

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland Avenue  
(240) 777-6600

<http://www.montgomerycountymd.gov/boa/>

**Case No. A-6693**

**PETITION OF REMEMBRANCE LIFE, INC.**

**RESOLUTION TO REFER VARIANCE APPLICATION  
TO THE HEARING EXAMINER TO SCHEDULE AND HOLD A PUBLIC HEARING  
IN CONNECTION WITH OZAH CASE NO. CU 21-06, AND FOR THE ISSUANCE OF A  
REPORT AND RECOMMENDATION**

(Resolution Adopted February 24, 2021)  
(Effective Date of Resolution: March 5, 2021)

Board of Appeals' Case No. A-6693 is an application for two variances needed for the construction of future building in connection with the proposed development of a cemetery (OZAH Case No. CU 21-06).

The subject property is approximately 40.31 acres in size, and is located at 16621 New Hampshire Avenue, Silver Spring, Maryland, 20905, in the RC Zone.

The Board of Appeals has received a letter, dated February 18, 2021, from Jody S. Kline, Esquire, on behalf of Petitioner Remembrance Life, Inc. Mr. Kline indicates in his letter that his client has filed a conditional use application for a cemetery with the Office of Zoning and Administrative Hearings (OZAH Case No. CU 21-06). That application is currently scheduled for a hearing on May 17, 2021. Mr. Kline indicates that two variances are needed in connection with the proposed conditional use. As noted on the building permit denial, the proposed construction requires a variance of 85.9 feet from the minimum 300-foot lot width at the front building line that is required by Section 59.4.3.4.B.1 of the Zoning Ordinance. The width of the subject property at the front building line is 214.1 feet. In addition, the proposed construction requires a variance of 94.1 feet from the minimum lot width at the front lot line. Section 59.4.3.4.B.1 of the Zoning Ordinance requires a minimum lot width at the front lot line of 300 feet; the width of the subject property at the front lot line is 205.9 feet.

On behalf of his client and pursuant to Board of Appeals' Rule of Procedure 1.6(b)(1), Mr. Kline requests that the conditional use application and the variance application "be consolidated and a joint public hearing be advertised and conducted." In addition, pursuant to Board Rule 1.6(b)(2), Mr. Kline requests that the variance fee be waived.

Due to the COVID-19 pandemic, the Board of Appeals considered Mr. Kline's letter at a remote Worksession held on February 24, 2021, using Microsoft Teams. Mr. Kline participated in the proceedings on behalf of his client and explained his request. Board Rule 1.6(b) reads as follows:

- b. If an applicant files a variance application involving property for which the applicant has also filed a conditional use application with the Hearing Examiner, the Board may, upon written request:
  1. refer the variance(s) to the Hearing Examiner in accordance with Section 7.6.2.B.2 to conduct a hearing and write a report and recommendation; and
  2. waive the variance fee.

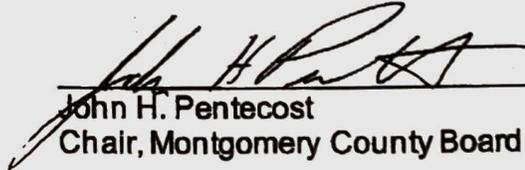
Section 59.7.6.2.B.2 of the Zoning Ordinance provides that:

2. The Hearing Examiner schedules and conducts public hearings for all conditional use applications. The Hearing Examiner may schedule and conduct a hearing or write a report and recommendation for any other matter pending before the Board of Appeals upon request of the Board of Appeals and with approval of 3 of its members.

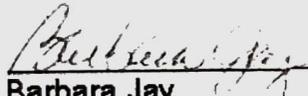
The Board finds, in accordance with the above-excerpted provisions, that it has the authority to refer this variance application to the Hearing Examiner to schedule and conduct a hearing, and to issue a report and recommendation to the Board, and votes to take such action. The Board further finds that it can grant the requested fee waiver, and votes to do that as well. Accordingly, on a motion by John H. Pentecost, Chair, seconded by Richard Melnick, with Bruce Goldensohn, Vice Chair, Katherine Freeman, and Mary Gonzales in agreement:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that, pursuant to the authority granted in Section 59.7.6.2.B.2 of the Montgomery County Zoning Ordinance and Board of Appeals' Rule of Procedure 1.6(b), the Board refers variance Case No. A-6693 to the Hearing Examiner for Montgomery County to schedule and conduct a hearing in connection with that Office's consideration of conditional use Case No. CU 21-06, and for the issuance of a written report and recommendation to the Board of Appeals in Case No. A-6693; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that, pursuant to the authority in Board of Appeals' Rule of Procedure 1.6(b)(2), the Board hereby waives payment of the variance fee.

  
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John H. Pentecost  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 5th day of March, 2021.

  
\_\_\_\_\_  
Barbara Jay  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.