

**326-04-BZ**

**CEQR #05-BSA-046K**

APPLICANT - The Law Office of Fredrick A. Becker, for Sephardic Center of Mill Basin, owner.

SUBJECT – Application October 14, 2004 – under Z.R. §72-21 – to request a bulk variance to allow the construction of a new synagogue in place of an existing synagogue. The application seeks waivers regarding Floor Area Ratio (§§24-111 and 24-141), perimeter wall height (§24-521), sky exposure plane (§24-521) and parking (§§25-18 and 25-31), located in a R2 zoning district.

PREMISES AFFECTED - 6208/16 Strickland Avenue, northeast corner of Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

APPEARANCES – None.

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3  
Negative:.....0

**THE RESOLUTION -**

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 14, 2004, acting on Department of Buildings Application No. 301780874, reads:

- “1. Proposed plans are contrary to ZR 24-111 and ZR 23-141 in that the proposed floor area ratio is greater than the maximum permitted floor area ratio of 0.5.
- 2. Proposed plans are contrary to ZR 24-521 in that the proposed perimeter wall height is greater than the maximum permitted perimeter wall height of 25 feet.
- 3. Proposed plans are contrary to ZR 24-521 in that the proposed building penetrates the sky exposure plane.
- 4. Proposed plans are contrary to ZR 25-18 and ZR 25-31 in that the proposed number of parking spaces is less than the minimum required number of parking spaces.”; and

WHEREAS, a public hearing was held on this application on July 26, 2005, after due notice by publication in *The City Record*, with a continued hearing on September 13, 2005, and then to decision on October 18, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed construction of a new two-story plus cellar synagogue, which requires various bulk waivers related to floor area ratio, perimeter wall height, sky exposure plane, and required parking, contrary to Z.R. §§ 24-111, 23-141, 24-

521, 25-18, and 25-31; and

WHEREAS, this application is brought on behalf of the Sephardic Center of Mill Basin, a not-for-profit entity (hereinafter, the “Synagogue”); and

WHEREAS, Community Board 18, Brooklyn, opposes approval of this application for reasons stated in their recommendation report, as discussed below; and

WHEREAS, certain members of Mill Island Civic Association and the community spoke at the hearing with respect to this proposal and voiced concerns as noted below; and

WHEREAS, the site is located on the northeast corner of the intersection of Strickland Avenue and Mill Avenue; and

WHEREAS, the subject site is currently improved upon with a two-story synagogue, occupied by the congregation since 1986; and

WHEREAS, the lot has a total lot area of approximately 10,883 sq. ft.; the existing synagogue building has a floor area of approximately 6,800 sq. ft.; and

WHEREAS, the applicant proposes to construct a new 10,800 sq. ft. synagogue building in order to accommodate the current size and resulting programmatic needs of the congregation; and

WHEREAS, the applicant states that the following are the programmatic needs of the Synagogue, which are driven by an increase in congregation size since 1986 to its present size of 300 families: (1) more worship space than is currently provided, to reduce overcrowded conditions and include separate praying areas for men and women; (2) a private office for the rabbi; (3) men’s and women’s mikvahs; (4) a dairy kitchen and a meat kitchen; (5) adequate bathrooms; (6) handicapped accessibility; (7) a multi-purpose room for gatherings on the Sabbath and bar and bat mitzvahs; (8) space for educational programs; and (9) roof access so that the congregation can celebrate the holiday of Sukkot outside; and

WHEREAS, construction of the new synagogue building as currently proposed will result in the following non-compliances: a floor area ratio (“FAR”) of 1.0 (FAR of 0.5 is the maximum permitted); perimeter wall height of 32’-6” (a perimeter wall height of 25’-0” is the maximum permitted); encroachment into the sky exposure plane (a sky exposure plane of 1:1 is required); and no parking spaces (27 spaces are required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the shape of the lot; (2) the existing building has insufficient space to accommodate the current size and programmatic needs of the Synagogue; and (3) poor soil and water conditions; and

WHEREAS, the applicant notes that the shape of

**326-04-BZ**

**CEQR #05-BSA-046K**

the lot would result in an as of right structure that would only be one-story in height, and thus incapable of accommodating the Synagogue's programmatic needs; and

WHEREAS, specifically, the applicant states that the noncomplying wall height and the encroachment into the sky exposure plane along the front yards, which allow for a second story, are necessary due to the need for a large double height space in the front of the women's gallery, which will permit the women to view the rabbi from their seats and not deprive them of a proper space in which to pray; and

WHEREAS, the applicant further states that these variances, along with the variance for FAR, are necessary in order to have enough floor area and height to accommodate the afore-mentioned programmatic needs; and

WHEREAS, in support of the above, the applicant has submitted a chart that reflects the additional square footage requested and to what use such square footage is allocated; and

WHEREAS, additionally, the Board observes that the provision of required parking would diminish the amount of site area available for accommodation of the Synagogue's programmatic needs; and

WHEREAS, the Board asked the applicant to consider whether it could lower the cellar of the building to reduce the overall height of the building; and

WHEREAS, the applicant submitted borings that show that the water table is at 17'-0" below grade with perched water at 10'-0"; accordingly, the applicant represents that the building cannot be lowered due to the prohibitive cost of constructing a deeper foundation in moist soil caused by the water table; and

WHEREAS, in sum, the Board agrees that, based upon the submitted evidence, the new building is necessary in order to meet the programmatic needs of the Synagogue, since the existing building does not possess the square footage necessary to accommodate these needs; and

WHEREAS, therefore, the Board finds that the cited unique physical conditions, when considered in conjunction with the programmatic needs of the Synagogue, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, in concluding that the site is burdened and that hardship exists when considering the programmatic needs of the Synagogue, the Board is cognizant of the fact that under New York state case law, religious institutions are presumed to contribute to the public welfare, and the accommodation of such uses is established State policy; and

WHEREAS, the applicant need not address Z.R. § 72-21(b) since it is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit

mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the Board expressed concern related to the maximum occupancy of the Synagogue at any given time; and

WHEREAS, the applicant represents that although the proposed occupancy of the men's sanctuary is 459 people and the women's sanctuary is 247 people, and the proposed occupancy of the multi-purpose room is 438 people, the sanctuaries and the multi-purpose room will not be used simultaneously; and

WHEREAS, the Board also asked for an explanation of uses on the site and when the maximum number of congregants would attend the Synagogue; and

WHEREAS, in response, the applicant provided a description of all of the uses on the site, and explained that the Synagogue would be most heavily attended from Friday night through Saturday night; and

WHEREAS, the Board asked the applicant to discuss whether there would be adequate parking available for the congregants; and

WHEREAS, in response, the applicant represents that more than 61% of the members of the congregation live within three-quarters of a mile of the Synagogue and that 78% of the congregants live within one mile, and that during peak Synagogue hours (i.e., on the Sabbath), members walk to the Synagogue; and

WHEREAS, the applicant submitted a parking study that purported to show that there was adequate on-street parking to meet the needs of the congregation; and

WHEREAS, the Board expressed concern that the parking study was limited to one weekday; and

WHEREAS, in response to the Board's concern, the applicant submitted a parking study that surveyed an area within a 400 ft. radius of the site during another weekday and on the Sabbath; such survey indicates that the proposed new building will not have any adverse parking impacts on weekdays or on the Sabbath; and

WHEREAS, in response to community concerns about parking at events such as weddings, the applicant states that it is likely that the maximum occupancy for the multi-purpose room for events with tables and chairs will be 290 people; given that an average vehicle trip for such events is three to four people, a maximum number of 83 parking spaces would be required; and

WHEREAS, the applicant further represents that the parking study reflects that at all times there were at least 91 parking spaces available, and most times there were more than 100 spaces available; and

WHEREAS, the Community Board and other opposition has certain concerns with the proposed building, including that: dewatering during construction may cause problems for the surrounding area; the weight of the building may endanger structures surrounding the

**326-04-BZ**

**CEQR #05-BSA-046K**

building; weddings and other special events may have traffic impacts on the neighborhood; catering uses on the site could create noise and garbage impacts; and the size and height of the building are out of context with the surrounding neighborhood; and

WHEREAS, in response, the applicant has stated that: it is not proposing to construct a basement below the water table; it has submitted parking studies that reflect that adequate parking is available in the neighborhood for Synagogue uses; that there will be no commercial catering on the site; and the proposed height and size of the building directly relate to the programmatic needs of the Synagogue; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the Synagogue relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-046K dated September 30, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, a Parking Survey was conducted by the Applicant's consultant on July 1, 2005, August 11, 2005 and August 13, 2005 to document available on-street parking spaces within a 400 foot radius of the subject site; the conclusion of this survey was that no adverse parking impacts are anticipated due to the

subject proposal; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes the required findings under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed construction of a new synagogue, contrary to Z.R. §§ 24-111, 23-141, 24-521, 25-18, and 25-31; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 4, 2004"– (4) sheets and "October 3, 2005"–(4) sheets; and *on further condition*:

THAT the sanctuary spaces and the multi-purpose room shall not be used simultaneously, as indicated on the BSA-approved plans;

THAT the above condition shall be listed on the certificate of occupancy;

THAT the bulk parameters of the proposed building shall be as reflected on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 18, 2005.

**A true copy of resolution adopted by the Board of Standards and Appeals, October 18, 2005.**

**Printed in Bulletin Nos. 42-43, Vol. 90.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**