

STATE OF NEW YORK
DEPARTMENT OF STATE

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KATHY HOCHUL
GOVERNOR

WALTER T MOSLEY
SECRETARY OF STATE

In the Matter of the Petition of:
ST AUGUSTINE'S CEMETERY
For a Variance to the New York State
Uniform Fire Prevention & Building Code

DECISION

PETITION NO. 2025-0793

Upon the application of St Augustine's Cemetery, filed pursuant to 19 NYCRR 1205 on October 8, 2025, and upon all other papers in this matter, the Department makes the following determination:

NATURE OF GRIEVANCE AND RELIEF SOUGHT

The petition pertains to the construction of a cemetery chapel and office, Occupancy Group B, Business, located at 75 Hawkes Avenue, Town of Ossining, County of Westchester, State of New York.

Relief is requested from:

19 NYCRR Part 1222, The Plumbing Code of New York State, Section 403.1, and 19 NYCRR Part 1221, The Building Code of New York State, Section 2902.1 which states: Plumbing fixtures shall be provided in the minimum number as shown in Table 403.1, based on the actual use of the building or space. Uses not shown in Table 403.1 shall be considered individually by the building official. The number of occupants shall be determined by the Building Code of New York State. [The petitioner requests to provide one accessible unisex toilet room in lieu of separate accessible facilities for each sex and not provide a drinking fountain.].

19 NYCRR Part 1222, The Plumbing Code of New York State, Section 403.2, and 19 NYCRR Part 1221, The Building Code of New York State, Section 2902.2 which requires that where plumbing fixtures are required, separate facilities shall be provided to each sex. [The petitioner requests to provide one accessible unisex toilet room in lieu of separate accessible facilities for each sex.].

FINDINGS OF FACT

1. A plan of the 1,108 square foot space shows a nave with seating for 32, an office and an accessible restroom. The calculated occupant load is 42 persons.
2. The total occupant load will be more than 15 persons and separate accessible facilities for each sex are therefore required by Section 2902.2 of the *Building Code* and Section 403.2 of the *Plumbing Code of New York State*.
3. As alternatives, applicant proposes one handicap accessible toilet room and a water dispenser in lieu of a drinking fountain.



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4. Tables 2902.1 of the *Building Code* and 403.1 of The *Plumbing Code of New York State* allow one water closet to serve up to 50 persons and one lavatory to serve up to 80 persons for business occupancies.
5. Having one handicap accessible unisex toilet room that is publicly accessible appears to meet the Code's intended objective without substantial loss to the level of health, safety or security of patrons and employees.
6. The local code enforcement official has been consulted in this matter and does not object the granting of a routine variance under Part 1205.5.

CONCLUSION OF LAW

The proposed variance will not substantially adversely affect the Code's provisions for health, safety and security. Strict compliance with the provisions of the Uniform Fire Prevention and Building Code would entail practical difficulty or unnecessary hardship or would otherwise be unwarranted because such would entail a change so slight as to produce a negligible additional benefit consonant with the purpose of the code and would be unnecessary in light of alternatives which, without a loss in the level of safety, achieve the intended objective of the code.

DETERMINATION

WHEREFORE IT IS DETERMINED that the application for a variance from 19 NYCRR Part 1222, Section 403.2, and 19 NYCRR Part 1221, Section 2902.2, be and is hereby PROPOSED TO BE GRANTED with the following condition:

1. That the unisex toilet room shall conform to the requirements of Section 1109.2.1 of the Building Code of New York State.
2. That a water dispenser shall be provided.

This DECISION is issued under 19 NYCRR 1205.5. Unless objected to by the petitioner in a writing received by the department, the decision shall become FINAL after fifteen days of receipt of the decision by the parties.

This decision is limited to the specific building and application before it, as contained within the petition, and should not be interpreted to give implied approval of any general plans or specifications presented in support of this application.



John Addario PE, Director
Division of Building Standards and Codes

DATE: December 4, 2025

NC: nc