

STATEMENT IN SUPPORT
OF CERTAIN VARIANCES
FROM THE PROVISIONS OF
THE NEW YORK CITY ZONING RESOLUTION

Affected Premises:

CONGREGATION KEHILATH JESHURUN
121 East 85th Street/125 East 85th Street
Block 1514/Lots 10 & 13
Manhattan

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THE APPLICATION

This statement is filed in support of the Application by Friedman & Gotbaum LLP on behalf of the Trustees of Congregation Kehilath Jeshurun ("KJ") pursuant to Section 72-21 of the Zoning Resolution of the City of New York (the "Zoning Resolution" or "ZRCNY") for a variance in connection with the construction of a new 28-storey community facility/residential building at 125 East 85th Street (Block 1514, Tax Lot 13) (the "New Building" or "Lot 13 Site"). The New Building will replace the existing Ramaz School (the "Existing School") and Synagogue House (cumulatively, the "Existing Building"), which is adjacent to the KJ Synagogue (Block 1514, Tax Lot 10) (the "Synagogue"). The Existing Building now provides an Early Childhood Center and Lower School and ancillary support space for the Synagogue and community-at-large within a single structure which is actuality is two interconnected buildings. Both the Synagogue and the Existing Building are located on the north side of East 85th Street between Lexington and Park avenues.

The New Building proposed in this Application will be developed on a zoning lot comprising (1) Tax Lot 10, which is fully occupied by the Synagogue that will undergo alteration and (2) Tax Lot 13, which currently consists of the Existing Building (the School and Synagogue House) that will be demolished. While the Synagogue is not specifically designated as a New York City landmark, it is nonetheless revered for its architecture, the religious artifacts contained within and its illustrious history serving the Jewish community and the community-at-large: it is a spiritual "landmark" to its Congregants.

The purpose of the New Building is to address several deficiencies that impede KJ from fulfilling its mission as a house of worship, center of Jewish education and culture and provider of community programming open to the public. The Synagogue has circulation and access

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deficiencies, as well as less than required square footage for critical ancillary support functions, all of which interfere with its religious programming. These limitations cannot be addressed through interior alterations. In addition, the Existing Building's ill-configured floor plans and undersized program components (i.e., classrooms, gymnasium, cafeteria, bathroom facilities etc.) compromise KJ's and the Ramaz School's religious, educational and cultural missions. Combined, the configuration of the structures on the Zoning Lot make it impossible to utilize in a feasible manner any of the zoning lot's unbuilt zoning floor area in order to address any of these programmatic difficulties.

As further described throughout the Application, the New Building addresses the programmatic difficulties by: (1) relocating several Synagogue components to the New Building, thus freeing up Synagogue square footage to improve circulation and access both within and between the two buildings; (2) developing a new Ramaz School (being the three cellar levels and the first ten floors of the New Building) to include all required components of its Early Childhood Center and Lower School and offices and specialized rooms supporting KJ and the Ramaz School's religious mission that either cannot be accommodated within or beneath the Synagogue or can no longer be accommodated in the physically obsolescent and deteriorating Existing Building; and (3) developing residential use on floors 11 – 28 as a partial source of funding to remedy the programmatic religious, educational and cultural shortfalls on the other portions of the zoning lot.

The New Building (Tax Lot 13) and the Synagogue (Tax Lot 10) constitutes a single zoning lot (the "Zoning Lot"). The Zoning Lot is located partially (59%) within an R10 district and partially (41%) within a C5-1A (R10A equivalent) zoning district. Because the permitted FAR for community facilities is the same in both districts, the Zoning Lot may be developed for

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the purposes of floor area distribution without regard to the zoning district boundary. Accordingly, the Zoning Lot is permitted 186,900 sf of zoning floor area, calculated on the basis of FAR 12 including the non-discretionary additional zoning floor area permitted by ZRCNY Sec. 23-941 (Inclusionary Housing). The Synagogue uses 16,644 sf of those rights (8.9 %) of those available. The Existing Building currently uses 55,610 sf (29.7 %). When completed, the New Building will increase the zoning floor area for community facility uses by 26,917 sf above grade and will add 24,619 gsf in three cellars below grade. The residential portion of the New Building will use 91,857 sf, out of 186,900 sf (49%) of potentially available development rights.

The New Building cannot be constructed in a manner consistent with the Zoning Resolution with regard to its lot coverage, setback, rear yard, base and building height, streetwall, roof top and recreation space that will overcome the current religious, educational and cultural programmatic difficulties. These zoning issues are described at length below. The need for the waivers requested in this Application stem from: (1) the need to preserve and protect the architectural heritage of the Synagogue, which symbolizes the history, mission and future of the KJ/Ramaz communities; (2) the inability to effectively substantially cantilever over the Synagogue in a feasible and safe manner; (3) a zoning lot whose feasible development is hampered by the presence of a zoning district boundary imposing differing height and setback regulations; (4) the requirement to align the New Building's west elevation (up to its fifth floor level) with that of the existing Synagogue in order to protect and preserve the original Synagogue building; and (5) the lack of any feasible options to modify the existing structures consistent with the Zoning Resolution that will address the severe programmatic difficulties.

BACKGROUND OF KEHILATH JESHURUN AND THE SITE

In 1870, New York City's Jewish population was 60-75,000 out of New York City's overall population of 1,000,000. While mostly German, many others were Spanish-Portuguese and Polish and to a lesser degree English, Dutch, French, Hungarian and Russian. There were approximately thirty synagogues at that time, an insufficient number when considering the religious, educational and cultural needs of the City's growing Jewish population.

KJ's 135-year history began in 1872 when Jewish residents of Yorkville first held High Holiday services at Parupa Hall at 86th Street and Third Avenue under the name *Anshe Jeshurun* of Yorkville. At this time, a wide gulf existed between the wealthier "up town" Americanized Jews and the continuing influx of immigrants into the Lower East Side, with no discernible efforts to bridge this gulf. Traditional Judaism was furthermore struggling against a growing tide of assimilation and a declining commitment to Judaic education. In recognizing these deficits, and in addition to fostering an abiding commitment to *halacha* and *mitzvot*, which represent the essential foundation of any orthodox Jewish community, these early KJ congregants believed their Congregation to be part of a larger community: a community of Jews, but also of their fellow New Yorkers, Americans and humankind. With this premise in mind, Sabbath Services during KJ's first twenty-five years were held in one home or hall after another. With the exception of one continuous year of worship in a rented room at Parupa Hall (1875 to 1876), there was no permanent place of worship until a building was bought on Second Avenue near 86th Street. When this site was later determined unsuitable for a synagogue, it was sold with the proceeds being utilized to purchase KJ's first burial ground of ten plots at Union Fields Cemetery. Services continued at a variety of locations but principally at a room above a beer garden, known as *Schwartz Adler*, located at 162 East 86th Street. During this time, the

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congregation filed for incorporation as Congregation Kehilath Jeshurun. In 1884, following the purchase and demolition of the property at 127 East 82nd Street, the first permanent home of the Congregation was built and officially opened.

KJ witnessed such unrelenting growth that by 1900 it had outgrown the East 82nd Street building. In 1901, KJ purchased the property at 121-127 East 85th Street (Tax Lot 10) and on Sunday, May 4, 1902, the current Synagogue's cornerstone was laid. For the first time in its history KJ was able to function as a modern orthodox congregation, providing a house of worship, a community center and a religious school. KJ's early congregants became pioneers and builders who not only concentrated their energies towards the common goal of serving America during both World Wars, but KJ itself served as the mother-synagogue to several other orthodox congregations within New York City.

In 1907, a community-wide movement to establish an autonomous school (Yorkville Talmud Torah) began and KJ agreed to give up its own school when and if Talmud Torah could open. In 1910, Talmud Torah purchased two brownstone buildings located at 123 and 125 East 85th Street adjoining the Synagogue at a cost of \$37,000, taking occupancy as Yorkville Talmud Torah and later the Central Jewish Institute.

Its third quarter century was a period of growth and expansion despite the challenges brought on by a declining population in the East Side during the 20's and the Depression of the early 1930's. In 1937, an excellent opportunity for a pioneering educational venture arose: a Jewish day school was established and named the Ramaz School in memory of Rabbi M.Z. Margolies. The school began with six children and within ten years increased its registry to 260. The Ramaz School rented the Central Jewish Institute at the present site for eight years and subsequently purchased its building in 1944. This acquisition represented a huge stride forward,

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as KJ was now in possession of what was a then-well equipped building to be used as its synagogue house, as a school building, as a community recreation center and as a place for an afternoon religious school under its own sponsorship.

The congregation experienced its second period of unprecedented growth in membership between 1945 and 1950: 250 members with a seat holding body of 700 individuals. The religious school included 150 children and the Ramaz School and High School included a total of 285 children. Even then, long waiting lists developed of children unable to be accommodated into the educational programs.

Today, KJ's membership has risen to 1,075 families, with a total of 3,000 family members. Its original education building has long since stopped serving as its sole facility. In 2000 the Ramaz Middle School across the street at 114 East 85th Street opened and now serves 260 students in grades 5 through 8. In 1980 the Upper School at 60 East 78th Street was opened and now serves 440 students from grades 9 to 12. The original edifice, now fused into a single building (*i.e.*, the Existing Building), inadequately houses only the Ramaz Lower School, with 320 lower school students and 168 nursery and kindergarten school students. The Existing Building also provides adult education classes and service to over 500 individuals.

This brief history is included in this Application to demonstrate the steady and unrelenting growth of the KJ and Ramaz communities, embedded within it a history of occasional need to alter their facilities to accommodate current and future needs. Growth continues, and with it the current uses and conditions, as detailed below, that require alterations to the Synagogue and replacing the Existing Building, the first such significant changes to either buildings since the adoption of the current Zoning Resolution in 1961. These necessary changes give rise to this Application.

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CURRENT USES AND CONDITIONS

Throughout its long history, the use of the Synagogue as a house of worship has remained a constant. Presently, this continuity of purpose and mission is threatened by the overwhelming growth in the KJ community and the growth in programmatic services required of any religious site. When constructed in 1903, KJ was a congregation of 75 families. It now is a community of 1,075 families with a \$3.5 million yearly budget of programs to administer and provide. KJ would have long ago reached a state of dysfunction due to its limited physical plant had it not been for the ability to take over Ramaz space in the Existing Building and in the Ramaz Middle School building across the street. At present, even this space is grossly inadequate. This slow accretion has also reached its limit, as Ramaz finds it necessary to increase and/or radically reconfigure its educational facilities and can no longer cede valuable educational floor area to KJ for synagogue purposes. The following deficiencies of each and the lack of any further opportunity to correct these deficiencies in either body give rise to this Application.

Deficiencies with the KJ Synagogue.

1. KJ's vestibule leads directly into a small chapel that is utilized for morning prayer and many other services. This floor also contains a kitchen, meeting room, library and storage space. These rooms have served as such since 1947. None of them are handicap accessible or capable of expansion.

2. Because the orthodox tradition maintains separate areas of prayer for men and women, the entire second floor sanctuary provides seating for men and a U-shaped mezzanine open to the sanctuary below provides seating for women. Access to this third floor mezzanine is extremely limited. There is only one elevator within the Synagogue and it does not extend to the third

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floor. While there is no legal requirement for the Synagogue to be handicap compliant, it is axiomatic that the mission of a house of worship must include assurances to its congregants, especially its elderly and frail members, of access to its sanctuaries with a modicum of dignity and inclusiveness. There are no feasible interior alteration options that will not severely compromise the functionality and solemnity of the sanctuary.

3. Although all floors of the Synagogue (including the cellar) connect to the Existing Building, these connections are entirely inefficient and are hampered by lengthy corridors, relatively narrow (albeit code compliant) widths for entry and egress, and stairs that impede handicapped access between the two buildings at several levels.

4. The cellar level remains unexcavated with the exception of a 700 sf corridor-like area below the first floor vestibule that includes storage space and one poorly ventilated and undersized Ramaz classroom for music instruction.

In referring to itself today as a both “modern” and “orthodox,” KJ sees itself as an integral participant in a modern, 21st Century, secular society, with social and civic responsibilities. As a modern orthodox synagogue, KJ is at the same time committed to religious traditions, to the study of Torah, and the full calendar of Jewish ritual, observance and celebration. It has an ambitious and extensive outreach program directed towards those in the Jewish community unaffiliated with religious institutions. KJ’s Beginners Program includes beginners’ prayer services, Hebrew courses, lessons in the rituals of faith and a variety of workshops. KJ also provides its congregants daily services, a comprehensive youth program designed for all ages from toddlers to teens, and an adult-education program with content and levels suitable for everyone from the beginner to advanced students of Talmud. Adult-education at KJ includes Scholar-in-Residence Programs, and Sabbath and holiday speakers.

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KJ's community services programming is extremely active, with a number of affiliate organizations such as the *Chesed* Committee, devoted to helping people in need. It provides a men's and women's *Chevra Kadisha* (Burial Society) as well as blood drives, outreach programs to homebound seniors, clothing and food collections and a food pantry for the neighborhood poor. Its *Bikur Cholim* Society promotes weekly visits to Jews in local hospitals, provides Sabbath hospitality for persons who do not live locally, and offers ritual assistance in honoring the Sabbath. Thousands of senior citizens throughout the metropolitan area have benefitted from KJ's activities and education programs specifically tailored to their needs in order to enhance their active participation in the Jewish community. All of KJ's efforts are administered by staff and volunteers from within the Existing Building's undersized administrative office space or classrooms.

KJ has incorporated the critical need to enlarge the existing Synagogue vestibules, provide accessibility to all worshipers and improve the general circulation flow, including ingress and egress between the Synagogue and Existing Building, into the overall development program that requires this Application's approval. The access and circulation deficiencies can only be overcome by demolishing the Existing Building and replacing it with a new contiguous building design which includes a circulation system that can be linked to the Synagogue. Utilizing most of the remaining zoning floor area that is available to the zoning lot is an essential component in the effort to overcome these deficiencies.

Deficiencies with the Existing Building

The Existing Building consists of two interconnected structures, 7 and 8 stories tall, which rise approximately 104 ft. KJ's requirements for maintaining the educational qualities of the Ramaz School can no longer be met by these two fused and compromised

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structures, nor will their alteration remediate the following serious programmatic deficiencies.

1. The Existing Building's interconnected cellar provides the only space for the School's undersized gymnasium, as well as poorly ventilated maintenance and storage rooms, one of which is the grossly undersized combined storage space for all of the School's and Synagogue's texts and archives. In general, there is a dearth of storage throughout the Existing Building for all aspects of its program, most particularly the Social Hall on the 2nd floor, auditorium spaces on the 2nd floor and deck areas at the 4th and 8th floor roof levels.

2. Because the Existing Building was originally built as a two-structure high school facility, its stairs are too steep for the EEC and Lower School children that it now serves. The kindergarten and nursery school children are also challenged because most of their classrooms do not include bathroom facilities.

3. KJ outgrew its administrative space on the 2nd floor of the Existing Building and was forced to expand into the School's 3rd floor cafeteria, out of which the Synagogue's entire platform for religious and community services described above is developed and administered.

4. In addition to the need to increase circulation efficiency and provide ancillary space to accommodate the religious and social programs described above, KJ must also expand the Ramaz School's Early Childhood Center (nursery and kindergarten) and Lower School (first through fourth grade) programs. The newly configured school facilities would be located within the New Building's three below grade levels and floors 1-10, with several levels containing square footage to be utilized for synagogue and shared purposes. Outdoor recreation space would be provided on a deck to be constructed over the Synagogue's roof.

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5. While some classrooms are undersized, there is also a critical lack of specialty learning spaces (*i.e.*, learning centers) for both advanced and remedial studies. In addition to there being few too many learning centers, the ones that do exist are grossly undersized (with most utilizing former closet space for classrooms.)

6. The Existing Building does not provide adequate space for specialized programs such as: (1) the Music Classroom, which is grossly undersized and located in an remote location with regard to traffic flow (*i.e.*, in the Synagogue cellar); (2) the Science Classroom was built for high school science and is not outfitted for ECC and Lower School science needs; and (3) the library, which is undersized and built for high school needs, thus the shelving is out of reach for many children.

7. The overall size of existing spaces was based upon a high school development scheme, thus there now is a mix of age groups ranging from nursery school to third graders occupying the same floors. This combination impedes efficient egress and prevents good day to day circulation within the School.

PROPOSED USES AND CONDITIONS

The New Building includes 125,203 gsf of community facility use (above and below grade), approximately 107,146 sf of which will be utilized by the Ramaz School and 18,057 sf of which will be utilized by the Synagogue. The overall square footage of the Ramaz School will be increased by 41,961 gsf (64%). Demolition and replacement of the Existing Building will permit excavation to provide two additional subcellar levels for programming where none exist today. The programmatic improvements to functions currently found inadequate or missing in the Existing Building are as follows:

Proposed Modifications to the Synagogue

- Chapel for morning prayer will be relocated from the Synagogue's first floor to the New Building's cellar level, which then permits the Synagogue lobby to be enlarged for improved circulation and access.
- New accessible ramp will be provided for access from the New Building to the Synagogue.
- Synagogue's first floor library will be relocated to the New Building's cellar level where the new *beit midrash* will function as a library, Talmudic study center and prayer room.
- Administrative space and separate appropriately climate-controlled storage room for Synagogue books and archives will be provided at the New Building's sub-cellar 2 level.
- Double-heightened 4,000 sf enlarged assembly room, which will primarily serve the Synagogue, will be located at the New Building's second floor level.
- New bride/*briss* preparation room for family members will be located at the New Building's second floor level.
- Rabbi's room and Synagogue administration office will be located at the New Building's third floor level.
- The *Sukkah* will be located on the new raised roof above the Synagogue, which is accessed at the New Building's fifth floor level and will share use of this space with the School.
- 3,000 sf of Synagogue administrative and school space is provided at the tenth floor level.

Proposed New Building for Ramaz

- New school cafeteria/serverly and faculty dining room will connect to the Synagogue meeting room at first floor level and will permit Saturday services to accommodate a larger number of congregants. This room will also serve as a school dismissal area and/or parent waiting area, which is now a common security feature of all schools that did not exist prior to 2001.
- New 3,400 sf double heightened gymnasium and locker rooms for lower and middle school students, and gym-related storage and administrative space will be located at the sub-cellar 2 level.

- New sensory gym/exercise room for lower school children to aid and develop coordination skills will be located at the sub-cellar 2 level.
- Separate appropriately climate-controlled storage room will be provided for school books at the sub-cellar 2 level.
- All building facilities and mechanicals will be relocated to sub-cellar 1, a level separate and away from the active school program children.
- Six (as opposed to the current four) nursery school classrooms, each with bathroom facilities, will be located at the fourth floor level.
- 600 sf play roof, school administration office and copy center will be located at the fourth floor level.
- Multipurpose room for the Early Childhood Center, storage room and three kindergarten classrooms, each with bathroom facilities, will be located at the fifth floor level.
- Moderately-sized 5,500 sf deck will be located on a new raised roof above the Synagogue (which will also use the space for the *Sukkah*) with access at Ramaz fifth floor level.
- Three all-purpose lower school classrooms, one special education classroom to service the specific needs of students, and three breakout classrooms/learning centers for smaller group enrichment and/or remedial tutorials, will be located at the sixth floor level.
- 1,900 sf library, faculty lounge, four all-purpose lower school classrooms and one breakout classroom/ learning center will be located at the seventh floor level.
- Five all-purpose lower school classrooms, three breakout classrooms/learning centers, and two specialized classrooms (for either art, music, science or computer programs) will be located on the eighth and ninth floors.

Proposed New Building Residential Uses

- 53 residential units will be located on the 11th through 28th floors.

In contrast to the manner in which the New Building addresses KJ's current and future programmatic needs regarding both the Synagogue and Ramaz, the Existing Building is entirely undersized and obsolete for the current student population and overflow

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Synagogue functions in all respects. The New Building provides a total of 43 classroom verses the 26 currently existing. Without the New Building's development, KJ's existing programmatic deficiencies (both school and synagogue-related) will remain and continue to get worse, thus seriously undermining its religious, educational and cultural mission. Only through the approval of this Application can these deficiencies be eliminated. Moreover, the inclusion of the residential uses, utilizing less than the remaining zoning floor area after the Synagogue's and Ramaz' existing deficiencies have been corrected, represents an appropriate and common "monetization" of an existing resource by a religious, cultural and educational institution which has as its sole purpose the correction of the programmatic deficiencies giving rise to this Application.

THE ZONING LOT AND ZONING NONCOMPLIANCES

Tax Lots 10 and 13 have been in common fee ownership since 1966 and share the necessary contiguity set forth in ZRCNY 12-10 to be deemed a single zoning lot since that date. Originally, Tax Lots 10, 11 and 12 were acquired in 1901 and combined into a new Tax Lot 10 in 1902 (the Synagogue). Tax Lot 13 was acquired in 1944, Tax Lot 15 in 1963, and as of 1966, Lots 13 and 15 were combined into a new Tax Lot 13 (the Existing Building).

The KJ Zoning Lot is a rectangle located on the northern side of East 85th Street at a point 37 ft east of Lexington Avenue and 216 ft west of Park Avenue. It has a 152 ft frontage along 85th Street and a 102 ft depth. On its east boundary is the building wall of 131 East 85th Street, a 7-storey multiple dwelling. Its northern lot line is shared with three small mixed use buildings: Nos. 128, 126 and 122 East 86th Street, which are 6, 1 and 5 stories, respectively. A 30-storey, 317 ft tall through lot residential tower at 111 East 85th

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Street abuts the Zoning Lot's western lot line. This tower includes a garden area along East 85th Street that abuts the Synagogue and a second small courtyard/open space area on its west property line adjacent to the Synagogue. Cumulatively, the four buildings to the west and north of the KJ Zoning Lot form an irregular pattern of rear yards of various depths. The KJ Zoning Lot's area is 15,575 sf. A C5-1A/R10 zoning district boundary running parallel to Lexington Avenue at a point 100 ft west of the avenue, cleaves the KJ Zoning Lot. The C5-1A portion of the Zoning Lot comprises approximately 41 percent of the Zoning Lot's total area and includes most of the Existing Building. The R10 portion of the Zoning Lot includes the entire Synagogue and the westernmost 18.3' of the Existing Building.

The residential portion of the New Building will be developed pursuant to the Quality Housing Program (ZRCNY Art. II, Ch. 8), which is optional in R10 districts but is mandatory in any residential portion of a mixed-use building in a C5-1A district. As such, the entire building is subject to all applicable Quality Housing bulk provisions, which in the case of R10 and R10 equivalent districts requires that the building comply with the bulk regulations applicable in an R10A district. A mixed-use building in a C5-1A district is also governed in its entirety by the Quality Housing Program's applicable regulations. The basic permissible FAR for a residential building, community facility or a mixed-use residential/community facility building in an R10A district is FAR 10, with an additional FAR 2 available as a matter of right pursuant to the provisions of ZRCNY Sec. 23-941, (Inclusionary Housing). In and of itself, ZRCNY Sec. 23-941 does not give rise to any of the waivers requested in this Application. The waivers required in this Application would be necessary whether the New Building was FAR 10 or FAR 12.

The Noncompliances

The following noncompliances are increased or created in the R10 portion of the Zoning Lot:

Increase in Extent of Existing Noncompliance

- (1) ZRCNY Sec. 24-11: interior lot coverage is noncompliant.
- (2) ZRCNY Sec. 24-33(b) and 24-36: rear yard is noncompliant.

New Noncompliance

- (3) ZRCNY Sec. 23-663: required rear setback for buildings proposed pursuant to Quality Housing is not provided.
- (4) ZRCNY Sec. 24-522 and 23-633: maximum base and building heights permitted in an R10A equivalent Quality Housing development are exceeded.

The following exceedances are increased or created in the C5-1A portion of the Zoning Lot:

Increase in Extent of Existing Noncompliance

- (5) ZRCNY Sec. 54-31: existing building height noncompliance is increased.

New Noncompliance

- (6) ZRCNY Sec. 35-24(c)(1): setback required on a narrow street is noncompliant.
- (7) ZRCNY Sec. 35-24: permitted building height requirement is exceeded.
- (8) ZRCNY Sec. 35-24(b)(3): street wall continuity requirements are not maintained.
- (9) ZRCNY Sec. 33-42(c): mechanical bulkhead and screen wall is noncompliant.
- (10) ZRCNY Sec. 28-31: aggregate type of recreation space required pursuant to Quality Housing is noncompliant.

FIFTY YEAR SITE HISTORY

Tax lots 10, 11 and 12 were acquired in 1901 and combined into a new tax lot 10 (the Synagogue) in 1902. Tax Lot 13 was acquired in 1944 and Tax Lot 15 in 1963. As of 1966, lots 13 and 15 were combined into a new Tax Lot 13, at which time the School and Synagogue House began functioning in the two interconnecting buildings. No discretionary permits have been issued since the adoption of the 1961 Zoning Resolution, and no use or exterior alterations have occurred since 1984 when a new building-wide air-conditioning system was installed.

THE NEW BUILDING DEVELOPMENT PROGRAM

For all of the reasons set forth above, KJ can no longer meet its religious, educational and cultural needs without improving its circulation system, modifying the access and egress between the Synagogue and Existing Building and relocating program space. Furthermore, there is no available practical solution to the KJ's deficiencies obtainable through alteration work within the Synagogue that would not significantly conflict with KJ's mission to honor and protect its Sanctuary. The only means through which to address the Synagogue's programmatic deficiencies is through the development of the New Building.

The additional space in the New Building allocated to KJ's religious, educational and cultural mission is the first such increase in space for KJ since 1966. The addition of this space will permit the Synagogue leaders to address the needs of its 3,000 family members, which is an increase of 300 percent in the number of family member since 1966. Development of the New Building will permit the Synagogue to expand its first floor lobby and meeting room by relocating the chapel and library to the New Building. The two buildings will be linked with a new accessible ramp. A coat room will be provided in a

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portion of the former library. The New Building resolves further Synagogue shortcomings by providing square footage for the first floor assembly hall, which will primarily be utilized by the Synagogue for Life Cycle Events, as well as the continuation of KJ's community-based programs that require a larger meeting space. Synagogue administration will be centralized within the New Building, and the Rabbi and staff will have efficient links from the Synagogue to the New Building, be it for participation in service or utilization of the book storage/archival room.

In addition, Ramaz' growth and the need to maintain facilities as an educational institution on a par with contemporary standards has outpaced its ability to continue to operate within the limitations of the Existing Building. It must address the need for newly designed, appropriately sized and barrier-free classrooms within the New Building's floors 4-10. Its current substandard gymnasium will be enlarged within two subcellar levels and all building facilities and mechanicals will be consolidated to a portion of the subcellar 1 level. Office space and cafeteria/kitchen/food service facilities are suitably located throughout the New Building.

Floors 11 through 28 will be residential in keeping with a trend toward permitting unused development rights inherent to the pre-existing zoning lots owned by cultural, educational or religious institutions (and KJ and Ramaz are all three) to be utilized for development of residential housing: this monetization of development rights, in turn, contributes to correcting the institution's programmatic deficiencies. Such other recent examples of mission-related monetization of available air rights from existing zoning lots (*i.e.*, as opposed to acquisitions of additional tax lots to enlarge the zoning lot) include Lincoln Center and Fordham University. For reasons similar to those institutions, the

addition of residential use in the upper portion of the building is consistent with KJ's need to raise the capital funds required to correct the programmatic deficiencies described throughout this Application. The residential square footage amounts to 49 percent of the Zoning Lot's available zoning floor area. The Synagogue and new Ramaz School utilize the remaining floor area (less 639 sf), which results in a compliant FAR within the only feasible development option on the Zoning Lot.

THE OBJECTIONS

The following objections on NB#104701636 application were received from the Department of Buildings (the "DOB") on June 18, 2007:

NB #1. Proposed building exceeds maximum permitted lot coverage in the R10 interior lot portion as set forth in ZR Section 24-11.

NB #2. Proposed building does not comply with rear setback requirements for buildings proposed or enlarged pursuant to the Quality Housing Program in R10 zoning district pursuant to ZR Section 23-663(b).

NB #3. Proposed building does not comply with the rear yard requirements in the R10 portion of the zoning lot as set forth in ZR Sections 24-33 (b) and ZR 24-36.

NB #4. Proposed building exceeds maximum base height and building height permitted in an R10A equivalent Quality Housing development pursuant to ZR sections 24-522 and ZR 23-632.

NB #5. Proposed building does not comply with setback regulations on a narrow street in C5-1A portion of zoning lot as set forth in ZRCNY Sections 35-24(c)(1).

NB #6. Proposed building exceeds maximum building height permitted in a C5-1A zoning district pursuant to ZR section 35-24.

NB #7. Proposed building does not comply with street wall continuity regulations in the C5-1A portion of the zoning lot as set forth in ZRCNY Section 35-24(b)(3).

NB #8. Proposed mechanical bulkhead and screen wall does not comply with regulations governing permitted obstructions in C5-1A zoning districts as set forth in ZR Section 33-42 (c).

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NB #9. Proposed Quality Housing Recreation Space does not comply with the regulations governing the aggregate type of recreation space as set forth in ZR Section 28-31.

The following objection on ALT 1 #104755604 application was received from the DOB on June 18, 2007:

ALT I #1. Proposed height for existing non-complying building exceeds the degree by which such non-compliance may be increased as set forth in ZRCNY Section 54-31.

ZRCNY SEC. 72-21 REQUIRED FINDINGS

There are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular zoning lot; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with the use or bulk provisions of the [zoning] resolution; and that the alleged practical difficulties or unnecessary hardships are not due to circumstances created generally by the strict Application of such provisions in the neighborhood or district in which the zoning lot is located. ZRCNY Sec. 72-21(a)

KJ's religious, cultural and educational missions require that its Zoning Lot accommodate a functional and accessible Synagogue and a school capable of meeting contemporary educational standards. Challenging these missions are unique physical conditions peculiar to and inherent in KJ's Zoning Lot, which include: (1) the presence of a unique and irreplaceable noncomplying specialized building that is of the utmost religious significance, which rises 53 ft above grade, utilizes an atypically small amount of zoning floor area, and occupies 41 percent of the Zoning Lot's footprint, and thus prevents and precludes any further development of its footprint; (2) a remaining development site incapable of utilizing the zoning floor area attributable to the Zoning Lot in a manner that provides strict compliance with the Zoning Resolution; (3) constraints imposed by the need to align the New Building with the Synagogue to overcome the existing programmatic

deficiencies; and (4) lot size and dimensions that make it impossible for the floorplans required by contemporary educational standards to provide yards and building streetwalls and setbacks that can comply with the bulk regulations applicable to the zoning districts in which the Zoning Lot is located. These physical constraints combine uniquely to collectively restrict development of the Zoning Lot to a level insufficient to permit KJ to meet its obligations as a religious, cultural and educational institution. The strict application of the ZRCNY provisions raised as objections to the approval of the New Building will preclude KJ from developing the New Building or any substantially similar building and as such strict application represents a practical difficulty in developing any feasible as-of-right New Building.

For these reasons, the Applicant seeks the waivers minimally necessary to permit development of a New Building which will address KJ's religious, educational and cultural programmatic difficulties. These difficulties conspire to eliminate any further development or alteration to the Synagogue on Lot 10. They cannot be overcome by further adaptation of the Existing Building on Lot 13, which is in an aging and declining condition and which long ago ceased to provide KJ with sufficient offices and/or Synagogue related meeting rooms or the educational facilities required by the Ramaz School. While the presence of a zoning district boundary does not in this case preclude a rational distribution of zoning floor area, compliance with the significantly different height and setback requirements required by the two underlying districts, one contextual and one not, for a new development with a width of 81 ft, is an obvious hardship on the School. Development of a reasonable amount of zoning floor area native to the lot (the New Building does not use all of the allowable zoning floor area even with the waivers requested in this Application) cannot occur without relief

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from the following lot coverage, setback, rear yard, base and building height, streetwall, roof top and recreation space bulk regulations applicable to the Zoning Lot.

Lot Coverage in R10. (NB Objection 1) ZRCNY Sec. 24-11 imposes a maximum lot coverage for zoning lots in R10 or R10 equivalent zoning districts of 70 percent for interior lots, or portions of zoning lots that are interior lots. The Zoning Lot is an interior lot. The combined lot coverage of the Synagogue and the Existing Building on the Zoning Lot today is 92 percent (68 percent and 24 percent respectively). The proposed combined lot coverage of the Synagogue and New Building on the Zoning Lot is 94 percent (68 percent and 26 percent respectively). The Application requests a variance to increase the lot coverage by two percent in order to provide the floorplates necessary to accommodate the School's educational programming.

Rear Setback. (NB Objection 2) ZRCNY Sec. 663(b) requires that in R10 districts no part of a building developed or enlarged pursuant to the Quality Housing Program that exceeds the maximum base height established in ZRCNY Sec. 633 can be located within 10 ft of the rear yard line. The New Building's base is noncompliant by a total of 11 ft 8 in (maximum 125 ft above grade versus 136 ft 8 in proposed) pursuant to the maximum height provisions applicable in the R10 district (See Objection 4). The Application requests a variance to permit a base height of 136 ft 8 in to accommodate the unique floor-to-floor heights required for an educational institution.

Rear Yard in R10. (NB Objection 3) ZRCNY Sec. 24-36 requires a rear yard of not less than 30 ft for interior lots or portions of zoning lots which are interior lots in R10 districts. ZRCNY Sec. 24-33 permits community facilities to build within a required rear yard to an elevation of 23 ft or one storey above grade, whichever height is lower. The New

Building is built full to the rear property line, to a height of 42 ft 8 in., which violates both the permitted height of the build-out in the rear yard and further violates Sec. 24-33 by providing two rather than one floor. This rear yard configuration of 2 stories rising to a height of 42'8" is required because those floors must align properly with the Synagogue and must provide for the double height assembly room. The Application requests a variance to permit the rear yard build-out to exceed the height requirement by 19 ft 8 in. It also requests a variance to permit the second floor of the build-out. The first floor of the build-out is permitted as a matter of right. Above the second storey of the New Building, the remaining community facility and residential floors of the New Building provide a fully compliant rear yard.

Base Height & Building Height in R10A Quality Housing Development. (NB Objection 4) ZRCNY Sec. 24-522 and Sec. 23-633 govern height and setback requirements for buildings in contextual zoning districts such as R10A. The regulations establish a base height, require a setback above the base height and establish building height. In an R10A district, the permitted base height can range between 60 and 125 ft above curb, at which point the front elevation must set back 15 ft. The overall building height cannot exceed 185 ft. While the portion of the New Building's base height within the C5-1A district is compliant, the R10A portion of the New Building has a base height of 136 ft 8 in, a setback of 15 ft and a building height of 319 ft. The unique aspects of the Zoning Lot, including the footprint of the Synagogue, the presence of the zoning district boundary in the only portion of the Zoning Lot capable of development, combined with KJ's need to link access between the Synagogue and New Building while at the same time creating a front elevation harmonious with both the Synagogue and the neighborhood character render it impossible to provide any useful

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development in accordance with the applicable provisions of ZRCNY Sec. 23-633 and Sec. 24-522 .

The 30-storey building to the west, 111 East 85th Street, is located entirely within the R10 district (12 FAR permitted) and rises to a height of 317' (including mechanical bulkhead). With an FAR of 15.44, it exceeds its permitted bulk by over 25 percent. A large scale, 21-storey mixed-use development is currently under construction at the Extell site on Lexington Avenue between East 85th and 86th Streets. Within this urban context of similar urban towers on all sides, the New Building massing is contextual with its surroundings. KJ worked closely with its architects to gauge the precise elevations for the New Building's base, its setbacks and its height so as to strike a balance with the architecture of Synagogue to its west and maintain harmony with its neighbors to the east and west.

Front Setback Regulations in C5-1A only (NB Objection 5) ZRCNY Sec. 35-24(c)(1) requires that a setback of at least 15 ft must be provided from any street wall fronting on a narrow street. The New Building fronts East 85th Street, which is a narrow street, and provides a 10 ft streetwall setback. The school floorplates must carefully balance the dimensional requirements of the classrooms and larger assembly space with the core servicing the New Building. In this case, the core must be located so as to avoid interfering with the assembly space. Accordingly, the location of the core is appropriate to the School's configuration but inappropriate to the residential floorplate, resulting in an undesirable distance from the core to the south edge of the floorplate. By reducing the required setback by 5 ft, this difficult is remedied.

Maximum Building Height in C5-1A Only. (NB Objection 6) ZRCNY Sec. 35-24 requires that in a C5-1A district within a 100 ft distance from a wide street, the maximum

base height must be no less than 125 ft and no greater than 150 ft, and the maximum building height must not exceed 210 ft. Although the New Building is in compliance with C5-1A base height requirements and rises to approximately 136 ft, the DOB objection results from the proposed 319' building height (not including mechanicals). As indicated earlier, the height above base sets back 10 ft along its south facade in the C5-1A district, thus reducing the bulk of the building envelope. The residential floors that do exceed the permitted height (floors 19-28) top off at an elevation comparable to several existing residential towers in the surrounding area, including the 30-storey building directly to its west/northwest. The location of this floor area is dictated by the inability to build over the Synagogue and the floor plates of the educational facilities below it.

Street Wall Continuity in C5-1A Only. (NB Objection 7) ZRCNY Sec. 35-24(b)(3) requires that along wide streets, and along narrow streets within 50' of their intersection with a wide street, the street wall must be located along the street line and extend along the entire zoning lot up to at least the minimum required base height. The New Building is located on a narrow street and within 50 ft of a wide street, Lexington Avenue, thus its street wall must extend along the entire street frontage of the Zoning Lot up to at least the proposed base height (the proposed base height is noncompliant at 136 ft 8 in the R10 district and compliant at 136 ft 8 in C5-1A district). The objection was written because the residential lobby entrance recesses 10 ft at the New Building's ground floor, thus breaking the required streetwall continuity. The streetwall includes this deeper recess at the residential entrance so as to distinguish it from the new Ramaz School entrance located just thirty feet away. This recess is also an important urban design feature that will create a more diverse streetwall experience for pedestrians along the KJ property line.

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Mechanical Bulkhead & Screenwall in C5-1A only. (NB Objection 8) ZRCNY Sec. 33-42(c) requires that elevator or stair bulkheads, roof water tanks or cooling towers (including enclosures), must not have an aggregate width of street walls greater than 30 ft. However, the product, in square feet, of the aggregate width of these features' street walls multiplied by their average height, must not exceed an amount equal to four times the width of the street walls of the building facing such frontage. Located on the New Building's roof level is a 36 ft tall mechanical bulkhead and screen wall with a 62 ft 10 in aggregate width of street walls fronting East 85th Street, behind which the HVAC, chiller, boilers and the water tower are contained. The square footage of these features is 2,262 sf (aggregate width of their street wall multiplied by its height). This exceeds the permitted limit which is defined by the product in square feet, four times the width of the street walls of the building facing such frontage. The New Building's street wall has a 152 ft frontage, which multiplied by four equals 608 sf (a square footage amount less than the proposed obstruction's 2,262 sf). This larger mechanical bulkhead is required due to the physical spatial needs for indoor (*i.e.*, enclosed) mechanical equipment and the inability to provide such space within the New Building itself.

Quality Housing Recreation Space Noncompliance in C5-1A only. (NB Objection 9) ZRCNY Sec. 28-31 provides that in R10 districts residential and mixed use buildings developed with nine or more dwelling units pursuant to the Quality Housing Program must provide a minimum of 2.8 percent minimum of the total residential zoning floor area for either indoor or outdoor recreation space. The space provided can be in more than one location, but the regulations do not permit a mixture of indoor and outdoor space. The New Building provides 91,857 sf of residential floor and therefore 2,601 sf of recreation space is

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required. The New Building provides 2,636 sf of recreational space located at the 11th floor, however, 1,725 sf is provided as outdoor space and 911 sf as indoor space. An additional common terrace provides an additional 200 sf of recreation space but cannot be counted for the purposes of Sec. 28-31 because its width is less than 15 ft. The inability to provide the required recreation space as entirely indoor or entirely outdoor (even though the proposal exceeds the amount of space required) owes to the footprint of the New Building, which is governed by the School's programmatic requirements on Floors 1 -10 (*i.e.*, expansion of the Early Childhood Center and Lower School, including provision of the minimally necessary number of classrooms and offices; both of suitable size, design and quality as described herein). The Application requests a waiver to permit the recreation space to be partially indoors and partially outdoors.

Height Increase in Synagogue Height Noncompliance (R10 only) only. (ALT I Objection 1) ZRCNY Sec. 54-31 provides that a noncomplying building may be enlarged provided that such enlargement may not increase the degree of an existing noncompliance. Currently, there is a noncompliant roof above the existing Synagogue's sanctuary, above which the HVAC system is located. This existing noncompliance was due to the volume requirements of the Synagogue's sanctuary. The Synagogue's roof was not designed as an occupiable roof and thus, cannot support the live loads associated with the proposed deck to be used for a playroof (required by the Lower School) and Sukkah (required by the Synagogue) as describe herein. The proposed deck requires that the new roof be raised 8 ft 4 in above the existing Synagogue's roof for the following reasons: (1) in an effort to protect the interior characteristics of the Synagogue, the new roof cannot be lowered without destroying the integrity of the Sanctuary; (2) in order to be occupiable, the proposed deck

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requires construction of a deeper and more substantial roof above the Synagogue; and (3) the existing HVAC equipment (now located on the Synagogue's roof) must now be shoe-horned within the cavity between the existing roof and the new roof. The approximately 5,500 sf deck (60 ft 4 in by 92 ft 1 in) is located directly adjacent to the New Building's fifth floors kindergarten classes and can be easily accessed by the school children for brief outdoor use through five double-doors. A multipurpose room at this same fifth floor level will also store toys and games for the younger children, as well as age-appropriate recreational items for the lower school students, which may be used by them when on the deck.

Because of the physical conditions there is no reasonable possibility that the development of the zoning lot in strict conformity with the provisions of this resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such zoning lot. ZRCNY Sec. 72-21(b)

KJ's status as a not-for-profit religious organization renders this finding unnecessary. However, due to the fact that the Application presents a situation in which Use Group 2 floor area is being created for sale to third parties as a component of the KJ's financial strategy for producing the New Building, KJ has retained the services of Robert B. Pauls, LLC to provide a Feasibility Study analyzing potential mixed use development on Lot 13. This analysis compared the rate of return that could be expected from the New Building containing 69,991 sf of residential floor area with a hypothetical as-of-right building that would provide 34,337 sf of residential floor area. It concluded that due to existing physical conditions on the Zoning Lot, there is no reasonable possibility that a financially feasible mixed-use building could be developed in strict conformity with the Zoning Resolution. The 34,337 sf as-of-right building requires a total project investment of \$58,178,006, less \$38,960,535 in residential

apartment sales, thus producing an estimated negative project value to a developer of (\$19,217,471) or -18.0 percent annual return as a percentage of cost.

In comparison, the New Building as proposed herein with 69,991 sf of residential sellable area requires an investment of \$77,668,425, less \$89,986,955 in residential apartment sales. This yields a 6.3 percent rate of return, which the Feasibility Study determines to be minimally sufficient for consideration as an investment opportunity.

The variance, if granted, will not alter the essential character of the neighborhood or district in which the zoning lot is located; will not substantially impair the appropriate uses or development of adjacent property; and will not be detrimental to the public welfare. ZRCNY Sec. 72-21(c)

As established by the Environmental Assessment Statement ("EAS") prepared by the Applicant's environmental consultant (AKRF Environmental, Planning, and Engineering Consultants), the Variance, if granted, will not alter the essential character of the neighborhood; nor will it either substantially impair the appropriate uses or development of the adjacent properties or be detrimental to the public welfare (see EAS, Attachment A). It is indisputable that a diversity of uses is a distinguishing characteristic of New York City neighborhoods and the Upper East Side/Yorkville is no exception. Approval of this Application will add 22,130 sf of Use Group 3 use to the Existing Building's current total of 55,610 sf, or an approximately 40 percent increase. It will add 91,857 sf of Use Group 2 residential use immediately adjacent to a mid-block residential building with an FAR maximum of 15 on a block developed with hundreds of thousands of feet of residential use. There will be no significant environmental consequences attributable to adding this relatively minimal amount of square footage to the existing condition, which already includes the Synagogue and Existing Building.

Lexington Avenue is a major thoroughfare generally lined by 5-to 20-storey residential buildings with ground floor retail establishments providing neighborhood services. Park Avenue is also a major thoroughfare dominated by tall (10-to 20-stories) and bulky luxury apartments. The east-west streets are generally lined with residential buildings: East 84th and 85th Streets between Third and Park Avenues and East 86th Street between Lexington and Park consist primarily of 5-to 35-storey residential buildings. Two known development projects are under construction within the 400 ft radius. The larger of these projects is the Extell development on the east side of Lexington Avenue between East 85th and East 86th Streets. Upon completion, it will rise 35 stories with ground floor retail and approximately 417 dwelling units and 40,000 sf of parking. The second project is a conversion of a parking facility at 165 East 84th Street to a residential building containing 10 dwelling units.

The project architects have given careful consideration to the New Building's envelope to ensure that its external presentation will compliment its surroundings while at the same time successfully fulfil KJ's internal programmatic requirements within appropriately dimensioned layouts and efficient use of allowable FAR. The New Building will be comparable in height to the 30-storey residential building adjacent to the Synagogue, which has a 15.44 FAR, and the Extell building under construction due east along Lexington Avenue. The proposed project is consistent with both the existing context and emerging development trends in the area. It would not result in a large residential or employee population and would not be expected to substantially alter the current balance of community facility, residential and commercial uses in the surrounding community (see EAS, pgs A-4 and 5).

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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)

As noted previously, Tax Lots 10, 11 and 12 were acquired in 1901 and combined into a new Tax Lot 10 (the Synagogue) in 1902. Tax Lot 13 was acquired in 1944, Tax Lot 15 in 1963, and as of 1966, lots 13 and 15 were combined into a new Tax Lot 13 (the Existing Building). Since 1966, only minor interior renovations and repairs have taken place as needed. The existing conditions now impose economic and programmatic hardships that could not have possibly been envisioned at the time the buildings were developed. All of the buildings were constructed in substantially their current condition prior to 1961, the effective date of the Zoning Resolution. The deficiencies and conflicts with the missions of KJ and Ramaz, have not be caused by changes to these buildings since there have been none in the lifetime of the modern Zoning Resolution. 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 seeks nothing more than the waivers necessary to resolve KJ's religious, institutional and cultural programmatic difficulties. Specifically, the waivers are those minimally necessary to permit the New Building envelope to include, in part: (1) an expansion of the Ramaz School's Early Childhood Center and Lower School through provision of the minimally necessary number of classrooms and the minimally necessary number of offices; all of suitable size, design and quality; (2) upgrade and integration of an efficient KJ-Ramaz circulation system designed to provide improved and barrier-free access to the sanctuaries in the Synagogue; (3) provision of ancillary Synagogue space of suitable

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size and configuration to accommodate KJ's many religious, social and educational programs, a great number of which impact members of the community in need; and (4) the addition of 53 residential units at floors 11 through 28, in an elegantly scaled design that uses only unused zoning floor area native to the Zoning Lot and available as-of-right.

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 plan requiring 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.

Without the waivers requested in this Application, KJ will not be able to build the New Building in a manner which addresses the access deficiencies of the Synagogue, nor can it hope to provide better classrooms, offices, and specialized school and synagogue facilities that are critical to the continuation of its religious, educational and cultural missions. In every category the demand for these programmatically required elements is increased, and KJ considers it essential to provide these services without compromising its Synagogue building.

CONCLUSION

KJ has a long and distinguished history of attending to the needs of its congregants and the community. From its modest beginnings in 1872 when a small group met to form a "*chevra* for divine worship" under the initial name Anshe Jeshurun of Yorkville, through to construction of the Synagogue in 1902 and opening of the existing Ramaz School in 1937, KJ has proceeded slowly and carefully to provide worship, educational and cultural space. It has been in its present house of worship since 1902. Since that time its only significant alteration work on this Zoning Lot has been in 1965, at which time it combined the two

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buildings adjacent to the Synagogue to form the Existing Building. Now, 42 years since taking its last measures to adjust this site for programmatic purposes, it must do so again.

KJ must now address the gap between its programmatic goals for the 21st Century and the current deficiencies under which it operates. Although a gap exists, through careful analysis a plan has been developed that leaves the Synagogue intact with the addition of only a deck constructed over the existing Synagogue roof at the New Building's 5th floor level and a minor 15 ft cantilever of the School's 6th to 10th floor levels along its western facade. With regard to the Existing Building, its envelope is less distinguished than the Synagogue, its interior is in programmatic shreds and its myriad problems and weaknesses make it a poor candidate for any further form of renovation. In designing the New Building, the project architects have been able to redress many of the Synagogue's programmatic deficiencies (sanctuary circulation issues, educational issues, administrative issues), but, due to the advent of new (post 1961) zoning district boundaries, contextual zoning districts and mandatory Quality Housing imposed upon already non-compliant conditions arising upon adoption of the 1961 Zoning Resolution, they have been unable to design a compliant school facility due to the unique combination of factors inherent in the Zoning Lot. Finally, as has become both common and necessary for many cultural, educational and religious institutions in the City faced with aging physical plants and growing obligations to a growing community, the costs of correcting programmatic difficulties have outpaced the ability of traditional philanthropic measures to raise the necessary funds. In such cases, where the existing zoning lots of these institutions possess unused and available zoning floor area, such institutions have turned to realizing the value of this invisible but potent asset to assist in addressing the deficiencies in their facilities. In this case, KJ must realize the value of its development rights by providing for 53 residential units that will be offered to a private developer for construction and sale.

The proceeds are directly returned to the development of the New Building.

Without the waivers requested in this Application, KJ is incapable of redressing the current difficulties in the Synagogue and unable to maintain the necessary educational standards required of it. On the basis of the foregoing, the Applicant respectfully requests that the Board make the requisite findings and grant the requested variances.

Dated: New York, New York
June 20, 2007

Respectfully submitted,

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

Shelly S. Friedman, Esq.
FRIEDMAN & GOTBAUM, LLP

BSA CALENDAR NO.

BLOCK 1514

LOT 10, 13

SUBJECT SITE ADDRESS

121 E 85th St and 125 E 85th St, New York, NY 10028

APPLICANT

Congregation Kehilath Jeshurun

ZONING DISTRICT R10; C5-1A

PRIOR BSA #

COMPLIANT: "Y"

SPECIAL/HISTORIC DISTRICT

IF NOT: "N" and

COMMUNITY BOARD 8

INDICATE AMT

* APPLICABLE ZR SECTION	MAXIMUM PERMITTED	MINIMUM REQUIRED	LEGAL PER C of D or BSA	EXISTING	PROPOSED	OVER/UNDER
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LOT AREA

NA		NA	NA	15,575 SF	15,575 SF	NA
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LOT WIDTH

NA		NA	NA	152'-5 1/3"	152'-5 1/3"	NA
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USE GROUP (S)

22-00 (R10) 32-00 (C5-1A)	1, 2, 3, 4 1, 2, 3, 4, 5, 6, 9-11		NA	3, 4	2, 3, 4	NA
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FA RESIDENTIAL

(R10) 23-15 (C5-1A) 33-123	(12 FAR Max) 186,900 SF		NA	0	91,857 SF	Y
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FA COMMUNITY FACILITY

24-11	(12 FAR Max) 186,900 SF		NA	72,254 SF	94,384 SF	Y
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FA COMMERCIAL/INDUST.

NA	NA		NA	NA	NA	NA
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FLOOR AREA TOTAL

	186,900 SF		NA	82,464 SF	186,241 SF	
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FAR RESIDENTIAL

(R10) 23-15 (C5-1A) 33-123	12 w/ inclus. housing bon		NA	NA	5.9	Y
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FAR COMMUNITY FACILITY

24-11	12 w/ inclus. housing bonus		NA	4.6	6.1	Y
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FAR COMMERCIAL/INDUST.

NA	NA		NA	NA	NA	NA
----	----	--	----	----	----	----

FAR TOTAL

NA	12 w/ inclus. housing bonus		NA	4.6	12	Y
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OPEN SPACE

NA		NA	NA	NA	NA	NA
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OPEN SPACE RATIO

NA		NA	NA	NA	NA	NA
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LOT COVERAGE (%)

24-11	INT. LOT 70% CORNER 100%		NA	INT. LOT 92% CORNER 100%	INT. LOT 94% CORNER 100%	N @ INT. LOT OVER BY 24%
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NO. DWELLING UNITS

23-22	117		NA	0	53	Y
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WALL HEIGHT

(R10) (C5-1A)	24-522; 23-633 35-24	(R10) 125' (C5-1A) 150'		83'-1 1/8"	83'-1 1/8"	(R10) 136'-8" (C5-1A) 136'-8"	(R10) N 11'-8" over (C5-1A) Y
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TOTAL HEIGHT

(R10) (C5-1A)	24-522; 23-633 35-24	(R10) 185' (C5-1A) 210'		83'-1 1/8"	83'-1 1/8"	(R10) 319' (C5-1A) 319'	N (R10) 131' over (C5-1A) 109' over
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NUMBER OF STORIES

				8	8	28	NA
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FRONT YARD

	24-34 (R10) 35-51 (C5-1A)		NONE REQ.	NA	NONE PROVIDED	NONE PROVIDED	Y
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SIDE YARD

	24-95 (R10)		NONE REQ.	NA	NONE PROVIDED	NONE PROVIDED	Y
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SIDE YARD

	35-52 (C5-1A)		NONE REQ.	NA	NONE PROVIDED	NONE PROVIDED	Y
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REAR YARD

24-33(b)	24-36 (R10) 33-301 (C5-1A)	(R10) 30' - 0" (C5-1A) NONE		NA	(R10) 30' YARD COMPLIANT (C5-1A) NONE	(R10) 30' YARD ABOVE 3RD FL. (C5-1A) NONE	(R10) N 30'-0" YARD ABOVE 3RD
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SETBACK (S)

(R10) (C5-1A)	23-663(b) 35-24(c)(1)	(R10) 15'-0" (C5-1A) 15'-0"		NA	NA	(R10) 15'-0" (C5-1A) 10'-0"	(R10) Y (C5-1A) N UNDER by 4'
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SKY EXP. PLANE (SLOPE)

	NA	NA		NA	NA	NA	NA
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NO. PARKING SPACES

	ARTICLE I CHAPTER 3	NONE REQ.	NONE REQ.	NA	NONE PROVIDED	NONE PROVIDED	Y
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LOADING BERTH (S)

	25-70	NONE REQ.	NONE REQ.	NA	NONE PROVIDED	NONE PROVIDED	Y
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OTHER: OH Recreation Space

	28-31		2.8%	NA	NA	See findings	N
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* In Applicable ZR Section column: For RESIDENTIAL developments in non-residential districts, indicate nearest R district, e.g., R4/23-141, and contrast compliance. For COMMERCIAL or MANUFACTURING developments in residential districts, contrast proposed bulk and area elements to current R district requirements, except for parking and loading requirements (contrast to nearest district where use is permitted). For COMMUNITY FACILITY uses in districts where not permitted, contrast to nearest district where permitted. For all applications, attach zoning map and highlight relevant items. Be sure that all items noted in the DOB Denial/Objection are included. NOTES:

OTHER: Ht. Increase/Existing Noncompliance ZR 54-31 (R10 only) N (See findings)



BSA SIGN ANALYSIS - COMMERCIAL DISTRICTS

REVISED JANUARY 2004

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BSA CALENDAR NO: _____

LOCATION: 121 E 85th St and 125 E 85th St

BOROUGH Manhattan

BLOCK 1514

APPLICANT: Congregation Kehilath Jeshurun

LOT 10, 13

ZONING DISTRICT: (R10); C5-1A

LOT AREA: 15,575 SF

EQUIVALENT CD _____



	SECTION	PERMITTED	PROPOSED	COMPLIANCE
ACCESSORY BUSINESS SIGNS	32-62	PERMITTED IN ALL COMMERCIAL DISTRICTS	Will Comply	Y
ADVERTISING SIGNS	32-63	C6-5, C6-7, C7, C8 DISTRICTS	NA	NA
TOTAL SURFACE AREA - ALL SIGNS C1 - C8	32-641	SEE TABLE SECT. 32-642 FOR SURFACE AREA PERMITTED =	Will Comply	Y
NON-ILLUMINATED SIGNS C1 - C8	32-642	SEE TABLE THIS SECTION FOR SURFACE AREA PERMITTED = <u>3x St frontage <200SF</u>	Will Comply	Y
ILLUMINATED NON-FLASHING C1, C2	32-643	SEE TABLE THIS SECTION FOR SURFACE AREA PERMITTED =	NA	NA
ILLUMINATED OR FLASHING C4, C5-4, C6, C7 (NO FLASHING SIGNS IN C6-1A)	32-644	SEE TABLE THIS SECTION FOR SURFACE AREA PERMITTED =	NA	NA
ILLUMINATED OR FLASHING SIGNS IN C8 DISTRICTS - BUSINESS OR ADVERTISING	32-645	TOTAL SURFACE AREA OF ALL SUCH SIGNS < 5X STREET FRONTAGE OF ZONING LOT; EACH SIGN < 500 SF	NA	NA
PERMITTED PROJECTION C6-5, C6-7, C7 SEE SECTION 32-653 FOR ADD'L REGS	32-651	NO PERMITTED SIGN TO PROJECT ACROSS STREET LINE BY MORE THAN 8'	NA	NA
PERMITTED PROJECTION FOR ALL REMAINING COMMERCIAL DISTRICTS	32-652	NO PERMITTED SIGN TO PROJECT ACROSS STREET LINE BY MORE THAN 18" FOR DOUBLE OR MULTI-FACETED SIGNS OR 12" FOR ALL OTHERS	Will Comply	Y
REGULATIONS FOR PROJECTING BUSINESS SIGNS: AWNINGS, CANOPIES, SIGNS ON MARQUEES C1 - C8	32-653	- AWNING OR CANOPY: NON-ILLUM. < 12SF, LETTERS < 12", FOR IDENTIFICATION ONLY; - SIGN ON MARQUEE: MUST PROJECT <48" ABOVE, >12" BELOW, EXCEPT C6-5, C6-7, C7	Will Comply	Y
MAXIMUM HEIGHT OF SIGNS C8	32-654	< 40' ABOVE CURB LEVEL; < 58' FOR NON-ILLUM. OR INDIRECT SIGNS	NA	NA
MAXIMUM HEIGHT OF SIGNS C1 - C7	32-655	SEE TABLE: 25'-40" RANGE PER DISTRICT; C6-5, C6-7, C7: NO RESTRICTION	Will Comply	Y
MAXIMUM HEIGHT ABOVE ROOF C1 - C5, C6-1 to 4, C6-6, C6-8, C6-9	32-656	ONLY VERTICAL SIGNS < 28" W/OE MAY EXTEND UP TO 15' ABOVE ROOF LEVEL	Will Comply	Y
ROOF SIGNS C1 - C5, C6-1 to 4, C6-6, C6-8, C6-9	32-657	NONE PERMITTED	Will Comply	Y
ADDITIONAL REGULATIONS FOR SIGNS OTHER THAN ADVERTISING SIGNS IN C6-5, C6-7, C7, C8	32-661	IF WITHIN 200' OF ARTERIAL HIGHWAY OR PARK SIGN SHALL NOT EXCEED 500sf SURFACE AREA IF WITHIN VIEW. SEE EXCEPTIONS	NA	NA
ADDITIONAL REGULATIONS FOR ADVERTISING SIGNS IN C6-5, C6-7, C7, C8	32-662	NONE PERMITTED WITHIN 200' OF ARTERIAL HIGHWAY OR PARK, IF WITHIN VIEW		
WATERWAY ADVERTISING SIGNS	32-663	NOT PERMITTED ADJACENT TO C DISTRICTS	NA	NA
PROVISION FOR DIST. BOUNDARIES C2 - C8	32-67	IF WITHIN 100' OF RESIDENCE DISTRICT OR ADJ. TO PARK AND SIGN <165 DEG., SEE C1 REGS.	Will Comply	Y
RESIDENTIAL OR MIXED BUILDINGS C1 - C6	32-68	FOR UG 1, 2 or RESIDENTIAL USES, SEE RESIDENTIAL REGULATIONS. FOR NON-RESIDENTIAL USE ON 2 FLOORS - NON-ILLUM. SIGNS ONLY AND BELOW 3RD STORY	Will Comply	Y
ADULT ESTABLISHMENTS	32-69	SEE SECTION	NA	NA