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July 30, 2008

BY HAND DELIVERY

Hon. Meenakshi Srinivasan, Chairperson
New York City Board of Standards and Appeals
40 Rector Street
New York, NY 10007

Subject: Congregation Shearith Israel
6-10 West 70th Street
New York, New York

Dear Chairperson Srinivasan:

CSI's July 7, 2008, submission is merely a regurgitation of its previous filings and is replete with the errors, omissions and misrepresentations respecting its claimed classroom needs that I have detailed in my previous letters to you and which I reaffirm.¹ Accordingly, I will not repeat my earlier writings but will focus on those matters relating to CSI's claimed classroom needs that I believe are not open to rational debate and make plain that all CSI's programmatic needs for classroom space can be accommodated in an as-of-right building. It is regrettable that the BSA has acted arbitrarily and capriciously in studiously avoiding diligent inquiry into so many factual matters.

Discussion

1. CSI's formula for classroom space requirements provides a maximum of 35sf/child and 25sf/adult.²

2. CSI's educational programs have the following maximum numbers of students:

Hebrew School - 35-50 children (Thursday - 3:30 PM – 6 PM; Sunday 9 AM – Noon)³

Expanded Toddler Program - 60 children (Mon – Thursday 8 AM-6 PM, Friday 8 AM – 4 PM, Saturday 9 AM - Noon)⁴

CSI Youth Group 15-35 children (Sunday 9 AM –Noon)⁵

¹ See attached copy of Opposition Exhibit NN. (Incidentally, CSI's latest submission contains some new errors, etc., see, e.g., 2nd sentence, 1st full paragraph, page 30, lines 6-8, and section (2) of the 1st full paragraph on page 33, but I shall not trouble you with them, *inter alia*, because the Board has indicated no interest in such things as incorrect or false statements and claims.)

² CSI PROPOSED PROGRAM USAGE CHART; FLOORS 2-4 (Exhibit 2 to Greer June 24, 2008 Letter (revised) to BSA (Opp. Ex. NN pp17-19))

³ CSI 07/08/08 Submission ("Submission"), p. 23.

⁴ Submission, p. 29.

CSI Individual (one-to-one) Tutoring – “Approximately” 20 children (Unspecified times on weekdays, evenings and weekends)⁶

Adult Education⁷–

Courses in Jewish Law Thought and Law 40-50 adults (Sundays 8:40 AM – 9:40 AM)
5-15 adults (Sundays 9:45 AM – 11 AM)

Courses in Jewish Law and Lore (Talmud) 17 adults (Monday 7:30 PM –
9 PM – once per month

Poetry Group – 15-20 adults (Wednesdays 3 PM – 4 PM)

Meditations – 10-20 adults (Thursdays 11 AM-Noon

Bible Class – 20-50 adults (Saturdays 1.25 hrs following Saturday service)

3. Beit Rabban, CSI’s unaffiliated tenant school, currently enrolls 125 children⁸ and is projected to enroll up to 165 children in the proposed New Building.⁹ The Congregation seems to project that its 60 toddlers will use the proposed new building at the same time as the Beit Rabban’s 165 projected students, raising the simultaneous occupancy to 225 children.

4. During the week Beit Rabban currently uses all classroom space in the existing community house and the “temporary” trailer installed in 2007 in the vacant lot next door to the existing community house from 8 AM to 5 PM (Monday – Thursday; Friday 8 AM – 3:30 PM), and CSI’s educational programs do not occupy any of the classrooms in the existing community house during these hours.¹⁰

5. Beit Rabban will share the 2nd floor space in the proposed New Building with CSI’s Expanded Toddler Program during the week (Monday – Wednesday - 8 AM – 5 PM; Thursday 8 AM – 3:30 PM; Friday 8 AM - 4 PM).¹¹

6. Beit Rabban classes will occupy the six 3rd floor classrooms and the three 4th floor classrooms in the proposed New Building during the week (Monday – Wednesday 8 AM – 5 PM; Thursday 8 AM – 3:30 PM; Friday 8 AM - 4 PM).

⁵ Notes, Platt Bayard Dovell White Drawings PROG P-10, PROG P-11, dtd 12/26/07 (Exhibit 7 to Greer June 24, 2008 letter (revised) to BSA (Opp Ex. NN p 29.)

⁶ Submission, p. 24, “Ongoing Supplemental Tutoring for Children.”

⁷ Submission, pps. 24-25

⁸ Submission, p. 12.

⁹ CSI’s environmental consultant, AKRF, EAS dtd 05/13/08, p. 7f.

¹⁰ Submission, p. 23.

¹¹ See Note, p. 3, CSI PROPOSED PROGRAM USAGE CHART: FLOORS 2-4, supra, fn. 2. See also Note, Platt Bayard Dovell White drawing PROG P-9, dtd 12/26/07 (Exhibit 7 to Greer June 24, 2008 ltr to BSA (revised) (Opp Ex. NN p. 29); see also CSI 10/25/07 Submission, p. 11: “CSI anticipates that Beit Rabban will lease comparable space in the New Building.” Not only has CSI not provided the current and future lease arrangements with Beit Rabban, but the Board has arbitrarily and capriciously refused to inquire into the details of this material issue or to enforce its own Guidelines requiring this information.

7. Using CSI's formula of 35 sf/child, the maximum classroom space that will be required at any one time to accommodate the CSI educational program is 3850 sf (Thursday 3:30 PM – 6 PM – Hebrew School – 50 children + CSI Expanded Toddler Program – 60 children).¹²

8. By moving the 1244 sf custodian's apartment to the 5th floor or elsewhere and using all the space on floor 4a conforming Scheme A building can provide approximately 4079 sf of classroom space on floors 2-4,¹³ which is more than enough to accommodate all CSI's likely classroom needs.

9. Using CSI's figures from its PROPOSED PROGRAM USAGE CHART: FLOORS 2-4 produces a similar result. The total area of the 15 classrooms listed in that chart is 6055.59 sf. CSI calculates that an a-o-r building would reduce this area by 494 zsf/floor¹⁴ or a total of 1482 sf, leaving 4573.59 sf for classrooms.

10. In either case, a conforming A-O-R Scheme A building can comfortably accommodate CSI's educational program on floors 2-4.¹⁵

Conclusion

CSI's educational program can be accommodated on floors 2-4 in a conforming A-O-R Scheme A building. Therefore, no rear yard/lot coverage variances relating to that program are required or appropriate, and the Board should deny CSI's request for those variances.¹⁶

Respectfully,

James A. Greer, II

Atts. Opposition Exhibits LL, NN, OO (I am resubmitting these exhibits in support of my conclusions because I believe that, due to an unexpected death in my, the original submissions may not have been reproduced and compiled as intended and using the best color reproduction.)

Cc: (w/ Atts.)

Jed Weiss
Jeff Mulligan
Landmark West
Shelly Friedman, Esq.
Alan Sugarman, Esq.
Mark Lebow, Esq.
Craig Morrison, AIA

¹² CSI has misstated the regulatory requirements for Toddlers: under the 2008 City Building Code only 30 sf/toddler is required – not the 35 sf that CSI claims is the required minimum. CSI has also failed to take into account the provisions of the 2008 City Health Code that limit serving Toddlers to the ground floor of a building or one floor below the ground floor.

¹³ See 03/24/08 Ltr from Craig Morrison, AIA, p. 3 (“Fourth Floor”)

¹⁴ Submission, 2nd para., p.38

¹⁵ See attached copies of Opposition Exhibits LL and OO.

¹⁶ CSI's requests for the rear yard/lot coverage variances don't meet any of the other applicable requirements for variances either.

The following “Supplemental” information is just that and should not be included in whatever part of this document, if any, is filed with the BSA.

Supplemental Information:

1. Using CSI's formula of 35sf/child, the maximum classroom space required at any one time to accommodate Beit Rabban's projected 165 students is 5775 sf. (Mon-Wednesday 8 AM – 5 PM).
2. Using CSI's formula, the maximum classroom space required at any one time to accommodate both the CSI educational program and Beit Rabban simultaneously is 7875 sf (Monday – Wednesday 8 AM -5 PM Beit Rabban 165 children + CSI's Expanded Toddler Program 60 children).
3. CSI's proposed New Building will have 4661.8 sf of classroom space on floors 2-4. See CSI PROGRAM USAGE CHART: FLOORS 2-4.
4. CSI's proposed New Building cannot accommodate Beit Rabban's projected 165 children on floors 2-4 of its proposed New Building unless the custodian's apartment is moved to floor 5.

5. CSI's proposed New Building cannot accommodate both CSI's expanded 60-Toddler Program and projected 165 Beit Rabban students simultaneously on floors 2-4 even if the custodian's apartment is moved to the 5th floor or elsewhere.

Supplemental Conclusions

A. CSI's professed need for the extra classroom space the proposed New Building would provide is driven entirely by its wish to accommodate Beit Rabban.

B. Rather ironically, it appears that the proposed New Building will likely not simultaneously accommodate the projected numbers of students in Beit Rabban and CSI's Expanded Toddler Program.