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1 heard. So any item on tonight, the earliest it
2 will be decided will be January. So anyone
3 contemplating an application for next year, if
4 you make the January calendar, the earliest it
5 would be decided would be February.
6
7 Now tonight when I call the roll,
8 there's one item on for resolution. If the
9 applicant is not here, it will proceed to
10 resolution. We have a full board, so there
11 would be no reason for the applicant to
12 adjourn. Unless the applicant has some
13 compelling reason to adjourn, it will be
14 resolved.
15
16 For the four items of new business,
17 just so that you know the protocol, your
18 package, and all the items submitted therewith,
19 are a matter of public record. You're not
20 compelled to read the five or three art test
21 depending on your application. You can if you
22 want. It neither help or hurt your
23 application. Then there's an opportunity for
24 the public to be heard, and in between the
25 board will have an opportunity to ask questions
26 and make comments.

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2
3 THE CHAIRMAN: Good evening, and
4 welcome to the town of Eastchester Zoning Board
5 of Appeals meeting for November 13, 2018. We
6 begin our meeting with the Pledge of
7 Allegiance. Please rise.
8
9 (Whereupon the Pledge of Allegiance
10 was said.)

9 THE CHAIRMAN: Good evening, all.
10 Before I call the roll, I just want to go over
11 some of the ground rules, which I do before
12 every meeting.
13
14 Firstly, we utilize Robert's Rules of
15 Parliamentary Order.
16
17 Secondly -- actually these two points
18 go together -- this is our last meeting for
19 2018. We do not meet in December. I'm
20 mentioning this because our 2019 calendar is
21 out. We generally meet the second Tuesday of
22 every month. We do not meet July, August, and
23 December. So if anyone is planning at home an
24 application, keep in mind, as the applicants
25 before us here tonight know, as a term and
26 condition of your application, items that are
27 on first time are not decided the night they're

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MR. COTUGNO: Yes.

THE CHAIRMAN: Okay. The last item on the calendar under new business is 18-36, Holy Mount Cemetery.

APPLICANT: Ready to proceed.

THE CHAIRMAN: Ready to proceed.

Thank you.

Prior to our resolution, I make a motion to approve the minutes from the October 9th, 2018 meeting; is there a second to my motion?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(All aye.)

THE CHAIRMAN: Item 1, I make a motion to adopt a resolution approving 18-40, 85 Grand Boulevard; is there a second to my motion?

MR. DE MARCO: Second.

THE CHAIRMAN: Mr. DeMarco. To the vote: Mr. Cahalin.

MR. CAHALIN: Yes.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

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THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: Yes.

THE CHAIRMAN: Mr. DeMarco.

MR. DE MARCO: Yes.

THE CHAIRMAN: I vote yes. That application has been approved five/nothing.

Now, first item of new business, 18-43, 74 Parkview Drive. State your name and address for the record. Before you do that and while you're setting up, just to know that this is an application proposing a rear addition to an existing single family residence. You may proceed.

ARCHITECT: Good evening, Joe --

MR. TUDISCO: Please use the mic.

ARCHITECT: I'm an architect retained by Mr. Greg Perotto, the owner of the house. I have the mailing receipts; do guys want them?

MR. KING: Yes.

ARCHITECT: As you stated, it's a single family residence on a wider than normal lot. It has a non-complaint existing side yard of 5 foot 2 inches. We're proposing to extend that non-compliant side yard an additional

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MR. DE MARCO: No.
THE CHAIRMAN: My only comment I have is that your application, I reviewed it thoroughly, and you seem to cover all parts of the five part test, and it's certainly in the character of the neighborhood and you laid it out pretty clearly for us.
So the only thing I have is a motion to adjourn this matter for resolution at the next meeting; second to my motion?

MR. MILLER: Second.
THE CHAIRMAN: Mr. Miller. All in favor.

(All aye.)
THE CHAIRMAN: Thank you.
ARCHITECT: See in your January. Thank you.
THE CHAIRMAN: Good holidays to you.
Number 3, 18-37, 239 Main Street.
Name and address for the record. While you're setting up, this is a proposed addition and alteration to an existing three story, three family residence.

MR. MAIORANO: Yes, as you said. Good
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evening, Chair, board members. My name is Adano Maiorano from Community Designs and Engineering. On behalf of the applicant, Christopher Dura, we are proposing a rear addition and alterations to the residence at 239 Main Street.
The CHAIRMAN: Excuse me, could you hold on one second. Could we take that outside, gentlemen, please. Thank you. I'm sorry, continue.

MR. MAIORANO: So currently the house is owned and occupied by three generations of the same immediate family. It has been this way for many years. They would love to continue that moving forward, but as a result of time changes and the status of the family, the proposed addition and alterations are to better accommodate their needs and desires of today's living.
So ultimately what we're trying to do is -- the existing house is broken up by an apartment on each floor, first, second, and third. Proposed what we are going to have is two apartments on the first floor, and then one

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MR. MAIORANO: Right now I would say three.

MR. CAHALIN: Three?

MR. MAIORANO: Yes.

MR. CAHALIN: So you're down one parking space already?

MR. MAIORANO: Right now there's three.

MR. CAHALIN: There's three parking spaces available right now.

MR. MAIORANO: Yes.

MR. CAHALIN: You're required to have six.

MR. MAIORANO: Yes.

MR. CAHALIN: So you're down three spaces.

MR. MAIORANO: Yes, we're down three right now. Ultimately, we're going to be down two.

MR. CAHALIN: You're going to add one?

MR. MAIORANO: Exactly.

MR. CAHALIN: Okay. How many people drive cars there; is it just three? Are they planning to lease this out to another family?

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MR. MAIORANO: No, that's not the case.

MR. CAHALIN: How old are the kids?

MR. MAIORANO: The kids are four and eight.

MR. CAHALIN: So they won't be driving any time is soon.

MR. MAIORANO: Yes. Six maybe.

MR. CAHALIN: Okay. Good. And there's nothing else you could do with the aisle access? That's 9 and a half, that's tight.

MR. MAIORANO: So the side yard is 10 -- well, 10 and a half feet. There's a little landscape buffer there. We can increase it, just the only problem with that is it will increase the impervious surface, and that will be another variance that will be required.

MR. CAHALIN: In this particular case, I don't know, I would make a trade but that's just me. I'm not the architect.

MR. MAIORANO: It's existing now, that 9 and a half feet to get in and out. They

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could easily exit. To turn around it might be tough, but again, we're limited to the landscape buffer on the side and the overall -- they only 42 feet on the property, so we're very limited and tight.

MR. CAHALIN: I see that. That's all I have, Mr. Chairman.

THE CHAIRMAN: Okay. Thank you, Mr. Cahalin. Mr. Miller?

MR. MILLER: None.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No questions.

THE CHAIRMAN: Mr. DeMarco?

MR. DE MARCO: Nothing.

THE CHAIRMAN: I just have one question about the roof overhang. What is it currently now?

MR. MAIORANO: Right now we have 11 inches in the front to the property line, so we're only going out to the property line.

THE CHAIRMAN: I wanted you to highlight that a little bit. I'm like a millennial, I prefer the video to live action.

I couldn't see it from here, but it appears

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that it's an ongoing non-conforming use.

MR. MAIORANO: Exactly.

THE CHAIRMAN: I understand that now.

I have nothing further.

I make a motion to open this matter to the public for a public hearing; is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(All aye.)

THE CHAIRMAN: Would anyone like to be heard on this application?

(No comments.)

THE CHAIRMAN: Seeing nobody, I make a motion to close the public hearing on this matter; is there a second?

MR. MILLER: Second.

THE CHAIRMAN: Mr. Miller. All in favor.

(All aye.)

THE CHAIRMAN: Back to the board. Mr. Cahalin?

MR. CAHALIN: Nothing further.

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THE CHAIRMAN: Mr. Miller?
MR. MILLER: No.
THE CHAIRMAN: Mr. Nurzia?
MR. NURZIA: No.
THE CHAIRMAN: Mr. DeMarco?
MR. DE MARCO: No, thank you.
THE CHAIRMAN: I have nothing further.
I make a motion to adjourn this matter for
resolution at the next meeting; is there a
second to my motion?
MR. MILLER: Second.
THE CHAIRMAN: Mr. Miller. All in
favor.
(All aye.)
THE CHAIRMAN: Thank you, Mr.
Maiorano.
MR. MAIORANO: Thank you.
THE CHAIRMAN: Have a good holiday.
MR. MAIORANO: You too.
THE CHAIRMAN: Number 4, 18-32, 210
Hillside Place. While you’re setting up, this
is an application proposing a hipped roof over
an existing one story legal non-conforming
commercial garage. Name and address for the
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MR. MILLER: No.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No, sir.

THE CHAIRMAN: Mr. DeMarco?

MR. DE MARCO: No, thank you.

THE CHAIRMAN: Mr. Cotugno, the only thing I could say is that your presentation is fairly straightforward. It meets or answers the tests for the variances. But, more importantly, you clarify that you’re really just adding to the elevation. The structure is staying the same. At a later date when you go before the Planning and Building Department, you’ll be improving, actually, the drainage and water runoff situation.

So I make a motion to adjourn this matter for resolution at the next meeting; is there a second?

MR. NURZIA: Second.

THE CHAIRMAN: Mr. Nurzia. All in favor.

(All aye.)

THE CHAIRMAN: Thank you, Mr. Cotugno.

MR. COTUGNO: Thank you. Have a good day.

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THE CHAIRMAN: You too as well.

Last item on the calendar for tonight, this is 18-36, Holy Mount Cemetery. While you’re setting up, this is use variance to construct a one story columbarium building and exterior columbarium consisting of stone walls and walkways.

MR. SILVERBERG: Good evening. Steven Silverberg with the law firm of Silverberg Zalantis on behalf of the applicant. I have with me our architect, engineer, we have a member of the parish council. We realize because this is a use variance, you may have some additional questions so we wanted to be able to respond.

We submitted what I’m sure you feel was a lengthy letter detailing our application. Hopefully, you were able to read through it without falling asleep. I’m just going to try to summarize without taking too much of your time.

THE CHAIRMAN: Please do, counselor.

MR. SILVERBERG: As I said, it’s a use variance and there’s also an area variance for the front yard.

The cemetery has existed here for 135 years, long before there were any zoning regulations, so it’s a legal non-conforming use. The cemetery currently doesn’t have any vacant space for burial plots. There are a couple of vacant spots, but they’ve been sold already. So there is no place for parishioners who pass away, relatives who pass away to use the cemetery.

In addition, there’s a minimal source of income to the cemetery. It’s losing money every year. This impedes the ability of the church to effectively maintain the property both for themselves and for the community so that it doesn’t look rundown. The church wants to propose a balance here of niches that will be sufficient to give them an ongoing revenue to cover their cost of, one, building them, and two, carrying the property going forward so they could maintain it properly without diverting other funds from the church to pay for that, and it will allow the demolition of

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THE CHAIRMAN: Thank you.

MR. SILVERBERG: Again, the bulk is going to be significantly less than what was approved by this board. I don't know if any of you were members then, but the prior board --

MR. CAHALIN: I was here.

MR. SILVERBERG: You're guilty. In 2004, you approved a much larger facility.

We're scaling that back, putting in more niches, and eliminating the crypts.

With regard to just the overall application, while we think that we meet all of the requirements for an area variance and a use variance irrespective of anything else, as we pointed out in our letter, case law says that deference is supposed to be given to religious uses. So the Zoning Board is supposed to, you know, as the courts have said, make every effort to accommodate a religious use. In this case with regard to the area variance, we're looking for a setback variance of 19.8 feet. We're going to from 30 feet to 10.2 feet.

Just really fast going through the balancing test, whether there's an undesirable

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to have any impact on the neighborhood, and we don't believe this with.

The other thing is will it have an impact on the physical or environmental conditions of the neighborhood. Again, this is not going to result in any adverse effect on the neighborhood. You're going to have this nice stone wall and stone building.

Whether the alleged difficulty is self-created, it’s not. This is a result of 135 year old cemetery that's filled up, and they need to be able to accommodate their parishioners, and they need to be able to pay to maintain it.

On the use variance portion of it, again, as I noted before, religious uses are supposed to be given some deference. And also, your board in 2004 granted a use variance, and the courts have said, and we cite this in our letter, that a Zoning Board should adhere to its prior precedent. As we discuss in our letter in detail, and I'll just mention briefly here, the findings of this board in 2004 really have not changed. By the way, yes, there was

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change produced in the neighborhood, again, this is an existing facility. We're going to have the building replacing the existing storage structure, and then building the stone wall that will look similar to that. We shouldn't have an impact upon the residential nature of the neighborhood.

The area variances, whether there is any other way to do it, really this is the only feasible way to do this area variance because there's not a lot of room on the site, and in order to accommodate an appropriate number of niches so that they could generate sufficient income to maintain the property and for the construction of the niches and provide burial services to their parishioners, which obviously is an important aspect of this, this is the only place where they could put it.

Whether the requested variance is substantial, yes, as an area variance this is probably considered a substantial variance. On the other hand, the courts have said that just because it's a substantial variance, it's not a reason to turn it down if it's really not going

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an approval in 2004 and for various reasons it wasn't built at that time, and since then the approval has run out based upon your local code.

One, is the applicant cannot a reasonable return, and again, your board found -- and I'm just going to read a quote from your prior resolution: Unlike other applications for use variances before this board, this application is unique in that no profit will be realized by the applicant as a result of the proposed action. The church initiated the proposed project in response to the community's need for additional burial sites. The funds to be generated -- and this is the same here -- by the sale of -- in that case crypts and niches -- will fund the maintenance and perpetual care of the cemetery and will be held in a dedicated fund for the cemetery purposes. The applicant maintains that without the creation of the mausoleum and Niche, the cemetery will be seriously hindered in ability to maintain its property and to care for the burial sites. Now, if anything, it's

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gotten worse. This analysis is still fully
applicable here. The church already suffers a
significant deficit annually in its
operations. We pointed out that it costs about
$145,000 a year just to maintain the cemetery,
and there's approximately a $61,000 a year
deficit from the perpetual care fees that they
have allocated and other cemetery services that
they charge. Every year the church is losing
$61,000 on the current facility. We provided
you with spreadsheets that show that they did
an analysis -- and of course these are
estimates because we're going out 20 years --
but that if the can build these number of
niches, they will sell a certain number every
year, and that money will, one, pay for the
construction of the niches, and two, provide
for ongoing maintenance and perpetual care of
the site, at least for the foreseeable future.
Therefore, the church really has a hardship
here.

Secondly, the question is whether the
alleged hardship related to the property in
question is unique. Again, in 2004 your board
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found that the alleged hardship relating to the
property is clearly unique and does not apply
to a substantial portion of the district or
neighborhood. Cemeteries are not a permitted
use within the town. Holy Mount Cemetery is
the only cemetery in the town. Therefore, the
requested use variance to permit the expansion
or intensification of a cemetery use can only
apply to the subject property and no other
properties within the town. So again, you made
a finding that this is unique. That hasn't
changed.

The third point on the previous
variance, the request for a use variance, if
granted, will not alter the essential character
of the neighborhood. Again, it's a cemetery.
It's going to continue to be a cemetery. There
will be a wall there. Again, it will be
smaller in bulk than what was approved before,
and this board found a use variance will not
alter the essential character of the
neighborhood. Holy Mount Cemetery has been in
existence for approximately 120 years. Homes
that have been constructed in the vicinity of
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1 in 2004. This is a different board.
2 Everything you’re saying is true, but you have
3 to understand, these gentlemen think
4 differently than the 2004 board would think.
5 MR. SILVERBERG: Let me answer your
6 second question first, okay, because that’s the
7 legal question. As I said, in our papers we
8 cite --
9 MR. CAHALIN: I read them.
10 MR. SILVERBERG: -- New York Courts,
11 and the court said that if a board creates a
12 precedent, it has to demonstrate why there’s
13 been a change that would have them come to a
14 different conclusion. It doesn’t say, because
15 there are different people on the board. It
16 says, the board. Therefore, this board, unless
17 you could find differentiation between what
18 occurred in 2004 and what is going on now,
19 there is no basis for overruling that
20 precedent. Moreover, since what we’re
21 proposing has less bulk than what was approved
22 in 2004, we think it has less of a potential
23 impact.
24
25 With regard to the financial issue,
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1 see that number changes across the lines.
2 MS. ALTENAU: You don’t see the
3 maintenance number --
4 MR. CAHALIN: I don’t see the
5 maintenance number changing. I was kind of
6 surprised that that wouldn’t have some kind of
7 a percentage pickup after 10, 15, 20 years.
8 MS. ALTENAU: Yes, I agree there
9 probably should be some inflation estimate in
10 the number. I thought you were talking about
11 the perpetual care, which actually that’s 25
12 percent we have to put aside. We can’t use
13 that for normal maintenance.
14 MR. CAHALIN: I’m familiar with all of
15 that. I’m a numbers guy, and when you give me
16 numbers, I look at them.
17 MS. ALTENAU: So am I, believe me. We
18 can certainly put in an inflation assumption.
19 MR. CAHALIN: Only for your own
20 benefit because you’re doing something that,
21 you know, you’re trying to make revenue out of
22 to preserve the cemetery, and if you’re not
23 going to have enough money projected out, you
24 know, although it may be necessary to do this
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1 can our parish council person respond?
2 THE CHAIRMAN: Come up and introduce
3 yourself.
4 MS. ALTENAU: Hi. I'm Jeanne Altenau,
5 I'm parish trustee, and a member of the finance
6 council, and a town resident for 34 years.
7 So is the question -- I wasn’t
8 understanding the concern about the perpetual
9 care.
10 MR. CAHALIN: The point of having
11 these outside of people wanting to stay in the
12 community, which I fully understand, you have a
13 problem with funding, $61,000 or more every
14 year. So you’re going to sell these
15 columbariums at a fixed price, and then you’re
16 going to put a perpetual care fee, I would
17 imagine, when people are buried; right?
18 MS. ALTENAU: Right. Well, that’s
19 part of the sale price.
20 MR. CAHALIN: What I don’t see is, I
21 don’t see that revenue growing over time
22 because of cost. I would think in the year,
23 you know, 2025 it’s going to be more expensive
24 to mow the grass than it is today, and I don’t
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1 Immaculate Conception. That being said, it’s not going to affect how I view this, look at it impartially.

2 The second thing is the legal point.

3 In the 2004 approval, can you just clarify what the mausoleum -- how many crypts or spaces it would have held compared to the 1620 here. The point I really want to make is, the parking issue -- I know there was a police report from 2004 that the additional parking at that time wouldn’t have had an impact on the neighborhood. I just want to make sure that -- 1620 just sounds like a lot of urns or niches, whatever you call it. So I just want to see the usage from then, that decision to now, how do you square that?

4 MR. TUDISCO: If you could just identify yourself.

5 MR. LAZARCHECK: Joe Lazarcheck. I’m from JPL Architects. I don’t have the accurate count from the initial approval, but the crypts are much larger. It’s just larger. I’m going to say the gravesites in our proposal is higher than what was previously approved, but the

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1 services are much different. So in terms of traffic, there’s not going to be any impact or difference between what was previously approved and what’s approved now. They’re not going to be filled within a week. They’re going to be spread out over many, many years. So it will be addressed that way with the traffic. I remember the police report from the original approval had no objection to that. It wasn’t a concern. We would have to look up the exact number of what was previously approved.

2 MR. SILVERBERG: The total was fewer than we’re proposing now. Again, this was before the Planning Board.

3 MR. CAHALIN: As I recall, the other --

4 THE CHAIRMAN: Mr. Cahalin.

5 MR. CAHALIN: Yes. As I recall, the crypts would have generated much more volume to people visiting as opposed to the columbariums back then. If you’ve ever been up at the cemetery, it doesn’t really get that crowded just because of the age of the people that have been there, it’s generational now where less

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and the costs and so forth are applicable today.

THE CHAIRMAN: Based on that application with those specific facts and circumstances within the application. This is an entirely new application.

MR. SILVERBERG: But again, the -- yes, I agree that we needed to provide you with financial information regarding today because it could have changed, and that's why we provided you with the financial information, to show you that they're losing $61,000 a year.

As far as the uniqueness of the site, that hasn't changed. As far as the fact that the site is consistent with the character of the neighborhood, that hasn't changed. So I think those findings -- you know, if we came in and it turned out that they were making a million dollars a year on the cemetery today as opposed to losing money before, I would agree a hundred percent with your analysis that we don't have a precedential effect as far as the dollars and cents proof is concerned. But with regard to the other aspects of a use variance, there's

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been no change in those things.

MR. DE MARCO: Let me ask you -- I'm sorry to interrupt.

THE CHAIRMAN: Mr. DeMarco, please, go ahead.

MR. DE MARCO: With the 2004 application, did that include the 1,620 niches?

MR. SILVERBERG: No.

MR. DE MARCO: So that's new to the application.

MR. SILVERBERG: There were niches and there were crypts.

MR. DE MARCO: Okay. How many crypts were in that 2004 application?

MR. SILVERBERG: I think there were 300 and change. It's in the resolution.

MR. DE MARCO: So it's a different application to the extent that you're asking for roughly 1300 more spaces for --

MR. SILVERBERG: It's less than 1300 because there were crypts and there were also niches. I understand what you're saying.

MR. DE MARCO: Let's say, for example -- I know this is going to come up if

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it hasn't already -- let's say you fill it and you have 1600 niches with 1600 urns, and on Mother's Day or Veteran's Day or Easter Sunday family members come to visit, a quarter of them or half of them, how are you going to accommodate parking there?

MR. SILVERBERG: It doesn't happen.

As your own member said, very few people go to visit.

MR. DE MARCO: Well, these niches will be very new, correct, once they're constructed?

MR. SILVERBERG: They're not all going to fill up next year, hopefully. The fact of the matter is, they're going to be purchased over decades, and that's why the projection is for 20 years. They feel that it will take decades to fill them and for people to purchase them. Some people may decide to purchase them now because they're older and they're getting ready for the inevitable, and others will remain empty, you know, for many years. So it's not going to happen overnight. Frankly, the people who pass away in the next year or two, their relatives may no longer be here

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years from now for various reasons, so they may never come to visit. Frankly, the reality that I've observed at this point is that -- as Mr. --

THE CHAIRMAN: Cahalin.

MR. SILVERBERG: -- Stated that nowadays most people aren't going to visit the cemetery like they used to.

MR. DE MARCO: But you would agree with me that if people are purchasing these niches, those might be people who would visit the cemetery; correct? No? I know nothing about the cemetery business.

THE CHAIRMAN: If I may, I don't want to get too far afield. I think the point that Mr. DeMarco was drilling down upon, and I think what we can do is -- I'm not sure if it's even going to be necessary -- I want to reserve if we need a memorandum from you, an argument on this because I respectfully do not agree with your point that there is any precedential value whatsoever, and I would like to not focus on that right now because I think it takes away from the valid arguments that you're making.

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1 and where there's overlap, there's overlap.
2 But again, I think we're getting caught up in
3 this idea that somehow it's res judicata as it
4 relates to what we're hearing today and it's
5 just not. There is no law that I know of that
6 compels us to follow that decision. But again,
7 the arguments made therein, many of them are
8 applicable tonight, and you've made them. So I
9 think why don't we reserve that point for later
10 if we need it. We may not need it.
11
12 MR. SILVERBERG: If the board feels
13 like you --
14 THE CHAIRMAN: I'm sorry, I apologize
15 for interrupting. Counselor.
16 MR. TUSDISCO: I was going word for
17 word, you've gotten bogged down with --
18 THE CHAIRMAN: Great minds think
19 alike.
20 MR. TUSDISCO: I honestly think that
21 there is probably some precedential value in
22 some of the principles; however, it is
23 factually a different application, it is a
24 different time, there are different parking
25 issues, there are a number of different issues.

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1 I agree with exactly what the Chairman has
2 indicated. Thank you, sir.
3
4 THE CHAIRMAN: Thank you, counselor.
5 MR. SILVERBERG: If I just may finish
6 my thought.
7
8 THE CHAIRMAN: Please.
9 MR. SILVERBERG: If, in fact, the
10 board members feel that there's a need for us
11 to address the issue of parking and how many
12 people would ordinarily visit the site, we'll
13 try to provide that information to you if you
14 think it's important.
15
16 THE CHAIRMAN: Okay. Thank you,
17 counselor. I'm not sure at this time. I think
18 Mark's concern was that people are dying to get
19 in there, but I think we'll address that at a
20 later point. Anything further, Mr. DeMarco?
21
22 MR. DE MARCO: Nothing further, thank
23 you.
24
25 THE CHAIRMAN: Mr. Nurzia, please.
26
27 MR. NURZIA: Just to follow-up on one
28 point. At the end of every year, Father Sorgie
29 sends out like a summary of the number of
30 baptisms, weddings, and funerals. If this goes

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1 through, is this just to the parishioners of
2 Immaculate Conception; is this marketed to the
3 general public? I'm just trying to get a fix
4 on who is going to be buying these urns or
5 these spaces.
6
7 MS. ALTENAU: It's primarily the
8 parishioners, but I can't say for sure. It's
9 primarily the parishioners.
10 MR. NURZIA: Over the past couple of
11 years, I mean, how many funerals has Immaculate
12 Conception or Assumption --
13 MS. ALTENAU: 95 funerals last year
14 and only 45 burials because, obviously, some of
15 the funerals they just can't be buried there
16 because we have no more space to sell. So we
17 had twice as many funerals than we had burials.
18 MR. NURZIA: And is 95 kind of like a
19 consistent number, maybe a hundred?
20 MS. ALTENAU: I would say so.
21 MR. NURZIA: So even if all hundred
22 went there, you're talking still a number of
23 years before it reached maximum capacity?
24 MS. ALTENAU: Yes.
25
26 MR. SILVERBERG: By the way, you
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1 reminded me, Father Sorgie had intended to be
2 here but he was called to Rome. He is not in
3 the country tonight, that's why he's not here.
4
5 MR. NURZIA: No other questions.
6
7 I'm going to make a motion to open this matter
8 to the public for a public hearing; is there a
9 second to my motion?
10 MR. DE MARCO: Second.
11
12 THE CHAIRMAN: Mr. DeMarco. All in
13 favor.
14 (All aye.)
15
16 THE CHAIRMAN: The members of the
17 public that are here if you want to be heard on
18 this application, we'll try to do this in an
19 orderly fashion. I would ask to avoid being
20 duplicative. If someone says what you say,
21 then I would suggest that maybe you don't need
22 to come up and say it. You'll come up and
23 state your name and address for the record.
24 Let's get a show of hands how many people are
25 here that would like to speak on this
26 application. Okay. So we're going to go
27 grammar school rules, lady's first. We'll

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1. start with the lady farthest away and we'll go 3 from there.

4. MS. SALERNO: Good evening. I'm Anna Salerno. I own the property 15 Lake Shore Drive, so I'm the first house when you go into 7 Lake Shore on the left side. Cemetery Lane backs up to my property. So we could get to 9 Cemetery Lane from my property.

10. My main concern about this is the traffic, the parking. It's one lane up and one lane down. I've been home when there's traffic, it's a disaster. I understand what they're saying about, oh, it's going to take years to fill, once people find out that there are spots available now, it's going to be a hot commodity. I don't want the traffic, I don't want the cars, I don't want -- it's just going to be a disaster. Not to mention drainage is going to be a problem.

21. They were talking about maintenance. I don't know if any of you have been back there, but it is a mess. There's cut down trees, there's leaves. It looks like a forest.

25. It just was never properly maintained. My

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1. thinking is with the road when they're constructing, it's just going to get worse. We had to put up over a hundred trees to have some sort of privacy from that road. I don't want my trees obstructed, I don't want the property obstructed, and again, it comes down to the traffic. It's a one lane in, one lane out. It's going to be a problem. There is no parking up there.

11. I just think the whole thing overall is just going to be a big problem.

13. THE CHAIRMAN: Okay. Thank you for your presentation.

16. MS. SALERNO: Thank you.

17. MR. TUDISCO: Mr. Chairman, I just wanted to add when this matter was on 1 I believe for preliminary site review before the Planning Board, I guess the sketch -- I don't know if there's any drawings of it now -- is of one lane going up, there's a circle, and then it comes down the one lane. I believe the indication was that when people come to observe for ceremonies or to visit, they will just kind of park on the side. I believe that issues

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structure can be viewed from their bedroom window, and the new structure will be higher than the structure that’s there right now.
We have a number of concerns, but a couple of points were raised by the previous speaker, but I would like to go into a couple of points.
Number one, we presume that trees will be removed during the construction of this new facility, and that’s going to have an impact, a potential adverse impact on my clients’ property particularly with regard to drainage.
Now you mentioned before that the Planning Board would consider that issue, but I want to raise that on behalf of my clients, the concern that they will have.
A second question that we have is whether the applicants have taken into account or have any research or any data regarding the impact of this new structure on the values of their neighbors’ properties, the properties that abut the cemetery. We intend to do some research in that regard, and I’m curious as to whether the applicants have considered that in
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structure that’s there now?
THE CHAIRMAN: I don’t have an answer to that question.
MR. TISO: I would like an answer to that at some point. I want to see how it relates to the structure that’s there.
THE CHAIRMAN: Okay.
APPLICANT: 18 inches higher.
THE CHAIRMAN: I would like to avoid the crosstalk from the audience, please. As a general rule, the Zoning Board doesn’t answer questions from the public, but continue, maybe we can get you an answer while we’re waiting. Continue.
MR. TISO: One point I had is the -- I’ve been there for a little over 17 years. I have to say, the church is not a very good neighbor. There are a couple of dead trees that are still there. Every May for me is the fall because I’m doing the leaves coming off the dead trees. There’s two dead trees there. My son and I have more than once gone back there because all the leaves are blown into that corner. They blow them, they leave them.
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requesting the variance.
These are our basic points at this stage.
THE CHAIRMAN: Okay. Thank you, counselor. Anyone else like to be heard on this application?
I chose you next because of your jacket, so don’t embarrass Yankee fans, please.
MR. TISO: You think being a Yankee fan would help me?
THE CHAIRMAN: It does, that’s why I picked you.
MR. TISO: Mr. Chairman, your dry sense of humor is as I’ve always remembered it. I might have missed it and I apologize --
THE CHAIRMAN: Name and address for the record, Mr. Tiso.
MR. TISO: Christopher Tiso. We live, when you go to the top of driveway, back corner, southeast corner. 23 Hunter Drive. So where the two fences meet in the back. I wasn’t sure if I missed -- what’s the height of the new structure compared to the
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we clean off the headstones, we make a pile. I call the rectory. The rectory sends people over to remove the leaves. I mean, I’m talking piles. I couldn’t even put them in bags if I wanted to.
Part of the application that I was reading today also stated that with the money they make on these niches, they’re going to use for I believe they said repairs, improvements, and maintaining the property. I would like to see as a condition -- if the board falls in favor of approving this -- I want to see specifically what they’re going to improve, what they’re going to repair, and just what they’re going to do. They could make generalizations all they want that the fences are in disrepair, but what exactly -- just like the board puts on requirements when we need a buffer zone you add plantings and whatnot, what plantings are we going to have around this structure? Do we have any neighbors that are in the direct line of sight of this new -- they say it’s only a 5 foot 5 wall, but if I was down on that part of Lake Shore and I’m looking
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direct line of sight to those walls, I would
have a serious concern.

THE CHAIRMAN: Counselor.

MR. TUDISCO: There are two issues
that you raised. One of them -- and for those
who are watches at home -- one of them is, the
Planning Board at some point in time will
require a landscaping plan that is certified
and they will be required to provide the same
type of landscaping that is in the plan and a
landscape architect will have to sign off on
it. In addition to that, whatever requirements
are imposed by the Planning Board, there is
also an enforcement issue, which is secondary
to that, and that is, are they maintaining the
property appropriately. That is something that
I would encourage you to contact the Building
Department. We have a code enforcement
officer. As the town prosecutor, my position
is to make sure the properties are being
maintained, fences, for instance, you know,
anything like that. So those are two separate
issues. One would be a condition in terms of
what is put into place, and how they are

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lapsed. It would be nice to be able to see an
actual staking maybe with ribbons just to see
what the structure -- we could get a visual at
least on what's going to be there. I think
that would be very helpful before we jump into
a decision on this.

THE CHAIRMAN: Okay. Anything else?

MR. TISO: Yes. I guess the other
question I had was, do any of the neighbors
have a direct line of sight to this new
structure that's going to be there if it got
passed?

THE CHAIRMAN: I'm going to go back to
my Jesuit training and give you a special
dispensation. We have an answer to your
earlier question. We're going to break a rule
and answer it.

MR. KING: Is the engineer or
architect here? Are you the architect?

Correct me if I'm wrong, that the proposed
building that they're discussing, the ridge
height is 18 foot 4 inches; is that correct?

MR. LAZARCHECK: That's the ridge
height. If you look at the model, these far

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parapet walls, they're projecting up higher
than the ridge height about 18 inches. This
footprint is over the existing building. Even
though it's a new structure it's a footprint
that's over the existing building that's there
now. It's the same location. We're not
changing that.

MR. KING: The height to that end wall
that you're referring to there is 18.4; is that
correct?

MR. LAZARCHECK: Yes.

THE CHAIRMAN: Thank you, and thank
you, Mr. King. Mr. Tiso, anything further?

MR. TISO: That's it. Thank you.

THE CHAIRMAN: Thank you for your time
and your presentation.

Would anyone else like to be heard on
this application? Sir, come forward, give us
your name and address for the record and speak
freely.

MR. TAMBINI: Good evening, gentlemen.

Robert Tambini, 25 Lake Shore Drive. I live on
a property that borders the cemetery, as does
my father, who is a resident 27 Hunter Drive.

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2 Both properties adjoin the cemetery.
3 Counsel referenced a letter that he
4 submitted to the board that I believe the
5 members of the community here have not had an
6 opportunity to examine. We would like the
7 opportunity to examine that letter and respond
8 to it.
9 What I would like to address right now
10 is the issue of hardship. Certainly, I can
11 understand that everyone who owns property in
12 the town of Eastchester needs to expend money
13 to maintain that property. The church and the
14 Holy Mount Cemetery through perhaps a lack of
15 foresight, a lack of planning, have seemed to
16 reach the maximum monetary value of their
17 parcel by selling the individual plots along
18 the way. Now they find themselves in a
19 situation where they would like to use the
20 setback area that is designed to protect
21 adjoining homeowners from intrusion and from
22 building, and I would submit that any time you
23 remove grass and trees to substitute it with
24 stone and mortar, you're going to have drainage
25 issues. As perhaps the board is aware, my
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2 neighbor at 23 Lake Shore Drive, a house was
3 built behind them, changed the drainage, the
4 natural drainage that was in place, and they
5 were suffering water damages until the town
6 came in and enforced remedial measures to be
7 taken. So my problem with the hardship aspect
8 of their application, as I think, you know,
9 hardship can be shown by the adjoining
10 landowners who will suffer a change in the
11 nature and character of the cemetery lands that
12 abut their property and be negatively impacted
13 with that, and the needs of the cemetery should
14 be balanced against the needs of the adjoining
15 landowners, and the needs of the town in
16 general, and what impact 1600 additional burial
17 sites for members of families who will visit
18 during the course of the year. Maybe it won't
19 be full in the next two to three years, but it
20 will be full eventually, and those people
21 aren't going anywhere and they will have
22 visitors. That's all I have to say. Thanks.
23 THE CHAIRMAN: Thank you. Thank you
24 for your time and presentation.
25 Would anyone else like to be heard on
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2 this application?
3 (No comments.)
4 THE CHAIRMAN: Counsel, would you like
5 to come up and reply?
6 MR. SILVERBERG: I would just like to
7 make a couple of points.
8 It was interesting to me that a couple
9 of people came up and complained about the
10 maintenance of the property, which is really
11 part of our argument, that there's a shortfall
12 in funds and it's difficult to maintain the
13 property. They're already spending $61,000
14 more a year than they're taking in, and part of
15 it is they want to be able to not make a profit
16 but to be able to cover the shortfall and do
17 appropriate maintenance of the site and make
18 additional improvements to the site that would
19 be beneficial not only to the church but to the
20 neighborhood.
21 As your counsel properly pointed out, the
22 issues of drainage and landscaping and parking
23 and all of those things would be part of a site
24 plan review by the Planning Board, and
25 certainly the Planning Board would require
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2 appropriate landscaping. These folks who are
3 concerned about that can go to the Planning
4 Board meetings and express their concerns about
5 the sighting, and that can be addressed as part
6 of the Planning Board. I don't think that
7 changes the fact that we meet the requirements
8 for the variances.
9 As far as anything else that you might
10 want us to address, if you want us to provide
11 you with additional information, we will.
12 THE CHAIRMAN: Thank you, counselor.
13 So before I drill down on that point, I want to
14 go back to the board after the public has been
15 heard. The public hearing portion of this
16 application is still open.
17 Mr. Cahalin, you had made some points
18 earlier about the financial hardship, which is
19 a key element of the use variance. I may want
20 some more information on that. You drilled
21 down on that. Do you see that there is more
22 information needed in that vein?
23 MR. CAHALIN: I think the projections
24 need to be tightened up for sure. I think it
25 was -- to me it looked like it was done in a
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1. Rush to carry a number across the spreadsheet as a copy and paste. I don't know how much time was put into it. They came up with the initial number. If you're going to project out, you need to be more accurate. I don't think the projections are that accurate.
2. That's my problem with the financial side of it. I think they haven't spent enough time.
3. To me on a use variance particularly, you know, I want to see that monetary problem, which is here, but the other side of it being addressed doesn't really satisfy me right now.

   THE CHAIRMAN: Do you have anything further, Mr. Cahalin?

   MR. CAHALIN: No.

   THE CHAIRMAN: Mr. Miller?

   MR. MILLER: No.

   THE CHAIRMAN: Mr. Nurzia?

   MR. NURZIA: No.

   THE CHAIRMAN: Mr. DeMarco?

   MR. DE MARCO: No.

   THE CHAIRMAN: I have a couple.

   MR. TUDISCO: Mr. Chairman?

   THE CHAIRMAN: Please.

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1. normally screening and landscaping is an issue involving site plan approval and would be under the umbrella of what the Planning Board would look at, in a situation like this where you're also looking at setbacks and if concerns have been raised about encroachment or setbacks, screening -- some type of screening to offset those concerns about setbacks may be an issue that you would want to look into. I don't know.

   THE CHAIRMAN: Counselor, again we're thinking alike. If you recall, a couple of months ago we had an application wherein on the area variance side of it we had imposed an obligation to put a certain height of an Arborvitae, although we're not going to get into the genus and species of the plantings here, I think the point is that there could be conditions that are part of actually the area variance. So that's going to be one part of a later motion I'm going to make to get more information.

   Do you have anything further,

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THE CHAIRMAN: Please, Mr. DeMarco.

MR. DE MARCO: I'm looking for the answer in your submission, and you might not even know the answer to it. You referred repeatedly to the variance that was granted by the board in 2004, why was that never acted upon?

MR. SILVERBERG: I'm not sure. We can provide that information to you.

MR. DE MARCO: Is there someone that can?

MR. SILVERBERG: I don't know the details of it. Perhaps Father Sorgie can, but again, he's not here. Why don't we, as part of what we put together in response to -- we want to cooperate as much as possible with you because we would like to provide you the information you need in order to grant the approval. So we'll provide you information on screening, we'll provide you some additional information on the finances, we'll provide why it wasn't developed in 2004, and also we're going to see if we can address the issue in a favor.

(All aye.)

THE CHAIRMAN: Thank you. We'll see you in January.

MR. SILVERBERG: Thank you. Have a good holiday.

THE CHAIRMAN: Have a good holiday -- holidays, plural.

I'm making a motion to adjourn the November meeting; is there a second to my motion?

MR. DE MARCO: Second.

THE CHAIRMAN: Mr. DeMarco. All in favor.

(All aye.)

THE CHAIRMAN: Happy holidays to everybody.

(MEETING ADJOURNED.)
STATE OF NEW YORK  
)  
) Ss.  
COUNTY OF WESTCHESTER)  

I, DINA M. MORGAN, Court Reporter and  
Notary Public within and for the County of  
Westchester, State of New York, do hereby  
certify:  
That the above transcript was taken from  
a videotape of the actual hearing. I was not  
present for such hearing. The videotape was  
taken and transcribed by me to the best of my  
ability.  
And, I further certify that I am not  
related to any of the parties to this action by  
blood or marriage, and that I am in no way  
interested in the outcome of this matter.  
IN WITNESS WHEREOF, I have hereunto set  
my hand this 13th day of December, 2018.  

DINA M. MORGAN  
Court Reporter  
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