
ZONING - PENNSYLVANIA

River's Edge Funeral Chapel and Crematory, Inc. v. Zoning Hearing Board of Tullytown Borough

Commonwealth Court of Pennsylvania - November 16, 2016 - A.3d - 2016 WL 6777976

Proposed operator of funeral home and crematory filed appeal from borough's zoning hearing board's order affirming a zoning officer's decision to deny its application for a use and occupancy certificate to operate a funeral home.

The Court of Common Pleas reversed the board's order. Borough appealed.

The Commonwealth Court held that:

- Proposed development would constitute a "funeral home" under zoning ordinance permitting such development, and
- Principal use of property under development would be a funeral home, which was permitted under zoning ordinance, rather than a crematory, which was permitted as an accessory use but not as a principal use.

Proposed development on property would constitute a "funeral home" under zoning ordinance permitting such development. Development would provide services a funeral home offers, including a service, a viewing, and transportation of the body, and would employ individual required to offer licensed funeral services to the public.

Principal use of property under development would be a funeral home, which was permitted under zoning ordinance, rather than a crematory, which was permitted as an accessory use but not as a principal use. Crematory would only constitute 12% of total building area, large portion of building was dedicated to funeral home related services, property met requirements to be a licensed funeral home, and fact that earlier applicant with related ownership had sought to operate only crematory on site did not establish that current application was a pretext.

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