

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
E side of Old Pimlico Road, 25 feet		
S of Micarol Road	*	DEPUTY ZONING
3 rd Election District		
2 nd Councilmanic District	*	COMMISSIONER
(6710 Old Pimlico Road)		
	*	FOR BALTIMORE COUNTY
Friends of Lubavitch, Inc.		
<i>Petitioner</i>	*	Case No. 2009-0115-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Rabbi Shmuel Kaplan on behalf of Friends of Lubavitch, Inc., the legal property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an amendment to the plan approved in Case No. 90-483-SPHA. The subject property and requested relief are more fully described on the original site plan filed with the petition that was marked and accepted into evidence as Petitioner’s Exhibit 1, as well as the redlined site plan submitted at the hearing that was marked and accepted into evidence as Petitioner’s Exhibit 2.

Appearing at the requisite public hearing in support of the requested special hearing was Rabbi Shmuel Kaplan on behalf of Friends of Lubavitch, Inc., Benjamin Bronstein, Esquire, attorney for Petitioner, and Richard E. Matz of Colbert Matz Rosenfelt, Inc., the professional engineer who prepared the site plan. Also appearing in support of the requested relief was Rochelle Kaplan and Mical E. Wilmoth Carton. Appearing as an interested citizen with concerns about the requested relief was Paul Abrams who lives nearby at 6715 Old Pimlico Road.

Testimony and evidence offered revealed that the subject property is an irregular-shaped property consisting of approximately 46,999 square feet or 1.079 acre, more or less, zoned

D.R.3.5. The property is located on the east side of Old Pimlico Road at its intersection with Micarol Road, just north of Smith Avenue and east of Greenspring Avenue, in the Pikesville area of Baltimore County. The property is improved with an existing two-story brick building that serves as a synagogue at the location. There is also asphalt paving with 26 parking spaces, including two handicapped spaces. As its D.R. zoning suggests, the area surrounding the subject property is largely residential, except for a property adjacent to the subject property to the south that is zoned B.L. and is occupied by a bank and convenience store.

The property was the subject of a prior zoning case in 1990. At that time, Petitioner had acquired the subject property and proposed to construct a building for use as a synagogue. In order to do so, Petitioner requested special hearing relief for a determination as to whether their proposed improvements were planned in such a way that compliance to the extent possible with the Residential Transition Area (RTA) requirements would be maintained. Variance relief was also requested from the front and side setback requirements. In Case No. 90-483-SPHA, then-Deputy Zoning Commissioner Ann M. Nastarowicz issued an Order dated August 27, 1990 denying the special hearing and variance requests. Thereafter, Petitioners appealed the ruling to the Baltimore County Board of Appeals. In an Order dated June 20, 1991, the Board granted the special hearing relief, finding that the proposed structure for the synagogue was in compliance with the B.C.Z.R. and should be permitted. The Board also granted the variance requests. Copies of the aforementioned Orders were collectively marked and accepted into evidence as Petitioner's Exhibit 4. The granting of the relief was upheld by the Circuit Court for Baltimore County in Case No. 91CG3102.

At this juncture, and as shown on the redlined site plan, Petitioner desires to construct a 3,500 square foot one-story addition with partial basement. The special hearing request is to

amend the plan granted in Case No. 90-483-SPHA to now include the proposed addition. According to testimony proffered by Mr. Bronstein, the addition would provide additional space for activities and functions related to the synagogue, such as wedding and bar and bat mitzvah receptions. Mr. Bronstein also indicated that these uses would only be for use internally, meaning for the members of the synagogue, and not for rent to the general public. The addition would be connected to the main synagogue building by way of an enclosed breezeway. Architectural drawings and elevations of the proposed addition were marked and accepted into evidence as Petitioner's Exhibit 3. The drawings show the main floor would have a classroom, library/conference room, kosher kitchen, café/study hall and lounge, with a small outdoor deck. The ground floor (partial basement) would be the location of the social hall, warming kitchen, restrooms, and a storage area. Mr. Bronstein also stressed that the requested addition would be in character with the existing neighborhood, and would not require any additional variances than were granted previously. Mical E. Wilmoth Carton, Executive Director of the Pikesville-Greenspring Community Coalition, Inc., appeared and offered testimony that her organization is supportive of Petitioner's plan.

In support of the request for amendment to the previously approved plan, Petitioner's Engineer, Mr. Matz, was offered and accepted as an expert in land use and the B.C.Z.R., and provided testimony and opinions as to the relevant criteria contained in Section 502.1 of the B.C.Z.R. In particular, Mr. Matz indicated that the proposed new building addition would not be detrimental to the health, safety or general welfare of the locality involved; would not tend to create congestion in roads, streets or alleys therein; would not create a potential hazard from fire, panic or other danger; would not tend to overcrowd land and cause undue concentration of population; would not interfere with adequate provisions for schools, parks, water, sewerage,

transportation or other public requirements, conveniences or improvements; would not interfere with adequate light and air; would not be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; would not be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor be detrimental to the environmental and natural resources of the site and vicinity.

Testifying as an interested citizen, Paul Abrams expressed concerns about the existing synagogue and the proposed addition. These included concerns over potential overflow parking in the neighborhood, as well as noise from potential events to be held at the location, and noise from the playground -- mostly during camps in the summer.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition to the requested relief provided certain comments are addressed by Petitioner.

Considering the testimony and evidence produced at the hearing, I am persuaded to grant the requested relief and approve the amendment to the plan, as shown on the redlined site plan accepted into evidence as Petitioner's Exhibit 2. It appears the proposed addition would provide much needed space for the members of the synagogue, and would be constructed in such a manner as to fit in with the aesthetics and character of the existing neighborhood. It also appears from the testimony and evidence that there would be minimal, if any, negative impacts from the proposed addition, and would meet the criteria set forth in Section 502.1 of the B.C.Z.R for an amendment to a plan.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the parties, I find that Petitioner's request for special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 28th day of January, 2009 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an amendment to the plan approved in Case No. 90-483-SPHA be and is hereby GRANTED, subject to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner shall submit final architectural elevations to the Office of Planning for review and approval prior to the application for building permit.
3. Petitioner shall provide a landscape plan.
4. Petitioner shall retain the trees along the eastern property boundary to provide screening to the immediate adjacent neighbor -- who is the most directly affected by this project.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz