

**Tax Map/Block/Parcel
No. 67-3-57
Case 5692**

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: Burrier-Queen Funeral Directors, P.A.
c/o Arthur Queen
1212 W. Old Liberty Road
Sykesville, Maryland 21784

ATTORNEY: Isaac Menasche

REQUEST: An application for a conditional use for a funeral establishment and crematoria to construct a 45 ft. x 41.6 ft. addition¹ for a gathering room, flower area and coffee area; if necessary, a variance from the lot area of 3 acres to 1.7866 acre; rear set back from 50 ft. to 11 ft. and, in the alternative, expansion of a non-conforming use (prior cases 4800, 4253 and 1421).

LOCATION: The site is located at 1212 W. Old Liberty Road, Sykesville, MD 21784, on property zoned "A" Agricultural District in Election District 14.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-71 (34 & 35), 223-2, 223-75, 223-9, and 223-186

HEARING HELD: April 24, 2013

FINDINGS AND CONCLUSION

On April 24, 2013, the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use for a funeral establishment and crematoria to construct a 45 ft. x 41.6 ft. addition for a gathering room, flower area and coffee area; if necessary, a variance from the lot area of 3 acres to 1.7866 acre; rear set back from 50 ft. to 11 ft. and, in the alternative, expansion of a non-conforming use (prior cases 4800, 4253 and 1421). Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Mr. Arthur T. Queen, president of Burrier-Queen Funeral Directors, P.A., noted that the property had been used continuously as a funeral establishment since 1947. Mr. Queen had a funeral home at this location since 1992. The property was used as a funeral home prior to the

¹ During the hearing the actual size to be constructed was stated to be 43 ft. x 41 ft. and the request to the Board was amended to reflect the actual size.

adoption of the Zoning Ordinance in 1961. He stated that the business performed between 65 and 185 funerals a year. On average the business has about two to three viewings weekly. The expanded area was needed to improve the services offered and delivered to clients and patrons.

At the time of the adoption of the Zoning Ordinance in 1961, funeral homes were classified as a conditional use in the Agricultural District. A few years after the adoption of the Zoning Ordinance, the use was removed rendering the use a lawful nonconforming use.

Prior to the instant hearing, the Board had approved of changes for the applicant on October 8, 1997 (Case 4253) and on June 12, 2003 (Case 4800). In 1997 the Board approved the expansion of a nonconforming use by the addition of a roofed canopy over the entrance and a fountain. In 1997 the Board approved an expansion of an existing nonconforming use for an addition intended to contain a crematorium retort and a variance.

The Board also approved a change for a funeral home business at the exact same location in 1979 (Case 1421). In that case the Board approved a small enlargement of the nonconforming use.

On July 3, 2012 the Carroll County Commissioners adopted an ordinance which modified conditional uses to include (34) Funeral establishments and (35) Crematoria. §223-71 Carroll County Code of Public Local Laws and Ordinances. Prior to the adoption of the ordinance in 2012, funeral homes were considered nonconforming uses in the Agricultural zone. The new legislation was now making future funeral homes a conditional use. However, the legislation was silent as to what the status of former funeral homes in the Agricultural district should be.

Based on an April 11, 2013 letter from Philip R. Hager, Secretary, Planning & Zoning Commission and an April 11, 2013 memorandum from Scott E. Graf, Comprehensive Planner, Bureau of Comprehensive Planning, the property was consistent with the policies and recommendations contained in the Carroll County Master Plan, the Carroll County Master Plan for Water & Sewerage, and other functional plans.

The applicant requested the expansion as a conditional use or as a continuation of its nonconforming use. Based on the recent 2012 change in the law by the Commissioners, the Board approved of the conditional use for the property. The Board recognized the long history of a funeral home on the property since 1947. The Board also granted the requested variance because the need for the variance was not necessitated by actions of the applicant. In addition it would not have been in the public interest to close down a thriving and viable business because of a technicality created by legislation. The Board was willing to approve the request regardless whether the approval was considered a conditional use or a nonconforming use. The Board decided to grant the conditional use and the variance based on the fact that the Commissioners recently added funeral establishments and crematoria in 2012.

The Board was convinced that authorization of the request with regard to a conditional use was consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on

the findings of fact made by the Board above, the Board found that the proposed project would not generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone.

4-29-2013

Date



Harvey Tegeler, Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Article 66B, Section 4.08 of the Annotated Code of Maryland Rules of Procedure.

Pursuant to Section 223-192C of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.

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