

**ZONING HEARING BOARD OF WARWICK TOWNSHIP
BUCKS COUNTY, PENNSYLVANIA**

Applicants: American Cremation Services
1859 Stout Drive
Warminster, PA 18974

Owners: Same.

Subject Property: Tax Parcel No. 51-013-009-014, which is located at the address of the Applicants set forth above.

Requested Relief: Applicant presently operates a crematory and wholesale funeral supply use at the subject site as a permitted use. Applicant seeks to further use the subject property as a funeral home limited to a direct cremation service model. Applicant seeks the Zoning Hearing Board's interpretation that the proposed use is a permitted accessory use to a crematory and is therefore permitted by right under §195-15 Use G8 Funeral Home or Mortuary of the Warwick Township Zoning Ordinance. In the alternative, Applicant seeks a variance from §195-15 to allow the proposed additional use as a use G8 Funeral Home or Mortuary.

Hearing History: The application was filed in Warwick Township on March 24, 2020. The hearing was held on August 4, 2020 at the Warwick Township Building, 1733 Township Greene, Jamison, PA 18929.¹

Appearances: Applicant by: Bryce H. McGuigan, Esq.
Begley, Carlin & Mandio, LLP
680 Middletown Boulevard
Langhorne, PA 19047

Mailing Date: September 18, 2020

¹ Applicant was provided with an Act 15 notice, among other things, notifying Applicant that the hearing timeframes under MPC §908(1.2) were tolled or suspended as a result of the COVID-19 emergency declaration. Applicant further signed a waiver of the first hearing timeframes to accommodate the stay at home orders and social distancing protocols of the COVID-19 health emergency.

DECISION

FINDINGS OF FACT:

1. The Zoning Hearing Board of Warwick Township met the requirements of the Zoning Ordinance, the Municipalities Planning Code, and other relevant statutes as to legal notice of the hearing held.

2. The Applicant is the Owner of the Subject Property and therefore possessed of the requisite standing to make application to this Board.

3. The Subject Property is located in the LI, Limited Industrial Zoning District of Warwick Township.

4. A September 2, 1987 Warwick Township Zoning Hearing Board Decision permits use of the Subject Property as a "...Crematorium used for the incineration of whole human corpses only." That same decision denies the expansion of the crematorium use (as applied to the incineration to include "pathological waste"). (See September 2, 1987 Warwick Township Zoning Hearing Board decision)

5. Applicant presently operates a crematory and wholesale funeral supply use at the subject site as a permitted use. Applicant seeks to further use the Subject Property as a funeral home limited to a direct cremation service model. Applicant seeks the Zoning Hearing Board's interpretation that the proposed use is a permitted accessory use to a crematory and is therefore permitted by right under §195-15 Use G8 Funeral Home or Mortuary of the Warwick Township Zoning Ordinance. In the alternative, Applicant seeks a variance from §195-15 to allow the proposed additional use as a use G8 Funeral Home or Mortuary.

6. Mr. Michael Socci, representing American Cremation Services, testified in support of the application. Mr. Socci indicates that he is an owner of the property, and has been in the cremation business for 38 years.

7. Mr. Socci testified regarding the changing dynamics within the professional service industry performing cremations. Mr. Socci distinguished between a full service crematory, which American Cremation Services does not intend to become, and the direct cremation model which American Cremation Services does intend to become. The direct cremation model requires the entity to be a licensed funeral home which therefore requires a certain allocation of space within the building for a room for repose, restrooms for public access, and office space.

8. Mr. Socci indicates that without making any physical adjustments to the exterior of the building, or any new construction within the building, the existing space will be allocated to meet the direct cremation requirements, including an office, funeral parlor of 12 or fewer seats, in an area approximately 12' x 14', and a restroom accessible to the patrons.

9. The direct cremation model relies upon phone and internet transactions. Mr. Socci provided examples of similar services provided by competitors, including Philadelphia Crematory and the Cremation Society of Pennsylvania.

10. The request being made by American Cremation Services through the present zoning application was not a request to serve as a full scale funeral home.

11. Mr. Socci is aware of no opposition to the request. Mr. Socci offered into evidence three letters of adjacent property owners indicating no objection to the request for zoning relief.

12. Mr. Socci testified that the additional use, or modification of the existing use, will not increase traffic to the site. The volume of business to the site will remain the same. Mr. Socci characterized the request for relief as an attempt to address changes in regulatory requirements within the cremation industry.

13. No one spoke in opposition to the application.

14. Warwick Township took no position with regard to this application.

CONCLUSIONS OF LAW:

1. The Subject Property has been developed and used consistent with the requirements of the Ordinance, and consistent with the parameters of the September 2, 1987 Zoning Hearing Board Decision permitting use of the property as a crematorium.

2. “Crematory” is not a defined use within the Warwick Township Zoning Ordinance, but is distinguished and distinguishable from a G8 Funeral Home use, which is a defined term within the Warwick Township Zoning Ordinance.

3. The Zoning Hearing Board does not consider a funeral home as an accessory to the crematory use. Therefore, the Zoning Hearing Board concludes that the funeral home use requested by Applicant, including the direct cremation service model, is not permitted by right.

4. The Board concludes that the Applicant has presented evidence of sufficient factors to warrant the grant of the limited variance requested, to permit the “direct cremation service” model, providing direct cremation services to its patrons, thereby requiring a funeral director’s license, and zoning relief under the Warwick Township Zoning Ordinance.

5. The competent evidence presented leads the Board to conclude that, if the variance relief is granted, there will be no negative impacts upon surrounding properties or uses. To this point, the Zoning Hearing Board concludes that the scope and intensity of the present use of the property as a crematorium will not change in any significant way. There will be no increased volume of traffic or visits to the Subject Property. The nature of the use will not change to the casual observer. Accordingly, the Zoning Hearing Board concludes that there will be no negative impact upon surrounding properties or uses.

6. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary. To this point, the Zoning Hearing Board concludes that the request for relief does not represent a significant objective change to the nature of the use, from a zoning perspective. The change in the nature of the use is more of a technical industry requirement which does not significantly impact the health, safety and welfare issues protected by the Zoning Ordinance.

7. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located.

8. Accordingly, the Warwick Township Zoning Hearing Board determined, unanimously, to grant the Applicant’s request for relief, subject to conditions, as set forth hereafter.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS a variance from §195-15 of the Warwick Township Zoning Ordinance to permit Applicant to expand the existing permitted crematory use on the Subject Property as a Funeral Home, limited to the direct cremation service model, subject to the following conditions:

1. Funeral services conducted at the funeral home will only be funerals where the remains are cremated at the on-site crematorium.
2. Funeral services at the funeral home will be conducted only under circumstances where the remains are prepared for cremation and not for burial.
3. Funeral services will be held on-site only for small scale funerals limited to no more than twelve (12) persons in attendance.
4. Applicant shall comply with all other applicable governmental ordinances and regulations.

**ZONING HEARING BOARD OF
WARWICK TOWNSHIP**

By: /s/ Kevin J. Wolf
Kevin J. Wolf

 /s/ Dave Mullen
Dave Mullen

 /s/ Lorraine Sciuto-Ballasy
Lorraine Sciuto-Ballasy