

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
(200 E. Padonia Road)
8th Election District * OFFICE OF
3rd Councilmanic District
Dulaney Valley Memorial Gardens, Inc. * ADMINISTRATIVE HEARINGS
Petitioner * FOR BALTIMORE COUNTY
* Case No. 2014-0176-SPH

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Adam D. Baker, Esquire with Whiteford, Taylor & Preston, on behalf of Dulaney Valley Memorial Gardens Inc., (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to permit a pet crematorium as accessory to an underlying cemetery and pet cemetery use; (2) to permit three (3) accessory parking spaces for the pet crematorium; and (3) to amend the underlying special exception for cemetery use (Case No. 1956-3826-X) as amended in Case No. 66-40-X.

Appearing at the public hearing in support of the requests was Don Collins, Amy Shimp, John Sekerak, Jr. and Fernando Benitez. Adam D. Baker, Esquire with Whiteford, Taylor & Preston appeared and represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance at the hearing, and the file does not contain any letters of opposition. The only substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP) dated April 23, 2014, indicating that agency did not oppose the request.

The subject property is 70.496 acres and is zoned DR 3.5 and DR 5.5. A large cemetery is operated on the property, pursuant to a special exception granted in 1956 and amended in 1966. The cemetery includes an area for the burial of pets, and the Petitioner proposes to offer crematory services for pets. Since this use is not addressed specifically in the Regulations, Petitioner was instructed to file this petition for special hearing.

Petitioner presented the testimony of Don Collins, with nearly 40 years experience in the funeral industry, who was accepted as an expert in crematory operations. Mr. Collins explained the nature and operation of the proposed pet crematory, which he believed would be a state-of-the-art facility. He testified that such pet crematories are customarily operated in conjunction with human cemeteries, and that the size and scale of the pet crematory operation would be subordinate to the overall cemetery operation. Thus, I believe this qualifies as an accessory use (to the cemetery operation) under section 101.1 of the B.Z.C.R. Mr. Collins also noted Petitioner would need to obtain State approval for the facility, and must satisfy stringent air quality standards.

Mr. Sekarak, a landscape architect who was accepted as an expert witness, testified (via proffer) that he prepared the site plan marked as Exhibit 1. He opined that the proposed crematory use satisfied all requirements of B.C.Z.R. §502.1 and that the use would not be injurious to the community. Though the B.C.Z.R. does not specify the number of parking spaces required for a pet crematory, Amy Shimp (who is General Manager of Dulaney Memorial Gardens), testified that three spaces would be sufficient, since pet services are scheduled for only one family at any one time. The Petitioner conducted extensive community outreach prior to the hearing, and counsel noted that the community expressed enthusiastic support for the project.

THEREFORE, IT IS ORDERED this 9th day of June 2014, by this Administrative Law

Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to permit a pet crematorium as accessory to an underlying cemetery and pet cemetery use; (2) to permit three (3) accessory parking spaces for the pet crematorium; and (3) to amend the underlying special exception for cemetery use (Case No. 1956-3826-X, as amended in Case No. 66-40-X), in accordance with the terms of this Order and the site plan marked as Exhibit 1, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln