

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(200 E. Padonia Road)		
8 th Election District	*	OFFICE OF
3 rd Council District		
Dulaney Valley Memorial Gardens, Inc.	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2018-0112-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Dulaney Valley Memorial Gardens, Inc., legal owner (“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 human crematorium as an accessory to an underlying cemetery; (2) to permit two (2) accessory parking spaces for a human crematorium; and (3) to amend an underlying special exception for cemetery use.

Amy Shimp and professional engineer Robert Bathurst appeared in support of the petition. Adam D. Baker, Esq. represented Petitioner. Eric Rockel attended the hearing to obtain more information regarding the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the request. A site plan was marked and admitted as Petitioner’s Exhibit 1.

According to the site plan the subject property is approximately 70.496 acres in size and is split-zoned DR 3.5 and DR 5.5. The Dulaney Valley Memorial Gardens is operated at the site. Due to increasing demand Petitioner would like to offer cremation services at the site. The

B.C.Z.R. does not mention crematoriums or provide any guidance on when and where such a use should be allowed.

Petitioner explained many cemeteries (both in Maryland and across the country) also have crematoriums. As such, since crematoriums are customarily operated in connection with a cemetery, I believe this is properly considered an accessory use to the principal cemetery use. The subject property is quite large with mature trees and landscaping, and the proposed crematorium would be more than 275 feet from the nearest dwelling. As such, as I noted at the hearing, this is a “best case” scenario for where a crematorium should be located when accessory to a cemetery. The proposed one-story crematorium would be 2,000 square feet in size, and as the DOP noted there is abundant vegetation which screens nearby homes.

The other aspect of special hearing relief seeks approval for designating just two (2) off-street parking spaces for the crematory use. Since the B.C.Z.R. does not provide a specific number of spaces required for a crematorium, the ALJ is permitted to determine the parking space requirements based on the facts in the case under consideration. B.C.Z.R. §409.6.A. Petitioner noted these two parking spaces would only be used by patrons; staff and deliveries would access the building at the rear entrance. Petitioner also stated that in most instances family members do not wish to be present for a cremation, and they also noted the site has ample “overflow” parking along the interior roadways and near the adjacent mausoleum. While I believe the number could well be deficient in a case involving a smaller property, I am convinced by the testimony two spaces are sufficient in this case.

THEREFORE, IT IS ORDERED this 29th day of **December, 2017** by this Administrative Law Judge, that the Petition for Special Hearing: (1) to permit a human crematorium as an accessory use to an underlying cemetery; (2) to permit two (2) accessory parking spaces for a

human crematorium; and (3) to amend an underlying special exception for cemetery use (in accordance with the relief granted herein and as shown on the site plan marked as Petitioner's Exhibit No.1), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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 its 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.
2. Petitioner shall maintain all existing vegetative buffers and trees on site and shall replace promptly any plants, trees or shrubs which die or are damaged.

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

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

JEB: sln