

USE PERMIT



IT IS ORDERED by the Director of the Department of Permits, Approvals and Inspections of Baltimore County, this 24th day of JUNE, 2025, that The Coan (Shining Rivikin) located at 14 Aigburth Rd should be and the same is hereby granted permission to operate a: CLASS A Child Care Center for up to 12 children

(Individual or business name)

(Street address)

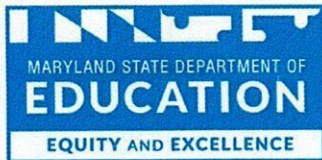
UP-2025-000266

Use Permit or Zoning Case No.

A handwritten signature in black ink, appearing to read "C. Peters", is written over a horizontal line.

Director, Permits, Approvals and Inspections

Planner's Initials TC



Mohammed Choudhury
State Superintendent of Schools

November 20, 2024

To: Permits, Approval, and Inspections
Room 111, County Office Bldg.
111 West Chesapeake Avenue
Towson, Maryland 21204
Telephone: 410-887-3353

A Large Family Child Care Home Registration (9-12 children in a residence) has been requested by:

Name of Applicant: THE GAN (SHEINA RIVKIN)

Address of Applicant: 14 AIGBURTH RD., TOWSON, MD 21286

Telephone Number: 646-295-3010 or sheinyrivkin@gmail.com

The above-named individual has requested a large family child care home registration (9-12 children in a residence). Effective January 1, 2012, the Annotated code of Maryland was amended to include a new category of child care facilities, Large Family Child Care Homes. The COMAR Regulations governing this new category, COMAR 13A.18.01-16, became effective February 6, 2012. Since the Zoning Regulations in Baltimore County define family child care as care for up to eight (8) children in care, we understand that an applicant for this new type of facility will have to meet the local Zoning requirements set up for Class A child care centers in residences in Baltimore County. As Class A child care facilities, these large family child care homes must obtain use permits. The above-named individual has requested that this process be initiated as the first step in this application process. Please contact the above-named individual to begin this process.

After review, please complete the following and send to the **MSDE/ Office of Child Care Licensing office** at the address listed below:

**MSDE/ OCC, Region 3
409 Washington Ave., Suite LL8
Towson, MD 21204
Mail Stop 64**

A Large Family Child Care Home may operate at the above address:

YES ☒ No ☐ (If no, please specify the grounds for disapproval and additional action required of the applicant) _____

Name and Title: Tyler Cox Planner II

Signature: [Signature]

Date: 6/24/25



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

June 5, 2025

Dino C. La Fiandra, Esquire
Law Office of Dino C. La Fiandra, LLC
100 W. Pennsylvania Avenue, Suite 305
Towson, Maryland 21204

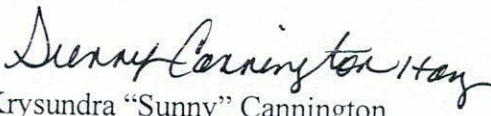
RE: In the Matter of: *Friends of Lubavitch, Inc.*
Case No.: 24-112-SPHXA

Dear Mr. La Fiandra:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,


Krysundra "Sunny" Cannington
Executive Secretary

KLC/taz
Enclosure

c: Menachem Rivkin, Director/Friends of Lubavitch, Inc.
Jason T. Vettori
Kathleen Reif
Office of People's Counsel
Maureen E. Murphy, Chief Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law

IN THE MATTER OF:
FRIENDS OF LUBAVITCH, INC.
LEGAL OWNER AND PETITIONER
FOR THE PROPERTY LOCATED AT
14 AIGBURTH ROAD

9TH ELECTION DISTRICT
6TH COUNCIL DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 24-112-SPHXA

* * * * *

OPINION

This case comes before the Baltimore County Board of Appeals on a *de novo* appeal from an Opinion and Order (“Opinion”) by Administrative Law (“ALJ”) Judge Maureen E. Murphy dated July 29, 2024, in which she denied all requested relief sought by Friends of Lubavitch, Inc. (“Petitioner” or “Lubavitch”).

The Board held an in-person hearing on January 14, 2025. Petitioner was represented by Dino C. La Fiandra, Esquire. Jason T. Vettori, Esquire, appeared in opposition for himself in his capacity as a neighbor of the subject property. Following the hearing, counsel for the Petitioner submitted a Memorandum. The Board held a remote public deliberation on February 25, 2025 via Webex. In that deliberation the Board ruled that the Petitioner had failed to prove its entitlement to any of the various sought after zoning requests under the applicable provisions of the Baltimore County Zoning Regulations (“BCZR”) or the Baltimore County Code (“BCC”). Nonetheless, the Board granted all relief sought by reason of the application of the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc, *et seq.*

HISTORY OF THIS MATTER

This zoning request has a long and tortured history. ALJ Murphy describes in exacting detail the portion of that history which occurred in the Baltimore County administrative system,

the Baltimore County Circuit Court, and the Maryland appellate system. Judge Murphy's account is excellent as is her overall Opinion. There is no need to repeat all of the procedural detail here. The Board hereby adopts and incorporates into this Opinion the procedural background provided at length in Judge Murphy's Opinion at p. 3-14.

A fair summary of the State court Lubavitch zoning and development saga reduces to this: Lubavitch has sought to build and develop a religious center in a neighborhood where the zoning simply could not accommodate the Lubavitch request because of its exceedingly grand scale; it built its physical plant in knowing violation of the covenants in the deed for the subject property; from the inception of the zoning litigation, Lubavitch had denied engaging in the very activities that it now acknowledges it has been doing since then and for which it now wants official zoning permission to continue to do; and every administrative and judicial entity that has had an opportunity to rule on credibility has found Lubavitch to be coy and evasive.

Judge Murphy does not provide much detail of the collateral federal litigation. The threat of federal litigation began before the Board of Appeals in Case No. 16-308-SPH. As indicated above, that case began as an appeal by Lubavitch from the ALJ Beverungen Order finding that a Chabad House was not proper but that it could only be addressed by Code Enforcement if and when the activities at the Chabad House reached a scale that went beyond mere home worship. The neighbors filed a Petition for Special Hearing seeking a declaration that Lubavitch was in fact already engaged in such activity and that the activity violated a variety of zoning restrictions, which was appealed to the Board.

The Board held a first day of hearings on that matter, which primarily involved testimony from Rabbi Rivkin. He denied that anything of any scale was occurring on the subject property, that the entire dispute involved nothing more than his family hosting some friends for Sabbath services, and a new building was just needed to support his growing family. That hearing adjourned with Rabbi Rivkin poised for cross-examination. Thereafter, however, Lubavitch dismissed its case. Rabbi Rivkin refused to honor a lawfully issued and served subpoena to resume his testimony. In addition, on the evening of day two of the hearing, he hand-delivered to the Board an unsigned letter from a Washington D.C. attorney threatening to sue Baltimore County and the Board under RLUIPA unless the Board acquiesced in everything Lubavitch wanted, though, Lubavitch had absented itself from the hearing so how the Board was to respond, if it chose to, was unclear. Further, the attorney letter demanded that Lubavitch be permitted to continue its activities which are the very activities for which Lubavitch now seeks the Board's blessings and the very activities that Rabbi Rivkin **denied** were occurring in his one day of Board testimony.

INTRODUCTION

Lubavitch seeks the following relief:

1. Approval of the Use of the Premises as a Chabad House, with an accessory parsonage for the resident Rabbi and his family. The justification for approval of this use is that it is permitted by right as a religious institution in a D.R. 5.5 zone pursuant to Baltimore County Zoning Regulation (BCZR) §1B01.1A.3. Alternatively, it requests a special exception under BCZR §1B01.C.4 because it is for a "civil, social, recreational use".
2. Lubavitch also request an exemption from the Residential Transition Area Regulations (RTA) pursuant to BCZR §1B01.1.B.1g(6) as a new building for religious worship. Alternatively, Lubavitch requests an exemption from the RTA regulations pursuant to BCZR §1B01.1.B.1g(10) as a structure devoted to civic, social, recreational, fraternal, or educational activity.

3. Lubavitch requests a modified parking plan under BCZR §409.12.B to permit two parking places in lieu of the required twenty-three spaces.
4. Lubavitch requests variance relief from BCZR §1B01.2.C.1.a for existing side yard setbacks of 8 feet and 13 feet instead of the required 20 feet and from BCZR §301.1 for a side yard setback of 7 feet for a carport in lieu of the required 15 feet.

In the event that the Board ruled against Lubavitch on its various zoning requests, Lubavitch sought validation of all of its activities under RLUIPA which would excuse compliance with local zoning regulations. As indicated on page 1, this Board ruled against Lubavitch on all of its present zoning requests but did rule that Lubavitch was able to continue its activities by reason of RLUIPA.

DISCUSSION

A. THE RESIDENTIAL TRANSITION AREA

The subject property is zoned D.R. 5.5. A new religious facility or the expansion of an established religious facility is permitted by right in a D.R. 5.5 zone subject to the Residential Transition Area ("RTA") restrictions in §1B01.1.B.1.b, though an exemption from the RTA restrictions can be obtained if the elements contained in §1B01.1.B.1.c. are satisfied. That provision provides that the facility is exempt if it involves no "development" of the property. Lubavitch argues that the RTA does not apply because it is not seeking to build any new building within the meaning of the word "development". BCC §32-40101(p). The Board rejects this position out-of-hand. Lubavitch is not now building a building because it previously illegally built the building at issue. To now say that no "new" building is contemplated is simply to say that once it builds a building that it was not permitted to build - and which it knew it was not permitted to build - it can now claim that there is no development contemplated such that it is exempt from the RTA. The building that Lubavitch wrongfully built is the building at issue and

constitutes "development" for RTA purposes. To hold otherwise is to reward wrongful and prohibited activity. Clearly then Lubavitch is not exempt from the RTA for this reason.

Because the RTA applies, the Lubavitch building can be built (as a new building) as long as it is planned in such a way that it complies with the RTA "to the extent possible" and is compatible with the general welfare of the surrounding area. BCZR §1B01.1.B.1(g)(6). The Board concluded that neither of these requirements are met. First, the RTA is designed to maintain the integrity of residential areas. This building is huge compared to every other nearby residence. It towers over the area and there is no effort made to harmonize it with the surrounding residences. Further, it is not compatible with the general welfare of the area. It creates parking issues, trash collection problems, and potentially large amounts of both vehicle and pedestrian traffic. In the prior cases, the area residents voiced their concerns about neighborhood disruptions and those concerns remain valid. Consequently, the RTA prohibits the Lubavitch building because it does not comply with the RTA requirements to the extent possible nor is it compatible with the general welfare of the area.

B. THE SPECIAL EXCEPTION

A special exception is required in a D.R. 5.5 zone for a community building used for certain forms of "civic, social, recreational or educational uses". BCZR §1B01.1.C.4. Pursuant to BCZR, §502.1, 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; nor
- 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.

In *Schultz v. Pritts*, 291 Md. 1, 22-23 (1981), the Supreme Court of Maryland held that “the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and therefore should be denied, is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” That standard has remained intact with some further refinement. See *People’s Counsel for Baltimore County v. Loyola College in Md.* 406 Md. 54, 106 (2008) and *Attar v. DMS Tollgate, LLC*, 451 Md. 272, 285 (2017).

As a threshold matter, it is not clear that the Lubavitch building qualifies as one for “civic, social, recreational or educational uses”, within the meaning of §1B01.1.C.4. That provision indicates that the “civic, social, recreational or educational uses” must be “similar” to the enumerated specific uses, all of which are recreational and sport facilities. That does not define the Lubavitch use in any meaningful way. But even if it did qualify as involving “civic, social, recreational or educational uses”, we would deny the special exception under §502.1 and under *Schultz* and its progeny. For the reasons stated above, the uses, at a minimum, tend to create congestion in the streets, and are by no means consistent with either the purposes of the property's zoning classification or with the spirit and intent of the zoning regulations. It is an outsized

building that was plunked down into a residential area. It is puzzling how anyone could reasonably say that it is generally compatible with the area.

In the event that a special exception was granted on the “civic, social, recreational or educational uses” basis, such a finding would implicate the RTA requirements as discussed above. We do not find that the special exception applies or should be granted. But if we were to so decide, the Board does not find that the RTA provisions are satisfied for the same reasons given in Section A above.

C. THE VARIANCES

Lubavitch is also seeking setback variances. These requests clearly do not satisfy the dual requirements of *Cromwell v. Ward*, 102 Md. App 691 (1995) that the property is unique and that the uniqueness creates a practical difficulty not of the property owner’s making. The property is similar to all of the other residential properties in the immediate vicinity and hence is in no way unique. Moreover, even if unique, the “practical difficulty” generated by compliance with the setbacks is entirely self-created. Lubavitch constructed an overly large building without proper permission, in violation of the zoning requirements and in violation of the restrictive covenants in its deed. See *Chesley v. Annapolis*, 176 Md. App. 413, 423-26 (2007). Having built the oversized building without regard to any of the required setbacks, it cannot now claim that the setbacks have created a practical difficulty. Further, the variance relief would do substantial injustice to the neighboring property owners, is detrimental to the general welfare of the neighborhood and does not observe the strict harmony with the spirit and intent of BCZR §307.1 *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 39 (1974).

D. MODIFIED PARKING PLAN

Petitioner has requested a modified parking plan pursuant to BCZR §409.12.B. The request would reduce the required number of parking spaces from 23 to 8. Such a request can be granted if compliance with the regulation “would create an undue hardship”. As with the variance request, any undue hardship here is self-created. Consequently, the request for a modified parking plan based on §409.12.B. is denied.

E. RLUIPA

Lubavitch’s final argument is that it is entitled to maintain the structure and the associated activities by reason of the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc, *et seq.* Under RLUIPA, a local zoning authority cannot require strict adherence to zoning regulations by a religious institution unless the governmental authority can demonstrate that adherence to that zoning requirement furthers a compelling state interest and is the least restrictive means of furthering that compelling interest. 42 U.S.C. § 2000cc(a)(1).

The Baltimore County Attorney’s Office has settled two, separate, federal RLUIPA cases filed by Lubavitch. Lubavitch placed into evidence the settlement documents for one of those cases. It declined to offer the settlement documents of the second, indicating that that settlement was confidential.¹ In general, the record that Lubavitch generated before the Board was a bit scanty as to its entitlement under RLUIPA. However, the fact that the County has seen fit to twice settle with Lubavitch on records that were undoubtedly far more detailed and developed than we had before us, leads us to the conclusion that we must find in favor of Lubavitch on

¹ It is possible that for the purposes of this case, Lubavitch could have sought limited disclosure under circumstances where the confidentiality would have remained. That litigation was directly tied to the circumstances herein and would have been useful to the Board.

RLUIPA grounds. The County Attorney has determined that RLIUPA controls the administrative circumstances associated with this property. In light of that assessment, the Board has no real choice except to find that RLUIPA not only applies but operates to sanctify Lubavitch's conduct. For that reason, the Board has ruled that Lubavitch is excused from abiding by any of the relevant zoning and land use regulations that would otherwise apply. In addition, the Board is constrained to also rule that Lubavitch can engage in the requested activity that it has been doing since the day the building opened and which, until now, it has denied doing.

ORDER

THEREFORE, it is this 5th day of June, 2025, by the Board of Appeals for Baltimore County

ORDERED that all of the relief requested by Petitioner pursuant to the Baltimore County Code and the Baltimore County Zoning Regulations is hereby denied; and it is further

ORDERED that by reason of the application of the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc, *et seq.*, Petitioner can continue to use the subject property as a Chabad House with an associated parsonage notwithstanding Petitioner's failure to comply with any of the applicable provisions of the Baltimore County Code and the Baltimore County Zoning Regulations that govern zoning, land use, and land development as discussed in the accompanying Opinion.

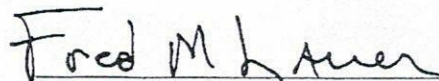
In the matter of: Friends of Lubavitch, Inc.
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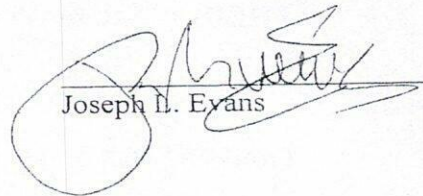
**BOARD OF APPEALS FOR
BALTIMORE COUNTY**



Sharonne R. Bonardi



Fred M. Lauer



Joseph D. Evans



Board of Appeals of Baltimore County

JEFFERSON BUILDING
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June 5, 2025

Dino C. La Fiandra, Esquire
Law Office of Dino C. La Fiandra, LLC
100 W. Pennsylvania Avenue, Suite 305
Towson, Maryland 21204

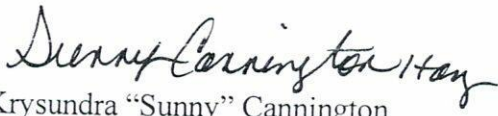
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9TH ELECTION DISTRICT
6TH COUNCIL DISTRICT

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The Board held a first day of hearings on that matter, which primarily involved testimony from Rabbi Rivkin. He denied that anything of any scale was occurring on the subject property, that the entire dispute involved nothing more than his family hosting some friends for Sabbath services, and a new building was just needed to support his growing family. That hearing adjourned with Rabbi Rivkin poised for cross-examination. Thereafter, however, Lubavitch dismissed its case. Rabbi Rivkin refused to honor a lawfully issued and served subpoena to resume his testimony. In addition, on the evening of day two of the hearing, he hand-delivered to the Board an unsigned letter from a Washington D.C. attorney threatening to sue Baltimore County and the Board under RLUIPA unless the Board acquiesced in everything Lubavitch wanted, though, Lubavitch had absented itself from the hearing so how the Board was to respond, if it chose to, was unclear. Further, the attorney letter demanded that Lubavitch be permitted to continue its activities which are the very activities for which Lubavitch now seeks the Board's blessings and the very activities that Rabbi Rivkin **denied** were occurring in his one day of Board testimony.

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constitutes "development" for RTA purposes. To hold otherwise is to reward wrongful and prohibited activity. Clearly then Lubavitch is not exempt from the RTA for this reason.

Because the RTA applies, the Lubavitch building can be built (as a new building) as long as it is planned in such a way that it complies with the RTA "to the extent possible" and is compatible with the general welfare of the surrounding area. BCZR §1B01.1.B.1(g)(6). The Board concluded that neither of these requirements are met. First, the RTA is designed to maintain the integrity of residential areas. This building is huge compared to every other nearby residence. It towers over the area and there is no effort made to harmonize it with the surrounding residences. Further, it is not compatible with the general welfare of the area. It creates parking issues, trash collection problems, and potentially large amounts of both vehicle and pedestrian traffic. In the prior cases, the area residents voiced their concerns about neighborhood disruptions and those concerns remain valid. Consequently, the RTA prohibits the Lubavitch building because it does not comply with the RTA requirements to the extent possible nor is it compatible with the general welfare of the area.

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building that was plunked down into a residential area. It is puzzling how anyone could reasonably say that it is generally compatible with the area.

In the event that a special exception was granted on the “civic, social, recreational or educational uses” basis, such a finding would implicate the RTA requirements as discussed above. We do not find that the special exception applies or should be granted. But if we were to so decide, the Board does not find that the RTA provisions are satisfied for the same reasons given in Section A above.

C. THE VARIANCES

Lubavitch is also seeking setback variances. These requests clearly do not satisfy the dual requirements of *Cromwell v. Ward*, 102 Md. App 691 (1995) that the property is unique and that the uniqueness creates a practical difficulty not of the property owner’s making. The property is similar to all of the other residential properties in the immediate vicinity and hence is in no way unique. Moreover, even if unique, the “practical difficulty” generated by compliance with the setbacks is entirely self-created. Lubavitch constructed an overly large building without proper permission, in violation of the zoning requirements and in violation of the restrictive covenants in its deed. See *Chesley v. Annapolis*, 176 Md. App. 413, 423-26 (2007). Having built the oversized building without regard to any of the required setbacks, it cannot now claim that the setbacks have created a practical difficulty. Further, the variance relief would do substantial injustice to the neighboring property owners, is detrimental to the general welfare of the neighborhood and does not observe the strict harmony with the spirit and intent of BCZR §307.1 *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 39 (1974).

RLUIPA grounds. The County Attorney has determined that RLIUPA controls the administrative circumstances associated with this property. In light of that assessment, the Board has no real choice except to find that RLUIPA not only applies but operates to sanctify Lubavitch's conduct. For that reason, the Board has ruled that Lubavitch is excused from abiding by any of the relevant zoning and land use regulations that would otherwise apply. In addition, the Board is constrained to also rule that Lubavitch can engage in the requested activity that it has been doing since the day the building opened and which, until now, it has denied doing.

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