

Burials On Family Land

By Ryan Helfenbein

In the 1989 movie "The Burbs," Ray (Tom Hanks) and his buddy Art explore a neighbor's yard when they hear this new family might be a bit on the morbid side. During this film, after it is learned that a local townsman (Walter) disappeared, there is a scene where Art finds a bone in this out-of-the-ordinary family's backyard and leans into Ray saying, "Ray, there's no doubt anymore. This is real ... They're burying them in their backyard. Ray - This is Walter!" This movie is one of many that paint a chilling picture of burying people on family property. But it also brings up a question: Can it be done? Could a cemetery be created on my private property? And better yet, could "Walter" be buried in a backyard?

The political and fast answer is possibly. According to the Cemetery Oversight Committee of Maryland, there are no current regulations regarding burial on private land. It is, however, required that the local county government and department of zoning be contacted for approval of location and that it be noted on land records. This process also involves the county health department to be sure the site is not harmful in any way. It would also be wise to go through your local neighborhood association too. A way to look at this approval process is actually similar to that of putting a shed on your property, with the addition of a public notice to make your neighbors aware of your newly invited guest(s). If approval is granted by the local government, the land owners must then report the new cemetery (no matter the size) to the Maryland Cemetery Oversight Committee for recording purposes. As long as the cemetery sites are not for sale, then the private cemetery can operate outside of the committee's direct supervision and therefore no fees are required.

The question is not so much can it be done, but what is done if the owners of that land sell the property in the future?

If the owner of that land sells the property and does not stipulate in the property records that the family of the recently departed can visit the grounds, then there could be a trespassing violation, as that property is not public. As a practical matter, most of the time when property is

sold, the previous owner relocates the graves to a public cemetery nearby. This is actually quite common when developers purchase farmland to develop. The excavation crew comes along to level the earth and, "Voila," they stumble onto a small cemetery from generations ago. Typically the site work comes to a halt and the local undertaker is contacted to step in for the relocation process. There is a bit of an expense to this relocation process called "disinterment and reinterment," including the purchase of new graves and site preparation, extensive paperwork and documentation, essential sign-offs by county officials and detailed public announcements. But usually the individuals are moved to a more permanent place of rest in a nearby cemetery with no concerns. It is often just time that is a factor.

Let's look at a real-life example of this. Many years ago a nearby family I grew up with lost their two sons very suddenly. The parents decided to create a small cemetery on their family farm where the sons would be laid to rest to provide a private setting for the parents to grieve. Fast forward. The family was in a position to sell the property and move out of state. This in turn left behind the question of what to do with the two sons. Well, that's where undertakers stepped in to help. We actually relocated them into a traditional cemetery in the same town. Their markers, vaults and memorabilia all went with them to the new sites, replicating what was on the private land, providing a truly final resting place.

Now I wouldn't rush out to your next neighborhood homeowners meeting screaming that you are looking into putting a cemetery in your backyard anytime soon. But if it is something you are interested in considering, know that there is a good chance it can be approved if a large amount of private land is available. All in all, be sure to get to know your neighbors well, no matter how odd they may seem. As Ray and Art learned, one never can be too sure if a "Walter" isn't resting peacefully out back!

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