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# Congregation's **DREAM** Neighbors' **HEADACHE**

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Reminiscent of Cases  
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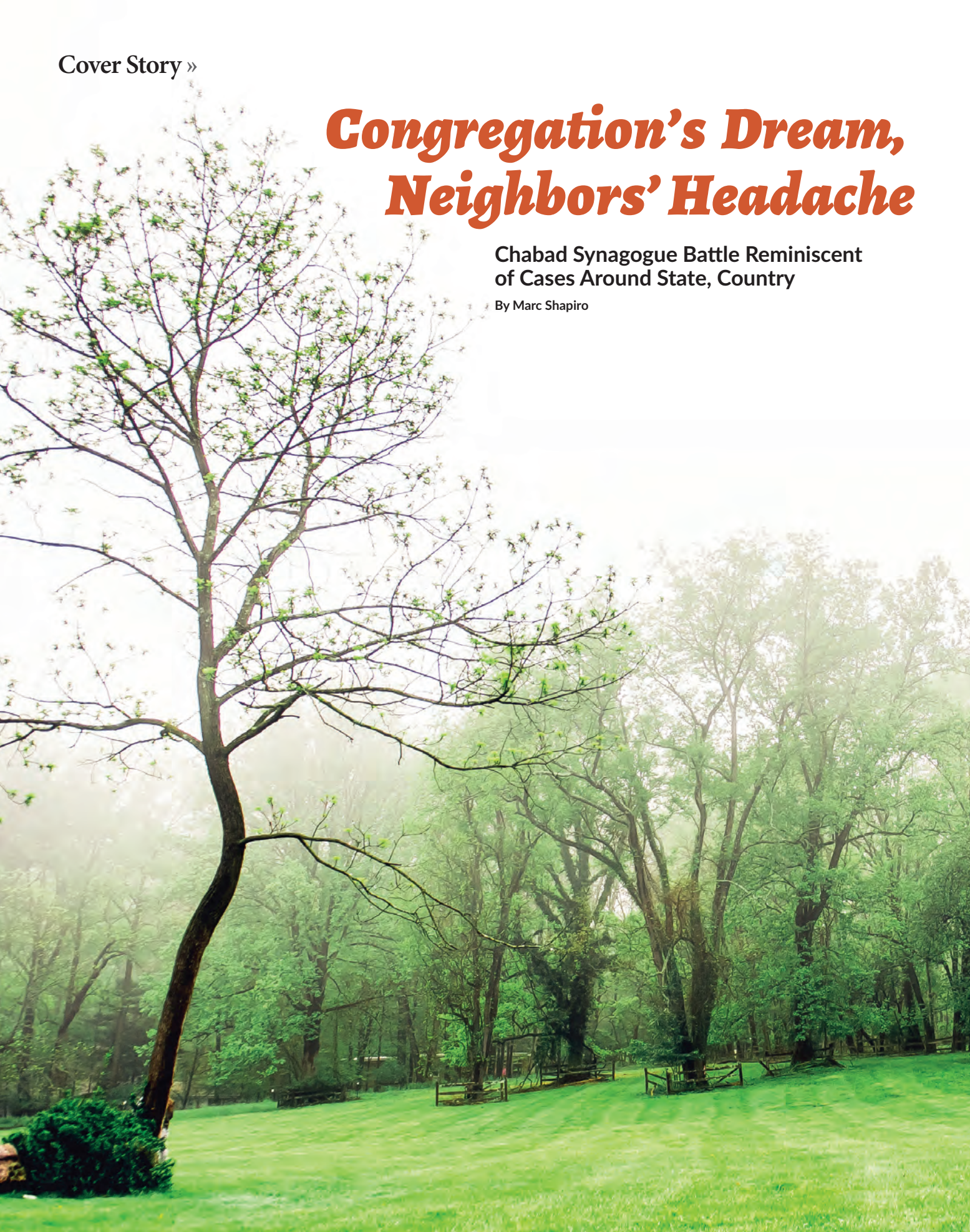
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# ***Congregation's Dream, Neighbors' Headache***

**Chabad Synagogue Battle Reminiscent  
of Cases Around State, Country**

By Marc Shapiro



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s Rabbi Velvel Belinsky heads into the second round of hearings over his proposed Chabad synagogue in Pikesville, rabbis and attorneys from the Baltimore area and beyond are reminded of a myriad of similar cases in which it was community versus synagogue or mosque or church.

Chabad synagogues throughout Maryland and the country have faced and continue to face community opposition. And while the issue is not unique to Chabad, or to synagogues, Belinsky believes that trying to build synagogues outside of the Orthodox community can make Chabad an easy target.

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“[Chabad] comes into nonobservant areas or areas where there are nonobservant Jews, and that’s why we always end up facing more opposition,” he said.

Belinsky, the spiritual leader of the Ariel Jewish Center and Synagogue, a Chabad-Lubavitch congregation for Russian Jews, wants to build a permanent home for his synagogue on a 3-acre plot at 8420 Stevenson Road in Pikesville. The synagogue would have two stories of 4,000 square feet.

A group of surrounding residents has organized in opposition to the plan. After a split decision in a Baltimore County Administrative Law Hearing was appealed, the issue will be heard in the Baltimore County Board of Appeals as a new set of hearings beginning May 12.

Belinsky’s story is strikingly similar to many others in the state and country and all too familiar to Rabbi Shmuel Kaplan, director of Chabad-Lubavitch of Maryland.

In the early 1980s, neighbors sued Kaplan

Top left: Rabbi Velvel Belinsky. Top right: Ken Abel (left) and attorney J. Carroll Holzer dissect a document at a county hearing. Bottom left: Neighbors opposed to the synagogue wore these red T-shirts. Bottom right: Belinsky and his attorney, Herbert Burgunder, state their case at a county hearing, with a large number of community members behind them.

over services he held in a Rockville home. He won the suit. In the early 1990s, he faced a similar issue when he held minyanim at his house on Deancroft Road in Baltimore. He won that suit, and the case became an example to follow for small synagogues that are held in homes.

The building Kaplan’s congregation is housed in now, at 6701 Old Pimlico Road, was the subject of a five-year dispute with the community from 1991 to 1996. He’s also familiar with issues at other Chabads

in Montgomery and Howard counties.

“All of them eventually got resolved in our favor,” he said.

Kaplan said the litigation in the 1990s cost about \$70,000. He hired a prominent zoning attorney who told him he wouldn’t lose the case, it would just be a matter of time and funds.

“It was torturous. Absolutely tortuous,” he said. “Had I known to begin with it was going to cost \$70,000, I may have not done it. But it starts with \$10,000, \$5,000

... then you look back and it's \$60,000 to \$70,000. I wanted to buy in the neighborhood. There was no other property here."

As in Belinsky's case, Kaplan's legal costs were paid by money raised through the congregation. Chabad is set up so that each congregation is financially independent.

and doesn't even have to comply with the property's former development plan.

A split decision was issued in January after Baltimore County Administrative Law Judge John Beverungen heard arguments over the course of eight hearings between June and November last year.

his congregants, who have been stepping up financially, said the same.

"There is a level of commitment," Igor Goldberg said. "We're going to stick it out with the rabbi ... there's a trust in the rabbi, and so he will do what is necessary."

If the cases are further appealed, they

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— Rabbi Shmuel Kaplan, director of Chabad-Lubavitch of Maryland

Kaplan believes his synagogue has been a stabilizing force in his neighborhood and said housing prices have remained steady.

"You want a religious institution to be part of the community," he said. "When it comes to Orthodox synagogues that are particularly focused on being neighborhood institutions, it baffles me that anybody would really have opposition."

But residents of the surrounding neighborhood, who have worn shirts to hearings that say "Friends of Stevenson Road — Protecting Our Neighborhood," disagree. During the administrative law hearing, residents cited concerns about traffic and pedestrian safety, noise, and light pollution from the synagogue's rear parking lot, among others. They've argued that the proposed synagogue violates the Baltimore County zoning code and is not compatible with a decade-old development plan that called for houses to be built on the property.

Belinsky, his attorney and the experts they called on during the hearings argue that the proposal does meet county code

While the judge ruled that the synagogue complied with certain zoning regulations, he said it may have violated other sections of code but did not say whether the synagogue was subject to those other sections it would violate.

Ken Abel, the property's immediate neighbor to the south, said at a hearing that his dream home has turned into "a little bit of a nightmare." When he moved to the neighborhood from Worthington Park a little more than two years ago, he expected a quiet neighborhood and houses to be built on the property in question, he said.

Dana Stein, a state delegate for the 11th District and the property's immediate neighbor to the north, has also been involved in the opposition effort and hired an attorney. He cleared his involvement with the state legislature's ethics adviser. He and his wife, Margaret Presley-Stein, share Abel's concerns. Presley-Stein helped circulate a petition that collected 638 signatures from 426 residences.

Abel said the neighborhood plans to take the case as far as it needs to go. Belinsky and

would go to the Baltimore County Circuit Court and then to the Maryland Court of Special Appeals.

"There's no limits to these things," Kaplan said. "They're almost interminable with these things. What they try to do is kill you by delay. And justice delayed is justice denied. But that theory isn't the way it applies in real life in the judicial system."

## **RLUIPA**

The state court system might not be the next stop for this issue if Belinsky were to file a federal suit under the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000, which allows synagogues to be built in residential areas as a right and protects religious institutions in a number of ways. As a federal statute, it trumps local zoning code.

Roman Storzer, a top RLUIPA attorney who Belinsky recently retained, said RLUIPA is not a "blank check" for religious organizations.

"In general, a government cannot burden



Rabbi Velvel Belinsky's congregants, Russian immigrants from various parts of the former Soviet Union, say the rabbi has taught them what it is to be Jewish.

religious exercise unless it uses the least restrictive means of compelling government interest," he said. "Normal zoning rules don't apply."

As far as traffic and other safety issues are concerned, Storzer said: "It's been my long experience that these types of justifications have often been used to oppose uses where they really have no merit. ... There has to be demonstrated evidence that there is some real threat, not simply a hypothetical or speculative threat, to public health and safety."

He believes an RLUIPA issue may have been raised when, prior to the beginning of the administrative law hearings, any plans for Ariel submitted to county zoning needed to be reviewed directly by Arnold Jablon, director of the Department of Permits, Approvals and Inspections, or W. Carl Richards Jr., zoning review supervisor, Richards told the JT at the time.

"I believe that 'flagging' the project certainly raises an issue under RLUIPA and can be evidence of improper differential treatment of Ariel, which is prohibited by the statute," he said.

Abel and Stein declined to comment on RLUIPA, and an attorney for the neighborhood opposition declined to comment as well.

Nat Lewin, another prominent RLUIPA attorney, said that while RLUIPA has helped synagogues, there are cases he's

seen where religious institutions have lost because of issues such as the size of the parcel of land and insufficient parking.

Storzer's firm is currently working on another Chabad dispute in Toms River, N.J. Rabbi Moshe Gourarie has been operating a synagogue and Jewish community center out of his home since 2011, but a 2009 revision to the township's zoning banned religious institutions from locating in the residential zone where the rabbi lives, according to the *Asbury Park Press*. In March, the Chabad Jewish Center of Toms River and Gourarie filed a federal lawsuit against Toms River and its zoning board.

The complaint in the suit documents extensive anti-Semitic sentiment that was posted on social media, including in various private Facebook groups.

"There's a range of issues that are involved [in opposing religious institutions] from flat-out old-school discrimination all the way to the typical NIMBYism you see where somebody doesn't want something built next to them," Storzer said.

In February, two Boca Raton, Fla., residents filed a suit against the city, claiming the city showed preferential treatment in approving the Harry and Celia Litwak Chabad Center, according to the *Palm Beach Post*. The Chabad was subject to debate at council meetings, with opponents concerned about the size of the proposed building, parking problems, traffic and

proximity to nearby homes, the newspaper reported.

Locally, several non-Chabad congregations faced opposition when moving. Har Sinai Congregation, located on Walnut Avenue near the intersection of Greenspring Avenue, was subject to sizable opposition when its 62,000-square-foot building was proposed in the late 1990s.

Residents cited concerns about traffic, the synagogue drying up neighboring wells or its septic system polluting groundwater. Opponents also pointed to environmental concerns since the site was an unregulated dump, even though Har Sinai said it would clean up the site. Disputes were settled when Har Sinai agreed to noise abatement and landscaping and lighting restrictions, and stopped plans for a commercial day care, according to *The Baltimore Sun*.

When Beth Tfiloh sought to expand to a property in Glyndon to house its elementary school, neighbors also filed a lawsuit because of traffic concerns. The school, which operated there for several years, has since moved back to Beth Tfiloh's Pikesville campus, and the Forbush School of Glyndon now operates on that site.

## Not 'If' But 'When'

While Kaplan did refer to Belinsky's opposition as "mind-boggling," he's not completely unsympathetic.

"The neighbors next door, I don't like what they're doing. I can understand it. It's not that I don't understand, but it doesn't make it right," he said. "There's a certain zoning. There are laws. We live by laws."

As the neighborhood opposition is prepared to fight as long as it takes, confident it will come out on top, so are Belinsky and his congregants.

"If we are getting denied [at the Board of Appeals], we are going to the federal level," Belinsky said. "I want to win, but I'm not very concerned because either way we are going to be in good shape. The only question is how long it's going to take us. It's not a question of 'if,' it's a question of 'when.'"

Only time (and litigation) will tell. JT

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