



# CITY OF GARDINER

## PLANNING BOARD

Gardiner Planning Board  
City of Gardiner, Maine

October 13, 2009  
Regular Meeting 6:00 PM

### ROLL CALL

Present: Pat Hart Judith A. Dorsey Pamela Mitchel  
Ronald Condon James Montell Deborah Willis

Absent: Edward Lawrence

Also Present: Dorothy Morang, Planning Board Recording Secretary  
David Cichowski, Code Enforcement Officer  
Bill Najpauer, Contracted Planner

Patricia M. Martin	Kim Tessari	Victor Tessari	Rusty Greenleaf
Beverly LaPlante	Anne Cough	Rosalind Jellison	Elizabeth Cooley
Marc Cone	Jen Kinnelly	Paula Greenleaf	Denny Greenleaf
Kim Greenleaf	Don Cailler	Linda Cailler	Joan Vining
Don Vining	Jay Folckemer	Clarence McKay	Anita M. Folckemer
Teresa M. Hathaway	Lynn Gerard	Harold Gerard Jr.	Deborah Skehan
Timothy Skehan	Ken Carlson	Pamela Cartonio	David Robinson
Art Robinson	Judith Skehan	Jack Skehan	Jolaine Galibois-Barss
Carl Hubbard	Sue Rapalus	Marc Gosline	N. Lynn Cornfield
Jerome Maschino	Mary Maschino	Joyce Perry	Bill Perry
Phil Barter	Margaret Barter	Ralph Clark	Lincoln Luken
Joseph Donahue	Steven Woodard	George Trask	Jon White
Chris Temple	Bill MacDonald	Steve Hanley	

Others – either on list and signatures illegible or did not sign in

**1.) Call the Meeting to order.**

Chair, Pat Hart called the meeting to order at 6:03 PM and welcomed everyone.

**2.) Roll call taken.**

3.) **September 8, 2009 Minutes.**

Pam Mitchel made a motion to accept the minutes as written. Judy Dorsey seconded the motion.

Vote: 6 in favor. 0 opposed. Motion passed.

4.) **Public Hearing – Minor Site Plan Review**

**Oak Grove Cemetery Association, Applicant, Russell Greenleaf, Agent, is seeking approval of a minor site plan application to use an existing tomb within the cemetery to operate a crematory. The property, located at 45 Danforth St, City Tax Map 31 Lot 150, is within the High Density Residential (HDR) Zoning District.**

Chair Hart asked if any Board member could not hear this Application in an unbiased or impartial manner. Mr. Montell said he lives within the 400' notification area, but felt he could review this Application. The Board members were ok with Jim reviewing the Application.

Pam Mitchel made a motion that the Board members do not feel that Mr. Montell will be biased in his consideration of the Application even though he is in the 400' notification area. Judy Dorsey seconded the motion.

Vote: 6 in favor. 0 opposed. Motion passed.

Chair Hart went over the process for reviewing the Application.

The Board reviewed the Application for completeness, noting that the Applicant has asked for waivers for 5.H.5.b, 5.H.5.e, 5. H.5.r and 5.H.6.b. It was determined that 5.H.6.b does not apply.

Pam Mitchel made a motion that they grant a waiver of the requirements of 5.H.5.e and 5.H.5.r. Judy Dorsey seconded the motion.

Vote: 6 in favor. 0 opposed. Motion passed.

Pam Mitchel made a motion that they grant a waiver of the requirement in 5.H.5.b that all property lines of this parcel be included in the survey because the Applicant has submitted other information and the survey includes the area to be developed. Judy Dorsey seconded the motion.

Vote: 6 in favor. 0 opposed. Motion passed.

Pam Mitchel made a motion that the Application is complete. Judy Dorsey seconded the motion.

Vote: 6 in favor. 0 opposed. Motion passed.

Chair Hart asked the Applicant to give an overview of the proposal.

Rusty Greenleaf introduced himself and said that he represents the Oak Grove Cemetery Association as President and the Oak Grove Crematory. The proposal is to remodel two existing buildings in the cemetery to house a crematory and an office.

Chair Hart asked about the emissions. Rusty introduced Marc Cone who is with the State Air Quality Bureau to answer this question. Marc said that a crematory has to meet strict regulations. The unit has to be preheated prior to the burn cycle. He said that they would have to go through a rigorous review and that there would be no emissions, only heat waves. He told about a test done in 2004 by the Bureau of Air Quality to detect toxins. It found that the largest amounts came from incomplete combustion of wood products. There has been a significant reduction in this from 1990 2,750 lbs emitted to last year, 645 lbs. He said that there are 6 crematories operating around the state. They process from 400 – 2034 human remains (units) a year. A crematory processing 300 would emit 2 ounces of mercury for a whole year. The amount emitted in the whole state is 625 lbs. Gracelawn, a crematory in Auburn processes 2300 human remains a year. They took soil samples around the area and further away. The mercury levels were the same from all samples.

Pam Mitchel asked if the mercury is wafting away to the neighbors. Marc said the background levels of mercury were similar to the emissions for the community. He also said that, in general, in the State of Maine there are estimated to be 645 lbs of mercury emitted annually and of this, 250 is attributed to cars and houses.

Jim Montell asked how many licensed crematories there were in Maine. Marc said 6. Jim asked how many were in high density residential (HDR) zones. Marc said he didn't know. Jim asked how many were located in cemeteries. Marc said all of them as required by state law. Jim asked if any crematory had had its license suspended – even temporarily. Marc said no, not that he was aware of and there had been no complaints. Jim asked if they were periodically checked. Marc said there is a reporting process. Jim asked if there are other volatile by-products of concern. Marc said that they check for other things.

Pam asked how many human remains they would process annually. Rusty said about 300 to start. Pam asked if they would process anything other than human bodies. Rusty said no.

Chair Hart referenced an article in the newspaper concerning the Application and asked that it be added to the file.

Chair Hart asked if the City had been contacted by anyone concerning this Application. The CEO, David Cichowski said that Michelle Cooper of the Kennebec Journal called and she referred him to the Planning/Development Director, Jason Simcock. Others who came in or called were George Trask and Ralph Clark who reviewed the Application; Lynn Gerard asked for a copy of the Application; a construction engineer interested in the crematory; Earle Shettleworth submitted an email to David and Kirk Mohny asked about the Historic Section of the Comprehensive Plan.

**6:45 PM Meeting opened for public comment.**

Harold Gerard – He lives at the end of Gary St and wants to know how this would affect property values. Chair Hart said that this is not within the Planning Board’s jurisdiction – they only deal with land use issues. Harold asked why there was no public notification for the zone change. Chair Hart said that there was no zone change – it was a definition change and went over the process that occurred and the notifications that were made as required by the City Council and the Ordinance.

Jennifer Kinnelly – an abutter within the notification area asked if there is an odor when the remains are burning. Rusty said there is no odor or ash emitted. He said if you were right at the building, it would sound like a furnace running.

Jim Montell, a Planning Board member, asked Mr. Cone how they would know these things. Mr. Cone said that the retorts have charts that document the burn cycle and the inspecting agency would know from that if a violation occurred.

George Trask – a Councilor-at-Large and he lives on Libby Hill Rd. He noted that in 2003, the districts were rezoned. He said that a lot of time and effort was put into this. He read the definition of the HDR Zone. He said he believed that there have not been changes in this Zone since 2003 except for amendments made to correct errors in the maps.

Chair Hart noted that the City Council makes the changes, not the Planning Board. She said we are not here to review changes to the zones, only to review this Application. She said this is an allowed use.

George Trask - noted that the Applicant said they are running out of room and money at the cemetery and asked if this was being done for financial purposes.

Jonathan White – 96 Lincoln Ave, not an abutter but within the notification area. He said that he makes, on average, three trips to Gracelawn a week. He can attest to what has been said about no emissions, odors or noise. He said they have four retorts operating and if you are within 25 – 50 feet, it sounds like a furnace running. Chair Hart asked if he had any concerns about pollution. Jonathan said he burns wood at his home and has for years. There are a lot more emissions coming from that. He has no concerns at all.

Earle Shettleworth Jr. – 15 Lincoln Av. He said he has a historic preservation issue. The two structures are both historic structures and were built in the 1800s by E. E. Lewis. He feels they are significant buildings and would fall under the Ordinance referencing historic and archaeological resources. He wanted to know the impact on the buildings. He said the physical aspect of the two buildings needs to be taken into consideration by the Board.

Judy Dorsey, a Planning Board member – asked if these buildings were listed on a historic register. Earle said no

Joe Donahue – 74 Lincoln Av said that he was in opposition to this Application. He said that the use is inconsistent and harmful in an HDR zone. It was zoned because the area is high density and an old, high density neighborhood. He said he is not clear who the parties are and what their intent or authority is. Is this a commercial operation in a cemetery to make money and will some of the human remains brought in to be processed be interred somewhere else. The financial obligations need to be considered for the long run. He noted that Mr. Shettleworth mentioned that the cemetery is a historic area as well as the buildings. Joe noted that a Civil War soldier's grave site is within 25' of the receiving tomb and a second one about 50' away. With respect to the financial motives of the Oak Grove Cemetery Association, if the cemetery needs to be turned over to the City – so be it – if we have to desecrate the cemetery for money – shame on us.

Chair Hart asked Rusty if the Oak Grove Cemetery Association is using this as a way to make money to maintain the cemetery. Rusty said that the Oak Grove Cemetery Association asked a local funeral director in the State of Maine to operate this. It would be non-profit and the proceeds would go to the cemetery. An easement has been set up between the Association and the business. Rusty would be the president and Victor Tessari the secretary/treasurer. There would be two separate boards.

Teresa McKay Hathaway – 37 Plummer St. She said that there is a stream that runs through there and was wondering how a business could go in there since the ordinance doesn't allow any construction or businesses in the Resource Protection Zone. Judy explained that although it is a wet area, there are many wet areas throughout every zone. The Resource Protection Zone is a specific area and zone and this area does not fall within it.

Hannah Gregory – 45 School St. She had questions about the DHHS licensing and also the number of actual human remains (units) that would be processed. Was it going to be the 300 applied for on the DEP Emissions License or up to the capacity 2,700? It doesn't show a limit on the permit. Chair Hart said that they will be allowed whatever is approved based on their Application. Hannah said she doesn't live near the cemetery but feels the pain of the neighbors. Her concerns are property values and emissions. She has a son with asthma.

Ron Condon – Planning Board member. Ron asked how the Air Quality Bureau could determine the mercury amounts if the number of human remains has not been set. Marc said the figures were based on 300 human remains (units).

Lynn Gerard – 11 Gary St. Lynn said that this area has a history surrounding it. She noted that there had been a superior court decision previously impacting this neighborhood as a proposal would change the character of the neighborhood. She also said that there are flooding issues from Gary St to the Kennebec River. She said that she and her husband gave a 40' right-of-way across their property to the Oak Grove Cemetery. She is concerned that a crematory in the cemetery would change the use of the cemetery and her right-of-

way. She noted that the end of Gary St is paved to a much lesser degree than a regular road. She is also concerned about parking, water, road maintenance, noise and increased traffic. She asked if an impact study had been done for this project. She also noted that there are two schools in close proximity and was concerned about the children seeing 3 – 5 hearses going by a day. She noted conflicting stack measurements. The Application says 18' and the manufactures report says 10'.

Chair Hart summarized Lynn's concerns as drainage, flooding, traffic circulation through Gary St, Danforth St is blocked for access, children seeing hearses go by, and the stack.

Chair Hart clarified that the earlier Planning Board and land use decisions were not related to this Application – they were for a proposed parish house on Gary St.

Rusty Greenleaf, Applicant – Rusty said that they use a van or SUV – unmarked for transport. He said there will be no large trucks only a propane truck, UPS or post office vehicle. He said that in the wintertime, all of the roads are chained off except Plummer St and everyone is directed through Plummer St.

Chair Hart asked Rusty if they anticipated any loved ones going to the crematory. Rusty said no – to the funeral home only. Rusty noted that there are schools within 1 ½ miles of every crematory in the State. He will find out the height of the stack.

Jeff Wells – 31 Chestnut St. He said he is a scientist and his concerns are the levels of impact, the distance the plume travels and where the emissions go. He also said with a decision of public interest, it is important to check on the viability of the owners and how the profits will be distributed. They need to understand the checks on burn rates, who is checking them and how often.

Chair Hart said that the Planning Board is not here to regulate the crematory. She asked Rusty who regulates it from a health point of view and financially. Rusty said DHHS regulates it by monthly and yearly reporting. Mr. Cone said there are announced and unannounced inspections from his office. Pam Mitchel said that we have not required specific finance information from any other applicant and doesn't think that we should require it of this Applicant. Chair Hart asked about the distance of the plume. Mr. Cone said that they don't chart that. Pam said the stack height will matter in the dispersal. Chair Hart said that they would have to follow what was put in the Air Quality Application.

Steve Woodard – 97 Lincoln Av. He asked if there will be restrictions on walking in the park – will the roads be paved? He asked the source of the mercury. Rusty said there will be no limitations placed due to the crematory and the roads will not be paved. Mr. Cone said that the source of the mercury is the amalgam used in people's teeth. He said that it is being used less as more composite fillings are used.

Ralph Clark – He said that he spoke with the Brookings Funeral Home about this. He asked about the fuel - if they were going to use gas. Rusty said yes, propane. Ralph asked about the hours of operation. Rusty said 8:00 AM to 5:00 PM.

Phil Barter – 223 Brunswick Av. Phil asked if the stack was measured above ground level or roof and how would it blend in. He also asked what happens when there is a malfunction. Rusty said it is measured on one side from the building and the other side there is a tall berm, so it is from the ground. He said if the equipment is not working, it will be shut down and repaired.

Jack Skehan - Jack asked that although it is a permitted use, is it really suitable. He lives on Pierce St. He asked if the Oak Grove Cemetery Association would expand the cemetery to a rural area and put the crematory there. He said this project has been in the works for about three weeks and last week was the first time they had heard of it.

William MacDonald – 171 Brunswick Av. He was concerned about the notification process. He felt that the public should have had more notification earlier in the process.

Chair Hart summarized the concerns so far – odor, change in character of neighborhood, historical character of the cemetery, emissions, children seeing hearses go by; the roads, licensing, reporting, financial status, notification, fuel used, paperwork 5013C, limiting to 300 human remains per year, suitable to be located there, zoning district, authority to operate in a cemetery.

Lincoln Luken – 22 Elm St. He asked what training the operator will get and if there is a problem, what will go up the smoke stack. He also asked if business is good, can they expand.

Marc Cone said if there is a problem, they must report it to his office within 48 hours. Rusty said his license requires training and licensing of the operator to operate the system. Chair Hart said if the Applicant wanted to expand, they would have to come back to the Planning Board for approval.

Timothy Skehan – owns Skehan Farms. His concerns are environmental and property values. He said that there is a significant reason for the state requiring it to be in a cemetery of at least 20 acres. This is not in the center of the cemetery, but on the edge of his property. He is concerned about traffic – there will be two trips for each. He said there is a stream near his farm. He asked about the operating temperature - the application says 1600 degrees, Mr. Cone said 1800. He also feels that the notification should have been earlier.

Rusty Greenleaf said that when they deliver the human remains, the vehicles may also pick up ashes. That should cut down on the traffic. Also some ship via UPS or US Mail. Mr.

Cone said that the after-burner previously had to burn at 1800, but they found that 1600 degrees will keep the emissions the same as the higher temperature.

Rosalind Jellison – She asked how well insulated is the building – if she walks by, will she get a sunburn.

Rusty Greenleaf said the operator stands by the machine. Someone going by would not notice a thing.

George Trask – referred to the July 7, 2009 meeting of the Planning Board. He asked why they had that meeting. Chair Hart went over the review process from the Planning Board to the Council. George said he was referring to comments made by Rusty Greenleaf concerning the Crematorium and the lack of space at Oak Grove Cemetery. Chair Hart asked him where he was going with this. George said that he felt the Planning Board was avoiding the money issues. Chair Hart said that it is not something that the Planning Board reviews.

Chair Hart thanked everyone. She said she knows that everyone cares deeply about their homes and neighborhoods. She said that this is a quasi-judicial Board and they are limited only to land use issues and the Ordinance. They can't change the rules, just abide by them.

Lynn Gerard – She asked if anyone on the Board really feels that this is a minor site plan. She said her daughter, Lori Fisher who lives at 35 Plummer St. is opposed to this also, but was unable to come.

Chair Hart said that the determination of minor versus major site plan is based on criteria in the Land Use Ordinance. The term minor does not minimize the importance of an application to the community.

**8:15 PM Public hearing closed.**

Chair Hart asked the Board members to consider doing a site walk of the property. She noted that the public would be invited. Jim said that he thought that the site walk is in the best interest of everyone.

Pam Mitchel made a motion to have a site walk. 3 in favor. 3 abstained (Debbie Willis, Judy Dorsey, Ron Condon). Chair Hart decided to have the site walk.

Bill Najpauer advised the Board that this will be a fact finding site walk for the Planning Board with the Applicant and not a time to discuss the merits of the Application.

The site walk was scheduled for Thursday, October 22, 2009 at 4:30 PM at the Plummer St entrance to Oak Grove Cemetery. Chair Hart asked that a notice be placed in the Kennebec Journal.

The next meeting of the Planning Board to continue to review of this Application has been scheduled for Tuesday, October 27, 2009 at 6:00 PM at City Hall, Council Chambers. She said that we will send out notices of both meetings to the abutters and those who signed in and also place legal ads in the Kennebec Journal.

Mr. Skehan suggested that the site walk include some of the neighborhoods that abut the cemetery too.

Chair Hart noted that all discussions about the pending Application have to be public. If anyone sees any of the Board members, they cannot discuss the Application with them. They can ask questions at the Code Office or of the planning consultant, just not the Board members.

Ron Condon said that there is information that he needs before he can make a decision on this Application. He asked that the Applicant provide information on the Gracelawn tests done on emissions and how far away from the site did DEP inspect; clarification on what the mercury levels would be if they were operating at maximum capacity and the history of the two buildings. Ron also asked if the buildings are in a historical district. Chair Hart said that they are not in a historical district. Chair Hart asked the Code Office to provide the Board members with a copy of the Comprehensive Plan.

Pam Mitchel made a motion to table the Application to be continued on October 27, 2009 at 6:00 PM. Judy Dorsey seconded the motion.  
Vote: 6 in favor. 0 opposed. Motion passed.

**5.) ADJOURN**

Pam Mitchel made a motion to adjourn. Judy Dorsey seconded the motion.  
Vote: 6 in favor. 0 opposed. Motion passed.

Meeting adjourned at 8:36 PM

Chair Hart thanked everyone.