



Development Ordinance

421 N. COUNTY FARM
ROAD
WHEATON, IL 60187
www.dupagecounty.gov

File #: DC-O-0002-25

Agenda Date: 1/21/2025

Agenda #: 12.A.

Zoning Petition ZONING-24-000075 Moksh Dham

WHEREAS, a public hearing was held on December 12, 2024 in the DuPage County Administration Building, 421 North County Farm Road, Wheaton, Illinois at 6:00 P.M. before the DuPage County Zoning Board of Appeals and notice of said hearing was duly given; and

WHEREAS, a petition was presented at this hearing requesting the following zoning relief:

Conditional Use for a funeral home with cremation services in the R-4 Single Family Residence District, on the property hereinafter described:

LOT 1 IN ST. BEDE'S EPISCOPAL CHURCH ASSESSMENT PLAT OF PART OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 30, 1964, AS DOCUMENT R64-40991, IN DUPAGE COUNTY, ILLINOIS; and

WHEREAS, the Zoning Board of Appeals, having considered in relation to the above requested zoning petition presented at the above hearing and at the recommendation meeting held on January 9, 2025 does find as follows:

FINDINGS OF FACT:

1. That petitioner testified that they seek the subject zoning relief for a Conditional Use for a funeral home with cremation services in the R-4 Single Family Residence District.
2. That petitioner testified that Moksh Dham is the contract purchaser and is an Illinois not-for-profit company.
3. That petitioner testified that the subject property is approximately four and-a-half (4.5) acres in size and zoned R-4 Single Family Residential.
4. That petitioner testified that there is a dilapidated and vacant split-level brick and frame building on the subject property that was previously a place of assembly use.
5. That petitioner testified that the R-4 Single Family Residential District allows a funeral home as a conditional use where the subject property is located adjacent to a non-residential zoning business district boundary line, or the subject property has frontage on at least a minor arterial roadway.

- a. Petitioner testified that the subject property has frontage and direct access onto Route 83, which is a four-lane major arterial roadway.
6. That petitioner testified that the Illinois Supreme Court, in the City of Chicago Heights v. Living Word Outreach Full Gospel Church & Ministries, stated that when a use is designated as a conditional use in a zoning district, such designation is a legislative determination that the use is in harmony with the general zoning plan and will not adversely affect the neighborhood.
 - a. That petitioner testified that the Living Word case states that an application for a conditional use permit may not be denied on the grounds that the use is not in harmony with the surrounding neighborhood but whether the use would have an adverse effect.
7. That petitioner testified that the vast majority of funeral services would be held at off-peak traffic and school hours, such as nights and weekends, and that the vast majority of funeral services would end with the cremation of the body on-site, eliminating traffic impacts caused by large funeral processions.
8. That petitioner testified that the second floor of the funeral home is the viewing area with a capacity of three hundred (300) people where the funeral services are held, and that at the end of the funeral, the body is lowered down to the first floor where the cremation units are located and then cremated as part of funeral process.
9. That petitioner testified that the cremation process results in no smoke, no smell, and no noise, and that Section 37-1005.3 of the DuPage County Zoning Ordinance regarding particulate matter emissions would allow up to four and-a-half pounds of particulate matter emissions per hour from this property.
 - a. Furthermore, that petitioner testified that the cremation furnaces that are proposed for the subject property would have particulate matters of only three-hundredths of a pound per hour.
10. That petitioner testified that there are wetlands on the north and east sides of the subject property, which will be rehabilitated and enhanced creating an even greater buffer area to the north, east, and south.
11. That petitioner testified that there are no unique or unusual impacts to the surrounding properties as there are no points of access to them from the subject property due to the location of the wetlands.
12. That the Zoning Board of Appeals finds that petitioner **has demonstrated** sufficient evidence to support the zoning relief for a Conditional Use for a funeral home with cremation services in the R-4 Single Family Residence District, and that petitioner provided sufficient evidence to satisfy the seven (7) standards to support a Conditional Use.

STANDARDS FOR CONDITIONAL USES:

1. That the Zoning Board of Appeals finds that petitioner **has demonstrated** that the granting of the Conditional Use is in harmony with the general purpose and intent of the Zoning Ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the County's comprehensive plan for development; and specifically, that the granting of the Conditional Use will not:
 - a. Impair an adequate supply of light and air to the adjacent property as petitioner **has demonstrated** that the proposed funeral home would be developed in accordance with all required bulk regulations relative to setbacks, heights, open space, and stormwater detention, and therefore would not impact an adequate supply of light and air to the adjacent properties.
 - Furthermore, that petitioner testified that the cremation furnaces that are proposed for the subject property have particulate matters of only three-hundredths of a pound per hour and would not impair the supply of light and air to the adjacent properties.
 - b. Increase the hazard from fire or other dangers to said property as petitioner **has demonstrated** that the proposed funeral home would comply with all DuPage County codes relative to building, particulate matter, and the Fire Protection District, and would not increase the hazard from fire or other dangers to said property.
 - Furthermore, that petitioner testified that the proposed building would have a sprinkler system, fire alarm system, and enhanced well to allow for greater fire flow.
 - c. Diminish the value of land and buildings throughout the County as petitioner **has demonstrated** that the proposed funeral home will replace an older vacant building with an entirely new building, which will have no adverse impacts on the value of the surrounding recreational, education, and residential uses.
 - d. Unduly increase traffic congestion in the public streets and highways as petitioner **has demonstrated** that the proposed funeral home would be located on the east side of Illinois Route 83, a four-lane roadway, utilizing the existing driveway entrance/exit, and that the proposed use in addition to the existing access point, would not increase traffic congestion in the public streets and highways.
 - e. Increase the potential for flood damages to adjacent property as petitioner **has demonstrated** that the proposed funeral home would comply with all codes and requirements by DuPage County and that the Stormwater Department has no objections to the concept of the petition and will require a Stormwater Certification.
 - f. Incur additional public expense for flood protection, rescue or relief as petitioner **has demonstrated** that the proposed funeral home would comply with all codes and requirements by DuPage County and that the proposed funeral home would not incur additional public expense for flood protection, rescue, or relief.
 - g. Otherwise impair the public health, safety, comfort, morals, or general welfare of the inhabitants of DuPage County as petitioner **has demonstrated** that the proposed funeral home conditional use will be consistent with similar funeral homes within DuPage County and with all ordinances relative to the public health, safety, comfort, morals, and general welfare of the inhabitants of DuPage County.

PETITIONER'S DEVELOPMENT FACT SHEET

GENERAL ZONING CASE INFORMATION		
CASE #/PETITIONER	ZONING-24-000075 Moksh Dham	
ZONING REQUEST	Conditional Use for a funeral home with cremation services in the R-4 Single Family Residence District.	
OWNER	4 TH AVENUE GOSPEL CHURCH, 5N047 ROUTE 83, BENSENVILLE, IL 60106 / 4 TH AVENUE GOSPEL CHURCH, 530 ALBION AVENUE, SCHAUMBURG, IL 60193/ AGENT: RASHMI PATEL, MOKSH DHAM CREMATION, INC., 380 E. NORTHWEST HIGHWAY, DES PLAINES, IL 60016/ JAMES WHITE, LAW OFFICE OF JAMES F. WHITE, P.C., 160 S. MUNICIPAL DRIVE, SUGAR GROVE, IL 60554	
ADDRESS/LOCATION	5N047 ROUTE 83, BENSENVILLE, IL 60106	
PIN	03-14-317-006	
TWSP./CTY. BD. DIST.	Addison	DISTRICT 1
ZONING/LUP	R-4 SF RES	SINGLE FAMILY ATTACH
AREA	4.78 ACRES (208,217 SQ. FT.)	
UTILITIES	WELL/SEPTIC	
PUBLICATION DATE	Daily Herald: NOVEMBER 26, 2024	
PUBLIC HEARING	THURSDAY, DECEMBER 12, 2024	
<u>ADDITIONAL INFORMATION:</u>		
Building:	No Objections.	
DUDOT:	Our office has no jurisdiction in this matter.	
Health:	Objects. "Current septic system installed in 1964 only has a capacity for 100 people. Septic system will need to be modified to accommodate additional usage." (See attached documentation)	
Stormwater:	No Objections with the concept of the petition. Additional information may be required at time of permit application. "No objection with the concept of the conditional use. The site plan and building permit will require additional information under the Stormwater Certification Application to address existing wetland and buffer violations."	
Public Works:	"DPC Public Works doesn't own any sewer or water in the area."	
EXTERNAL:		

Village of Bensenville:	Objects. (See attached documentation)
Village of Addison:	No Objections
City of Wood Dale:	<i>No Comments Received.</i>
City of Elmhurst:	<i>No Comments Received.</i>
Addison Township:	<i>No Comments Received.</i>
Township Highway:	<i>No Comments Received.</i>
Bensenville Fire Dist.:	<i>No Comments Received.</i>
Sch. Dist. 2:	Objects. (See attached documentation)
Sch. Dist. 100:	Objects. (See attached documentation)
Forest Preserve:	"We do not have any comments."

LAND USE

Location	Zoning	Existing Use	LUP
Subject	R-4 SF RES	VACANT	VILLAGE OF BENSENVILLE
North	VILLAGE OF BENSENVILLE	PARK DISTRICT	VILLAGE OF BENSENVILLE
South	VILLAGE OF BENSENVILLE	VILLAGE OF BENSENVILLE	VILLAGE OF BENSENVILLE
East	VILLAGE OF BENSENVILLE	VILLAGE OF BENSENVILLE	VILLAGE OF BENSENVILLE
West	ROUTE 83 AND BEYOND R-4 SF RES/ VILLAGE OF BENSENVILLE	HOUSE	0-5 DU AC/ VILLAGE OF BENSENVILLE

WHEREAS, the Zoning Board of Appeals, having considered in relation to the above and at the recommendation meeting held on January 9, 2025, recommends to approve the following zoning relief:

Conditional Use for a funeral home with cremation services in the R-4 Single Family Residence District.

Subject to the following conditions:

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition #ZONING-24-000075 **Moksh Dham** dated December 12, 2024.
2. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.

3. That in conjunction with the submittal of a building permit the developer provides a landscape plan showing full landscape screens around the perimeter of the development.
4. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

ZBA VOTE (to Approve): 7 Ayes, 0 Nays, 0 Absent

WHEREAS, the County Board Development Committee on January 21, 2025, considered the above findings and recommendations of the Zoning Board of Appeals and recommends to concur with the findings and recommends to approve the following zoning relief:

Conditional Use for a funeral home with cremation services in the R-4 Single Family Residence District.

Subject to the following conditions:

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition **#ZONING-24-000075 Moksh Dham** dated December 12, 2024.
2. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
3. That in conjunction with the submittal of a building permit the developer provides a landscape plan showing full landscape screens around the perimeter of the development.
4. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

Development Committee VOTE (Motion to Approve): 6 Ayes, 0 Nays, 0 Absent

NOW, THEREFORE, BE IT ORDAINED by the County Board of DuPage County, Illinois that the following zoning relief be granted:

Conditional Use for a funeral home with cremation services in the R-4 Single Family Residence District, on the property hereinafter described:

LOT 1 IN ST. BEDE'S EPISCOPAL CHURCH ASSESSMENT PLAT OF PART OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT

THEREOF RECORDED OCTOBER 30, 1964, AS DOCUMENT R64-40991, IN DUPAGE COUNTY, ILLINOIS; and

The Zoning Relief is subject to the following conditions:

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition **#ZONING-24-000075 Moksh Dham** dated December 12, 2024.
2. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
3. That in conjunction with the submittal of a building permit the developer provides a landscape plan showing full landscape screens around the perimeter of the development.
4. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

BE IT FURTHER ORDAINED by the County Board of DuPage County, Illinois that should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid; and

BE IT FURTHER ORDAINED that a certified copy of this Ordinance be transmitted by the County Clerk to the DuPage County Finance Department; DuPage County Auditor; DuPage County Treasurer; Paul J. Hoss, Zoning; State's Attorney's Office; DuPage County Health Department; DuPage County Division of Transportation; 4TH AVENUE GOSPEL CHURCH, 5N047 ROUTE 83, BENSENVILLE, IL 60106 / 4TH AVENUE GOSPEL CHURCH, 530 ALBION AVENUE, SCHAUMBURG, IL 60193/ AGENT: RASHMI PATEL, MOKSH DHAM CREMATION, INC., 380 E. NORTHWEST HIGHWAY, DES PLAINES, IL 60016/ JAMES WHITE, LAW OFFICE OF JAMES F. WHITE, P.C., 160 S. MUNICIPAL DRIVE, SUGAR GROVE, IL 60554; and Township Assessor, Addison Township, 401 North Addison Road, Addison, IL 60101.

Enacted and approved this 28th day of January, 2025 at Wheaton, Illinois.



DEBORAH A. CONROY, CHAIR
DU PAGE COUNTY BOARD

Attest:



JEAN KACZMAREK, COUNTY CLERK