

Not all the news always fits

Controversy as JDS pulls student paper

by **Richard Greenberg**
Associate Editor

The big news lately at Charles E. Smith Jewish Day School in Rockville has been the student newspaper, which is the focus of a still-simmering flap over freedom of the press.

The controversy — which spawned a student protest — stems from actions the school administration recently took to signal its displeasure with the most recent edition of *The Lion's Tale*, the scholastic publication.

Maintaining that the Nov. 9 issue of the paper was riddled with grammatical, factual, spelling and layout errors — as well as stories with an overly “negative tone” — the administration abruptly curtailed distribution of the paper and reportedly disposed of hundreds of copies.

This triggered an angry backlash among the paper's editors and others who thought that the administration had, at best, overreacted to a handful of relatively minor mistakes — and then compounded its error by yanking the paper without first informing its editorial staff.

At worst, critics suggested, the stated reasons for pulling the publication were a pretext for censorship — a heavy-handed attempt to suppress stories, including one about class size, that reflected badly on the school and therefore might alienate parents or potential benefactors.

In a Nov. 16 e-mail sent to parents, head of school Jonathan Cannon and JDS upper school's three top administrators flatly denied that censorship was to blame, attributing the administration's actions instead to alarm over atypically shoddy journalism on the

See **PAPER**, page 21



Abe Pollin, 1923-2009

See page 40

The Talmud of zoning

Chabad, Rockville clash over site

by **Richard Greenberg**
Associate Editor

What exactly is a synagogue? Who decides? And what might be the legal repercussions of that decision?

Those questions form the backdrop of a land-use dispute that pits the city of Rockville against the Chabad Israeli Center, located on Rollins Avenue.

The city alleges that the center has operated as a synagogue without the required municipal occupancy permit certifying that it can function safely as a gathering place. A nominal fine has been imposed, and Chabad has gone to court to fight it. A trial on the matter is scheduled for Dec. 15 in Montgomery County District Court.

“There have been an awful lot of

unfair, improper and inappropriate actions taken in this case,” said Rockville-based attorney Steven VanGrack, representing the Chabad facility, which is presided over by Rabbi Shlomo Beitsh, who lives next door to the Israel Center. “As a matter of law, it isn't kosher.”

James Wasilak, Rockville's chief of planning, declined comment, he said, because the matter is being litigated.

This is not a new issue, however. Chabad facilities here and elsewhere have occasionally emerged as flash points for zoning disputes and related land-use controversies hinging on the question of what precisely constitutes a Jewish house of worship.

See **ZONING**, page 19

ZONING

from page 1

For example: Should a rabbi's private home, or similar structure, be considered a synagogue for land-use purposes if Shabbat davening, praying, regularly takes place there?

The issue is far from trivial for several reasons. A synagogue, like any house of worship or other institution, is a potential source of noise, traffic congestion, lost parking space and other disruptions that neighbors do not necessarily welcome.

In addition, building and fire code upgrades necessary for a structure to qualify under local ordinances as a place of assembly — religious or otherwise — can be costly.

As an organization devoted to Jewish outreach, Chabad has established outposts worldwide, some of them in areas with relatively few Jews — places where they might draw unwanted attention by their characteristic chasidic garb, VanGrack speculated, or their religious practices, such as regular davening, that attract outsiders to the neighborhood.

Some Chabad emissaries have challenged zoning ordinances in court, accusing local government officials of engaging in religious discrimination and other civil rights violations by allegedly restricting their right to worship in their homes.

The focus of the Rockville case, the Chabad Israeli Center, is a single-family detached home that is owned by Beitsh, who lives next door to the center with his wife, Sara, and their six children.

The center, which is not tax-exempt, houses a small temporary residence for out-of-town visitors and serves as a site for adult Torah and Talmud study and once-a-week Judaic classes for children in grades one through six.

"Somebody can invite someone to his house to pray and study Bible, and we did the same," Beitsh, 32, said in an interview, adding that no neighbors have complained to him about activities at the center.

Chabad had maintained that services conducted there were so small — usually involving fewer than 30 participants, according to VanGrack — that the place could not rightfully have been labeled a synagogue.

However, Beitsh conceded in testimony last November before the city planning commission that "the



The entrance to the Chabad Israeli Center in Rockville, which the owner plans to convert into a synagogue.

Photo by Richard Greenberg

holding High Holidays services elsewhere. "This is not an institution that really impacts the neighborhood," he said. "It's minimal.")

Beitsh had informed the planning commission that because the Israeli Center, like all Chabad facilities, is an Orthodox institution, daveners would not be driving to the site, according to Wasilak's letter. But, the letter continues, a number of neighbors subsequently noted that "they routinely observed members of the synagogue driving motor vehicles to the site when attending services and other related religious activities."

Beitsh hopes to convert the center to a synagogue, but several neighbors attending the planning commission meeting publicly registered their opposition to those plans, Wasilak's letter said, but it did not specify whether they cited concerns over increased traffic. (Although VanGrack did not accuse city officials of religious-based bias, he said "there may have been some discriminatory actions" on the part of neighbors opposed to the Chabad project.)

One neighbor, contacted at random last week by WJW, said increased auto traffic at the site has been an issue. "A lot of cars come in; that's what we don't like so much," said the neighbor, who declined to give her name. "And sometimes on Jewish holidays you can hear laughing and singing until midnight; but that doesn't bother me a lot." She

ZONING

from previous page

sponsored by the Israeli Center. She said she welcomes conversion of the Israeli Center to a full-fledged synagogue.

In his December letter, Wasilak explained that although the current zoning at the site (single-family detached, residential) generally allows religious institutional uses, several conditions would first have to be met for a house of worship to operate at that location.

As a result, the letter continued, the planning commission had voted in November to approve a conditional-use permit that authorized Beitsh to make improvements necessary for the Rollins Avenue structure to qualify under city codes as a place of assembly — in this case, a synagogue. VanGrack estimated the cost of the work at \$50,000-\$70,000.

Under the terms of the conditional-use permit, Beitsh had two years to modify the property, and then apply for an occupancy permit which, if granted, would enable him to operate the site as a synagogue.

According to the use permit, limited religious services at the site would be allowed to continue in the interim, VanGrack and Beitsh maintained — but the exact opposite was the case, Wasilak insisted. On June 1, the city fire marshal ordered the Israel Center immediately to stop using the premises “for assembly purposes,” including “as a house of worship,” until the city issues an occupancy permit.

“I’m disappointed,” Beitsh said, “because we were working with the city for a long time on this, and then all of a sudden, they come up with something different; they changed something there.”

In July, the city issued a citation

charging the center with operating a “place of assembly (synagogue)” without an occupancy permit, and imposed a fine of \$100. VanGrack said he is concerned that the levy might accrue on a daily basis.

Beitsh has applied for the necessary building permits, but does not yet have sufficient funds to complete the work necessary to bring the structure into compliance with city codes, VanGrack said. He is now aggressively pursuing funding, the attorney reported.

In some zoning disputes that have gone to court, Chabadniks have prevailed, although it’s not clear how many. The city of Hollywood, Fla., for example, paid a \$2 million settlement in 2006 to a Chabad group that had been thwarted by the city in its attempts to operate a synagogue in two private homes.

In 2008, a judge found that the zoning code in Cooper City, Fla., violated federal law, and he ordered the municipality to pay \$325,000 to the Chabad of Nova Outreach Center, which had been shuttered by the city based on zoning laws.

In August 2007, Montgomery County cited Chabad Rabbi Bentzion Geisinsky for holding services in the basement of his Bethesda home without the proper permits.

But the county attorney declined to prosecute because religious activities were only an “accessory use” at the site and not its primary function, according to Frank DeLange, a county zoning investigator, who said the davening usually involved no more than 10 people and took place no more than two or three times a week.

However, Geisinsky—who could not be reached for comment—was informed that permits would be required if his minyan were to expand, DeLange added. (VanGrack, the former mayor of Rockville, represented Chabad in that dispute as well.)

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