

Mount Kisco opposes crematory plan

Cemetery turns to court to fight Mt. Kisco zoning code

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Oakwood Cemetery president Howard Kensing stands near a sign to the cemetery April 7, 2011. The historic 50+ acre cemetery wants to build a crematory among its hundreds of underground burial sites. / Joe Larese/The Journal News

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MOUNT KISCO — Thwarted by a new village law that would prevent construction of a cremation operation, administrators of Oakwood Cemetery in Mount Kisco are hoping the state Supreme Court will succeed where they have failed.

In a recently enacted zoning code amendment, the village said that adding a crematory to an existing cemetery would increase traffic and “substantially alter” the community, specifically its open space, which cemeteries are considered. Officials say they have the right to update wording for clarity in their zoning regulations to maintain the integrity of village properties.

The 125-year-old cemetery that pre-dates any zoning laws is suing its hometown to overturn the new restriction that strictly forbids the cemetery to operate a cremation facility.



“The creation of the crematory will extend the useful life of the cemetery because cremains, the end product of cremation, are buried in plots smaller than the traditional size or kept elsewhere in a receptacle of the family’s choosing,” according to the lawsuit filed Oct. 12. “A crematory will allow Oakwood to economically provide a needed and increasingly preferred public service.”

The village asked that the court dismiss the lawsuit in paperwork filed Nov. 23, saying that there is no legal basis to sue the village over a legislative change within its zoning regulation and that Oakwood Cemetery is asking for permission to build a structure that would be an accessory use on its property.

“There is no doubt that Oakwood is an asset to the community,” Village Attorney Whitney Singleton said Friday. “These are good people and Oakwood is a terrific place. This is a fight the village does not want to undertake, but must do so to uphold its zoning.”

“Almost every community within the state has some form of zoning regulation pertaining to cemeteries,” reads the village’s motion, which emphasizes that Oakwood does not appear to have state approval for a crematory.

The village board approved a changing in its zoning code on June 13, 2011.

Oakwood’s Board of Directors contends the crematory does not constitute a new use for the land but an expansion of an existing use that was approved long before zoning regulations were written.

The structure is planned for the rear of the cemetery’s 57-acre site.

Oakwood officials predict to do about 20 to 30 cremations per per month, and that would result in one or two additional vehicles per day to the cemetery.

They also say that even with the addition of a crematory the majority of its property would remain open space.

The cemetery off Lexington Avenue has used 7,000 of its 15,000 plots and currently handles about 75 to 85 cremated remains each year.

Currently, the only cremation center in Westchester is at Ferncliff Cemetery Association in Hartsdale.