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*Chief Administrative Law Judge*  
ANDREW M. BELT  
*Administrative Law Judge*  
DEREK J. BAUMGARDNER  
*Administrative Law Judge*

October 31, 2025

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Smith, Gildea & Schmidt, LLC  
600 Washington Avenue, Suite 200  
Towson, MD 21204

Re: Petitions for Special Hearing & Variance  
Case No: 2025-0184-SPHA  
Address: 2903 and 2905 Old Court

Dear Mr. Schmidt:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

ANDREW M. BELT  
Administrative Law Judge  
for Baltimore County

AMB:dIm  
Enclosure  
c: -See Next Page-

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IN RE: <b>PETITIONS FOR SPECIAL HEARING</b> *	BEFORE THE
<b>AND VARIANCE</b>	
(2903 and 2905 Old Court Road) *	OFFICE OF
3 <sup>rd</sup> Election District	
2 <sup>nd</sup> Council District *	ADMINISTRATIVE HEARINGS
Etz Chaim Center, Inc.	
<i>Legal Owner</i> *	FOR BALTIMORE COUNTY
<b>Petitioner</b> *	<b>Case No. 2025-0184-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance relief filed on behalf of the legal owner, Etz Chaim Center, Inc. (“Petitioner”) for the property located at 2903 and 2905 Old Court Road. (“the Property”). Special Hearing relief from the Baltimore County Zoning Regulations (“BCZR”) §500.7 was requested as follows:

1. To permit the conversion of a building used as a dwelling to a synagogue (i.e., building to be used for worship and related religious purposes) which is exempt from the Residential Transition Area (“RTA”) regulations pursuant to BCZR §1B01.1B.1(g)(4)(5) and/or (6).
2. To determine if the property is being developed and if, therefore RTA regulations apply pursuant to BCZR §1B01.1. B.1(a)(1).
3. Upon utilization of the property as a building to be used for religious worship, that the minor subdivision plan #05-050-M be forfeited and extinguished, and the plan in zoning Case No. 2008-56-A be amended as show on the attached site plan.
4. If necessary, to allow a parking lot with a 32-foot RTA setback and buffer in lieu of the required 50-foot RTA buffer and 75-foot RTA setback, pursuant to BCZR §1B01.1. B.1(e)(5).
5. If necessary, to allow a building as close as 39 feet to a property line in lieu of the required 50-foot RTA setback pursuant to BCZR §1B01.1. B.1(e) (3).
6. For the Administrative Law Judge (“ALJ”) to determine the impact of the Religious Land Use and Institutionalized Persons Act on the property in view of Case No. 2024-0012-SPHXA.

7. For such other and further relief as may be required by the ALJ for Baltimore County.

Variance relief pursuant to BCZR §307 was requested as follows:

1. If necessary, to allow an accessory structure to be located in the front/side yard in lieu of the required one third of the yard furthest removed from any street pursuant to BCZR §400.1.
2. To allow a side yard setback of 63 feet in lieu of 65 feet (corner street side per BCZR §1B02.3. C.1.)
3. For such other and further relief as required by the ALJ for Baltimore County.

A public Webex hearing was conducted virtually in lieu of an in-person hearing on October 9, 2025. The Petition was properly advertised and posted. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), the Department of Development Plans Review (“DPR”), State Highway Administration (“SHA”) and the Department of Environmental Protection and Sustainability (“DEPS”). These agencies did not oppose the requested relief.

Zev Pomeranz, Petitioner and Authorized Member for Etz Chaim Center, Inc., appeared at the hearing. Patrick (“Rick) Richardson, P.E., the engineer who prepared and sealed the site plan, also appeared. Lawrence Schmidt, Esquire of Smith Gildea and Schmidt represented the Petitioner. There were many protestants and/or interested citizens that appeared at the hearing. Nearby residents, Janis Kramer, Richard Talken, Rebecca Leaf, Ayme Lederman, and adjacent neighbor, Karen Sugar, testified in opposition to the Petitioner’s requested relief.

The property is approximately 3 acres and is zoned DR 1. Mr. Schmidt explained that the Petitioner has purchased the subject property and plans to convert the single-family dwelling presently on the property into a Jewish Learning and Living Center run by Etz Chaim Center, Inc. Other than the proposed widening of the existing driveway and entrance and the addition of several parking spots, no other physical alterations to the property are proposed.

Unlike Community Input Hearings that take place in the Development Process where community members are afforded the opportunity to express their opinions as to proposed development, this is not the case in Zoning cases before the Office of Administrative Hearings. Zoning matters like the one at issue in this case, are determined by an evidentiary hearing. In an evidentiary hearing, like in other courtroom settings, hearings include the swearing-in of witnesses, direct and cross examination and the testimony of expert witnesses. While community members are welcomed to testify and offer testimony that is relevant for the ALJ to consider in fashioning a decision, the relevance of such testimony is to be determined by the ALJ and subject to cross-examination by opposing counsel. Additionally, due process requires that any evidence to be considered by the ALJ must be presented during the actual evidentiary hearing to afford opposing parties the opportunity to cross-examine same. Accordingly, letters and phone calls directed to OAH outside the parameters of the evidentiary hearing itself, are not considered part of the evidentiary record.

The hearing on this matter was held via WebEx, as is customary for such hearings, unless a request is made for the hearing to be held in-person. No such request was made in this matter. During this WebEx, over 50 persons appeared at the beginning of the 10:00 a.m. roll call. The ALJ addressed each of these initial participants personally and inquired as to whether they wished to testify or ask questions after the Petitioner's case was presented. Adjacent neighbor, Nancy Sugar was afforded the opportunity to cross-examine Petitioner's witnesses following each of their testimony. At the conclusion of the Petitioner's case, participants who had noted a desire to testify were allowed to do so, and the attendees were again polled by the ALJ as to whether any additional persons wished to be heard. Over 100 participants joined the hearing before its ultimate conclusion. While it is not uncommon for complicated hearings such as this one to carry on for several days, the hearing on this matter was completed in one day, over the course of approximately 5 hours.

## PETITIONER'S CASE

First to testify was Petitioner's representative Rabbi Zev Pomeranz, who explained that he will be responsible for administrating programs at the subject property. Rabbi Pomeranz clarified that the subject property would not be used as a traditional synagogue, but rather a Jewish Learning and Living Center that periodically may hold services on high holy days, and some other occasional Saturdays. Rabbi Pomeranz explained that his organization has maintained locations on Light Street in Baltimore City and on Smith Avenue in Baltimore County. Similar services have been held at the Smith Avenue location in the past where with 23 people attending the Rosh Hashana service and 18 for Yom Kippur. He testified that many of the people who participate in the programs provided by Etz actually attend other nearby synagogues for Saturday services. He noted that this arrangement with surrounding synagogues is encouraged. Rabbi Pomeranz explained that the programs to be offered at the subject property will include meetings for religious study, education and counseling. He noted that program participants are not necessarily Orthodox and almost always drive to events administered by Etz and he foresees this to be true for the proposed use as well, thus, eliminating concerns regarding pedestrian travel on the adjacent roads which lack sidewalks. He explained that the site plan has included parking accommodations in excess of County requirements in order to avoid any instance which would lead to parking in the surrounding community or adjacent streets.

Next to testify was Petitioner's expert, Patrick Richardson. He was accepted as an expert in engineering, land use, and the BCZR. He explained the site plan and the requested relief in detail. (Pet. Ex. 1A-B) He testified that the subject site will only be changed by the widening of the driveway and the creation of 12 additional parking spots. He clarified that he did not see that the clearing of additional streets will be required. He explained that there is currently a shed-type structure on the front of the property that was noted to be removed on the prior minor subdivision plan for the subject property. (Pet. Ex. 9) He further explained that this shed cannot be located on

the rear third of the property due to its steep slopes and wooded nature. Consequently, he opined that the structure requires variance relief to remain in its current location on the front of the property. Additionally, he clarified that the need for a side-corner setback of 63 ft. in lieu of 65 is for the corner of the already existing attached garage. He testified that the new set-back requirement is tied to the new proposed use for the structure. As to whether the proposed paving and parking expansion constitutes “development”, Mr. Richardson opined that it did not, in that development plans are not required for parking lots. He also opined that even if the proposed changes to the subject property constituted “development” the exceptions found in BCZR §1B01.1B.1(g)(4)(5) and/or (6) would apply. He explained that all of these exceptions can be interpreted to include the subject property’s conversion into a Jewish Learning and Living Center, making the application of RTA regulations inapplicable. In the event that RTA regulations apply, Mr. Richardson opined variance relief was appropriate due to the requirements outlined in BCZR §1B01.1B.1C(1)(2). Mr. Richardson noted that the subject property had been previously granted variance relief in Case No. 08-056-A, and that the Petitioner would suffer practical difficulty in being prohibited from converting the current structure into a synagogue, a use permitted by right in D.R. zones. Additionally, Mr. Richardson noted that ZAC comments had been received from all relevant County Agencies and that no agency opposed the Petitioner’s requested zoning relief. Mr. Richardson, further opined that a reduction in the RTA variance requirements for the subject property will not adversely impact the residential community or development on the land adjacent to the property to be developed. He again reiterated that no changes were being made to the property other than the driveway widening and additional parking area. He explained that the subject property is not visible from Old Court Road and is significantly buffered by adult trees. He admitted that he had not obtained a traffic study for the proposed use, but referred to Rabbi Pomeranz’s testimony citing that traffic from the property will not correspond with peak traffic hours.

## PROTESTANTS' CASE

Adjacent neighbor Karen Sugar testified in opposition to the Petitioner's requested relief. Ms. Sugar explained that she is concerned with the number of trees that have been removed from the subject property as well the number of trees that may be removed in the future. She explained that the removal of trees erodes the visual buffer between her property and the proposed use. Additionally, she testified that she is opposed to the number of proposed parking spots on the subject property and their proposed location. She testified that she believes that in order to make room for this proposed parking, additional trees will be removed. She stated that she preferred any additional parking to be located in the rear of the subject property. Ms. Sugar expressed serious concern regarding traffic issues that may arise from the proposed use. She explained that Greenspring Avenue and Old Court Road is an extremely busy intersection that causes vehicles to cue up past the entrance to the subject property when the light for traffic traveling eastbound on Old Court is red. Finally, Ms. Sugar opined that the Petitioner has miscalculated the distance from the subject site to her property, and that any requested variance relief in regard to said distance is not necessary.

Interested persons and nearby residents Janis Kramer, Richard Talken, Rebecca Leaf, and Ayme Lederman all testified in opposition to the Petitioner's' proposed relief. These residents shared similar concerns with Ms. Sugar regarding the potential additional traffic created by the proposed use and dangerous conditions created for pedestrian travelers due to the lack of sidewalks. While it was acknowledged that Etz is proposing a limited use of the subject property, these concerned citizens are not convinced that such a use will not intensify in the future.

## DECISION

Pursuant to BCZR, §1B01.1.B.1(A)(3) "churches and other buildings for religious worship or other religious institutions" are permitted as of right in all D.R. zones. Consequently, while many other uses are allowed by Special Exception and are subject to the factors outlined in BCZR

§5021.1<sup>1</sup>, churches and other buildings for religious worship or other religious institutions are not. These factors would include things like traffic, overcrowding of the land and various demands on public services, factors that are absent from a variance request analysis for as of right. In a Special Exception hearing, in order for such a request to be denied it must be determined that there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use. *Schultz v. Pritts*, 291 Md. 1 (1981). In contrast, uses by right imply that the County Council has considered potential impacts for such uses, i.e., traffic, and has chosen to deem such uses as of right, nonetheless. Due to the fact that the subject property is located in a D.R. zone and that a non-residential use is being proposed, BCZR §1B01.1.B.1(B) involving Residential Transition Areas (“RTA”) comes into play. This section of the Zoning Regulations imposes certain regulations when dissimilar housing types are built adjacent to one another. (In this case, dissimilar uses.) While it is clear that the proposed use of the subject property may trigger consideration of

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<sup>1</sup> BCZR 502.1

§502.1. Conditions determining granting of special exception.

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air;
- G. 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;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations;
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone, and for consideration of a solar facility use under Article 4F, the inclusion of the R.C. 3, R.C. 6, and R.C. 8 Zones.

RTA regulations there are definitional limits, exceptions and conditions for variance relief which may nullify these Regulations.

***Does the proposed plan for the Subject Property Constitute Development?***

In the Petitioner’s Request for Special Hearing #2, they have requested the ALJ to determine if the Petitioner’s proposed conversion of the subject property into Jewish Learning and Living Center constitutes “development.”

The definitional section of BCZR, §1B01.1.B.1 states the following regarding the applicability of the RTA:

- B. Dwelling-type and other supplementary use restrictions based on existing subdivision and development characteristics.
  - 1. Residential transition areas and uses permitted therein.
    - a. Definitions and purpose.
      - (1) The residential transition area (RTA) is a 100-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site **to be developed**.
      - (2) The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.
    - b. Generation of residential transition area. An RTA is generated if the property **to be developed** is zoned D.R. and lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R.5.5 or R.C. which:
      - (1) Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; or
      - (2) Is vacant, less than two acres in size, and contains a buildable area at least 20 feet by 30 feet on which a dwelling meeting all required setbacks can be erected. (Emphasis added)

As noted above, the applicability of the RTA regulations is conditioned in instances where the “development” of the property is proposed. (See, Case Nos. 2020 -0390 SPHA and 2024-0104-SPH). Accordingly, a determination must be made as to whether the widening of the subject property’s driveway and creation of additional parking spaces constitutes

“development”. The Baltimore County Code (“BCC”) includes the definition of “development” as follows:

BCC §32-1-1(p)

- (1) The **improvement** of property for any purpose involving building;
- (2) The subdivision of property;
- (3) The combination of any two or more lots, tracts, or parcels of property for any purpose;
- (4) Subjecting property to the provisions of the Maryland Condominium Act; or
- (5) The preparation of land for any of the purposes listed in this subsection. (Emphasis added.)

For further clarification, the BCC provided the following definition of “improvement:”

BCC §32-101(w)(2)

- (i) Streets;
- (ii) Drains, bridges and culverts;
- (iii) Sewers;
- (iv) Water Lines
- (v) Open Space
- (vi) Curbs and gutters
- (vii) Sidewalks and paths;
- (viii) Streetlights;
- (ix) Landscaping;
- (x) Stormwater management facilities;
- (xi) Traffic-control devices;
- (xii) Telecommunications conduits; and
- (xiii) Other improvements as determined necessary and appropriate by the County.

Petitioner argues that the proposed changes to the property are similar to that of a parking lot, which would not require a development plan, and, thus, is not considered “development.” While this may be the case in the case of development case requirements, other Code sections *in pari materia* with the section at issue incorporate additions to driveways and parking areas to fall

under RTA review. This is evidenced by the exception to RTA requirements found in BCZR, §1B01.1.B.1(g)(4) which states the following:

- (4) An addition to an existing church or other building for religious worship, including **parking areas** and **driveways**, provided all other applicable zoning regulations including setback, parking and screening requirements, are maintained. (Emphasis added.)

Additionally, it is clear that the widening of the driveway and the addition of parking spaces also constitutes “improvement” as contemplated in the development definition.

Based on the analysis *supra*, I find that the Petitioner’s proposed conversion of the subject property constitutes “development”, thus, triggering further review of RTA applicability.

***Is the proposed conversion of the subject property exempt from RTA regulations pursuant to BCZR §1B01.1B.1(g)(4)(5) and/or (6) (Request for Special Hearing #1)***

Exemptions from RTA regulations found in BCZR §1B01.1B.1(g)(4)(5) and (6) state the following:

- (4) An addition to an existing church or other building for religious worship, including parking areas and driveways, provided all other applicable zoning regulations including setback, parking and screening requirements, are maintained.
- (5) A new church or other building for religious worship constructed on a parcel of land large enough to provide landscaped but otherwise unimproved yard areas of 100 feet between any improvement and any property line other than street frontages.
- (6) A new church or other building for religious worship, the site plan for which has been approved after a public hearing in accordance with Section 500.7. Any such hearing shall include a finding that the proposed improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that said plan can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

The next issue to be addressed is whether any of the exemptions noted above apply to the Petitioner’s proposed conversion of the subject property. While the language of these exceptions

lends themselves to multiple interpretations, I find that exception (6) applies to the case at bar. The term “new church or other building for religious worship”, while not literally in keeping with the proposed conversion of the subject property, is rationally interpreted to encompass a new church or religious worship use. *Ware v. Peoples Counsel for Baltimore County*, 223 Md. App. 669 (2015) This interpretation is *in pari materia* with RTA regulations and relevant case law, which find that the RTA is not only concerned with disparate housing types, but also with disparate uses. *See id.* Such an interpretation allows a residential property that is to be converted into religious use to constitute a “new church or other building for religious worship” as referred to in exception (6). In that the purpose for the hearing in this matter is already akin to a “public hearing in accordance with Section 500.7,” the remaining question for the applicability of exception (6) is whether “improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that said plan can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.” In light of the testimony discussed *supra*, I find that the answer to this question is in the affirmative. As noted previously, the requested RTA relief is minimal. The subject property sits at a low grade below the street level of Old Court Road and, thus, is unable to be seen from the road. Additionally, considerable mature tree growth further shields the property from Greenspring Avenue. There remains a significant number of trees screening the subject and the neighboring property, and the Petitioner has agreed to replant any trees that the Sugars require. As no changes are proposed to the existing structure on the subject property, its residential appearance will continue, in keeping with neighboring residential properties. The proposed use of the subject property as a Jewish Learning and Living Center is provided by right in D.R. zones. Consequently, it can be inferred that the County Council considered typical impacts of such a use, therefore it can be extrapolated that such is in keeping with the “general welfare of the community”. If such a use as permitted only by Special Exception, the factors established in BCZR, §502.1 would be at issue. These

factors would consider such issues as traffic. However, in this matter, no such analysis is required. Consequently, the Petitioner is not required to provide a traffic study as part of their petition or in their case before the ALJ. Traffic issues, however, will be subject to further review by Maryland State Highway Administration (“SHA”) when the Petitioner applies for an access permit for the property. Protestants have noted that in light of the traffic congestion issues at the intersection of Old Court Road and Greenspring Avenue, the subject property should be restricted to right turn only entry and exit. I believe this to be an extremely rationale suggestion, especially in instances when weekend services are held on the property. As it is not within the purview of my authority to mandate same, I may only suggest such an accommodation in the conditions of this Order.

In light of the discussion above, I find that the exception from RTA regulations found in BCZR, §1B01.1B.1(g)(6) applies the case at bar and that the Petitioner’s Special Hearing Request is granted as to this issue, thus, making RTA regulations inapplicable to the case at bar, and, thus, negating the need for Variance relief from the RTA.

***Request for Variance Relief pursuant to BCZR §1B01.1B.1C***  
***(Special Hearing Requests (4-5))***

Assuming, *arguendo*, that the proposed conversion of the subject property was not exempt from RTA regulations, variance relief from these regulations may be requested pursuant to BCZR §1B01.1B.1C. This code section provides the following:

Variance of RTA.

(1) Notwithstanding the provisions of [Section 307](#), the hearing officer, upon the recommendation of the Departments of Public Works and Transportation, Planning, Environmental Protection and Sustainability, Permits, Approvals and Inspections, Recreation and Parks, or Economic and Workforce Development, may determine the amount of RTA in cases where a single tract is more than two acres, is vacant, or contains no more than one single-family detached, semidetached or duplex dwelling.

(2) The RTA for a tract may be modified as directed by findings pursuant to §32-4-402 and the hearing officer's hearing under Article 32, Title 4, Subtitle 2 of the Baltimore County Code. However, the hearing officer may not reduce the amount of RTA unless the officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.

Subsection (1) instructs us to first employ the standards for granting non-RTA variances outlined in BCZR, §307. This code section states the following:

§307.1. Authority to grant variances; procedures and restrictions.

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification.

Maryland case law has determined the applicability of this Code section to be interpreted 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).

Testimony has established that the subject property is unique in its low-lying topography, making it invisible from Old Court Road, and in the sloping, wooded nature of the rear of the property. While not a classic example of “uniqueness,” the proposed use is unique in that it requires no external alterations to the structure on the property. Additionally, but for the granting of the requested variance relief, the Petitioner would be precluded from operating a place of religious worship at the subject property, a use designated by right in D.R. zones. In further examination of the criteria found in §1B01.1B.1C (1), all relevant County agencies have reviewed the proposed use of the property, and none had expressed opposition. Finally, in contrast to many proposed conversions of residential structures to places of religious worship, the subject property is a single tract, is more than two acres and contains no more than one single-family detached, semidetached or duplex dwelling as contemplated by §1B01.1B.1C (1). Accordingly, assuming *arguendo*, that the subject property was not exempt from RTA regulations, an RTA variance would be appropriate. Consequently, while this Special Hearing request is moot, it would be alternatively granted, nonetheless.

***Forfeit of Prior Minor Sub-Division Plan (Special Hearing Request #3)***

Petitioner has requested a ruling on whether the minor subdivision plan #05-050-M is forfeited and extinguished in light of the approved use of the subject property, and whether the plan in zoning Case No. 2008-56-A can be amended as shown on the site plan in this matter. Petitioner entered into evidence the prior approved 2008 approved minor subdivision for the subject property. (Pet. Ex. 9) Pursuant to that plan, the subject property was to be sub-divided and another residential dwelling constructed on the southern portion of the property. Petitioner argues that while a process exists in the Development regulations for the amending of non-minor subdivision plans, no such mechanism exists for minor subdivisions. While this type of request is novel in a zoning proceeding, I find that the law of merger would make the substance of the

Petitioner's request *de facto* in nature and is consequently, moot. In *Remes v. Montgomery County*, 387 Md. 52 [874 A.2d 470] (2005), the Court of Appeals explained the doctrine of zoning merger. In *Remes*, the Court held that two contiguous lots held in common ownership, once used in service to one another, merge for zoning purposes. Consequently, even if we were to consider that two separate lots exist on the subject property, the use of the southern lot for parking and an expanded driveway serving the now existing structure on the northern lot would preclude the southern lot from ever being developed for residential purposes, thus making the prior subdivision plan null and void. As this Request for Special Hearing does not call for the interpretation of the Zoning Regulations, it is beyond the purview of the ALJ's authority. That being said, the Special Hearing relief request is not specifically denied, but rather found to be moot as the doctrine of merger (for Zoning purposes) has legally exhausted the possibility of future subdivision.

***Religious Land Use and Institutionalized Persons Act (“RLUIPA”) in view of  
Case No. 2024-0012-SPHXA.***

In Special Hearing Request No. 6, the Petitioner has asked the ALJ to determine the effects of RLUIPA on the Petitioner's requests for Zoning relief. In that such relief has been granted within the confines of standard County Zoning principles, such an analysis is unnecessary, making this Special Hearing request, hereby, moot. In the event that such an analysis would be required, the constitutional analysis set forth in such relevant cases as *Jesus Christ is the Answer Ministries, Inc. v. Baltimore County*, 915 F.3d 256, 260-61 (4<sup>th</sup> Cir. 2019), would be employed, separate and apart from other OAH or Baltimore County Board of Appeals opinions, which while persuasive, are not legally controlling.

***Variance relief pursuant to BCZR, §307 (Variance Relief 1&2)***

Separate and apart from the RTA variances requested previously, the Petitioner has requested traditional variances to allow an accessory structure to be located in the front/side yard in lieu of the required one third of the yard furthest removed from any street pursuant to BCZR

§400.1 and to allow a side yard setback of 63 feet in lieu of 65 feet (corner street side per BCZR §1B02.3. C.1). These variance requests are to be evaluated subject to BCZR, §307 and the *Cromwell* analysis found *supra*. As previously noted in the RTA variance analysis, I find that the property is “unique” as contemplated in *Cromwell*. Additionally, I find that practical difficulty would exist if variance relief were not granted for the same reasons previously stated. Accordingly, Petitioner’s request for variance relief pursuant to BCZR, § 307 is granted.

### CONCLUSION

In light of the large number of participants who joined the WebEx for this matter, it is clear that there is significant amount of community opposition to the proposed use of the subject property. Such concerns are focused on traffic issues caused at Old Court Road and Greenspring Avenue. These concerns while not unfounded, unfortunately, are not the subject of Zoning hearings for variance requests involving uses as of right. Nearby residents have also expressed concerns that, although the Petitioner testified that the use of the subject property will be extremely limited, they are not convinced that such use will not increase in the future. While this concern is also valid, the extent to which operations at the subject site can be expanded are limited by the County permitting process, separate and apart, from the Zoning review involved in this matter.

THEREFORE, IT IS ORDERED this **31st** day of **October 2025**, by this Administrative Law Judge that the Petition for Special Hearing relief from the Baltimore County Zoning Regulations (“BCZR”) §500.7, to permit the conversion of a building used as a dwelling to a synagogue (i.e., building to be used for worship and related religious purposes) which is exempt from the Residential Transition Area (“RTA”) regulations pursuant to BCZR §1B01.1B.1(g)(4)(5) and/or (6), is **GRANTED**; specifically as to §1B01.1B.1(g)(6);

IT IS FURTHER ORDERED that Special Hearing relief from the Baltimore County Zoning Regulations (“BCZR”) §500.7, to determine if the property is being developed and if, therefore RTA regulations apply pursuant to BCZR §1B01.1. B.1(a)(1)), be and is hereby **DENIED**;

IT IS FURTHER ORDERED that Special Hearing relief from the Baltimore County Zoning Regulations (“BCZR”) §500.7, requesting that, upon utilization of the property as a building to be used for religious worship, that the minor subdivision plan #05-050-M be forfeited and extinguished, and the plan in zoning Case No. 2008-56-A be amended as shown on the attached site plan, be and is hereby **MOOT**;

IT IS FURTHER ORDERED that Special Hearing relief from the Baltimore County Zoning Regulations (“BCZR”) §500.7, to allow a parking lot with a 32-foot RTA setback and buffer in lieu of the required 50-foot RTA buffer and 75-foot RTA setback, pursuant to BCZR §1B01.1. B.1(e)(5); be and is hereby **MOOT**, or, in the alternative, **GRANTED**;

IT IS FURTHER ORDERED that Special Hearing relief from the Baltimore County Zoning Regulations (“BCZR”) §500.7, to allow a building as close as 39 feet to a property line in lieu of the required 50-foot RTA setback pursuant to BCZR §1B01.1. B.1(e)(3), be and is hereby **MOOT**, or, in the alternative, **GRANTED**;

IT IS FURTHER ORDERED that Special Hearing relief from the Baltimore County Zoning Regulations (“BCZR”) §500.7, for the Administrative Law Judge (“ALJ”) to determine the impact of the Religious Land Use and Institutionalized Persons Act on the property in view of Case No. 2024-0012-SPHXA, be and is hereby **MOOT**;

IT IS FURTHER ORDERED that Variance relief pursuant to BCZR §307 was requested to allow an accessory structure to be located in the front/side yard in lieu of the required one third of the yard furthest removed from any street pursuant to BCZR §400.1, be and is hereby **GRANTED**;  
and

IT IS FURTHER ORDERED that Variance relief pursuant to BCZR §307, to allow a side yard setback of 63 feet in lieu of 65 feet (corner street side per BCZR §1B02.3. C.1.), be and is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- 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 their 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.
- It is suggested that the subject property should be restricted to right turn only entry and exit, especially in instances where weekend services are held on the property, but I ultimately defer to SHA for this determination.
- Petitioner shall include adjacent neighbors, Mr. and Mrs. Sugar, in the creation of any landscape plan for the subject property, specifically as to the planting of additional trees.
- Petitioner shall immediately apply for and obtain a Change of Occupancy permit before any further use of the premises

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



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ANDREW M. BELT  
Administrative Law Judge  
for Baltimore County

AMB/dlm