Fully Telepresent and Multi-Access Minyanim

Report to the BZBI Ritual Committee
November 2021

Rabbi Abe Friedman
Rabbi Abi Weber

Overview

Throughout the COVID-19 pandemic, BZBI maintained its full array of worship services using Zoom as the means of convening worshippers. On a few select occasions – High Holy Days 2020 and some *b'nai mitzvah* – a small *minyan* of up to 25 people gathered in BZBI's sanctuary while many more joined by Zoom. Most of the time, however, BZBI's services were held in a manner that this paper will refer to as **fully telepresent**,[1] meaning that all participants in the service connected to Zoom directly, typically from home and with only the other members of their household (if any) physically present for the service.

In June 2021, BZBI began a reopening process that included the resumption of in-person Shabbat services under a framework that this paper will refer to as **multi-access**. In a multi-access service, a *minyan* of worshippers gather in one physical location (BZBI's sanctuary, alternate spaces at BZBI, or outdoor locations) and other worshippers join via Zoom. In a multi-access service, the core *tefillah* activities take place in the physical domain, while some limited possibilities exist for participation via telepresence.

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[1] We avoid the use of the more familiar "virtual" because of our conclusion that telepresence is a form of meaningful presence.

This paper also distinguishes between **convened** and **distributed** *minyanim*: a convened *minyan* is one in which at least ten Jewish people above the age of *mitzvot* are together in one physical space (even if socially distanced by six or more feet); a distributed *minyan* is one in which at least ten Jewish people above the age of *mitzvot* are linked by telepresence from different locations, but no minyan exists in any one physical location.

While multi-access Shabbat services have been held weekly since July, weekday *minyanim* have remained fully telepresent until now. On October 27, the rabbis conducted a pair of Zoom conversations with morning and evening *minyan* stakeholders to hear their experience of fully telepresent *minyanim* and explore their hopes and desires for the future of BZBI's daily *minyanim*. The rabbis also surveyed the relevant positions of the CJLS regarding telepresence and *minyan*. This report will offer recommendations based on the stakeholder meetings, the rabbis' own sense of the congregation's needs, and appropriate *halakhic* boundaries grounded in CJLS guidance.

Health & Safety

BZBI's Shabbat, Yom Tov, and High Holy Days services have thus far encountered no COVID-19-related issues. After five months of multi-access services on Shabbat and festivals, we believe it will be equally safe to offer multi-access weekday services.

We are also aware that different people within our community continue to experience the pandemic differently. In particular, immunocompromised individuals and those living with immunocompromised or unvaccinated household members face a different set of risks with regard to participating in a convened *minyan*.

In addition, we have seen that telepresence offers an important access point for members and others whose physical or mental health conditions make it difficult or impossible to participate in person. For these individuals, the addition of telepresence (whether full or multi-access) offers a way to connect with community and share in a spiritual experience that would otherwise remain out of reach.

Logistics

At the October 27th meetings, questions about stakeholders' ability and/or willingness to attend minyan in person yielded a wide range of responses and suggest that, at least initially, we should migrate some services to multi-access while keeping others fully telepresent. This will help us concentrate in-person attendance on fewer days, hopefully assuring a convened minyan on those days when a multi-access service is held. After an initial trial period, we will review participation patterns and stakeholder feedback to evaluate the effectiveness of this plan in meeting BZBI's needs and make any necessary adjustments. The tables below reflect our recommendations for this initial trial period.

Proposed Schedule for Winter 2021 Minyan

Morning

Day	Time	Format
Sunday	9:00 AM	Multi-Access from BZBI
Monday	7:45 AM	Zoom only
Tuesday	7:45 AM	Zoom only
Wednesday	8:30 AM	Multi-Access from BZBI
Thursday	7:45 AM	Multi-Access from BZBI
Friday	7:45 AM	Zoom only
Shabbat	9:30 AM	Multi-Access from BZBI

Public holidays will have a 9:00 AM start time regardless of the day of the week (except on Shabbat).

Yom Tov mornings will start at 9:30 AM regardless of the day of the week.

Afternoon/Evening

Day	Time	Format
Sunday	n/a	No afternoon/evening minyan
Monday	5:45 PM	Multi-Access from BZBI
Tuesday	8:30 PM	Zoom Only
Wednesday	8:30 PM	Zoom Only
Thursday	8:30 PM	Zoom Only
Friday	5:30 PM	Multi-Access from Fitler Square or BZBI
Shabbat	n/a	No afternoon/evening minyan

Afternoon/evening minyan will not take place on public holidays or yom tov.

Matbe'a Tefillah (Order of Prayers)

The meetings with weekday *minyan* stakeholders yielded additional perspectives – beyond questions of telepresence – that lead the rabbis to recommend a revised approach to *matbe'a tefillah* (the order of prayers in the service). The links below will take you to documents that outline in detail the proposed *matbe'a tefillah* for weekday services.

Matbe'a Tefillah for Morning Minyan

Matbe'a Tefillah for Afternoon/Evening Minyan

Halakhic Considerations

Beginning with the earliest days of the pandemic, the CJLS offered temporary guidance for congregations – both *hora'ot sha'ah* (temporary rulings that need not

be based in precedent) and rulings pertaining to *sha'at ha-daḥak* (an unavoidable but temporary state of emergency). Based on Rabbi Joshua Heller's *teshuvah*[2] and BZBI's current experience of multi-access services, we believe that our community is not presently in a state of *sha'at ha-daḥak*[3] and the halakhic guidance in this paper does not rely on the CJLS *hora'ot sha'ah* or the rulings predicated on *sha'at ha-daḥak*.[4] We will also return to our pre-pandemic practice of reciting the misheberach for the ill only on occasions when the Torah is out.

This leaves us to consider the question of whether halakhah allows for the continuation of fully telepresent and/or multi-access services during a "normal" state of affairs (as opposed to *sha'at ha-daḥak*) and, assuming that proves true, whether it is in BZBI's best interests to continue these practices.[5] Two CJLS *teshuvot*, by Rabbi Joshua Heller[6] and Rabbi David J. Fine,[7] offer a deep exploration of the relevant *halakhic* issues. Rather than repeat their analysis of the sources, this paper will limit itself to the practical application of those *teshuvot* to the services BZBI currently offers or may contemplate offering.

Although Rabbi Heller offers an extensive review of the *halakhic* precedents that could be connected to questions of *minyan* and telepresence, ultimately none of

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[2] Heller, "Are We There Yet? The Pandemic's End, and What Happens Then" (CJLS HM427:8.2021γ) https://www.rabbinicalassembly.org/sites/default/files/2021-08/heller%20pandemic%20end%20teshuva%20%281%29.pdf

[3] We do not intend to diminish the individual experiences of those individuals at heightened risk for COVID-19; however, it is clear that participation in a convened *minyan* is safe for a large majority of our members, and thus *the community as a whole* should not be considered in a state of *sha'at ha-daḥak*. Individuals should still refer questions about their personal practice to one of the rabbis.

[4] It nevertheless remains possible that a future change in circumstances might produce a new *sha'at ha-daḥak* that would lead us to different conclusions than those outlined in this paper.

[5] Our Shabbat practices with respect to telepresence are not predicated on an assumption of *sha'at ha-daḥak* and can continue unaltered; this paper will deal only with the question of how a *minyan* may be constituted.

[6] Heller, "Counting a Minyan via Video Conference" (CJLS OH 55:14.2021a) https://www.rabbinicalassembly.org/sites/default/files/2021-08/heller%20-%20zoom%20minyan%20%282%29.pdf

[7] Fine, "A Minyan is Constituted in Person" (CJLS OH 55:14.2021b) https://www.rabbinicalassembly.org/sites/default/files/2021-11/fine-minyan-in-person.pdf

the ancient or medieval sources – nor even Rabbi Avram Reisner's 2001 *teshuvah* on *minyan* and telepresence[8] – could imagine the near-ubiquitous availability of two-way audio/video conferencing that makes distributed *minyanim* possible. Consequently, we will focus our attention on Rabbi Heller's conceptual analysis[9] rather than dwelling on analogies to halakhic precedents.

Rabbi Heller's first and most compelling argument is that human behavior in 2021 makes it clear that telepresence is considered a "real" presence: real estate transactions, court proceedings, doctor's appointments, and many more activities that once required physical presence are now routinely carried out via telepresence. It is for this reason that we have avoided using the term "virtual" to describe the use of telepresence in *minyanim*. At the same time, there remains a palpable difference between telepresence and physical presence even if the people who are present remain masked and spaced apart beyond a distance that would allow for physical interaction. We consequently believe that a convened *minyan* remains the desirable ideal for Jewish prayer and BZBI should continue to limit the recitation of *devarim she-bikedushah* (e.g., *Barkhu*, *Kedushah*, public Torah reading) to circumstances where a convened *minyan* exists. We also support continuing our established multi-access framework; participants who join the convened *minyan* via telepresence may consider themselves "part of" the minyan for the purposes of *devarim she-bikedushah*.

In an ideal world, we would have sufficient attendance at all weekday services that would allow us to assume we would make a convened *minyan* every time, and we could simply shift all of our *minyanim* from full telepresence to multi-access. Unfortunately, historical experience and recent feedback from *minyan* stakeholders[10] makes it clear that BZBI can not rely on convening a minyan for

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[8] Reisner, "Wired to the Kadosh Barukh Hu: Minyan via Internet" (CJLS OH 55:13.2001) https://www.rabbinicalassembly.org/sites/default/files/2021-07/Reisner%20-%20Internet%20%281%29.pdf

[9] Heller, "Minyan," pp.29ff.

[10] The group that attended the October 27 meetings included those who only began attending minyan during the pandemic; others who used to regularly attend in person and have not joined the fully telepresent services; and a third group who have attended regularly before and throughout the pandemic.

weekday services in the way that we know we can depend on Shabbat morning. As a result we must consider the status of a distributed *minyan*, whether a *minyan* that is fully telepresent or one in which fewer than ten adults[11] are together in a prayer space with additional participants on Zoom bringing the aggregate total above ten.

Can we consider a telepresent group to be a "community?"[12] BZBI's own experience suggests that, to a meaningful extent, a distributed minyan can and should be considered a community. While Rabbi Fine is undoubtedly correct that telepresence can never **fully** substitute for physical proximity, we have also seen that when specific attention is paid to community-building – for example, with Zoom Kiddush and Sunday Shmooze – we can build a sense of community that is as "real" as the telepresence itself. Significantly, those people who have remained on Zoom for Shabbat morning services after the transition to multi-access have continued to hold Zoom Kiddush when the convened minyan heads outdoors for the physical Kiddush. It is therefore our belief that telepresence provides a greater sense of community than a person would have praying on their own, and a distributed *minyan* should be considered preferable to no *minyan* at all. On this basis, we will continue permitting mourners to recite the Mourner's Kaddish as part of a distributed *minyan*, even though we would not allow the recitation of *devarim she-bikedushah* in a distributed *minyan*.[13]

Despite reaching different conclusions about distributed *minyanim*, Rabbi Fine and Rabbi Heller both express concern that an intermediating device will prove to be a greater distraction than any that would be present in the synagogue at a convened minyan. Recent observations of our Shabbat morning service cause us to question whether participants in a distributed *minyan* would be any more prone to distraction than participants in a convened minyan. Aside from the people who are

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[11] That is, halakhic adults – above the age of *mitzvot*.

[12] At present we see no reason to distinguish between a fully telepresent group and a multi-access service without sufficient people to convene a *minyan*.

[13] In support of allowing a distributed *minyan* to recite Mourner's Kaddish, Heller makes a persuasive case that Mourner's Kaddish was a late innovation and never properly part of the category of devarim she-bikedushah into which the other Kaddishes fall (pp.42-43).

in fact using their electronic devices *during services*,[14] the prayers must also compete with the opportunity to read ahead in the *ḥumash*; other books and periodicals that people bring with them; the (mis)fortunes of the Eagles, Phillies, 76ers and Flyers; and a general buzz of near-continuous conversation. However one feels about these behaviors, they call into question the notion that a distributed *minyan* is any more distraction-prone than a convened *minyan*.

We should also consider the extent to which the connective technology itself could become a distraction. Thanks to clear communication of norms for participation and active "hosting" by staff and volunteer leaders, BZBI's online meetings have been generally free from the kinds of inadvertent interruptions that might otherwise occur.[15] Attempts to deliver fully interactive multi-access services for the High Holy Days 2021 were plagued by technical glitches and were the largest source of negative feedback about our High Holy Days services. We have since limited participation by telepresence to the taking of *aliyot* to the Torah, which we have been able to successfully carry out.

On this last point we depart from the CJLS consensus that an *oleh* should be physically present at the Torah. We consider telepresence a real manifestation of personal presence, and consider a person joining a convened minyan via telepresence to be *part of* that minyan even though they do not personally *count toward* the *minyan*. Moreover, contrary to Rabbi Fine's fears, we have not found that people choose telepresence out of convenience or lack of commitment. BZBI's remote *aliyot* have consistently gone to members who are physically unable to navigate our building and can only attend via telepresence; to relatives of b'nai mitzvah (often grandparents) who are unable to travel to Philadelphia; and, during the High Holy Days, to people who stayed home because of COVID-19-related concerns about crowd size in the sanctuary. Our commitment to accessibility, and the value we place on multi-access services as a means of remaining deeply

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[14] To be clear: the issue here is not the problem of using one's phone in shul *on Shabbat*, but the (in)appropriateness of using a phone during davening under any non-emergency circumstances, even on a weekday.

[15] We have also maintained strict security measures that have thus far protected us from any malicious "Zoom bombing" בלי עין הרע.

connected to members who have difficulty getting around our building, leads us to extend the halakhic boundaries of *aliyot* to encompass telepresence as well.[16]

Rabbi Fine's most strenuous objection to distributed *minyanim* is that a fuller embrace of this option will "lessen[] the standards of forming a minyan and reliev[e] our communities of the incentive to gather ten for public prayer."[17] Regardless of whether we agree with Rabbi Fine in the abstract, our task is to assess whether we believe this claim would be true of BZBI in particular, at this specific time in history. Our experience leads us to the opposite conclusion: those who attended *minyan* regularly before the pandemic remain just as committed to participating in a convened minyan; and the people who began attending weekday *minyan* during the pandemic but have stated that they are unlikely to attend in person have nevertheless demonstrated that they understand the significance of *minyan* and its vital place among our congregation's core activities. We believe that those members who historically supported BZBI's weekday services will make a good-faith effort to attend when that is feasible for them – just as they did before the pandemic – and we are hopeful that at least some of the newer arrivals will find ways to attend convened *minyanim* as well. To that end, we are proposing a more varied schedule of services in order to test which configurations yield the most reliable attendance at weekday *minyan*.

The biggest surprise in our reopening transitions thus far has come from the Friday night service. Prior to the pandemic, this service was very lightly attended unless a dinner or other event was being held in the building; only a handful of BZBI members attended on any regular basis, and even with one-time drop-ins and tourists reciting Kaddish, we still failed to convene *minyan* at least once a month and sometimes more often.

Throughout the pandemic, we easily assembled a distributed minyan via Zoom. The reopening process led us to try outdoor multi-access services in Fitler Square, which have proven to be substantially more popular with our members than our

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[16] Nevertheless, we maintain the requirement for the Torah *reader* to be physically present with the scroll.

[17] Fine, "Minyan," 9-10.

pre-pandemic Friday night services: we can reliably convene a minyan in the park and we have 3-5 additional participants on Zoom.

Finally, the *teshuvot* on telepresence devote a lot of time to questions of whether a person can count in a *minyan* if they are unable to see (or be seen), or if they are unable to hear (or be heard). The basic take-away is that in order to count a person toward the *minyan*, we need to have some assurance that they are aware of the *minyan* happening around them. The threshold, however, appears to be quite low: Heller outlines an extensive discussion in *Shulḥan Arukh* and its commentaries as to *how many* sleeping people may count toward the *minyan*.[18]

Rabbi Reisner, following the precedent of *Shulḥan Arukh*, requires that people joining a *minyan* via telepresence have a two-way audio and video connection to the convened minyan. While his *teshuvah* remains the foundation for all CJLS positions on remote access to *minyanim*, the tone of his writing makes it clear that in 2001 he was exploring theoretical possibilities;[19] it seems likely that Rabbi Reisner himself had no direct experience of telepresence for *minyan* at the time of writing that *teshuvah*. By now, however, the entire Jewish world has wrestled in some form with questions of how we understand community and telepresence, and BZBI in particular has developed significant expertise in this area.

Two observations have a direct bearing on this question of seeing, hearing, and presence:

1. It became clear almost immediately that the Zoom technology itself, optimized for asynchronous conference discussions, could not easily accommodate group singing.[20] BZBI, like most synagogues, quickly adopted a

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[18] Heller, "Minyan," pp.30-31.

[19] Consider one sample quote: "While much that is in modern culture does indeed compete with our synagogues for the attention of our members, it is hard to imagine that as a large scale phenomenon our members will stay home from synagogue and connect to it via computer" (Reisner, "Wired," p.6; see also n.8 which makes it clear that Rabbi Reisner's conception of internet access involves a physically wired connection and, apparently, still assumes dial-up rather than broadband as the default means of connection).

[20] For those interested in the scientific explanations for these limitations, Heller offers a concise explanation of how latency affects our listening experience (pp.18-19).

practice of keeping all participants muted except for the *shaliaḥ tzibbur*. Thus while the group was technically connected via two-way audio, in practice only the *shaliaḥ tzibbur* could be heard at most times.[21]

2. Through BZBI's experience with Zoom, there have always been some participants – sometimes even a majority of those logged on – who prefer to have their camera turned off.[22] The most-often cited reasons for turning off the camera were a desire for privacy; a desire not to distract other participants if there was a lot of activity – frequently children and/or pets – in the room; and personal spiritual considerations akin to putting one's *tallit* over their head for certain parts of the service.

Overall, both of these practices – keeping all participants on mute except for the *shaliaḥ tzibbur* and allowing participants to count toward a distributed *minyan* even if their camera is turned off – have had a net positive effect on the fully telepresent service experience. We therefore define a distributed *minyan* as ten or more Jews, above the age of mitzvot, who are connected to Zoom and demonstrably present. Since the only practical consideration for a distributed *minyan* is Mourner's Kaddish, it is sufficient for participants to indicate their presence by unmuting to respond to Kaddish, even if their video is turned off, or to have their video turned on, even if they choose to remain muted (or if a host mutes them due to noise glitches).

For a convened *minyan*, the established *halakhah* as found in *Shulḥan Arukh* continues to apply.

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[21] The one exception to this rule is Mourner's Kaddish, where we ask the group to unmute so we can hear the responses and the various mourners reciting Kaddish; the result is a hot mess and often unintelligible, but more fully captures the experience of reciting Kaddish in a convened minyan.

[22] We also had a few regular participants who, for technological reasons, used Zoom's dial-in feature and had an audio-only connection.