

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(7644 & 7646 Carla Road)	*	OFFICE OF
3 <sup>rd</sup> Election District		
2 <sup>nd</sup> Council District	*	ADMINISTRATIVE HEARINGS
The Pikesville Jewish Congregation, Inc.	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	<b>Case No. 2018-0219-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of The Pikesville Jewish Congregation, Inc., legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) seeking: (1) A consolidation of Lot Nos. 7 & 8, shown in Section 1, Block 8 of the plat of Labyrinth; (2) A modified parking plan and modified parking requirements for the proposed uses; (3) A finding that the existing/proposed improvements shown on the site plan are planned to comply to the extent possible with applicable Residential Transition Area (“RTA”) and buffer requirements; and (4) Continued use of the building at 7644 for synagogue purposes, including child programs, teaching and offices.

A petition for variance seeks: (1) To permit a front yard setback of 25 ft. in lieu of the 40 ft. required, an interior side yard setback of 11.5 ft. in lieu of the 20 ft. required, and a corner street side yard setback of 18 ft. in lieu of the 35 ft. required; (2) Alternatively, relative to the applicable RTA, if the requested special hearing finding and/or determination are not granted: (a) To permit the proposed one-story building for religious worship; and (b) To permit accessory parking in a RTA, with a setback of 10 ft. and landscaped buffer of 0 ft. in lieu of the 75 ft. and 50 ft. required

respectively; and (3) Alternatively, if the request for approval of a modified parking plan is not approved; to permit a total of 16 parking spaces for a new synagogue use with 300 seats.

The original site plan filed with the petition was marked and accepted into evidence as Petitioner's Exhibit 1, and a revised plan incorporating several changes requested by the community was marked as Petitioner's Ex. 2.

Professional engineer Rick Richardson appeared in support of the requests. Howard L. Alderman, Jr., Esq. represented the Petitioner. Several community members attended the hearing to express concern with certain aspects of the project. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning ("DOP"), The Bureau of Development Plans Review ("DPR") and the Department of Public Works ("DPW").

#### SPECIAL HEARING

The petition for special hearing essentially contains two substantive zoning requests: approval of a modified parking plan and a finding that a sufficient RTA buffer is shown on the site plan. The synagogue will have 300 seats, which under the BCZR would require 75 parking spaces. BCZR §409.6. Neither the Petitioner nor the community believe that number of spaces is required, especially since the great majority of congregants will walk to the synagogue. In addition, counsel indicated Petitioner is in the process of securing approval for parking on Saturday/Sunday at the nearby Pikesville High School. In these circumstances I believe the parking shown on the revised site plan (Pet. Ex. 2, with 16 spaces) will be more than adequate.

In terms of the RTA, it would be physically impossible for Petitioner to provide the requisite setbacks on this property. The plan shows that a 10 foot wide landscaping strip will be provided where the site adjoins existing dwellings. In addition, the County landscape architect

will require Petitioner to submit a landscape plan demonstrating compliance with the Landscape Manual, which will require plantings along each of the property boundaries. In these circumstances I believe the buffer provided will adequately screen the arguably “dissimilar” uses, and this aspect of the petition for special hearing will also be granted.

### VARIANCE

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Cromwell v. Ward*, 102 Md. App. 691 (1995).

The subject property is situated at the intersection of two public streets, which makes the property unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the proposed improvements. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. Several conditions (including those proposed by the community) will be included below which are designed to minimize the synagogue’s impact upon the surrounding residential neighborhood.

Several neighbors inquired whether a dumpster (as shown on the site plan) was in fact required in this case. Baltimore County considers buildings for religious use to be institutional or nonresidential, and Condition H of the Landscape Manual (pp. 39-40) provides specific requirements and guidelines for the use of dumpsters in this setting. As such, this is a matter that must be considered by the County landscape architect when he reviews the landscape plan for the

site. I will however include a condition restricting the hours during which the dumpster may be emptied, so adjoining neighbors are not disturbed in the early morning or late evening hours.

Both DPR and DPW submitted comments (dated March, 2018) concerning the existence of a riverine floodplain on the site. Since that time Petitioner engaged a contractor to perform a floodplain study, which has been submitted for review by Baltimore County. Therefore, I trust those agencies will ensure that Petitioner complies with all floodplain regulations. Both agencies also expressed concern with whether the proposed parking lot would be built over an existing sewer main. Mr. Richardson explained that the size of the parking lot has been greatly reduced, but that a small portion of the paving would in fact be over the 8-inch sewer main. A condition will be included below requiring Petitioner to convey to Baltimore County at no cost the necessary easements to provide access for future repairs/maintenance of that infrastructure.

THEREFORE, IT IS ORDERED this 10<sup>th</sup> day of **September, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR) seeking: (1) A consolidation of Lot Nos. 7 & 8, shown in Section 1, Block 8 of the plat of Labyrinth; (2) A modified parking plan and modified parking requirements for the proposed uses; (3) A finding that the existing/proposed improvements shown on the site plan are planned to comply to the extent possible with applicable Residential Transition Area (“RTA”) and buffer requirements; and (4) Continued use of the building at 7644 for synagogue purposes, including child programs, teaching and offices, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a front yard setback of 25 ft. in lieu of the 40 ft. required, an interior side yard setback of 11.5 ft. in lieu of the 20 ft. required, and a corner street side yard setback of 18 ft. in lieu of the 35 ft. required, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. No school or day care services shall be provided at the subject property.
3. Only residential style lighting and fixtures shall be permitted on the exterior of the subject property.
4. The dumpster and any other trash cans shall be kept within a masonry enclosure, the design of which must satisfy the requirements set forth in the Landscape Manual.
5. Petitioner shall submit for approval by Baltimore County landscape and lighting plans for the site.
6. All signage must be located on the building and must be in compliance with B.C.Z.R. §450.
7. No temporary or freestanding signs shall be permitted on the subject property.
8. The dumpster at the property may be emptied only between the hours of 9 a.m.- 7 p.m., Monday-Friday.
9. Petitioner must convey to Baltimore County at no cost easements deemed necessary by DPW/DPR to provide access to the 48-inch storm drain and 8-inch sewer main on the subject property.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln