

Elizabeth & Reginald Cooley  
38 Danforth Street,  
Gardiner, ME 04345

**Subject: Crematorium Moratorium Meeting, Tuesday, October 27, 2009 – 4:00 p.m.**

October 26, 2009

Dear Mayor Andrew MacLean, Council Members & Planning Board Members,

My name is Elizabeth (McKay) Cooley, along with my husband Reggie, we live at 38 Danforth Street, Gardiner, Maine, I have lived in Gardiner all of my life. raised our family and enjoyed being a part of the Historical City of Gardiner. Our home is located on the Danforth Street entrance that goes into the Oak Grove Cemetery.

As a taxpayer of Gardiner, there are concerns and questions regarding the proposed Crematory which may or may not have an impact on the Gardiner community; especially the families that fall under the "High Density Residential District".

We have concerns about the health and safety issues of the proposed Crematory. Would the stack have a fence around it to keep small children and curious people away? Is this OSHA regulated? Has the City of Gardiner had an Engineer look at the proposed building site for safety reasons? It concerns me that a Crematorium would be built in an existing "receiving tomb", connected to other Historical Tombs all within the same stone building. The buildings seem very close to property lines overlooking a neighborhood of homes. Has the city checked to see if other Crematoriums in Maine are located on property lines overlooking a neighborhood within such range? We have family members on Plummer Street in which their backyard borders the Oak Grove Cemetery.

The proposed "Receiving Tomb" has other Historical Tombs connected to the one stone structure. Are the other personal tombs going to be used or affected in any way?

Has the City of Gardiner researched other Crematoriums in the State of Maine regarding tax assessments in a "High Density Residential District" to see if it will affect home and land property values? If property values decline in value, will our taxes go down for the property owners?

I feel strongly that the stone building "Receiving Tomb" along with the other Tombs with Historical names and dates are history to Gardiner and this is not an appropriate location for the proposed crematorium.

Who is responsible or liable for any incidents regarding safety, fire, etc. should anything take place at the Oak Grove Cemetery should the proposed Crematory pass? There are a lot of people, children, teenagers that visit this cemetery on a regular basis. There has been vandalism that has taken place in this cemetery. What is going to keep someone away from being curious or just wanting to do damage. I know we have seen police cruisers from time to time driving through the cemetery mostly late at night. Who pays for this, the Oak Grove Association or the City of Gardiner? Will there be a need for the Gardiner Police Department to monitor the proposed Crematorium, and who pays for these expenses? Who pays for services such as the need of the Gardiner Fire Department, Water & Sewer bills?

What separates the City of Gardiner from the Gardiner Oak Grove Cemetery? Is the City responsible or liable for any unpredictable situations that may arise should the proposed crematorium pass?

I strongly feel that in April when the Oak Grove Association was working on this, that the rest of the Gardiner residents should also have been notified to be fair and respectful to all and not a small selection of people.

In respect to Victor Tessari, Rusty Greenleaf, Mayor Andy MacLean, Council Members, and Planning Board Members: my question to you is, would you want a Crematorium to be built in your backyard?

I think with some good planning, people working together as a community there could be a good resolution to all of this.

Thank you for time,

Respectfully yours, Elizabeth Cooley,

***"TEAM" Together Everyone Achieves More***

41 Elm Street  
Gardiner, Maine 04345  
October 27, 2009

To the City Council, Planning Board, Mayor Andy MacLean and Anne Davis, Acting City Manager,

Hi! This letter is in response to the crematorium issue. I am against the proposal.

I have read the law and the requirements. Oak Grove fulfills those specifications. I want to commend the Oak Grove Cemetery Association on the cleaning and fixing of the gravestones. The stones in the cemetery look very nice. I have known Victor Tessari for years. I do not know Rusty Greenleaf.

I was born, raised and live in Gardiner. My mother's family has been in the area for more than 100 years. My grandparents, Thomas and Emma Skehan, established "Skehan's Dairy" at 242 Brunswick Avenue. Like my seven older brothers and sisters I graduated from GAHS. I realize that any Maine crematorium has to be in a cemetery. Many close relatives are buried in St. Joseph's Cemetery. We also have cousins, friends and neighbors buried in Oak Grove. I place U.S. flags and plants on various gravestones and water and clip during the seasons at these cemeteries.

In 2003, Gardiner observed their 200<sup>th</sup> birthday. In September, we had a "Cemetery Tour." This tour included people buried in old and new St. Joseph's and Oak Grove Cemeteries. I was on that committee, helped organize it, and researched over 60 featured people. More than 92 names are listed in the brochure. I am still adding to the book. Hopefully, in 2010, we can have another tour!

Oak Grove is located in a "High Density Residential District." I also live in that area. Citizens are concerned with the mercury as well as the fumes that come from the stacks. The property valuations are another issue. People at the Planning Board meeting on October 13<sup>th</sup> had questions which were not answered.

Oak Grove Cemetery is a historic cemetery that began in 1844. The yellow wooden building and the receiving tomb were built in 1891. The architect for both was Edwin E. Lewis. Mr. Lewis was a Gardiner resident who lived on Washington Avenue, and is buried in Oak Grove. We in Gardiner are lucky to have many of his buildings and houses standing to this day!

When a person goes over to Oak Grove, one can learn about history. By looking at the shape, stone composition, style and designs one sees the differences with each stone and marker. The names, dates and the epitaphs give us a glimpse into their life. This is local history coming alive in our backyard!! I have learned about many of our former citizens by visiting the cemetery and researching their lives. Oak Grove is a cemetery that is visited by many throughout the year. A crematory wouldn't add to the setting. This would just detract!!

Has the Cemetery Association and/or the city thought about jointly buying 20+ acres on the outskirts of Gardiner? A crematorium would then be away from the "HDR" district. A cemetery could be started and within a few years...a crematorium could be proposed.

Having a crematorium in any Maine city or town shouldn't be a hasty decision! The abutters should have had more than the one letter from the city, dated September 29, 2009 about the "Minor Site Plan Application-Crematory-Oak Grove Cemetery." The abutters and other citizens should have been told of the plan back in the spring and early summer. Why was this project kept secret? Did the shareholders (plot/lot) of the OGCA know about this before September? More study and public discussions are needed.

I urge the City Council to vote for the 180 day Moratorium.

Sincerely,



Anne C. Cough

**Sheila Hanley**

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**From:** "Sheila Hanley" <Sheila@valleerealestate.com>  
**To:** <council5@gardinermaine.com>  
**Cc:** <council4@gardinermaine.com>; <council3@gardinermaine.com>;  
<council2@gardinermaine.com>; <council1@gardinermaine.com>  
**Sent:** Wednesday, October 14, 2009 9:57 AM  
**Subject:** Gardiner!

FYI

Hi,

Gardiner never ceases to amaze me! As you may know I am a real estate agent and have been for 20 years. I have always tried to be good citizen and I am very proud of the historic value of our town. My business logo is hometown personal service. When I am showing homes in the Gardiner area I am so proud to offer information about all the historic homes and the great history of our fair village. Now I get to include a crematorium. As the Irish say, I am gobsmacked!! Very, very poor planning.. Please reconsider this foolish plan. Gardiner and its citizens deserve better. Thank you for your time and best regards, Sheila Hanley

Vallee Real Estate  
89 Water Street  
Hallowell, ME 04347  
207-622-2220 Office  
207-458-4941 Cell  
207-623-8520 Fax

**Sheila Hanley**

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**From:** "Sheila Hanley" <Sheila@valleerealestate.com>  
**To:** <mayormaclean@gardinermaine.com>  
**Cc:** <citymanager@gardinermaine.com>  
**Sent:** Wednesday, October 14, 2009 10:26 AM  
**Subject:** Gardiner

FYI

Hi,  
After sending my e-mail to the council members I looked up Gardiner's mission statement.  
Well,well,well..... perhaps a review of a promise to value and preserve community assets of  
natural,cultural and social importance is in order. Best regards, Sheila

Sheila Hanley  
Vallee Real Estate  
89 Water Street  
Hallowell, ME 04347  
207-622-2220 Office  
207-458-4941 Cell  
207-623-8520 Fax

To: City of Gardener Planning Board

10/15/09

My Concerns:

1. The change in character within the neighborhood will have a great impact on property value.
2. How our High Density Residential neighborhood can be changed to allow business to pop up around us without written notice to abutters.
3. Please see attached diagram of concern Re: + ground elevation to top of smoke stack on crematory unit to Gary street. We don't have the full protection

Please make this part of case record

CC: Gardener City Council  
members

Thank You  
abutter:

Harold Gerard  
11 Gary Street  
Gardener Mo.

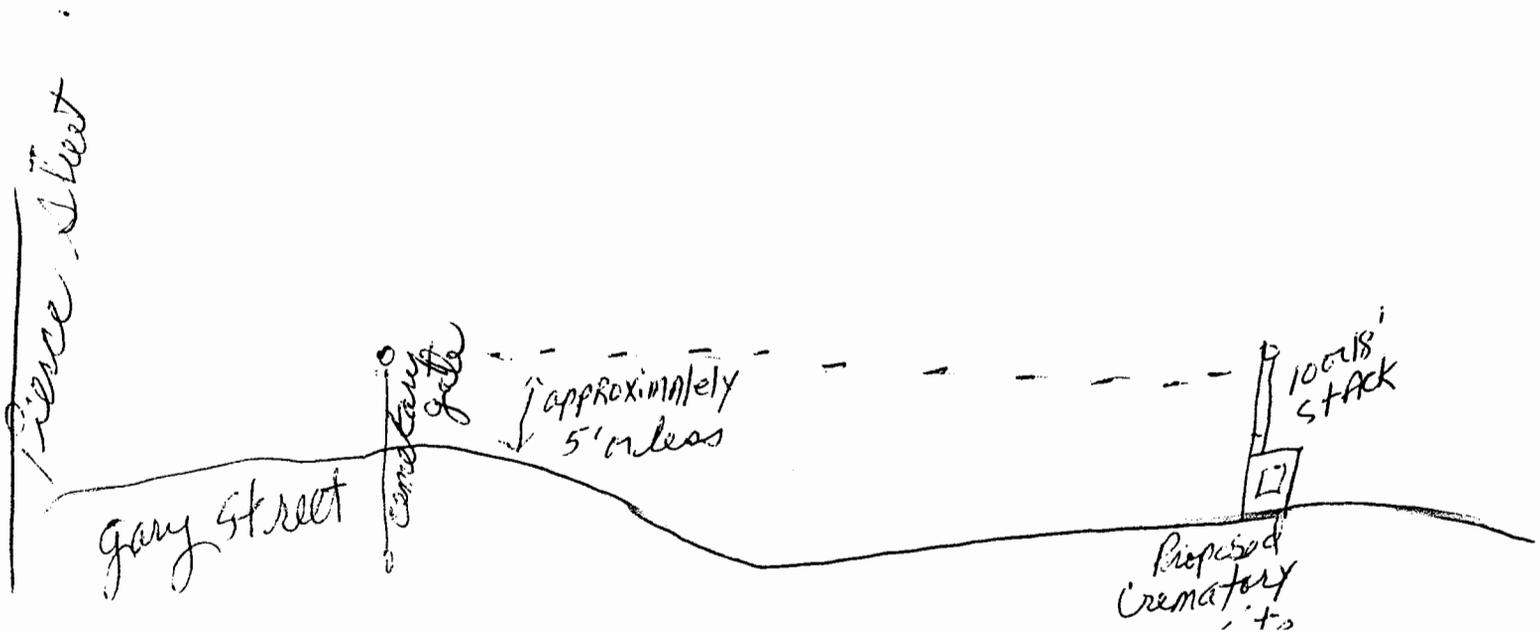
To: City of Gardiner Planning Board

10/15/09

With the diagram below I have concern of uneven land elevation from the stack of 10 or 18' at the proposed site and less as you go uphill toward Gary street. We are within the 300' boundary.

Concerned abutter  
Harold Gerard  
11 Gary St.  
Gardiner, Mo.

CC: Gardiner City Council members



October 19, 2009

Re: Minor Site Change for Crematory in Oak Grove Cemetery

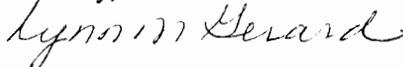
Dear Planning Board Members:

I thank you for your time at the recent meeting of October 13<sup>th</sup>. As evidence by the full room this issue is one of deep concern to our neighborhood and City.

- ❖ Among my list of concerns and questions was the history surrounding our property in this direct neighborhood? I believe the very reasons that your board denied approval for the church use DOES apply to this change in use at the cemetery. I attach a copy of the Superior Court decision, which I referenced, and respectfully request that you apply these same three standards highlighted in the final decision as part of the official record for this case. Debra Willis, Marc Cone and Jon White all testified to **vapor emissions**.
- ❖ The zoning or land use change is another issue which perplexes me as to why you and the council worked so hard and diligently for two years to get it right and then we just make changes whenever without notifying abutters.
- ❖ I have many other safety and traffic issues that I referenced.
  - a. Since this operation will be fired by propane, how would we get a fire truck up through Plummer Street and the narrow **dirt** drive that leads to proposed site especially in the winter months? I'm not sure that fire and UPS trucks could go up the proposed road without doing damage to existing headstones which are very close to edge of road.
  - b. Regarding the impact of children I believe the outside bars on many van conversions are the same as on hearse, including Staples.
  - c. The cemetery already deals with vandalism on a regular basis, how do they intend to protect this equipment which is far more **dangerous** than vandals who are being completely disrespectful and tipping over headstones?
- ❖ There were too many discrepancies in applicant's paperwork that they did not have concrete answers for. It seemed as though Mr. Greenleaf referred the majority of questions to a State of Maine employee, Mr. Cone. These are questions that the applicant should know, particularly the stack question. I enclose a concern of my husband with drawing regarding the stack.
- ❖ The legal notice date to file air/emissions was inconstant with the actual date filed, two weeks prior, which did not allow for proper public comment. They could not tell us how far pollutants traveled. It appeared the audience had way more questions than the applicant had answers for. I did not hear of any contingency plan if we have issues down the road.

While the business venture is probably a good idea to generate income for the applicant and cemetery there has to be a better location than the middle of a high-density residential district.

Sincerely,



Lynn M. Gerard

Cc: Gardiner City Council Members  
Mayor Andrew McAllen  
Code Enforcement Office  
Ann Davis, Interim City Manager

wrong because the record is inconsistent or a different conclusion could be drawn from it." *Twigg v. Town of Kennebunk*, 662 A.2d 914, 916 (Me. 1995).

Applying the standards of review set forth above to this case, since the ZBA was acting as an appellate body,<sup>1</sup> the court will review the Planning Board's decision directly to determine whether there was such error of law, abuse of discretion or flaw in the evidence.

After considering the Planning Board's decision and the basis for that decision, the court finds no abuse of discretion or error of law. The Hendersons were given full opportunity to present their position and information – as were others with an interest in the project – and an opportunity to further address the Board's concerns at the second hearing. The Hendersons may disagree with the Board's decision, but disagreement with a decision does not mean there was an abuse of discretion. The decision of the board turned on its findings of fact rather than conclusions of law, and the court finds no legal error in the deliberations or decision.

The final consideration on appeal is whether the Planning Board's findings were supported by substantial evidence in the record as a whole. It is not necessary that the appellate body agrees with the analysis or would have made the same decision based on the facts. Review is limited to whether there is support in the record. The Planning Board made three key findings leading to its denial of the application.. First, concerned

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<sup>1</sup> Ordinarily municipal zoning boards of appeals are required to conduct a de novo review of planning board decisions. See 30-A M.R.S.A. § 2691(3)(D). However, a municipality may provide by local ordinance that the board of appeals will act solely in an appellate capacity when reviewing planning board decisions. The City of Gardiner is one of the municipalities that has so limited its zoning board of appeals. See section 3204(H)(2)(c)(2)(a). The ordinance goes on to state the ZBA's limited scope as follows: "In the event that the Board of Appeals finds that the planning board . . . misapplied the Ordinance and/or acted in an arbitrary or capricious manner, the Board of Appeals may modify or reverse the action of the Planning Board." So the ZBA's review is limited to determining either (1) misapplication of the ordinance or (2) arbitrary or capricious activity. It is not clear from the ZBA decision that the board understood this limitation and there is some indication that the ZBA conducted a de novo review and made its own findings. An enlightening discussion of the differences between the two functions is found in *Stewart v. Town of Sedgwick*, 2000 ME 157, 757 A.2d 773.

the creation of "noise, vibrations, fumes, odors, dust, dirt, fly ash, glare, vapors, gases, smoke, litter, or excessive lighting, beyond the lot line of the proposed use." The Board found that the proposed use would cause increased auto traffic, spilling into the surrounding neighborhood, and create significant dust because the parking lot was made of gravel. *See* Record at 134. There is more than adequate record evidence that the Planning Board considered the testimony of the public and that it considered the possibility that traffic would increase as the church grew. *See* Record at 199-203. Further, applicants offered rough traffic estimates that may or may not be consistent with the proposed use, and based on a church membership estimate that could change over time. *Id.* at 54.

Regarding the second key finding, that "the provision for vehicular loading and unloading, parking and/or vehicular and pedestrian circulation on the site and onto adjacent public streets will create hazards to safety," the Planning Board determined that the increased traffic on a narrow, dead-end street would create safety hazards during vehicular loading and unloading. *See* Record at 134, 135. Again, the Planning Board considered the information before it, such as a likelihood that the proposed use and traffic may expand over time, and the Planning Board's own experiences with church parking in other areas of the city. The Planning Board also determined that the applicants failed to present a sufficient plan as to traffic flow and parking. *Id.* at 135. The fact that applicants would reach a different conclusion than the Planning Board does not itself justify a finding that the Board committed error in denying the permit. *See Sproul v. Town of Boothbay Harbor*, 2000 ME 30, ¶ 8, 746 A.2d 368, 372.

The third key finding concerned incompatibility with the surrounding neighborhood. Here, the Planning Board reiterated that the neighborhood in question was quiet; there are only five houses on the street, and the street is a dead-end road.

This case has (H) dead-end streets.

Again - 4 dead end streets

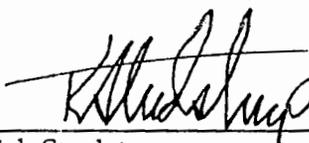
Applicants requested a permit to hold up to seven events per week with any where from three to eight cars per event (not including traffic to drop off and pick up children) and many events on evenings and Sundays. *See* Record at 54, 72 and 155. The Board concluded that traffic will likely increase and the hours of operation would not be consistent with the present neighborhood. The Board also made site visits to the property and were familiar with the residential character of the street.

In summary, the court, applying the appellate standard of review applicable under Rule 30B, finds no error of law or abuse of discretion by the Planning Board, and finds that the Board's findings are supported by substantial evidence in the record despite the fact that the evidence could be considered conflicting on various points.

Therefore, the entry will be:

Decision of the Gardiner Zoning Board of Appeals is REVERSED and REMANDED. The decision of the Gardner Planning Board denying the conditional use permit is AFFIRMED.

Dated: April 18, 2003

  
\_\_\_\_\_  
S. Kirk Studstrup  
Justice, Superior Court

STATE OF MAINE

KENNEBEC, ss.

LYNN GERARD,

Plaintiff

v.

CITY OF GARDINER, *et al.*,

Defendants

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. AP-02-59

DKS - VOL - 4/19/2003

DECISION ON  
RULE 80B APPEAL

DONALD L. GARDRECHT  
LAW LIBRARY

MAY 28 2003

This matter comes before the court on the appeal of plaintiff Lynn Gerard pursuant to M.R. Civ. P. 80B, from a decision of the City of Gardiner Zoning Board of Appeals ("ZBA"). The decision of the ZBA came following its review of a previous decision by the Gardiner Planning Board which denied a conditional use application by the Apostolic Faith Ministry for the new use of part of an existing building. The appeal will be granted.

### Background

On January 24, 2002, defendant Theresa Henderson of the Apostolic Faith Ministry filed an application for a conditional use permit to allow her church to use the first floor of a building located at 8 Gary Street in Gardiner as a "place of worship and other related religious structures." The building in question, a/k/a The Carriage House, is a two-story residential structure located on a dead-end street, immediately adjacent to Ms. Gerard's residence. The Code Enforcement Officer investigated the application and recommended to the Planning Board that the application be approved with four conditions. The application was first taken up at the Planning Board's meeting of February 13, 2002. After comments by several members of the public who reside in the neighborhood and discussion of their concerns, the Board tabled the

application to allow the applicant to address certain issues which had been raised. The application was taken up again at the Planning Board meeting of April 10, 2002. Several neighbors again expressed their reservations concerning the proposed new use of the property. The Board eventually voted unanimously to deny the application based on findings which are cause for denial pursuant to the Gardiner Zoning Ordinance, § 3204(H)(3)(d)(1).

The Hendersons appealed the Planning Board decision to the ZBA. During its proceedings, the ZBA remanded the matter to the Planning Board for clarification of the factual basis for the Planning Board's decision. On July 10, 2002, the Planning Board issued a further written decision, upholding its original decision but identifying specific facts as found by the Planning Board which formed the basis for its denial of the permit. The ZBA went on to reverse the Planning Board by a 3-2 vote and directed issuance of the permit. The present appeal to this court followed.

#### Discussion

When the decision of a governmental body is appealed pursuant to Rule 80B, this court independently examines the record and reviews the decision for abuse of discretion, errors of law, or findings unsupported by substantial evidence. *Ranco v. Cit of Bangor*, 1997 ME 65, ¶ 6, 691 A.2d 1238, 1239. The substantial evidence standard requires the court to examine the entire record "to determine whether on the basis of all the testimony and exhibits before the [b]oard it could fairly and reasonably find the facts as it did." *Ryan v. Town of Camden*, 582 A.2d 973, 975 (Me. 1990). The court is not permitted to "make findings independent of those explicitly or implicitly found by the [governmental body] or [to] substitute its judgment for that of the [government body]." *Perrin v. Town of Kittery*, 591 A.2d 861, 863. "The [government body's] decision is not

October 20, 2009

I am writing to you as a concerned citizen of Gardiner. I am concerned about the proposed cremation business located at Oak Grove Cemetery. Although I do live "outside" the proposed cremation business location, I feel as though this decision effects all the citizens of Gardiner.

I wonder about the ability of fire trucks easily maneuvering their equipment should there be a fire. The distance between the proposed crematory building and a residence should there be a fire.

I wonder how many of those existing residences would have purchased their homes if the crematory already existed.

I wonder if there is any support from citizens for the proposed crematory. We only heard from one resident, an employee of Staples Funeral Home. We did hear from a lot of concerned citizens AGAINST the proposed crematory.

I wonder how people visiting love ones or walking through the cemetery would feel listening to the "furnace", seeing caskets, seeing the UPS or Fed/Ex truck? Although it was stated, that the unit wasn't loud, that there wasn't going to be a lot of traffic, how would they feel, knowing what was happening?

I wonder about the proposed traffic? What happens if the proposed business increases, which by all the facts stated, it sounds like it will. Will the people on Plummer Street like that? If the proposed business were going to be a coffee shop, would this make a difference to the Planning Board?

I wonder if the proposed business has a plan "B"? Could the proposed site be moved to a location in the cemetery where it wouldn't effect the neighbors?

I wonder if the Planning Board should also do a site walk to an existing crematory?

I wonder if the Supreme Court rulings from a few years back, in this same neighborhood, have any baring on the Planning Board? These are some of the same concerns.

I realize that the Planning Board is just following their set of rules, but if there are enough people against the project, doesn't that stand for something?

I am not opposed to anyone making an honest living. I am opposed to businesses disrupting other people's lives and homes in order to make the money, especially where it's clearly not wanted.

Thank you,

  
Pamela Cartonio

Moss Drive  
Gardiner, ME

**Gloria L. Rogers  
9 Gary Street  
Gardiner, Maine 04345**

**October 20, 2009**

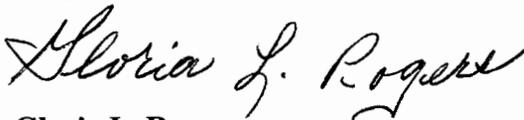
**City of Gardiner Planning Board  
City Building  
Church Street  
Gardiner, Maine 04345**

**Dear Members:**

**I am writing to voice my opposition to the proposed crematory in Oak Grove Cemetery. I have lived on Gary Street, which abuts the cemetery, for 40 years and have enjoyed my neighborhood. The Corporation claims there will be no offensive odors. I have heard that the crematory in Augusta has a very foul odor.**

**I t is my sincere hope that the Board and the City Council will deny this application.**

**Respectfully,**

A handwritten signature in cursive script that reads "Gloria L. Rogers". The signature is written in black ink and is positioned above the typed name and title.

**Gloria L. Rogers  
Resident**

**cc: Gardiner City Council**

6 Madison Street  
Augusta, Maine 04330  
October 20, 2009

City of Gardiner

Mayor MacLean, Members of the City Council, Interim City Manager Davis, Chairperson  
Hart, and Members of the Planning Board

6 Church Street

Gardiner, Maine 04345

Dear Mayor MacLean, Members of the City Council, Interim Manager Davis, Chairperson  
Hart, and Members of the Planning Board:

My letter is in reference to the request that a crematorium be a permitted use of an existing mausoleum in Oak Grove Cemetery. I have been acquainted with Mr. Tessari for many years, and know him to be a fine person and member of the community. I do not know Mr. Greenleaf but understand the same can be said of him. I have recently learned more than I ever wanted to about cremation and crematoriums, being blissfully ignorant of the finer details, intending to stay that way.

I was born and raised in Gardiner, graduated from GAHS and participated in many activities there and at church; much of the same can be said of my seven brothers and sisters. I was married in Gardiner and work in Gardiner. With my sister Anne I own property on Elm Street and on Washington Avenue. My mother was born and raised at the Skehan farm, her parents being the original Skehans to settle on Brunswick Avenue almost 100 years ago. She, my father, sister, grandparents, aunts, uncles and cousins are buried at St. Joseph's Cemetery, overlooking Oak Grove. There is a marker for my brother Jody. He was lost in an explosion at sea while serving aboard the U.S.S. Wasp; his name is included on one of the memorials in the park. Friends and neighbors are buried at Oak Grove Cemetery. My point is that our family has a long history in Gardiner. Longer isn't always better, but it does give one perspective.

The Skehan property, now owned by some of my cousins, is the closest neighbor to the proposed crematorium. Obviously, living next to a cemetery isn't new to them. Living next to a crematorium is an entirely different matter. *At the very least*, they and the other abutters should have received direct notification of proposals that could have an affect on their property and property value. This point was raised at the October 13<sup>th</sup> Planning Board meeting. The Chair replied that the published notices were sufficient. I respectfully disagree. I haven't verified that the notices were published as required, but I have no reason to think otherwise. However, there is a difference between *adequate/legal* and *sufficient* notice. It is not sufficient that abutters received direct notification only a week prior to the October 13<sup>th</sup> meeting, and it is not sufficient that this was the only direct notification they received. This directly impacts their property. It may be legal but it is not right. You all have the

power to correct the manner and method of notification. I recommend adding this change to your agenda.

At the October 13<sup>th</sup> meeting, Mr. Montell indicated he received a notice about the proposed crematorium. He is not an abutter, but lives within the affected area. He stated he could be unbiased in judging whether the project complied with the Planning Board's charge. The rest of the Board was asked whether they felt he could be unbiased in this regard; they agreed and voted as such. The Planning Board went out of their way to make sure no one had a problem with Mr. Montell participating in this discussion and vote. My reason for bringing this up is for consistency and fairness. Mr. Cone attended the meeting and testified as a representative of the Maine Department of Environmental Protection's Air Bureau. I do not doubt his professional integrity, nor his testimony. However, shouldn't he have disclosed he is the next-door neighbor of one of the principals in this venture? According to the City of Gardiner's "Vision Appraisal" records (1), Mr. Cone's address is 23 Karen Drive, while Mr. Tessari's address is 25 Karen Drive. Shouldn't the Planning Board have been given the opportunity to ask the same questions of him that they did of Mr. Montell? [As with Messrs. Greenleaf and Tessari, I have no problem with Mr. Cone personally or professionally. He attended GAHS some of the time I was there; we have mutual friends. Gardiner is fortunate to count these gentlemen, as well as other talented individuals, among its residents.]

Judging from the paperwork submitted to the Planning Board and the dates thereon, the Oak Grove Cemetery Association, Mr. Greenleaf, Mr. Tessari, members of the Planning Board, and some members of the City Council have for months been aware of or worked on the application for a crematorium within Oak Grove Cemetery. The general public has been unaware of these activities; as a result, we have had considerably less time to prepare a response.

Mr. Greenleaf gave "Google Maps" of four of the six existing crematoriums in Maine to the Planning Board Chair. Mr. Greenleaf specifically mentioned a Bangor facility, noting that there is a daycare nearby. Both the maps and mention of the Bangor facility were introduced by Mr. Greenleaf. While their existence is not in question, the testimony may have been unintentionally incomplete. I researched Mt. Hope Cemetery and crematory in Bangor. A Google map of the Mt. Hope Cemetery (2) shows a very large land area. From the map it looks to be roughly similar in size to the entire Bangor Mall complex; I understand it's over 250 acres. The cemetery is north of the Bangor Mall, and east of Interstate 95, between Mt. Hope Avenue and State Street. It is near other cemeteries and a golf course, away from the vast majority of residences. The crematorium is to the left of the center of the land area, away from the gravesites, tucked away and shielded from public view by masses of trees. This is clearly visible from the satellite image of the cemetery. According to a gentleman I spoke with on the telephone, the crematorium is the building with smokestacks, about half way up Severance Road, on the left. The gentleman had heard about the Gardiner site via the KJ article. He couldn't believe anyone was even considering putting such a facility essentially within a residential area. He said their crematorium is at least 1500 to 2000 feet away from homes; the Google map supports that statement.

Another comment repeatedly made at the Planning Board meeting was that the only way people will know that the crematorium is processing "a unit" is that it will sound like a furnace is running. There are furnaces that run softly and furnaces that run loudly; my home has the latter, when it is not properly tuned. Which will this be?

When the applicant was asked whether there would be an odor when the crematorium is operating, the answer was no. I realize that the Bangor gentleman's comments to me are hearsay, but they struck a chord, nonetheless: "Who are they trying to kid? Of course there's an odor!...Our stack is 15' high. It's three 5' sections. And, sometimes there are 'flame-outs'..." (depending on the composition of the "unit" being burned). An acquaintance recently commented that when driving by Burger King, Kentucky Fried Chicken and the new Texas Roadhouse at the Turnpike Mall, the scent of what's cooking is in the air. Why should this be any different? Will the "retort" used by the Oak Grove Crematory be more efficient than the equipment used at Mt. Hope? Wouldn't the Planning Board be better informed, and therefore in a better position to adequately judge this project if they visit a crematory while it is processing "a unit?"

The applicants could not explain discrepancies within the application and accompanying documents, regarding the proposed height of the stack (10' or 18') and the temperature at which the furnace would operate (1600 degrees or 1800 degrees); they did not know which numbers were correct. The applicant did not offer to find out, and the Planning Board did not ask the applicant to clarify the discrepancies.

Oak Grove Cemetery is a lovely, old and special place. People choose to walk here, even if they do not have any connection to the 'residents.' This land was specifically set aside to provide a dignified final resting place for loved ones. Mr. Shettleworth, a recognized authority, pointed out the historic significance of the mausoleums and referred the Planning Board to various City of Gardiner documents re: the significance of the cemetery, as is. Another speaker eloquently described the gravesites of men who bravely represented us in war, gravesites whose peace will be disturbed if this project is approved. It is our responsibility to speak for those who cannot. The mere existence of a commercial venture within this densely populated area is contrary to the inherent nature of a cemetery, and of its purpose.

The appeal of the neighboring properties is being jeopardized for a commercial venture. It only stands to reason that nearby properties will have less appeal to the majority of homebuyers, just as people are reluctant to settle next to a sewage treatment plant, or any other commercial venture. Promises of no odor were made when the sewer treatment plant was proposed, and that proved to be incorrect. I think the Planning Board Chair stated that considering the possibility of lowered property values is not within scope of the Board's jurisdiction. Shouldn't it be? Neighborhood appeal and property values drive tax values, and taxes fund the city.

After all the forms have been submitted and reviewed, and the testimony complete, the Planning Board may still determine that placing a crematorium in Oak Grove Cemetery

does not violate any land use ordinance or zoning. The fact that the zoning had to be changed to accommodate this project should give us all a clue that this type of venture is not what previous planners had in mind for this location. The people who worked on the zoning for Gardiner must have spent many hours determining what was best for the city; there was a reason this area was zoned as it was. Maybe the decision to change the zoning should be reconsidered, and reversed.

Should the Planning Board vote to approve the application, it does not mean that placing a crematorium in that location is a good idea for Oak Grove Cemetery, the neighborhood or for the City of Gardiner. People visiting Oak Grove Cemetery should not have to hear a furnace running. They shouldn't have their peace disturbed, knowing that a few feet away someone's loved one is being incinerated.

Citizens of Gardiner, and former citizens of Gardiner entrust the elected and appointed officials to do what is right for the whole city, and all of its citizens—alive or not. If this project was born out of financial frustration, as seems to be the case, perhaps there is a more amenable remedy. Jack Skehan suggested that, like the Veterans Cemetery in Augusta, Oak Grove Cemetery Association might be able to annex some land in a non-residential area, and if necessary, place the crematorium there. Seems like a reasonable compromise to this predicament.

Please, please -- consider ALL of the points raised. The crematorium will impact many people, a way of life, and the overall peace that residents and visitors enjoy. The proposed crematorium hurts more people than the few it benefits. Placing a crematorium within a high-density residential area is inappropriate, plain and simple.

Sincerely,



Rosalind Cough Jellison

(1) Sparrow & Cone <http://data.visionappraisal.com/GardinerME/findpid.asp?iTable=pid&pid=319>  
Tessari <http://data.visionappraisal.com/GardinerME/findpid.asp?iTable=pid&pid=878>

(2) Google Map of Mt. Hope Cemetery in Bangor, Maine:  
[http://maps.google.com/maps?hl=en&rls=com.microsoft:en-us:IE-SearchBox&rlz=1I7GGIE\\_en&resnum=0&um=1&ie=UTF-8&q=mt+hope+cemetery+04401&fb=1&gl=us&hq=mt+hope+cemetery&hnear=04401&cid=0,0.6766533094453019.685&ei=t3bbSrisGIqW8Aby0MW3BQ&sa=X&oi=local\\_result&ct=image&resnum=1&ved=0CA4QnwIwAA](http://maps.google.com/maps?hl=en&rls=com.microsoft:en-us:IE-SearchBox&rlz=1I7GGIE_en&resnum=0&um=1&ie=UTF-8&q=mt+hope+cemetery+04401&fb=1&gl=us&hq=mt+hope+cemetery&hnear=04401&cid=0,0.6766533094453019.685&ei=t3bbSrisGIqW8Aby0MW3BQ&sa=X&oi=local_result&ct=image&resnum=1&ved=0CA4QnwIwAA)

56 Pierce Street  
Gardiner, ME 04345

October 20, 2009

To the Mayor, Council, and Planning Board:

RE: Proposed Oak Grove Crematory in Gardiner

We've all heard the saying that "our home is our castle". I think many of those to whom this letter is addressed would agree that their home is their castle as well. For most our home is the largest purchase of our lifetimes. At times we vacation, but at the end of our vacation, we look forward to returning home, because 'home is where the heart is' and no matter where we travel, 'there is no place like home'.

To say that we, as many others, were shocked when we received a letter from the City of Gardiner informing us of plans for a crematory at Oak Grove Cemetery is putting it mildly. It further seems that this was the 'last' necessary step and almost a 'done deal' by the time the letter was received. This is troubling. According to the planning board chair, the planning board did everything according to the 'rules', including legal notices in the paper, on the City web site, and advising the applicant to have a city councilor sponsor a 'minor' change to the zoning ordinance. This seems to have been easily accomplished, probably with a word processor, by pressing insert and adding a few words to the zoning ordinances, without public hearing. These zoning ordinances had been worked on for months or more likely years by previous councils. Is this open government? Could or should the notification letter been sent sooner? Are we back to the good old boy mentality of former city councils?

We understand that Oak Grove Cemetery needs additional funds to properly maintain the cemetery and applaud the efforts of the trustees to create an additional revenue source. It seems like the plan to offer cremation services along with burial services etc offered by Oak Grove are a natural fit for the cemetery. However, we feel it is NOT a neighborhood type of business or a natural fit for the neighborhood, the cemetery being totally surrounded by residences on all of its boundaries. Further, I have attached a copy of the tax map, obtained from the City of Gardiner's web site that shows the depth of the plot where the proposed crematory is to be located is a maximum of 50', probably less. The access road could more accurately be called walking path, as it is probably used for walking more than for vehicles. While I am far from an expert on zoning matters, I doubt a permit would be issued today to build such a structure in this location.

The 'letter' stated the Oak Grove Crematory is set up as a holding company. What does this mean? Does the cemetery own the structures currently? Who will own the structures if the permit is granted? Will the Oak Grove Crematory be the operator? Will the crematory simply lease the facility to private operators? Are 100% of all proceeds benefiting Oak Grove Cemetery? Who or what organization is responsible to renovate the structures, obtain and repay the loan for renovation and equipment, and perhaps most important of all, if there is odor or contamination, whenever discovered, are there adequate reserves to remedy ANY situation that might arise?

We understand under Maine law crematories must now be located in a cemetery of at least 20 acres. However, we believe the legislators didn't envision a crematory located right on the edge of the property line AND surrounded by homes on all sides! Representative Stephen Hanley has stated and as we all know that the results of many new laws, (Federal, State and Local) often produce unintended consequences. For this very reason, many laws are revised when such unintended consequences are

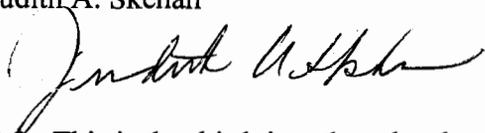
discovered. We believe the proposed location of the Oak Grove Crematory is one such unintended consequence. Since the proposed location of the crematory is in a high density neighborhood and the burn unit actually is only a few feet from neighboring property, a better option must be found. We feel the applicant needs to work with area legislators to change existing laws. This law change could allow Oak Grove (and other cemeteries) to have an annex in a rural area where there would be no direct impact to anyone from an operating crematory.

Sincerely,

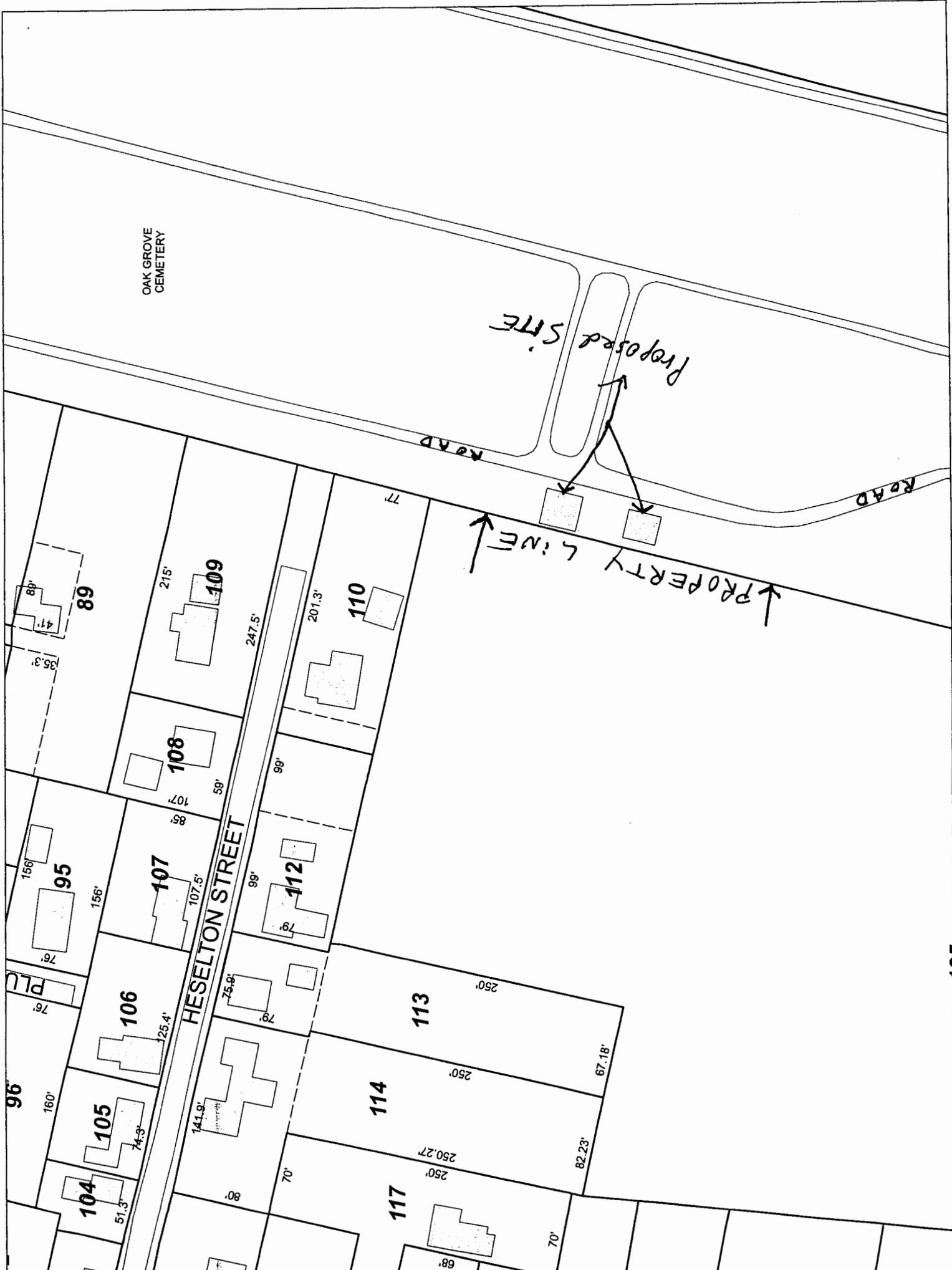


John B. Skehan

Judith A. Skehan



P.S. This is the third time there has been major change proposed for our neighborhood, a neighborhood that is in a high density residential area. In one instance, Maine Superior Court decided a proposed use of property would bring substantial negative change to the neighborhood and voided the plan. I understand this is going to be addressed in a letter by the person who brought that action; however, I wanted everyone to be aware of the case. In rereading that verdict, it seems those very the same concerns exist with the crematory along with many more concerns, including environmental, safety and property value to mention just a few.



OAK GROVE CEMETERY

Proposed SITE

ROAD

ROAD

PROPERTY LINE

HEVELTON STREET

**Anne Davis**

---

**From:** rbouch345@aol.com  
**Sent:** Tuesday, October 20, 2009 3:50 PM  
**To:** citymanager  
**Subject:** Fwd: Marc Cone, Licensing of the Oak Grove Crematorium

Anne,

Would you please forward this to Pat Hart? I do not have her email address.

Thanks,

Rita

-----Original Message-----

From: rbouch345@aol.com  
To: Bryce.J.Sproul@maine.gov  
Sent: Tue, Oct 20, 2009 3:46 pm  
Subject: Marc Cone, Licensing of the Oak Grove Crematorium

Mr. Sproul:

I wish to express a concern regarding the actions of Mr. Marc Cone, Department of Environmental Protection Air Quality Licensing, relative to the application of a DEP license by Oak Grove Cemetery Association in Gardiner.

It is my understanding that state officials should refrain from participation in matters when there exists a potential or a perceived conflict of interest arising from a personal relationship that would cause a person to believe that the public official cannot act in his official capacity without bias.

Mr. Cone is a next door neighbor and friend to one of the principals of the Crematorium project. On October 13, 2009, Mr. Cone spoke at a public meeting before the Gardiner Planning Board at the request of the applicant, Mr. Russell Greenleaf.

Mr. Cone's presence was not requested by the Gardiner Planning Board. From the tone and nature of his comments to the Planning Board, his decision to sit beside Mr. Greenleaf at the meeting, and his frequent side conversations with Mr. Greenleaf, Mr. Cone did not appear to be an impartial participant. Lynn Cornfield, who processed the licensing application, was also present at the meeting but did not address the Board.

Mr. Cone's actions did not seem to me to be appropriate as a state official in charge. I believe Mr. Cone would have better served the citizens of Gardiner and the State of Maine had he recused himself from acting upon the licensing of the Crematorium in order to avoid, at the very least, the appearance of bias.

Sincerely,

Rita Bouchard  
74 Lincoln Avenue  
Gardiner, Maine 04345

Sincerely,

Rita Bouchard  
74 Lincoln Avenue  
Gardiner, Maine 04345

10/20/2009

**Dot Morang**

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**From:** Patricia Hart [pathart@mdf.org]  
**Sent:** Tuesday, October 20, 2009 6:20 PM  
**To:** Dot Morang  
**Subject:** FW: Concerns about Proposed Crematorium at Gardiner's Oak Grove Cemetery

One more for the packet.

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**From:** autamain1@gwi.net [mailto:autamain1@gwi.net]  
**Sent:** Tue 10/20/2009 11:25 AM  
**To:** Patricia Hart  
**Subject:** Concerns about Proposed Crematorium at Gardiner's Oak Grove Cemetery

**To:** The Gardiner City Council, The Planning Board, Our Mayor and City Manager  
**From:** Auta Main, Resident, Gardiner  
**RE:** Proposed Crematorium at Gardiner's Oak Grove Cemetery  
**Date:** October 20, 2009

Dear Pat (Hi Pat!),

Let me start by thanking you for the great work that I know you do on our behalf everyday. I know community service takes a LOT of time, patience and commitment. I am writing to you today to let you know my concerns regarding the proposed crematorium at Gardiner's Oak Grove Cemetery. Thank-you for your time and consideration.

The facts as I know them

1. The Oak Grove Cemetery Association is apparently financially strapped – hit by the declining economy and investments. The City of Gardiner does not want to take on the expense of the cemetery with the possibility of having to increase taxes for its maintenance and upkeep.
2. Rusty Greenleaf and Victor Tessari propose the creation of a nonprofit organization, required by Maine Law, for the cemetery association. Clearly both Rusty Greenleaf and Vick Tessari would benefit financially from such a venture – a nonprofit - that is in essence a profit making venture for them, but would also provide a long term sustainable solution for the cemetery maintenance and upkeep.
3. They proposed the establishment of a crematorium in Oak Grove Cemetery, which is in a high density residential neighborhood and would require a change to current zoning. The city council approved that zoning change and permits have been issued - yet neighbors in the surrounding neighborhood were never even notified about the proposed project. Only abutters were notified and if I understand correctly that was after the fact. What were/are you thinking? It is not the city council's decision ALONE to make when a project impacts an entire neighborhood in our community. OF course by law that may be allowed, but certainly not by neighborhood/community norms. We did not elect our city councilors to make major decisions about the neighborhoods in which we live without our input – a well advertised city forum should have been marketed to let neighbors know of the proposal. Rumor has it that not only was the request kept rather quiet, but the Oak Grove Cemetery Association members were asked to keep it a secret until next steps had been made.
4. Apparently Maine Law now requires that crematoriums be located within cemeteries or at least that is one legal alternative. Locating one in the middle of a high-end residential neighborhood is

10/21/2009

what is in question. It is understandable when other communities have located them in city/town/church cemeteries, but they have been located in more rural areas – not in the middle of a beautiful neighborhood with a high density population.

5. Concerns focus on several issues:
  - a. Pollution – the long term impact is still not known - see articles below (including mercury)
  - b. Traffic- up to 7 cremations a day would be allowed as reported by the Waterville Sentinel. 7 cremations a day would certainly increase traffic flow into that area.
  - c. Noise Pollution – disturbing peace and tranquility in what was/is one of the neighborhood's most beautiful walking areas
  - d. Property Values in the area may be impacted according to several real estate agents - values close by could jeopardized (decreased) by the crematorium's presence
6. The public should be given options not told, after the fact, that zoning has already been changed and a crematorium has been approved – like it or leave it. Personally, I'd much rather see the city take on the expense of the cemetery and increase taxes or think through other possible fundraising scenarios to make up the difference in the cemetery association budget – much preferred over a crematorium in my backyard.

## Relevant Articles

### Cremation or Burial – Carbon Emissions and the Environment – Hal Stevens

On the surface cremation seems like a more friendly and convenient way to deal with the bodily remains of a loved one. But, let's consider the impact of this truly industrial process. Like most modern, natural-gas devices, the technology is becoming more efficient and clean burning; however the amount of non-renewable fossil fuel needed to cremate bodies in North America is equivalent to a car making 84 trips to the Moon and back each year.

There is also a growing body of research that indicates cremation has a significant impact on the environment. Cremations lead to emissions of nitrogen oxides, carbon monoxide, sulfur dioxide, particulate matter, mercury, hydrogen fluoride (HF), hydrogen chloride (HCl), NMVOCs, and other heavy metals, in addition to Persistent Organic Pollutants (POP). The United Nations indicates that indicates that crematoria contribute 0.2% of the global emission of dioxins and furans.

#### *Environmental impact*

However, there is a body of research that indicates cremation has a significant impact on the environment as well. The emissions from crematories include nitrogen oxides, carbon monoxide, sulfur dioxide, mercury, hydrofluoric acid (HF), hydrochloric acid (HCl) in addition to persistent organic pollutants (POP).

**Funeral home requests variance to build crematory  
NEIGHBORS RAISE CONCERNS ABOUT ENVIRONMENTAL IMPACT  
by Chuck Hoven**

(Plain Press, February 2009) A request by the Bodnar-Mahoney Funeral Home for a zoning variance to add a crematory to its facility at W. 41st and Lorain Avenue has raised concerns about what this may

10/21/2009

mean for the surrounding neighborhood.

Eighty people came to an informational forum on January 21st at 3500 Lorain Avenue to learn more about what it would mean to have crematory operating in the neighborhood. Patrick Mahoney, the owner of the funeral home, said he hoped to add a crematory on site to “offer greater service to families.” He said an increasing number of people are requesting cremation. Mahoney said having the crematory on site would allow him to assure families that the remains of their loved ones are handled with respect from start to finish. Families would like the funeral home to have custody of the body the entire time. Currently the funeral home must contract out the actual cremation, breaking that chain of custody.

Ron Salvatore of Matthews Cremation, which manufactures the cremation machine that Bodnar-Mahoney Funeral Home proposes to purchase, says that over 4,000 of the machines are in operation in the United States, most in funeral homes. He says about 100 are in operation in the State of Ohio, several in Cleveland suburbs and a couple in the city of Cleveland. The Cleveland crematoriums are at E. 89th and Cedar and E. 157 and St. Clair.

Professor Dennis Keating of Cleveland State University’s College of Urban Affairs explained that a variance was needed because the facility would constitute an exception to existing zoning law. He said the Board of Zoning Appeals in reviewing the application would review it on a number of criteria including whether it would change the essential character of the neighborhood or if adjoining properties would suffer.

Director Matt Carroll of the City of Cleveland Department of Public Health said his department would also have to approve a permit for the facility to go forward. He said he made a request to the Board of Zoning Appeals to postpone their hearing pending the completion of the permit process. Carroll said his department hoped to compile a “fair and accurate analysis of health issues” related to the crematory before making a decision about issuing a permit. Carroll said he hoped to gather details about expected emissions from the facility. He estimated the city of Cleveland’s Health Department permit process would take three to four months.

Dr. Kathy Fagan, Board President of Environmental Health Watch and an Assistant Professor in the Department of Environmental Health Sciences at Case Western Reserve University School of Medicine, said, “Before the installation of a crematorium, the public health impact must be evaluated. The release of mercury into the environment from cremation may be significant.”

Fagan cited several studies that indicated that the amount of mercury pollution from crematoriums could be significant. One Canadian study cited estimated that up to 21% of mercury emissions are due to cremations. Fagan noted that mercury is of particular danger to the brains of unborn children during pregnancy and of developing brains of children during the first year of life. “Mercury is easily absorbed either by breathing it in through the lungs or ingesting contaminated foods, particularly fish,” said Fagan.

Salvatore of Matthews Cremation countered Fagan’s claims by saying a study done by the Cremation Association of North America indicated mercury pollution levels from crematoriums were so low as to convince the federal EPA not to regulate the facilities. Matthews went on to say hot water heaters and fireplaces burning fuel in homes also emit mercury into the environment.

The concern expressed by local environmentalists about mercury emissions during cremation stems largely from the use of mercury in dental amalgam used to fill cavities in teeth. A December 2005 report “Mercury Emissions from Crematoria” prepared by John Reindl of the Department of Public Works in Dane County, Wisconsin for the Great Lakes Binational Toxic Strategy, states that the main source of mercury in cremations is dental amalgam. The study says “US flow model has cremation as the third largest source of air emissions of mercury from products.” The study also indicates that data collected

from various studies have high levels of uncertainty.

In response to questions, funeral home owner Mahoney estimated that if the facility were built, two or three bodies a week would be cremated on site. He said, while it was possible to remove filled teeth from bodies before cremation, "it was probably not a respectful thing to do." He said the permission of the family would have to be obtained to remove the teeth. He said mercury is still being used in fillings, but is less common now than in the past.

Mahoney did indicate that other medical devices were removed from bodies prior to cremation. In fact, Mohoney said removal of pace makers was required by law due to potential danger to operators and equipment caused by the devices.

Several people who lived or worked in the area near the funeral home testified as to their concerns about locating a crematorium at that location. Concerns expressed ranged from health concerns to concerns about the value of their property.

Mark Pestak, who owns the land that wraps around the funeral home which houses a day care and a community garden, was concerned that even the perception of possible mercury pollution would keep area moms from choosing to use the day care on his land and buying produce from the community garden.

According to environmentalists at the meeting, mercury levels in the neighborhood are already high. Fagan said the major source of mercury is coal burning power plants. An Environmental Health Watch staff person presented findings from a December 2003 rainwater sampling on the roof of the building at 3500 Lorain Avenue that indicated mercury levels 33 times the amount recommended by the EPA for freshwater streams. No one at the meeting could offer any definitive answer as to how much mercury would be added to the air in the neighborhood by a crematorium, how dangerous that would be or give some example for residents to use for comparison of the risk.

The Board of Zoning Appeals (BOZA) was scheduled to hear the variance request from Bodnar-Mahoney Funeral Home on January 26th. At that meeting, after a 45-minute discussion the five-member BOZA voted 3-2 to postpone the variance application review until its February 23rd meeting. The board majority said the delay would allow the City of Cleveland Health Department more time to gather information on the possible health consequences of having a crematorium at that location. Twenty people from the neighborhood who attended the hearing did not get an opportunity to testify.

## Religious views –

Judaism has for years disagreed with cremation as an option for passed family members. In addition, for many Jews cremation brings back the horror of the holocaust where millions of Jews perished in Hitler's ghastly ovens. In fact, my partner lost her entire maternal family to those ovens.

There is much to think about here. It's not as simple as let's find a way to make the Oak Grove Cemetery Association sustainable. I respectfully request that you rethink this decision. I intend to support every effort to keep this from becoming a reality.

Thank-you for your time and consideration.

Regards,

Auta Main

(207) 232-3289

10/21/2009

TIMOTHY SKEHAN  
78 GREEN ST  
AUGUSTA, ME 04330

October 21, 2009

Dear Mayor, City Councilors, and Planning Board Members of Gardiner Maine,

As owner with my brother Thomas of the former Skehan Farm, the closest abutter to the proposed crematory, I need to voice my concerns over this issue and the process by which it has quietly made it's way through the various boards charged with overseeing the protection of the citizens of the City of Gardiner.

It is my belief that a grave injustice has been done to the citizens of Gardiner and in particular to those in the "High Density Residential" zone surrounding the Oak Grove Cemetery. The slogan says "Gardiner Where History and Progress Meet". It does not say that progress should overrun and destroy the historical elements that make Gardiner unique. Several years ago the City Council undertook the daunting assignment of rezoning city lands in order to preserve and protect the neighborhoods of Gardiner while designating the areas of the city where necessary commercial development could be located without jeopardizing the quality and nature of life that distinguishes our beloved city. While I do empathize with the cemetery board and their mission to maintain the cemetery in the face of increasing costs and declining revenue, I don't believe that this need should be satisfied by destroying the quiet nature of this historic neighborhood and trampling on the rights and property values of the abutters

Recently the Council voted quietly to allow commercial development inside the Oak Grove Cemetery which lies in the heart of a designated "High Density Residential" district. The Planning Board has also seemed to "Fast Track" the proposal only notifying abutters at the last legal minute and billing it as a "Minor Site Change". This proposed business could potentially generate a daily traffic count in excess of ten vehicles plus support, employees and management staff through the access route of narrow Plummer Street, past the Head Start Facility, around the tight corner into the cemetery and continuing up the even narrower graveled cemetery lanes. Any development of this proportion would irreparably damage the nature of the neighborhood in which it is located. The Appeals Board has had a previous decision overturned in court appeal when it refused to consider the noise, traffic and dust impact on this same neighborhood. I ask that they carefully consider this decision using those established standards.

Even worse is the fact that the proposed Crematory presents an even greater threat than other businesses would because of the potential for environmental discharges and odors. There are various inconsistencies in the Planning Board application, the air emissions license and the "unbiased" testimony of Mr. Cone including stack size and number of "units" to be processed. Mr. Cone didn't know if his statistics were based on three hundred or two thousand five hundred cremations. The planning board believed

the estimated three hundred "units" were the limit, but Mr. Greenleaf actually said there was no limit in his proposal. While Mr. Greenleaf has testified that his manufacturer states there will be no odor or visible fumes when the facility is properly operated, should we blindly accept his statement as fact or investigate these claims as would be prudent with other sales claims. Does an invisible discharge have less potential for damage than a visible one? While I'm certainly not equating this project to a nuclear reactor, I'm sure their manufacturers make the same claim. Do we know of any mechanical equipment operated by humans that always operates at it's most efficient?

In case of accident or contamination, including but not limited to propane explosion, will the narrow gravel lanes allow adequate passage for emergency vehicles to protect the historic cemetery, the equipment operators and surrounding neighborhoods? Please remember that during the four months of snow, only the Plummer Street entrance with it's tight corner will be plowed. Speaking of snow, will snow plowing damage the headstones or grave sites that line this proposed entrance.

State law mandates that crematories be located in an active cemetery of at least twenty acres. While this site meets the letter of the law, I don't believe it meets the intent of the law to create an adequate buffer around the facility. This site is on the edge of the cemetery closest to residences allowing no buffer. Other crematories in Maine are located in the center of much larger cemeteries.

The lot size and proximity to the neighboring property would not allow this proposal to proceed if it were new construction. Shouldn't the same standards be applied to a totally new use involving substantial renovations costing tens of thousands of dollars?

The proposal has been represented as owned by a non profit entity. The applicants have skirted the issue of what entity will operate the crematory. I ask that a full disclosure of the all principles in any company involved to avoid the appearance of conflicts of interest and for the development of proper contingency plans including financial reserves to deal with any and all issues including clean up of affected property and or compensation of neighbors whose property market price declines because of the crematory.

I hear-by request that because of the above the Council and Board reconsider the above proposal and delay it's approval until all concerns can be addressed. I also request that the above and any other comments received be made a part of the public record and be considered during subsequent deliberations of this matter, or that the public comment portion be reopened for additional comments.

Sincerely,



Timothy C. Skehan

22/24 Plummer Street

Gardiner, ME 04345

October 22, 2009

Mr. Jason Simcock

Director of Planning & Development

City of Gardiner

6 Church Street

Gardiner, ME 04345

Subject: Proposed Crematory

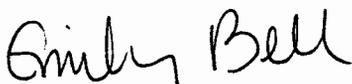
Dear Mr. Simcock:

My name is Emily Bell, formerly Emily Trimm, and I own the duplex at the corner of Plummer St. and Liberty St. in Gardiner. I wanted to write to the Planning Board directly to express my approval of the proposed crematory. I believe it would be a very successful business opportunity and an attribute to the City of Gardiner.

I understand that there have been concerns with the possibility of a slight increase in traffic on Plummer Street, but I don't believe the increase would be significant enough to disrupt neighbors to the cemetery.

As a property owner in close proximity to the cemetery, I am in full support of the project and I truly hope that the proposed crematory becomes a reality.

Sincerely,

A handwritten signature in black ink that reads "Emily Bell". The signature is written in a cursive, flowing style.

Emily Bell

43 Heselton Street  
Gardiner, Maine 04345  
October 25, 2009

6 Church Street  
Gardiner, Maine 04345

Subject: Crematorium

To the Mayor and City Council of Gardiner:

We wish to go firmly on record as opposing the establishment of a crematorium in the receiving tomb at Oak Grove Cemetery or anywhere within Oak Grove Cemetery and land it may have or will purchase.

We own the residential property closest to the proposed crematorium site. As the crow flies, the easily visible receiving tombs are some one hundred yards from our side porch.

We have owned and occupied our home since <sup>May 15-1958</sup> 1955, and we routinely welcome our children, grandchildren and very young great-grandchildren to our home, as well as long-time neighbors and their young families.

Toxic mercury emissions, which are a known consequence of crematoriums, and other possible heavy metal and cancer-causing substances that may be released into the air directly over our home and the homes of our neighbors, are our major concerns.

Also of concern are the ash, odor and the absolutely expected negative impact on our property value.

A brook runs between our home and Oak Grove Cemetery; it will collect any pollutants caused by the proposed crematorium and deliver them to the Kennebec River. All citizens using the Kennebec will eventually be affected.

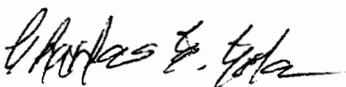
We understand the challenges the Oak Grove Cemetery Association faces as it looks for ways to generate funds for upkeep, stone repair, mowing, tree removal etc. We don't think the problem justifies risking the immediate health concerns, quality of life and property values of the citizens of Gardiner. We believe options that have no measurable impact on the living should be explored by the Association.

As you consider our letter, put yourself in our and our neighbors' position and imagine the crematorium was being located next to where you live. Would you then be in favor of the proposed crematorium? I think not.

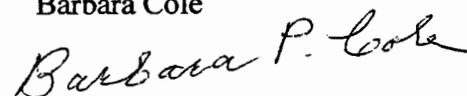
We ask that our letter be included in the official record of proceedings in this matter.

Sincerely,

Charles Cole



Barbara Cole



Timothy Skehan  
78 Green St  
Augusta, ME 04330

October 26, 2009

Patricia Hart and Members of Gardiner Planning Board

Dear Members,

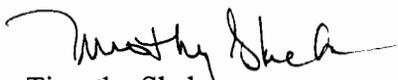
It has come to my attention that no propane tank location is declared on the site proposal for the proposed crematory. I feel that with the size of the proposed tank, this is a serious omission and call for the Board to reject the application as incomplete on those grounds. Mr. Greenleaf should be required to resubmit his application for review after completion.

During the recent site walk in Oak Grove Cemetery, the location of the propane tank that would hold the fuel for the crematory was briefly discussed. Mr. Greenleaf stated that the location would be behind the Receiving Tomb. This location is perilously close to my property line at 242 Brunswick Avenue. My estimate is that it is only six feet from the Receiving Tomb to my property line. I have asked Code Enforcement to review the property lines and setback required in setting a propane tank of this size. Mr. Cichowski has informed me that any above ground tanks larger than 500 gallons must be at least 25 feet from any buildings or property lines. Therefore the proposed tank location, if above ground, is not suitable behind the Receiving Tomb or at any other location within the site boundaries. If indeed it is to be underground, the location should be marked on the plan, as are the other underground utility lines.

I thought that the site walk was an opportunity for the Board to view and get a feel for the site in person. The boundaries of the site were not referenced during the walk nor clearly marked. Furthermore when I asked Mr. Greenleaf about the tank and property lines during a time when Mr. Greenleaf was taking questions from the public, I was told by Ms. Hart to question Mr. Greenleaf later and that the Board was moving on. I was disappointed that when the Board takes the time to go onsite to gather evidence, the property lines and the closeness of abutters would be of so little interest.

I request that the above and any other comments received be made a part of the public record and considered during subsequent deliberations of this matter. I also request that the public comment portion of the Board review be reopened for additional comments to allow the citizens of Gardiner an equal opportunity to present their observations and concerns from the site walk.

Sincerely,



Timothy Skehan

## Dot Morang

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**From:** Brian Rines [brianrines@gmail.com]  
**Sent:** Monday, October 26, 2009 3:31 PM  
**To:** amaclean@mainemed.com; annedavis@gpl.lib.me.us; council1; council2; council3; council4; council5; council6; council7; ceo; clerk; acoffice; estumpfel@eatonpeabody.com; econdev; citymanager; mayormaclean; 'Patricia Hart'; buckshotph@roadrunner.com  
**Subject:** Oak Grove and U  
**Attachments:** RU 083757-GEN-1800.doc

Dear Neighbor, As I expect to be at another meeting tomorrow evening. I write you to ask that **you not accept a moratorium** on the proposed crematorium at our community cemetery. I do that for four reasons.

First, it does not seem to put you and our city government in the best light in terms of the economic planning and development. For a City Council, which unanimously agreed on three occasion to a project, which, as you know, had gotten all of the necessary local and state permits, to think later in the face of some limited community objection that it's appropriate to change its mind and put the project aside smacks of **bad public policy**. For business entities to innovate, expand or locate here a solid and consistent level of trust in a government's word is absolutely required.

Secondly I also have a concern that a highly vocal, but small, minority could derail an effort that likely would have the backing of a larger portion of the community. While I appreciate their concerns, **they seem to be based primarily on one of the most offered, but hardly ever realized, fears-do this new thing and our home's valuation will go down**. In my almost thirty years of hearing such worries none that i can remember have not come true.

I think of school expansions, e.g. moving the high school in 1960 and in the 90s building Laura E. Richards and the Riverview School in which the neighborhood complaints were about increased traffic flow, the disturbance of buses coming and going and the noise of students playing outside. There were similar and more illuminating concerns when the Sports' Boosters put up the lights for night games at Hoch Field. Even more recently we had neighborhood worries about the Prescott expansion on their former sites on Central and Griffin Streets before they moved to the Libby Hill Park. Then there were the "problems" with the Libby Hill Park itself-when a neighbor had great concerns about outside lighting and traffic flow in the park and on 201. There were also great worries about the impact on home values in the neighborhood, when the wastewater treatment plant was built in South Gardiner and also around the common with the initial development of 7-11 and just recently its canopy. A major church fretted loudly, too, about us allowing a small shoe shop on a tiny, but empty, piece of land near their sanctuary and Cobbossee stream and then with the conversion of a tumble down warehouse into an office site for a social service agency just across the corner from them.

It seems that all change always worries some group and you may remember that all of the above projects had vigorous initial neighborhood opposition, but which dissipated and without any apparent change to real estate values or to the parish membership of the church. It seems grossly ineffective to have such a vocal minority determine citywide policy, especially when their primary argument seems emotional and not based in reality. Change will come and all of us have to devise ways to cope with it, as the inevitability of a newer Gardiner has to be accepted by all of us. That is until the next "backyard" concern arises.

Thirdly I am a lifelong Gardiner resident and expect to be cremated. **I like the idea of having my remains being treated close to home** in a cemetery facility near the remains of many of my departed relatives, friends and neighbors and not forcing my survivors to engage some funeral director to cart what's left of me to another community for that service. Who knows with what (or whom) my ashes may

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be commingled in some far away facility operated by strangers?

Finally, our **cemeteries**, like every other business in the community, **need to have a flow of income** to guarantee a healthy present and a predictable future. Without that, the government will then have to intrude again, assume a greater portion of a private enterprise and perhaps take over a community resource, which arguably could survive on its own with the increased income. **Without those dollars they may need increased subsidies from the city's taxpayers**, which will undoubtedly involve a limited increase in real estate taxes for all of us or a proportional reduction in services.

So for reasons related to economic development and the need for governmental consistency and stability and trust in its "word"; those that involve the unproven, but scary premise of lowered residential valuations: the needs of many people still alive in Gardiner and the longer term impact of refusing the Oak Grove an opportunity for a cash flow sufficient to maintain itself without more taxpayer support, I ask you to reject this moratorium.

Welcome again to local government. Vote "no" to a moratorium and make us all proud of your commitment to the growth and well-being of the entire community. thanks for plowing through this and regards. BRian

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Today there here are some 150, 000 fellow Americans, including some 600 Mainers along with many Brits & Canadians, putting themselves in harm's way in Iraq and Afghanistan on our behalf. Please remember them and their loved ones in your thoughts and prayers, as we work to bring them all home safely and as soon as possible.

## Dot Morang

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**From:** Deirdre Berglund  
**Sent:** Monday, October 26, 2009 9:35 AM  
**To:** Dot Morang  
**Cc:** Jason Simcock  
**Subject:** FW: Planning Board Meeting 10/27

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**From:** Julia Keenan [mailto:keenan7748@roadrunner.com]  
**Sent:** Saturday, October 24, 2009 2:11 PM  
**To:** clerk; ceo  
**Subject:** Planning Board Meeting 10/27

Please forward our concerns via this email to the Planning Board prior to their Tuesday meeting. Thank you.

We would like to express our support for the establishment of a crematory at the Oak Grove Cemetery in Gardiner. Having lived in this area for over 45 years, we have many family and friends buried at Oak Grove and believe that this facility would greatly enhance the operation and perpetual care of this wonderful facility.

We have read with interest the concerns of the abutting neighborhood; but it seems that if the Department of Environmental Protection and other licensing agencies involved have issued the necessary permits, then this should be a project that should go forward.

The convenience of such a facility and the revenue realized from it, it seems to us, would outweigh any reason why it should not be built.

The upkeep of this cemetery increases each year and this new revenue would certainly be welcomed by the citizens of this area.

We hope that the planning board will consider the long range benefits of such a facility to all of the citizens of this area who have family and friends and eventually who will reside at Oak Grove Cemetery.

Thank you for your kind consideration in this matter.

Jim and Julie Keenan

Farmingdale

10/26/2009

**Anne Davis**

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**From:** Barbara N. Estabrook [bnestabrook@gmail.com]  
**Sent:** Saturday, January 23, 2010 8:12 AM  
**To:** citymanager  
**Subject:** committee

Hi Anne,

So who is being recommended for the crematorium committee?

Also I feel as Ralph Clark has stated- if the crematorium goes through our houses in this area need to be reevaluated. We pay the most and get hit the most.

Also, get the state law changed, Steve Hanley's job:- give Oak Grove land in Libby Hill and let them make money there and not in our backyard.

Thanks

Barb

14 Liberty Street  
Gardiner, ME 04345  
February 21, 2010

Crematorium Committee  
6 Church Street  
Gardiner, ME 04345

To the Members of the Crematorium Committee:

Oak Grove Cemetery is a peaceful and beautiful area of Gardiner. It is one of few garden cemeteries, many of which are considered historic landmarks. Placing a crematory in Oak Grove Cemetery is an action that simply should not take place for many reasons.

This cemetery has true historic value. In addition to graves of well-known figures, such as Edwin Arlington Robinson, one will find graves of Civil War soldiers and lots with families who were decimated by epidemics. The receiving tomb designated to hold the crematory equipment is a building with historic and artistic character. What a shame to alter its appearance. This receiving tomb has been a subject of curiosity for many who grew up in the neighborhood. How many children, such as myself growing up, passed by this building and wondered about what is, or was, inside? I'm sure it has initiated many stories. I do not know if any descendants of those entombed in the adjacent crypt are around today, but I would not be pleased if my ancestors were at rest next to a crematory. Will the equipment affect the integrity of the adjacent structure?

Many people use the cemetery as a place to walk or jog. Garden cemeteries were designed for such recreation. It is not often that one can walk there without meeting others who are enjoying the beautiful paths. Placing a crematory on the grounds would certainly detract from this kind of activity.

Historic and recreational value aside, the ordinance change allowing for the placement of the crematory was not well-publicized. Placing small announcements in the legal section of the newspaper is not an effective way to notify residents of such an important issue. The councilperson for this district should have informed his constituents in a more direct manner. If he had, I am sure that many residents would have attended the council meeting to give input. The way it was done gives the change an air of being underhanded, which I hope was not the intention.

Why did the original ordinance specifically state that no crematory be on the grounds? Could it be that when it was written, the city understood that residents should be protected from activities that may be considered objectionable? Did they recognize that a residential area is not an appropriate site for a crematory? I am sure the argument can be made that today's equipment is far safer than equipment of the past; however, the perception of a crematory is the same. I have heard people say that perception should not play a part in the decision, but it certainly should. Perception is a huge factor in our society. It governs much of our behavior and the way we live. The perception of cremation evokes emotional responses in people. This should not be taken lightly when imposing such a business in a densely populated residential district. When I attended the site walk that the planning board held last fall, I

was told by another person on the walk that since Gardiner's motto is "Where history and progress meet," the city needs to start being progressive by allowing the crematory. That seems a bit backward to me. A non-profit crematory does not help the city progress. In this case the ordinance change took away the protection on which the residents of the neighborhood relied. It will do nothing to move the city forward other than perhaps to save a few dollars on each tax bill.

Many of the residents in the area have lived here not just for years but for decades. Even though the cemetery is large enough by law, the crematory would not be placed on a secluded site. For some abutters, the crematory would sit almost in their yards. The people on Heselton Street would be greatly affected. These residents bought their homes with the original ordinance intact. Can you simply disregard them? I hope other city residents recognize that a similar thing could happen to them if the occasion were to arise. Maybe the crematory won't change the character of their neighborhoods, but this ordinance change sets a rather poor example of what the city is capable of doing.

There is also the subject of safety. Perhaps today's equipment operates at such high temperatures that dangerous emissions and objectionable odors are not significant when the equipment functions as it should. However, we all are aware that equipment sometimes does not work properly. What are the ramifications of malfunctioning equipment? Has this issue been addressed? There is a nearby Head Start center. What could this mean for the children who attend?

Finally, how much money would be lost to the city due to decreasing property values? Certainly, people in the neighborhood should not be assessed at the rate they are now if a crematory is allowed. Who would be willing to buy a home situated next to such a facility?

I am sympathetic to the cemetery association's need for funds. I have always been impressed with the quality of care Oak Grove has received. As I stated before, it is a beautiful area, and it is important that it be properly maintained. However, I feel there must be alternatives to placing a crematory on the grounds. I hope one of the missions of this committee is to do such research. It would be irresponsible not to. If it comes down to the city funding the care, how much would it cost? I am only one person, but I would be happy to pay a bit more in taxes to avoid having a crematory in the middle of the city.

Please consider your mission carefully, and do not overlook the human side of this controversy. Let the residents know that there are people looking out for them. Do not allow a crematory to be placed in Oak Grove Cemetery.

Thank you,

*Linda Cailler*  
Linda Cailler