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THE TOWNSHIP OF MIDDLETOWN
PLANNING BOARD, : SUPERIOR COURT OF NEW JERSEY
Plaintiff, : MONMOUTH COUNTY
: LAW DIVISION
V. : DOCKET NO. MON-L-000914-19
FAIR VIEW CEMETERY : CIVIL ACTION
ASSOCIATION, : CONSENT ORDER
Defendant. :
:

THIS MATTER having been opened before the court by James H. Gorman, Esq., on an application for the entry of an Order to Show Cause on behalf of plaintiff Township of Middletown Planning Board, with Michael B. Steib, Esq., responding on behalf of defendant, Fair View Cemetery Association, and the parties having consented to the entry of this order to resolve issues related to the injunctive relief requested by the plaintiff.

NOW, THEREFORE, IT IS on this 18th day of March, 2019,

ORDERED that:

1. Neither party concedes any issues.
2. Defendant Fair View Cemetery is enjoined from proceeding with its conditional use and minor site plan application before the plaintiff Middletown Township Planning Board.

CC: Adm
nelson
TC
Chavan

3. The injunction will continue in effect until a final non-appealable judgment is entered on plaintiff Fair View Cemetery's complaint against the Middletown Zoning Board in Fair View Cemetery Association v. Township of Middletown Zoning Board of Adjustment, MON-L-3956-17.

4. During the period of the injunction, the application of Fair View Cemetery for conditional use and minor site plan approval will remain on the Planning Board calendar but will not be scheduled for public hearing until the period of this injunction is concluded. Fair View Cemetery shall re-notice for the rescheduled public hearing.

5. Fair View Cemetery will not claim automatic approval due to inaction of the Middletown Planning Board or invoke the provisions of N.J.S.A. 40:55D-10.4 and agrees to extend the time for the Planning Board to act during the period of this injunction.

6. If Fair View Cemetery continues with its application for conditional use and minor site plan approval after the period of this injunction is concluded, the application shall be presented to, and considered by, the Planning Board pursuant to N.J.S.A. 40:55D-10.5 based on the development regulations that were in effect on the date of submission.

7. For the purposes of this Order, the submission date shall be January 30, 2019, the date of the Planning Board's correspondence to Fair View Cemetery deeming the application

complete. The subsequent adoption of an ordinance by the Township imposing additional regulations upon, or prohibiting, crematoriums shall not be considered to be ordinances "relating to health and public safety" under N.J.S.A. 40:55D-10.5.

8. Plaintiff's declaratory judgment action shall be stayed during the period of the injunction.

9. Plaintiff's pending request for injunctive relief is withdrawn.

Lisa P. Thornton

Honorable Lisa P. Thornton, A.J.S.C.

The undersigned hereby consent to the form and entry of this Order.

James H. Gorman, Esq.
Attorney for Plaintiff
Township of Middletown Planning Board

James H. Gorman
James H. Gorman, Esq.

Dated: 3-15-19

Michael B. Steib, Esq.
Attorney for Defendant
Fair View Cemetery Association

Michael B. Steib
Michael B. Steib, Esq.

Dated: 3/18/19