

TOWN OF TIVERTON
ZONING BOARD OF REVIEW

DECISION FOR DIMENSIONAL VARIANCE

RE: Application of Georgianna J. Moniz

Property Owner: Georgianna J. Moniz

Property Address: 408 Stafford Road

For property located at Assessor's Plat 207 Lot 117 in Tiverton, Rhode Island in the following zoning district: R60

This matter was heard before the Board at a public hearing on February 3, 2016 upon Applicant's request for a Special Use Permit under Article IV Section 4.m. and Article XVI Section 3.c. of the Tiverton Zoning Ordinance in order to allow the use of land for a cemetery or burial ground.

Joseph Moniz was sworn in and introduced himself and stated on January 7th his father suddenly passed away and he would like to fulfill his father's wishes by constructing a cemetery on the farm his father was born on. William Smith of Civil Engineers Concept qualified as an expert by the Zoning Board was sworn in and stated the property is located on Stafford Road adjacent to Arruda Dairy Farm. Mr. Smith went on to say there is an existing historical cemetery on the southwest corner of the property. Mr. Smith also stated public convenience and welfare will be served and the proposed use would not negatively impact the public convenience and welfare. The cemetery will be compatible with the adjacent historical cemetery that is set back from the road a little bit.

Mr. Smith continued by saying there is vegetation there so it will hardly be noticeable from the road. The cemetery will not be detrimental to public health, safety, morals or welfare of

the town. Mr. Smith further stated all burials will be done under the direction of a certified funeral home and in conformance with all the state laws. The cemetery will be compatible with the neighboring uses and will not adversely affect the general character of the area as there is an existing historical cemetery already there. Mr. Smith stated this will not create a nuisance in the neighborhood nor hinder or endanger vehicular or pedestrian movement. Access to the cemetery will be via an existing driveway and there will be a right of way to access the cemetery that would be filed in the land evidence records. The cemetery will be compatible with the Comprehensive Community Plan of Tiverton.

Ms. Taylor-Humphrey asked how the cemetery will be marked and Mr. Smith responded the cemetery or burial ground will have permanent boundary markers so that it is distinguishable as to where the sites will be by placing survey markers on each corner. Mr. Moniz added he will place fence right around the whole cemetery.

Mr. Smith added the area to be used as a cemetery or burial ground is located on a separately deeded parcel of land recorded in the land evidence records of the Town of Tiverton which deed shall specifically set forth that the land contained here will be used as a cemetery or burial ground. Mr. Swirkza agreed with Mr. Smith stating that this doesn't require a subdivision to create a new lot that it just requires recording it in the land evidence records identifying that. Mr. Smith stated he will dedicate a right of the way to access the cemetery via the existing driveway by an easement.

Mr. Alzaibak asked who is taking care of the cemetery now and Mr. Moniz responded his wife. Mr. Smith added that the easement language will include that there is a requirement for care of the cemetery.

At this time, the Board closed the Public Hearing and began a discussion for the purpose of reaching a decision. Mr. Alzaibak stated they have the land and the cemetery will be away from the road and it is not affecting the town. Mr. Alzaibak also stated they do a great job on the historical cemetery that is there now. Mr. Collins and Mr. Jackson had no problem with the petition.

Mr. Collins made a motion to grant the request for a special use permit in order to allow the use of land for a cemetery or burial ground based on the testimony and evidence presented that the public convenience and welfare will be served. There's no indication that it will be detrimental to the public health, safety, morals, or welfare. The cemetery will be compatible with the existing cemetery on the property now and it will not have an adverse affect on the character of the neighborhood. There are several requirements that don't apply such as sewerage and water service and fire protection and there will be no vehicular traffic or pedestrian movement so that will not be a hindrance. It is compatible to the Comprehensive Community Plan. The burials will be done under the direction of a certified funeral home in conformity with state law, that it be located 30 feet from the property and from the street. There is no visual impact due to the fact that it is located behind a stone wall. There will be permanent access via an easement that will be recorded in the land evidence records, and that there be a provision and an easement for perpetual care of the property and that there will be a border or permanent boundary and the minimum size of not less than 625 feet. Mr. Taylor seconded. The vote was unanimous. Voting were: Chairwoman Ms. Lise Gescheidt, Mr. David Collins, Mr. Richard Taylor, Mr. Jay Jackson and Ms. Wendy Taylor-Humphrey.

- I. The public convenience and welfare will be served. No evidence presented to the contrary.
- II. It will not be detrimental to the public health, safety, morals or welfare. No evidence presented to the contrary.
- III. It will be compatible with neighboring uses and will not adversely affect the general character of the area. Family burial plots are not uncommon in this area and, in-fact, there is an existing family burial plot already on the property.
- IV. It will not create a nuisance in the neighborhood, nor hinder or endanger vehicular or pedestrian movement. This use will have no impact other than to those visiting the burial plot.
- V. It will have adequate provision made for water service, sanitary sewage disposal and fire protection. The board may accept reports of the state department of health and registered professional engineers, land surveyors or sanitarians, as proof of the adequacy of these facilities. This finding is not applicable
- VI. It will be compatible with the comprehensive community plan of the Town of Tiverton. The plan promotes these type of burial plots.
- VII. The area to be used as a cemetery or burial ground will have permanent boundary markers and have a minimum size of not less than 625 square feet.
- VIII. The area to be used as a cemetery or burial ground is located on a separately deeded parcel of land recorded in the land evidence records of the Town of Tiverton, which deed shall specifically set forth that the land contained therein is dedicated for use as a cemetery or burial ground.

IX. That the proposed location of the cemetery or burial ground will not be detrimental to public health; that it will be compatible with neighboring uses and be not less than 30 feet from the boundary line with adjoining properties; that there is permanent access to the proposed burial ground; and that adequate provisions have been made for perpetual care of the cemetery.

Voting to Approve: Ms. Gescheidt

Mr. Collins

Mr. Jackson

Mr. Taylor

Ms. Humphrey

Voting to Deny: None

Date

L. Gescheidt, Chairwoman