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January 9, 2017

Hon. Margery Perlmutter
Board of Standards and Appeals
250 Broadway, 29th Floor
New York, New York 10007

Re: 6-10 West 70th Street
Calendar No. 74-07-BZ
Manhattan Block 1122, Lots 36 and 37

Dear Chair Perlmutter and Commissioners:

We represent the West Side Neighbors Association -- a coalition of residents who live in close proximity to 6-10 West 70th Street (the "Coalition").[1] In an effort to reduce the duration of our upcoming testimony, we make the following written submission to the Board in advance of the January 10, 2017 hearing ("Hearing").[2]

EXECUTIVE SUMMARY

Based upon the comments made during today's Public Session ("Public Session"), the Board appears to be satisfied with the Applicant's latest submission and may be dubious of the arguments made by the Opposition. By this Reply, we endeavor to show that the Board's faith in the Applicant's answers and presentation is misplaced and, in particular, that:

(i) the Applicant misinterpreted the Board's prior decisions with respect to what constitutes a "minor modification;"

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[1]Hereinafter, we rely upon the same abbreviations and other capitalized terms as appear in the Coalition's submission, dated December 14, 2016.

[2]The alternative would have been to present our position in full during the Hearing (*i.e.*, reading this entire statement into the record) -- which, given the duration of prior hearings in this matter, would, in our view, *further* prolong the process unnecessarily.

(ii) even assuming that the Applicant's interpretation of the Board's prior decisions were accurate, the circumstances herein confirm that the changes depicted in the November 2016 Plans *do*, in fact, constitute material modifications, *insofar as the reasons underlying at least one of the waivers is directly implicated by the changes the Applicant now proposes*; and

(iii) the Applicant failed to address most of the evidence of its repeated mis-statements and misrepresentations concerning the Project, all of which casts doubt over the integrity of the entire Application, warranting reassessment of the Variance *ab initio*.

The Applicant Has Misinterpreted Prior Court and Board Rulings Pertaining to the Meaning of the Term "Minor Modification"

The Applicant argues that, as a matter of law, the nearly 100 changes to the Original Plans constitute, both individually and in the aggregate, a "minor modification," which does not require re-evaluation of the Variance (Applicant Reply at 3-4). According to the Applicant, a modification *ipso facto* is deemed "minor" unless the proposed changes specifically pertain to the waivers granted (*Id.*). The Applicant bases its argument upon a series of decisions which simply do not support its position.

Specifically, the Applicant cites the Court's decisions in *Fisher v. New York City Bd. of Standards and Appeals*,[3] and the Board's decision in *207-217 Chrystie St.*, 299-82-BZ; however, the circumstances in *Fisher* and *207-217 Chrystie St.* were markedly different, rendering those cases inapposite.

In *Fisher*, the applicant therein obtained a variance and then, several years later, asked for permission to construct a second building on the same zoning lot. Significantly, the proposed second building in *Fisher* was "*as-of-right*." The only reason that it became necessary for the applicant in *Fisher* to ask for the Board's permission to construct the second building was that the Board had originally required all work on the zoning lot to conform to the original variance therein. And the original variance in *Fisher* referenced only one building. Insofar as the new building in *Fisher* was as-of-right, it was no surprise that the Board and subsequently the Court in *Fisher* regarded the proposed amendment as merely "technical" (2008 N.Y. Misc. LEXIS 6783 at *13), and the Board's consideration of it, "ministerial" (71 A.D.3d at 488). Similarly, in *207-217 Chrystie St.*, 299-82-BZ, the Board was asked to approve an amendment that (again) would include construction of an as-of-right *second* building in addition to one which was constructed pursuant to a previously-granted variance. *Id.*

In contrast to the circumstances presented in *Fisher* and *207-217 Chrystie St.*, the Applicant herein does not ask for permission to add an *as-of-right new building* to a previously-constructed

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[3] 21 Misc. 3d 1134(A), 873 N.Y.S.2d 511, 2008 N.Y. Misc. LEXIS 6783 (Sup. Ct. N.Y. Co. Nov. 21, 2008), *aff'd* 71 A.D.3d 487 (1st Dep't. 2010).

edifice which was built based upon an earlier variance. Instead, the Applicant's Proposed New Building ***is*** *the subject of the original Variance*; and it was never built. In other words, the amendment directly relates to the building that is the subject of the Variance herein, whereas in *Fisher and 207-217 Chrystie St.,* the modification related to new buildings unrelated to the previously-granted variances. Furthermore and most importantly, the proposed new buildings in *Fisher* and *207-217 Chrystie St.* were as-of-right; by contrast here, the Proposed Substantial Modifications are not *as-of-right* but rather require waivers from the Zoning Resolution. Thus, the modifications in *Fisher* and *207-217 Chrystie St.* were, in fact, technical and ministerial, and bear no resemblance to what the Applicant proposes here.

In addition, the Board's decision in *207-217 Chrystie St.* identifies an even more crucial distinction which renders it, not only ***un***helpful to the Applicant, but fatal to its Application. In *207-217 Chrystie St.*, this Board, *citing* the *Fisher* decision, pointed out that what rendered the proposed amendment therein minor was ***both*** that "the waivers and conditions of the underlying variance grant are not implicated ***and the configuration of the other buildings on the zoning lot will remain the same***." 2012 N.Y.C. BSA LEXIS 590, *12. The "other buildings" on the zoning lot referenced in *207-217 Chrystie St.* and *Fisher* were those that were the subject of the original variances therein. In other words, this Board emphasized that it was particularly important, in the context of considering whether a modification is "minor," to ascertain whether the building that was the subject of the original variance would be reconfigured. *Id.*

Here, it is undisputed that the Proposed New Building – which is the subject of the Variance to be amended – would be substantially reconfigured. Thus, under the Board's decisions in both *Fisher* and *207-217 Chrystie St.,* the November 2016 Plans *do* constitute material (non-minor) modifications, requiring reassessment of the Variance. Assuming the Board intends to follows its prior decisions, the planned reconfiguration of the Proposed New Building thus precludes consideration of the current Application on the SOC Calendar and warrants a reassessment of the Variance.

The Facts Confirm that the Changes Set Forth in the Proposed Substantial Modification Do Involve One or More of the Waivers, Rendering the Modification Material

Assuming that the Board were disinclined to follow *Fisher* and *207-217 Chrystie St.* and instead, inclined to accept the Applicant's misinterpretation that reconfiguration is irrelevant, and that only changes relative to the original waivers are pertinent to ascertaining whether a modification is "minor" or "major," the Application must nonetheless be denied, precisely because the Proposed Substantial Modification *does* pertain to the very basis upon which the Applicant requested the Variance in the first instance. Specifically, throughout the hearing process prior to issuance of the Variance and thereafter, the Applicant repeatedly argued that the floorplate of the Proposed New Building could not accommodate classrooms on the First Floor because, to meet its supposed programmatic needs, the Applicant required its use for the Synagogue, including an extension of the

"Small Synagogue" and related rooms. *See* Applicant's April 1, 2007 Submission at p. 11, Exh. 9;[4] Applicant's September 10, 2007 Submission, at pp. 21-23, Reply Exh. 1; Applicant's December 28, 2007 Submission, at p. 5, Exh. 13; Applicant's May 13, 2008 Submission, at pp. 49-50, Reply Exh. 2. Indeed, the Applicant's position on this point was consistent throughout this proceeding, including as recently as February 18, 2016 (February 2016 Submission, at pp. 4-5, Exh. 15). It was on this basis that the Applicant argued that the classrooms had to be moved to the upper floors – an architectural dilemma which, according to the Applicant, could not be resolved in the absence of the rear yard waivers (December 2007 Submission, at p. 5, Exh. 13).

Now, however, in its Proposed Amendment, the Applicant acknowledges that the proposed expansion of the Small Synagogue -- which, in part, precluded positioning classrooms on the First Floor -- is entirely unnecessary, as the Applicant announced at the October 14, 2016 hearing that the supposed hardship to be alleviated by the expansion could be resolved simply by adding a handful of folding chairs. Assuming that these circumstances asserted by the Applicant are accurate, the Applicant has acknowledged that the principal reason for its supposed need for the rear yard waivers – that the allegedly narrow floorplate on the upper floors cannot accommodate classrooms which supposedly needed to be sited there because they could not be placed on the First Floor (in part because the Small Synagogue required expansion) – no longer exists because the Small Synagogue does not require expansion.

As the Court ruled in *Westwater v. New York City Bd. of Standards and Appeals*, which sustained the Board's ruling in *207-217 Chrystie St.*, one of the factors to be considered in determining whether a modification is or is not "minor" is whether "the conditions for the original variance still exist" -- in that case, whether the location of a subway tunnel restricted the placement of the existing building, which, in turn, required the height and setback variance. 2013 N.Y. Misc. LEXIS 4707, *19 (Sup. Ct. N.Y. Co. Oct. 15, 2013). Here, because one of the principal conditions for the proposed rear-yard waiver no longer exists, the modification must be deemed material.

The Applicant seems to have anticipated this point and, for that reason, added in November 2016, a seemingly endless number of mechanical rooms on virtually every floor. All tolled, the Proposed New Building would include approximately 6,000 square feet of mechanical rooms, including an additional 1,300+ square feet of mechanical rooms on the First Floor (divided into six new mechanical-room spaces) – space that could easily accommodate at least two classrooms. In the Original Plans, the Applicant proposed just 1,600 square feet of mechanical room space *for the entire building* and *no mechanical rooms at all on the First Floor*.

The Applicant has never offered an explanation for more than tripling the space allocated to mechanicals in the Proposed New Building. Correspondingly, the Applicant has failed to explain its reasoning for adding six new mechanical spaces over approximately 1,300 square feet of floor

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[4]All references to Exhibits previously attached to the Coalition's submission on December 14, 2016 shall be referred to as "Exh. _." All new Exhibits attached hereto shall be referred to as "Reply Exh. _."

space on the First Floor. But *we* know the reason – the Applicant recognizes that, in the absence of the new mechanical rooms and spaces, particularly throughout the First Floor, there would be ample space for at least two classrooms there, thereby reducing the number of classrooms on the upper floors and minimizing the variance claimed to be necessary. These changes plainly pertain to the waivers at issue. It bears emphasis that the Applicant claimed that classrooms could not be included on the First Floor owing to its planned use for, among other things, the Small Synagogue expansion, which has since been eliminated. That change, coupled with the addition of the 1,300 square feet of mechanical room space added as part of the November 2016 Plans, constitutes a material modification that specifically relates to one of the waivers granted by the Board in 2008.

Worse, a comparison of the Original Plans and the November 2016 Plans with the Applicant's *February 2016 Submission* reveals that the Applicant's splatter of additional mechanical rooms is just the beginning of the Applicant's effort to fill the First Floor with useless activity spaces that play no role in achieving its alleged programmatic needs. Specifically, in its February 2016 Submission and plans ("February 2016 Plans"), the Applicant *informed the Board of its intention to remove the Rabbi's Office, Secretarial Office, Exhibition Space, and the Archives from the planned First Floor and to relocate these rooms into the Main Synagogue* (February 2016 Submission at p. 5, Exh. 15). In making this proposal, the Applicant acknowledged in February 2016 (less than a year ago) that relocation of those spaces (Rabbi's Office, Secretarial Office, Exhibition Space and Archives) into the Main Synagogue was feasible and would not impair its ability to achieve its programmatic needs (February 2016 Submission, at p. 5, Exh. 15).[5]

Tellingly, the February 2016 Plans, which included a reconfiguration of mechanicals on the Cellar Level and Second Floor as well as an addition of mechanical space to the Fourth Floor, ***did not include any mechanicals on the First Floor (id.) -- the floor where, now, the most mechanical space has been added and which, not-coincidently provides the "most flexibility for community facility schools***" (December 2007 Submission at p. 5, Exh. 13).

So, what's going on here? The Applicant claimed in 2008 that rear yard waivers were necessary to accommodate classrooms on the upper floors because those classrooms wouldn't fit on the First Floor, in view of the Applicant's supposed need to site its expanded Small Synagogue, Rabbi's Office, Secretarial Office, and Archives in that location. In February 2016, the Applicant proposed to relocate the Rabbi's Office, Secretarial Office and Archives *to the Main Synagogue Building* from the proposed First Floor of the Proposed New Building– a prospect originally claimed by the Applicant to be infeasible. In that same February 2016 Submission, the Applicant claimed that the Small Synagogue expansion was a "core element" to achievement of its programmatic need (February 2016 Submission at p. 4, Exh. 15). Yet, in November 2016, the Small Synagogue

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[5]Amazingly, the Rabbi's Office, Secretarial Office, Exhibition Space and Archives on the First Floor were identified by the Applicant as supposedly "integral components" of the Applicant's programmatic needs to be included on the First Floor and which supposedly could not be accommodated in either the pre-existing Community House or the Synagogue (April 2007 Submission, at p.11, Exh.9; September 2007 Submission, at p. 22, Reply Exh. 1; December 2007 Submission, at p. 5, Exh. 13).

expansion has been cannibalized and eliminated in favor of 1,300 feet of mechanical room space never previously planned for the First Floor. And, to fill up the First Floor space more completely and "stuff" the proverbial "bird," the Applicant now contends that the Rabbi's Office, Secretarial Office, Exhibition Space and Archives ***must*** be restored to the First Floor of the Proposed Building and not relocated to the Main Synagogue in order to achieve the Applicant's programmatic need.

In short, it seems that the Applicant's principal programmatic need is to fill-up the First Floor with as many non-essential rooms, offices and other spaces as possible to eliminate its availability for use as classroom space -- classrooms which, as recently as 2015, the Applicant all but eliminated from its plans for the Proposed New Building. Regardless, these circumstances, at a minimum, call into substantial question whether the previously-granted rear-yard waiver is (and was ever) truly necessary, warranting re-evaluation of the Variance.

The Applicant's Absence of Credibility Renders its Representations Unreliable and Warrant Reconsideration of the Variance Ab Initio

In our December 14, 2016 Submission ("December 14th Submission"), we pointed out that the Applicant had filed multiple, conflicting sets of plans to different city agencies and commissions for the same Proposed Building. Particularly troubling were the 2015 DOB Plans, which reveal that the Applicant misrepresented to the DOB that 12 of the 15 classrooms were actually approved by the Board as offices (December 14th Submission, at 13). Equally as disturbing was the Applicant's reliance upon the 2015 DOB Plans and specifically, the Proposed New Building's use as a medical office facility, to obtain permission for a mortgage to fund the Project (*Id.* at 14). In that connection, we emphasized that the Applicant filed with the New York State Supreme Court, a petition and 2015 Appraisal specifically based upon the 2015 DOB Plans, and that the 2015 Appraisal based its calculation of the value of the Proposed New Building on its use as a medical facility (*Id.*).

We also addressed the Applicant's tale that the classrooms had merely been mis-labeled. In particular, we showed that the Applicant also filed a 2015 PW1A Form in which the Applicant, consistent with the 2015 DOB Plans, identified the uses on the third floor as *office use only* -- not classrooms (2015 PW1A Form at p. 9, Exh. 19). And we attached a copy of the Applicant's 2013 PW1A Form, which listed the use of the Third Floor as classroom space (Exh. 14). Thus, we demonstrated that the Applicant and its Architect ***changed*** the use designations on the Third Floor in two different documents to reflect that the rooms would be utilized as offices, not classrooms – hardly suggestive of a mere inadvertence.

As if this evidence weren't sufficiently damning, we showed that, by virtue of Zoning Challenges filed by David Rosenberg and Alan Sugarman to the DOB, the Applicant was on notice in mid-2015 that the 2015 DOB Plans and PW1A Form falsely designated offices on the Second, Third and Fourth Floors instead of classrooms and yet, the Applicant subsequently used those very same designations and designs in a petition to the Attorney General and the New York State Supreme Court to obtain permission to obtain a mortgage to fund the Project -- one which varied considerably from what was approved by the Board. All of this proves that the Applicant's oft-

repeated statement that the classrooms on the 2015 DOB Plans mislabeled as offices is (and has always been) simply false.

In response, the Applicant ignores the 2013 and 2015 PW1A Forms, ignores the Zoning Challenges, ignores the petition and ignores all of the evidence that shows the designation of classroom space as offices was intentional. As for the 2015 DOB Plans, the Applicant wrongly dismisses them as "not currently before the Board" (Applicant Reply at 5). But with all due respect to the Applicant's counsel, the 2015 DOB Plans *are* before the Board because we and other members of the opposition have placed them before the Board as evidence of the Applicant's lack of credibility. And they are and will remain part of this Record. The 2015 DOB Plans, 2015 PW1A, and the petition to the Supreme Court confirm that the 2015 Plans were filed in an effort to eliminate the classrooms which were originally represented to the Board as essential to achievement of its programmatic needs.

While recognizing that the Board typically defers to religious non-profits in connection with their representations of programmatic need, such deference cannot be equated with a license to deceive the Board. And respectfully, that is exactly what has happened (and is continuing to happen) here. We will not proceed through the litany of evidence of the Applicant's many other deceptions. We will simply point out that examples of prior such deceptions, by this Applicant and others, likely underlie the City Council's justification for 1392-2016 – recently-introduced legislation which, when passed, will require applicants to make their submissions under oath and subject to a fine of $25,000, those making false statements to the Board.[6]

CONCLUSION

We respectfully urge the Board to consider the evidence submitted herewith and to carefully scrutinize the Applicant's repeatedly inconsistent submissions. The only conclusion that can be reasonably drawn is that the Applicant's sole programmatic need is to artificially manufacture one in order to obtain an extension of a Variance that was obtained under false pretenses and was, in fact, never justified.

Respectfully submitted,

Michael S. Hiller

c: Zachary Bernstein, Esq.
Alan Sugarman, Esq.
David Rosenberg, Esq.

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[6]http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2898994&GUID=94A9AF7E-B705-495C-9E61-CE265EE24124&Options=&Search=

NEW YORK CITY BOARD
OF STANDARDS AND APPEALS

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In the Matter of the Application of :
CONGREGATION SHEARITH ISRAEL :
Cal. No. 74-07-BZ :
6-10 West 70th Street :
Manhattan Block 1122, Lots 36 and 37, :
:
Applicant, :
:

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Exhibits to the Coalition's Reply to the Application of Congregation Shearith Israel

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Reply Exhibit 1

STATEMENT IN SUPPORT

OF CERTAIN VARIANCES

FROM THE PROVISIONS OF

THE NEW YORK CITY ZONING RESOLUTION

Affected Premises:

CONGREGATION SHEARITH ISRAEL
6-10 West 70th Street/99-100 Central Park West
Block 1122 Lots 36 & 37
Manhattan

Friedman & Gotbaum LLP
568 Broadway, Suite 505
New York, NY 10012
(212) 925-4545

Revised 09/07/2007

designed and enlarged community facility space beneath and within a newly constructed New Building. Below-grade levels will provide an appropriately sized and barrier-free multi-function room, meat and dairy kitchens, a babysitting room, residential storage space and building services. Rabbinical and executive offices currently located on the second floor of the existing Community House have been given more appropriately sized and barrier-free locations on the Floors 1 and 2. Floors 2, 3 and 4 will contain appropriately sized and barrier-free classrooms for CSI and its tenant school's educational purposes, as well as the CSI caretaker apartment. Floors 5 through 8 and the penthouse will be residential.

Specifically, the New Building will provide a 3,259 sf increase to the floorplate of the Community House and the overall square footage of community facility use will be increased by 8,957.14 sf above grade. While the Synagogue provides a full cellar level, the demolition and replacement of the Community House will permit excavation to provide both a subcellar and cellar level for programming where none exist today. The critical programmatic improvements to both Synagogue and Community House made possible through construction of the New Building are as follows:

- New barrier-free elevator dedicated solely to accessing the Synagogue's upper levels
- Enlarged barrier-free vestibule and Synagogue lobby at the first floor level.
- New 6,432 sf multi-function room at the subcellar level, which will be utilized solely by CSI's members for social gatherings, educational lectures and life cycle celebrations. CSI's bylaws specify that all ceremonies must be done under the auspices of CSI's rabbi and with CSI's "customs." Accordingly, CSI does not intend to lease this space to outside catering entities. Current facilities are so undersized that member weddings have taken place at CSI with receptions occurring off-premises. Due to the lack of sufficient space for religious life-cycle events, funerals are often required to use both auditoriums as well as the Synagogue.

- New babysitting room, storage and office space, dairy and meat kitchens at the cellar level.
- Expanded Small Synagogue, new exhibition space and archival room at the first floor level.
- Appropriately sized Rabbinical and executive offices on floors one and two.
- Twelve (versus eight existing) appropriately sized barrier-free new classrooms on floors two through four.
- Appropriately sized apartment for CSI Caretaker at fourth floor level.

When the Community House was originally built in 1954, a caretaker's apartment was included as an accessory use to the community facility and is noted as such on the building's Certificate of Occupancy. Due to the CSI's heirloom status and the numerous priceless religious artifacts and relics contained within the Synagogue, it is critical to CSI's program that the caretaker continue to live on-premises to ensure that the electrical, plumbing and heating systems remain in good working order, and that any potential emergency can trigger an immediate response. CSI is protected with fire, flood, carbon monoxide and carbon dioxide detectors as well as a closed circuit television system, all of which are monitored by the caretaker both in his apartment and at the lobby's security desk. CTV cameras surround CSI's exterior and also monitor its historic exhibits within the Synagogue. Currently, the caretaker oversees a staff of one fulltime security guard and three full-time maintenance workers.

Without the New Building requested in this Application, CSI's existing programmatic deficiencies will remain and continue to get worse. The continuation of these deficiencies through CSI's inability to construct the New Building would seriously undermine the religious,

educational and cultural mission of CSI. Only through the approval of this Application can these deficiencies be eliminated.

EXISTING AND PROPOSED CSI PROGRAM AREAS (LOT 37)

FL.		CLASSROOM (SF)	OFFICE (SF)	MULTI-FUNCTION (SF)	KITCHEN (SF)	BABY-SITTING (SF)	LOBBY/ EXHIBIT (SF)	Synagogue Expansion(SF)	ARCHIVE/ LIB. (SF.)	CARE-TAKER (SF)	RES. (SF.)
C2	PROPOSED		73.00	5,537.00							
C1	PROPOSED				708.00	385.00					1,655.42
	EXISTING			1,484.00	450.00		315.00				
1st	PROPOSED		475.00			1,017.57	1,864.00	1,320.00	565.00		
	EXISTING	1,108.00	440.00								
2nd	PROPOSED	1,127.00	1,473.00								
	EXISTING	1,063.00	127.00						349.00		
3rd	PROPOSED	2,600.00									
	EXISTING	647.00	127.00							1,133.00	
4th	PROPOSED	1,409.00								1,249.00	
5th	PROPOSED										4,512.00
6th	PROPOSED										4,512.00
7th	PROPOSED										4,512.00
8th	PROPOSED										4,512.00
PH	PROPOSED										2,815.92

The additional space in the New Building allocated to CSI's religious, educational and cultural mission is the first such increase in space for CSI since 1954. The addition of this space will permit the Synagogue leaders to address the needs of its 550 families (approximately 1,320 individuals), which is a 30 percent increase above the 380 families (or approximately 900 individuals) that were congregants in 1954 and estimated to be several times the number of families served when the building was opened in 1896. The proposed New Building includes 6 offices areas totaling approximately 1,546 sf, whereas the Synagogue and Existing Building contained only 13 office areas within 2,344 sf. These new office areas will be utilized by CSI's new assistant Rabbi; program director, secretary and assistant; archivist and tour director. In addition to these administrative spaces, the creation of a suitable multipurpose room for larger ceremonies, meetings, life cycle ceremonies, lectures, etc and the addition of classrooms will address significant shortfalls in CSI's ability to serve both its members and the community.[1]

Finally, the addition of residential use in the upper portion of the building is consistent

1 Staff is increased from approximately 12 to 16 persons.

Reply Exhibit 2

STATEMENT IN SUPPORT

OF CERTAIN VARIANCES

FROM THE PROVISIONS OF

THE NEW YORK CITY ZONING RESOLUTION

Affected Premises:

CONGREGATION SHEARITH ISRAEL
6-10 West 70th Street/99-100 Central Park West
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Revised May 13, 2008

Park West Historic District. The Variance, if granted, will not alter the essential character of the neighborhood or the district in which the Zoning Lot is located. No credible evidence has been proffered by those groups or individuals opposing the Application which demonstrates that the Board's grant to the Variance will substantially impair the appropriate (and legal) uses or developments of adjacent property; or that such a grant would be detrimental to the public welfare.

The practical difficulties or unnecessary hardships are inherent in the Zoning Lot and were not created by the Applicant or its predecessor in title. ZRCNY Sec 72-21(d)

CSI acquired Lot 36 in 1895 and the separate portions of Lot 37, in 1949 and 1965, respectively. Both were purchased specifically for development of the Synagogue and Community House, respectively. Conditions since the last alterations to the property in 1954 now impose economic hardships that could not have possibly been envisioned at the time the buildings were developed. Accordingly, neither the current nor the past Trustees have taken any steps leading to or increasing the extent of the conditions that result in the objections giving rise to this Application.

Within the intent and purposes of this resolution the variance, if granted, is the minimum variance necessary to afford relief. ZRCNY Sec. 72-21(e)

The Application provides nothing more than the waivers necessary to resolve CSI's religious, institutional and cultural programmatic difficulties. Specifically, the waivers are those minimally necessary to permit the New Building envelope to provide, in part: (1) the minimally necessary number of classrooms and the minimally necessary number of offices; both of suitable size, design and quality required, (2) a modest increase in the size of the Little Synagogue, (3) a multi-function room with ancillary kitchen facilities of suitable size and configuration for the

many functions -- social, religious and educational -- any religious institution is called upon to provide, (4) archival facilities such that CSI's papers and relics can be brought back from an off-site facility and integrated into the religious, educational and cultural missions of CSI, (5) the incorporation in the New Building of a system of circulation designed to provide improved and barrier-free access to the sanctuaries in the Synagogue, and (6) the addition of residential units at floors 5 through 8 (plus penthouse) levels, representing a small amount of the unused zoning floor area available after the new community facility floor area is taken into account.

These programmatic elements described above must occupy a specific floor area and floor area configuration, which in the aggregate result in the New Building's development in a manner which requires the waivers described above. The waivers requested in this Application have been carefully reviewed so as to assure they both qualitatively and quantitatively represent the smallest necessary waiver to address each of the programmatic hardships. Indicative of the Board's continued focus on the Site's uniqueness and potential for precedent should it grant the waivers requested herein, the Applicant researched the prevalence of additional lots owned by nonprofits with potential for expansion similar to CSI's and has distinguished the four sole existing sites from the instant facts of this Application. The sites relevant to the Chair's request front on to Central Park West, and are within or partially within the R10A district established in 1984 running 125 ft west of Central Park West. All of the properties fall within the boundaries of the Central Park West Historic District.

> First Church of Christ Scientist (CPW at West 68th Street). The First Church of Christ Scientist is an individually designated New York City Landmark. However, unlike CSI it falls entirely within the R10A district and thus not pertinent to the midblock zoning issues giving rise to many of the CSI objections. The four-story, 27-unit residential building to its west, not controlled by a Church entity, is on the zoning lot with the split R10A/R8B condition, and thus transfers