by the developer here is
5 that they show a lot about the proposed
6 building. Don't show very much about
7 the as-of-right building.

8 An example is the economic
9 study, which has a lot of information
10 about the proposed project, but leaves
11 out anything about the as-of-right.

12 Now, we're going through the
13 slides and if anyone on the panel would
14 like us to slow down, we will.

15 MS. MILLER: No. This was
16 supposed to be a two-minute
17 presentation.

18 MR. SUGARMAN: Okay.
19 Continue. These, here's the as-of-right
20 building. By the way, I have been
21 trying for two years to get the
22 developers of architects, who has all of

1 this in their system to present shadow
2 studies.

3 So there's some evidence
4 before the -- to be decided here. Here
5 we can now see though -- can you hold it
6 for a second there, go back to the green
7 one, to the windows. Right there. This
8 shows the as-of-right building and you
9 can see the windows are unaffected, no
10 windows are bricked up by the
11 as-of-right building. Move forward.

12 Again, here is a view of the
13 as-of-right building, no blockage. Even
14 this is quite an enormous building.
15 Continue. This is the proposed building
16 and you can see what it locks up. I'd
17 also like to make the point it was very
18 interesting -- can you hold it for a
19 second to look -- just hold there. To
20 look at the presentation by the
21 architect where he talked about all the
22 access and elevators.

1 All those facilities for the
2 handicapped are contained within the
3 as-of-right building. Period. There's
4 nothing that he showed where he only
5 showed the proposed, but had he shown
6 the as-of-right building, it would have
7 been exactly the same. Continue.

8 Now we're going to walk up
9 West 70th Street, and way up there you
10 can see the green building and the
11 as-of-right on top of it. You can see
12 the real difference in how that's going
13 to look.

14 We tried really hard to make
15 this an accurate projection based upon
16 the model here, which has actually
17 confused us quite a bit. Continue.
18 Here, we wanted to -- go back a second
19 to the sun. Can you go back to the sun
20 over the building? Right there.

21 This is the sun coming through
22 a space that's going to be filled up

1 completely by the proposed building and
2 would not be filled up by the
3 as-of-right building.

4 Here are some photos, you can
5 see the shadows, sort of the edgy
6 shadows where 18 West blocks, and then
7 you will see what happens when the
8 proposed building comes in. A lot of us
9 are very conscious of the height of the
10 buildings. Hold that for a moment.

11 But the set back is just as
12 important in providing light and air on
13 the street. Continue.

14 So, here again, you can see
15 the relationship between the 18 West you
16 see the windows, the red building,
17 proposed building, blocks it all out.
18 Okay. Right now we heard a bit about a
19 hypothetical about other non profits.

20 Well, when we went through the
21 list of the affected property owners, we
22 discovered that 22 West 70th Street is

1 owned by the Catholic High School
2 Association. That's right on the other
3 side of 18 West. So if this proposal is
4 accepted, we don't see why this
5 not-for-profit cannot come back and put
6 in 105 foot tower.

7 They should be treated exactly
8 the same way in whether they're funding
9 a facility here or perhaps a school
10 somewhere else. It's no different than
11 a synagogue funding its own facility or
12 funding the facility in Rhode Island and
13 elsewhere. This that's the end of our
14 presentation. Thank you.

15 (Applause.)

16 MS. COWLEY: James Lepow.

17 A VOICE: I have a Power Point
18 presentation that I'm going to go
19 through as fast as I can.

20 A VOICE: Developers had a
21 half hour.

22 MS. COWLEY: I know. We're

1 trying to be fair to everyone.

2 A VOICE: How is that fair?

3 MR. ASCHE: You might want to
4 wait until he speaks before you speak.

5 MS. COWLEY: If you could be
6 efficient in your presentation, I'd
7 appreciate it.

8 MR. J. LEPOW: Basically, what
9 the presentation is about is really
10 highlighting how 18 West 70th Street and
11 the lot line windows and the windows in
12 the interior courtyard will be affected
13 by the building of the synagogue here.
14 So when we get started, you will see it
15 very clearly.

16 A VOICE: Would it make sense
17 to have somebody else do their two
18 minutes?

19 MR. ARMSTRONG: Maybe somebody
20 else should speak.

21 MS. COWLEY: Your father
22 Howard, followed by Joseph Bolanos.

1 MR. H. LEPOW: I'm Howard
2 Lepow, the president of the board of 18
3 West 70th Street. 18 West 70th Street,
4 just a slight bit of history, has been
5 in my family since 1943. And when my
6 father died, I took over managing the
7 building and so on, co-oped in the
8 1980s. The interaction with Shearith
9 Israel over the years, especially when
10 they took the building down around 1970,
11 was anything about pleasant because the
12 synagogue really did not fulfill a lot
13 of what they were supposed to do as to
14 waterproofing our structure and removing
15 debris from the lot next door and so on.

16 I never understood the
17 economics of taking down a perfectly
18 viable structure and truly, if that
19 structure remained of the last 36 years,
20 I'm sure Shearith Israel would have done
21 extremely well financially.

22 But, be that as it may, they

1 took it down. The problem we have here
2 is that we have east windows on the --
3 on the structure. If there's an
4 as-of-right structure that goes up,
5 we'll live with that, I mean that, we
6 understand, but to get a variance is a
7 whole other game.

8 I'm also a developer, so I
9 know both sides, you know, of what goes
10 on. My point with this is very simply
11 that for them to put up a structure that
12 will contain X number of floors, more
13 than the as-of-right, really means
14 nothing as to the -- and I don't mean to
15 be redundant but it means nothing as to
16 handicapped accessibility.

17 It means absolutely nothing as
18 to storage of records at the synagogue.
19 They can do that with as-of-right. The
20 whole point of putting up the extra
21 floors is really a profit point. What
22 it will do our building is it's going to

1 remove all of the light and the air from
2 those windows on the east side.

3 Now, all the windows on the
4 east side of the building are not
5 kitchens and bathrooms. They're actual
6 bedrooms. So 18 West over the last
7 several years has become a very strong
8 family building, and what it means is
9 all those windows, which are children's
10 bedrooms, parent's bedrooms will lose
11 all their light.

12 MR. ASCHE: You want to wrap
13 it up.

14 MR. H. LEPOW: Okay. If I
15 read the variance correctly, if a
16 variance is granted, it's granted. That
17 doesn't permit hardship or taken away
18 from an adjacent building. This will
19 obviously cause a great deal of hardship
20 to 18 West 70th, both economically, both
21 from a health point of view, and I don't
22 believe that this is correct.

1 I also don't like the fact
2 that this building is going to, if they
3 do get the variance, is going to be
4 visible from Central Park and Central
5 Park West, and I think it's going to
6 destroy magnificent, neoclassical
7 building.

8 Right now I'm more concerned
9 what it's going to do to the families
10 living on the east side of our building.
11 Thank you.

12 (Applause.)

13 MR. J. LEPOW: With that, I'm
14 going to show the -- illustrate the
15 effect that it will have on 18 West 70th
16 street. Go to the next slide, good.

17 So this is the as-of-right
18 building. The proposal and they are,
19 the windows in the middle are the shaft
20 and the windows on the side are all lot
21 lined windows.

22 As you can see they would be

1 fine in the as-of-right proposal,
 2 completely blocked and closed up with
 3 brick in the proposed structure. So the
 4 only ones that would be free of that are
 5 the three on the side. All the way to
 6 the lift. So that is one, two, three,
 7 four, five, six, seven windows that
 8 would be completely bricked over. If
 9 you can go to the next slide, please.

10 This is a photograph of the
 11 shaft that is facing east. Go to the
 12 next one. These are the windows that I
 13 was talking about that will be bricked
 14 over. Next slide.

15 Once again, you can see them
 16 illustrate here. All covered by the new
 17 higher 105-foot structure and completely
 18 open in the as-of-right structure. Next
 19 slide, please.

20 You can read that next slide,
 21 please. Yeah, there was an error
 22 actually in CSI's application and

1 there's a spelling mistake there, as
 2 well.

3 VOICES: Spell check.

4 MR. J. LEPOW: Yeah, but they
 5 said in their proposal that it was eight
 6 and that three windows would be blocked
 7 where as it's -- I'm sorry, eight lot
 8 line windows will be blocked. Next
 9 slide.

10 And, in fact, zero would be
 11 blocked in the as-of-right scheme. Next
 12 slide please.

13 These are the courtyard
 14 windows. Next slide.

15 These are all the windows that
 16 would be effected if the new proposal
 17 would be affected. Next slide, please.
 18 Okay. Next slide, please. Next slide
 19 please.

20 So, yeah, there are a number
 21 of windows that will be in the shaft
 22 that will be covered no matter what.

1 Obviously. But there will be a total of
 2 22 windows in addition to that that will
 3 be blocked if the new proposal is
 4 erected.

5 And a lot of those, a lot of
 6 those shaft windows that would be
 7 blocked are, you could see blue skies,
 8 you know, they're bright windows and
 9 they will completely lose their light
 10 and air. Next slide, please.

11 This is CSI application to
 12 BSA. This proposal would not commit
 13 substantial social economic changes in
 14 the surrounding area. I saw that come
 15 up in a slide earlier in their
 16 presentation.

17 That the variance, if granted,
 18 this is a mandatory finding. If
 19 granted, would not alter essential
 20 character of the neighborhood or
 21 district in which the zoning lot is
 22 located, will not substantially impair

1 the appropriate use or development of
 2 the property and not be detrimental to
 3 the welfare.

4 (Laughter.)

5 (Applause.)

6 MS. COWLEY: George
 7 (inaudible) followed by Bruce Simon.

8 A VOICE: Thank you. I want
 9 to read a statement.

10 "Dear esteemed members of the
 11 CB7, Land Use Committee.

12 "This communication is
 13 respectfully submitted to you in order
 14 to memorialize my statement made at the
 15 last meeting, Wednesday, October 17th,
 16 2007, regarding the matter at hand. CSI
 17 and its application to change/alter
 18 seven zoning variances.

19 "As the president of Landmark
 20 76, the West 76th Street Park Block
 21 Association, and on behalf of over 120
 22 residents, I hereby submit our

1 opposition to any approval and/or
 2 alteration, of all the variances in
 3 question.
 4 "Not only has Congregation
 5 Shearith Israel failed to prove hardship
 6 or extenuating fiscal circumstances in
 7 this matter, but approving any variance
 8 changes, as submitted by Congregation
 9 Shearith Israel, would forever change
 10 the character and complexion of our
 11 community negatively.
 12 "I trust, and hope, you concur
 13 with our sentiments. Thank you.
 14 (Applause.)
 15 MS. COWLEY: Bruce Simon,
 16 followed by Peter Kennard.
 17 MR. B. SIMON: Hi. Bruce
 18 Simon. I would just like to ask the
 19 committee to focus on the issue that's
 20 before you, which is a zoning issue.
 21 Now, there are many interesting dramatic
 22 issues, George Washington, Paul Revere,

1 archives in New Jersey, but the
 2 fundamental question is a zoning
 3 question and zoning is a device adopted
 4 by society to protect itself against the
 5 unrestrained exploitation of community
 6 resources.
 7 It is a restriction that
 8 society imposes upon the ability of
 9 anyone to negatively impact what society
 10 has determined to be important,
 11 protectable characteristics.
 12 And so you have a zoning
 13 resolution that limits what a particular
 14 developer, whether it is a religious or
 15 non profit institution or a secular
 16 organization can do to the rest of the
 17 community. And what you're being asked
 18 to do and what BSA will be asked to do
 19 is decide whether or not that zoning
 20 resolution adopted for the benefit of
 21 the community at large should be set
 22 aside and variances, exceptions, granted

1 to this particular religious
 2 institution.
 3 And there are occasions when
 4 special consideration is given to a
 5 religious institution regarding first
 6 amendment considerations for the
 7 performance and the use by religious
 8 institution for religious purposes.
 9 The question before you,
 10 however, that I think has been amply
 11 demonstrated is the question of five
 12 luxury residential floors, which I think
 13 admirably the applicant acknowledged is
 14 an economic engine.
 15 There is no requirement in the
 16 law and it frustrates the zoning
 17 resolution for variances to be granted
 18 to any institution, secular or religious
 19 as an economic engine as opposed to
 20 fulfillment of its religious mandate.
 21 This application should be
 22 opposed by the board and rejected by

1 BSA. Thank you.
 2 (Applause.)
 3 MS. COWLEY: Peter Kennard.
 4 A VOICE: Peter Kennard left.
 5 MS. COWLEY: Judith Cass,
 6 followed by Sherry Miller.
 7 MS. MILLER: I guess it's
 8 going to be me because she doesn't seem
 9 to be here.
 10 MS. COWLEY: Last call for
 11 Judith Cass. If she comes back --
 12 Sherry, are you ready to go?
 13 MS. MILLER: Sure. First of
 14 all, let me say, I'm no expert in terms
 15 of the technicalities of this, but I do
 16 have some thoughts about it.
 17 I have some additional
 18 thoughts based on what I was hearing
 19 tonight. I sympathize with some of the
 20 complaints made by those who are against
 21 the proposal, but I'm also a little
 22 nonplused because I think the only

1 solution that would satisfy everyone
2 here is to have nothing at all in the
3 lot. That will certainly take care of
4 the issue of blocked windows what it
5 looks like, except it's pretty ugly to
6 have an empty lot there now with a
7 painted board facing it.

8 In terms of how it's
9 compatible with the synagogue buildings
10 itself, well, that's the first time I've
11 heard that one because most of it seems
12 to be about compatibility with the rest
13 of the block.

14 Not that I like everything in
15 design, but that looks a lot better than
16 I seen before. I'm not saying I'm for
17 or against, but I'm trying to give fair
18 thought, what I understand about it.

19 There are some things I don't
20 like, but I think there was real effort
21 and I do know people who were involved
22 in making decisions about this and I can

1 tell you, I think there's been a fair
2 effort to try to meet some of what you
3 protested against or complained about.

4 Actually, I think it's give
5 and take, back and forth is valuable. I
6 don't think one side should just have
7 any kind of preemptory rights from doing
8 what they want to do at that time.

9 It's the back and forth, all
10 of its thesis, antithesis and synthesis,
11 there's nothing wrong with it because
12 it's the give and take that will produce
13 something reasonable for everybody.

14 It's not going to satisfy
15 everybody, that's for darn sure, but
16 there is an attempt by the synagogue to
17 try to meet what you're saying. I'm
18 sure there are other things that they're
19 not doing, but you know what, I'm trying
20 to be a little fair about both sides.
21 That's all.

22 Listen, before there was an

1 empty lot and if you really want what
2 was there before, well, yes the economic
3 benefit I don't think to the synagogue
4 --

5 MR. ASCHE: You want to try to
6 wrap it up.

7 MS. MILLER: Yes, I will. I
8 don't appreciate it when Mr. Sugarman
9 was allowed to go, but just allow me a
10 little variance. Thank up.

11 I'm saying it is a little
12 effort, it may not be the effort you
13 like, but it is an effort, look at the
14 changes that's been made so far. This
15 is what I see and I do know the party
16 involved.

17 You know, there's a lot of
18 good building going on now. Look at
19 Houston Street, there's compatible
20 building in that neighborhood. This
21 works better than what I've seen before.
22 Think about it a little more, try to be

1 a little more objective for whatever
2 your own personal wants and needs are.
3 That's all. I'm not against you or
4 against you.

5 MR. ASCHE: Again, if you
6 can--

7 MS. MILLER: Thank you, but I
8 don't appreciate being cut off like
9 that. Perhaps you can cut off
10 Mr. Sugarman next time.

11 MS. COWLEY: Thank you. Is
12 Judith Cass still here? Thank you.

13 MR. ASCHE: We're going to
14 give the board members a chance to ask
15 questions and make comments.

16 MS. NEUWELT: I'm Klari
17 Neuwelt and together with Lenore Norman,
18 sitting next to me, we're co-chairs of
19 the Landmark Committee of CB7, so we're
20 guests here with this committee tonight,
21 but we've been involved in this project
22 since it came before us as a Landmark

1 issue, and I just want to comment on two
2 aspects.

3 This is really one of the most
4 disingenuous applications I have seen in
5 many, many, many years on Community
6 Board 7.

7 The first central thing that
8 is so disingenuous and people have
9 referred to it in one way or another is
10 the concept that you've got a hardship,
11 and the other findings that need to be
12 made because you need to get this extra
13 space, the rear yards and set back and
14 all these various things in order to
15 meet your programmatic needs.

16 When the entire theory of that
17 is based upon meeting to take floors
18 three, two, whatever it is, three, two,
19 eight, plus the penthouse for
20 apartments. I have read, thanks to
21 Elizabeth, actually started to be
22 circulated some of the BSA decisions and

1 it was actually a surprise to me, you
2 could actually research the BSA
3 decisions in an organized way.

4 And I'm fairly -- I'm very
5 convinced the argument you need to make
6 money by selling condominium space as a
7 basis for your hardship, therefore,
8 needing to use only your first two
9 floors for your programmatic needs is
10 just a false premise, disingenuous
11 premise from the beginning.

12 Fell well within, the allowed
13 as-of-right space, the synagogue could
14 use three floors or four floors for
15 programmatic needs. They don't need to
16 have the classrooms go back into the
17 rear yard and up in the rear set back in
18 order to achieve those programmatic
19 needs because absent the condominiums
20 they could do three or five or five
21 floors as-of-right for their
22 programmatic needs.

1 Once you eliminate the driving
2 element of the, of this engine, I see no
3 basis for any of the findings. The
4 second thing and we have a little more
5 expertise and experience, at least some
6 of the other members of the committee,
7 the second huge, huge bootstrap I see is
8 the argument. I heard this a little
9 more on the October meeting, this
10 committee than we heard elaborated
11 tonight, is the argument that the LPC
12 has approved this, demands this, demands
13 the symmetry, demands the set back,
14 demands the additional height and set
15 back because this arose out of the
16 application to LPC.

17 As I understand it, the
18 applicant didn't go to LPC with an
19 as-of-right application that LPC could
20 have played with a little, the applicant
21 went to LPC with something that was
22 similar to this thing and LPC played

1 with that.

2 So the argument that LPC
3 demands all of these changes in order to
4 meet its aesthetic considerations is
5 just an enormous bootstrap, as well.

6 I have seen a draft of
7 something that's been circulated to us.
8 I don't know whether it's written by a
9 member of the committee. Whether it's a
10 draft for the committee, but if so, I'm
11 disturbed by it because I don't want to
12 steal somebody else's thunder, but it
13 seems to me that at least some of the
14 rationale I heard among committee
15 members in discussion is that the real
16 issue is the lot line windows.

17 And if you saw the lot line
18 windows, then the rest of it is not so
19 bad. I don't want to take my time up as
20 Assembly Person Gottfried said, the
21 zoning resolution has what we call in
22 the law bright line distinctions.

1 There's a reason, you could
 2 have chosen a different lot line
 3 requirement, you could have chosen
 4 different rear yard requirement. But,
 5 they're there. They're there, they've
 6 been there for many years.

7 They provide an absolute
 8 borderline between what we have decided
 9 to permit and what we have decided not
 10 to permit. And if you say, okay, ten
 11 feet here, 30 feet here, little more
 12 here, little more there, there's no
 13 reason that you can't do that when the
 14 Historic Society comes before us, when
 15 the Catholic church that owns the next
 16 brownstone that comes before us or
 17 anybody else.

18 So I would urge the committee
 19 to reject, not that I don't have great
 20 respect for Shearith Israel, but to me
 21 the whole thing is a colossal bootstrap,
 22 and I urge the committee to reject all

1 of it. Thank.

2 MR. ASCHE: Thank you.

3 (Applause.)

4 MS. NORMAN: I won't repeat
 5 everything that's said tonight because I
 6 know everybody wants to move on. It
 7 doesn't have to be repeated. I think
 8 you heard it so many times.

9 There are many things wrong
 10 with that application. How it impact on
 11 the landmark, how it impacts on the rest
 12 of the neighborhood, the lot line
 13 windows, the variances, which to me are
 14 very self-serving.

15 The need for five very
 16 expensive condominiums in this
 17 neighborhood, which is overwhelming with
 18 condominiums. Shearith Israel has to
 19 look further to accommodate its needs.
 20 I think it could do its programmatic
 21 needs in an as-of-right building, and I
 22 think we would applaud them for that.

1 Thank you.

2 (Applause.)

3 MS. COWLEY: We're going to
 4 have a breach in the community board's
 5 land use member comments because we have
 6 two more speakers, which I apologize,
 7 seemed to have been buried under some
 8 paperwork. We have Gorman Perry.

9 A VOICE: Reilly.

10 MS. COWLEY: Sorry. Followed
 11 by Mr. Lo Van Der Valk. Sorry. Anybody
 12 else? I didn't realize there were some
 13 slips down below. Has anybody else who
 14 wished to speak this evening submitted a
 15 yellow piece of paper?

16 MR. REILLY: Thank you very
 17 much. My name is Gorman Reilly. I'm
 18 president of Civitas Citizens, Inc.,
 19 which is a community organization on the
 20 east side. We are primarily concerned
 21 with these very issues of zoning and
 22 land use in Community Board 8 and

1 Community Board 11, the Upper East Side
 2 and East Harlem.

3 I've come across the park and
 4 I thank you for allowing me to speak for
 5 the precedential impact this would have.
 6 We have in our own neighborhood two
 7 projects that have already seen the
 8 light of day and Mr. Friedman is quite
 9 familiar with one of them.

10 And they are audacious in many
 11 ways in taking this principal, taking
 12 over rights, turning them into a set of
 13 condominiums to be sold to the
 14 developer, and then to the public at
 15 large.

16 The zoning resolution has been
 17 fixed for the very reason of protecting
 18 society. Those determinations were
 19 made. There were mistakes made perhaps
 20 before. They were rectified in the
 21 mid-'80s with R8B zoning and contextual
 22 zoning.

1 And I would refer to the
2 testimony given by Assemblyman Gottfried
3 and by Bruce Simon. Now, we rest on
4 those statements, that is very important
5 for you to consider what is being asked
6 here.

7 The zoning is there for the
8 public and if it's to be given a
9 variance and give -- the applicant given
10 the benefit, it has to be for extremely
11 compelling reason. Thank you very much.

12 (Applause.)

13 MR. VAN DER VALK: My name is
14 Lo Van Der Valk. I'm president of
15 Carnegie Neighbors on the east side.
16 Most of our territory or all of our
17 territory is north of 86th Street, but
18 we're very concerned about a similar
19 case to the case considered here this
20 evening involving the Ramaz School,
21 where they would like to build
22 28 stories high where we determined at

1 least 12 stories break the R10 or C-15A
2 Lexington Avenue zoning.

3 VOICES: Louder, please.

4 MR. VAN DER VALK: Sorry. So
5 ours is an example, the Ramaz School is
6 an example of if you approve this, then
7 that's the next domino, truly a domino
8 because this will set the precedent
9 because the arguments used in our case
10 are very identical to the arguments used
11 in your case.

12 And I also agree with Gorman
13 Reilly's excellent comments that please
14 rely on the comments of Bruce Simon and
15 Assembly Man Gottfried, and also Kate
16 Wood, I thought made some excellent
17 comments about earlier cases and
18 examples.

19 This is a very critical issue.
20 It's going to be watched by everyone in
21 the zoning community. Everyone in the
22 New York community because every

1 neighborhood will have some structure
2 that could become the next template to
3 follow this earlier one. Thank you so
4 much.

5 (Applause.)

6 MS. COHEN: Just as there is a
7 reason for zoning and the zoning
8 resolution, I do want to put in a word
9 for there being a BSA and a culpability
10 of variance.

11 The Board of Standards and
12 Appeals was invented at the same time as
13 the zoning resolution, precisely because
14 there are times that exceptions are
15 necessary. So there is nothing
16 absolutely holy about the zoning
17 resolution.

18 That being said, for this
19 particular case, I have to disagree with
20 my colleague a bit. I think that the
21 applicant has made convincing arguments
22 for the programmatic need for a number

1 of the variances, in terms of the
2 circulation, in terms of the classroom
3 sizes and in terms of the symmetry of
4 the architecture. I have no problem
5 with any of that.

6 You look at the regular with
7 the as-of-right rear yard requirements
8 are and it's not that, again, that the
9 entire rear yard is holy, it's that
10 after the first level there is a
11 requirement for the rear yard, for the
12 30 feet.

13 And in this case it's not a
14 lost of the entire 30 feet, it's a loss
15 of ten of those feet.

16 However, and this is where I
17 would again defend the applicant as not
18 being as disingenuous as original
19 applicants may have seen. The applicant
20 told us point blank that the
21 incorporation of residences as a
22 financial engine for the synagogue is,

1 in fact, material to the programmatic
2 need of the synagogue. That is
3 refreshing change from other applicants
4 that always tried to hide that action
5 from some of us.

6 So it gives us the ability to
7 say flat out, we disagree with that
8 point of view. And it is our belief
9 that the Board of Standards and Appeals
10 traditionally disagrees with that point
11 of view. I think that there is nothing
12 that's convincing to me about the need
13 for any of the residences and,
14 therefore, any of the variables which
15 really apply only to height set back
16 that relate to the five residential
17 floors, that I have no problem with the
18 variances that have to do with
19 essentially the building out on the lot
20 of the structure to serve the legitimate
21 programmatic needs of the congregation,
22 but I have a lot of problems with what a

1 witness at the October meeting very
2 dramatically and appropriately talked
3 about a transfer of wealth from
4 residences of 18 West 70 to the new
5 building.

6 I do want to say one other
7 thing, and that is, when we weigh the
8 different interests of different parties
9 in land use cases, it is often perceived
10 as the applicant is one thing and the
11 community is another thing or the
12 neighbors is another thing. In fact,
13 the thing that makes it difficult on the
14 community board is that all of these
15 entities are part of the community.

16 That the synagogue in this
17 case is an important part of the
18 community and, furthermore, that the
19 synagogue should also keep in mind that
20 it has even more than other houses of
21 worship a particular role in the larger
22 community, which is precisely why I

1 asked about the archives.

2 That might have seemed to be
3 my own archive advice interest, but it's
4 more than that, it is because this
5 particular synagogue and what this
6 particular congregation has to offer is
7 a public trust that we need to consider,
8 as well, the protection of those
9 materials is of interest and value, not
10 only to Shearith Israel but to the rest
11 of us, as well.

12 MR. SIEGEL: I agree with much
13 of what Hope just said. I think the
14 applicant has clearly demonstrated the
15 need for the variances with respect to
16 the program.

17 I do not think the applicant
18 has demonstrated the need for the height
19 variables and, in particular, I don't
20 think that they have satisfied the
21 finding that the minimum variance is
22 necessary to afford relief for the

1 project and for the program, and would
2 urge the approval of variances for
3 everything with respect to the project,
4 except for the height.

5 MR. FINE: Having almost two
6 years ago voted to disapprove the
7 application for what the application was
8 before Landmark understanding the needs
9 of the synagogue and the direction that
10 they were given, what's happened in
11 terms of that is done and history, what
12 I was disappointed tonight in was that
13 the -- those who spoke, mainly, the
14 public did not address the findings in a
15 detailed way.

16 Many other things were
17 discussed, which were very important to
18 people, but we're responsible for
19 looking for findings and determining
20 whether those findings are there,
21 adequate, because that's what BSA is
22 going to be looking at, and when they

1 look at our resolution, they're going to
2 be looking at our support of or what,
3 what we think is not there.

4 So a lot of the good work that
5 was done, shadow studies, and so on,
6 that are really irrelevant to what is
7 before us and that's unfortunate, but
8 that's what the rules are.

9 I'm in concurrence with my
10 previous two speakers, my colleagues,
11 the height variance is in question with
12 reservation and the others, I see the
13 findings are there. And that's what
14 we're charged with doing.

15 MR. ASCHE: This application
16 has given us a great deal of difficulty,
17 all of us, I think people have reached a
18 bottom line with less difficulty than
19 the process of getting there. And the
20 reason is because of these findings and
21 because they're written in language that
22 doesn't at first blush appear to apply

1 to this project in, you know, certainly
2 on all fours.

3 I think that we have reached a
4 consensus that the economic issue is a
5 non issue, both because we don't believe
6 that the as-of-right building would be
7 an economic hardship, per se, and
8 because we don't believe that economics,
9 that the non profit developer is
10 entitled to build something that's not
11 as-of-right as a way of financing his
12 project.

13 Having said that, though, I
14 believe that there are conditions
15 on-site which, A, would justify the set
16 back, the rear yard and lot coverage
17 variances and with respect to the height
18 and set back variances, I believe that
19 there are conditions which make it very
20 difficult for this builder or anyone
21 else to build an as-of-right building
22 and to achieve anything approximating

1 the FAR that he could achieve.

2 Finally, for me, it comes down
3 to the finding that was on the Power
4 Point presentation by the owners or the
5 former owners of 18 West and that is
6 that we have to find that the use of
7 neighboring buildings will not be
8 impaired, I'm paraphrasing.

9 And I cannot see my way clear
10 to voting for a variance from an
11 as-of-right scheme, which would destroy
12 a portion of a neighbor's property and
13 that's what I think blocking up a lot
14 line window does.

15 I think with respect to the
16 courtyard windows, there is also a
17 diminution, but the blocking of the lot
18 line windows, which could be bedrooms or
19 dining rooms, it doesn't matter,
20 shouldn't be done if it isn't being done
21 as-of-right or if there isn't some other
22 very, very compelling reason.

1 The way I come out and I don't
2 know if there's any magic to this, and I
3 don't know if anyone else on the
4 committee agrees, is that I would
5 approve a slight height variation, but
6 only if the maximum height permitted in
7 the -- in an FAR, I mean, in an R8B
8 zone, which is 75 feet be the building
9 wall and that the -- that there be a
10 penthouse, one penthouse, which would be
11 designed in such a way that there would
12 be no blockage of the lot line windows.

13 I'm not sure whether 75 feet
14 is the correct height. I don't know
15 what the height -- if anyone else does,
16 of the lowest lot line windows that
17 would be blocked, but that would be my
18 height limit for this project. And a
19 penthouse which set back from the lot
20 line windows would, to my way of
21 thinking, not be a tremendous burden on
22 either the neighbors or the community.

1 But other than that, I agree
2 with what everyone said and I appreciate
3 effort on both sides to make, make this
4 issue clearer than what it really is.

5 MS. ROSENTHAL: Well, I'm new
6 to this, so I'm trying to use your
7 language, but I'm mainly going to defer
8 to your understanding of variance
9 letters and lot line feet set back,
10 height and whatever.

11 In principal, though, from
12 hearing this conversation, I actually
13 like to start by repeating what
14 something -- what Gottfried said, which
15 is I'm most impressed with the work of
16 this community board and how hard
17 everyone works on this through e-mails,
18 site visits, reading, applications
19 reading new applications and similarly
20 by the work of the community, people on
21 all sides from the application, as
22 others have said, from the applicant to

1 the community members to Landmark West,
2 have put such effort into understanding
3 this issue and making it understandable
4 for those who have to make the
5 decisions, and I'm deeply impressed by
6 that.

7 In theory, so everyone, you'll
8 do the work of turning this into the
9 language for the resolution, but in
10 theory, I'm very troubled by having the
11 height of this proposed building go
12 above the height of Congregation
13 Shearith Israel, but its lowest cornice.

14 I don't know the language for
15 what that line is, but I would not want
16 to see it above the sixth floor of the
17 proposed building. So in terms of
18 height restrictions, I don't see the
19 need for the top three floors. Upon
20 visiting the site, which I did with
21 Vitullo-Martin, we can see the need for
22 the new community space.

1 And I commend Shearith Israel
2 for moving beyond its initial
3 restoration of its current synagogue,
4 which is stunning, and I commend them
5 for wanting to do the same for their
6 community house, but I don't see the
7 need in terms of what they want to
8 achieve programmatically for them to go
9 as far back in terms of extending their
10 rear yard set back as much as they want
11 to.

12 I think they could pull it in
13 a bit more and still achieve the
14 programmatic goals. So that's it.

15 Thank you very much for all of
16 your work.

17 MS. COWLEY: Well, I think the
18 community board and those who regularly
19 attend the Parks and Preservation and
20 Landmark Committee meetings have seen
21 proposals that seek to alter our
22 neighborhoods in ways we never imagined.

1 And we do need to rely on
2 guidelines, either from the Landmark
3 Commission or by the zoning resolution,
4 particularly when it comes to our non
5 profit neighbors, particularly when it
6 comes to religious institutions.

7 I think those of you on the
8 board, I'm very stubborn about changes
9 to these buildings and every time we've
10 seen this, we looked for creative
11 solutions.

12 I think the troubling aspect
13 of this for me as an architect, I
14 understand what the applicant is trying
15 to achieve and also what you have to
16 deal with in trying to juggle a
17 multitude of difficulties in trying to
18 accommodate the program and to meet the
19 requirements to fit in aesthetically on
20 the street, which really isn't our
21 purview, but somehow it can't be brought
22 into that and the impact on the

1 community.

2 Where I have trouble with this
3 proposal is where a non profit who does
4 need to expand the program, and for
5 those things, I agree with my colleagues
6 that anything that would help make that
7 program possible, we would seek to have
8 you do, but where we are changing the
9 zoning, which is have a greater role of
10 protecting the rights of the individual
11 and the neighborhoods around the
12 building, we start taking away from one
13 half and giving it to the other.

14 And I'm not sure that that's
15 been done as thoughtfully or
16 successfully as it might be. And for
17 that reason, I need to request that the
18 issues of the height, as well as the
19 rear yard, I think several of us were,
20 if we didn't go on the tour, I certainly
21 walked by it many times during different
22 times of the day in response to some of

1 the community who was concerned that we
2 weren't looking at some of the
3 environmental issues to see how that
4 might impact.

5 And I do believe there might
6 be a compromise here or reworking of
7 some of the upper floors, so we do not
8 do that. I think that covers most of my
9 comments.

10 MS. STARKEY: I am primarily
11 concerned that the board send a strong
12 message to BSA, and I'm a little bit
13 leery about our last minute reworking of
14 the plan by Shearith Israel.

15 I'm not quite sure I
16 understand it, but my principals are the
17 following: One, I do not believe that
18 the condominiums which everyone has
19 discussed, and I think everybody has
20 admitted, are really there for financial
21 reasons only. They have nothing to do
22 with the so-called programmatic or

1 mission of the synagogue.

2 And I think that although we
3 don't want to set a precedent and we can
4 say we're not setting a precedent, I
5 think we heard from people on the east
6 side, and it is clearly going to be a
7 message that will be heard by many of
8 the non profit and the museums and the
9 other not-for-profit organizations on
10 the west side that have available
11 building area, and it will come back to
12 haunt us.

13 And I think we should, first
14 of all, send a very strong message on
15 that point, and as I said, I do not feel
16 that we would necessarily have the
17 expertise to set the programmatic goals
18 of this community.

19 They've obviously thought
20 about it and I happen to agree that, you
21 know, in terms of the interior of the
22 community facility and the need for more

1 space, I think that is probably a,
2 something that we could all agree with.

3 I'm not going to get into
4 micromanaging that. I think I agree
5 that they do need it, and I would be
6 happy to work with them.

7 I would be happy to support
8 variances that would allow for the
9 programmatic needs to be met in a new
10 building. Other than that, I say the
11 as-of-right building is going to protect
12 the community and I guess that would be
13 my fall back position, but I do want to
14 send -- I do feel sending a message that
15 the community and the community board do
16 not agree with the variances that are
17 being requested, and certainly we don't
18 agree they are the minimum variances
19 that would serve the programmatic needs.

20 MR. VITULLO-MARTIN: Well, I
21 agree with all of my fellow board
22 members and some of them disagree, which

1 is sort of the state of my mind at the
2 moment.

3 I think we had to make, I
4 there are three findings that we had to
5 make. I don't think we can make
6 positively for the project. I think the
7 project manifestly damages neighbors.
8 Little that can be said about that, that
9 can be remedied. Perhaps they could
10 buyout the neighbors that could be
11 damaged, but as it is they damaged
12 neighbors.

13 I think that the programmatic
14 needs of the synagogue are met with the
15 as-of-right building. They certainly do
16 need, I think, from the tour that I saw,
17 they do need to upgrade what they have
18 for their programmatic purposes. I have
19 no problem with the variances, at least
20 as far as I understood them deal with
21 the lot coverage and some other matters
22 that were effected. The programmatic

1 building.

2 I don't believe that it would
3 be rational to approve variances by
4 whatever group or body that's asking for
5 them, that are requested, so that a
6 greater return could be made on the
7 development of the property solely for
8 that reason. Because I don't -- I can't
9 imagine how one could distinguish that
10 request from the request from every
11 other property owner on that block and
12 frankly every block.

13 I mean, everybody has a good
14 argument that if only they could get a
15 variance from the zoning, they could do
16 a lot more things with their lives. And
17 I, of course, if everybody got the
18 variance, the market would be
19 substantially changed and they might not
20 be able to do anything better for their
21 blocks, but in any case, I don't see
22 that as a basis that goes to the

1 question of whether the programmatic
2 need of the religious organization or
3 the not-for-profit requires the variance
4 and, that's it.

5 So -- but back to Richard, I
6 am always impressed and increasingly
7 impressed by Richard's very fine mind
8 and deciphering both the zoning, the
9 zoning resolution and in this case, the
10 variance requirements.

11 Richard is proposing a
12 compromise that would allow some greater
13 height, which would require a variance
14 which would do minimal damage, as we see
15 it, on that site and my problem with it,
16 and I'm not sure what my position is on
17 it, other than Elizabeth makes a very
18 strong point that there are variances we
19 can tolerate, there are variances we
20 can't tolerate it.

21 Once you start hazing over
22 that line of should we allow a variance

1 here because it would do some good
2 clearly to the synagogue and it doesn't
3 seem to do too much damage to the
4 community. And my feeling is that
5 that's a very slippery slope so I'm a
6 little afraid of it. And that's it.

7 MR. ASCHE: We're, I think, at
8 a point, there are now differences
9 within the committee and let me just, if
10 -- let me try to synthesize the
11 positions and just to respond very
12 briefly to Tom.

13 I don't think that the sole
14 standard is that it does minimal harm.
15 I think that I'm impressed by the fact
16 that the synagogue is to some extent
17 burdened by having this landmark, which
18 has restrictions on what can be built,
19 and by being in a mixed, in a split zone
20 lot, and that the combination of those
21 two, along with its programmatic needs
22 does, would justify, doesn't necessarily

1 justify, but could justify a slight
2 variance to compensate and that would be
3 my rationale.

4 But I think there is no --
5 there doesn't seem to be, and somebody
6 correct me if I'm wrong, there doesn't
7 seem to be any support on the committee
8 for approving the height and set back
9 variances that have been requested,
10 okay; is that correct? Okay.

11 There seems to be a clear
12 majority which would approve the lot
13 coverage and rear yard set back provided
14 that they don't block any lot line
15 windows; is that accurate?

16 MS. COWLEY: And I would also
17 add about light and air to the rear
18 yard, once you start to disassemble
19 elements, you change the configuration
20 and --

21 MR. ASCHE: I mean, to the
22 extent there's a ten-foot increase in

1 the size, the depth of the building is
2 that much less air in the rear yard, I
3 guess.

4 MS. COWLEY: I would only
5 argue in defense of the applicant when
6 we change the height of the building,
7 we're going to change the bulk.

8 And my concern would be when
9 you start playing with the variables and
10 be restrictive, are we going to create a
11 worse set back condition by changing the
12 height.

13 MS. COHEN: Why?

14 MS. COWLEY: Because we're
15 changing the mask of the building.

16 MR. FINE: No. We're not,
17 we're approving variances or not
18 approving variances.

19 MS. COHEN: And height set
20 back variance only comes in at a certain
21 height. Below that --

22 MR. ASCHE: What we're

1 approving is a reduction in the rear
2 yard from 30 feet to 20 feet, and that
3 would be for the height of the building
4 up to the lowest lot line window, if it
5 turns out it blocks the lot line window.

6 MS. NEUWELT: It's only the
7 first couple of floors.

8 MR. ASCHE: It goes higher
9 than the first couple of floors. The
10 height of the building doesn't affect
11 that. It's not going to get thicker if
12 we reduce the height, it's just going to
13 get smaller. So the first, this is the
14 rear --

15 MS. COWLEY: I understand
16 that.

17 MR. ASCHE: That won't change.

18 MS. COWLEY: So we're allowing
19 that element to be filled in.

20 MR. ASCHE: Yes.

21 MS. COWLEY: That's what I'm
22 clarifying. Sorry.

1 MS. COHEN: It's not filled
2 in, the variance being requested is ten
3 feet of the 30 feet yard requirement.
4 So it's not filling in the whole rear
5 yard, it's losing ten feet.

6 MS. COWLEY: It's adding or
7 taking away.

8 MS. COHEN: Ten feet.

9 MS. COWLEY: Right.

10 MR. ASCHE: So the area of
11 apparent issue is whether there's any
12 disposition at all to consider any
13 height and set back variance and with
14 the proviso that any such variance would
15 not block any lot line windows, and so
16 let's see where we stand, Charles?

17 MR. C. SIMON: First of all,
18 on the height and set back question, if
19 the case hasn't been made then this --
20 now I want to talk a little bit about
21 the precedential question because I
22 think it is a critical one.

1 No one is going to remember
2 the subtleties of this conversation in
3 future conversations about future
4 projects and future requests for
5 exemptions and variables. No one is
6 going to remember these subtleties.

7 MR. ASCHE: Hopefully,
8 remember them verbatim.

9 MR. C. SIMON: And so I think
10 we need to be extremely careful,
11 extremely careful about granting or
12 recommending the granting of any
13 variances, unless it's crystal clear
14 that the case has been made, given that
15 the baseline is the zoning resolution
16 and with an eye to the future. And I
17 think it would, therefore, be a huge
18 mistake to recommend the granting of any
19 variables that were not directly tied to
20 a case that could be made in a
21 compelling light.

22 And I just don't see that case

1 being made at all in terms of height and
2 rear set back.

3 So the recommendation made in
4 this draft here to recompense
5 Congregation Shearith Israel and for the
6 unique position of the zoning lot, I
7 must say I find to be not at all
8 compelling and, in fact, quite
9 dangerous.

10 MS. NEUWELT: My answer to
11 your question is that I -- is no, I
12 would not soften --

13 MR. ASCHE: Why don't we just
14 put it on the line.

15 MS. NEUWELT: I have a
16 different fundamental question of
17 people's thinking. I don't know if you
18 want me to ask it now or hold it.

19 MR. ASCHE: Sure.

20 MS. NEUWELT: As we see from
21 the model and what we know, two floors
22 above the first floor to get the

1 variables in front instead of the
2 30 feet rear yard, it would be 20.
3 Whatever your business residence,
4 whatever, you are on the south side that
5 makes a difference.

6 The whole thing is ten feet
7 closer, so it's not without impact on
8 the neighbors. So my question for those
9 of you, for me, it's a surprising
10 number, what I regard as sophisticated
11 who brought into the argument that the
12 programmatic needs of the synagogue
13 justified these rear yard variances.

14 My question is: Are you not
15 all reaching that conclusion on the
16 premise that all of the programmatic
17 needs need to be sandwiched in the
18 cellar, which is not at issue and the
19 first two floors.

20 MR. ASCHE: Klari, I don't
21 think so. I think the argument that was
22 made was that because of the footprint

1 of the as-of-right building, the
2 classrooms on the south side of the
3 building would be too small.

4 MS. NEUWELT: To me, that was
5 another sort of not quite straight
6 forward, at least as I understood it, I
7 think we're saying we meet all the
8 condominiums up there, we only got this
9 much room for our programs. In the
10 first two floors, it seems to me clear
11 you can get the elevators, you can get
12 the access to your elevator, you can get
13 the handicapped access, and if you put
14 some classroom space on the third floor
15 because you weren't saving it for
16 condominiums, then you wouldn't have
17 this argument, "Gee, we need," maybe
18 that's not exactly right, but I didn't
19 find that persuasive.

20 I found it totally, totally
21 based on the argument that everything
22 had to be on the first two floors, so if

1 people didn't understand it that way,
2 then that's interesting to me because I
3 respect the view --

4 MS. COHEN: May I comment on
5 that?

6 MR. ASCHE: Sure.

7 MS. COHEN: One is specific to
8 this application and that is the plans
9 that were shown, the different sizes of
10 the classrooms under the different
11 scenarios, which I found perfectly
12 reasonable.

13 Then, not specific to this
14 application, but, in general, when we
15 had schools, in particular, but non
16 profits, in general, looking for
17 variances, we tend to unrest.

18 There's something that really
19 strikes us as odd, we tend to give them
20 the benefit of the doubt on programmatic
21 needs. We don't want to double, you
22 know, with what a particular entity's

1 needs are. They did the study, so we
2 generally give them the benefit of the
3 doubt on that, unless there's something
4 truly outrageous.

5 And the other general
6 statement I would make about schools and
7 other non profits or schools, in
8 particular, is that there are and this
9 goes to the diagrams, there is
10 something, floor plates, the size of
11 floor plates for schools and other
12 community facilities are often bigger.

13 That's perfectly normal than a
14 residential building, for example, and I
15 really do think that, you know, as we
16 look at each particular variance and
17 remember there are four findings to make
18 for each of the seven variances, and one
19 of those findings, the one that we're
20 all spending the most attention on in
21 all of these discussions is the
22 E-finding about, is this the minimum

1 required, I think ten feet on the rear
2 yard to me is persuasive.

3 In answer to Richard's other
4 question as you go, do you believe the
5 question absolutely not on the height
6 and set back, it seems to me everything
7 that has to do with height and set back
8 has to do with the apartments.

9 And I'm unconvinced that the
10 apartments have anything to do with
11 programmatic need of the project.

12 MR. SIEGEL: I agree with what
13 you said about the height and the set
14 back, and I would just also second what
15 Charles said, although I appreciate what
16 you're saying and what you're trying to
17 do. I think you don't have a clear line
18 that we open up the door to results that
19 may not want another person in this
20 project, in particular.

21 MR. FINE: I'm in accord with
22 the height issues, but I don't think

1 we're setting any precedent on that
2 here. I think that each situation is
3 very different.

4 The 28-story building on the
5 east side is not what we're talking
6 about here. We had a building that was
7 15 stories and it came down, and it came
8 down and different situations, the
9 landmark, not a landmark, different
10 communities, different pressures, so I
11 don't think we're taking that precedent
12 risk the way people contend.

13 MR. ASCHE: Shelly, I think
14 that if the idea is to send a message to
15 BSA, the one message we do not want to
16 send is that our decision is based on
17 the fear of setting a precedent because
18 if we send that message they will
19 disregard our decision because they are
20 very clear in their belief, however
21 misguided, that no decision they make
22 sets a precedent for any other decision.

1 MS. ROSENTHAL: Now I'm back
2 to struggling about the school. And the
3 needs of the school which is a tenant of
4 the, of CSI. And to how the tenant fits
5 into their mission.

6 So, I mean that's my struggle
7 because I think we're all in accordance
8 with the height. So now I'm talking
9 about ten feet in a set back, you know.
10 I don't know if it's a requirement of a
11 tenant school to be that size.

12 MR. FINE: Just a point of
13 information on that. One, it's not a
14 fly by night tenant. It's a -- an
15 institution in the community that's
16 being housed there; and two, that space
17 is also used for the schooling of the
18 institution.

19 MS. ROSENTHAL: That's
20 absolutely true. We need three floors,
21 whatever it is.

22 MS. COWLEY: I keep hearing

1 that's the problem with the project.
2 You hear five things, then you hear one
3 element that breaks the camel's back,
4 and then we're back to you slide down.

5 I think the height issue, I
6 would be happier with a smaller, lower
7 building without a doubt.

8 My issue with the set back and
9 perhaps I wasn't making myself clear in
10 terms of the program in trying to be
11 creating to satisfy this group's needs I
12 think we would like, I personally would
13 like to limit the amount of limitations
14 we put on them because I don't want to,
15 I think you need to help religious
16 institutions, but where I come unglued
17 now is where the requirement of the
18 classrooms, if this is being designed
19 for the tenant, rather than for their
20 own community use, I'm troubled by the
21 way the -- or the fact the layout, some
22 of these rooms are designed for

1 something that go beyond the mission or
2 your own use.

3 I'm putting my foot in this
4 because maybe I missed something in the
5 presentation of all the literature you
6 provided there for the issue of pushing
7 the building out into the rear yard.

8 I wonder if those classroom
9 sizes, if they're not going to be sort
10 of a legitimate school, I can't remember
11 the age groups, I throw this out to you,
12 Shelly, and to Ray, in terms of the
13 population that you're using because if
14 it's below kindergarten level, there's
15 certain requirements for small children
16 that I don't see here.

17 If it's for, and I remember
18 you've talked to this ad nauseam,
19 Shelly. Can I ask a question of this to
20 see in if it is for an older population,
21 then it is of a multi purpose type of
22 room, particularly as you're going to be

1 using this, as I recall, from the first
2 meeting we had for spaces to be used by
3 the congregation when the school isn't
4 in operation, when your tenant isn't
5 there.

6 So I'm getting a mixed message
7 of the school, again, but could you
8 clarify for us what the school group is.
9 I don't know if other people need this,
10 as well, but it might help to determine
11 this issue of a waiver to meet so many
12 requirements, rather than just perhaps
13 your mission. I don't know if you need
14 a mike. There seems to be a dwindling
15 group.

16 MR. FRIEDMAN: Our
17 clarification would be -- the
18 clarification we would seek to make is
19 that we have tried in our application,
20 not necessarily in the comments you've
21 heard, to make it clear this is about
22 the space for the synagogue's program

1 and not for the tenant.
 2 And in that regard, the space
 3 for the synagogue involves room sizes
 4 which, for lower age children would have
 5 to ultimately accommodate wash rooms and
 6 the like that are required for lower age
 7 children not shown on the plan, but
 8 space put aside for that, but also would
 9 provide for adult education, Hebrew
 10 school education, activities that deal
 11 with the social and cultural activities
 12 of the synagogue, but not for the
 13 tenant, per se.

14 We have provided in the
 15 application and we will provide in the
 16 BSA, you know, supplementary information
 17 that indicates every square inch and
 18 every room dimension is required for the
 19 synagogue, irrespective of the tenant's
 20 ability to use that space. And that's
 21 what we believe the programmatic
 22 difficulty, how the programmatic

1 difficult should be viewed.
 2 MR. ASCHE: Would the sub
 3 cellar be available for community board
 4 meetings?
 5 A VOICE: God forbid.
 6 A VOICE: If you say yes.
 7 MR. ASCHE: No pun intended.
 8 MR. FRIEDMAN: The answer is
 9 --
 10 MR. ASCHE: It's not a
 11 question.
 12 MS. ROSENTHAL: It's not a
 13 question.
 14 MR. FRIEDMAN: I can answer
 15 it.
 16 MS. ROSENTHAL: No, please.
 17 We're not going there.
 18 MS. COWLEY: If I understand
 19 --
 20 MR. FRIEDMAN: I'm always
 21 responsive to the chair.
 22 MS. COWLEY: Again, it's hard

1 to juggle all the literature that we've
 2 read. This plan is your optimum plan
 3 for the classrooms, for the synagogue,
 4 so it does not reflect any specific age
 5 requirement or new design that might be
 6 required if a different population were
 7 to go there.

8 MR. FRIEDMAN: If that
 9 different population was related to the
 10 synagogue's programming, possibly, but
 11 these spaces and I don't mean to
 12 trivialize the matter, but we would be
 13 comfortable having your measure taken as
 14 if the tenant didn't exist at all.

15 We believe that the
 16 programmatic needs of the synagogue
 17 account for everything that's being
 18 requested here.

19 MS. COWLEY: Then the
 20 question, a second comment that I have
 21 to my colleagues here, there's no
 22 requirement then to meet a certain

1 classroom size except for the amount of
 2 square footage per person that you're
 3 going to fit in the room, right?
 4 So that in the event those
 5 waivers didn't exist, I wouldn't have a
 6 hard time saying that programmatic
 7 agreement wouldn't be met, because you
 8 would be able to meet it in other ways.
 9 Yes --
 10 MR. FRIEDMAN: I don't
 11 understand the question.
 12 MS. COWLEY: It's a design
 13 issue, but this I address to Ray, a
 14 little bit because I'm trying to help my
 15 colleagues understand nuances.
 16 MR. DOVELL: There are 12
 17 classrooms shown. They all have a place
 18 in the synagogue's programming for the
 19 synagogue's use. There are 12 programs
 20 in floors two through four.
 21 All of those classrooms have a
 22 specific use for the synagogue, whether

1 it's a Hebrew school, toddler classes
2 and adult seminar rooms and youth room.
3 The supplemental offices also have a
4 particular place there's one office
5 which would be dedicated to the tenant
6 school, but that's all.

7 MS. COWLEY: Again, if the
8 variances were not given to use ten feet
9 of that rear yard, it is conceivable
10 that you would be able to accommodate
11 that by summary organization of the
12 space planning that you've got on these
13 particulars, on the second, third and
14 fourth floors.

15 MR. DOVELL: All of those
16 classroom floors are in the area where
17 we're pushing out into the back. That
18 area is all needed for classrooms.

19 MS. ROSENTHAL: I think what
20 Page is asking is, so pull it back ten
21 feet and what happens?

22 MR. DOVELL: The classrooms

1 becomes substandard in width, they're
2 marginal on the front of the building
3 now.

4 MS. COWLEY: That's what I
5 don't understand. You've given more
6 space in the rear for office space,
7 sacrificing classrooms.

8 MR. DOVELL: Look at the floor
9 above.

10 MS. COWLEY: I'm looking at
11 the second floor now and the third
12 floor.

13 MS. ROSENTHAL: On the third
14 floor, it makes sense. How about on the
15 second floor then?

16 MR. DOVELL: On the second
17 floor, there is a requirement for fairly
18 substantial office spaces in connection
19 with those spaces.

20 MS. ROSENTHAL: Requirement to
21 whom?

22 MR. DOVELL: For the synagogue

1 to support their educational mission.

2 MS. ROSENTHAL: Square footage
3 requirement.

4 MR. DOVELL: They would like
5 the larger rooms on the second floor.

6 MS. ROSENTHAL: What's the
7 requirement for the classrooms?

8 MR. FRIEDMAN: Programmatic
9 requirement.

10 MS. COWLEY: You're dealing,
11 with all due respect here, trying to fit
12 a gallon in a pint and what we're trying
13 to do is find the actual base where
14 you're required to make that
15 programmatic, that program fit what
16 we're trying to wrestle with is what is
17 the minimum variance you need to get you
18 there.

19 MR. FRIEDMAN: The minimum
20 variance can be, can become a sliding
21 scale as soon as you just tell the
22 synagogue, start figuring out how to do

1 without.

2 That's not what the
3 programming that leads to an application
4 like this is about. We had two
5 deficiencies.

6 We have the deficiencies of
7 the current space to meet current
8 activities and we have a host of other
9 activities, that if there were this
10 space, the synagogue could begin to
11 provide, and so it's not simply a matter
12 of taking a look at what we've got now
13 saying, "Well, could you nip and tuck
14 this."

15 These program spaces have been
16 based on synagogue's articulation of its
17 present deficiencies, synagogue
18 articulation of what it would hope to
19 provide as an organization and the
20 architect's translation of that into a
21 program.

22 MS. COWLEY: That's what we're

1 trying to come to, believe it or not,
2 these questions are aimed at trying to
3 understand your point of view of is
4 there any give and take, do you need all
5 of these variances, so that's what this,
6 and certainly my line of questioning is
7 about.

8 MR. FRIEDMAN: We can put it
9 all up on the board again with the Power
10 Point.

11 MS. COWLEY: Trust me, I have
12 so many plans here.

13 MR. FRIEDMAN: In the generic
14 sense the answer to the question, Hope,
15 is yes.

16 MS. COWLEY: Page.

17 MS. ROSENTHAL: Sorry, my bad.

18 MR. ASCHE: I thought you were
19 going to say the answer to the question,
20 Page, is hope.

21 (Laughter.)

22 MR. SIEGEL: My opinion on

1 what you just said, in terms of whether
2 the variance that they're seeking on lot
3 coverage and rear yard set back is
4 necessary for program, to me it clearly
5 is, and I think it definitely meets the
6 -- it is the minimum that is necessary
7 to do what they want to do.

8 I mean, it goes to the heart
9 of their program. They want to have a
10 few more kids in the class or they want
11 to have one more desk for an office.

12 I mean, ten feet is not much
13 of a variance and I think where we were
14 before, and what I think Richard was
15 summarizing was that there seems to be
16 some consensus on this committee for
17 approving the variances with respect to
18 the rear yard and lot coverage, but
19 disapproving the variances with respect
20 to the height and the base set back.

21 MS. COWLEY: I disagree. The
22 thing is, I'm trying to understand that

1 you're not representing my thoughts
2 correctly, so hang on. We've got
3 another --

4 MS. STARKEY: I just wanted to
5 suggest -- this is for Page and Richard.
6 This is just a suggestion. I mean,
7 could you go through the variances and
8 explain the thing and take an up or down
9 vote; otherwise, I think we might be
10 here all night.

11 (Applause.)

12 MR. VITULLO-MARTIN: A quick
13 comment on the lot coverage variance, I
14 think from what I saw in the tour and
15 looking at the site and saw the
16 difficulty that they have with the size
17 of the classrooms they have, I think
18 that the variance should be granted for
19 the lot coverage.

20 I think it's reasonably useful
21 for the program. I think it may well be
22 necessary for the program. I'm

1 certainly not competent to say it's not
2 necessary, and I think we should just
3 move beyond that.

4 I did want to go back to
5 something we've already taken off the
6 table, which is Richard's suggestion
7 about the height variance and say that
8 actually, Richard, your comments
9 reminded me, I had forgotten about the
10 split lot and the split zoning lot and
11 the fact that they build 28 stories on a
12 ten-foot wide lot --

13 MR. ASCHE: I don't know if
14 they can, but FAR --

15 MR. VITULLO-MARTIN: And the
16 combination of the zoning and the
17 Landmark does, Landmark front building
18 does create more perhaps unique
19 situation that for which there might be
20 some remedy that does not significantly
21 damage the neighbors, the immediate
22 neighbors, which was the other major

1 concern we had, and is relatively small
2 is a height change for the period.

3 I mean, never that's desirable
4 but because of that landmark status of
5 the front building and the large amount
6 of unused FAR on the side, I'm more
7 inclined to think the way you were
8 suggesting.

9 MR. ASCHE: Okay. We're going
10 to --

11 MS. NEUWELT: Richard, can I
12 ask -- I'm sorry, Shelly Friedman, I
13 wanted to just, if I could, follow-up on
14 Page's inquiry because I really am
15 trying to understand where some of my
16 colleagues are coming from, others are
17 not in the same place, Shelly, if the
18 first floor, are the first condominium,
19 a lowest condominium was not a
20 condominium, but was floor space in the
21 entire as-of-right footprint that was
22 available for the programmatic need that

1 it could have bathroom space for the
2 kiddies but in that footprint in the
3 lowest condominium were available
4 instead of being sold as a condominium,
5 but was made into classrooms and offices
6 and meeting rooms, whatever
7 programmatic, whether the synagogue, and
8 other programmatic needs, would the
9 applicant still argue that the rear yard
10 variance is necessary for its
11 programmatic needs, if you can have a
12 whole another floor instead of
13 condominiums, rather, as program.

14 MR. FRIEDMAN: You're pushing
15 the application to the closest where
16 we're not free to take it.

17 Although I think you're right
18 to try to think without boundaries, we
19 have boundaries, we have an application
20 in front of the community board that
21 provides what you see here. Okay. It's
22 not possible for us to say, "Well, just

1 let's pick another argument for the sake
2 of this discussion, and maybe we can
3 make it work another way, this is the
4 proposal, we have before you and the
5 floor you're asking about is currently
6 committed to, for residential use."

7 Now, if I had to argue in
8 theory about the community facilities,
9 we could argue here all night about a
10 genesis and things about additional
11 costs of needlessly having to increase
12 height, many schools will come forward
13 and say without any of these issues, we
14 prefer, as Hope said, we prefer the
15 wider floor plate, because it helps us
16 in both our programmatic needs in terms
17 of teaching with adjacencies and
18 avoiding dead space, and it's more
19 expensive to build up than build down.

20 We can have this discussion,
21 if it was from a scratch discussion. We
22 have what we have here because these

1 classrooms are like any other classroom
2 for educational purposes of program
3 space for any organization benefit from
4 having them adjacent to each other.

5 Benefit in terms of
6 efficiencies. Benefit by not having
7 additional door, additional stairway,
8 for all those reasons I would say, if
9 there were no residential floors being
10 suggested here, it's quite possible we'd
11 be coming to you for the exact same
12 variances because they make sense from a
13 programmatic standpoint.

14 MS. NEUWELT: I say to my
15 colleague, I find that ultimately
16 unpersuasive and to me it reinforces the
17 bootstrap of needing to squish
18 everything on the lower floors because
19 you're selling condominiums, but I
20 believe some of my colleagues disagree.

21 MR. ASCHE: What we're going
22 to do is this. There are four findings

1 for each variance, and so what I'm going
2 to do, if there is a vote in which the
3 majority find for the variance, I'm not
4 going to ask them about the four
5 findings because I'm going to assume all
6 four findings are met by that majority.

7 If there is a vote with a
8 majority, where the majority does not
9 reach all four findings then I will ask
10 for a separate vote on that. And I
11 guess we have to do it by committee and
12 board member.

13 Okay. So Land Use Committee,
14 the first variance is for the lot,
15 proposed lot coverage on both the R8B
16 and R10A sites to increase it from 70 to
17 80 percent all those in favor?

18 (Hands shown.)

19 MS. COWLEY: Just committee.

20 MR. ASCHE: Let's try again.
21 Committee? One, two, three, four, five,
22 six, seven. Opposed? Abstentions?

1 Board members for? One, two. Opposed?
2 Two. Abstain? Zero. Okay.

3 Now, as to I could break down
4 the vote since it doesn't carry among
5 the non committee members, I could break
6 it down into the four findings, if you
7 want.

8 It's only the committee vote
9 that counts. Proposed rear yard in the
10 R8B section to increase or decrease the
11 yard from 30 feet to 20 feet only in the
12 R8B section. And only up to a height
13 that we see here with three floors.

14 Committee members in favor?
15 Six. Opposed? One. Abstain. Board
16 members in favor? One. Opposed?
17 Three.

18 Proposed rear yard in the R10A
19 interior portion to reduce from 30 feet
20 to 20 feet, same issue. All those in
21 favor? Committee? Seven. Opposed?
22 Zero. Board members in favor? One.

1 Opposed? Three.

2 All right. We're now again to
3 the some of the set back issues. The
4 first issue, the first set back issue is
5 there a requirement of a set back at
6 60 feet. Let's -- the street wall
7 height, base height No. 5 to be 94.8
8 feet instead of 60 feet. Committee
9 members in favor? Zero. Opposed?
10 Seven. Abstain? Board members in
11 favor? Opposed? Four.

12 Now, the next one is changing
13 the initial, the depth of the initial
14 set back which is supposed to be 60 feet
15 from 15 feet to 12 feet. And just as an
16 aside here, correct me if I'm wrong,
17 Shelly, but the symmetry argument
18 doesn't apply if the street wall is
19 60 feet; is that right?

20 MR. FRIEDMAN: That's correct.
21 In favor? Three. Opposed? Two.
22 Abstain?

1 MR. SIMON: Chuck, can you
2 vote.

3 MS. COHEN: I'm confused.
4 Could you count that again?

5 MR. ASCHE: This is the
6 variance which if we don't increase the
7 height of the street walls to 94 feet
8 this variance, which the sole
9 justification of this variance is the
10 Landmark Commission allegedly wanted
11 some kind of symmetry.

12 That justification falls apart
13 if we don't approve, if you don't
14 approve of the base height. So in
15 favor? One. Opposed? Six. Abstain.
16 Board members? In favor, opposed? Four
17 and four.

18 Now, as to the those, I guess
19 the issue is whether we want to break it
20 down into the four findings since we
21 rejected four --

22 MS. COHEN: Our discussion all

1 along has really focussed on finding E.
2 We do not find that the minimum
3 necessary variance -- yeah. I think we
4 could also say C, as well.

5 MR. ASCHE: So we'll prepare
6 the waste and means to focus on those
7 findings. Building height to increase
8 from 75 feet to 113.70. In favor?

9 Opposed? Abstain? Committee. Board
10 members in favor, opposed. Abstain.

11 A VOICE: Three?

12 MR. ASCHE: Four.

13 Rear set back. This is a,
14 this is different from rear yard. This
15 is a rear set back. Is the rationale for
16 this also the symmetry?

17 MR. FRIEDMAN: Largely, yes.

18 MR. ASCHE: Okay.

19 MS. COWLEY: But I thought on
20 the plan, could you help us on this one?

21 MR. ASCHE: What height is the
22 rear set back?

1 MR. DOVELL: In the R8B, it's
2 the same height as the base.

3 MR. ASCHE: You want 94 feet.

4 MR. DOVELL: But we want the
5 same height but the as-of-right is the
6 same 60 feet it is.

7 MR. ASCHE: So if it stays at
8 60 feet, it doesn't relate to the
9 Landmark issue.

10 MR. DOVELL: I believe it does
11 not.

12 MR. ASCHE: In favor.

13 Opposed?

14 MR. FRIEDMAN: Just as a point
15 of information, the street wall height
16 is limited to 65 feet, 60 feet but the
17 building is 75, so presumably the rear
18 yard, the rear elevation could go to 75,
19 where the street wall could only go to
20 60.

21 MR. ASCHE: I understand, but
22 the set back, the requirement to reduce

1 the set back from ten feet to six and
2 two-thirds feet in the rear is related
3 to the symmetry issue.

4 MR. FRIEDMAN: Yes.

5 MR. DOVELL: That's correct.

6 MR. ASCHE: Board members.

7 Opposed? Just board members. Non
8 committee. Okay. So it's the same.

9 All right now. We are not in one way of
10 tackling and viewing with the issue of
11 whether to provide for any height
12 increase is simply to take the position,
13 which we frequently do, that all we are
14 voting on is the application that's in
15 front of us and say nothing more about
16 it . . .

17 A VOICE: We have a
18 stenographer here and he can't hear.

19 MR. ASCHE: With respect to
20 the issue of some lesser variance with
21 respect to height, you know one thing we
22 frequently do, maybe most frequently is

1 to simply say since the application is
2 first a specific height and we don't
3 approve that height, we have nothing
4 further to say.

5 That would obviate the
6 discussion about whether some lesser
7 height variance would be appropriate.

8 MS. NEUWELT: I think that is
9 the correct thing to do.

10 MS. NORMAN: I agree.

11 MS. COWLEY: Is someone
12 suggesting a lower building?

13 MR. ASCHE: Lower than
14 as-of-right?

15 MS. COWLEY: Oh.

16 MS. NEUWELT: Some people
17 argued that at LPC, but --

18 MR. ASCHE: We can't.

19 Unfortunately, I think that concludes
20 the festivities.

21 So unless anyone has any
22 further business, do we have any new

1 business, committee business?

2 Thank you.

3 (Whereupon, at 10:14 o'clock
4 p.m., the meeting was concluded.)

5 C E R T I F I C A T E

6 I do hereby certify that the
7 foregoing taken at the time and place
8 aforesaid, is a true and correct
9 transcription of my shorthand notes.

10

11 JOHN PHELPS, CSR, RPR, CRR

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**Community Board 7 Transcripts
Submission of Transcripts Previously
Submitted in Electronic Format**

**Opposition
Exhibit QQ**

Opposition Exhibit QQ - Filed July 29, 2008
Contents

QQ-1	October 17, 2007 CB7 Land Use Committee Hearing Transcript
QQ--39	November 19, 2007 CB7 Land Use Committee Hearing Transcript)
QQ 85	December 4, 2007 CB7 Full Board Hearing Transcript

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**Opposition
Exhibit QQ**

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COMMUNITY BOARD 7 LAND USE
COMMITTEE PUBLIC MEETING

TIME: 8:14 P.M.

LOCATION: St. Luke's Roosevelt Hospital
1000 10th Avenue
New York, New York 10024

DATE: December 4, 2007

RICHARD ASCHE: Co-Chairperson

PAGE COWLEY: Co-Chairperson

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MR. GOTTFRIED: I guess I
should apologize for talking about an
agenda item about this block of time,
but I hope it will work out for
everyone.

I want to talk quickly about
Shearith Israel and the variances they
are seeking to enable them to build
several luxury priced housing units on
top of the community house they want to
build.

That housing would damage their
immediate neighbors. It would cover up
lot line windows. It would reduce light
and air for adjoining buildings. At
least as important, maybe more so, it
would damage the entire surrounding
community by violating the reasonable
zoning standards for the historical
district side streets, and there is no
necessity that justifies giving them a

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variance.

It is not necessary for the
building of the community house. It is
being done solely because Shearith
Israel would rather finance their
building by the proceeds of the luxury
priced housing, rather than financing
their building the way a congregation
normally would, mainly by turning to its
members to raise money. That is not
what zoning variances are supposed to be
about.

Effectively, what Shearith Israel
is doing is taking value from its
immediate neighbors and from the whole
community and then taking that value and
selling it off to enrich itself,
essentially making the community make an
involuntary contribution to Shearith
Israel.

Again, I don't think that's what
zoning variances is really about. I

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think there there's really a dangerous
trend about not-for-profit owners and I
think we will see soon for profit
property owners trying to use this kind
of argument for getting permission to
violate this community's reasonable
building standards, and others as well.

And I think it is very important
that this board follow what the
committee did which is recommend against
these variances.

Two other things I want to
mention, tomorrow morning at 11:00
o'clock, I'm holding a press conference
announcing a proposal for universal
health coverage.

(Whereupon, at this time, other
agenda items were discussed.)

MS. ROSENTHAL: If I can turn
it over to the Land Use Committee. Page
Cowley and Richard Asche, co-chairs.
Thank you.

1 MR. ASCHE: All right. This
2 was the application for various
3 variances by Shearith Israel.

4 In your board packet, there is a
5 recitation of committee votes by
6 finding. As you know, we're required to
7 make four findings with respect to each
8 variance.

9 The committee really didn't vote
10 by finding. The committee voted by
11 variance and that is not listed in your
12 board packets, but fortunately Hope kept
13 a tally and had it typed up, and I'm
14 going to ask Hope before we start public
15 comments, to simply recite what the --
16 what each variance was and what the
17 votes, committee votes and board votes
18 were for each variance.

19 MS. COHEN: Okay. So as I'm
20 sure we're going to actually hear from,
21 perhaps, the applicant in a moment,
22 there are six variances proposed in the

1 Shearith Israel application.

2 And I'll tell you each, the votes
3 on each of the six variances, but I
4 think the simplest way to understand it
5 is that there are a couple of variances
6 that have to do with how the facility
7 would be horizontally, and those
8 variances were approved.

9 And then there are four variances
10 that have to do with how the facility
11 would be vertically, and those variances
12 were disapproved.

13 A VOICE: Hope, on Page 2 or
14 3, there are votes.

15 MS. COHEN: Forget the votes,
16 the votes are correct, the numbers are
17 correct, but they don't map to actually
18 what we voted on.

19 What Richard was explaining, for
20 some reason the minutes show the votes
21 done by finding. When we vote on a
22 variance, we have to make four findings

1 in the case of a non profit, we have to
2 make four findings. We have to make all
3 four of them to approve the variance.
4 Okay.

5 So if we approve a variance, that
6 means we found that all four findings
7 were met. If we don't approve the
8 variance, it indicates that we were not
9 satisfied that one or more of those
10 findings were met.

11 And, in general, I will tell you
12 that when we disapproved variances in
13 this case, and we disapproved four out
14 of the six, that when we disapprove
15 those variances, it was basically on the
16 basis of the -- to some -- basically, on
17 the basis of the C -- I'm sorry, the D
18 and E findings, and particularly the E
19 finding, which has to do with is this
20 variance the least, the minimum
21 necessary to do what needs to be done
22 for the applicant.

1 So, in four cases, I'm going to go
2 through what we approved and what we
3 didn't approve and by how many. We
4 found that it was more than -- that it
5 was more than the minimum. We also in
6 those cases pretty much found that, that
7 the C finding was not met that it would
8 have a bad impact on the community.

9 When we approved the variances,
10 which we did in two cases, that meant
11 that we were satisfied that all the
12 findings were met. That it would have
13 no bad impact on the community, that it
14 was the minimum necessary and so forth.
15 Okay.

16 So here are the votes. There was
17 a variance -- I'm going to do the
18 horizontal ones first. There's a
19 variance for lot coverage for how much
20 of the lot overall is coverage.

21 The Land Use Committee approved
22 that seven zip, zip, zip and the non

1 land use board members who were there,
2 voted two to two to zip to zip on that
3 particular variance.

4 Then there were two variances
5 having to do with rear yard
6 encroachments. Now, one of the
7 complexities of this particular
8 application, of this particular site,
9 it's what's called a split zone site.

10 The site is partially an R10
11 zoning district and partially in an R8B
12 zoning district. So there were separate
13 variances for the rear yard incursion
14 for each of those kinds of districts.

15 In the case of the rear yard
16 incursion, in the R10A portion, the Land
17 Use Committee approved that variance
18 seven zip, zip, zip and the non land use
19 board members who were there voted,
20 disapproved it, voted one to three to
21 zip to zip on that particular one.

22 On the analogous one for the R8B

1 portion of the site, the rear yard
2 incursion same issue, but on the R8B
3 portion Land Use Committee approved that
4 variance six to one to zero to zero, and
5 then the non land use board members
6 again voted that down one to three to
7 zero to zero.

8 Then there were the what I'm
9 calling the vertical variances. And I
10 haven't completely divided these up
11 right because two of them get paired
12 together.

13 So there's one on the -- let me
14 say, first, again, anything that has to
15 do with vertical was disapproved, okay,
16 and I'll give you the votes.

17 This's a variance for the total
18 height of the building. And for the
19 base height, that is, the height of the
20 building until the first setback, and
21 for a setback, a change in the amount of
22 the setback in the rear portion.

1 In all of those cases the Land Use
2 Committee disapproved, was -- all
3 members who were there voted against
4 those variances. So the land use vote
5 was zero to seven to zero to zero, and
6 non land use board members was zero to
7 four to zero to zero.

8 And there was one other little
9 oddity, a separate vote for the front,
10 for the amount of the front setbacks
11 matter of a couple of feet, again, the
12 Land Use Committee voted that down 21 to
13 six to 0 to 0, and the non land use
14 board members voted that down to zero to
15 four to zero to zero.

16 I'm going to turn it back to
17 Richard, but if you keep in mind,
18 overall we approved the things that went
19 out this way and we disapproved the
20 thing that, you know, went up that way.

21 MR. ASCHE: I'm presuming
22 everybody, the board is familiar with

1 the resolution and has some idea what
2 the building is like.

3 We have a representative of the
4 Congregation here tonight,
5 unfortunately, he doesn't have any
6 visual aides, and, also, we have either
7 he or Page can describe the project, if
8 proposed, if anybody needs to have that
9 done.

10 Okay. Let's go to the public
11 session, then we'll take comments from
12 the board. Jan Levy, followed by Faith
13 Steinberg.

14 MS. STEINBERG: I'm giving
15 mine through Jan Levy.

16 MR. ASCHE: She doesn't
17 accept.

18 MS. LEVY: I'm not allowed.
19 There are two people who want to follow
20 me. One is this woman Faith Steinberg
21 and Bacha, so if you'll call them next.

22 MR. ASCHE: Okay. And if I do

1 anything else that you don't --

2 MS. LEVY: We'll work
3 something out.

4 I guess I'm always the lead
5 witness here. Some of you have already
6 heard me on this subject. I find it
7 very difficult to understand the
8 reasoning behind the congregation's need
9 for all these variances. It may be and
10 I don't want to be irreverent and as you
11 discussed the Tora and the possibilities
12 of its meaning, perhaps, that's the way
13 you approach the zoning resolutions and
14 the interpretation of their meanings.

15 I don't, I don't -- I can't
16 understand why a congregation that has
17 been so long in this city and so well
18 respected and so esteemed by its
19 neighbors would want to disfigure its
20 own building and its block and Central
21 Park West historical district with a
22 building that is absolutely

1 inappropriate.

2 The design flies in the face of
3 any kind of mid block zoning
4 possibility. It has nothing whatsoever
5 to do with the Shearith Israel building
6 itself or the neighbors on the block.

7 So I thought about this and I
8 thought about how hard we worked to get
9 the historical district, and the fact
10 that Shearith Israel cleaned the outside
11 of the building. It keeps the building
12 in pristine condition and it really is a
13 very important institution, not only in
14 the upper west side, but in the city.

15 It's been here 350 years and it's
16 very, very much adhered to the original,
17 some of the original ways of observing
18 and commitments to community and civic
19 service that have been the hallmark of
20 this congregation since its inception.

21 And so I am really distressed that
22 there is a need, there is a need to have

1 public support and financing when I'm
2 sure this congregation can afford to do
3 this if it really wants to. All right.

4 So I will just conclude by saying,
5 in sum, I think what is being proposed
6 here is sacrilegious.

7 MR. ASCHE: Faith Steinberg
8 and Bacha Lune. Faith?

9 MS. LUNE: I absolutely
10 support what Jan said.

11 MS. STEINBERG: Faith
12 Steinberg. Ditto.

13 MR. ASCHE: Okay. Kate Wood.
14 Followed by Jay Greer.

15 MS. WOOD: Before my time
16 starts, I want to try to get an
17 understanding, is the applicant going to
18 speak tonight, because if so, there are
19 three of us that would like to speak
20 after the applicant, so we can respond
21 to what he has to say --

22 MR. ASCHE: You can only speak

1 once. If you want to wait until the
2 end, you can.

3 MS. WOOD: Will the applicant
4 be speaking this evening?

5 MS. ROSENTHAL: Probably at
6 the end. Richard, can we have a short
7 chat for one second.

8 MR. ASCHE: Why don't we
9 continue, let them talk while we talk.

10 MS. ROSENTHAL: Okay. You can
11 talk.

12 MR. ASCHE: Let me put it very
13 plainly. We're not going to have
14 posturing to see who goes last speak or
15 don't speak, but it's your turn now.
16 All right.

17 MS. WOOD: I would just like
18 to have the opportunity to --

19 MR. ASCHE: Everybody wants to
20 speak last, but it's impossible.

21 MS. WOOD: My purpose in being
22 here tonight is to make sure the

1 committee and the board have the facts
2 and so --

3 A VOICE: Go to the next
4 speaking.

5 MS. WOOD: I'm going to
6 postpone my speaking until after the
7 next speaker.

8 MR. ASCHE: That's fine. Jay
9 Greer followed by Ann Farley.

10 MR. GREER: Members of the
11 board, various chairs and committees of
12 the board. I'm Jay Greer, a long time
13 neighbor of Shearith Israel.

14 I appeared before you on the 17th
15 of October. I submitted something in
16 writing in opposition to all the
17 variances. I did the same thing before
18 the Land Use Committee on the 19th of
19 November. I'll stand by those.

20 I only want to add one thing.
21 Aside from supporting what Richard
22 Gottfried and Senator Duane's offices

1 said, CSI has left out some very
2 important stuff, but one thing they have
3 totally omitted is a reference to the
4 6400 square foot banquet hall mixed use
5 facility for religious life cycle events
6 that they want to put in their sub
7 basement.

8 For some, this will add
9 two-and-a-half times the amount of set
10 space to their facility. I submit that
11 that will do a significant amount of
12 damage to the neighborhood in terms of
13 increased traffic, increased garbage and
14 increased noise.

15 And for that reason alone, I
16 submit that whether they can do it as of
17 right or not, that should weigh heavily
18 against them getting any of these
19 variances.

20 Thank you very much.

21 (Applause.)

22 MR. ASCHE: Ann Farley

1 followed by Ron Prince.

2 MS. FARLEY: I'm Ann Farley,
3 the immediate past president of 101
4 Central Park West, and I want to join
5 with the others who oppose the
6 application of the Congregation,
7 including the horizontal variances that
8 you described.

9 I want to note, in addition to
10 what Jay said that the application fails
11 to quantify the financial gain that's
12 likely to come with this new banquet
13 hall.

14 Certainly users of the facility
15 will pay for the use in a reasonably
16 short time. Congregation may well
17 recoup the cost of its construction.
18 Thereafter, they will likely realize
19 substantial increase in revenues from
20 the source and their failure to disclose
21 expected revenue understates the value
22 of its proposed new community house.

1 The same thing is true of its
2 failure to disclose the amount of
3 revenue it receives from renting its
4 parsonage.

5 Second, there is creeping growth,
6 it may be generated by the school housed
7 in their proposed new building. The
8 school is not affiliated with the
9 Congregation and has grown from nothing
10 to 124 students in 13 years.

11 This is problematic because the
12 school buses routinely block the street
13 and students obstruct the sidewalk in
14 front of the Congregation during school
15 hours.

16 And lastly, the application
17 doesn't reveal what the Congregation
18 plans to do about emergency egress from
19 this banquet hall we've just heard
20 about.

21 The plans reveal only two narrow
22 interior staircases that do not directly

1 exit outside, but connect to the cellar
2 above and the result is the sub basement
3 could well be a fire hazard or a death
4 trap in the event of a fire.

5 The problem is especially acute in
6 the new building, which drastically
7 reduces the size of the rear yard and,
8 indeed, appears to preclude any escape
9 from what's left in the property.

10 So I encourage you to disapprove
11 the horizontal variances as well as the
12 vertical ones. Thank you.

13 (Applause.)

14 MR. ASCHE: Ron Prince
15 followed by Jeff Retton.

16 MR. PRINCE: Sir, we'd like to
17 present this together. It's a
18 presentation we developed together, if
19 we may. We have handouts for the board
20 members, please. Thank you.

21 I'm going to go first followed
22 by Jeff Retton. My name is Ron Prince

1 and I represent a group of property
2 owners at 18 West 70th Street.

3 The draft resolution describes how
4 the proposed building would directly
5 brick over lot line windows and cut off
6 the light and air of apartments who face
7 our eastern courtyard at 18 West 70th.

8 It characterizes such an outcome
9 as an abuse of the variance process.
10 Quote, a taking of property in a way
11 which the zoning resolution was designed
12 to prevent. We applaud the strength of
13 this conviction and feel it essential
14 and bring to you the full board the hard
15 facts behind what they've written.

16 And if you could refer to the
17 handout for this illustration one there,
18 you'll see the unavoidable starting
19 point of any discussion about the impact
20 on its adjacent property is that an as
21 of right building would brick over
22 absolutely zero windows at 18 West 70th.

1 And you can see this by the
2 contour of an as of right building
3 against the eastern portion of 18, which
4 is shown in blue.

5 Illustration two shows in contrast
6 the proposed building which is shown in
7 red. It weighs in at 105 instead of
8 75 feet, and with it you can see seven
9 lot line windows are directly bricked
10 over. Illustration three shows that
11 which is the photograph that lot line
12 windows are only part of this story.

13 Windows on the eastern courtyard
14 would also be sealed off. Here a
15 building of this proposed height would
16 transform the courtyard into an air
17 shaft.

18 As you can see, illustration four
19 on the second page shows even in an as
20 of right scenario, we acknowledge there
21 would be impact on our eastern
22 courtyard, but a building as tall the

1 Congregation is proposing would have an
2 intolerable effect.

3 Fifteen windows in the courtyard
4 are high enough to look at a blue sky if
5 an as of right building went up, and for
6 the others further down, the darker
7 would be even deeper --

8 MR. ASCHE: Try to wrap up.

9 MR. PRINCE: From here, I'll
10 move to illustration six and Jeff Retton
11 will take over.

12 MR. RETTON: To sum up and
13 conclude I would like to say the zoning
14 regulations expressly prohibit this type
15 of harm from occurring.

16 For a variance to be granted, it
17 must not substantially impair the
18 appropriate use or development of
19 adjacent property and must not be
20 detrimental to the public welfare.

21 As experts would attest, light and
22 air are keys to public welfare. Imagine

1 the effect of our neighbor, who we'll
2 call Patricia I., a resident owner with
3 a small studio on the 9th floor.

4 She has only one window of any
5 size. The reality is, it is on the lot
6 line and would be directly bricked over
7 if these variances are granted.

8 We urge the board to prevent these
9 bleak outcomes from becoming reality.

10 Thank you.

11 (Applause.)

12 MR. ASCHE: Howard Lippman.

13 MS. SIMON: He left.

14 MR. ASCHE: Kate, you want to
15 speak now or do you want to wait?

16 MS. WOOD: I will go ahead and
17 speak now. I have to say I've never
18 been to a proceeding where the applicant
19 didn't speak until comments.

20 What I plan to present in
21 partnership with other neighbors is a
22 very concise summary of the facts as to

1 why the community and people beyond the
2 upper west side community are adamantly
3 opposed to the requested zoning
4 variance.

5 To be clear, no one is against the
6 new as of right community house on this
7 site. An as of right building on this
8 site, but the applicant has the basic
9 burden of proof that it has come no
10 closer to meeting today than it had nine
11 months ago.

12 The applicant would like to
13 convince you that it needs the proposed
14 tower to cure circulation and
15 accessibility problems, but the
16 applicant's own drawings show that these
17 issues could be equally addressed by a
18 new as of right building.

19 The applicant has informed this
20 board that one of the five required
21 findings for zoning variances, finding B
22 regarding reasonable return on

1 investment is not necessary since
2 Shearith Israel is a non profit
3 institution.

4 In fact, the BSA rejected the
5 applicant's argument that the luxury
6 condos have anything to do with the
7 synagogue's programs and instructed
8 Shearith Israel to address finding B.
9 The BSA's reasoning is that other non
10 profit religious institutions raise
11 money for their programs without
12 resorting to special variances.

13 So this applicant does not get a
14 free pass on this issue. The applicant
15 would like you also to believe that this
16 is a modest eight stories plus
17 penthouse, when, in fact, it would rise
18 up to 95 feet on the street wall and
19 105 feet, overall the equivalent of
20 ten-and-a-half stories, roughly double
21 the height of the brownstones that
22 define West 70th Street, and

1 significantly taller than the adjacent
2 landmark synagogue.

3 And you've got some illustrations
4 over there that show you the green is
5 the as of right building the red is the
6 proposed building.

7 One final comment that I would
8 like to make before my time runs out is
9 that this is not just about our skyline
10 Central Park West, this is an issue that
11 effects the entire city. Give me
12 30 seconds to wrap up and say that this
13 is about our mid blocks.

14 Right now only three out of 53
15 buildings on West 70th Street between
16 Central Park West and Columbus are more
17 than six stories tall.

18 If built, the proposed building
19 would raise that number to four, the
20 Catholic High School Association owns
21 the brownstone at 22 West 70 Street.

22 And if you look at the poster,

1 it's the purple building that bulks up
2 on the west side of West 70th Street.
3 Using the synagogue's logic, this non
4 profit could add floors to the top of
5 its building creating five tall
6 buildings on the West 70th Street mid
7 block.

8 Suddenly, the balance starts to
9 tip as tall buildings begin to form a
10 wall overshadowing the small buildings
11 undermining the purpose of mid block
12 contextual zoning, which is to maximize
13 sunlight, air, a narrow side street's
14 protected brownstone scale and preserve
15 the overall visual character and sense
16 of place.

17 This is what this community board
18 fought for and won back in the early
19 1980s. We hope you will fight for it
20 and win it again today.

21 Thank you very much.

22 (Applause.)

1 MR. ASCHE: Ellen Fleyscher
2 followed by Bruce Simon.

3 MS. FLEYSCHER: Good evening.
4 My name is Ellen Fleyscher, I'm a tenant
5 shareholder at 91 Central Park West. I
6 have lived there 31 years, which is a
7 very long time.

8 Other people have spoken before
9 you and addressed this group before in
10 much more eloquent ways than I possibly
11 can. I simply want to say I stand here,
12 I never appeared before a community
13 board meeting before in my life.

14 I totally oppose all seven
15 variances which have been requested on
16 the grounds that I don't believe any of
17 them are totally necessary. Especially,
18 I would like to address the horizontal
19 ones.

20 Everyone is talking about the
21 vertical, which is quite valid.
22 Horizontally the reason for requesting

1 them as requested by the architect, was
2 to create expansion space for the
3 school.

4 The school is a rental facility,
5 really, I look out my windows and I see
6 the Rent-a-Kids at the rental school
7 every day.

8 I would suggest that perhaps they
9 need to expand the school, that they dig
10 into the 6,000 plus square foot rental
11 hall for receptions that they plan to
12 construct and find adequate housing
13 there for the school or perhaps the
14 parsonage, which is rented out.

15 So that there's plenty of
16 opportunity to seek, to solve the
17 problem elsewhere without affecting
18 one's air and light rights. Ultimately,
19 what lies before us is this question,
20 it's one of benefit versus burden.

21 If there's a project presented
22 before you which benefits the entire

1 community and the burden is borne by the
2 entire community, that sounds equitable
3 to me and reasonable and just. But when
4 the project benefits only one, and the
5 burden is felt by everyone else, there's
6 something wrong there.

7 And so I urge you to vote against
8 all seven variances of this project.
9 Thank you.

10 (Applause.)

11 MR. ASCHE: Bruce Simon
12 followed by Alan Sugarman.

13 MR. B. SIMON: Bruce Simon.
14 I've been a west sider since 1960. My
15 air, my light, my views are not affected
16 by this building. I guess I'm 500 feet
17 away instead of the 400 feet that come
18 within the BSA standards.

19 I speak in opposition to all of
20 the variances and I simply ask the board
21 to concentrate on what it is it's being
22 asked to do.

1 The zoning resolution is adopted
2 by the people of the City of New York to
3 govern themselves. It is a public good.
4 The public in effect is protecting
5 itself against what profit maximization
6 by any one of the public could do if
7 they were not restricted by the zoning
8 resolution in the public good.

9 Non profits are as bound by the
10 zoning resolution as are profit making
11 institutions. So are religious
12 institutions. There is a certain
13 deference given to religious
14 institutions to give them some
15 flexibility with regard to the zoning
16 resolution when their religious mission
17 is directly at stake. Not when they are
18 acting as a private developer building
19 luxury residential co-op apartments.
20 That is not their religious mission.

21 There is no excuse whatsoever for
22 them converting the wealth of the

1 community, the value of the community,
2 the not Jewish, the folks whose lot line
3 windows are protected, but the rest of
4 West 70th Street, indeed, the rest of
5 the west side and converting that
6 community value into value for the
7 synagogue.

8 They should be able to perform
9 their religious institution and we
10 should do every -- religious mission, we
11 should do everything to permit them to
12 do so, but we should not relax the rule
13 that every one of the rest of us are
14 protected by to allow them to escape the
15 burden of financing their religious
16 mission.

17 We are not expected to subsidize
18 Jack Retton or the board of the central
19 synagogue. They are perfectly capable
20 of subsidizing themselves.

21 (Applause.)

22 MR. ASCHE: Alan Sugarman

1 followed by Marlin.

2 MR. SUGARMAN: I'm Alan
3 Sugarman. I live directly across the
4 street from the synagogue. I have a
5 handout, which all of you should have,
6 that was discussed before. I would like
7 to point out the as of right building is
8 the green building on the left, the
9 upper two photos and on the right is the
10 proposed building, in red.

11 In general, the synagogue does not
12 show the comparison between the as of
13 right and the proposed building simply
14 because all of the congregation's
15 programatic needs are satisfied by the
16 as of right building, the green
17 building. They just don't need the red
18 building.

19 If we look at the findings we have
20 to make, finding east states basically
21 that any variance granted should be the
22 minimum variance, so if the green as of

1 right building satisfies the plan needs
2 of the Congregation then there can be no
3 variance.

4 Mandatory finding A states there
5 must be some unique physical condition
6 on the site which prevents economic use
7 of the site. Here there are no such
8 physical conditions. Rather the
9 Congregation suggests that the cause is
10 a religious non profit and can satisfy
11 by showing, A, religious programmatic
12 needs, which cannot be met in an as of
13 right building.

14 The programmatic needs they show
15 for the rear lot extensions that were
16 discussed is really what they want in a
17 perfect world.

18 I don't submit they rise to the
19 standard of permitting the avoidance of
20 finding A, which is really about
21 physical condition. So let's focus on
22 the programmatic needs asserted by the

1 Congregation.

2 You will hear the terrible stories

3 about the need to resolve access and

4 circulation problems, due to the

5 sanctuary floors being at different

6 levels for most in the community house.

7 What is needed really is

8 replacement of the 1954 elevator. What

9 is needed is a modern elevator opens the

10 front and back and side so entry and

11 exit is possible at different levels.

12 The as of right building, the green

13 building, does this and more, is able to

14 accommodate all of these access and

15 circulation programmatic needs

16 100 percent.

17 Let me just finish. The top two

18 floors of the as of right building,

19 also, is a luxury condominium and all of

20 these leads for which they somehow

21 persuaded the committee to permit an

22 extension in the rear can easily be

1 resolved in these two floors of luxury

2 condominiums. Quite simply, they don't

3 meet the standards of the law for any of

4 these variances. Thank you.

5 (Applause.)

6 MR. ASCHE: Madeleine Polayes

7 followed by Kent Walgren.

8 MS. POLAYES: I don't know I

9 need this, I have a very loud voice.

10 (Laughter.)

11 MS. POLAYES: Coalition For A

12 Livable West Side opposes Congregation

13 Shearith Israel's application to

14 construct a 105 foot building, mid

15 block, which would break the R8B

16 contextual zoning for the site.

17 It is really a shame this is

18 happening to the west side. As you

19 know, I have fought hard for making sure

20 that we stay within the certain

21 ambiance.

22 Well, that is being broken over

1 and over again, and I really plead with

2 this board not to let it happen in this

3 instance either. Thank you.

4 (Applause.)

5 MR. ASCHE: Kent Walgren

6 followed by Lori Cuisinier or Shelly

7 Friedman.

8 MR. WALGREN: I'm Kent

9 Walgren. I live in 18 West 70th Street.

10 I'm a board member and treasurer of 18

11 West 70th.

12 We, the board, are strongly

13 opposed to the building proposal.

14 Primarily because of this significant

15 negative impact we feel it has in our

16 building. We're concerned about the air

17 and light being cut to many apartments

18 and many residents in our building. And

19 many bedrooms would also be impacted,

20 including some you heard earlier.

21 We also, we're also concerned that

22 it will be a loss of apartment values

1 and, basically, an involuntary transfer

2 of money going from our building to the

3 Congregation next door.

4 And we see this as the

5 Congregation trying to maneuver around

6 the rules and make money on our behalf.

7 VOICES: On their behalf.

8 MR. WALGREN: So my family is

9 also directly impacted. I have two

10 daughters six and 9 years old that live

11 in a bedroom, they share a bedroom that

12 will be -- that have one window that

13 will be bricked over and they're

14 certainly very worried, they're very

15 concerned about what's going to happen

16 to them and their room and they're

17 concerned about light and fresh air.

18 And they wanted to make sure I

19 came here tonight and make sure I tell

20 you that they don't think this is fair.

21 So we want our neighbor to limit his

22 plans to building no taller or deeper

1 than allowed.

2 So please stop this proposal, and
3 thank you very much.

4 (Applause.)

5 MR. ASCHE: Lori Cuisinier or
6 Shelly Friedman.

7 MR. FRIEDMAN: I'm Shelly
8 Friedman. Basically, our function as
9 the applicant here is to answer any
10 questions the board may have of us.

11 We had a significant amount of
12 work with the Land Use Committee. We
13 spent several nights with the lawyers on
14 this application. I haven't had the
15 benefit of reading the board's
16 resolution, obviously, but it sounded
17 like a correct iteration of what
18 occurred on that night, and I am simply
19 going to say if any of the board members
20 have specific questions on this complex
21 application, we have the architect here
22 and we can go over them to your

1 satisfaction. Thank you.

2 MR. ASCHE: Thank you. Ray
3 Dovell followed by Roberta Vatski.

4 MR. FRIEDMAN: Mr. Dovell is
5 with me. He's the architect, so we'll
6 pass.

7 MR. ASCHE: Roberta Vatski
8 followed by Debbie Fink.

9 MS. VATSKI: Hi, I'm Roberta
10 Vatski. I live at 17 West 70th across
11 from the Congregation. I hate to put
12 myself in the position I'm in for the
13 variances and I think it's very, very
14 important that we know what this
15 Congregation is.

16 I mean, I would love to take a
17 show of hands how many people have been
18 in the building at 2 West 70th Street.
19 Well, good, a lot of us do happen to
20 know what that congregation is. It is,
21 when I first moved into this
22 neighborhood I had natural red hair, so

1 you can see how long I've been here and
2 I was amazed at the enormous benefit I
3 got by just knowing what that building
4 was and what it stood for.

5 I learned American history. I
6 learned New York history, I learned west
7 side history, and this congregation had
8 dealings, I had dealings with Peter
9 Stuyvesant. It was a marvelous
10 experience.

11 I didn't know anything about it
12 when I moved to this part of the city.
13 And I've been here ever since, but it's
14 got a book written about it, too. It's
15 called "The Grandees" and it's an old
16 book, but there were very fine people in
17 this congregation. It's old now and
18 popular. Popular opinion is that it's
19 wealthy.

20 It is not wealthy anymore and it
21 does have to pay rent and it will be
22 fabulous benefit to the community to

1 have this particular institution here,
2 but it must secure its future and it
3 knows very well what it needs.

4 And I think it's important that we
5 do try to support an institution of this
6 magnitude and of this honor.

7 Benjamin Cordozo, our Supreme
8 Court Justice, was a member of this
9 congregation. Very recently Abraham
10 Cordozo died. He was a member of this
11 congregation. He was a direct link from
12 the Amsterdam community and honored by
13 Queen Beatrice and it's a Cordozo, it
14 shows how long this community has been
15 here.

16 So I'm for anything that the
17 synagogue thinks it needs to maintain
18 itself for the future. Thank you. And
19 I'm going to run now before I get run
20 out of the neighborhood.

21 MR. ASCHE: We have one more
22 speaker.

1 A VOICE: I have a question
2 something she said.

3 A VOICE: About the color of
4 your hair.

5 A VOICE: My question was she
6 made a statement that the Congregation
7 pays rent, and I just want to know to
8 whom they pay rent.

9 MS. VATSKI: An expression of
10 saying it has to support itself and real
11 estate is a time honored way of
12 supporting itself.

13 A VOICE: Say that, don't say
14 they pay rent. It's misleading.

15 MS. VATSKI: The point is many
16 institutions get money from different
17 things, but it has to support itself.

18 MR. ASCHE: Debbie Fink is the
19 last speaker.

20 MS. FINK: I know it's a late
21 night. I'm exhausted. I'm sure you
22 guys are, as well. So I promise to be

1 brief.

2 I've never been to one of these
3 meetings. I'm a resident of 18 West
4 70th Street. I've lived there since
5 last year, I've been a resident of
6 Manhattan for 12 years, and decided I
7 wanted to buy an apartment.

8 So last year I wiped out my entire
9 401K, my life's savings, borrowed money
10 from my parents and bought an apartment
11 at 18 West 70th.

12 I'm one of the few apartments that
13 faces east, and solely east. I have two
14 windows, one in my living room, one in
15 the bedroom. If the variances are
16 approved, not only will I lose all my
17 light, I will lose all my air quality,
18 the value of my apartment will go down.

19 This was a new investment for me.
20 I've been working hard in the city, I
21 love New York and I have every intention
22 of staying on the upper west side, but I

1 don't think it's fair that the value of
2 my apartment gets lower because of
3 something not that it's my choice, but
4 something that a non profit gets to
5 profit from.

6 So I hope you vote against these
7 variances. Thank you.

8 (Applause.)

9 MR. ASCHE: Board members,
10 questions, comments?

11 MS. STARKEY: On our voting
12 sheet it says vote A, B, C, D, E, is
13 that the way we're voting.

14 MR. ASCHE: No, we're going to
15 vote by variance.

16 MS. NEUWELT: Richard, this is
17 for discussion, right?

18 MR. ASCHE: Yes.

19 MS. NEUWELT: I'm going to try
20 to slice and dice this in a way that I
21 think is clear. Hope described this as
22 horizontal and vertical. That's one

1 way.

2 I would think it's easier to think
3 of it as the height of the front, the
4 height of the back and the depth of the
5 back. The height of the front and the
6 height of the back, both of which are
7 the issues that impinge on the light
8 line windows and the light and air of
9 the adjacent building, the resolution
10 opposes what the applicant wants to do
11 on those and with a very high degree of
12 favorable vote on that.

13 I'm in agreement with that, so the
14 resolution sides with the neighbors on
15 that issue. The one that I want to talk
16 about where the -- where I was in the
17 minority is what I would call -- Hope
18 called horizontal and I would call the
19 rear of the bottom of the building.

20 Basically, what the variance asks
21 for is instead of having a 30-foot rear
22 yard, which is what the zoning

1 resolution requires for all building,
 2 unless they get a variance, they can
 3 build their building for the first
 4 several stories 20 feet instead of 30.
 5 And I, the premises for that, that I
 6 think apparently persuaded -- let me
 7 just say one more thing quickly.

8 I have a lot of respect and I
 9 think we all do for what our committees
 10 do, if we're not there, and the
 11 committee comes and tells us what they
 12 thought about and what they've done.

13 If I'm not sure about it, I'll
 14 either abstain or vote in favor of what
 15 the committee did for me. This is a
 16 situation where I attended the two
 17 lengthy hearings that the committee had,
 18 one was the committee meeting, one was a
 19 prior informational hearing.

20 I have all the same information
 21 the committee had. I heard all the same
 22 debate, participated in the same debate

1 on this particular issue. I don't feel
 2 the same deference to the committee that
 3 one might, otherwise might and I want to
 4 tell you why.

5 The rationale that the applicant
 6 gave for why they should not, why they
 7 should at the base of the building be,
 8 instead of having a standard 30-foot
 9 rear yard, which effects the light and
 10 air and all that kind of thing of people
 11 behind them on 69th Street, as well as
 12 their neighbors, to some extent 18 West
 13 70th Street.

14 The rationale they gave is that
 15 they want their school, the rented
 16 school, and they also use it for their
 17 own religious school on Sundays and
 18 Saturdays.

19 Gee, it would really be
 20 inconvenient to have the school use the
 21 elevator. We want bigger offices and we
 22 want bigger classrooms and that's why we

1 want to take all that space from the
 2 public and we were, we are putting five
 3 condominiums on the top five floors so
 4 we're going to use this extra space in
 5 the back for these uses. That does not
 6 persuade me their programmatic needs
 7 demand that they build back at 20 feet
 8 instead of 30 feet in the rear yard
 9 because their programmatic needs would
 10 allow them to build four condominiums
 11 and take the elevator to a whole, to
 12 bigger, classrooms and a whole lot more
 13 offices on one of those floors of
 14 condominiums.

15 So I am unpersuaded that the
 16 programmatic needs support the rear yard
 17 setback. I see absolutely nothing in
 18 this that requires them to have five
 19 condominiums on top of four floors of
 20 programmatic needs, as opposed to five
 21 floors of programmatic needs and fewer
 22 condominiums, therefore, I am not

1 persuaded that the finding that they
 2 didn't cause them themselves is a proper
 3 finding.

4 And for that reason I, I am not
 5 speaking for the other several people on
 6 the board who voted against this
 7 particular part of the resolution, but I
 8 think that what I'm saying very likely
 9 reflects the thinking of the rest of my
 10 colleagues on the board who vetoed
 11 against the favorable findings with
 12 regard to the proposed variances at the
 13 rear yard, so I urge the board instead
 14 of voting yes on the rear yard variances
 15 and no on the top rear and front and
 16 rear variances to vote no on all of them
 17 for some of the reasons that also Bruce
 18 Simon gave and Richard Gottfried said
 19 and the lady who said she wasn't
 20 articulate, but she was extremely
 21 articulate on that exact issue.

22 (Applause.)

1 MS. COWLEY: Can I make a
2 comment? This has been a very difficult
3 one for our committee to review and this
4 process started, I believe, with the
5 applicant who's worked very hard with
6 the architects and us in May and we have
7 had this project come before us in
8 various different forms. As Klari said
9 there were two lengthy meetings.

10 The problem that I have and I
11 wanted to voice my opinion on this
12 because Richard and others have done an
13 admirable job. This is the first
14 meeting minutes I didn't have to take on
15 the community board, so I was relieved
16 to see how thorough all the descriptions
17 have been.

18 The problem when you're looking at
19 an application like this that have to
20 meet five findings of which only four
21 applied to a non profit there is only
22 one building proposal before us tonight.

1 The concern that we've had on
2 other projects when we tried to
3 encourage an applicant to manipulate a
4 piece of the design in favor of another
5 aspect in due favor ends up causing
6 something of a push me, pull you, that
7 is, neither meets necessarily the
8 program requirement of the applicant or
9 fit in the neighborhood.

10 So I think what Klari has
11 mentioned as an observer to our
12 committee and you have to remember we
13 also two years ago heard this on our
14 parks and preservation committee that
15 looked at it completely set of different
16 criteria.

17 The issue before the committee
18 tonight is the programmatic requirement.
19 Are these waivers necessary for them to
20 meet their programmatic requirement?
21 The second thing I wanted to point out
22 this evening is that through scheduling

1 and, again, in trying to help the
2 applicant move this process forward
3 through a different public review
4 process at the board of standards and
5 appeals, we were not able to submit this
6 resolution when the discussions came
7 before the BSA a week ago.

8 So even though we know that the
9 BSA have some questions and the
10 applicant will be going back to address
11 that, the project will continue through
12 review process through, I believe, it's
13 February of '08, the likelihood is that
14 this project is going to have to modify,
15 and I hope the applicant will come back
16 to the community board and inform us
17 what the ramifications of some of the
18 changes that the BSA has requested will
19 be.

20 That said, it's still important
21 for this board to reach a uniform
22 decision about the scheme, so we can

1 submit our comments and have those be
2 part of the decision as the board
3 members of the BSA reach their
4 conclusion.

5 Therefore, as you consider these
6 findings, I happen to side with the non
7 board members who sort of had trouble
8 voting uniformly to accept every aspect
9 of the scheme to remember that it's one
10 building, and the likelihood is that the
11 message that we hope to give back about
12 the height and the bulk of the building
13 will end up producing a better building
14 that doesn't compromise the
15 neighborhood.

16 So, I hope I'm making myself clear
17 here, but if you vote for one finding
18 yes, you need to think it through, how
19 it affects the entire project because
20 just voting down one finding doesn't
21 necessarily stop or change the project.
22 It is one building.

1 MR. ASCHE: Hope?

2 MS. COHEN: Once again, I want
3 to remind people that we are not voting
4 by finding. We are voting by variance.
5 I'm glad that Klari clarified what I'm
6 calling the vertical because we heard a
7 lot of testimony tonight about that, and
8 it's important that everybody on the
9 board understand that the -- there was
10 virtual, if not entire unanimity, among
11 land use and non land use board members
12 in opposition to the variances being
13 sought concerning the height of the
14 building and the various things that
15 grow out of that in terms of setback.

16 In other words, all of those
17 things that would affect the lot line
18 windows that you heard a lot about and,
19 in fact, the fact that they would effect
20 lot line windows was perhaps the premier
21 consideration in our discussion.

22 The other candidate for premier

1 consideration was the very philosophy,
2 the very question of using essentially a
3 for profit real estate deal to finance
4 the non profit work of the entity.

5 And so, there was, as I said,
6 pretty much, if not entire unanimity, on
7 the -- on those questions and we oppose
8 them.

9 Now, it is our usual practice and
10 one that I stand by again tonight that
11 when a non profit comes to us, and
12 states a need for its program, that we
13 give them the benefit of the doubt.

14 It is very difficult, if not
15 impossible, for us to reexamine just how
16 many classrooms a school may need, just
17 exactly how large they might need to be,
18 et cetera.

19 In the case of this applicant,
20 they came to us and said, we need ten
21 feet to make the school work. To make
22 the community facility portion, which

1 all agree the synagogue had a right to
2 build an as of right building and all
3 agree should be built.

4 I think anybody who lives in that
5 neighborhood and see the condition of
6 the current community house and the
7 vacant adjacent lot would agree that a
8 new proper building would be an
9 improvement for that block and a
10 neighborhood, as a whole, as well as the
11 Congregation so the question is what
12 kind of a building, and if the synagogue
13 has examined and its architects have
14 examined its classroom needs, it's
15 difficult for us to say no, you really
16 don't need classrooms that are that big,
17 you can get away with classrooms that
18 are ten feet smaller.

19 And that is our usual practice in
20 considering variances for non profit.
21 Applications for variances for non
22 profits that we do not question the

1 programmatic need they claim, we
2 understand that, but we do go onto what
3 it does, you know, what does the
4 building as proposed do to the rest of
5 the community and what we have concluded
6 here is that the veracity is
7 unacceptable for the reasons that I went
8 through.

9 Both physically for the neighbors
10 and philosophically as a precedential
11 problem, but that the horizontal
12 variances that they seek are quite
13 minimal.

14 And we have no reason to think or
15 to double guess them, second guess them
16 that what they're asking for is not
17 correct.

18 I have to say I think we really I
19 feel strongly here that we really
20 grappled with this and have come out
21 with the right answer in terms of giving
22 an important community participant who's

1 this, as this synagogue is, that not
2 only for our neighborhood and not only
3 for the Jewish community, but for New
4 York as a whole, an extraordinary place
5 of extraordinary history.

6 To do the right thing by them and
7 also do the right thing by the
8 neighborhood and precedential, also.

9 A VOICE: My question is this:
10 I heard what everybody said. What I
11 understand is that the verticality of
12 that project is going to impact on the
13 neighborhood's light and air, am I
14 correct, and therefore you're voting
15 against it.

16 I want to know more clearly in
17 what way is the rear part of this
18 impacting on what all these people said
19 because what they talked about is
20 blocking up their windows and that
21 religious institution shouldn't make a
22 profit.

1 I want to know about that rear
2 piece that you voted for, does it impact
3 on the neighborhood.

4 MS. COHEN: No is the answer.
5 The things that we voted down, the
6 things, all of the lot line windows that
7 we discussed are protected by our
8 resolution.

9 A VOICE: So then how are all
10 these people saying that's not true, as
11 I speak they're saying no, no, no, so I
12 don't get it.

13 MS. COHEN: I'm give you two
14 answers to that. I'll give you the
15 physical answer which is yes, not on any
16 windows but, yes, of course, there's an
17 impact to the adjacent 69th Street side
18 because the backyard would now be
19 20 feet deep instead of 30 feet deep.

20 In other words, the new building
21 will be ten feet closer to the neighbors
22 on the 69th Street side than it would be

1 otherwise.

2 A VOICE: But are those
3 neighbors affected anyway?

4 MS. WOOD: That's the purpose
5 of zoning.

6 A VOICE: Light and air, 11
7 West 69th Street.

8 MS. COHEN: They are effected
9 in the sense the adjacent building is
10 ten feet closer to them than it would be
11 otherwise.

12 A VOICE: Which is how close?

13 MR. ASCHE: Probably 50 feet.

14 MS. COHEN: From me to the
15 first? Row.

16 MR. ASCHE: 30-foot setback on
17 the other side and 20-foot setback on
18 the Congregation side.

19 MS. COHEN: Difference of ten
20 feet, they're asking for ten feet.

21 A VOICE: And the committee's
22 opinion is that it's not a big deal.

1 MS. COHEN: The committee's
2 opinion -- no, I agree. The committee's
3 opinion is that it's not a big deal.
4 There's another way in which what you
5 heard about people being impacted and
6 that's, and that's essentially legally
7 or theoretically and that is the zoning
8 ordinance gives us X and any compromise
9 of that is our loss.

10 Or is a bad thing or that it's
11 precedential ly bad that any, that there
12 shouldn't be any compromise of the
13 zoning ordinance.

14 I have to say that I didn't want
15 to go into that, but I think that is a
16 problematic claim.

17 A VOICE: That's the part of
18 what they're saying that you agree with.

19 MS. COHEN: Do I not agree
20 with it? No, because it is perfectly
21 normal. Look, we meet here month after
22 month and have variance after variance

1 that goes before the BSA. The BSA was
2 invented at the same time that the
3 zoning resolution was venting.

4 It was specifically invented at
5 that time because the people who
6 invented the zoning ordinance in 1916
7 understood that there would have to be
8 exceptions to it under certain
9 circumstances and they invented a tool
10 to do that.

11 So it has always been the case
12 that there's been the zoning ordinance,
13 not always -- since 1916 it has been the
14 case that it's a zoning ordinance and
15 there's also a mechanism to have
16 exceptions to the zoning ordinance.

17 MR. ASCHE: Dan?

18 MR. ZWEIG: Question, Hope.
19 You meet as well stay unless somebody
20 else can answer this. My question is
21 that there's a certain amount of bulk
22 that's going to go into that rear yard,

1 the ten feet, et cetera.

2 Were that extension into the rear
3 yard not made, where would that bulk go
4 in an as of right building and would
5 that change anything else in that
6 building that we would be concerned
7 about.

8 MR. ASCHE: Part of the
9 picture here and part of the
10 consideration for any variance is
11 whether the applicant is prevented by
12 some feature of the property from
13 utilizing his as of right vote in a
14 practical way.

15 In this case, because of the
16 height restrictions on, the zoning lot
17 that the space sits on is in two zones.
18 One zone is an R10A, which allows a
19 much, which allows a ten FAR, and the
20 other is R8B, which is a much lower
21 60-foot height limit.

22 And because there is a landmark on

1 the site, they're allowed to average so
2 that their permissible FAR under, as of
3 right permissible FAR is more than
4 double what they're proposing to build,
5 even with all their variances.

6 And it's considerably more than
7 double what we would be approving. So
8 the answer to your question is that it's
9 not clear that they could put that bulk
10 anyplace else. I mean, without a
11 variance.

12 So they could get, they could take
13 that bulk and put it on top with a
14 variance or they could put it, well,
15 either top or back are the only two
16 places.

17 MR. ZWEIG: So do I understand
18 the hardship is, basically, the
19 difference in the zone and the height
20 restriction in the -- can I finish.

21 MR. ASCHE: It's not entirely
22 that. It's also the fact there is a

1 landmark on the site that can't be
2 touched.

3 MR. ZWEIG: Right.

4 MR. ASCHE: Practically, as a
5 practical matter, it can't be touched
6 and it is also the fact that they have
7 come to us and shown us plans with floor
8 plates for a school, and have shown us
9 that if the classrooms in the back of
10 the building were ten feet narrower,
11 they would, in the judgment of the
12 synagogue, be too narrow, too small.

13 Now, by the way, as I understand
14 it, as of right, Shelly, tell me if I'm
15 wrong or right about this, can the
16 synagogue build in the backyard up to
17 the height of the first floor in as of
18 right?

19 MR. FRIEDMAN: The zoning
20 permits for a community facility, the
21 rear yard be completely covered up to
22 23 feet in height or one floor,

1 whichever is less.

2 MR. ASCHE: And are you
3 covering the entire rear yard up to
4 20 feet?

5 MR. FRIEDMAN: We are, that's
6 as of right.

7 MR. ASCHE: So the variance is
8 above the 23 feet.

9 MR. FRIEDMAN: The variance is
10 above the 23 feet and instead of the
11 30-foot rear yard, we're asking for a
12 20-foot rear yard above the first floor.

13 MR. ASCHE: So we're talking
14 about ten feet above the first floor.

15 MR. FRIEDMAN: For three
16 floors.

17 MR. ASCHE: For three floors.
18 And that's all classroom space.

19 MR. FRIEDMAN: Classrooms and
20 other activities, essentially. Bobbie
21 Katzander.

22 MS. KATZANDER: As I

1 understand it, when Hope was speaking,
2 Hope, it sounds like horizontal, a
3 50 percent encroachment in the specs.

4 MS. COHEN: Well, 33 percent
5 encroachment into the space. Well,
6 33 percent encroachment on the synagogue
7 side because on the 69th Street neighbor
8 side, they also have 30 feet.

9 So it's, yeah, it's a 33 percent
10 encroachment from the synagogue side
11 into the rear yard.

12 A VOICE: So there's 60 feet
13 between the two buildings, now there's
14 50 feet.

15 MS. WOOD: That's not right
16 because --

17 MR. ASCHE: No.
18 Bobbie, the rear yard --

19 MR. B. SIMON: Half of 20 is
20 ten, 20 plus ten equals 30, it's a
21 50 percent encroachment, it's math.

22 MR. ASCHE: At the back of the

1 69th Street building. There is a rear
2 yard at the back of the, of this site.
3 Together those two rear yards can be
4 60 feet.

5 What is being proposed for the
6 three floors above the first floor is
7 that the rear yard be shrunk to 50 feet
8 by taking ten feet off the rear yard for
9 as of right.

10 MS. NORMAN: I think we
11 glossed over -- I think we glossed over
12 very quickly.

13 The impact this is going to have
14 and the precedent it's setting. I know
15 precedent is not supposed to be an
16 important issue. How can it not be?
17 How many other facilities we have in
18 this community where there's a split
19 lot, where there's a landmark, whatever
20 makes this important to do.

21 We have it all over and we're
22 going to see this, again and again and

1 again. And I think we have to take a
2 firm stand that this is not acceptable.
3 (Applause.)

4 MR. ASCHE: Elizabeth Stark.

5 MS. LAWTON: I have a question
6 for the gentleman that asked the
7 question.

8 A VOICE: Elizabeth has the
9 floor.

10 MS. STARKEY: I want to say I
11 attend most of the committee meetings
12 myself and at the last one, I saw this
13 as between the horizontal and the
14 vertical and I saw the horizontal as
15 impacting the synagogue's programmatic
16 needs.

17 And at that time I really was of
18 the same mind that Hope was and that is
19 that I didn't want to get into micro
20 managing the size of their classrooms
21 and so forth, and I was willing to grant
22 the variances that granted the

1 horizontal setback and so forth that
2 they needed. But not the vertical.

3 Tonight with some of the visuals
4 and some of the testimony, I'm going to
5 change my vote because I am going to now
6 look at it as two other things. I'm
7 going to look at it as an as of right
8 building and I'm going to look at it as
9 the proposed building with the
10 variances.

11 And I'm going to change my vote
12 and I'm going to, you know, with much of
13 the same reasoning that Klari and Lenore
14 put I'm going to say that there is no
15 proven need, as far as I can see for
16 anything more that be the as of right
17 building.

18 The as of right will already
19 impact on the neighborhood somewhat, but
20 I think that it is something that they
21 do have the right to do and I think that
22 it will fulfill their programmatic needs

1 so I'm going to vote against the
2 variances.

3 (Applause.)

4 MS. LAWTON: I have a question
5 for the representative.

6 You submitted a series of
7 variances and my question basically is
8 can your program and your project move
9 forward with some, but not all, or is it
10 an all or nothing approach to your
11 project. He needs the mike.

12 MR. FRIEDMAN: The application
13 we submitted provides what we believe is
14 the minimum necessary for the project to
15 proceed. We have a different viewpoint
16 than some members of the opposition here
17 regarding the ability to billed
18 residential. We don't believe it will
19 set any precedent. In fact, if the
20 issue is non profit selling profit --

21 MR. ASCHE: Shelly, please,
22 she asked a question, you answered it.

1 Now you're going on to a different topic
2 you answered her question. It's all or
3 nothing. According to him, it's not.

4 A VOICE: How far is the brick
5 wall from the windows. The bricked over
6 windows. How far is the bricked wall
7 from the windows from the next building?

8 A VOICE: About 400 yards.

9 MR. B. SIMON: Inches.

10 MR. ASCHE: If the vertical
11 variances are granted, it will be almost
12 flush with the windows on the building
13 next to it.

14 MR. FRIEDMAN: Some of them,
15 not all of them.

16 MR. ASCHE: In addition to the
17 seven lot line windows that will be
18 affected, there is a courtyard which
19 would not be flush with the building but
20 would be effected in terms of its light
21 and air if the vertical variances were
22 granted.

1 A VOICE: Rich.

2 MS. RADLEY: If I understand
3 what you were saying, let me try to work
4 it another way. They have a tremendous
5 as of right possibility given the FAR.
6 The hardship seems to occur because they
7 don't have a place to put it without the
8 variances and they are actually building
9 less than the FAR because of it.

10 MR. ASCHE: No, they have a
11 place to put it, but would result is a
12 building A that wouldn't pass landmarks,
13 and B, that would be more or less
14 useless.

15 So they could theoretically stack
16 the 10-A portion, build a skyscraper or
17 something and have a 60-foot high
18 building behind it, but Landmarks
19 wouldn't approve it, we wouldn't approve
20 it and they couldn't use it.

21 MS. RADLEY: So the fact that
22 there's no place to logically put this

1 has created the need for variances.
 2 MS. WOOD: Not for BSA.
 3 MR. ASCHE: Not that sole --
 4 if that were the only issue, no, but the
 5 combination of that and the fact that
 6 the synagogue is basically untouchable
 7 and, you know, there's a certain amount
 8 of common sense that you know people can
 9 disagree about, but whether an
 10 additional ten feet for three stories in
 11 the rear yard is a significant
 12 impediment to public welfare. So you
 13 know the feeling of the committee was
 14 they presented a plausible programmatic
 15 need, that is, they needed a floor plate
 16 that could support classrooms of a
 17 certain size.
 18 MS. COWLEY: Richard, can I add
 19 something to help her understand this?
 20 We did not and it is not our purpose to
 21 look at the mission of the church or
 22 synagogue or whatever non profit comes

1 before us.
 2 They have to prove that they need
 3 these variances for programmatic need
 4 and the question we wrestled with are
 5 were the condominiums going on top of
 6 that, that caused the height increase
 7 certainly necessary, was that a
 8 hardship. Were they creating that and
 9 we found, Richard, I think I'm
 10 representing this correctly, we found
 11 that was not necessary, correct, the
 12 height.
 13 MR. ASCHE: We found -- I
 14 mean, the basic finding was that a
 15 variance to allow a private residential
 16 development was A, not necessary to the
 17 programmatic needs, and B, injurious of
 18 the public welfare because it blocked
 19 the lot line windows and, also, created
 20 a very large building on an otherwise,
 21 for the most part, a typical west side
 22 side street.

1 As to the rear yard and lot
 2 coverage, we did not feel that that
 3 seriously impinged on the nature and
 4 character of the block or on the public
 5 welfare.
 6 David?
 7 MR. HARRIS: I thought the
 8 applicant asked if the initial ten feet
 9 was used to the classroom. I wasn't
 10 clear on the issue I heard classrooms
 11 and other uses.
 12 MR. FRIEDMAN: We were asked
 13 of the BSA whether this had anything,
 14 whether the application was predicated
 15 on the tenant school and we stated in
 16 front of the BSA as we stated in front
 17 of this committee, it does not.
 18 The offices that are, the rooms
 19 that are there for a synagogue as
 20 opposed to a school can be multi
 21 purpose.
 22 They are not simply classrooms.

1 Some of them are classrooms, they will
 2 be used for adult education. They will
 3 be used for social action group
 4 meetings. There are other purposes, so
 5 they're not in the context of the
 6 synagogue.
 7 They're not simply classrooms and
 8 they're not there to address any tenants
 9 needs. They are there to provide the
 10 minimum configuration of space that the
 11 synagogue needs to conduct its programs
 12 to have its rabbinical offices to have
 13 its pastoral offices to have its
 14 archive, et cetera, et cetera, et
 15 cetera.
 16 MR. C. SIMON: I want to make
 17 a couple points. One is on this whole
 18 as of right question, I think it needs
 19 to be crystal clear and I too have been
 20 at the various public meetings that have
 21 been held on this topic a substantial as
 22 of right building can be built.

1 So let there be no confusion about
2 that, the synagogue can billed a
3 substantial as of right building. The
4 question is whether we will vote to
5 support or not support variances to
6 increase the size above and beyond the
7 substantial as of right building that
8 can be built.

9 That's, I think, an important
10 point to be made and if the building is
11 built as of right, that substantial
12 building, we're not going to have
13 anything to say about it and that's the
14 law.

15 Second of all, and I think what
16 Shelly, I think what Shelly helped us
17 understand or helped me understand
18 something. This is a point that's been
19 made by several people on this side of
20 the room. It has no, no way grant, even
21 granting that we give deference in
22 certain situations, it has not even

1 been, the case has not even been made,
2 it's not even a close call for me
3 whether the case has been made or not
4 that programmatic needs demand the
5 shrinking of the rear yard from 30 to
6 20 feet.

7 That case, to my mind, hasn't been
8 made. It's not even a close call and,
9 therefore, I think we shouldn't be
10 voting to support any of these
11 variances.

12 And the last point I would make is
13 on this whole question of precedent,
14 obviously, we need to judge this
15 application on the merits or we can't be
16 looking exclusively at precedent.

17 Our primary job is to look on the
18 merits, but we have to view that
19 judgment on the merits in the context of
20 what could come later, and for me, given
21 the fact that I think it's not even a
22 close call, it's appropriate to also

1 think about precedent and someone said,
2 I think, and I don't remember who it
3 was, at the last committee meeting that
4 BSA doesn't look at precedent.

5 First of all, I don't believe that
6 as a lawyer, but second of all, I think
7 and folks who are at the last BSA
8 meeting can correct me if I'm wrong, I
9 think the synagogue was actually asked
10 to come back to BSA having done research
11 on appropriate precedent.

12 So the whole notion and I don't
13 remember who it was who said it that BSA
14 doesn't look at precedent, it is
15 contradicted by the question that was
16 posed at the -- I don't know what it was
17 a few days ago at the BSA meeting.

18 So we should be mindful of that,
19 given the building that's -- I can't
20 remember what the address is, 22 and
21 mindful of other buildings that are
22 going to be looking at this critical

1 seminal case, and thinking about what
2 the implications are given, of course,
3 that we're doing our job, our primary
4 job, which is to examine this case on
5 the merits.

6 In my mind, it's a no brainer and
7 on the merits, we should be voting no on
8 all the variances.

9 (Applause.)

10 MR. FINE: I'm going to
11 respect Charles' brain, but I don't
12 think he's thinking clearly enough on
13 this about the extent of necessity here.
14 First to deal with the precedent setting
15 issue which is not our, really our
16 concern, but if it is your concern this
17 is a very unique situation given the
18 landmark, given the two zones, given the
19 possibility of FAR twice of what they're
20 doing. This special programmatic needs
21 and so on.

22 So I don't think this is a typical

1 situation that could easily be employed
2 otherwise. Nevertheless, we looked at
3 the situation and this situation was
4 presented tonight was not ignored.

5 In fact, we rejected the variance
6 that would create this type of situation
7 and we've addressed the height issues
8 and other things in a negative way. But
9 the programmatic needs of this
10 institution are not just the
11 programmatic needs of this institution.

12 It's the programmatic providing
13 that it does for a large segment of the
14 community Jewish and non Jewish, local
15 and city wide and it's one of the major
16 institutions that, of sacrilegious and
17 cultural heritage in the city, and is
18 the prime one, probably in the nation
19 along with Toro, No. 1.

20 Number two, they are actively
21 doing most of the programmatic things
22 they're talking about already. But in

1 conditions that are unacceptable.
2 That's why they're thinking of expanding
3 those spaces.

4 I think we've clearly, the
5 committee has clearly made a reasonable
6 and reasoned judgment to have a split
7 decision, decisions on things that would
8 definitely have negative impact on the
9 neighborhood and neighbors versus what
10 is essential for this great institution
11 to go to its next 100 years, and I'm not
12 talking about temporary.

13 This is a growing synagogue and in
14 a growing community. And I urge
15 everyone to support the committee's
16 resolution, which I think is a balanced
17 and sensible one.

18 MR. SIEGEL: I also would like
19 to urge everyone to support the
20 committee resolution. I would just --

21 A VOICE: Now it's on.

22 MR. SIEGEL: I would just like

1 to urge everyone on the board to support
2 this resolution. I believe the
3 committee has given this a great deal of
4 thought. I was at the meetings Charles
5 was at, I attended all the meetings on
6 this issue and I came to the opposite
7 conclusion about the real programmatic
8 needs that this applicant has expressed,
9 and that the Land Use Committee
10 responded to in granting what in my view
11 are clearly minimal variances that will
12 not have a significant impact on the
13 neighbors.

14 And I think we as a board would
15 not be responsible if we did not urge
16 the BSA to grant those variances. And
17 there's been some discussion about split
18 decision on this issue and whether --
19 and the strength of particular argument,
20 and I would like to read it and
21 reiterate some of the numbers that Hope
22 read off about the real vote on this

1 committee.

2 The Land Use Committee approved
3 the variance for lot coverage
4 unanimously. It approved the rear yard
5 encroachment, unanimously. It approved
6 the R10A district, and then it approved
7 the rear yard encroachments an the R8B
8 District six to one.

9 So there was some discussion by
10 some of the non committee members, but
11 even those, the board members rather,
12 the board members voted for variance and
13 lot coverage two to zero. It approved,
14 the board members approved the rear yard
15 encroachments disapproved the rear yard
16 encroachments one to three.

17 And the same thing for the R8.
18 But the rest of the committee voted
19 virtually unanimously or unanimously in
20 favor of these minimal variances, so I
21 would just encourage everybody to
22 approved the resolution as stated before

1 you.

2 MR. ASCHE: Larry?

3 MR. HOROWITZ: Are we going to
4 be voting on each variance separately?

5 MR. ASCHE: Yes.

6 A VOICE: Yes.

7 MR. HOROWITZ: Does it that
8 mean we have to make the four findings
9 each time we vote for it.

10 MR. ASCHE: We're not taking
11 28 votes.

12 MR. HOROWITZ: I understand
13 that.

14 MR. ASCHE: As I understand it
15 for each variance there must be four
16 findings.

17 MR. HOROWITZ: And the
18 committee vote a positive committee vote
19 reflects --

20 MR. ASCHE: The four findings.

21 MR. HOROWITZ: Major four
22 findings.

1 MR. ASCHE: Tom?

2 MR. VITULLO-MARTIN: Speaking

3 as a member of the committee that went
4 to the school, it's there while it was
5 in operation with Helen to look at what
6 was being proposed and why it was being
7 proposed and to look at the banquet
8 room, as well.

9 I have to say that there were very
10 strong reasons for making the changes
11 that they were talking about making.
12 The reasons were programmatic.

13 I don't think it's possible for
14 someone to look into the future at great
15 rigor and say that ten-foot isn't
16 necessary on the third floor or is
17 necessary on the third floor.

18 It's a very difficult exercise but
19 we did hear from the committee level, we
20 did hear from the architect who said
21 that the classroom structure of the
22 floors did not work out with the loss of

1 the ten-foot depth that would have come
2 at the third and, I think, second floor
3 levels.

4 So, in my mind the programmatic
5 argument was made. The second point
6 though is that I went to every meeting,
7 I believe, that involved this
8 application, and I don't recall anyone
9 ever from the community, from the
10 immediate neighborhood saying that they
11 would be impacted by this extension of
12 the rear yard coverage in the same way
13 that we heard with regard to the height
14 issues.

15 Nobody said that there would be a
16 loss of value that they currently
17 enjoyed because of that variance. And
18 one reason for that might be that the
19 neighboring building is already that far
20 back into the interior lot. So what's
21 happening here is that as I understand
22 it, that this school would be put back

1 as far as the preexisting, the building
2 that pre-existed the current zoning.

3 And, therefore, it's not so
4 egregious perhaps as it might be if this
5 were an extension into an open doughnut
6 in the interior yards, so for that
7 reason I think the -- I think the
8 decision of the committee to approve the
9 variances on lot coverage as an
10 exception to the zoning was a sound one.

11 MS. WYMORE: Call the
12 question.

13 MR. ASCHE: Questions have
14 been called. What we're going to do, I
15 think, is to vote on each proposed
16 variance separately and, Hope, you have
17 the sheet.

18 MS. NEUWELT: You want us to
19 cross off A, B, C and D because we're
20 not voting on that.

21 MR. ASCHE: Yes.

22 MS. NEUWELT: At some point

1 soon, you'll tell us how to characterize
2 on our sheet what we're voting on,
3 right?

4 MS. COHEN: There are seven
5 variances.

6 MR. ASCHE: What we can do, we
7 can take some of what may be the easier
8 ones first.

9 MR. HARRIS: Take the easier
10 ones first.

11 A VOICE: Bundle them.

12 A VOICE: Why don't you let
13 the chairman speak.

14 MR. ASCHE: What we're going
15 to be voting on, unless there's an
16 objection, are the following variances.
17 Building height, base height and front
18 setback.

19 All right. Those are the three
20 variances which produce the taller
21 building with less of a setback in
22 front. Base height and front setback.

1 Just so that we understand, the building
2 height would increase the maximum height
3 of the building in the R8 portion from
4 60 to 100 and 5 feet.

5 The base height would increase the
6 height of the first required setback
7 from 60 feet to 95 feet and the setback
8 would increase the size, the depth of
9 the setback would reduce the depth of
10 the setback from 15 feet to 12 feet, is
11 that accurate? Okay.

12 MS. NEUWELT: Just to be
13 clear, we're voting on these together,
14 these three requests together?

15 MR. ASCHE: Unless there's an
16 objection.

17 MS. NEUWELT: But if we vote
18 yes, is that voting for what the
19 committee did or voting for what
20 Shearith Israel wants because it's the
21 opposite.

22 MR. ASCHE: Vote for the

1 committee resolution is to disapprove a
2 vote for the committee resolution is a
3 vote to disapprove.

4 Now, on the others you vote for
5 the committee resolution to approve.

6 MS. ALEXANDER: The one for
7 the horizontal is to approve and the
8 vertical was disapprove.

9 MR. FINE: Front setback
10 separately.

11 A VOICE: Vertical was to
12 approve and if we vote yes --

13 MR. ASCHE: The depth of the
14 setback.

15 MR. FINE: No.

16 MR. ASCHE: There's been an
17 objection to bundling the setback depth.
18 So we are now only going to do base
19 height and building height. All those
20 in favor --

21 MS. ROSENTHAL: Richard,
22 there's real confusion about this. So

1 can I just articulate it the way I think
2 people are thinking about this.

3 So the way I think what you're
4 understanding is if we vote yes, then
5 we're voting to approve what the
6 committee did, which was to deny the
7 height variance.

8 MR. ASCHE: A vote for the
9 resolution is a vote to disapprove the
10 variances.

11 MS. ALEXANDER: Very well
12 done.

13 MR. ZWEIG: It's been
14 suggested we separate out the front
15 setback issue. If the building height
16 and base height were not granted, would,
17 in fact, a difference in the front
18 setback then be at issue or would the
19 building not be high enough for that,
20 not to have any effect.

21 MR. ASCHE: The building, I
22 think a portion of the building could be

1 high enough but what we found out was
2 that the setback the changed from
3 15 feet to 12 feet was based on what the
4 applicant represented was a request of
5 the Landmark Commission and it had to do
6 with the configuration of the roof of
7 the synagogue.

8 But if the height goes down, that
9 consideration no longer applies.

10 MR. ZWEIG: Okay.

11 MR. ASCHE: Okay. Vote for is
12 a vote to disapprove base height and
13 building height. All those in favor?

14 (Pause in the Proceedings.)

15 MR. ASCHE: I get 72 -- 36.
16 Opposed 38. Abstentions. So the first
17 line on the voting sheet will be base
18 height. One abstention. Anyone present
19 and not voting? Resolution carries 38
20 to zero to one to zero.

21 Front setback, this is a vote for
22 the resolution is a vote to disapprove a

1 change in the front setback from 15 feet
2 to 12 feet. All those in favor?

3 A VOICE: Voting to
4 disapprove, right?

5 MR. ASCHE: I get 37. Shelly
6 changed his vote, no one else did. All
7 those opposed? One. Abstain. One.
8 Present? Zero. 37 to one, to one to
9 zero.

10 All right.

11 MS. COHEN: Rear setback.

12 MR. ASCHE: Now we're going to
13 bundle two rear setback. One is for the
14 portion that's R8B and the other is for
15 the portion that's R10A, but they're
16 essentially the same difference.

17 MS. NEUWELT: Those are at the
18 top of the building.

19 MR. ASCHE: No. Those are
20 above the first floor.

21 MS. NEUWELT: That's the thing
22 we disagreed on today.

1 MR. ASCHE: Right.

2 MS. NEUWELT: Then you missed
3 something. Isn't there a fourth one
4 that deals with the top of the building?

5 MR. ASCHE: Yes. There's a
6 rear setback, as well.

7 MS. COHEN: That's what I'm
8 talking about. Get to the rear setback
9 before you get to the rear yard.

10 MR. ASCHE: Before that.

11 MS. COHEN: Yeah, we should do
12 rear setback.

13 MR. ASCHE: Okay. This is a
14 change in the rear setback from ten feet
15 to six-and-a-half, six-and-two-thirds?

16 MS. LAWTON: What variance is
17 this, No. 4? Or did we skip the order?

18 MR. ASCHE: A vote in favor is
19 a vote to approve.

20 VOICES: No. No.

21 MS. COHEN: Richard, this --

22 MR. ASCHE: Oh, I'm sorry.

1 Forgive me.

2 A VOICE: What was the
3 committee's vote on this?

4 MR. ASCHE: Committee's vote
5 was rear yard setback was zero to seven.

6 MS. NEUWELT: It's not rear
7 yard, it's rear roof.

8 MR. ASCHE: The story with
9 this one now that my recollection has
10 been refreshed is the same as with the
11 front setback. The purpose of it was
12 what the applicant said was symmetry
13 with the roof of the synagogue.

14 If we are voting to disapprove an
15 increase in the height of the building,
16 then this no longer is necessary for
17 that purpose. So we voted to disapprove
18 this. So a vote in favor is a vote to
19 disapprove.

20 MS. NEUWELT: Right.

21 MS. LAWTON: What number is
22 this, No. 4?

1 MR. ASCHE: We're calling this
2 rear setback. All those in favor to
3 disapprove?

4 (Pause in the Proceedings.)

5 MR. ASCHE: I get 38. I never
6 forget a hand. All those opposed? I
7 get zero. All those abstaining, I get
8 one present and not voting zero.

9 Now, I think we can bundle the
10 three remaining, the rear yard incursion
11 for R8B. Rear yard incursion for R10A
12 and that is the ten feet above the first
13 floor for three floors, and then there's
14 a lot coverage which is part of the
15 same, which is necessary for the same
16 purpose. You can call them all rear
17 yard, rear yard and lot coverage.

18 MS. LAWTON: This is five
19 through seven.

20 MR. ASCHE: As to these, the
21 committee voted in favor of the
22 variance, so a vote in favor is a vote

1 in favor.

2 MS. NEUWELT: So if you want
3 to oppose these variances you vote no.

4 MR. ASCHE: You vote no. All
5 right.

6 A VOICE: This is everything
7 else?

8 MR. ASCHE: Everything else
9 except to the spirals, we haven't gotten
10 to those.

11 MR. FINE: That's inspiring.

12 MR. ASCHE: Any question about
13 procedure?

14 A VOICE: No, it's very
15 simple.

16 MR. ASCHE: All those in
17 favor?

18 A VOICE: In favor of what?

19 MR. ASCHE: In favor of the
20 rear yard and lot coverage? All those
21 opposed?

22 MR. ASCHE: 21.

1 VOICES: What's the vote?

2 MS. COWLEY: I'm slower, I'm
3 sorry. I get 20.

4 MR. ASCHE: I get 21.

5 A VOICE: Let's do it again.

6 MR. ASCHE: I don't think it
7 matters. All those abstaining? Two.
8 Resolution fails so . . .

9 A VOICE: What's the vote?

10 MR. ASCHE: 13 to 21 to two.

11 (Applause.)

12 MR. HARRIS: Do we need an
13 affirmative resolution to send to BSA
14 for approvals -- as a matter of fact,
15 let me offer a motion to do that.

16 MR. ASCHE: There's a motion
17 to disapprove. Is there anyone who
18 would change their vote? All right.

19 So the motion that will be sent to
20 BSA will be to disapprove all seven
21 variances.

22 (Applause.)

1 MR. ASCHE: Different votes
2 will be recorded for each variance.

3 We are doing it for the last one.
4 The votes will be to disapprove the
5 bundle height, to disapprove the setback
6 in the front, to disapprove the setback
7 in the rear. Those are all in the 38 or
8 37 and the others were 13 to 21.

9 MS. WYMORE: So now you're
10 talking about reversing the 31 and 21.

11 MR. ASCHE: Right. Thank you
12 very much for your patience. Thank you.

13 (Whereupon at 10:05 o'clock
14 p.m., the proceedings were concluded.)

15 C E R T I F I C A T E

16 I do hereby certify that the
17 foregoing is a true and correct
18 transcription of my shorthand notes.

19
20 JOHN PHELPS, CSR, RPR, CRR

21

22