

IN THE MATTER OF:	*	BEFORE THE
CEDAR GROVE CHURCH CEMETERY, INC.	*	BOARD OF APPEALS
LEGAL OWNER AND PETITIONER FOR	*	
SPECIAL HEARING ON THE PROPERTY	*	OF
LOCATED AT 2015 MOUNT CARMEL ROAD	*	
15 TH ELECTION DISTRICT	*	BALTIMORE COUNTY
3 RD COUNCILMANIC DISTRICT	*	Case No.: 18-103-SPH

* * * * *

RULING ON MOTION TO DISMISS

This case comes before the Board of Appeals of Baltimore County on an appeal of Administrative Law Judge (“ALJ”) John Beverungen’s December 4, 2017 decision denying a Petition for a Special Hearing to permit a “changeable copy” sign for Cedar Grove Church Cemetery, Inc., at the property located at 2015 Mt. Carmel Road in the Parkton community of northern Baltimore County.

On January 22, 2018, George Harman, Zoning Committee Chair of the Reisterstown-Owings Mills-Glyndon Coordinating Council, filed a Motion to Dismiss the appeal. Protestant, Mark Letersky, *pro se*, filed a memorandum in Support of the Motion to Dismiss the Appeal. People’s Counsel for Baltimore County also supported the dismissal request. Petitioner opposed the dismissal request.

The Board heard arguments on February 15, 2018. Katie Lee Douglas, Esquire and Robert Ryan, head Trustee, appeared on behalf of Petitioner. Carole Demilio, Esquire appeared on behalf of People’s Counsel. Mr. Harman did not appear. The Board publicly deliberated the Motion to Dismiss immediately following arguments.

FACTS

The property is located outside of the urban/rural demarcation line (“URDL”) on land zoned R.C.2. In March of 2017, a vehicle left the roadway and destroyed the original standing sign of Cedar Grove Church Cemetery, Inc. The church replaced the sign with a “changeable copy” sign. A zoning violation citation was issued and that case was stayed to allow Petitioner to seek special hearing relief.

On October 10, 2017, a Petition for Special Hearing pursuant to §500.7 of the Baltimore County Zoning Regulations (BCZR) was filed requesting approval of a “changeable copy” sign for a church located outside of the URDL. On December 4, 2017, the ALJ denied the Petition finding there were no standards or guidelines by which to consider the requested relief. Petitioner filed a timely appeal.

DISCUSSION

Arguments were presented by People’s Counsel, Protestants, and Petitioner. Mr. Ryan expressed that the church’s members are older and no longer able to maintain the sign on a regular basis so the changeable copy sign was most helpful to their congregation.

BCZR §Section 450.B.1 provides as follows:

B. Changeable copy signs. In addition to the limitations of Section 450.4, changeable copy signs are subject to the following:

1. Changeable copy signs accessory to a planned shopping center or any separate commercial establishment in a Business Zone are subject to the following limitations:

a. A freestanding changeable copy sign may be erected only as an integral part of an otherwise permitted enterprise or joint identification sign.

b. Up to 50% of the erected sign area of a permitted enterprise or joint identification sign may be devoted to changeable copy. This paragraph does not apply to a sign located within a state-designated transit-oriented development in the C.T. District of Owings Mills. [Bill Nos. 16-2015; 49-2016]

c. Animated signs require special exception approval by the Baltimore County Zoning Commissioner.

d. Electronic changeable copy signs are not permitted in the C.R. District or outside the urban rural demarcation line or in historic districts. (emphasis added)

Where the statutory language is plain and free from ambiguity, and expresses a definite and simple meaning, courts normally do not look beyond the words of the statute to determine legislative intent. *Marriott Employees Fed. Credit Union v. Motor Vehicle Admin*, 346 Md. 437, 445, 697 A.2d 455, 458 (1997); *Kaczorowski v. Mayor and City Council of Baltimore*, 309 Md. 505, 515, 525 A.2d 628, 633 (1987); *Hunt v. Montgomery County*, 248 Md. 403, 414, 237 A.2d 35, 41 (1968).

Protestants and People's Counsel contend that the Motion to Dismiss should be granted because the statute clearly prohibits electronic changeable copy signs outside of the URDL.

Petitioner contends the Motion to Dismiss should be denied because the congregation members are no longer able to change the sign manually due to age/incapacity.

CONCLUSION

After a thorough review of the arguments and law in this matter, this Board grants the Motion to Dismiss the Petition for a Special Hearing seeking a "changeable copy" sign for Cedar Grove Church Cemetery, Inc. It is patently clear that the sign at issue is located on property outside of the URDL and prohibited per §450.7.B.1.d of the Baltimore County Zoning Regulations.

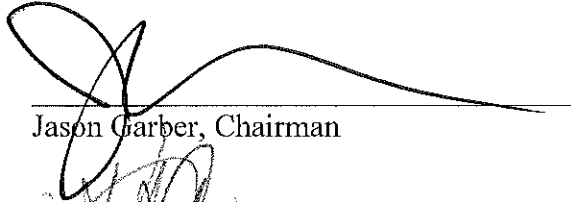
ORDER

IT IS THEREFORE, this 20th day of June, 2018 by the Board of Appeals for Baltimore County,

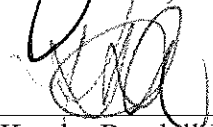
ORDERED, that the Motion to Dismiss Petition for Special Hearing filed by George Harmon and adopted by People's Counsel for Baltimore County, be and is hereby GRANTED.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Jason Garber, Chairman



Kendra Randall Jolivet

Board member James H. West participated in the hearing and public deliberation in this matter. His term expired on April 30, 2018.



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

June 20, 2018

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

Katie Lee Douglas, Esquire
303 Pennsylvania Avenue
Towson, Maryland 21204

RE: In the Matter of: *Cedar Grove Church Cemetery, Inc.*
Case No.: 18-103-SPH

Dear Counsel:

Enclosed please find a copy of the Ruling on Motion to Dismiss issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Robert E. Ryan/Cedar Grove Church Cemetery, Inc.
Teresa Moore/Valleys Planning Council
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Deputy Administrative Officer, and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

Douglas Zinn
Mark Letersky
Mike Pierce
George Harmon
Kelley Taylor
Carol S. Daisy