BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: February 14, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **Towson Unitarian Universalist Church**
Case No.: 97-404-X
Circuit Court Case No.: 03-C-99-00485

Judge Smith of the Circuit Court issued a Memorandum Opinion and Order on July 15, 1999 AFFIRMING the Board of Appeals. The case was appealed to the Court of Special Appeals. The Board of Special Appeals found no errors committed by the Board. Judgment of the Circuit Court AFFIRMED. No further appeals have been taken in this matter. The Board of Appeals is closing and returning the file that is attached herewith.

Attachment: SUBJECT FILE ATTACHED

6/14/00

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 01275

September Term, 1999

JAMES G. ROBINSON

v.

BALTIMORE COUNTY, MARYLAND

97-404-X

Wenner,
Thieme,
Long, Daniel M., (specially assigned),

JJ.

Opinion by Long, J.

Filed: June 14, 2000

#3C990485

Appellant James G. Robinson appeals from a judgment of the Circuit Court for Baltimore County affirming a decision of the Board of Appeals of Baltimore County ("Board") to grant a special exception to the appellee, Towson Unitarian Universalist Church, to construct a columbarium and memorial garden on the church's property. Appellant presents several questions for our review, which we have combined and rephrased for clarity:

1. Was the Board's decision supported by substantial evidence?

2. Did the Board improperly shift the burden of proof from the party seeking the special exception to the protestant?

3. Did the Board impose invalid conditions when it granted the special exception?

4. Did the cumulative effect of errors by the Board render its decision arbitrary and capricious?

Facts

The Towson Unitarian Universalist Church, located at 1710 Dulaney Valley Road, sought zoning approval by way of a special exception to locate a columbarium and a memorial garden as an accessory use to the church on a portion of the church's property. Appellant owns four lots on Dulaney Valley Road immediately adjacent to the church property.

On April 29, 1997, a hearing was held before the Zoning Commissioner for Baltimore County. By findings of Fact and Conclusions of Law dated May 9, 1997, the

Zoning Commissioner granted the special exception. Pursuant to a Motion for Reconsideration filed by appellant, a subsequent hearing was conducted on October 14, 1997. On October 31, 1997, the Zoning Commissioner again rendered Findings of Fact and Conclusions of Law granting the special exception.

Appellant appealed the Zoning Commissioner's decision to the Board of Appeals of Baltimore County. On December 31, 1998, the Board issued its Opinion and Order granting the special exception, subject to the following two restrictions:

1. The memorial garden and columbarium will be used exclusively to inter the remains of Church members, "friends" of the Church, as defined by the Church, and their families which shall be limited to spouse, children, father, mother, brother and sister.

2. [The church] shall submit a landscape plan for the memorial garden and columbarium to the Baltimore County Landscape Architect for review and approval. Said plan shall take into consideration the necessary landscaping and types of vegetation and trees necessary to sufficiently shield the property from the adjoining neighbor's property. The plan shall also be considered by the Baltimore County Department of Environmental Protection & Resource Management.

Appellant appealed again by filing a Petition for Judicial Review to the Circuit Court for Baltimore County. After a hearing, the circuit court affirmed the decision of the Board. This appeal followed.

Standard of Review

Generally, the decision of an administrative agency, such as a county zoning board,

must be upheld on review unless premised upon an error of law, provided that the agency's conclusion may reasonably be based upon the facts proven. Thus the standard of review to be applied depends upon the nature of the agency findings being reviewed. *Gray v. Anne Arundel County*, 73 Md. App. 301 (1987). In zoning matters, judicial review is limited to determining whether the issue before the administrative body is fairly debatable; the decision of the administrative agency must be supported by substantial evidence on the record. *Sembly v. County Bd. Of Appeals*, 269 Md. 177 (1973). Substantial evidence has been defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Supervisor v. Group Health Ass'n*, 308 Md. 151, 159 (1986) (quoting *Bulluck v. Pelham Wood Apartments*, 283 Md. 505, 512 (1978)). In other words, " if reasoning minds could reasonably reach the conclusion reached by the agency from the facts in the record, then it is based upon substantial evidence, and the court has no power to reject that conclusion." *Liberty Nursing Ctr. v. Department of Health & Mental Hygiene*, 330 Md. 433, 443 (1993) (citing *Snowden v. Mayor and City Council of Baltimore*, 224 Md 443, 445 (1961)).

In *Bd. Of County Comm'rs v. Holbrook*, 314 Md. 210 (1988), the Court of Appeals outlined the standards of review in such cases:

> The Schultz test accords with the general standard for judicial review of the ruling of an administrative agency, which we have defined as "whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment." *Supervisor of Assess. v. Ely*, 272 Md. 77, 84 (1974).

* * *

> Therefore, due deference must be given to the right of an administrative agency, such as the Cecil County Board of Appeals, to draw reasonable inferences from the facts and circumstances presented before it.

314 Md. at 218. Additionally, the Court said with respect to the treatment of factual inferences:

> The heart of the fact finding process often is the drawing of inferences from the facts. The administrative agency is the one to whom is committed the drawing of whatever inferences reasonably are to be drawn from the factual evidence. "The Court may not substitute its judgment on the question whether the inference drawn is the right one or whether a different inference would be better supported. The test is reasonableness, not rightness." (citation omitted).

314 Md. at 218 (quoting *Snowden* at 448). *See Dorsey Enter. v. Shpak*, 219 Md. 16, 23 (1959); *Neuman v. Mayor of Baltimore*, 23 Md. App. 13 (1974).

Moreover, a reviewing court "must review the agency's decision in the light most favorable to the agency, since decisions of administrative agencies are prima facie correct and carry with them the presumption of validity." *Baltimore Lutheran High School Ass'n v. Employment Sec. Admin.*, 302 Md. 649, 662-63 (1985).

The standard for determining whether to grant a special exception is "whether the use would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone." *Holbrook* at 217 (quoting *Schultz v. Pritts*, 291 Md. 1, 15 (1981)).

Analysis

I

Appellant argues that the Board's decision should be reversed because it is not supported by substantial evidence. Appellant submits that the eight specific predicates for the issuance of a special exception outlined in §502.1 of the Baltimore County Zoning Regulations ("BCZR") were not met by appellee and that as a result the Board erred in granting the special exception.

The BCZR provides that the granting of a special exception shall be governed by the principles and conditions set forth in §502.1. That section provides as follows:

> Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
> A. Be detrimental to the health, safety or general welfare of the locality involved;
> B. Tend to create congestion in roads, streets or alleys therein;
> C. Create a potential hazard from fire, panic or other danger;
> D. Tend to overcrowd land and cause undue concentration of population;
> E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
> F. Interfere with adequate light and air;
> G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
> H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

At the hearing before the Board, three witnesses testified in support of appellee's request for special exception. Frederick Chadsey, a church member and licensed civil

engineer, was qualified as an expert witness in civil engineering and land use and planning.[1] Church member Jean M. Jung also testified for appellee. The church's interim pastor, Reverend Nugent, testified as a rebuttal witness. According to the testimony, the church was founded in 1960 and had been at this location since 1972. The witnesses indicated that the proposed columbarium and memorial garden will border the parking lot to the south and east of the church building on a site farthest from appellant's property. The columbarium was planned as a monument on a concrete slab that would have spaces into which cremated remains would be placed. In its first phase, the columbarium would consist of one panel (with expansion up to a maximum of four panels). Each panel would measure 3x5x10 feet and would contain 48 units. Space in the columbarium would not be available to the general public. Mrs. Jung testified that the columbarium would be used as a service to "our friends, our members, and the households associated with those."[2]

Appellees testified that it was the church's intention to screen the columbarium so that it would not be visible from outside the memorial garden. The columbarium would be located within a memorial garden for "meditation, for memory, for prayer, for spiritual self-examination." The garden would be within a berm, with dense planting intended to blend

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[1]The witness was qualified as an expert in civil engineering, recognized by the Board's Chairman as including expertise in land use and land planning.

[2]"Members" were defined by Mrs. Jung as individuals who had "signed the book" as an indication of their commitment to the Unitarian faith, whereas "friends" were individuals who attend church, participate in church activities, support the church financially, but who have not "signed the book" and who have no voting privileges.

with existing trees and slopes.

Mr. Chadsey, testifying as an expert, opined that the proposed location of the memorial garden and the presence of the berm and landscaping would serve to screen the columbarium from adjacent properties. Mr. Chadsey also testified that the proposed use satisfied the special exception requirements of §502.1 of the BCZR.

Appellant testified that he believed that the columbarium and memorial garden would have an adverse impact on the neighboring properties. He indicated that it was objectionable to place a cemetery or other place of interment in a residential neighborhood. He testified that property values would decline as a result. Appellant also expressed concern that the presence of the columbarium would exacerbate already existing traffic and parking problems along Dulaney Valley Road. He testified that there is insufficient parking on the church property to accommodate church events. The appellant submitted that there are other more appropriate places in the zone for building a columbarium where the adverse impact on neighboring property owners would be substantially less. He argues that the Board erred by finding that locating the columbarium and memorial garden on the church property will have no greater adverse effect and will be no more detrimental than at some other location in the zone.

The term "special exception" refers to a "grant by a zoning administrative body pursuant to existing provisions of zoning law and subject to certain guides and standards, of a special use permitted under the provisions of the existing zoning law." *Cadem v.*

Nanna, 243 Md. 536, 543 (1966). It is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the condition being that a zoning body must, in each case, decide under specified statutory standards whether presumptive compatibility exists. *Creswell v. Baltimore Aviation Service, Inc.*, 257 Md. 712 (1970).

The Board, in granting the special exception, addressed the factors outlined in §502.1 of the BCZR and found that "the purpose of the columbarium and memorial garden will be as an accessory use to the Church and not inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the zoning regulations." Specifically addressing the concerns raised by appellant, the Board was not persuaded that the proposed columbarium and memorial garden would have any adverse effect on the property values in the surrounding neighborhood. Likewise, the Board found that "the proposed use would have no detrimental effect to the health or safety of the vicinity at this location."

With respect to the creation of congestion on the roads in the area, after considering the testimony and evidence of appellant, the Board found that "the construction of the columbarium [would] not create congestion in the roads, streets or alleys in the zone." The Board noted the absence of adverse comments or testimony from the Maryland Department of Transportation or State Highway Administration.

By definition, each special exception use carries with it a potential to cause adverse

effects. The question becomes whether the adverse effects for the requested special exception are greater than the effects normally inherent with such a use anywhere else in the relevant zone.

In *Schultz v. Pritts*, the Court of Appeals noted:

> [T]he appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

Schultz v. Pritts, 291 Md. 1, 15 (1981).

The Board found, "[a]s an accessory use to the Church, [the columbarium and memorial garden] would not be more detrimental at the proposed site than at some other location in the zone." We find no error of law that would warrant a conclusion other than that reached by the Board. Likewise, we are persuaded that there is substantial evidence in the record upon which reasoning minds could have reached the same conclusion reached by the Board.

II.

Appellant argues that the Board erred as a matter of law in that it shifted the burden of proof from the party seeking the special exception to the protestant. Appellant suggests that he was improperly required to establish by expert testimony the inapplicability of the special exception. He argues that the Board based its findings of fact not upon evidence presented by the property owner, but rather, upon what it considered to be a lack

of contrary evidence.

Three witnesses testified for appellee, one of whom was qualified as an expert witness in land use and land planning. Appellant testified in his own behalf as to his experience in the buying and selling of properties for himself and as a part of his business. He opined that the construction of the columbarium would have an adverse effect on property values in the vicinity. He testified that traffic is congested on the road in front of the church and that the columbarium and memorial garden will increase the traffic congestion.

He also testified that construction of the columbarium could violate the impermeable surface and vegetative retention provisions of the BCZR. His knowledge of the subject was based on his experiences with the soil and rock content on his property.

There is no evidence to suggest that the Board did not consider the testimony of appellant in arriving at its decision. The Board's Opinion recites, with specificity, the objections raised by appellant during his testimony.[3] Appellant testified at great length about his concerns with locating the columbarium on the church property, but he was not qualified as an expert witness, nor did he offer expert testimony to contradict that offered by Mr. Chadsey, appellee's expert. That the Board noted the absence of contrary expert testimony is no indication that the Board attempted to shift the burden of proof.

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[3]One other witness, Charles Little testified as an Interested Party. He expressed concerns that the columbarium would introduce "a foreign element" to the neighborhood. He testified that he did not subscribe to cremation and would prefer to have the church build a vault on the back of the church so that "the remains would not be visible from the outside."

There were conflicts in the testimony and evidence presented to the Board. It was the Board's responsibility, like all fact-finders, to resolve those conflicts in arriving at a decision. The fact-finder is in the best position to judge the quality and sufficiency of the evidence and to determine the credibility of the witnesses. In determining credibility, the Board could weigh such factors as knowledge, experience and bias. *Maryland Retirement Systems v. Martin*, 75 Md. App. 240, 248-49 (1988). While a fact-finder is not required to credit an expert over a lay person, it is certainly entitled to do so. *Anderson v. Sawyer*, 23 Md. App. 612, 618-19 (1974). Unsupported conclusions of witnesses that a proposed use will or will not result in harm amount to nothing more than vague and generalized expressions of opinion, which are lacking in probative value. *Id.* (citing *Rockville Fuel and Feed Co. v. Board of Appeals of the City of Gaithersburg*, 257 Md. 183, 194 (1970)). That an expert's testimony is deemed to be more persuasive than that of a lay person is no indication that the burden of persuasion or proof has been shifted. It is just an indication that the fact-finder made a determination that the expert's testimony is more credible. We do not think that the Board shifted the burden of persuasion or proof, but, rather, engaged in the normal function of a fact-finder.

III.

Appellant argues that the decision of the Board granting the special exception should be reversed because the conditions imposed upon appellee were illusory and invalid. The first condition limited the use of the columbarium to members and friends of the church and

their families. The second condition required appellee to submit a landscape plan for the memorial garden and columbarium to the Baltimore County Landscape Architect for review and approval. The condition specified that the plan should consider the types of trees and other vegetation necessary "to sufficiently shield the property from the adjoining neighbor's property." The condition also required consideration of the landscape plan by the Baltimore County Department of Environmental Protection & Resource Management.

The first condition was intended to insure that the columbarium would not be used as part of any commercial venture open to the general public. Appellant contends that the condition is vague, unenforceable and is not a self-executing restriction. We do not agree. By limiting the use of the columbarium to members and friends, as defined by the Unitarian Universalist Association, and their families, the Board satisfied a concern advanced by appellant that the columbarium would be used for a commercial purpose in the middle of a residential neighborhood.

The second condition also addresses a concern raised by appellant that he would be able to see the columbarium from his property. Nevertheless, appellant contends that the condition is invalid for four reasons. First, he contends that the condition is vague in that the Board did not define "sufficient" and "shield." Second, appellant will not be a part of the approval process to determine the sufficiency of the Church's landscaping. Third, requiring the Baltimore County Department of Environmental Protection and Resource Management to consider the plan is illusory because the Department's approval is not

required. Fourth, consultation with another department adds an additional layer of ambiguity.

Appellant argued before the trial court that referring the landscape plan to the Baltimore County Landscape Architect to decide if the plan is appropriate to "sufficiently shield the property" creates a subjective standard. He questioned whether there is an adjudicative function involved in the approval process. The trial judge responded, "[t]o shield is pretty clear; to shield so that there is no visual contact between the petitioner's [appellant's] property and the Church property. That is not an adjudicatory function. That is carrying out the directive of the Board of Appeals." We agree.

§502.1 of the BCZR provides in pertinent part as follows: "In granting any special exception, the Zoning Commissioner or the Board of Appeals, upon appeal, shall impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties." In order to minimize the impact of a special exception on neighboring properties and for the purpose of protecting the health, safety and welfare of the community, Maryland law provides that a board of appeals has the power to impose certain conditions. The conditions must be reasonable and appropriate and must not violate or go beyond the law. *Montgomery County v. Mossberg*, 228 Md. 555, 558 (1962).

In imposing two conditions on appellee, the Board reasonably and appropriately limited the use of the columbarium to a non-commercial purpose and insured that its location

would be shielded from the view of neighboring properties. The conditions imposed by the Board are neither illusory nor invalid.

IV.

Appellant contends that the cumulative effect of the Board's errors renders its decision arbitrary, capricious and illegal. Appellant in his Reply Brief notes appellee's failure to respond to this argument and suggests the reason may be "because it contends that the Board made no errors that could cumulate." We are unable to speculate as to the reasons for appellee's failure to respond to this particular argument, but based on our analysis of the Board's decision, we do not think that the Board erred. Since we find no errors committed by the Board that would cumulate, the Board's decision is not arbitrary, capricious and illegal.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. APPELLANT TO PAY COSTS.

Circuit Court of Maryland

Go Back

Case Information

Court System: **Circuit Court for Baltimore County - Civil System**
Case Number: **03C99000485** (97-404-X)
Title: **In The Matter Of: Application Of Towson Unitarian Universalist Church**
Case Type: **Admin. Agency Appeal Ex Parte** Filing Date: **01/20/1999**
Case Status: **Closed/Active**
Case Disposition: **Decree or Order** Disposition Date: **07/16/1999**

Plaintiff/Petitioner Information

(Each Plaintiff/Petitioner is displayed below)

Party Type: **Petitioner** Party No.: **1**
Name: **Robinson, James G**
Address: **1798 Dulaney Valley Road**
City: **Lutherville** State: **MD** Zip Code: **21093**

Attorney(s) for the Plaintiff/Petitioner

Name: **Fax, Esq, Charles S**
Practice Name: **Rifkin, Livingston, Levitan & Silver LLC**
Address: **6305 Ivy Lane**
Suite 500
City: **Greenbelt** State: **MD** Zip Code: **20770**
Name: **Gloor, Esq, Dana Michelle**
Practice Name: **Ferris, Baker & Watts, Inc.**
Address: **100 Light Street**
9th Floor
City: **Baltimore** State: **MD** Zip Code: **21202**
Name: **Lanzi, Esq, J Neil**
Practice Name: **J. Neil Lanzi, P. A.**
Address: **409 Washington Avenue**
Suite 617
City: **Towson** State: **MD** Zip Code: **21204**

Defendant/Respondent Information

(Each Defendant/Respondent is displayed below)

Party Type: **Respondent** Party No.: **1**
Business or Organization Name: **Towson Unitarian Universalist Church**

Attorney(s) for the Defendant/Respondent

Name: **Dopkin, Esq, Deborah C**
Practice Name: **Deborah C. Dopkin P.A.**
Address: **409 Washington Avenue**
Suite 1000
City: **Towson** State: **MD** Zip Code: **21204**

Court Scheduling Information

Event Type: **Civil Non-Jury Trial** Notice Date:

Event Date: **06/14/1999** Event Time: **09:30 AM**
Result: **Held/Concluded** Result Date: **06/14/1999**

Related Persons Information

(Each Related person is displayed below)
Party Type: **Interested Party** Party No.: **1**
Business or Organization Name: **County Board Of Appeals Of Baltimore County The**
Address: **Old Courthouse Room 49**
City: **Towson** State: **MD** Zip Code: **21204**

Document Tracking

(Each Document listed. Documents are listed in Document No./Sequence No. order)

Doc No./Seq No.: **1/0**
File Date: **01/20/1999** Close Date: **07/16/1999** Decision:
Party Type: **Petitioner** Party No.: **1**
Document Name: **Petition for Judicial Review**

Doc No./Seq No.: **1/1**
File Date: **01/29/1999** Close Date: **07/16/1999** Decision:
Party Type: **Respondent** Party No.: **1**
Document Name: ***Answer**

Doc No./Seq No.: **2/0**
File Date: **01/25/1999** Close Date: **07/16/1999** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: **Certificate of Notice**

Doc No./Seq No.: **3/0**
File Date: **02/19/1999** Close Date: **07/16/1999** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: **Transcript of Record from Adm Agency ***

Doc No./Seq No.: **4/0**
File Date: **02/22/1999** Close Date: **02/22/1999** Decision:
Party Type: **Interested Party** Party No.: **1**
Document Name: **Notice of Transcript of Record Sent**

Doc No./Seq No.: **5/0**
File Date: **02/22/1999** Close Date: **02/22/1999** Decision:
Party Type: **Petitioner** Party No.: **1**
Document Name: **Notice of Transcript of Record Sent**

Doc No./Seq No.: **6/0**
File Date: **02/22/1999** Close Date: **02/22/1999** Decision:
Party Type: **Respondent** Party No.: **1**
Document Name: **Notice of Transcript of Record Sent**

Doc No./Seq No.: **7/0**
File Date: **03/02/1999** Close Date: **03/02/1999** Decision:
Document Name: **Scheduling Order**

Doc No./Seq No.: **8/0**
File Date: **03/09/1999** Close Date: **03/09/1999** Decision: **Granted**
Document Name: **Motion to Extend Time to file memorandum**

Doc No./Seq No.: **8/1**
File Date: **03/08/1999** Close Date: **07/16/1999** Decision:
Party Type: **Respondent** Party No.: **1**
Document Name: **Response in Opposition to Motion**

Doc No./Seq No.: **9/0**
File Date: **04/07/1999** Close Date: **04/08/1999** Decision:
Party Type: **Petitioner** Party No.: **1**
Document Name: **Memorandum of Petitioner James G Robinson**

Doc No./Seq No.: **9/1**
File Date: **05/07/1999** Close Date: **07/16/1999** Decision:
Party Type: **Respondent** Party No.: **1**
Document Name: **Response to Memorandum with exhibits**

Doc No./Seq No.: **10/0**
File Date: **05/21/1999** Close Date: **07/16/1999** Decision:
Party Type: **Petitioner** Party No.: **1**
Document Name: **Reply Memorandum of Petitioner in support of petition for judicial review**

Doc No./Seq No.: **11/0**
File Date: **06/14/1999** Close Date: **07/16/1999** Decision:
Document Name: **Open Court Proceeding**
June 14, 1999. Hon. James T. Smith, Jr. Hearing had. Held sub curia. Order to be filed.

Doc No./Seq No.: **12/0**
File Date: **07/16/1999** Close Date: **07/16/1999** Decision: **Granted**
Document Name: **Opinion and Order affirming decision**

Doc No./Seq No.: **13/0**
File Date: **07/23/1999** Close Date: Decision:
Document Name: **Invoice #8341 sent to Neil Lanzi $10.00**

Doc No./Seq No.: **14/0**
File Date: **07/23/1999** Close Date: Decision:
Document Name: **Docket entries sent to BOA**

Doc No./Seq No.: **15/0**
File Date: **07/29/1999** Close Date: Decision:
Party Type: **Petitioner** Party No.: **1**
Document Name: **** Notice of Appeal to COSA or COA 10/139**

Doc No./Seq No.: **16/0**
File Date: **07/29/1999** Close Date: **07/29/1999** Decision:
Document Name: **Pre Trial Hearing Letter Issued**

Doc No./Seq No.: **17/0**
File Date: **09/07/1999** Close Date: **09/08/1999** Decision:
Document Name: **Order from the COSA for a prehearing ** conference (Judge Eyler)**

Doc No./Seq No.: **18/0**
File Date: **10/13/1999** Close Date: **10/13/1999** Decision:
Document Name: **Order from the COSA for the preparation* of the transcript (Judge Eyler)**

Doc No./Seq No.: **19/0**
File Date: **10/21/1999** Close Date: Decision:
Document Name: **Original Record sent to COSA OF MARYLAND BY CERTIFIED MAIL NOS. Z-010-929-705 AND Z-010-929-706 ON OCTOBER 21,1999, ONE VOLUME, ONE TRANSCRIPT AND EXHIBIT FROM BOX 122.**

Doc No./Seq No.: **20/0**
File Date: **07/28/2000** Close Date: Decision:
Document Name: **Mandate from the COSA affirming judgment**

The complete case file can be obtained from the Circuit Courthouse.

Towson Unitarian Universalist 97-404-X

Civil Action No. 3-C-99-000485

March 20, 1997	Petition for Special Exception filed by Leo Francis Partridge for Towson Unitarian Universalist Church, Owner; for approval of a columbarium as a use accessory to a Church.
April 25	Entry of Appearance filed by People's Counsel for Baltimore County.
April 29	Hearing held on Petition for Special Exception by the ZC.
May 9	Order issued by the Zoning Commissioner in which the Petition for Special Exception was GRANTED.
May 9	Motion for Reconsideration filed by J. Neil Lanzi, Esquire, on behalf of James G. Robinson.
June 5	Order issued by the Zoning Commissioner; Findings Of Fact and Conclusions of Law and Order dated May 9, 1997 are hereby stricken (additional hearing to be scheduled).
October 14	Second hearing held on Petition for Special Exception by the ZC.
October 31	Order on Motion for Reconsideration issued by the Zoning Commissioner; Petition for Special Exception is GRANTED.
November 20	Notice of Appeal filed by J. Neil Lanzi, Esquire, on behalf of James G. Robinson.
April 14, 1998	Entry of Appearance (with request for postponement) filed by Deborah C. Dopkin, as counsel for Towson Unitarian Universalist Church.
December 1	Hearing held by the Board of Appeals.
December 10	Appellee's Memorandum filed by Deborah C. Dopkin, Esquire on behalf of Towson Unitarian Universalist Church.
December 10	Protestant's Closing Argument Brief filed by J. Neil Lanzi, Esquire, and Dana M.S. Wilson, Esquire, on behalf of James G. Robinson, Appellant /Protestant.
December 15, 1998	Deliberation conducted by the Board.
December 31	Opinion and Order issued by the Board; Petition for Special Exception is GRANTED with restrictions.
January 20, 1999	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Dana M.S. Wilson, Esquire, and J. Neil Lanzi, Esquire, on behalf of James G. Robinson.
January 25	Certificate of Notice sent to interested parties.
February 19	Transcript of testimony and Record of Proceedings filed in the Circuit Court for Baltimore County.
July 15, 1999	Opinion issued by the CCt; decision of the CBA is AFFIRMED. (Judge James T. Smith, Jr.).
Aug. 1999	Notice of Appeal filed in the Court of Special Appeals by James G. Robinson.
June 14, 2000	Unreported opinion issued by the Court of Special Appeals; Judgment of the CCT is AFFIRMED (Wenner, Thieme, Long).

97-404-X /Towson Unitarian Universalist Church
CSA AFFIRMS CCt
6/14/2000

PDM

TO LOCK for file

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 01275

September Term, 1999

JAMES G. ROBINSON

v.

BALTIMORE COUNTY, MARYLAND

Wenner,
Thieme,
Long, Daniel M., (specially assigned),

JJ.

Opinion by Long, J.

Filed. June 14, 2000

00614 03 (15)

#3C990485

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On April 29, 1997, a hearing was held before the Zoning Commissioner for Baltimore County. By findings of Fact and Conclusions of Law dated May 9, 1997, the

Zoning Commissioner granted the special exception. Pursuant to a Motion for Reconsideration filed by appellant, a subsequent hearing was conducted on October 14, 1997. On October 31, 1997, the Zoning Commissioner again rendered Findings of Fact and Conclusions of Law granting the special exception.

Appellant appealed the Zoning Commissioner's decision to the Board of Appeals of Baltimore County. On December 31, 1998, the Board issued its Opinion and Order granting the special exception, subject to the following two restrictions:

1. The memorial garden and columbarium will be used exclusively to inter the remains of Church members, "friends" of the Church, as defined by the Church, and their families which shall be limited to spouse, children, father, mother, brother and sister.

2. [The church] shall submit a landscape plan for the memorial garden and columbarium to the Baltimore County Landscape Architect for review and approval. Said plan shall take into consideration the necessary landscaping and types of vegetation and trees necessary to sufficiently shield the property from the adjoining neighbor's property. The plan shall also be considered by the Baltimore County Department of Environmental Protection & Resource Management.

Appellant appealed again by filing a Petition for Judicial Review to the Circuit Court for Baltimore County. After a hearing, the circuit court affirmed the decision of the Board. This appeal followed.

Standard of Review

Generally, the decision of an administrative agency, such as a county zoning board.

must be upheld on review unless premised upon an error of law, provided that the agency's conclusion may reasonably be based upon the facts proven. Thus the standard of review to be applied depends upon the nature of the agency findings being reviewed. *Gray v Anne Arundel County*, 73 Md. App. 301 (1987). In zoning matters, judicial review is limited to determining whether the issue before the administrative body is fairly debatable; the decision of the administrative agency must be supported by substantial evidence on the record. *Sembly v. County Bd. Of Appeals*, 269 Md. 177 (1973). Substantial evidence has been defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Supervisor v. Group Health Ass'n*, 308 Md. 151, 159 (1986) (quoting *Bulluck v. Pelham Wood Apartments*, 283 Md. 505, 512 (1978)). In other words, " if reasoning minds could reasonably reach the conclusion reached by the agency from the facts in the record, then it is based upon substantial evidence, and the court has no power to reject that conclusion." *Liberty Nursing Ctr v. Department of Health & Mental Hygiene*, 330 Md. 433, 443 (1993) (citing *Snowden v. Mayor and City Council of Baltimore*, 224 Md 443, 445 (1961)).

In *Bd. Of County Comm'rs v Holbrook*, 314 Md 210 (1988), the Court of Appeals outlined the standards of review in such cases:

> The Schultz test accords with the general standard for judicial review of the ruling of an administrative agency, which we have defined as "whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment." *Supervisor of Assess. v. Ely*, 272 Md. 77, 84 (1974).

* * *

> Therefore, due deference must be given to the right of an administrative agency, such as the Cecil County Board of Appeals, to draw reasonable inferences from the facts and circumstances presented before it.

314 Md. at 218. Additionally, the Court said with respect to the treatment of factual inferences:

> The heart of the fact finding process often is the drawing of inferences from the facts. The administrative agency is the one to whom is committed the drawing of whatever inferences reasonably are to be drawn from the factual evidence. "The Court may not substitute its judgment on the question whether the inference drawn is the right one or whether a different inference would be better supported. The test is reasonableness, not rightness." (citation omitted).

314 Md. at 218 (quoting *Snowden* at 448). *See Dorsey Enter. v. Shpak*, 219 Md. 16, 23 (1959); *Neuman v. Mayor of Baltimore*, 23 Md. App. 13 (1974)

Moreover, a reviewing court "must review the agency's decision in the light most favorable to the agency, since decisions of administrative agencies are prima facie correct and carry with them the presumption of validity." *Baltimore Lutheran High School Ass'n v. Employment Sec. Admin.*, 302 Md. 649, 662-63 (1985).

The standard for determining whether to grant a special exception is "whether the use would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone." *Holbrook* at 217 (quoting *Schultz v. Pritts*, 291 Md. 1, 15 (1981)).

Analysis

I

Appellant argues that the Board's decision should be reversed because it is not supported by substantial evidence. Appellant submits that the eight specific predicates for the issuance of a special exception outlined in §502.1 of the Baltimore County Zoning Regulations ("BCZR") were not met by appellee and that as a result the Board erred in granting the special exception.

The BCZR provides that the granting of a special exception shall be governed by the principles and conditions set forth in §502.1. That section provides as follows:

> Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
> A. Be detrimental to the health, safety or general welfare of the locality involved;
> B. Tend to create congestion in roads, streets or alleys therein;
> C. Create a potential hazard from fire, panic or other danger;
> D. Tend to overcrowd land and cause undue concentration of population;
> E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
> F. Interfere with adequate light and air;
> G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
> H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

At the hearing before the Board, three witnesses testified in support of appellee's request for special exception. Frederick Chadsey, a church member and licensed civil

engineer, was qualified as an expert witness in civil engineering and land use and planning.[1] Church member Jean M. Jung also testified for appellee. The church's interim pastor, Reverend Nugent, testified as a rebuttal witness. According to the testimony, the church was founded in 1960 and had been at this location since 1972. The witnesses indicated that the proposed columbarium and memorial garden will border the parking lot to the south and east of the church building on a site farthest from appellant's property. The columbarium was planned as a monument on a concrete slab that would have spaces into which cremated remains would be placed. In its first phase, the columbarium would consist of one panel (with expansion up to a maximum of four panels). Each panel would measure 3x5x10 feet and would contain 48 units. Space in the columbarium would not be available to the general public. Mrs. Jung testified that the columbarium would be used as a service to "our friends, our members, and the households associated with those."[2]

Appellees testified that it was the church's intention to screen the columbarium so that it would not be visible from outside the memorial garden. The columbarium would be located within a memorial garden for "meditation, for memory, for prayer, for spiritual self-examination." The garden would be within a berm, with dense planting intended to blend

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[1]The witness was qualified as an expert in civil engineering, recognized by the Board's Chairman as including expertise in land use and land planning.

[2]"Members" were defined by Mrs. Jung as individuals who had "signed the book" as an indication of their commitment to the Unitarian faith, whereas "friends" were individuals who attend church, participate in church activities, support the church financially, but who have not "signed the book" and who have no voting privileges.

with existing trees and slopes.

Mr. Chadsey, testifying as an expert, opined that the proposed location of the memorial garden and the presence of the berm and landscaping would serve to screen the columbarium from adjacent properties. Mr. Chadsey also testified that the proposed use satisfied the special exception requirements of §502.1 of the BCZR.

Appellant testified that he believed that the columbarium and memorial garden would have an adverse impact on the neighboring properties. He indicated that it was objectionable to place a cemetery or other place of interment in a residential neighborhood. He testified that property values would decline as a result. Appellant also expressed concern that the presence of the columbarium would exacerbate already existing traffic and parking problems along Dulaney Valley Road. He testified that there is insufficient parking on the church property to accommodate church events. The appellant submitted that there are other more appropriate places in the zone for building a columbarium where the adverse impact on neighboring property owners would be substantially less. He argues that the Board erred by finding that locating the columbarium and memorial garden on the church property will have no greater adverse effect and will be no more detrimental than at some other location in the zone.

The term "special exception" refers to a "grant by a zoning administrative body pursuant to existing provisions of zoning law and subject to certain guides and standards, of a special use permitted under the provisions of the existing zoning law." *Cadem v.*

Nanna, 243 Md. 536, 543 (1966). It is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the condition being that a zoning body must, in each case, decide under specified statutory standards whether presumptive compatibility exists. *Creswell v. Baltimore Aviation Service, Inc.*, 257 Md. 712 (1970).

The Board, in granting the special exception, addressed the factors outlined in §502.1 of the BCZR and found that "the purpose of the columbarium and memorial garden will be as an accessory use to the Church and not inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the zoning regulations." Specifically addressing the concerns raised by appellant, the Board was not persuaded that the proposed columbarium and memorial garden would have any adverse effect on the property values in the surrounding neighborhood. Likewise, the Board found that "the proposed use would have no detrimental effect to the health or safety of the vicinity at this location."

With respect to the creation of congestion on the roads in the area, after considering the testimony and evidence of appellant, the Board found that "the construction of the columbarium [would] not create congestion in the roads, streets or alleys in the zone." The Board noted the absence of adverse comments or testimony from the Maryland Department of Transportation or State Highway Administration.

By definition, each special exception use carries with it a potential to cause adverse

effects. The question becomes whether the adverse effects for the requested special exception are greater than the effects normally inherent with such a use anywhere else in the relevant zone.

In *Schultz v. Pritts*, the Court of Appeals noted:

> [T]he appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

Schultz v. Pritts, 291 Md. 1, 15 (1981).

The Board found, "[a]s an accessory use to the Church, [the columbarium and memorial garden] would not be more detrimental at the proposed site than at some other location in the zone." We find no error of law that would warrant a conclusion other than that reached by the Board. Likewise, we are persuaded that there is substantial evidence in the record upon which reasoning minds could have reached the same conclusion reached by the Board.

II.

Appellant argues that the Board erred as a matter of law in that it shifted the burden of proof from the party seeking the special exception to the protestant. Appellant suggests that he was improperly required to establish by expert testimony the inapplicability of the special exception. He argues that the Board based its findings of fact not upon evidence presented by the property owner, but rather, upon what it considered to be a lack

of contrary evidence.

Three witnesses testified for appellee, one of whom was qualified as an expert witness in land use and land planning. Appellant testified in his own behalf as to his experience in the buying and selling of properties for himself and as a part of his business. He opined that the construction of the columbarium would have an adverse effect on property values in the vicinity. He testified that traffic is congested on the road in front of the church and that the columbarium and memorial garden will increase the traffic congestion.

He also testified that construction of the columbarium could violate the impermeable surface and vegetative retention provisions of the BCZR. His knowledge of the subject was based on his experiences with the soil and rock content on his property.

There is no evidence to suggest that the Board did not consider the testimony of appellant in arriving at its decision. The Board's Opinion recites, with specificity, the objections raised by appellant during his testimony.[3] Appellant testified at great length about his concerns with locating the columbarium on the church property, but he was not qualified as an expert witness, nor did he offer expert testimony to contradict that offered by Mr. Chadsey, appellee's expert. That the Board noted the absence of contrary expert testimony is no indication that the Board attempted to shift the burden of proof.

---

[3]One other witness, Charles Little testified as an Interested Party. He expressed concerns that the columbarium would introduce "a foreign element" to the neighborhood. He testified that he did not subscribe to cremation and would prefer to have the church build a vault on the back of the church so that "the remains would not be visible from the outside."

There were conflicts in the testimony and evidence presented to the Board. It was the Board's responsibility, like all fact-finders, to resolve those conflicts in arriving at a decision. The fact-finder is in the best position to judge the quality and sufficiency of the evidence and to determine the credibility of the witnesses. In determining credibility, the Board could weigh such factors as knowledge, experience and bias. *Maryland Retirement Systems v. Martin*, 75 Md. App. 240, 248-49 (1988). While a fact-finder is not required to credit an expert over a lay person, it is certainly entitled to do so. *Anderson v. Sawyer*, 23 Md. App. 612, 618-19 (1974). Unsupported conclusions of witnesses that a proposed use will or will not result in harm amount to nothing more than vague and generalized expressions of opinion, which are lacking in probative value. *Id.* (citing *Rockville Fuel and Feed Co. v. Board of Appeals of the City of Gaithersburg*, 257 Md. 183, 194 (1970)). That an expert's testimony is deemed to be more persuasive than that of a lay person is no indication that the burden of persuasion or proof has been shifted. It is just an indication that the fact-finder made a determination that the expert's testimony is more credible. We do not think that the Board shifted the burden of persuasion or proof, but, rather, engaged in the normal function of a fact-finder.

III.

Appellant argues that the decision of the Board granting the special exception should be reversed because the conditions imposed upon appellee were illusory and invalid. The first condition limited the use of the columbarium to members and friends of the church and

their families. The second condition required appellee to submit a landscape plan for the memorial garden and columbarium to the Baltimore County Landscape Architect for review and approval. The condition specified that the plan should consider the types of trees and other vegetation necessary "to sufficiently shield the property from the adjoining neighbor's property." The condition also required consideration of the landscape plan by the Baltimore County Department of Environmental Protection & Resource Management.

The first condition was intended to insure that the columbarium would not be used as part of any commercial venture open to the general public. Appellant contends that the condition is vague, unenforceable and is not a self-executing restriction. We do not agree. By limiting the use of the columbarium to members and friends, as defined by the Unitarian Universalist Association, and their families, the Board satisfied a concern advanced by appellant that the columbarium would be used for a commercial purpose in the middle of a residential neighborhood.

The second condition also addresses a concern raised by appellant that he would be able to see the columbarium from his property. Nevertheless, appellant contends that the condition is invalid for four reasons. First, he contends that the condition is vague in that the Board did not define "sufficient" and "shield." Second, appellant will not be a part of the approval process to determine the sufficiency of the Church's landscaping. Third, requiring the Baltimore County Department of Environmental Protection and Resource Management to consider the plan is illusory because the Department's approval is not

required. Fourth, consultation with another department adds an additional layer of ambiguity.

Appellant argued before the trial court that referring the landscape plan to the Baltimore County Landscape Architect to decide if the plan is appropriate to "sufficiently shield the property" creates a subjective standard. He questioned whether there is an adjudicative function involved in the approval process. The trial judge responded, "[t]o shield is pretty clear; to shield so that there is no visual contact between the petitioner's [appellant's] property and the Church property. That is not an adjudicatory function. That is carrying out the directive of the Board of Appeals." We agree.

§502.1 of the BCZR provides in pertinent part as follows: "In granting any special exception, the Zoning Commissioner or the Board of Appeals, upon appeal, shall impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties." In order to minimize the impact of a special exception on neighboring properties and for the purpose of protecting the health, safety and welfare of the community, Maryland law provides that a board of appeals has the power to impose certain conditions. The conditions must be reasonable and appropriate and must not violate or go beyond the law. *Montgomery County v. Mossberg*, 228 Md. 555, 558 (1962).

In imposing two conditions on appellee, the Board reasonably and appropriately limited the use of the columbarium to a non-commercial purpose and insured that its location

would be shielded from the view of neighboring properties. The conditions imposed by the Board are neither illusory nor invalid.

IV.

Appellant contends that the cumulative effect of the Board's errors renders its decision arbitrary, capricious and illegal. Appellant in his Reply Brief notes appellee's failure to respond to this argument and suggests the reason may be "because it contends that the Board made no errors that could cumulate." We are unable to speculate as to the reasons for appellee's failure to respond to this particular argument, but based on our analysis of the Board's decision, we do not think that the Board erred. Since we find no errors committed by the Board that would cumulate, the Board's decision is not arbitrary, capricious and illegal.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. APPELLANT TO PAY COSTS.

97-404-X /Towson Unitarian Univ-
rsalist Church
AFFIRMED CBA decision
7/15/99 (James T. Smith, Jr.)

PETITION OF JAMES G. ROBINSON	*	IN THE CIRCUIT COURT
FOR THE JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	FOR BALTIMORE COUNTY
IN THE CASE OF: THE APPLICATION OF TOWSON UNITARIAN UNIVERSALIST CHURCH	*	CASE NO: 3-C-99-000485

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COUNTY BOARD OF APPEALS

OPINION and ORDER

A hearing in this appeal from the Board of Appeals for Baltimore County (hereinafter referred to as "Board") was held and argument of counsel for both parties presented on June 14, 1999. The Court has reviewed the transcript of the proceedings before the Board, the Memoranda submitted by counsel, and the Opinion of the Board dated December 31, 1998.

The Towson Unitarian Universalist Church, Appellee (hereinafter referred to as "Appellee) filed a Petition with the Zoning Commissioner for Baltimore County for a Special Exception to permit construction of a memorial garden and forty foot long columbarium structure on Appellee's property of approximately seven acres of D.R.1 residentially zoned land at 1710 Dulaney Valley Road in Baltimore County.

James G. Robinson, Appellant (hereinafter referred to as "Appellant") resides in D.R.1 residential property contiguous to Appellee's church location. Appellant has appealed from the Board's decision granting Appellee a special exception to permit the use of Appellee's property for the construction of a memorial garden and columbarium subject to certain restrictions. The Board restricted the columbarium's use exclusively to inter the remains of church members and "friends" of the Church, as defined by the Church, and their families,

FILED JUL 16 1999

limited to spouse, children, father, mother, brother and sister, and further required a landscape plan sufficient as to landscaping and types of vegetation and trees necessary to shield Appellee's use from Appellant's property.

Appellant raised three issues in his appeal which have been restated by the Court as follows, namely:

> 1) That the Board erred as a matter of law in assigning to Appellant (Protestant below) the burden of proving that the proposed use did not satisfy the requirements of Sec.502.1 of the Baltimore County Zoning Regulations (hereinafter referred to as "BCZR"); and
>
> 2) That the Board's finding that the proposed use satisfied the requirements of Sec. 502.1 of the BCZR was not supported by substantial evidence in the record; and
>
> 3) That the Board's finding that the adverse effect of the proposed use on Appellee's property would be no greater than at any other site within the D.R.1 zone was not supported by substantial evidence in the record.

As to the first issue respecting a shift by the Board of the burden of proof, the Opinion of the Board fails to support Appellant's contention in this regard. In the course of its Opinion, the Board does compare the testimony of Appellee's expert witness, Frederick Chadsey, with that of Appellant and Charles Little, a neighbor in the general area of the subject site. Although the Board points out in its consideration of the evidence on a number of occasions that Appellant did not have expert testimony on the issue being considered, there is no indication that the Board shifted the burden of persuasion to Appellant. Such discussion is appropriate in connection with the Board's responsibility to resolve factual disputes and to

explain the Board's determination that Mr. Chadsey's testimony had more convincing force than the testimony of Appellant and Mr. Little. Nowhere in its Opinion does the Board evidence any confusion as to which party had the burden of proof.

With regard to Appellant's second contention that Appellee failed to satisfy the requirements of Sec. 502.1 of the BCZR, Appellant ignores the testimony of Frederick Chadsey, Jean Jung and Richard Nugent, and the reasonable inferences that the Board could draw from the evidence with respect to Appellee's proposed use.

As a threshold complaint, Appellant contends that there was insufficient evidence as to the nature of the proposed use for the Board to undertake the evaluation required by Sec. 501.2 of the BCZR. Such is just not the case.

Frederick Chadsey described the memorial garden and columbarium as bordering the parking lot and being situated to the south and east of the church building. The proposed garden would be approximately 250 ft. off the right of way of Dulaney Valley Road and consume approximately one-third of an acre. The garden would be a self-contained private area created by an earth berm upon which would be planted evergreens and a mixture of deciduous and ornamental flowering trees. The garden would have two entrances.

The columbarium would have four panels, each panel measuring approximately three feet deep, five feet high, and ten feet long and would contain forty-eight units. When completed,

the columbarium would be forty feet long and contain a total of 192 units with 96 units on each side. The garden would contain a bench for the purpose of meditation.

Although the final details with respect to the installation and construction had not been determined pending the outcome of these proceedings, the Board certainly had sufficient information upon which to base its consideration. The exact construction materials and the exact nature of the screening and the exact composition of the earth in the berm need not be finally resolved for the Board to undertake its consideration of Appellee's request for special exception.

In considering Appellee's Request for Special Exception, the Board considered whether the proposed use would violate the requirements of Sec. 502.1 of the BCZR, which requirements were specifically set forth in the Board's Opinion on page 12, namely:

> 1) 502.1 - Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
>
> a) be detrimental to the health, safety or general welfare of the locality involved;
>
> b) tend to create congestion in roads, streets or alleys therein;
>
> c) create a potential hazard from fire, panic or other dangers;
>
> d) tend to overcrowd land and cause undue concentration of population;
>
> e) interfere with adequate provisions for schools, parks, water, sewage, transportation or other public requirements,

conveniences or improvements;

f) interfere with adequate light and air;

g) be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the zoning regulations; nor

h) be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations.

After identifying specifically the factors to be considered, the Board then went on to consider all the evidence that had been presented. As already indicated in this Opinion, the Board was persuaded by the testimony and evidence presented by Appellee and determined that the memorial garden and columbarium would not be detrimental to the health, safety or general welfare of the locality. The Board had the opportunity to hear the witnesses testify, evaluate their credibility and accept or reject the testimony presented. The Board's determination as to subparagraph (a) of Sec. 502.1 of BCZR was supported by the testimony of Appellee's witnesses and the other evidence presented in the case.

With respect to the issue of road congestion, the Board relied upon the evidence in the record. In addition to the testimony of Mr. Chadsey, Jean Jung, a member of the Church, testified that memorial services are already being held at the Church and that there is no increase in such services anticipated merely because of the installation of the memorial garden and columbarium. The Board further considered the circumstance that the Maryland Department of Transportation and State Highway Administration had made no adverse comments following their review.

Appellant takes no special exception to the findings of the Board regarding the factors to be considered in Subparagraphs (c) through (f) of Sec. 502.1. The Board heard the testimony of Mr. Chadsey, and inferences drawn from that testimony and from the nature and scope of the project support the Board's determination that Appellee's use did not offend Subsections (c) through (f) of Sec. 502.1 of the BCZR. Appellant made no contention to the contrary in either his Memoranda or at oral argument.

Appellant does take exception to the Board's decision that the proposed use would not be inconsistent with the purposes of the property's zoning classification nor in any way inconsistent with the spirit and intent of the zoning regulations. Although Appellant characterizes the proposed use as a commercial or quasi-commercial use like the art gallery, Montessori School and summer camp, the Board did not so find . The Board determined that the proposed use would be accessory to the Church's principal use and insured that the proposed use would remain accessory by conditioning the grant of the special exception on a limitation of the use of the columbarium to Church members, friends of the Church as defined by the Church (individuals who attend Church, participate in Church activities and support the Church financially but have not signed the book as an indication of embracing the Unitarian faith), and their families (limited to spouse, children, father, mother, brother and sister).

The Board further insured that the proposed use would not be inconsistent with the purpose of the property's zoning or in any way inconsistent with the spirit and intent of the zoning

regulations by further conditioning the grant of the Special Exception on the construction of a berm with sufficient vegetation and large trees to provide screening from surrounding properties. Appellee's landscape plan for the memorial garden and columbarium must be submitted to the Baltimore County landscape architect for review and approval to make certain that the plan satisfies this condition.

With respect to Subparagraph (h) dealing with impermeable surfaces and vegetative retention, the Board found that the proposed use would not be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations. As testified by Richard Nugent, construction of the berm would require the introduction of appropriate soil and plantings for screening purposes, all of which would be subject to review by the Baltimore County landscape architect and the Department of Environmental Protection and Resource Management. The Board's finding that Subsection (h) of Sec. 502.1 of the BCZR was satisfied is supported in the record and addressed by the conditions imposed on the Board's grant of Appellee's Special Exception.

Although Appellant disagrees with the findings of and approach taken by the Board, both are supported in the record and satisfy the requirements of the Baltimore County Zoning Regulations

As to the third issue dealing with the requirements of Schultz v. Pritts, 291 Md..1, the Board opined on page 17 of its Opinion that, "While it is presumed that no matter where the

memorial garden and columbarium are located, it will have certain undesirable attributes, the Board finds that the use is compatible with other uses permitted on the land zoned D.R.1 in Baltimore County." This finding by the Board followed the Board's extensive quoting from Schultz v. Pritts, supra, including Judge Davidson's prohibition that, "Such uses (special exception uses) cannot be developed if, at the particular location proposed, they have an adverse effect above and beyond that ordinarily associated with such uses".

It is clear that the Board understood the holding in Schultz v. Pritts, supra, and that the Board found that the proposed use, as conditioned by the Board, would not have an adverse effect above and beyond that ordinarily associated with such uses in the D.R.1 zone.

Appellant takes exception to this finding and suggests on page 21 of his original Memorandum that, "in light of the pristine, rural character of the neighborhood, the evidence established that the columbarium and memorial garden will have substantially greater adverse impact on Mr. Robinson's property and other neighboring properties than would a columbarium installed at another site in the D.R.1 zone that is near commercial areas". Even assuming, without deciding, that it would have been appropriate for the Board to have considered D.R.1 property adjacent to commercial property as the appropriate standard against which to conduct the Schultz v. Pritts , supra, evaluation, and not D.R.1 property generally, the Board rejected Appellant's "commercial" characterization of the proposed use throughout its Opinion. The Board found the proposed use to be an accessory use to the Church, restricted its use to Church members and their friends within certain family

relationships, and conditioned this use upon screening from adjoining residential properties by an earthen berm, trees and other plantings.

The Board found that Appellee met the requirements of the BCZR for the grant of a special exception with the restrictions imposed. There was no misapplication of the law. The evidence was "fairly debatable." The decision of the Board was supported by substantial evidence. See Annapolis v. Annapolis Waterfront Company, 284 Md. 383 (1979).

For the aforegoing reasons, the decision of the Baltimore County Board of Appeals is hereby AFFIRMED on this 15th day of July, 1999, with the costs of this appeal to be paid by Appellant.

JAMES T. SMITH, JR.
JUDGE

JTS/ss
Copy: Deborah C. Dopkin, Esq.
Gail Brashers-Krug
J. Neil Lanzi, Esq.
Charles S. Fax, Esq.
Board of Appeals for Baltimore County

True Copy Test
SUZANNE MENSH, Clerk
Per Pamela O'Hall
Assistant Clerk

3/8/99

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF JAMES G. ROBINSON
1798 Dulaney Valley Road
Lutherville, Maryland 21093

FOR JUDICIAL REVIEW OF THE DECISION OF THE
COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

IN THE CASE OF:
THE APPLICATION OF TOWSON UNITARIAN UNIVERSALIST CHURCH - Petitioner
Agency Case No. 97-404X

* CIVIL ACTION No. 3-C-99-000485

* * * * * * * * * * * * * *

ORDER

Having considered ~~Upon the foregoing~~ Motion to Extend Time for Filing Memorandum and ~~any~~ the opposition ~~response~~ thereto, it is this 8th day of March, 1999, by the Circuit Court for Baltimore County,

ORDERED, that Petitioner's Motion to Extend Time be and is hereby granted,

and it is further,

ORDERED, that Petitioner shall have until April 7, 1999 to file a Memorandum in accordance with Maryland Rule 7-207(a).

Robert E. Cahill, Jr.
Judge

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CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

True Copy Test
SUZANNE MENSH, Clerk
Per Pamela O'Hall
Assistant Clerk

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CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-99-000485

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TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
Old Courthouse Room 49
400 Washington Avenue
Towson, MD 21204

2/19/97

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF JAMES G. ROBINSON *
1798 Dulaney Valley Road
Lutherville, MD 21093

*

FOR JUDICIAL REVIEW OF THE DECISION OF CIVIL
THE COUNTY BOARD OF APPEALS * ACTION
OF BALTIMORE COUNTY No. 3-C-99-000485
Room 49, Old Courthouse, 400 Washing- *
ton Avenue, Towson, MD 21204

*

IN THE CASE OF: IN THE MATTER OF
THE APPLICATION OF *
TOWSON UNITARIAN UNIVERSALIST CHURCH
FOR A SPECIAL EXCEPTION ON PROPERTY *
LOCATED ON THE WEST SIDE OF DULANEY
VALLEY ROAD, 1755' N OF THE C/L POT *
SPRING ROAD (1710 DULANEY VALLEY ROAD)
8TH ELECTION DISTRICT *
4TH COUNCILMANIC DISTRICT

*

CASE NO. 97-404-X *

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BALTIMORE COUNTY

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Lawrence M. Stahl, Harry E. Buchheister, Jr., and Lawrence S. Wescott, constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

No. 97-404-X

March 20, 1997 Petition for Special Exception filed by Leo

	Francis Partridge for Towson Unitarian Universalist Church, Owner; for approval of a columbarium as a use accessory to a Church.
April 3	Certificate of Posting.
April 11	Publication in newspaper.
April 25	Entry of Appearance filed by People's Counsel for Baltimore County.
April 28	ZAC Comments.
April 29	Hearing held on Petition for Special Exception by the Zoning Commissioner.
May 9	Order issued by the Zoning Commissioner in which the Petition for Special Exception was GRANTED.
May 9	Motion for Reconsideration filed by J. Neil Lanzi, Esquire, on behalf of James G. Robinson.
June 5	Order issued by the Zoning Commissioner; Findings Of Fact and Conclusions of Law and Order dated May 9, 1997 are hereby stricken (additional hearing to be scheduled).
October 14	Second hearing held on Petition for Special Exception by the Zoning Commissioner.
October 31	Order on Motion for Reconsideration issued by the Zoning Commissioner; Petition for Special Exception is GRANTED.
November 20	Notice of Appeal filed by J. Neil Lanzi, Esquire, on behalf of James G. Robinson.
April 14, 1998	Entry of Appearance (with request for postponement) filed by Deborah C. Dopkin, Esquire, on behalf of Towson Unitarian Universalist Church.
December 1	Hearing held by the Board of Appeals.
December 10	Appellee's Memorandum filed by Deborah C. Dopkin, Esquire on behalf of Towson Unitarian Universalist Church.

December 10	Protestant's Closing Argument Brief filed by J. Neil Lanzi, Esquire, and Dana M.S. Wilson, Esquire, on behalf of James G. Robinson, Appellant /Protestant.
December 15, 1998	Deliberation conducted by the Board.
December 31	Opinion and Order issued by the Board; Petition for Special Exception is GRANTED with restrictions.
January 20, 1999	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Dana M.S. Wilson, Esquire, and J. Neil Lanzi, Esquire, on behalf of James G. Robinson.
January 22	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
January 25	Certificate of Notice sent to interested parties.

Petitioner's Exhibit Nos. 1-Z.C. File
2-Schematic of the subject site

Protestant's Exhibit Nos. 1-Zoning map (13A)
2-Zoning map (12A)
(3A - 3L - photographs)
3A-Parking lot
B-Parking lot -East
C-Parking lot -SW Dulaney Vall. Rd
D-Robinson home
E-J -Robinson home & placement of columbarium
K-View of Robinson home
L-Long view of church
4-12A -Photographic map
5-13A -Photographic map
6-Location of Woodbrook Church on plat
7A-Photo of Woodbrook Church
B-Photo of Professional Building
C-Church down Charles Street
8-State Hwy Accident Report (2)

February 19, 1999	Transcript of testimony filed.
February 19, 1999	Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,

Charlotte E. Radcliffe

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals of Baltimore County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Dana M.S. Wilson, Esquire
J. Neil Lanzi, Esquire
James G. Robinson
Deborah C. Dopkin, Esquire
Jay Cherry, Pres. /Board of Trustees
Towson Unitarian Universalist Church
People's Counsel for Baltimore County
Virginia W. Barnhart, County Attorney

1/25/99

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF JAMES G. ROBINSON *
1798 Dulaney Valley Road
Lutherville, MD 21093

*

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS * ACTION
OF BALTIMORE COUNTY No. 3-C-99-000485
Room 49, Old Courthouse, 400 Washing- *
ton Avenue, Towson, MD 21204

*

IN THE CASE OF: IN THE MATTER OF *
THE APPLICATION OF
TOWSON UNITARIAN UNIVERSALIST CHURCH
FOR A SPECIAL EXCEPTION ON PROPERTY *
LOCATED ON THE WEST SIDE OF DULANEY
VALLEY ROAD, 1755' N OF THE C/L POT *
SPRING ROAD (1710 DULANEY VALLEY ROAD)
8TH ELECTION DISTRICT *
4TH COUNCILMANIC DISTRICT

*

CASE NO. 97-404-X

* * * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Lawrence M. Stahl, Harry E. Buchheister, Jr., and Lawrence S. Wescott, constituting the County Board of Appeals of Baltimore County, has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Dana M.S. Wilson, Esquire, and SHAPIRO & OLANDER, P.A., Charles Center South, 20th Floor, 36 S. Charles Street, Baltimore, Maryland 21201-3147, and J. Neil Lanzi, Esquire, Mercantile Bldg. Suite 617, 409 Washington Avenue, Towson, Maryland 21204, Counsel for Petitioner; James G. Robinson, 1798 Dulaney Valley Road, Lutherville, Maryland 21093, Petitioner; Mr. Jay Cherry, President, Board of Trustees, Towson Unitarian Universalist Church, 1710 Dulaney Valley Rd., Lutherville, Maryland 21093; Deborah C. Dopkin, Esquire, 409 Washington Avenue, Suite 920, Towson, Maryland 21204, Counsel for Towson Unitarian

RECEIVED AND FILED
99 JAN 25 PM 2:46
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Universalist Church; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, Maryland 21204.

Charlotte E. Radcliffe

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Dana M.S. Wilson, Esquire, and SHAPIRO & OLANDER, P.A., Charles Center South, 20th Floor, 36 S. Charles Street, Baltimore, MD 21201-3147, and J. Neil Lanzi, Esquire, Mercantile Bldg. Suite 617, 409 Washington Avenue, Towson, MD 21204, Counsel for Petitioner; James G. Robinson, 1798 Dulaney Valley Road, Lutherville, MD 21093, Petitioner; Mr. Jay Cherry, President, Board of Trustees, Towson Unitarian Universalist Church, 1710 Dulaney Valley Rd, Lutherville, MD 21093; Deborah C. Dopkin, Esquire, 409 Washington Avenue, Suite 920, Towson, MD 21204, Counsel for Towson Unitarian Universalist Church; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204, this 25th day of January, 1999.

Charlotte E. Radcliffe

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

January 25, 1999

Dana M.S. Wilson, Esquire
SHAPIRO & OLANDER, P.A.
Charles Center South, 20th Floor
36 S. Charles Street
Baltimore, MD 21201-3147

J. Neil Lanzi, Esquire
J. NEIL LANZI, P.A.
Mercantile Bldg., Suite 617
409 Washington Avenue
Towson, MD 21204

RE: Civil Action No. 3-C-99-000485
TOWSON UNITARIAN UNIVERSALIST CHURCH

Dear Counsel:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Mr. James G. Robinson

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

January 25, 1999

Deborah C. Dopkin, Esquire
409 Washington Avenue, Suite 920
Towson, MD 21204

RE: Civil Action No. 3-C-99-000485
TOWSON UNITARIAN UNIVERSALIST CHURCH

Dear Mrs. Dopkin:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on January 20, 1999, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-99-000485.

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

c: Towson Unitarian Universalist Church
/Mr. Jay Cherry, President, Board of Trustees
Leo Francis Partridge
Mr. and Mrs. Robert Zack
Mr. Charles R. Little
Ms. Mary B. Beere
Pat Keller, Director /Planning
People's Counsel for Baltimore County
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF JAMES G. ROBINSON
1798 Dulaney Valley Road
Lutherville, Maryland 21093

FOR JUDICIAL REVIEW OF THE DECISION OF THE
COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

IN THE CASE OF:
THE APPLICATION OF TOWSON UNITARIAN UNIVERSALIST CHURCH - Petitioner
Agency Case No. 97-404X

CIVIL ACTION
No. C-99-485

* * * * * * * * * * * * * *

PETITION FOR JUDICIAL REVIEW

James G. Robinson, by Dana M.S. Wilson and Shapiro & Olander, P.A., and J. Neil Lanzi and J. Neil Lanzi, P.A., his attorneys, pursuant to Maryland Rule 7-202, hereby petitions for judicial review of the opinion and order of the County Board of Appeals of Baltimore County, dated December 31, 1998, granting a special exception permitting the use of the subject property for the construction of a memorial garden and columbarium in a D.R. 1 zone. James G. Robinson, Petitioner, was the Appellant in the proceeding before the County Board of Appeals of Baltimore County.

Respectfully submitted,

Dana M.S. Wilson 1/99

Dana M.S. Wilson
Shapiro & Olander, P.A.
Charles Center South, 20th Floor
36 S. Charles Street
Baltimore, Md. 21201-3147

RECEIVED AND FILED
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CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

J. Neil Lanzi
J. Neil Lanzi, P.A.
Mercantile Bldg, Ste 617
409 Washington Avenue
Towson, Md. 21204

Attorneys for petitioner
James G. Robinson

Dated: January 20, 1999

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of January, 1998, a copy of the foregoing Petition for Judicial Review was mailed by first class mail to Deborah C. Dopkin, Esquire, 409 Washington Avenue, Suite 920, Towson, Maryland 21204 and Peter Max Zimmerman, Peoples Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

J. Neil Lanzi

12/31/98

IN THE MATTER OF THE	*	BEFORE THE
THE APPLICATION OF		
TOWSON UNITARIAN UNIVERSALIST	*	COUNTY BOARD OF APPEALS
CHURCH -PETITIONER FOR A		
SPECIAL EXCEPTION ON PROPERTY	*	OF
LOCATED ON THE W/S DULANEY		
VALLEY ROAD, 1755' N OF THE	*	BALTIMORE COUNTY
C/L POT SPRING ROAD		
(1710 DULANEY VALLEY ROAD)	*	CASE NO. 97-404-X
8TH ELECTION DISTRICT		
4TH COUNCILMANIC DISTRICT	*	

* * * * * * * * *

O P I N I O N

This case comes before the Board of Appeals of Baltimore County based on an appeal by James G. Robinson of an Order of the Zoning Commissioner dated October 31, 1997, granting the Petition for Special Exception to permit the construction of a memorial garden and columbarium on the property of the Towson Unitarian Universalist Church at 1710 Dulaney Valley Road. The case was heard by the Board de novo on December 1, 1998 and public deliberation in accordance with Maryland's open meetings law was held on December 15, 1998. Representing the Petitioner was Deborah C. Dopkin, Esquire, and DEBORAH C. DOPKIN, P.A. Representing Appellant was J. Neil Lanzi, Esquire, and Dana M.S. Wilson, Esquire, SHAPIRO AND OLANDER, P.A. Charles Little appeared and testified as an interested party.

A hearing was originally held before the Zoning Commissioner for Baltimore County on April 29, 1997 at which no protestants appeared. The Zoning Commissioner issued an Order dated May 9, 1997 granting this Special Exception petition. Appellant James G. Robinson, who did not attend the April 29, 1997 hearing, through

his counsel, Mr. Lanzi, filed a Motion for Reconsideration, requesting that the matter be reset for an additional hearing. By agreement of the parties, the Zoning Commissioner entered an Order dated June 5, 1997 striking the prior Order. A second hearing was conducted on October 14, 1997 and on October 31, 1997, the Zoning Commissioner entered an Order granting the Petition for Special Exception. This appeal is from the October 31, 1997 Order. Petitioner seeks a Special Exception to construct a memorial garden and columbarium as a use accessory to the church and to amend the previously approved plan in Zoning Case No. 76-90-X. In support of its Petition, Petitioner presented Frederick Chadsey, a licensed civil engineer, who was admitted as an expert witness in civil engineering, zoning and land use in Baltimore County. Petitioner also presented Jean M. Jung, a church member designated as liaison in zoning matters involving the columbarium and memorial garden, and the Reverend Richard Nugent, the minister serving the congregation. Appellant presented Mr. Robinson as its sole witness. Mr. Charles Little was allowed to testify as an interested neighbor.

The church, which is located on approximately 7 acres of ground north of Pot Spring road, has been at the present location since 1972. The property is zoned Density Residential (D.R. 1). Mr. Chadsey testified that other than the church building and an adjacent parking lot, the property is unimproved and mostly wooded

A small stream runs along the northern side of the site adjacent to Mr. Robinson's property. Except for the church and the parking lot, the site slopes upward rather steeply close to the southern property line. The only access to the property is from Dulaney Valley Road by way of a driveway located near the northern boundary of the site. The general area in which the church is located is surrounded by residential properties which are all zoned D.R. 1.

Chadsey described the concept for the memorial garden and columbarium as bordering the parking lot and being situated to the south and east of the church building. The proposed garden is to be approximately 250 feet off the right of way of Dulaney Valley Road according to the Special Exception plat. The garden will consume approximately 1/3 of an acre and although the concept has not been finalized, the garden is intended to be a self-contained private area created by an earth sculpture or berm surrounding a 3-foot cut where the columbarium would be located. Around the berm the church intends to plant predominantly evergreens but also a mixture of some deciduous and ornamental flowering trees to blend into the natural aspects of the environment in accordance with the Unitarian principle. The garden is intended to have two entrances, one entering the garden and another coming in some manner into the parking lot to assist elderly and handicapped individuals.

The columbarium will stand approximately 5 feet high and will have four panels. Each panel would measure approximately 3 feet by

5 feet by 10 feet and contain 48 units (24 per face). When completed, the columbarium would be 40 feet long and contain a total of 192 units with 96 units on each side. The garden area would contain a bench for the purposes of meditation. In Mr. Chadsey's opinion, the columbarium would not be visible from outside the memorial garden itself because of the sculpture of the land. Mr. Chadsey testified that in his opinion the columbarium and the memorial garden would be an accessory use to the church, open to church members and "friends of the church." He testified that the memorial garden and columbarium would have no more detrimental an impact at the proposed location than at another location in the zone. In addition, Mr. Chadsey testified that the proposed use would not have an adverse effect on the health, safety or general welfare of the locality.

Chadsey further testified that the proposed use would not tend to create congestion in roads, streets or alleyways since the church currently holds memorial services, and, in his opinion, the utilization of the columbarium by church members would not increase the traffic or congestion on the roads, streets or alleyways, since no additional services would be held. He admitted he did not check traffic statistics because he did not think it was necessary. Chadsey stated that the proposed use would not create a potential hazard of fire, panic or other dangers or overcrowd the land and cause undue concentration of population. He testified that, in his

opinion, the proposed location of the use respected all of the residential transition areas on the site. In Chadsey's opinion, the columbarium and memorial garden would not interfere with the adequate provisions for schools, parks, water, sewage, transportation or other public requirements, conveniences or improvements. Mr. Chadsey testified that it would not interfere with the adequate light and air nor would it be inconsistent with the purposes of the property's zoning classification or in any other way be inconsistent with the spirit and intent of the Baltimore County Zoning Regulations (BCZR). He also testified that it would not be inconsistent with the impermeable surface and vegetation retention provisions of the zoning regulations. Finally, Mr. Chadsey stated that there were no adverse Zoning Advisory Committee comments on the proposal from any County or state agencies.

Jean M. Jung, a church member, testified that the Unitarian Universalist Church in Baltimore County was founded in 1916 and has been located on the Dulaney Valley site since 1972. It serves all members in its usual and customary ways, including regular Sunday services, memorial services, and various other religious activities, such as religious education, choir rehearsal, concerts, committee meetings, supported community activities and outreach. Ms. Jung described the purpose of the memorial garden and columbarium as a place "for meditation, for memory, for prayer, for

spiritual self-examination."

Ms. Jung reiterated that the Church desires to provide the columbarium use as a service to its "members and friends." She defined members of the Church as individuals who had "signed the book" as an indication of their commitment to the Unitarian faith. She stated that "friends" were individuals who attend Church, participate in Church activities, and support the Church financially but who have not signed the book and who have no voting privileges. Space in the columbarium would be available only for members of the Church, friends, and their families, but not to the general public.

Ms. Jung also indicated that the maintenance of the garden area would be the responsibility of the committee which is responsible for maintenance of the Church grounds as part of the operations counsel of the Church, as well as hired staff who would be responsible for maintenance. She stated that the Church had previously considered procedures for the columbarium but that such activities were suspended while the Church proceeded through the hearing and appeals process. Ms. Jung also stated that the community associates in the immediate area had been contacted by the Church and informed of the proposed use.

Richard Nugent, the current Minister of the Church, testified as a rebuttal witness. He indicated that the Church could not expand its building to the rear thereby locating the columbarium

along the south side of the building because the property lying to the rear of the building is subject to a restrictive covenant prohibiting building. In response to allegations that the proposed site for the memorial garden is underlain by rock and would not sustain plant life, Reverend Nugent testified that vegetation and trees currently grow in the area and that by constructing the berm, the Church would control the type of soils to be installed, thereby ensuring such soils will sustain plant life. He indicated that procedures regarding the columbarium, including brochures and other forms, are "on hold" until the appeals process has been exhausted.

Appellant presented the testimony of James G. Robinson. Mr. Robinson lives next door to the Church at 1800 Dulaney Valley Road and testified that the columbarium site is visible from his property. He stated that he has an unfettered view of the activities occurring on the Church property for 7 months of the year -- October through May, when the trees do not have their leaves. His house is 7 to 10 feet higher in elevation than the site of the proposed columbarium, and he indicated that residents of the house would be able to look down onto the columbarium. He felt that the landscaping which the Church proposed to install would not be effective to screen the columbarium from view since it is his contention that it is solid rock, and the trees simply will not grow to the size required to create an effective screen.

Mr. Robinson stated that the columbarium and memorial garden

will have an adverse impact on the neighboring properties for several reasons. First, there would be adverse impact because it is objectionable to place a cemetery or other place of interment in an already existing residential neighborhood. Second, property values will decline because potential buyers cannot be expected to pay the same price for property next to a cemetery as they will for residential property in a neighborhood of this area's present character. Based on Mr. Robinson's experience as an owner, buyer and seller of residential commercial properties in three major cities, he estimates that the construction of the columbarium would reduce the price of his property by as much as 15 percent to 20 percent of its value. Third, the Church already holds events for which it has grossly insufficient parking causing people to park their cars on Dulaney Valley Road and on Mr. Robinson's property. He contends that the columbarium would add to the frequency of these events and that the curve in front of the Church is the site of many accidents including fatal accidents. He feels that the risk of these accidents had increased each time the Church holds an event that causes people to park along Dulaney Valley Road. Moreover, the traffic on Dulaney valley Road is so heavy at times that egress from the properties neighboring the Church is all but blocked.

Mr. Robinson stated that other than the Church, there are no non-residential uses of any property in the vicinity beginning

south of the property and continuing for several miles north. The property is zoned for residential use, and the owners chose it because they were assured of its rural character and that it would be protected by zoning. Mr. Robinson was also concerned by the substantial evidence that the columbarium actually would be another quasi-commercial activity of the Church. He has observed the Church's incremental expansion of the use of its property from the Montessori School that the Church permits to operate on its premises to the summer camp that is run on the property and an art store. He feels that the columbarium is a further encroachment of what should be considered commercial activity in the midst of a residential area. He feels that the Church wants to place the columbarium at the particular site chosen because it is visible and will make it easier to sell to members of the public. He feels that this is shown by the fact that the Church has no basis for embarking on the venture purely for the use of members and friends because congregants have expressed no interest in being interred in the columbarium. Mr. Robinson contends that there are other more appropriate places in the zone for building a columbarium where the adverse impact of neighboring property owners would be substantially less. He testified that there is a columbarium in Woodbrook Presbyterian Church, a residential area that has a commercial district. He feels that the columbarium fits better in a neighborhood of that character which has an established

commercial area.

Finally, Mr. Charles Little, a neighbor and interested party, testified that the building of the columbarium would be an imposition on himself and his family. He does not subscribe to cremation and believes that the construction of the columbarium would be a monument of the practice of cremation which would give much discomfort to him. He would be satisfied if there were a vault built on the back of the Church where remains could be interred and not be visible from the outside. He had no problem if the Church proceeded with the memorial garden. He was fearful that construction of the columbarium would cause financial loss to people in the neighborhood and that lawsuits would be forthcoming and that he would prefer not to go through that but would prefer to live in peace. He was very amicable to working out a solution that was agreeable to all concerned. On cross-examination, he stated that he did not think that the columbarium would fit in with the character of the neighborhood and that the columbarium would tend to increase traffic and create traffic congestion in the area. Once again, he felt that, if an additional room could be built on the Church, it would not have an adverse effect on the neighborhood.

BOARD FINDINGS

The Board finds that the proposed memorial garden and columbarium come within the definition of "an accessory use" as

defined by the BCZR. Regulations define accessory use as one which is customarily incident and subordinate to and serves a principle use or structure; is a subordinate area, extent or purpose to the principle use or structure; is located on the same lot as the principle use of structure served; and contributes to the comfort and convenience or necessity of the principle use or structure served (BCZR Section 101). The proposed memorial garden and columbarium fall within the definition of accessory use as defined by the Court of Appeals in County Commissioners of Carroll County v. Zent, 86 Md.App. 745, 587 A.2d 1205 (1991).

The memorial garden and columbarium do not constitute an accessory building since the columbarium has no walls nor rooms but is a structure which will provide repository "niches" for the interment of remains. The columbarium is not considered a "cemetery" and would be located within the memorial garden shielded by a berm with vegetation surrounding it. It would be a place of meditation, memory and prayer. It would be located on Church property next to the Church parking lot and would be at least 100 feet from any of the property lines. The use of the columbarium does not conflict with the principle Church use but is designed to contribute to the comfort and convenience of the Church members. As an accessory use to the Church, it would not be more detrimental at the proposed site than at some other location in the zone.

With respect to the request for Special Exception, the Board

is bound by BCZR Section 502, specifically Sections 502.1 and 502.2, which read:

> 502.1--Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:
>
> a. Be detrimental to the health, safety, or general welfare of the locality involved;
>
> b. Tend to create congestion in roads, streets or alleys therein;
>
> c. Create a potential hazard from fire, panic or other dangers;
>
> d. Tend to overcrowd land and cause undue concentration of population;
>
> e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
>
> f. Interfere with adequate light and air;
>
> g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
>
> h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.
>
> 502.2-- In granting any special exception, the zoning commissioner or the board of zoning appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a special exception is granted, if required by the zoning commissioner, or board of zoning appeals, upon appeal, shall enter into an agreement in writing with said zoning commissioner and/or the county commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such special exception, the same to

> be recorded among the land records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such special exception. When so recorded, said agreement shall govern the exercise of the special exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.

Petitioner's expert witness, Frederick Chadsey, testified that, in his opinion, the construction of the memorial garden and columbarium would not be detrimental to the health, safety or general welfare of the locality involved. Despite the testimony of Mr. Robinson and interested party Little, there is no expert testimony to the effect that the proposed memorial garden and columbarium would have an adverse effect on the property values in the surrounding neighborhood. Both Mr. Chadsey and Ms. Jung testified that the use of the columbarium would be strictly limited to Church members and friends and family. The Board finds, and the Petitioner has shown through expert testimony, that the proposed use would have no detrimental effect to the health or safety of the vicinity at this location.

With respect to the creation of congestion on the roads, streets or alleys therein, the Appellant presented an accident survey by the State Highway Administration concerning the stretch of Dulaney Valley Road in front of the location of the Church. However, the expert testimony of Mr. Chadsey as well as Ms. Jung indicated that the construction of the columbarium and memorial garden would not cause any increase in those services due to the

construction of the columbarium. Ms. Jung testified that the Church is trying to alleviate traffic congestion by scheduling two services on Sunday. No expert witnesses were called to testify as to increased traffic congestion due to the construction of the columbarium. In addition, there were no adverse comments or testimony from the Maryland Department of Transportation or State Highway Administration. Therefore, the Board finds that the construction of the columbarium will not create congestion in the roads, streets or alleys in the zone.

Mr. Chadsey also testified that, in his opinion, the columbarium would not create a potential hazard from fire panic or other dangers. There was no testimony to the contrary. Therefore, the Board finds that the construction of the memorial garden and columbarium will not create a potential hazard from fire. Mr. Chadsey also testified that in his opinion the memorial garden and columbarium would not overcrowd the land and cause undue concentration of population. No testimony to the contrary was offered. Therefore, the Board finds that there will be no overcrowding of the land and undue concentration of population due to the construction of the columbarium and memorial garden.

Mr. Chadsey testified that in his opinion the construction of the memorial garden and columbarium would not interfere with adequate provisions for schools, parks, water, sewage, transportation or other public requirements, conveniences or

improvements. In addition, it would not interfere with adequate light and air. There being no testimony to the contrary, the Board finds that the construction of the columbarium and memorial garden will not interfere with the adequate provisions for schools, parks, water, sewage, transportation or other public requirements, conveniences or improvements nor will it interfere with adequate light and air.

In addition, Mr. Chadsey also opined that the construction of the memorial garden and columbarium would not be inconsistent with the purpose of the property's zoning classification or in any other way be inconsistent with the spirit and intent of the zoning regulations. Appellant submitted a letter from the Valley Garth Community Association. However, no representative of any property owner association appeared at the hearing, or filed an appeal of the granting of the exception by the Zoning Commissioner. While there was some testimony with respect to certain activities conducted at the Church which the Appellant considered to be commercial activities, such as an art gallery, the Montessori School and a summer camp, the testimony of both the expert witness, Mr. Chadsey, and Ms. Jung indicated that the use of the columbarium and memorial garden would be reserved for members of the Church and friends, as defined by the Church, and their families.

The Board finds that, based upon the testimony of Petitioner's witnesses, the purpose of the columbarium and memorial garden will

be as an accessory use to the Church and not inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the zoning regulations. However, the Board will limit the use of the columbarium to the interment of remains of Church members, "friends" of the Church as defined by the Church, and their immediate family members, which shall include spouse, children, father, mother, brothers, or sisters. Finally, Mr. Chadsey testified that, in his opinion, the memorial garden and the berm to be constructed around the columbarium would not be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations. Appellant offered testimony that there was solid rock on the site where the proposed columbarium and berm were to be constructed, thereby making it impossible for vegetation and large trees such as proposed for the memorial garden and cover to grow. However, no expert testimony was offered, and there were no substantial issues raised by any Baltimore County departments charged with the responsibility of determining whether the proposed use would be detrimental to the welfare of the community. Nonetheless, recognizing the fact that the neighbors consider the columbarium to be an offensive use, the Board will order that such a plan which is finalized be submitted to the Baltimore County Landscape Architect for his approval, and also be approved by the Department of Environmental Protection & Resource Management.

The Board, in assessing this case, has applied principles established by the Courts of this State relative to the conditional use, or special exception as it is generally called.

The leading case authority in Maryland is Schultz v. Pritts, 291 Md. 1 (1981). In that case, Judge Rita Davidson stated:

> "When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. Such uses cannot be developed if at the particular location proposed they have an adverse effect above and beyond that ordinarily associated with such uses."
>
> * * *
>
> "The duties given to the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan."
>
> * * *
>
> "If [the applicant] shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide."

While it is presumed that no matter where the memorial garden and columbarium are located it will have certain undesirable attributes, the Board finds that the use is compatible with other uses permitted on the land zoned D.R. 1 in Baltimore County.

O R D E R

IT IS THEREFORE this 31st day of December, 1998 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception to permit the use of the subject property for the construction of a memorial garden and columbarium in the D.R. 1 zone be and the same is hereby **GRANTED**, subject to the following restrictions:

1. The memorial garden and columbarium will be used exclusively to inter the remains of Church members, "friends" of the Church, as defined by the Church, and their families which shall be limited to spouse, children, father, mother, brother and sister.

2. The Petitioner shall submit a landscape plan for the memorial garden and columbarium to the Baltimore County Landscape Architect for review and approval. Said plan shall take into consideration the necessary landscaping and types of vegetation and trees necessary to sufficiently shield the property from the adjoining neighbor's property. The Plan shall also be considered by the Baltimore County Department of Environmental Protection & Resource Management.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence M. Stahl, Panel Chairman

Harry E. Buchheister, Jr.

Lawrence S. Wescott

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

December 31, 1998

J. Neil Lanzi, Esquire
Mercantile Building, Suite 617
409 Washington Avenue
Towson, MD 21204

RE: Case No. 97-404-X /Towson
Uniterian Universalist Church

Dear Mr. Lanzi:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure, **with a photocopy provided to this office concurrent with filing in Circuit Court.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,
Charlotte E. Radcliffe for
Kathleen C. Bianco
Administrator

encl.

cc: Dana M.S. Wilson, Esquire
James G. Robinson
Deborah C. Dopkin, Esquire
Towson Unitarian Universalist Church
/Mr. Jay Cherry, President, Board of Trustees
Leo Francis Partridge
Mr. and Mrs. Robert Zack
Mr. Charles R. Little
Ms. Mary B. Beere
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink
on Recycled Paper

RE: IN THE MATTER OF	*	BEFORE THE
PETITION FOR SPECIAL EXCEPTION W/S Dulaney Valley Road, 1775' Of the c/l Pot Spring Road (1710 Dulaney Valley Road)	*	COUNTY BOARD OF APPEALS OF
8th Election District 4th Councilmanic District	*	BALTIMORE COUNTY
Towson Unitarian Universalist Church	*	Case No. 97-404-X
Petitioner/Appellee	*	

* *

APPELLEE'S MEMORANDUM

Towson Unitarian Universalist Church, Appellee, by its attorney, Deborah C. Dopkin, and Deborah C. Dopkin, P.A., respectfully submits this Memorandum in support of its Petition for Special Exception.

STATEMENT OF THE CASE

Appellee, Towson Unitarian Universalist Church (the "Church"), Petitioner below, submitted a Petition for Special Exception (Attachment A.) to permit a columbarium as a use accessory to a church and to amend the previously approved plan in Zoning Case 76-90-X. The columbarium would be located within a memorial garden on a small (.35± acres) portion of the Church property. The Petition was duly advertised and the property posted. A hearing was held before the Zoning Commissioner for Baltimore County on April 29, 1997, at which no protestants appeared. By Findings of Fact and Conclusions of law, dated May 9, 1997, the Zoning Commissioner granted the Special Exception Petition. (Attachment B.)

Appellant James G. Robinson, who did not attend the April 29, 1997 hearing below, through Counsel J. Neil Lanzi, filed a Motion

Deborah C. Dopkin
Attorney At Law
409 Washington Avenue
Suite 920
Towson, MD 21204
(410) 494-8080

for Reconsideration, requesting that the matter be reset for an additional hearing. By agreement of the parties, the Zoning Commissioner entered an Order dated June 5, 1997 striking the prior order. A second hearing was conducted on October 14, 1997, and on October 31, 1997, the Zoning Commissioner rendered Findings of Fact and Conclusions of Law and an Order granting the Petition for Special Exception. (Attachment C.)

Appearing for the Church at the hearings before the Zoning Commissioner were a number of Church members, including Charles H. Lee, an engineer and Jay Cherry. The Church was represented by Leo F. Partridge, Esquire.

Appellant Robinson, through Counsel, noted an appeal of the Zoning Commissioner's Order to the County Board of Appeals of Baltimore County. The appeal was made in a timely fashion.

On December 1, 1998, a hearing was conducted before the County Board of Appeals of Baltimore County. Appearing for the Church at the hearing before this Board were Frederick Chadsey, a licensed civil engineer, who was admitted as an expert in civil engineering, and in zoning and land use in Baltimore County, and Jean M. Jung, *the Church member designated as liaison in zoning matters involving* the columbarium and memorial garden. Also appearing was Reverend Richard Nugent, the minister serving the congregation. Appellant summonsed two Church members (who had testified at the hearing before the Zoning Commissioner) but neither was called to testify.

Appellant, represented by Counsel, attended the second hearing before the Zoning Commissioner and the hearing before this Board,

at which he testified. In addition, Charles Little, another protestant, not a party, was in attendance and testified.

STATEMENT OF THE FACTS

The subject of this Appeal is a small portion of a 6.98 ± acre site on which the Church building has been located since 1972. The property is zoned Density Residential (D.R.) 1. Mr. Chadsey testified to the physical characteristics of the site and the area. Other than the Church building and accessory parking lot, the property is unimproved and mostly wooded. A small stream runs along the northern side of the site. Other than the areas leveled for the existing improvements, the site slopes uphill toward its southern boundary. The only access to the property is from Dulaney Valley Road by way of a driveway, located near the northern boundary of the site. The area adjoining the site on the same side of Dulaney Valley Road is similarly zoned D.R. and is residentially developed. The opposite side of Dulaney Valley Road is part of the Loch Raven Watershed, and as such, is undeveloped.

Mr. Chadsey also described the concept plan for the memorial garden and columbarium. The area borders the parking lot and is situated to the south and east of the Church building. The garden space is intended to be a self-contained private area created by an "earth sculpture" or berm (T. P 31) and dense planting to blend in with existing trees and slopes, all consistent with Unitarian Principles of blending nature and the environment. Mr. Chadsey stated that the berm alone will be adequate to ensure that the columbarium is not visible to someone standing outside the garden.

The atmosphere will be enhanced by the addition of planting of "predominately evergreens" and "a mixture of some deciduous and ornamental flowering trees". (T. p 32) Mr. Chadsey indicated that the initial phase will include one panel of the columbarium which could ultimately consist of a total of four panels. Each panel would measure approximately 3 x 5 x 10 feet and contain 48 units (24 per face) for a total of 192 units. Also proposed for the garden area are a bench and pathways. (T. p 33)

It was Mr. Chadsey's expert opinion that the memorial garden and columbarium will be completely screened from all adjacent properties. (T. p 33)

Mr. Chadsey also testified that there were no adverse Zoning Advisory Committee comments on the proposal from any county or state agency.[1] (T. p 34)

In his expert capacity, Mr. Chadsey also testified that the proposed use satisfies the special exception requirements of the B.C.Z.R. (§502.1) and will have no adverse effects on the surrounding community. He further testified that the memorial garden and columbarium have no more detrimental an impact at this location than at another location in the zone. (T. p 42). Mr. Chadsey based his opinion on the fact that the garden and columbarium will be accessory in nature (rather than a principal

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[1] Zoning Advisory Committee comments were received from the Maryland Department of Transportation, State Highway Administration, as well as the Baltimore County Department of Environmental Protection and Resource Management, Office of Planning, Fire Department and Development Plans Review. These comments are part of the file before the Zoning Commissioner and entered into evidence in the hearing before the Board of Appeals.

use as permitted by special exception) and the use will be limited to Church members and "friends." (T. p 42) Further, because the Church **currently** conducts memorial services already and no additional services are contemplated as a result of the installation of the garden and columbarium, there will be no additional traffic generated. (T. p 43)

Also testifying on behalf of the Church was Jean M. Jung, a Church member.

Ms. Jung testified that the Church, the only Unitarian Universalist Church in Baltimore County, was founded in 1960, and has been at this location since 1972. The Church serves its membership in all the usual and customary ways. In addition to holding regular Sunday services, and life cycle events, e.g. weddings, baby dedications, and memorial services, the Church conducts a variety of activities and services customarily associated with a religious institution, such as religious education for children and adults, choir rehearsal, concerts, committee meetings, support of community activities, outreach, and the like. (T. pp 112-13)

Ms. Jung described the purpose of the memorial garden and columbarium. The Church is seeking to create a place for "meditation, for memory, for prayer, for spiritual self-examination..." (T. p 114) The garden area would be "secluded, quiet, shielded from view and from noises." (T. p 115)

Ms. Jung described the columbarium itself as "a monument on a concrete slab that has spaces into which cremated remains can be

placed." (T. p 114) The spaces or niches will be sealed and covered with a natural stone material.

Ms. Jung also testified that the Church desires to provide the columbarium use as a service to its members and "friends", since burial space is a service customarily available in many churches and church grounds. (T. p 115) She explained, as did Mr. Chadsey, that there are two categories of participation in the Unitarian Church -- members and friends; members, being individuals who have "signed the book" as an indication of their embracing the Unitarian faith; and "friends", being individuals who attend church, participate in church activities and support the Church financially, but who have not "signed the book" and who have no voting privileges. Space in the columbarium will be available **only** for members and "friends" and their families.

Ms. Jung addressed the maintenance of the garden area. The Church organization has a committee responsible for the grounds as part of the Operations Council of the Church as well as hired staff who would be responsible for maintenance. (T. p 143) Ms. Jung also stated that the Church had previously considered procedures for the columbarium , but such activities were "suspended" while the Church proceeded through the hearing and appeal process. (T. p 117) Ms. Jung confirmed that burial space in the columbarium would be available only to Church members and "friends", not to members of the general public.

In addition, Ms. Jung stated that community associations in the immediate area had been contacted by the Church and informed of the proposed use. (T. p 117) None appeared at the hearing.

Richard Nugent, minister of the Church testified as to certain matters raised by earlier witnesses. In response to an allegation by Mr. Robinson that the Church could expand its building to the rear and thereby locate the columbarium along the south side of the building (rather in the area now proposed), Reverend Nugent stated that such construction is **not** possible, because the property lying to the rear of the building is subject to a restrictive covenant prohibiting building. In response to allegations that the proposed site for the memorial garden is underlain by rock and would not sustain plant life, Minister Nugent testified that vegetation and trees currently grow in the area, and that by constructing the berm, the Church would control the type of soils to be installed, thereby assuring such soils will sustain plant life. (T. pp 223-25) The Reverend also confirmed that procedures regarding the columbarium, including brochures and other forms, are "on hold." (T. p 226) The Reverend testified that the Church's intention is to price the sale of columbarium space to cover costs, "but we have no idea what those costs are going to be based on... the disposal of the appeals." (T p 226).

ISSUES PRESENTED

1. **Is the use permitted pursuant to §1B01 of the B.C.Z.R. as an accessory use?**
   Yes.

2. **Does the application satisfy §502 of the B.C.Z.R. as a special exception use?**
Yes.

3. **Does §400 of the B.C.Z.R. apply to the proposed location of the memorial garden and columbarium.**
No.

THE LAW AS TO ACCESSORY USE

Under the Baltimore County Zoning Regulations, a church is a use permitted as a matter of right in the D.R. zones. Also permitted as a matter of right are accessory uses, "other than those permitted only by special exception." B.C.Z.R. §1B01.1.A[2]

The Baltimore County Zoning Regulations define an accessory use as one which is customarily incident and subordinate to and serves a principal use or structure; is subordinate in area, extent or purpose to the principal use or structure; is located on the same lot as the principal use or structure served; and contributes to the comfort, convenience or necessity of the principal use or structure served. B.C.Z.R. §101 (Attachment D).

The leading Maryland case regarding accessory use is County Commissions of Carroll County vs. Zent, 86 Md App. 745, 587 A2d 1205 (1991), which comprehensively surveyed the law of accessory uses. The Zent court, citing an Illinois case, articulated a standard for determining accessory use:

> "[A]n accessory use must be customarily incidental to the principal use, serving no other principal use, and must be subordinate in area, floor area, intensity, extent, and purpose to the principal use. It is required to

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[2] A columbarium is not a use listed anywhere in the B.C.Z.R. It is treated as a cemetery, a use which is permitted in certain D.R. zones, including D.R. 1, by special exception. B.C.Z.R. 1B02.1

contribute to the comfort, convenience, or necessity of users of the principal use."

Tollway North Office Ctr. Cent. Nat'l Bank in Chicago v. Streicher, 83 Ill. App. 3d 239, 38 Ill.Dec. 642, 645, 403 N.E.2d 1246, 1249 (1980).

Applying this standard and the B.C.Z.R. to the facts presented, it is clear that the proposed memorial garden and columbarium qualify as an accessory use.

All the testimony and the acknowledged understanding of the parties is that the Church is and will continue to be the principal use at the property. Though numerous accessory uses are customary and incident to church use, both Appellant Robinson and witnesses for the Church acknowledged that cemeteries or burial areas are traditionally found adjoining churches. (T. p 213) Petitioner also testified to the existence of other columbariums and cemeteries on church grounds in Baltimore County.

There is no other principal use on the property which would be served. The proposed memorial garden and columbarium are subordinate in area, intensity, purpose and extent to the principal church use, and will be located on the same lot. The use does not dominate, pre-empt or conflict with the principal church use, either in time, space or manner.

The use is intended to contribute to the comfort, convenience or needs of the Church members by providing a private place for memory and reflection. The existence of the proposed garden and columbarium on the Church property does not change the primary use at the site, but in fact supports that use and is, thereby, permitted.

THE LAW AS TO THE SPECIAL EXCEPTION USE

A cemetery is permitted by special exception in the D.R. zones. B.C.Z.R. §1B02.1.

Special exception uses have been the subject of numerous and recent decisions by the appellate courts of Maryland, both in the seminal case of Schultz v. Pritts, 291 Md. 1,432 A.2d 1319 (1981) and more recently in Mossburg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995). The law is clear: a special exception is a use which is presumptively permitted. It is a use that has been legislatively predetermined to be a desirable use, but which is attended with detrimental effects which require certain conditions be met.

Compatibility is presumed by legislative intent where a use is permitted by special exception. The legislative body has made the policy decision that the use is permitted. Mossburg v. Montgomery County.

The issue is not whether the use has an adverse effect - that is presumed-- but whether the adverse effect in a particular location would be more severe than the adverse effects ordinarily associated with such use regardless of its location in the zone. If the record is otherwise silent as to a greater impact at the present location than other locations similarly zoned, the special exception must be approved.

Applying the legal standard to the evidence presented, it is necessary to analyze whether applicant has presented sufficient testimony on which the Board may find (i) that the statutory

requirements of 502 have been met and (ii) that the use at this location has no greater harmful effects than at another location in the zone.

No agency of Baltimore County or of the State of Maryland charged with oversight of such applications had any comment indicating an adverse impact. The Department of Environmental Protection and Resource Management did not feel that the use posed an environmental threat to the nearby watershed or otherwise. Since Dulaney Valley Road is a state road, the State Highway Administration reviewed the proposal and did not identify it as creating an unsafe traffic condition. According to Mossburg, a record which is otherwise silent as to a greater impact at the present location than other locations similarly zoned, is not a basis on which to deny the special exception.

The uncontroverted expert testimony by Mr. Chadsey was that the garden could be created and maintained in the area proposed in a manner that would not be visible or intrusive on any adjoining property. All environmental regulations would have to be satisfied at the time of actual construction. (T. p 94) All required setbacks and transition areas are also respected. (T. p 43) Further, Mr. Chadsey and Ms. Jung both testified that use would be limited to Church members and "friends". Since the Church already holds memorial services, there would not be additional services as a result of the installation of the garden and columbarium. Accordingly, there will be little or no additional traffic. (T. p 43) As such, the proposal will create less traffic at this

location than at another location in the zone where the use might be more widely available or might exist as a principal rather than as an accessory use.

Appellant urges that the use will detrimentally impact property values, but conceded that he moved in **after** the Church existed, having already lived in the area since 1967. (T. p 190) Appellant also testified that he has acquired lots adjoining his home and his son is buying a house at 1800 Dulaney Road, which after modification will overlook the Church property. (T. p 174) His own conduct betrays his allegations that the Church use negatively impacts the value of his property, in which he continues to invest. Further, when testifying to his familiarity with an area in Baltimore County (Woodbrook) (T. p 200) where another church columbarium exists, Appellant had no information that the use had any impact on property values, nor could he even identify where that columbarium is. (T. p 212) No appraisal or real estate expert testimony was presented. If the record is otherwise silent as to a greater impact at the present location than other locations similarly zoned, the special exception must be approved.

Protestant's counsel advances the notion that there is inadequate parking at the Church. The expert testimony presented was that the proposed use will add no additional traffic to the site. Other testimony from the Church indicated that use of the garden and columbarium are not anticipated to coincide with any

regularly scheduled activity at the Church, thus further reducing the potential for congestion.[3]

Testimony indicated that in all aspects, the special exception use will have little or no adverse impact, and less, in any case, than the same use at another location in the zone.

Conversely, Appellant has failed to present substantial evidence sufficient to overcome the presumptively permissible nature of the use or that the proposed use at this location has an adverse effect greater than the same use at another location in the zone, and has thus failed to meet the factual burden necessary to make the issue even fairly debatable.

Section 400

Section 400 of the B.C.Z.R. provides Special Regulations for Accessory *Buildings* in Residence Zones (emphasis added). By its plain language §400.1 applies to "Accessory buildings...." not accessory uses. Other provisions of these zoning regulations distinguish between "building" and "use", so it is reasonable to conclude that the use of the word "building" in §400.1 was intended as limiting language.

A columbarium is not a building. Under the Webster's dictionary definition a columbarium is considered a structure of vaults lined with recesses for cinerary remains. (T. p 134-5) Petitioner described it as a "monument" on a concrete slab, having

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[3] In addition, Ms. Jung testified that since September, 1998, the Church is holding two services on Sunday mornings. Such staggered scheduling is likely to mitigate traffic and parking impacts arising from the existing use. (T. pp 112-113)

sealed closed spaces into which cremated remains can be placed. (T. p 114)

Section 101 of the Baltimore County Zoning Regulations does not define columbarium, but does define "building" and "accessory building". A building is "[a] structure enclosed within exterior walls or firewalls for the shelter, support or enclosure of persons, animals or property of any kind." An accessory building is one which is subordinate and customarily incidental to and on the same lot with a main building. B.C.Z.R. §101. A columbarium has no walls, no doors, no windows. As the Zoning Commissioner stated in his Findings of Fact and Conclusions of Law of October 31, 1997, the physical characteristics and impacts of the proposed columbarium differ dramatically from other uses for the storage of human remains.

This distinction is also recognized in the permit requirements imposed by Baltimore County. Under the building code in effect in Baltimore County, no building permit is required for a columbarium, and the Office of Permits and Development Management in administering the B.C.Z.R., deems a columbarium a use only, not a building.

Under established principles of administrative law and practice, great deference is afforded to the interpretation of regulations by the agency charged with their administration. Administrative construction of a statute is entitled to great weight. Kimball-Tyler Co. v. City of Baltimore, 133 A.2d 433, 214

Md. 86 (1957). Applying these principles to the case at hand, a columbarium is not and should not be considered a building.

Based on the plain language of the regulations and established interpretation, §400 of the B.C.Z.R. does not apply to the subject use because it is simply not a building.

CONCLUSION

Petitioner submits that under applicable law and practice, and based on the evidence presented, the Church has met its burden and satisfied the legal standards to merit approval of the requested use.

Petitioner has presented substantial evidence before this Board that the memorial garden and columbarium use are accessory to the principal church use of the property, and that the requested special exception use will have no greater adverse effect at this location than normally associated with such a use elsewhere in the zone. Petitioner has thereby met the legal standards of Carroll County v. Zent, Schultz v. Pritts and Mossburg v. Montgomery County. Conversely, Appellant has failed to establish that the impact of the use at this location is greater than elsewhere. Applying the holding in Mossburg, where the record is otherwise silent as to a greater impact at the present location than other locations similarly zoned, the special exception must be approved.

WHEREFORE, Appellee prays that this County Board of Appeals affirm the decision of the Zoning Commissioner for Baltimore County and grant the special exception request and such other and further relief as the nature of its cause may require.

Respectfully submitted,

Deborah C. Dopkin
409 Washington Avenue, Suite 920
Towson, Maryland 21204
(410) 494-8080
Attorney for Appellee/Petitioner

POINTS AND AUTHORITY

1. Baltimore County Zoning Regulations

2. County Commissions of Carroll County vs. Zent, 86 Md App. 745, 587 A2d 1205 (1991)

3. Kimball-Tyler Co. v. City of Baltimore, 133 A.2d 433, 214 Md. 86 (1957).

4. Mossburg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995)

5. Schultz v. Pritts, 291 Md. 1,432 A.2d 1319 (1981)

6. Tollway North Office Ctr. Cent. Nat'l Bank in Chicago v. Streicher, 83 Ill. App. 3d 239, 38 Ill.Dec. 642, 645, 403 N.E.2d 1246, 1249 (1980).

CERTIFICATION OF MAILING

I HEREBY CERTIFY, that on this 10th day of December, 1998, a copy of the foregoing Memorandum in Support was hand delivered or mailed, postage prepaid to J. Neil Lanzi, Esquire, 409 Washington Avenue, Towson, Maryland 21204, and to Dana Wilson, Esquire, Shapiro and Olander, Twentieth Floor, 36 South Charles Street, Baltimore, Maryland 21201, Attorneys for Appellant, and to People's Counsel for Baltimore County, Court House, 400 Washington Avenue, Towson, Maryland 21204.

Deborah C. Dopkin

docs\dcd\zoning\tuuc3.mem

Case No. 97-404-X

SE -To permit use of .35 acre of property for Memorial Garden and Columbarium /for cremated remains of Church members.

10/31/97 -Z.C.'s Order in which Petition for Special Exception was GRANTED.

4/10/98 - Notice of Assignment for hearing scheduled for Thursday, June 11, 1998 at 10:00 a.m. sent to following:

J. Neil Lanzi, Esquire
James G. Robinson
Leo Francis Partridge, Esquire
Towson Unitarian Universalist Church
/Mr. Jay Cherry, President, Board of Trustees
Mr. and Mrs. Robert Zack
Mr. Charles R. Little
Ms. Mary B. Beere
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

4/14/98 -Letter from Deborah C. Dopkin, Esquire, entering her appearance on behalf of Appellee, Towson Unitarian Unviersalist Church. Also requesting postponement due to previous Md Bar Assn commitment.

4/21/98 -Notice of PP and Reassignment sent to parties; case rescheduled to Tuesday, September 15, 1998 at 10:00 a.m.

4/27/98 -Letter from N. Lanzi - no objection to postponement request; however requests that case not be scheduled on Tuesday, Wednesday, or Thursday due to his client's schedule. (NOTE: Case has been reset to a Tuesday hearing day /9/15/98.)

8/03/98 -Letter requesting PP from Neil Lanzi; his client, Mr. Robinson, will be out of state on business 9/15/98; requests another Tuesday date.

8/07/98 -T/C to D. Dopkin to advise of PP request; no objection to the granting of same.
- Second Notice of PP and Reassignment sent to parties; rescheduled to Tuesday, December 1, 1998 at 10:00 a.m.

12/01/98 -Hearing concluded (L.S.M.); closing briefs due from counsel 12/10/98 by close of business (4:30 p.m.); deliberation scheduled for Tuesday, December 15, 1998 at 9:30 a.m (Notice of Deliberation sent this date); Dana M.S. Wilson, Esquire /Olander & Shapiro added to file as co-counsel for Mr. Robinson, Appellant.

12/10/98 -Appellee's Memorandum filed by Deborah C. Dopkin, Esquire, on behalf of Towson Unitarian Universalist Church.
- Protestant's Closing Argument Brief filed by Neil Lanzi, Esquire, and Dana M.S. Wilson, Esquire, on behalf of James G. Robinson, Appellant /Protestant. Copies of both filings to L.S.M. by Friday, 12/11/98 for Tuesday's deliberation.

12/13/98

~~CSB~~

Original

IN THE MATTER OF	*	BEFORE
TOWSON UNITARIAN UNIVERSALIST CHURCH	*	THE COUNTY
	*	BOARD OF APPEALS
Petitioner	*	OF
1710 Dulaney Valley Road 8th Election District 4th Councilmanic District	*	BALTIMORE COUNTY
	*	Case No. 97-404-X
JAMES G. ROBINSON	*	December 1, 1998
Protestant	*	

* * * * * * * * * * * *

98 DEC 10 PM 4:33
COUNTY BOARD OF APPEALS
BALTIMORE COUNTY

PROTESTANT'S CLOSING ARGUMENT BRIEF

I. Introduction.

Petitioner Towson Unitarian Universalist Church is located at 1710 Dulaney Valley Road, on approximately 7 acres of D.R.1 residentially zoned land. (Tr. at 28). The neighborhood surrounding the church is also zoned D.R.1 and consists of residential properties. (Tr. at 29). Protestant James G. Robinson owns four properties immediately adjacent to the church: 1798, 1800, 1818 and 1820 Dulaney Valley Road. Mr. Robinson has resided at 1798 Dulaney Valley Road since 1981.

The church has approximately 324 members and perhaps 40 to 60 "friends". (Tr. at 110, 227-228). In addition to its church-related activities (Sunday-morning religious services, religious education, church group meetings, baby dedications, weddings and memorial services), the church uses its property for many non-church-related activities, including concerts, dances, and other events; a Montessori School that is open to the public; a summer camp that is open to the public, called Camp Dulaney; and an art gallery

that is open to the public, called Gallery Unicorn. (Tr. at 112-113, 182).

The church has now requested Special Exception permission to construct a "columbarium as a use accessory to a church." (Petition for Special Exception, Case No. 97-404-X before the Zoning Commissioner of Baltimore County). In its petition, the Church represented that "[t]he columbarium would be situated in a Memorial Garden and would be a repository for the cremated remains of church members. The Memorial Garden would be approximately .35 acres in total area and would be situated in the center of the 6.98 acre property ..." (Petition for Special Exception). The church seeks approval for a forty-foot long structure, consisting of four sections, each approximately three feet deep, five feet high and ten feet long. Although the church has not yet determined how each section will be constructed or subdivided, its preliminary "concept" suggests that each will contain forty-eight niches, each holding at least two urns interring cremated human remains. When fully built, the columbarium would house the remains of more than 400 people.

The Zoning Commissioner of Baltimore County held two hearings on the petition. On October 31, 1997, the petition was granted, approving the columbarium as a use accessory to a church. Mr. Robinson timely appealed to the County Board of Appeals of Baltimore County. The Board heard the *de novo* appeal on December 1, 1998.

II. Issues presented.

A. Whether petitioner failed to meet its burden of proving all the required predicates for special exception approval.

B. Whether the evidence establishes that the predicates for special exception approval are absent here.

C. Whether petitioner's proposal is so indefinite as to constitute an improper request for an advisory opinion of the Board.

D. Whether neighboring properties should be protected from commercial or public use of the columbarium.

III. Petitioner's Evidence.

A. Testimony of Frederick N. Chadsey.

Frederick N. Chadsey is a licensed professional civil engineer. When asked to describe what grading and landscaping the church proposed for the site, Mr. Chadsey responded that "we have got a couple of concepts which have not necessarily been finalized." (Tr. at 31). He explained that the most recent iteration of the "concept drawing" -- Petitioner's Exhibit 2 -- showed the columbarium surrounded by "about a three foot berm with about a three-foot cut", but, he testified, the church is "actually thinking about probably creating the berm to be a few feet higher." (Tr. at 31). When asked to describe the type and size of the panels, Mr. Chadsey stated, "I'm not sure, again, of the final materials ... [b]ut essentially, a panel is about three feet deep, about five feet high and about ten feet long in one panel, and each one of those panels, on each face, will be twenty-four niches, or box locations for cremated remains to be located in." (Tr. at 32-33). Though the church has not finalized its landscaping or grading plans, (tr. at 31-32), Mr. Chadsey opined that the church "could" grade the land so as to screen the columbarium from view. (Tr. at 33).

Mr. Chadsey gave his opinion that the proposed columbarium would have no effect on adjoining properties because it "will not be visible ... does not adjoin any adjoining properties ... [and is] not accessible from other properties." (Tr. at 40). Mr.

Chadsey was asked, but did not answer, whether "the proposed Memorial Garden and columbarium will have a more detrimental impact at this location in the zone than at another location in the zone." (Tr. at 40-42 (Mr. Chadsey gave a non-responsive answer)). Mr. Chadsey offered his conclusions, without explanation of any basis, that the specific use would not be detrimental to the health, safety or general welfare of the locality involved; create a potential hazard from fire, panic or other dangers; tend to overcrowd land and cause undue concentration of population; interfere with adequate provision for public conveniences; interfere with adequate light and air; be inconsistent with the purposes of the property's zoning classification or be in any other way inconsistent with the spirit and intent of the Baltimore County zoning regulations; or be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations. (Tr. at 43-44). Mr. Chadsey opined that the columbarium would not create traffic congestion not already created by the church's memorial services. (Tr. at 43).

On cross-examination, Mr. Chadsey admitted that commercial activities should not be located in residential areas, as they are inconsistent with the spirit and intent of the zoning regulations concerning residential properties. (Tr. at 45). He further admitted that a cemetery located near a commercial area would have a less detrimental impact on the neighboring properties than would a cemetery located in a purely residential area. (Tr. at 59-60). Mr. Chadsey conceded he is "aware that there is congestion in the parking lot and that it is a difficult location on Dulaney Valley Road to make turns at times." (Tr. at 46). Indeed, he admitted that people attending church functions have parked their vehicles along Dulaney Valley Road. (Tr. at 46.) Mr. Chadsey also conceded that the church property has no side streets and there are no empty business parking lots in the vicinity; he

admitted that a well-attended memorial service would require the church to adjust its existing parking arrangments to handle the overflow. (Tr. at 60-61).

Dulaney Valley Road makes a sharp curve as it passes the church property, (tr. at 54), and Mr. Chadsey is aware that accidents have occurred there, (tr. at 57), but he did not consider the State Highway Administration accident statistics concerning that stretch of road. (Tr. at 58).

The church has not test bored the area to be excavated, and Mr. Chadsey has no idea how the church actually plans to excavate the land -- he could not even rule out the possibility that the church might have to dynamite the property. (Tr. at 72). As he stated, "we are still in the planning stage". (Tr. at 72).

The landscape drawing, petitioner's exhibit 2, was drawn by Mr. Chadsey's firm, under his supervision. (Tr. at 81). Mr. Chadsey admitted that although the drawing purports to be drawn to a "one inch to ten feet" scale, the columbarium is depicted at one-eighth its proposed size. The drawing showed only one of the four proposed sections, and it was shown as if it were five feet long. (Tr. at 86). He testified that everything else was drawn to scale, but he acknowledged that the trees shown in the drawing would be much smaller when purchased than the size depicted, and he could not tell how many years it would take for the trees to mature to the size suggested by the drawing. (Tr. at 86, 100-101). The church has not analyzed the soil to determine whether the suggested trees and plants would grow, although soil analysis is available free of charge through the cooperative extension service. (Tr. at 88).

Mr. Chadsey admitted that the site of the proposed columbarium is visible from Mr. Robinson's home -- Mr. Chadsey could see the "brickwork on Mr. Robinson's house"

when standing at the site. (Tr. at 101). The house is on higher ground than the site. (Tr. at 99-100).

B. Testimony of Jean Jung.

Ms. Jung is the church's authorized "liaison in matters of zoning." (Tr. at 110). The church plans to build a "memorial garden" on its property whether or not the columbarium is approved. (Tr. at 120). Ms. Jung described the columbarium as "in the nature of a monument on a concrete slab that has spaces into which cremated remains can be placed." (Tr. at 114-115). The fronts of the niches will be "covered with a natural stone material of some type." (Tr. at 114). According to Ms. Jung, the church wants the columbarium because it "needed and desired" a place to locate cremated remains of the church's friends, members and their families. (Tr. at 115). When asked whether the columbarium space would be "available to anyone other than church members and their families and the friends as defined," she answered, "No." (Tr. at 115). She admitted that the church does not know how it will limit the columbarium's use. (Tr. at 117, 139).

On cross-examination, Ms. Jung conceded that the church is undecided about how it will maintain the grounds or the columbarium. (Tr. at 142-143). Each ten-foot section of the columbarium will contain 48 niches, but the church does not know how many urns each niche will contain, because "urns come in different sizes." (Tr. at 148-150). The church does not know what the dimensions of the niches will be, because "we are merely at the concept of size and placement." (Tr. at 152). The determination as to how the columbarium will be constructed "has not yet been finalized." (Tr. at 153). The church has not decided what it will charge for the spaces. (Tr. at 153). To Ms. Jung's knowledge, the church has never prepared engineering specifications or drawings for the

sections of the columbarium. (Tr. at 167). Ms. Jung believes that she may have seen a "concept drawing" of the proposed columbarium structure itself, but, in her words, "it's certainly not anything that has the authority of a plat plan that is done and signed by an expert professional." (Tr. at 167). The church has never voted on a final design -- it will do that when the Board tells the church what it will be permitted to do. (Tr. at 168).

Although church congregants have died since Ms. Jung became a member, not one person has had his or her cremated remains placed in a columbarium anywhere, to her knowledge. (Tr. at 140-142). No church member or friend has inquired of her whether the columbarium is being built or is available. (Tr. at 154). Since she has become the liaison, no one has spoken to her about reserving a niche; she has seen no church files indicating that any one ever has made that request. (Tr. at 160-161).

A couple of years ago, a committee of the church was "involved in talking about this and in doing preliminary thinking and in beginning work on rules and regulations," but stopped that decision process. (Tr. at 158-159). That committee set a price of $1,500 for a niche; Ms. Jung did not know whether that would still be the price or even whether the church will sell the niches. (Tr. at 161). The committee printed a brochure stating numerous details concerning the proposed columbarium -- all in present tense, as if it were already built -- but many of the statements in the brochure were inaccurate when written and many other topics have been reopened. (Tr. at 155-164).

3. Testimony of Richard Nugent.

Richard Nugent became "interim minister" of the church in August 1998. (Tr. at 223, 225). He testified that the church has no plans or prices for the sale of columbarium space. (Tr. at 226). The church would intend to cover its costs, but he has no idea what

those costs would be. (Tr. at 226). Rev. Nugent volunteered that he had never seen the church's brochure describing the columbarium and memorial garden. (Tr. at 226).

Rev. Nugent admitted that the church has no plans for enforcing a "members and friends only" limitation on use of the columbarium. (Tr. at 230-231). His testimony indicated that the limitation probably would not be enforced, stating, "We are a church. We are a religious community. Our mission is to help spiritually the life of the members of our congregation. Perhaps more important than any other aspects of our church is being there in the transition aspect of people's lives, whether it's weddings, whether it's the birth, whether it's the death. We attempt to be compassionate." (Tr. at 231-232).

IV. Protestant's Evidence.

A. Testimony of James G. Robinson

The columbarium site is visible from Mr. Robinson's home and property. (Tr. at 176-178, 180, and accompanying photographs admitted as exhibits). Indeed, the Robinsons have an unfettered view of the activities occurring on the church property for seven months of the year -- October through May -- when the trees do not have all their leaves. (Tr. at 179).

Mr. Robinson's house at 1800 Dulaney Valley Road is seven to ten feet higher in elevation than the site of the proposed columbarium, so the residents of that house will be able to look down into it. (Tr. at 174).

The landscaping that the church proposes to install will not be effective to screen the columbarium from view -- Mr. Robinson is intimately familiar with the ground there, which is solid rock, and the trees simply will not grow to the size required to create an effective screen. (Tr. at 184). Mr. Robinson can hear noise from the activities at the

church. (Tr. at 179).

If built, the columbarium and memorial garden will have an adverse impact on neighboring properties, for several reasons. First, there will be an adverse impact because it is objectionable to place a cemetery or other place of internment in an already-existing residential neighborhood. (Tr. at 181). Second, property values will decline, because potential buyers cannot be expected to pay the same price for a property next to a cemetery as they will for a residential property in a neighborhood of this area's present character. (Tr. at 192-193). Based on Mr. Robinson's experience as an owner, buyer and seller of residential and commercial properties in three major cities, he estimates that the construction of this columbarium could cut the price of his property by as much as fifteen to twenty percent of its present value. (Tr. at 192).

Third, the church already holds events for which it has grossly insufficient parking, causing people to park their cars along Dulaney Valley Road and on Mr. Robinson's property. (Tr. at 186-187). The columbarium could add to the frequency of these events. The curve in front of the church is the site of many accidents, including fatal accidents, (tr. at 188), and the risk of these accidents is increased each time the church holds an event that causes people to park along Dulaney Valley Road. Moreover, the traffic on Dulaney Valley Road is already so heavy at times that egress from the properties neighboring the church is all but blocked. (Tr. at 190). The columbarium could add to the frequency of the events that cause these traffic problems. (Tr. at 190-191).

The proposed columbarium is incompatible with the character of the neighborhood. (Tr. at 193-194). The church is surrounded by residential properties with well-maintained homes ranging in value from $600,000 to $2,000,000. (Tr. at 193). It is

a quiet residential area with a country feel -- other than the church, there are no non-residential uses of any property in the vicinity, beginning south of the property and continuing for several miles to the north. (Tr. at 203-204). The property is zoned for residential use and the owners chose it because they were assured that its rural character would be protected by its zoning, unlike other areas of high-priced homes closer in to Baltimore. (Tr. at 202-204).

Finally, Mr. Robinson is concerned by the substantial evidence that the columbarium actually will be another quasi-commercial activity of the church. (Tr. at 182). He has observed the church's incremental expansion of the use of its property -- from the Montessori school that the church permits to operate on its premises, to the summer camp that is run on the property, to an art store. (Tr. at 173-174). The columbarium is further encroachment of what should be considered commercial activity in the midst of this residential area. (Tr. at 182, 198). The church's stated reason for wanting the columbarium -- to house cremated remains in a place of peaceful, quiet meditation -- is inconsistent with its proposed placement on the south side of the church, near the noisy traffic of Dulaney Valley Road. (Tr. at 187-188). The church says that it does not want to expose its neighbors to a view of the columbarium, but again, its proposed placement is the most visible to all neighboring properties and Dulaney Valley Road. (Tr. at 184). Mr. Robinson concludes that the church seeks to place the columbarium at this site precisely because it is visible, which will make it easier to sell to members of the public. (Tr. at 184). And it is clear that the church has no basis for embarking on this venture purely for the use of members and friends -- because congregants have expressed no interest in being interred in the columbarium, no

congregants have been interred at other columbaria, and the number of people whose ashes could be interred at the proposed structure is significantly greater than the full present membership of the church. (Tr. at 185-186; 196-198).

There are other, more appropriate places in the zone for building a columbarium, where the adverse impact on neighboring property owners would be substantially less. (Tr. at 203). The Woodbrook Presbyterian Church, which is located in the D.R. 1 zone, has a columbarium. It is in a residential area that has a commercial district -- Charles Street -- running through it. (Tr. at 200 - 203). A columbarium fits in better with the character of a neighborhood in which an established commercial area already exists. (Tr. at 203). A homeowner who chooses to live in a zone with commercial would be significantly less adversely affected by installation of a columbarium than homeowners who have chosen to live in a protected, rural area with no commercial for miles around. (Tr. at 202-204). In fact, the church could locate the structure elsewhere on its property -- on the southwest side -- without causing the same adverse effect. (Tr. at 196-197).

B. Exhibit -- accident survey by State Highway Administration.

This document establishes that the stretch of Dulaney Valley Road in front of the church is the location of numerous accidents.

C. Exhibit -- letter from Valley Garth Community Association.

This document establishes opposition by an association of property owners adjacent to the proposed columbarium.

V. Argument.

A. Applicable law.

The Baltimore County Code, Section 26-166 requires that development of land

must promote the health and safety of the public and of existing communities served. Section 26-167 states that development is to be compatible with the neighborhood to minimize adverse and environmental, traffic and economic impact.

A petitioner bears the burden of proving that a proposed use meets all standards and requirements of the zoning plan. *Schultz,* 291 Md. at 11. This is because a petitioner's "right to a special exception is predicated upon his compliance with safeguards enumerated in the portion of the zoning ordinance which establishes the existence of the right." *Martin Marietta Aggregates v. Citizens*, 41 Md.App. 26, 34 (1978).

The Board must "determine whether conditions exist which make the case an appropriate one for the granting of the exception, and whether there is legally competent evidence to support a finding that the granting of the exception is not adverse to the public interest." *Id.* Special exception uses have inherent adverse effects. *Schultz v. Pritts*, 291 Md. 1, 15 (1981); *Mossburg v. Montgomery Co.*, 107 Md. App. 1 (1995). Accordingly, the board must deny a request for special exception use if it "would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone." *Schultz*, 291 Md. at 15. Put another way, a special exception use must be denied when "the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Id.* The "proper question is whether those adverse effects are above and beyond, *i.e.*, greater here than they would generally be elsewhere within the areas of the county where they may be

established." *Mossburg*, 107 Md. App at 9.

If the particular structure or use could be placed elsewhere on the petitioner's property and thereby cause less adverse effect on neighboring properties, then the requested special exception should be denied. *Board of County Commissioners v. Holbrook*, 314 Md. 210 (1988) (Holding that special exception request for placement of a mobile home was properly denied because the structure could have been placed elsewhere on the petitioner's property without affecting the value of the neighbor's property). Similarly, the Board should consider the cumulative adverse effects on neighboring properties in determining whether to allow a special exception. *See, e.g., Moseman v. County Council of Prince George's County*, 99 Md. App. 258 (1994) (Affirming the denial of a requested special exception because, among other things, the adverse effect of the proposed use would be additional to the adverse effect of other uses permitted by prior special exception); *Brandywine v. Prince George's County*, 117 Md. App. 525 (1997) (Affirming the denial of a special exception for a rubble fill extension because of the cumulative adverse effect on adjoining landowners).

The zoning board must evaluate "whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan." *Schultz*, 291 Md. at 11.

In addition, the Board must deny a petition for special exception if petitioner fails to establish that the use for which the special exception is requested will not:

1. Be detrimental to the health, safety, or general welfare of the locality involved;

2. Tend to create congestion in roads, streets or alleys therein;

3. Create a potential hazard from fire, panic, or other danger;

4. Tend to overcrowd land and cause undue concentration of population;

5. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

6. Interfere with adequate light and air;

7. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the zoning regulations; nor

8. Be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations.

Baltimore County Zoning Regulations, § 502.1.

B. Petitioner Failed To Meet Its Burden Of Proving The Required Predicates For Special Exception Approval.

Petitioner has failed to adduce any evidence whatsoever that the proposed columbarium will have less adverse effect at this location than elsewhere in the zone. Mr. Chadsey failed to answer that question when asked, then later admitted that a cemetery or funeral establishment *would* have less detrimental effect on neighboring properties if located in a residential area that already had commercial areas in the vicinity. Petitioner was not permitted to adduce this evidence from lay witness Jean Jung. (Tr. at 120, 122). Thus, the only evidence on the point, offered by petitioner's expert witness, is that the columbarium would have a greater detrimental impact where proposed than elsewhere in the zone. Petitioner's failure to prove this essential point is sufficient ground, in and of itself, to deny the petition. *See Schultz, supra,* 291 Md. 1; *see also Holbrook, supra*, 314 Md. 210.

Petitioner likewise failed to meet its burden of establishing the conditions required

by section 502.1, as its only evidence was Mr. Chadsey's conclusory opinions which were revealed on cross-examination to be baseless. For example, Mr. Chadsey testified that the 40-foot long columbarium would have no adverse effect on neighbors because it would not be visible to neighboring properties, but admitted on cross-examination that he could literally see the brickwork on Mr. Robinson's home from the site. Similarly, he admitted that he knew the road in front of the church was dangerous and that churchgoers park their cars along Dulaney Valley Road at crowded events, but he failed even to check the relevant traffic statistics in developing his opinion. Mr. Chadsey's selective use of scale in his drawing, evidencing his partisan interest in the outcome, affords ample basis for finding his testimony not to be credible.

C. The Evidence Establishes That The Predicates For Special Exception Approval Are Absent Here.

The undisputed evidence establishes that the proposed columbarium would have a more detrimental impact at the proposed location than at another location in the zone. The proposed site is in an otherwise pristine rural residential area. There are other sites in the D.R. 1 zone that are near commercial areas, where a columbarium would have materially less impact. (*See* Mr. Robinson's testimony concerning the columbarium at Woodbrook Presbyterian Church; accompanying photographs admitted as exhibits; Baltimore County Zoning Map admitted as exhibit).

In fact, the proposed columbarium could be located elsewhere *on the church property* with less detrimental effect on its neighbors. (Tr. at 196-197). This is a further ground for denial of the petition. *Holbrook*, 314 Md. 210.

The proposed columbarium would be detrimental to the health, safety and general welfare of the neighboring properties, because it is objectionable to build a place of

interment in an existing residential neighborhood, (tr. at 181), and property values will decline. (Tr. at 192-193). It will increase congestion in the local roads, because it will increase the number of events at the church property, causing additional traffic and parking problems on a dangerous stretch of road. The columbarium would be inconsistent with the purposes of the property's zoning classification and the spirit and intent of the zoning regulations -- in this neighborhood, the zoning protects a residential area of rural character from commercial or quasi-commercial incursion. The columbarium proposal violates the spirit of those protections and is incompatible with the character of the neighborhood. Moreover, the cumulative effect of the proposed columbarium in addition to the effects of the church services, concerts, dances, art gallery, summer camp and Montessori school, is significant. The special exception should be denied. *See Moseman, supra*, 99 Md. App. 258 (Affirming denial of request for special exception because, *inter alia*, the proposed exception would have a cumulative effect on surrounding rural properties, road access was inadequate, the existing use of the property caused odors, noise and traffic back-ups, and the proposed use was not in harmony with the purposes of the zoning ordinance); *People's Counsel v. Mangione*, 85 Md. App. 738 (1991) (Affirming denial of special exception for a nursing home in a residential area).

D. Petitioner's Proposal Is So Indefinite As To Constitute An Improper Request For An Advisory Opinion.

The most notable feature of the proposed columbarium is the uncertainty surrounding its design, materials, installation, site characteristics, use, cost, prices, maintenance, landscaping and enforcement of limitations on its use. Petitioner requests a special exception for a structure and use but presents only a concept. The Board lacks authority to provide an advisory opinion to a property owner who wants to know what to

build. Rather, a petitioner must submit a plan and proposal, upon which the commissioner (and later, if necessary, the board) may rule. Here, although petitioner initially submitted a basic site plan, the testimony of its witnesses and petitioner's exhibit 2 make clear that petitioner no longer intends to press that plan. In the face of objection, petitioner has abandoned its original plans and now proffers only that it will build whatever it is allowed to build. The petition should be denied.

E. The Neighboring Properties Should Be Protected From Any Commercial Or Public Use Of The Columbarium.

Although petitioner claims that the church will permit only its members, friends and their immediate families to be interred in the columbarium, the church proffered no meaningful mechanism for enforcing this supposed limitation. As reviewed above, the evidence -- including the placement of the structure in the front of the property, where it is most visible, and the plan to provide space for more people than the entire church membership although no church member has expressed any interest whatsoever in being interred in the columbarium and none has been interred in any columbarium elsewhere -- suggests that the church may intend to build this facility for public access. Even if that is not the church's present intent, basic market factors may dictate that the church open the columbarium to a wider public once it is built.

If the request for special exception is not denied altogether, at a minimum, neighboring properties should be protected from any commercial or public use of the columbarium. The Board should impose stringent restrictions limiting use of the columbarium to members of the Towson Unitarian Universalist Church and its "friends" as defined at the hearing.

V. Conclusion.

For the reasons set forth above, the request for special exception should be denied and the decision of the Zoning Commissioner reversed.

Respectfully submitted,

J. Neil Lanzi, Esq.
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Attorneys for protestant James G. Robinson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of December, 1998, a copy of the foregoing Protestant's Closing Argument Brief was hand-delivered to Deborah C. Dopkin, Esquire, 409 Washington Avenue, Suite 920, Towson, Maryland 21204.

J. Neil Lanzi

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

November 21, 1997

Leo Francis Partridge
21 Strabane Court
Baltimore, MD 21234

RE: Petition for Special Exception
W/S Dulaney Valley Road, 1755' N c/l Pot Spring Road
(1710 Dulaney Valley Road)
8th Election District
4th Councilmanic District
Towson Unitarian Universalist Church - Petitioner
Case No. 97-404-X

Dear Mr. Partridge:

Please be advised that an appeal of the above-referenced case was filed in this office on November 21, 1997 by J. Neil Lanzi, Esquire on behalf of James G. Robinson. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 410-887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:rye

c: Mr. and Mrs. Robert Zack
Mr. Charles R. Little
Ms. Mary B. Beere
People's Counsel

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APPEAL

Petition for Special Exception
W/S Dulaney Valley Road, 1755' N of the c/l Pot Spring Road
(1710 Dulaney Valley Road)
8th Election District - 4th Councilmanic District
Towson Unitarian Universalist Church - Petitioner
Case No. 97-404-X

✓ Petition for Special Exception

✓ Description of Property

✓ Certificate of Posting

✓ Certificate of Publication

✓ Entry of Appearance of People's Counsel

✓ Zoning Advisory Committee Comments

✓ Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:
✓ 1 - Plat to Accompany Petition for Special Exception
✓ 2 - Site Plan

Protestants' Exhibits:
✓ 1 - Article about Memorial Garden and Columbarium
✓ 2 - Nine Photographs
✓ 3 - Petition in Opposition to Unitarian Universalist Church Memorial Garden and Columbarium

✓ Copies of pages of the *Annotated Code of Maryland*

✓ Letter with Attachments from Lawrence Schmidt, Zoning Commissioner, to Leo Francis Partridge, Esquire dated May 14, 1997 ✓E

✓ Letter from Kenneth D. Pezzulla, Esquire to the Zoning Commissioner of Baltimore County dated October 14, 1997

✓ Zoning Commissioner's Order dated May 9, 1997 (Granted)

✓ Zoning Commissioner's Order dated June 5, 1997 to Stricken the Findings of Fact and Conclusion and Order dated May 9, 1997

✓ Zoning Commissioner's Order dated October 31, 1997 (Granted)

✓ Notice of Appeal received on November 21, 1997 from J. Neil Lanzi, Esquire on behalf of James G. Robinson

c: J. Neil Lanzi, Esquire, ~~300 Allegheny Avenue, Towson, MD 21204~~ ✓
Leo Francis Partridge, 21 Strabane Court, Baltimore, MD 21234
Mr. Jay Cherry, President, Board of Trustees, Towson Unitarian Universalist Church, 1710 Dulaney Valley Rd, Lutherville, MD 21093
Mr. and Mrs. Robert Zack, 1825 Blakefield Circle, Towson, MD 21204 Lutherville 21093
Mr. Charles R. Little, 1802 Dulaney Valley Road, Towson, MD 21204
Ms. Mary B. Beere, 8810 WALTHER BLVD APT 1205 PARKVILLE MD 21234-0007 MD - 21204
New address 12/09/98
People's Counsel of Baltimore County, M.S. 2010
Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM

J. Neil Lanzi, Esquire
Mercantile Building Suite 617
409 Washington Avenue
Towson, MD 21204
(new address as of 5/98)

Deborah C. Dopkin, Esquire
409 Washington Avenue, Suite 920
Towson, MD 21204 (entered appearance for Towson Unitarian)

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Co-counsel for Mr. Robinson:
Dana M.S. Wilson, Esquire
OLANDER & SHAPIRO
36 S. Charles Street, Fl 20
Baltimore, MD 21201

To Given for filing 9/9/97

Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

September 9, 1997

J. Neil Lanzi, P.A.
300 Allegheny Avenue
Towson. Maryland 21204

Leo F. Partridge, Esquire
21 Strabane Court
Baltimore, Maryland 21234

RE: PETITION FOR SPECIAL EXCEPTION
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(1710 Dulaney Valley Road)
8th Election District - 4th Councilmanic District
Towson Unitarian Universalist Church - Petitioner
Case No. 97-404-X

Dear Counsel:

This letter is to follow up my recent conference and telephone conversations with each of you regarding the rehearing of the above-captioned matter. Due to the unavailability of Mr. Robinson on October 7, 1997, this matter has been reset to Tuesday, October 14, 1997. The hearing will be held at 9:00 AM in Room 407 of the County Courts Building.

This matter comes before me in somewhat of an unusual posture, in that this case was previously considered by me in open hearing. In that I am familiar with the Petitioner's plans, I suggest that the hearing proceed by way of modified proffer and/or limited testimony. That is, the Petitioner's witnesses should be able to summarize their previous testimony and generally describe the Church's plans and the requested relief within the Petition for Special Exception. I will afford Mr. Lanzi an opportunity to cross-examine those witnesses relative to their testimony and/or proffer. Also, an opportunity will be provided for Mr. Robinson to testify as to his reasons for opposition. Mr. Partridge will, of course, be given the opportunity to cross-examine Mr. Robinson. Mr. Lanzi can also offer any other testimony or evidence which is appropriate, subject to cross-examination and/or rebuttal.

Please call me should you have any questions regarding this matter, and I look forward to seeing each of you on October 14, 1997.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: People's Counsel; Case Files

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Recycled Paper

10/3/97

IN RE: PETITION FOR SPECIAL EXCEPTION
W/S Dulaney Valley Road, 1755' N
of the c/l Pot Spring Road
(1710 Dulaney Valley Road)
8th Election District
4th Councilmanic District

Towson Unitarian Universalist Church
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 97-404-X
*

* * * * * * * * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter again comes before this Zoning Commissioner on a rehearing, pursuant to a Motion for Reconsideration filed by an adjoining property owner, James G. Robinson. By way of background, this matter originally came before me for a public hearing on April 29, 1997. The Petitioner, Towson Unitarian Universalist Church, requested special exception relief to permit the use of a portion of the property for a columbarium as a use accessory to the Church. Specifically, the Petitioner sought approval for the designation of a small area of the subject property, approximately .35 acres, for a Memorial Garden and Columbarium as a repository for the cremated remains of Church members. The subject property and relief sought are more particularly described on the site plan submitted into evidence as Petitioner's Exhibit 1.

At the original hearing, a number of members of the Towson Unitarian Universalist Church appeared and testified in support of the relief requested. No interested persons or Protestants were present; thus, no opposition was offered to the request. Following that hearing, I authored a Findings of Fact and Conclusions of Law and Order dated May 9, 1997. By that Order, I granted the Petition for Special Exception. Subsequent thereto, the Motion for Reconsideration was filed by James G. Robinson, through Counsel, requesting that the matter be reset for an additional

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Date 10/3/97
By

hearing. By agreement of the parties, an Order dated June 5, 1997 was entered, striking the prior Findings of Fact and Conclusions of Law and Order dated May 9, 1997 and another hearing scheduled. After several postponements, a second public hearing was conducted on October 14, 1997.

At that second hearing, a number of Church members again appeared and testified. They included Charles H. Lee, an engineer and member of the Church, and Jay Cherry, a member of the Board of Trustees of the Church. The other Church members and supporters of the Petition who appeared at the hearing are reflected in the Sign-In Sheets contained within the case file. The Petitioner was represented by Leo F. Partridge, Esquire. A number of Protestants also appeared. They included James G. Robinson, the adjacent property owner, and his son, Michael J. Robinson. Mr. James Robinson was represented by J. Neil Lanzi, Esquire. Also appearing in opposition to the request were Robert and Roxanne Zack, Charles R. Little, and Mary Beere.

Testimony and evidence offered revealed that the subject property consists of approximately 6.98 acres in area, zoned D.R.1 and is located on Dulaney Valley Road, just north of its intersection with Pot Spring Road in Lutherville. Presently, the property is improved with a two-story masonry structure which is used as a Church building. The property also contains an existing parking area with access from Dulaney Valley Road. Testimony and evidence revealed that the Church is seeking approval to construct a columbarium on the property. The columbarium will be a series of connected panels/walls located within a memorial garden in the interior of the site. Each wall/panel will be approximately 3' wide, 5' tall, and 10' deep, as more particularly shown on the site plan. There are 4 panels proposed, which, in total, will accommodate 192 cremated remains. It was indicated that those remains will mainly be of Church members, other mem-

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Date 11/21/97
By

bers of this religious denomination, and friends of the Church who desire to have their remains interred on the property.

Charles H. Lee, Church member and civil engineer, also testified. Mr. Lee indicated that the columbarium and memorial garden would be located within the interior of the property and not adjacent to any property line. He also observed that the required Residential Transition Area (RTA) buffer of 100 feet would be maintained. The columbarium will also be screened by trees and plants which will comprise the memorial garden. Mr. Lee and Mr. Cherry both testified that in their judgment, the proposal will produce a garden-like effect and that the proposed use will not be detrimental to the health, safety or general welfare of the locale.

Testimony was also received from the Protestants who appeared. Roxanne Zack, a realtor who lives nearby, testified in opposition to the request. She indicated that in her opinion, most people do not wish to live next to cemeteries. Based on this belief, she believes that the proposed use will be detrimental to the health, safety and general welfare of the locale and urges a denial of the Petition for Special Exception. Her testimony must be considered incredible for two reasons. First, she is not a licensed appraiser, and thus, by law, does not possess the requisite expertise to testify as to property values. More importantly, what is proposed here is not a cemetery. The proposed use here is significantly different than what goes on at, for example, the Dulaney Valley Memorial Gardens, which is located a short distance away. Moreover, this Zoning Commissioner has entertained numerous cases in the past regarding requests for approval of the use of properties as cemeteries. Quite often, individuals have appeared in support of those Petitions, preferring the quiet and undeveloped nature of a cemetery to a potential housing development, for

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Date 1/31/90
By

example. For all of these reasons, I do not find Ms. Zack's testimony persuasive.

A similar conclusion was reached with respect to the testimony of Mr. Robinson. He obviously has differences with the Church in the nature of a neighborhood squabble. Mr. Robinson also indicated that the project should be denied and that he, as owner of 5 adjacent lots, pays property taxes on same, and thus the Petition should be denied. I do not find any of his testimony persuasive on the issues presented.

Lastly, testimony was also received from Charles Little, another adjacent property owner. Mr. Little's testimony was more on point to the relative issues and related to potential traffic congestion. However, as indicated at the hearing, the subject proposal is expected to generate little additional traffic to the site, and existing traffic conditions and patterns in the area, despite being difficult at certain times, are not a basis on which the subject Petition should be denied.

As noted earlier in this opinion, the subject property is zoned D.R.1 and the principal structure thereon is used as a Church by the members of the Towson Unitarian Universalist congregation. A Church is a use permitted as of right in the D.R. zone, pursuant to Section 1B01.1.A.3 of the Baltimore County Zoning Regulations (B.C.Z.R.). Additionally, the B.C.Z.R. permit accessory uses or structures in the D.R.1 zone. An accessory use or structure is defined in Section 101, as "A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal

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Date 12/3/99
By

use or structure served..." Typical examples of accessory structures would be a detached garage to a dwelling in the D.R. zone, and a freestanding barn to a farmhouse in the R.C. zone. In my judgment, the structure proposed for use as a columbarium falls within the accessory use or structure definition. It is clearly customarily incidental or subordinate to the Church; is subordinate in area, extent or purpose to the Church building and use; is located on the same lot as the Church building; and contributes to the convenience or necessity of the operation of the Church. Thus, the proposed columbarium and garden area, which is shown on the site plan as occupying approximately .35 acres of the overall tract, is undoubtedly accessory in nature and character to the Church. It is not a second principal use on the property, nor is it a separate commercial use in character.

Moreover, the Protestants labored mightily during the hearing to equate the proposed use to a cemetery or similar large-scale area dedicated to storing the remains of the dead. Section 101 of the B.C.Z.R. provides definitions to many of the words used in the regulations. For words which are not specifically defined therein, the statute states that the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged should be used. Webster's defines columbarium as "A structure of vaults lined with recesses for cinerary urns." A mausoleum is defined as "A magnificent tomb, or a tomb for more than one person. A cemetery is defined as "Any burial ground, typically a large one, or a grave yard."

Although each of these three terms represents a place where the storage of human remains occurs, the physical characteristics and impacts associated with each use are dramatically different. The columbarium

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Date 11/3/17
By KCB

proposed here is relatively small in size, especially compared with a mausoleum. Moreover, the human ashes will be stored in an above-ground vault as opposed to a cemetery burial ground. Thus, the Protestants' contention that a cemetery, mausoleum and columbarium are all one and the same and carry similar impacts is incorrect.

As to the potential impacts of the columbarium on the surrounding neighborhood, significant testimony was offered by the Petitioners at the hearing. This testimony was persuasive that the impact will be minimal and not detrimental to the surrounding locale. The Church presently conducts memorial services for deceased members of the congregation and the schedule of those services will not be altered as a result of the columbarium. Moreover, due to the nature of the structure, there will be no adverse environmental impacts. In sum, I find that there will be no detrimental impact upon the health, safety or general welfare of the community.

Based upon the aforegoing, I am persuaded to grant the Petition for Special Exception. In my judgment, the proposed use is appropriate and the Petition should therefore be granted.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31st day of October, 1997 that the Petition for Special Exception seeking relief to permit the use of a portion of the property for a columbarium as a use accessory to the Church, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order;

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Date 10/31/97
By

30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 10/31/89
By

Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

TE - TP
NOV 13 1997

October 31, 1997

Leo Francis Partridge, Esquire
21 Strabane Court
Baltimore, Maryland 21234

RE: PETITION FOR SPECIAL EXCEPTION
W/S Dulaney Valley Road, 1755' N of the c/l Pot Spring Road
(1710 Dulaney Valley Road)
8th Election District - 4th Councilmanic District
Towson Unitarian Universalist Church - Petitioner
Case No. 97-404-X

Dear Mr. Partridge:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Jay Cherry, President, Board of Trustees
Towson Unitarian Universalist Church, 1710 Dulaney Valley Road,
Luthervile, Md. 21093

J. Neil Lanzi, Esquire, 300 Allegheny Avenue, Towson, Md. 21204
Mr. & Mrs. Robert Zack, 1825 Blakefield Circle, Towson, Md. 21204
Mr. Charles R. Little, 1802 Dulaney Valley Road, Towson, Md. 21204
Ms. Mary B. Beere, 1801 Blakefield Circle, Towson, Md. 21204

People's Counsel; Case Files

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on Recycled Paper

Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

June 10, 1997

J. Neil Lanzi, Esquire
300 Allegheny Avenue
Towson, Maryland 21204

RE: Case No. 97-404-X
Towson Unitarian Universalist Church, Petitioner

Dear Mr. Lanzi:

Receipt of your letter and copy of Order dated June 4, 1997 is hereby acknowledged.

By agreement of counsel, the above captioned case will be re-scheduled for a Monday or Tuesday in August of 1997. As a result of this agreement, my Findings of Facts and Conclusions of Law, dated May 9, 1997, will be stricken and the Petition for Special Exception will be heard again before me in August.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
c: Leo F. Partridge, Esquire
21 Strabane Court
Baltimore, Maryland 21239

c: People's Counsel

att. Copy of signed Order

bc: Gwen Stephens PDM

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on Recycled Paper

6/ 97

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S Dulaney Valley Rd. 1755'N of
c/1 Pot Spring Road, etc. * ZONING COMMISSIONER
1710 Dulaney Valley Road
8th Election District * OF BALTIMORE COUNTY
4th Councilmanic District
Towson Unitarian Universalist * Case No. 97-404-X
Church, Petitioner

* * * * * * * * * *

ORDER

WHEREAS, pursuant to a Petition for Special Exception filed by Towson Unitarian Universalist Church for the property located at 1710 Dulaney Valley Road, Lutherville, Maryland; and

WHEREAS, testimony having been taken on or about April 29, 1997; and

WHEREAS, having issued Findings Of Fact And Conclusions Of Law And Order dated May 9, 1997 granting Petitioner's Petition for Special Exception; and

WHEREAS, a letter was received on or about May 9, 1997 from J. Neil Lanzi, Esquire for James G. Robinson, owner of the properties known as 1718, 1720 and 1798 Dulaney Valley Road, which letter requested the reconvening of the hearing for this case; and

WHEREAS, Petitioner, Towson Unitarian Universalist Church by letter dated May 20, 1997 agreed to the reconvening of the hearing of this case.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 5th day of June, 1997, that the Findings Of Fact and Conclusions Of Law And Order dated May 9, 1997 in this case be and are hereby stricken; and

IT IS FURTHER ORDERED, that this matter be scheduled for an additional hearing at a date to be agreed by the Parties, without any further posting necessary.

Lawrence E. Schmidt
Zoning Commissioner for
Baltimore County

ORDER RECEIVED FOR FILING
Date 6/3/97
By [illegible]

robinson\church.ord

Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

May 14, 1997

Leo Francis Partridge, Esquire
21 Strabane Court
Baltimore, Maryland 21234

RE: PETITION FOR SPECIAL EXCEPTION
W/S Dulaney Valley Road, 1755' N of the c/l of Pot Spring Road
(1710 Dulaney Valley Road)
Towson Unitarian Universalist Church - Petitioner
Case No. 97-404-X

Dear Mr. Partridge:

Contemporaneously with the issuance of my Findings of Fact and Conclusions of Law and Order issued in the above-captioned matter on May 9, 1997, I received a letter from J. Neil Lanzi, Esquire, attorney for James G. Robinson, who owns the properties known as 1718, 1720 and 1798 Dulaney Valley Road, located adjacent to the property owned by your client. Upon receipt of his letter, I spoke to Mr. Lanzi by telephone and advised him that I had issued my written decision in this matter. He requested that I strike that decision, and reconvene the hearing to accept additional testimony. In essence, his request is tantamount to a Motion for Reconsideration as provided under the Maryland rules.

In that Mr. Lanzi's letter was apparently not copied to you, I am forwarding a copy of same along with its attachments, to you and request your immediate response. If both parties agree, I will reconvene the hearing. If there is no agreement, I will take the matter under consideration and advise you accordingly. Mr. Lanzi indicated by phone that it was his intention to file an appeal of my decision if the Motion for Reconsideration was not granted. I do not know whether his position in this regard may color your thinking. Thus, I shall await your response.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: J. Neil Lanzi, Esquire
300 Allegheny Avenue, Towson, Md. 21204

People's Counsel; Case File

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on Recycled Paper

5/9/97

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S Dulaney Valley Rd. 1755' N of
c/l Pot Spring Road, etc. * ZONING COMMISSIONER
1710 Dulaney Valley Road
8th Election District * OF BALTIMORE COUNTY
4th Councilmanic District
Towson Unitarian Universalist * Case No. 97-404-X
Church, Petitioner

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Exception for the property located at 1710 Dulaney Valley Road in Towson. The Petition was filed by the Towson Unitarian Universalist Church, property owner. Special exception relief is requested for approval of a columbarium as a use accessory to a Church. Specifically, the Petition seeks approval for the designation of an area of the subject property, approximately .35 acres total, to be used as a memorial garden and columbarium; as a repository for cremated remains of Church members. The Petition also requests approval of an amendment to the previously approved plan in zoning case 76-90-X.

Appearing at the public hearing held for this case was Jay Cherry, President of the Board of Trustees of the Towson Unitarian Universalist Church. Also present and testifying at the hearing was Charles H. Lee, a civil engineer. Other Church members who appeared in support of the Petition included Anne Lee, Eleanor Kaufman and A.K. Kaufman. The Petitioner was represented by Leo F. Partridge, Esquire. There were no Protestants or other interested persons present.

Testimony and evidence presented was that the subject site is 6.98 acres in area, zoned D.R.1. The property is an irregularly shaped parcel with frontage on Dulaney Valley Road, just north of the intersection of that road and Pot Spring Road. Presently, the property is improved with a two story masonry structure which is used as a Church

ORDER RECEIVED FOR FILING
Date 5/9/97
By M. Gorm

building. The property also contains an existing parking area with access from Dulaney Valley Road.

Mr. Cherry testified on behalf of the Church and stated that approval is requested to construct a columbarium on the property. Actually, the columbarium will be a series of connected panels/walls located within a memorial garden in the interior of the property. Each wall/panel will be approximately 3 ft. wide, 5 ft. tall and 10 ft. deep, as more particularly shown on the site plan. Each panel will have the capacity to store the cremated remains of 48 individuals. It was indicated that these individuals will all be Church members who desire to have their remains cremated and interred on the property.

Charles H. Lee, a Church member and Civil Engineer, also testified. He indicated that the columbarium and memorial garden would be located within the interior of the property and not adjacent to any property line. Moreover, he observed that the RTA buffer of 100 ft. will be observed. The walls/panels of the columbarium will also be heavily screened by trees and plants which will comprise the memorial garden. Mr. Lee corroborated the testimony of Mr. Cherry that there would be no detriment to the health, safety or general welfare of the locale occasioned by these improvements.

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Date
By

The testimony and evidence presented was persuasive that the proposed columbarium use can be considered as an appropriate accessory use to the Church. The columbarium will be utilized only by members of the Church and is not a commercial operation. Moreover, the proposed use is not akin to a funeral home or crematorium, which are facilities used by the public.

Based upon the testimony and evidence offered, all of which was uncontradicted, I am persuaded to grant the Petition for Special

Exception. In my judgment, the proposed use will not be detrimental to the health, safety or general welfare of the locale. Clearly, there will be no impact on other property owners. Thus, the Petition shall be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 9TH day of May 1997 that, pursuant to the Petition for Special Exception, approval of a columbarium as a use accessory to a Church, be and is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

ORDER RECEIVED FOR FILING
Date 5/9/97
By B. Zumerman

Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

May 7, 1997

Leo Francis Partridge, Esquire
21 Strabane Court
Baltimore, Maryland 21234

RE: Case No. 97-404-X
Towson Unitarian Universalist Church, Petitioner
Property: 1710 Dulaney Valley Road

Dear Mr. Partridge:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Exception has been granted with the 30 day restriction.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
encl.
c: Mr. Jay Cherry
President Board of Trustees
1710 Dulaney Valley Road
Timonium, Maryland 21093

Printed with Soybean Ink

Petition for Special Exception

97-404-X

to the Zoning Commissioner of Baltimore County

for the property located at 1710 Dulaney Valley Road, Lutherville, MD 21093

which is presently zoned DR 1

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

A columbarium as a use accessory to a church. The columbarium would be situated in a Memorial Garden and would be a repository for the cremated remains of church members. The Memorial Garden would be approximately .35 acres in total area and would be situated in the center of the 6.98 acre property now owned by the Towson Unitarian Universalist Church, which property is presently improved by a church and a paved parking lot. AND TO AMEND THE PREVIOUSLY APPROVED PLAN IN ZONING CASE 76-90-X

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Legal Owner(s):

Towson Unitarian Universalist Church, Owner
(Type or Print Name)

By: Jay Cherry
Signature

Jay Cherry, President Board of Trustees
(Type or Print Name)

Signature

1710 Dulaney Valley Road 410-825-6045
Address Phone No

Lutherville, Maryland 21093
City State Zipcode

Attorney for Petitioner:

Leo Francis Partridge
(Type or Print Name)

Signature

~~7800 York Road, Suite 135~~ ~~410-821-5920~~
Address Phone No.

~~Towson, Maryland 21204~~
City State Zipcode

21 STRABANE COURT
BALTIMORE, MD
21234

21 STRABANE COURT
410-661-8098

Name, Address and phone number of representative to be contacted

Jay Cherry, President Board of Trustees

Name

1710 Dulaney Valley Road 410-825-6045
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

404

ZONING DESCRIPTION

97-404-X

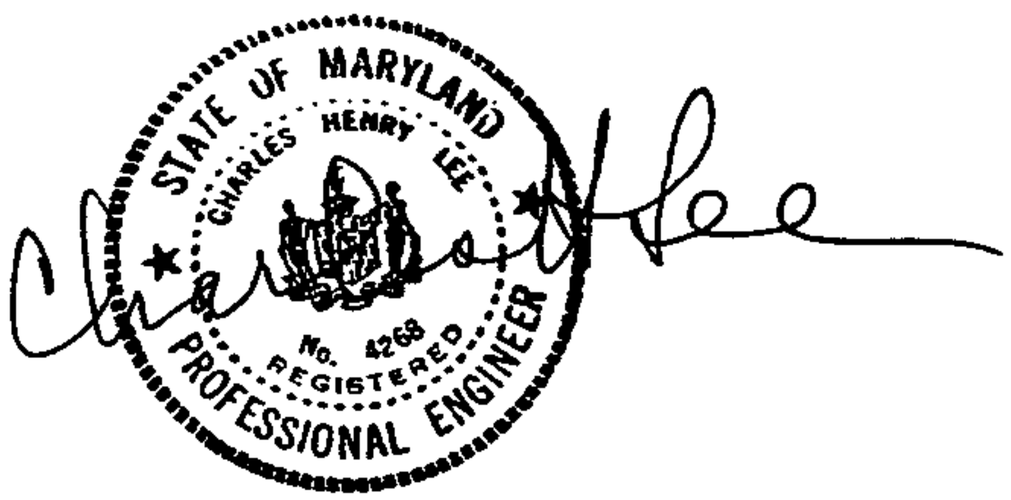
AREA SUBJECT TO SPECIAL HEARING
1710 DULANEY VALLEY ROAD

Beginning at a point on the west side of Dulaney Valley Road, which is 66 feet wide, at a distance of 1,755 feet ± north of the centerline of Pot Spring Road and 250 feet southwest of the west right-of-way line of Dulaney Valley Road. Thence the following courses and distances:

South 80° 30' 00" West, 180.00 feet:
North 35° 15' 40" West, 29.00 feet;
North 34° 36' 09" East, 169.68 feet;
South 35° 15' 08" East, 171.25 feet to the place of beginning,

containing 15,950 square feet (0.37 acre ±); which is a portion of the property recorded in Deed Liber 4741, Folio 431, also known as 1710 Dulaney Valley Road.

This description is to be used for Zoning purposes only and is not to be used for property determination.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 404

Petitioner: Towson Unitarian Universalist Church

Location: 1710 Dulaney Valley Road Lutherville, MD 21093

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Leo F. Partridge

ADDRESS: 21 Strasne Court
Baltimore, Maryland 21234

PHONE NUMBER: 410-661-8098

AJ:ggs

(Revised 09/24/96)

Printed with Soybean Ink

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 04690

DATE 11/21/97 ACCOUNT R-001-6150

AMOUNT $ 285.00

RECEIVED FROM: James G. Robinson

FOR: Appeal - Case # 97-404-X

RYE

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT
PROCESS ACTUAL TIME
11/21/1997 11/21/1997 14:30:08
REG WS05 CASHIER BTRY BXT DRAWER 5
5 MISCELLANEOUS CASH RECEIPT
Receipt # 041144 OPLN
CR NO. 046909
285.00 CHECK
Baltimore County, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 011006

404 JLL

DATE 3/20/97 ACCOUNT R001615D

AMOUNT $ 300.00

RECEIVED FROM: Towson Unit Union Ch.

FOR: SPx filing

DLA00#013:MICHRC $300.00
03/20/97 09:53AM

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PETITION OF: James G. Robinson

/IL ACTION # 3-C-99-000485

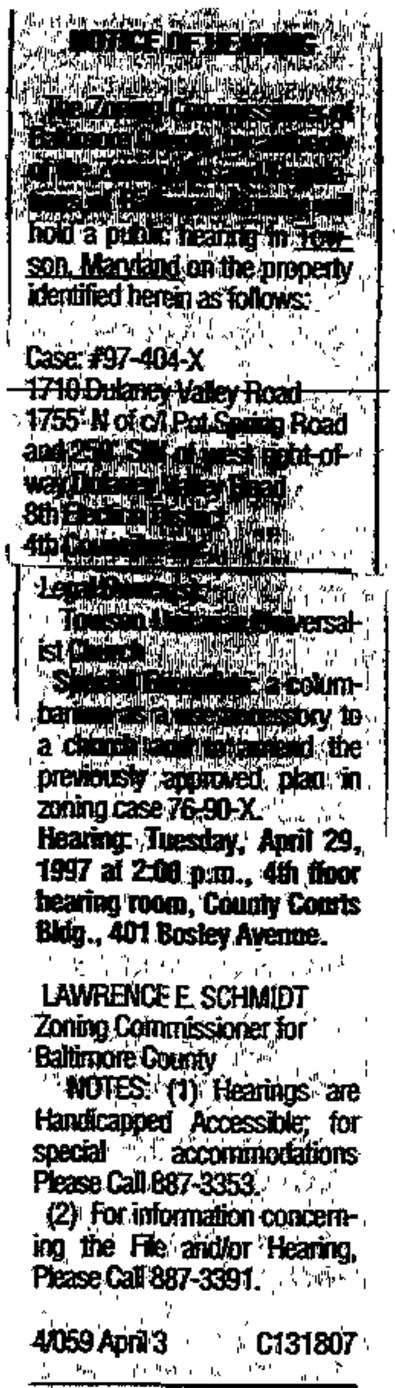
IN THE MATTER OF Towson Unitarian Universalist Church

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE AND EXHIBITS

RECEIVED AND FILED
99 FEB 19 PM 2:54
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Clerk's Office

Date:



NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #97-404-X
1710 Dulaney Valley Road
1755' N of c/l Pot Spring Road and 250' S/W of the S/L right-of-way Dulaney Valley Road
8th Election District
4th Councilmanic

Legal Owner(s): Towson Universalist Church
Special Exception: a columbarium as an accessory to a church and to amend the previously approved plan in zoning case 76-90-X.
Hearing: Tuesday, April 29, 1997 at 2:00 p.m., 4th floor hearing room, County Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.
(2) For information concerning the File and/or Hearing, Please Call 887-3391.

4/059 April 3 C131807

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/3, 1997

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/3, 1997.

THE JEFFERSONIAN,

A. Henrikson

LEGAL AD. - TOWSON

DUP.?

CERTIFICATE OF POSTING

RE: Case No.: 97-404-X

Petitioner/Developer: TOWSON UNITARIAN
661-8098(F)
UNIVERSALIST CHURCH, ETAL
c/o MR. PARTRIDGE, ESQ. - 663-8488

Date of Hearing/Closing: 4/29/97
@ 2:00 P.M.

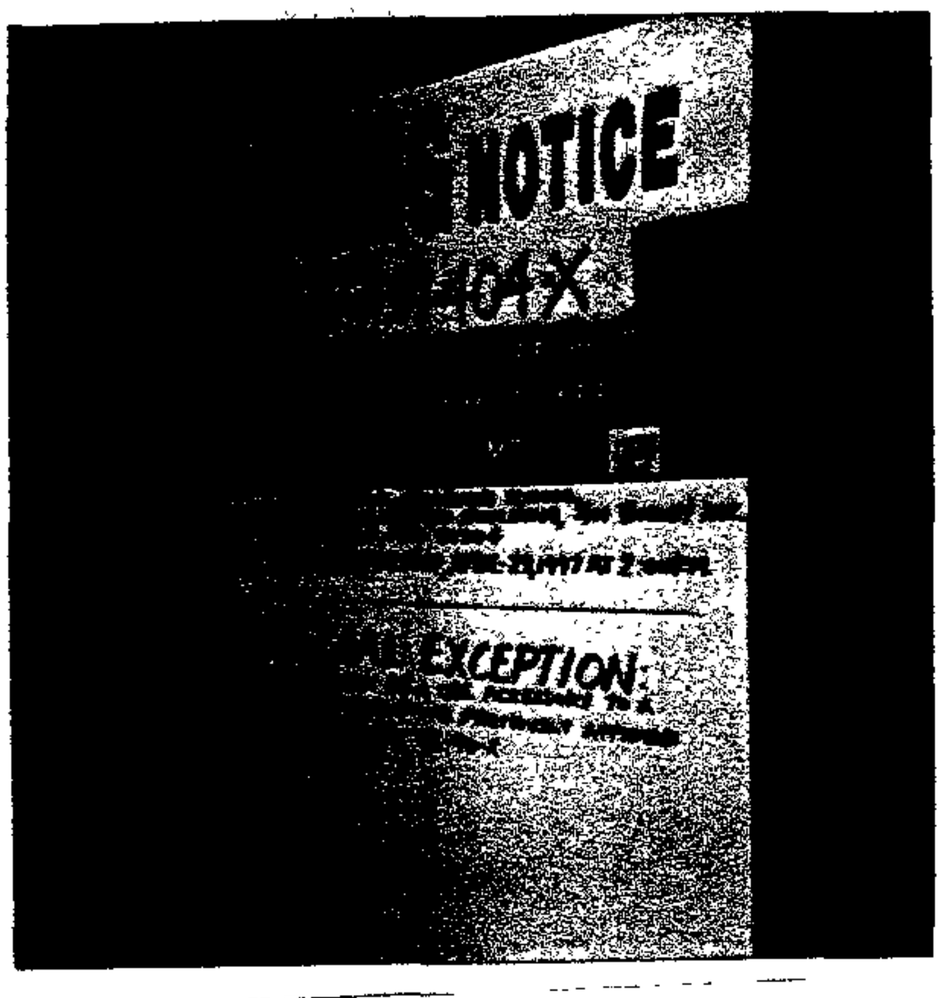
Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #1710 DULANEY VALLEY ROAD

The sign(s) were posted on 4/11/97
(Month, Day, Year)



Sincerely,

Patrick M. O'Keefe 4/15/97
(Signature of Sign Poster and Date)

Patrick M. O'Keefe
(Printed Name)

523 Penny Lane
(Address)

Hunt Valley, MD 21030
(City, State, Zip Code)

(410) 666-5366 Pager (410) 646-8354
(Telephone Number)

B

RE: Case No.: 97-404-X

Petitioner/Developer: TOWSON UNITARIAN UNIVERSALIST CHURCH

Date of Hearing/Closing: _____

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 1710 DULANEY VALLEY RD.

The sign(s) were posted on 12/11/97
(Month, Day, Year)

Sincerely,

2.5.98
SIGNED MAILED -
NOT VISIBLE
FROM ROAD

2/9/98
Sign observed OK
Visible from both directions

Gary Freund 12/11
(Signature of Sign Poster and Date)

GARY FREUND
(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Exhibit B

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than *_____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 97-404-X

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD

PLACE: *

DATE AND TIME: *

REQUEST: A SPECIAL EXCEPTION FOR A COLUMBARIUM (CEMETARY)

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

9/96
post.4.doc

*UPON RECEIPT OF THE NOTICE OF HEARING, THE PETITIONER OR HIS AGENT FILLS IN THIS INFORMATION AND THEN FORWARDS THIS FORM TO THE SIGN POSTER.

TO: PUTUXENT PUBLISHING COMPANY
April 4, 1997 Issue - Jeffersonian

Please foward billing to:

Leo Francis Patridge, Esq.
21 Strabane Court
Baltimore, MD 21234
661-8098

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-404-X
1710 Dulaney Valley Road
W/S Dulaney Valley Road, 1755' N of c/l Pot Spring Road and 250' SW of west right-of-way Dulaney Valley Road
8th Election District - 4th Councilmanic
Legal Owner(s): Towson Unitarian Universalist Church

Special Exception a columbarium as a use accessory to a church and to amend the previously approved plan in zoning case 76-90-X.

HEARING: TUESDAY, APRIL 29, 1997 at 2:00 p.m., 4th floor hearing room, County Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 28, 1997

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-404-X
1710 Dulaney Valley Road
W/S Dulaney Valley Road, 1755' N of c/l Pot Spring Road and 250' SW of west right-of-way Dulaney Valley Road
8th Election District - 4th Councilmanic
Legal Owner(s): Towson Unitarian Universalist Church

Special Exception a columbarium as a use accessory to a church and to amend the previously approved plan in zoning case 76-90-X.

HEARING: TUESDAY, APRIL 29, 1997 at 2:00 p.m., 4th floor hearing room, County Courts Bldg., 401 Bosley Avenue.

Arnold Jablon
Director

cc: Towson Unitarian Universalist Church
Leo Francis Patridge, Esq.

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY APRIL 14, 1997.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink
on Recycled Paper

File

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

April 21, 1998

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 97-404-X

IN THE MATTER OF: TOWSON UNITARIAN UNIVERSALIST CHURCH -Petitioner 1710 Dulaney Valley Road
8th Election; 4th Councilmanic Districts

(Petition for Special Hearing GRANTED by Z.C.)

which was scheduled to be heard on June 11, 1998 has been **POSTPONED** at the request of Counsel for Petitioner due to schedule conflict; and has been

REASSIGNED FOR: TUESDAY, SEPTEMBER 15, 1998 @ 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

cc: Counsel for Appellant /Protestant : J. Neil Lanzi, Esquire
Appellant /Protestant : James G. Robinson

Counsel for Petitioner : Deborah C. Dopkin, Esquire
Petitioner : Towson Unitarian Universalist Church
/Mr. Jay Cherry, President,
Board of Trustees

Leo Francis Partridge

Mr. and Mrs. Robert Zack
Mr. Charles R. Little
Ms. Mary B. Beere

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

RECEIVED
APR 21 1998
PDM

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on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

August 7, 1998

SECOND NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 97-404-X

IN THE MATTER OF: TOWSON UNITARIAN UNIVERSALIST CHURCH -Petitioner 1710 Dulaney Valley Road
8th Election; 4th Councilmanic Districts

(Petition for Special Hearing GRANTED by Z.C.)

which was scheduled to be heard on September 15, 1998 has been **POSTPONED** at the request of Counsel for Appellant due to Appellant's schedule conflict; and has been

REASSIGNED FOR: **TUESDAY, DECEMBER 1, 1998 @ 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

cc: Counsel for Appellant /Protestant : J. Neil Lanzi, Esquire
Appellant /Protestant : James G. Robinson

Counsel for Petitioner : Deborah C. Dopkin, Esquire
Petitioner : Towson Unitarian Universalist Church
/Mr. Jay Cherry, President,
Board of Trustees

Leo Francis Partridge

Mr. and Mrs. Robert Zack
Mr. Charles R. Little
Ms. Mary B. Beere

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

April 10, 1998

NOTICE OF ASSIGNMENT

CASE #: 97-404-X

IN THE MATTER OF: TOWSON UNITERIAN UNIVERSALIST CHURCH -Petitioner 1710 Dulaney Valley Road
8th Election; 4th Councilmanic Districts
(Petition for Special Hearing GRANTED by Z.C.)

ASSIGNED FOR: THURSDAY, JUNE 11, 1998 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

cc: Counsel for Appellant /Protestant : J. Neil Lanzi, Esquire
Appellant /Protestant : James G. Robinson

Counsel for Petitioner : Leo Francis Partridge, Esquire
Petitioner : Towson Unitarian Universalist Church
/Mr. Jay Cherry, President,
Board of Trustees

Mr. and Mrs. Robert Zack
Mr. Charles R. Little
Ms. Mary B. Beere

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

April 21, 1998

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 97-404-X

IN THE MATTER OF: TOWSON UNITARIAN UNIVERSALIST CHURCH -Petitioner 1710 Dulaney Valley Road
8th Election; 4th Councilmanic Districts

(Petition for Special Hearing GRANTED by Z.C.)

which was scheduled to be heard on June 11, 1998 has been **POSTPONED** at the request of Counsel for Petitioner due to schedule conflict; and has been

REASSIGNED FOR: **TUESDAY, SEPTEMBER 15, 1998 @ 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

pp'd to 12/01/98 @ bd of Appeals

Kathleen C. Bianco
Administrator

---

cc: Counsel for Appellant /Protestant : J. Neil Lanzi, Esquire
Appellant /Protestant : James G. Robinson

Counsel for Petitioner : Deborah C. Dopkin, Esquire
Petitioner : Towson Unitarian Universalist Church
/Mr. Jay Cherry, President,
Board of Trustees

Leo Francis Partridge

Mr. and Mrs. Robert Zack
Mr. Charles R. Little
Ms. Mary B. Beere

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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on Recycled Paper

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

April 28, 1997

Leo Francis Partridge, Esquire
21 Strabane Court
Baltimore, MD 21234

RE: Item No.: 404
Case No.: 97-404-X
Petitioner: Jay Cherry, President

Dear Mr. Partridge:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on March 20, 1997.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (410-887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

Printed with Soybean Ink
on Recycled Paper

B A L T I M O R E C O U N T Y, M A R Y L A N D

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: 3/23/97

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: March 31, 97

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:

396
397
398
401
402
403
404
405
406
408

RBS:sp

BRUCE2/DEPRM/TXTSBP

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 4.1.97
Item No. 404 JLC

Dear Ms. Eubanks:

We have reviewed the referenced item and we have no objection to approval, as a field inspection reveals the existing entrance(s) onto MD/US 146 are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA projects.

Please contact Larry Gredlein at 410-545-5606 if you have any questions. Thank you for the opportunity to review this item.

Very truly yours,

R. J. Gredlein

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

B A L T I M O R E C O U N T Y , M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development
Management

DATE: April 2, 1997

FROM: Pat Keller, Director
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 387, 396, 402, 404, 405, 406, 407, and 408

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3495.

Prepared by: Jeffrey W. Long

Division Chief: Carl L. Kerns

PK/JL

ITEM387/PZONE/ZAC1

Baltimore County Government
Fire Department

8

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 10/07/96

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF April 17, 1997

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

397, 402, 403, 404, 405, 406, 407, and 408

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed on Recycled Paper

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Management

Date: April 7, 1997

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for April 7, 1997
Item Nos. 402, 403, 404, 405, 406, 407, 408 and 386

The Development Plans Review Division has reviewed the subject zoning item, and we have no comments.

RWB:HJO:cab

cc: File

ZONE407.NOC

RE: PETITION FOR SPECIAL EXCEPTION 1710 Dulaney Valley Road, W/S Dulaney Valley Road, 1755' N of c/l Pot Spring Rd and 250' SW of west right-of-way Dulaney Valley Road 8th Election District, 4th Councilmanic Towson Unitarian Universalist Church Petitioner	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 97-404-X

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of April, 1997, a copy of the foregoing Entry of Appearance was mailed to Leo Francis Partridge, Esq., 21 Strabane Court, Baltimore, MD 21234, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Towson Unitarian Universalist Church - Petitioner
Case No. 97-404-X

DATE : December 15, 1998

BOARD /PANEL : Lawrence M. Stahl (LMS)
Lawrence S. Wescott (LSW)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 97-404-X /Petition for Special Exception. Hearing held December 1, 1998.

Opening remarks as to case and purpose having been presented by Panel Chairman Stahl, deliberation between panel members followed. Following is the decision reached by the Board:

LMS: Granted with restrictions for specific use and adjacent to the church; meets 502.1; landscaping must meet requirements of County landscape architect; berm and vegetation as proposed must be approved by landscape architect and/or other appropriate county agencies; utilized by members and "friends" and immediate family members so it does not become a commercial utilization.

LSW: Find that requirements under 502.1 have been met as to special exception and have to agree that the Petitioner has met the burden under 502.1 and special exception should be granted with restrictions as agreed.

HEB: Agree that special exception should be granted with restrictions as agreed to during deliberation. Requirements of 502.1 have been met; written Opinion to indicate all restrictions.

The Board's unanimous decision based on testimony and evidence produced at hearing and after public deliberation is that Petitioner's Special Exception request is to be GRANTED with restrictions to be detailed in the Board's Opinion/ Order.

Written Opinion and Order to be issued by the Board as required by statute. Appellate period to run from date of written Order; anyone feeling aggrieved by the Board's decision may appeal to Circuit Court.

~~~~~~~~~~~~~~~~~~~~~~~~

These minutes indicate public deliberation in this matter was held this date in the subject matter and a final decision rendered in which the requested special exception was granted with restrictions as indicated.

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator
~~~~~~~~~~~~~~~~~~~~~~~~

RECEIVED
COUNTY BOARD OF APPEALS
98 NOV 30 PM 4:31

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN RE: PETITION FOR SPECIAL EXCEPTION — CASE NO: 97-404-X

TOWSON UNITARIAN UNIVERSALIST CHURCH - PROPERTY OWNER

JAMES G. ROBINSON - APPELLANT

* * * * * * * * * * * * * * * * *

AFFIDAVIT OF SERVICE

I, JOSEPH A. GAST , hereby certify that on NOVEMBER 27, 1998 , in accordance with Maryland Rule 2-121(a) I personally served CHARLES LEE in the above-captioned case at the address of 2117 WOODFORK ROAD, TIMONIUM, MARYLAND 21093 with a copy of the SUBPOENA.

I do solemmly affirm under the penalties of perjury and upon personal knowledge, that the contents of the foregoing affidavit of service are true and that I am competent to testify there to.

The under signed further certifies that he/she is over eighteen (18) years of age and is not a party to this action.

Date: NOVEMBER 27, 1998

Joseph A. Gast
.....
Signature

Printed Name: JOSEPH A. GAST

Address/Phone: POST OFFICE BOX 7433
Baltimore, MD 21227
(410) 247-7810

Description - Age: 55 Sex: M Race: W Hgt: 6'1" Wgt: 210

Hair: DARK GRAY Glasses: YES

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

In Re: Petition for Special Exception

Case Number 97-404-X

Towson Unitarian Universalist Church -- Property Owner

James G. Robinson -- Appellant

98 NOV 24 AM 9:31

SUBPOENA

TO: Charles Lee
1010 Woodfork Road
Timonium, MD 21093
Baltimore County

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (XX) Personally appear and produce documents or objects; at: **Room 48, Old Court House, 400 Washington Avenue, Towson, MD 21204 on Tuesday, the 1st day of December 1998, at 10:00 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects: (1) All records, including but not limited to, engineering studies, architectural plans, construction costs, estimates, pro formas, revenue projections and advertising plans for the proposed columbarium to be located at the Towson Unitarian Universalist Church, 1710 Dulaney Valley Road.

Subpoena requested by ( ) Plaintiff/Petitioner; (XX) Appellant; and any questions should be referred to: J. Neil Lanzi, 409 Washington Avenue, Suite 617, Towson, MD 21204, 410/296-0686, attorney for Appellant.

Date Issued 11/24/98

Kathleen C. Bianco
Clerk, County Board of Appeals of
Baltimore County

NOTICE:

(1) YOU ARE LIABLE TO BODY ATTACHMENT AND FINE FOR FAILURE TO OBEY THIS SUBPOENA.

(2) This Subpoena shall remain in effect until you are granted leave to depart by the County Board of Appeals or by an officer acting on behalf of the County Board of Appeals.

(3) If this Subpoena is for attendance at a deposition and the party served is an organization, notice is hereby given that the organization must designate a person to testify pursuant to Rule 2-412(d).

RETURN OF SERVICE

( ) Served and copy delivered on date indicated below.

( ) Unserved, by reason of _____
_____.

Date: _____ Fee: _____

_____
Private Process Server

Original and one copy needed for each witness.

(lee.sub)

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN RE: PETITION FOR SPECIAL EXCEPTION

CASE NO: 97-404-X

TOWSON UNITARIAN UNIVERSALIST CHURCH - PROPERTY OWNER

JAMES G. ROBINSON - APPELLANT

* * * * * * * * * * * * * * * * *

AFFIDAVIT OF SERVICE

I, JOSEPH A. GAST , hereby certify that on NOVEMBER 27, 1998 , in accordance with Maryland Rule 2-121(a) I personally served JAY CHERRY, PRESIDENT, BOARD OF TRUSTEES in the above-captioned case at the address of 30 DUNVALE ROAD, APT. C,TOWSON, MARYLAND 21204 with a copy of the SUBPOENA.

I do solemmly affirm under the penalties of perjury and upon personal knowledge, that the contents of the foregoing affidavit of service are true and that I am competent to testify there to.

The under signed further certifies that he/she is over eighteen (18) years of age and is not a party to this action.

Date: NOVEMBER 27, 1998

.....
Signature

Printed Name: JOSEPH A. GAST

Address/Phone: POST OFFICE BOX 7433
Baltimore, MD 21227
(410) 247-7810

Description - Age: 70 Sex: M Race: W Hgt: 5'10" Wgt: 180

Hair: GRAY Glasses: YES

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

In Re: Petition for Special Exception

Case Number 97-404-X

Towson Unitarian Universalist Church -- Property Owner

James G. Robinson -- Appellant

98 NOV 24 AM 9:30
COUNTY BOARD OF APPEALS

SUBPOENA

TO: Jay Cherry, President
Board of Trustees
30 Dunvale Road, Apt. C
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (XX) Personally appear and produce documents or objects; at: Room 48, **Old Court House, 400 Washington Avenue, Towson, MD 21204 on Tuesday, the 1st day of December 1998, at 10:00 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects: (1) All records, including but not limited to, engineering studies, architectural plans, construction costs, estimates, pro formas, revenue projections, copies of brochures, and all advertising plans and fee projections for the proposed columbarium to be located at the Towson Unitarian Universalist Church, 1710 Dulaney Valley Road.

Subpoena requested by ( ) Plaintiff/Petitioner; (XX) Appellant; and any questions should be referred to: J. Neil Lanzi, 409 Washington Avenue, Suite 617, Towson, MD 21204, 410/296-0686, attorney for Appellant.

Date Issued 11/24/98

Kathleen C. Bianco
Clerk, County Board of Appeals of
Baltimore County

NOTICE:

(1) YOU ARE LIABLE TO BODY ATTACHMENT AND FINE FOR FAILURE TO OBEY THIS SUBPOENA.

(2) This Subpoena shall remain in effect until you are granted leave to depart by the County Board of Appeals or by an officer acting on behalf of the County Board of Appeals.

(3) If this Subpoena is for attendance at a deposition and the party served is an organization, notice is hereby given that the organization must designate a person to testify pursuant to Rule 2-412(d).

RETURN OF SERVICE

( ) Served and copy delivered on date indicated below.

( ) Unserved, by reason of _____
_____.

Date: _____ Fee: _____

_____
Private Process Server

Original and one copy needed for each witness.

(cherry.sub)

RE: PETITION FOR SPECIAL EXCEPTION PETITION FOR SPECIAL HEARING Towson Unitarian Universalist Church 1710 Dulaney Valley Road Legal Owner(s): Towson Unitarian Universalist Church	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 97-404X

* * * * * * * * * * * * *

AFFIDAVIT

I, James G. Robinson, hereby certify that I am the owner of the properties known as 1718, 1720 and 1798 Dulaney Valley Road, immediately north of the Towson Unitarian Universalist Church property known as 1710 Dulaney Valley Road. I further certify that until being notified by my attorney, J. Neil Lanzi on May 6, 1997, I was not aware of the April 29, 1997 Zoning Hearing for the Towson Unitarian Universalist Church property. I further certify that at no time did I observe any zoning sign or any indication of a zoning hearing on the Church property.

I solemnly affirm under the penalties of perjury and on personal knowledge that the contents of the foregoing Affidavit are true.

5/8/97
Date

James G. Robinson
James G. Robinson

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

01/08/01

Case Number: 03-C-99-000485 AE
Date Filed: 01/20/1999
Status: Closed/Active
Judge Assigned: To Be Assigned,

In The Matter Of: Application Of Towson Unitarian Universalist Church

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	97-404X
Case Folder ID	C99000485V01

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
RES	001	Towson Unitarian Universalist Church		CT DO 07/16/99	01/21/99
	Attorney	0012358 Dopkin, Deborah C Deborah C Dopkin P A 409 Washington Avenue Suite 920 Towson, MD 21204 (410)494-8080		01/29/99	
PET	001	Robinson, James G		CT DO 07/16/99	01/20/99
	Mail	1798 Dulaney Valley Road Lutherville, MD 21093	01/20/99		
	Attorney:	0005902 Fax, Charles S 36 South Charles St 20th Fl Baltimore, MD 21201		04/08/99	

(410)385-0202

0008614 Wilson, Dana Michelle 01/20/99
Shapiro Sher And Guinot
36 South Charles Street
Suite 2000
Baltimore, MD 21201-3147
(410)385-4215

0010054 Lanzi, J Neil 01/20/99
J. Neil Lanzi, P. A.
Mercantile Bldg, Ste 617
409 Washington Avenue
Towson, MD 21204
(410)296-0686

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
ITP	001	County Board Of Appeals Of Baltimore County The		CT DO 07/16/99	01/20/99
	Mail	Old Courthouse Room 49	01/20/99		
		400 Washington Avenue			
		Towson, MD 21204			

CALENDAR EVENTS

Date	Time	Dur	Cer	Evnt	Lvl	Atty	Jdg	Day Of Rslt	By	ResultDt	Jdg T	Notice	Rec	User ID
06/14/99	09.30A	02Q	yes	CIVI		JTS	01	/01 CON C		06/14/99	JTS P		Y	KLS KFF

Stenographer(s): Steven D Perrine

JUDGE HISTORY

JUDGE ASSIGNED		Type	Assign Date	Removal RSN
TBA	To Be Assigned.	J	01/20/99	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review	01/20/99	01/20/99	PET001	TBA		07/16/99	TT PH
0001001	*Answer	01/29/99	01/29/99	RES001	TBA		07/16/99	DR PH
0002000	Certificate of Notice	01/25/99	01/26/99	ITP001	TBA		07/16/99	DFF PH

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0003000	Transcript of Record from Adm Agency *	02/19/99	02/22/99	ITP001	TBA		07/16/99	DFF PH
0004000	Notice of Transcript of Record Sent	02/22/99	02/22/99	ITP001	TBA		02/22/99	DFF DFF
0005000	Notice of Transcript of Record Sent	02/22/99	02/22/99	PET001	TBA		02/22/99	DFF DFF
0006000	Notice of Transcript of Record Sent	02/22/99	02/22/99	RES001	TBA		02/22/99	DFF DFF
0007000	Scheduling Order	03/02/99	03/02/99	000	TBA		03/02/99	KLS KLS
0008000	Motion to Extend Time to file memorandum	03/09/99	03/09/99	000	REC	Granted	03/09/99	PH PH
0008001	Response in Opposition to Motion	03/08/99	03/09/99	RES001	TBA		07/16/99	PH PH
0009000	Memorandum of Petitioner James G Robinson	04/07/99	04/08/99	PET001	TBA		04/08/99	DR DR
0009001	Response to Memorandum with exhibits	05/07/99	05/10/99	RES001	TBA		07/16/99	MJ PH
0010000	Reply Memorandum of Petitioner in support of petition for judicial review	05/21/99	05/25/99	PET001	TBA		07/16/99	DR PH
0011000	Open Court Proceeding June 14, 1999. Hon. James T. Smith, Jr curia. Order to be filed.	06/14/99	06/15/99	000	JTS	Hearing had. Held sub	07/16/99	KFF PH
0012000	Opinion and Order affirming decision	07/16/99	07/16/99	000	JTS	Granted	07/16/99	PH PH
0013000	Invoice #8341 sent to Neil Lanzi $10.00	07/23/99	07/23/99	000	TBA			LG LG
0014000	Docket entries sent to BOA	07/23/99	07/23/99	000	TBA			MDJ MDJ
0015000	** Notice of Appeal to COSA or COA 10/139	07/29/99	07/29/99	PET001	TBA			JH JH
0016000	Pre Trial Hearing Letter Issued	07/29/99	07/29/99	000	TBA		07/29/99	AJ AJ
0017000	Order from the COSA for a prehearing ** conference (Judge Eyler)	09/07/99	09/08/99	000	TBA		09/08/99	PH KM
0018000	Order from the COSA for the preparation* of the transcript (Judge Eyler)	10/13/99	10/13/99	000	TBA		10/13/99	PH PH
0019000	Original Record sent to COSA OF MARYLAND BY CERTIFIED MAIL NOS. Z-010-929-705 AND Z-010-929-706 ON OCTOBER 21,1999, ONE VOLUME, ONE TRANSCRIPT AND EXHIBIT FROM BOX 122.	10/21/99	10/21/99	000	TBA			AJ AJ
0020000	Mandate from the COSA affirming judgment	07/28/00	08/01/00	000	TBA			PH PH

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1YRT	One Year Tickle (Jud	CLOSED	01/20/00	365	no	no	DAAA	D	000	000
1ANS	1st Answer Tickle	CLOSED	01/29/99	0	no	no	DANS	D	001	001
SLTR	Set List For Trial	CANCEL	01/29/99	0	yes	no	1ANS	T	001	001
SLMR	Set List For Motions	CANCEL	03/31/99	22	no	no	MOPP	D	000	000
EXPU	Exhibit Pickup Notic	CLOSED	09/14/99	30	no	no			000	000

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
Offered By	ITP	001	County Board Of Appeals Of Ba					
000		*I*	*BOX 122/ZOANING EX*		*B*			

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 03/02/99 Order Date : 03/02/99
Start Date : 03/02/99 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(		03/17/99	07/16/99	CLOSED
All Motions (excluding Motions in Limine		05/05/99	07/16/99	CLOSED
TRIAL DATE is	06/14/99	05/31/99	06/14/99	REACHED

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-99-000485

FILED
COUNTY BOARD OF APPEALS
99 JAN 22 PM 1:46

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
Old Courthouse Room 49
400 Washington Avenue
Towson, MD 21204

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

07/23/99

Case Number: 03-C-99-000485 AE
Date Filed: 01/20/1999
Status: Closed/Active
Judge Assigned: To Be Assigned,

In The Matter Of: Application Of Towson Unitarian Universalist Church

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	97-404X

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Disposition Addr Start/End	Entered
RES	001	Towson Unitarian Universalist Church	CT DO 07/16/99	01/21/99
		Attorney:		
		0012358 Dopkin, Deborah C		01/29/99
		Deborah C Dopkin P A		
		409 Washington Avenue		
		Suite 920		
		Towson, MD 21204		
		(410)494-8080		
PET	001	Robinson James G	CT DO 07/16/99	01/20/99
		1798 Dulaney Valley Road	01/20/99	
		Lutherville, MD 21093		
		Attorney:		
		0005902 Fax, Charles S		04/08/99
		36 South Charles St		
		20th Fl		

Baltimore, MD 21201
(410)385-0202

0008614 Wilson, Dana Michelle 01/20/99
Shapiro And Olander, P. A
36 South Charles Street
Suite 200
Baltimore, MD 21201-3147
(410)385-0202

0010054 Lanzi, J Neil 01/20/99
J Neil Lanzi, P. A.
Mercantile Bldg, Ste 617
409 Washington Avenue
Towson, MD 21204
(410)296-0686

Type	Num	Name(Last,First,Mid,Title)	Disposition Addr Start/End	Entered
ITP	001	County Board Of Appeals Of Baltimore County The Old Courthouse Room 49 400 Washington Avenue Towson, MD 21204	CT DO 07/16/99 01/20/99	01/20/99

CALENDAR EVENTS

Date	Time	Dur	Cer	Evnt	Lvl	Jdg	Day Of Rslt	By	Result	Dt	Jdg	T	Notice	Rec
06/14/99	09:30A	02Q	yes	CIVI		JTS	01 /01	CON	C	06/14/99	JTS	P		Y

Stenographer(s): Steven D Perrine

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned	J	01/20/99	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review	01/20/99	01/20/99	PET001	TBA		07/16/99	TT PH
0001001	*Answer	01/29/99	01/29/99	RES001	TBA		07/16/99	DR PH
0002000	Certificate of Notice	01/25/99	01/26/99	ITP001	TBA		07/16/99	DFF PH

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0003000	Transcript of Record from Adm Agency *	02/19/99	02/22/99	ITP001	TBA		07/16/99	DFF PH
0004000	Notice of Transcript of Record Sent	02/22/99	02/22/99	ITP001	TBA		02/22/99	DFF DFF
0005000	Notice of Transcript of Record Sent	02/22/99	02/22/99	PET001	TBA		02/22/99	DFF DFF
0006000	Notice of Transcript of Record Sent	02/22/99	02/22/99	RES001	TBA		02/22/99	DFF DFF
0007000	Scheduling Order	03/02/99	03/02/99	000	TBA		03/02/99	KLS KLS
0008000	Motion to Extend Time to file memorandum	03/09/99	03/09/99	000	REC	Granted	03/09/99	PH PH
0008001	Response in Opposition to Motion	03/08/99	03/09/99	RES001	TBA		07/16/99	PH PH
0009000	Memorandum of Petitioner James G Robinson	04/07/99	04/08/99	PET001	TBA		04/08/99	DR DR
0009001	Response to Memorandum with exhibits	05/07/99	05/10/99	RES001	TBA		07/16/99	MJ PH
0010000	Reply Memorandum of Petitioner in support of petition for judicial review	05/21/99	05/25/99	PET001	TBA		07/16/99	DR PH
0011000	Open Court Proceeding June 14, 1999. Hon. James T. Smith, Jr. Hearing had. Held sub curia. Order to be filed.	06/14/99	06/15/99	000	JTS		07/16/99	KFM PH
0012000	Opinion and Order affirming decision	07/16/99	07/16/99	000	JTS	Granted	07/16/99	PH PH
0013000	Invoice #8341 sent to Neil Lanzi $10.00	07/23/99	07/23/99	000	TBA			LG LG
0014000	Docket entries sent to BOA	07/23/99	07/23/99	000	TBA			MJ MJ

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1YRT	One Year Tickle (Jud	CLOSED	01/20/00	365	no	no	DAAA	D	000	000
1ANS	1st Answer Tickle	CLOSED	01/29/99	0	no	no	DANS	D	001	001
SLTR	Set List For Trial	CANCEL	01/29/99	0	yes	no	1ANS	T	001	001
SLMR	Set List For Motions	CANCEL	03/31/99	22	no	no	MOPP	D	000	000
EXPU	Exhibit Pickup Notic	CLOSED	09/14/99	30	no	no			000	000

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
Offered By: ITP 001 County Board Of Appeals Of Ba								
000		I	BOX 122/ZOANING EX		B			

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 03/02/99 Order Date : 03/02/99
Start Date : 03/02/99 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD Rule 2-322(		03/17/99	07/16/99	CLOSED
All Motions (excluding Motions in Limine		05/05/99	07/16/99	CLOSED
TRIAL DATE is	06/14/99	05/31/99	06/14/99	REACHED

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

N O T I C E O F R E C O R D

Case Number: 03-C-99-000485
Old Case number:
C I V I L

In The Matter Of: Application Of Towson Unitarian Universalist Church

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 19th day of February, 1999.

Suzanne Mensh
Clerk of the Circuit Court, per D. F.

Date issued: 02/22/99

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
Old Courthouse Room 49
400 Washington Avenue
Towson, MD 21204

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
300 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204

(410) 337-9039

FAX: (410) 337-8932

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 700, Parkside Building
10500 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

April 24, 1997

Towson Unitarian Universalist Church
1710 Dulaney Valley Road
Lutherville, MD 21093
Attention: Eleanor Kaufman

Re: Proposed Memorial Garden and Mausoleum

Dear Ms. Kaufman:

Please be advised that this law firm represents James G. Robinson, the owner of the properties known as 1718, 1720 and 1798 Dulaney Valley Road, located immediately to the north of the Towson Unitarian Universalist Church property. It has come to my client's attention that the church plans to construct a Memorial Garden and Mausoleum for the deceased on its' property.

My client has always tried to be cooperative in the past with the church and has also patiently tolerated the various activities the church has engaged in, even though he has not always been happy with the church's action. My client has given serious thought to the church's proposal for a Memorial Garden and Mausoleum and appreciates the church's desire to memorialize its' loved ones. Mr. Robinson wishes to be cooperative again, however, he cannot agree with this latest proposal. In fact, my client takes exception to the construction of a Memorial Garden and Mausoleum in this neighborhood.

As you know, my client's property and the church property are located in a quiet residential neighborhood consisting of single family homes. The proposed Memorial Garden and Mausoleum should be located in a more appropriate commercial area designated for such purpose and use. The Baltimore County Zoning Regulations have specific requirements for the church's proposed use, including at minimum, proper commercial zoning of the property. Special exception approval must be obtained for the use after a public hearing. Further, there are other County and State regulations affecting such a proposed use.

Accordingly, Mr. Robinson with all due respect, is unable to approve the church's plans and will regretfully strongly object to the construction of a Memorial Garden and Mausoleum in this neighborhood. It is suggested that the church's proposal be withdrawn immediately so that the church can continue to peacefully co-exist with the families in the area.

Thank you for your cooperation.

Very truly yours,

J. Neil Lanzi

c.c. J. G. Robinson

(robinson\memgarden.lt2)

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
300 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204

(410) 337-9039

FAX: (410) 337-8932

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 700, Parkside Building
10500 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

have delivered
April 24, 1997

Arnold Jablon, Director
Permits and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Towson Unitarian Universalist Church

Dear Mr. Jablon:

Please be advised that this law firm represents James G. Robinson, the owner of the properties known as 1718, 1720 and 1798 Dulaney Valley Road. Mr. Robinson's property is located immediately to the north of the Towson Unitarian Universalist Church property. It has come to my client's attention that the church plans to construct a Memorial Garden and Mausoleum for the deceased on its' property. It is my client's further understanding the church wishes to obtain a variance and other County approvals necessary for the Memorial Garden and Mausoleum. For your reference, I am enclosing a copy of the church brochure.

My client has tried to be cooperative in the past with the church and has also patiently tolerated the various activities the church has engaged in, even though he has not always been happy with the church's action. The church's recent proposal for a Memorial Garden and Mausoleum is not an activity my client can agree to or in any way tolerate. Thus, my client intends to take appropriate action to prevent this.

My client's property and the church property are located in a quiet residential neighborhood. This neighborhood should not be the location of a Memorial Garden and Mausoleum for the deceased. The proposed Memorial Garden and Mausoleum should be located in a commercially zoned area designated for such purpose and use. As you know, such a commercial use requires the proper commercial zoning and a public hearing for a special exception. The church proposal for such an inappropriate use could negatively affect the property values of the homes in the neighborhood.

Accordingly, on behalf of my client, I am requesting that Baltimore County immediately investigate the Memorial Garden and Mausoleum proposed by the church with regard to possible current and/or future violations of the Baltimore County Zoning Regulations, Health Department regulations, Department of the Environment regulations and any other applicable local or state regulations. Would you kindly direct this inquiry to the Code Enforcement division.

Thank you for your cooperation.

Very truly yours,

J. Neil Lanzi

c.c. J. G. Robinson

(robinson\memgarden.ltr)

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
300 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204

(410) 337-9039

FAX: (410) 337-8932

J. Neil Lanzi

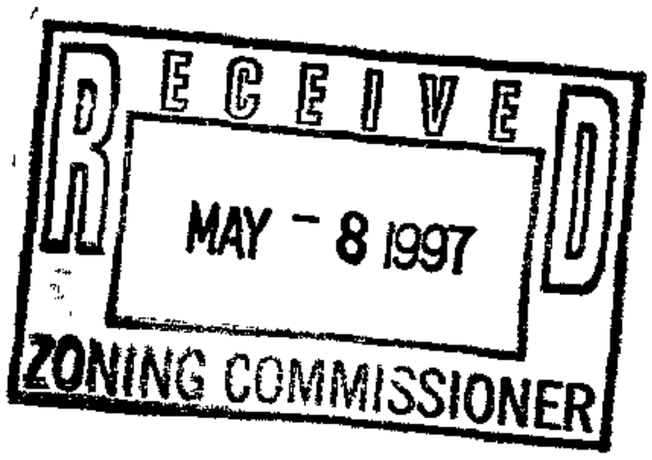
OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 700, Parkside Building
10500 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

May 8, 1997



Hand-Delivered

Lawrence E. Schmidt
Baltimore County Zoning Commissioner
Suite 112, Courthouse
400 Washington Avenue
Towson, MD 21204

Re: Case No. 97-404X
1710 Dulaney Valley Road
Unitarian Universalist Church

Dear Commissioner Schmidt:

Please be advised that this law firm represents James G. Robinson, the owner of the properties known as 1718, 1720 and 1798 Dulaney Valley Road. It has come to my attention that a Zoning Hearing was held before you for the above referenced case on April 29, 1997. The purpose of this letter is to formally request the Hearing be re-opened for additional testimony. The basis of the request is as follows.

My client first became aware of a proposed Memorial Garden and Mausoleum on the Unitarian Universalist Church ("Unitarians") property as a result of a letter received from the Unitarians this past April. A copy of the Unitarians letter to my client is attached as Exhibit 1. Promptly thereafter Mr. Robinson contacted my office to investigate and respond.

On April 24, 1997, I spoke with James Thompson, Director of the Baltimore County Code Enforcement Office regarding the Unitarians proposal and possible zoning violations. Mr. Thompson advised me to put my client's concerns in writing to Arnold Jablon, Director of Permits and Development Management. Later that same day, I hand-delivered a letter to Mr. Jablon's office requesting an investigation of the Unitarians proposal. A copy of my letter dated April 24, 1997 to Mr. Jablon is attached as Exhibit 2.

Finally, on April 24, 1997, I wrote a letter to the Unitarians on behalf of Mr. Robinson in response to their letter seeking his support. A copy of my letter to the Unitarians, also dated April 24, 1997, is attached as Exhibit 3.

It is interesting to note in the Unitarians letter to my client there are no references to zoning petitions filed or upcoming zoning hearings. Further, no response to my April 24, 1997 letter to the Unitarians was received by my client or me and no other indication was ever provided by the Unitarians of the scheduled Zoning Hearing.

On Thursday, May 1, 1997, two days after the Zoning Hearing, I received a telephone message from Joseph Shrack of the County Code Enforcement Office. Unfortunately, I was out of the office and unable to take his call. On Friday, May 2, 1997, I returned Mr. Shrack's call and was informed he was "in the field" for the rest of the day. Early on Monday, May 5, 1997, I again tried to reach Mr. Shrack without success. After several more attempts that same day, I was finally able to reach him and was informed that a Special Exception Hearing had been held last week concerning the Unitarians proposal. Mr. Shrack further advised me that his office intended to close it's file since no construction had commenced on the Unitarians property. At no time prior to May 5, 1997, was I informed by the County of a Zoning Hearing scheduled for the Unitarians proposal.

Mr. Robinson is the immediate neighbor to the Unitarians and at no time did he or any member of his family observe a zoning sign posted on the Unitarians property. I understand there is a Certificate in the zoning file indicating a sign was posted, however assuming a sign had been prepared and posted, it was not "conspicuous" as required by the Baltimore County Zoning Regulations. My client passes the Unitarians property each day on his way to and from work and should have been able to observe any type of sign as required by the Baltimore County Zoning Regulations. A copy of my client's Affidavit is attached as Exhibit 4.

If my client as an immediate neighbor was unaware of the Zoning Hearing, then the entire affected neighborhood would also have been unaware of the April 29, 1997 Zoning Hearing. A 3.5 acre Memorial Garden containing a Mausoleum is a serious concern to my client and the neighborhood.

On behalf of my client, I respectfully request Case No. 97-404X be re-opened for additional testimony by my client and other interested persons after proper notice has been provided in accordance with the Baltimore County Zoning Regulations. In order

to provide proper notice to the neighborhood, I request the Hearing be scheduled no sooner than thirty (30) days from the date of this letter.

Thank you for your consideration.

Very truly yours,

J. Neil Lanzi

cc. J. G. Robinson

schmidt.ltr

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
300 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204

(410) 337-9039

FAX: (410) 337-8932

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 700, Parkside Building
10500 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

May 28, 1997

Hand-Delivered

Lawrence E. Schmidt
Baltimore County Zoning Commissioner
Suite 112, Courthouse
400 Washington Avenue
Towson, MD 21204

RECEIVED
MAY 28 1997
ZONING COMMISSIONER

Re: Case No. 97-404X
1710 Dulaney Valley Road
Unitarian Universalist Church

Dear Commissioner Schmidt:

Based upon your letter dated May 14, 1997 to Leo Partridge, Esquire and Mr. Partridge's response to you dated May 20, 1997, it appears that the parties are in agreement to reconvene the hearing. Since my client was not present at the April 29, 1997 hearing and therefore unable to hear the testimony provided, I would request the recording of the initial hearing be transcribed and provided to my client prior to the date of the new hearing.

Further, as you may recall from my letter dated May 8, 1997, I had requested at least thirty (30) days before the new hearing would be scheduled. This time will allow for the testimony to be transcribed and proper notice to be provided to the neighborhood.

Finally, if at all possible, I would request that the new hearing be scheduled for an agreed date.

Thank you very much for your consideration.

Very truly yours,

J. Neil Lanzi

I called Lanzi & will get an agreed date & return it week of 7/14/97. Also, I need order striking prior Order & setting it aside. 5/21/97

c.c. J.G. Robinson
L.F. Partridge, Esq.

schmidt.lt2

97-2726 ES

6/10/97
CS

J. NEIL LANZI, P.A.
ATTORNEY AT LAW
300 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204

(410) 337-9039

FAX: (410) 337-8932

June 4, 1997

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 700, Parkside Building
10500 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

Baltimore County Permits
and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204
Attn: Gwen

Re: Case No. 97-404-X

Dear Gwen:

You may recall speaking with me about the scheduling of the above referenced action. As I advised you during our telephone conversation on June 3, 1997, Leo F. Partridge, Counsel for the Petitioner, Towson Unitarian Universalist Church and I have agreed to the scheduling of the above Case on a Monday or Tuesday in August of this year. The scheduling of this case has been brought to the Zoning Commissioner's attention and Mr. Schmidt has requested that since this new date is a reconvening of the previous hearing before him, the new hearing date be scheduled on his docket.

Thank you very much for your assistance in this matter.

Very truly yours,

J. Neil Lanzi

c.c. Leo F. Partridge, Esquire
Lawrence E. Schmidt, Zoning Commissioner
J.G. Robinson
People's Counsel

robinson\church.lt3

RECEIVED
JUN 10 1997

97-446/

8/22/97

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
300 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204

(410) 337-9039

FAX: (410) 337-8932

August 22, 1997

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 700, Parkside Building
10500 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

Baltimore County Permits
and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204
Attn: Gwen

Re: Case No. 97-404-X

Dear Gwen:

In follow up to our telephone conversation today, on behalf of my client, James G. Robinson, I hereby request a postponement from the current hearing date of September 8, 1997. As I advised you today, notice of the September hearing date was not received by me or my client. I have spoken with Leo F. Partridge, counsel for the Petitioner, Towson Unitarian Universalist Church and all Parties agree to the scheduling of the above case for the morning of Tuesday, October 7 or the morning of Tuesday, October 14, 1997. Again, as this hearing is a reconvening of a previous hearing before the Zoning Commissioner, the new date must be on Mr. Schmidt's docket.

Finally, would you kindly make sure that a notice of the new hearing date is sent to both my attention and Mr. Partridge's at our respective addresses. Thanks again for your assistance in this matter.

Very truly yours,

J. Neil Lanzi

c.c. Leo F. Partridge, Esquire
Lawrence E. Schmidt, Zoning Commissioner
J.G. Robinson
People's Counsel

robinson\church.lt5

PEZZULLA AND PEZZULLA, LLC
ATTORNEYS AT LAW
SUITE 301
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4804

KENNETH D PEZZULLA
JAMES S PEZZULLA

TELEPHONE (410) 821-5235

FACSIMILE
(410) 821-8568

October 14, 1997

DELIVERED BY HAND

Zoning Commissioner for Baltimore County
Room 407 County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: Application by The Unitarian Universalist Church
for Special Exception - Case No. 97-404X

Dear Sir:

It is my understanding that a Hearing is scheduled today at 9:00 a.m. relative to the above captioned matter. We represent Valley Garth Association ("the Association"), a community association comprising fifty-three (53) property owners whose properties are located on Dulany Valley Road, Ridgely Road, Blakefield Circle, and Pot Spring Road. These properties are located to the immediate north of 1710 Dulany Valley Road, being the subject of an Application for a Special Exception to permit construction of a Mausoleum to store ashes of the deceased, a Memorial Garden, and a cemetery on the Church property.

The Board of Directors and Officers of the Association have instructed me to present this letter as a protest to the granting of the special exception for the reasons which follow. The Association believes that the granting of the exception would materially affect property values, increase traffic on an already congested Dulaney Valley Road, and would allow a commercial venture in a residential neighborhood. The granting of the exception would be contrary to the best interests of the community and would seriously impact the area. Accordingly, the Association respectfully requests that the Application be denied.

Very truly yours,

Kenneth D. Pezzulla

KDP:rdp
cc: John J. Messina, M.D.
President of Valley Garth Association
Mr. James G. Robinson.

File No. 95/2255-K

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
300 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204

(410) 337-9039

FAX: (410) 337-8932

J. Neil Lanzi

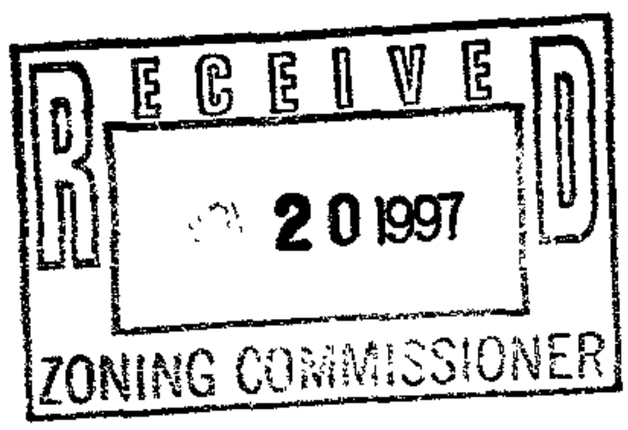
OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 700, Parkside Building
10500 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

November 19, 1997



Lawrence E. Schmidt, Zoning Commissioner
County Courts Bldg, Suite 405
401 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 97-404-X
Property: 1710 Dulaney Valley Road

Dear Commissioner Schmidt:

On behalf of James G. Robinson, I hereby note this Appeal to the County Board of Appeals from the Order of the Zoning Commissioner for Baltimore County in Case No. 97-404-X, granting the Petition for Special Exception. Enclosed herewith please find my client's check in the amount of $285.00 for the filing fee for the Appeal.

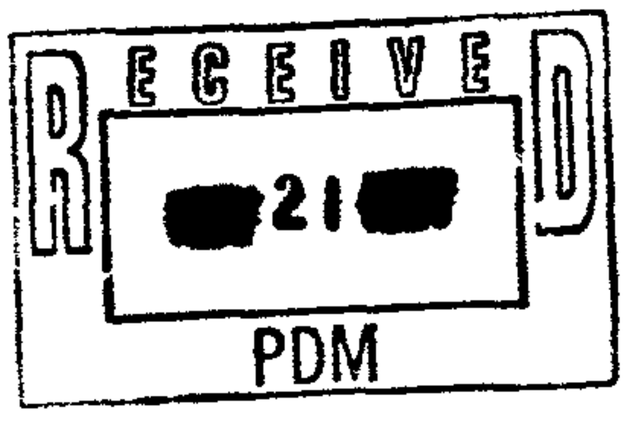
Thank you very much for your consideration.

Very truly yours,

J. Neil Lanzi

cc: J.G. Robinson
People's Counsel for Baltimore County
Leo Partridge

robinson\schmidtapp.ltr



J. NEIL LANZI, P.A.

ATTORNEY AT LAW
MERCANTILE BUILDING, SUITE 617
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 296-0686

FAX: (410) 296-0689

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 700, Parkside Building
10500 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

April 23, 1998

County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204
Attn: Kathy Bianco

Re: Case No. 97-404-X

Dear Ms. Bianco:

Please be advised that I represent James G. Robinson in the above captioned case. Recently, I received a letter from Deborah Dopkin, Esquire on behalf the Towson Unitarian Universalist Church requesting a postponement of the above Appeal presently scheduled for Thursday, June 11, 1998. I have no objection to the postponement request. Please note, however, I'm requesting that any rescheduling of this Appeal be set in on a Monday or Tuesday. My client is unavailable Wednesday through Friday due to his every week out of state business commitments.

Thank you very much for your consideration.

Very truly yours,

J. Neil Lanzi

cc: J.G. Robinson
People's Counsel
D. Dopkin

crchdobk.ltr

98 APR 27 PM 3:21
RECEIVED
COUNTY BOARD OF APPEALS

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
MERCANTILE BUILDING, SUITE 617
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 296-0686

FAX: (410) 296-0689

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 1200, Merrill Lynch Bldg
10320 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

December 10, 1998

Hand-Delivered

Board of Appeals Of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, MD 21204
Attn: Kathleen C. Bianco

Re: Appeal of Case No. 97-404-X

Dear Ms. Bianco:

Enclosed please find an original and three copies of Protestant's Closing Argument Brief, the applicable Maryland cases and the transcript for filing in this appeal. Should the Board require anything further, please do not hesitate to contact me.

Thank you for your assistance in this matter.

Very truly yours,

J. Neil Lanzi

cc: Deborah C. Dopkin, Esquire
Dana M. S. Wilson, Esquire
J.G. Robinson

Enclosure

98 DEC 10 PM 4: 33

RECEIVED

DEBORAH C. DOPKIN, P.A.
ATTORNEY AT LAW
409 WASHINGTON AVENUE, SUITE 920
TOWSON, MARYLAND 21204

TELEPHONE 410-494-8080
FACSIMILE 410-494-8082
e-mail dbdop@erols.com

DEBORAH C. DOPKIN

April 14, 1998

County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204
Attention: Kathy Bianco

RE: Case No. 97-404-X

Dear Ms. Bianco:

Please be advised that I have been engaged to represent the Appellee, Towson Unitarian Universalist Church, in the above captioned case. Kindly enter my appearance of record and direct communications to me at this address.

Since I was only recently brought into this matter, the assignment of hearing for the case conflicts with a long standing commitment for the Maryland State Bar Association. Therefore, this letter is to also serve as my request for postponement of the hearing until a later date. I appreciate the Board's considering this request and look forward to hearing from you.

Very truly yours,

Deborah C. Dopkin

DCD/kmc

cc: J. Neil Lanzi, Esquire
Ms. Jean Jung

98 APR 14 PM 3:20
COUNTY BOARD OF APPEALS
RECEIVED

To 9/15/98

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
MERCANTILE BUILDING, SUITE 617
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 296-0686

FAX: (410) 296-0689

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 1200, Merrill Lynch Bldg
10320 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

July 30, 1998

RECEIVED
BOARD OF APPEALS
COUNTY
'98 AUG -3 PM 2:29

County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204
Attn: Kathy Bianco

Re: Case No. 97-404-X

Dear Ms. Bianco:

Please be advised that I represent James G. Robinson in the above captioned case. A hearing is presently scheduled for Tuesday, September 15, 1998 at 10:00 a.m. On behalf of my client, I hereby respectfully request the case be postponed and that the hearing be set in on a Monday or Tuesday after this date. My client is normally available on a Monday or Tuesday, however, this particular week he has an out of state business commitment.

Thank you very much for your consideration.

Very truly yours,

J. Neil Lanzi

cc: J.G. Robinson
People's Counsel
Deborah C. Dopkin

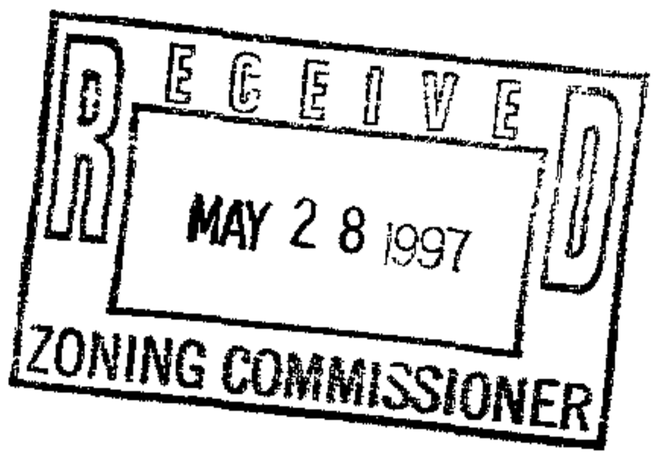
crchdobk.lt2

PP to 12/01/98

LAW OFFICE OF
LEO FRANCIS PARTRIDGE

May 20, 1997

Lawrence E., Schmidt
Zoning Commissioner
Baltimore County Office of Planning and Zoning
Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204



Dear Mr. Schmidt,

I have conferred with my client, Towson Unitarian Universalist Church, and my client has indicated that it is happy to accede to Mr. Lanzi's request for the reconvening of the hearing in the matter of the Church's Request for Special Exception. My client believes it would be in the best interests of all parties if each are allowed to present their views, as such an airing may help to dispel any misconceptions on the part of interested parties. If Mr. Lanzi needs any information, drawings or materials please feel free to contact me.

Very truly yours,

Leo Francis Partridge
Attorney at Law

Cc: J. Neil Lanzi, Esq.

21 STRABANE COURT
BALTIMORE, MARYLAND 21234

PHONE: 410-663-8488 FAX: 410-661-8098

TOWSON UNITARIAN UNIVERSALIST CHURCH

1710 Dulaney Valley Road, Lutherville, Maryland 21093

Telephone: (410) 825-6045

MATTHEW M. MCNAUGHT, *Minister*
SUE GARONZIK, *D.R.E.*
DORIS M. KELCH, *Secretary*
BETTY BADOLATO, *Secretary*

April 12, 1997

James G. Robinson
1798 Dulaney Valley Rd.
Lutherville, MD 21093

RE: Memorial Garden

Dear Mr. Robinson,

Jay has asked that I provide you with more detail about our memorial garden project, which I am pleased to do.

The garden will be located on the south side of our parking lot and into the hillside. The enclosed copy of the site plan will I hope, be helpful in pinpointing the location.

There will be little clearing except for around the low columbarium structure. In time we plan to enhance the garden with speciment plantings and trees.

The columbarium itself will be roughly 10'X 3' and 5 feet high made of natural concrete, and contain 24 niches for ashes.

I trust the enclosed information will assure you that the garden will not be a nuisance to any of our neighbors. They have all been agreeable, and we hope that you too, will be supportive for what is an appropriate use of church property.

If you have questions or would like to discuss this further, Jay or I will be pleased to meet with you at your convenience.

Sincerely,

Eleanor Kaufman
Memorial Garden, Ch.

PETITION IN OPPOSITION TO UNITARIAN UNIVERSALIST CHURCH MEMORIAL GARDEN AND COLUMBARIUM PROPOSAL BEFORE THE BALTIMORE COUNTY ZONING COMMISSIONER, CASE NO. 97-404X

The Unitarian Universalist Church located at 1710 Dulaney Valley Road has filed a request with Baltimore County to allow the use of part of its property as a Memorial Garden and cemetery. The Unitarians are also seeking County permission for the construction of a Mausoleum to store ashes of the deceased in Urns. Finally, the Unitarians propose to scatter the cremated remains of the deceased on their property.

The Unitarians have filed a Petition for Special Exception to the Baltimore County Zoning Regulations to obtain the required approval for their proposals. The Zoning regulations provide that a cemetery use may be allowed by Special Exception only by Order of the Baltimore County Zoning Commissioner, after a public hearing.

A Zoning hearing has been scheduled for Tuesday, October 14, 1997 at 9:00 a.m. in Room 407 of the County Courts Building, Towson, Maryland. By signing the Petition and/or attending the Zoning Hearing, you are indicating your express opposition to the Unitarians Petition.

Thomas P. Lake
Cynthia S Lake
James J Szymanski

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
J. F. Kaufman	Vernon Rd, Ellicott City, MD,
Richard L. Fellows	26 Southwark Bridge Court 21093
JOAN KOLOBIELSKI	6710 Sherwood Rd Balt. MD. 21239
Anne Lee	9119 Woodford Terr 21093
CHARLES H. LEE	11
Aurelia P. Tilles	6 Nightingale Way A6-Ellicott 21093
Eleanor Kaufman	18514 Furnace Rd White Hall 21161
Dawn Murr	7101 Capelgin Rd. / 21212
Jay Cherry	30 Danvale Ct 21204
Edwin McTalbott	1314 Doves Cove Rd. Towson 21286-1425
WILLIAM GG BARNES	1609 POTOMAC RIVER RD
Jan Lorenzen	Ascension Lutheran Church
Richard L. Goodbar	1504 Long Quarter Court Finksburg 21093-8706

Printed with Soybean Ink
on Recycled Paper

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Anne Lee	2119 Woodfork 21093
CHARLES H. LEE	"
Eleanor Kaufman	18514 Vernon Rd White Hall 21161
~~[illegible]~~	
Jay Cherry	1710 Dulaney Valley Rd 21093
P. E. KAUFMAN	18514 VERNON RD. WHITE HALL, MD. 21161

Printed with Soybean Ink
on Recycled Paper

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
MICHAEL J. ROBINSON	1798 DULANEY VALLEY RD.
CHARLES R. LITTLE	1802 " "
James G. Robinson	1800 " "
James G. Robinson	1718 " "
James G. Robinson	1720 " "
Lorene E. Zech	1825 Blakefield Circle
~~Harry B. Beers~~	~~1801 Blakefield Circle~~
Curt W Zech	1825 Blakefield Circle

404

97-404-X

92-123-A

CIRCLE

D.R. 1

BA. TIMORE COUNT

CITY

BALTIMORE

N 49,000

AREA SUBJECT TO HEARING

ROAD

PRIVATE

EX CHURCH

POINT OF BEGINNING
N 48,280
E 5,305

NOT P/O SPK

POOL

136

R.C. 4

N48,000

E6,000

E4,400

E 5,400

'E ZONING MAP
re County Council
92

6-92,187-92,188-92,189-92

Howard IV

ty Council

SCALE

1" = 200' ±

DATE OF PHOTOGRAPHY
JANUARY
1986

LOCATION

LONG QUARTER

TIMONIUM

SHEET

N.E.

13-A

Our Memorial Garden with Columbarium meets two needs. It is a way of memorializing our loved ones in the intimate and peaceful setting of our church grounds. It also provides a structure of beauty which in itself dignifies the memory of those who have passed away.

The word "Columbarium" comes from the Latin for "dovecote" - a home for doves - an ancient religious symbol for innocence and peace. The nearness of our Garden to the church building reminds us of an ancient custom where burial took place within the church or in later times in beautifully maintained country churchyards.

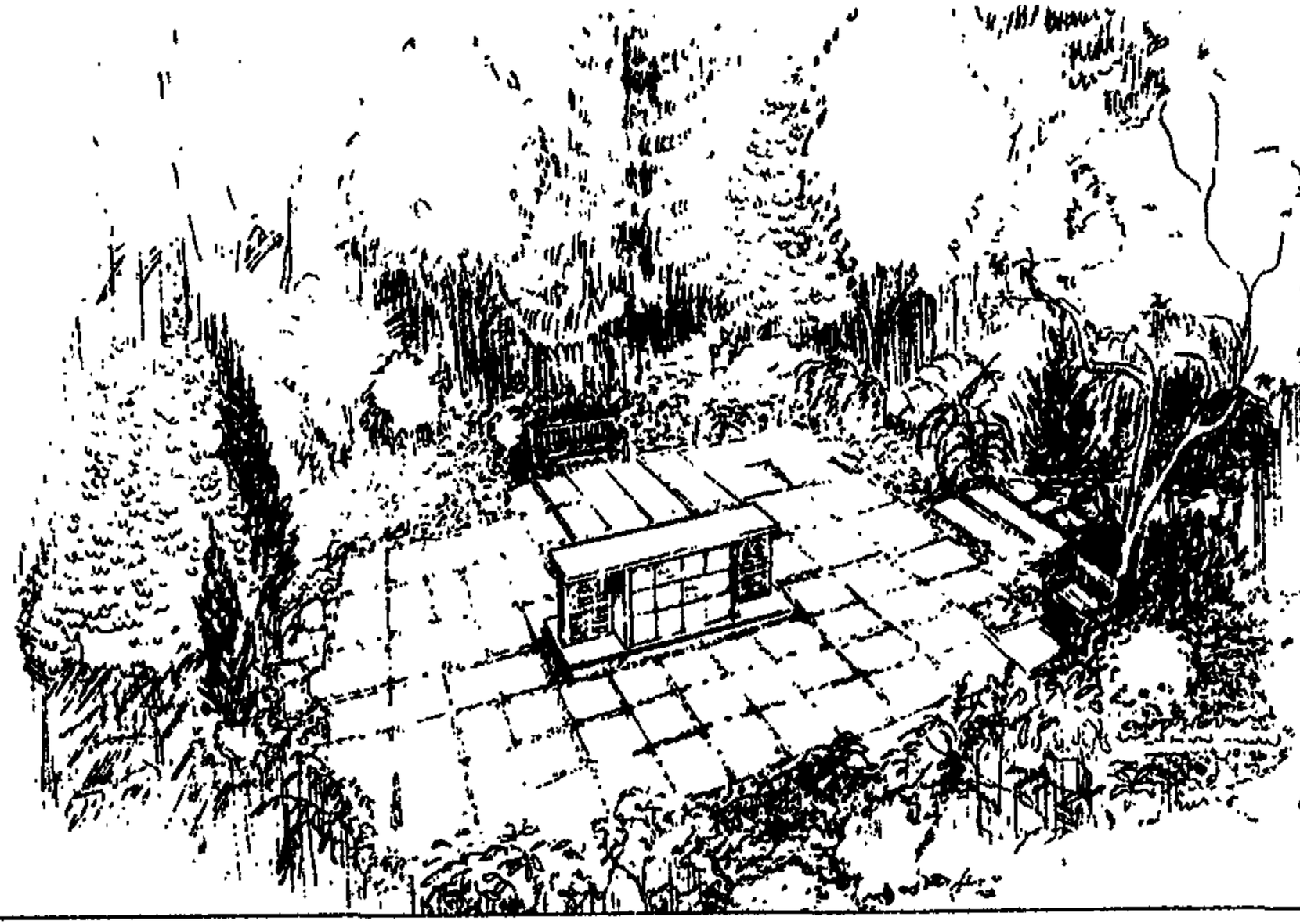
A tradition - more ancient perhaps than burial itself - is honored when cremation as a custom is restored to dignity. Whether cremains are scattered or interred in a Columbarium niche, our Garden is a visual testament to the remembrance of those whom we love and a spiritual testament to our memory of them which will not pass away.

- Matthew McD. McNaught, Minister

The Towson Unitarian Universalist Memorial Garden and Columbarium is designed for those who wish to have their ashes interred near the church where they may have experienced the significant events of their lives. It is available for members, friends, and their extended families. The Garden is located in the wooded section beyond the south side of the parking area.

Our Memorial Garden provides both for the scattering of ashes in a protected, designated area, and for the interment of ashes in niches which are built into the Columbarium. Covering the niches are face fronts large enough for the inscription of names, dates and a few appropriate words or design. Each niche will hold two containers, and possibly more, depending on the size and material used. In addition, space is provided on the Columbarium for plaques to honor those who choose to have their ashes scattered in the Garden, or for those who have been interred elsewhere but want to be remembered as part of our church family.

The Memorial Garden Committee also maintains a Memorial Book that contains brief biographies and photographs of those so remembered, and that will be available for general viewing. Duplicates will be filed with other church records.



The Memorial Garden provides a dignified resting place for individuals and for families, but more than this - it is a tie between life and death - creating a pleasant and comfortable area for family and friends to gather. Attractively landscaped, the Memorial Garden creates a quiet restful place for meditation and remembrance.

Part No 1

Contemplating one's own death and making provisions is difficult. However, we see it as an act of love, sparing our survivors from making difficult decisions at a time when they are in need of comfort.

The Columbarium has been designed so that sections may be added in the future. There are 24 niches available, some already spoken for. The cost of acquiring the use of one niche is set at this time at $1500, to be paid in full at the time of the signing of the License Agreement. A charge at the time of internment to cover costs of opening the niche is initially being set at $125.

The cost of each niche has been set at a value which is comparable with others in surrounding communities.

Engraving costs for the niche face will vary according to the desired inscription.

The cost of scattering ashes has been set at $500. This fee includes services outlined in Rules and Regulations for the scattering of ashes.

Contract forms and copies of Rules and Regulations are available from the church office.

For more information, contact the Memorial Garden Committee.

Towson Unitarian Universalist Church
1710 Dulaney Valley Road
Lutherville, MD 21093

Memorial Garden and Columbarium

Towson Unitarian Universalist Church

Prot No 3 - for ID only -

PETITION IN OPPOSITION TO UNITARIAN UNIVERSALIST CHURCH MEMORIAL GARDEN AND COLUMBARIUM PROPOSAL BEFORE THE BALTIMORE COUNTY ZONING COMMISSIONER, CASE NO. 97-404X

The Unitarian Universalist Church located at 1710 Dulaney Valley Road has filed a request with Baltimore County to allow the use of part of its property as a Memorial Garden and cemetery. The Unitarians are also seeking County permission for the construction of a Mausoleum to store ashes of the deceased in Urns. Finally, the Unitarians propose to scatter the cremated remains of the deceased on their property.

The Unitarians have filed a Petition for Special Exception to the Baltimore County Zoning Regulations to obtain the required approval for their proposals. The Zoning regulations provide that a cemetery use may be allowed by Special Exception only by Order of the Baltimore County Zoning Commissioner, after a public hearing.

A Zoning hearing has been scheduled for Tuesday, October 14, 1997 at 9:00 a.m. in Room 407 of the County Courts Building, Towson, Maryland. By signing this Petition and/or attending the Zoning Hearing, you are indicating your express opposition to the Unitarians Petition.

	Name	Address	Date
1.	Lisa Mclamatis	1509 Long Quarter Ct.	10-10-97
2.	Nicholas J. Mclamatis	1509 Long Quarter Ct.	10-10-97
3.	Mary Chase	1507 Long Quarter Ct.	10-11-97
4.	Rosemary A. Goodbar	1504 Long Quarter Court	10.11.97
5.	Richard L. Goodbar	1504 Long Quarter Ct. 21093	11 Oct 97
6.	Agnes A. Maloney	1505 Long Quarter Ct. 2093	11 Oct 97
7.	D. Maloney	1505 Long Quarter Ct 21093	10/11/97
8.	M. A. Duffy	1503 Long Quarter Ct. 21093	10/11/97
9.	[illegible]	1503 Long Quarter Ct. 21093	10/11/97
10.	Ruth R Langston	1611 Pot Spring Road 21093	10/11/97

By signing this Petition and/or attending the Zoning Hearing, you are indicating your express opposition to the Unitarians Petition.

	NAME	ADDRESS	DATE
11.	John Apfelmanis.	1613 Pot Spring Rd	10/11/97
12.	Angelike Apfelmanis.	1613 Pot Spring Rd	10/11/97
13.	George P. Zinn	1615 Pot Spring Rd	10/11/97
14.	Rita Zinn	1615 Pot Spring	10/11/97
15.	Robert C Blount	1617 " "	"
16.	Margaret W. Blount	" "	"
17.	de Brabanders	1623 Pot Spring	10/11/97
18.	Angela L. DeMeyer	1803 Pot Spring Rd	10/11/97
19.	Robert Durett	1807 Pot Spring	10-12-97
20.	Michael P. Beeze	1801 Blakefield Cir.	10-12-97
21.	Mary B. Beeze		October 12, 1997
22.	M. W. Cavanagh	1811 Blakefield Circle	10/12/97
23.	Sharon Cavanaugh	1811 Blakefield Cir.	10/12/97
24.	Mary Roberts	1810 Blakefield Cir.	10/12/97
25.	Gene D. Roberts	1810 Blakefield Circle	10/12/97
26.	Eleanor Brown	1813 Blakefield Circle	
27.	Charles Zinn	1815 Blakefield circle	

By signing this Petition and/or attending the Zoning Hearing, you are indicating your express opposition to the Unitarians Petition.

28. Edith L Thompson 403 Ivy Church Ld 21093 10/12/97
29. C. Colet Sutt · 1505 Pot Spring Rd 10/13/97
30. Lawrence Smith Kelly 1500 Long Quarter Ct 21093 10/13/97
31. Terry Rossell. 1502 Dulaney Valley Rd 21093 10/13/97
32. Rita Rossell 1502 Dulaney Valley Rd. MD 21093 10-13-97
33. Jean Rossell 1502 Dulaney Valley Rd. Md. 21093 10/13/97
34. John W. Rodgers 1506 Long Quarter Ct. 21093 10/13/97
35. June Duke 1508 Long Quarter Ct. 21093 10/13/97
36. Ruth Collins, 1703 Pottsper. Rd. 21093 10/13/97
37. Janet Gardner 1801 Pot Spring 21093 10/13/97
38. Shirley Wuchner 1803 ~~Ridgley~~ Blakefield Cir 10/13/97
39. Chas Parker 1805 BLAKEFIELD CIR. 21093 10/13/97
40. Dorothy Paszkiewicz 1804 Blakefield Cir 21093 10/13/97
41. Gerry Paszkiewicz 1807 Blakefield C 10/13/97
42. Mark Paul 1808 Blakefield Circle 10/13/97
43. Amanda E. Kim 1808 Blakefield Circle, 10/13/97
44. [illegible] 1815 BLAKEFIELD CIRCLE, 10/13/97

By signing this Petition and/or attending the Zoning Hearing, you are indicating your express opposition to the Unitarians Petition.

45. Rida Emokuis 1817 Blakefield Cir. 10/13/97

46. M-Eugene Tudino 1817 Blakefield CIR. 10/13/97

47. John J. Messina M.D. 35 Ridgely Rd. 10/13/97

48. Kathleen Messina 315 Ridgely Rd. 10-13-97

49. Emily A. Liggins 316 Ridgely Rd. 10/13/97

50. Rita D. Pappalla 316 Ridgely Rd. 10/13/97

51. Charles F. Yitts 1802 DULANEY VALLEY RD. 10-14-97

Prot.

3A

2 FEB 95 02:46PM FAX 202 456-2878 TOWNSEND & TOWNSEND 029

Transcription 01 566 82 N N N N 042

34

TO: [illegible] #28 [illegible]

FROM: [illegible]

9-23-97

Stream between Robinson property + Church

Proof
21

Consolidated Plat
Lot 1 & Lot 2
Being a Subdivision of Lot 17 & 18

Proof
2I

Transcription: Dr. Stephen Ray

2 of 14 N N N N 14 N 20 pg

View of neighboring property (Dukes) from memorial garden site

Sheet 2G

9-23-97

Clue Online, LLC 09

2 JUL 2 N 4 11 28 994 82

Prof 21

From Garden Grove Blvd. Driving Westbound

Turn Right* on Brookhurst

Turn Left* on Edinger

Turn Left* on Harbor

Turn Left* on Warner

Turn Right* on Beach

Turn Left* on Heil

Turn Left* on Gothard

Turn Left* on Talbert

Turn Left* on Bushard

Turn Left* on Garden Grove Blvd.

View of parking lot from memorial garden site

9-23-97

Proof 2E

7 CHARLESTON 1105 9
28 94 14 N N H : 1 1

View of neighboring property from memorial garden site

9-23-97

Roof 2D

Townsend's, Inc. 70 6643
2 63 N N N N

View of Church from Robinson driveway

9-23-97

Pict 2C

2:32 PM 1-N 29 2 # 0:00 #2 elubsnoq

9-23-97

View from Robinson property

Page 213

last 24

Telefax: 11 994 82 [illegible] 31 2

Protestant's
Exhibit
2
photograph
Case 97-404-X

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

Protestant's # 3A-3L (photos-11)
7A-7C (photos-3)

7491 Connelley Drive
Hanover, Maryland 21076
Phone: 410-787-5849
Fax: 410-787-5823

Maryland State Highway Administration

Cont. Ltr #8

Fax

To: Mr. Neil Lanzi **From:** Alexander D Lewis

Fax: 410-296-0689 **Date:** December 1. 1998

Phone: **Pages:** 2

Re: Requested Info **CC:**

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

•Comments: This information is sent per your conversation with Mr. Manu Shah. If you have any questions you may contact me directly at (410) 787-5849.

MARYLAND STATE HIGHWAY ADMINISTRATION
Office of Traffic and Safety
Traffic Safety Analysis Division
Rev. 06/20/98

Name : AL LEWIS
Date : November 30, 1998

ACCIDENT STUDY WORKSHEET

LOCATION : MD 146 POT SPRINGS RD TO RIDGELY RD **LENGTH :** 0.61 **Mile(s)**

COUNTY : BALTIMORE **LOGMILES :** 1.70 to 2.31

Years		1992	1994	1995	1996	1997	Total Accidents
Fatal Accidents		1	0	1	0	0	2
No. Killed		1	0	1	0	0	2
Injury Accidents		7	4	4	2	2	19
No. Injured		10	7	6	6	2	31
Prop. Damage Acc.		3	2	3	3	2	13
Total Accidents		11	6	8	5	4	34
Angle Collision		0	0	0	0	0	0
Rear End		1	1	0	1	3	6
Fixed Object		4	4	6	4	0	18
Opp. Direction		2	0	0	0	1	3
Sideswipe		0	0	0	0	0	0
Left turn		0	0	1	0	0	1
Pedestrian		1	0	0	0	0	1
Parked Veh.		0	0	0	0	0	0
Other Collision		3	1	1	0	0	5
Truck Related Acc.		0	0	1	0	0	1
Nighttime Acc.		5	2	5	2	0	14
Wet Surface Acc.		1	1	2	0	2	6
Alcohol Related		2	0	3	1	0	6
Intersection Rel		2	1	1	0	2	6
Total Vehicle		19	7	10	6	11	53
Truck Vehicle		0	0	1	1	1	3
% Trucks		0%	0%	10%	17%	9%	

134

CHAR

D.R. 3.5

TENNIS COURT

HURSTLEIGH

FAIRVIEW RD.

MEADOW

D.R. 2

CHARLES

LA GRANGE AVE.

AVE.

ROAD

ESTES ROAD

ALLEY

ROAD

ARMAGH

TYRONE ROAD

ARMAGH

TYRONE

DRIVE

ALLEY

BUCHANAN

LANE

ROAD

D.R. 16

BL-AS

STREET

HADDON AVE.

STEVENSON

BELLONA

PARLIAMENT

D.R. 3.5

WOODBROOK HIGHLANDS

D.R. 3.5

TENNIS COURT

D.R. 1

SISTERS OF MERCY

IN THE MATTER OF: * BEFORE THE

TOWSON UNITARIAN UNIVERSALIST * COUNTY BOARD OF APPEALS

CHURCH - Petitioner - * OF BALTIMORE COUNTY

1710 Dulaney Valley Road * Case No. 97-404-X

8th Election District * December 1, 1998

4th Councilmanic District *

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 401 Washington Avenue, Towson, Maryland, 21204, at 10 o'clock a.m., December 1, 1998.

* * * * *

Reported by:

C.E. Peatt

BOARD MEMBERS:

LAWRENCE M. STAHL, Acting Chairman
HARRY E. BUCHHEISTER, JR.
DONNA M. FELLING (replaced by)
LAWRENCE WESCOTT

APPEARANCES:

DANA M.S. WILSON, Esquire
J. NEIL LANZI, Esquire
On behalf of James Robinson

DEBORAH C. DOPKIN, Esquire
On behalf of Towson Unitarian Universalist Church

PROCEEDINGS

* * * * *

THE CHAIRMAN: Good morning, everyone. We're here in the matter of Towson Unitarian Universalist Church, petitioner, 1710 Dulaney Valley Road, in the 8th Election Dictrict, 4th Councilmanic District, Case No. 97-404-X.

We're here on an appeal to the granting of a special exception by the Zoning Commissioner.

I would note, just for the record, that the Notice of Postponement and Reassignment, for some reason, had petition for special hearing granted by the Zoning Commissioner.

That's incorrect. Obviously, it's a special exception. I just wanted the record to reflect the piece of paper that's in the file.

For the record, counsel?

MS. DOPKIN: Thank you, Mr. Chairman. My name is Deborah Dopkin, with offices at 409 Washington Avenue, Towson, Maryland. I am here on behalf of the Towson Unitarian Universalist Church.

MR. LANZI: For the record, Neil Lanzi, offices at 409 Washington Avenue, Suite 617, Towson, Maryland, on behalf of James G. Robinson.

MS. WILSON: My name is Dana Wilson, law firm of Olander and Shapiro, 36 South Charles Street, Baltimore, Maryland 21201, on behalf of James G. Robinson.

THE CHAIRMAN: Before we begin, one of the Board members, Ms. Felling, has a statement to make.

MS. FELLING: I want to make a statement that I am an acquaintance of someone in the church and that person did work for me some years ago.

However, that does not -- I don't see that as a problem for my ability to make an impartial decision. Charles and Ellen Colbertson are friends of mine, not close friends. She did work for me some years ago.

THE CHAIRMAN: Ms. Felling was a member of the legislature at one point in her career.

MS. WILSON: Would it be possible if we make a little bit of further inquiry?

THE CHAIRMAN: That's why we bring it up.

MS. WILSON: When was it you became an

acquaintance of the Colbertsons?

MS. FELLING: Sometime in 1985.

MS. WILSON: Are you still in contact with them?

MS. FELLING: Not really. I do see Mr. Colbertson occasionally in Annapolis when I'm down there during legislative session. I continue to do some work down there.

I see them to say hello.

MS. WILSON: You say they worked for you?

MS. FELLING: His wife.

MS. WILSON: What did she do for you?

MS. FELLING: She was my assistant when I was in the House of Delegates.

MS. WILSON: From when until when?

MS. FELLING: '86 to '90.

MS. WILSON: What is your understanding of their relationship with the church?

MS. FELLING: I know them to be members of the church. That's all.

MS. WILSON: Have you had occasion to speak with them about their involvement in the church?

MS. FELLING: I have not spoken to Mrs. Colbertson in probably several years. And I saw Mr. Colbertson in Annapolis last year, during April, March, just to say hello.

MS. WILSON: You stopped in to see him to say hello?

MS. FELLING: No. I saw him on the street to say hello.

MS. WILSON: Have you had occasion to speak with them about this dispute?

MS. FELLING: Absolutely not.

MS. WILSON: Neither one of them have contacted you --

MS. FELLING: No.

MS. WILSON: -- or any other member of the church --

MS. FELLING: No.

MS. WILSON: -- that you're aware of has made any attempt to contact you?

MS. FELLING: No.

MS. WILSON: You said about this issue. Has any

member of the church --

MS. FELLING: About any issue, no.

MS. WILSON: Thank you very much.

THE CHAIRMAN: Does other counsel have any questions? Does anyone have any objection or motion relative to the request we have developed?

Is everyone satisfied we continue with the panel as it's constituted?

MS. LANZI: We would have to object to Ms. Felling.

THE CHAIRMAN: Would counsel approach for a moment, please?

(A discussion was held at the Bench.)

THE CHAIRMAN: This is a Bench conference relative to the objection counsel raised, and that's the reason, obviously, we make these pronouncements, notifications.

We have two ways to go. It seems to me if there is an objection, the Board has to consider whether or not we can continue with the hearing today.

As luck would have it, and, again, I'm not

pressing this as a solution because I don't know it's appropriate under the circumnstances, but at 9 o'clock this morning we swore in a new Board member who was going to be sitting here to see how these hearings go.

It's been tradition as the morning the member is sworn is, they put you on a panel, if the panel is sitting be that day, which could work conceivably, although I'm not sure how that works with the scheduling of the person who has been sworn in.

The Board would like to consider its options. Obviously, if we cannot make that work, I don't believe we'll be able to continue today with a panel of three.

I'm not suggesting we consider to go with a panel of two, although under some very limited circumstances people have put stipulations one the record and parties have agreed to go with two members.

But I am uncomfortable with a full-blown hearing for the obvious reason if two people disagree, the third votes, and that's the purpose of having three instead of two, or four.

So what I'm going to suggest, we take a five or

ten-minute break, and the Board will consider its options.

Then we will come back out here and discuss them with you. Just in case -- why don't you folks use the time to see if there's a time frame, or any time frame issues that we have to deal with, just in case we do have to reschedule.

MR. LANZI: How long do you intend to break?

THE CHAIRMAN: We are going to take a five-minute recess and the Board will return.

(A recess was taken.)

THE CHAIRMAN: Everyone, please be seated. We are back on the record and we are back in session.

Let the record reflect that, as luck would have it, we are able to proceed today. The Board has determined that, discretion always being the better part of valor, we recognize the objection that Mr. Lanzi brought up.

Ms. Felling is more than happy to recuse herself from the matter. As luck would have it, as I indicated, Mr. Lawrence Wescott, the gentleman to my right, was sworn

in as a new member of the Board and was available for this morning and kindly has been able to clear a scheduling matter for which the Board thanks him, and he'll be sitting as the third panel member today.

Is the panel as constituted acceptable to counsel?

MS. WILSON: Yes, sir,

MR. LANZI: Yes, sir.

MS. DOPKIN: Yes, sir.

THE CHAIRMAN: Under those circumstances, we'll proceed.

Are there any other procedural or other matters other than the case itself or bearing on the case we need to get into before we begin?

MR. LANZI: No, sir.

THE CHAIRMAN: Seeing none, opening statements.

MS. DOPKIN: Thank you, Mr. Chairman. This case comes before you on appeal from a petition of the Zoning Commissioner.

The original hearing for the special exception for a columbarium and Memorial Garden was held April 29,

1997, and a favorable decision was rendered on May 9, 1997.

A rehearing was requested by the appellant, and his request was granted by an order dated June 5, 1997.

A second hearing was held before the Zoning Commissioner on October 14th, and a second order, again approving the petition, was issued on October 31, 1997.

Now, I was not involved at that time. I believe the appeal was timely filed. That is what bring us before you today.

The petitioner, the Towson Unitarian Universalist Church, is seeking approval to install a Memorial Garden and columbarium on the church property on Dulaney Valley Road.

I believe that the testimony to be presented before you today will demonstrate that this use is both consistent with established principles of law governing such use and appropriate for the site and the area. I will be calling two witnesses. Thank you.

THE CHAIRMAN: Counsel?

MR. LANZI: Mr. Chairman, on behalf of Mr.

Robinson, with all due respect, it's our position the Zoning Commissioner was incorrect in his prior ruling concerning the special exception, and we intend to establish today that, in fact, the proposal, a columbarium and Memorial Garden, is contrary to the spirit and intent of the zoning regulations and, in particular, in fact, this is a residential community with no commercial zoning anywhere within a mile of it.

We'll be calling two witnesses, Mr. Robinson and Mr. Little.

THE CHAIRMAN: Ms. Wilson, any opening? Because I notice you both represent Mr. Robinson, for clarification on the record, I suggest you determine whether both counsel will be questioning witnesses or --

MR. LANZI: Yes.

THE CHAIRMAN: -- or one cross and one direct from that side?

MR. LANZI: There may be questions from both counsel.

THE CHAIRMANN: Since you're both noted you represent Mr. Robinson, the difference between when --

MS. WILSON: Mr. Stahl, Mr. Robinson is a holder of four lots. He is adjacent to the property owned by the Towson Unitarian Universalist Church.

Mr. Robinson in his capacity as the owner of four lots, four homes on four lots, speaks for all of those four lots.

Now, we don't have any sense as between us of that I am representing the back and Mr. Lanzi is representing the front, but to the extent that we can, from a different prospective, represent Mr. Robinson more accurately, that's our intent today.

THE CHAIRMAN: Your different prospective is what?

MR LANZI: I was the attorney at the Zoning Commissioner's level, and my background could be information in the zoning relevance and zoning regulations.

THE CHAIRMAN: And you will be more personally --

MS. WILSON: My firm and I represent Mr. Robinson, yes.

THE CHAIRMAN: Ms. Dopkin, what do you think

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about this?

MS. DOPKIN: I think I am very flattered. I don't think that Mr. Robinson's interest is quite as divisible, and I don't think it has been distinguished, particularly.

We certainly acknowledge he's an adjoining property owner and that he has an interest because of ownership.

I don't think that, be it one lot, two lots, three lots, ten lots, or the size of those lots makes his interests differentiated, and it is certainly our preferance that he has one spokesperson.

THE CHAIRMAN: My only feeling is simply because then every time you folks have to have separate direct and cross, then we have to come to Ms. Dopkin, and repeat redirect and recross. I don't care which one of you does whatever part. You can intermingle.

MS. WILSON: It is not our intent to duplicate with the witnesses, or have two cross-examinations, or have two examinations, and, really, I think that would be inefficient for all concerned.

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My only concern is that I be able to, if necessary and appropriate, to ask a few questions, or to address the Board if, in my view, that's in Mr. Robinson's best interests.

THE CHAIRMAN: Why don't we do it this way? One of you will do the direct and cross. For instance, one does the direct and, then, if there is cross-examination, if the other one wants to do the redirect, that's fine with me. The person who started doesn't have to be the person who finishes.

But unless there's a really procedural or some weighty problem, I'd just as soon hear from one of you each time somebody on that side of the room gets to do something.

MS. WILSON: That's perfectly consistent with our intent.

THE CHAIRMAN: But I will allow you an opening, if you want to say something personally.

MS. WILSON: Thank you, Mr. Chairman. Again, my name is Dana Wilson. I'm here on behalf of Mr. Robinson.

Mr. Robinson is not opposed to this church, or any church-related activity on its property and by its membership.

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Mr. Robinson's concern which is, in my view, a wholly legitimate concern, is the commercial use, the opening to the public of church property for non-church related services, one after the other.

It is a slippery slope of the most classic kind. This church has opened its facilities to the public to offer a Montesorri School in its facility.

Subsequently, this church opened its facilities to the public to sell artwork by commercial artists who I suppose consign their works to the church to be sold for property to the public. These are not artworks by members of the church. They are not artworks that are sold only to members of the church. It's a publicly available art gallery on the property of the church.

The church now seeks to build another public facility that will be open to the public right in the front of its property, choosing a location that will maximize its exposure so that more slots can be sold to the public.

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The church intends to charge a fee for this service. The church has never offered any meaningful limitation on the members of the public to whom it will be offered.

And each time this church opens its facility for a new function and a new use, it increases the traffic in the area, it increases the disruption in the neighborhood, it decreases the property values, it creates nuisance and noise and traffic and danger.

Mr. Robinson, as the adjoining property owner, has already been subjected on numerous occasions to church members parking on his front lawn because the church doesn't have enough parking when it opens its facilities to the public.

There's going to be more traffic and more of a parking property when this large-scale new endeaver opens.

Mr. Robinson's concern is that this is not the first such public use of this property; this is not the last intended public use of this property.

There's no representation from the church that this project will not be expanded indefinitely.

The church has a tremendous property. It could locate this project on several different areas of its property that would be significantly less disruptive. It has chosen the most disruptive location within its parcel.

And on behalf of Mr. Robinson, we submit that it is an innappropriate, improper use, and that the decision below should be reversed. I thank the Board.

THE CHAIRMAN: Ms. Dopkin?

MS. DOPKIN: I'd like to call Frederick N. Chadsey as my first witness.

F R E D E R I C K N. C H A D S E Y,

having been called as a witness, was duly sworn and testified as follows:

MR. LANZI: If it please the Board, I would stipulate to Mr. Chadsey's expertise.

We would stipulate he's an expert and has appeared before this Board as a civil engineer.

THE CHAIRMAN: You're offering -- first, why don't we get his name and address.

DIRECT EXAMINATION

BY MS. DOPKIN:

Q. Mr. Chadsey, would you please state your name and address.

A. Yes. My name is Frederick Newton Chadsey. C-h-a-d-s-e-y. Also known as Rick. My address is 658 Kenilworth Drive, Towson 21204.

I am a licensed professional engineer in the state of Maryland and a vice president and principal of George William Stevens, Jr., and Associates, Inc.

THE CHAIRMAN: Ma'am, you will be offering him as an expert in?

MS. DOPKIN: In the area of civil engineering and zoning and land use in general, and specifically in Baltimore County, but certainly as a civil engineer experienced in land use and zoning.

THE CHAIRMAN: Counsel?

MR. LANZI: We stipulate to the civil engineering, but he has testified as a civil engineer.

THE CHAIRMAN: As to zoning and land use?

MR. LANZI: I want to ask him some questions.

THE CHAIRMAN: Okay. In that case, why don't we let Ms. Dopkin continue for a moment.

Q. (Ms. Dopkin) Mr. Chadsey, how long have you been engaged in the field of civil engineering?

A. Since 1980.

MS. DOPKIN: Rather than recite his professional education, I think you have accepted him as a civil engineer.

Q. How many of those years have you been practicing your profession in Baltimore County?

A. I have been in Baltimore County since 1985. As of 1990, I was basically appointed the duty of being the coordinator of land development and planning.

As recently as last week, I was preparing for various bodies, testifying on zoning, variances, issues such as that, and have appeared before this Board.

Q. Have you testified before the Zoning Commissioner or the Deputy Zoning Commissioner of Baltimore County?

A. Numerous times.

Q. Have you testified before this Board of Appeals of Baltimore County?

A. This particular Board, other than Mr. Buchheister, I have appeared before this Board numerous

times.

Q. Have you participated in any professional associations, organizations, whose principles advocate -- let me ask the question a little better -- have been involved in lobbying, legislation or procedural matters with county agencies?

A. Yes. I am on the Board of Directors of the Homebuilders Association which have been very instrumental in working with Baltimore County Permits and Development Management as to regulations, as well as the Department of Environment.

I have a copy here, I don't know if it does anybody any good, but I have a copy of COMAR that states a civil engineer, one of a civil engineer's duties is planning, and part of planning is understanding the underlying zone of the property as well as the land use, topograpy, and other engineering issues.

Q. Have you ever served on committees involved in the development of land use legislation or zoning regulations in Baltimore County?

A. Yes. Part of the committee, I served on the

Committee for the Department of Planning as part of their instrumentation of the latest 1990-92 regulations governing land development, setbacks, various issues, all a part of the D.R. zone, 1B01 of the Baltimore County zoning regulations.

Q. Would you tell the Board, roughly, what proportion or percentage of your professional work is actually involving Baltimore County properties relative to all the work you do?

A. Probably eighty-five to ninety percent of the work my company does is related to Baltimore County projects.

Q. And of the work you personally do?

A. About the same. I predominately work in Baltimore County.

Q. What types of zoning and development projects are you involved in?

A. Numerous types of projects. Typically, my involvement as a principal as well as a project manager on numerous projects, we start from the initial conception of the project, from the examination of topography, existing

utilities, zoning, setbacks, RTA -- residential transition areas for those of you who are new -- all of the issues which are basically related to the initial planning of the use of the property. And then taking it through to fruition, grading permits, building permits, record plats.

I have worked on commercial projects, industrial projects, institutional projects, residential projects. I mean, just run the whole gamut. Churches, colleges.

MS. DOPKIN: I would move to have Mr. Chadsey qualified as an expert on land use and zoning in Baltimore County based on the breadth and extent of his personal experience.

MS. WILSON: May I have a brief voir dire, Mr. Chairman?

THE CHAIRMAN: Certainly.

VOIR DIRE

BY MS. WILSON:

Q. How many times have you testified as an expert before any board or court?

A. Exactly how many times?

Q. Yes.

A. Oh, that would be difficult to actually come up with an exact number.

I would say probably in the neighborhood of thirty to fifty times.

Q. How many times have you been retained as an expert in matters that didn't get to the point where you had to testify?

A. I didn't understand the question. Try it again.

Q. The first question was, how many times have you testified?

A. It's the fans. I'm not hearing you.

Q. How many times have you been retained as an expert in matters that didn't reach the stage where you were required to testify?

A. Oh, that would be in the hundreds, close to a thousand, I would say.

Q. What do you charge for your expert witness service?

MS. DOPKIN: I object.

THE CHAIRMAN: What's the grounds for your objection?

MS. DOPKIN: What's the relevance?

THE CHAIRMAN: As in terms of cross-examination, you can certainly ask in terms of fees and arrangement. As far as voir dire, it's not relevant. Though as to his reliability, it makes it relevant on cross-examination.

But for voir dire, I want to hear about his credentials and his abilties, whether he does it a lot or a little is really the issue, what the breadth of his experience is is the issue, not what his compensation is.

If he has some bend or skuuing in what he says based on the fact of his compensation, that's an absolute credibilty issue which is certainly acceptable on cross-examination.

MS. WILSON: As long as the Board will permit that, I will be happy to defer it.

THE CHAIRMAN: Wrong question, wrong time.

MS. WILSON: Thank you.

THE CHAIRMAN: Any other questions?

MS. WILSON: We'll defer.

THE CHAIRMAN: Under those circumstances, we'll accept the witness as an expert in civil engineering.

Included in that is his expertise in land use and land planning.

CONTINUED DIRECT EXAMINATION

BY MS. DOPKIN:

Q. Mr. Chadsey, are you familiar with the petition for special exception filed in connection with the subject property?

A. Yes, I am.

Q. And are familiar with the plat that was submitted with that petition?

A. Yes, ma'am, I am.

Q. Did you prepare that plat?

A. I did not.

Q. Did you prepare any concept plans or landscape plans in connection with the proposed Memorial Garden and columbarium?

A. Yes, ma'am. I had one of my employees prepare a concept plan for some earth sculpting as well as landscaping and in association with the probable first phase of the columbarium.

MS. DOPKIN: I thought perhaps we could identify

the plat that's part of the file as --

THE CHAIRMAN: Well, unless you're going to move the whole Zoning Commissioner's file, we need to do it one at a time.

MS. DOPKIN: Why don't we move the whole file as Petitioner's ---

THE CHAIRMAN: One, collectively.

MS. DOPKIN: -- No.1, collectively.

THE CHAIRMAN: Do you have any objection?

MR. LANZI: No.

MS. DOPKIN: For matters of ease of reference, I would identify this as Petitioner's No. 2, the concept plan.

Q. Mr. Chadsey, are you generally familiar with the property that is the subject of today's hearing?

A. Yes, I am.

Q. And have you personally been on the site?

A. Yes. I have been over the entire property. I guess we have pinned up over top of it. It fronts on Maryland Route 146, also known as Dulaney Valley Road.

It's surrounded by residential properties and

drains in an easterly direction towards the Loch Raven Reservoir. It's just south of -- I don't know if you are familiar with the gun range, not immediately south, but south of the gun range.

Q. About how big is the site?

A. It's almost seven acres, 6.98 acres.

Q. How would you describe the topography?

A. The site obviously had some modification to it. A parking lot has been put in it to level out a section of the site. The area around the church has been leveled.

It has a walk-out section which faces the stream, the tributary, to Roch Raven, which runs more or less along the northern side towards Mr. Robinson's properties.

The site is predominately woods, other than what you can't see under here. There's an existing gravel parking lot to the south. The topography from the existing parking lot goes up, not extremely steeply, but rather steeply, close to the southern property line.

Q. How is the property currently zoned?

A. D.R. 1.

Q. Are you familiar with the use of this site?

A. Yes. The current use of the site is a church and the uses that are customarily and usually accessory to a church.

Q. Are you familiar with the general area in which the property is located, generally?

A. Generally. I mean, it's probably what you would call the northern Towson, North Hampton, Hot Spring area.

Q. How would you describe the general area in which the church is located in terms of use?

A. It's surrounded by residential properties.

Q. And how are those properties zoned, do you know?

A. I believe they are all zoned D.R. 1.

Q. What is proposed under the subject petition?

A. The current proposal is to construct a columbarium and a Memorial Garden.

Q. Could you describe for the Board the area on the site where the Memorial Garden and columbarium are proposed to be located?

A. Assuming you are familiar with the particular property, coming off of Dulaney Valley Road you enter into a parking area, and the church is set back well off the

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road.

That shows here that it's 283 feet off the road. The area shown on the special exception plat is more or less a triangular area in which it's currently wooded with not what I would call mature trees, rather, a young stand of growth, and lies on a slope which starts to approach the southern property line.

Immediately off the parking area, the area has been leveled off, thereby providing easier access for the elderly and handicapped.

Q. How far from Dulaney Valley Road is the proposed Gardens?

A. According to the special exception plat, it is showing that it is 250 feet off the right-of-way of the state road 146. Let me double check that, make sure with all the data here -- it's approximately that, 250 feet to the envelope of the special exception plat.

The Garden, as proposed, is approximately another fifty feet beyond that.

Q. How large a land area is proposed for the special exception use?

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A. It's about a third of an acre.

Q. Would you describe for the Board what grading and landscaping are proposed?

A. We have got a couple concepts which have not necessarily been finalized because the continuation of going through the next appeal and so forth, but the concept was in the area against the parking lot, this area shown here, of dense new plantings.

We have been going through a couple of innerations and I think where we sit right now is the idea, part of the Unitarian principle, is to blend with the environment, the natural aspects, so what we were going to attempt to do was create an earth sculpture in the section on Petitioner's Exhibit 2.

We are showing about a three-foot berm with about a three-foot cut to a plateaued area where we can blend this in with the existing trees and slope.

We are actually even thinking about probably creating the berm to be a few feet higher, maybe two feet higher, to ensure that if the trees were not even there, a six-foot tall person was standing there, you could not see

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anything but the person. And the height of the columbarium is such it stands approximately five feet high.

With that, we intend on planting a mixture of predominately evergreens, but a mixture of some decidious and ornamental flowering trees to start giving it the Memorial Garden atmosphere.

From there, we have -- I am going to flip this down again -- we are looking to have access in more or less a path, not a paved situation, more of a path to enter into the Garden and also a path coming out in some manner to get back to the parking lot, again to assist the elderly and handicapped to be able to access the property without substantial difficulties.

I might add, again, this is just showing the first phase from the standpoint we're showing one of the panels. If you remember from the previous hearing, there are four panels, about 192 units, and we are proposing to bench, to create a garden atmosphere, to make it feel natural.

Q. Could you tell the Board what the columbarium,

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what type of structure and size columbarium the panel will be?

A. I'm not sure, again, of the final materials because we have been going through the appeal and rehearing process.

But, essentially, a panel is about three feet deep, about five feet high, and about ten feet long in one panel, and each one of those panels, on each face, there will be twenty-four niches, or box locations for cremated remains to be located in, or vaulted in the columbarium.

Q. Based on your knowledge of this site and the topography and the proposed landscaping, do you believe that the columbarium will be visible from outside the Memorial Garden itself?

A. No, it would not. We can sculpt the land in such a manner as to create a complete -- I'm looking for a word -- basically to completely screen the Memorial Garden and the columbarium from all the adjacent properties.

Q. Have you seen the comments of the Zoning Advisory Committee? That's a committee comprised of various agencies of Baltimore County government to review zoning

petitions and plans, by way of explanation.
A. Yes, I have.
Q. Were there any adverse comments or recommendations from any of the reviewing agencies?
A. No, there were no adverse comments whatsoever.
Q. Mr. Chadsey, are you familiar with the Baltimore County zoning regulations in general?
A. Yes, ma'am.
Q. Are you familiar with the Section 1B01 relating to the D.R. zones?
A. Yes, ma'am.
Q. Is the use of the property permitted within the zone?
MS. WILSON: Objection. Calls for a legal conclusion.
MS. DOPKIN: He was qualified as an expert in land use and zoning in Baltimore County. He's a planner.
He's intimately familiar with uses that are permitted under the zoning regulations.
THE CHAIRMAN: I think the objection is more in form than anything else.

He is entitled as an expert to his opinion. As to whether or not --
MS. WILSON: Part of the objection is to form, but this is, of course, the ultimate issue presented to this panel, whether it is a permitted use, or should be a permitted use.
THE CHAIRMAN: Where we have an issue such as this, the expert witness is, and it has been the course of the procedure by this Board to allow the expert witnesses to make their opinion known as to those issues because they are, in fact, one and the same with the subject that the witness is testifying to in his expertise.
So as long as it's couched properly, which counsel will rephrase as to his opinion, then we will admit it. Counsel?
MS. DOPKIN: Thank you.
THE CHAIRMAN: Would you mind repeating the question?
MS. DOPKIN: No, I will not repeat the question. I will ask a different question.
Q. Mr. Chadsey, is a church a use expressly listed

as a permitted use in the D.R. zone?
A. A church is listed in Baltimore County zoning regulations as a permitted use.
Q. Is a cemetery a use, listed as a use permitted by special exception in the D.R. zones under Baltimore County zoning regulations?
MS. WILSON: Objection.
THE CHAIRMAN: Grounds?
MS. WILSON: I'd like an objection to this line of questioning, to note on the record, because to the extent she wants her expert simply to read for the benefit of the Board the zoning regulations, I submit the Board is more than capable of reading the regulations for itself.
THE CHAIRMAN: And we certainly are. However, we are, as a Board, interested in what an expert's opinion is as to the applicability of a particular project, to the appropriateness under the zoning regulations.
MS. WILSON: That was not counsel's question. She was asking whether a church is a permitted use within the statute.
THE CHAIRMAN: Ms. Wilson, is it your opinion --

MS. WILSON: It's more than form. I think she's using her expert improperly. The statute and the regulations say what they say. That's an improper use, in my view, of this expert.
THE CHAIRMAN: That may be true in the strictest technical sense. But we are sort of a hybrid agency and we have been through this discussion any number of times with counsel.
And I appreciate the fact you haven't appeared a lot in front of us, and from a courtroom point of view, you might have a point.
Our rules for evidence and information here, I think you will discover, include an awful lot of things which particularly, probably, would not happen in a courtroom, up to and including petitions from community associations, and that sort of thing.
So I am going to allow, under our normal procedures, for the witness to lead us through the logic which may include his understanding of what the zoning regulations are.
For instance, he may state what the zoning

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regulations are, and you may disagree that they do, in fact, say that.

So I am going to let him testify as to his thought processes, and if those thought processes include what the zoning regulations are, I am going to let him say it.

MS. WILSON: Then, perhaps, Mr. Chairman, you would direct counsel to ask the witness what his thought process was, rather than simply asking a witness to recite for you the statute.

Because, of course, the rules that are customarily observed in more formal settings about expert testimony is that it's got to be helpful, and I submit to the panel that it's simply not helpful for this witness to be reading the statute.

If he wants to tell you his thought process, let's have counsel ask that.

THE CHAIRMAN: Again, with the understanding that what we consider helpful is what the Board considers helpful.

If you wish to object to specific questions,

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certainly, for the record, we'll entertain those objections. And if you want to have a continuing objection to a course of questioning, certainly, I would have no objection to that.

But as to the particular question we were on at this point, I will overrule your objection and allow him to answer.

MS. WILSON: Thank you.

MS. DOPKIN: Thank you.

THE CHAIRMAN: Do you want to have the court reporter read the question?

Q. Mr. Chadsey, I believe the question related to whether the Baltimore County zoning regulations permitted cemeteries under the special exception use in D.R. zones?

MS. WILSON: Can we keep the record clear, and have counsel actually ask a question, rather than have a narrative?

THE CHAIRMAN: I thought this was the question she was asking, whether or not it's his understanding it's appropriate and permitted in the D.R. zones to have a cemetery.

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A. The answer is, it is permitted by, or listed, as permissible as a special exception in the zoning regulations.

Q. In your opinion, what effect will the proposed use, if approved, have on adjoining properties?

A. It will have none. It will not be visible. It does not adjoin any adjoining properties. It's not accessible from other properties.

It stands on its own, tucked in with some earth sculpting, and the existing topography.

Q. In your opinion and based on your professional experience, would the proposed Memorial Garden and columbarium have a more detrimental impact at this location in the zone than at another location in the zone?

MS. WILSON: Objection. I thought the witness testified that in his view it would have no detrimental impact.

THE CHAIRMAN: The statute requires, and we have often chastized counsel because of this, the statute requires and the case law requires specific facets, specific things, that must being proven or not proven,

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one of which, being as a term of art, the whole discussion of whether in this particular part it has any worse or more detrimental effect than in another part.

And traditionally before this Board, the way to get to that issue, other than the Board making its own determination, is to hear from the expert as to whether or not they believe there is any more of a detrimental effect here than any other part in the zone.

MS. WILSON: I confess, Mr. Chairman, that I may be off in theory here, but it seems to me impossible there could be a less detrimental impact than none, and given that was the witness's testimony.

THE CHAIRMAN: I understand, but the requirements of the case law and the statute require that those questions be specifically asked and answered, first by those with the burden of proof and second by those determining whether or not, in fact, the special exception should be granted.

We have even been reversed because those specific questions and that specific language was not asked at some point during the hearing, so I am going to allow the

question.

Do you want --

THE WITNESS: I know the question.

A. In this particular case, a columbarium and Memorial Garden are an accessory use to the church, open to the church members and friends of the church.

Therefore, it has limited access from the standpoint of use to the members and friends of the church, and not necessarily access, but more the use. In another part of the zone, it would probably be a much larger scale, would be a principle use and would be open to the general public.

In this case, you have -- you basically have the Memorial Garden and a columbarium which are essentially accessory and subservient to the principle use, which is the church.

Q. In Section 502 of the Baltimore County zoning regulations, it requires that before a special exception may be granted, it must appear the use that is requested will not have certain adverse effects.

In your opinion, will the proposed use -- and I

am going to recite the specific list that is recited in the zoning regulations -- will the specific use be detrimental to the health, safety, or general welfare of the locality involved?

A. In my opinion, it will not.

Q. In your opinion, would the use tend to create congestion in roads, streets or alleyways?

A. Currently, the church holds memorial services. I do not see a use of this particular site for the repository of cremated remains creating any additional traffic or congestion on roads, streets or alleys.

Q. Would this use, in your opinion, create a potential hazard from fire, panic, or other dangers?

A. In my opinion, it would not.

Q. Would it tend to overcrowd land and cause undue concentration of population?

A. In my opinion, it would not.

Q. While we are on that subject, does the proposed location of the use respect all the residential transition areas on the site?

A. Yes, ma'am, it does.

Q. Do you believe the use, in your opinion, would the use interfere with the adequate provisions for schools, parks, water, sewerage, transportation, or other public requirements, conveniences or improvements?

A. In my opinion, it would not.

Q. Would it, in your opinion, interfere with adequate light and air?

A. In my opinion, it would not.

Q. Would it, in your opinion, be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the Baltimore County zoning regulations?

A. No, in my opinion, it would not.

Q. And would it be, in your opinion, inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations?

A. In my opinion, it would not.

MS. DOPKIN: I have no other questions of Mr. Chadsey at this time, reserving the right to ask questions.

THE CHAIRMAN: As always. Cross-examination.

CROSS EXAMINATION

MR. LANZI: Ms. Dopkin, would you object if I move the one plan?

BY MR. LANZI:

Q. Mr. Chadsey, you testified you are familiar with the Baltimore County zoning regulations as they affect residentially zoned property?

A. Yes, sir.

Q. You also have been qualified as an expert in zoning as well, correct?

A. I am assuming that's what occurred.

Q. Would you agree or would you not agree commercial activities do not belong in residential areas?

A. I would agree. That's true.

Q. Would you agree that commercial activities would be inconsistent with the spirit and intent of the zoning regulations as they affect the residential properties?

A. Yes, I would agree.

Q. Are you aware of a parking and traffic problem that exists at the site and at the site that's immediately north of this property?

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MS. DOPKIN: I would object. That was not the subject of direct.

THE CHAIRMAN: The witness did mention there would be no detrimental effect to traffic, so it's germane. That means you answer the question.

A. I am aware that there is congestion in the parking lot and that it is a difficult location on Dulaney Valley Road to make turns at times, but, specifically, the times that that occurs are not during what I would call peak hour usage of Dulaney Valley Road.

Q. The vehicles, when there is church service, or any kind of function that's well-attended at this church, don't the vehicles also oftentime park along Dulaney Valley Road?

A. I have seen that. However, I know it's a church policy to -- what would be the word for it? -- basically, the church discourages it strongly.

Q. But it does happen, correct?

A. And trying to direct people to the additional parking on the site, which is sometimes unknown to some of the participants in the function.

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Q. Where is this other area?

A. There's an overflow parking area. If you look at the plan, there's a cleared area east --

Q. Can you point it out on the plan?

A. Sure. There's a cleared area that exists immediately south of the parking lot. There's a gravel road as well as a parking area up on the hill there. It's been sort of platted out in that particular region, and this is additional overflow parking.

Q. Has it been marked off? It's not shown on the plan, correct? The extra parking is not shown on the plan? Yes or no.

A. I guess it's not necessarily shown as what I would call a definitive -- no, it's not called out as an existing parking area.

Q. Do you know when this additional parking was laid out?

A. It has been there as long as I have known, which has been 1990.

Q. There's no permit for this extra parking that was provided, as far as you know? Yes or no.

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A. I don't know why it would need a permit.

Q. Are you aware there was another zoning case for this, and I believe part of your petition is to amend the plan for the 1976 case?

A. Yes.

Q. And that plan has specific requirements?

A. Yes.

Q. If, in fact, the church went beyond that plan, isn't it true you would require another zoning here, or a minimum grading permit with Baltimore County to make changes to the plan this is before us today?

A. We are here amending the plan for the columbarium and Memorial Garden.

Q. The parking lot, the extra parking, as far as you know --

A. It was not an issue today.

Q. It is an issue because it goes to the pattern we described in our opening about the continual increasing activity of the church without permission. It is very, very relevant to this case.

Now, are you aware that cars park on Mr.

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Robinson's driveway and his lawn?

A. I'm not aware of that.

Q. Assuming that that's true, cars are parking along his driveway, parking along Dulaney Valley Road, if you're the person that lives on that property, that's there's parking in your drivway, in your opinion, would that be an adverse effect on you as a property owner?

A. Well, I guess I am trying to understand how that has anything to do with the columbarium.

Q. I want you to answer whether it's an adverse effect if you can't get to your house?

MS. DOPKIN: I object.

MR. LANZI: He's argued there's no adverse effect.

THE CHAIRMAN: I'm going to let him give his personal opinion as to that limited example.

A. I mean, I have not been in Mr. Robinson's driveway. I'm not aware of it. I do not know what his sight distance is.

I've not studied that as an engineer, so I would have difficulty making any type of testimony.

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Q. Is it your opinion there's no detrimental effect as a result of a columbarium -- you can certainly give an opinion as to cars parked on someone's driveway immediately next door, whether that's detrimental or not.

You're an expert. Is parking on someone's driveway or their lawn detrimental to the property owner?

A. I would say yes, that would be a tresspassing situation.

Q. So if Mr. Robinson has cars parked on his driveway and lawn as a result of church service, that could be detrimental to him as a property owner?

A. What you are saying is relative to church service, but I testified relative to the columbarium.

Q. Let's take it a step further. The columbarium is designed for burial, correct?

A. That is correct.

Q. There will be services for the families when they are having a burial?

A. That is correct.

Q. It's possible that those services will bring in a large number of people from time to time?

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A. It would take an excessive number of people to fill up that parking lot for a church burial service.

Q. Does the parking lot fill up on Sundays now?

A. Yes, it does.

Q. Have you ever been to a funeral where there's a young child or famous person, someone well-known in the community where it's --

MS. DOPKIN: Objection.

Q. -- well-attended?

THE CHAIRMAN: Let's let him finish the question.

MS. DOPKIN: I'm sorry. Finish your question.

Q. I asked whether he's ever attended a funeral service where it's a young child or young person or an old person, someone well-known, and they are well-attended, have you ever been to such a funeral?

A. Yes.

Q. Isn't it possible this could occur with the columbarium?

A. I really don't know. I would have difficulty making that determination.

Q. When you reached your opinion there wasn't any

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effect on traffic, and I believe you also stated there was no effect on the general welfare of the community, did you consider, or you did not consider the effect on Mr. Robinson, isn't that correct?

A. Yes, I did consider the effect on Mr. Robinson.

Q. Didn't you just state earlier --

A. I did not -- well, I am sitting here, looking at the general area, looking at the parking lot.

I am looking at a church that's trying to function, and have a columbarium as an accessory use to that. Yes, as a columbarium standing on its own, it's not going to create any additional traffic than it has today.

Q. The petition is for a cemetery with a special exception use, isn't that correct?

A. Well, a columbarium is an accessory use to a cemetery.

Q. Let me take it a step further. As an expert, a columbarium is not listed as a special exception in the zoning regulations, is that correct?

A. It's not listed in any way in the zoning regulations.

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Q. So is it your approach that the columbarium is an essential part of the cemetery or Memorial Garden which is allowed as a special exception?

A. That's correct.

Q. And when you made your opinion there's no effect on the neighborhood, you didn't consider the fact a columbarium or cemetery draws families and friends and other church members to service, and you didn't consider the fact cars are parking on the street and parking on the next-door lot when you made your opinion there's no detriment to the neighborhood?

A. I believe I made the direct statement that the church currently has memorial services on the grounds.

The difference is now you do not have a parade. Possibly someone may still be interned in Dulaney Memorial Gardens or the Gardens of Faith, or another cemetery around.

At this particular point, you may have somebody who's placed in a vault and are in one of the niches, so that there's no difference in the way the church is operating today.

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Q. Are you familiar with Dulaney Valley Road?
A. Yes.
Q. Is it true the church is located just north of a sharp curve on Dulaney Valley Road?
A. Yes. I believe I stated that.
Q. Is it true Dulaney Valley Road is relatively straight from the Beltway, 695; you get on Dulaney Valley road, and it's relatively straight until you hit the curve that you referred to, is that correct?
A. After you pass Pot Spring, it narrows down to one lane each direction from four lanes, and then approaches the curve.
Q. And there's a curve?
A. Right.
Q. And the church is just north of that?
A. That is correct.
Q. From that point, isn't it relatively straight until you get past Stella Maris and onto the Loch Raven Reservoir area?
A. I think the curve goes a little further than you you're making it sound. It wraps around Mr. Robinson's

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property and probably some other area, and then I guess you could call it straight.
Q. There are no curves after that of significant --
A. From the aerial view in that case, I know there's a lot of rolling --
Q. It rolls up and down, relatively straight?
A. I would agree with your assessment.
Q. When you gave your opinion there's no adverse effect -- I am going to show you the worksheet.
When you gave your opinion there's no adverse effect on the neighborhood, did you take into account that there were a number of people killed between 1993 and '97 on this stretch between Pot Spring Road --
A. Yes. And did --
Q. -- and Ridgely Road?
A. -- you bring the accident report for Dulaney Valley and Hampton Road, Seminary Avenue and Dulaney Valley Road?
THE CHAIRMAN: Gentlemen, this is not a tape recording. That means only one person can be talking at one time.

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A. You have pulled an isolated accident, where there's accidents all over the county, some fatal. Some occurred last summer, and I took this all into account.
My basic statement is that it's no longer any different with the columbarium than it is today.
Q. Why don't you take a look at that accident study provided by the State Highway Administration?
Again, did you take into consideration, when you gave your opinion, that two people have died between 1993 and 1997 at this stretch of the road?
It's very relevant. When you say there's no adverse effect --
MS. DOPKIN: I object.
THE CHAIRMAN: What's the basis?
MS. DOPKIN: Mr. Lanzi is trying to offer evidence into the question. It's going beyond the scope of what was addressed on direct.
And I think it has been asked and answered now at least twice by Mr. Chadsey.
THE CHAIRMAN: Let me suggest to you, counsel, that it is certainly relevant for you to ask if the

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happening of traffic accidents, and, hypothetically, if you were to suggest to him that there's been deaths on the road, had he taken that into consideration.
But if you're going to quote and use a document, then that document has got to be in evidence. If you're having him read something from something that has no official bearing, you can use information as a hypothetical and ask if things came into his determination, but we need more for you to be using the document.
MR. LANZI: I can ask him questions about the document?
THE CHAIRMAN: You can ask him questions about the information that he may or may not have available, without attributing it to anything.
Q. Are you familiar with the number of accidents and injury accidents, property damage accidents, that have occurred on Dulaney Valley Road in the last several years?
A. I am familiar with a lot of them. I have had friends involved in them, fatal accidents, and that's why I think it's poor judgment to just select one particular

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section of Dulaney Valley Road and say, Okay, there's an accident here.

What about the rest of it? What about in front of Pine Ridge?

Q. You don't find it relevant there's been thirty-four accidents from 1993 to 1997 on this stretch of road?

You find that has no relevance to your opinion that there's --

A. I know, other than you're setting something in front of me that you say you got from the State Highway Administration, I have not seen that document, so I don't know how I can testify to it. The statement I have made is there's no difference than it is today.

MR. LANZI: Bear with me.

Q. When you reached your opinion that there was no adverse impact, you didn't consider the statistics that are available through the state of Maryland concerning this stretch of the road and directly in front of the church?

A. I did not contact the State Highway

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Administration. I believe I have testified now at least four times to the same statement.

Q. Thank you. Now, you stated earlier that, or you conceded, Dulaney Valley Road is relatively straight north just of the church to the Loch Raven area past Stella Maris, correct?

A. Correct.

Q. And relatively straight from the beltway until you hit the church?

A. That is correct.

Q. Now, would you agree that a cemetery or funeral establishment, I believe is the other term used in the zoning regulations, at another location where commercial activities are allowed would have less of a negative impact on neighboring property owners, would you agree with that?

A. Can you give it again?

Q. If you have a cemetery or funeral establishment in a location where there are commercial areas in the immediate vicinity, that would have less detrimental impact on the neighbor's property, is that a fair

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statement?

A. Yes.

Q. It's true that cemeteries have inherent negative effects, cemeteries or funeral establishments?

A. I don't know where you're coming from with that. I do not know.

Q. You're not aware of any negative inherent effect of cemeteries?

A. No.

Q. You said you were an expert with the zoning law?

A. That is correct.

Q. You are aware special exceptions are allowed, despite the fact they have inherent negative effects?

A. That is correct.

Q. You are familiar with that?

A. Yes.

Q. I believe you agreed that funerals or memorial services, in general, could be well-attended at times, correct?

A. Could be.

Q. Now, other than the parking lot for the chuch and

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the overflow you talked about, where else can these vehicles park if there is a well-attended memorial service?

A. I believe it would be up to the church to try to adjust their existing conditions to handle it.

Q. Right now, would they have to park on the street?

A. Not necessarily. They could use their existing parking.

Q. Could they park on the lawn?

MS. DOPKIN: I object.

THE CHAIRMAN: I will sustain the objection.

Q. There's no side streets in the immediate vicinity, is that correct?

A. That is correct.

Q. There's no empty parking lot of a business next door where they could park in the evening or on a Saturday?

A. That is correct.

Q. Would you agree, with this curve, the sharp curve you testified to, if there's a heavily attended service at this particular location, that the potential for adverse

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effect is beyond the adverse effects that are inherent with a funeral establishment?

A. The only -- knowing the church and the principles they have established for parking, when they can, I believe they could accommodate by double parking on their own parking lot, if they had to, and use people of the church, or attendees, to conduct traffic and handle their own parking on their own site.

Q. I believe you testified earlier that the Memorial Garden and columbarium will be available for members of the church?

A. As I understand it, it's available for members of the church and friends of the church.

Q. So if a member, or if you're a friend of the church, that person will have to pay, or the family, to be --

MS. DOPKIN: I object. I understand we are going beyond anything we addressed.

THE CHAIRMAN: Well --

MS. DOPKIN: None of that was in any way touched upon. I mean, the subject matter just goes well beyond

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direct.

THE CHAIRMAN: Your previous question was not objected to because he did say who it was going to be used by, and you can cross the accuracy of that.

Q. How would you define the friends of the church? Are you familiar --

A. I am familiar with the definition. Members of the church are members who are active, contribute to the church, attend various functions, and are allowed voting privileges.

Friends of the church are essentially the same thing, except they are not allowed voting privileges and cannot hold office.

It's sort of a term of the church itself. It doesn't mean I'm Joe and I go to the Unitarian Church and I can invite my friends to use this facility.

This is actually, essentially, what you would call a non-voting member of the church. They attend regular service.

Q. Are you a member of the church?

A. Yes, sir, I am.

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Q. How long have you been a member of the church?

A. I have been a member of the church, I believe, since around 1990 or 1989.

MR. LANZI: Is there a zoning map in the Board's file? 200 scale zoning map?

THE CHAIRMAN: See if this is what you're talking about?

MR. LANZI: I've got one, if you bear with me. I will come up with mine.

Q. While I am fumbling through this, are you charging the church for your services today?

A. (Nodding head.)

Q. Yes, you are?

A. Yes.

Q. Can you state how much you're charging?

MS. DOPKIN: I would object.

THE CHAIRMAN: I'll overrule.

THE WITNESS: Can I ask how much he's charging?

MR. LANZI: I'm not the witness.

THE CHAIRMAN: When an expert testified and the issue is his credibility, a permissible question or line

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of questioning has been the frequency in which he testifies, or the parties for which you testify, the compensation, are well-established areas of cross-examination, so I would direct you to answer.

A. A hundred dollars an hour.

Q. Bear with me one moment. How many hours have you spent so far preparing for this hearing today?

THE CHAIRMAN: I'm going to allow it.

A. I would say probably six to eight.

Q. How many?

A. Six to eight.

Q. Are your charges the same for your expert services as your normal engineering services?

A. Yes, they are.

MR. LANZI: I am going to offer the official Baltimore County zoning map 12A and 13A --

MS. DOPKIN: Is that northwest --

THE CHAIRMAN: That would be Protestant's Exhibit 1 and 2. If you would, after you finish, mark them.

Q. I ask you take a quick look at the two zoning maps I referred to. Are you familiar with those

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particular maps?
A. Yes, I am.
Q. Can you locate the church property and Mr. Robinson's property? If you are able to.
A. The church property is shown -- I don't know how they're going to mark it. I will call it 13 northeast. It is not necessarily outlined.
However, it shows the outline of the previous special exception that was granted, 97-404-X, and then immediately what I would call northwest, the private drive, although I don't believe Mr. Robinson's house is actually shown on this.
Q. The zone is D.R. 1?
A. That's what I testified to.
Q. Can you describe the zone on both of those maps in general around the vicinity of the church property?
A. The reservoir area is zoned R.C. 4. It's all zoned density residential. D.R. 1. And as you approach what I would call the Lutherville area, it changes to D.R. 2, 3.5, 5.5, increases in density due to the existing housing that's there.

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Q. You testified you live in Towson?
A. My office is in Towson.
Q. Do you live in the immediate vicinity of the church?
MS. DOPKIN: I object. I don't see where this is relevant.
THE CHAIRMAN: I'll allow it.
A. I live next door to the Hampton Mansion.
Q. Would you discuss the grade, if you would, of the area from Dulaney Valley Road to where the columbarium will be?
A. I believe I described it earlier. It definitely has some slope to it. It's wooded. It's not what I would consider extremely steep, but it has some slope to it, and it is currently woods, in a thin stand forest, and stronger stand in others.
Q. Are you able to give any kind of slope degree?
A. I'm sorry, I don't have that information available to me. I'm sorry.
Q. Is Dulaney Valley Road somewhat below grade from the church property?

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A. Oh, yes.
Q. Typically when an object -- tell me if this is true or not -- when an object is at the top of a hill, would that object not appear larger than it would, or it does appear larger when you're at the top of the hill from the person looking up to it from the bottom of the hill?
A. I am trying to picture. Looking --
MS. DOPKIN: Before Mr. Chadsey answers that question --
MR. LANZI: It's a yes or no answer.
MS. DOPKIN: I don't --
THE CHAIRMAN: I will have to confess maybe you ought to rephrase your question. I must confess I'm not a hundred percent sure what you mean.
MS. DOPKIN: And I don't know what the point is.
MR. LANZI: I believe before the hearing today, Ms. Dopkin and I discussed the size of the board, the desks you all sit behind, and I believe she agreed to estimate that would be a close example as to one of the panels.
For your information, I measured, and it's twelve

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feet by approximately four fight by three feet, and I wanted to use something to give the Board and everyone else as an example of this panel, the size. It's actually smaller in height.
THE CHAIRMAN: Certainly, you can give us the dimensions, and whatever stipulations you folks want to make is okay with us.
MS. DOPKIN: I don't object to Mr. Lanzi, for purposes of relative size, using the panel where you sit as illustrative, noting it is somewhat longer, slightly lower, marginally, but I don't object to that.
THE CHAIRMAN: For its value, we'll accept that explanation.
Q. Is it your understanding the intention is to have four such panels, correct?
A. Yes.
Q. And if the panels were on a slope upwards, would they not appear larger than they would if they were flat?
A. Yes, but that's not what we are proposing.
Q. You're not proposing to have four structures connected?

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A. We are not proposing to put them up on a slope. I believe I described it earlier relative to the cross section relative to what we were doing.
Q. Is the location here?
A. Yes.
Q. Didn't you testify this slopes --
A. I believe I testified earlier -- I don't mean to be argumentative with you, sir, but if you take this here and --
MS. WILSON: Objection and move to strike.
THE CHAIRMAN: Granted.
A. Okay. What I discussed was we were going to excavate and berm, and we are actually looking at berming which will mean we will have to excavate more.
So, in relativity, if you you look at the cross section we have right here, here's the existing parking lot, here's the columbarium. They are essentially at the base, will be essentially at or below the existing grade of the parking lot.
THE CHAIRMAN: The sloping counsel is talking about is coming from which direction?

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THE WITNESS: If you took the sloping from the parking lot -- now, this is an extrapolated scale, because to draw -- but the sloping we are talking about is -- that's the natural grade. Okay? Actually, right here.
There is the natural grade. So what we are going to do is excavate enough material, sculpt the berm to blend into this so the columbarium will be sitting down below the berm, which can then be landscaped on top of, as I said before, with evergreens and decidious and some ornamental trees to give it the effect of being a Memorial Garden.
Q. Didn't you testify you could not have the grade, were not able to give me the grade?
A. No. Here, we have got the grade right here. I don't have it memorized in my head at this point. I can get a calculator.
Q. Just answer yes or no.
A. Ask the question.
Q. You don't have the actual grade?
A. I don't have it memorized in my head, no.
Q. Isn't that parking lot on a slope?

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A. Yes.
Q. Have you done any test bore holes where you intend to dig?
A. At this point, no.
Q. Would you be using any kind of dynamite or explosive devices?
MS. DOPKIN: I would object.
A. We are still in the planning stage.
THE CHAIRMAN: Whoa, whoa. When someone objects, that means you stop.
THE WITNESS: I didn't hear. I'm sorry. The fans.
MS. DOPKIN: Going beyond the scope of direct.
THE CHAIRMAN: Well, in direct, he described they were going to excavate and move land, they are going to dig lower and remove material, so the manner in which they envision removing that is certainly a relevant question.
A. Just to give you an honest answer, we have been delayed for so long, we are waiting for the completion of these hearings to complete our study and do final design work.

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So to say yes, I have borings, I cannot say that at this point in time. The church did not want to go to that expense.
Q. It would be true you really don't know if you can do this then, isn't that correct?
A. There's always an engineering solution.
Q. Now, you had indicated earlier that you're familiar with the zoning regulations for residentially zoned properties, correct?
A. Yes, sir, I did.
Q. You also stated your position that a columbarium and Memorial Garden are an accessory use or structures to the church, correct?
A. I don't believe I said accessory structure.
Q. Is a columbarium a structure?
A. I guess if -- like a statute would be a structure.
Q. Does it have walls?
A. I guess you could call it a structure. Basically, it's a box.
Q. So it's a structure?

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A. Okay.
Q. Are you familiar with Secton 401.1 of the zoning regulations?
A. Yes.
Q. Would you read it into the record, just the first sentence?
A. Accessory buildings in residential zones other than farm buildings shall be located in the rear yard, shall occupy no more than forty percent thereof.
Q. The proposed columbarium is in the front yard, correct?
A. I guess we go back to the term. Is it deemed a structure? I guess we need to go to the general section of the zoning regulations and see if we can find out what the definition of a structure is, and then we can work our way backwards to here.
Q. I believe you testified earlier that it is a structure, correct?
A. I believe you forced me, and I said it was a box.
Q. Are you changing your opinion? You agreed with me when I asked if it was a structure. You said it was,

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yes. Are you now changing that opinion?
A. I mean, I don't know what else to call it. It's a box containing niches or other little boxes which are locked up.
I don't consider what I could call a structure. An accessory structure would be a garage or a metal shed that someone would put in their yard.
Q. You're familiar with the definition of accessory structure?
A. Let's go to accessory structure. I have it right here in front of me. Accessory structure. A use which is customarly incident or subservient to the principle use.
Q. Doesn't your petition itself indicate that this is an accessory to the church?
A. It was as --
Q. I'd like to see the --
THE CHAIRMAN: Whoa, whoa.
A. I believe what I testified to, the use is accessory to the principle use.
Q. Do you know if the petition itself defined it as --

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A. I'd like to see it, if I could.
MR. LANZI: Can I get the petition from the file?
THE CHAIRMAN: We don't have it. Sometimes the folks in zoning provide us with more papers; sometimes they provide us with less paper.
MR. LANZI: I have a copy of the Notice of Hearing. If I could, special exception for columbarium as a use accessory to a church, to amend previously approved plan.
Q. Does this building, whatever it is, have four walls?
MS. DOPKIN: I would object. Asking Mr. Chadsey to testify beyond the scope of direct. Mr. Chadsey testified to the concept and to his understanding of the use.
THE CHAIRMAN: I think we are starting to get a little bit beyond.
You may question his definition of it. You may present your own evidence it is or it isn't. But he didn't really testify as to the physical nature of it, other than describing where it was going to be.

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MR. LANZI: He's indicating the use or the location is fine, but he can't have it both ways. He can't say it's a use which --
THE CHAIRMAN: He can say it's his opinion it's accessory to a use, and he may or may not agree, as a witness, to your characterization of it being a structure or not.
Q. You would concede, in fact, accessory buildings have to be located in the rear yard of a residentially zoned area?
A. Now you're saying accessory buildings?
Q. Accessory structure, accessory building has to be --
A. 400.1 refers to accessory buildings. You're talking accessory structures. I'm talking accessory uses.
MR. LANZI: Give me thirty seconds?
THE CHAIRMAN: Absolutely.
Q. I am going to show you a series of documents. I'm not going to offer them yet. We'll call them the Long Quarter documents.
Can you describe what the first or the top

document shows?

MS. DOPKIN: I am going to object to the whole line of questioning. Mr. Lanzi is introducing the Long Quarter documents. That was not the subject of direct.

THE CHAIRMAN: We'll hear a proffer from you.

MR. LANZI: The purpose of these documents is relevant and does affect what was said on direct because the Long Quarter Association, including a number of lots of which the church owns some of these lots, there are some restrictions in the covenants which were assigned from the original property owners to the Long Quarter that said written permission has to be given for any building on any of those lots.

And there is also a deed that's part of that package which specifically states that -- the deed is to the church -- that no building can take place in the rear yard.

THE CHAIRMAN: Okay. And that would certainly be relevant information from your point of view, and without telegraphing what we would do, I don't see where it would not be admissible in the proper circumstance, but I don't

see it as cross-examination to what he has said.

MR. LANZI: He testified if, in his opinion, the columbarium can go here and it's appropriate, and this is showing that's not necessarily so.

THE CHAIRMAN: It's appropriate in the sense of the conditions and circumstances that he was called to testify about relative to the land use and the zoning.

If you believe that there are covenants to the contrary, you can bring those covenants in and, certainly, the Board will consider them in determining whether the project is appropriate or not, but I still don't think it bears on the area of his particular testimony.

Everybody here would be testifying about whether the columbarium should go there or not. So using that logic, it would be relevant to everybody else's cross examination. Everything relevant to the project would then be relevant to everyone's cross-examination.

That's just not the way it is. You can present it as evidence, but I'm going to sustain the objection as to it being cross-examination material because I don't think it bears directly on his direct statements he's

made.

MR. LANZI: Thank you. Do you have any redirect?

MS. DOPKIN: Are you done?

MR. LANZI: No, we are not. My co-counsel has some questions. We're not done yet.

MS. WILSON: Mr. Chairman, we'd like to raise a procedural point. If the panel will permit me to ask a few supplementary questions, I'd like to do so now.

If the panel would prefer to give Ms. Dopkin her opportunity to do some redirect, we can stop at this point and I will examine the witness on recross.

THE CHAIRMAN: I will allow you, pursuant to what I said earlier, a few brief questions before counsel does redirect so that she can hear the context of everything that's being asked before she does her redirect.

MS. WILSON: Thank you, Mr. chairman.

FURTHER CROSS EXAMINATION

BY MS. WILSON:

Q. Mr. Chadsey, who prepared the drawing that is now hanging off this board here? Your Exhibit 2, is it?

A. That drawing?

Q. Yes.

A. One of the landscape architects in my charge, of my firm.

Q. One of your subordinates at your landscape firm prepared this?

A. That is correct.

Q. How much does your firm charge to prepare this drawing?

MS. DOPKIN: I object.

THE CHAIRMAN: He testified to what his charges are.

MS. DOPKIN: I don't know what relevance it has.

THE CHAIRMAN: Frankly, it may have very little relevance, but I see no harm in the question. I will allow you to answer, if you know.

A. I would approximate somewhere between forty and $80.

Q. Perhaps that would explain why, although it indicates a scale of one inch to ten feet, the drawing is not to scale?

A. I'd have to check.

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Q. Is this drawing to scale?
A. I'd have to check.
Q. How would you check it?
A. I'd bring a scale.
Q. Do you have it with you? Why don't you check?
A. What is it you wish me to check?
Q. See where it indicates proposed columbarium? Please measure that and tell me what the size is, according to the scale.
A. It shows about -- probably about five feet.
Q. Five feet? And the proposed columbarium, in fact, is going to be ten feet?
A. That is correct.
Q. So the drawing is off by a factor of two, is that correct?
A. I would say that maybe this particular item is off by a factor of two.
Q. And that particular item is what we are here fighting about today, isn't it?
A. Yes.
Q. And that drawing your firm prepared understates

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the size of the proposed structure by half, is that correct?
A. Well, I guess, yes, there may be a problem there in that it shows the columbarium being smaller than it should be.
Q. By half the size it should be, correct?
A. Excuse me a moment.
Q. Do you want to correct your drawing?
A. No. I can.
Q. Would you?
A. In a moment.
Q. Wouldn't it be easier for you to take it down and do it flat?
A. No. I can do it right here. There you go.
Q. Why don't we color it in so we can make sure. Color in the corrected location of the proposed columbarium.
Okay. What you have drawn on there is now showing ten feet, according to the scale that your firm established?
A. That is correct.

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Q. Where are the other three proposed columbariums?
A. I believe I stated when I testified that this was considered to be the first phase.
Q. Is the church requesting permission to install one columbarium, or more?
A. I believe I testified that there was four, and this was a concept of the first phase.
Q. Let's do the second, third and fourth phase. What are they going to look like?
A. They will look like this.
Q. Will you place please on the drawing for the panel the second, third, and fourth columbarium on your Exhibit 2.
MS. DOPKIN: I would object. This is an illustrative landscape drawing, I believe, identified as a concept plan, and I think it has been used for concept purposes.
The site plan is in evidence and is used to show the subject of the request.
A. I don't --
THE CHAIRMAN: Let me make this easy. First of

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all, the Board is going to make its determination based on the size, not the way something looks or doesn't look in a picture because, obviously, we get a lot of pictures in all these cases. It does appear on the site plan.
Having said that, we have no particular objection if he wants to, free-hand, give us where he believes it will be, especially if it comports with what's on the site plan, as to future phases.
It's on the exhibit. If counsel is asking him to simply combine it for purposes of illustration, that's not the basis upon which the Board is going to make its decision.
In any event, if it makes the cross-examination easier and he can do it, it's okay with us. It's really not that big a deal, quite frankly.
THE WITNESS: I don't have the instrument here to set up the angles.
THE CHAIRMAN: Understanding it's very rough, hand-written.
Q. Please do it to scale.
THE CHAIRMAN: Counsel, without anybody moving, I

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just want to get something in chambers while he's doing that.

MS. WILSON: Mr. Chadsey has now corrected the drawing to reflect the four panels of the proposed columbarium.

Q. Are those four segments to scale?

A. As best I can do it free-hand, I believe they are.

Q. Is everything else on the drawing that is shown from the overhead prospective also to scale?

A. It's an illustrative plan.

Q. How long is it going to take for the trees shown on that plan to get to that size?

A. Depends on the type tree and what size you originally purchase it at.

Q. What size is the church planning on originally purchasing trees?

A. We haven't gone to that extent of design, because we are still going through the appeal process.

Q. What kind of trees does the church plan to buy?

A. I can give you some specifics of the types of

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trees, but more or less probably laymen would understand there would be some evergreens, decidious trees, the ones leaves fall off of, and ornamental trees.

Q. So you don't know what size? You don't have the specifics of what kind of trees? You don't know how long --

A. I can give you a list of what we are intending on using as types of trees, if you would like to hear it.

Q. Sure.

A. Bear with me a minute. We are looking at cedars, cyprus, birch, some hollies, some laurel, some gums, some spruce, two types of pines, and rhododendrums.

Q. What kind of soils analysis have you done to determine whether those kinds of trees will grow on this property?

MS. DOPKIN: I object. Mr. Chadsey has testified repeatedly that a level of design has not been reached. He testified to the conceptual nature of the plan.

I think, to the extent that it has relevance, it's been asked and answered numerous times.

THE CHAIRMAN: He made the general comment that

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they hadn't gone any further than what was there, but since the trees appeared, they can ask what they are supposed to depict. If he hasn't made that determination yet, that's his answer, he hasn't made those determinations yet.

A. And the question is? I am not sure which question.

Q. The question is what kind of soils analysis have you done to determine whether those trees will grow on this site?

A. At this point in time?

Q. Yes.

A. We have done no soils analysis, and going to the expense of that analysis. It could be performed free by the University of Maryland Agricultural Department with little to no effort. There are trees growing on it now.

Q. So if it could be performed, a soils analysis, with no expense, why is it accurate to say the church hasn't done that because it hasn't gone to the expense?

A. It may be accurate from the standpoint of we haven't done it. We don't know where we are.

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Q. You don't know whether the trees the church is proposing to use as a screen for this structure will grow on this site?

You don't know precisely what soils they are going to be that will, allegedly, screen this structure on this site?

You don't know whether the site can actually be modified and graded in the manner you would propose to hide this structure? Am I correct?

A. I am trying to exactly understand what the question is now.

And my original statement, ma'am, was that we were planning the berm to screen the site, and that the landscaping was supplemental planting to encourage the Memorial Garden.

When you hire a landscape company to plant trees, they guarantee the survival of the trees.

Q. You testified on direct examination by Ms. Dopkin with great certainty that there would be no adverse impact whatsoever on the neighboring property by the installation of this columbarium and Memorial Garden. Do you remember

that testimony?
A. Yes, I do.
Q. But you're telling us now, are you not, that you don't know whether the property could be excavated as you propose to excavate it, aren't you?
A. I did not say that it could not be excavated.
Q. You said you don't know, am I correct?
A. I said I did not do soils tests.
Q. You testified in response to Mr. Lanzi's question on cross-examination that you have also done no test boring?
A. That's what I said.
Q. And you testified that you have also done no analysis to determine the substrait to know what kind of excavation will be required?
A. And I think I also testified that there's always an engineering solution.
Q. Even if that may involve dynamite, correct?
A. Well, that is an engineering solution. You're the one bringing it up.
Q. Can you rule it out as at this point, that that

would not be necessary?
A. I don't know.
Q. So you can't rule it out? In other words --
A. Locations are pre-blasted all the time. But at this point in time, I don't foresee having to blast anything.
Q. Where's the septic field and drainfield of this church and related property shown on either of these?
MS. DOPKIN: I object.
THE CHAIRMAN: Granted.
MS. DOPKIN: It goes beyond the scope of direct. Certainly, there was no testimony of any subsurface involved. It is irrelevant to the issue.
THE CHAIRMAN: I am going to grant the objection only insofar as he did not describe in detail the methodolgy, or get into the methodolgy technically by which the excavations would be done.
Whether it's steam-shoveled of four guys out there with spades or somebody with a stick of dynamite are issues for later permits and later engineering decisions that have to be made before this project goes further.

He didn't really touch on that. He talked about a concept.
MS. WILSON: I respectfully disagree. He testified unequivocably without any testing, the basis for his opinion that, in his opinion, this project would not in any way be detrimental to the health, safety or general welfare of the locality involved.
I want to see what the basis for that opinion is. For example. I'd like to know what interference, if any, this project is going to have with the septic fields for the neighboring property.
If he doesn't know, he'll tell you that, and his opinion is that much weaker.
THE CHAIRMAN: I'm going to allow very limited specific questions which he may not know in his expertise, but I'm not going to let you go far afield.
MS. DOPKIN: I will continue the objection.
THE CHAIRMAN: Overruled at this point. Let's see where we go.
Q. Where's the septic field?
A. For who?

Q. For the church property, for starters.
A. Shown in this location here, and here.
THE CHAIRMAN: Why don't you stay there. Do you need him to stay there?
MS. WILSON: Why don't we leave him there? Thank you.
Q. What kind of water system does the church use? Is it on a well?
A. I believe they are on public water.
Q. This property drains, does it not, directly into the Loch Raven Reservoir?
A. I believe I testified to that.
Q. And the water for all the surrounding properties come out of the Loch Raven Reservoir, correct?
A. That is correct.
Q. What is the basis, if any, for your opinion that excavation and building on this property would not be detrimental to the health, safety and welfare of the locality involved, other than your desire to see the property built?
A. I don't -- it's much too vague. Can you be more

specific?
Q. What is the basis for your opinion testimony, if you have a basis for it, that this project, if built, would not be detrimental to the health, safety or general welfare of the locality involved?
A. My opinion is that it's an isolated area on the site, not disrupting any of the adjacent property owners, screened from the adjacent property owners.
During construction, we have to meet all the rules and regulations of the Department of Environment, of the County Code, of the Department of Zoning, and all of these can be met while not disrupting the surrounding property.
Q. As a theoretical proposition, correct?
A. We have to do it.
Q. There's always an engineering solution, isn't that correct?
A. That is correct, but we have to do it, or we get fined.
Q. The answer is, you have no specific basis for that opinion, except for your view that, in the future,

there's always an engineering solution.
MS. DOPKIN: I object.
THE CHAIRMAN: I understand the objection. That's not a question. That was a statement. There's no question mark at the end.
MS. WILSON: I was heading towards a, Is that correct.
MS. DOPKIN: I still object.
THE CHAIRMAN: But just for future reference for you, that's not a form of question that's going to be allowed.
MS. WILSON: Thank you, Mr. Chairman.
Q. Where is Dulaney Valley Road shown on Exhibit 2?
A. Exhibit 2, you have to relate yourself to Exhibit 2 to the special exception plat. The area of the special exception is shown on Exhibit 2 so that you can relate it to Exhibit 1.
Q. Where are the homes that are nearest to the proposed project?
A. Well, as shown --
MS. DOPKIN: I would object again. I don't know

that it was the subject of direct at all.
THE CHAIRMAN: He did describe where there were homes and what the zoning was.
Right now, all counsel is doing is asking general questions about his general comment.
A. According to the zoning regulations, you have to show residences within 200 feet of the boundary, and the houses that are within 200 feet are shown on the plat.
Q. So they are to the bottom of the page?
A. That is correct.
Q. One, two, three, in a line?
A. That is correct.
Q. Go down to Exhibit 2. The homes, had they been shown on Exhibit 2, would be at the bottom of that paper, correct?
A. As I previously stated, you relate Exhibit 1 to Exhibit 2, and they would be in this vicinity here.
Q. The homes would be down here, correct, where they are shown on this plat?
A. Since you like to talk about scales, let me find my scale and we'll give them relative distance. This home

is approximately here in relation to that.
Q. Okay. Now, your little indicators on the right-hand side of Exhibit 2, 304, 398, what do they indicate?
A. Contour elevations.
Q. And the higher numbers are higher land, correct?
A. Yes.
Q. The homes to the south of the proposed project are higher, on higher ground, literally, than the proposed project, is that correct?
A. I guess you didn't hear my prior testimony. As you come up the hill and crest over, you have -- well, if you come down Dulaney Valley Road, there's a ridge that goes through here. Okay?
And this area starts to fall back this way. Yes, conceivably, yes, they start at a higher elevation, but they are falling on the other side of the ridge.
Q. The elevation actually rises again at the other side, does it not?
A. Other side?
Q. The other side.

A. Let's use this one.
Q. How does this show the elevation?
A. You show me what you question is, and I will be able to help you.
Q. The elevation of the area shown on Exhibit 2 goes down in here, correct?
A. That is correct.
Q. The hill comes back up again, does it not?
A. This is level across the parking lot and then down into the stream and then back up into Mr. Robinson's property.
Q. So Mr. Robinson's property is literally on higher ground than the --
A. Not substantially.
Q. Where is that?
A. It's shown here, but I checked it in the field and they are essentially -- the elevation, from what I could tell, without trespassing, is essentially the same as the ground level outside his house as it is here.
Q. So you kind of eyeballed it?
A. We took an instrument out.

Q. What was the elevation of Mr. Robinson's house at his front door?
A. I don't know exactly where his front door is. We were looking at the side of the house facing the columbarium.
Q. What's the elevation where you measured?
A. What we did, ma'am, I didn't run a topographic survey. I took a shot here and I took a shot outside of his home -- okay? -- using a surveying instrument. And there was like maybe a foot, two foot of difference. Nothing substantial.
Q. Did you do that personally?
A. If you've been to Mr. Robinson's house, he's much more level than this side over here.
Q. If I represent to you that Mr. Robinson's property has an elevation as much at ten feet above the proposed columbarium, do you have any evidence to dispute that representation?
MS. DOPKIN: I object.
THE CHAIRMAN: As to the form of the question?
MS. DOPKIN: Yes.

THE CHAIRMAN: I will grant it.
Q. Do you have any evidence that the elevation of Mr. Robinson's property is not ten feet above the proposed columbarium?
A. I do not have any evidence with me today to that effect, no, ma'am.
Q. Assuming I am correct, that Mr. Robinson's property elevation is as much at ten feet above the proposed columbarium, is it not true from his property one will be able to see down into it?
A. Not once it's all constructed.
Q. Why? Because the trees, if they grow in the soil, grow and become the size that you represented, correct?
A. The trees when they originally come -- how do you explain in laymen's terms? Typically, when landscaping is approached, okay, it doesn't come in the size that you would buy to serve the Santa Clause or pass out evergreen trees to the kids.
It comes three or four feet high. And, as I testified earlier, the landscaper will have to guarantee

the survival rate of the trees.
Mr. Robinson is on the other side of the stream, which is also blocked by existing woods.
So I would say, unless Mr. Robinson was making a difficult effort to get up on his roof and look down into the columbarium, I would say he would have a really hard time finding it.
Q. Have you stood on the site literally where the proposed columbarium -- literally standing in one of the forty feet that's proposed to be dug out?
A. Yes.
Q. What did you see as you stood there?
A. Well, let's see. Looking which direction? Give me a hint.
Q. All directions.
A. As I looked out toward Mr. Robinson's, I can see a parking lot, and then a stand of woods. And then you can vaguely see the brickwork on Mr. Robinson's house.
Looking towards Dulaney Valley Road, you look in the woods.
Looking forward towards the church, obviously you

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see the church. Look the other direction, you look in the woods.

Q. Who's going to be the landscape architect on this project?

MS. DOPKIN: I object.

THE CHAIRMAN: I'm going to sustain that objection. That has no relevance to any direct question he was asked.

MS. WILSON: I'd like to ask --

THE CHAIRMAN: If you want to ask the question did the plan envision a licensed landscaper, I won't overrule that question, but as to who it might be, or might not be, there's absolutely no relevance.

Q. Do you anticipate your firm will be doing the landscaping work for this project?

A. I don't know. I haven't had any contact about that.

Q. Certainly, you won't be doing the work if the project is rejected, correct?

MS. DOPKIN: I object.

THE CHAIRMAN: Sustained.

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Q. Are you a voting member of the church?

MS. DOPKIN: I object.

THE CHAIRMAN: I'll let him answer.

A. Yes.

Q. How did you vote when this project was put to a vote?

MS. DOPKIN: Objection.

THE CHAIRMAN: I am going to sustain the objection.

MS. WILSON: I have no further questions.

THE CHAIRMAN: Redirect? Can I just make, on the record, a statement. The gentleman, Mr. Lanzi, has raised his hand as if to say something several times.

I haven't been able to interrupt the record, sir, and I don't mean to ignore you. But the only people who can talk are witnesses or counsel.

MR. LITTLE: I'm not represented by counsel.

THE CHAIRMAN: Then you're going to have to talk to somebody and have them formally say something to us.

MR. LITTLE: I can't represent myself?

THE CHAIRMAN: Not unless you're a party to the

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matter already.

MR. LITTLE: I think I am mentioned. I'm Charles Little.

THE CHAIRMAN: No, you're not a party. Well, you're on the list, actually.

I take that back. Mr. Charles Little, that is correct.

Let me suggest to you, Mr. Little, that we finish the testimony here before we hear what you have to say in terms of --

MR. LITTLE: I'd like to examine the witness, if I may?

MS. DOPKIN: I have to object.

THE CHAIRMAN: He's listed as one of the parties on the notice.

MS. DOPKIN: I think he attended the hearing. I do not believe he noted an appeal on his own behalf.

THE CHAIRMAN: One second, counsel.

The question is whether or not he was one of the listed folks as a party.

MS. DOPKIN: I do not believe he is.

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THE CHAIRMAN: Sir, here's the problem. This appeal was taken on behalf of Mr. Robinson.

There has been no notification by anyone to this Board that you are a party to this appeal.

I am going to suggest to you that, under those circumstances, under the Rules of the Board, that you are not, though you were notified to be here, as was, for instance, the County Attorney and the Director of Planning and Development Management, and the Director of Planning, that they are also not here testifying, because they are given notice in order to observe what occurs as parties who are interested.

They are not parties participating in the matter. So, again, I would suggest to you that if you want to speak with counsel, on whatever side you happen to fall, and I don't even know what side of the issue you fall, nor is it relevant to what I'm saying, that you can certainly identify what lawyers are on what side.

I would suggest that you speak with whatever lawyer seems more likely to be on your side of the argument, and then, if they want to make representations

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to us, they may as part of their case.
But I can't allow you to become a questioning party at this point in the hearing.
MR. LITTLE: Well, can I testify later?
THE CHAIRMAN: If somebody calls you, yes.
MR. LITTLE: That's fine. May -- before you dismiss this witness, may I confer with the attorney?
THE CHAIRMAN: We can wait a moment if you want to speak with counsel.
MR. LITTLE: Thank you.
THE CHAIRMAN: You had finished your cross?
MS. WILSON: Yes, sir.
THE CHAIRMAN: Redirect? Let me say, counsel, from the procedural end of it in terms of any recross, I am going to let one of you do recross, and be aware of that.

REDIRECT EXAMINATION

BY MS. DOPKIN:

Q. Mr. Chadsey, Petitioner's Exhibit 2, I believe, is entitled, Columbarium Concept?
A. That is correct.

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Q. You had testified that the berm would be constructed, and once constructed, it would create a visual screen?
A. That is correct.
Q. In your drawing, I believe you show a vertical, again, conceptually, illustrative of the proposed columbarium?
A. That is correct.
Q. Is that to scale?
A. No. I scaled it during the -- well, it is to scale, but actually the columbarium itself is slightly shorter than shown in that. As you see, there's a red arrow there. That's the five-foot line.
Q. Would the visual impact then be less than what is shown by this illustrative section?
A. Well, when we discussed this illustrative, we're looking at various ways of modifying it. So right now we're envisioning, like I explained earlier, probably excavating probably lower and raising it slightly higher, so the accuracy of this drawing is a concept to start with, and we start working with it from there.

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MS. DOPKIN: I have no further questions for Mr. Chadsey on redirect.
THE CHAIRMAN: Recross?
MR. LANZI: None.
THE CHAIRMAN: Okay, Mr. Chadsey, thank you. Can we excuse the witness? Does anybody want him to stick around? What's your pleasure, counsel?
MS. WILSON: Mr. Chairman, we'd like to ask him to be available in the event we need to call him as an adverse witness in our case.
He doesn't have to stay immediately in this room, but if he can be available in the vicinity, we'd appreciate it.
MS. DOPKIN: Can we call him at his office?
THE CHAIRMAN: Off the record.
(Discussion held off the record.)
THE CHAIRMAN: How far are you?
MR. CHADSEY: Five minutes.
THE CHAIRMAN: In any event, it's my predisposition at this point to take a lunch break anyway, so we'll be back here at 1:30. We are adjourned then.

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(A luncheon recess was taken.)
* * * * *
AFTERNOON SESSION.
THE CHAIRMAN: Ms. Dopkin, are you ready?
MS. DOPKIN: Yes, sir.
THE CHAIRMAN: Let's go back on the record. We're here in Case 97-404-X, in the matter of Towson Unitarian Universalist Church.
We have finished one witness, and we are still in the petitioner's case. Ms. Dopkin, call your next witness.
MS. DOPKIN: Yes, sir. Thank you. I'd like at this time to call Ms. Jung, Jean Jung.

JEAN JUNG,

having been called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION

BY MS. DOPKIN:

Q. Would you please state your name and address.
A. My name is Jean Jung, 1942 Sunberry Road, Dundalk, Maryland 21222.

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Q. Are you a member of the Towson Unitarian Universalist Church?
A. Yes, I am, since approximately 1986.
Q. In what capacity are you here today for the church?
A. About the end of January, the Board of the church authorized me to be the liasion in matters of zoning, questions around and issues related to the columbarium.
Q. Would you please give the Board some background information about the church itself? How long has the church been located at this site?
A. The church has been located at this site since 1972. It was founded in 1960 as a congregation.
Q. Is the church a not-for-profit institution?
A. Yes, it is.
Q. As such, is it qualified under Section 51C3 of the Internal Revenue Code?
A. Yes, it is.
Q. Do you know how many members the church has?
A. A recent check indicated 324 members, which was about 240 households, or families.

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Q. Are there different types of affiliations?
A. Yes, there are. As a member of a Unitarian church, you can be one of two things. One is a friend, one is a member.
I came into the church as a friend for three or four years, and then became a member when I signed the book.
Q. Signing the book a term of art as to Unitarian membership?
A. Yes, it is. And it adds to your privileges, those being elected to office and voting on business matters of the church.
Q. Does signing the book have a religious implication?
A. Absolutely. The basis of our religious organization is expressed in a number of principles, but the emphasis within those principles includes a search for religious truth, the inherent dignity and worth of each individual, and respect for all of nature, including people, but also environment, and education related to those.

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Q. Are there other Unitarian Universalist churches? Is there an organized church?
A. Yes. We are part of a denomination that's based in Boston. It's the Unitarian Universalist Association.
Q. How old is the Unitarian denomination or movement, to your knowledge?
A. The principles are those that have been held by individuals throughout the Christian era. It was in the 18th century and beginning of the 19th century that the two separate groups formed -- the Unitarians and Universalists -- they merged together, I believe in 1961, but I'm not at all sure of that date.
They merged to form the Unitarian Universalist denomination. They had been two separate organizations.
Q. Could you generally describe the activities of this church at this location?
A. I would say, in general, they are those use activities that are customarily housed in or accessory to.
That would include religious education, or Sunday School for young people, religious education for adults, Sunday morning services, and we have moved to having two

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services each Sunday morning this past September.
Choir rehersal. Numerous committees that -- some of which take care of the internal affairs of the church, whether it's keeping the grounds or doing the financing, or those which attend to the spiritual aspects of the religion and still of those which are dedicated to the outside world, not in a prosthelizing sense, but in a -- I guess the word -- to be of assistance to the community at large, such as concerts, art, using of the facilities for organizations that are in accordance with the principles of the church.
Q. Are there life cycle events or services held at the church?
A. Yes. There are baby dedications. There are weddings. And instead of funerals in the sense that it is often found in another type of church or in a funeral establishment, we customarily have memorial services held within the santuary of the church.
Q. Can you describe what is proposed that is the subject of today's petition, the Memorial Garden and columbarium?

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A. The request is for a columbarium shown within a Memorial Garden. The columbarium itself is in the nature of a monument on a concrete slab that has spaces into which cremated remains can be placed.

Those niches will have -- the front of them whether empty or full -- covered with a natural stone material of some type.

It will not have windows, doors, walls. It cannot be walked into.

Q. What about the rest of the space? What will the rest of the space look like?

A. The rest of the space is shown within the portion of the property designated for the Garden.

The purposes of the Garden would be other related religious purposes in addition to a place for the placement of the ashes within the niches.

It would be a place for meditation, for memory, for prayer, for spiritual self-examination, and things of the like.

So, for those reasons, it is important both to us as members of the church, as well as to neighbors, that it

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be secluded, quiet, shielded from view and from noises.

Q. Has the church considered to whom the Garden and columbarium space would be made available?

A. That was the focus of the decision and desire for a columbarium, that it was a service, a use, that is customarily available in many churches and church grounds.

And the desire and the need for a place, to have these places of meditation and places to locate cremated remains for those of specifically our friends as we've defined them as part of our membership, our members, and the households associated with those.

Q. Would this columbarium space be available to anyone other than church members and their families and the friends as defined?

A. No. And I hesitate because the only possible thing would be a former member who had moved to a retirement home and came back after death.

But other than that, it would be for those that were still a part of the congregation the last months of their life.

Q. In considering this use, did you investigate

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whether there are similar uses in other churches in the area?

A. There are cemeteries, quite frequently, associated with churches in Baltimore County.

And there are a lesser number, but there are a considerable number of columbariums on church properties within Baltimore County.

Q. Are there any improvements proposed? You described the columbarium. You have described, briefly, a Garden.

I believe you heard Mr. Chadsey's testimony. I don't want to be repetitive of the testimony that was previously given, but is there anything you could add to what he depicted as the concept and proposal for the Memorial Garden and columbarium space?

A. He probably covered it all. A rustic pathway to get in and out. The plantings. The berm. One or more benches, and possibly, later, additional sections of the columbarium itself.

Q. Who will maintain this area for the church?

A. It is a part of the church as a whole. It is used

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to the church as a whole, and within our organization we have a -- we have a grounds committee that works as a part of the Operations Council of the church, so it will be that committee.

And if there's going to be a big spring cleaning, fall cleaning, then something will go into the bulletin on Saturday, there will be breakfast and a workday for everyone who can volunteer to assist, but the responsibility is in the Committee and the Board.

Q. Had the church considered or adopted procedures govering the use of the Garden and the columbarium?

A. There has been talk. There has been work on it. But life has pretty being suspended in this regard as we went through the hearing and appeal process.

Q. Have representatives of the church been in contact with any representatives or members of the community associations in the immediate area?

A. The community immediately to what I call the south, heading towards the beltway, is called Long Quarter, and the president of the congregation, and I attended their September meeting which was held in our

church, and showed -- I know we showed the concept. We showed a concept plan.

I don't think it was exactly this one, but we talked through the prior hearings, the one in September, and explained where we were in the process and that we didn't know how long it would be before we would be able to move on to the actual establishment of the garden.

Q. Did you talk with anyone else?

A. The offer was made to the association to the North, Valley Garth, and they said they were well aware of the situation and they did not need us to come to a meeting.

Q. In the course of your responsibilities involving the Memorial Garden and columbarium, you had occasion to familiarize yourself with the Baltimore County zoning regulations?

A. Yes.

Q. Is it your understanding that the church is a use permitted under those regulations?

A. Would you repeat that?

Q. Is it your understanding that a church is a use

permitted under the regulations in this zone?

A. Yes.

Q. Have you considered, or has the church considered, not you personally, but you as speaking for the church, what effect the proposed use will have, if approved today, on adjoining properties and uses?

A. It is my opinion and the church's opinion that that we have in the past and will continue to have memorial services within the santuary area of the church.

Cremains could be placed in a niche at that time, although most likely that will be a niche for immediate family and members.

That being the case, a large number of people, well, sometimes memorial services have a media family, sometimes they have over a hundred people in attendance, and that will not change with the addition of the columbarium.

The actual placement of the ashes could be incorporated within that same day or, if it were at a separate time, it would be a minimum number of people. Therefore, there will be no adverse effect.

Q. I didn't ask you that question yet. Has your church considered whether it will have the Memorial Garden whether or not the columbarium use is approved?

A. The church already has landscaping in some areas, but in many areas, there are open areas.

As a part of our religious and spiritual needs, we wish to have a quiet, particularly beautiful place in which to meditate, think, pray.

And so, yes, we will have a garden in this location, whether or not we have approval for a columbarium.

Q. I would like to ask you your opinion relating to the impact of the columbarium because of the particular requirements of the Baltimore County zoning regulations.

MS. WILSON: Should I object now, or wait until specific questions are asked?

THE CHAIRMAN: Specific questions.

MS. DOPKIN: I understand the objection. That's why I gave the introduction.

Q. In your opinion, do you believe the proposed Memorial Garden and columbarium will have a more

detrimental impact at this location than at another location within the zone?

MS. WILSON: Objection.

THE CHAIRMAN: Grounds?

THE WITNESS: With all due respect to the witness, she's not been qualified as an expert on any subject which, per se, suggests she should not be permitted to express an opinion, especially as technical as the question now requested her.

We have no foundational question to find out what, if any, other sites this witness is aware of to which she would be comparing the effect of this columbarium.

We have no information as to what basis or expertise this witness might have that would qualify her to render an opinion, even as a lay witness, and I respectfully submit that counsel has covered this territory and made her record with an expert witness especially retained for this purpose.

MS. DOPKIN: I would offer that the church itself may have a view of why the use here is more suitable than

elsewhere.

They relate particularly to the church's theology and approach that no one else could answer, but a spokesperson from the church.

THE CHAIRMAN: I think we are a little far afield. I don't really see a basis for the question.

Certainly, the woman is entitled to her own personal opinion. And if the personal opinion is a question of is this a good thing or a bad thing, it's something the church wants to have, or is good for the church or bad for the church or represents what the church does or what the church doesn't do or stand for, I would overrule the objection.

But since, by its very nature it's, as counsel points out, a comparison of other areas, I would have to sustain the objection at this point.

Let me say, in clarification, because we may wind up here again in a moment or two, that if, as a spokesperson for a Unitarian Universalist Church, she wishes to tell us about what other Unitarian Universalist churches in Baltimore County do in terms of explaining

what they want to do, that would be a different basis.

But as to the general question of whether or not, from a zoning point of view, I am going to sustain the objection.

MS. DOPKIN: I have no further questions at this time, but I would like to reserve the right.

THE CHAIRMAN: Certainly. Which one?

CROSS EXAMINATION

BY MS. WILSON:

Q. Good morning, or good afternoon.

A. I believe it's good afternoon.

Q. You're right. I have lost the day. How far away from the church do you live?

A. Seventeen miles.

Q. How many of the members of your congregation -- by members, I will use the term colloqually for the moment -- members and friends, live in the immediate vicinity of the church?

A. I cannot give you a figure on that. I am one of those who lives furthest away.

We are the only Unitarian Universalist church in

Baltimore County.

So those of us who live in the county and wish to go to a Unitarian church may well go to this one.

Q. Are you personally aware of the home addresses of any substantial portion of your congregation membership?

A. Would you repeat that?

Q. You basically know where your fellow congregants live?

A. Yes. We have a directory for friends and members that lists every person by name and address. And it is frequent in our congregation, in addition to activities within the church building and on the church property, to have home gatherings, and so I have been in many of the homes of our congregants, and they have been in mine.

Q. Have you ever been in the home of a fellow congregant who lives in a property immediately adjoining your church?

MS. DOPKIN: I'd object. It's not relevant to the issue before the Board.

MS. WILSON: I am going to argue --

THE CHAIRMAN: Whoa. I'm going to overrule the

objection right now.

A. To the best of my knowledge -- and, of course, I do not know and may have not be in the homes of all 324 of our members -- to my knowledge, no one of our members lives within a home shown on the plat that was submitted for the hearing.

Q. Okay. Of your 324 member congregant, how many are members as differentiated from friends?

A. I don't know. It would have to be counted out of the directory.

Q. Now, you testified on direct in response to your church's attorney's question that the church facilities are used for a number of purposes, including what you characterized as assistance to the community at large, to organizations that accord with the principles of the church. Do you remember that testimony?

A. Yes. It is part of our outreach.

Q. You mentioned that those kinds of outreach activities include concerts and use of the facilities, is that correct?

A. Yes.

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Q. Are there any organizations that your church has denied access on the basis that the organization does not accord with the principles of the church?

MS. DOPKIN: I would object to this line of questioning.

THE CHAIRMAN: I am going to sustain the objection in the way that you have framed it, because I don't see any relevance to that point.

MS. DOPKIN: She misstated what the witness said.

THE CHAIRMAN: I'm not even concerned about that. The issue, if the question is who's going to be allowed to use this columbarium, which is the only issue that I see relevant in this general area, because its use is relevant to how many there will be and who come and go, I understand all of that.

But the question you asked didn't go to that.

MS. WILSON: You are correct.

THE CHAIRMAN: So I will sustain the objection to that question.

MS. WILSON: I would proffer my rationale for the relevance, but I prefer to do it out of the hearing of the

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witness. May we approach?

THE CHAIRMAN Certainly. Ma'am, could you sit in the audience for a moment?

MS. WILSON: I believe it is very relevant. One, Mr. Robinson's concern, major concern, is this facility is open to the public, the public comes to buy artwork from public artists who are renting space from the church. The public comes, and my concern is they are doing the same thing. We are saying, are they really going to be as strict as they say?

THE CHAIRMAN: The fact that other church events may encompass wider use does not necessarily mean that this particular activity is going to be kept wide open on the same basis.

If you want to specifically ask who's going to be allowed to be buried here or who's not going to be allowed; what, if any, restrictions will be placed on who's allowed to utilize this, then those would be relevant questions.

MS. WILSON: I had intended to ask those as well.

THE CHAIRMAN: Why don't you ask them?

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MS. WILSON: Because this is important, because I think it would be a mistake for the the Board to look in isolation at this one, ten-by-five-by-three structure.

This is the fourth general category accessory use of this church property that is not about worship. There's an art gallery. There's --

THE CHAIRMAN: But you can't make a nexis between what they do about other activities and what they do about this particular one.

You can pin her down as to what she feels their plan will be for this. You can even ask the word, and I am absolutely not telegraphing anything because I don't have a clue, that if we were to approve it, would we have to put a limitation or condition on it? Can it only be used for a certain defined group of people?

There are any number of ways to skin a cat. It seems to me that their prior history of other totally unrelated activities is not probabitive.

MS. DOPKIN: There are other forums in which we have -- and Mr. Robinson could raise those issues. It's really not the subject of this hearing. And there are

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other mechanisms to determine appropriateness, suitability.

THE CHAIRMAN: My point is we could even make those recommendations, but we're talking about here simply of a particular witness.

I am going to sustain any objection as to other unrelated activities if the purpose of talking about those other unrelated activities is to show a nexis.

We're bright people here. Therefore, we can deduce -- they may bring other people in here.

If you want to talk about the level of congestion that their activities already bring and try to make some nexis, that already come up in in some of the testimony, that's a physical fact.

The mere fact there's activity in one area is not, I think, probabitive of how they are going to do this, and I think you can narrow it without --

MS. WILSON: But she opened this scope --

THE CHAIRMAN: But I am going to overrule that type logic. If you want to be specific about what's their use, and address what their critera should be?

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MS. WILSON: If I could establish the Montesorri School was approved on the basis it was a service to the members, and now it's open to the public. If I could establish the art gallery --

THE CHAIRMAN: We are not here to enforce what happened. We're here to set criteria and paramaters for this use.

MR. LANZI: Don't you have to consider other matters, in what context they're used?

THE CHAIRMAN: If it could be shown this would happen in the same way, and I don't know how you would that.

MS. WILSON: What I'm say, what they're doing is consistent. Say two years from now, they have a financial disaster, and it's opened to the public?

THE CHAIRMAN: First of all, you're making a leap that we're going to approve it without conditions.

That, I can't imagine. Even if we consider it, you're not even close to requesting or asking that there be some limitation of some sort applied.

MS. WILSON: I understand.

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THE CHAIRMAN: We've got to get to that, not to use the phrase the witness used, and maybe there are a number of ways to skin the cat with all the problems people have. Off the record.

(Discussion held off the record.)

THE CHAIRMAN: Go back on the record. I am going to allow questions as to specific criteria for this, but not the other.

MS. WILSON: We thank you.

THE CHAIRMAN: You may come back up.

(Witness resumes the witness stand.)

Q. Ms. Jung, when you testified earlier that the use of this structure is going to be limited to members and friends and the extended family of members and friends of the congregation -- first of all, do you remember that testimony?

A. I think I said that the columbarium --

Q. Yes.

A. -- would be used by friends, members, and their households, yes.

Q. You testified in response to your church's counsel's question that the church intends to install the Garden without regard to whether it gains approval for the columbarium structure itself, is that correct?

A. That has been said. And as far as I know, that's what would happen.

Q. So it's fair to say, isn't it, that, really, we are here about getting permission to put in the structure itself, the ten foot by five foot by three foot structure with niches you described, is that correct?

A. We are here for a hearing requesting a special exception for a columbarium as shown in the location shown in the plat submitted with the original hearing.

Q. So we are not here about a Garden, right?

A. That's not the subject of the hearing, but we are describing it and are showing it --

Q. Yes, I understand.

A. -- as within a Garden situation.

Q. Can you define for us what a columbarium is, precisely? Because it's not defined in the zoning statute.

A. I have read the Webster's definition, but I am not sure that I can quote it verbatim.

Q. Maybe I can help you.

A. It is a thing that has spaces for the burials of cremains.

Q. Cremains, being the remains?

A. Cremains being the ashes from a human body that that have been cremated. I'm not sure I remember any other specific portions of the definition. It doesn't define size or -- that I know of.

Q. I have here a page copy from Webster's 3rd International Dictionary, and I had highlighted the definition of columbarium. Would you take a look?

A. Don't you show that to the other attorney first?

THE CHAIRMAN: That's my job.

THE WITNESS: But she was expecting an answer.

MS. DOPKIN: I haven't heard a question yet.

Q. So please a look at that copy that was examined by your counsel now.

A. Am I supposed to do that before she asked the question?

THE CHAIRMAN: Now, you can look at it.

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MS. DOPKIN: What dictionary?
MS. WILLIS: Webster's 3rd International.
A. You should have brought a magnifying glass.
Q. I apologize. Having read it, do you agree that the definition that's stated there comports with your understanding of what a columbarium is?
A. I agree with part of it. Recesses for cinerary -- I guess that's cinerary urns.
I don't know what the definition of a vault is. I don't know what the definition of a structure is. And so that's all I can help you with.
Q. So, to an extent, do you quarrel with the definition there?
A. I can't say that.
Q. Okay. Would you please read it to the panel, the definition in full, first and second.
A. Columbarium. Noun. Plural. Columbaria. From the Latin, literally. Dovecoat.
For instance, columba dove -- and I am pronouncing that incorrectly -- more at -- I can't read the next word. One, noun. A structural of vaults lined

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with recesses for cinery -- either urn or urns -- parenthesis -- containing glass door, marble compartment for the ashes of cremated bodies. American Guide Series, New York City. Two. A recess and a columbarium.
Q. Thank you very much.
A. You're welcome.
Q. You indicated -- you testified, rather, in response to Ms. Dopkin's questions that the church wants to place this columbarium in a Garden for the purpose of have a quiet, secluded place for spiritual self-examination, prayer, meditation, and other similar kinds of uses. Do you remember that testimony?
A. Yes.
Q. In your twenty-some years of experience with this church, and your knowledge of the property, can you tell me how quiet a spot that proposed location is?
A. If I may correct you, I have not been there that long. I went there originally about '83, somewhere, give or take a year or so in there.
Q. Pardon me. In your fifteen years of experience.
A. And then -- what was the question, the rest of

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the question?
Q. How quiet a spot is that that your church is proposing to use for this columbarium?
A. Let me think a moment. I would estimate that over ninety percent of the time it is as quiet -- it is more quiet than this room would be if no one were talking.
Because in this room, I hear the sound of fans. And from this spot, the noise, in my opinion, which is an inexpert lay opinion, from having been on the site, in my opinion, the spot -- the noise from Dulaney Valley Road, from homes and surroundings, would be less than the fans in this room.
Now, that's ninety percent of the time.
Q. What about the other ten percent of the time?
MS. DOPKIN: I object to the line of questioning because I don't know what it goes to prove or disprove.
THE CHAIRMAN: Since she answered the first part of the question, I will let her answer the second part of the question.
A. Somewhere in that ten percent are Sunday morning services. At Sunday morning services, including the

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religious education of the children, there are over 200 people at the property and the parking lot for the 11 o'clock service. It's -- I started to say comfortable, but I don't think that's accurate.
There are places to be found if -- because I have done it the last few years -- if you get to service late, you have a place to park. So we are talking about that many cars, that many people, at one hour during the week.
Q. Is that the quietest spot on the property?
MS. DOPKIN: Objection.
THE CHAIRMAN: I'm going to let her answer, if she knows.
A. I think the quietest spot would probably be the creek in the marshland at the far corner of the property away from Dulaney Valley Road. But I have never had a noise monitor, and I don't know.
Q. Dulaney Valley Road is 250 feet from the spot that you propose to put the columbarium, isn't that correct?
A. I heard so testified by Rick Chadsey.
Q. In your view, putting all the traffic on Dulaney

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Valley Road within the ten percent of the time, the columbarium wouldn't be quiet enough for reflection and solitude?

MS. DOPKIN: I object.

THE CHAIRMAN: I will sustain the objection because we are getting into quantitative areas that I don't think she can quantify.

Q. How does the church propose to administer the columbarium in the sense that obviously it's going to have a process for people, I suppose, applying to have their remains stored there?

A. It is a church use. And, as such, it is under the -- under the responsibilities of the elected board of the church. There are committees involved.

And it is, again, until we have gotten through this process, which is simply to ask for the columbarium to be allowed, then at that point we'll proceed with other activities within the confines of Baltimore County laws, regulations, requirements, et cetera, et cetera, et cetera.

Q. So is it fair to say you don't know yet?

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A. It's fair to say that it is humanly impossible to plan for something when you do not know the parameters.

When the appeal process is over, we will then proceed with the utmost haste.

Q. One parameter that the church seems already to know is that it plans only to open the columbarium to its members, friends and their extended family, is that correct?

A. Yes.

Q. Does the church know yet how it plans to enforce that limitation?

A. Precise steps, no. Generally, it has to have approval of the appropriate committee, designated person, board, et cetera.

Q. When you say it has to have approval, what do you mean? The procedure or the particular person?

A. No. The particular -- if you were to request a space, the roles would be searched. Your name would not be on it.

You would be told politely, I'm sorry. It's not for you.

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Q. How do you know that?

A. Because that is the intention -- that has been the general -- and I can -- throughout the years, I personally first heard mention of this sometime in the early to mid-eighties.

And so from time to time, from that day to this, there has been informal -- and as more recent years have come -- more structured concerns that we provide this as one of the services of our church, which is actually customary in many, many, many churches.

Q. In the fifteen years that you have been affiliated with the Towson Unitarian Universalist Church, it's fair to say, isn't it, that some of your members have passed away, correct?

A. Correct.

Q. To your knowledge, have any of them had cremated remains placed in a columbarium, anywhere ?

MS. DOPKIN: Object.

THE CHAIRMAN: I am going to allow the answer. To her knowledge.

A. I don't know.

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Q. Do you know if even one member of the Towson Unitarian Universalist Church has ever had cremated remains placed in a columbarium anywhere?

MS. DOPKIN: Objection.

A. Isn't that what you just asked?

THE CHAIRMAN: Whoa, whoa. Asked and answered. Whether anyone has ever or even one, it's the same question.

MS. WILSON: I want to make sure I have it straight.

Q. Can you not say that even one member of the Towson Unitarian Universalist Church has ever been buried in, or remains placed in a columbarium anyplace?

MS. DOPKIN: I am going to object. It's a statement, not a question.

THE CHAIRMAN: And I think the question is over-broad. Within Baltimore County? Within this particular church?

MS. WILSON: Anyplace.

THE CHAIRMAN: I am going to allow the answer, if you know.

A. I don't know.
Q. You spoke earlier about who would maintain the grounds if the structure were permitted, the columbarium structure were permitted, and you indicated that the church has the grounds committee as part of its operation council that would take responsibility for maintenance of the grounds. Am I correct in recalling that answer?
A. I can't remember my exact words. That is, our organization, the columbarium use would be a church use, and the church would take responsibility for the maintenance of that part of the ground in the way it has the entire grounds, and that has been the past process, and most likely would be the future one.
Q. Has the church made any decision about how it will maintain the grounds or the structure?
A. Considering that we have had a number of hearings and they have been appealed, we have not gone into further details at this time.
Q. As far as you know, right now, the church sort of generally plans to use volunteers, I take it, members of the grounds committee or volunteers serving as members for

the grounds committee to maintain this area, is that correct?
A. That is an assumption I cannot make. We use our members as volunteers. We hire people on a part-time basis, and we have one person on staff that has some outdoor responsibilities as well as in. I can only assure you it will be done.
Q. How, of course, is the question. How will it be done and how can you make that assurance?
MS. DOPKIN: I am going to object.
THE CHAIRMAN: It's sort of kind of argumentative. She already answered there are no specific plans and that they do have volunteers or staff that carry out various functions.
It's obviously as far as she can get on it. Sustained.
Q. Ms. Dopkin asked you whether you had -- your church had any contact with the community association surrounding the church property, and you answered that the Long Quarter Community Association had actually held a meeting in your church at which they were shown a concept

plan, not exactly this one. Do you remember that testimony?
A. Yes, I do.
Q. What concept plans were they that they were shown?
A. Part of it was a sketch that I drew on a tear sheet, a newspaper tear sheet, because I had forgotten and left the plan at home. They were supplied with a copy after the meeting.
Q. Now, you didn't testify before that they approved whatever it was that you showed them, did you?
MS. DOPKIN: I am going to object. It wasn't part of the direct.
THE CHAIRMAN: I am going to sustain as to the form of the question. She testified that she was at a meeting.
If you want to ask her her recollection of that meeting, it's a different question. I will sustain.
MS. WILSON: I think I ought to be permitted a little more leeway than that on cross-examination.
THE CHAIRMAN: That may be, but I am going to

sustain the objection, and suggest you rephrase it.
Q. Following the September meeting at your church with Long Quarter Community Association at which they were shown something other than the concept plan that the church is now relying on, the community association did not approve or voice support for your proposal, did it?
MS. DOPKIN: I object. It's asking for hearsay.
MS. WILSON: It seems to me the initial question was hearsay, what did she think about the plan. I am certainly entitled to tell the panel through this witness they didn't like it very much.
MS. DOPKIN: Objecting. Misstating the original testimony.
THE CHAIRMAN: I am going to sustain the objection purely as to the form of the question. If the witness is asked to testify as to what happened at a meeting at which she was present, I will allow it.
Q. At that meeting, Ms. Jung, no one said to you, Oh, we approve this plan, did they?
MS. DOPKIN: I object. Again, she's asking for hearsay.

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THE CHAIRMAN: We are getting closer. I will still sustain the objection.

MS. WILSON: With all --

THE CHAIRMAN: I hate to do this to you. I understand you're trying to characterize it. I would just as soon, to move things along, you ask if, in fact, she knows what, if any, action they took. And then, good, bad or indifferent, we will hear it.

Q. Do you know what, if any, action they took?

A. I do not know. I was there for the first part of the meeting, which was an informal meeting. It appeared that, as I was leaving, they did other things.

MS. WISON: I'd like to strike the latter part of the answer.

THE CHAIRMAN: I will sustain that.

THE WITNESS: What did I answer then?

THE CHAIRMAN: Your answer --

THE WITNESS: I don't know.

THE CHAIRMAN: Part of your answer was stricken. It was over-broad.

Q. The community association that met with your

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church, the Long Quarter Community Association, never gave the church any kind of written approval of the plan, did it?

MS. DOPKIN: I am going to object.

THE CHAIRMAN: I am going to overrule that objection. She's the person who's the liaison. She would know if some communication occurred.

That means you answer.

A. Not that I know of.

Q. How many niches will each segment, each ten-foot segment of the columbarium hold?

MS. DOPKIN: I would object. Ms. Jung didn't testify to this on direct.

It was testified to by Mr. Chadsey.

MS. WILSON: She did, your Honor.

THE CHAIRMAN: One moment.

MS. WILSON: She described the structure.

MS. DOPKIN: I don't think she described the --

THE CHAIRMAN: Whoa. One second. My notes agree with my compatriot's notes that she did describe the niches within.

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So I am going to overrule any objection to her further describing the physical structure to the extent that she's aware of it.

That means go ahead and answer.

A. Okay. Would you restate the question, please?

Q. I will be happy to repeat it for you. How many niches will each ten-foot structure contain?

A. Forty-eight.

Q. Forty-eight per structure. How many urns will be housed per niche?

MS. DOPKIN: I would object.

THE CHAIRMAN: I am going to allow that question, if she knows, if she's able to tell how big it's going to be.

She really did open the door. She did describe it. So if she wants to go into a little more detail, I will overrule the objection.

MS. DOPKIN: Somewhat speculative, Mr. Chairman.

THE CHAIRMAN: I don't think so. Go ahead.

A. Repeat the question.

Q. How many urns will be housed in each niche?

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A. I don't know.

Q. Five? Ten?

THE CHAIRMAN: Let her respond.

THE WITNESS: May I explain?

THE CHAIRMAN: It's not my question, ma'am.

A. All right.

Q. What is your understanding of how many urns will be housed in each niche?

A. That question is impossible to answer. I can merely state that there will be in one section forty-eight niches.

Q. Does the church proffer any kind of projections as to how many urns will fit in a niche?

MS. DOPKIN: I would object again, just because it was not part of the direct.

THE CHAIRMAN: Again, I am going to overrule this as part of my continuing ruling that it is relevant. Again, to the extent you know, ma'am.

A. It is my understanding that urns come in various sizes. It is not -- period.

Q. So there could be one large urn, or two medium

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sized urns, or three slightly smaller urns, or four really small ones, or five really small ones, is that basically what you are saying?

A. It is my understanding that if urns are used and if every niche were used to its maximum urn capacity, that one section could hold ninety-six urns.

Q. So, on an average, two urns per niche is the church's projections?

A. I didn't say that. I said maximum. Maximum number of urns.

Q. Then is it your testimony now two urns per niche is the maximum? Is that now what you're telling us?

A. Yes.

Q. Is the church going to sell these slots niche by niche, or is it going to rent them urn by urn?

MS. DOPKIN: I am going to object. Counsel has asked -- there's been procedural questions. It has been asked and answered.

There's already been testimony that they may have not gotten to the point of specific arrangements or procedures by which even they have determined who's going

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to be making decisions about the Memorial Garden.

I think it's only fair to deduce that if they haven't decided to make the decision, that they haven't decided what the process is.

MS. WILSON: Can I ask the witness?

THE CHAIRMAN: You can ask the witness have they gone into the questions of those details at all, and if they haven't, that's the end.

Q. Have you all decided whether you're going to sell these niche by niche or urn by urn?

A. It is my understanding that a niche would be available for an individual or someone closely associated with that individual.

And, in other words, you know, you and Mr. Lanzi, unless you have a relationship that I'm not aware of, would not share the same niche.

Q. Being cute, but that would be --

(Discussion held off record.)

THE CHAIRMAN: I note Mr. Lanzi sat there quietly with his hands folded.

Q. Can you tell us what the size of each niche is

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going to be?

A. The mounument is going to be, as was testified by Mr. Chadsey, three feet deep. That will be divided in half, so that twenty-four, Phase One. Twenty-four -- do I have my numbers right? -- face the other way.

Q. So a foot and a half deep?

A. Yes.

Q. And they will be the full height, I take it?

A. No.

Q. So it will be subdivided across each face of the monument as well?

A. Yes.

Q. So how many layers -- how many shelves, if you will?

A. I don't know. As far as I know, no one knows. We are merely at the concept of size and placement.

Q. So if you have twenty-four on each side, you haven't decided yet how you're going to allocate that space on each side that's a foot and a half deep space, is that what you are telling me?

A. I don't follow the question.

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Q. I think you're telling me, if I am correct, and my question is, am I correct, that you have decided the monument will be subdivided down the middle, there will be a foot and a half deep compartments facing either side, but you have not yet decided how you're going to allocate the space on each side of the monument, is that correct?

A. Do you mean allocate as far as giving instructions to the person who builds the monument? Or do you mean allocate as to who has -- which family has which niche?

Q. A fair point. I apologize for the ambiguity. I meant in terms of the space.

A. Instructions to the person who constructs the monument, is that what you are asking?

Q. Yes.

A. That has not yet been finalized, or any determination, that I am aware of.

Q. Has the church decided what it will charge for these spaces?

A. There has been discussion, but, like everything else, it's on hold until we have exhausted the appeal

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process and have the right to begin construction.
Q. Has anyone attempted, to your knowledge, to make arrangements to acquire one of these spaces or niches?
MS. DOPKIN: I object. Way beyond direct.
THE CHAIRMAN: I think it's clear they have no real structure or process.
MS. WILSON: I have a reason for asking the witness if anyone has inquired. If we could let her answer, it will become very clear.
THE CHAIRMAN: The last question?
Q. Has anyone inquired –
A. No one has inquired of me.
Q. My question was, to your knowledge, has anyone inquired of the church?
A. Inquiring, I think, means to ask a question. Is this being built? Has it been built? Is it available? To my knowledge, no one has specifically inquired.
Q. I am showing you a document. I'd like you to take a look at this, please.
MS. WILSON: This was an exhibit in the hearing below. It was already admitted in the record before the

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court. I will admit it again as a formal matter and move it into evidence.
Q. Do you recognize this document?
A. I have seen it.
MS. DOPKIN: What number is it? It's admitted because it's part of the record below, but I am asking for a copy of it, just for our record here.
Q. When was the first time you saw this document?
A. I am guessing two or three years ago, but that is strictly a guess.
Q. It is the brochure written and pronounced by the Towson Unitarian Universalist Church for its Memorial Garden and Columbarium, isn't that correct?
A. That's what is stated on what would have been the cover for it.
Q. The address of the church appears on what is in its original format as 1710 Dulaney Valley Road, Lutherville, Maryland 21093?
A. The address is on it. I don't remember the order of pages and folds.
Q. In this brochure, the Towson Unitarian

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Universalist Church describes its intended Memorial Garden and columbarium project, is that correct?
A. To the best of my knowledge, this describes what was the concept at the time that it was printed.
And you will note that the minister whose name is on it is no longer the minister of the church.
Q. This brochure says in the main broad second paragraph of the plain typecast, Our Memorial Garden provides both for the scattering of ashes in a protected, designated area, and for the internment of ashes in niches which are built into the columbarium?
A. Yes.
Q. Going on, it says, Covering the niches are face fronts large enough for the inscription of names, dates and a few appropriate words or design. Do you see that?
A. Yes.
Q. Each niche will hold two containers, and possibly more, depending on the size and material used? Yes?
A. I see it.
Q. So a couple years ago, the church knew how many containers each niche would hold, is that correct?

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A. Several years ago --
MS. DOPKIN: I object. Ms. Jung testified she became involved in this process in January of this year.
Counsel is asking her to testify to *information* --
MS. WILSON: She testified she's been hearing about it since the early eighties.
THE CHAIRMAN: She did acknowledge she had seen this and even knew when it was furnished.
To the extent she knows, I will allow it, certainly subject to your redirect.
A. It is my understanding and belief that this brochure was a concept of -- I can't say who it is, the committee or the church, at the time of its publication.
Q. The next sentence says, In addition, space is provided on the columbarium for plaques to honor those who choose to have their ashes scattered in the Garden, or for those who have been interred elsewhere, but want to be remembered as part of our church family?
A. Yes.
Q. So the church was, two years ago when this was

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published, planning on including more than church members and known friends, although not in the niches, isn't that correct?

MS. DOPKIN: Object. Speculative.

MS. WILSON: It's fair to ask her to interpret the church's document.

THE CHAIRMAN: Subject to what her interpretation is, but the record will simply reflect what the document says.

MS. WILSON: Okay. I will move on.

Q. The next paragraph in the mean part of the page says, the Memorial Garden Committee also maintains a Memorial Book that contains brief biographies and photographs of those so remembered, and that will be available for general viewing. Do you see that?

A. I see it.

Q. So the Memorial Garden Committee, what is that?

A. There is a committee of the church that has been involved in talking about this and in doing preliminary thinking and in beginning work on rules and regulations, which were discontinued because of this ongoing process.

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Q. So you stopped the decision process? The church actually had started trying to figure out some of the details of what it was going to do, and actually stopped the process, is that what you're saying?

A. I am saying that our church, as a part of its strongly ethical standing, will never deliberately do anything that is contrary to the laws of man and the county in which we live.

Q. So you think it would have been contrary to the laws of man and Baltimore County to plan the details for a proposed project, is that your position?

MS. DOPKIN: I object.

THE CHAIRMAN: I think her answer will stand as it stands. Asked and answered.

Q. Let's turn to the, what is the facing page of the brochure. It begins with some italic type focus on the main text.

Right underneath the italics, the first sentence says, The columbarium has been designed so that sections may be added in the future. Do you see that?

A. Yes.

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Q. Now, a section is that ten foot by five foot by three foot thing, isn't it?

A. That's correct. Generally what we have referred to, one out of four, as being proposed on the concept plan.

Q. It's designed so that sections may be added in the future. That's what it says?

A. It's the way I understand it.

Q. There are twenty-four niches available, some already spoken for. That's the next sentence, and I'm reading that. Is that correct?

A. You're reading what is printed.

Q. By whom were any of these niches spoken for?

A. I don't know.

Q. Have there been any deaths within your church family in recent years?

A. I don't know whether -- that some of them or not.

Q. But none of these family members spoke to you about coming and having a part of the columbarium niches?

A. That was not my responsibility as assigned by the board of the church.

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Q. Since you have become the church person, the liaison committee, or you have become the liaison, nobody has passed along to you any files indicating who the people are who have spoken for niches?

A. That is absolutely correct.

Q. The next sentence, The cost of acquiring the use of one niche is set at this time at $1500, to be paid in full at the time of the signing of the license agreement?

A. I see it.

Q. Is the price still $1500?

A. I don't know.

Q. Who drafts your license agreements for you?

A. I don't know.

Q. Is the church still planning on selling a niche at a time?

A. I don't know.

Q. The next sentence says, A charge at the time of internment to cover costs of opening the niche is initially being set at $125. Do you see that?

A. I see the printed.

Q. Is the church still planning on charging for

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initially opening the niche?
A. I do not know.
Q. The next sentence says, The cost of each niche has been set at a value which is comparable with others in surrounding communities. Do you see that sentence?
A. I see it.
Q. So you're selling on price here, aren't you?
MS. DOPKIN: I object.
Q. You can meet the price of the comparable niches in the surrounding community?
THE CHAIRMAN: Whoa, whoa. When somebody says objection, we stop.
MS. DOPKIN: I'll withdraw the question.
Q. The next sentence says, Engraving costs for the niche face will vary according to the desired inscription.
I take it the church doesn't know yet whether it's going to vary the cost of the engraving or charge for engraving, so forth, is that correct?
A. I don't know.
Q. The next sentence in the facing portion says, The cost of scattering ashes has been set at $500. Do you see

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that sentence?
A. I see it.
Q. The church, as of a couple years ago, had set the price for scattering ashes, correct?
A. That was printed in this brochure, the history of which I cannot tell you.
Q. As of the time that this brochure was printed -- and you saw it a couple years ago -- and it was printed a couple years ago, you said, the church had discerned how many niches would be available, is that correct? Twenty-four? And it had discerned how many urns each niche would hold, is that right?
A. I cannot testify whether it had determined or whether it was concept and thinking. I cannot tell you at what stage this document was produced.
Q. The next sentence that we are reading says, This fee includes services outlined in Rules and Regulations for the scattering of ashes.
And then, just below that, it says, Contract forms and copies of Rules and Regulations are available from the church office. Do you see that sentence?

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A. I see it.
Q. Is that an incorrect statement?
A. I don't know. I do know that there's one other mistake. They used a present tense. That's inaccurate.
Q. Where?
A. The Memorial Garden Committee maintains a memorial book. To the best of my knowledge, that is not maintained.
Q. In fact, the brochure is written in the present tense, isn't it?
A. I'll have to look at this more carefully grammatically.
Q. Why don't we take a minute and let you do that.
MS. DOPKIN: I think the brochure speaks for itself. It's part of the record.
Counsel has read it. I object to both the tone and the question offered by counsel. Counsel has read the brochure in its entirety, and it speaks for itself.
Furthermore, I think she's getting very close to badgering the witness.
THE CHAIRMAN: Without reaching that issue for a

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moment, the witness has testified, I believe, that she didn't produce this and doesn't know the answer.
You have had a litany of, I don't know, I don't know, I don't know. I think it's apparent that she doesn't know, certainly, and it was put in below.
I hope we'll have a copy put in here, and certainly you can comment and present other witness who may have knowledge of it. But, obviously, she doesn't.
Q. Do you know, Mrs. Jung, whether contract forms were prepared by the church?
A. I do not know.
Q. Do you know whether Rules and Regulations were prepared by the church?
A. I do not know.
Q. Who were the members of the Memorial Garden Committee?
A. I know the names of some. I do not know the names of all.
Q. How many members sat on that committee?
MS. DOPKIN: I would object.
THE CHAIRMAN: Counsel asked if she knows the

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names of some, if not all.
MS. DOPKIN: Now she's asking about the members. I don't know where she's going with this line of questioning.
THE CHAIRMAN: She's asking a number, how many members.
MS. DOPKIN: To what end?
MS. WILSON: This witness doesn't know the last names or former contact with the Memorial Garden Committee?
THE CHAIRMAN: She does not.
MS. WILSON: She's knows some, not all.
THE CHAIRMAN: But who is that?
MS. WILSON: If there were fifty, I won't ask her. If there were seven, I might.
THE CHAIRMAN: I will overrule the objection at this point.
A. What is your question?
Q. How many members sat on the Memorial Garden Committee?
A. I don't know.

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Q. Has the church ever prepared an engineering specifications or drawings for each section of the columbarium?
A. Not that I know of.
Q. There are no blueprints?
A. Would you ask the question again?
Q. Okay. Let me back up a little bit. Is there any drawing of the proposed structure itself, the columbarium itself, that shows it?
A. I believe at one time I saw -- at one time, I saw a concept drawing in the church.
I can't tell you the authority of that drawing. I cannot tell the authority of the drawing within this brochure that you have had us looking at.
To my knowledge, these are concepts, and, to me, the word "concept" means it's a thinking about, it's a maybe, it's to give you an idea.
But it certainly is not anything that has the authority of a plat plan that is done and signed by an expert professional.
Q. So the church has never, for example, voted on a

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final design, is that correct?
A. I believe that I have testified over and over and over again that in many areas -- and this would be one -- that we are struggling through the appeal process, and when the final appeal is finished, we will then proceed to do what we are allowed to do under the rulings of the hearing and within Baltimore County and Maryland laws and regulations.
MS. WILSON: I have no questions, Mrs. Jung. Thank you very much.
THE CHAIRMAN: Redirect?
MS. DOPKIN: Thank you. Just a couple questions.
REDIRECT EXAMINATION
BY MS. DOPKIN:
Q. You hold the church is maintained either by volunteers, staff, or outside contractors, the Memorial Garden and any structure that may be permitted within it?
MS. WILSON: Objection. The witness already answered me when I asked that question. She said she didn't know what they were going to do.
MS. DOPKIN: I don't believe that's what she

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said.
THE CHAIRMAN: Frankly, I was going to sustain the objection as asked and answered. She already said through their full-time and their part-time and their committee, and she went through a whole explanation of not knowing who was going to do it, but assuring everyone it was going to be done, was my understanding of the testimony.
Q. Counsel asked you if you'd be selling niche by niche or urn by urn.
Do you understand that, if approved, you will be selling anything other than space?
A. We would be selling space, space to be ultimately used for remains by friends, members, and households of the church.
Q. Is it your understanding the church will be conducting crematoriums? Actually be cremating people?
A. Absolutely not.
Q. To your knowledge, is the brochure which counsel presented to you currently in use?
A. To the best of my knowledge, this brochure has

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not been distributed in recent times.
I am trying to see if I can give you a more exact date. I would say I can speak that it has not been distributed in six months.
Q. So is it your understanding that it's not currently in use?
A. It is my understanding it is not currently in use.
Q. Does the church envision, if the use is approved, to your knowledge, does the church intend or envision making a profit on these sales of space within the columbarium?
A. Of course not.
MS. WILSON: Objection.
THE CHAIRMAN: I will overrule the objection.
MS. DOPKIN: I think the question has been answered.
THE CHAIRMAN: So do I.
MS. DOPKIN: I have no further questions.
THE CHAIRMAN: Recross?
RECROSS EXAMINATION

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BY MS. WILSON:
Q. What's the definition of profit, Mrs. Jung?
A. I can give examples. I'm not sure I can define it.
MS. WILSON: That answers the question. Thank you. No further questions.
THE WITNESS: And thank you, gentlemen.
THE CHAIRMAN: Ms. Dopkin?
MS. DOPKIN: I have no further witnesses at this time.
THE CHAIRMAN: Reserving the right to present rebuttal testimony, I assume?
MS. DOPKIN: Yes.
THE CHAIRMAN: Are there any documents other than what's already come in you wish to place on the record at this time?
MS. DOPKIN: No, thank you.
THE CHAIRMAN: Protestant's case.
MS. DOPKIN: Before Mr. Lanzi starts, may we approach on timing?
THE CHAIRMAN: Sure. We will take a five-minute

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recess and come back.
(A recess was taken.)
THE CHAIRMAN: Let's get back on the record. Mr. Lanzi?
MR. LANZI: I will call Mr. Robinson as the first witness.

JAMES ROBINSON,

having been called as a witness, was duly sworn and testified as follows.

DIRECT EXAMINATION

BY MR. LANZI:
Q. Mr. Robinson, can you please state your various addresses, for the Board?
A. 1798 Dulaney Valley Road. 1800, 1820, and 1818,
Q. Are these properties immediately adjacent to the church in question?
A. Yes.
Q. How long have you resided at your present address?
A. Since 1981.
Q. Which of those street addresses that you gave is

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your residence where you live now?
A. 1798.
Q. What year have you been living there since?
A. 1981.
Q. Over the years from 1981 to the present, have you been familiar with the activity of the church?
A. From an outsider's view, yes.
Q. During those years, what have you observed as far as activities that occur at the church property?
A. They have services on Sunday. Usually -- I know it's after 10:45 -- I'm sorry. I know it's after 10 o'clock, because I get back from 10 o'clock mass, so I guess -- I think I heard testimony it was 11 o'clock or something, mid-morning on Sundays.
And sometimes they have -- I don't know what they are, dances for kids, or small concerts, I'm not sure.
And there's a Montesorri School, I know that, and in the summertime they have like a summer camp school for children.
And I have not been in the art store, but they have a sign up along Dulaney Valley Road for advertising

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the sale of art, and other miscellaneous uses.
Q. Let me direct your attention to the site plan, Petitioner's Exhibit 1.
Your name is indicated at the top of the plan. Would that be to the north of the church property?
A. The 1798 property would be, I guess, technically, it would be north-northwest.
Q. Is your home located at the top of the grade of your driveway?
A. Yes. But now there's a home that we are renovating at 1800 Dulaney Valley Road.
My son is buying that house and he will – that house is seven to ten feet above where the proposed – after modification, where the columbarium is, so you actually look down, or could, if it were there.
Q. That's from the property?
A. From my property at 1800 Dulaney Valley Road.
Q. Mr. Robinson, I'm going to show you a series of photographs.
MR. LANZI: I guess we can mark these –
THE CHAIRMAN: 3, collectively. Give them A, B,

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C and D.
Q. I am going to go through each one, and as you are done with each one, we'll hand them to the Board. Describe what they show to be –
MS. DOPKIN: Objection. Just as a formality –
MR. LANZI: Excuse me?
MS. DOPKIN: – I would ask Mr. Lanzi to authenticate the photographs.
THE CHAIRMAN: Sustained.
MR. LANZI: I will.
Q. Mr. Robinson, do you know who took these photographs?
A. Do I know? I don't know who took them.
Q. Do you recall authorizing me to take the photographs?
A. Yes.
Q. On your behalf?
A. Yes, I do.
Q. Were these photographs, to your knowledge, taken within the last year?
A. I'm sorry, I couldn't hear.

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Q. Were these photographs taken within the last year?
A. Yes, they were.
Q. Do these photographs accurately depict what they show, each photograph?
A. Yes, they do.
MR. LANZI: I would offer those protestant's exhibits as 3A through whatever.
THE CHAIRMAN: Noted.
Q. If you could describe some of them, or each one, show from the vantage point they are taken?
A. Nice house. The photographs basically are on my lawn, overlooking at the church's property. And the photographs are also –
THE CHAIRMAN: Sir, I think you misunderstood. You need to go through them one at a time, describe them, and then pass them over to us.
A. This is one shot of the Unitarian's parking lot. This is of the parking lot, on the parking lot.
THE CHAIRMAN: From where?
THE WITNESS: I assume the photographer's back is

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at the east side of the church.
THE CHAIRMAN: Pass that on over. Thank you.
A. This is a shot, again, of the Unitarian's parking lot facing in an easterly direction.
This is a shot of the Unitarian's parking lot standing along the edge of Dulaney Valley Road facing approximately west-southwest.
There's a shot of the Unitarian parking lot with – on the left would be their building. And behind you would be the hill from where I think they would have the proposed columbarium.
Clearly – well, you can see my house. This is the same shot. You can see my house. This is a shot where he shifted east, I guess, twenty feet, again standing on the Unitarian's parking lot.
You can see my house. There's a shot standing at the front of my house, and you can see the Unitarian church and some cars on their Unitarian parking lot and the parking lot itself.
There's a photograph – almost a duplicate, so it's the same description. And this third photograph is

panned more to the right. You can see more of the Unitarian Church and their parking lot, and cars parked on their lot.

This shot is almost identical, so it's the same description. There's a shot taken about midway on my front lawn between my home and Dulaney Valley Road, and so the photographers's back is to Dulaney Valley Road and he's facing west-southwest.

And, predominately, the picture is my home 1798. The last photograph is standing on the east side of Dulaney Valley Road where you -- it's a long shot of the Unitarian property from the edge of Dulaney Valley Road heading west, and in the background you can see the Unitarian Church, and in the forground is the parking lot.

Q. Those photographs were taken, isn't it true, the photographs were taken when the leaves were off the trees?

A. Yes.

Q. Now, is there a significant difference when you can see from your property into the church property during different times of the year?

A. Yes.

Q. I believe it goes without saying you can see the activity going on at the church property much easier when the leaves are off the trees, correct?

A. Yes.

Q. Which would be approximately how many times, months, during the year?

A. I will count them. Say October, November, December, January, February, March, April, May. Seven to eight months -- seven months of the year.

Q. From your property, can you hear noise from the church, from their activities?

A. Yes.

Q. The noise is normally generated from what type activity, if you know?

A. Perhaps you're going to shoot me for saying this, but I do not object to any of that noise, providing it's directly related to a church activity.

And sometimes at night the music can get a little bit loud, but I figure if this is for church members, or for kids, keeping them off the street, that's fine.

Sunday mornings, sometimes they have their doors open and I can hear them singing, but so what? It doesn't bother me as long as it's a church activity.

Q. Directing your attention back to those *photographs, in your opinion, will you be able to see the* proposed Memorial Garden and columbarium from your property?

A. Yes.

Q. Does your ability to see these activities offend you or bother you in any way?

A. Yes.

Q. Will they have an adverse impact on your property?

A. Absolutely, all my properties. I think I have a total of twenty-one acres there. It's a very high rent area, and I pay taxes. I live there. They don't pay taxes. They don't live there.

And I object to something I worked for very hard all my life being depleted for a commercial venture, or I see it as a commercial venture.

Q. Why do you feel you would be depleted, or why do

these activities bother you?

A. Well, contrary to what the expert testified to, I never heard of a person bragging of being right on the edge of a cemetery.

I have heard people bragging about being on the *edge of a golf course or right on the edge of a river or* stream or bay or ocean.

But, for some reason, and I have queried quite a few friends, educated people, people of various degrees, but usually they have an objection to being involved or being close to -- meaning where their home is -- to a place -- I guess you might call it a place of internment, whether they be ashes or whether they be people buried under the ground.

Q. Now, you're --

A. By the way, we sure made enough movies with those themes.

Q. You're in business, correct?

A. Yes.

Q. Now, how would you describe the present use at the church property and the proposed columbarium and

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Memorial Garden of the property? How would you characterize it?

A. Well, obviously, we have been no strangers to this court, to this panel, or the appeals, and there have been just a steady -- strike the word steady -- I'm sorry.

Each of the prior things, everyone considered them small encroachments on what would constitute being commercial or what would not be good for the surrounding property owners in the neighborhood.

But it's a little bit like the theory of well, you only lose a fingernail. You only lose your first knuckle, and then your second knuckle, and pretty soon you you lose your entire hand.

And what I say, okay, they have got their commercial activities that go on. They've got the art gallery, which is clearly commercial, open to the public.

They have got the Montesorri School, run for profit. They have got the summer camp, which is run for profit.

And now they want this columbarium, which I am sure, if allowed to proceed, it would be fifty feet long

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instead of four. You know, a sailboat, a big sailboat that goes across the ocean is fifty feet long.

And they talk about wanting to build a screen. Well, look, we are not kidding each other.

We all know, the members know, and the members are definitely high scale people that are more educated, including most certainly the expert. I never saw on the expert's resume -- he's a civil engineer.

Now, civil engineers, in a sentence, cut and fill. They dig dirt and they fill dirt and they blast. That's what they do.

They don't build houses or buildings, but they know where they want to build that thing is a rock shelf. They know it. And everybody in this room who's a member of the church knows it.

Q. What's your property located on?

A. Sorry?

Q. What's your property located on?

A. I am very familiar with that, and I walk to the property. You don't have to -- listen, I know with my limited construction experience that property was

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originally a hill and they had to cut it like they cut roads in the side of mountains.

And that property was a hill going down to the stream, and they cut into this. So the part they are talking about right now is rock, and they know it's rock.

What are they going to do if they try to plant stuff there and it won't grow? Or they can't plant stuff there, or the person who sells the bushes and trees says, I won't give you a warranty it won't live.

I don't know why they want it there when they can put it as part of their building, or most certainly behind their building.

And I can only assume they want to put it there for one reason, because it becomes a showplace, makes it much easier to sell to the public.

And I absolutely believe that the purpose of this is for the members secondarily, but primarily I think it's another commercial venture.

If you start adding up how many niches there are and how many vases you can put in a niche -- by the way, has anyone in this court asked the members how many of the

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members in the past ten years that have died were cremated?

There's an assumption here everyone that's Unitarian is going to be cremated. I don't think so.

Secondly, I heard 225 members, I heard 373 members, I heard 200 families.

How many members do they have? I guess no one here knows. This lady doesn't know, but if I had her job, I am sure I would know how many members I had in my church.

But how much members do they have? How many members would be cremated?

Q. Mr. Robinson, let me interrupt you for a minute. The Board heard enough about them.

The Board is more concerned about how you feel about this project.

A. I am trying to describe how I feel, because it's going to end up being a situation where it's going to be, Gee, whiz, holy mackeral, really, we only have ten percent of our membership. By the way, how many people die a year?

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What's this going to cost? Who's going to pay for the cost of maintenance? Is it going to be five or ten members a year that are cremated and placed into these niches?

Where are they going to get the paying users to pay for this thing? Then, I can hear it in two years, Well, we had to go to the public, we had no choice, et cetera, et cetera, et cetera.

The point is, how many Unitarians in the last five years died and how many would be cremated?

And, by the way, would they put, absolutely write a guarantee with a bond that no one but a church member could have their ashes placed there?

And, secondly, they mentioned friends of the church, non-voting members. So if I attend one or two of their services, that makes me a friend?

Q. Leave your questions for Mr. Cherry, which I want to focus you back on -- you heard testimony earlier about traffic and parking?

A. Yes.

Q. Have you had problems in the past with vehicles

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parking --

A. Yes.

Q. -- on your land and your driveway?

A. Yes.

Q. Has that occurred wherein the last several years? Last year?

A. I don't know, but it hasn't occurred in the last six months. How's that? And I don't make a big deal. I just ask people to leave.

Q. You try to cooperate with the neighbors?

A. There are some very decent people in the church. Mr. Cherry and -- I have known him for seventeen years. He and I have a mutual situation. He's a very nice gentleman. He's not here. He left.

Q. Let me ask you something else besides the parking. How would you describe the traffic on Dulaney Valley Road?

A. Well, there's a reason why you see my home with about twelve acres of land in front of it between it and Dulaney Valley Road.

That road is extremely noisy. I heard testified

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it's not. They should get their hearing aid fixed. It's extremely noisy.

I even planted a double row of pine trees buffering the sound from where my driveway is, all the way past -- up to Charlie's house. It's a very noisy road.

Q. Have there been any accidents on Dulaney Valley Road since you lived there?

A. Sadly, yes. And the real shame of it is it's usually young people. You know, it can be any time, 10 o'clock at night. Sometimes during the day, but I'm not there. But it's a heart breaker.

That is the worst S-turn I've ever seen for accidents. I don't know how many accidents have been on that, and it's just a shame.

I wish the county would straighten the road out. I have no idea how many deaths, but there's got to be, I don't know, five to fifteen accidents a year there.

Q. Have you personally been to the scene of an accident after they have occurred?

A. I am very sorry to say yes, and so has Charlie. It's a heart breaker to see these kids.

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Q. Where do those accidents occur in relation to the church?

A. Right smack dab in front of the church and my property, because that's where the center of the S-turn is.

Q. Do you anticipate more problems if this columbarium -- with traffic and accidents if the columbarium and --

MS. DOPKIN: I would object. It's speculative.

THE CHAIRMAN: I'm going to allow him to tell us his concerns and fears as the property owner.

A. Dulaney Valley Road used to be a nice little country road. Dulaney Valley Road, by the way, is not large enough today to accommodate the traffic, especially in the morning and especially in the evening.

But when I say in the morning, you've got a string of traffic going down there from 7 a.m. to 9:15, 9:30, and it starts again at 4 o'clock.

As they continue to build north of Loch Raven, if you will, you know the area I am talking about, there's more and more, every year, more and more traffic.

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I have been living in that neighborhood since 1967. I lived two blocks away before I moved to my current residence.

I can only say that the Dulaney Valley Road, either they better widen it or build another road, because the traffic is -- I sometimes sit in my driveway -- and I am an aggressive driver -- and I have to wait for a full light change two miles away and all that traffic to run out in order to get out on Dulaney Valley Road.

That's how bad the traffic is. And you don't go to the left. You cut to the right -- if you have to go to the left, you go to the right and do a circle and come back, because the traffic is so bad.

And on Sundays, it's all day long, because people are doing a lot of joy riding. They go out to the country.

Q. How do you feel about the columbarium and Memorial Garden will affect the traffic you experience every day?

A. Unless it scares those drivers away, and I don't think it will, obviously, there has to be more traffic.

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And when you have a funeral procession, we all know what they are, we all know what trips of twenty or fifty cars are like.

I don't think it's in any way that anyone can say that's not a traffic hazard

Q. Are you concerned with the value of your property being negatively affected if they are approved?

A. Absolutely.

Q. Why?

A. I never met a person who wanted to live next to a place where the dead are interned, whether they be in vases or in the ground.

Q. You have a substantial investment in your property, isn't that correct?

A. Yes, I do.

Q. Do you have, or would you be in a position to estimate how far your property value might decline if the columbarium is approved along with the Memorial Garden?

MS. DOPKIN: Objection. He's asking for an expert opinion.

MR. LANZI: He's a property owner.

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THE CHAIRMAN: He's a property owner and if he can give his personal opinion, with the understanding he's not an appraisal expert, we'll give it the weight we feel appropriate under the circumstance.

A. I fall somewhere between the laymen's position and the lady, the attorney's position on my left, because I do own commercial property in Chicago, Los Angeles and Baltimore.

I have done a lot of construction, even though it's not my business. And I have bought and sold a lot of homes.

I would say that could be -- first of all, if someone is going to be looking at property and they don't know something, obviously it's not going to affect their decision-making process as it may be adversarial.

As I see it, if a potential buyer knew of -- I call it a cemetery, they call it a columbarium -- but, most certainly, it's where the deceased remains are stored, or buried, whatever it's called, I would say it could cut my prices anywhere from fifteen to twenty percent of the value.

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I have a nice place. I put a lot of time in that place. And there's not a year goes by we're not constantly adding like 5,000 bulbs.

The aesthetics, it's like a park setting, which I welcome the entire neighborhood, and a lot of these retired places use my place to walk through, take the dogs, that's fine by me. I don't care.

Unitarian kids come over and play, I don't care about that, as long as there's no damage.

All I care about is I'm not losing -- pardon the pun, but my home is my castle. I'm sixty-three years old. I put a lot of money in that place. I'm not looking for any problems of having the value of my property be diminished.

Q. You're concerned with the use?

A. Absolutely.

Q. Now, in your opinion, would the proposed use, would that being compatible with your neighborhood?

A. No.

Q. What type neighborhood is it?

A. It's a good neighborhood. Almost everyone in our

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neighborhood has homes worth, I don't know, who knows, six hundred to one and a half or two million dollars.

Mostly people that got there the hard way. You might see a lot of professional people both from the various kinds of medicine, business, et cetera, et cetera.

But there's a common denominator, and that is everyone takes very good care of their homes, and everyone I think moved there to get away from all the stuff that you find in today's society when you come from the city or the suburban sprawl. It's a very fine area. Nice people.

Q. You'd like to keep it that way?

A. You're absolutely correct.

MR. LANZI: I am going to offer the photographic maps 12A and 13A as Protestant's --

THE CHAIRMAN: Four and 5. No. 5 will be 13A, northwest, and 12A a photographic map of Baltimore County.

MR. LANZI: I just want to enter them into the record.

THE CHAIRMAN: Any objection?

MS. DOPKIN: Just note the date of the aerial?

MR. LANZI: 1986. The most recent ones

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available.

Q. Mr. Robinson, is there anything that the church could do -- if they were to place the structure, proposed structure, elsewhere on the property, would you have an objection to it, or would you less objection to it?

A. If I may, that question really is two parts of one answer. I have sat now today the second time, and I am absolutely appauled that the Unitarians say they don't know what the thing is going to look like, they don't know how many are going to use it.

I heard conflicting testimony they don't know how many members they have. They didn't even do like what I would call a market study within their own congregation, don't know how many die in the year, how many are cremated versus buried, how many of their members are going to avail themselves of this, if offered.

They don't know anything. They don't even know -- they could have gotten a shovel and dug two feet like you're planning a road and found out if there's dirt there or it's rocky.

And I am very angry these people, educated

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people, knowledgeable people, sit here and lie. They know all the answers to every question asked today and yet they profess to know nothing.

Well, if they know nothing, why are they here to get something built?

Q. Let me --

A. Why are they here for a variance?

Q. Let me direct you back to another question. Where on their property, if anywhere, would the proposed columbarium be acceptable?

A. Trying to be concilatory, the building has what I would consider bays. Bays are sections that you keep adding sections to the end wall and can make a building longer and longer.

If my memory serves me correctly, that building end wall faces west and faces east. There's side walls which you don't usually expand. And I don't think they can expand them that face north and face south. They could on the south side, because I was told -- I'm not sure. I'm sorry. Or I heard it elsewhere, or testimony, that they don't want to put this close to the building or

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attach it to the building in order to hamper any expansion.

If they added this to the southern side of their building, they would be able to meet their needs and in no way hamper any expansion, because if they do expand, they are going to have to go with that structure they have. They are going to have to use side walls. On the south side of the building, there is plenty of room to build what it is they want to do.

But I did some fast arithemetic, came up with with 200 urns. You can put conceivably 200 urns. They're ten foot units. That's 800 urns if they put all four units up as they are asking. That's 800.

Now, that's a fact. And if I may add -- please bear with me -- I was offended that they have had this drawing up here, one inch equals ten feet, and everything is beautiful and everything is wonderful, drawn by an expert.

And all of a sudden, the damm thing is one-eighth of the proper size on this, drawn by an expert. I am offended by that.

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Q. I think we made that clear on cross, and you have made your point.

Is there anything else the church could do to make that proposed structure acceptable to you, other than what you just stated, placing it on the south side, is there anything else they could do?

A. I believe they want to build it where they are asking to because, from a commercial viewpoint, you can merchandise it.

And I don't want that to happen, because they have every right to have their tax free status, to have whatever worship they have, or beliefs, and I don't mind subsidizing that, being a taxpayer, but when they are encroaching more and more into that commercial -- what I call commercial style or life, or zone, rather, and that clearly is not supposed to happen where I live.

I moved there to be protected from that, and I take a strong exception with what I consider it to eventually ending up being, a commercial situation, a commercial venture.

Q. Have you made those concerns known to the church

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prior to today?

A. Oh, yes.

Q. Do you know how many times?

A. I don't know.

MS. DOPKIN: I would object.

A. I am sure you have too, on my behalf.

MS. DOPKIN: I think it is irrelevant.

Q. You have made effects to express your concerns to the church?

A. Yes.

MR. LANZI: Bear with me for one moment. Just a few more questions. I promise. I offer as Protestant Exhibit 6, a portion of the zoning map depicting the area where the Woodbrook Presbyterian Church is located.

THE CHAIRMAN: Counsel?

MS. DOPKIN: I have no objection to the zoning map.

THE CHAIRMAN: So noted.

Q. I show you this exhibit. If you could, just for the record, tell the Board what the zoning status is of the highlighted area indicated on the plan?

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A. It says D.R. 1.

Q. Is that the same zoning as your property?

A. I think so.

Q. You heard the testimony earlier from the zoning expert that their property is D.R. 1 as well?

A. Yes.

Q. That's your recollection?

A. Yes.

Q. I want to show you a few photographs. I won't use all of them.

MS. DOPKIN: I would ask --

MR. LANZI: I will qualify the photographs.

Q. Mr. Robinson, your understanding, I took these photographs recently, is that correct?

A. Yes.

Q. These photographs -- are you familiar with the Woodbrook Presbyterian Church?

A. Very much so. That entire area.

Q. Would you look at these photographs and state whether they accurately reflect the Presbyterian Church and immediate area?

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A. Yes.

MR. LANZI: I offer these as Petitioner's Exhibit No. --

A. Do you want me to describe them?

Q. I am going to select a few.

THE CHAIRMAN: Describe the ones he asks you to describe.

MR. BUCHHEISTER: That will be No. --

MR. LANZI: Seven.

Q. Describe what that photograph shows.

A. You're standing on the church's parking lot and you're facing, I think, east, southeast, and that looks to me like Charles Street.

And there is a store there. I know it real well. Right next to the store is a filling station. Next to that that is another filling station. Next to that is a professional building, because my dermatologist is there.

Here's a professional building that happens to be on the property of the church we are talking about, looking right -- your shoulder is at the church's wall, end wall, and you're looking across Charles Street.

I'm sorry. I should have handed them to him. That's the first one, for the man who makes too much money at work, my dermatologist.

This is the corner of Charles Street. The church is on the southwest corner. And you look down Charles Street, you see a 7-Eleven, you see a Mobil, you see Eddie's Supermarket, you see the candy story.

You see all kinds of -- it's like a commercial road for about four blocks. It's very commercial. And that's this photograph here.

Q. I think you more or less said it, but how would you contrast the proposed columbarium next to your house with the existing columbarium at Woodbrook?

A. I wouldn't live there. That's not anything like our neighborhood. And if that was used as an example, they should lose the case.

Q. That's a residential zone where the church is located?

A. But stand on that church's property and look up and down Charles Street. It's highly commercial.

And you have two filling stations, a big

supermarket, a 7-Eleven. You have a commercial -- I'm sorry -- a professional building, a big candy store, all other missy match (phonetic) that's in that neighborhood.

Q. In your opinion as a homeowner and businessman, do you feel the columbarium fits in better with that location than it would in the location next to your home?

A. Obviously, yes.

Q. Do you feel the adverse effects that are inherent with the columbarium or cemetery, as you stated earlier, are they greater at the location next to your property than they would be at the Woodbrook property?

A. The adverse effects --

Q. Are they greater at yours?

A. Absolutely. They are a hundred times greater, because we have nothing in our neighborhood. Our neighborhood is protected, or at least, hopefully, it still is, but it was protected from the Towson shopping center until you get out to the little restaurant that's been there fifty, sixty years, all the way out -- Charlie, what is it?

VOICE: Pearce's Plantation.

Q. You can't talk to the audience.

A. Pearce's Plantation. Pearce's Plantatiaon is a restaurant, used to be an ice cream stand. Other than that, from my house heading north, there's nothing, and we all like it that way.

And heading south, there's nothing until you get to where the Towson shopping center is.

Q. Are you familiar with the Valley Garth Community Association?

A. Yes.

Q. Are you familiar with the homes? Where are they located in relation to yours?

A. Yes.

Q. Are they in the immediate vicinity of the church?

A. When you said "immediate"?

Q. General neighborhood surrounding the church?

A. Yes.

Q. Are you familiar with their position, whether they had a position on this columbarium?

A. I've not spoken to one person in our neighborhood who wants this. There was one person out of maybe thirty

or forty people I have spoken with who refused to take sides, but then his property was for sale.

He subsequently sold the property, subdivided it, and they are building four houses. This was an attorney, and I guess he didn't want to get anybody angry at him on this case.

I have not spoken to one person who's in favor of this columbarium, or columbarium being built in our neighborhood. No one is for it.

Q. Have you spoken to anyone opposed?

MS. DOPKIN: Objection.

Q. You said you haven't -- have you spoken with anyone that's opposed?

THE CHAIRMAN: Wait a minute. She objected, which I assume is hearsay.

MR. LANZI: Has he spoken with?

THE CHAIRMAN: But as soon as he starts telling us what other people told him -- I'll sustain.

Hearsay is you can't say what other people told you and present it as your testimony. They would have to be here.

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THE WITNESS: Can I say what other people told me?
THE CHAIRMAN: No, you can't. That's the whole point.
THE WITNESS: I can't?
MR. LANZI: You allowed Mrs. Jung to testify to what her understanding of the Long Quarter Association was.
MS. DOPKIN: I believe he did not.
THE CHAIRMAN: If she had gone further and had tried to tell us, Mrs. Smith told me such and such, I have no doubt one of you would have come up to object, and I would have sustained the objection on the same grounds. We never got to her giving us any hearsay.
MR. LANZI: I withdraw. I would proffer for the record there's a hearing in the file from below from Mr. Pizzulla on behalf of the Valley Garth, which was Exhibit 13.
THE CHAIRMAN: The entire record below has been made part of our record and will be reviewed by the Board.
Q. In your opinion, will the proposed columbarium

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and Memorial Garden have a detrimental effect on the general health and welfare of your home and the community you live in?
A. Yes.
Q. For the reasons you stated earlier?
A. Yes.
MR. LANZI: Bear with me for a second. That's all I would have at this time.
THE CHAIRMAN: Cross examination.

CROSS EXAMINATION

BY MS. DOPKIN:
Q. Hello, Mr. Robinson.
A. Hello.
Q. Have you ever been inside the Towson Unitarian Church?
A. Yes.
Q. Recently?
A. No.
Q. Referring to the plat, you --
A. I'm sorry?
Q. I am referring to this plat.

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A. I can see it, but I can't read it.
THE CHAIRMAN: You can get up.
A. I would like to, please. I used to be able to see it.
THE CHAIRMAN: There's a lot of that going around.
Q. You indicated that you lived in the area since 1967 and at this location since 1980?
A. '81.
Q. Your son, I believe you stated your son is buying a property from you?
A. No. Yes. I bought the property which is right here.
Q. Beyond your property?
A. No. It's on my property.
Q. You said it was a different address?
A. Well, it is, but when I say my property, I take the outer perimeter of all of them. This is my property. It runs like this, goes up like this and way over there, so that house, which is 1800, is right here.
Here. Put it right here. That's the house right

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there.
MS. WILSON: Could I make a suggestion to the panel? If we could draw it, for the record.
MS. DOPKIN: Well, I am trying to identify the location of where he's choosing to go.
A. No. It's already there.
Q. It is already there?
A. Yes, the house is there. And it's a line of sight from here to there, and that's approximately seven or ten feet higher here than it is here.
Q. You can be seated. I am not going to ask you questions about the plat.
Have you had any engineering or topographical studies to verify that estimate?
A. Which one?
Q. The elevation.
Q. Just looking at the elevation of the area, they are available, Baltimore County has them. Yes. The answer is yes.
Q. You have personally conducted studies?
A. Better than that, I shot it.

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Q. Are you an engineer?
A. No. But you don't have to be an engineer to know mathematics and in order to operate a scope, and we shot it. We put our, as I say, our stick, the pole, on the entrance, and we shot it, and we set it right up on that property's back yard.
Q. Do you have it with you?
A. No, of course not. But I know what I did, and I know what my measurements were, because I shot them. But I am willing to do it again, and have one of your church members present.
Q. Had you ever witnessed a funeral procession from the church?
A. The Unitarians? No.
Q. You testified, I believe, in response to Mr. Lanzi's question regarding the Woodbrook Church, that you are familiar with that area?
A. Yes.
Q. And you told the Board what is located along Woodbrook Lane next to and behind the church?
A. There are homes. You're referring to the west

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side of Charles Street?
Q. I'm referring to the west side of Charles Street behind and across Woodbrook Lane from the church. I think you answered the question, you said there were homes?
A. I'm sorry. Here's Charles Street. You're referring to this area? These are homes.
Q. Are you familiar with where the columbarium at that church is located with respect to those homes?
A. No, I'm not. But I am familiar with the area. I'm not a member of the church.
THE CHAIRMAN: Can we see what area you two have agreed are homes?
MS. DOPKIN: I'm sorry. Mr. Robinson -- the highlighted area is the location of the church. The area he was just describing, the homes, are here.
THE CHAIRMAN: Is that correct, sir?
THE WITNESS: Yes, sir. Well, the problem is what she's not telling you is where that yellow marks are, that that church sits exactly dead on Charles Street and you walk right across the street on Charles Street and that's where all these commercial buildings are, the two

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filling stations.
THE CHAIRMAN I understand that, but we couldn't see where the homes were.
THE WITNESS: West of that church are homes. East of that church is a very heavy commercial area.
THE CHAIRMAN: Okay.
Q. Then I asked if you knew where the columbarium is located?
A. The answer is no.
Q. Do you know how long that columbarium has been in existence?
A. No.
Q. Do you know if it has any effect on property values?
A. I've not asked. I have not checked, no.
Q. One last question. Have you visited any other churches in the area that have a columbarium?
A. No. I didn't know churches had them.
Q. I'm sorry, I didn't hear your answer.
A. I didn't know churches had columbariums. The only thing I know, the old country churches on the Eastern

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Shore had graveyards, but I did not know they had columbariums where churches are located in areas like mine.
MS. DOPKIN: I have no further questions.
THE CHAIRMAN: Redirect?
MS. WILSON: No redirect.
THE CHAIRMAN: Thank you very much.
THE WITNESS: Thank you for allowing me to testify.
THE CHAIRMAN: Next witness.
MR. LANZI: I believe Mr. Little wants to speak, but before he does I want to offer the State Highway accident information that I referred to earlier, asked by me and received by me.
MS. DOPKIN: I object. It was taken out of context. There's no probative relevance.
MR. LANZI: Have the Board give it what weight its worth.
THE CHAIRMAN: The Board, we do accept documentary evidence of various sorts of forms and do assign to them the weight in which we feel appropriate

under the circumstance.

I will overrule the objection.

MR. LANZI: I offer as Petitioner's -- I've lost track --

MR. WESCOTT: Eight.

MR. LANZI: Did the Board have any kind of transcript from the Zoning Commissioner's hearing?

THE CHAIRMAN: No. We don't get a transcript from the Zoning Commissioner's hearing because this is a de novo hearing.

MR. LANZI: I understand. Bear with me for thirty seconds? I was going to offer -- I believe I will reserve on that. I believe Mr. Little had a few things to say.

THE CHAIRMAN: Generally, we do not accept the transcript below unless it's been used during the hearing to show the testimony of one of the parties has changed under oath from the previous time, which is why we hear everything fresh, for you on clarification.

MS. WILSON: How would the panel prefer we proceed? Mr. Little is himself a party to this proceeding, but if the panel would like him to respond to

direct questions, we'd be happy to toss him some.

THE CHAIRMAN: I think Mr. Little, as a person who lives in the neighborhood, wants to tell what he thinks, we'll let him do that, and go from there.

C H A R L E S L I T T L E,

having been duly sworn, testified as follows:

THE WITNESS: I will be brief. My name is Charles Robert Little. I am seventy-one years old. I lived at 1802 Dulaney Valley Road since 1966. It's two doors north of the church property.

THE CHAIRMAN: What would you like to tell us?

THE WITNESS: I would say that the building of this columbarium is an imposition on myself and my family.

We do not subscribe to cremation, and we believe that building this monument to this practice of cremation, visible from our property, would give much discomfort, bring us much discomfort, and we believe that the desires of the church could be better satisfied if they were to, say, build a vault on the back of their chuirch where they could inter the remains and not be visible from outside.

What they do in their church is their business.

They have a perfect right to practice their religion any way they see fit.

Now, this lady who just testified before for the church, she said upon the completion of the appeals and the decision of the Board, that if they decide against the columbarium, they would, or the church would, proceed with the Memorial Garden.

I think that's commendable. I have no objection whatsoever to that. I feel that's perfectly within reason and without any cause of anguish to me or my family.

She also said -- well, no. Earlier, it was said if the families of the deceased so wished, they could spread the ashes for a fee of $500. I imagine they meant spread them in the garden or on the church property.

That would be acceptable to the church as well as the families concerned.

Now, I think that we wouldn't even be sitting in this room if they were to go ahead with that vault use, because it's the columbarium itself that imposes the imposition. It's like as if I was trying to impose my religion upon you.

And I am sure you wouldn't disagree with that, no matter what I said. If it wasn't to your belief, then you'd be opposed to whatever I would say. And that's the way we feel about this columbarium.

Further, recently, there was a memorial monument removed not foo far from here because it was descecrated by vandals. It wasn't maintained properly.

And I subscribe to you that should they succeed and build that columbarium, that it might become what's also known as an attractive nuisance in that children or low lifes might use it as a purpose other than the santity of a burial place.

Finally, I would say this. The lady who testified here from the church gave the indication that whatever the Board decided to do, it was to proceed with that, and I the impression they thought that would be the end of the issue, whereas this is only the beginning.

And I am sure other people feel that if they were adversely affected by the creation of this columbarium, and it would cause them finance loss, damage, that lawsuits would be forthcoming, and they would find

themselves in a precarious position, and I would much prefer not to have to go through all that rigamarole and live in peace.

If they could just compromise and work out something that's amicable to all concerned, and I think that's all I have to say.

If you have any questions, please ask.

THE CHAIRMAN: Does counsel have any questions? Let's start with you simply because he came up on your side first.

CROSS EXAMINATION

BY MS. WILSON:

Q. Mr. Little, do you have an official opinion as to whether this proposed columbarium would fit in with the character of your neighborhood?

A. It would not fit in at all.

Q. Why do you think that?

A. Because it brings a foreign element to our peaceful neighborhood.

Q. What is that?

A. It disrupts us. It introduces a religious belief

that we do not subscribe to as individuals.

Q. Do you distinguish between the church structure, which is, of course, a religious structure, and the columbarium, which is a structure, for the internment of ashes when you say that?

A. Yes.

Q. How, in your view, would the columbarium be something that would not fit into your neighborhood as it is now?

A. Well, I can best describe that, explain that, by telling you this very brief story. When I was just a boy back in the 1930s, I went to Gwynn Oak Park, I believe it was on German Day, and I was shocked to see the Nazi flag flying from the flagpole where the American flag normally flew.

I told my father about it. It seems to me the adults got together and saw to it that flag was removed.

And that is the same imposition, the same way I feel about it now.

Now, that was a political issue, a patriotic issue. This is a religious one. But I feel being imposed

upon, and it's not necessary, because the church members could be satisfied with an alternate scheme by having this vault or room, whatever, where they could practice their religion and not be viewed by people who are not of their faith, and we would not be opposed, because it would be in their church where everybody practices whatever they please.

I have no opposition to them practicing cremation. It's just the idea I don't have to have it shoved down my throat.

Q. Mr. Little, do you have any opinion about whether the proposed columbarium might tend to increase or create traffic congestion in your area?

A. I think it would not. I think it would increase the traffic congestion, and as earlier indicated, it is a terrible corner.

I have seen people die there. I have lived there thirty-some years. I know how severe it is.

Q. So do you think this proposed structure would be detrimental to the safely or general welfare of your locality?

A. Yes, but indirectly. In other words, it would be an additional straw for the camel to bend.

MS. WILSON: Thank you, sir. I have no further questions.

CROSS EXAMINATION

BY MS. DOPKIN:

Q. Mr. Little, is it your testimony that you would not object to -- I think you characterized it as a compromise -- to have a vault or some other facility located elsewhere within the site for the church's burial practice?

A. That's not quite accurate.

Q. I wasn't sure I understood what you said.

A. Let's say it so it's accurate. The columbarium would be a separate and distinct structure. It was earlier described as a monument.

This is what I am opposed to. If it were like an additional room built on to the church, it would just be like an addition to the church.

But a separate structure, especially intended to be a monument on display for the public to observe, it's

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like a demonstration.

Now, I believe in freedom of speech, but I believe if what you have to say hurts others, then you shouldn't say it. You know, you have freedom. Exercise them with the regard to your neighbor and be a good neighbor and try to live together in peace and harmony.

MS. DOPKIN: Thank you. I have no other questions.

THE CHAIRMAN: Thank you, sir. Were you folks -- before I ask if there's any rebuttal, are you folks finished?

MR. LANZI: I believe that's all we have.

THE CHAIRMAN: Any rebuttal?

MS. DOPKIN: I would like there to be. I am going to try to contact Mr. Chadsey to see if he's available. He may no longer be available.

(A recess was taken.)

THE CHAIRMAN: Ms. Dopkin.

MS. DOPKIN: I'd like to call Richard Neugent.

RICHARD NEUGENT,

having been called as a witness, was duly sworn and

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testified as follows:

DIRECT EXAMINATION

BY MS. DOPKIN:

Q. Would you please state your name and address for the record?

A. Its Richard Neugent, One Dalecrest Court, Apartment 102, Timonium.

Q. What's your occupation?

A. I am a Unitarian Universalist minister, clergy.

Q. Where are you now employed?

A. I am up at the Towson Unitarian Universalist Church.

Q. There was some information raised, I believe by Mr. Robinson, I would ask if you could respond to.

The first relates to the location of the columbarium. Mr. Robinson stated that the columbarium could be relocated to the -- I am going to refer to the site plan -- he was referring to the south side of the church, because if you were going to expand, you could build to the rear. Is that your understanding?

A. I believe so.

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Q. Could you expand the church -- is his understanding correct you could build to the rear of the church? Are you able to build in that location?

A. That would be very difficult for any substantial expansion of the building becase we then get into an additional parcel of land which is covented from any buildings, structure, being put on that land.

Q. Thank you. Mr. Robinson also indicated that his property is substantially in rock and you could not effectively plant as proposed on the concept plan.

Have you also considered whether the said proposal is physically able to sustain a landscaped screen?

MS. WILSON: Objection. Lack of foundation. No demonstrated competence.

Q. Do plants exist in this location now?

A. Many. It's a wooded area, as was testified earlier today, throughout, from Dulaney Valley up through the end of that parcel of land. The plants, the trees, are of modest growth in terms of age. They seem to be sustained. Wildlife exists. And it's a lovely natural

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setting.

Q. Does this berm now exist?

A. The berm does not. It's our intention to place the berm in to make sure that the area is aesthetically pleasing from all directions, from both inside the area as well as from without, which is very much in keeping, as was testified to, the principles of Unitarian Universalism, and going back to one of the most famous Unitarians of all, was Mr. Henry David Thoro and Walter --

Q. You said the berm does not exist. How would it be created, or, specifically, do you know how it would be created?

A. It's my understanding that earth would be placed to create the berm, thus under our control, our ability to, in short, sustain the base of plant life.

Q. Thank you. There was much discussion about the procedures for the sale of the columbarium space.

What is your understanding as to the current status of procedures for the sale of columbariums?

A. I began my ministry in Towson in the middle of August, and in the time that I have been there, I spent a

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substantial amount of time, besides dealing with the pastorial needs of the congregation, looking at a wide variety of administrative functions of this church, one of which, in my review, was the status of this proposal.

And in answer to many qustions that I have, everything is basically on hold. I have never seen the brochure that was distributed today. I have not seen it even as I speak sitting here now.

We have not -- we do not have current plans. We do not have current prices. We have no idea what the current prices would be since we are a not-for-profit organization.

The intention would be to cover our costs, but we have no idea what those costs are going to be based on what the disposal of the appeals and what year the appeals are finished, in terms of what the construction costs are going to be.

Q. I have one last question. Mr. Robinson, I believe, claimed the church membership records are uncertain. Do you maintain membership records?

A. Yes, we do. We have 324 active members in our

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congregation as of our most recent report to our National Headquarters.

MS. DOPKIN: Thank you.

THE CHAIRMAN: May I ask, when you say members, does that mean members and others?

THE WITNESS: I don't have a hard count, but I would estimate within very close reason about fifty additional friends, inactive members, people who have gone into retirement homes.

Friends are spouses of members who may be of another faith and participate in the life of our congregation, but do not wish to be Unitarian Universalists, and we welcome them.

THE CHAIRMAN: Does that raise any other questions?

MS. DOPKIN: No.

CROSS EXAMINATION

BY MS. WILSON:

Q. How are you addressed? Ministor? Pastor?

A. My friends call me Richard, but Reverend.

Q. Reverend Neugent, am I correct in understanding

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your last answer that you really don't know how many people are friends of the Towson Unitarian Universalist Church as of right now?

A. As of this very moment, I do not have an exact number. I have seen the list. We have our directories.

I have the essence of how many of those there are. As I said, there are roughly fifty. Maybe forty, maybe sixty. But it's certainly not a hundred or 200 or 300, nor I wish there were.

Q. You say that number, whatever it may be, is in addition to the 324 members?

A. Correct.

Q. How does the Towson Unitarian Universalist Church propose to distinguish between its friends and members of the public who may have attended service for example, at the church?

A. Friends are individuals who -- my own example, perhaps, might be useful.

I am a member of our church in Washington, D.C. one of our four churches in the D.C. area. I started attending in the mid-seventies.

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It wasn't until the mid-eighties that I actually signed the book and became a Unitarian Universalist, so for more than ten years, I was a friend. I pledged. I served on committees. I was ineligible to vote. I wasn't eligible to be elected to a leadership position.

But I was a member of the active life. I wasn't prepared to commit to Unitarian Universalism until I was ready to commit, and that's very much the situation at the Towson church.

As I already indicated, many of those are partners or spouses of members, who may be a member of another faith, but they are active members in our faith, community, but they are unwilling to be a Unitarian Universalist, so we designate them as a friends.

Q. Are all spouses of members friends of the Towson Unitarian Universalist Church?

A. No.

Q. Are all children of members considered friends?

A. No. They are considered children of the congregation.

To be a member, one has to be of age to be able

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to legally participate in the business life of the congregation, so our children are our children.

They are registered in our Sunday school education program.

Q. What about adult children over the age of twenty-one of members?

A. No.

Q. They are --

A. They are adults. They make their own decision.

Q. They are not automatically given the status of friends?

A. No.

Q. What about parents of members?

A. Not unless they are active. Friends are people who are actively involved in the life of the congregation, but, for whatever reason, choose not to sign the book to become a Unitarian Universalist.

Q. Now, let's suppose you have a friend of the church whose mother passes away who wants to be interred into your proposed columbarium.

What's the the church going to do?

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A. I don't know. As I already indicated, upon my arrival on August 17th, when I got around to asking what the status of all this was, I was informed that everything has been on hold.

So there are many, many decisions about this that have not been worked out. They had begun the process, and during the delays associated with the approval process, it -- quite frankly, we have other things to do in the business life and the community life of this church than to project policy for something that we have no idea when and if we are going to be able to pursue.

We don't have that many members to have the luxury of spending that much time.

Q. So you can't say, for example, that such a person or mother of a, for instance, of the church, would automatically be told that you cannot be interred, her remains would be turned away? You can't say that?

A. We are a church. We are a religious community. Our mission is to help spirtually the life of the members of our congregation.

Perhaps more important than any other aspects of

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our church is being there in the transition aspect of people's lives, whether it's weddings, whether it's the birth, or whether it's the death.

We attempt to be compassionate. We may not be as business-oriented as businesses tend to be because we're a church. We are primarily not a business.

So there are times when whether it's questions of membership, of exactly how many members do you have, how many friends, we are a church struggling to survive with limited resources, volunteer and financial, and, as a result of that, we do the best we can.

Q. What resources does this church propose to undertake with this rather ambitious project?

A. Out budget at the moment is a quarter million dollars a year. We have -- which is a sizeable sum of money. We would always like more.

We could have done with less. We have a substantial amount of volunteer labor, as already been testified. We have a sexton on staff.

We have some very dedicated volunteers, many of whom would have been here today, who are involved in the

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groundskeeping of the church.

I have no doubt that particularly this summer, an important project initiative was a Memorial Garden, that we want to provide a space which is aesthetically and spiritually moving and important to the life, and most importantly, obviously, is the upkeep of that property.

Q. How much is that going to cost?

A. Landscaping? In terms of maintenance?

Q. Well --

MS. DOPKIN: I was going to object.

MS. WILSON: He testified he had no idea what the cost was.

THE CHAIRMAN: He still has no idea what the costs are, so it's asked and answered.

He doesn't know what the costs are.

MS. WILSON: There's a budget, I was hoping.

THE CHAIRMAN: He knows the budget exists for the church, which is a different issue.

A. The costs of --

THE CHAIRMAN: Whoa, whoa.

MS. DOPKIN: Wait.

THE CHAIRMAN: If you have other questions?
MS. WILSON: One minute.
Q. You mentioned that the church cannot relocate the proposed columbarium to the rear of the church because that would be because it would get into a parcel that was covented. Do you recall that?
A. Yes.
Q. And that's not a practical engineering issue, is it?
A. Practical engineering? I can't speak to practical engineering.
Q. So, as a practical matter, as far as you know, it's perfectly possible to build at the rear of the church?
A. My understanding, that there's a covenent on that property that prevents structures being built.
Q. Different question. As a practical matter, as a construction issue, the church can expand to its rear as Mr. Robinson described it?
MS. DOPKIN: Objection. It's been asked and answered.

THE CHAIRMAN: I believe he's answered that he doesn't know from an engineering point of view. But he knows from what he's been told about this other problem.
MS. WILSON: I have no further questions.
THE CHAIRMAN: Thank you.
MS. DOPKIN: Thank you.
THE CHAIRMAN: Any further witnesses?
MR. LANZI: No. We are completed.
THE CHAIRMAN: We are now going to do scheduling. Thank you.
(Hearing concluded.)
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LAWYER'S NOTES

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IN THE MATTER OF:	* BEFORE THE
TOWSON UNITARIAN UNIVERSALIST	* COUNTY BOARD OF APPEALS
CHURCH - Petitioner -	* OF BALTIMORE COUNTY
1710 Dulaney Valley Road	* Case No. 97-404-X
8th Election District	* December 1, 1998
4th Councilmanic District	*

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 401 Washington Avenue, Towson, Maryland, 21204, at 10 o'clock a.m., December 1, 1998.

* * * * *

Reported by:

C.E. Peatt

BOARD MEMBERS:

LAWRENCE M. STAHL, Acting Chairman

HARRY E. BUCHHEISTER, JR.

DONNA M. FELLING (replaced by)

LAWRENCE WESCOTT

APPEARANCES:

DANA M.S. WILSON, Esquire
J. NEIL LANZI, Esquire
On behalf of James Robinson

DEBORAH C. DOPKIN, Esquire
On behalf of Towson Unitarian Universalist Church

P R O C E E D I N G S

* * * * *

THE CHAIRMAN: Good morning, everyone. We're here in the matter of Towson Unitarian Universalist Church, petitioner, 1710 Dulaney Valley Road, in the 8th Election Dictrict, 4th Councilmanic District, Case No. 97-404-X.

We're here on an appeal to the granting of a special exception by the Zoning Commissioner.

I would note, just for the record, that the Notice of Postponement and Reassignment, for some reason, had petition for special hearing granted by the Zoning Commissioner.

That's incorrect. Obviously, it's a special exception. I just wanted the record to reflect the piece of paper that's in the file.

For the record, counsel?

MS. DOPKIN: Thank you, Mr. Chairman. My name is Deborah Dopkin, with offices at 409 Washington Avenue, Towson, Maryland. I am here on behalf of the Towson Unitarian Universalist Church.

MR. LANZI: For the record, Neil Lanzi, offices at 409 Washington Avenue, Suite 617, Towson, Maryland, on behalf of James G. Robinson.

MS. WILSON: My name is Dana Wilson, law firm of Olander and Shapiro, 36 South Charles Street, Baltimore, Maryland 21201, on behalf of James G. Robinson.

THE CHAIRMAN: Before we begin, one of the Board members, Ms. Felling, has a statement to make.

MS. FELLING: I want to make a statement that I am an acquaintance of someone in the church and that person did work for me some years ago.

However, that does not -- I don't see that as a problem for my ability to make an impartial decision. Charles and Ellen Colbertson are friends of mine, not close friends. She did work for me some years ago.

THE CHAIRMAN: Ms. Felling was a member of the legislature at one point in her career.

MS. WILSON: Would it be possible if we make a little bit of further inquiry?

THE CHAIRMAN: That's why we bring it up.

MS. WILSON: When was it you became an

acquaintance of the Colbertsons?

MS. FELLING: Sometime in 1985.

MS. WILSON: Are you still in contact with them?

MS. FELLING: Not really. I do see Mr. Colbertson occasionally in Annapolis when I'm down there during legislative session. I continue to do some work down there.

I see them to say hello.

MS. WILSON: You say they worked for you?

MS. FELLING: His wife.

MS. WILSON: What did she do for you?

MS. FELLING: She was my assistant when I was in the House of Delegates.

MS. WILSON: From when until when?

MS. FELLING: '86 to '90.

MS. WILSON: What is your understanding of their relationship with the church?

MS. FELLING: I know them to be members of the church. That's all.

MS. WILSON: Have you had occasion to speak with them about their involvement in the church?

MS. FELLING: I have not spoken to Mrs. Colbertson in probably several years. And I saw Mr. Colbertson in Annapolis last year, during April, March, just to say hello.

MS. WILSON: You stopped in to see him to say hello?

MS. FELLING: No. I saw him on the street to say hello.

MS. WILSON: Have you had occasion to speak with them about this dispute?

MS. FELLING: Absolutely not.

MS. WILSON: Neither one of them have contacted you --

MS. FELLING: No.

MS. WILSON: -- or any other member of the church --

MS. FELLING: No.

MS. WILSON: -- that you're aware of has made any attempt to contact you?

MS. FELLING: No.

MS. WILSON: You said about this issue. Has any

member of the church --

MS. FELLING: About any issue, no.

MS. WILSON: Thank you very much.

THE CHAIRMAN: Does other counsel have any questions? Does anyone have any objection or motion relative to the request we have developed?

Is everyone satisfied we continue with the panel as it's constituted?

MS. LANZI: We would have to object to Ms. Felling.

THE CHAIRMAN: Would counsel approach for a moment, please?

(A discussion was held at the Bench.)

THE CHAIRMAN: This is a Bench conference relative to the objection counsel raised, and that's the reason, obviously, we make these pronouncements, notifications.

We have two ways to go. It seems to me if there is an objection, the Board has to consider whether or not we can continue with the hearing today.

As luck would have it, and, again, I'm not

pressing this as a solution because I don't know it's appropriate under the circumnstances, but at 9 o'clock this morning we swore in a new Board member who was going to be sitting here to see how these hearings go.

It's been tradition as the morning the member is sworn is, they put you on a panel, if the panel is sitting be that day, which could work conceivably, although I'm not sure how that works with the scheduling of the person who has been sworn in.

The Board would like to consider its options. Obviously, if we cannot make that work, I don't believe we'll be able to continue today with a panel of three.

I'm not suggesting we consider to go with a panel of two, although under some very limited circumstances people have put stipulations one the record and parties have agreed to go with two members.

But I am uncomfortable with a full-blown hearing for the obvious reason if two people disagree, the third votes, and that's the purpose of having three instead of two, or four.

So what I'm going to suggest, we take a five or

ten-minute break, and the Board will consider its options.

Then we will come back out here and discuss them with you. Just in case -- why don't you folks use the time to see if there's a time frame, or any time frame issues that we have to deal with, just in case we do have to reschedule.

MR. LANZI: How long do you intend to break?

THE CHAIRMAN: We are going to take a five-minute recess and the Board will return.

(A recess was taken.)

THE CHAIRMAN: Everyone, please be seated. We are back on the record and we are back in session.

Let the record reflect that, as luck would have it, we are able to proceed today. The Board has determined that, discretion always being the better part of valor, we recognize the objection that Mr. Lanzi brought up.

Ms. Felling is more than happy to recuse herself from the matter. As luck would have it, as I indicated, Mr. Lawrence Wescott, the gentleman to my right, was sworn

in as a new member of the Board and was available for this morning and kindly has been able to clear a scheduling matter for which the Board thanks him, and he'll be sitting as the third panel member today.

Is the panel as constituted acceptable to counsel?

MS. WILSON: Yes, sir,

MR. LANZI: Yes, sir.

MS. DOPKIN: Yes, sir.

THE CHAIRMAN: Under those circumstances, we'll proceed.

Are there any other procedural or other matters other than the case itself or bearing on the case we need to get into before we begin?

MR. LANZI: No, sir.

THE CHAIRMAN: Seeing none, opening statements.

MS. DOPKIN: Thank you, Mr. Chairman. This case comes before you on appeal from a petition of the Zoning Commissioner.

The original hearing for the special exception for a columbarium and Memorial Garden was held April 29,

1997, and a favorable decision was rendered on May 9, 1997.

A rehearing was requested by the appellant, and his request was granted by an order dated June 5, 1997.

A second hearing was held before the Zoning Commissioner on October 14th, and a second order, again approving the petition, was issued on October 31, 1997.

Now, I was not involved at that time. I believe the appeal was timely filed. That is what bring us before you today.

The petitioner, the Towson Unitarian Universalist Church, is seeking approval to install a Memorial Garden and columbarium on the church property on Dulaney Valley Road.

I believe that the testimony to be presented before you today will demonstrate that this use is both consistent with established principles of law governing such use and appropriate for the site and the area. I will be calling two witnesses. Thank you.

THE CHAIRMAN: Counsel?

MR. LANZI: Mr. Chairman, on behalf of Mr.

Robinson, with all due respect, it's our position the Zoning Commissioner was incorrect in his prior ruling concerning the special exception, and we intend to establish today that, in fact, the proposal, a columbarium and Memorial Garden, is contrary to the spirit and intent of the zoning regulations and, in particular, in fact, this is a residential community with no commercial zoning anywhere within a mile of it.

We'll be calling two witnesses, Mr. Robinson and Mr. Little.

THE CHAIRMAN: Ms. Wilson, any opening? Because I notice you both represent Mr. Robinson, for clarification on the record, I suggest you determine whether both counsel will be questioning witnesses or --

MR. LANZI: Yes.

THE CHAIRMAN: -- or one cross and one direct from that side?

MR. LANZI: There may be questions from both counsel.

THE CHAIRMANN: Since you're both noted you represent Mr. Robinson, the difference between when --

MS. WILSON: Mr. Stahl, Mr. Robinson is a holder of four lots. He is adjacent to the property owned by the Towson Unitarian Universalist Church.

Mr. Robinson in his capacity as the owner of four lots, four homes on four lots, speaks for all of those four lots.

Now, we don't have any sense as between us of that I am representing the back and Mr. Lanzi is representing the front, but to the extent that we can, from a different prospective, represent Mr. Robinson more accurately, that's our intent today.

THE CHAIRMAN: Your different prospective is what?

MR LANZI: I was the attorney at the Zoning Commissioner's level, and my background could be information in the zoning relevance and zoning regulations.

THE CHAIRMAN: And you will be more personally --

MS. WILSON: My firm and I represent Mr. Robinson, yes.

THE CHAIRMAN: Ms. Dopkin, what do you think

about this?

MS. DOPKIN: I think I am very flattered. I don't think that Mr. Robinson's interest is quite as divisible, and I don't think it has been distinguished, particularly.

We certainly acknowledge he's an adjoining property owner and that he has an interest because of ownership.

I don't think that, be it one lot, two lots, three lots, ten lots, or the size of those lots makes his interests differentiated, and it is certainly our preferance that he has one spokesperson.

THE CHAIRMAN: My only feeling is simply because then every time you folks have to have separate direct and cross, then we have to come to Ms. Dopkin, and repeat redirect and recross. I don't care which one of you does whatever part. You can intermingle.

MS. WILSON: It is not our intent to duplicate with the witnesses, or have two cross-examinations, or have two examinations, and, really, I think that would be inefficient for all concerned.

My only concern is that I be able to, if necessary and appropriate, to ask a few questions, or to address the Board if, in my view, that's in Mr. Robinson's best interests.

THE CHAIRMAN: Why don't we do it this way? One of you will do the direct and cross. For instance, one does the direct and, then, if there is cross-examination, if the other one wants to do the redirect, that's fine with me. The person who started doesn't have to be the person who finishes.

But unless there's a really procedural or some weighty problem, I'd just as soon hear from one of you each time somebody on that side of the room gets to do something.

MS. WILSON: That's perfectly consistent with our intent.

THE CHAIRMAN: But I will allow you an opening, if you want to say something personally.

MS. WILSON: Thank you, Mr. Chairman. Again, my name is Dana Wilson. I'm here on behalf of Mr. Robinson.

Mr. Robinson is not opposed to this church, or

any church-related activity on its property and by its membership.

Mr. Robinson's concern which is, in my view, a wholly legitimate concern, is the commercial use, the opening to the public of church property for non-church related services, one after the other.

It is a slippery slope of the most classic kind. This church has opened its facilities to the public to offer a Montesorri School in its facility.

Subsequently, this church opened its facilities to the public to sell artwork by commercial artists who I suppose consign their works to the church to be sold for property to the public. These are not artworks by members of the church. They are not artworks that are sold only to members of the church. It's a publicly available art gallery on the property of the church.

The church now seeks to build another public facility that will be open to the public right in the front of its property, choosing a location that will maximize its exposure so that more slots can be sold to the public.

The church intends to charge a fee for this service. The church has never offered any meaningful limitation on the members of the public to whom it will be offered.

And each time this church opens its facility for a new function and a new use, it increases the traffic in the area, it increases the disruption in the neighborhood, it decreases the property values, it creates nuisance and noise and traffic and danger.

Mr. Robinson, as the adjoining property owner, has already been subjected on numerous occasions to church members parking on his front lawn because the church doesn't have enough parking when it opens its facilities to the public.

There's going to be more traffic and more of a parking property when this large-scale new endeaver opens.

Mr. Robinson's concern is that this is not the first such public use of this property; this is not the last intended public use of this property.

There's no representation from the church that this project will not be expanded indefinitely.

The church has a tremendous property. It could locate this project on several different areas of its property that would be significantly less disruptive. It has chosen the most disruptive location within its parcel.

And on behalf of Mr. Robinson, we submit that it is an innappropriate, improper use, and that the decision below should be reversed. I thank the Board.

THE CHAIRMAN: Ms. Dopkin?

MS. DOPKIN: I'd like to call Frederick N. Chadsey as my first witness.

F R E D E R I C K N. C H A D S E Y,

having been called as a witness, was duly sworn and testified as follows:

MR. LANZI: If it please the Board, I would stipulate to Mr. Chadsey's expertise.

We would stipulate he's an expert and has appeared before this Board as a civil engineer.

THE CHAIRMAN: You're offering -- first, why don't we get his name and address.

DIRECT EXAMINATION

BY MS. DOPKIN:

Q. Mr. Chadsey, would you please state your name and address.

A. Yes. My name is Frederick Newton Chadsey. C-h-a-d-s-e-y. Also known as Rick. My address is 658 Kenilworth Drive, Towson 21204.

I am a licensed professional engineer in the state of Maryland and a vice president and principal of George William Stevens, Jr., and Associates, Inc.

THE CHAIRMAN: Ma'am, you will be offering him as an expert in?

MS. DOPKIN: In the area of civil engineering and zoning and land use in general, and specifically in Baltimore County, but certainly as a civil engineer experienced in land use and zoning.

THE CHAIRMAN: Counsel?

MR. LANZI: We stipulate to the civil engineering, but he has testified as a civil engineer.

THE CHAIRMAN: As to zoning and land use?

MR. LANZI: I want to ask him some questions.

THE CHAIRMAN: Okay. In that case, why don't we let Ms. Dopkin continue for a moment.

Q. (Ms. Dopkin) Mr. Chadsey, how long have you been engaged in the field of civil engineering?

A. Since 1980.

MS. DOPKIN: Rather than recite his professional education, I think you have accepted him as a civil engineer.

Q. How many of those years have you been practicing your profession in Baltimore County?

A. I have been in Baltimore County since 1985. As of 1990, I was basically appointed the duty of being the coordinator of land development and planning.

As recently as last week, I was preparing for various bodies, testifying on zoning, variances, issues such as that, and have appeared before this Board.

Q. Have you testified before the Zoning Commissioner or the Deputy Zoning Commissioner of Baltimore County?

A. Numerous times.

Q. Have you testified before this Board of Appeals of Baltimore County?

A. This particular Board, other than Mr. Buchheister, I have appeared before this Board numerous

times.

Q. Have you participated in any professional associations, organizations, whose principles advocate -- let me ask the question a little better -- have been involved in lobbying, legislation or procedural matters with county agencies?

A. Yes. I am on the Board of Directors of the Homebuilders Association which have been very instrumental in working with Baltimore County Permits and Development Management as to regulations, as well as the Department of Environment.

I have a copy here, I don't know if it does anybody any good, but I have a copy of COMAR that states a civil engineer, one of a civil engineer's duties is planning, and part of planning is understanding the underlying zone of the property as well as the land use, topograpy, and other engineering issues.

Q. Have you ever served on committees involved in the development of land use legislation or zoning regulations in Baltimore County?

A. Yes. Part of the committee, I served on the

Committee for the Department of Planning as part of their instrumentation of the latest 1990-92 regulations governing land development, setbacks, various issues, all a part of the D.R. zone, 1B01 of the Baltimore County zoning regulations.

Q. Would you tell the Board, roughly, what proportion or percentage of your professional work is actually involving Baltimore County properties relative to all the work you do?

A. Probably eighty-five to ninety percent of the work my company does is related to Baltimore County projects.

Q. And of the work you personally do?

A. About the same. I predominately work in Baltimore County.

Q. What types of zoning and development projects are you involved in?

A. Numerous types of projects. Typically, my involvement as a principal as well as a project manager on numerous projects, we start from the initial conception of the project, from the examination of topography, existing

utilities, zoning, setbacks, RTA -- residential transition areas for those of you who are new -- all of the issues which are basically related to the initial planning of the use of the property. And then taking it through to fruition, grading permits, building permits, record plats.

I have worked on commercial projects, industrial projects, institutional projects, residential projects. I mean, just run the whole gamut. Churches, colleges.

MS. DOPKIN: I would move to have Mr. Chadsey qualified as an expert on land use and zoning in Baltimore County based on the breadth and extent of his personal experience.

MS. WILSON: May I have a brief voir dire, Mr. Chairman?

THE CHAIRMAN: Certainly.

VOIR DIRE

BY MS. WILSON:

Q. How many times have you testified as an expert before any board or court?

A. Exactly how many times?

Q. Yes.

A. Oh, that would be difficult to actually come up with an exact number.

I would say probably in the neighborhood of thirty to fifty times.

Q. How many times have you been retained as an expert in matters that didn't get to the point where you had to testify?

A. I didn't understand the question. Try it again.

Q. The first question was, how many times have you testified?

A. It's the fans. I'm not hearing you.

Q. How many times have you been retained as an expert in matters that didn't reach the stage where you were required to testify?

A. Oh, that would be in the hundreds, close to a thousand, I would say.

Q. What do you charge for your expert witness service?

MS. DOPKIN: I object.

THE CHAIRMAN: What's the grounds for your objection?

MS. DOPKIN: What's the relevance?

THE CHAIRMAN: As in terms of cross-examination, you can certainly ask in terms of fees and arrangement. As far as voir dire, it's not relevant. Though as to his reliability, it makes it relevant on cross-examination.

But for voir dire, I want to hear about his credentials and his abilties, whether he does it a lot or a little is really the issue, what the breadth of his experience is is the issue, not what his compensation is.

If he has some bend or skuuing in what he says based on the fact of his compensation, that's an absolute credibilty issue which is certainly acceptable on cross-examination.

MS. WILSON: As long as the Board will permit that, I will be happy to defer it.

THE CHAIRMAN: Wrong question, wrong time.

MS. WILSON: Thank you.

THE CHAIRMAN: Any other questions?

MS. WILSON: We'll defer.

THE CHAIRMAN: Under those circumstances, we'll accept the witness as an expert in civil engineering.

Included in that is his expertise in land use and land planning.

CONTINUED DIRECT EXAMINATION

BY MS. DOPKIN:

Q. Mr. Chadsey, are you familiar with the petition for special exception filed in connection with the subject property?

A. Yes, I am.

Q. And are familiar with the plat that was submitted with that petition?

A. Yes, ma'am, I am.

Q. Did you prepare that plat?

A. I did not.

Q. Did you prepare any concept plans or landscape plans in connection with the proposed Memorial Garden and columbarium?

A. Yes, ma'am. I had one of my employees prepare a concept plan for some earth sculpting as well as landscaping and in association with the probable first phase of the columbarium.

MS. DOPKIN: I thought perhaps we could identify

the plat that's part of the file as --

THE CHAIRMAN: Well, unless you're going to move the whole Zoning Commissioner's file, we need to do it one at a time.

MS. DOPKIN: Why don't we move the whole file as Petitioner's ---

THE CHAIRMAN: One, collectively.

MS. DOPKIN: -- No.1, collectively.

THE CHAIRMAN: Do you have any objection?

MR. LANZI: No.

MS. DOPKIN: For matters of ease of reference, I would identify this as Petitioner's No. 2, the concept plan.

Q. Mr. Chadsey, are you generally familiar with the property that is the subject of today's hearing?

A. Yes, I am.

Q. And have you personally been on the site?

A. Yes. I have been over the entire property. I guess we have pinned up over top of it. It fronts on Maryland Route 146, also known as Dulaney Valley Road.

It's surrounded by residential properties and

drains in an easterly direction towards the Loch Raven Reservoir. It's just south of -- I don't know if you are familiar with the gun range, not immediately south, but south of the gun range.

Q. About how big is the site?

A. It's almost seven acres, 6.98 acres.

Q. How would you describe the topography?

A. The site obviously had some modification to it. A parking lot has been put in it to level out a section of the site. The area around the church has been leveled.

It has a walk-out section which faces the stream, the tributary, to Roch Raven, which runs more or less along the northern side towards Mr. Robinson's properties.

The site is predominately woods, other than what you can't see under here. There's an existing gravel parking lot to the south. The topography from the existing parking lot goes up, not extremely steeply, but rather steeply, close to the southern property line.

Q. How is the property currently zoned?

A. D.R. 1.

Q. Are you familiar with the use of this site?

A. Yes. The current use of the site is a church and the uses that are customarily and usually accessory to a church.

Q. Are you familiar with the general area in which the property is located, generally?

A. Generally. I mean, it's probably what you would call the northern Towson, North Hampton, Hot Spring area.

Q. How would you describe the general area in which the church is located in terms of use?

A. It's surrounded by residential properties.

Q. And how are those properties zoned, do you know?

A. I believe they are all zoned D.R. 1.

Q. What is proposed under the subject petition?

A. The current proposal is to construct a columbarium and a Memorial Garden.

Q. Could you describe for the Board the area on the site where the Memorial Garden and columbarium are proposed to be located?

A. Assuming you are familiar with the particular property, coming off of Dulaney Valley Road you enter into a parking area, and the church is set back well off the

road.

That shows here that it's 283 feet off the road. The area shown on the special exception plat is more or less a triangular area in which it's currently wooded with not what I would call mature trees, rather, a young stand of growth, and lies on a slope which starts to approach the southern property line.

Immediately off the parking area, the area has been leveled off, thereby providing easier access for the elderly and handicapped.

Q. How far from Dulaney Valley Road is the proposed Gardens?

A. According to the special exception plat, it is showing that it is 250 feet off the right-of-way of the state road 146. Let me double check that, make sure with all the data here -- it's approximately that, 250 feet to the envelope of the special exception plat.

The Garden, as proposed, is approximately another fifty feet beyond that.

Q. How large a land area is proposed for the special exception use?

A. It's about a third of an acre.

Q. Would you describe for the Board what grading and landscaping are proposed?

A. We have got a couple concepts which have not necessarily been finalized because the continuation of going through the next appeal and so forth, but the concept was in the area against the parking lot, this area shown here, of dense new plantings.

We have been going through a couple of innerations and I think where we sit right now is the idea, part of the Unitarian principle, is to blend with the environment, the natural aspects, so what we were going to attempt to do was create an earth sculpture in the section on Petitioner's Exhibit 2.

We are showing about a three-foot berm with about a three-foot cut to a plateaued area where we can blend this in with the existing trees and slope.

We are actually even thinking about probably creating the berm to be a few feet higher, maybe two feet higher, to ensure that if the trees were not even there, a six-foot tall person was standing there, you could not see

anything but the person. And the height of the columbarium is such it stands approximately five feet high.

With that, we intend on planting a mixture of predominately evergreens, but a mixture of some decidious and ornamental flowering trees to start giving it the Memorial Garden atmosphere.

From there, we have -- I am going to flip this down again -- we are looking to have access in more or less a path, not a paved situation, more of a path to enter into the Garden and also a path coming out in some manner to get back to the parking lot, again to assist the elderly and handicapped to be able to access the property without substantial difficulties.

I might add, again, this is just showing the first phase from the standpoint we're showing one of the panels. If you remember from the previous hearing, there are four panels, about 192 units, and we are proposing to bench, to create a garden atmosphere, to make it feel natural.

Q. Could you tell the Board what the columbarium,

what type of structure and size columbarium the panel will be?

A. I'm not sure, again, of the final materials because we have been going through the appeal and rehearing process.

But, essentially, a panel is about three feet deep, about five feet high, and about ten feet long in one panel, and each one of those panels, on each face, there will be twenty-four niches, or box locations for cremated remains to be located in, or vaulted in the columbarium.

Q. Based on your knowledge of this site and the topography and the proposed landscaping, do you believe that the columbarium will be visible from outside the Memorial Garden itself?

A. No, it would not. We can sculpt the land in such a manner as to create a complete -- I'm looking for a word -- basically to completely screen the Memorial Garden and the columbarium from all the adjacent properties.

Q. Have you seen the comments of the Zoning Advisory Committee? That's a committee comprised of various agencies of Baltimore County government to review zoning

petitions and plans, by way of explanation.

A. Yes, I have.

Q. Were there any adverse comments or recommendations from any of the reviewing agencies?

A. No, there were no adverse comments whatsoever.

Q. Mr. Chadsey, are you familiar with the Baltimore County zoning regulations in general?

A. Yes, ma'am.

Q. Are you familiar with the Section 1B01 relating to the D.R. zones?

A. Yes, ma'am.

Q. Is the use of the property permitted within the zone?

MS. WILSON: Objection. Calls for a legal conclusion.

MS. DOPKIN: He was qualified as an expert in land use and zoning in Baltimore County. He's a planner.

He's intimately familiar with uses that are permitted under the zoning regulations.

THE CHAIRMAN: I think the objection is more in form than anything else.

He is entitled as an expert to his opinion. As to whether or not --

MS. WILSON: Part of the objection is to form, but this is, of course, the ultimate issue presented to this panel, whether it is a permitted use, or should be a permitted use.

THE CHAIRMAN: Where we have an issue such as this, the expert witness is, and it has been the course of the procedure by this Board to allow the expert witnesses to make their opinion known as to those issues because they are, in fact, one and the same with the subject that the witness is testifying to in his expertise.

So as long as it's couched properly, which counsel will rephrase as to his opinion, then we will admit it. Counsel?

MS. DOPKIN: Thank you.

THE CHAIRMAN: Would you mind repeating the question?

MS. DOPKIN: No, I will not repeat the question. I will ask a different question.

Q. Mr. Chadsey, is a church a use expressly listed

as a permitted use in the D.R. zone?

A. A church is listed in Baltimore County zoning regulations as a permitted use.

Q. Is a cemetery a use, listed as a use permitted by special exception in the D.R. zones under Baltimore County zoning regulations?

MS. WILSON: Objection.

THE CHAIRMAN: Grounds?

MS. WILSON: I'd like an objection to this line of questioning, to note on the record, because to the extent she wants her expert simply to read for the benefit of the Board the zoning regulations, I submit the Board is more than capable of reading the regulations for itself.

THE CHAIRMAN: And we certainly are. However, we are, as a Board, interested in what an expert's opinion is as to the applicability of a particular project, to the appropriateness under the zoning regulations.

MS. WILSON: That was not counsel's question. She was asking whether a church is a permitted use within the statute.

THE CHAIRMAN: Ms. Wilson, is it your opinion --

MS. WILSON: It's more than form. I think she's using her expert improperly. The statute and the regulations say what they say. That's an improper use, in my view, of this expert.

THE CHAIRMAN: That may be true in the strictest technical sense. But we are sort of a hybrid agency and we have been through this discussion any number of times with counsel.

And I appreciate the fact you haven't appeared a lot in front of us, and from a courtroom point of view, you might have a point.

Our rules for evidence and information here, I think you will discover, include an awful lot of things which particularly, probably, would not happen in a courtroom, up to and including petitions from community associations, and that sort of thing.

So I am going to allow, under our normal procedures, for the witness to lead us through the logic which may include his understanding of what the zoning regulations are.

For instance, he may state what the zoning

regulations are, and you may disagree that they do, in fact, say that.

So I am going to let him testify as to his thought processes, and if those thought processes include what the zoning regulations are, I am going to let him say it.

MS. WILSON: Then, perhaps, Mr. Chairman, you would direct counsel to ask the witness what his thought process was, rather than simply asking a witness to recite for you the statute.

Because, of course, the rules that are customarily observed in more formal settings about expert testimony is that it's got to be helpful, and I submit to the panel that it's simply not helpful for this witness to be reading the statute.

If he wants to tell you his thought process, let's have counsel ask that.

THE CHAIRMAN: Again, with the understanding that what we consider helpful is what the Board considers helpful.

If you wish to object to specific questions,

certainly, for the record, we'll entertain those objections. And if you want to have a continuing objection to a course of questioning, certainly, I would have no objection to that.

But as to the particular question we were on at this point, I will overrule your objection and allow him to answer.

MS. WILSON: Thank you.

MS. DOPKIN: Thank you.

THE CHAIRMAN: Do you want to have the court reporter read the question?

Q. Mr. Chadsey, I believe the question related to whether the Baltimore County zoning regulations permitted cemeteries under the special exception use in D.R. zones?

MS. WILSON: Can we keep the record clear, and have counsel actually ask a question, rather than have a narrative?

THE CHAIRMAN: I thought this was the question she was asking, whether or not it's his understanding it's appropriate and permitted in the D.R. zones to have a cemetery.

A. The answer is, it is permitted by, or listed, as permissible as a special exception in the zoning regulations.

Q. In your opinion, what effect will the proposed use, if approved, have on adjoining properties?

A. It will have none. It will not be visible. It does not adjoin any adjoining properties. It's not accessible from other properties.

It stands on its own, tucked in with some earth sculpting, and the existing topography.

Q. In your opinion and based on your professional experience, would the proposed Memorial Garden and columbarium have a more detrimental impact at this location in the zone than at another location in the zone?

MS. WILSON: Objection. I thought the witness testified that in his view it would have no detrimental impact.

THE CHAIRMAN: The statute requires, and we have often chastized counsel because of this, the statute requires and the case law requires specific facets, specific things, that must being proven or not proven,

one of which, being as a term of art, the whole discussion of whether in this particular part it has any worse or more detrimental effect than in another part.

And traditionally before this Board, the way to get to that issue, other than the Board making its own determination, is to hear from the expert as to whether or not they believe there is any more of a detrimental effect here than any other part in the zone.

MS. WILSON: I confess, Mr. Chairman, that I may be off in theory here, but it seems to me impossible there could be a less detrimental impact than none, and given that was the witness's testimony.

THE CHAIRMAN: I understand, but the requirements of the case law and the statute require that those questions be specifically asked and answered, first by those with the burden of proof and second by those determining whether or not, in fact, the special exception should be granted.

We have even been reversed because those specific questions and that specific language was not asked at some point during the hearing, so I am going to allow the

question.

Do you want --

THE WITNESS: I know the question.

A. In this particular case, a columbarium and Memorial Garden are an accessory use to the church, open to the church members and friends of the church.

Therefore, it has limited access from the standpoint of use to the members and friends of the church, and not necessarily access, but more the use. In another part of the zone, it would probably be a much larger scale, would be a principle use and would be open to the general public.

In this case, you have -- you basically have the Memorial Garden and a columbarium which are essentially accessory and subservient to the principle use, which is the church.

Q. In Section 502 of the Baltimore County zoning regulations, it requires that before a special exception may be granted, it must appear the use that is requested will not have certain adverse effects.

In your opinion, will the proposed use -- and I

am going to recite the specific list that is recited in the zoning regulations -- will the specific use be detrimental to the health, safety, or general welfare of the locality involved?

A. In my opinion, it will not.

Q. In your opinion, would the use tend to create congestion in roads, streets or alleyways?

A. Currently, the church holds memorial services. I do not see a use of this particular site for the repository of cremated remains creating any additional traffic or congestion on roads, streets or alleys.

Q. Would this use, in your opinion, create a potential hazard from fire, panic, or other dangers?

A. In my opinion, it would not.

Q. Would it tend to overcrowd land and cause undue concentration of population?

A. In my opinion, it would not.

Q. While we are on that subject, does the proposed location of the use respect all the residential transition areas on the site?

A. Yes, ma'am, it does.

Q. Do you believe the use, in your opinion, would the use interfere with the adequate provisions for schools, parks, water, sewerage, transportation, or other public requirements, conveniences or improvements?

A. In my opinion, it would not.

Q. Would it, in your opinion, interfere with adequate light and air?

A. In my opinion, it would not.

Q. Would it, in your opinion, be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the Baltimore County zoning regulations?

A. No, in my opinion, it would not.

Q. And would it be, in your opinion, inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations?

A. In my opinion, it would not.

MS. DOPKIN: I have no other questions of Mr. Chadsey at this time, reserving the right to ask questions.

THE CHAIRMAN: As always. Cross-examination.

CROSS EXAMINATION

MR. LANZI: Ms. Dopkin, would you object if I move the one plan?

BY MR. LANZI:

Q. Mr. Chadsey, you testified you are familiar with the Baltimore County zoning regulations as they affect residentially zoned property?

A. Yes, sir.

Q. You also have been qualified as an expert in zoning as well, correct?

A. I am assuming that's what occurred.

Q. Would you agree or would you not agree commercial activities do not belong in residential areas?

A. I would agree. That's true.

Q. Would you agree that commercial activities would be inconsistent with the spirit and intent of the zoning regulations as they affect the residential properties?

A. Yes, I would agree.

Q. Are you aware of a parking and traffic problem that exists at the site and at the site that's immediately north of this property?

MS. DOPKIN: I would object. That was not the subject of direct.

THE CHAIRMAN: The witness did mention there would be no detrimental effect to traffic, so it's *germane. That means you answer the question.*

A. I am aware that there is congestion in the parking lot and that it is a difficult location on Dulaney Valley Road to make turns at times, but, specifically, the times that that occurs are not during what I would call peak hour usage of Dulaney Valley Road.

Q. The vehicles, when there is church service, or any kind of function that's well-attended at this church, don't the vehicles also oftentime park along Dulaney Valley Road?

A. I have seen that. However, I know it's a church policy to -- what would be the word for it? -- basically, the church discourages it strongly.

Q. But it does happen, correct?

A. And trying to direct people to the additional parking on the site, which is sometimes unknown to some of the participants in the function.

Q. Where is this other area?

A. There's an overflow parking area. If you look at the plan, there's a cleared area east --

Q. Can you point it out on the plan?

A. Sure. There's a cleared area that exists immediately south of the parking lot. There's a gravel road as well as a parking area up on the hill there. It's been sort of platted out in that particular region, and this is additional overflow parking.

Q. Has it been marked off? It's not shown on the plan, correct? The extra parking is not shown on the plan? Yes or no.

A. I guess it's not necessarily shown as what I would call a definitive -- no, it's not called out as an existing parking area.

Q. Do you know when this additional parking was laid out?

A. It has been there as long as I have known, which has been 1990.

Q. There's no permit for this extra parking that was provided, as far as you know? Yes or no.

A. I don't know why it would need a permit.

Q. Are you aware there was another zoning case for this, and I believe part of your petition is to amend the plan for the 1976 case?

A. Yes.

Q. And that plan has specific requirements?

A. Yes.

Q. If, in fact, the church went beyond that plan, isn't it true you would require another zoning here, or a minimum grading permit with Baltimore County to make changes to the plan this is before us today?

A. We are here amending the plan for the columbarium and Memorial Garden.

Q. The parking lot, the extra parking, as far as you know --

A. It was not an issue today.

Q. It is an issue because it goes to the pattern we described in our opening about the continual increasing activity of the church without permission. It is very, very relevant to this case.

Now, are you aware that cars park on Mr.

Robinson's driveway and his lawn?

A. I'm not aware of that.

Q. Assuming that that's true, cars are parking along his driveway, parking along Dulaney Valley Road, if you're the person that lives on that property, that's there's parking in your drivway, in your opinion, would that be an adverse effect on you as a property owner?

A. Well, I guess I am trying to understand how that has anything to do with the columbarium.

Q. I want you to answer whether it's an adverse effect if you can't get to your house?

MS. DOPKIN: I object.

MR. LANZI: He's argued there's no adverse effect.

THE CHAIRMAN: I'm going to let him give his personal opinion as to that limited example.

A. I mean, I have not been in Mr. Robinson's driveway. I'm not aware of it. I do not know what his sight distance is.

I've not studied that as an engineer, so I would have difficulty making any type of testimony.

Q. Is it your opinion there's no detrimental effect as a result of a columbarium -- you can certainly give an opinion as to cars parked on someone's driveway immediately next door, whether that's detrimental or not.

You're an expert. Is parking on someone's driveway or their lawn detrimental to the property owner?

A. I would say yes, that would be a tresspassing situation.

Q. So if Mr. Robinson has cars parked on his driveway and lawn as a result of church service, that could be detrimental to him as a property owner?

A. What you are saying is relative to church service, but I testified relative to the columbarium.

Q. Let's take it a step further. The columbarium is designed for burial, correct?

A. That is correct.

Q. There will be services for the families when they are having a burial?

A. That is correct.

Q. It's possible that those services will bring in a large number of people from time to time?

A. It would take an excessive number of people to fill up that parking lot for a church burial service.

Q. Does the parking lot fill up on Sundays now?

A. Yes, it does.

Q. Have you ever been to a funeral where there's a young child or famous person, someone well-known in the community where it's --

MS. DOPKIN: Objection.

Q. -- well-attended?

THE CHAIRMAN: Let's let him finish the question.

MS. DOPKIN: I'm sorry. Finish your question.

Q. I asked whether he's ever attended a funeral service where it's a young child or young person or an old person, someone well-known, and they are well-attended, have you ever been to such a funeral?

A. Yes.

Q. Isn't it possible this could occur with the columbarium?

A. I really don't know. I would have difficulty making that determination.

Q. When you reached your opinion there wasn't any

effect on traffic, and I believe you also stated there was no effect on the general welfare of the community, did you consider, or you did not consider the effect on Mr. Robinson, isn't that correct?

A. Yes, I did consider the effect on Mr. Robinson.

Q. Didn't you just state earlier --

A. I did not -- well, I am sitting here, looking at the general area, looking at the parking lot.

I am looking at a church that's trying to function, and have a columbarium as an accessory use to that. Yes, as a columbarium standing on its own, it's not going to create any additional traffic than it has today.

Q. The petition is for a cemetery with a special exception use, isn't that correct?

A. Well, a columbarium is an accessory use to a cemetery.

Q. Let me take it a step further. As an expert, a columbarium is not listed as a special exception in the zoning regulations, is that correct?

A. It's not listed in any way in the zoning regulations.

12 Q. So is it your approach that the columbarium is an essential part of the cemetery or Memorial Garden which is allowed as a special exception?

A. That's correct.

Q. And when you made your opinion there's no effect on the neighborhood, you didn't consider the fact a columbarium or cemetery draws families and friends and other church members to service, and you didn't consider the fact cars are parking on the street and parking on the next-door lot when you made your opinion there's no detriment to the neighborhood?

A. I believe I made the direct statement that the church currently has memorial services on the grounds.

The difference is now you do not have a parade. Possibly someone may still be interned in Dulaney Memorial Gardens or the Gardens of Faith, or another cemetery around.

At this particular point, you may have somebody who's placed in a vault and are in one of the niches, so that there's no difference in the way the church is operating today.

Q. Are you familiar with Dulaney Valley Road?

A. Yes.

Q. Is it true the church is located just north of a sharp curve on Dulaney Valley Road?

A. Yes. I believe I stated that.

Q. Is it true Dulaney Valley Road is relatively straight from the Beltway, 695; you get on Dulaney Valley road, and it's relatively straight until you hit the curve that you referred to, is that correct?

A. After you pass Pot Spring, it narrows down to one lane each direction from four lanes, and then approaches the curve.

Q. And there's a curve?

A. Right.

Q. And the church is just north of that?

A. That is correct.

Q. From that point, isn't it relatively straight until you get past Stella Maris and onto the Loch Raven Reservoir area?

A. I think the curve goes a little further than you you're making it sound. It wraps around Mr. Robinson's

12 property and probably some other area, and then I guess you could call it straight.

Q. There are no curves after that of significant --

A. From the aerial view in that case, I know there's a lot of rolling --

Q. It rolls up and down, relatively straight?

A. I would agree with your assessment.

Q. When you gave your opinion there's no adverse effect -- I am going to show you the worksheet.

When you gave your opinion there's no adverse effect on the neighborhood, did you take into account that there were a number of people killed between 1993 and '97 on this stretch between Pot Spring Road --

A. Yes. And did --

Q. -- and Ridgely Road?

A. -- you bring the accident report for Dulaney Valley and Hampton Road, Seminary Avenue and Dulaney Valley Road?

THE CHAIRMAN: Gentlemen, this is not a tape recording. That means only one person can be talking at one time.

A. You have pulled an isolated accident, where there's accidents all over the county, some fatal. Some occurred last summer, and I took this all into account.

My basic statement is that it's no longer any different with the columbarium than it is today.

Q. Why don't you take a look at that accident study provided by the State Highway Administration?

Again, did you take into consideration, when you gave your opinion, that two people have died between 1993 and 1997 at this stretch of the road?

It's very relevant. When you say there's no adverse effect --

MS. DOPKIN: I object.

THE CHAIRMAN: What's the basis?

MS. DOPKIN: Mr. Lanzi is trying to offer evidence into the question. It's going beyond the scope of what was addressed on direct.

And I think it has been asked and answered now at least twice by Mr. Chadsey.

THE CHAIRMAN: Let me suggest to you, counsel, that it is certainly relevant for you to ask if the

13 happening of traffic accidents, and, hypothetically, if you were to suggest to him that there's been deaths on the road, had he taken that into consideration.

But if you're going to quote and use a document, then that document has got to be in evidence. If you're having him read something from something that has no official bearing, you can use information as a hypothetical and ask if things came into his determination, but we need more for you to be using the document.

MR. LANZI: I can ask him questions about the document?

THE CHAIRMAN: You can ask him questions about the information that he may or may not have available, without attributing it to anything.

Q. Are you familiar with the number of accidents and injury accidents, property damage accidents, that have occurred on Dulaney Valley Road in the last several years?

A. I am familiar with a lot of them. I have had friends involved in them, fatal accidents, and that's why I think it's poor judgment to just select one particular

section of Dulaney Valley Road and say, Okay, there's an accident here.

What about the rest of it? What about in front of Pine Ridge?

Q. You don't find it relevant there's been thirty-four accidents from 1993 to 1997 on this stretch of road?

You find that has no relevance to your opinion that there's --

A. I know, other than you're setting something in front of me that you say you got from the State Highway Administration, I have not seen that document, so I don't know how I can testify to it. The statement I have made is there's no difference than it is today.

MR. LANZI: Bear with me.

Q. When you reached your opinion that there was no adverse impact, you didn't consider the statistics that are available through the state of Maryland concerning this stretch of the road and directly in front of the church?

A. I did not contact the State Highway

Administration. I believe I have testified now at least four times to the same statement.

Q. Thank you. Now, you stated earlier that, or you conceded, Dulaney Valley Road is relatively straight north just of the church to the Loch Raven area past Stella Maris, correct?

A. Correct.

Q. And relatively straight from the beltway until you hit the church?

A. That is correct.

Q. Now, would you agree that a cemetery or funeral establishment, I believe is the other term used in the zoning regulations, at another location where commercial activities are allowed would have less of a negative impact on neighboring property owners, would you agree with that?

A. Can you give it again?

Q. If you have a cemetery or funeral establishment in a location where there are commercial areas in the immediate vicinity, that would have less detrimental impact on the neighbor's property, is that a fair

statement?

A. Yes.

Q. It's true that cemeteries have inherent negative effects, cemeteries or funeral establishments?

A. I don't know where you're coming from with that. I do not know.

Q. You're not aware of any negative inherent effect of cemeteries?

A. No.

Q. You said you were an expert with the zoning law?

A. That is correct.

Q. You are aware special exceptions are allowed, despite the fact they have inherent negative effects?

A. That is correct.

Q. You are familiar with that?

A. Yes.

Q. I believe you agreed that funerals or memorial services, in general, could be well-attended at times, correct?

A. Could be.

Q. Now, other than the parking lot for the chuch and

the overflow you talked about, where else can these vehicles park if there is a well-attended memorial service?

A. I believe it would be up to the church to try to adjust their existing conditions to handle it.

Q. Right now, would they have to park on the street?

A. Not necessarily. They could use their existing parking.

Q. Could they park on the lawn?

MS. DOPKIN: I object.

THE CHAIRMAN: I will sustain the objection.

Q. There's no side streets in the immediate vicinity, is that correct?

A. That is correct.

Q. There's no empty parking lot of a business next door where they could park in the evening or on a Saturday?

A. That is correct.

Q. Would you agree, with this curve, the sharp curve you testified to, if there's a heavily attended service at this particular location, that the potential for adverse

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effect is beyond the adverse effects that are inherent with a funeral establishment?

A. The only -- knowing the church and the principles they have established for parking, when they can, I believe they could accommodate by double parking on their own parking lot, if they had to, and use people of the church, or attendees, to conduct traffic and handle their own parking on their own site.

Q. I believe you testified earlier that the Memorial Garden and columbarium will be available for members of the church?

A. As I understand it, it's available for members of the church and friends of the church.

Q. So if a member, or if you're a friend of the church, that person will have to pay, or the family, to be --

MS. DOPKIN: I object. I understand we are going beyond anything we addressed.

THE CHAIRMAN: Well --

MS. DOPKIN: None of that was in any way touched upon. I mean, the subject matter just goes well beyond

direct.

THE CHAIRMAN: Your previous question was not objected to because he did say who it was going to be used by, and you can cross the accuracy of that.

Q. How would you define the friends of the church? Are you familiar --

A. I am familiar with the definition. Members of the church are members who are active, contribute to the church, attend various functions, and are allowed voting privileges.

Friends of the church are essentially the same thing, except they are not allowed voting privileges and cannot hold office.

It's sort of a term of the church itself. It doesn't mean I'm Joe and I go to the Unitarian Church and I can invite my friends to use this facility.

This is actually, essentially, what you would call a non-voting member of the church. They attend regular service.

Q. Are you a member of the church?

A. Yes, sir, I am.

Q. How long have you been a member of the church?

A. I have been a member of the church, I believe, since around 1990 or 1989.

MR. LANZI: Is there a zoning map in the Board's file? 200 scale zoning map?

THE CHAIRMAN: See if this is what you're talking about?

MR. LANZI: I've got one, if you bear with me. I will come up with mine.

Q. While I am fumbling through this, are you charging the church for your services today?

A. (Nodding head.)

Q. Yes, you are?

A. Yes.

Q. Can you state how much you're charging?

MS. DOPKIN: I would object.

THE CHAIRMAN: I'll overrule.

THE WITNESS: Can I ask how much he's charging?

MR. LANZI: I'm not the witness.

THE CHAIRMAN: When an expert testified and the issue is his credibility, a permissible question or line

of questioning has been the frequency in which he testifies, or the parties for which you testify, the compensation, are well-established areas of cross-examination, so I would direct you to answer.

A. A hundred dollars an hour.

Q. Bear with me one moment. How many hours have you spent so far preparing for this hearing today?

THE CHAIRMAN: I'm going to allow it.

A. I would say probably six to eight.

Q. How many?

A. Six to eight.

Q. Are your charges the same for your expert services as your normal engineering services?

A. Yes, they are.

MR. LANZI: I am going to offer the official Baltimore County zoning map 12A and 13A --

MS. DOPKIN: Is that northwest --

THE CHAIRMAN: That would be Protestant's Exhibit 1 and 2. If you would, after you finish, mark them.

Q. I ask you take a quick look at the two zoning maps I referred to. Are you familiar with those

particular maps?

A. Yes, I am.

Q. Can you locate the church property and Mr. Robinson's property? If you are able to.

A. The church property is shown -- I don't know how they're going to mark it. I will call it 13 northeast. It is not necessarily outlined.

However, it shows the outline of the previous special exception that was granted, 97-404-X, and then immediately what I would call northwest, the private drive, although I don't believe Mr. Robinson's house is actually shown on this.

Q. The zone is D.R. 1?

A. That's what I testified to.

Q. Can you describe the zone on both of those maps in general around the vicinity of the church property?

A. The reservoir area is zoned R.C. 4. It's all zoned density residential. D.R. 1. And as you approach what I would call the Lutherville area, it changes to D.R. 2, 3.5, 5.5, increases in density due to the existing housing that's there.

Q. You testified you live in Towson?

A. My office is in Towson.

Q. Do you live in the immediate vicinity of the church?

MS. DOPKIN: I object. I don't see where this is relevant.

THE CHAIRMAN: I'll allow it.

A. I live next door to the Hampton Mansion.

Q. Would you discuss the grade, if you would, of the area from Dulaney Valley Road to where the columbarium will be?

A. I believe I described it earlier. It definitely has some slope to it. It's wooded. It's not what I would consider extremely steep, but it has some slope to it, and it is currently woods, in a thin stand forest, and stronger stand in others.

Q. Are you able to give any kind of slope degree?

A. I'm sorry, I don't have that information available to me. I'm sorry.

Q. Is Dulaney Valley Road somewhat below grade from the church property?

A. Oh, yes.

Q. Typically when an object -- tell me if this is true or not -- when an object is at the top of a hill, would that object not appear larger than it would, or it does appear larger when you're at the top of the hill from the person looking up to it from the bottom of the hill?

A. I am trying to picture. Looking --

MS. DOPKIN: Before Mr. Chadsey answers that question --

MR. LANZI: It's a yes or no answer.

MS. DOPKIN: I don't --

THE CHAIRMAN: I will have to confess maybe you ought to rephrase your question. I must confess I'm not a hundred percent sure what you mean.

MS. DOPKIN: And I don't know what the point is.

MR. LANZI: I believe before the hearing today, Ms. Dopkin and I discussed the size of the board, the desks you all sit behind, and I believe she agreed to estimate that would be a close example as to one of the panels.

For your information, I measured, and it's twelve

feet by approximately four fight by three feet, and I wanted to use something to give the Board and everyone else as an example of this panel, the size. It's actually smaller in height.

THE CHAIRMAN: Certainly, you can give us the dimensions, and whatever stipulations you folks want to make is okay with us.

MS. DOPKIN: I don't object to Mr. Lanzi, for purposes of relative size, using the panel where you sit as illustrative, noting it is somewhat longer, slightly lower, marginally, but I don't object to that.

THE CHAIRMAN: For its value, we'll accept that explanation.

Q. Is it your understanding the intention is to have four such panels, correct?

A. Yes.

Q. And if the panels were on a slope upwards, would they not appear larger than they would if they were flat?

A. Yes, but that's not what we are proposing.

Q. You're not proposing to have four structures connected?

A. We are not proposing to put them up on a slope. I believe I described it earlier relative to the cross section relative to what we were doing.

Q. Is the location here?

A. Yes.

Q. Didn't you testify this slopes --

A. I believe I testified earlier -- I don't mean to be argumentative with you, sir, but if you take this here and --

MS. WILSON: Objection and move to strike.

THE CHAIRMAN: Granted.

A. Okay. What I discussed was we were going to excavate and berm, and we are actually looking at berming which will mean we will have to excavate more.

So, in relativity, if you you look at the cross section we have right here, here's the existing parking lot, here's the columbarium. They are essentially at the base, will be essentially at or below the existing grade of the parking lot.

THE CHAIRMAN: The sloping counsel is talking about is coming from which direction?

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THE WITNESS: If you took the sloping from the parking lot -- now, this is an extrapolated scale, because to draw -- but the sloping we are talking about is -- that's the natural grade. Okay? Actually, right here.

There is the natural grade. So what we are going to do is excavate enough material, sculpt the berm to blend into this so the columbarium will be sitting down below the berm, which can then be landscaped on top of, as I said before, with evergreens and decidious and some ornamental trees to give it the effect of being a Memorial Garden.

Q. Didn't you testify you could not have the grade, were not able to give me the grade?

A. No. Here, we have got the grade right here. I don't have it memorized in my head at this point. I can get a calculator.

Q. Just answer yes or no.

A. Ask the question.

Q. You don't have the actual grade?

A. I don't have it memorized in my head, no.

Q. Isn't that parking lot on a slope?

A. Yes.

Q. Have you done any test bore holes where you intend to dig?

A. At this point, no.

Q. Would you be using any kind of dynamite or explosive devices?

MS. DOPKIN: I would object.

A. We are still in the planning stage.

THE CHAIRMAN: Whoa, whoa. When someone objects, that means you stop.

THE WITNESS: I didn't hear. I'm sorry. The fans.

MS. DOPKIN: Going beyond the scope of direct.

THE CHAIRMAN: Well, in direct, he described they were going to excavate and move land, they are going to dig lower and remove material, so the manner in which they envision removing that is certainly a relevant question.

A. Just to give you an honest answer, we have been delayed for so long, we are waiting for the completion of these hearings to complete our study and do final design work.

So to say yes, I have borings, I cannot say that at this point in time. The church did not want to go to that expense.

Q. It would be true you really don't know if you can do this then, isn't that correct?

A. There's always an engineering solution.

Q. Now, you had indicated earlier that you're familiar with the zoning regulations for residentially zoned properties, correct?

A. Yes, sir, I did.

Q. You also stated your position that a columbarium and Memorial Garden are an accessory use or structures to the church, correct?

A. I don't believe I said accessory structure.

Q. Is a columbarium a structure?

A. I guess if -- like a statute would be a structure.

Q. Does it have walls?

A. I guess you could call it a structure. Basically, it's a box.

Q. So it's a structure?

A. Okay.

Q. Are you familiar with Secton 401.1 of the zoning regulations?

A. Yes.

Q. Would you read it into the record, just the first sentence?

A. Accessory buildings in residential zones other than farm buildings shall be located in the rear yard, shall occupy no more than forty percent thereof.

Q. The proposed columbarium is in the front yard, correct?

A. I guess we go back to the term. Is it deemed a structure? I guess we need to go to the general section of the zoning regulations and see if we can find out what the definition of a structure is, and then we can work our way backwards to here.

Q. I believe you testified earlier that it is a structure, correct?

A. I believe you forced me, and I said it was a box.

Q. Are you changing your opinion? You agreed with me when I asked if it was a structure. You said it was,

yes. Are you now changing that opinion?

A. I mean, I don't know what else to call it. It's a box containing niches or other little boxes which are locked up.

I don't consider what I could call a structure. An accessory structure would be a garage or a metal shed that someone would put in their yard.

Q. You're familiar with the definition of accessory structure?

A. Let's go to accessory structure. I have it right here in front of me. Accessory structure. A use which is customarly incident or subservient to the principle use.

Q. Doesn't your petition itself indicate that this is an accessory to the church?

A. It was as --

Q. I'd like to see the --

THE CHAIRMAN: Whoa, whoa.

A. I believe what I testified to, the use is accessory to the principle use.

Q. Do you know if the petition itself defined it as --

A. I'd like to see it, if I could.

MR. LANZI: Can I get the petition from the file?

THE CHAIRMAN: We don't have it. Sometimes the folks in zoning provide us with more papers; sometimes they provide us with less paper.

MR. LANZI: I have a copy of the Notice of Hearing. If I could, special exception for columbarium as a use accessory to a church, to amend previously approved plan.

Q. Does this building, whatever it is, have four walls?

MS. DOPKIN: I would object. Asking Mr. Chadsey to testify beyond the scope of direct. Mr. Chadsey testified to the concept and to his understanding of the use.

THE CHAIRMAN: I think we are starting to get a little bit beyond.

You may question his definition of it. You may present your own evidence it is or it isn't. But he didn't really testify as to the physical nature of it, other than describing where it was going to be.

MR. LANZI: He's indicating the use or the location is fine, but he can't have it both ways. He can't say it's a use which --

THE CHAIRMAN: He can say it's his opinion it's accessory to a use, and he may or may not agree, as a witness, to your characterization of it being a structure or not.

Q. You would concede, in fact, accessory buildings have to be located in the rear yard of a residentially zoned area?

A. Now you're saying accessory buildings?

Q. Accessory structure, accessory building has to be --

A. 400.1 refers to accessory buildings. You're talking accessory structures. I'm talking accessory uses.

MR. LANZI: Give me thirty seconds?

THE CHAIRMAN: Absolutely.

Q. I am going to show you a series of documents. I'm not going to offer them yet. We'll call them the Long Quarter documents.

Can you describe what the first or the top

document shows?

MS. DOPKIN: I am going to object to the whole line of questioning. Mr. Lanzi is introducing the Long Quarter documents. That was not the subject of direct.

THE CHAIRMAN: We'll hear a proffer from you.

MR. LANZI: The purpose of these documents is relevant and does affect what was said on direct because the Long Quarter Association, including a number of lots of which the church owns some of these lots, there are some restrictions in the covenants which were assigned from the original property owners to the Long Quarter that said written permission has to be given for any building on any of those lots.

And there is also a deed that's part of that package which specifically states that -- the deed is to the church -- that no building can take place in the rear yard.

THE CHAIRMAN: Okay. And that would certainly be relevant information from your point of view, and without telegraphing what we would do, I don't see where it would not be admissible in the proper circumstance, but I don't

see it as cross-examination to what he has said.

MR. LANZI: He testified if, in his opinion, the columbarium can go here and it's appropriate, and this is showing that's not necessarily so.

THE CHAIRMAN: It's appropriate in the sense of the conditions and circumstances that he was called to testify about relative to the land use and the zoning.

If you believe that there are covenants to the contrary, you can bring those covenants in and, certainly, the Board will consider them in determining whether the project is appropriate or not, but I still don't think it bears on the area of his particular testimony.

Everybody here would be testifying about whether the columbarium should go there or not. So using that logic, it would be relevant to everybody else's cross examination. Everything relevant to the project would then be relevant to everyone's cross-examination.

That's just not the way it is. You can present it as evidence, but I'm going to sustain the objection as to it being cross-examination material because I don't think it bears directly on his direct statements he's

made.

MR. LANZI: Thank you. Do you have any redirect?

MS. DOPKIN: Are you done?

MR. LANZI: No, we are not. My co-counsel has some questions. We're not done yet.

MS. WILSON: Mr. Chairman, we'd like to raise a procedural point. If the panel will permit me to ask a few supplementary questions, I'd like to do so now.

If the panel would prefer to give Ms. Dopkin her opportunity to do some redirect, we can stop at this point and I will examine the witness on recross.

THE CHAIRMAN: I will allow you, pursuant to what I said earlier, a few brief questions before counsel does redirect so that she can hear the context of everything that's being asked before she does her redirect.

MS. WILSON: Thank you, Mr. chairman.

FURTHER CROSS EXAMINATION

BY MS. WILSON:

Q. Mr. Chadsey, who prepared the drawing that is now hanging off this board here? Your Exhibit 2, is it?

A. That drawing?

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Q. Yes.

A. One of the landscape architects in my charge, of my firm.

Q. One of your subordinates at your landscape firm prepared this?

A. That is correct.

Q. How much does your firm charge to prepare this drawing?

MS. DOPKIN: I object.

THE CHAIRMAN: He testified to what his charges are.

MS. DOPKIN: I don't know what relevance it has.

THE CHAIRMAN: Frankly, it may have very little relevance, but I see no harm in the question. I will allow you to answer, if you know.

A. I would approximate somewhere between forty and $80.

Q. Perhaps that would explain why, although it indicates a scale of one inch to ten feet, the drawing is not to scale?

A. I'd have to check.

Q. Is this drawing to scale?
A. I'd have to check.
Q. How would you check it?
A. I'd bring a scale.
Q. Do you have it with you? Why don't you check?
A. What is it you wish me to check?
Q. See where it indicates proposed columbarium? Please measure that and tell me what the size is, according to the scale.
A. It shows about -- probably about five feet.
Q. Five feet? And the proposed columbarium, in fact, is going to be ten feet?
A. That is correct.
Q. So the drawing is off by a factor of two, is that correct?
A. I would say that maybe this particular item is off by a factor of two.
Q. And that particular item is what we are here fighting about today, isn't it?
A. Yes.
Q. And that drawing your firm prepared understates

the size of the proposed structure by half, is that correct?

A. Well, I guess, yes, there may be a problem there in that it shows the columbarium being smaller than it should be.

Q. By half the size it should be, correct?

A. Excuse me a moment.

Q. Do you want to correct your drawing?

A. No. I can.

Q. Would you?

A. In a moment.

Q. Wouldn't it be easier for you to take it down and do it flat?

A. No. I can do it right here. There you go.

Q. Why don't we color it in so we can make sure. Color in the corrected location of the proposed columbarium.

Okay. What you have drawn on there is now showing ten feet, according to the scale that your firm established?

A. That is correct.

Q. Where are the other three proposed columbariums?

A. I believe I stated when I testified that this was considered to be the first phase.

Q. Is the church requesting permission to install one columbarium, or more?

A. I believe I testified that there was four, and this was a concept of the first phase.

Q. Let's do the second, third and fourth phase. What are they going to look like?

A. They will look like this.

Q. Will you place please on the drawing for the panel the second, third, and fourth columbarium on your Exhibit 2.

MS. DOPKIN: I would object. This is an illustrative landscape drawing, I believe, identified as a concept plan, and I think it has been used for concept purposes.

The site plan is in evidence and is used to show the subject of the request.

A. I don't --

THE CHAIRMAN: Let me make this easy. First of

all, the Board is going to make its determination based on the size, not the way something looks or doesn't look in a picture because, obviously, we get a lot of pictures in all these cases. It does appear on the site plan.

Having said that, we have no particular objection if he wants to, free-hand, give us where he believes it will be, especially if it comports with what's on the site plan, as to future phases.

It's on the exhibit. If counsel is asking him to simply combine it for purposes of illustration, that's not the basis upon which the Board is going to make its decision.

In any event, if it makes the cross-examination easier and he can do it, it's okay with us. It's really not that big a deal, quite frankly.

THE WITNESS: I don't have the instrument here to set up the angles.

THE CHAIRMAN: Understanding it's very rough, hand-written.

Q. Please do it to scale.

THE CHAIRMAN: Counsel, without anybody moving, I

18 just want to get something in chambers while he's doing that.

MS. WILSON: Mr. Chadsey has now corrected the drawing to reflect the four panels of the proposed columbarium.

Q. Are those four segments to scale?

A. As best I can do it free-hand, I believe they are.

Q. Is everything else on the drawing that is shown from the overhead prospective also to scale?

A. It's an illustrative plan.

Q. How long is it going to take for the trees shown on that plan to get to that size?

A. Depends on the type tree and what size you originally purchase it at.

Q. What size is the church planning on originally purchasing trees?

A. We haven't gone to that extent of design, because we are still going through the appeal process.

Q. What kind of trees does the church plan to buy?

A. I can give you some specifics of the types of

trees, but more or less probably laymen would understand there would be some evergreens, decidious trees, the ones leaves fall off of, and ornamental trees.

Q. So you don't know what size? You don't have the specifics of what kind of trees? You don't know how long --

A. I can give you a list of what we are intending on using as types of trees, if you would like to hear it.

Q. Sure.

A. Bear with me a minute. We are looking at cedars, cyprus, birch, some hollies, some laurel, some gums, some spruce, two types of pines, and rhododendrums.

Q. What kind of soils analysis have you done to determine whether those kinds of trees will grow on this property?

MS. DOPKIN: I object. Mr. Chadsey has testified repeatedly that a level of design has not been reached. He testified to the conceptual nature of the plan.

I think, to the extent that it has relevance, it's been asked and answered numerous times.

THE CHAIRMAN: He made the general comment that

they hadn't gone any further than what was there, but since the trees appeared, they can ask what they are supposed to depict. If he hasn't made that determination yet, that's his answer, he hasn't made those determinations yet.

A. And the question is? I am not sure which question.

Q. The question is what kind of soils analysis have you done to determine whether those trees will grow on this site?

A. At this point in time?

Q. Yes.

A. We have done no soils analysis, and going to the expense of that analysis. It could be performed free by the University of Maryland Agricultural Department with little to no effort. There are trees growing on it now.

Q. So if it could be performed, a soils analysis, with no expense, why is it accurate to say the church hasn't done that because it hasn't gone to the expense?

A. It may be accurate from the standpoint of we haven't done it. We don't know where we are.

19 Q. You don't know whether the trees the church is proposing to use as a screen for this structure will grow on this site?

You don't know precisely what soils they are going to be that will, allegedly, screen this structure on this site?

You don't know whether the site can actually be modified and graded in the manner you would propose to hide this structure? Am I correct?

A. I am trying to exactly understand what the question is now.

And my original statement, ma'am, was that we were planning the berm to screen the site, and that the landscaping was supplemental planting to encourage the Memorial Garden.

When you hire a landscape company to plant trees, they guarantee the survival of the trees.

Q. You testified on direct examination by Ms. Dopkin with great certainty that there would be no adverse impact whatsoever on the neighboring property by the installation of this columbarium and Memorial Garden. Do you remember

that testimony?

A. Yes, I do.

Q. But you're telling us now, are you not, that you don't know whether the property could be excavated as you propose to excavate it, aren't you?

A. I did not say that it could not be excavated.

Q. You said you don't know, am I correct?

A. I said I did not do soils tests.

Q. You testified in response to Mr. Lanzi's question on cross-examination that you have also done no test boring?

A. That's what I said.

Q. And you testified that you have also done no analysis to determine the substrait to know what kind of excavation will be required?

A. And I think I also testified that there's always an engineering solution.

Q. Even if that may involve dynamite, correct?

A. Well, that is an engineering solution. You're the one bringing it up.

Q. Can you rule it out as at this point, that that

would not be necessary?

A. I don't know.

Q. So you can't rule it out? In other words --

A. Locations are pre-blasted all the time. But at this point in time, I don't foresee having to blast anything.

Q. Where's the septic field and drainfield of this church and related property shown on either of these?

MS. DOPKIN: I object.

THE CHAIRMAN: Granted.

MS. DOPKIN: It goes beyond the scope of direct. Certainly, there was no testimony of any subsurface involved. It is irrelevant to the issue.

THE CHAIRMAN: I am going to grant the objection only insofar as he did not describe in detail the methodolgy, or get into the methodolgy technically by which the excavations would be done.

Whether it's steam-shoveled of four guys out there with spades or somebody with a stick of dynamite are issues for later permits and later engineering decisions that have to be made before this project goes further.

He didn't really touch on that. He talked about a concept.

MS. WILSON: I respectfully disagree. He testified unequivocably without any testing, the basis for his opinion that, in his opinion, this project would not in any way be detrimental to the health, safety or general welfare of the locality involved.

I want to see what the basis for that opinion is. For example. I'd like to know what interference, if any, this project is going to have with the septic fields for the neighboring property.

If he doesn't know, he'll tell you that, and his opinion is that much weaker.

THE CHAIRMAN: I'm going to allow very limited specific questions which he may not know in his expertise, but I'm not going to let you go far afield.

MS. DOPKIN: I will continue the objection.

THE CHAIRMAN: Overruled at this point. Let's see where we go.

Q. Where's the septic field?

A. For who?

Q. For the church property, for starters.

A. Shown in this location here, and here.

THE CHAIRMAN: Why don't you stay there. Do you need him to stay there?

MS. WILSON: Why don't we leave him there? Thank you.

Q. What kind of water system does the church use? Is it on a well?

A. I believe they are on public water.

Q. This property drains, does it not, directly into the Loch Raven Reservoir?

A. I believe I testified to that.

Q. And the water for all the surrounding properties come out of the Loch Raven Reservoir, correct?

A. That is correct.

Q. What is the basis, if any, for your opinion that excavation and building on this property would not be detrimental to the health, safety and welfare of the locality involved, other than your desire to see the property built?

A. I don't -- it's much too vague. Can you be more

specific?

Q. What is the basis for your opinion testimony, if you have a basis for it, that this project, if built, would not be detrimental to the health, safety or general welfare of the locality involved?

A. My opinion is that it's an isolated area on the site, not disrupting any of the adjacent property owners, screened from the adjacent property owners.

During construction, we have to meet all the rules and regulations of the Department of Environment, of the County Code, of the Department of Zoning, and all of these can be met while not disrupting the surrounding property.

Q. As a theoretical proposition, correct?

A. We have to do it.

Q. There's always an engineering solution, isn't that correct?

A. That is correct, but we have to do it, or we get fined.

Q. The answer is, you have no specific basis for that opinion, except for your view that, in the future,

there's always an engineering solution.

MS. DOPKIN: I object.

THE CHAIRMAN: I understand the objection. That's not a question. That was a statement. There's no question mark at the end.

MS. WILSON: I was heading towards a, Is that correct.

MS. DOPKIN: I still object.

THE CHAIRMAN: But just for future reference for you, that's not a form of question that's going to be allowed.

MS. WILSON: Thank you, Mr. Chairman.

Q. Where is Dulaney Valley Road shown on Exhibit 2?

A. Exhibit 2, you have to relate yourself to Exhibit 2 to the special exception plat. The area of the special exception is shown on Exhibit 2 so that you can relate it to Exhibit 1.

Q. Where are the homes that are nearest to the proposed project?

A. Well, as shown --

MS. DOPKIN: I would object again. I don't know

that it was the subject of direct at all.

THE CHAIRMAN: He did describe where there were homes and what the zoning was.

Right now, all counsel is doing is asking general questions about his general comment.

A. According to the zoning regulations, you have to show residences within 200 feet of the boundary, and the houses that are within 200 feet are shown on the plat.

Q. So they are to the bottom of the page?

A. That is correct.

Q. One, two, three, in a line?

A. That is correct.

Q. Go down to Exhibit 2. The homes, had they been shown on Exhibit 2, would be at the bottom of that paper, correct?

A. As I previously stated, you relate Exhibit 1 to Exhibit 2, and they would be in this vicinity here.

Q. The homes would be down here, correct, where they are shown on this plat?

A. Since you like to talk about scales, let me find my scale and we'll give them relative distance. This home

is approximately here in relation to that.

Q. Okay. Now, your little indicators on the right-hand side of Exhibit 2, 304, 398, what do they indicate?

A. Contour elevations.

Q. And the higher numbers are higher land, correct?

A. Yes.

Q. The homes to the south of the proposed project are higher, on higher ground, literally, than the proposed project, is that correct?

A. I guess you didn't hear my prior testimony. As you come up the hill and crest over, you have -- well, if you come down Dulaney Valley Road, there's a ridge that goes through here. Okay?

And this area starts to fall back this way. Yes, conceivably, yes, they start at a higher elevation, but they are falling on the other side of the ridge.

Q. The elevation actually rises again at the other side, does it not?

A. Other side?

Q. The other side.

A. Let's use this one.

Q. How does this show the elevation?

A. You show me what you question is, and I will be able to help you.

Q. The elevation of the area shown on Exhibit 2 goes down in here, correct?

A. That is correct.

Q. The hill comes back up again, does it not?

A. This is level across the parking lot and then down into the stream and then back up into Mr. Robinson's property.

Q. So Mr. Robinson's property is literally on higher ground than the --

A. Not substantially.

Q. Where is that?

A. It's shown here, but I checked it in the field and they are essentially -- the elevation, from what I could tell, without trespassing, is essentially the same as the ground level outside his house as it is here.

Q. So you kind of eyeballed it?

A. We took an instrument out.

Q. What was the elevation of Mr. Robinson's house at his front door?

A. I don't know exactly where his front door is. We were looking at the side of the house facing the columbarium.

Q. What's the elevation where you measured?

A. What we did, ma'am, I didn't run a topographic survey. I took a shot here and I took a shot outside of his home -- okay? -- using a surveying instrument. And there was like maybe a foot, two foot of difference. Nothing substantial.

Q. Did you do that personally?

A. If you've been to Mr. Robinson's house, he's much more level than this side over here.

Q. If I represent to you that Mr. Robinson's property has an elevation as much at ten feet above the proposed columbarium, do you have any evidence to dispute that representation?

MS. DOPKIN: I object.

THE CHAIRMAN: As to the form of the question?

MS. DOPKIN: Yes.

THE CHAIRMAN: I will grant it.

Q. Do you have any evidence that the elevation of Mr. Robinson's property is not ten feet above the proposed columbarium?

A. I do not have any evidence with me today to that effect, no, ma'am.

Q. Assuming I am correct, that Mr. Robinson's property elevation is as much at ten feet above the proposed columbarium, is it not true from his property one will be able to see down into it?

A. Not once it's all constructed.

Q. Why? Because the trees, if they grow in the soil, grow and become the size that you represented, correct?

A. The trees when they originally come -- how do you explain in laymen's terms? Typically, when landscaping is approached, okay, it doesn't come in the size that you would buy to serve the Santa Clause or pass out evergreen trees to the kids.

It comes three or four feet high. And, as I testified earlier, the landscaper will have to guarantee

the survival rate of the trees.

Mr. Robinson is on the other side of the stream, which is also blocked by existing woods.

So I would say, unless Mr. Robinson was making a difficult effort to get up on his roof and look down into the columbarium, I would say he would have a really hard time finding it.

Q. Have you stood on the site literally where the proposed columbarium -- literally standing in one of the forty feet that's proposed to be dug out?

A. Yes.

Q. What did you see as you stood there?

A. Well, let's see. Looking which direction? Give me a hint.

Q. All directions.

A. As I looked out toward Mr. Robinson's, I can see a parking lot, and then a stand of woods. And then you can vaguely see the brickwork on Mr. Robinson's house.

Looking towards Dulaney Valley Road, you look in the woods.

Looking forward towards the church, obviously you

see the church. Look the other direction, you look in the woods.

Q. Who's going to be the landscape architect on this project?

MS. DOPKIN: I object.

THE CHAIRMAN: I'm going to sustain that objection. That has no relevance to any direct question he was asked.

MS. WILSON: I'd like to ask --

THE CHAIRMAN: If you want to ask the question did the plan envision a licensed landscaper, I won't overrule that question, but as to who it might be, or might not be, there's absolutely no relevance.

Q. Do you anticipate your firm will be doing the landscaping work for this project?

A. I don't know. I haven't had any contact about that.

Q. Certainly, you won't be doing the work if the project is rejected, correct?

MS. DOPKIN: I object.

THE CHAIRMAN: Sustained.

Q. Are you a voting member of the church?

MS. DOPKIN: I object.

THE CHAIRMAN: I'll let him answer.

A. Yes.

Q. How did you vote when this project was put to a vote?

MS. DOPKIN: Objection.

THE CHAIRMAN: I am going to sustain the objection.

MS. WILSON: I have no further questions.

THE CHAIRMAN: Redirect? Can I just make, on the record, a statement. The gentleman, Mr. Lanzi, has raised his hand as if to say something several times.

I haven't been able to interrupt the record, sir, and I don't mean to ignore you. But the only people who can talk are witnesses or counsel.

MR. LITTLE: I'm not represented by counsel.

THE CHAIRMAN: Then you're going to have to talk to somebody and have them formally say something to us.

MR. LITTLE: I can't represent myself?

THE CHAIRMAN: Not unless you're a party to the

matter already.

MR. LITTLE: I think I am mentioned. I'm Charles Little.

THE CHAIRMAN: No, you're not a party. Well, you're on the list, actually.

I take that back. Mr. Charles Little, that is correct.

Let me suggest to you, Mr. Little, that we finish the testimony here before we hear what you have to say in terms of --

MR. LITTLE: I'd like to examine the witness, if I may?

MS. DOPKIN: I have to object.

THE CHAIRMAN: He's listed as one of the parties on the notice.

MS. DOPKIN: I think he attended the hearing. I do not believe he noted an appeal on his own behalf.

THE CHAIRMAN: One second, counsel.

The question is whether or not he was one of the listed folks as a party.

MS. DOPKIN: I do not believe he is.

THE CHAIRMAN: Sir, here's the problem. This appeal was taken on behalf of Mr. Robinson.

There has been no notification by anyone to this Board that you are a party to this appeal.

I am going to suggest to you that, under those circumstances, under the Rules of the Board, that you are not, though you were notified to be here, as was, for instance, the County Attorney and the Director of Planning and Development Management, and the Director of Planning, that they are also not here testifying, because they are given notice in order to observe what occurs as parties who are interested.

They are not parties participating in the matter. So, again, I would suggest to you that if you want to speak with counsel, on whatever side you happen to fall, and I don't even know what side of the issue you fall, nor is it relevant to what I'm saying, that you can certainly identify what lawyers are on what side.

I would suggest that you speak with whatever lawyer seems more likely to be on your side of the argument, and then, if they want to make representations

to us, they may as part of their case.

But I can't allow you to become a questioning party at this point in the hearing.

MR. LITTLE: Well, can I testify later?

THE CHAIRMAN: If somebody calls you, yes.

MR. LITTLE: That's fine. May -- before you dismiss this witness, may I confer with the attorney?

THE CHAIRMAN: We can wait a moment if you want to speak with counsel.

MR. LITTLE: Thank you.

THE CHAIRMAN: You had finished your cross?

MS. WILSON: Yes, sir.

THE CHAIRMAN: Redirect? Let me say, counsel, from the procedural end of it in terms of any recross, I am going to let one of you do recross, and be aware of that.

REDIRECT EXAMINATION

BY MS. DOPKIN:

Q. Mr. Chadsey, Petitioner's Exhibit 2, I believe, is entitled, Columbarium Concept?

A. That is correct.

Q. You had testified that the berm would be constructed, and once constructed, it would create a visual screen?

A. That is correct.

Q. In your drawing, I believe you show a vertical, again, conceptually, illustrative of the proposed columbarium?

A. That is correct.

Q. Is that to scale?

A. No. I scaled it during the -- well, it is to scale, but actually the columbarium itself is slightly shorter than shown in that. As you see, there's a red arrow there. That's the five-foot line.

Q. Would the visual impact then be less than what is shown by this illustrative section?

A. Well, when we discussed this illustrative, we're looking at various ways of modifying it. So right now we're envisioning, like I explained earlier, probably excavating probably lower and raising it slightly higher, so the accuracy of this drawing is a concept to start with, and we start working with it from there.

MS. DOPKIN: I have no further questions for Mr. Chadsey on redirect.

THE CHAIRMAN: Recross?

MR. LANZI: None.

THE CHAIRMAN: Okay, Mr. Chadsey, thank you. Can we excuse the witness? Does anybody want him to stick around? What's your pleasure, counsel?

MS. WILSON: Mr. Chairman, we'd like to ask him to be available in the event we need to call him as an adverse witness in our case.

He doesn't have to stay immediately in this room, but if he can be available in the vicinity, we'd appreciate it.

MS. DOPKIN: Can we call him at his office?

THE CHAIRMAN: Off the record.

(Discussion held off the record.)

THE CHAIRMAN: How far are you?

MR. CHADSEY: Five minutes.

THE CHAIRMAN: In any event, it's my predisposition at this point to take a lunch break anyway, so we'll be back here at 1:30. We are adjourned then.

(A luncheon recess was taken.)

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A F T E R N O O N S E S S I O N.

THE CHAIRMAN: Ms. Dopkin, are you ready?

MS. DOPKIN: Yes, sir.

THE CHAIRMAN: Let's go back on the record. We're here in Case 97-404-X, in the matter of Towson Unitarian Universalist Church.

We have finished one witness, and we are still in the petitioner's case. Ms. Dopkin, call your next witness.

MS. DOPKIN: Yes, sir. Thank you. I'd like at this time to call Ms. Jung, Jean Jung.

J E A N J U N G,

having been called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION

BY MS. DOPKIN:

Q. Would you please state your name and address.

A. My name is Jean Jung, 1942 Sunberry Road, Dundalk, Maryland 21222.

Q. Are you a member of the Towson Unitarian Universalist Church?

A. Yes, I am, since approximately 1986.

Q. In what capacity are you here today for the church?

A. About the end of January, the Board of the church authorized me to be the liasion in matters of zoning, questions around and issues related to the columbarium.

Q. Would you please give the Board some background information about the church itself? How long has the church been located at this site?

A. The church has been located at this site since 1972. It was founded in 1960 as a congregation.

Q. Is the church a not-for-profit institution?

A. Yes, it is.

Q. As such, is it qualified under Section 51C3 of the Internal Revenue Code?

A. Yes, it is.

Q. Do you know how many members the church has?

A. A recent check indicated 324 members, which was about 240 households, or families.

Q. Are there different types of affiliations?

A. Yes, there are. As a member of a Unitarian church, you can be one of two things. One is a friend, one is a member.

I came into the church as a friend for three or four years, and then became a member when I signed the book.

Q. Signing the book a term of art as to Unitarian membership?

A. Yes, it is. And it adds to your privileges, those being elected to office and voting on business matters of the church.

Q. Does signing the book have a religious implication?

A. Absolutely. The basis of our religious organization is expressed in a number of principles, but the emphasis within those principles includes a search for religious truth, the inherent dignity and worth of each individual, and respect for all of nature, including people, but also environment, and education related to those.

Q. Are there other Unitarian Universalist churches? Is there an organized church?

A. Yes. We are part of a denomination that's based in Boston. It's the Unitarian Universalist Association.

Q. How old is the Unitarian denomination or movement, to your knowledge?

A. The principles are those that have been held by individuals throughout the Christian era. It was in the 18th century and beginning of the 19th century that the two separate groups formed -- the Unitarians and Universalists -- they merged together, I believe in 1961, but I'm not at all sure of that date.

They merged to form the Unitarian Universalist denomination. They had been two separate organizations.

Q. Could you generally describe the activities of this church at this location?

A. I would say, in general, they are those use activities that are customarily housed in or accessory to.

That would include religious education, or Sunday School for young people, religious education for adults, Sunday morning services, and we have moved to having two

services each Sunday morning this past September.

Choir rehersal. Numerous committees that -- some of which take care of the internal affairs of the church, whether it's keeping the grounds or doing the financing, or those which attend to the spiritual aspects of the religion and still of those which are dedicated to the outside world, not in a prosthelizing sense, but in a -- I guess the word -- to be of assistance to the community at large, such as concerts, art, using of the facilities for organizations that are in accordance with the principles of the church.

Q. Are there life cycle events or services held at the church?

A. Yes. There are baby dedications. There are weddings. And instead of funerals in the sense that it is often found in another type of church or in a funeral establishment, we customarily have memorial services held within the santuary of the church.

Q. Can you describe what is proposed that is the subject of today's petition, the Memorial Garden and columbarium?

A. The request is for a columbarium shown within a Memorial Garden. The columbarium itself is in the nature of a monument on a concrete slab that has spaces into which cremated remains can be placed.

Those niches will have -- the front of them whether empty or full -- covered with a natural stone material of some type.

It will not have windows, doors, walls. It cannot be walked into.

Q. What about the rest of the space? What will the rest of the space look like?

A. The rest of the space is shown within the portion of the property designated for the Garden.

The purposes of the Garden would be other related religious purposes in addition to a place for the placement of the ashes within the niches.

It would be a place for meditation, for memory, for prayer, for spiritual self-examination, and things of the like.

So, for those reasons, it is important both to us as members of the church, as well as to neighbors, that it

be secluded, quiet, shielded from view and from noises.

Q. Has the church considered to whom the Garden and columbarium space would be made available?

A. That was the focus of the decision and desire for a columbarium, that it was a service, a use, that is customarily available in many churches and church grounds.

And the desire and the need for a place, to have these places of meditation and places to locate cremated remains for those of specifically our friends as we've defined them as part of our membership, our members, and the households associated with those.

Q. Would this columbarium space be available to anyone other than church members and their families and the friends as defined?

A. No. And I hesitate because the only possible thing would be a former member who had moved to a retirement home and came back after death.

But other than that, it would be for those that were still a part of the congregation the last months of their life.

Q. In considering this use, did you investigate

whether there are similar uses in other churches in the area?

A. There are cemeteries, quite frequently, associated with churches in Baltimore County.

And there are a lesser number, but there are a considerable number of columbariums on church properties within Baltimore County.

Q. Are there any improvements proposed? You described the columbarium. You have described, briefly, a Garden.

I believe you heard Mr. Chadsey's testimony. I don't want to be repetitive of the testimony that was previously given, but is there anything you could add to what he depicted as the concept and proposal for the Memorial Garden and columbarium space?

A. He probably covered it all. A rustic pathway to get in and out. The plantings. The berm. One or more benches, and possibly, later, additional sections of the columbarium itself.

Q. Who will maintain this area for the church?

A. It is a part of the church as a whole. It is used

to the church as a whole, and within our organization we have a -- we have a grounds committee that works as a part of the Operations Council of the church, so it will be that committee.

And if there's going to be a big spring cleaning, fall cleaning, then something will go into the bulletin on Saturday, there will be breakfast and a workday for everyone who can volunteer to assist, but the responsibility is in the Committee and the Board.

Q. Had the church considered or adopted procedures govering the use of the Garden and the columbarium?

A. There has been talk. There has been work on it. But life has pretty being suspended in this regard as we went through the hearing and appeal process.

Q. Have representatives of the church been in contact with any representatives or members of the community associations in the immediate area?

A. The community immediately to what I call the south, heading towards the beltway, is called Long Quarter, and the president of the congregation, and I attended their September meeting which was held in our

church, and showed -- I know we showed the concept. We showed a concept plan.

I don't think it was exactly this one, but we talked through the prior hearings, the one in September, and explained where we were in the process and that we didn't know how long it would be before we would be able to move on to the actual establishment of the garden.

Q. Did you talk with anyone else?

A. The offer was made to the association to the North, Valley Garth, and they said they were well aware of the situation and they did not need us to come to a meeting.

Q. In the course of your responsibilities involving the Memorial Garden and columbarium, you had occasion to familiarize yourself with the Baltimore County zoning regulations?

A. Yes.

Q. Is it your understanding that the church is a use permitted under those regulations?

A. Would you repeat that?

Q. Is it your understanding that a church is a use

permitted under the regulations in this zone?

A. Yes.

Q. Have you considered, or has the church considered, not you personally, but you as speaking for the church, what effect the proposed use will have, if approved today, on adjoining properties and uses?

A. It is my opinion and the church's opinion that that we have in the past and will continue to have memorial services within the santuary area of the church.

Cremains could be placed in a niche at that time, although most likely that will be a niche for immediate family and members.

That being the case, a large number of people, well, sometimes memorial services have a media family, sometimes they have over a hundred people in attendance, and that will not change with the addition of the columbarium.

The actual placement of the ashes could be incorporated within that same day or, if it were at a separate time, it would be a minimum number of people. Therefore, there will be no adverse effect.

Q. I didn't ask you that question yet. Has your church considered whether it will have the Memorial Garden whether or not the columbarium use is approved?

A. The church already has landscaping in some areas, but in many areas, there are open areas.

As a part of our religious and spiritual needs, we wish to have a quiet, particularly beautiful place in which to meditate, think, pray.

And so, yes, we will have a garden in this location, whether or not we have approval for a columbarium.

Q. I would like to ask you your opinion relating to the impact of the columbarium because of the particular requirements of the Baltimore County zoning regulations.

MS. WILSON: Should I object now, or wait until specific questions are asked?

THE CHAIRMAN: Specific questions.

MS. DOPKIN: I understand the objection. That's why I gave the introduction.

Q. In your opinion, do you believe the proposed Memorial Garden and columbarium will have a more

detrimental impact at this location than at another location within the zone?

MS. WILSON: Objection.

THE CHAIRMAN: Grounds?

THE WITNESS: With all due respect to the witness, she's not been qualified as an expert on any subject which, per se, suggests she should not be permitted to express an opinion, especially as technical as the question now requested her.

We have no foundational question to find out what, if any, other sites this witness is aware of to which she would be comparing the effect of this columbarium.

We have no information as to what basis or expertise this witness might have that would qualify her to render an opinion, even as a lay witness, and I respectfully submit that counsel has covered this territory and made her record with an expert witness especially retained for this purpose.

MS. DOPKIN: I would offer that the church itself may have a view of why the use here is more suitable than

elsewhere.

They relate particularly to the church's theology and approach that no one else could answer, but a spokesperson from the church.

THE CHAIRMAN: I think we are a little far afield. I don't really see a basis for the question.

Certainly, the woman is entitled to her own personal opinion. And if the personal opinion is a question of is this a good thing or a bad thing, it's something the church wants to have, or is good for the church or bad for the church or represents what the church does or what the church doesn't do or stand for, I would overrule the objection.

But since, by its very nature it's, as counsel points out, a comparison of other areas, I would have to sustain the objection at this point.

Let me say, in clarification, because we may wind up here again in a moment or two, that if, as a spokesperson for a Unitarian Universalist Church, she wishes to tell us about what other Unitarian Universalist churches in Baltimore County do in terms of explaining

what they want to do, that would be a different basis.

But as to the general question of whether or not, from a zoning point of view, I am going to sustain the objection.

MS. DOPKIN: I have no further questions at this time, but I would like to reserve the right.

THE CHAIRMAN: Certainly. Which one?

CROSS EXAMINATION

BY MS. WILSON:

Q. Good morning, or good afternoon.

A. I believe it's good afternoon.

Q. You're right. I have lost the day. How far away from the church do you live?

A. Seventeen miles.

Q. How many of the members of your congregation -- by members, I will use the term colloquially for the moment -- members and friends, live in the immediate vicinity of the church?

A. I cannot give you a figure on that. I am one of those who lives furthest away.

We are the only Unitarian Universalist church in

Baltimore County.

So those of us who live in the county and wish to go to a Unitarian church may well go to this one.

Q. Are you personally aware of the home addresses of any substantial portion of your congregation membership?

A. Would you repeat that?

Q. You basically know where your fellow congregants live?

A. Yes. We have a directory for friends and members that lists every person by name and address. And it is frequent in our congregation, in addition to activities within the church building and on the church property, to have home gatherings, and so I have been in many of the homes of our congregants, and they have been in mine.

Q. Have you ever been in the home of a fellow congregant who lives in a property immediately adjoining your church?

MS. DOPKIN: I'd object. It's not relevant to the issue before the Board.

MS. WILSON: I am going to argue --

THE CHAIRMAN: Whoa. I'm going to overrule the

objection right now.

A. To the best of my knowledge -- and, of course, I do not know and may have not be in the homes of all 324 of our members -- to my knowledge, no one of our members lives within a home shown on the plat that was submitted for the hearing.

Q. Okay. Of your 324 member congregant, how many are members as differentiated from friends?

A. I don't know. It would have to be counted out of the directory.

Q. Now, you testified on direct in response to your church's attorney's question that the church facilities are used for a number of purposes, including what you characterized as assistance to the community at large, to organizations that accord with the principles of the church. Do you remember that testimony?

A. Yes. It is part of our outreach.

Q. You mentioned that those kinds of outreach activities include concerts and use of the facilities, is that correct?

A. Yes.

Q. Are there any organizations that your church has denied access on the basis that the organization does not accord with the principles of the church?

MS. DOPKIN: I would object to this line of questioning.

THE CHAIRMAN: I am going to sustain the objection in the way that you have framed it, because I don't see any relevance to that point.

MS. DOPKIN: She misstated what the witness said.

THE CHAIRMAN: I'm not even concerned about that. The issue, if the question is who's going to be allowed to use this columbarium, which is the only issue that I see relevant in this general area, because its use is relevant to how many there will be and who come and go, I understand all of that.

But the question you asked didn't go to that.

MS. WILSON: You are correct.

THE CHAIRMAN: So I will sustain the objection to that question.

MS. WILSON: I would proffer my rationale for the relevance, but I prefer to do it out of the hearing of the

witness. May we approach?

THE CHAIRMAN Certainly. Ma'am, could you sit in the audience for a moment?

MS. WILSON: I believe it is very relevant. One, Mr. Robinson's concern, major concern, is this facility is open to the public, the public comes to buy artwork from public artists who are renting space from the church. The public comes, and my concern is they are doing the same thing. We are saying, are they really going to be as strict as they say?

THE CHAIRMAN: The fact that other church events may encompass wider use does not necessarily mean that this particular activity is going to be kept wide open on the same basis.

If you want to specifically ask who's going to be allowed to be buried here or who's not going to be allowed; what, if any, restrictions will be placed on who's allowed to utilize this, then those would be relevant questions.

MS. WILSON: I had intended to ask those as well.

THE CHAIRMAN: Why don't you ask them?

MS. WILSON: Because this is important, because I think it would be a mistake for the the Board to look in isolation at this one, ten-by-five-by-three structure.

This is the fourth general category accessory use of this church property that is not about worship. There's an art gallery. There's --

THE CHAIRMAN: But you can't make a nexis between what they do about other activities and what they do about this particular one.

You can pin her down as to what she feels their plan will be for this. You can even ask the word, and I am absolutely not telegraphing anything because I don't have a clue, that if we were to approve it, would we have to put a limitation or condition on it? Can it only be used for a certain defined group of people?

There are any number of ways to skin a cat. It seems to me that their prior history of other totally unrelated activities is not probabitive.

MS. DOPKIN: There are other forums in which we have -- and Mr. Robinson could raise those issues. It's really not the subject of this hearing. And there are

other mechanisms to determine appropriateness, suitability.

THE CHAIRMAN: My point is we could even make those recommendations, but we're talking about here simply of a particular witness.

I am going to sustain any objection as to other unrelated activities if the purpose of talking about those other unrelated activities is to show a nexis.

We're bright people here. Therefore, we can deduce -- they may bring other people in here.

If you want to talk about the level of congestion that their activities already bring and try to make some nexis, that already come up in in some of the testimony, that's a physical fact.

The mere fact there's activity in one area is not, I think, probabitive of how they are going to do this, and I think you can narrow it without --

MS. WILSON: But she opened this scope --

THE CHAIRMAN: But I am going to overrule that type logic. If you want to be specific about what's their use, and address what their critera should be?

MS. WILSON: If I could establish the Montesorri School was approved on the basis it was a service to the members, and now it's open to the public. If I could establish the art gallery --

THE CHAIRMAN: We are not here to enforce what happened. We're here to set criteria and paramaters for this use.

MR. LANZI: Don't you have to consider other matters, in what context they're used?

THE CHAIRMAN: If it could be shown this would happen in the same way, and I don't know how you would that.

MS. WILSON: What I'm say, what they're doing is consistent. Say two years from now, they have a financial disaster, and it's opened to the public?

THE CHAIRMAN: First of all, you're making a leap that we're going to approve it without conditions.

That, I can't imagine. Even if we consider it, you're not even close to requesting or asking that there be some limitation of some sort applied.

MS. WILSON: I understand.

THE CHAIRMAN: We've got to get to that, not to use the phrase the witness used, and maybe there are a number of ways to skin the cat with all the problems people have. Off the record.

(Discussion held off the record.)

THE CHAIRMAN: Go back on the record. I am going to allow questions as to specific criteria for this, but not the other.

MS. WILSON: We thank you.

THE CHAIRMAN: You may come back up.

(Witness resumes the witness stand.)

Q. Ms. Jung, when you testified earlier that the use of this structure is going to be limited to members and friends and the extended family of members and friends of the congregation -- first of all, do you remember that testimony?

A. I think I said that the columbarium --

Q. Yes.

A. -- would be used by friends, members, and their households, yes.

Q. You testified in response to your church's

counsel's question that the church intends to install the Garden without regard to whether it gains approval for the columbarium structure itself, is that correct?

A. That has been said. And as far as I know, that's what would happen.

Q. So it's fair to say, isn't it, that, really, we are here about getting permission to put in the structure itself, the ten foot by five foot by three foot structure with niches you described, is that correct?

A. We are here for a hearing requesting a special exception for a columbarium as shown in the location shown in the plat submitted with the original hearing.

Q. So we are not here about a Garden, right?

A. That's not the subject of the hearing, but we are describing it and are showing it --

Q. Yes, I understand.

A. -- as within a Garden situation.

Q. Can you define for us what a columbarium is, precisely? Because it's not defined in the zoning statute.

A. I have read the Webster's definition, but I am

not sure that I can quote it verbatim.

Q. Maybe I can help you.

A. It is a thing that has spaces for the burials of cremains.

Q. Cremains, being the remains?

A. Cremains being the ashes from a human body that that have been cremated. I'm not sure I remember any other specific portions of the definition. It doesn't define size or -- that I know of.

Q. I have here a page copy from Webster's 3rd International Dictionary, and I had highlighted the definition of columbarium. Would you take a look?

A. Don't you show that to the other attorney first?

THE CHAIRMAN: That's my job.

THE WITNESS: But she was expecting an answer.

MS. DOPKIN: I haven't heard a question yet.

Q. So please a look at that copy that was examined by your counsel now.

A. Am I supposed to do that before she asked the question?

THE CHAIRMAN: Now, you can look at it.

MS. DOPKIN: What dictionary?

MS. WILLIS: Webster's 3rd International.

A. You should have brought a magnifying glass.

Q. I apologize. Having read it, do you agree that the definition that's stated there comports with your understanding of what a columbarium is?

A. I agree with part of it. Recesses for cinerary -- I guess that's cinerary urns.

I don't know what the definition of a vault is. I don't know what the definition of a structure is. And so that's all I can help you with.

Q. So, to an extent, do you quarrel with the definition there?

A. I can't say that.

Q. Okay. Would you please read it to the panel, the definition in full, first and second.

A. Columbarium. Noun. Plural. Columbaria. From the Latin, literally. Dovecoat.

For instance, columba dove -- and I am pronouncing that incorrectly -- more at -- I can't read the next word. One, noun. A structural of vaults lined

with recesses for cinery -- either urn or urns -- parenthesis -- containing glass door, marble compartment for the ashes of cremated bodies. American Guide Series, New York City. Two. A recess and a columbarium.

Q. Thank you very much.

A. You're welcome.

Q. You indicated -- you testified, rather, in response to Ms. Dopkin's questions that the church wants to place this columbarium in a Garden for the purpose of have a quiet, secluded place for spiritual self-examination, prayer, meditation, and other similar kinds of uses. Do you remember that testimony?

A. Yes.

Q. In your twenty-some years of experience with this church, and your knowledge of the property, can you tell me how quiet a spot that proposed location is?

A. If I may correct you, I have not been there that long. I went there originally about '83, somewhere, give or take a year or so in there.

Q. Pardon me. In your fifteen years of experience.

A. And then -- what was the question, the rest of

the question?

Q. How quiet a spot is that that your church is proposing to use for this columbarium?

A. Let me think a moment. I would estimate that over ninety percent of the time it is as quiet -- it is more quiet than this room would be if no one were talking.

Because in this room, I hear the sound of fans. And from this spot, the noise, in my opinion, which is an inexpert lay opinion, from having been on the site, in my opinion, the spot -- the noise from Dulaney Valley Road, from homes and surroundings, would be less than the fans in this room.

Now, that's ninety percent of the time.

Q. What about the other ten percent of the time?

MS. DOPKIN: I object to the line of questioning because I don't know what it goes to prove or disprove.

THE CHAIRMAN: Since she answered the first part of the question, I will let her answer the second part of the question.

A. Somewhere in that ten percent are Sunday morning services. At Sunday morning services, including the

religious education of the children, there are over 200 people at the property and the parking lot for the 11 o'clock service. It's -- I started to say comfortable, but I don't think that's accurate.

There are places to be found if -- because I have done it the last few years -- if you get to service late, you have a place to park. So we are talking about that many cars, that many people, at one hour during the week.

Q. Is that the quietest spot on the property?

MS. DOPKIN: Objection.

THE CHAIRMAN: I'm going to let her answer, if she knows.

A. I think the quietest spot would probably be the creek in the marshland at the far corner of the property away from Dulaney Valley Road. But I have never had a noise monitor, and I don't know.

Q. Dulaney Valley Road is 250 feet from the spot that you propose to put the columbarium, isn't that correct?

A. I heard so testified by Rick Chadsey.

Q. In your view, putting all the traffic on Dulaney

Valley Road within the ten percent of the time, the columbarium wouldn't be quiet enough for reflection and solitude?

MS. DOPKIN: I object.

THE CHAIRMAN: I will sustain the objection because we are getting into quantitative areas that I don't think she can quantify.

Q. How does the church propose to administer the columbarium in the sense that obviously it's going to have a process for people, I suppose, applying to have their remains stored there?

A. It is a church use. And, as such, it is under the -- under the responsibilities of the elected board of the church. There are committees involved.

And it is, again, until we have gotten through this process, which is simply to ask for the columbarium to be allowed, then at that point we'll proceed with other activities within the confines of Baltimore County laws, regulations, requirements, et cetera, et cetera, et cetera.

Q. So is it fair to say you don't know yet?

A. It's fair to say that it is humanly impossible to plan for something when you do not know the parameters.

When the appeal process is over, we will then proceed with the utmost haste.

Q. One parameter that the church seems already to know is that it plans only to open the columbarium to its members, friends and their extended family, is that correct?

A. Yes.

Q. Does the church know yet how it plans to enforce that limitation?

A. Precise steps, no. Generally, it has to have approval of the appropriate committee, designated person, board, et cetera.

Q. When you say it has to have approval, what do you mean? The procedure or the particular person?

A. No. The particular -- if you were to request a space, the roles would be searched. Your name would not be on it.

You would be told politely, I'm sorry. It's not for you.

Q. How do you know that?

A. Because that is the intention -- that has been the general -- and I can -- throughout the years, I personally first heard mention of this sometime in the early to mid-eighties.

And so from time to time, from that day to this, there has been informal -- and as more recent years have come -- more structured concerns that we provide this as one of the services of our church, which is actually customary in many, many, many churches.

Q. In the fifteen years that you have been affiliated with the Towson Unitarian Universalist Church, it's fair to say, isn't it, that some of your members have passed away, correct?

A. Correct.

Q. To your knowledge, have any of them had cremated remains placed in a columbarium, anywhere ?

MS. DOPKIN: Object.

THE CHAIRMAN: I am going to allow the answer. To her knowledge.

A. I don't know.

Q. Do you know if even one member of the Towson Unitarian Universalist Church has ever had cremated remains placed in a columbarium anywhere?

MS. DOPKIN: Objection.

A. Isn't that what you just asked?

THE CHAIRMAN: Whoa, whoa. Asked and answered. Whether anyone has ever or even one, it's the same question.

MS. WILSON: I want to make sure I have it straight.

Q. Can you not say that even one member of the Towson Unitarian Universalist Church has ever been buried in, or remains placed in a columbarium anyplace?

MS. DOPKIN: I am going to object. It's a statement, not a question.

THE CHAIRMAN: And I think the question is over-broad. Within Baltimore County? Within this particular church?

MS. WILSON: Anyplace.

THE CHAIRMAN: I am going to allow the answer, if you know.

A. I don't know.

Q. You spoke earlier about who would maintain the grounds if the structure were permitted, the columbarium structure were permitted, and you indicated that the church has the grounds committee as part of its operation council that would take responsibility for maintenance of the grounds. Am I correct in recalling that answer?

A. I can't remember my exact words. That is, our organization, the columbarium use would be a church use, and the church would take responsibility for the maintenance of that part of the ground in the way it has the entire grounds, and that has been the past process, and most likely would be the future one.

Q. Has the church made any decision about how it will maintain the grounds or the structure?

A. Considering that we have had a number of hearings and they have been appealed, we have not gone into further details at this time.

Q. As far as you know, right now, the church sort of generally plans to use volunteers, I take it, members of the grounds committee or volunteers serving as members for

the grounds committee to maintain this area, is that correct?

A. That is an assumption I cannot make. We use our members as volunteers. We hire people on a part-time basis, and we have one person on staff that has some outdoor responsibilities as well as in. I can only assure you it will be done.

Q. How, of course, is the question. How will it be done and how can you make that assurance?

MS. DOPKIN: I am going to object.

THE CHAIRMAN: It's sort of kind of argumentative. She already answered there are no specific plans and that they do have volunteers or staff that carry out various functions.

It's obviously as far as she can get on it. Sustained.

Q. Ms. Dopkin asked you whether you had -- your church had any contact with the community association surrounding the church property, and you answered that the Long Quarter Community Association had actually held a meeting in your church at which they were shown a concept

plan, not exactly this one. Do you remember that testimony?

A. Yes, I do.

Q. What concept plans were they that they were shown?

A. Part of it was a sketch that I drew on a tear sheet, a newspaper tear sheet, because I had forgotten and left the plan at home. They were supplied with a copy after the meeting.

Q. Now, you didn't testify before that they approved whatever it was that you showed them, did you?

MS. DOPKIN: I am going to object. It wasn't part of the direct.

THE CHAIRMAN: I am going to sustain as to the form of the question. She testified that she was at a meeting.

If you want to ask her her recollection of that meeting, it's a different question. I will sustain.

MS. WILSON: I think I ought to be permitted a little more leeway than that on cross-examination.

THE CHAIRMAN: That may be, but I am going to

sustain the objection, and suggest you rephrase it.

Q. Following the September meeting at your church with Long Quarter Community Association at which they were shown something other than the concept plan that the church is now relying on, the community association did not approve or voice support for your proposal, did it?

MS. DOPKIN: I object. It's asking for hearsay.

MS. WILSON: It seems to me the initial question was hearsay, what did she think about the plan. I am certainly entitled to tell the panel through this witness they didn't like it very much.

MS. DOPKIN: Objecting. Misstating the original testimony.

THE CHAIRMAN: I am going to sustain the objection purely as to the form of the question. If the witness is asked to testify as to what happened at a meeting at which she was present, I will allow it.

Q. At that meeting, Ms. Jung, no one said to you, Oh, we approve this plan, did they?

MS. DOPKIN: I object. Again, she's asking for hearsay.

THE CHAIRMAN: We are getting closer. I will still sustain the objection.

MS. WILSON: With all --

THE CHAIRMAN: I hate to do this to you. I understand you're trying to characterize it. I would just as soon, to move things along, you ask if, in fact, she knows what, if any, action they took. And then, good, bad or indifferent, we will hear it.

Q. Do you know what, if any, action they took?

A. I do not know. I was there for the first part of the meeting, which was an informal meeting. It appeared that, as I was leaving, they did other things.

MS. WISON: I'd like to strike the latter part of the answer.

THE CHAIRMAN: I will sustain that.

THE WITNESS: What did I answer then?

THE CHAIRMAN: Your answer --

THE WITNESS: I don't know.

THE CHAIRMAN: Part of your answer was stricken. It was over-broad.

Q. The community association that met with your

church, the Long Quarter Community Association, never gave the church any kind of written approval of the plan, did it?

MS. DOPKIN: I am going to object.

THE CHAIRMAN: I am going to overrule that objection. She's the person who's the liaison. She would know if some communication occurred.

That means you answer.

A. Not that I know of.

Q. How many niches will each segment, each ten-foot segment of the columbarium hold?

MS. DOPKIN: I would object. Ms. Jung didn't testify to this on direct.

It was testified to by Mr. Chadsey.

MS. WILSON: She did, your Honor.

THE CHAIRMAN: One moment.

MS. WILSON: She described the structure.

MS. DOPKIN: I don't think she described the --

THE CHAIRMAN: Whoa. One second. My notes agree with my compatriot's notes that she did describe the niches within.

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So I am going to overrule any objection to her further describing the physical structure to the extent that she's aware of it.

That means go ahead and answer.

A. Okay. Would you restate the question, please?

Q. I will be happy to repeat it for you. How many niches will each ten-foot structure contain?

A. Forty-eight.

Q. Forty-eight per structure. How many urns will be housed per niche?

MS. DOPKIN: I would object.

THE CHAIRMAN: I am going to allow that question, if she knows, if she's able to tell how big it's going to be.

She really did open the door. She did describe it. So if she wants to go into a little more detail, I will overrule the objection.

MS. DOPKIN: Somewhat speculative, Mr. Chairman.

THE CHAIRMAN: I don't think so. Go ahead.

A. Repeat the question.

Q. How many urns will be housed in each niche?

A. I don't know.
Q. Five? Ten?
THE CHAIRMAN: Let her respond.
THE WITNESS: May I explain?
THE CHAIRMAN: It's not my question, ma'am.
A. All right.
Q. What is your understanding of how many urns will be housed in each niche?
A. That question is impossible to answer. I can merely state that there will be in one section forty-eight niches.
Q. Does the church proffer any kind of projections as to how many urns will fit in a niche?
MS. DOPKIN: I would object again, just because it was not part of the direct.
THE CHAIRMAN: Again, I am going to overrule this as part of my continuing ruling that it is relevant. Again, to the extent you know, ma'am.
A. It is my understanding that urns come in various sizes. It is not -- period.
Q. So there could be one large urn, or two medium

sized urns, or three slightly smaller urns, or four really small ones, or five really small ones, is that basically what you are saying?

A. It is my understanding that if urns are used and if every niche were used to its maximum urn capacity, that one section could hold ninety-six urns.

Q. So, on an average, two urns per niche is the church's projections?

A. I didn't say that. I said maximum. Maximum number of urns.

Q. Then is it your testimony now two urns per niche is the maximum? Is that now what you're telling us?

A. Yes.

Q. Is the church going to sell these slots niche by niche, or is it going to rent them urn by urn?

MS. DOPKIN: I am going to object. Counsel has asked -- there's been procedural questions. It has been asked and answered.

There's already been testimony that they may have not gotten to the point of specific arrangements or procedures by which even they have determined who's going

to be making decisions about the Memorial Garden.

I think it's only fair to deduce that if they haven't decided to make the decision, that they haven't decided what the process is.

MS. WILSON: Can I ask the witness?

THE CHAIRMAN: You can ask the witness have they gone into the questions of those details at all, and if they haven't, that's the end.

Q. Have you all decided whether you're going to sell these niche by niche or urn by urn?

A. It is my understanding that a niche would be available for an individual or someone closely associated with that individual.

And, in other words, you know, you and Mr. Lanzi, unless you have a relationship that I'm not aware of, would not share the same niche.

Q. Being cute, but that would be --

(Discussion held off record.)

THE CHAIRMAN: I note Mr. Lanzi sat there quietly with his hands folded.

Q. Can you tell us what the size of each niche is

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going to be?

A. The mounument is going to be, as was testified by Mr. Chadsey, three feet deep. That will be divided in half, so that twenty-four, Phase One. Twenty-four -- do I have my numbers right? -- face the other way.

Q. So a foot and a half deep?

A. Yes.

Q. And they will be the full height, I take it?

A. No.

Q. So it will be subdivided across each face of the monument as well?

A. Yes.

Q. So how many layers -- how many shelves, if you will?

A. I don't know. As far as I know, no one knows. We are merely at the concept of size and placement.

Q. So if you have twenty-four on each side, you haven't decided yet how you're going to allocate that space on each side that's a foot and a half deep space, is that what you are telling me?

A. I don't follow the question.

Q. I think you're telling me, if I am correct, and my question is, am I correct, that you have decided the monument will be subdivided down the middle, there will be a foot and a half deep compartments facing either side, but you have not yet decided how you're going to allocate the space on each side of the monument, is that correct?

A. Do you mean allocate as far as giving instructions to the person who builds the monument? Or do you mean allocate as to who has -- which family has which niche?

Q. A fair point. I apologize for the ambiguity. I meant in terms of the space.

A. Instructions to the person who constructs the monument, is that what you are asking?

Q. Yes.

A. That has not yet been finalized, or any determination, that I am aware of.

Q. Has the church decided what it will charge for these spaces?

A. There has been discussion, but, like everything else, it's on hold until we have exhausted the appeal

process and have the right to begin construction.

Q. Has anyone attempted, to your knowledge, to make arrangements to acquire one of these spaces or niches?

MS. DOPKIN: I object. Way beyond direct.

THE CHAIRMAN: I think it's clear they have no real structure or process.

MS. WILSON: I have a reason for asking the witness if anyone has inquired. If we could let her answer, it will become very clear.

THE CHAIRMAN: The last question?

Q. Has anyone inquired --

A. No one has inquired of me.

Q. My question was, to your knowledge, has anyone inquired of the church?

A. Inquiring, I think, means to ask a question. Is this being built? Has it been built? Is it available? To my knowledge, no one has specifically inquired.

Q. I am showing you a document. I'd like you to take a look at this, please.

MS. WILSON: This was an exhibit in the hearing below. It was already admitted in the record before the

court. I will admit it again as a formal matter and move it into evidence.

Q. Do you recognize this document?

A. I have seen it.

MS. DOPKIN: What number is it? It's admitted because it's part of the record below, but I am asking for a copy of it, just for our record here.

Q. When was the first time you saw this document?

A. I am guessing two or three years ago, but that is strictly a guess.

Q. It is the brochure written and pronounced by the Towson Unitarian Universalist Church for its Memorial Garden and Columbarium, isn't that correct?

A. That's what is stated on what would have been the cover for it.

Q. The address of the church appears on what is in its original format as 1710 Dulaney Valley Road, Lutherville, Maryland 21093?

A. The address is on it. I don't remember the order of pages and folds.

Q. In this brochure, the Towson Unitarian

Universalist Church describes its intended Memorial Garden and columbarium project, is that correct?

A. To the best of my knowledge, this describes what was the concept at the time that it was printed.

And you will note that the minister whose name is on it is no longer the minister of the church.

Q. This brochure says in the main broad second paragraph of the plain typecast, Our Memorial Garden provides both for the scattering of ashes in a protected, designated area, and for the internment of ashes in niches which are built into the columbarium?

A. Yes.

Q. Going on, it says, Covering the niches are face fronts large enough for the inscription of names, dates and a few appropriate words or design. Do you see that?

A. Yes.

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Q. Each niche will hold two containers, and possibly more, depending on the size and material used? Yes?

A. I see it.

Q. So a couple years ago, the church knew how many containers each niche would hold, is that correct?

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A. Several years ago --

MS. DOPKIN: I object. Ms. Jung testified she became involved in this process in January of this year.

Counsel is asking her to testify to information --

MS. WILSON: She testified she's been hearing about it since the early eighties.

THE CHAIRMAN: She did acknowledge she had seen this and even knew when it was furnished.

To the extent she knows, I will allow it, certainly subject to your redirect.

A. It is my understanding and belief that this brochure was a concept of -- I can't say who it is, the committee or the church, at the time of its publication.

Q. The next sentence says, In addition, space is provided on the columbarium for plaques to honor those who choose to have their ashes scattered in the Garden, or for those who have been interred elsewhere, but want to be remembered as part of our church family?

A. Yes.

Q. So the church was, two years ago when this was

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published, planning on including more than church members and known friends, although not in the niches, isn't that correct?

MS. DOPKIN: Object. Speculative.

MS. WILSON: It's fair to ask her to interpret the church's document.

THE CHAIRMAN: Subject to what her interpretation is, but the record will simply reflect what the document says.

MS. WILSON: Okay. I will move on.

Q. The next paragraph in the mean part of the page says, the Memorial Garden Committee also maintains a Memorial Book that contains brief biographies and photographs of those so remembered, and that will be available for general viewing. Do you see that?

A. I see it.

Q. So the Memorial Garden Committee, what is that?

A. There is a committee of the church that has been involved in talking about this and in doing preliminary thinking and in beginning work on rules and regulations, which were discontinued because of this ongoing process.

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Q. So you stopped the decision process? The church actually had started trying to figure out some of the details of what it was going to do, and actually stopped the process, is that what you're saying?

A. I am saying that our church, as a part of its strongly ethical standing, will never deliberately do anything that is contrary to the laws of man and the county in which we live.

Q. So you think it would have been contrary to the laws of man and Baltimore County to plan the details for a proposed project, is that your position?

MS. DOPKIN: I object.

THE CHAIRMAN: I think her answer will stand as it stands. Asked and answered.

Q. Let's turn to the, what is the facing page of the brochure. It begins with some italic type focus on the main text.

Right underneath the italics, the first sentence says, The columbarium has been designed so that sections may be added in the future. Do you see that?

A. Yes.

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Q. Now, a section is that ten foot by five foot by three foot thing, isn't it?

A. That's correct. Generally what we have referred to, one out of four, as being proposed on the concept plan.

Q. It's designed so that sections may be added in the future. That's what it says?

A. It's the way I understand it.

Q. There are twenty-four niches available, some already spoken for. That's the next sentence, and I'm reading that. Is that correct?

A. You're reading what is printed.

Q. By whom were any of these niches spoken for?

A. I don't know.

Q. Have there been any deaths within your church family in recent years?

A. I don't know whether -- that some of them or not.

Q. But none of these family members spoke to you about coming and having a part of the columbarium niches?

A. That was not my responsibility as assigned by the board of the church.

Q. Since you have become the church person, the liaison committee, or you have become the liaison, nobody has passed along to you any files indicating who the people are who have spoken for niches?

A. That is absolutely correct.

Q. The next sentence, The cost of acquiring the use of one niche is set at this time at $1500, to be paid in full at the time of the signing of the license agreement?

A. I see it.

Q. Is the price still $1500?

A. I don't know.

Q. Who drafts your license agreements for you?

A. I don't know.

Q. Is the church still planning on selling a niche at a time?

A. I don't know.

Q. The next sentence says, A charge at the time of internment to cover costs of opening the niche is initially being set at $125. Do you see that?

A. I see the printed.

Q. Is the church still planning on charging for

initially opening the niche?

A. I do not know.

Q. The next sentence says, The cost of each niche has been set at a value which is comparable with others in surrounding communities. Do you see that sentence?

A. I see it.

Q. So you're selling on price here, aren't you?

MS. DOPKIN: I object.

Q. You can meet the price of the comparable niches in the surrounding community?

THE CHAIRMAN: Whoa, whoa. When somebody says objection, we stop.

MS. DOPKIN: I'll withdraw the question.

Q. The next sentence says, Engraving costs for the niche face will vary according to the desired inscription.

I take it the church doesn't know yet whether it's going to vary the cost of the engraving or charge for engraving, so forth, is that correct?

A. I don't know.

Q. The next sentence in the facing portion says, The cost of scattering ashes has been set at $500. Do you see

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that sentence?

A. I see it.

Q. The church, as of a couple years ago, had set the price for scattering ashes, correct?

A. That was printed in this brochure, the history of which I cannot tell you.

Q. As of the time that this brochure was printed -- and you saw it a couple years ago -- and it was printed a couple years ago, you said, the church had discerned how many niches would be available, is that correct? Twenty-four? And it had discerned how many urns each niche would hold, is that right?

A. I cannot testify whether it had determined or whether it was concept and thinking. I cannot tell you at what stage this document was produced.

Q. The next sentence that we are reading says, This fee includes services outlined in Rules and Regulations for the scattering of ashes.

And then, just below that, it says, Contract forms and copies of Rules and Regulations are available from the church office. Do you see that sentence?

A. I see it.

Q. Is that an incorrect statement?

A. I don't know. I do know that there's one other mistake. They used a present tense. That's inaccurate.

Q. Where?

A. The Memorial Garden Committee maintains a memorial book. To the best of my knowledge, that is not maintained.

Q. In fact, the brochure is written in the present tense, isn't it?

A. I'll have to look at this more carefully grammatically.

Q. Why don't we take a minute and let you do that.

MS. DOPKIN: I think the brochure speaks for itself. It's part of the record.

Counsel has read it. I object to both the tone and the question offered by counsel. Counsel has read the brochure in its entirety, and it speaks for itself.

Furthermore, I think she's getting very close to badgering the witness.

THE CHAIRMAN: Without reaching that issue for a

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moment, the witness has testified, I believe, that she didn't produce this and doesn't know the answer.

You have had a litany of, I don't know, I don't know, I don't know. I think it's apparent that she doesn't know, certainly, and it was put in below.

I hope we'll have a copy put in here, and certainly you can comment and present other witness who may have knowledge of it. But, obviously, she doesn't.

Q. Do you know, Mrs. Jung, whether contract forms were prepared by the church?

A. I do not know.

Q. Do you know whether Rules and Regulations were prepared by the church?

A. I do not know.

Q. Who were the members of the Memorial Garden Committee?

A. I know the names of some. I do not know the names of all.

Q. How many members sat on that committee?

MS. DOPKIN: I would object.

THE CHAIRMAN: Counsel asked if she knows the

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names of some, if not all.

MS. DOPKIN: Now she's asking about the members. I don't know where she's going with this line of questioning.

THE CHAIRMAN: She's asking a number, how many members.

MS. DOPKIN: To what end?

MS. WILSON: This witness doesn't know the last names or former contact with the Memorial Garden Committee?

THE CHAIRMAN: She does not.

MS. WILSON: She's knows some, not all.

THE CHAIRMAN: But who is that?

MS. WILSON: If there were fifty, I won't ask her. If there were seven, I might.

THE CHAIRMAN: I will overrule the objection at this point.

A. What is your question?

Q. How many members sat on the Memorial Garden Committee?

A. I don't know.

Q. Has the church ever prepared an engineering specifications or drawings for each section of the columbarium?

A. Not that I know of.

Q. There are no blueprints?

A. Would you ask the question again?

Q. Okay. Let me back up a little bit. Is there any drawing of the proposed structure itself, the columbarium itself, that shows it?

A. I believe at one time I saw -- at one time, I saw a concept drawing in the church.

I can't tell you the authority of that drawing. I cannot tell the authority of the drawing within this brochure that you have had us looking at.

To my knowledge, these are concepts, and, to me, the word "concept" means it's a thinking about, it's a maybe, it's to give you an idea.

But it certainly is not anything that has the authority of a plat plan that is done and signed by an expert professional.

Q. So the church has never, for example, voted on a

final design, is that correct?

A. I believe that I have testified over and over and over again that in many areas -- and this would be one -- that we are struggling through the appeal process, and when the final appeal is finished, we will then proceed to do what we are allowed to do under the rulings of the hearing and within Baltimore County and Maryland laws and regulations.

MS. WILSON: I have no questions, Mrs. Jung. Thank you very much.

THE CHAIRMAN: Redirect?

MS. DOPKIN: Thank you. Just a couple questions.

REDIRECT EXAMINATION

BY MS. DOPKIN:

Q. You hold the church is maintained either by volunteers, staff, or outside contractors, the Memorial Garden and any structure that may be permitted within it?

MS. WILSON: Objection. The witness already answered me when I asked that question. She said she didn't know what they were going to do.

MS. DOPKIN: I don't believe that's what she

said.

THE CHAIRMAN: Frankly, I was going to sustain the objection as asked and answered. She already said through their full-time and their part-time and their committee, and she went through a whole explanation of not knowing who was going to do it, but assuring everyone it was going to be done, was my understanding of the testimony.

Q. Counsel asked you if you'd be selling niche by niche or urn by urn.

Do you understand that, if approved, you will be selling anything other than space?

A. We would be selling space, space to be ultimately used for remains by friends, members, and households of the church.

Q. Is it your understanding the church will be conducting crematoriums? Actually be cremating people?

A. Absolutely not.

Q. To your knowledge, is the brochure which counsel presented to you currently in use?

A. To the best of my knowledge, this brochure has

not been distributed in recent times.

I am trying to see if I can give you a more exact date. I would say I can speak that it has not been distributed in six months.

Q. So is it your understanding that it's not currently in use?

A. It is my understanding it is not currently in use.

Q. Does the church envision, if the use is approved, to your knowledge, does the church intend or envision making a profit on these sales of space within the columbarium?

A. Of course not.

MS. WILSON: Objection.

THE CHAIRMAN: I will overrule the objection.

MS. DOPKIN: I think the question has been answered.

THE CHAIRMAN: So do I.

MS. DOPKIN: I have no further questions.

THE CHAIRMAN: Recross?

RECROSS EXAMINATION

BY MS. WILSON:

Q. What's the definition of profit, Mrs. Jung?

A. I can give examples. I'm not sure I can define it.

MS. WILSON: That answers the question. Thank you. No further questions.

THE WITNESS: And thank you, gentlemen.

THE CHAIRMAN: Ms. Dopkin?

MS. DOPKIN: I have no further witnesses at this time.

THE CHAIRMAN: Reserving the right to present rebuttal testimony, I assume?

MS. DOPKIN: Yes.

THE CHAIRMAN: Are there any documents other than what's already come in you wish to place on the record at this time?

MS. DOPKIN: No, thank you.

THE CHAIRMAN: Protestant's case.

MS. DOPKIN: Before Mr. Lanzi starts, may we approach on timing?

THE CHAIRMAN: Sure. We will take a five-minute

recess and come back.

(A recess was taken.)

THE CHAIRMAN: Let's get back on the record. Mr. Lanzi?

MR. LANZI: I will call Mr. Robinson as the first witness.

J A M E S R O B I N S O N,

having been called as a witness, was duly sworn and testified as follows.

DIRECT EXAMINATION

BY MR. LANZI:

Q. Mr. Robinson, can you please state your various addresses, for the Board?

A. 1798 Dulaney Valley Road. 1800, 1820, and 1818,

Q. Are these properties immediately adjacent to the church in question?

A. Yes.

Q. How long have you resided at your present address?

A. Since 1981.

Q. Which of those street addresses that you gave is

your residence where you live now?

A. 1798.

Q. What year have you been living there since?

A. 1981.

Q. Over the years from 1981 to the present, have you been familiar with the activity of the church?

A. From an outsider's view, yes.

Q. During those years, what have you observed as far as activities that occur at the church property?

A. They have services on Sunday. Usually -- I know it's after 10:45 -- I'm sorry. I know it's after 10 o'clock, because I get back from 10 o'clock mass, so I guess -- I think I heard testimony it was 11 o'clock or something, mid-morning on Sundays.

And sometimes they have -- I don't know what they are, dances for kids, or small concerts, I'm not sure.

And there's a Montesorri School, I know that, and in the summertime they have like a summer camp school for children.

And I have not been in the art store, but they have a sign up along Dulaney Valley Road for advertising

the sale of art, and other miscellaneous uses.

Q. Let me direct your attention to the site plan, Petitioner's Exhibit 1.

Your name is indicated at the top of the plan. Would that be to the north of the church property?

A. The 1798 property would be, I guess, technically, it would be north-northwest.

Q. Is your home located at the top of the grade of your driveway?

A. Yes. But now there's a home that we are renovating at 1800 Dulaney Valley Road.

My son is buying that house and he will -- that house is seven to ten feet above where the proposed -- after modification, where the columbarium is, so you actually look down, or could, if it were there.

Q. That's from the property?

A. From my property at 1800 Dulaney Valley Road.

Q. Mr. Robinson, I'm going to show you a series of photographs.

MR. LANZI: I guess we can mark these --

THE CHAIRMAN: 3, collectively. Give them A, B,

C and D.

Q. I am going to go through each one, and as you are done with each one, we'll hand them to the Board. Describe what they show to be --

MS. DOPKIN: Objection. Just as a formality --

MR. LANZI: Excuse me?

MS. DOPKIN: -- I would ask Mr. Lanzi to authenticate the photographs.

THE CHAIRMAN: Sustained.

MR. LANZI: I will.

Q. Mr. Robinson, do you know who took these photographs?

A. Do I know? I don't know who took them.

Q. Do you recall authorizing me to take the photographs?

A. Yes.

Q. On your behalf?

A. Yes, I do.

Q. Were these photographs, to your knowledge, taken within the last year?

A. I'm sorry, I couldn't hear.

Q. Were these photographs taken within the last year?

A. Yes, they were.

Q. Do these photographs accurately depict what they show, each photograph?

A. Yes, they do.

MR. LANZI: I would offer those protestant's exhibits as 3A through whatever.

THE CHAIRMAN: Noted.

Q. If you could describe some of them, or each one, show from the vantage point they are taken?

A. Nice house. The photographs basically are on my lawn, overlooking at the church's property. And the photographs are also --

THE CHAIRMAN: Sir, I think you misunderstood. You need to go through them one at a time, describe them, and then pass them over to us.

A. This is one shot of the Unitarian's parking lot. This is of the parking lot, on the parking lot.

THE CHAIRMAN: From where?

THE WITNESS: I assume the photographer's back is

at the east side of the church.

THE CHAIRMAN: Pass that on over. Thank you.

A. This is a shot, again, of the Unitarian's parking lot facing in an easterly direction.

This is a shot of the Unitarian's parking lot standing along the edge of Dulaney Valley Road facing approximately west-southwest.

There's a shot of the Unitarian parking lot with -- on the left would be their building. And behind you would be the hill from where I think they would have the proposed columbarium.

Clearly -- well, you can see my house. This is the same shot. You can see my house. This is a shot where he shifted east, I guess, twenty feet, again standing on the Unitarian's parking lot.

You can see my house. There's a shot standing at the front of my house, and you can see the Unitarian church and some cars on their Unitarian parking lot and the parking lot itself.

There's a photograph -- almost a duplicate, so it's the same description. And this third photograph is

panned more to the right. You can see more of the Unitarian Church and their parking lot, and cars parked on their lot.

This shot is almost identical, so it's the same description. There's a shot taken about midway on my front lawn between my home and Dulaney Valley Road, and so the photographers's back is to Dulaney Valley Road and he's facing west-southwest.

And, predominately, the picture is my home 1798. The last photograph is standing on the east side of Dulaney Valley Road where you -- it's a long shot of the Unitarian property from the edge of Dulaney Valley Road heading west, and in the background you can see the Unitarian Church, and in the forground is the parking lot.

Q. Those photographs were taken, isn't it true, the photographs were taken when the leaves were off the trees?

A. Yes.

Q. Now, is there a significant difference when you can see from your property into the church property during different times of the year?

A. Yes.

Q. I believe it goes without saying you can see the activity going on at the church property much easier when the leaves are off the trees, correct?

A. Yes.

Q. Which would be approximately how many times, months, during the year?

A. I will count them. Say October, November, December, January, February, March, April, May. Seven to eight months -- seven months of the year.

Q. From your property, can you hear noise from the church, from their activities?

A. Yes.

Q. The noise is normally generated from what type activity, if you know?

A. Perhaps you're going to shoot me for saying this, but I do not object to any of that noise, providing it's directly related to a church activity.

And sometimes at night the music can get a little bit loud, but I figure if this is for church members, or for kids, keeping them off the street, that's fine.

Sunday mornings, sometimes they have their doors open and I can hear them singing, but so what? It doesn't bother me as long as it's a church activity.

Q. Directing your attention back to those photographs, in your opinion, will you be able to see the proposed Memorial Garden and columbarium from your property?

A. Yes.

Q. Does your ability to see these activities offend you or bother you in any way?

A. Yes.

Q. Will they have an adverse impact on your property?

A. Absolutely, all my properties. I think I have a total of twenty-one acres there. It's a very high rent area, and I pay taxes. I live there. They don't pay taxes. They don't live there.

And I object to something I worked for very hard all my life being depleted for a commercial venture, or I see it as a commercial venture.

Q. Why do you feel you would be depleted, or why do

these activities bother you?

A. Well, contrary to what the expert testified to, I never heard of a person bragging of being right on the edge of a cemetery.

I have heard people bragging about being on the edge of a golf course or right on the edge of a river or stream or bay or ocean.

But, for some reason, and I have queried quite a few friends, educated people, people of various degrees, but usually they have an objection to being involved or being close to -- meaning where their home is -- to a place -- I guess you might call it a place of internment, whether they be ashes or whether they be people buried under the ground.

Q. Now, you're --

A. By the way, we sure made enough movies with those themes.

Q. You're in business, correct?

A. Yes.

Q. Now, how would you describe the present use at the church property and the proposed columbarium and

Memorial Garden of the property? How would you characterize it?

A. Well, obviously, we have been no strangers to this court, to this panel, or the appeals, and there have been just a steady -- strike the word steady -- I'm sorry.

Each of the prior things, everyone considered them small encroachments on what would constitute being commercial or what would not be good for the surrounding property owners in the neighborhood.

But it's a little bit like the theory of well, you only lose a fingernail. You only lose your first knuckle, and then your second knuckle, and pretty soon you you lose your entire hand.

And what I say, okay, they have got their commercial activities that go on. They've got the art gallery, which is clearly commercial, open to the public.

They have got the Montesorri School, run for profit. They have got the summer camp, which is run for profit.

And now they want this columbarium, which I am sure, if allowed to proceed, it would be fifty feet long

instead of four. You know, a sailboat, a big sailboat that goes across the ocean is fifty feet long.

And they talk about wanting to build a screen. Well, look, we are not kidding each other.

We all know, the members know, and the members are definitely high scale people that are more educated, including most certainly the expert. I never saw on the expert's resume -- he's a civil engineer.

Now, civil engineers, in a sentence, cut and fill. They dig dirt and they fill dirt and they blast. That's what they do.

They don't build houses or buildings, but they know where they want to build that thing is a rock shelf. They know it. And everybody in this room who's a member of the church knows it.

Q. What's your property located on?

A. Sorry?

Q. What's your property located on?

A. I am very familiar with that, and I walk to the property. You don't have to -- listen, I know with my limited construction experience that property was

originally a hill and they had to cut it like they cut roads in the side of mountains.

And that property was a hill going down to the stream, and they cut into this. So the part they are talking about right now is rock, and they know it's rock.

What are they going to do if they try to plant stuff there and it won't grow? Or they can't plant stuff there, or the person who sells the bushes and trees says, I won't give you a warranty it won't live.

I don't know why they want it there when they can put it as part of their building, or most certainly behind their building.

And I can only assume they want to put it there for one reason, because it becomes a showplace, makes it much easier to sell to the public.

And I absolutely believe that the purpose of this is for the members secondarily, but primarily I think it's another commercial venture.

If you start adding up how many niches there are and how many vases you can put in a niche -- by the way, has anyone in this court asked the members how many of the

members in the past ten years that have died were cremated?

There's an assumption here everyone that's Unitarian is going to be cremated. I don't think so.

Secondly, I heard 225 members, I heard 373 members, I heard 200 families.

How many members do they have? I guess no one here knows. This lady doesn't know, but if I had her job, I am sure I would know how many members I had in my church.

But how much members do they have? How many members would be cremated?

Q. Mr. Robinson, let me interrupt you for a minute. The Board heard enough about them.

The Board is more concerned about how you feel about this project.

A. I am trying to describe how I feel, because it's going to end up being a situation where it's going to be, Gee, whiz, holy mackeral, really, we only have ten percent of our membership. By the way, how many people die a year?

What's this going to cost? Who's going to pay for the cost of maintenance? Is it going to be five or ten members a year that are cremated and placed into these niches?

Where are they going to get the paying users to pay for this thing? Then, I can hear it in two years, Well, we had to go to the public, we had no choice, et cetera, et cetera, et cetera.

The point is, how many Unitarians in the last five years died and how many would be cremated?

And, by the way, would they put, absolutely write a guarantee with a bond that no one but a church member could have their ashes placed there?

And, secondly, they mentioned friends of the church, non-voting members. So if I attend one or two of their services, that makes me a friend?

Q. Leave your questions for Mr. Cherry, which I want to focus you back on -- you heard testimony earlier about traffic and parking?

A. Yes.

Q. Have you had problems in the past with vehicles

parking --

A. Yes.

Q. -- on your land and your driveway?

A. Yes.

Q. Has that occurred wherein the last several years?

Last year?

A. I don't know, but it hasn't occurred in the last six months. How's that? And I don't make a big deal. I just ask people to leave.

Q. You try to cooperate with the neighbors?

A. There are some very decent people in the church. Mr. Cherry and -- I have known him for seventeen years. He and I have a mutual situation. He's a very nice gentleman. He's not here. He left.

Q. Let me ask you something else besides the parking. How would you describe the traffic on Dulaney Valley Road?

A. Well, there's a reason why you see my home with about twelve acres of land in front of it between it and Dulaney Valley Road.

That road is extremely noisy. I heard testified

it's not. They should get their hearing aid fixed. It's extremely noisy.

I even planted a double row of pine trees buffering the sound from where my driveway is, all the way past -- up to Charlie's house. It's a very noisy road.

Q. Have there been any accidents on Dulaney Valley Road since you lived there?

A. Sadly, yes. And the real shame of it is it's usually young people. You know, it can be any time, 10 o'clock at night. Sometimes during the day, but I'm not there. But it's a heart breaker.

That is the worst S-turn I've ever seen for accidents. I don't know how many accidents have been on that, and it's just a shame.

I wish the county would straighten the road out. I have no idea how many deaths, but there's got to be, I don't know, five to fifteen accidents a year there.

Q. Have you personally been to the scene of an accident after they have occurred?

A. I am very sorry to say yes, and so has Charlie. It's a heart breaker to see these kids.

Q. Where do those accidents occur in relation to the church?

A. Right smack dab in front of the church and my property, because that's where the center of the S-turn is.

Q. Do you anticipate more problems if this columbarium -- with traffic and accidents if the columbarium and --

MS. DOPKIN: I would object. It's speculative.

THE CHAIRMAN: I'm going to allow him to tell us his concerns and fears as the property owner.

A. Dulaney Valley Road used to be a nice little country road. Dulaney Valley Road, by the way, is not large enough today to accommodate the traffic, especially in the morning and especially in the evening.

But when I say in the morning, you've got a string of traffic going down there from 7 a.m. to 9:15, 9:30, and it starts again at 4 o'clock.

As they continue to build north of Loch Raven, if you will, you know the area I am talking about, there's more and more, every year, more and more traffic.

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I have been living in that neighborhood since 1967. I lived two blocks away before I moved to my current residence.

I can only say that the Dulaney Valley Road, either they better widen it or build another road, because the traffic is -- I sometimes sit in my driveway -- and I am an aggressive driver -- and I have to wait for a full light change two miles away and all that traffic to run out in order to get out on Dulaney Valley Road.

That's how bad the traffic is. And you don't go to the left. You cut to the right -- if you have to go to the left, you go to the right and do a circle and come back, because the traffic is so bad.

And on Sundays, it's all day long, because people are doing a lot of joy riding. They go out to the country.

Q. How do you feel about the columbarium and Memorial Garden will affect the traffic you experience every day?

A. Unless it scares those drivers away, and I don't think it will, obviously, there has to be more traffic.

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And when you have a funeral procession, we all know what they are, we all know what trips of twenty or fifty cars are like.

I don't think it's in any way that anyone can say that's not a traffic hazard

Q. Are you concerned with the value of your property being negatively affected if they are approved?

A. Absolutely.

Q. Why?

A. I never met a person who wanted to live next to a place where the dead are interned, whether they be in vases or in the ground.

Q. You have a substantial investment in your property, isn't that correct?

A. Yes, I do.

Q. Do you have, or would you be in a position to estimate how far your property value might decline if the columbarium is approved along with the Memorial Garden?

MS. DOPKIN: Objection. He's asking for an expert opinion.

MR. LANZI: He's a property owner.

THE CHAIRMAN: He's a property owner and if he can give his personal opinion, with the understanding he's not an appraisal expert, we'll give it the weight we feel appropriate under the circumstance.

A. I fall somewhere between the laymen's position and the lady, the attorney's position on my left, because I do own commercial property in Chicago, Los Angeles and Baltimore.

I have done a lot of construction, even though it's not my business. And I have bought and sold a lot of homes.

I would say that could be -- first of all, if someone is going to be looking at property and they don't know something, obviously it's not going to affect their decision-making process as it may be adversarial.

As I see it, if a potential buyer knew of -- I call it a cemetery, they call it a columbarium -- but, most certainly, it's where the deceased remains are stored, or buried, whatever it's called, I would say it could cut my prices anywhere from fifteen to twenty percent of the value.

I have a nice place. I put a lot of time in that place. And there's not a year goes by we're not constantly adding like 5,000 bulbs.

The aesthetics, it's like a park setting, which I welcome the entire neighborhood, and a lot of these retired places use my place to walk through, take the dogs, that's fine by me. I don't care.

Unitarian kids come over and play, I don't care about that, as long as there's no damage.

All I care about is I'm not losing -- pardon the pun, but my home is my castle. I'm sixty-three years old. I put a lot of money in that place. I'm not looking for any problems of having the value of my property be diminished.

Q. You're concerned with the use?

A. Absolutely.

Q. Now, in your opinion, would the proposed use, would that being compatible with your neighborhood?

A. No.

Q. What type neighborhood is it?

A. It's a good neighborhood. Almost everyone in our

neighborhood has homes worth, I don't know, who knows, six hundred to one and a half or two million dollars.

Mostly people that got there the hard way. You might see a lot of professional people both from the various kinds of medicine, business, et cetera, et cetera.

But there's a common denominator, and that is everyone takes very good care of their homes, and everyone I think moved there to get away from all the stuff that you find in today's society when you come from the city or the suburban sprawl. It's a very fine area. Nice people.

Q. You'd like to keep it that way?

A. You're absolutely correct.

MR. LANZI: I am going to offer the photographic maps 12A and 13A as Protestant's --

THE CHAIRMAN: Four and 5. No. 5 will be 13A, northwest, and 12A a photographic map of Baltimore County.

MR. LANZI: I just want to enter them into the record.

THE CHAIRMAN: Any objection?

MS. DOPKIN: Just note the date of the aerial?

MR. LANZI: 1986. The most recent ones

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available.

Q. Mr. Robinson, is there anything that the church could do -- if they were to place the structure, proposed structure, elsewhere on the property, would you have an objection to it, or would you less objection to it?

A. If I may, that question really is two parts of one answer. I have sat now today the second time, and I am absolutely appauled that the Unitarians say they don't know what the thing is going to look like, they don't know how many are going to use it.

I heard conflicting testimony they don't know how many members they have. They didn't even do like what I would call a market study within their own congregation, don't know how many die in the year, how many are cremated versus buried, how many of their members are going to avail themselves of this, if offered.

They don't know anything. They don't even know -- they could have gotten a shovel and dug two feet like you're planning a road and found out if there's dirt there or it's rocky.

And I am very angry these people, educated

people, knowledgeable people, sit here and lie. They know all the answers to every question asked today and yet they profess to know nothing.

Well, if they know nothing, why are they here to get something built?

Q. Let me --

A. Why are they here for a variance?

Q. Let me direct you back to another question. Where on their property, if anywhere, would the proposed columbarium be acceptable?

A. Trying to be concilatory, the building has what I would consider bays. Bays are sections that you keep adding sections to the end wall and can make a building longer and longer.

If my memory serves me correctly, that building end wall faces west and faces east. There's side walls which you don't usually expand. And I don't think they can expand them that face north and face south. They could on the south side, because I was told -- I'm not sure. I'm sorry. Or I heard it elsewhere, or testimony, that they don't want to put this close to the building or

attach it to the building in order to hamper any expansion.

If they added this to the southern side of their building, they would be able to meet their needs and in no way hamper any expansion, because if they do expand, they are going to have to go with that structure they have. They are going to have to use side walls. On the south side of the building, there is plenty of room to build what it is they want to do.

But I did some fast arithemetic, came up with with 200 urns. You can put conceivably 200 urns. They're ten foot units. That's 800 urns if they put all four units up as they are asking. That's 800.

Now, that's a fact. And if I may add -- please bear with me -- I was offended that they have had this drawing up here, one inch equals ten feet, and everything is beautiful and everything is wonderful, drawn by an expert.

And all of a sudden, the damm thing is one-eighth of the proper size on this, drawn by an expert. I am offended by that.

Q. I think we made that clear on cross, and you have made your point.

Is there anything else the church could do to make that proposed structure acceptable to you, other than what you just stated, placing it on the south side, is there anything else they could do?

A. I believe they want to build it where they are asking to because, from a commercial viewpoint, you can merchandise it.

And I don't want that to happen, because they have every right to have their tax free status, to have whatever worship they have, or beliefs, and I don't mind subsidizing that, being a taxpayer, but when they are encroaching more and more into that commercial -- what I call commercial style or life, or zone, rather, and that clearly is not supposed to happen where I live.

I moved there to be protected from that, and I take a strong exception with what I consider it to eventually ending up being, a commercial situation, a commercial venture.

Q. Have you made those concerns known to the church

prior to today?

A. Oh, yes.

Q. Do you know how many times?

A. I don't know.

MS. DOPKIN: I would object.

A. I am sure you have too, on my behalf.

MS. DOPKIN: I think it is irrelevant.

Q. You have made effects to express your concerns to the church?

A. Yes.

MR. LANZI: Bear with me for one moment. Just a few more questions. I promise. I offer as Protestant Exhibit 6, a portion of the zoning map depicting the area where the Woodbrook Presbyterian Church is located.

THE CHAIRMAN: Counsel?

MS. DOPKIN: I have no objection to the zoning map.

THE CHAIRMAN: So noted.

Q. I show you this exhibit. If you could, just for the record, tell the Board what the zoning status is of the highlighted area indicated on the plan?

A. It says D.R. 1.

Q. Is that the same zoning as your property?

A. I think so.

Q. You heard the testimony earlier from the zoning expert that their property is D.R. 1 as well?

A. Yes.

Q. That's your recollection?

A. Yes.

Q. I want to show you a few photographs. I won't use all of them.

MS. DOPKIN: I would ask --

MR. LANZI: I will qualify the photographs.

Q. Mr. Robinson, your understanding, I took these photographs recently, is that correct?

A. Yes.

Q. These photographs -- are you familiar with the Woodbrook Presbyterian Church?

A. Very much so. That entire area.

Q. Would you look at these photographs and state whether they accurately reflect the Presbyterian Church and immediate area?

A. Yes.

MR. LANZI: I offer these as Petitioner's Exhibit No. --

A. Do you want me to describe them?

Q. I am going to select a few.

THE CHAIRMAN: Describe the ones he asks you to describe.

MR. BUCHHEISTER: That will be No. --

MR. LANZI: Seven.

Q. Describe what that photograph shows.

A. You're standing on the church's parking lot and you're facing, I think, east, southeast, and that looks to me like Charles Street.

And there is a store there. I know it real well. Right next to the store is a filling station. Next to that that is another filling station. Next to that is a professional building, because my dermatologist is there.

Here's a professional building that happens to be on the property of the church we are talking about, looking right -- your shoulder is at the church's wall, end wall, and you're looking across Charles Street.

I'm sorry. I should have handed them to him. That's the first one, for the man who makes too much money at work, my dermatologist.

This is the corner of Charles Street. The church is on the southwest corner. And you look down Charles Street, you see a 7-Eleven, you see a Mobil, you see Eddie's Supermarket, you see the candy story.

You see all kinds of -- it's like a commercial road for about four blocks. It's very commercial. And that's this photograph here.

Q. I think you more or less said it, but how would you contrast the proposed columbarium next to your house with the existing columbarium at Woodbrook?

A. I wouldn't live there. That's not anything like our neighborhood. And if that was used as an example, they should lose the case.

Q. That's a residential zone where the church is located?

A. But stand on that church's property and look up and down Charles Street. It's highly commercial.

And you have two filling stations, a big

supermarket, a 7-Eleven. You have a commercial -- I'm sorry -- a professional building, a big candy store, all other missy match (phonetic) that's in that neighborhood.

Q. In your opinion as a homeowner and businessman, do you feel the columbarium fits in better with that location than it would in the location next to your home?

A. Obviously, yes.

Q. Do you feel the adverse effects that are inherent with the columbarium or cemetery, as you stated earlier, are they greater at the location next to your property than they would be at the Woodbrook property?

A. The adverse effects --

Q. Are they greater at yours?

A. Absolutely. They are a hundred times greater, because we have nothing in our neighborhood. Our neighborhood is protected, or at least, hopefully, it still is, but it was protected from the Towson shopping center until you get out to the little restaurant that's been there fifty, sixty years, all the way out -- Charlie, what is it?

VOICE: Pearce's Plantation.

Q. You can't talk to the audience.

A. Pearce's Plantation. Pearce's Plantatiaon is a restaurant, used to be an ice cream stand. Other than that, from my house heading north, there's nothing, and we all like it that way.

And heading south, there's nothing until you get to where the Towson shopping center is.

Q. Are you familiar with the Valley Garth Community Association?

A. Yes.

Q. Are you familiar with the homes? Where are they located in relation to yours?

A. Yes.

Q. Are they in the immediate vicinity of the church?

A. When you said "immediate"?

Q. General neighborhood surrounding the church?

A. Yes.

Q. Are you familiar with their position, whether they had a position on this columbarium?

A. I've not spoken to one person in our neighborhood who wants this. There was one person out of maybe thirty

or forty people I have spoken with who refused to take sides, but then his property was for sale.

He subsequently sold the property, subdivided it, and they are building four houses. This was an attorney, and I guess he didn't want to get anybody angry at him on this case.

I have not spoken to one person who's in favor of this columbarium, or columbarium being built in our neighborhood. No one is for it.

Q. Have you spoken to anyone opposed?

MS. DOPKIN: Objection.

Q. You said you haven't -- have you spoken with anyone that's opposed?

THE CHAIRMAN: Wait a minute. She objected, which I assume is hearsay.

MR. LANZI: Has he spoken with?

THE CHAIRMAN: But as soon as he starts telling us what other people told him -- I'll sustain.

Hearsay is you can't say what other people told you and present it as your testimony. They would have to be here.

THE WITNESS: Can I say what other people told me?

THE CHAIRMAN: No, you can't. That's the whole point.

THE WITNESS: I can't?

MR. LANZI: You allowed Mrs. Jung to testify to what her understanding of the Long Quarter Association was.

MS. DOPKIN: I believe he did not.

THE CHAIRMAN: If she had gone further and had tried to tell us, Mrs. Smith told me such and such, I have no doubt one of you would have come up to object, and I would have sustained the objection on the same grounds. We never got to her giving us any hearsay.

MR. LANZI: I withdraw. I would proffer for the record there's a hearing in the file from below from Mr. Pizzulla on behalf of the Valley Garth, which was Exhibit 13.

THE CHAIRMAN: The entire record below has been made part of our record and will be reviewed by the Board.

Q. In your opinion, will the proposed columbarium

and Memorial Garden have a detrimental effect on the general health and welfare of your home and the community you live in?

A. Yes.

Q. For the reasons you stated earlier?

A. Yes.

MR. LANZI: Bear with me for a second. That's all I would have at this time.

THE CHAIRMAN: Cross examination.

CROSS EXAMINATION

BY MS. DOPKIN:

Q. Hello, Mr. Robinson.

A. Hello.

Q. Have you ever been inside the Towson Unitarian Church?

A. Yes.

Q. Recently?

A. No.

Q. Referring to the plat, you --

A. I'm sorry?

Q. I am referring to this plat.

A. I can see it, but I can't read it.

THE CHAIRMAN: You can get up.

A. I would like to, please. I used to be able to see it.

THE CHAIRMAN: There's a lot of that going around.

Q. You indicated that you lived in the area since 1967 and at this location since 1980?

A. '81.

Q. Your son, I believe you stated your son is buying a property from you?

A. No. Yes. I bought the property which is right here.

Q. Beyond your property?

A. No. It's on my property.

Q. You said it was a different address?

A. Well, it is, but when I say my property, I take the outer perimeter of all of them. This is my property. It runs like this, goes up like this and way over there, so that house, which is 1800, is right here.

Here. Put it right here. That's the house right

there.

MS. WILSON: Could I make a suggestion to the panel? If we could draw it, for the record.

MS. DOPKIN: Well, I am trying to identify the location of where he's choosing to go.

A. No. It's already there.

Q. It is already there?

A. Yes, the house is there. And it's a line of sight from here to there, and that's approximately seven or ten feet higher here than it is here.

Q. You can be seated. I am not going to ask you questions about the plat.

Have you had any engineering or topographical studies to verify that estimate?

A. Which one?

Q. The elevation.

Q. Just looking at the elevation of the area, they are available, Baltimore County has them. Yes. The answer is yes.

Q. You have personally conducted studies?

A. Better than that, I shot it.

Q. Are you an engineer?

A. No. But you don't have to be an engineer to know mathematics and in order to operate a scope, and we shot it. We put our, as I say, our stick, the pole, on the entrance, and we shot it, and we set it right up on that property's back yard.

Q. Do you have it with you?

A. No, of course not. But I know what I did, and I know what my measurements were, because I shot them. But I am willing to do it again, and have one of your church members present.

Q. Had you ever witnessed a funeral procession from the church?

A. The Unitarians? No.

Q. You testified, I believe, in response to Mr. Lanzi's question regarding the Woodbrook Church, that you are familiar with that area?

A. Yes.

Q. And you told the Board what is located along Woodbrook Lane next to and behind the church?

A. There are homes. You're referring to the west

side of Charles Street?

Q. I'm referring to the west side of Charles Street behind and across Woodbrook Lane from the church. I think you answered the question, you said there were homes?

A. I'm sorry. Here's Charles Street. You're referring to this area? These are homes.

Q. Are you familiar with where the columbarium at that church is located with respect to those homes?

A. No, I'm not. But I am familiar with the area. I'm not a member of the church.

THE CHAIRMAN: Can we see what area you two have agreed are homes?

MS. DOPKIN: I'm sorry. Mr. Robinson -- the highlighted area is the location of the church. The area he was just describing, the homes, are here.

THE CHAIRMAN: Is that correct, sir?

THE WITNESS: Yes, sir. Well, the problem is what she's not telling you is where that yellow marks are, that that church sits exactly dead on Charles Street and you walk right across the street on Charles Street and that's where all these commercial buildings are, the two

filling stations.

THE CHAIRMAN I understand that, but we couldn't see where the homes were.

THE WITNESS: West of that church are homes. East of that church is a very heavy commercial area.

THE CHAIRMAN: Okay.

Q. Then I asked if you knew where the columbarium is located?

A. The answer is no.

Q. Do you know how long that columbarium has been in existence?

A. No.

Q. Do you know if it has any effect on property values?

A. I've not asked. I have not checked, no.

Q. One last question. Have you visited any other churches in the area that have a columbarium?

A. No. I didn't know churches had them.

Q. I'm sorry, I didn't hear your answer.

A. I didn't know churches had columbariums. The only thing I know, the old country churches on the Eastern

Shore had graveyards, but I did not know they had columbariums where churches are located in areas like mine.

MS. DOPKIN: I have no further questions.

THE CHAIRMAN: Redirect?

MS. WILSON: No redirect.

THE CHAIRMAN: Thank you very much.

THE WITNESS: Thank you for allowing me to testify.

THE CHAIRMAN: Next witness.

MR. LANZI: I believe Mr. Little wants to speak, but before he does I want to offer the State Highway accident information that I referred to earlier, asked by me and received by me.

MS. DOPKIN: I object. It was taken out of context. There's no probative relevance.

MR. LANZI: Have the Board give it what weight its worth.

THE CHAIRMAN: The Board, we do accept documentary evidence of various sorts of forms and do assign to them the weight in which we feel appropriate

under the circumstance.

I will overrule the objection.

MR. LANZI: I offer as Petitioner's -- I've lost track --

MR. WESCOTT: Eight.

MR. LANZI: Did the Board have any kind of transcript from the Zoning Commissioner's hearing?

THE CHAIRMAN: No. We don't get a transcript from the Zoning Commissioner's hearing because this is a de novo hearing.

MR. LANZI: I understand. Bear with me for thirty seconds? I was going to offer -- I believe I will reserve on that. I believe Mr. Little had a few things to say.

THE CHAIRMAN: Generally, we do not accept the transcript below unless it's been used during the hearing to show the testimony of one of the parties has changed under oath from the previous time, which is why we hear everything fresh, for you on clarification.

MS. WILSON: How would the panel prefer we proceed? Mr. Little is himself a party to this proceeding, but if the panel would like him to respond to

direct questions, we'd be happy to toss him some.

THE CHAIRMAN: I think Mr. Little, as a person who lives in the neighborhood, wants to tell what he thinks, we'll let him do that, and go from there.

C H A R L E S L I T T L E,

having been duly sworn, testified as follows:

THE WITNESS: I will be brief. My name is Charles Robert Little. I am seventy-one years old. I lived at 1802 Dulaney Valley Road since 1966. It's two doors north of the church property.

THE CHAIRMAN: What would you like to tell us?

THE WITNESS: I would say that the building of this columbarium is an imposition on myself and my family.

We do not subscribe to cremation, and we believe that building this monument to this practice of cremation, visible from our property, would give much discomfort, bring us much discomfort, and we believe that the desires of the church could be better satisfied if they were to, say, build a vault on the back of their chuirch where they could inter the remains and not be visible from outside.

What they do in their church is their business.

They have a perfect right to practice their religion any way they see fit.

Now, this lady who just testified before for the church, she said upon the completion of the appeals and the decision of the Board, that if they decide against the columbarium, they would, or the church would, proceed with the Memorial Garden.

I think that's commendable. I have no objection whatsoever to that. I feel that's perfectly within reason and without any cause of anguish to me or my family.

She also said -- well, no. Earlier, it was said if the families of the deceased so wished, they could spread the ashes for a fee of $500. I imagine they meant spread them in the garden or on the church property.

That would be acceptable to the church as well as the families concerned.

Now, I think that we wouldn't even be sitting in this room if they were to go ahead with that vault use, because it's the columbarium itself that imposes the imposition. It's like as if I was trying to impose my religion upon you.

And I am sure you wouldn't disagree with that, no matter what I said. If it wasn't to your belief, then you'd be opposed to whatever I would say. And that's the way we feel about this columbarium.

Further, recently, there was a memorial monument removed not foo far from here because it was descecrated by vandals. It wasn't maintained properly.

And I subscribe to you that should they succeed and build that columbarium, that it might become what's also known as an attractive nuisance in that children or low lifes might use it as a purpose other than the santity of a burial place.

Finally, I would say this. The lady who testified here from the church gave the indication that whatever the Board decided to do, it was to proceed with that, and I the impression they thought that would be the end of the issue, whereas this is only the beginning.

And I am sure other people feel that if they were adversely affected by the creation of this columbarium, and it would cause them finance loss, damage, that lawsuits would be forthcoming, and they would find

themselves in a precarious position, and I would much prefer not to have to go through all that rigamarole and live in peace.

If they could just compromise and work out something that's amicable to all concerned, and I think that's all I have to say.

If you have any questions, please ask.

THE CHAIRMAN: Does counsel have any questions? Let's start with you simply because he came up on your side first.

CROSS EXAMINATION

BY MS. WILSON:

Q. Mr. Little, do you have an official opinion as to whether this proposed columbarium would fit in with the character of your neighborhood?

A. It would not fit in at all.

Q. Why do you think that?

A. Because it brings a foreign element to our peaceful neighborhood.

Q. What is that?

A. It disrupts us. It introduces a religious belief

that we do not subscribe to as individuals.

Q. Do you distinguish between the church structure, which is, of course, a religious structure, and the columbarium, which is a structure, for the internment of ashes when you say that?

A. Yes.

Q. How, in your view, would the columbarium be something that would not fit into your neighborhood as it is now?

A. Well, I can best describe that, explain that, by telling you this very brief story. When I was just a boy back in the 1930s, I went to Gwynn Oak Park, I believe it was on German Day, and I was shocked to see the Nazi flag flying from the flagpole where the American flag normally flew.

I told my father about it. It seems to me the adults got together and saw to it that flag was removed.

And that is the same imposition, the same way I feel about it now.

Now, that was a political issue, a patriotic issue. This is a religious one. But I feel being imposed

upon, and it's not necessary, because the church members could be satisfied with an alternate scheme by having this vault or room, whatever, where they could practice their religion and not be viewed by people who are not of their faith, and we would not be opposed, because it would be in their church where everybody practices whatever they please.

I have no opposition to them practicing cremation. It's just the idea I don't have to have it shoved down my throat.

Q. Mr. Little, do you have any opinion about whether the proposed columbarium might tend to increase or create traffic congestion in your area?

A. I think it would not. I think it would increase the traffic congestion, and as earlier indicated, it is a terrible corner.

I have seen people die there. I have lived there thirty-some years. I know how severe it is.

Q. So do you think this proposed structure would be detrimental to the safely or general welfare of your locality?

A. Yes, but indirectly. In other words, it would be an additional straw for the camel to bend.

MS. WILSON: Thank you, sir. I have no further questions.

CROSS EXAMINATION

BY MS. DOPKIN:

Q. Mr. Little, is it your testimony that you would not object to -- I think you characterized it as a compromise -- to have a vault or some other facility located elsewhere within the site for the church's burial practice?

A. That's not quite accurate.

Q. I wasn't sure I understood what you said.

A. Let's say it so it's accurate. The columbarium would be a separate and distinct structure. It was earlier described as a monument.

This is what I am opposed to. If it were like an additional room built on to the church, it would just be like an addition to the church.

But a separate structure, especially intended to be a monument on display for the public to observe, it's

like a demonstration.

Now, I believe in freedom of speech, but I believe if what you have to say hurts others, then you shouldn't say it. You know, you have freedom. Exercise them with the regard to your neighbor and be a good neighbor and try to live together in peace and harmony.

MS. DOPKIN: Thank you. I have no other questions.

THE CHAIRMAN: Thank you, sir. Were you folks -- before I ask if there's any rebuttal, are you folks finished?

MR. LANZI: I believe that's all we have.

THE CHAIRMAN: Any rebuttal?

MS. DOPKIN: I would like there to be. I am going to try to contact Mr. Chadsey to see if he's available. He may no longer be available.

(A recess was taken.)

THE CHAIRMAN: Ms. Dopkin.

MS. DOPKIN: I'd like to call Richard Neugent.

R I C H A R D N E U G E N T,

having been called as a witness, was duly sworn and

testified as follows:

DIRECT EXAMINATION

BY MS. DOPKIN:

Q. Would you please state your name and address for the record?

A. Its Richard Neugent, One Dalecrest Court, Apartment 102, Timonium.

Q. What's your occupation?

A. I am a Unitarian Universalist minister, clergy.

Q. Where are you now employed?

A. I am up at the Towson Unitarian Universalist Church.

Q. There was some information raised, I believe by Mr. Robinson, I would ask if you could respond to.

The first relates to the location of the columbarium. Mr. Robinson stated that the columbarium could be relocated to the -- I am going to refer to the site plan -- he was referring to the south side of the church, because if you were going to expand, you could build to the rear. Is that your understanding?

A. I believe so.

Q. Could you expand the church -- is his understanding correct you could build to the rear of the church? Are you able to build in that location?

A. That would be very difficult for any substantial expansion of the building becase we then get into an additional parcel of land which is covented from any buildings, structure, being put on that land.

Q. Thank you. Mr. Robinson also indicated that his property is substantially in rock and you could not effectively plant as proposed on the concept plan.

Have you also considered whether the said proposal is physically able to sustain a landscaped screen?

MS. WILSON: Objection. Lack of foundation. No demonstrated competence.

Q. Do plants exist in this location now?

A. Many. It's a wooded area, as was testified earlier today, throughout, from Dulaney Valley up through the end of that parcel of land. The plants, the trees, are of modest growth in terms of age. They seem to be sustained. Wildlife exists. And it's a lovely natural

setting.

Q. Does this berm now exist?

A. The berm does not. It's our intention to place the berm in to make sure that the area is aesthetically pleasing from all directions, from both inside the area as well as from without, which is very much in keeping, as was testified to, the principles of Unitarian Universalism, and going back to one of the most famous Unitarians of all, was Mr. Henry David Thoro and Walter --

Q. You said the berm does not exist. How would it be created, or, specifically, do you know how it would be created?

A. It's my understanding that earth would be placed to create the berm, thus under our control, our ability to, in short, sustain the base of plant life.

Q. Thank you. There was much discussion about the procedures for the sale of the columbarium space.

What is your understanding as to the current status of procedures for the sale of columbariums?

A. I began my ministry in Towson in the middle of August, and in the time that I have been there, I spent a

substantial amount of time, besides dealing with the pastorial needs of the congregation, looking at a wide variety of administrative functions of this church, one of which, in my review, was the status of this proposal.

And in answer to many qustions that I have, everything is basically on hold. I have never seen the brochure that was distributed today. I have not seen it even as I speak sitting here now.

We have not -- we do not have current plans. We do not have current prices. We have no idea what the current prices would be since we are a not-for-profit organization.

The intention would be to cover our costs, but we have no idea what those costs are going to be based on what the disposal of the appeals and what year the appeals are finished, in terms of what the construction costs are going to be.

Q. I have one last question. Mr. Robinson, I believe, claimed the church membership records are uncertain. Do you maintain membership records?

A. Yes, we do. We have 324 active members in our

congregation as of our most recent report to our National Headquarters.

MS. DOPKIN: Thank you.

THE CHAIRMAN: May I ask, when you say members, does that mean members and others?

THE WITNESS: I don't have a hard count, but I would estimate within very close reason about fifty additional friends, inactive members, people who have gone into retirement homes.

Friends are spouses of members who may be of another faith and participate in the life of our congregation, but do not wish to be Unitarian Universalists, and we welcome them.

THE CHAIRMAN: Does that raise any other questions?

MS. DOPKIN: No.

CROSS EXAMINATION

BY MS. WILSON:

Q. How are you addressed? Ministor? Pastor?

A. My friends call me Richard, but Reverend.

Q. Reverend Neugent, am I correct in understanding

your last answer that you really don't know how many people are friends of the Towson Unitarian Universalist Church as of right now?

A. As of this very moment, I do not have an exact number. I have seen the list. We have our directories. I have the essence of how many of those there are. As I said, there are roughly fifty. Maybe forty, maybe sixty. But it's certainly not a hundred or 200 or 300, nor I wish there were.

Q. You say that number, whatever it may be, is in addition to the 324 members?

A. Correct.

Q. How does the Towson Unitarian Universalist Church propose to distinguish between its friends and members of the public who may have attended service for example, at the church?

A. Friends are individuals who -- my own example, perhaps, might be useful.

I am a member of our church in Washington, D.C. one of our four churches in the D.C. area. I started attending in the mid-seventies.

It wasn't until the mid-eighties that I actually signed the book and became a Unitarian Universalist, so for more than ten years, I was a friend. I pledged. I served on committees. I was ineligible to vote. I wasn't eligible to be elected to a leadership position.

But I was a member of the active life. I wasn't prepared to commit to Unitarian Universalism until I was ready to commit, and that's very much the situation at the Towson church.

As I already indicated, many of those are partners or spouses of members, who may be a member of another faith, but they are active members in our faith, community, but they are unwilling to be a Unitarian Universalist, so we designate them as a friends.

Q. Are all spouses of members friends of the Towson Unitarian Universalist Church?

A. No.

Q. Are all children of members considered friends?

A. No. They are considered children of the congregation.

To be a member, one has to be of age to be able

to legally participate in the business life of the congregation, so our children are our children.

They are registered in our Sunday school education program.

Q. What about adult children over the age of twenty-one of members?

A. No.

Q. They are --

A. They are adults. They make their own decision.

Q. They are not automatically given the status of friends?

A. No.

Q. What about parents of members?

A. Not unless they are active. Friends are people who are actively involved in the life of the congregation, but, for whatever reason, choose not to sign the book to become a Unitarian Universalist.

Q. Now, let's suppose you have a friend of the church whose mother passes away who wants to be interred into your proposed columbarium.

What's the the church going to do?

A. I don't know. As I already indicated, upon my arrival on August 17th, when I got around to asking what the status of all this was, I was informed that everything has been on hold.

So there are many, many decisions about this that have not been worked out. They had begun the process, and during the delays associated with the approval process, it -- quite frankly, we have other things to do in the business life and the community life of this church than to project policy for something that we have no idea when and if we are going to be able to pursue.

We don't have that many members to have the luxury of spending that much time.

Q. So you can't say, for example, that such a person or mother of a, for instance, of the church, would automatically be told that you cannot be interred, her remains would be turned away? You can't say that?

A. We are a church. We are a religious community. Our mission is to help spirtually the life of the members of our congregation.

Perhaps more important than any other aspects of

our church is being there in the transition aspect of people's lives, whether it's weddings, whether it's the birth, or whether it's the death.

We attempt to be compassionate. We may not be as business-oriented as businesses tend to be because we're a church. We are primarily not a business.

So there are times when whether it's questions of membership, of exactly how many members do you have, how many friends, we are a church struggling to survive with limited resources, volunteer and financial, and, as a result of that, we do the best we can.

Q. What resources does this church propose to undertake with this rather ambitious project?

A. Out budget at the moment is a quarter million dollars a year. We have -- which is a sizeable sum of money. We would always like more.

We could have done with less. We have a substantial amount of volunteer labor, as already been testified. We have a sexton on staff.

We have some very dedicated volunteers, many of whom would have been here today, who are involved in the

groundskeeping of the church.

I have no doubt that particularly this summer, an important project initiative was a Memorial Garden, that we want to provide a space which is aesthetically and spiritually moving and important to the life, and most importantly, obviously, is the upkeep of that property.

Q. How much is that going to cost?

A. Landscaping? In terms of maintenance?

Q. Well --

MS. DOPKIN: I was going to object.

MS. WILSON: He testified he had no idea what the cost was.

THE CHAIRMAN: He still has no idea what the costs are, so it's asked and answered.

He doesn't know what the costs are.

MS. WILSON: There's a budget, I was hoping.

THE CHAIRMAN: He knows the budget exists for the church, which is a different issue.

A. The costs of --

THE CHAIRMAN: Whoa, whoa.

MS. DOPKIN: Wait.

THE CHAIRMAN: If you have other questions?

MS. WILSON: One minute.

Q. You mentioned that the church cannot relocate the proposed columbarium to the rear of the church because that would be because it would get into a parcel that was covented. Do you recall that?

A. Yes.

Q. And that's not a practical engineering issue, is it?

A. Practical engineering? I can't speak to practical engineering.

Q. So, as a practical matter, as far as you know, it's perfectly possible to build at the rear of the church?

A. My understanding, that there's a covenent on that property that prevents structures being built.

Q. Different question. As a practical matter, as a construction issue, the church can expand to its rear as Mr. Robinson described it?

MS. DOPKIN: Objection. It's been asked and answered.

THE CHAIRMAN: I believe he's answered that he doesn't know from an engineering point of view. But he knows from what he's been told about this other problem.

MS. WILSON: I have no further questions.

THE CHAIRMAN: Thank you.

MS. DOPKIN: Thank you.

THE CHAIRMAN: Any further witnesses?

MR. LANZI: No. We are completed.

THE CHAIRMAN: We are now going to do scheduling. Thank you.

(Hearing concluded.)

* * * * *

LAWYER'S NOTES

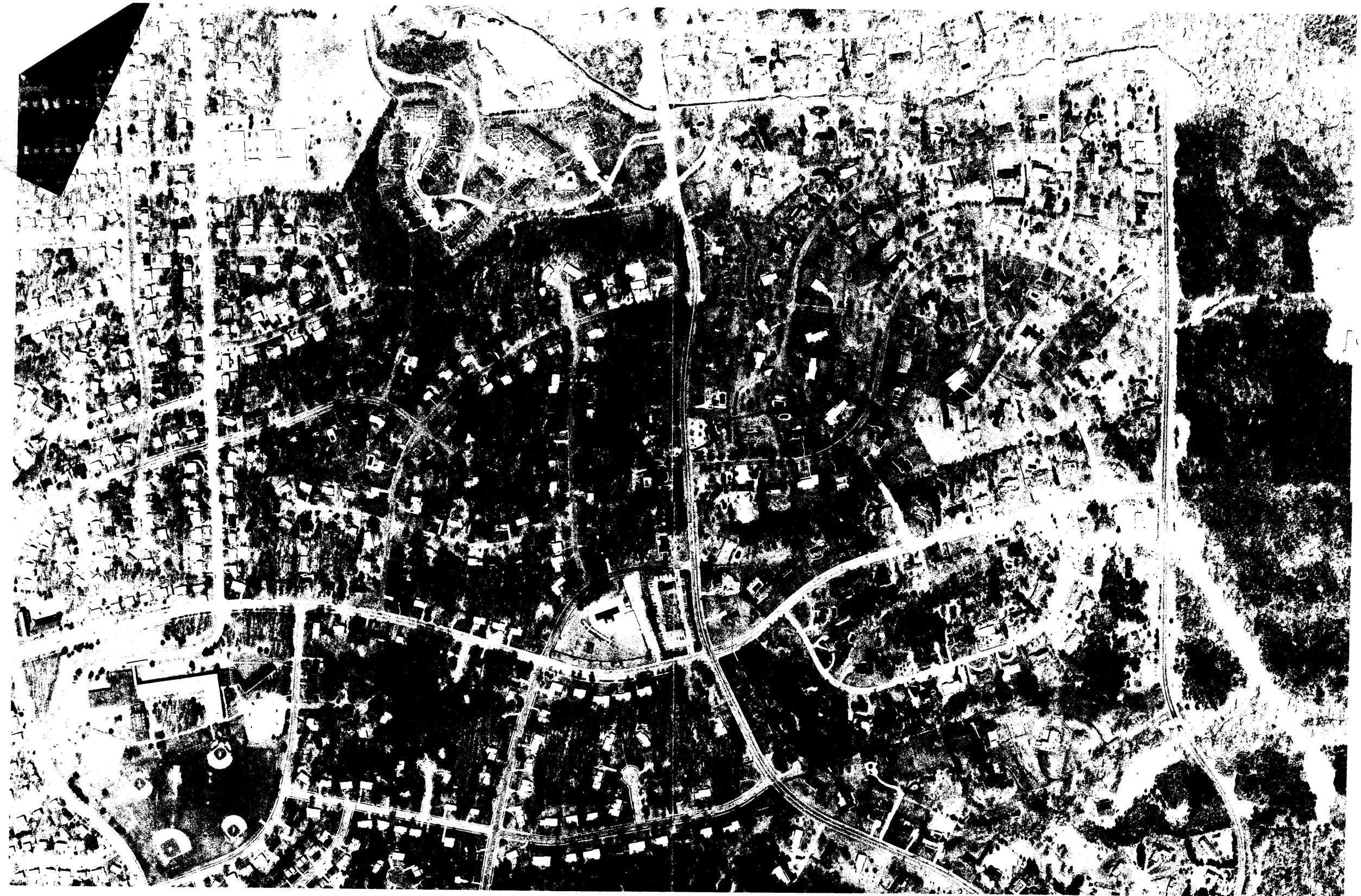
PAGE	LINE	

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200' ±	HAMPTON GREENRIDGE	N.E. 12-A

DATE OF PHOTOGRAPHY
JANUARY 1986



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200'±	LONG QUARTER TIMONIUM	N.E. 13-A
DATE OF PHOTOGRAPHY JANUARY 1986		

P.R.O. 1

D.R. 3.5
D.R. 2
D.R.1
D.R. 1
D.R. 5.5
D.R. 3.5
D.R. 1
D.R. 2
R.C. 4
D.R. 3.5
D.R. 2
D.R. 1
D.R. 5.5
D.R. 2
D.R. 2
D.R. 1
D.R. 3.5
D.R. 1
BL
D.R. 1
D.R. 5.5
D.R. 2
D.R.I
D.R. 1
R.C. 4

SHADOW VIEW LA
DEER FOX LA
NORTHWOOD ROAD
BELFAST ROAD
YORKSHIRE
GORSUCH ROAD
PATAPSCO
MEDBURY
REUTER
FOREST COURT
AYLESBURY
CHARMUTH ROAD
CHARMUTH
GARTH
EASTRIDGE
NORTHLEIGH ROAD
GATESWOOD
HAVENWOOD
PURLINGTON ROAD
DULANEY FOREST
RIDGELY ROAD
LYNNCREST GARTH
WELFORD ROAD
HARDOON RD
MARGATE
CLERMONT COURT
LONG QUARTER ROAD
VALLEY CREST
WALPOLE COURT
DILMONT ROAD
TIMONIUM ROAD
P. MOORE CIRCLE
97-404-X
TENNIS COURTS
ATHLETIC FIELDS
POOL
N50,000
N49,000
N48,000
E49,000
E50,000
E51,000
E52,000
E53,000
(SHEET NE 12 - A)

S-NE R-NW
S-SE R-SW

1996 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
19
Bills Nos. 129-96 and 178-96

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	LONG QUARTER	N.E.
DATE OF PHOTOGRAPHY JANUARY 1986	TIMONIUM	13-A

P.R.O. 2

D.R. 3.5
D.R. 2
D.R. 1
D.R. 5.5
LONG QUARTER
R.C. 4
YORK MANOR
SHETLAND HILLS
D.R. 3.5
BRENTON
D.R. 1
D.R. 3.5
D.R. 2
D.R. 1
D.R. 5.5
97-382-SPHX
BL
D.R. 16
RO
D.R. 5.5
GREENRIDGE
D.R. 3.5
D.R. 3.5
WATERFORD
D.R. 1
HAMPTON
D.R. 2
D.R. 1

S-SE R-SW

Bills Nos. [illegible] 135-96

Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	HAMPTON GREENRIDGE	N.E. 12-A
DATE OF PHOTOGRAPHY JANUARY 1986		

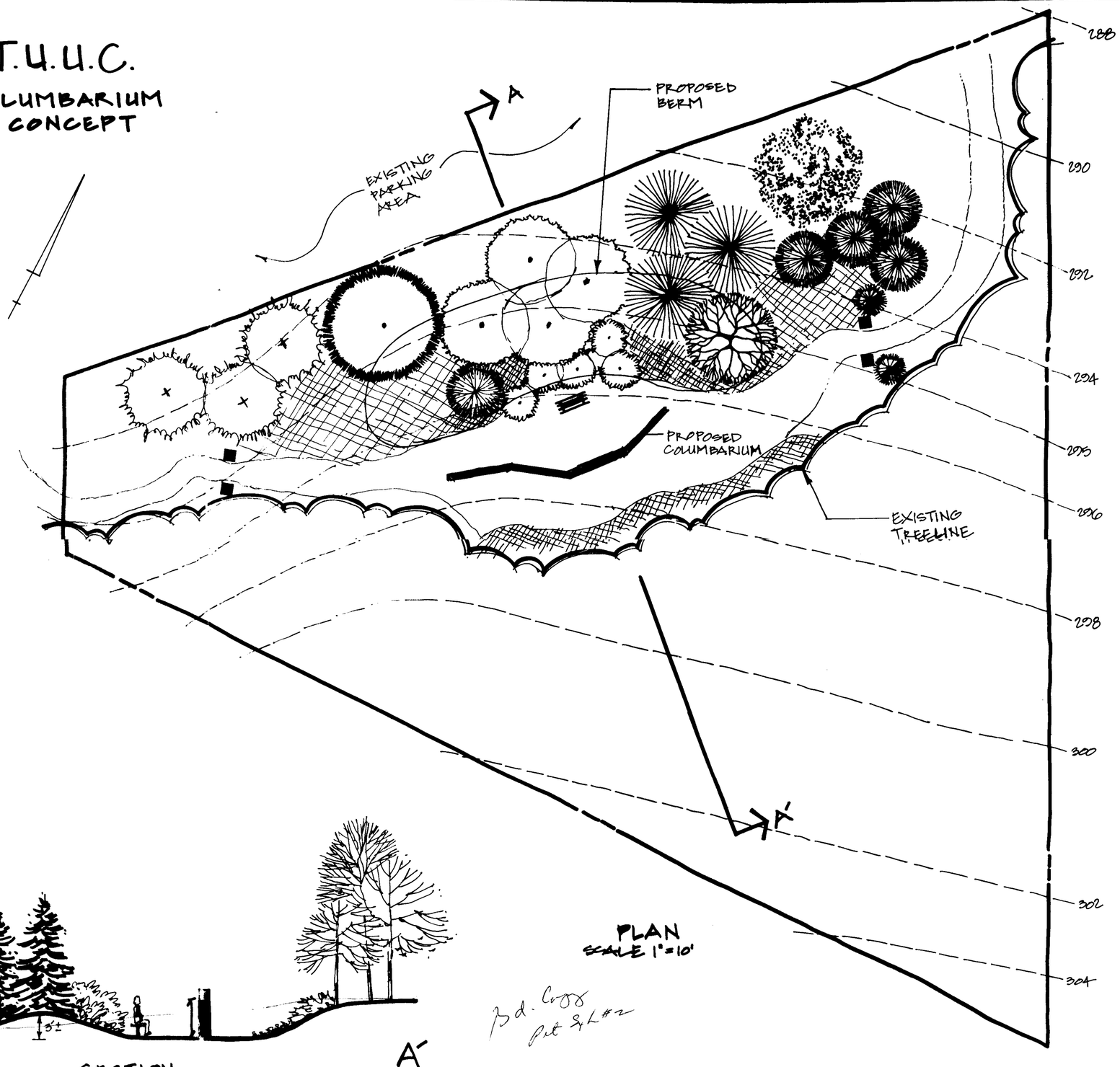
Part Exp #2

PETITIONERS II

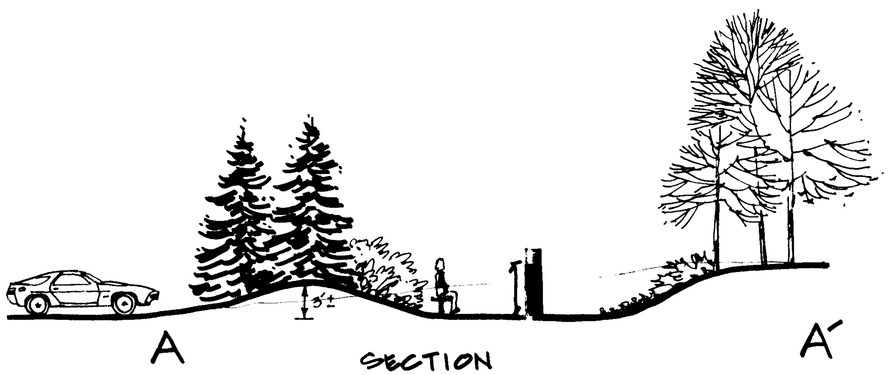
CONCEPT PLAN

T.U.U.C.

COLUMBARIUM CONCEPT



PLAN
SCALE 1"=10'



Bd. Copy
Pet Ex #2

STW 9-'98

(7)

6"x6"x3/4" BLUESTONE INFILL @ LIFTING LOOP RECESS, GROUT IN PLACE SEE DETAIL C RIGHT.

1'-8"

1'-8" NTS

1'-8" NTS

SLOPE 1/8" DOWN/FOOT

PRECAST CONC. TOP BOLTED TO STRUCTURE BELOW
ALTERNATE: C.I.P. CONC. TOP

1'-10 1/2" ±

TOP VIEW
1"=1'-0"

6"

WELDED STL. EYEBOLT & THREADED INSERT 5/8"ϕ
STONE GROUTED IN PLACE AFTER BOLT REMOVED

1"

3 1/2"

DETAIL C LIFTING BOLT RECESS
ALTERNATE:
C.I.P. CONCRETE TOP. DELETE BOLT & STONE INSET

3"=1'-0"

NOTE: C.I.P./PRECAST IS CONTRACTOR'S CHOICE FOR EASE OF CONSTRUCTION.

PRE-ASSEMBLE STONE UNIT BY THROUGH BOLTING 8 NICHES, PLACING 6" ROD SPACERS & MORTAR BED/HEAD JTS. LOWER UNIT INTO STRUCTURE. PRIOR TO INSTALLING CONC. ROOF SLAB, GROUT UNIT IN PLACE AT ENDS & BOLT BOTTOM NICHES TO STRUCTURE WITH EXPANSION ANCHORS. REMOVE EXCESS MORTAR. SHIM WHERE REQ'D WITH LEAD, SO UNIT IS LEVEL

BRONZE PLATE W/ 1/16" PROTRUDING BOSS

Ø 3 1/2" x 1/8" x 1/4" TAPERED HEADED THROUGH BOLTED @ FRONT & BACK

1/4"ϕ THREADED ROD AS USED SPACER

LIGHTWEIGHT GROUT OR MORTAR HEAD & BED JTS.

1/4" ϕ THREADED ROD BOLTED TO BACK OF UNIT SYSTEM

TOP VIEW

GROUT ENDS OF UNIT AFTER INSTALLED

1 1/2" ±

NICH UNIT ASSEMBLY
1 1/2"=1'-0" 10/8/96

NICHES PROVIDED BY OWNER FOR CONTRACTOR TO INSTALL, FOR SAMPLE, REQUEST FROM OWNER.

DIMENSIONAL REVISIONS SHOWN DRAWING A1.0
1/3/97

3/4 CHAMFER TYP

STONE

5" NTS

ORNAMENTAL BRONZE N.I.C. (BY OWNER) SECURE WITH BRONZE PINS

BRONZE FLASHING N.I.C. (BY OWNER) TYP

2" NTS

1" SPACE; C. 12" (CLEES 3/8" SEE HEAD DETAIL SECTION C)

20" N.T.S. 1/3/97

1'-8"

GRADE ELEV.

1/8" JT. SPACING ± TYP.

1/4" CONTROL JT. TYP. CAULK/SEALANT

1 1/2" x 1 1/2" LIFTING SLOT, THROUGH CUT

5/8" DOWEL SEE DETAIL SECTION C. VA'ϕ.

LANDSCAPE CONTRACTOR & OWNER TO REMOVE VEGETATION & SURFACE ORGANIC MATERIAL TO CONSISTENT LEVEL GRADE.

FOOTING TO REST ON UNDISTURBED EARTH, ASSUMED BEARING 2000 PSF

ASSUMED (EMPTY) LOAD 750 PSF @ FOOTING FOR 1500#/C.F. CONC. STRUCTURE

ELEVATION
1"=1'-0"

1 1/2"x1 1/2"x 2" LONG 1/8" S.S. ANGLE. EXPANSION ANCHOR TO CONC. TWO PER BLUE-STONE PANEL @ 8'-0" O.C. TO SUPPORT PANEL WHEN REMOVED

5"x5"x 0'-5" LONG 1/4" STAINLESS STL ANGLE. BOLT TO TOP & GUIDES WITH 1/2"ϕ x 2'6" S.S. EXPANSION ANCHORS, SHIM AS REQ'D TYP.

1" TAPERING SLOPE 1/8" PER FOOT.

FOUNDATION-SEE SECTION B

SECTION C
1"=1'-0"

1/4" CONTROL JT. TYP. CAULK/SEALANT.

1"x 2" S.S. ANGLE

HEAD DETAIL
6"=1'-0"

1/8" REVEAL
6"=1'-0"

1/8"

1 1/4" THICK NOM. BLUESTONE

3/16" NOM. x 3/8"x 7" LONG SLOT TO RECEIVE S.S. DOWELS

1/4"ϕ STAINLESS STEEL DOWEL, GROUTED IN PLACE & PER STONE @ 6'-0" O.C.H. TOP OF DOWEL 3/4" ABOVE CONC. SILL

SILL DETAIL
LIFTING SLOT NOT SHOWN SEE ELEVATION
10/29/96

1.A. CONTRACTOR SHALL VERIFY CONDITIONS & REBAR SHOWN ARE ADEQUATE, OR REDESIGN.
11/10/96

NOTES

STEEL
1. ALL BAR SPACING, SIZING, QTY, PRECAST/C.I.P. SHOWN FOR INTENT ONLY. CONTRACTOR TO PROVIDE STEEL UNINTERRUPTION TO WRAP, PREVENT CRACKING, SPALLING, ETC. OF CONC. CONSTRUCTION SEQUENCE (PRECAST OR C.I.P.) IS CONTRACTOR'S CHOICE. CONTRACTOR TO SUBMIT DRAWINGS & CONNECTIONS FOR REVIEW
3. 40 KSI DEFORMED/CRSI REBAR, PATTERN
4. PROVIDE CAPTED CHAIRS
5. MINIMUM COVER 3" @ FOOTING, 2" OTHER
6. ALL EXP STEEL & STL. FASTENERS TO BE STAINLESS, U.N.O.
7. SPLICE AS REQ'D

CONCRETE
1. 3000 PSI 150LB/CF CEMENT TYPE IIA (ASTM C150) 4-6% AIR-ENTRAINMENT
2. NOMINAL MAX. SIZE OF AGGREGATE 1/2"ϕ
3. TO NOT USE CHLORIDE CONTAINING ADMIXTURES
4. MAX. SLUMP 3"
5. 0.45-.50 WATER-CEMENT RATIO
6. DO NOT PLACE CONC. IN WEATHER BELOW 40°F.
7. IN HOT WEATHER (75°+), COVER CONC. WITH WET BURLAP
8. USE SAME MIX & AGGREGATE SOURCE THROUGHOUT. ADJACENT POURS WHICH ARE POORLY MATCHED FOR COLOR, WILL BE REJECTED
9. SUBMIT MIX DESIGN REPORTS & AGGREGATE SAMPLES FOR OWNER'S REVIEW PRIOR TO COMMENCEMENT OF WORK.
10. SURFACE VIBRATE ALL CONC.
11. PROVIDE ROUGH FINISH SELECTED BY OWNER FROM PLANT SAMPLES SUBMITTED FOR OWNER REVIEW
12. PLUG FORM TIE HOLES - SUBMIT LAYOUT OF PATTERN OF EXPOSED SURFACES FOR REVIEW.

GROUT NICHE ASSEMBLY IN PLACE. SEE DETAIL THIS SHEET.

16'-0 1/2" ±

7'-0 1/2" @ 1'-0" + 5/16" JOG.

8"

2'-7" NTS

2" NTS

EXTENT OF 16" PERIM. FOOTING BELOW

EXTENT OF SLAB ABOVE

#4 BAR @ 9" O.C.H. TYP 2" FROM FACE TYP.

#4 BAR @ 12" O.C.V. TYP

OPTIONAL 3/8"ϕ S.STL. DOWELS FOR PRECAST WALL TO FOUNDATION CONNECTION

FIF FORMULA "NICHE" 10 3/8" W x 16 3/8" H x 16"D CHRISTY CONCRETE PRODUCTS, INC. - FOR NICHE UNIT ASSEMBLY THIS SHEET

BLUESTONE PANELS (8) 12"x36"x 1 1/4" NOM. THICK SELECTED BY OWNER.

1" THICK 1/3/97

TOP VIEW

1" CHAMFER TYPICAL @ SLAB EDGE

3"=1'-0"

SECTION

PLAN
1"=1'-0"

1/8"/1'-0" SLOPE SEE TOP VIEW

#4 BAR @ 12" O.C. BOTH DIRECTIONS. TIED TYP @ OVERLAP

5" NTS

2" TYP.

1/4"x 1/4" CONT. CONTROL JT. CAULK SELECTED BY OWNER. TYP AT ALL VISIBLE JTS.

BLUESTONE BEYOND

1/4" NTS

CONTINUOUS DRIP ALL FOUR SIDES TYPICAL.

1/2"

2" NTS EQUAL

EQUAL 2"

FOR PRECAST OPTION, USE OPTIONAL 3/8"ϕ S.STEEL DOWEL GROUTED IN PLACE, IN LIEU OF REBAR 6'-0" O.C.

OR

#3 BAR CONT @ 12" O.C.V. TYP.

TIE HORIZ & VERT. BAR TYPICAL AT ALL LOCATIONS NOTE: IF WALLS ARE PRECAST, CONNECT TO C.I.P. CONC FOUNDATION WITH 3/8"ϕ S.STL. DOWELS GROUTED IN PLACE, IN LIEU OF CONTIGUOUS REBAR SHOWN.

#6 BAR CONT. (14)

#4 BARS 12" O.C.H. TYP TIE TO HORIZ

6" GRAVEL PACK COURSE

2" FOAM FACE TYP.

5'-6"

10" 7" 8" 7" 10"

3'-0"

SECTION D
1"=1'-0"

COLUMBARIUM — DRAWING A1.1
SCALE & NOTES
DRAWN BY: SLV 7/31/96 REVISED: 11/10/96, 1/1-/97, 10/3/96

EXHIBIT (1)

JAMES G. ROBINSON
5862/38
RESIDENTIAL PROPERTY
DR-1

OLD PROPERTY LINE N 55°03'20" E 650.83 FT.
NEW PROPERTY LINE N 55°03'20" E 642.58 FT.
N 33°45'10" W 25.09 FT.
25.0 FT. STRIP CONVEYED TO JAMES G. ROBINSON ON 30 MAY 1986. RECORDED IN L. 7873 F. 466.
162.58 160.0 160.0 160.0
40'
BUILDING RESTRICTION LINE
157'±
50'
N 39°45'10" W 152.91 FT.
N 73°08'20" E 200.00 FT.

JAMES G. ROBINSON
8135/180
RESIDENTIAL PROPERTY
DR-1

EX. STREAM
EX. BITUMINOUS PAVING
EX. PAVED ENTRANCE
COVERED PORCH
100'
66'
EX. CHURCH 2 STORY MASONRY
10'
17'
EXISTING PARKING
283'
50'
230'±
N 36°22'30" W 325.65 FT.
S 39°45'10" E 236.14 FT.
EX. UNDERGROUND ELEC.
EX. WATER SERVICE
N 34° 36' 09" E 169.68'
N 35° 15' 40" W 29.00'
PROPOSED COLUMBARIUM
185'±
250'±
AREA SUBJECT TO HEARING
171.25'
S 35° 15' 00" E
70' FRONT YARD
S 82° 30' 00" W 180.00'
EX. SAN. CONN.
100' RTA
S 35° 15' 40" E 231.60 FT.
EX. 12" W (DWG. NO. 52-283)
EX. 6' X 6' BOX CONVERT
EX. 66' R/W
EX. PAVING WIDTH VARIES
L = 27 FT.
B
A
R = 670.28 FT. L = 178.27 FT.
CHD = S 37°39' 30" E 177.75 FT. (TO OLD LINE)
(MD. ROUTE 146)
EX. 14" FORCE MAIN (SEWER)

TOWSON UNITARIAN UNIVERSALIST CHURCH
4741/431
DR-1

WILLIAM C. BARNES
6684/5
RESIDENTIAL PROPERTY
DR-1

65'
S 46°45'30" W 192.42 FT.
N 39°45'10" W 45.00 FT.
50'
S 53° W 152.0 FT.
S 1°10' W 38.0 FT.
40'
S 82°30' W 122.0 FT.
N 78°37'50" W 90.08 FT.
S 74°36'52" W 226.0 FT.
CHD = S 24°12'04.5" E 209.16 FT. TO POINT A)
R = 683.76 FT. L = 237.0 FT. TO POINT B)
225'±
1530'± TO POT SPRING DRIVE

JOHN D. RODGERS
1095/307
RESIDENTIAL PROPERTY
DR-1

EX. HOUSE

JOHN D. RODGERS
621/308
RESIDENTIAL PROPERTY
DR-1

EX. HOUSE

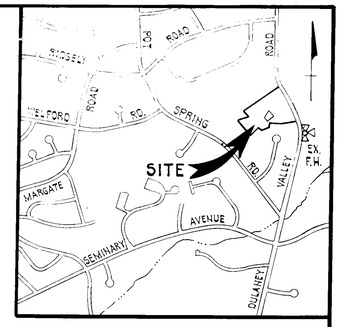
JUNE C. DUKE
6219/758
RESIDENTIAL PROPERTY
DR-1

EX. HOUSE

ROBERT M. BERMAN
8340/766
RESIDENTIAL PROPERTY
DR-1

SEPTIC WELL
SEPTIC WELL
BUILDING RESTRICTION LINE

NOTE: HEAVY LINE REPRESENTS PRESENT BOUNDARY



VICINITY MAP
SCALE: 1" = 1000'

PROPERTY ADDRESS	1710 DULANEY VALLEY ROAD
ELECTION DISTRICT	8
COUNCIL DISTRICT	4
OWNER	TOWSON UNITARIAN UNIVERSALIST CHURCH 1710 DULANEY VALLEY ROAD LUTHERVILLE, MARYLAND 21093
DEED REFERENCE	4741/431
TAX ACCOUNT NO.	8-0820055561
AREA OF PROPERTY	6.98 AC.±
CURRENT ZONING	D.R.1
ZONING MAP	NE-13-A
CURRENT USE	CHURCH & NURSERY SCHOOL
AREA SUBJECT TO HEARING	15,950 S.F. 0.37 AC.±
PROPOSED USE OF AREA SUBJECT TO HEARING	COLUMBARIUM
PREVIOUS COMMERCIAL PERMIT	CA. 1987
ZONING ACTIONS	CASE NO. 76-90-X, SPECIAL EXCEPTION FOR A NURSERY SCHOOL GRANTED DECEMBER 16, 1975 SUBJECT TO THE RESTRICTION THAT INGRESS AND EGRESS SHALL BE FROM DULANEY VALLEY ROAD.

PUBLIC WATER IS AVAILABLE TO THE SITE IN DULANEY VALLEY ROAD

~~PRIVATE SEPTIC DISPOSAL SYSTEM ON SITE~~

ALL SIGNS WILL BE IN ACCORDANCE WITH SECTION 413 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

PARKING AREAS ARE SURFACED WITH BITUMINOUS CONCRETE.

PROPOSED USE RESTRICTIONS:

THE COLUMBARIUM IS NOT A PUBLIC FACILITY, BUT IS AVAILABLE PRIMARILY TO MEMBERS OF THE CONGREGATION AND THEIR IMMEDIATE FAMILIES.

THE COLUMBARIUM WILL BE INCORPORATED WITHIN THE LANDSCAPING WITHIN THE CHURCH GROUNDS.

NO MONUMENTS ARE PERMITTED.

PURDUM and JESCHKE LLC
CONSULTING ENGINEERS AND LAND SURVEYORS
1029 NORTH CALVERT STREET
BALTIMORE, MARYLAND 21202
TEL: (410)837-0184 FAX: (410)837-3434

SCALE: 1" = 30 FT.
DATE: FEBRUARY 19, 1997

PLAT TO ACCOMPANY PETITION FOR SPECIAL EXEMPTION
TOWSON UNITARIAN UNIVERSALIST CHURCH, OWNERS
1710 DULANEY VALLEY ROAD, LUTHERVILLE MD 21093
EXISTING ZONING DR 1 — ZONING MAP NE 13-4
4TH COUNCIL DISTRICT — 8TH ELECTION DISTRICT

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5862/38
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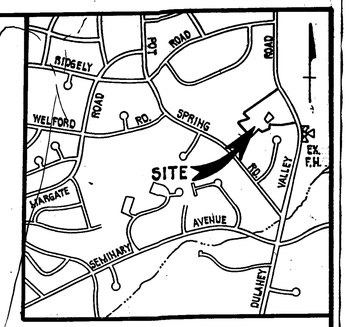

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97-404-X

404

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